

A-Engrossed Senate Bill 952

Ordered by the Senate April 24
Including Senate Amendments dated April 24

Sponsored by Senator OLSEN; Senator JOHNSON

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.

Establishes Oregon Energy Commission as policy and rulemaking body for State Department of Energy. Transfers certain duties of State Department of Energy and Director of State Department of Energy to commission.

Modifies state energy policy.

Modifies general duties of department.

Requires department to develop statewide strategic energy *[plan]* **report**. Requires commission to adopt *[plan]* **report** no later than January 1, 2020. Requires department to present draft *[plan]* **report** to Legislative Assembly no later than September 15, 2019. Requires commission to periodically review and update *[plan]* **report**.

Requires department to provide annual comprehensive energy report to Governor and Legislative Assembly.

Transfers certain State Department of Energy programs to other agencies. Repeals certain State Department of Energy programs.

Extends eligibility period for residential energy tax credits until January 1, 2020.

Reduces, to 0.1 percent, percentage of energy resource supplier's gross operating revenue that annual energy resource supplier assessment may not exceed. Modifies definition of "gross operating revenue" for purposes of energy resource supplier assessment.

Prohibits transfer of energy-related tax credit held by tax-exempt or government entity. Provides for purchase by *[State Department of Energy]* **Oregon Business Development Department** of credit held by tax-exempt or government entity. Applies to tax years beginning on or after January 1, 2017.

Requires *[department]* **State Department of Energy** to study further restructuring of department. Requires department to present results of study to interim committees of Legislative Assembly no later than September 15, 2018. Sunsets study requirement on December 31, 2018.

Becomes operative January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

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Relating to the State Department of Energy; creating new provisions; amending ORS 183.530, 192.502, 223.680, 276.910, 276.915, 279C.528, 285C.549, 286A.630, 286A.718, 291.445, 315.053, 315.141, 315.144, 315.326, 315.329, 316.116, 317.112, 469.010, 469.030, 469.040, 469.085, 469.110, 469.120, 469.150, 469.155, 469.255, 469.261, 469.310, 469.410, 469.421, 469.424, 469.533, 469.534, 469.605, 469.673, 469.681, 469.683, 469.703, 469.754, 469.756, 469.880, 469.885, 469.890, 469A.020, 469A.025, 469B.103, 469B.106, 469B.112, 469B.130, 469B.136, 469B.139, 469B.145, 469B.148, 469B.154, 469B.157, 469B.161, 469B.164, 469B.253, 469B.256, 469B.259, 469B.262, 469B.265, 469B.273, 469B.276, 469B.279, 469B.285, 469B.288, 469B.291, 469B.294, 469B.303, 469B.306, 469B.323, 469B.326, 469B.329, 469B.332, 469B.335, 469B.347, 469B.400, 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, 470.800, 470.805, 470.810, 470.815, 701.532, 757.247, 757.528, 757.533, 757.538, 757.600 and 757.612 and sections 5a and 8a, chapter 832, Oregon Laws 2005; repealing ORS 469.060, 469.070, 469.675, 469.677, 469.679,

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.

1 469.960, 469.961, 469.962, 469.963, 469.964, 469.965, 469.966, 470.100, 470.500, 470.505, 470.510,
2 470.515, 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565,
3 470.570, 470.575, 470.580, 470.585, 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620,
4 470.630, 470.635, 470.640, 470.645, 470.650, 470.655, 470.660, 470.665, 470.670, 470.675, 470.680,
5 470.685, 470.690, 470.695, 470.700, 470.710, 470.715, 470.720, 701.108 and 701.119; and prescribing
6 an effective date.

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

8
9 **ENERGY POLICY**

10
11 **SECTION 1.** ORS 469.010 is amended to read:

12 469.010. The Legislative Assembly finds and declares that[:]

13 *[(1) Continued growth in demand for nonrenewable energy forms poses a serious and immediate,*
14 *as well as future, problem. It is essential that future generations not be left a legacy of vanished or*
15 *depleted resources, resulting in massive environmental, social and financial impact.]*

16 *[(2)]* it is the goal of Oregon to promote the efficient use of energy resources and to develop
17 permanently sustainable energy resources. The need exists for comprehensive state leadership in
18 energy production, distribution and utilization. It is, therefore, the policy of Oregon:

19 *[(a)]* (1) That development and use of a diverse array of permanently sustainable energy re-
20 sources be encouraged utilizing to the highest degree possible the private sector of our free enter-
21 prise system.

22 *[(b)]* (2) That through state government example and other effective communications, energy
23 conservation and elimination of wasteful and uneconomical uses of energy and materials be pro-
24 moted. This conservation must include, but not be limited to, resource recovery and materials re-
25 cycling.

26 *[(c)]* (3) That the basic human needs of every citizen, present and future, shall be given priority
27 in the allocation of energy resources, commensurate with perpetuation of a free and productive
28 economy *[with special attention to the preservation and enhancement of environmental quality]*.

29 *[(d) That state government assist every citizen and industry in adjusting to a diminished avail-*
30 *ability of energy.]*

31 *[(e)]* (4) That energy-efficient modes of transportation for people and goods shall be
32 encouraged*[, while energy-inefficient modes of transportation shall be discouraged].*

33 *[(f)]* (5) That cost-effectiveness be considered in state agency decision-making relating to energy
34 sources, facilities or conservation, and that cost-effectiveness be considered in all agency decision-
35 making relating to energy facilities.

36 *[(g)]* (6) That state government shall provide a source of impartial and objective information in
37 order that this energy policy may be enhanced.

38
39 **PROVISIONS RELATING TO THE OREGON ENERGY COMMISSION**

40
41 **(Establishment)**

42
43 **SECTION 2.** Sections 3 and 5 of this 2017 Act are added to and made a part of ORS 469.010
44 to 469.155.

45 **SECTION 3.** (1) There is created an Oregon Energy Commission. The commission shall

1 consist of seven voting members, appointed by the Governor and subject to confirmation by
2 the Senate as provided in ORS 171.562 and 171.565, as follows:

3 (a) One member shall be an economist;

4 (b) One member shall represent electric consumer-owned utilities;

5 (c) One member shall represent residential energy users;

6 (d) One member shall represent electric utilities regulated by the Public Utility Com-
7 mission as public utilities under ORS chapter 757;

8 (e) One member shall represent industrial energy users;

9 (f) One member shall have transportation expertise; and

10 (g) One member shall represent natural gas utilities.

11 (2) One Oregon member of the Pacific Northwest Electric Power and Conservation Plan-
12 ning Council and one member of the Public Utility Commission shall serve as ex officio,
13 nonvoting members of the Oregon Energy Commission.

14 (3) The term of office of a voting member of the commission shall be four years, but the
15 members of the commission may be removed by the Governor. Before the expiration of the
16 term of a member, the Governor shall appoint a successor to assume the duties of the
17 member on January 1 of the next following year. A member shall be eligible for reappoint-
18 ment, but no member shall serve more than two consecutive terms. In case of a vacancy for
19 any cause, the Governor shall make an appointment to become immediately effective for the
20 unexpired term.

21 (4) The commission shall select one of its members as chairperson and another as vice
22 chairperson, for terms and with duties and powers necessary for the performance of the
23 functions of the offices as the commission determines.

24 (5) A majority of the voting members of the commission constitutes a quorum for the
25 transaction of business.

26 (6) A member of the commission is entitled to compensation and expenses as provided in
27 ORS 292.495.

28 **SECTION 4.** Notwithstanding the term of office specified by section 3 of this 2017 Act,
29 of the voting members first appointed to the Oregon Energy Commission:

30 (1) One shall serve for a term ending January 1, 2019.

31 (2) Two shall serve for terms ending January 1, 2020.

32 (3) Two shall serve for terms ending January 1, 2021.

33 (4) Two shall serve for terms ending January 1, 2022.

34
35 (Functions, General Authority to Adopt Rules)
36

37 **SECTION 5.** (1) It is the function of the Oregon Energy Commission to establish the
38 policies for the operation of the State Department of Energy in a manner consistent with the
39 policy stated in ORS 469.010.

40 (2) In addition to the function provided for in subsection (1) of this section, the commis-
41 sion shall receive regular reports from, and act in an advisory capacity to, the Energy Fa-
42 cility Siting Council and the Oregon Hanford Cleanup Board.

43 (3) In accordance with applicable provisions of ORS chapter 183, the commission shall
44 adopt rules and issue orders as necessary for the administration of the laws that the com-
45 mission, the Director of the State Department of Energy and the department are charged

1 with administering.

2 (4) Except as provided in ORS 183.335 (5), the commission shall cause a public hearing to
3 be held on any proposed rule or standard prior to its adoption. The hearing may be before
4 the commission, any designated member thereof or any person designated by and acting for
5 the commission.

6 (5) This section does not limit the authority granted the Energy Facility Siting Council
7 under ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

8
9 **TRANSFER OF RULEMAKING AUTHORITY FROM STATE**
10 **DEPARTMENT OF ENERGY TO OREGON ENERGY COMMISSION**

11
12 (Transfer)

13
14 **SECTION 6.** (1) Except as provided in subsection (2) of this section, the duties, functions
15 and powers of the State Department of Energy and the Director of the State Department of
16 Energy relating to the establishment of policy for the operations of the department and the
17 adoption of rules are imposed upon, transferred to and vested in the Oregon Energy Com-
18 mission.

19 (2) Subsection (1) of this section does not affect, alter, transfer or limit the authority
20 granted to the Energy Facility Siting Council under ORS 469.300 to 469.563, 469.590 to 469.619,
21 469.930 and 469.992, or the authority of the director granted under ORS 469.040 (1)(a) in
22 supervising and facilitating the work and research on energy facility siting applications at
23 the direction of the council.

24
25 (Action, Proceeding, Prosecution)

26
27 **SECTION 7.** The transfer of duties, functions and powers to the Oregon Energy Com-
28 mission by section 6 of this 2017 Act does not affect any action, proceeding or prosecution
29 involving or with respect to the duties, functions and powers begun before and pending at
30 the time of the transfer, except that the Oregon Energy Commission is substituted for the
31 State Department of Energy or the Director of the State Department of Energy in the
32 action, proceeding or prosecution.

33
34 (Liability, Duty, Obligation)

35
36 **SECTION 8.** (1) Nothing in sections 2 to 10 or 14 to 17 of this 2017 Act, the amendments
37 to statutes and session law by sections 1, 11, 12, 18 to 20 and 89 to 154 of this 2017 Act or the
38 repeal of ORS 469.060 and 469.070 by section 13 of this 2017 Act relieves a person of a liability,
39 duty or obligation accruing under or with respect to the duties, functions and powers
40 transferred by section 6 of this 2017 Act. The Oregon Energy Commission may undertake the
41 collection or enforcement of any such liability, duty or obligation.

42 (2) The rights and obligations of the State Department of Energy legally incurred under
43 contracts, leases and business transactions executed, entered into or begun before the op-
44 erative date of section 6 of this 2017 Act accruing under or with respect to the duties, func-
45 tions and powers transferred by section 6 of this 2017 Act are transferred to the Oregon

1 Energy Commission. For the purpose of succession to these rights and obligations, the
2 Oregon Energy Commission is a continuation of the State Department of Energy and the
3 Director of the State Department of Energy and not a new authority.

4
5 (Rules)
6

7 **SECTION 9.** Notwithstanding the transfer of duties, functions and powers by section 6
8 of this 2017 Act, the rules of the State Department of Energy and the Director of the State
9 Department of Energy with respect to such duties, functions or powers that are in effect on
10 the operative date of section 6 of this 2017 Act continue in effect until superseded or repealed
11 by rules of the Oregon Energy Commission. References in the rules of the State Department
12 of Energy to the State Department of Energy or an officer or employee of the State De-
13 partment of Energy with respect to the duties, functions and powers transferred by section
14 6 of this 2017 Act are considered to be references to the Oregon Energy Commission.

15 **SECTION 10.** Whenever, in any statutory or uncodified law or resolution of the Legisla-
16 tive Assembly or in any rule, document, record or proceeding authorized by the Legislative
17 Assembly, in the context of the duties, functions and powers transferred by section 6 of this
18 2017 Act, reference is made to the State Department of Energy, the Director of the State
19 Department of Energy or an officer or employee of the State Department of Energy whose
20 duties, functions or powers are transferred by section 6 of this 2017 Act, the reference is
21 considered to be a reference to the Oregon Energy Commission or an officer or employee of
22 the Oregon Energy Commission who by this 2017 Act is charged with carrying out the duties,
23 functions and powers.

24
25 STATE DEPARTMENT OF ENERGY ADMINISTRATION
26

27 (Modification of General Duties)
28

29 **SECTION 11.** ORS 469.030 is amended to read:

30 469.030. [(1) *There is created the State Department of Energy.*]

31 (1) **There is created under the Oregon Energy Commission a department to be known as**
32 **the State Department of Energy. The department shall consist of the Director of the State**
33 **Department of Energy and all personnel employed in the department. The primary purpose**
34 **of the department shall be to provide expert technology- and industry-neutral nonpartisan**
35 **advice to the Governor and the Legislative Assembly on energy-related matters.**

36 (2) **Subject to the policy direction of the Oregon Energy Commission, and in furtherance**
37 **of the purpose stated in subsection (1) of this section, the State Department of Energy shall:**

38 (a) **[Be] Collect, compile and analyze energy data from all available sources and serve as**
39 **the central repository within the state government for [the collection of data on energy resources;]**
40 **energy information, to which all agencies shall send information on all energy-related re-**
41 **search;**

42 (b) **Apply a statewide perspective to the administration of energy programs, while pro-**
43 **viding technical assistance and reporting to the Legislative Assembly, the Governor and**
44 **other agencies;**

45 [(b) *Endeavor to utilize all public and private sources to inform and educate the public about en-*

1 *ergy problems and ways in which the public can conserve energy resources;]*

2 *[(c) Engage in research, but whenever possible, contract with appropriate public or private agencies*
3 *and dispense funds for research projects and other services related to energy resources, except that the*
4 *State Department of Energy shall endeavor to avoid duplication of research whether completed or in*
5 *progress;]*

6 *[(d)] (c) Qualify for, accept and disburse or utilize any private or federal moneys or services*
7 *available for the administration of ORS [176.820,] 192.501 to 192.505, [192.690,] 469.010 to 469.155,*
8 *469.300 to 469.563, 469.990, 757.710 and 757.720;*

9 *[(e)] (d) Administer federal and state energy allocation and conservation programs and energy*
10 *research and development programs and apply for and receive available funds [therefor] for the*
11 **programs;**

12 **(e) Regularly evaluate all energy programs administered by the department and other**
13 **state agencies, applying consistent baselines across all programs, as feasible, for analyzing**
14 **the programs for efficacy, consistency, cost-effectiveness and redundancy, and make evalu-**
15 **ation information available to the Governor and the Legislative Assembly;**

16 *[(f) Be a clearinghouse for energy research to which all agencies shall send information on all*
17 *energy related research;]*

18 *[(g)] (f) Prepare contingent energy programs to include all forms of energy not otherwise pro-*
19 *vided pursuant to ORS 757.710 and 757.720;*

20 *[(h) Maintain an inventory of energy research projects in Oregon and the results thereof;]*

21 *[(i) Collect, compile and analyze energy statistics, data and information;]*

22 *[(j)] (g) Contract with public and private agencies for energy activities consistent with ORS*
23 *469.010 and this section;*

24 *[(k)] (h) Upon request of the governing body of any affected jurisdiction, coordinate a public*
25 *review of a proposed transmission line according to the provisions of ORS 469.442; and*

26 *[(L) Advise the Governor on energy-related matters.]*

27 **(i) Provide staff support to the Oregon Hanford Cleanup Board, the Energy Facility Siting**
28 **Council and the Oregon Global Warming Commission.**

29
30 **(Director)**

31
32 **SECTION 12.** ORS 469.040 is amended to read:

33 469.040. (1) The State Department of Energy shall be under the supervision of the Director of
34 the State Department of Energy, who shall:

35 *[(a) Supervise the day-to-day functions of the State Department of Energy;]*

36 *[(b)] (a) Supervise and facilitate the work and research on energy facility siting applications at*
37 *the direction of the Energy Facility Siting Council; and*

38 **(b) Subject to the direction of the Oregon Energy Commission:**

39 **(A) Supervise the day-to-day functions of the State Department of Energy; and**

40 *[(c)] (B) Hire, assign, reassign and coordinate personnel of the State Department of Energy,*
41 *prescribe their duties and fix their compensation, subject to the State Personnel Relations Law;*
42 *and].*

43 *[(d) Adopt rules and issue orders to carry out the duties of the director and the State Department*
44 *of Energy in accordance with ORS chapter 183 and the policy stated in ORS 469.010.]*

45 (2) The director may delegate to any officer or employee the exercise and discharge in the

1 director's name of any power, duty or function of whatever character vested in the director by law.
2 The official act of any person acting in the director's name and by the director's authority shall be
3 considered an official act of the director.

4 (3) The director shall be appointed by the Governor[,], **subject to confirmation by the Senate**
5 **in the manner provided by ORS 171.562 and 171.565.**

6
7 (Statewide Strategic Energy Report)

8
9 **SECTION 13.** ORS 469.060 and 469.070 are repealed.

10 **SECTION 14.** Sections 15 and 17 of this 2017 Act are added to and made a part of ORS
11 **469.010 to 469.155.**

12 **SECTION 15.** (1) The State Department of Energy shall develop a statewide strategic
13 energy report to implement the energy policies stated in ORS 469.010 and 469.310 in a manner
14 that:

15 (a) Takes a balanced approach to addressing the competing interests affected by the
16 policies stated in ORS 469.010 and 469.310; and

17 (b) Provides for transparency and accountability in the actions of the department and the
18 Oregon Energy Commission.

19 (2) The statewide strategic energy report shall include:

20 (a) A description of this state's long-term energy requirements;

21 (b) The objectives of the report;

22 (c) Actions that are designed to achieve the objectives of the report;

23 (d) Provisions to ensure communication and partnership with key stakeholders;

24 (e) Quantitative and qualitative metrics for assessing the performance of the commission
25 and the department in implementing the report, which shall include, but need not be limited
26 to, metrics related to:

27 (A) The consumption, generation, transmission and production of energy, including fuel
28 energy;

29 (B) Energy costs;

30 (C) Energy sectors, markets, technologies, resources and facilities; and

31 (D) Energy efficiency and conservation;

32 (f) Specific functions and roles to be performed by other state agencies in coordinating
33 with the department to ensure a unified, statewide approach to addressing the energy needs
34 and goals of this state consistent with state environmental policy and the policies set forth
35 in ORS 469.010 and 469.310; and

36 (g) Public policy options and recommendations.

37 (3) The statewide strategic energy report shall take effect upon adoption by the com-
38 mission.

39 (4) The commission shall periodically review and update the statewide strategic energy
40 report. The review required by this section shall include an analysis of how each of the pro-
41 grams of the department contributes to meeting the goals of the statewide strategic energy
42 report and how each program can most effectively be administered in furtherance of the
43 report. Revisions of the report shall take effect upon the commission's adoption of the re-
44 vised report by reference in rule.

45 **SECTION 16.** (1) The Oregon Energy Commission shall initially adopt the statewide

1 strategic energy report required by section 15 of this 2017 Act no later than January 1, 2020.

2 (2) The State Department of Energy shall prepare a draft statewide strategic energy re-
3 port, which may include recommendations for legislation. The department shall, no later
4 than September 15, 2019, submit the draft report to the appropriate interim committees of
5 the Legislative Assembly in the manner provided under ORS 192.245.

6 **SECTION 17.** (1) No later than November 1 of each year, the State Department of Energy
7 shall transmit to the Governor and the Legislative Assembly a comprehensive report on en-
8 ergy resources, policies, trends and forecasts in Oregon. The purposes of the report shall be
9 to inform local, state, regional and federal energy policy development, energy planning and
10 energy investments and to identify opportunities to further the energy policies stated in ORS
11 469.010 and 469.310 in conformance with the statewide strategic energy report required under
12 section 15 of this 2017 Act.

13 (2) Consistent with the legislatively approved budget, the report shall include, but need
14 not be limited to:

15 (a) Information on and analysis of the state's progress toward achieving the goals of the
16 statewide strategic energy report required by section 15 of this 2017 Act and on the effec-
17 tiveness of the department's programs in contributing to meeting the goals of the report.

18 (b) Information on the impact of activities carried out by the Oregon Energy Commission
19 and the department on achieving the greenhouse gas emissions reduction goals set forth in
20 ORS 468A.205.

21 (c) Data and information on:

22 (A) The consumption, generation, transmission and production of energy, including fuel
23 energy;

24 (B) Energy costs;

25 (C) Energy sectors, markets, technologies, resources and facilities;

26 (D) Energy efficiency and conservation;

27 (E) The effects of energy use;

28 (F) Local, state, regional and federal regulations, policies and planning activities related
29 to energy; and

30 (G) Emerging energy opportunities, challenges and impacts.

31 (3) The report may include, but need not be limited to:

32 (a) Recommendations for the development and maximum use of cost-effective conserva-
33 tion methods and renewable resources, consistent with the statewide strategic energy report,
34 the energy policies stated in ORS 469.010 and 469.310 and, where appropriate, the energy plan
35 and fish and wildlife program adopted by the Pacific Northwest Electric Power and Conser-
36 vation Planning Council pursuant to P.L. 96-501; and

37 (b) Recommendations for proposed research, development and demonstration projects
38 and programs necessary to further the purposes of the statewide strategic energy report and
39 energy policies stated in ORS 469.010 and 469.310.

40 (4) The report shall be compiled by collecting, organizing and refining data and informa-
41 tion:

42 (a) Acquired by the department in the performance of the department's existing duties;
43 or

44 (b) Required by the commission by rule to be submitted to the department for purposes
45 of compiling the report.

1 (5) Upon request from the department, other agencies shall assist the department in the
2 performance of the department's duties under this section.

3 (6) The department shall seek public input and provide opportunities for public comment
4 during the development of the report.

5
6 (Other State Department of Energy Administrative Provisions)
7

8 **SECTION 18.** ORS 469.085 is amended to read:

9 469.085. (1) Except as otherwise provided in this section, civil penalties under ORS 469.992 shall
10 be imposed as provided in ORS 183.745.

11 (2) Notwithstanding ORS 183.745 (2), the notice to the person against whom a civil penalty is
12 to be imposed shall reflect a complete statement of the consideration given to the factors listed in
13 subsection (7) of this section. The notice may be served by either the [*Director of the State Depart-*
14 *ment of Energy*] **Oregon Energy Commission** or the Energy Facility Siting Council.

15 (3) Notwithstanding ORS 183.745, if a hearing is not requested or if the person requesting a
16 hearing fails to appear, a final order shall be entered upon a prima facie case made on the record
17 of the agency.

18 (4) The provisions of this section are in addition to and not in lieu of any other penalty or
19 sanction provided by law. An action taken by the [*director*] **commission** or the council under this
20 section may be joined by the [*director*] **commission** or the council with any other action against the
21 same person under this chapter.

22 (5) Any civil penalty recovered under this section shall be paid into the General Fund.

23 (6) The [*director*] **commission** or the council shall adopt by rule a schedule of the amount of
24 civil penalty that may be imposed for a particular violation.

25 (7) In imposing a penalty under ORS 469.992, the [*director*] **commission** or the council shall
26 consider:

27 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
28 necessary or appropriate to correct or prevent any violation;

29 (b) Any prior violations of ORS chapter 469 or rules, orders or permits relating to the alleged
30 violation;

31 (c) The impact of the violation on public health and safety or public interests in fishery, navi-
32 gation and recreation;

33 (d) Any other factors determined by the [*director*] **commission** or the council to be relevant;
34 and

35 (e) The alleged violator's cooperativeness and effort to correct the violation.

36 (8) The penalty imposed under ORS 469.992 may be remitted or mitigated upon such terms and
37 conditions as the [*director*] **commission** or council determines to be proper. Upon the request of the
38 person incurring the penalty, the [*director*] **commission** or council shall consider evidence of the
39 economic and financial condition of the person in determining whether a penalty shall be remitted
40 or mitigated.

41 **SECTION 19.** ORS 469.110 is amended to read:

42 469.110. (1) At the direction of the [*Director of the State Department of Energy*] **Oregon Energy**
43 **Commission**, the State Department of Energy may represent the state's energy-related interests in
44 any matter involving the federal government, its departments or agencies, which is within the scope
45 of the power and duties of the State Department of Energy, and may, upon request, represent the

1 interest of a county, city, state agency, federally recognized Native American or American Indian
2 tribe, special district or owner or operator of an energy facility.

3 (2) At the direction of the [*director*] **commission**, the department may intervene in any pro-
4 ceeding undertaken by an agency for the purpose of expressing its views as to the effect of an
5 agency action, upon state energy resources and state energy policy.

6 **SECTION 20.** ORS 469.120 is amended to read:

7 469.120. (1) The State Department of Energy Account is established.

8 (2) The account shall consist of all funds received by the State Department of Energy pursuant
9 to law. All moneys in the account are continuously appropriated to the State Department of Energy
10 for payment of expenses of the department, **the Oregon Energy Commission** and [*of*] the Energy
11 Facility Siting Council.

12 (3) Moneys collected under ORS 469.421 (8) may be expended only for the purposes of programs
13 and activities that the **commission, the council** and the department are charged with administering
14 and authorized to conduct under the laws of this state, including those enumerated in ORS 469.030.

15 (4) The Director of the State Department of Energy shall keep a record of all moneys deposited
16 in the account. The record shall indicate by special cumulative accounts the source from which
17 moneys are derived and the individual activity or program, including any activities described in ORS
18 469.424, against which each withdrawal is charged. On or after October 1 of each year, the director
19 shall make available, upon request, the record for the prior fiscal year to any energy resource sup-
20 plier that has paid the assessment imposed under ORS 469.421 (8). The director shall make the re-
21 cord available within 30 days of receiving the request.

22
23 **(Energy Resource Supplier Assessment Modifications)**
24

25 **SECTION 21.** ORS 469.421, as amended by section 71, chapter 117, Oregon Laws 2016, is
26 amended to read:

27 469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,
28 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,
29 a request for an expedited review under ORS 469.373, a request for the State Department of Energy
30 to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to
31 amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council and
32 the department related to the review and decision of the council. Expenses under this subsection
33 may include:

34 (a) Legal expenses;

35 (b) Expenses incurred in processing and evaluating the application;

36 (c) Expenses incurred in issuing a final order or site certificate;

37 (d) Expenses incurred in commissioning an independent study under ORS 469.360;

38 (e) Compensation paid to a state agency, a tribe or a local government pursuant to a written
39 contract or agreement relating to compensation as provided for in ORS 469.360; or

40 (f) Expenses incurred by the council in making rule changes that are specifically required and
41 related to the particular site certificate.

42 (2) Every person submitting a notice of intent to file for a site certificate, a request for ex-
43 emption or a request for expedited review shall pay the fee required under the fee schedule estab-
44 lished under ORS 469.441 to the department prior to submitting the notice or request to the council.
45 To the extent possible, the full cost of the evaluation shall be paid from the fee paid under this

1 subsection. However, if costs of the evaluation exceed the fee, the person submitting the notice or
2 request shall pay any excess costs shown in an itemized statement prepared by the council. In no
3 event shall the council incur evaluation expenses in excess of 110 percent of the fee initially paid
4 unless the council provides prior notification to the applicant and a detailed projected budget the
5 council believes necessary to complete the project. If costs are less than the fee paid, the excess
6 shall be refunded to the person submitting the notice or request.

7 (3) Before submitting a site certificate application, the applicant shall request from the depart-
8 ment an estimate of the costs expected to be incurred in processing the application. The department
9 shall inform the applicant of that amount and require the applicant to make periodic payments of
10 the costs pursuant to a cost reimbursement agreement. The cost reimbursement agreement shall
11 provide for payment of 25 percent of the estimated costs when the applicant submits the application.
12 If costs of the evaluation exceed the estimate, the applicant shall pay any excess costs shown in an
13 itemized statement prepared by the council. In no event shall the council incur evaluation expenses
14 in excess of 110 percent of the fee initially estimated unless the council provided prior notification
15 to the applicant and a detailed projected budget the council believes is necessary to complete the
16 project. If costs are less than the fee paid, the council shall refund the excess to the applicant.

17 (4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
18 section shall be subject to the provisions of subsection (11) of this section.

19 (5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual fee,
20 due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of the
21 department's budget authorization by an odd-numbered year regular session of the Legislative As-
22 sembly or as revised by the Emergency Board meeting in an interim period or by the Legislative
23 Assembly meeting in special session or in an even-numbered year regular session, the Director of
24 the State Department of Energy promptly shall enter an order establishing an annual fee based on
25 the amount of revenues that the director estimates is needed to fund the cost of ensuring that the
26 facility is being operated consistently with the terms and conditions of the site certificate, any order
27 issued by the department under ORS 469.405 (3) and any applicable health or safety standards. In
28 determining this cost, the director shall include both the actual direct cost to be incurred by the
29 council and the department to ensure that the facility is being operated consistently with the terms
30 and conditions of the site certificate, any order issued by the department under ORS 469.405 (3) and
31 any applicable health or safety standards, and the general costs to be incurred by the council and
32 the department to ensure that all certificated facilities are being operated consistently with the
33 terms and conditions of the site certificates, any orders issued by the department under ORS 469.405
34 (3) and any applicable health or safety standards that cannot be allocated to an individual, licensed
35 facility. Not more than 35 percent of the annual fee charged each facility shall be for the recovery
36 of these general costs. The fees for direct costs shall reflect the size and complexity of the facility,
37 the anticipated costs of ensuring compliance with site certificate conditions, the anticipated costs
38 of conducting site inspections and compliance reviews as described in ORS 469.430, and the antic-
39 ipated costs of compensating state agencies and local governments for participating in site in-
40 spection and compliance enforcement activities at the request of the council.

41 (6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
42 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the
43 facility during the remaining portion of the year determined in the same manner as the annual fee.

44 (7) When the actual costs of regulation incurred by the council and the department for the year,
45 including that portion of the general regulation costs that have been allocated to a particular fa-

1 cility, are less than the annual fees for that facility, the unexpended balance shall be refunded to
2 the site certificate holder. When the actual regulation costs incurred by the council and the de-
3 partment for the year, including that portion of the general regulation costs that have been allo-
4 cated to a particular facility, are projected to exceed the annual fee for that facility, the director
5 may issue an order revising the annual fee.

6 (8)(a) In addition to any other fees required by law, each energy resource supplier shall pay to
7 the department annually its share of an assessment to fund the programs and activities of the
8 council and the department.

9 (b) Prior to filing an agency request budget under ORS 291.208 for purposes related to the
10 compilation and preparation of the Governor's budget under ORS 291.216, the director shall deter-
11 mine the projected aggregate amount of revenue to be collected from energy resource suppliers un-
12 der this subsection that will be necessary to fund the programs and activities of the council and the
13 department for each fiscal year of the upcoming biennium. After making that determination, the di-
14 rector shall convene a public meeting with representatives of energy resource suppliers and other
15 interested parties for the purpose of providing energy resource suppliers with a full accounting of:

16 (A) The projected revenue needed to fund each department program or activity; and

17 (B) The projected allocation of moneys derived from the assessment imposed under this sub-
18 section to each department program or activity.

19 (c) Upon approval of the budget authorization of the council and the department by an odd-
20 numbered year regular session of the Legislative Assembly, the director shall promptly enter an
21 order establishing the amount of revenues required to be derived from an assessment pursuant to
22 this subsection in order to fund programs and activities that the council and the department are
23 charged with administering and authorized to conduct under the laws of this state, including those
24 enumerated in ORS 469.030, for the first fiscal year of the forthcoming biennium. On or before June
25 1 of each even-numbered year, the director shall enter an order establishing the amount of revenues
26 required to be derived from an assessment pursuant to this subsection in order to fund the programs
27 and activities that the council and the department are charged with administering and authorized
28 to conduct under the laws of this state, including those enumerated in ORS 469.030, for the second
29 fiscal year of the biennium. The order shall take into account any revisions to the biennial budget
30 of the council and the department made by the Emergency Board meeting in an interim period or
31 by the Legislative Assembly meeting in special session or in an even-numbered year regular session.

32 (d) Each order issued by the director pursuant to paragraph (c) of this subsection shall allocate
33 the aggregate assessment set forth in the order to energy resource suppliers in accordance with
34 paragraph (e) of this subsection.

35 (e) The amount assessed to an energy resource supplier shall be based on the ratio which that
36 supplier's annual gross operating revenue derived within this state in the preceding calendar year
37 bears to the total gross operating revenue derived within this state during that year by all energy
38 resource suppliers. The assessment against an energy resource supplier shall not exceed ~~[0.375]~~ **0.1**
39 percent of the supplier's gross operating revenue derived within this state in the preceding calendar
40 year. The director shall exempt from payment of an assessment any individual energy resource
41 supplier whose calculated share of the annual assessment is less than \$250.

42 (f) The director shall send each energy resource supplier subject to assessment pursuant to this
43 subsection a copy of each order issued by registered or certified mail or through use of an electronic
44 medium with electronic receipt verification. The amount assessed to the energy resource supplier
45 pursuant to the order shall be considered to the extent otherwise permitted by law a government-

1 imposed cost and recoverable by the energy resource supplier as a cost included within the price
2 of the service or product supplied.

3 (g) The amounts assessed to individual energy resource suppliers pursuant to paragraph (e) of
4 this subsection shall be paid to the department as follows:

5 (A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
6 following adjournment sine die of the odd-numbered year regular session of the Legislative Assem-
7 bly; and

8 (B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
9 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year
10 regular session of the Legislative Assembly, whichever is later.

11 (h) An energy resource supplier shall provide the director, on or before May 1 of each year, a
12 verified statement showing its gross operating revenues derived within the state for the calendar
13 or fiscal year that was used by the energy resource supplier for the purpose of reporting federal
14 income taxes for the preceding calendar or fiscal year. The statement must be in the form prescribed
15 by the director and is subject to audit by the director. The statement must include an entry showing
16 the total operating revenue derived by petroleum suppliers from fuels sold that are subject to the
17 requirements of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with reference
18 to aircraft fuel and motor vehicle fuel, and ORS 319.530. The director may grant an extension of not
19 more than 15 days for the requirements of this subsection if:

20 (A) The energy supplier makes a showing of hardship caused by the deadline;

21 (B) The energy supplier provides reasonable assurance that the energy supplier can comply with
22 the revised deadline; and

23 (C) The extension of time does not prevent the council or the department from fulfilling its
24 statutory responsibilities.

25 (i) As used in this section:

26 (A) "Energy resource supplier" means an electric utility, natural gas utility or petroleum sup-
27 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-
28 ducts in Oregon.

29 (B) "Gross operating revenue" means [*gross receipts from sales or service made or provided*
30 *within this state*] **the gross receipts of an energy resource supplier from supplying, generating,**
31 **transmitting or distributing electricity, natural gas or petroleum products in Oregon** during
32 the regular course of the energy **resource** supplier's business, but does not include:

33 (i) [*either*] Revenue derived from interutility sales within [*the*] **this** state;

34 (ii) [*or*] Revenue received by a petroleum supplier from the sale of fuels that are subject to the
35 requirements of Article IX, section 3a, of the Oregon Constitution, or ORS 319.020 or 319.530[.]; **or**

36 (iii) **Revenue received by a petroleum supplier for the sale of propane infrastructure.**

37 (C) "Petroleum supplier" has the meaning given that term in ORS 469.020.

38 (j) In determining the amount of revenues that must be derived from any class of energy re-
39 source suppliers by assessment pursuant to this subsection, the director shall take into account all
40 other known or readily ascertainable sources of revenue to the council and department, including,
41 but not limited to, fees imposed under this section and federal funds, and may take into account any
42 funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter
43 792, Oregon Laws 1981.

44 (k) Orders issued by the director pursuant to this section shall be subject to judicial review
45 under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an en-

1 ergy resource supplier to pay amounts assessed to it on or before the statutory deadline.

2 (9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
3 power plant or nuclear installation within this state shall pay to the department annually on July
4 1 an assessment in an amount determined by the director to be necessary to fund the activities of
5 the state and the counties associated with emergency preparedness for a nuclear fueled thermal
6 power plant or nuclear installation. The assessment shall not exceed \$461,250 per year. Moneys
7 collected as assessments under this subsection are continuously appropriated to the department for
8 this purpose.

9 (b) The department shall maintain and cause other state agencies and counties to maintain time
10 and billing records for the expenditure of any fees collected from an operator of a nuclear fueled
11 thermal power plant under paragraph (a) of this subsection.

12 (10) Reactors operated by a college, university or graduate center for research purposes and
13 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements
14 of subsections (5), (8) and (9) of this section.

15 (11)(a) All fees assessed by the director against holders of site certificates for facilities that have
16 an installed capacity of 500 megawatts or greater may be paid in several installments, the schedule
17 for which shall be negotiated between the director and the site certificate holder.

18 (b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee
19 provided under subsections (1) to (9) of this section after it is due and payable shall pay, in addition
20 to that fee, a penalty of two percent of the fee a month for the period that the fee is past due. Any
21 payment made according to the terms of a schedule negotiated under paragraph (a) of this sub-
22 section shall not be considered past due. The director may bring an action to collect an unpaid fee
23 or penalty in the name of the State of Oregon in a court of competent jurisdiction. The court may
24 award reasonable attorney fees to the director if the director prevails in an action under this sub-
25 section. The court may award reasonable attorney fees to a defendant who prevails in an action
26 under this subsection if the court determines that the director had no objectively reasonable basis
27 for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

28
29 **SMALL SCALE LOCAL ENERGY PROJECTS**
30 **AND CLEAN ENERGY DEPLOYMENT PROGRAM**

31
32 **(Transfer of Duties, Functions and Powers)**
33

34 **SECTION 22. Except for the duty to establish by rule standards and criteria for small**
35 **scale local energy projects under ORS 470.080 (1), the duties, functions and powers of the**
36 **State Department of Energy related to the issuance of loans for small scale local energy**
37 **projects under ORS chapter 470 and to the clean energy deployment program are imposed**
38 **upon, transferred to and vested in the Oregon Business Development Department.**

39
40 **(Records, Property, Employees)**
41

42 **SECTION 23. (1) The Director of the State Department of Energy shall deliver to the**
43 **Oregon Business Development Department all records and property within the jurisdiction**
44 **of the director that relate to the duties, functions and powers transferred by section 22 of**
45 **this 2017 Act, and the Director of the Oregon Business Development Department shall take**

1 possession of the records and property.

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

5
6 (Unexpended Revenues)

7
8 **SECTION 24.** (1) The unexpended balances of amounts authorized to be expended by the
9 State Department of Energy for the biennium beginning July 1, 2017, from revenues dedi-
10 cated, continuously appropriated, appropriated or otherwise made available for the purpose
11 of administering and enforcing the duties, functions and powers transferred by section 22 of
12 this 2017 Act are transferred to and are available for expenditure by the Oregon Business
13 Development Department for the biennium beginning July 1, 2017, for the purpose of admin-
14 istering and enforcing the duties, functions and powers transferred by section 22 of this 2017
15 Act.

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

19
20 (Action, Proceeding, Prosecution)

21
22 **SECTION 25.** The transfer of duties, functions and powers to the Oregon Business De-
23 velopment Department by section 22 of this 2017 Act does not affect any action, proceeding
24 or prosecution involving or with respect to the duties, functions and powers begun before
25 and pending at the time of the transfer, except that the Oregon Business Development De-
26 partment is substituted for the State Department of Energy in the action, proceeding or
27 prosecution.

28
29 (Liability, Duty, Obligation)

30
31 **SECTION 26.** (1) Nothing in sections 22 to 28 of this 2017 Act or in the amendments to
32 statutes by sections 29 to 33 and 35 to 56 of this 2017 Act or the repeal of ORS 470.100 by
33 section 34 of this 2017 Act relieves a person of a liability, duty or obligation accruing under
34 or with respect to the duties, functions and powers transferred by section 22 of this 2017 Act.
35 The Oregon Business Development Department may undertake the collection or enforcement
36 of any such liability, duty or obligation.

37 (2) The rights and obligations of the State Department of Energy legally incurred under
38 contracts, leases and business transactions executed, entered into or begun before the op-
39 erative date of section 22 of this 2017 Act accruing under or with respect to the duties,
40 functions and powers transferred by section 22 of this 2017 Act are transferred to the Oregon
41 Business Development Department. For the purpose of succession to these rights and obli-
42 gations, the Oregon Business Development Department is a continuation of the State De-
43 partment of Energy and not a new authority.

44
45 (Rules)

1 government that proposes to use a loan for a small scale local energy project to generate electricity
2 for sale.

3 [(8)] (6) “Eligible state agency” means a state officer, board, commission, department, institution,
4 branch or agency of the state whose costs are paid wholly or in part from funds held in the State
5 Treasury.

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

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

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

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

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

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

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

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

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

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

20 [(15)] (7) “Loan” includes the purchase or other acquisition of evidence of indebtedness and
21 money used for the purchase or other acquisition of evidence of indebtedness.

22 [(16)] (8) “Loan contract” means the evidence of indebtedness and all instruments used in the
23 purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or
24 municipal corporations that are tax exempt entities, a loan contract may include a lease purchase
25 agreement with respect to personal property.

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

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

32 [(19)] (9) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any
33 Indian tribe or authorized Indian tribal organization or any combination of two or more of these
34 tribes or organizations acting jointly in connection with a small scale local energy project.

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

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

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

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

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

42 [(22)] (10) “Oregon business” means a sole proprietorship, partnership, company, cooperative,
43 corporation or other form of business entity that is organized or authorized to do business under
44 Oregon law for profit.

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

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

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

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

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

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

10 [(25)] (11) “Recycling project” means a facility or equipment that converts waste into a new and
11 usable product.

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

13 (a) An Oregon business that is:

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

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

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

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

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

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

25 [(28)] (13) “Small scale local energy project” means any of the following:

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

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

34 (c) A recycling project.

35 (d) An alternative fuel project.

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

39 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
40 that directly or indirectly reduces the amount of energy needed for the construction and operation
41 of the facility and that meets the sustainable building practices standard established by the [State
42 Department of Energy] **Oregon Business Development Department** by rule. For purposes of this
43 paragraph, “system, mechanism or series of mechanisms” includes related and integrated upgrades
44 to attain compliance with standards set in the State of Oregon Structural Specialty Code and Fire
45 and Life Safety Code, and seismic safety upgrades.

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

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

6 [(29)] (14) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the
7 fund created under ORS 470.300.

8 [(30)] (15) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Arti-
9 cle XI-J of the Oregon Constitution and appropriated to the [State] department [of Energy] under
10 ORS 470.130.

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

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

18 **SECTION 30.** ORS 470.060 is amended to read:

19 470.060. (1) The following may file with the [State Department of Energy] **Oregon Business**
20 **Development Department** an application to obtain moneys for a small scale local energy project
21 as provided in this chapter:

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

23 (b) An Oregon business;

24 (c) A nonprofit or public cooperative;

25 (d) A nonprofit corporation;

26 (e) An eligible federal agency;

27 (f) An eligible state agency;

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

29 (h) An intergovernmental entity created pursuant to an intergovernmental agreement under ORS
30 190.003 to 190.130;

31 (i) A special district;

32 (j) A local improvement district;

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

34 (L) A municipal corporation.

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

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

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

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

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

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

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

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

12 **SECTION 31.** ORS 470.070 is amended to read:

13 470.070. (1) The Director of the *[State Department of Energy]* **Oregon Business Development**
14 **Department** shall appoint a Small Scale Local Energy Project Advisory Committee to review ap-
15 plications made under ORS 470.060 and rules adopted under ORS 470.080*[, other than applications for*
16 *energy efficiency and sustainable technology loans,]* and make recommendations regarding those ap-
17 plications to the director.

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

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

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

30 **SECTION 32.** ORS 470.080 is amended to read:

31 470.080. (1) After consultation with the Small Scale Local Energy Project Advisory Committee,
32 the *[Director of the State Department of Energy]* **Oregon Energy Commission, in consultation with**
33 **the Director of the Oregon Business Development Department,** shall establish by rule stan-
34 dards and criteria for small scale local energy projects to be funded under this chapter *[other than*
35 *projects funded through energy efficiency and sustainable technology loans]*. The standards and crite-
36 ria shall operate to encourage diversity in projects funded, give preference to the maximum extent
37 practical to projects proposed by individuals and small businesses, ensure acceptability of environ-
38 mental impacts and shall require consideration of the potential contribution of a project if developed
39 at other suitable locations to meeting the energy needs of this state. The standards and criteria shall
40 give the least preference to projects proposed by an eligible federal agency.

41 (2) All applications submitted under ORS 470.060 shall be reviewed by the *[State Department of*
42 *Energy]* **Oregon Business Development Department.** The department may request that the appli-
43 cant submit additional information or revise the application. The department shall:

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

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

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

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

14 **SECTION 33.** ORS 470.090 is amended to read:

15 470.090. (1) After consideration of the recommendation of the Small Scale Local Energy Project
16 Advisory Committee or the [*State Department of Energy*] **Oregon Business Development Depart-**
17 **ment** as provided by ORS 470.080, the Director of the [*State Department of Energy*] **Oregon Busi-**
18 **ness Development Department** may approve or reject the financing of a small scale local energy
19 project described in an application filed as provided in ORS 470.060, using moneys in the Small Scale
20 Local Energy Project Loan Fund. Approval of a loan by the director shall include a certification
21 of the amount of the loan.

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

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

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

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

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

31 (e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into
32 a contract with the director for development and repayment as provided in ORS 470.150 [*or*
33 *470.645*];

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

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

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

40 (i) Except for a proposed space heating project for a dwelling under paragraph (h) of this sub-
41 section, the loan does not finance any project for which the projected economic value of the energy
42 savings of the project during the first year the project is implemented is equal to or greater than
43 the cost of the project; and

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

45 (3) The director shall notify the applicant and the presiding officer of the committee of the

1 director's action and of the reasons for that action. [*The director shall inform the applicant of the*
 2 *review procedure established in ORS 470.100.*] **Notwithstanding ORS chapter 183, a decision of**
 3 **the director on an application for financing under this section is not subject to judicial re-**
 4 **view.**

5 **SECTION 34. ORS 470.100 is repealed.**

6 **SECTION 35.** ORS 470.110 is amended to read:

7 470.110. The Director of the [*State Department of Energy*] **Oregon Business Development De-**
 8 **partment** may accept gifts of money or other property from any source, given for the purposes of
 9 ORS 470.050 to 470.120, 470.140 (1) and 470.150 to 470.210. Money so received shall be paid into the
 10 Small Scale Local Energy Project Loan Fund. Money or other property so received shall be used for
 11 the purposes for which received.

12 **SECTION 36.** ORS 470.120 is amended to read:

13 470.120. If the applicant receives from any source other than the Small Scale Local Energy
 14 Project Loan Fund[, *the Energy Project Supplemental Fund or the Energy Project Bond Loan Fund*]
 15 any moneys to assist in the development of the **small scale local energy** project, the amount of the
 16 loan to the applicant from the Small Scale Local Energy Project Loan Fund[, *Energy Project Sup-*
 17 *plemental Fund or Energy Project Bond Loan Fund*] shall be limited to that amount necessary for
 18 the development of those portions of the project not funded by other sources.

19 **SECTION 37.** ORS 470.130 is amended to read:

20 470.130. All moneys in the Small Scale Local Energy Project Loan Fund created by Article XI-J
 21 of the Oregon Constitution are appropriated continuously to the [*State Department of Energy*]
 22 **Oregon Business Development Department** and shall be used for the purposes authorized under
 23 this chapter.

24 **SECTION 38.** ORS 470.135 is amended to read:

25 470.135. The duties of the Director of the Oregon Department of Administrative Services to es-
 26 tablish, maintain and keep accounts of, and make disbursements or transfers out of, the funds and
 27 accounts established or identified in the two bond indentures, as supplemented, dated June 1, 1981,
 28 and September 1, 1985, that relate to the Small Scale Local Energy Project Loan Program estab-
 29 lished by Article XI-J of the Oregon Constitution and this chapter are transferred to the [*State De-*
 30 *partment of Energy*] **Oregon Business Development Department**. Notwithstanding the transfer of
 31 these fiscal functions to the [*State Department of Energy*] **Oregon Business Development Depart-**
 32 **ment**, in accordance with ORS 291.015 (2), the [*State Department of Energy's*] **Oregon Business**
 33 **Development Department's** performance of these fiscal functions shall remain subject to the con-
 34 trol of the Oregon Department of Administrative Services.

35 **SECTION 39.** ORS 470.140 is amended to read:

36 470.140. (1) In accordance with the applicable provisions of ORS chapter 183, **and except as**
 37 **provided by ORS 470.080 (1)**, the Director of the [*State Department of Energy*] **Oregon Business**
 38 **Development Department** may adopt rules considered necessary to carry out the purposes of this
 39 chapter.

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

44 **SECTION 40.** ORS 470.145 is amended to read:

45 470.145. The [*State Department of Energy*] **Oregon Business Development Department** shall

1 develop, implement and periodically update a marketing plan to inform potential applicants of the
 2 availability of small scale local energy project loans. The first priority of the marketing plan shall
 3 be to inform individuals and small businesses that small scale local energy project loans are avail-
 4 able.

5 **SECTION 41.** ORS 470.150 is amended to read:

6 470.150. Except as provided in ORS 470.155 and 470.170, if the Director of the [*State Department*
 7 *of Energy*] **Oregon Business Development Department** approves the financing of a small scale
 8 local energy project, the director, on behalf of the state, and the applicant may enter into a loan
 9 contract, secured by a first lien or by other good and sufficient collateral in the manner provided
 10 in ORS 470.155 to 470.210. For purposes of this section, the interest of the [*State Department of En-*
 11 *ergy*] **Oregon Business Development Department** under a lease purchase contract entered into
 12 with an eligible federal or state agency or a municipal corporation may constitute good and suffi-
 13 cient collateral. The contract:

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

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

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

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

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

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

41 (e) [*May*] **Shall** set forth a procedure for formal declaration of default of payment by the direc-
 42 tor, including formal notification of all relevant federal, state and local agencies; and further, a
 43 procedure for notification of all relevant federal, state and local agencies that declaration of default
 44 has been rescinded when appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 [(D) This chapter; or]

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

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

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

38 **SECTION 42.** ORS 470.160 is amended to read:

39 470.160. If the Director of the [State Department of Energy] **Oregon Business Development**
40 **Department** approves a loan for a small scale local energy project, the State Treasurer shall pay
41 moneys for such project from the Small Scale Local Energy Project Loan Fund [or Energy Project
42 Bond Loan Fund] in accordance with the terms of the loan contract, as prescribed by the director.

43 **SECTION 43.** ORS 470.170 is amended to read:

44 470.170. [(1)(a)] (1) [Except as otherwise provided in this subsection,] When a loan is made under
45 this chapter to an applicant other than a municipal corporation, the loan shall be secured pursuant

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

9 *[(b) To the extent consistent with any declaration, pledge or agreement for bonds issued under ORS*
 10 *470.220 to 470.290, an energy efficiency and sustainable technology loan shall be secured as provided*
 11 *in ORS 470.680 or 470.685.]*

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

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

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

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

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

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

34 **SECTION 44.** ORS 470.180 is amended to read:

35 470.180. In addition to any other remedy available to the [State Department of Energy,] **Oregon**
 36 **Business Development Department**, if a municipal corporation entitled by law to share in the
 37 apportionment of any state revenues or funds defaults on any payments due to the State of Oregon
 38 under a loan contract entered into under ORS 470.150, the [State Department of Energy] **Oregon**
 39 **Business Development Department** may certify that fact to the Oregon Department of Adminis-
 40 trative Services and the Oregon Department of Administrative Services shall withhold payment of
 41 any revenues or funds in the State Treasury to which the municipal corporation is entitled, in an
 42 amount not to exceed the balance owing on the loan, until the [State Department of Energy] **Oregon**
 43 **Business Development Department** certifies that the default has been remedied.

44 **SECTION 45.** ORS 470.190 is amended to read:

45 470.190. If an applicant fails to comply with a contract entered into with the Director of the

1 [State Department of Energy] **Oregon Business Development Department** for development and
 2 repayment as provided in ORS 470.150 [or 470.645], the director, in addition to remedies provided in
 3 ORS 470.170 and 470.180, may seek other appropriate legal remedies to secure the loan and may
 4 contract as provided in ORS 470.150 with any other person for continuance of development and for
 5 repayment of moneys from the Small Scale Local Energy Project Loan Fund [or from the Energy
 6 Project Bond Loan Fund] used therefor and interest thereon.

7 **SECTION 46.** ORS 470.200 is amended to read:

8 470.200. If any small scale local energy project is refinanced or an additional grant or loan in-
 9 tended to finance the project development is obtained from other sources after the execution of the
 10 loan from the state, all such funds shall be used to repay the state unless the Director of the [State
 11 Department of Energy] **Oregon Business Development Department** finds that repayment of the
 12 state from the additional grant or loan would be contrary to public interest.

13 **SECTION 47.** ORS 470.210 is amended to read:

14 470.210. (1) Notwithstanding any other provision of law, a municipal corporation may enter into
 15 a loan contract with the [State Department of Energy] **Oregon Business Development Department**
 16 to finance a small scale local energy project.

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

22 **SECTION 48.** ORS 470.230 is amended to read:

23 470.230. Except as provided in ORS 470.270, all moneys obtained from the sale of general obli-
 24 gation bonds under ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution shall be
 25 credited by the State Treasurer to the Small Scale Local Energy Project Loan Fund. Those moneys
 26 shall be used only for the purposes stated in Article XI-J of the Oregon Constitution, including
 27 payment of the costs of issuing the bonds and of obtaining credit enhancement for the bonds, and
 28 making payments of interest on bonds issued pursuant to the provisions of ORS 470.220 to 470.290
 29 if there are insufficient funds in the Small Scale Local Energy Project Administration and Bond
 30 Sinking Fund to make the payments referred to in ORS 470.300 (1). Moneys loaned to municipal
 31 corporations but withheld by the [State Department of Energy] **Oregon Business Development**
 32 **Department** for security or to pay for future project costs may remain in the loan fund. Pending
 33 the use of the moneys in the loan fund for the proper purposes, the moneys may be invested in the
 34 manner provided by law.

35 **SECTION 49.** ORS 470.270 is amended to read:

36 470.270. (1) After consultation with the State Treasurer, the Director of the [State Department
 37 of Energy] **Oregon Business Development Department** may issue general obligation refunding
 38 bonds for the purpose of refunding outstanding bonds issued under ORS 470.220 to 470.290 and Ar-
 39 ticle XI-J of the Oregon Constitution. The refunding bonds may be sold in the same manner as other
 40 bonds are sold under ORS 470.220 to 470.290. All moneys obtained from the sale of refunding bonds
 41 shall be credited by the State Treasurer to the Small Scale Local Energy Project Administration and
 42 Bond Sinking Fund. The refunding bonds may be issued to refund bonds previously issued for re-
 43 funding purposes. Pending the use of moneys obtained from the sale of refunding bonds for proper
 44 purposes, such moneys may be invested in the manner provided by law.

45 (2) Notwithstanding any provision of ORS 470.150, if the [State Department of Energy] **Oregon**

1 **Business Development Department** issues taxable refunding bonds at a lower interest rate to re-
 2 fund outstanding general obligation bonds, and is unable to allow loan recipients to receive a por-
 3 tion of the interest savings, the director shall allow the loan recipient to prepay the outstanding
 4 loan balance upon the request of the recipient. The director shall respond to such a request within
 5 30 days after receiving the request by specifying the outstanding principal balance after applying
 6 reserves held by the state for the borrower and the prepayment premium as listed in the bond do-
 7 cument, loan document or bond purchase agreement.

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

20 **SECTION 50.** ORS 470.300 is amended to read:

21 470.300. (1) There hereby is created the Small Scale Local Energy Project Administration and
 22 Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

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

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

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

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

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

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

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

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

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

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

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

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

1 (g) Moneys transferred from the loan fund.

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

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

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

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

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

14 **SECTION 51.** ORS 470.310 is amended to read:

15 470.310. (1) If there are insufficient funds in the Small Scale Local Energy Project Adminis-
16 tration and Bond Sinking Fund to make the payments referred to in ORS 470.300 (1), the Director
17 of the [*State Department of Energy*] **Oregon Business Development Department** may request the
18 funds necessary for such payments from the Legislative Assembly or the Emergency Board.

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

26 **SECTION 51a.** ORS 470.800 is amended to read:

27 470.800. (1) The Clean Energy Deployment Fund is established in the State Treasury, separate
28 and distinct from the General Fund. Interest earned by the Clean Energy Deployment Fund shall
29 be credited to the Clean Energy Deployment Fund. Moneys in the fund are continuously appropri-
30 ated to the [*State Department of Energy*] **Oregon Business Development Department** for use as
31 provided in ORS 470.810.

32 (2) The department may accept grants, donations, contributions or gifts from any source for de-
33 posit in the Clean Energy Deployment Fund.

34 **SECTION 51b.** ORS 470.805 is amended to read:

35 470.805. (1) The Renewable Energy Development Subaccount is established in the Clean Energy
36 Deployment Fund established in ORS 470.800. Interest earned by the Renewable Energy Develop-
37 ment Subaccount shall be credited to the subaccount. Moneys in the fund are continuously appro-
38 priated to the [*State Department of Energy*] **Oregon Business Development Department** for
39 purposes related to renewable energy development.

40 (2) The department may accept grants, donations, contributions or gifts from any source for de-
41 posit in the Renewable Energy Development Subaccount.

42 **SECTION 52.** ORS 470.810 is amended to read:

43 470.810. (1) The [*State Department of Energy*] **Oregon Business Development Department**
44 shall establish the clean energy deployment program to provide grants and loans to support energy
45 efficiency or clean energy projects in this state. The department shall establish criteria for quali-

1 fications of the projects by rule.

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

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

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

12 (3) The department may contract for the implementation of the clean energy deployment pro-
13 gram [*in all or parts of this state with a sustainable energy project manager as defined in ORS*
14 *470.050*].

15 **SECTION 53.** ORS 470.815 is amended to read:

16 470.815. (1) School districts that participate in the clean energy deployment program established
17 in ORS 470.810 may finance projects to:

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

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

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

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

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

29 (a) Paying directly for the projects;

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

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

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

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

37 [*(D)*] (C) Revenues generated by the savings in energy costs resulting from the energy efficiency
38 improvements;

39 (c) Issuing general obligation bonds, subject to the bond election requirements under ORS
40 328.210; or

41 (d) Using any other source of moneys.

42 **SECTION 54.** ORS 223.680 is amended to read:

43 223.680. (1) As used in this section:

44 (a) "Energy improvements" means energy efficiency and renewable energy improvements to
45 qualifying real property authorized by:

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

2 (B) The [*State Department of Energy*] **Oregon Business Development Department** for a loan
3 issued under subsection (10) of this section to a local government that establishes a program in co-
4 operation with a local government described in subparagraph (A) of this paragraph.

5 (b) “Local government” means cities and counties.

6 (c) “Qualifying real property” means multifamily residential dwellings or commercial or indus-
7 trial buildings that the local government has determined can be benefited by energy improvements.

8 (2)(a) Subject to subsection (3) of this section, a local government may establish a program to
9 assist owners of record of qualifying real property in financing cost-effective energy improvements
10 to the qualifying real property.

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

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

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

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

17 (3) Before establishing a program under this section, the local government shall provide notice
18 to utilities that distribute electric energy or natural gas within the areas in which the local gov-
19 ernment will operate the program.

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

21 (a) Require performance of an energy audit on the qualifying real property before the local
22 government approves a loan for energy improvements to the property;

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

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

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

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

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

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

37 (A) The costs of energy improvements the local government determines will benefit the qualify-
38 ing real property and the borrowers;

39 (B) The costs of the energy audit; and

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

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

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

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

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

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

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

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

9 (a) Secure a loan or financing with a lien on the benefited qualifying real property in the man-
10 ner and with the same priority as a lien for assessments for local improvements authorized by ORS
11 223.393.

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

14 (c) Enforce a lien and collect an assessment authorized by this section as provided in ORS
15 223.505 to 223.650.

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

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

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

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

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

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

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

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

35 **SECTION 55.** ORS 291.445 is amended to read:

36 291.445. (1) Before July 1 of each fiscal year, the Oregon Department of Administrative Services
37 shall request from the appropriate state agency a certificate as prescribed in this section. The re-
38 quest shall be made by letter to the agency.

39 (2) Each state agency authorized to issue general obligation bonds that are ordinarily to be re-
40 paid from other than General Fund appropriations shall, on or before August 15 of each fiscal year:

41 (a) Certify to the Director of the Oregon Department of Administrative Services that the
42 amounts available or that will become available during the current year to the bond program debt
43 service fund to pay bond principal and interest that has accrued or will accrue during the current
44 year are sufficient and will be sufficient to pay bond program principal and interest scheduled for
45 payment during the current year; or

1 (b) Certify to the Director of the Oregon Department of Administrative Services that the
2 amounts available or that will become available during the current year to the bond program debt
3 service fund will not be sufficient to pay bond program principal and interest scheduled for payment
4 during the current year. A certificate issued under this paragraph shall specify the amount of the
5 anticipated current year deficit. The Director of the Oregon Department of Administrative Services
6 shall review and confirm the correctness of each certification made under this paragraph.

7 (3) On or before August 15 of each fiscal year, the administrative division of the Oregon De-
8 partment of Administrative Services that has primary responsibility for accounting for each general
9 obligation bond program in which the bond principal and interest is ordinarily to be repaid from
10 General Fund appropriations shall:

11 (a) Certify to the Director of the Oregon Department of Administrative Services that the
12 amounts available or that will become available during the current year from General Fund appro-
13 priations to defray program bond principal and interest that has accrued or will accrue during the
14 current year are sufficient and will be sufficient to pay program bond principal and interest sched-
15 uled for payment during the current year; or

16 (b) Certify to the Director of the Oregon Department of Administrative Services that the
17 amounts available or that will become available during the current year from General Fund appro-
18 priations will not be sufficient to pay program bond principal and interest scheduled for payment
19 during the current year. A certificate issued under this paragraph shall specify the amount of the
20 anticipated current year deficit.

21 (4)(a) If a deficit in funds available to pay principal and interest in any general obligation bond
22 program is certified and confirmed under subsection (2) or certified under subsection (3) of this
23 section, the amount of the deficit, together with any deficit that is certified for any other general
24 obligation bond program shall upon certification constitute a state tax levy on property that shall
25 be apportioned among and charged to the several counties in that proportion which the total as-
26 sessed value of all the taxable property in each county bears to the total assessed value of all the
27 taxable property of the state as equalized.

28 (b) If any agency fails to make the certification under subsection (2) or (3) of this section with
29 respect to any general obligation bond fund program, the Oregon Department of Administrative
30 Services shall determine the amount of revenue and other funds that are available and the amount
31 of taxes, if any, that should be levied in addition to the revenues and funds, to pay bond principal
32 and interest under the program for the fiscal year in question. The additional amount so determined
33 shall thereupon constitute a state tax levy on property that shall be apportioned, certified, collected
34 and distributed as if determined and certified as a deficit by the agency. The Oregon Department
35 of Administrative Services shall charge the agency for cost recovery for time spent on that agency's
36 behalf.

37 (5) Immediately after the department has determined the amount of a state tax levy on property
38 in accordance with subsection (4) of this section, a certificate of levy, signed by the director of the
39 department, shall be filed in the office of the department. If no state levy is required for the fiscal
40 or tax year, a certificate so stating and signed by the director shall be filed in the office of the de-
41 partment.

42 (6) If, for any reason, after the close of any regular session of the Legislative Assembly, it be-
43 comes necessary to reduce General Fund appropriations, General Fund appropriations for a debt
44 service fund of a general obligation bond program described under subsection (3) of this section may
45 not be reduced.

1 (7) For purposes of this section:

2 (a) State agencies that are authorized to issue general obligation bonds ordinarily to be repaid
3 from other than General Fund appropriations include but are not limited to:

4 (A) The Director of Veterans' Affairs, as authorized by Article XI-A of the Oregon Constitution
5 and ORS chapter 407 (veterans loans).

6 (B) The Higher Education Coordinating Commission, for bonds authorized by Article XI-F(1) of
7 the Oregon Constitution and ORS 286A.833 (higher education building projects).

8 (C) The Department of Environmental Quality, as authorized by Article XI-H of the Oregon
9 Constitution and ORS 468.195 to 468.260 (pollution control).

10 (D) The Water Resources Commission and the Water Resources Director, as authorized by Ar-
11 ticle XI-I(1) of the Oregon Constitution and ORS 541.700 to 541.855 (water development).

12 (E) The Housing and Community Services Department, as authorized by Article XI-I(2) of the
13 Oregon Constitution and ORS 456.515 to 456.725 and 458.505 to 458.515 (housing).

14 (F) The Director of the [*State Department of Energy,*] **Oregon Business Development Depart-**
15 **ment** as authorized by Article XI-J of the Oregon Constitution and ORS 470.220 to 470.290 (small
16 scale energy projects).

17 (G) Other agencies as required by the Oregon Department of Administrative Services by rule
18 adopted using the criterion of this subsection.

19 (b) Each agency authorized to issue general obligation bonds that are ordinarily to be repaid
20 from other than General Fund appropriations shall determine the amount of revenues or other funds
21 that are available and the amount of taxes, if any, that should be levied for the ensuing year in the
22 manner required under rules adopted by the Oregon Department of Administrative Services and
23 make the certification required under subsection (2) of this section.

24 (8)(a) State agencies that are authorized to issue general obligation bonds that are ordinarily to
25 be repaid from General Fund appropriations include but are not limited to:

26 (A) The State Board of Forestry and the State Forester, as authorized by Article XI-E of the
27 Oregon Constitution and ORS 530.210 to 530.280 (state reforestation).

28 (B) The Higher Education Coordinating Commission, for bonds authorized by Article XI-G of the
29 Oregon Constitution and ORS 286A.848 (higher education and community colleges).

30 (C) Other agencies as required by the Oregon Department of Administrative Services by rule
31 adopted using the criterion of this subsection.

32 (b) Each agency authorized to issue general obligation bonds ordinarily to be repaid from Gen-
33 eral Fund appropriations shall furnish any data required by the Oregon Department of Administra-
34 tive Services to determine the amount of revenues or other funds that are available and the amount
35 of taxes, if any, that should be levied for the ensuing year and the administrative division of the
36 Oregon Department of Administrative Services that has primary responsibility for accounting shall
37 make the determination for purposes of the making of the certification required under subsection (3)
38 of this section.

39 **SECTION 56.** ORS 757.247 is amended to read:

40 757.247. (1) The Public Utility Commission may authorize a public utility, upon application of the
41 utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of
42 energy resource measures provided to an individual property owner or customer pursuant to an
43 agreement entered into between the individual property owner or customer and the public utility.
44 Energy resource measures provided under this section may include:

45 (a) The installation of renewable energy generation facilities on the property of property owners

1 or the premises of customers;

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

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

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

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

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

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

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

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

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

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

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

27 (5) A public utility may use moneys obtained through a rate established under ORS 757.603 (2)(a)
28 to provide a renewable energy generation facility to a property owner or customer under this sec-
29 tion. A public utility may not charge interest to a property owner or customer for a renewable en-
30 ergy generation facility acquired with moneys obtained through a rate established under ORS
31 757.603 (2)(a).

32 *[(6) Agreements entered into and tariff schedules placed into effect under this section are not sub-
33 ject to ORS 470.500 to 470.710, 757.612 or 757.689.]*

34
35 **(Transfer of Moneys and Appropriations)**

36
37 **SECTION 57. (1) The following funds are abolished on the operative date specified in
38 section 157 of this 2017 Act:**

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

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

41 **(c) The Energy Project Bond Loan Fund;**

42 **(d) The Energy Revenue Bond Repayment Fund; and**

43 **(e) The Alternative Fuel Vehicle Revolving Fund.**

44 **(2) Any moneys remaining in the funds specified in subsection (1) of this section on the
45 operative date specified in section 157 of this 2017 Act that are unexpended, unobligated and**

1 not subject to any conditions shall be transferred to the Small Scale Local Energy Project
2 Loan Fund created by Article XI-J of the Oregon Constitution.

3 **SECTION 58.** There is appropriated to the Oregon Business Development Department, for
4 the biennium beginning July 1, 2017, out of the General Fund, the amount of \$_____ for
5 the purpose of carrying out the provisions of sections 22 to 28 of this 2017 Act, the amend-
6 ments to statutes by sections 29 to 33 and 35 to 56 of this 2017 Act and the repeal of ORS
7 470.100 by section 34 of this 2017 Act.

8
9 (Report)

10
11 **SECTION 59.** The Oregon Business Development Department, in consultation with the
12 State Department of Energy, shall report to the appropriate interim committees of the
13 Legislative Assembly prior to September 15, 2018, on the estimated cost of continuing to
14 manage the loan portfolio, including an estimate of ongoing transaction costs, for loans for
15 small scale local energy projects under ORS chapter 470 for the next eight years.

16 **SECTION 60.** Section 59 of this 2017 Act is repealed on December 31, 2018.

17
18 **AUDITS**

19
20 **SECTION 61.** The State Department of Energy shall contract with an independent third
21 party to conduct an audit, including a forensic audit, of all activities of the department re-
22 lated to the issuance of loans for small scale local energy projects under ORS chapter 470
23 to determine compliance with the provisions of ORS 223.680, 291.445, 470.050, 470.060, 470.070,
24 470.080, 470.090, 470.100, 470.110, 470.120, 470.130, 470.135, 470.140, 470.145, 470.150, 470.160,
25 470.170, 470.180, 470.190, 470.200, 470.210, 470.230, 470.270, 470.300, 470.310, 470.810 and 470.815,
26 all as in effect before the operative date specified in section 157 of this 2017 Act. The audit
27 required under this section shall be at the expense of the department. The auditor shall
28 prepare a report of the results of the audit and make the report available to the Department
29 of Justice.

30 **SECTION 62.** (1) The State Department of Energy shall contract with an independent
31 third party to conduct an audit, including a forensic audit, of all activities of the department
32 related to the issuance of tax credits under ORS 315.341. The auditor shall prepare a report
33 of the results of the audit and make the report available to the Department of Justice.

34 (2) The Department of Revenue shall conduct an audit to determine whether taxpayers
35 who claimed a tax credit issued under ORS 315.341 failed to pay capital gains taxes on capital
36 gains related to the purchase of tax credits issued under ORS 315.341. The Department of
37 Revenue shall prepare a report of the results of the audit and make the report available to
38 the Department of Justice.

39 (3) The audits required under this section shall be conducted at the expense of the State
40 Department of Energy.

41
42 **REPEAL OF ENERGY EFFICIENCY AND SUSTAINABLE**
43 **TECHNOLOGY LOAN PROGRAM AND ALTERNATIVE**
44 **FUEL VEHICLE REVOLVING FUND LOAN PROGRAM**
45

(Action, Proceeding, Prosecution)

SECTION 68. The transfer of duties, functions and powers to the Housing and Community Services Department by section 65 of this 2017 Act does not affect any action, proceeding or prosecution involving or with respect to the duties, functions and powers begun before and pending at the time of the transfer, except that the Housing and Community Services Department is substituted for the State Department of Energy in the action, proceeding or prosecution.

(Liability, Duty, Obligation)

SECTION 69. (1) Nothing in sections 65 to 71, 75 or 76 of this 2017 Act or in the amendments to statutes by sections 72 to 74, 77 or 78 of this 2017 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 65 of this 2017 Act. The Housing and Community Services Department may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the State Department of Energy legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date of section 65 of this 2017 Act accruing under or with respect to the duties, functions and powers transferred by section 65 of this 2017 Act are transferred to the Housing and Community Services Department. For the purpose of succession to these rights and obligations, the Housing and Community Services Department is a continuation of the State Department of Energy and not a new authority.

(Rules)

SECTION 70. Notwithstanding the transfer of duties, functions and powers by section 65 of this 2017 Act, the rules of the State Department of Energy with respect to such duties, functions or powers that are in effect on the operative date of section 65 of this 2017 Act continue in effect until superseded or repealed by rules of the Housing and Community Services Department. References in the rules of the State Department of Energy to the State Department of Energy or an officer or employee of the State Department of Energy are considered to be references to the Housing and Community Services Department or an officer or employee of the Housing and Community Services Department.

SECTION 71. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred by section 65 of this 2017 Act, reference is made to the State Department of Energy, or an officer or employee of the State Department of Energy whose duties, functions or powers are transferred by section 65 of this 2017 Act, the reference is considered to be a reference to the Housing and Community Services Department or an officer or employee of the Housing and Community Services Department who by section 65 of this 2017 Act is charged with carrying out the duties, functions and powers.

(Amendments to Fuel Oil Related Statutes)

1 **SECTION 72.** ORS 469.673 is amended to read:

2 469.673. As used in ORS 469.673 to 469.683:

3 (1) “Cash payment” means a payment made by the [*State Department of Energy*] **Housing and**
4 **Community Services Department** to the dwelling owner or to the contractor on behalf of the
5 dwelling owner for energy conservation measures.

6 [(2) “*Commercial lending institution*” means any bank, mortgage banking company, trust company,
7 savings bank, savings and loan association, credit union, national banking association, federal savings
8 and loan association or federal credit union maintaining an office in this state.]

9 [(3) “*Cost-effective*” means that an energy conservation measure that provides or saves a specific
10 amount of energy during its life cycle results in the lowest present value of delivered energy costs of
11 any available alternative. However, the present value of the delivered energy costs of an energy con-
12 servation measure shall not be treated as greater than that of a nonconservation energy resource or
13 facility unless that cost is greater than 110 percent of the present value of the delivered energy cost of
14 the nonconservation energy resource or facility.]

15 [(4) “*Director*” means the Director of the State Department of Energy appointed under ORS
16 469.040.]

17 **(2) “Contractor” means a person that installs or assists a dwelling owner to install en-**
18 **ergy conservation measures in a dwelling.**

19 [(5)] **(3)(a)** “Dwelling” means real or personal property within the state inhabited as the princi-
20 pal residence of a dwelling owner or a tenant.

21 **(b)** “Dwelling” includes a manufactured dwelling as defined in ORS 446.003, a floating home as
22 defined in ORS 830.700 and a single unit in multiple-unit residential housing.

23 **(c)** “Dwelling” does not include a recreational vehicle as defined in ORS 446.003.

24 [(6)] **(4)** “Dwelling owner” means the person:

25 (a) Who has legal title to a dwelling, including the mortgagor under a duly recorded mortgage
26 of real property, the trustor under a duly recorded deed of trust or a purchaser under a duly re-
27 corded contract for the purchase of real property; and

28 (b) Whose dwelling receives space heating **primarily** from a fuel oil dealer.

29 [(7) “*Energy audit*” means:]

30 [(a) *The measurement and analysis of the heat loss and energy utilization efficiency of a*
31 *dwelling;*]

32 [(b) *An analysis of the energy savings and dollar savings potential that would result from provid-*
33 *ing energy conservation measures for the dwelling;*]

34 [(c) *An estimate of the cost of the energy conservation measures that includes:*]

35 [(A) *Labor for the installation of items designed to improve the space heating and energy utilization*
36 *efficiency of the dwelling; and]*

37 [(B) *The items installed; and]*

38 [(d) *A preliminary assessment, including feasibility and a range of costs, of the potential and op-*
39 *portunity for installation of:*]

40 [(A) *Passive solar space heating and solar domestic water heating in the dwelling; and]*

41 [(B) *Solar swimming pool heating, if applicable.*]

42 **(5) “Energy conservation items” includes but is not limited to air sealing,**
43 **weatherstripping, ceiling and wall insulation, crawl space insulation, vapor barrier materials,**
44 **programmable thermostats, insulation of heating ducts and water pipes in unheated spaces,**
45 **and replacement windows.**

1 [(8)] **(6)(a)** “Energy conservation measures” [*means measures that include*] **includes** the instal-
 2 lation of **energy conservation** items and the **energy conservation** items installed, **where the**
 3 **items** [*that*] are primarily designed to improve the space heating and energy utilization efficiency
 4 of a dwelling. [*These items include, but are not limited to, caulking, weatherstripping and other infil-*
 5 *tration preventative materials, ceiling and wall insulation, crawl space insulation, vapor barrier mate-*
 6 *rials, timed thermostats, insulation of heating ducts, hot water pipes and water heaters in unheated*
 7 *spaces, storm doors and windows, double glazed windows, and dehumidifiers.*]

8 **(b)** “Energy conservation measures” does not include the dwelling owner’s own labor.

9 [(9)] **(7)** “Fuel oil dealer” means a person, association, corporation or other form of organization
 10 that supplies fuel oil at retail for the space heating of dwellings.

11 **(8) “Person” means an individual, partnership, joint venture, private or public corpo-**
 12 **ration, association, firm, public service company, political subdivision, municipal corporation,**
 13 **government agency, people’s utility district or any other entity, public or private, however**
 14 **organized.**

15 **(9) “Petroleum supplier” means a petroleum refiner in this state or any person engaged**
 16 **in the wholesale distribution of distillate fuel oil in this state.**

17 (10) “Residential customer” means a dwelling owner or tenant who is billed by a fuel oil dealer
 18 for fuel oil service received at the dwelling.

19 (11) “Space heating” means the heating of living space within a dwelling.

20 (12) “Tenant” means a tenant as defined in ORS 90.100 or any other tenant.

21 **SECTION 73.** ORS 469.681 is amended to read:

22 469.681. (1) Each petroleum supplier shall **annually** pay to the **Housing and Community Ser-**
 23 **VICES Department its share of a petroleum supplier assessment.** [*State Department of Energy*
 24 *annually its share of an assessment to fund.*]

25 [(a) *Information, assistance and technical advice required of fuel oil dealers under ORS 469.675 for*
 26 *which the Director of the State Department of Energy contracts under ORS 469.677; and*]

27 [(b) *Cash payments to a dwelling owner or contractor for energy conservation measures.*]

28 **(2) Moneys received by the department under this section shall be deposited in the Oil-**
 29 **Heated Dwellings Energy Account to be used only to fund:**

30 **(a) Provision by the department of information, assistance and technical advice to resi-**
 31 **dential customers of fuel oil dealers, including information about energy conservation**
 32 **measures and home energy audits as that term is defined in ORS 469.703;**

33 **(b) Cash payments to a dwelling owner or contractor for energy conservation measures;**
 34 **and**

35 **(c) The administration and enforcement of ORS 469.673 to 469.683.**

36 [(2)] **(3)** The amount of the assessment required by subsection (1) of this section shall be deter-
 37 mined by the Director **of the Housing and Community Services Department** in a manner con-
 38 sistent with the method prescribed in ORS 469.421. The aggregate amount of the assessment shall
 39 not exceed \$400,000. In making this assessment, the director shall exclude all gallons of distillate
 40 fuel oil sold by petroleum suppliers that are subject to the requirements of [*section 3a,*] Article IX,
 41 **section 3a,** of the Oregon Constitution, or ORS 319.020 or 319.530.

42 [(3)] **(4)** If any petroleum supplier fails to pay any amount assessed to it under this section
 43 within 30 days after the payment is due, the Attorney General, on behalf of the [*State Department*
 44 *of Energy*] **Housing and Community Services Department,** may institute a proceeding in the cir-
 45 cuit court to collect the amount due.

1 and

2 (b) The amount of finance charge that would have been charged during the taxable year, in-
3 cluding interest on the loan and interest on any loan fee financed by the lending institution for the
4 loan for energy conservation measures at an annual rate that is the lesser of the following:

5 (A) The annual rate charged by the commercial lending institution for nonsubsidized loans made
6 under like terms and conditions at the time the loan for energy conservation measures is made; or

7 (B) An upper limit established by rule by the Director of the [*State Department of Energy*]
8 **Housing and Community Services Department.**

9 (2) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
10 particular year may be carried forward and offset against the taxpayer's tax liability for the next
11 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
12 forward and used in the second succeeding tax year, and likewise until the 15th succeeding tax year.
13 The credit may not be carried forward beyond the 15th succeeding tax year.

14 (3) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan
15 shall:

16 (a) Be made only to an owner of an oil-heated or wood-heated dwelling who presents the results
17 of an energy audit pursuant to ORS 469.631 to 469.645, 469.649 to 469.659, [*469.673 to 469.683*]
18 **469.681** or 469.685 that is conducted by [*a fuel oil dealer,*] **an** investor-owned utility or publicly
19 owned utility or through the [*State Department of Energy*] **Housing and Community Services De-**
20 **partment**, regardless of whether that fuel oil dealer or utility provides the dwelling's space heating
21 energy.

22 (b) Be subject to an annual rate not to exceed six and one-half percent and have a term not
23 exceeding 10 years.

24 (c) Not finance any materials installed in the construction of a new dwelling, additions to ex-
25 isting structures or remodeling that adds living space.

26 (d) Finance only those energy conservation measures that are recommended as cost-effective in
27 the energy audit, and any loan fee that is included in the body of the loan.

28 (4) The credit allowed under this section may not be allowed to the extent that the loan exceeds
29 \$5,000 for a single dwelling unit, or, if the dwelling owner is a corporation described in ORS 307.375,
30 to the extent that the loan exceeds \$2,000 for a single dwelling unit.

31 (5) A commercial lending institution may charge, finance and collect a nonrefundable front-end
32 loan fee, and such a fee does not affect the eligibility of the loan for a tax credit under this section.
33 The fee, if any, may not exceed that charged by the lending institution for nonsubsidized loans made
34 under like terms and conditions at the time the loan for energy conservation measures is made.

35 (6) Nothing in this section or in rules adopted under this section shall be construed to cause a
36 loan to violate the usury laws of this state.

37 (7) As used in this section, "annual rate," "commercial lending institution," "cost-effective,"
38 "dwelling," "dwelling owner," "energy audit," "energy conservation measures," "finance charge,"
39 "fuel oil dealer," "residential fuel oil customer," "space heating" and "wood heating resident" have
40 the meaning given those terms in ORS 469.710.

41 **SECTION 78.** ORS 469B.154 is amended to read:

42 469B.154. (1) The owner of a rental housing unit may transfer a tax credit for energy conser-
43 vation measures installed in rental housing units under ORS 469B.151 in exchange for a cash pay-
44 ment equal to the present value of the tax credit. To be eligible for a transfer, the energy
45 conservation measures must have been recommended in an energy audit as provided in ORS 469.633,

1 469.651 or [469.675] **469.681**.

2 (2) The [State Department of Energy] **Department of Housing and Community Services** may
3 establish by rule uniform discount rates to be used in calculating the present value of a tax credit
4 under this section.

5
6 **TAX CREDIT FOR RESIDENTIAL ENERGY DEVICES**
7 **(Extension of Eligibility Period for Tax Credit)**
8

9 **SECTION 79.** Section 5a, chapter 832, Oregon Laws 2005, as amended by section 35, chapter
10 843, Oregon Laws 2007, section 12, chapter 913, Oregon Laws 2009, section 16, chapter 83, Oregon
11 Laws 2011, and section 67, chapter 730, Oregon Laws 2011, is amended to read:

12 **Sec. 5a.** (1) A taxpayer may not be allowed a credit under ORS 316.116 if the first tax year for
13 which the credit would otherwise be allowed with respect to an alternative energy device begins
14 on or after January 1, [2018] **2020**.

15 (2) A taxpayer may not be allowed a credit under ORS 316.116 if the first tax year for which the
16 credit would otherwise be allowed with respect to an alternative fuel vehicle or related equipment
17 begins on or after January 1, 2012.

18 **SECTION 80.** Section 8a, chapter 832, Oregon Laws 2005, as amended by section 13, chapter
19 913, Oregon Laws 2009, and section 68, chapter 730, Oregon Laws 2011, is amended to read:

20 **Sec. 8a.** (1) The State Department of Energy may not issue a contractor's certification certifi-
21 cate or an alternative energy device system certificate under ORS [469.170] **469B.106** after January
22 1, [2018] **2020**.

23 (2) The State Department of Energy may not issue an alternative fuel vehicle or related equip-
24 ment certificate under ORS [469.170] **469B.106** for a tax year beginning on or after January 1, 2012.

25
26 **(Report to Legislature)**
27

28 **SECTION 81.** The State Department of Energy shall report to the Legislative Assembly
29 prior to September 15, 2018, with recommendations for an incentive program for residential
30 energy users to take effect after January 1, 2020, that includes elements necessary to ensure
31 that incentives are correctly targeted over time to promote energy efficiency.

32 **SECTION 82.** Section 81 of this 2017 Act is repealed on December 31, 2018.
33

34 **TRANSFERS OF ENERGY-RELATED TAX CREDITS**
35

36 **SECTION 83.** ORS 315.053 is amended to read:

37 315.053. (1) **Except as provided in subsection (2) of this section**, an income tax credit allowed
38 under ORS 315.141, 315.331, 315.336, 315.341 or 315.354 or section 12, chapter 855, Oregon Laws
39 2007, may be transferred or sold only to one or more of the following:

40 [(1)] (a) A C corporation.

41 [(2)] (b) An S corporation.

42 [(3)] (c) A personal income taxpayer.

43 (2)(a) **A tax-exempt entity or a governmental entity holding an income tax credit allowed**
44 **under ORS 315.141, 315.331, 315.336, 315.341 or 315.354 may not transfer the tax credit to a**
45 **taxpayer.**

1 **(b) An entity holding a tax credit described in this subsection may sell the credit to the**
2 **Oregon Business Development Department. The department shall make a cash payment to**
3 **the entity for the price recalculated by the department for the quarter in which the entity**
4 **applies to the department to sell the credit.**

5 **SECTION 84.** ORS 285C.549 is amended to read:

6 285C.549. (1) **Except as provided in ORS 315.053 (2)**, the owner, contract purchaser or lessee
7 of a renewable energy resource equipment manufacturing facility may transfer a tax credit for the
8 facility in exchange for a cash payment equal to the present value of the tax credit.

9 (2) The Director of the Oregon Business Development Department shall establish by rule a for-
10 mula to be employed in the determination of prices of credits transferred under this section. In
11 establishing the formula the department shall incorporate inflation projections and market real rate
12 of return.

13 (3) The director shall recalculate credit transfer prices quarterly, employing the formula estab-
14 lished under subsection (2) of this section.

15 **SECTION 85.** ORS 469B.148 is amended to read:

16 469B.148. (1) **Except as provided in ORS 315.053 (2)**, the owner of a facility may transfer a tax
17 credit for the facility in exchange for a cash payment equal to the present value of the potential tax
18 credit, as determined at the time of the application for preliminary certification.

19 (2) The [*State Department of Energy*] **Oregon Energy Commission** shall establish by rule a
20 formula to be employed **by the State Department of Energy** in the determination of prices of
21 credits transferred under this section. In establishing the formula the [*department*] **commission** shall
22 incorporate inflation projections and market real rate of return.

23 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-
24 tablished **by the commission** under subsection (2) of this section.

25 (4) Notwithstanding any other provision of law, a tax credit transferred pursuant to this section
26 does not decrease the amount of taxes required to be reported by a public utility.

27 **SECTION 86.** ORS 469B.276 is amended to read:

28 469B.276. (1) **Except as provided in ORS 315.053 (2)**, the owner of a project may transfer a tax
29 credit for the project in exchange for a cash payment equal to the present value of the potential tax
30 credit, as determined at the time of the application for preliminary certification. If the tax credit is
31 subject to recertification, only that portion of the tax credit that has been recertified may be
32 transferred.

33 (2) The [*State Department of Energy*] **Oregon Energy Commission** shall establish by rule a
34 formula to be employed **by the State Department of Energy** in the determination of prices of
35 credits transferred under this section. In establishing the formula the [*department*] **commission** shall
36 incorporate inflation projections and market real rate of return.

37 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-
38 tablished **by the commission** under subsection (2) of this section.

39 **SECTION 87.** ORS 469B.323 is amended to read:

40 469B.323. (1) **Except as provided in ORS 315.053 (2)**, the owner of a transportation project may
41 transfer a tax credit for the project in exchange for a cash payment equal to the present value of
42 the tax credit.

43 (2) The [*State Department of Energy*] **Oregon Energy Commission** shall establish by rule a
44 formula to be employed **by the State Department of Energy** in the determination of prices of
45 credits transferred under this section. In establishing the formula the [*department*] **commission** shall

1 incorporate inflation projections and market real rate of return.

2 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-
3 tablished by **the commission** under subsection (2) of this section.

4 **SECTION 88. The amendments to ORS 285C.549, 315.053, 469B.148, 469B.276 and 469B.323**
5 **by sections 83 to 87 of this 2017 Act apply to tax years beginning on or after January 1, 2017.**

6
7 **CONFORMING AMENDMENTS**

8
9 **SECTION 89.** ORS 183.530 is amended to read:

10 183.530. A housing cost impact statement shall be prepared upon the proposal for adoption or
11 repeal of any rule or any amendment to an existing rule by:

12 (1) The Oregon Housing Stability Council;

13 (2) A building codes division of the Department of Consumer and Business Services or any board
14 associated with the department with regard to rules adopted under ORS 455.610 to 455.630;

15 (3) The Land Conservation and Development Commission;

16 (4) The Environmental Quality Commission;

17 (5) The Construction Contractors Board;

18 (6) The Occupational Safety and Health Division of the Department of Consumer and Business
19 Services; or

20 (7) The [State Department of Energy] **Oregon Energy Commission.**

21 **SECTION 89a.** ORS 192.502 is amended to read:

22 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

23 (1) Communications within a public body or between public bodies of an advisory nature to the
24 extent that they cover other than purely factual materials and are preliminary to any final agency
25 determination of policy or action. This exemption shall not apply unless the public body shows that
26 in the particular instance the public interest in encouraging frank communication between officials
27 and employees of public bodies clearly outweighs the public interest in disclosure.

28 (2) Information of a personal nature such as but not limited to that kept in a personal, medical
29 or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the
30 public interest by clear and convincing evidence requires disclosure in the particular instance. The
31 party seeking disclosure shall have the burden of showing that public disclosure would not consti-
32 tute an unreasonable invasion of privacy.

33 (3) Upon compliance with ORS 192.437, public body employee or volunteer residential addresses,
34 residential telephone numbers, personal cellular telephone numbers, personal electronic mail ad-
35 dresses, driver license numbers, employer-issued identification card numbers, emergency contact in-
36 formation, Social Security numbers, dates of birth and other telephone numbers contained in
37 personnel records maintained by the public body that is the employer or the recipient of volunteer
38 services. This exemption:

39 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-
40 unteers who are elected officials, except that a judge or district attorney subject to election may
41 seek to exempt the judge's or district attorney's address or telephone number, or both, under the
42 terms of ORS 192.445;

43 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure
44 shows by clear and convincing evidence that the public interest requires disclosure in a particular
45 instance pursuant to ORS 192.437;

1 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-
2 fessional education association of which the substitute teacher may be a member; and

3 (d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

4 (4) Information submitted to a public body in confidence and not otherwise required by law to
5 be submitted, where such information should reasonably be considered confidential, the public body
6 has obliged itself in good faith not to disclose the information, and when the public interest would
7 suffer by the disclosure.

8 (5) Information or records of the Department of Corrections, including the State Board of Parole
9 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of
10 a person in custody of the department or substantially prejudice or prevent the carrying out of the
11 functions of the department, if the public interest in confidentiality clearly outweighs the public in-
12 terest in disclosure.

13 (6) Records, reports and other information received or compiled by the Director of the Depart-
14 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
15 otherwise required by law to be made public, to the extent that the interests of lending institutions,
16 their officers, employees and customers in preserving the confidentiality of such information out-
17 weighs the public interest in disclosure.

18 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

19 (8) Any public records or information the disclosure of which is prohibited by federal law or
20 regulations.

21 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-
22 wise made confidential or privileged under Oregon law.

23 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply to factual information
24 compiled in a public record when:

25 (A) The basis for the claim of exemption is ORS 40.225;

26 (B) The factual information is not prohibited from disclosure under any applicable state or fed-
27 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.410
28 to 192.505;

29 (C) The factual information was compiled by or at the direction of an attorney as part of an
30 investigation on behalf of the public body in response to information of possible wrongdoing by the
31 public body;

32 (D) The factual information was not compiled in preparation for litigation, arbitration or an
33 administrative proceeding that was reasonably likely to be initiated or that has been initiated by
34 or against the public body; and

35 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement
36 characterizing or partially disclosing the factual information compiled by or at the attorney's di-
37 rection.

38 (10) Public records or information described in this section, furnished by the public body ori-
39 ginally compiling, preparing or receiving them to any other public officer or public body in con-
40 nection with performance of the duties of the recipient, if the considerations originally giving rise
41 to the confidential or exempt nature of the public records or information remain applicable.

42 (11) Records of the Energy Facility Siting Council concerning the review or approval of security
43 programs pursuant to ORS 469.530.

44 (12) Employee and retiree address, telephone number and other nonfinancial membership records
45 and employee financial records maintained by the Public Employees Retirement System pursuant to

1 ORS chapters 238 and 238A.

2 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the
3 agents of the treasurer or the council relating to active or proposed publicly traded investments
4 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or
5 liquidation of the investments. For the purposes of this subsection:

6 (a) The exemption does not apply to:

7 (A) Information in investment records solely related to the amount paid directly into an invest-
8 ment by, or returned from the investment directly to, the treasurer or council; or

9 (B) The identity of the entity to which the amount was paid directly or from which the amount
10 was received directly.

11 (b) An investment in a publicly traded investment is no longer active when acquisition, exchange
12 or liquidation of the investment has been concluded.

13 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the
14 Oregon Growth Board or the agents of the treasurer, council or board relating to actual or proposed
15 investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset
16 including but not limited to records regarding the solicitation, acquisition, deployment, exchange or
17 liquidation of the investments including but not limited to:

18 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership
19 or to their respective investment vehicles.

20 (B) Financial statements of an investment fund, an asset ownership or their respective invest-
21 ment vehicles.

22 (C) Meeting materials of an investment fund, an asset ownership or their respective investment
23 vehicles.

24 (D) Records containing information regarding the portfolio positions in which an investment
25 fund, an asset ownership or their respective investment vehicles invest.

26 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-
27 spective investment vehicles.

28 (F) Investment agreements and related documents.

29 (b) The exemption under this subsection does not apply to:

30 (A) The name, address and vintage year of each privately placed investment fund.

31 (B) The dollar amount of the commitment made to each privately placed investment fund since
32 inception of the fund.

33 (C) The dollar amount of cash contributions made to each privately placed investment fund since
34 inception of the fund.

35 (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State
36 Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer,
37 council or board from each privately placed investment fund.

38 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately
39 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment
40 Council, the Oregon Growth Board or the agents of the treasurer, council or board.

41 (F) The net internal rate of return of each privately placed investment fund since inception of
42 the fund.

43 (G) The investment multiple of each privately placed investment fund since inception of the fund.

44 (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end
45 basis to each privately placed investment fund.

1 (I) The dollar amount of cash profit received from each privately placed investment fund on a
2 fiscal year-end basis.

3 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the
4 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as
5 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

6 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted
7 by ORS 98.352.

8 (17)(a) The following records, communications and information submitted to the Oregon Business
9 Development Commission, the Oregon Business Development Department, the State Department of
10 Agriculture, the Oregon Growth Board, the Port of Portland or other ports as defined in ORS
11 777.005, or a county or city governing body and any board, department, commission, council or
12 agency thereof, by applicants for investment funds, grants, loans, services or economic development
13 moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

14 (A) Personal financial statements.

15 (B) Financial statements of applicants.

16 (C) Customer lists.

17 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
18 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
19 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
20 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
21 ery or deposition statutes to a party to litigation or potential litigation.

22 (E) Production, sales and cost data.

23 (F) Marketing strategy information that relates to applicant's plan to address specific markets
24 and applicant's strategy regarding specific competitors.

25 (b) The following records, communications and information submitted to the [*State Department*
26 *of Energy*] **Oregon Business Development Department** by applicants for tax credits or for grants
27 awarded under ORS 469B.256:

28 (A) Personal financial statements.

29 (B) Financial statements of applicants.

30 (C) Customer lists.

31 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
32 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
33 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
34 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
35 ery or deposition statutes to a party to litigation or potential litigation.

36 (E) Production, sales and cost data.

37 (F) Marketing strategy information that relates to applicant's plan to address specific markets
38 and applicant's strategy regarding specific competitors.

39 (18) Records, reports or returns submitted by private concerns or enterprises required by law
40 to be submitted to or inspected by a governmental body to allow it to determine the amount of any
41 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such
42 information is in a form which would permit identification of the individual concern or enterprise.
43 Nothing in this subsection shall limit the use which can be made of such information for regulatory
44 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-
45 payer of the delinquency immediately by certified mail. However, in the event that the payment or

1 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the
2 public body shall disclose, upon the request of any person, the following information:

3 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the
4 payment or delivery of the taxes.

5 (b) The period for which the taxes are delinquent.

6 (c) The actual, or estimated, amount of the delinquency.

7 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-
8 pointed counsel, and all information supplied to the court from whatever source for the purpose of
9 verifying the financial eligibility of a person pursuant to ORS 151.485.

10 (20) Workers' compensation claim records of the Department of Consumer and Business Services,
11 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-
12 ness Services, in any of the following circumstances:

13 (a) When necessary for insurers, self-insured employers and third party claim administrators to
14 process workers' compensation claims.

15 (b) When necessary for the director, other governmental agencies of this state or the United
16 States to carry out their duties, functions or powers.

17 (c) When the disclosure is made in such a manner that the disclosed information cannot be used
18 to identify any worker who is the subject of a claim.

19 (d) When a worker or the worker's representative requests review of the worker's claim record.

20 (21) Sensitive business records or financial or commercial information of the Oregon Health and
21 Science University that is not customarily provided to business competitors.

22 (22) Records of Oregon Health and Science University regarding candidates for the position of
23 president of the university.

24 (23) The records of a library, including:

25 (a) Circulation records, showing use of specific library material by a named person;

26 (b) The name of a library patron together with the address or telephone number of the patron;
27 and

28 (c) The electronic mail address of a patron.

29 (24) The following records, communications and information obtained by the Housing and Com-
30 munity Services Department in connection with the department's monitoring or administration of
31 financial assistance or of housing or other developments:

32 (a) Personal and corporate financial statements and information, including tax returns.

33 (b) Credit reports.

34 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
35 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
36 of as part of the project, but only after the transactions have closed and are concluded.

37 (d) Market studies and analyses.

38 (e) Articles of incorporation, partnership agreements and operating agreements.

39 (f) Commitment letters.

40 (g) Project pro forma statements.

41 (h) Project cost certifications and cost data.

42 (i) Audits.

43 (j) Project tenant correspondence.

44 (k) Personal information about a tenant.

45 (L) Housing assistance payments.

1 (25) Raster geographic information system (GIS) digital databases, provided by private forestland
2 owners or their representatives, voluntarily and in confidence to the State Forestry Department,
3 that is not otherwise required by law to be submitted.

4 (26) Sensitive business, commercial or financial information furnished to or developed by a
5 public body engaged in the business of providing electricity or electricity services, if the information
6 is directly related to a transaction described in ORS 261.348, or if the information is directly related
7 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
8 disclosure of the information would cause a competitive disadvantage for the public body or its re-
9 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
10 velopment or review of generally applicable rate schedules.

11 (27) Sensitive business, commercial or financial information furnished to or developed by the
12 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
13 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085
14 and disclosure of the information would cause a competitive disadvantage for the Klamath
15 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
16 ment or review of generally applicable rate schedules.

17 (28) Personally identifiable information about customers of a municipal electric utility or a
18 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,
19 electronic mail addresses or Social Security numbers of customers who receive water, sewer or
20 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-
21 lease personally identifiable information about a customer, and a public body providing water, sewer
22 or storm drain services may release the name, date of birth, driver license number, telephone num-
23 ber, electronic mail address or Social Security number of a customer, if the customer consents in
24 writing or electronically, if the disclosure is necessary for the utility, district or other public body
25 to render services to the customer, if the disclosure is required pursuant to a court order or if the
26 disclosure is otherwise required by federal or state law. The utility, district or other public body
27 may charge as appropriate for the costs of providing such information. The utility, district or other
28 public body may make customer records available to third party credit agencies on a regular basis
29 in connection with the establishment and management of customer accounts or in the event such
30 accounts are delinquent.

31 (29) A record of the street and number of an employee's address submitted to a special district
32 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

33 (30) Sensitive business records, capital development plans or financial or commercial information
34 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

35 (31) Documents, materials or other information submitted to the Director of the Department of
36 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
37 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates
38 or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200
39 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code
40 when:

41 (a) The document, material or other information is received upon notice or with an under-
42 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of
43 the document, material or other information; and

44 (b) The director has obligated the Department of Consumer and Business Services not to dis-
45 close the document, material or other information.

- 1 (32) A county elections security plan developed and filed under ORS 254.074.
- 2 (33) Information about review or approval of programs relating to the security of:
- 3 (a) Generation, storage or conveyance of:
- 4 (A) Electricity;
- 5 (B) Gas in liquefied or gaseous form;
- 6 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);
- 7 (D) Petroleum products;
- 8 (E) Sewage; or
- 9 (F) Water.
- 10 (b) Telecommunication systems, including cellular, wireless or radio systems.
- 11 (c) Data transmissions by whatever means provided.
- 12 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-
- 13 ignates the information as confidential by rule under ORS 1.002.
- 14 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.
- 15 (b) As used in this subsection, “employer account records” means all records maintained in any
- 16 form that are specifically related to the account of any employer insured, previously insured or un-
- 17 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-
- 18 mation obtained or developed by the corporation in connection with providing, offering to provide
- 19 or declining to provide insurance to a specific employer. “Employer account records” includes, but
- 20 is not limited to, an employer’s payroll records, premium payment history, payroll classifications,
- 21 employee names and identification information, experience modification factors, loss experience and
- 22 dividend payment history.
- 23 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
- 24 discovery documents in litigation pursuant to applicable rules of civil procedure.
- 25 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.
- 26 (b) As used in this subsection, “claimant files” includes, but is not limited to, all records held
- 27 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all
- 28 records pertaining to such a claim.
- 29 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
- 30 discovery documents in litigation pursuant to applicable rules of civil procedure.
- 31 (37) Except as authorized by ORS 408.425, records that certify or verify an individual’s discharge
- 32 or other separation from military service.
- 33 (38) Records of or submitted to a domestic violence service or resource center that relate to the
- 34 name or personal information of an individual who visits a center for service, including the date of
- 35 service, the type of service received, referrals or contact information or personal information of a
- 36 family member of the individual. As used in this subsection, “domestic violence service or resource
- 37 center” means an entity, the primary purpose of which is to assist persons affected by domestic or
- 38 sexual violence by providing referrals, resource information or other assistance specifically of ben-
- 39 efit to domestic or sexual violence victims.
- 40 (39) Information reported to the Oregon Health Authority under ORS 431A.860, except as pro-
- 41 vided in ORS 431A.860 (2)(b) information disclosed by the authority under ORS 431A.865 and any
- 42 information related to disclosures made by the authority under ORS 431A.865, including information
- 43 identifying the recipient of the information.
- 44 (40)(a) Electronic mail addresses in the possession or custody of an agency or subdivision of the
- 45 executive department, as defined in ORS 174.112, a local government or local service district, as

1 defined in ORS 174.116, or a special government body, as defined in ORS 174.117.

2 (b) This subsection does not apply to electronic mail addresses assigned by a public body to
3 public employees for use by the employees in the ordinary course of their employment.

4 (41) Residential addresses, residential telephone numbers, personal cellular telephone numbers,
5 personal electronic mail addresses, driver license numbers, emergency contact information, Social
6 Security numbers, dates of birth and other telephone numbers of individuals currently or previously
7 certified or licensed by the Department of Public Safety Standards and Training contained in the
8 records maintained by the department.

9 (42) Personally identifiable information and contact information of veterans as defined in ORS
10 408.225 and of persons serving on active duty or as reserve members with the Armed Forces of the
11 United States, National Guard or other reserve component that was obtained by the Department of
12 Veterans' Affairs in the course of performing its duties and functions, including but not limited to
13 names, residential and employment addresses, dates of birth, driver license numbers, telephone
14 numbers, electronic mail addresses, Social Security numbers, marital status, dependents, the char-
15 acter of discharge from military service, military rating or rank, that the person is a veteran or has
16 provided military service, information relating to an application for or receipt of federal or state
17 benefits, information relating to the basis for receipt or denial of federal or state benefits and in-
18 formation relating to a home loan or grant application, including but not limited to financial infor-
19 mation provided in connection with the application.

20 **SECTION 90.** ORS 276.910 is amended to read:

21 276.910. (1) Before constructing or renovating a major facility, an authorized state agency shall,
22 after comparing various equipment options and to the greatest extent practicable, use fuel cell
23 power systems for emergency backup power applications and for critical power applications in lieu
24 of other equipment options.

25 (2)(a) The [*State Department of Energy*] **Oregon Energy Commission** shall, in consultation with
26 the Oregon Department of Administrative Services, adopt rules establishing criteria for the com-
27 parison of fuel cell power systems and other equipment options required by subsection (1) of this
28 section.

29 (b) Criteria to be established under this subsection must address:

30 (A) The impact of emissions, including but not limited to nitrous oxide, sulfur oxide, carbon
31 monoxide, carbon dioxide and particulates, from various equipment options, on the environment, re-
32 gardless of whether the equipment is installed indoors or installed outdoors;

33 (B) Life cycle costs, including but not limited to acquisition costs, installation and commission-
34 ing costs, siting and permitting costs, maintenance costs and fueling and decommissioning costs; and

35 (C) The complexity of equipment options and any ancillary equipment.

36 **SECTION 91.** ORS 276.915 is amended to read:

37 276.915. (1) An authorized state agency may construct or renovate a facility only if the author-
38 ized state agency determines that the design incorporates all reasonable cost-effective energy con-
39 servation measures and alternative energy systems. The determination by the authorized state
40 agency shall include consideration of indoor air quality issues and operation and maintenance costs.

41 (2) Whenever an authorized state agency determines that a major facility is to be constructed
42 or renovated, the authorized state agency shall cause to be included in the design phase of the
43 construction or renovation a provision that requires an energy consumption analysis to be prepared
44 for the facility under the direction of a professional engineer or registered architect or under the
45 direction of a person that is prequalified in accordance with this section. The authorized state

1 agency and the State Department of Energy shall agree to the list of energy conservation measures
2 and alternative energy systems that the energy consumption analysis will include. The energy con-
3 sumption analysis and facility design shall be delivered to the State Department of Energy during
4 the design development phase of the facility design. The State Department of Energy shall review
5 the energy consumption analysis and forward its findings to the authorized state agency within 10
6 working days after receiving the energy consumption analysis, if practicable.

7 (3) The [*State Department of Energy*] **Oregon Energy Commission**, in consultation with au-
8 thorized state agencies, shall adopt rules to carry out the provisions of ORS 276.900 to 276.915.
9 These rules shall:

10 (a) Include a simplified and usable method for determining which energy conservation measures
11 and alternative energy systems are cost-effective. The method shall reflect the energy costs of the
12 utility serving the facility.

13 (b) Prescribe procedures for determining if a facility design incorporates all reasonable cost-
14 effective energy conservation measures and alternative energy systems.

15 (c) Establish fees through which an authorized state agency will reimburse the State Department
16 of Energy for the department's review of energy consumption analyses and facility designs and the
17 department's reporting tasks. The fees imposed may not exceed 0.2 percent of the capital con-
18 struction cost of the facility and must be included in the energy consumption analysis required in
19 subsection (2) of this section. The State Department of Energy may provide for a waiver of fees and
20 reviews if the authorized state agency demonstrates that the facility will be designed and con-
21 structed in a manner that incorporates only cost-effective energy conservation measures or in a
22 manner that exceeds the energy conservation provisions of the state building code by 20 percent or
23 more.

24 (d) Periodically define highly efficient facilities. A facility constructed or renovated after June
25 30, 2001, shall exceed the energy conservation provisions of the state building code by 20 percent
26 or more, unless otherwise required by rules adopted under this section.

27 (e) Establish guidelines for implementing subsection (4) of this section.

28 (f) Establish guidelines for incorporating energy efficiency requirements into lease agreements
29 of 10 or more years to be phased in as current lease agreements expire or as new lease agreements
30 are entered into, allowing reasonable time for the owner to implement the requirements of this
31 section.

32 (g) Establish criteria by which the State Department of Energy determines that a person is
33 prequalified to perform work in accordance with this section.

34 (4) Before June 30, 2015, an authorized state agency shall reduce the total amount of energy the
35 authorized state agency uses in the authorized state agency's owned facilities by at least 20 percent
36 from a baseline amount the [*State Department of Energy*] **commission** determines by rule based on
37 usage in calendar year 2000.

38 (5) An authorized state agency shall report annually to the State Department of Energy con-
39 cerning energy use in the authorized state agency's facilities. The [*State Department of Energy*]
40 **commission** shall specify by rule the form and content of and deadlines for the reports.

41 (6) An authorized state agency that fails to achieve and maintain a 20 percent reduction in en-
42 ergy use on and after June 30, 2015, shall submit biennial energy conservation plans to the State
43 Department of Energy. The [*State Department of Energy*] **commission** shall specify by rule the form
44 and content of and deadlines for the energy conservation plans.

45 (7) The [*State Department of Energy*] **commission** by rule may require mandatory prequalifica-

1 tion as a condition for a person to submit a bid or proposal to perform the following work for an
2 authorized state agency:

3 (a) Direct an energy consumption analysis for an authorized state agency under subsection (2)
4 of this section, unless the person is a professional engineer or a registered architect;

5 (b) Enter into an energy savings performance contract; or

6 (c) Perform energy audits, building commissioning, monitoring and verification services and
7 other services related to the operation and management of a facility's energy systems, except for
8 architectural, engineering, photogrammetric mapping, transportation planning or land surveying
9 services as defined in ORS 279C.100.

10 (8) The State Department of Energy may recover from authorized state agencies the costs as-
11 sociated with administering the provisions of this section, including costs associated with [*adopting*
12 *rules*] **the adoption of rules by the commission**, maintaining a state energy use database and
13 prequalifying a person under this section.

14 (9) The State Department of Energy and the Oregon Department of Administrative Services shall
15 jointly prepare a biennial report summarizing the progress toward achieving the goals of this sec-
16 tion. The biennial report shall be made available to the public.

17 **SECTION 92.** ORS 279C.528 is amended to read:

18 279C.528. (1) Each contracting agency, in soliciting, awarding and administering public im-
19 provement contracts that are subject to ORS 279C.527, is subject to rules **adopted by** the [*State*
20 *Department of Energy*] **Oregon Energy Commission** [*adopts*] that include, but are not limited to,
21 requirements and specifications for:

22 (a) Using particular green energy technologies in public improvements;

23 (b) Determining the cost-effectiveness of green energy technologies;

24 (c) Submitting documents required under ORS 279C.527 to the [*department*] **State Department**
25 **of Energy** for review; and

26 (d) Determining whether a structure is a public building subject to the requirements of ORS
27 279C.527.

28 (2)(a) Each contracting agency shall collect and maintain information concerning the contract-
29 ing agency's compliance with ORS 279C.527, which must include, at a minimum:

30 (A) Records that show how the contracting agency spent moneys the contracting agency used
31 in including appropriate green energy technology as part of constructing, reconstructing or per-
32 forming a major renovation of a public building;

33 (B) An identification of each public improvement contract for which the contracting agency
34 spent moneys to include appropriate green technology as part of constructing, reconstructing or
35 performing a major renovation of a public building;

36 (C) An identification of each public improvement contract for which the contracting agency de-
37 termined that including green technology as part of constructing, reconstructing or performing a
38 major renovation of a public building was not appropriate;

39 (D) The total amount the contracting agency would have spent on each public improvement
40 contract identified in subparagraph (C) of this paragraph and the total aggregated amount that the
41 contracting agency must spend to include green energy technology as part of constructing, recon-
42 structing or performing a major renovation of a future public building; and

43 (E) An identification of each public improvement contract that uses moneys the contracting
44 agency did not spend in a previous public improvement contract for including appropriate green
45 energy technology as part of constructing, reconstructing or performing a major renovation of a

1 public building.

2 (b) Each contracting agency shall compile the information the contracting agency collected un-
3 der paragraph (a) of this subsection and report the information to the department at times, in a
4 manner and on forms that the [department] **commission** specifies by rule.

5 (c) The department shall:

6 (A) Compile and summarize the information the department receives under paragraph (b) of this
7 subsection and, in the department's compilation and summary, specifically:

8 (i) Identify contracting agencies that have not complied with the requirements of ORS 279C.527
9 or the reporting requirements set forth in this section;

10 (ii) Identify public improvement contracts for which contracting agencies have determined that
11 including green energy technology as part of constructing, reconstructing or performing a major
12 renovation of a public building was not appropriate; and

13 (iii) Identify public improvement contracts that use moneys a contracting agency did not spend
14 in a previous public improvement contract on including appropriate green energy technology as part
15 of constructing, reconstructing or performing a major renovation of a public building.

16 (B) Deliver annually to the Legislative Assembly, on or before the date on which each regular
17 session of the Legislative Assembly begins, a report concerning contracting agency compliance with
18 this section and ORS 279C.527 that includes the compilation and summary the department prepared
19 under subparagraph (A) of this paragraph.

20 **SECTION 93.** ORS 286A.630 is amended to read:

21 286A.630. (1) The Legislative Assembly finds that the American Recovery and Reinvestment Act
22 of 2009 (P.L. 111-5) provides that the State of Oregon may receive, allocate and reallocate the au-
23 thority to issue certain kinds of state and local government bonds that qualify for tax credits, fed-
24 eral subsidies or exclusion of bond interest from gross income under the United States Internal
25 Revenue Code of 1986, as amended.

26 (2) As described in subsections (3) to (6) of this section, state agencies and the Private Activity
27 Bond Committee may allocate and reallocate or take any additional actions that are desirable to
28 maximize the benefits of bonding programs created or expanded by the American Recovery and Re-
29 investment Act of 2009 (P.L. 111-5).

30 (3) The Department of Education, with the approval of the Governor, may allocate, reallocate
31 and otherwise manage this state's qualified school construction bonding authority.

32 (4) The Oregon Business Development Department may allocate, reallocate and otherwise man-
33 age this state's recovery zone economic development bonding authority and this state's recovery
34 zone facility bonding authority.

35 (5) The State Department of Energy may allocate, reallocate and otherwise manage this state's
36 qualified energy conservation bonding authority.

37 (6) The Private Activity Bond Committee may allocate, reallocate and otherwise manage any
38 bonding authority that is created or expanded by the American Recovery and Reinvestment Act of
39 2009 (P.L. 111-5) if that responsibility is not assigned to a state agency by this section, or if an
40 agency that is assigned that responsibility requests the Private Activity Bond Committee to allocate
41 that authority on behalf of that agency.

42 (7) The Department of Education, the Oregon Business Development Department, the [State De-
43 partment of Energy] **Oregon Energy Commission** and the Private Activity Bond Committee may
44 adopt rules to implement the provisions of this section including, but not limited to, rules prescrib-
45 ing:

- 1 (a) Application processes and requirements to receive a subsequent allocation or reallocation;
- 2 (b) Standards upon which an allocation or reallocation may be based; and
- 3 (c) Any conditions that must be met to receive an allocation or reallocation of the bonding au-
- 4 thority or to receive the benefits of such bonding authority.

5 **SECTION 94.** ORS 286A.718 is amended to read:

6 286A.718. (1) The Renewable Energy Fund is established in the State Treasury, separate and
7 distinct from the General Fund. Amounts in the fund may be invested as provided in ORS 293.701
8 to 293.857, and interest earned on the fund must be credited to the fund. Amounts credited to the
9 fund are continuously appropriated to the State Department of Energy for the purpose described in
10 ORS 286A.712 (2)(a) and for the purpose of paying bond-related costs. The department shall deposit
11 in the fund:

12 (a) The net proceeds of Article XI-D bonds transferred pursuant to ORS 286A.712 (4);

13 (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the
14 fund; and

15 (c) Gifts, grants or contributions received by the department for the purpose described in ORS
16 286A.712 (2)(a).

17 (2) The State Department of Energy may create separate accounts in the Renewable Energy
18 Fund as appropriate for the management of moneys in the fund.

19 (3) The State Department of Energy and any other state agency or other entity receiving or
20 holding net proceeds of Article XI-D bonds shall, at the direction of the Oregon Department of Ad-
21 ministrative Services, take action necessary to maintain the excludability of interest on Article XI-D
22 bonds from gross income under the Internal Revenue Code.

23 (4) If at any time the Oregon Department of Administrative Services or the State Department
24 of Energy determines that there are moneys in the Renewable Energy Fund in excess of the amounts
25 necessary for the purpose described in ORS 286A.712 (2)(a), the Oregon Department of Administra-
26 tive Services or the State Department of Energy may transfer the excess amounts to the Article
27 XI-D Bond Fund or to the Article XI-D Bond Administration Fund.

28 (5) The [*State Department of Energy*] **Oregon Energy Commission** may adopt rules to carry out
29 this section, including procedures for distributing and monitoring the use of moneys from the
30 Renewable Energy Fund.

31 **SECTION 95.** ORS 315.141 is amended to read:

32 315.141. (1) As used in this section:

33 (a) "Agricultural producer" means a person that produces biomass in Oregon that is used, in
34 Oregon, as biofuel or to produce biofuel.

35 (b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been con-
36 verted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct
37 biomass energy use at the biofuel producer's site.

38 (c) "Biofuel producer" means a person that through activities in Oregon:

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

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

41 (C) Uses biomass in Oregon to produce energy.

42 (d) "Biomass" means organic matter that is available on a renewable or recurring basis and that
43 is derived from:

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

- 1 (B) Wood material from hardwood timber described in ORS 321.267 (3);
- 2 (C) Agricultural residues;
- 3 (D) Offal and tallow from animal rendering;
- 4 (E) Food wastes collected as provided under ORS chapter 459 or 459A;
- 5 (F) Wood debris collected as provided under ORS chapter 459 or 459A;
- 6 (G) Wastewater solids; or
- 7 (H) Crops grown solely to be used for energy.

8 (e) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, in-
9 organic arsenic or other inorganic chemical compounds or waste, other than matter described in
10 paragraph (d) of this subsection.

11 (f) "Biomass collector" means a person that collects biomass in Oregon to be used, in Oregon,
12 as biofuel or to produce biofuel.

13 (g) "Canola" means plants of the genus Brassica:

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

15 (B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content
16 suitable for edible oils.

17 (h) "Oilseed processor" means a person that receives agricultural oilseeds and separates them
18 into meal and oil by mechanical or chemical means.

19 (i) "Willamette Valley" means Clackamas, Linn, Marion, Multnomah, Polk, Washington and
20 Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast
21 Range.

22 (2) The [Director of the State Department of Energy] **Oregon Energy Commission** may adopt
23 rules to define criteria, only as the criteria apply to organic biomass, to determine additional char-
24 acteristics of biomass for purposes of this section.

25 (3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes
26 that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS
27 chapter 317 or 318 for:

28 (A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce
29 biofuel; or

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

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 defined
34 in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or
35 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 section.

41 (5)(a) The [State Department of Energy] **Oregon Energy Commission** may establish by rule
42 procedures and criteria for determining the amount of the tax credit to be certified under this sec-
43 tion, consistent with ORS 469B.403. The [department] **State Department of Energy** shall provide
44 written certification to taxpayers that are eligible to claim the credit under this section.

45 (b) The State Department of Energy may charge and collect a fee from taxpayers for certifica-

1 tion of credits under this section. The fee may not exceed the cost to the department of determining
2 the amount of certified cost.

3 (c) The State Department of Energy shall provide to the Department of Revenue a list, by tax
4 year, of taxpayers for which a credit is certified under this section, upon request of the Department
5 of Revenue.

6 (6) The amount of the credit claimed under this section for any tax year may not exceed the tax
7 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 contains
13 the information required by the department.

14 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
15 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
16 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
17 forward and used in the second succeeding tax year, and likewise any credit not used in that second
18 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
19 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 taxable year of the taxpayer occurs as described in ORS 314.085, or if the
28 department terminates the taxpayer's taxable 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 **SECTION 96.** ORS 315.144 is amended to read:

31 315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit
32 to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

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

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

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

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

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

43 (d) Any other information required by the department.

44 (4) The [*State Department of Energy*] **Oregon Energy Commission** may establish by rule a
45 minimum discounted value of a tax credit under this section.

1 (5) The Department of Revenue, in consultation with the [*State Department of Energy*] **com-**
 2 **mission**, may by rule establish procedures for the transfer of tax credits provided by this section.

3 **SECTION 97.** ORS 315.326 is amended to read:

4 315.326. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
 5 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified
 6 renewable energy development contributions made by the taxpayer during the tax year to the
 7 Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy De-
 8 ployment Fund established in ORS 470.800.

9 (2)(a) The Department of Revenue shall, in cooperation with the [*State Department of Energy*]
 10 **Oregon Business Development Department**, conduct an auction of tax credits under this section.
 11 The auction may be conducted no later than April 15 following December 31 of any tax year for
 12 which the credit is allowed. The department may conduct the auction in the manner that it deter-
 13 mines is best suited to maximize the return to the state on the sale of tax credit certifications and
 14 shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least
 15 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the Department of
 16 Revenue for the actual costs incurred by the department in administering an auction, not to exceed
 17 0.25 percent of auction proceeds, are continuously appropriated to the department. The Department
 18 of Revenue shall deposit net receipts from the auction required under this section in the Renewable
 19 Energy Development Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund
 20 established in ORS 470.800. Net receipts from the auction required under this section shall be used
 21 only for purposes related to renewable energy development.

22 (b) The [*State Department of Energy*] **Oregon Business Development Department** shall adopt
 23 rules in order to achieve the following goals:

24 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of
 25 \$1.5 million are certified for each fiscal year;

26 (B) Maximize income and excise tax revenues that are retained by the State of Oregon for state
 27 operations; and

28 (C) Provide the necessary financial incentives for taxpayers to make contributions, taking into
 29 consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

30 (3) Contributions made under this section shall be deposited in the Renewable Energy Develop-
 31 ment Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in
 32 ORS 470.800.

33 (4)(a) Upon receipt of a contribution, the [*State Department of Energy*] **Oregon Business De-**
 34 **velopment Department** shall, except as provided in ORS 315.329, issue to the taxpayer written
 35 certification of the amount certified for tax credit under this section to the extent the amount cer-
 36 tified for tax credit, when added to all amounts previously certified for tax credit under this section,
 37 does not exceed \$1.5 million for the fiscal year in which certification is made.

38 (b) The [*State Department of Energy*] **Oregon Business Development Department** and the
 39 Department of Revenue are not liable, and a refund of a contributed amount need not be made, if
 40 a taxpayer who has received tax credit certification is unable to use all or a portion of the tax
 41 credit to offset the tax liability of the taxpayer.

42 (5) The tax credit allowed under this section for any one tax year may not exceed the tax li-
 43 ability of the taxpayer.

44 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 45 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next

1 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
 2 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
 3 succeeding tax year may be carried forward and used in the third succeeding tax year but may not
 4 be carried forward for any tax year thereafter.

5 (7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,
 6 the amount shall be allowed without proration under ORS 316.117.

7 (8) If the amount of contribution for which a tax credit certification is made is allowed as a
 8 deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable
 9 income for Oregon tax purposes.

10 **SECTION 97a.** ORS 315.329 is amended to read:

11 315.329. (1) In any fiscal year, the amount of tax credits allowed under ORS 315.326 may be re-
 12 duced or eliminated, and the Legislative Assembly may, no later than 30 days prior to the end of
 13 each fiscal year, in lieu of the issuance of certifications for tax credit under ORS 315.326 by the
 14 [*State Department of Energy*] **Oregon Business Development Department**, make an appropriation
 15 to the [*State Department of Energy*] **Oregon Business Development Department** for deposit into
 16 the Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy
 17 Deployment Fund established in ORS 470.800. Moneys deposited under this section are to be used
 18 only for purposes related to renewable energy development.

19 (2) After a tax credit certificate has been sold as provided in ORS 315.326, the [*State Department*
 20 *of Energy*] **Oregon Business Development Department** may not revoke the certificate.

21 **SECTION 98.** ORS 316.116, as amended by section 4, chapter 29, Oregon Laws 2016, is amended
 22 to read:

23 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due
 24 under this chapter for costs paid or incurred for construction or installation of each of one or more
 25 alternative energy devices in or at a dwelling.

26 (b) A credit against the taxes otherwise due under this chapter is not allowed for an alternative
 27 energy device that does not meet or exceed all applicable federal, state and local requirements for
 28 energy efficiency, including equipment codes, state and federal appliance standards, the state build-
 29 ing code, specialty codes and any other standards.

30 (2)(a) For each category one alternative energy device other than an alternative fuel device or
 31 an alternative energy device that uses solar radiation for domestic water heating or swimming pool
 32 heating, the credit allowed under this section may not exceed the lesser of 50 percent of the cost
 33 of the alternative energy device or \$1,500, and shall be computed as follows:

34 (A) For a category one alternative energy device that is not an alternative fuel device, the
 35 credit shall be based upon the first year energy yield of the alternative energy device that qualifies
 36 under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether for collective
 37 or noncollective investment.

38 (B) For each category one alternative energy device for a dwelling, the credit shall be based
 39 upon the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling uti-
 40 lizing the alternative energy device used for space heating, cooling, electrical energy or domestic
 41 water heating.

42 (C) Except as provided in paragraph (c) of this subsection, for each category one alternative
 43 energy device used for swimming pool, spa or hot tub heating, the credit shall be based upon the
 44 first year energy yield in kilowatt hours per year multiplied by 15 cents.

45 (b) For each alternative fuel device, the credit allowed under this section may not exceed the

1 lesser of 50 percent of the cost of the alternative fuel device or \$750.

2 (c) For each category one alternative energy device that uses solar radiation for:

3 (A) Domestic water heating, the credit allowed under this section shall be based upon 50 percent
4 of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by \$2,
5 whichever is lower, up to \$6,000.

6 (B) Swimming pool heating, the credit allowed under this section shall be based upon 50 percent
7 of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by 20
8 cents, whichever is lower, up to \$2,500.

9 (d)(A) For each category two alternative energy device that is a solar electric system or fuel
10 cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of in-
11 stalled output or \$6,000.

12 (B) For each category two alternative energy device that is a wind electric system, the credit
13 allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in
14 kilowatt hours per year multiplied by \$2.

15 (3)(a) Notwithstanding subsection (2)(a), (c) or (d) of this section, the total amount of the credits
16 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-
17 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-
18 vided in subsection (8) of this section, but may not be carried forward to a tax year that is more
19 than five tax years following the first tax year for which any credit was allowed with respect to the
20 category two alternative energy device that is the basis for the credit.

21 (b) Notwithstanding subsection (2)(d) of this section, the total amount of the credit for each de-
22 vice allowed under subsection (2)(d) of this section may not exceed 50 percent of the total installed
23 cost of the category two alternative energy device.

24 (4) The [*State Department of Energy*] **Oregon Energy Commission** may by rule provide for a
25 lesser amount of incentive for each type of alternative energy device as market conditions warrant.

26 (5) To qualify for a credit under this section, all of the following are required:

27 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-
28 cordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

29 (b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the
30 dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the
31 contract purchaser and must:

32 (A) Use the dwelling or dwellings served by the alternative energy device as a principal or
33 secondary residence; or

34 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant
35 who uses the dwelling or dwellings as a principal or secondary residence.

36 (c) The credit must be claimed for the tax year in which the alternative energy device was
37 purchased if the device is operational by April 1 of the next following tax year.

38 (6) The credit provided by this section does not affect the computation of basis under this
39 chapter.

40 (7) The total credits allowed under this section in any one year may not exceed the tax liability
41 of the taxpayer.

42 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
43 particular year may be carried forward and offset against the taxpayer's tax liability for the next
44 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
45 forward and used in the second succeeding tax year, and likewise any credit not used in that second

1 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
 2 credit not used in that third succeeding tax year may be carried forward and used in the fourth
 3 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
 4 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
 5 thereafter.

6 (9) A nonresident shall be allowed the credit under this section in the proportion provided in
 7 ORS 316.117.

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

11 (11) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
 12 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
 13 ORS 316.117.

14 (12) Spouses in a marriage who file separate returns for a taxable year may each claim a share
 15 of the tax credit that would have been allowed on a joint return in proportion to the contribution
 16 of each. However, a spouse living in a separate principal residence may claim the tax credit in the
 17 same amount as permitted a single person.

18 (13) As used in this section, unless the context requires otherwise:

19 (a) "Collective investment" means an investment by two or more taxpayers for the acquisition,
 20 construction and installation of an alternative energy device for one or more dwellings.

21 (b) "Noncollective investment" means an investment by an individual taxpayer for the acqui-
 22 sition, construction and installation of an alternative energy device for one or more dwellings.

23 (c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (8).

24 (14) Notwithstanding any provision of subsections (1) to (4) of this section, the sum of the credit
 25 allowed under subsection (1) of this section plus any similar credit allowed for federal income tax
 26 purposes may not exceed the cost for the acquisition, construction and installation of the alternative
 27 energy device.

28 **SECTION 99.** ORS 469.150 is amended to read:

29 469.150. (1) As used in this section "energy conservation services" means services provided by
 30 energy suppliers to educate and inform customers and the public about energy conservation. Such
 31 services include but are not limited to providing answers to questions concerning energy saving
 32 devices and providing inspections and making suggestions concerning the construction and siting
 33 of buildings and residences.

34 (2) Energy suppliers other than public utilities as defined in ORS 757.005, that produce, transmit,
 35 deliver or furnish heat, light or power shall establish energy conservation services and shall provide
 36 energy conservation information to customers and to the public. The services shall be performed in
 37 accordance with such guidelines as the [*Director of the State Department of Energy*] **Oregon Energy**
 38 **Commission** may by rule prescribe.

39 (3) As used in this section "energy supplier" means a publicly owned utility or fuel oil dealer
 40 which supplies electricity or fuel oil for the space heating of dwellings.

41 **SECTION 100.** ORS 469.155 is amended to read:

42 469.155. (1) As used in this section:

43 (a) "Dwelling" means real or personal property inhabited as the principal residence of an owner
 44 or renter. "Dwelling" includes a manufactured dwelling as defined in ORS 446.003, a floating home
 45 as defined in ORS 830.700 and multiple unit residential housing. "Dwelling" does not include a rec-

1 reational vehicle as defined in ORS 446.003.

2 (b) "Energy conservation standards" means standards for the efficient use of energy for space
3 and water heating in a dwelling.

4 (2) The [*Director of the State Department of Energy*] **Oregon Energy Commission** shall establish
5 advisory energy conservation standards for existing dwellings. The standards shall be adopted by
6 rule in accordance with ORS 183.310 to 183.410. The standards:

7 (a) Shall take cost-effectiveness into account; and

8 (b) Shall be compatible with and further the state's incentive programs for residential energy
9 conservation.

10 (3) The [*director*] **commission** shall publicize the energy conservation standards and encourage
11 home owners to voluntarily comply with the standards.

12 **SECTION 101.** ORS 469.255 is amended to read:

13 469.255. (1) A manufacturer of a product specified in ORS 469.238 that is sold or offered for sale,
14 or installed or offered for installation, in this state shall test samples of the manufacturer's products
15 in accordance with the test methods specified in ORS 469.233 or, if more stringent, those specified
16 in the state building code.

17 (2) If the test methods for products required to be tested under this section are not provided for
18 in ORS 469.233 or in the state building code, the State Department of Energy shall adopt test
19 methods for these products. The department shall use test methods approved by the United States
20 Department of Energy or, in the absence of federal test methods, other appropriate nationally re-
21 cognized test methods for guidance in adopting test methods. The State Department of Energy may
22 periodically review and revise its test methods.

23 (3) A manufacturer of a product regulated pursuant to ORS 469.229 to 469.261, except for man-
24 ufacturers of single-voltage external AC to DC power supplies, walk-in refrigerators and walk-in
25 freezers, shall certify to the State Department of Energy that the products are in compliance with
26 the minimum energy efficiency standards specified in ORS 469.233. The [*department*] **Oregon Energy**
27 **Commission** shall establish rules governing the certification of these products and may coordinate
28 with the certification and testing programs of other states and federal agencies with similar stan-
29 dards.

30 (4)(a) The [*department*] **commission** shall establish rules governing the identification of the
31 products that comply with the minimum energy efficiency standards specified in ORS 469.233. The
32 rules shall be coordinated to the greatest extent practicable with the labeling programs of other
33 states and federal agencies with equivalent efficiency standards.

34 (b) Identification required under paragraph (a) of this subsection shall be by means of a mark,
35 label or tag on the product and packaging at the time of sale or installation.

36 (c) The [*department*] **commission** shall waive marking, labeling or tagging requirements for
37 products marked, labeled or tagged in compliance with federal requirements or for products certified
38 pursuant to subsection (3) of this section, unless the [*department*] **commission** determines that state
39 marking, labeling or tagging is required to provide adequate energy efficiency information to the
40 consumer.

41 **SECTION 102.** ORS 469.261 is amended to read:

42 469.261. (1)(a) Notwithstanding ORS 469.233, the State Department of Energy shall periodically
43 review the minimum energy efficiency standards specified in ORS 469.233.

44 (b) After the review pursuant to paragraph (a) of this subsection, the [*Director of the State De-*
45 *partment of Energy*] **Oregon Energy Commission** may adopt rules to update the minimum energy

1 efficiency standards specified in ORS 469.233 if the [*director*] **commission** determines that the
2 standards need to be updated:

3 (A) To promote energy conservation in the state;

4 (B) To achieve cost-effectiveness for consumers; or

5 (C) Due to federal action or to the outcome of collaborative consultations with manufacturers
6 and the energy departments of other states.

7 (c)(A) In addition to the rules adopted under paragraph (b) of this subsection, the [*director*]
8 **commission** may postpone by rule the operative date of any of the minimum energy efficiency
9 standards specified in ORS 469.233 if the [*director*] **commission** determines that:

10 (i) Adjoining states with similar minimum energy efficiency standards have postponed the oper-
11 ative date of their corresponding minimum energy efficiency standards; or

12 (ii) Failure to modify the operative date of any of the minimum energy efficiency standards
13 would impose a substantial hardship on manufacturers, retailers or the public.

14 (B)(i) The [*director*] **commission** may not postpone the operative date of a minimum energy ef-
15 ficiency standard under subparagraph (A) of this paragraph for more than one year.

16 (ii) If at the end of the first postponement period the [*director*] **commission** determines that
17 adjoining states have further postponed the operative date of minimum energy efficiency standards
18 and the requirements of subparagraph (A) of this paragraph continue to be met, the [*director*]
19 **commission** may postpone the operative date for not more than one additional year.

20 (d) After the review pursuant to paragraph (a) of this subsection, the [*director*] **commission** may
21 adopt rules to establish new minimum energy efficiency standards if the [*director*] **commission** de-
22 termines that new standards are needed:

23 (A) To promote energy conservation in the state;

24 (B) To achieve cost-effectiveness for consumers; or

25 (C) Due to federal action or to the outcome of collaborative consultations with manufacturers
26 and the energy departments of other states.

27 (e) If the [*director*] **commission** adopts rules under paragraph (b) of this subsection to update
28 the minimum energy efficiency standards specified in ORS 469.233 or under paragraph (d) of this
29 subsection to establish new minimum energy efficiency standards:

30 (A) The rules may not take effect until one year following their adoption by the [*director*]
31 **commission**; and

32 (B) The Governor shall cause to be introduced at the next Legislative Assembly a bill to con-
33 form the statutory minimum energy efficiency standards to the minimum energy efficiency standards
34 adopted by the [*director*] **commission** by rule.

35 (2) If the [*director*] **Director of the State Department of Energy** determines that implemen-
36 tation of a state minimum energy efficiency standard requires a waiver of federal preemption, the
37 director shall apply for a waiver of federal preemption pursuant to 42 U.S.C. 6297(d).

38 **SECTION 103.** ORS 469.310 is amended to read:

39 469.310. In the interests of the public health and the welfare of the people of this state, it is the
40 declared public policy of this state that the siting, construction and operation of energy facilities
41 shall be accomplished in a manner consistent with protection of the public health and safety and in
42 compliance with the energy policy and air, water, solid waste, land use and other environmental
43 protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.563, 469.590 to
44 469.619, 469.930 and 469.992 to exercise the jurisdiction of the State of Oregon to the maximum ex-
45 tent permitted by the United States Constitution and to establish in cooperation with the federal

1 government a comprehensive system for the siting, monitoring and regulating of the location, con-
2 struction and operation of all energy facilities in this state. It is furthermore the policy of this state,
3 notwithstanding ORS 469.010 [(2)(f)] (5) and the definition of cost-effective in ORS 469.020, that the
4 need for new generating facilities, as defined in ORS 469.503, is sufficiently addressed by reliance
5 on competition in the market rather than by consideration of cost-effectiveness and shall not be a
6 matter requiring determination by the Energy Facility Siting Council in the siting of a generating
7 facility, as defined in ORS 469.503.

8 **SECTION 104.** ORS 469.410 is amended to read:

9 469.410. (1) Any applicant for a site certificate for an energy facility shall be deemed to have
10 met all the requirements of ORS 176.820, 192.501 to 192.505, 192.690, 469.010 to 469.155, 469.300 to
11 469.563, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site certificate
12 shall be issued by the Energy Facility Siting Council for:

13 (a) Any transmission lines for which application has been filed with the federal government and
14 the Public Utility Commission of Oregon prior to July 2, 1975; and

15 (b) Any energy facility under construction on July 2, 1975.

16 (2) Each applicant for a site certificate under this section shall pay the fees required by ORS
17 469.421 (2) to (9), if applicable, and shall execute a site certificate in which the applicant agrees:

18 (a) To abide by the conditions of all licenses, permits and certificates required by the State of
19 Oregon or any subdivision in the state to operate the energy facility and issued prior to July 2, 1975;
20 and

21 (b) On and after July 2, 1975, to abide by the rules of the [*Director of the State Department of*
22 *Energy adopted pursuant to ORS 469.040 (1)(d)*] **Oregon Energy Commission adopted pursuant**
23 **to section 5 of this 2017 Act** and rules of the council adopted pursuant to ORS 469.300 to 469.563,
24 469.590 to 469.619 and 469.930.

25 (3) The council has continuing authority over the site for which the site certificate is issued and
26 may inspect, or direct the State Department of Energy to inspect, or request another state agency
27 or local government to inspect, the site at any time in order to ensure that the facility is being
28 operated consistently with the terms and conditions of the site certificate and any applicable health
29 or safety standards.

30 (4) The council shall establish programs for monitoring the environmental and ecological effects
31 of the operation and the decommissioning of energy facilities subject to site certificates issued prior
32 to July 2, 1975, to ensure continued compliance with the terms and conditions of the site certificate
33 and any applicable health or safety standards.

34 (5) Site certificates executed by the Governor under ORS 469.400 (1991 Edition) prior to July
35 2, 1975, shall bind successor agencies created hereunder in accordance with the terms of such site
36 certificates. Any holder of a site certificate issued prior to July 2, 1975, shall abide by the rules of
37 the [*director adopted pursuant to ORS 469.040 (1)(d)*] **Oregon Energy Commission adopted pursu-**
38 **ant to section 5 of this 2017 Act** and rules of the council adopted pursuant to ORS 469.300 to
39 469.563, 469.590 to 469.619, 469.930 and 469.992.

40 **SECTION 105.** ORS 469.424 is amended to read:

41 469.424. (1) As used in this section, "energy resource supplier" has the meaning given that term
42 in ORS 469.421.

43 (2)(a) If the State Department of Energy submits comments or written or oral testimony in a
44 rulemaking, contested case, ratemaking or other proceeding conducted by another agency, as defined
45 in ORS 183.310, and if the comment or testimony is about a substantive matter at issue in the pro-

1 ceeding, the department shall provide, once for each proceeding, notice to energy resource suppliers
2 as described in this section.

3 (b) If the department submits written comments or intervenes in a proceeding conducted by a
4 federal agency, the department shall provide, once for each proceeding, notice to energy resource
5 suppliers as described in this section.

6 (c) This section does not apply to:

7 (A) The department's participation in a procedural matter related to a proceeding described in
8 paragraph (a) or (b) of this subsection;

9 (B) The department's participation in a federal facility siting proceeding;

10 (C) The department's work with the Energy Facility Siting Council;

11 (D) The department's work on nuclear safety and emergency preparedness; or

12 (E) Federal judicial or legislative proceedings.

13 (3) The department shall create and maintain a list of energy resource suppliers that request to
14 receive notice described in subsection (2) of this section. The department may create separate lists
15 for the different types of proceedings.

16 (4) Notice provided under this section may be provided by electronic mail and must include a
17 description of the department's interest in the proceeding.

18 (5) Except as provided in subsection (6) of this section, notice must be provided under this sec-
19 tion:

20 (a) No later than seven days before submitting initial comments on a substantive matter at issue
21 in a rulemaking proceeding described in subsection (2)(a) of this section or a proceeding involving
22 the adoption of federal regulations;

23 (b) No later than 15 days before submitting initial comments or written or oral testimony on a
24 substantive matter at issue in a contested case, ratemaking or other proceeding described in sub-
25 section (2)(a) of this section; or

26 (c) No later than 15 days before submitting initial written comments or written testimony on a
27 substantive matter at issue in a proceeding conducted by a federal agency other than a proceeding
28 involving the adoption of federal regulations.

29 (6) If providing notice in accordance with subsection (5) of this section is prejudicial to the
30 department's ability to participate in a rulemaking, contested case, ratemaking or other proceeding
31 described in subsection (2) of this section, the department may provide notice as soon as it is prac-
32 ticable to provide notice. If the department provides notice as described in this subsection, the de-
33 partment shall include in the notice an explanation of why providing notice in accordance with
34 subsection (5) of this section is prejudicial to the department.

35 (7) The [department] **Oregon Energy Commission** may adopt rules as necessary to implement
36 this section.

37 **SECTION 106.** ORS 469.533 is amended to read:

38 469.533. Notwithstanding ORS chapter 401, the [State Department of Energy] **Oregon Energy**
39 **Commission** in cooperation with the Oregon Health Authority and the Office of Emergency Man-
40 agement shall establish rules for the protection of health and procedures for the evacuation of peo-
41 ple and communities who would be affected by radiation in the event of an accident or a catastrophe
42 in the operation of a nuclear power plant or nuclear installation.

43 **SECTION 107.** ORS 469.534 is amended to read:

44 469.534. Each county in this state that has a nuclear-fueled thermal power plant located within
45 county boundaries and each county within this state that has any portion of its area located within

1 50 miles of a site within this state of a nuclear-fueled thermal power plant shall develop written
2 procedures that are compatible with the rules adopted by the [*State Department of Energy*] **Oregon**
3 **Energy Commission** under ORS 469.533. The [*department*] **commission** shall review the county
4 procedures to determine whether they are compatible with the rules of the [*department*]
5 **commission**.

6 **SECTION 108.** ORS 469.605 is amended to read:

7 469.605. (1) No person shall ship or transport radioactive material identified by the Energy Fa-
8 cility Siting Council by rule as posing a significant hazard to public health and safety or the envi-
9 ronment if improperly transported into or within the State of Oregon without first obtaining a
10 permit from the State Department of Energy.

11 (2) Such permit shall be issued for a period not to exceed one year and shall be valid for all
12 shipments within that period of time unless specifically limited by permit conditions.

13 (3) Application for a permit under this section shall be made in a form and manner prescribed
14 by the Director of the State Department of Energy and may include:

15 (a) A description of the kind, quantity and radioactivity of the material to be transported;

16 (b) A description of the route or routes proposed to be taken and the transport schedule;

17 (c) A description of any mode of transportation; and

18 (d) Other information required by the director to evaluate the application.

19 (4) The director shall collect a fee from all applicants for permits under this section in an
20 amount reasonably calculated to provide for the costs to the department of performing the duties
21 of the department under ORS 469.550 (3), 469.563, 469.603 to 469.619 and 469.992. Fees collected un-
22 der this subsection shall be deposited in the State Department of Energy Account established under
23 ORS 469.120.

24 (5) The director shall issue a permit only if the application demonstrates that the proposed
25 transportation will comply with all applicable rules adopted under ORS 469.603 to 469.619 and if the
26 proposed route complies with federal law as provided in ORS 469.606.

27 (6) The director may delegate the authority to issue permits for the transportation of radioactive
28 material to the Department of Transportation. In exercising such authority, the Department of
29 Transportation shall comply with the applicable provisions of ORS 469.603 to 469.619 and rules
30 adopted by the [*director*] **Oregon Energy Commission** or the Energy Facility Siting Council under
31 ORS 469.603 to 469.619. Permits issued by the Department of Transportation under this subsection
32 shall be enforced according to the provisions of ORS 825.258. The director also may delegate other
33 authority granted under ORS 469.605 to 469.619 to other state agencies if the delegation will main-
34 tain or enhance the quality of the transportation safety program.

35 **SECTION 109.** ORS 469.703 is amended to read:

36 469.703. (1) As used in this section:

37 (a) "Home energy assessor" has the meaning given that term in ORS 701.527.

38 (b) "Home energy audit" means the evaluation or testing of components or systems in a resi-
39 dential building for the purpose of identifying options for increasing energy conservation and energy
40 efficiency.

41 (c) "Home energy performance score" has the meaning given that term in ORS 701.527.

42 (2) In consultation with the Public Utility Commission, the [*State Department of Energy*] **Oregon**
43 **Energy Commission** shall adopt by rule a home energy performance score system by which a per-
44 son may assign a residential building a home energy performance score for the purpose of evaluating
45 the energy conservation and energy efficiency of the building.

1 (3) The [department] **Oregon Energy Commission** shall designate by rule programs for the
 2 training of home energy assessors. Programs designated by the [department] **commission** under this
 3 subsection must ensure competency in conducting home energy audits and assigning home energy
 4 performance scores.

5 (4) Subject to subsection (5) of this section, the [department] **Oregon Energy Commission** may
 6 adopt by rule requirements under which home energy assessors who are certified under ORS 701.532
 7 must report to the [department] **State Department of Energy** the home energy performance scores
 8 assigned by the home energy assessors. The department shall keep and maintain a database of in-
 9 formation reported to the department under this subsection.

10 (5) Rules adopted under subsection (4) of this section may not allow for the reporting of indi-
 11 vidual addresses of residential structures or the names of individual homeowners, but may allow for
 12 the reporting of information regarding the jurisdiction in which a residential structure is located
 13 and the utility services provided, any specific energy efficiency features of the residential structure
 14 or other general information that allows the department to make any aggregated evaluations of
 15 savings attributable to energy efficiency.

16 **SECTION 110.** ORS 469.754 is amended to read:

17 469.754. (1) State agencies are authorized to enter into such contractual and other arrangements
 18 as may be necessary or convenient to design, develop, operate and finance projects on-site at state
 19 owned or state rented facilities. In developing such projects, state agencies shall offer a right of first
 20 refusal of two months for conservation and direct use renewable resources and three months for
 21 cogeneration and generating renewable resources to each local utility providing utility service to
 22 the agency to jointly develop, finance, operate and otherwise act together in the development and
 23 operation of such projects. The [*State Department of Energy*] **Oregon Energy Commission** shall
 24 adopt rules to establish the procedure by which the right of first refusal shall be administered. In
 25 adopting the rules, the [department] **commission** shall insure that the local utility providing utility
 26 service to the state agency is entitled to the first right to negotiate with the state agency and that
 27 the utility is entitled to match any offer made by any other entity to participate in the project. The
 28 [department] **commission** also shall adopt procedures that insure that the right to first negotiate
 29 and the right to match any offer applies to the sale of electrical or steam output from the project.

30 (2)(a) For as long as a project established under ORS 469.752 to 469.756 produces savings:

31 (A) A state agency's budget shall not be cut because of savings due to the project; and

32 (B) A state agency shall retain 50 percent of the net savings to the state agency after any
 33 project debt service.

34 (b) Savings from a project shall be deposited in a revolving fund administered by the state
 35 agency.

36 (3) A state agency shall spend the savings under subsection (2) of this section to increase pro-
 37 ductivity through:

38 (a) Energy efficiency projects;

39 (b) High-tech improvements, such as the purchase or installation of new desktop or laptop com-
 40 puters or the linkage of computers into systems or networks; or

41 (c) Infrastructure improvements.

42 (4) The moneys credited to the revolving fund may be invested and reinvested as provided in
 43 ORS 293.701 to 293.790. Notwithstanding ORS 293.105 (3) or any other provision of law, interest or
 44 other earnings on moneys in the revolving fund shall be credited to the revolving fund.

45 (5) The remaining 50 percent of net savings to the state agency after any project debt service

1 shall be deposited in the General Fund.

2 (6) Nothing in ORS 469.752 to 469.756 authorizes a state agency to sell electricity to an entity
3 other than an investor owned utility, a publicly owned utility, an electric cooperative utility or the
4 Bonneville Power Administration.

5 (7) Nothing in ORS 469.752 to 469.756 limits the authority of a state agency conferred by any
6 other provision of law, or affects any authority, including the authority of a municipality, to regulate
7 utility service under existing law.

8 **SECTION 111.** ORS 469.756 is amended to read:

9 469.756. The [*State Department of Energy*] **Oregon Energy Commission** in consultation with
10 other state agencies and utilities shall adopt rules, guidelines and procedures that are necessary to
11 establish savings for projects and to implement other provisions of ORS 469.752 to 469.756, including,
12 but not limited to, rules prescribing the procedures to be followed by an agency in negotiating with
13 local utilities to develop agreements suitable for the joint development of projects, and procedures
14 to determine which local utility, if any, shall be chosen to jointly develop the project. The [*depart-*
15 *ment*] **State Department of Energy** may enter into agreements under ORS chapter 190 with state
16 agencies to provide technical assistance in selecting appropriate projects and to evaluate and de-
17 termine energy and cost savings.

18 **SECTION 112.** ORS 469.880 is amended to read:

19 469.880. Each publicly owned utility serving Oregon shall, either independently or as part of an
20 association, provide an energy audit program for its commercial customers. The [*Director of the State*
21 *Department of Energy*] **Oregon Energy Commission** shall adopt rules governing the commercial
22 energy audit program established under this section and may provide for coordination among elec-
23 tric utilities and gas utilities that serve the same commercial building.

24 **SECTION 113.** ORS 469.885 is amended to read:

25 469.885. (1) Within 180 days after the adoption of rules by the [*Director of the State Department*
26 *of Energy*] **Oregon Energy Commission** under ORS 469.880, each publicly owned utility shall
27 present for the [*director's*] approval **of the Director of the State Department of Energy** a com-
28 mercial energy audit program that shall, to the director's satisfaction:

29 (a) Make information about energy conservation available to any commercial building customer
30 of the publicly owned utility, upon request;

31 (b) Regularly notify all customers in commercial buildings of the availability of the services de-
32 scribed in this section;

33 (c) Provide to any commercial building customer of the publicly owned utility, upon request, an
34 on-site energy audit of the customer's commercial building, including, but not limited to, an estimate
35 of the cost of the energy conservation measures; and

36 (d) Set a reasonable time schedule for effective implementation of the elements set forth in this
37 section.

38 (2) The commercial energy audit program submitted under subsection (1) of this section shall
39 specify whether the publicly owned utility proposes to charge the customer a fee for the energy
40 audit and, if so, the fee amount.

41 **SECTION 114.** ORS 469.890 is amended to read:

42 469.890. (1) Within 365 days after November 1, 1981, the [*Director of the State Department of*
43 *Energy*] **Oregon Energy Commission** shall adopt rules governing energy conservation programs
44 prescribed by ORS 469.895 and 469.900 (3) and this section and may provide for coordination among
45 electric utilities and gas utilities that serve the same commercial building. Within 180 days of the

1 adoption of rules by the [*director*] **commission**, each covered publicly owned utility shall present for
 2 the [*director's*] approval of the **Director of the State Department of Energy** a commercial energy
 3 conservation services program that shall, to the director's satisfaction:

4 (a) Make information about energy conservation available to all commercial building customers
 5 of the covered publicly owned utility, upon request;

6 (b) Regularly notify all customers in commercial buildings of the availability of the services de-
 7 scribed in this section; and

8 (c) Provide to any commercial building customer of the covered publicly owned utility, upon
 9 request, an on-site energy audit of the customer's commercial building, including, but not limited to,
 10 an estimate of the cost of energy conservation measures.

11 (2) The programs submitted and approved under this section shall include a reasonable time
 12 schedule for effective implementation of the elements set forth in subsection (1) of this section in
 13 the service areas of the covered publicly owned utility.

14 (3) The commercial energy conservation services program submitted under subsections (1) and
 15 (2) of this section shall specify whether the covered publicly owned utility proposes to charge the
 16 customer a fee for the energy audit and, if so, the fee amount.

17 **NOTE:** Sections 115 and 116 were deleted by amendment. Subsequent sections were not re-
 18 numbered.

19 **SECTION 117.** ORS 469A.020, as amended by section 4, chapter 28, Oregon Laws 2016, is
 20 amended to read:

21 469A.020. (1) Except as provided in this section, electricity may be used to comply with a
 22 renewable portfolio standard only if the electricity is generated by a facility that becomes opera-
 23 tional on or after January 1, 1995.

24 (2) Electricity from a generating facility, other than a hydroelectric facility, that became opera-
 25 tional before January 1, 1995, may be used to comply with a renewable portfolio standard if the
 26 electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

27 (3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may
 28 be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency
 29 upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power
 30 Administration facility, only that portion of the electricity generation attributable to Oregon's share
 31 of the electricity may be used to comply with a renewable portfolio standard.

32 (4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility
 33 that became operational before January 1, 1995, may be used to comply with a renewable portfolio
 34 standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995,
 35 by a national certification organization recognized by the [*State Department of Energy*] **Oregon**
 36 **Energy Commission** by rule, and if the facility is either:

37 (a) Owned by an electric utility; or

38 (b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy
 39 Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such
 40 license.

41 (5) Electricity from a generating facility located in this state that uses biomass and that became
 42 operational before January 1, 1995, may be used to comply with a renewable portfolio standard if
 43 the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L.
 44 95-617) on March 4, 2010.

45 (6) A facility located in this state that generates electricity from direct combustion of municipal

1 solid waste and that became operational before January 1, 1995, may be used to comply with a
2 renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar
3 year.

4 **SECTION 118.** ORS 469A.025 is amended to read:

5 469A.025. (1) Electricity generated utilizing the following types of energy may be used to comply
6 with a renewable portfolio standard:

- 7 (a) Wind energy.
- 8 (b) Solar photovoltaic and solar thermal energy.
- 9 (c) Wave, tidal and ocean thermal energy.
- 10 (d) Geothermal energy.

11 (2) Except as provided in subsection (3) of this section, electricity generated from biomass and
12 biomass by-products may be used to comply with a renewable portfolio standard, including but not
13 limited to electricity generated from:

- 14 (a) Organic human or animal waste;
- 15 (b) Spent pulping liquor;
- 16 (c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest
17 or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;
- 18 (d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);
- 19 (e) Agricultural residues;
- 20 (f) Dedicated energy crops; and
- 21 (g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or
22 municipal solid waste.

23 (3) Electricity generated from the direct combustion of biomass may not be used to comply with
24 a renewable portfolio standard if any of the biomass combusted to generate the electricity includes
25 wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or
26 chromated copper arsenate.

27 (4) Electricity generated by a hydroelectric facility may be used to comply with a renewable
28 portfolio standard only if:

29 (a) The facility is located outside any protected area designated by the Pacific Northwest Elec-
30 tric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the
31 federal Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805
32 to 390.925; or

33 (b) The electricity is attributable to efficiency upgrades made to the facility on or after January
34 1, 1995.

35 (5)(a) Up to 50 average megawatts of electricity per year generated by an electric utility from
36 certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(a) may be used to comply
37 with a renewable portfolio standard, without regard to the number of certified facilities operated
38 by the electric utility or the generating capacity of those facilities. A hydroelectric facility described
39 in this paragraph is not subject to the requirements of subsection (4) of this section.

40 (b) Up to 40 average megawatts of electricity per year generated by certified low-impact hy-
41 droelectric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable
42 portfolio standard, without regard to the number of certified facilities or the generating capacity
43 of those facilities. A hydroelectric facility described in this paragraph is not subject to the require-
44 ments of subsection (4) of this section.

45 (6)(a) Direct combustion of municipal solid waste in a generating facility located in this state

1 may be used to comply with a renewable portfolio standard. The qualification of a municipal solid
 2 waste facility for use in compliance with a renewable portfolio standard has no effect on the quali-
 3 fication of the facility for a tax credit under ORS 469B.130 to 469B.169.

4 (b) The total amount of electricity generated in this state by direct combustion of municipal
 5 solid waste by generating facilities that became operational in this state on or after January 1, 1995,
 6 may not exceed nine average megawatts per year for the purpose of complying with a renewable
 7 portfolio standard.

8 (7) Electricity generated from hydrogen gas, including electricity generated by hydrogen power
 9 stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable port-
 10 folio standard if:

11 (a) The electricity is derived from:

12 (A) Any source of energy described in subsection (1) or (2) of this section; or

13 (B) A hydroelectric facility that complies with subsection (4) of this section and that is certified
 14 as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and

15 (b) The output of the original source of energy is not also used to comply with a renewable
 16 portfolio standard.

17 (8) If electricity generation employs multiple energy sources, that portion of the electricity
 18 generated that is attributable to energy sources described in this section may be used to comply
 19 with a renewable portfolio standard.

20 (9) The [*State Department of Energy*] **Oregon Energy Commission** by rule may approve energy
 21 sources other than those described in this section that may be used to comply with a renewable
 22 portfolio standard. The [*department*] **commission** may not approve petroleum, natural gas, coal or
 23 nuclear fission as an energy source that may be used to comply with a renewable portfolio standard.

24 **SECTION 119.** ORS 469B.103 is amended to read:

25 469B.103. (1) For the purposes of carrying out ORS 469B.100 to 469B.118, the [*State Department*]
 26 [*of Energy*] **Oregon Energy Commission** may adopt rules prescribing minimum performance criteria
 27 for alternative energy devices for dwellings. The [*department*] **commission** may, in prescribing cri-
 28 teria, rely on applicable federal, state and local requirements for energy efficiency, including the
 29 state building code, state and federal appliance standards and any specialty codes and any code
 30 adopted by the Building Codes Division of the Department of Consumer and Business Services.

31 (2) The [*department*] **commission** shall take into consideration evolving market conditions in
 32 prescribing minimum performance criteria for alternative energy devices and in determining credit
 33 amounts, consistent with ORS 316.116.

34 (3) The [*department*] **commission**, in adopting rules under this section for solar heating and
 35 cooling systems, shall take into consideration applicable standards of federal performance criteria
 36 prescribed pursuant to the provisions of the Solar Heating and Cooling Demonstration Act of 1974,
 37 42 U.S.C. 5506.

38 (4) The [*Director of the State Department of Energy*] **commission** shall adopt rules governing the
 39 determination of eligibility, verification and certification of an alternative fuel device for purposes
 40 of the tax credits granted under ORS 316.116, including but not limited to rules that further define
 41 an alternative fuel device and that govern the computation of costs eligible for credit.

42 (5) The [*department*] **commission** shall by rule establish policies and procedures for the admin-
 43 istration and enforcement of the provisions of ORS 316.116 and 469B.100 to 469B.118.

44 **SECTION 120.** ORS 469B.106 is amended to read:

45 469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon Laws 2011, any person

1 may claim a tax credit under ORS 316.116 if the person:

2 (a) Meets the requirements of ORS 316.116;

3 (b) Meets the requirements of ORS 469B.100 to 469B.118; and

4 (c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative
5 energy device.

6 (2) In order to be eligible for a tax credit under ORS 316.116, a person claiming a tax credit for
7 construction or installation of an alternative energy device shall have the device certified by the
8 State Department of Energy or constructed or installed by a contractor certified by the department
9 under subsection (4) of this section.

10 (3) Verification of the purchase, construction or installation of an alternative energy device
11 shall be made in writing on a form provided by the Department of Revenue and, if applicable, shall
12 contain:

13 (a) The location of the alternative energy device;

14 (b) A description of the type of device;

15 (c) If the device was constructed or installed by a contractor, evidence that the contractor has
16 any license, bond, insurance and permit required to sell and construct or install the alternative en-
17 ergy device;

18 (d) If the device was constructed or installed by a contractor, a statement signed by the con-
19 tractor that the applicant has received:

20 (A) A statement of the reasonably expected energy savings of the device;

21 (B) A copy of consumer information published by the State Department of Energy;

22 (C) An operating manual for the alternative energy device; and

23 (D) A copy of the contractor's certification certificate or alternative energy device system cer-
24 tificate for the alternative energy device, as appropriate;

25 (e) If the device was not constructed or installed by a contractor, evidence that:

26 (A) The State Department of Energy has issued an alternative energy device system certificate
27 for the alternative energy device; and

28 (B) The taxpayer has obtained all building permits required for construction or installation of
29 the device;

30 (f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device
31 was constructed or installed by a contractor, that the construction or installation meets all the re-
32 quirements of ORS 469B.100 to 469B.118;

33 (g) The date the alternative energy device was purchased by the residential property owner, or,
34 for a third-party alternative energy device installation, the date that the residential property owner
35 and the alternative energy device owner signed a contract;

36 (h) The date the alternative energy device was placed in service; and

37 (i) Any other information that the Director of the State Department of Energy or the Depart-
38 ment of Revenue determines is necessary.

39 (4)(a) When the State Department of Energy finds that an alternative energy device can meet
40 the standards adopted under ORS 469B.103, the Director of the State Department of Energy may
41 issue a contractor system certification to the person selling and constructing or installing the al-
42 ternative energy device.

43 (b) Any person who sells or installs more than 12 alternative energy devices in one year shall
44 apply for a contractor system certification. An application for a contractor system certification shall
45 be made in writing on a form provided by the State Department of Energy and shall contain:

1 (A) A statement that the contractor has any license, bonding, insurance and permit that is re-
2 quired for the sale and construction or installation of the alternative energy device;

3 (B) A specific description of the alternative energy device, including, but not limited to, the
4 material, equipment and mechanism used in the device, operating procedure, sizing and siting
5 method and construction or installation procedure;

6 (C) The addresses of three installations of the device that are available for inspection by the
7 State Department of Energy;

8 (D) The range of installed costs to purchasers of the device;

9 (E) Any important construction, installation or operating instructions; and

10 (F) Any other information that the State Department of Energy determines is necessary.

11 (c) A new application for contractor system approval shall be filed when there is a change in
12 the information supplied under paragraph (b) of this subsection.

13 (d) The State Department of Energy may issue contractor system certificates to each contractor
14 who on October 3, 1989, has a valid dealer system certification, which shall authorize the sale and
15 installation of the same domestic water heating alternative energy devices authorized by the dealer
16 certification.

17 (e) If the State Department of Energy finds that an alternative energy device can meet the
18 standards adopted under ORS 469B.103, the Director of the State Department of Energy may issue
19 an alternative energy device system certificate to the taxpayer constructing or installing or having
20 an alternative energy device constructed or installed.

21 (f) An application for an alternative energy device system certificate shall be made in writing
22 on a form provided by the State Department of Energy and shall contain:

23 (A) A specific description of the alternative energy device, including, but not limited to, the
24 material, equipment and mechanism used in the device, operating procedure, sizing, siting method
25 and construction or installation procedure;

26 (B) The constructed or installed cost of the device; and

27 (C) A statement that the taxpayer has all permits required for construction or installation of the
28 device.

29 (5) Prior to commencing installation of alternative energy devices, installers of third-party al-
30 ternative energy device installations must apply to the State Department of Energy to reserve
31 credits on behalf of owners of residential property. Installers may reserve credit for no more than
32 25 installations under this subsection in one application.

33 (6) To claim the tax credit, the verification form described in subsection (3) of this section shall
34 be submitted with the taxpayer's tax return for the year the alternative energy device is placed in
35 service or the immediately succeeding tax year. A copy of the contractor's certification certificate
36 or alternative energy device system certificate also shall be submitted.

37 (7) The verification form and contractor's certificate or alternative energy device system certif-
38 icate described under this section shall be effective for purposes of tax relief allowed under ORS
39 316.116.

40 (8) The verification form and contractor's certificate described under this section may be
41 transferred to the first purchaser of a dwelling who intends to use the dwelling as a principal or
42 secondary residence.

43 (9) Any person that pays the present value of the tax credit for an alternative energy device
44 provided under ORS 316.116 and 469B.100 to 469B.118 to the person who constructs or installs the
45 alternative energy device shall be entitled to claim the credit in the manner and subject to rules

1 adopted by the Department of Revenue to carry out the purposes of this subsection. The [*State De-*
2 *partment of Energy*] **Oregon Energy Commission** may establish by rule uniform discount rates to
3 be used in calculating the present value of a tax credit under this subsection.

4 **SECTION 121.** ORS 469B.112 is amended to read:

5 469B.112. The following devices are not eligible for the tax credit under ORS 316.116:

6 (1) Standard efficiency furnaces;

7 (2) Air conditioning systems;

8 (3) Boilers;

9 (4) Standard back-up heating systems;

10 (5) Woodstoves or wood furnaces, or any part of a heating system that burns wood, unless the
11 woodstove, furnace or system constitutes a premium efficiency biomass combustion device described
12 in ORS 469B.100 (3)(i);

13 (6) Heat pump water heaters that are part of a geothermal heat pump space heating system;

14 (7) Structures that cover or enclose a swimming pool;

15 (8) Swimming pools, hot tubs or spas used to store heat;

16 (9) Above ground, uninsulated swimming pools, hot tubs or spas;

17 (10) Photovoltaic systems installed on recreational vehicles;

18 (11) Conversion of an existing alternative energy device to another type of alternative energy
19 device;

20 (12) Repair or replacement of an existing alternative energy device;

21 (13) A category two alternative energy device, if the equipment or other property that comprises
22 the category two alternative energy device is the basis for an allowed credit for a category one al-
23 ternative energy device under ORS 316.116;

24 (14) A category one alternative energy device, if the equipment or other property that comprises
25 the category one alternative energy device is also the basis for an allowed credit for a category two
26 alternative energy device under ORS 316.116; or

27 (15) Any other device identified by the [*State Department of Energy*] **Oregon Energy Commis-**
28 **sion.** The [*department*] **commission** may adopt rules defining standards for eligible and ineligible
29 devices under this section.

30 **SECTION 122.** ORS 469B.130 is amended to read:

31 469B.130. As used in ORS 469B.130 to 469B.169 and 469B.171:

32 (1) "Alternative fuel vehicle" means a vehicle as defined by the [*Director of the State Department*
33 *of Energy*] **Oregon Energy Commission** by rule that is used primarily in connection with the con-
34 duct of a trade or business and that is manufactured or modified to use an alternative fuel, including
35 but not limited to electricity, ethanol, methanol, gasohol and propane or natural gas, regardless of
36 energy consumption savings.

37 (2) "Car sharing facility" means the expenses of operating a car sharing program, including but
38 not limited to the fair market value of parking spaces used to store the fleet of cars available for
39 a car sharing program, but does not include the costs of the fleet of cars.

40 (3) "Car sharing program" means a program in which drivers pay to become members in order
41 to have joint access to a fleet of cars from a common parking area on an hourly basis. "Car sharing
42 program" does not include operations conducted by car rental agencies.

43 (4) "Cost" means the capital costs and expenses necessarily incurred in the erection, con-
44 struction, installation and acquisition of a facility, including site development costs and expenses for
45 a sustainable building practices facility.

1 (5) "Energy facility" means any capital investment for which the first year energy savings yields
2 a simple payback period of greater than one year. An energy facility includes:

3 (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or
4 any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-
5 lation, excavation, machinery, equipment or device necessarily erected, constructed, installed or
6 acquired by any person in connection with the conduct of a trade or business and actually used in
7 the processing or utilization of renewable energy resources to:

8 (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

9 (B) Provide the initial use of energy where electricity, petroleum or natural gas would have been
10 used;

11 (C) Generate electricity to replace an existing source of electricity or to provide a new source
12 of electricity for sale by or use in the trade or business;

13 (D) Perform a process that obtains energy resources from material that would otherwise be solid
14 waste as defined in ORS 459.005; or

15 (E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol,
16 methanol, gasohol or biodiesel.

17 (b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing
18 structure, building, installation, excavation, machinery, equipment or device necessarily erected,
19 constructed, installed or acquired by any person in connection with the conduct of a trade or busi-
20 ness in order to substantially reduce the consumption of purchased energy.

21 (c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is
22 defined by ORS 469B.100, that causes that building or dwelling to exceed an energy performance
23 standard in the state building code.

24 (d) The replacement of an electric motor with another electric motor that substantially reduces
25 the consumption of electricity.

26 (6) "Facility" means an energy facility, recycling facility, transportation facility, car sharing
27 facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to op-
28 erate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling
29 station, a high-efficiency combined heat and power facility, a high-performance home or a
30 homebuilder-installed renewable energy system.

31 (7) "High-efficiency combined heat and power facility" means a device or equipment that simul-
32 taneously produces heat and electricity from a single source of fuel and that meets the criteria es-
33 tablished for a high-efficiency combined heat and power facility under ORS 469B.139.

34 (8) "High-performance home" means a new single-family dwelling that:

35 (a) Is designed and constructed to reduce net purchased energy through use of both energy ef-
36 ficiency and on-site renewable energy resources; and

37 (b) Meets the criteria established for a high-performance home under ORS 469B.139.

38 (9) "Homebuilder-installed renewable energy system" means a renewable energy resource system
39 that:

40 (a) Meets the criteria established for a renewable energy resource system under ORS 469B.139;
41 and

42 (b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder con-
43 structing the dwelling.

44 (10) "Qualified transit pass contract" means a purchase agreement entered into between a
45 transportation provider and a person, the terms of which obligate the person to purchase transit

1 passes on behalf or for the benefit of employees, students, patients or other individuals over a
2 specified period of time.

3 (11) "Recycling facility" means equipment used by a trade or business solely for recycling:

4 (a) Including:

5 (A) Equipment used solely for hauling and refining used oil;

6 (B) New vehicles or modifications to existing vehicles used solely to transport used recyclable
7 materials that cannot be used further in their present form or location such as glass, metal, paper,
8 aluminum, rubber and plastic;

9 (C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to
10 or attached to existing waste collection vehicles; and

11 (D) Any equipment used solely for processing recyclable materials such as balers, flatteners,
12 crushers, separators and scales.

13 (b) But not including equipment used for transporting or processing scrap materials that are
14 recycled as a part of the normal operation of a trade or business as defined by the [director] **com-**
15 **mission.**

16 (12)(a) "Renewable energy resource" includes, but is not limited to:

17 (A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant
18 or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal
19 energy;

20 (B) A hydroelectric generating facility that obtains all applicable permits and complies with all
21 state and federal statutory requirements for the protection of fish and wildlife and that:

22 (i) Does not exceed 10 megawatts of installed capacity; or

23 (ii) Qualifies as a research, development or demonstration facility; or

24 (C) A renewable energy storage device as defined by the [director] **commission** by rule.

25 (b) "Renewable energy resource" does not include a hydroelectric generating facility that is not
26 described in paragraph (a) of this subsection.

27 (13) "Sustainable building practices facility" means a commercial building in which building
28 practices that reduce the amount of energy, water or other resources needed for construction and
29 operation of the building are used. "Sustainable building practices facility" may be further defined
30 by the [State Department of Energy] **commission** by rule, including rules that establish traditional
31 building practice baselines in energy, water or other resource usage for comparative purposes for
32 use in determining whether a facility is a sustainable building practices facility.

33 (14) "Transportation facility" means a transportation project that reduces energy use during
34 commuting to and from work or school, during work-related travel, or during travel to obtain med-
35 ical or other services, and may be further defined by the [department] **commission** by rule.
36 "Transportation facility" includes, but is not limited to:

37 (a) A qualified transit pass contract or a transportation services contract; or

38 (b) The purchase of efficient truck technology and related truck trailers, as defined in ORS
39 801.580, for commercial motor vehicles, as defined in ORS 801.208, that are registered under ORS
40 803.420, or for commercial motor vehicles that are proportionally registered under ORS 826.009 or
41 826.011.

42 (15) "Transportation provider" means a public, private or nonprofit entity that provides trans-
43 portation services to members of the public.

44 (16) "Transportation services contract" means a contract that is related to a transportation fa-
45 cility, and may be further defined by the [department] **commission** by rule.

1 **SECTION 123.** ORS 469B.136 is amended to read:

2 469B.136. (1) In determining the eligibility of any facility for tax credits, preference shall be
3 given to those projects that:

4 (a) Provide energy savings for real or personal property within the state inhabited as the prin-
5 cipal residence of a tenant, including:

6 (A) Nonowner occupied single family dwellings; and

7 (B) Multiple unit residential housing; or

8 (b) Provide long-term energy savings from the use of renewable resources or conservation of
9 energy resources.

10 (2) The [*Director of the State Department of Energy*] **Oregon Energy Commission** shall establish
11 by rule a tiered priority system to be used in evaluating applicants for certification of facilities us-
12 ing or producing renewable energy resources. The tier system shall be based upon the projected
13 costs of facilities. In determining the eligibility for tax credits and in allocating the available certi-
14 fied cost pursuant to section 2 (1), chapter 76, Oregon Laws 2010, among facilities, the [*director*]
15 **commission** shall subject facilities with higher projected costs to closer scrutiny, shall compare
16 projects of similar costs against each other and may certify less than the total cost of any facility
17 based on this evaluation. The [*director*] **commission** may employ criteria including the following
18 factors as defined by rule:

19 (a) Technology-specific energy production standards;

20 (b) Market sector;

21 (c) Delivery of energy into existing distribution and transmission network;

22 (d) Investment payback period;

23 (e) Expected lifespan of the facility;

24 (f) Potential for long-term viability;

25 (g) Environmental standards established by the [*director*] **commission**;

26 (h) Potential to create and sustain new jobs;

27 (i) Projected siting in a location that is geographically or socioeconomically advantageous;

28 (j) Demonstrated readiness to begin implementation;

29 (k) Amount and quality of energy generated;

30 (L) Strength of business plan;

31 (m) Provision of operations and maintenance data, with appropriate protections for trade secrets
32 consistent with ORS chapter 192;

33 (n) Connection to existing infrastructure;

34 (o) Third-party review of the applicant's business plan; or

35 (p) Data related to projected return on investment.

36 **SECTION 124.** ORS 469B.139 is amended to read:

37 469B.139. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish
38 all of the following criteria:

39 (1) For a high-performance home, the minimum design and construction standards that must be
40 met or exceeded for a dwelling to be considered a high-performance home, including but not limited
41 to standards for the building envelope, HVAC systems, lighting, appliances, water conservation
42 measures, use of sustainable building materials and on-site renewable energy systems. The criteria
43 must also establish the minimum reduction in estimated net purchased energy that a dwelling must
44 achieve to be considered a high-performance home.

45 (2) For a homebuilder-installed renewable energy system, the minimum performance and effi-

1 ciency standards that a solar electric system, solar domestic water heating system, passive solar
2 space heating system, wind power system, geothermal heating system, fuel cell system or other sys-
3 tem utilizing renewable resources must achieve to be considered a homebuilder-installed renewable
4 energy system.

5 (3) For a high-efficiency combined heat and power facility, the minimum performance and effi-
6 ciency standards that the facility must achieve to be considered a high-efficiency combined heat and
7 power facility.

8 (4) For a facility using or producing renewable energy resources, standards relating to criteria
9 required under ORS 469B.136 (2).

10 (5) Standards, consistent with the definitions in ORS 469B.130, relating to what constitutes a
11 single facility.

12 **SECTION 125.** ORS 469B.145 is amended to read:

13 469B.145. (1) Prior to erection, construction, installation or acquisition of a proposed facility,
14 any person may apply to the State Department of Energy for preliminary certification under ORS
15 469B.157 if:

16 (a) The erection, construction, installation or acquisition of the facility is to be commenced on
17 or after October 3, 1979;

18 (b) The facility complies with the standards or rules adopted by the [*Director of the State De-*
19 *partment of Energy*] **Oregon Energy Commission**; and

20 (c) The applicant meets one of the following criteria:

21 (A) The applicant is a person to whom a tax credit for the facility has been transferred; or

22 (B) The applicant will be the owner, contract purchaser or lessee of the facility at the time of
23 erection, construction, installation or acquisition of the proposed facility, and:

24 (i) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to
25 utilize the facility in connection with Oregon property; or

26 (ii) The applicant is the owner, contract purchaser or lessee of a trade or business that plans
27 to lease the facility to a person that will utilize the facility in connection with Oregon property.

28 (2) An application for preliminary certification shall be made in writing on a form prepared by
29 the department and shall contain:

30 (a) A statement that the applicant or the lessee of the applicant's facility:

31 (A) Intends to convert from a purchased energy source to a renewable energy resource;

32 (B) Plans to acquire, construct or install a facility that will use a renewable energy resource
33 or solid waste instead of electricity, petroleum or natural gas;

34 (C) Plans to use a renewable energy resource in the generation of electricity for sale or to re-
35 place an existing or proposed use of an existing source of electricity;

36 (D) Plans to acquire, construct or install a facility that substantially reduces the consumption
37 of purchased energy;

38 (E) Plans to acquire, construct or install equipment for recycling as described in ORS 469B.130
39 (11);

40 (F) Plans to acquire an alternative fuel vehicle or to convert an existing vehicle to an alterna-
41 tive fuel vehicle;

42 (G) Plans to acquire, construct or install a facility necessary to operate alternative fuel vehicles;

43 (H) Plans to acquire transit passes for use by individuals specified by the applicant;

44 (I) Plans to acquire, construct or install a transportation facility;

45 (J) Plans to acquire a sustainable building practices facility;

1 (K) Plans to acquire a car sharing facility and operate a car sharing program;

2 (L) Plans to construct a high-efficiency combined heat and power facility;

3 (M) Is a homebuilder and plans to construct a homebuilder-installed renewable energy system;

4 or

5 (N) Is a homebuilder and plans to construct a high-performance home.

6 (b) A detailed description of the proposed facility and its operation and information showing that
7 the facility will operate as represented in the application and remain in operation for at least five
8 years, unless the [director] **commission** by rule specifies a shorter period of operation.

9 (c) Information on the amount by which consumption of electricity, petroleum or natural gas by
10 the applicant or the lessee of the applicant's facility will be reduced, and on the amount of energy
11 that will be produced for sale, as the result of using the facility or, if applicable, information about
12 the expected level of sustainable building practices facility performance.

13 (d) The projected cost of the facility.

14 (e) If applicable, a copy of the proposed qualified transit pass contract, transportation services
15 contract or contract for lease of parking spaces for a car sharing facility.

16 (f) Information on the number and type of jobs that will be created, the number of jobs sustained
17 throughout the construction, installation and operation of the facility and the benefits of the facility
18 with regard to overall economic activity in this state.

19 (g) Information demonstrating that the proposed facility will comply with applicable state and
20 local laws and regulations and obtain required licenses and permits.

21 (h) Information relating to the criteria required under ORS 469B.136.

22 (i) Any other information the [director] **commission** considers necessary to determine whether
23 the proposed facility is in accordance with the provisions of ORS 469B.130 to 469B.169, and any
24 applicable rules or standards adopted by the [director] **commission**.

25 (3) An application for preliminary certification shall be accompanied by a fee established under
26 ORS 469B.164. The Director of the **State Department of Energy** may refund all or a portion of
27 the fee if the application for certification is rejected.

28 (4) The director may allow an applicant to file the preliminary application or a reapplication
29 under subsection (6) of this section after the start of erection, construction, installation or acqui-
30 sition of the facility if the director finds:

31 (a) Filing the application before the start of erection, construction, installation or acquisition is
32 inappropriate because special circumstances render filing earlier unreasonable; and

33 (b) The facility would otherwise qualify for tax credit certification pursuant to ORS 469B.130 to
34 469B.169.

35 (5) A preliminary certification of a sustainable building practices facility shall be applied for and
36 issued as prescribed by the [department] **commission** by rule.

37 (6) A preliminary certification shall remain valid for a period of three calendar years after the
38 date the preliminary certification is issued by the director. The director may extend the three-year
39 period for two additional calendar years upon reapplication and submission of the fee required by
40 this section.

41 **SECTION 126.** ORS 469B.157 is amended to read:

42 469B.157. (1) The Director of the State Department of Energy may require the submission of
43 plans, specifications and contract terms, and after examination thereof, may request corrections and
44 revisions of the plans, specifications and terms.

45 (2) If the director determines that the proposed acquisition, erection, construction or installation

1 is technically feasible and should operate in accordance with the representations made by the ap-
2 plicant, and is in accordance with the provisions of ORS 469B.130 to 469B.169 and any applicable
3 rules or standards adopted by the [*director*] **Oregon Energy Commission**, the director shall issue
4 a preliminary certificate approving the acquisition, erection, construction or installation of the fa-
5 cility. The certificate shall indicate the potential amount of tax credit allowable and shall list any
6 conditions for claiming the credit.

7 (3) The director may issue an order altering, conditioning, suspending or denying preliminary
8 certification if the director determines that:

9 (a) The acquisition, erection, construction or installation does not comply with the provisions
10 of ORS 469B.130 to 469B.169 and applicable rules and standards;

11 (b) The applicant has previously received preliminary or final certification for the same costs;

12 (c) The applicant is unable to demonstrate that the facility would be economically viable without
13 the allowance of additional credits under ORS 315.354;

14 (d) The applicant was directly involved in an act for which the director has levied civil penalties
15 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169; or

16 (e) The applicant or the principal, director, officer, owner, majority shareholder or member of
17 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
18 arrears for payments owed to any government agency while in any capacity with direct or indirect
19 control over a business.

20 **SECTION 127.** ORS 469B.161 is amended to read:

21 469B.161. (1) A final certification may not be issued by the Director of the State Department of
22 Energy under this section unless:

23 (a) The facility was acquired, erected, constructed or installed under a preliminary certificate
24 of approval issued under ORS 469B.157;

25 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.145
26 (2) and does not violate any condition that may be imposed as described in ORS 469B.157 (3); and

27 (c) The facility was acquired, erected, constructed or installed in accordance with the applicable
28 provisions of ORS 469B.130 to 469B.169 and any applicable rules or standards adopted by the [*di-*
29 *rector*] **Oregon Energy Commission**.

30 (2) Any person may apply to the State Department of Energy for final certification of a facility:

31 (a) If the department issued preliminary certification for the facility under ORS 469B.157; and

32 (b)(A) After completion of erection, construction, installation or acquisition of the proposed fa-
33 cility or, if the facility is a qualified transit pass contract, after entering into the contract with a
34 transportation provider; or

35 (B) After transfer of the facility, as provided in ORS 315.354 (5).

36 (3) An application for final certification shall be made in writing on a form prepared by the
37 department and shall contain:

38 (a) A statement that the conditions of the preliminary certification have been complied with;

39 (b) The actual cost of the facility certified to by a certified public accountant who is not an
40 employee of the applicant or, if the actual cost of the facility is less than \$50,000, copies of receipts
41 for purchase and installation of the facility;

42 (c) The amount of the credit under ORS 315.354 that is to be claimed;

43 (d) The number and type of jobs created by the operation and maintenance of the facility over
44 the five-year period beginning with the year of preliminary certification under ORS 469B.157 and
45 information on the benefits of the facility with regard to overall economic activity in this state;

1 (e) Information sufficient to demonstrate that the facility will remain in operation for at least
 2 five years, unless the [*director*] **Oregon Energy Commission** by rule specifies a shorter period of
 3 operation;

4 (f) Information sufficient to demonstrate, in the case of a research, development or demon-
 5 stration facility that is not in operation, that the applicant has made reasonable efforts to make the
 6 facility operable and meet the requirements of the preliminary certificate;

7 (g) Documentation of compliance with applicable state and local laws and regulations and li-
 8 censing and permitting requirements as defined by the [*director*] **Oregon Energy Commission**; and

9 (h) Any other information determined by the [*director*] **Oregon Energy Commission** to be nec-
 10 essary prior to issuance of a final certificate, including inspection of the facility by the department.

11 (4) The director shall act on an application for certification before the 60th day after the filing
 12 of the application under this section. The director may issue the certificate, or certificates for effi-
 13 cient truck technology within a transportation facility, together with such conditions as the director
 14 determines are appropriate to promote the purposes of ORS 315.354, 469B.130 to 469B.169 and
 15 469B.171. If the applicant is an entity subject to regulation by the Public Utility Commission, the
 16 director may consult with the **Public Utility** Commission prior to issuance of the certificate. The
 17 action of the director shall include certification of the actual cost of the facility. However, the di-
 18 rector may not certify an amount for tax credit purposes that is more than the amount approved in
 19 the preliminary certificate issued for the facility.

20 (5) If the director rejects an application for final certification, or certifies a lesser actual cost
 21 of the facility than was claimed in the application, the director shall send to the applicant written
 22 notice of the action, together with a statement of the findings and reasons therefor, by certified mail,
 23 before the 60th day after the filing of the application. Failure of the director to act constitutes re-
 24 jection of the application.

25 (6) Upon approval of an application for final certification of a facility, the director shall certify
 26 the facility. Each certificate shall bear a separate serial number for each device. Where one or
 27 more devices constitute an operational unit, the director may certify the operational unit under one
 28 certificate.

29 (7) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate
 30 deadlines for submission of application materials.

31 **SECTION 128.** ORS 469B.164 is amended to read:

32 469B.164. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**
 33 **Energy Commission** may adopt a schedule of reasonable fees which the State Department of En-
 34 ergy may require of applicants for preliminary or final certification under ORS 469B.130 to 469B.169.
 35 Before the adoption or revision of the fees, the department shall estimate the total cost of the pro-
 36 gram to the department. The fees shall be used to recover the anticipated cost of filing, investigat-
 37 ing, granting and rejecting applications for certification and shall be designed not to exceed the
 38 total cost estimated by the department. Any excess fees shall be held by the department and shall
 39 be used by the department to reduce any future fee increases. The fee may vary according to the
 40 size and complexity of the facility. The fee shall not be considered as part of the cost of the facility
 41 to be certified.

42 **SECTION 129.** ORS 469B.253 is amended to read:

43 469B.253. (1) Prior to the installation or construction of a renewable energy production system,
 44 any person may apply to the [*State Department of Energy*] **Oregon Business Development De-**
 45 **partment** for a grant under ORS 469B.256 if:

1 (a) The applicant will be the owner, contract purchaser or lessee of the system at the time of
2 installation or construction of the proposed system;

3 (b) The system does not exceed 35 megawatts of nameplate capacity;

4 (c) The system is located in Oregon; and

5 (d) The system complies with the standards or rules adopted by the [*Director of the State De-*
6 *partment of Energy*] **Director of the Oregon Business Development Department**.

7 (2) An application for a grant under ORS 469B.256 shall be made in writing on a form prepared
8 by the department and shall contain:

9 (a) A detailed description of the system and its operation and information showing that the
10 system will operate as represented in the application and remain in operation for at least five years,
11 unless the director by rule specifies another period of operation.

12 (b) The anticipated total system cost.

13 (c) Information on the number and type of jobs, directly connected to the awarding of the grant,
14 that will be:

15 (A) Created by the system; and

16 (B) Sustained throughout the construction, installation and operation of the system.

17 (d) Information demonstrating that the system will comply with applicable state and local laws
18 and regulations and obtain required licenses and permits.

19 (e) Any other information the director considers necessary to determine whether the system is
20 in accordance with the provisions of ORS 469B.250 to 469B.265, and any applicable rules or stan-
21 dards adopted by the director.

22 (3) An application for a grant shall be accompanied by a fee established under ORS 469B.259.
23 The director may refund all or a portion of the fee if the application for a grant is rejected.

24 (4) The director may allow an applicant to file the application for a grant after the start of in-
25 stallation or construction of the system if the director finds that:

26 (a) Filing the application before the start of installation or construction is inappropriate because
27 special circumstances render filing earlier unreasonable; and

28 (b) The system would otherwise qualify for a grant under ORS 469B.250 to 469B.265.

29 **SECTION 130.** ORS 469B.256 is amended to read:

30 469B.256. (1) The [*Director of the State Department of Energy*] **Director of the Oregon Business**
31 **Development Department** may require an applicant for a grant under this section for a renewable
32 energy production system to submit plans, specifications and contract terms, and after examination
33 of the plans, specifications and terms may request corrections and revisions.

34 (2) If the director determines that the system is technically feasible and should operate in ac-
35 cordance with the representations made by the applicant, and is in accordance with the provisions
36 of ORS 469B.250 to 469B.265 and any applicable rules or standards adopted by the director, the di-
37 rector may enter into a performance agreement with the applicant and award a grant under this
38 section to the applicant. The grant provided for in the performance agreement may not exceed 35
39 percent of the cost of the project and may not exceed \$250,000 per system. If construction does not
40 begin within 12 months of an award under this section, the performance agreement shall be void and
41 the [*State Department of Energy*] **Oregon Business Development Department** shall revoke the
42 grant.

43 (3) The director may, in accordance with ORS chapter 183, deny a grant under this section if
44 the director determines that:

45 (a) The system does not comply with the provisions of ORS 469B.250 to 469B.265 and applicable

1 rules and standards;

2 (b) The applicant was directly involved in an act for which the director has levied civil penalties
3 or revoked, canceled or suspended any certification under ORS 315.326 or 469B.130 to 469B.169, or
4 any grant under ORS 469B.250 to 469B.265; or

5 (c) The applicant or the principal, director, officer, owner, majority shareholder or member of
6 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
7 arrears for payments owed to any government agency while in any capacity with direct or indirect
8 control over a business.

9 (4) The department shall reduce the amount of grant allowable to an applicant if, when combined
10 with other government incentives or grants available to the applicant, the amount calculated under
11 subsection (2) of this section exceeds 75 percent of the total system cost calculated under this sec-
12 tion.

13 (5) Upon determination by the director that the applicant has violated the provisions of the
14 performance agreement or ORS 469B.250 to 469B.265, the applicant will be liable to the department
15 for all grant moneys disbursed to the applicant.

16 **SECTION 131.** ORS 469B.259 is amended to read:

17 469B.259. By rule and after hearing, the [*Director of the State Department of Energy*] **Director**
18 **of the Oregon Business Development Department** may adopt a schedule of reasonable fees that
19 the [*State Department of Energy*] **Oregon Business Development Department** may require of ap-
20 plicants for a grant for a renewable energy production system under ORS 469B.250 to 469B.265 or
21 for tax credit certification under ORS 315.326. Before the adoption or revision of the fees, the de-
22 partment shall estimate the total cost of the program to the department. The fees shall be used to
23 recover the anticipated cost of administering and enforcing the provisions of ORS 469B.250 to
24 469B.265, including filing, investigating, granting and rejecting applications for grant or tax credit
25 certification and ensuring compliance with ORS 315.326, 315.329 and 469B.250 to 469B.265 and shall
26 be designed not to exceed the total cost estimated by the department. Any excess fees shall be held
27 by the department and shall be used by the department to reduce any future fee increases. The fee
28 may vary according to the size and complexity of the system. The fee is not considered part of the
29 cost of the system for which a grant is being sought.

30 **SECTION 132.** ORS 469B.262 is amended to read:

31 469B.262. (1) The total amount of potential tax credits for certified renewable energy develop-
32 ment contributions in this state may not, at the time of certification under ORS 315.326, exceed:

33 (a) \$3 million for any biennium; or

34 (b) \$750,000 for the six months beginning July 1, 2017, and ending December 31, 2017.

35 (2) In the event that the [*Director of the State Department of Energy*] **Director of the Oregon**
36 **Business Development Department** receives applications for grants under ORS 469B.256 in excess
37 of the contributions received pursuant to ORS 315.326, the director shall allocate the issuance of
38 grants according to standards and criteria established by rule by the director.

39 **SECTION 133.** ORS 469B.265 is amended to read:

40 469B.265. The [*State Department of Energy*] **Oregon Business Development Department** shall
41 by rule establish policies and procedures for the administration and enforcement of the provisions
42 of ORS 315.326, 315.329 and 469B.250 to 469B.265, including standards for what constitutes a single
43 renewable energy production system.

44 **SECTION 134.** ORS 469B.273 is amended to read:

45 469B.273. (1) In determining the priority of any energy conservation project for tax credits,

1 preference shall be given to those projects that have the highest energy savings over the five-year
2 credit allowance period per tax credit dollar.

3 (2) In administering this section, the Director of the State Department of Energy shall compare
4 projects of similar technology types against each other, take into account the amount of energy
5 saved over the life of the equipment, market or industry sector, expected lifespan of the project
6 compared to the simple payback period, whether the energy savings of the project benefit a party
7 other than the owner and any other factors defined in [*State Department of Energy*] rule **by the**
8 **Oregon Energy Commission**. The **State Department of Energy** may certify less than the total cost
9 of any project based on this evaluation.

10 **SECTION 135.** ORS 469B.279 is amended to read:

11 469B.279. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish
12 the following standards relating to energy conservation projects:

13 (1) In consultation with the Department of Consumer and Business Services Building Codes Di-
14 vision, standards relating to energy savings in new construction.

15 (2) Standards relating to what constitutes a replacement of inefficient equipment.

16 (3) Standards for the determination of total project cost.

17 (4) Standards for the application of third party review of research and development projects by
18 a qualified third party selected by the Director of the State Department of Energy, as required in
19 ORS 469B.285.

20 **SECTION 136.** ORS 469B.285 is amended to read:

21 469B.285. (1) Prior to the installation or construction of an energy conservation project, any
22 person may apply to the State Department of Energy for preliminary certification under ORS
23 469B.288 if:

24 (a) The project complies with the standards adopted by the [*Director of the State Department of*
25 *Energy*] **Oregon Energy Commission**; and

26 (b) The applicant will be the owner, contract purchaser or lessee of the project at the time of
27 installation or construction of the project.

28 (2) An application for preliminary certification shall be made in writing on a form prepared by
29 the department and shall contain:

30 (a) A statement that the applicant plans to acquire, construct or install a project that substan-
31 tially reduces the consumption of purchased energy or uses energy more efficiently.

32 (b) A detailed description of the project and its operation and information showing that the
33 project will operate as represented in the application and remain in operation for at least five years,
34 unless the [*director*] **commission** by rule specifies another period of operation.

35 (c) Information on the amount by which consumption of purchased energy by the applicant will
36 be reduced, and, if applicable, information about the expected level of sustainable building practices
37 project performance.

38 (d) The anticipated total project cost.

39 (e) Information on the number and type of jobs, directly connected to the allowance of the
40 credit, that will be:

41 (A) Created by the project; and

42 (B) Sustained throughout the construction, installation and operation of the project.

43 (f) Information demonstrating that the project will comply with applicable state and local laws
44 and regulations and obtain required licenses and permits.

45 (g) Information relating to the standards described in ORS 469B.279.

1 (h) A recommendation for a research and development project as demonstrative of innovation
2 that has been made by a qualified third party selected by the Director **of the State Department**
3 **of Energy**.

4 (i) Any other information the [*director*] **commission** considers necessary to determine whether
5 the project is in accordance with the provisions of ORS 469B.270 to 469B.306, and any applicable
6 rules or standards adopted by the [*director*] **commission**.

7 (3) An application for preliminary certification shall be accompanied by a fee established under
8 ORS 469B.294. The director may refund all or a portion of the fee if the application for certification
9 is rejected.

10 (4) The director may allow an applicant to file the application for preliminary certification after
11 the start of installation or construction of the project if the director finds that:

12 (a) Filing the application before the start of installation or construction is inappropriate because
13 special circumstances render filing earlier unreasonable; and

14 (b) The project would otherwise qualify for certification under ORS 469B.270 to 469B.306.

15 (5) The [*director*] **commission** may, by rule, waive preliminary certification under ORS 469B.288,
16 or may establish an informational filing system in place of preliminary certification, for projects
17 that:

18 (a) Have eligible costs of less than \$20,000;

19 (b) Consist of measures that the director determines to be eligible for waiver of preliminary
20 certification; and

21 (c) Comply with any other requirements established by the [*director*] **commission**.

22 (6) A preliminary certification shall remain valid for a period of three calendar years after the
23 date on which the preliminary certification is issued by the director, after which the certification
24 becomes invalid even if:

25 (a) The applicant is awaiting identification of a pass-through partner; or

26 (b) The preliminary certification has been amended.

27 **SECTION 137.** ORS 469B.288 is amended to read:

28 469B.288. (1) The Director of the State Department of Energy may require an applicant for
29 certification of an energy conservation project to submit plans, specifications and contract terms,
30 and after examination of the plans, specifications and terms may request corrections and revisions.

31 (2) If the director determines that the project is technically feasible and should operate in ac-
32 cordance with the representations made by the applicant, and is in accordance with the provisions
33 of ORS 469B.270 to 469B.306 and any applicable rules or standards adopted by the [*director*] **Oregon**
34 **Energy Commission**, the director may issue a preliminary certificate approving the installation or
35 construction of the project. The certificate shall indicate the potential amount of tax credit allow-
36 able and shall list any conditions for claiming the credit.

37 (3) In accordance with ORS chapter 183, the director may issue an order altering, conditioning,
38 suspending or denying preliminary certification if the director determines that:

39 (a) The project does not comply with the provisions of ORS 469B.270 to 469B.306 and applicable
40 rules and standards;

41 (b) The applicant has previously received preliminary or final certification for the project;

42 (c) The applicant was directly involved in an act for which the director has levied civil penalties
43 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169 or 469B.270 to
44 469B.306; or

45 (d) The applicant or the principal, director, officer, owner, majority shareholder or member of

1 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
2 arrears for payments owed to any government agency while in any capacity with direct or indirect
3 control over a business.

4 **SECTION 138.** ORS 469B.291 is amended to read:

5 469B.291. (1) The Director of the State Department of Energy may issue a final certification for
6 an energy conservation project under this section only if:

7 (a) The project was installed or constructed under a preliminary certificate of approval issued
8 under ORS 469B.288, unless preliminary certification is waived under ORS 469B.285 (5);

9 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.285
10 (2) and does not violate any condition that may be imposed as described in subsections (4) and (5)
11 of this section; and

12 (c) The project was installed or constructed in accordance with the applicable provisions of ORS
13 469B.270 to 469B.306 and any applicable rules or standards adopted by the [*director*] **Oregon Energy**
14 **Commission.**

15 (2) Any person may apply to the State Department of Energy for final certification of a project:

16 (a) If the person received preliminary certification for the project under ORS 469B.288; and

17 (b) After completion of the installation or construction of the project.

18 (3) An application for final certification shall be made in writing on a form prepared by the
19 department and shall contain:

20 (a) A statement that the conditions of the preliminary certification have been complied with;

21 (b) The actual cost of the project attested to by a certified public accountant who is not an
22 employee of the applicant or, if the actual cost of the project is less than \$50,000, copies of receipts
23 for purchase and installation of the project;

24 (c) The amount of the credit under ORS 315.331 that is to be claimed;

25 (d) The number and type of jobs, directly connected to the allowance of the credit, that will be
26 created by the operation and maintenance of the project over the five-year period beginning with
27 the year of preliminary certification under ORS 469B.288;

28 (e) Information sufficient to demonstrate that the project will remain in operation for at least
29 five years, unless the [*director*] **Oregon Energy Commission** by rule specifies another period of
30 operation;

31 (f) Documentation of compliance with applicable state and local laws and regulations and li-
32 censing and permitting requirements as defined by the [*director*] **Oregon Energy Commission**;

33 (g) Information, if applicable, pertaining to prior recommendation of the project by a qualified
34 third party selected by the [*director*] **commission**; and

35 (h) Any other information determined by the director to be necessary prior to issuance of a final
36 certificate, including inspection of the project by the department.

37 (4) As part of the final certification process, the director may require the applicant to enter into
38 a performance agreement with the department. The performance agreement may include a recertif-
39 ication requirement under ORS 469B.298 and any additional requirements that the director deter-
40 mines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to 469B.306.

41 (5) After the filing of the application under this section, the director may issue the certificate
42 together with any conditions, including conditions imposed by a performance agreement, that the
43 director determines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to
44 469B.306. If the applicant is an entity subject to regulation by the Public Utility Commission, the
45 director may consult with the **Public Utility** Commission prior to issuance of the certificate. The

1 action of the director shall include certification of the actual cost of the project. However, the di-
 2 rector may not certify an amount for tax credit purposes that is more than the amount approved in
 3 the preliminary certificate issued for the project.

4 (6) Except as otherwise provided in ORS 469B.298, if the director rejects an application for final
 5 certification, or certifies a lesser amount of credit than was claimed in the application, the director
 6 shall send to the applicant written notice of the action, together with a statement of the findings
 7 and reasons for the action, by certified mail, before the 60th day after the filing of the application.
 8 Failure of the director to act constitutes rejection of the application.

9 (7) Upon approval of an application for final certification of a project, the director shall certify
 10 the project. The final certification shall indicate the amount of projected energy savings attributable
 11 to the project and the total project cost.

12 (8) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate
 13 deadlines for submission of application materials.

14 **SECTION 139.** ORS 469B.294 is amended to read:

15 469B.294. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**
 16 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy
 17 may require of applicants for preliminary or final certification or recertification of an energy con-
 18 servation project under ORS 469B.270 to 469B.306. Before the adoption or revision of the fees, the
 19 department shall estimate the total cost of the program to the department. The fees shall be used
 20 to recover the anticipated cost of administering and enforcing the provisions of ORS 469B.270 to
 21 469B.306, including filing, investigating, granting and rejecting applications for certification or re-
 22 certification and ensuring compliance with ORS 469B.270 to 469B.306 and shall be designed not to
 23 exceed the total cost estimated by the department. Any excess fees shall be held by the department
 24 and shall be used by the department to reduce any future fee increases. The fee may vary according
 25 to the size and complexity of the project. The fee is not considered part of the cost of the project
 26 to be certified.

27 **SECTION 140.** ORS 469B.303 is amended to read:

28 469B.303. (1) The total amount of potential tax credits for all energy conservation projects in
 29 this state may not, at the time of preliminary certification under ORS 469B.288, exceed:

30 (a) \$28 million for any biennium; or

31 (b) \$7.5 million for the six months beginning July 1, 2017, and ending December 31, 2017.

32 (2) In the event that the Director of the State Department of Energy receives applications for
 33 preliminary certification with a total amount of certified costs for potential tax credits in excess of
 34 the limitations in subsection (1) of this section, the director shall allocate the issuance of prelimi-
 35 nary certifications according to standards and criteria established by rule by the [*director*] **Oregon**
 36 **Energy Commission**.

37 **SECTION 141.** ORS 469B.306 is amended to read:

38 469B.306. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish
 39 policies and procedures for the administration and enforcement of the provisions of ORS 315.331 and
 40 469B.270 to 469B.306 and section 36, chapter 730, Oregon Laws 2011, including standards for what
 41 constitutes a single energy conservation project.

42 **SECTION 142.** ORS 469B.326 is amended to read:

43 469B.326. (1) Prior to the acquisition or performance of a transportation project, a person may
 44 apply to the State Department of Energy for preliminary certification for the project under ORS
 45 469B.329 if:

1 (a) The project complies with the standards adopted by the [*Director of the State Department of*
2 *Energy*] **Oregon Energy Commission**; and

3 (b) The applicant will be the owner, contract purchaser or lessee of the project at the time of
4 acquisition or performance of the project.

5 (2) An application for preliminary certification shall be made in writing on a form prepared by
6 the department and shall contain:

7 (a) A statement that the applicant plans to acquire or perform a project that substantially re-
8 duces the consumption of purchased petroleum energy.

9 (b) A detailed description of the project and its operation and information showing that the
10 project will operate as represented in the application and remain in operation for at least five years,
11 unless the [*director*] **commission** by rule specifies another period of operation.

12 (c) Information on the amount by which consumption of purchased petroleum energy by the ap-
13 plicant will be reduced, and, if applicable, information about the expected level of project perform-
14 ance.

15 (d) The anticipated total project cost.

16 (e) Information on the number and types of jobs, directly connected to the allowance of the
17 credit, that will be:

18 (A) Created by the project; and

19 (B) Sustained throughout the acquisition and performance of the project.

20 (f) Information demonstrating that the project will comply with applicable state and local laws
21 and regulations and obtain required licenses and permits.

22 (g) Any other information the [*director*] **commission** considers necessary to determine whether
23 the project is in accordance with the provisions of ORS 469B.320 to 469B.347, and any applicable
24 rules or standards adopted by the [*director*] **commission**.

25 (3) An application for preliminary certification shall be accompanied by a fee established under
26 ORS 469B.335. The Director of the **State Department of Energy** may refund all or a portion of
27 the fee if the application for certification is rejected.

28 (4) The director may allow an applicant to file the application for preliminary certification after
29 the start of acquisition or performance of the project if the director finds that:

30 (a) Filing the application before the start of acquisition or performance is inappropriate because
31 special circumstances render filing earlier unreasonable; and

32 (b) The project would otherwise qualify for certification under ORS 469B.320 to 469B.347.

33 (5) A preliminary certification shall remain valid for a period of three calendar years after the
34 date on which the preliminary certification is issued by the director, after which the certification
35 becomes invalid even if:

36 (a) The applicant is awaiting identification of a pass-through partner; or

37 (b) The preliminary certification has been amended.

38 **SECTION 143.** ORS 469B.329 is amended to read:

39 469B.329. (1) The Director of the State Department of Energy may require an applicant for
40 certification of a transportation project to submit plans, specifications and contract terms, and after
41 examination of the plans, specifications and terms may request corrections and revisions.

42 (2) If the director determines that the project is technically feasible and should operate in ac-
43 cordance with the representations made by the applicant, and is in accordance with the provisions
44 of ORS 469B.320 to 469B.347 and any applicable rules or standards adopted by the [*director*] **Oregon**
45 **Energy Commission**, the director may issue a preliminary certificate approving the acquisition or

1 performance of the project. The certificate shall indicate the potential amount of tax credit allow-
2 able and shall list any conditions for claiming the credit.

3 (3) In accordance with ORS chapter 183, the director may issue an order altering, conditioning,
4 suspending or denying preliminary certification if the director determines that:

5 (a) The project does not comply with the provisions of ORS 469B.320 to 469B.347 and applicable
6 rules and standards;

7 (b) The applicant has previously received preliminary or final certification for the project;

8 (c) The applicant was directly involved in an act for which the director has levied civil penalties
9 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169 or 469B.320 to
10 469B.347; or

11 (d) The applicant or the principal, director, officer, owner, majority shareholder or member of
12 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
13 arrears for payments owed to any government agency while in any capacity with direct or indirect
14 control over a business.

15 **SECTION 144.** ORS 469B.332 is amended to read:

16 469B.332. (1) A final certification for a transportation project may not be issued by the Director
17 of the State Department of Energy under this section unless:

18 (a) The project was acquired or performed under a preliminary certificate of approval issued
19 under ORS 469B.329;

20 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.326
21 (2) and does not violate any condition that may be imposed as described in subsection (4) of this
22 section; and

23 (c) The project was acquired or performed in accordance with the applicable provisions of ORS
24 469B.320 to 469B.347 and any applicable rules or standards adopted by the [*director*] **Oregon Energy**
25 **Commission**.

26 (2) A person may apply to the State Department of Energy for final certification of a project:

27 (a) If the person received preliminary certification for the project under ORS 469B.329; and

28 (b) After completion of the acquisition or performance of the project.

29 (3) An application for final certification shall be made in writing on a form prepared by the
30 department and shall contain:

31 (a) A statement that the conditions of the preliminary certification have been complied with;

32 (b)(A) The actual cost of the project attested to by a certified public accountant who is not an
33 employee of the applicant or the applicant's completed audit in compliance with federal Office of
34 Management and Budget Circular A-133; or

35 (B) If the actual cost of the project is less than \$50,000, copies of receipts for acquisition and
36 performance of the project;

37 (c) The amount of the credit under ORS 315.336 that is to be claimed;

38 (d) The number and types of jobs, directly connected to the allowance of the credit, created by
39 the acquisition and performance of the project over the five-year period beginning on the date of
40 issuance of the preliminary certification under ORS 469B.329;

41 (e) Information sufficient to demonstrate that the project will remain in operation for at least
42 five years, unless the [*director*] **Oregon Energy Commission** by rule specifies another period of
43 operation;

44 (f) Documentation of compliance with applicable state and local laws and regulations and li-
45 censing and permitting requirements as defined by the [*director*] **Oregon Energy Commission**; and

1 (g) Any other information determined by the director to be necessary prior to issuance of a final
2 certificate, including inspection of the project by the department.

3 (4) After the filing of the application under this section, the director may issue the certificate
4 together with any conditions that the director determines are appropriate to promote the purposes
5 of ORS 315.336 and 469B.320 to 469B.347. If the applicant is an entity subject to regulation by the
6 Public Utility Commission, the director may consult with the **Public Utility** Commission prior to
7 issuance of the certificate. The action of the director shall include certification of the actual cost
8 of the project. However, the director may not certify an amount for tax credit purposes that is more
9 than the amount of credit approved in the preliminary certificate issued for the project.

10 (5) If the director rejects an application for final certification, or certifies a lesser amount of
11 credit than was claimed in the application, the director shall send to the applicant written notice
12 of the action, together with a statement of the findings and reasons for the action, by certified mail,
13 before the 60th day after the filing of the application. Failure of the director to act constitutes re-
14 jection of the application.

15 (6) Upon approval of an application for final certification of a project, the director shall certify
16 the project. The final certification shall indicate the amount of projected energy savings attributable
17 to the project and the certified cost of the project.

18 (7) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate
19 deadlines for submission of application materials.

20 **SECTION 145.** ORS 469B.335 is amended to read:

21 469B.335. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**
22 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy
23 may require of applicants for preliminary or final certification of a transportation project under ORS
24 469B.320 to 469B.347. Before the adoption or revision of the fees, the department shall estimate the
25 total cost of the program to the department. The fees shall be used to recover the anticipated cost
26 of administering and enforcing the provisions of ORS 469B.320 to 469B.347, including filing, investi-
27 gating, granting and rejecting applications for certification and ensuring compliance with ORS
28 469B.320 to 469B.347 and shall be designed not to exceed the total cost estimated by the department.
29 Any excess fees shall be held by the department and shall be used by the department to reduce any
30 future fee increases. The fee may vary according to the size and complexity of the project. The fee
31 is not considered part of the cost of the project to be certified.

32 **SECTION 146.** ORS 469B.347 is amended to read:

33 469B.347. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish
34 policies and procedures for the administration and enforcement of the provisions of ORS 315.336 and
35 469B.320 to 469B.347, including standards for what constitutes a single transportation project.

36 **SECTION 147.** ORS 469B.400 is amended to read:

37 469B.400. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule identify
38 categories of fuel blend and solid biofuel that qualify for the personal income tax credit allowed
39 under ORS 315.465.

40 **SECTION 148.** ORS 701.532 is amended to read:

41 701.532. (1) The Construction Contractors Board shall certify an individual as a home energy
42 assessor if the individual meets the requirements of this section and of any rule adopted by the
43 board under this section. A home energy assessor certificate must be renewed annually.

44 (2) The board shall require that an applicant for a home energy assessor certificate present
45 proof of passing a training program designated by the [*State Department of Energy*] **Oregon Energy**

1 **Commission** under ORS 469.703.

2 (3) The board may adopt rules to regulate the practice of assigning home energy performance
3 scores, including:

4 (a) Prescribing the form and manner of applying for a home energy assessor certificate;

5 (b) Establishing procedures for the issuance, renewal or revocation of a home energy assessor
6 certificate; and

7 (c) Establishing fees necessary for the administration of ORS 701.527 to 701.536 that do not ex-
8 ceed the following amounts:

9 (A) \$100 for application for a home energy assessor certificate;

10 (B) \$100 for issuance of an initial one-year home energy assessor certificate; and

11 (C) \$100 for renewal of a one-year home energy assessor certificate.

12 **SECTION 149.** ORS 757.528 is amended to read:

13 757.528. (1) Unless modified by rule by the [*State Department of Energy*] **Oregon Energy Com-**
14 **mission** as provided in this section, the greenhouse gas emissions standard that applies to
15 consumer-owned utilities is 1,100 pounds of greenhouse gases per megawatt-hour for a generating
16 facility.

17 (2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions
18 standard includes only carbon dioxide emissions.

19 (3) For purposes of applying the emissions standard to cogeneration facilities, the [*department*]
20 **Oregon Energy Commission** shall establish an output-based methodology to ensure that the cal-
21 culation of emissions of greenhouse gases for cogeneration facilities recognizes the total usable en-
22 ergy output of the process and includes all greenhouse gases emitted by the facility in the
23 production of both electrical and thermal energy.

24 (4) The [*department*] **Oregon Energy Commission** shall review the greenhouse gas emissions
25 standard established under this section no more than once every three years. After public notice
26 and hearing, and consultation with the Public Utility Commission, the [*department*] **Oregon Energy**
27 **Commission** may:

28 (a) Modify the emissions standard to include other greenhouse gases as defined in ORS 468A.210,
29 with the other greenhouse gases expressed as their carbon dioxide equivalent; and

30 (b) Modify the emissions standard based upon current information on the rate of greenhouse gas
31 emissions from a commercially available combined-cycle natural gas generating facility that:

32 (A) Employs a combination of one or more gas turbines and one or more steam turbines and
33 produces electricity in the steam turbines from waste heat produced by the gas turbines;

34 (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordi-
35 nating Council; and

36 (C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

37 (5) In modifying the greenhouse gas emissions standard, the [*department*] **Oregon Energy**
38 **Commission** shall:

39 (a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions
40 through cogeneration recognizes the total usable energy output of the process and includes all
41 greenhouse gases emitted by the generating facility in the production of both electrical and thermal
42 energy; and

43 (b) Consider the effects of the emissions standard on system reliability and overall costs to
44 electricity consumers.

45 (6) If upon a review conducted pursuant to subsection (4) of this section, the [*department*]

1 **Oregon Energy Commission** determines that a mandatory greenhouse gas emissions limit has been
2 established pursuant to state or federal law, the [department] **Oregon Energy Commission** shall
3 issue a report to the appropriate legislative committees of the Legislative Assembly stating which
4 portions, if any, of the greenhouse gas emissions standard are no longer necessary as a matter of
5 state law.

6 **SECTION 150.** ORS 757.533 is amended to read:

7 757.533. (1)(a) A governing board of a consumer-owned utility may not enter into a long-term
8 financial commitment unless the baseload electricity acquired under the commitment is produced by
9 a generating facility that complies with a greenhouse gas emissions standard established under ORS
10 757.528.

11 (b) A generating facility complies with the greenhouse gas emissions standard established under
12 ORS 757.528 if the rate of emissions of the facility does not exceed the emissions standard.

13 (c) In determining whether a generating facility complies with the emissions standard, the total
14 emissions associated with producing baseload electricity at the generating facility shall be included
15 in determining the rate of emissions of greenhouse gases. The total emissions associated with
16 producing electricity at the generating facility do not include emissions associated with transporta-
17 tion, fuel extraction or other life-cycle emissions associated with obtaining the fuel for the facility.

18 (2) Notwithstanding subsection (1) of this section, the emissions standard does not apply to
19 greenhouse gas emissions produced by a generating facility owned by a consumer-owned utility or
20 contracted through a long-term financial commitment if the emissions:

21 (a) Come from a facility powered exclusively by renewable energy sources described in ORS
22 469A.025;

23 (b) Come from a cogeneration facility in this state that is fueled by natural gas, synthetic gas,
24 distillate fuels, waste gas or a combination of these fuels, and that is producing energy, in service
25 for tax purposes, commercially operable, or in rates as of July 1, 2010, until the facility is subject
26 to a new long-term financial commitment; or

27 (c) Come from a generating facility that has in place a plan to be a low-carbon emission re-
28 source, as determined by the State Department of Energy, pursuant to sufficient technical docu-
29 mentation, within seven years of commencing plant operations.

30 (3) The governing board may provide an exemption for an individual generating facility from the
31 emissions performance standard to address:

32 (a) Unanticipated electricity system reliability needs;

33 (b) Catastrophic events or threat of significant financial harm that may arise from unforeseen
34 circumstances; or

35 (c) Long-term financial commitments between members of a joint operating entity recognized
36 under federal law or the joint operating entity's predecessor organization, or with the joint operat-
37 ing entity for a baseload resource that the consumer-owned utility had an ownership interest in
38 prior to July 1, 2010.

39 (4) A governing board shall report to the consumer-owned utility's customers or members and
40 to the State Department of Energy information on any case-by-case exemption from the emissions
41 performance standard granted by the governing board.

42 (5) For purposes of ORS 757.522 to 757.536, a long-term financial commitment for a consumer-
43 owned utility does not include agreements to purchase electricity from the Bonneville Power Ad-
44 ministration.

45 (6) The [department] **Oregon Energy Commission** by rule shall establish:

1 (a) Standards for identifying contracts for electricity for which the emissions cannot readily be
2 determined with any specificity; and

3 (b) Emissions to be attributed to such contracts for purposes of determining compliance with the
4 emissions standard established under ORS 757.528.

5 **SECTION 151.** ORS 757.538 is amended to read:

6 757.538. The Public Utility Commission and the [*State Department of Energy*] **Oregon Energy**
7 **Commission** shall adopt rules as necessary to implement ORS 757.522 to 757.536.

8 **SECTION 152.** ORS 757.600 is amended to read:

9 757.600. As used in ORS 757.600 to 757.689, unless the context requires otherwise:

10 (1) "Aggregate" means combining retail electricity consumers into a buying group for the pur-
11 chase of electricity and related services.

12 (2) "Ancillary services" means services necessary or incidental to the transmission and delivery
13 of electricity from generating facilities to retail electricity consumers, including but not limited to
14 scheduling, load shaping, reactive power, voltage control and energy balancing services.

15 (3) "Commission" means the Public Utility Commission.

16 (4) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an
17 electric cooperative.

18 (5) "Default supplier" means an electricity service supplier or electric company that has a legal
19 obligation to provide electricity services to a consumer, as determined by the commission.

20 (6) "Direct access" means the ability of a retail electricity consumer to purchase electricity and
21 certain ancillary services, as determined by the commission for an electric company or the govern-
22 ing body of a consumer-owned utility, directly from an entity other than the distribution utility.

23 (7) "Direct service industrial consumer" means an end user of electricity that obtains electricity
24 directly from the transmission grid and not through a distribution utility.

25 (8) "Distribution" means the delivery of electricity to retail electricity consumers through a
26 distribution system consisting of local area power poles, transformers, conductors, meters, sub-
27 stations and other equipment.

28 (9) "Distribution utility" means an electric utility that owns and operates a distribution system
29 connecting the transmission grid to the retail electricity consumer.

30 (10) "Economic utility investment" means all electric company investments, including plants and
31 equipment and contractual or other legal obligations, properly dedicated to generation or conser-
32 vation, that were prudent at the time the obligations were assumed but the full benefits of which
33 are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition
34 credits. "Economic utility investment" does not include costs or expenses disallowed by the com-
35 mission in a prudence review or other proceeding, to the extent of such disallowance, and does not
36 include fines or penalties authorized and imposed under state or federal law.

37 (11) "Electric company" means an entity engaged in the business of distributing electricity to
38 retail electricity consumers in this state, but does not include a consumer-owned utility.

39 (12) "Electric cooperative" means an electric cooperative corporation organized under ORS
40 chapter 62 or under the laws of another state if the service territory of the electric cooperative
41 includes a portion of this state.

42 (13) "Electric utility" means an electric company or consumer-owned utility that is engaged in
43 the business of distributing electricity to retail electricity consumers in this state.

44 (14) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity,
45 measured in kilowatts, or both.

1 (15) "Electricity services" means electricity distribution, transmission, generation or
2 generation-related services.

3 (16) "Electricity service supplier" means a person or entity that offers to sell electricity services
4 available pursuant to direct access to more than one retail electricity consumer. "Electricity ser-
5 vice supplier" does not include an electric utility selling electricity to retail electricity consumers
6 in its own service territory.

7 (17) "Governing body" means the board of directors or the commissioners of an electric coop-
8 erative or people's utility district, or the council or board of a city with respect to a municipal
9 electric utility.

10 (18) "Load" means the amount of electricity delivered to or required by a retail electricity
11 consumer at a specific point of delivery.

12 (19) "Low-income weatherization" means repairs, weatherization and installation of energy effi-
13 cient appliances and fixtures for low-income residences for the purpose of enhancing energy effi-
14 ciency.

15 (20) "Municipal electric utility" means an electric distribution utility owned and operated by or
16 on behalf of a city.

17 (21) "New renewable energy resource" means a renewable energy resource project, or a new
18 addition to an existing renewable energy resource project, or the electricity produced by the project,
19 that is not in operation on July 23, 1999. "New renewable energy resource" does not include any
20 portion of a renewable energy resource project under contract to the Bonneville Power Adminis-
21 tration on or before July 23, 1999.

22 (22) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

23 (23) "People's utility district" has the meaning given that term in ORS 261.010.

24 (24) "Portfolio access" means the ability of a retail electricity consumer to choose from a set
25 of product and pricing options for electricity determined by the governing board of a consumer-
26 owned utility and may include product and pricing options offered by the utility or by an electricity
27 service supplier.

28 (25) "Power generation company" means a company engaged in the production and sale of
29 electricity to wholesale customers, including but not limited to independent power producers, affil-
30 iated generation companies, municipal and state authorities, provided the company is not regulated
31 by the commission.

32 (26) "Qualifying expenditures" means those expenditures for energy conservation measures that
33 have a simple payback period of not less than one year and not more than 10 years, and expen-
34 ditures for the above-market costs of new renewable energy resources, provided that the [*State De-*
35 *partment of Energy*] **Oregon Energy Commission** by rule may establish a limit on the maximum
36 above-market cost for renewable energy that is allowed as a credit.

37 (27) "Renewable energy resources" means:

38 (a) Electricity generation facilities fueled by wind, waste, solar or geothermal power or by low-
39 emission nontoxic biomass based on solid organic fuels from wood, forest and field residues.

40 (b) Dedicated energy crops available on a renewable basis.

41 (c) Landfill gas and digester gas.

42 (d) Hydroelectric facilities located outside protected areas as defined by federal law in effect
43 on July 23, 1999.

44 (28) "Residential electricity consumer" means an electricity consumer who resides at a dwelling
45 primarily used for residential purposes. "Residential electricity consumer" does not include retail

1 electricity consumers in a dwelling typically used for residency periods of less than 30 days, in-
 2 cluding hotels, motels, camps, lodges and clubs. As used in this subsection, “dwelling” includes but
 3 is not limited to single family dwellings, separately metered apartments, adult foster homes, manu-
 4 factured dwellings, recreational vehicles and floating homes.

5 (29) “Retail electricity consumer” means the end user of electricity for specific purposes such
 6 as heating, lighting or operating equipment, and includes all end users of electricity served through
 7 the distribution system of an electric utility on or after July 23, 1999, whether or not each end user
 8 purchases the electricity from the electric utility.

9 (30) “Site” means a single contiguous area of land containing buildings or other structures that
 10 are separated by not more than 1,000 feet, or buildings and related structures that are intercon-
 11 nected by facilities owned by a single retail electricity consumer and that are served through a
 12 single electric meter.

13 (31) “Transition charge” means a charge or fee that recovers all or a portion of an uneconomic
 14 utility investment.

15 (32) “Transition credit” means a credit that returns to consumers all or a portion of the benefits
 16 from an economic utility investment.

17 (33) “Transmission facility” means the plant and equipment used to transmit electricity in
 18 interstate commerce.

19 (34) “Undue market power” means the unfair or improper exercise of influence to increase or
 20 decrease the availability or price of a service or product in a manner inconsistent with competitive
 21 markets.

22 (35) “Uneconomic utility investment” means all electric company investments, including plants
 23 and equipment and contractual or other legal obligations, properly dedicated to generation, conser-
 24 vation and workforce commitments, that were prudent at the time the obligations were assumed but
 25 the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent
 26 transition charges. “Uneconomic utility investment” does not include costs or expenses disallowed
 27 by the commission in a prudence review or other proceeding, to the extent of such disallowance, and
 28 does not include fines or penalties as authorized by state or federal law.

29 **SECTION 153.** ORS 757.612 is amended to read:

30 757.612. (1) There is established an annual public purpose expenditure standard for electric
 31 companies and Oregon Community Power to fund new cost-effective local energy conservation, new
 32 market transformation efforts, the above-market costs of new renewable energy resources and new
 33 low-income weatherization. The public purpose expenditure standard shall be funded by the public
 34 purpose charge described in subsection (2) of this section.

35 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-
 36 cess to its retail electricity consumers, except residential electricity consumers, the electric com-
 37 pany or Oregon Community Power shall collect a public purpose charge from all of the retail
 38 electricity consumers located within its service area until January 1, 2026. Except as provided in
 39 paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the
 40 total revenues collected by the electric company, Oregon Community Power or the electricity ser-
 41 vice supplier from its retail electricity consumers for electricity services, distribution, ancillary
 42 services, metering and billing, transition charges and other types of costs included in electric rates
 43 on July 23, 1999.

44 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
 45 per year, beginning on March 1, 2002, the electric company or Oregon Community Power whose

1 territory abuts the greatest percentage of the site of the aluminum plant shall collect from the alu-
2 minum company a public purpose charge equal to one percent of the total revenue from the sale of
3 electricity services to the aluminum plant from any source.

4 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
5 section relating to electric companies and Oregon Community Power.

6 (b) Subject to paragraph (e) of this subsection, funds collected by an electric company or Oregon
7 Community Power through public purpose charges shall be allocated as follows:

8 (A) Sixty-three percent for new cost-effective conservation, new market transformation.

9 (B) Nineteen percent for the above-market costs of constructing and operating new renewable
10 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
11 megawatts or less.

12 (C) Thirteen percent for new low-income weatherization.

13 (D) Five percent shall be transferred to the Housing and Community Services Department
14 Electricity Public Purpose Charge Fund established by ORS 456.587 (1) and used for the purpose of
15 providing grants as described in ORS 458.625 (2).

16 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
17 Oregon Community Power shall be paid out of the funds collected through public purpose charges.
18 The commission may require that an electric company or Oregon Community Power direct funds
19 collected through public purpose charges to the state agencies responsible for implementing sub-
20 sections (1) to (6) of this section in order to pay the costs of administering such responsibilities.

21 (d) The commission shall direct the manner in which public purpose charges are collected and
22 spent by an electric company or Oregon Community Power and may require an electric company
23 or Oregon Community Power to expend funds through competitive bids or other means designed to
24 encourage competition, except that funds dedicated for low-income weatherization shall be directed
25 to the Housing and Community Services Department as provided in subsection (7) of this section.
26 The commission may also direct that funds collected by an electric company or Oregon Community
27 Power through public purpose charges be paid to a nongovernmental entity for investment in public
28 purposes described in subsection (1) of this section. Notwithstanding any other provision of this
29 subsection:

30 (A) At least 80 percent of the funds allocated for conservation shall be spent within the service
31 area of the electric company that collected the funds; or

32 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
33 for conservation shall be spent within the service area of Oregon Community Power.

34 (e)(A) The first 10 percent of the funds collected annually by an electric company or Oregon
35 Community Power under subsection (2) of this section shall be distributed to school districts that
36 are located in the service territory of the electric company or Oregon Community Power. The funds
37 shall be distributed to individual school districts according to the weighted average daily member-
38 ship (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The
39 commission shall establish by rule a methodology for distributing a proportionate share of funds
40 under this paragraph to school districts that are only partially located in the service territory of the
41 electric company or Oregon Community Power.

42 (B) A school district that receives funds under this paragraph shall use the funds first to pay
43 for energy audits for schools located within the school district. A school district may not expend
44 additional funds received under this paragraph on a school facility until an energy audit has been
45 completed for that school facility. To the extent practicable, a school district shall coordinate with

1 the State Department of Energy and incorporate federal funding in complying with this paragraph.
2 Following completion of an energy audit for an individual school, the school district may expend
3 funds received under this paragraph to implement the energy audit. Once an energy audit has been
4 conducted and completely implemented for each school within the school district, the school district
5 may expend funds received under this paragraph for any of the following purposes:

6 (i) Conducting energy audits. A school district shall conduct an energy audit prior to expending
7 funds on any other purpose authorized under this paragraph unless the school district has performed
8 an energy audit within the three years immediately prior to receiving the funds.

9 (ii) Weatherization and upgrading the energy efficiency of school district facilities.

10 (iii) Energy conservation education programs.

11 (iv) Purchasing electricity from environmentally focused sources and investing in renewable
12 energy resources.

13 (f) The commission may not establish a different public purpose charge than the public purpose
14 charge described in subsection (2) of this section.

15 (g) If the commission directs funds collected through public purpose charges to a nongovern-
16 mental entity, the entity shall:

17 (A) Include on the entity's board of directors an ex officio member designated by the commis-
18 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

19 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-
20 terest to be filed with the commission on or prior to April 15 of each calendar year for public review
21 in a form similar to the statement of economic interest required for public officials under ORS
22 244.060.

23 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest
24 at regular meetings of the entity's governing body when such conflicts arise, and require an officer
25 or director to abstain from participating in any discussion or vote on any item where that officer
26 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict
27 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

28 (D) Arrange for an independent auditor to audit the entity's financial statements annually, and
29 direct the auditor to file an audit opinion with the commission for public review.

30 (E) File with the commission annually the entity's budget, action plan and quarterly and annual
31 reports for public review.

32 (F) At least once every five years, contract for an independent management evaluation to review
33 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a
34 report with the commission for public review.

35 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
36 ficer or director who fails to provide an annual disclosure of economic interest or declare actual
37 or potential conflict of interest, as described in paragraph (g)(B) and (C) of this subsection, in con-
38 nection with the allocation or expenditure of funds collected through public purpose charges and
39 directed to the entity.

40 (4)(a) An electric company that satisfies its obligations under this section shall have no further
41 obligation to invest in conservation, new market transformation or new low-income weatherization
42 or to provide a commercial energy conservation services program and is not subject to ORS 469.631
43 to 469.645 and 469.860 to 469.900.

44 (b) Oregon Community Power, for any period during which Oregon Community Power collects
45 a public purpose charge under subsection (2) of this section:

1 (A) Shall have no other obligation to invest in conservation, new market transformation or new
2 low-income weatherization or to provide a commercial energy conservation services program; and

3 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

4 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
5 any site in the prior year shall receive a credit against public purpose charges billed by an electric
6 company or Oregon Community Power for that site. The amount of the credit shall be equal to the
7 total amount of qualifying expenditures for new energy conservation, not to exceed 68 percent of the
8 annual public purpose charges, and the above-market costs of purchases of new renewable energy
9 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public
10 purpose charges, less administration costs incurred under this subsection. The credit may not ex-
11 ceed, on an annual basis, the lesser of:

12 (A) The amount of the retail electricity consumer's qualifying expenditures; or

13 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
14 dedicated to new energy conservation, new market transformation or the above-market costs of new
15 renewable energy resources.

16 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
17 State Department of Energy a description of the proposed conservation project or new renewable
18 energy resource and a declaration that the retail electricity consumer plans to incur the qualifying
19 expenditure. The State Department of Energy shall issue a notice of precertification within 30 days
20 of receipt of the filing, if such filing is consistent with this subsection. The credit may be taken after
21 a retail electricity consumer provides a letter from a certified public accountant to the State De-
22 partment of Energy verifying that the precertified qualifying expenditure has been made.

23 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
24 are not used in one year may be carried forward for use in subsequent years.

25 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
26 any site in the prior year may request that the State Department of Energy hire an independent
27 auditor to assess the potential for conservation investments at the site. If the independent auditor
28 determines there is no available conservation measure at the site that would have a simple payback
29 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
30 obligation for public purpose charges related to the site. If the independent auditor determines that
31 there are potential conservation measures available at the site, the retail electricity consumer shall
32 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
33 public purpose charges less the estimated cost of available conservation measures.

34 (B) A retail electricity consumer shall be entitled each year to the credit described in this sub-
35 section unless a subsequent independent audit determines that new conservation investment oppor-
36 tunities are available. The State Department of Energy may require that a new independent audit
37 be performed on the site to determine whether new conservation measures are available, provided
38 that the independent audits shall occur no more than once every two years.

39 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
40 subsection.

41 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
42 for the public purpose expenditures of their energy suppliers. The [State Department of Energy]
43 **Oregon Energy Commission** shall adopt rules to determine eligible expenditures and the method-
44 ology by which such credits are accounted for and used. The rules also shall adopt methods to ac-
45 count for eligible public purpose expenditures made through consortia or collaborative projects.

1 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an
2 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-
3 ment assistance in an amount determined under paragraph (b) of this subsection.

4 (b) The **Public Utility** Commission shall establish the amount to be collected by each electric
5 company in calendar year 2008 from retail electricity consumers served by the company, and the
6 rates to be charged to retail electricity consumers served by the company, so that the total antic-
7 ipated collection for low-income electric bill payment assistance by all electric companies in calen-
8 dar year 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission
9 may not change the rates established for retail electricity consumers, but the total amount collected
10 in a calendar year for low-income electric bill payment assistance may vary based on electricity
11 usage by retail electricity consumers and changes in the number of retail electricity consumers in
12 this state. In no event shall a retail electricity consumer be required to pay more than \$500 per
13 month per site for low-income electric bill payment assistance.

14 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
15 the Housing and Community Services Department Low-Income Electric Bill Payment Assistance
16 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
17 used by the Housing and Community Services Department for the purpose of funding low-income
18 electric bill payment assistance. The department's cost of administering this subsection shall be paid
19 out of funds collected by the low-income electric bill payment assistance charge. Moneys deposited
20 in the fund under this paragraph shall be expended solely for low-income electric bill payment as-
21 sistance. Funds collected from an electric company or Oregon Community Power shall be expended
22 in the service area of the electric company or Oregon Community Power from which the funds are
23 collected.

24 (d)(A) The Housing and Community Services Department shall determine the manner in which
25 funds collected under this subsection will be allocated by the department to energy assistance pro-
26 gram providers for the purpose of providing low-income bill payment and crisis assistance.

27 (B) The department shall investigate and may implement alternative delivery models in consul-
28 tation with electric companies to effectively reduce service disconnections and related costs to retail
29 electricity consumers and electric utilities.

30 (C) Priority assistance shall be directed to low-income electricity consumers who are in danger
31 of having their electricity service disconnected.

32 (D) The department shall maintain records and provide those records upon request to an electric
33 company, Oregon Community Power and the Citizens' Utility Board established under ORS chapter
34 774 on a quarterly basis. Records maintained must include the numbers of low-income electricity
35 consumers served, the average amounts paid and the type of assistance provided. Electric companies
36 and Oregon Community Power shall, if requested, provide the department with aggregate data re-
37 lating to consumers served on a quarterly basis to support program development.

38 (e) Interest on moneys deposited in the Housing and Community Services Department Low-
39 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-
40 vide bill payment and crisis assistance to electricity consumers whose primary source of heat is not
41 electricity.

42 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon
43 Community Power to provide reduced rates or other payment or crisis assistance or low-income
44 program assistance to a low-income household eligible for assistance under the federal Low Income
45 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

1 (8) For purposes of this section, “retail electricity consumers” includes any direct service in-
2 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
3 tric utility.

4 (9) For purposes of this section, amounts collected by Oregon Community Power through public
5 purpose charges are not considered moneys received from electric utility operations.

6 **NOTE:** Section 154 was deleted by amendment. Subsequent sections were not renumbered.

7
8 **STUDY**

9
10 **SECTION 155.** (1) **The State Department of Energy shall study and prepare a report de-**
11 **tailing the department’s recommendations for restructuring the department to focus only**
12 **on the critical functions of the department in light of the policy stated in ORS 469.010, as**
13 **amended by section 1 of this 2017 Act, and the programs and activities enumerated in ORS**
14 **469.030, as amended by section 11 of this 2017 Act, and in furtherance of the following ob-**
15 **jectives:**

16 (a) **Restructuring the department into the following four sections:**

17 (A) **An information and analysis section that will collect from all available sources, ana-**
18 **lyze and disseminate Oregon energy information, research new technologies and resources**
19 **and apply clear metrics to evaluate all forms of energy using unbiased technical analysis that**
20 **considers the energy source, distribution and cost or savings for all Oregonians;**

21 (B) **A technical assistance section to serve as a resource to the Legislative Assembly,**
22 **energy stakeholders and other state agencies;**

23 (C) **A nuclear safety and emergency management section; and**

24 (D) **The Energy Facility Siting Council;**

25 (b) **Transferring all energy incentive programs and other programs that are not other-**
26 **wise transferred by sections 22 and 65 of this 2017 Act or repealed by sections 63 and 64 of**
27 **this 2017 Act and that do not fit within the four sections outlined in paragraph (a) of this**
28 **subsection to other agencies, with continuing technical support provided by the department**
29 **as necessary; and**

30 (c) **Transferring the authority to conduct contested case hearings related to site certif-**
31 **icates from the Energy Facility Siting Council to the Office of Administrative Hearings es-**
32 **tablished under ORS 183.605.**

33 (2) **The department shall submit the report required by this section to the appropriate**
34 **interim committees of the Legislative Assembly no later than September 15, 2018.**

35 **SECTION 156.** **Section 155 of this 2017 Act is repealed on December 31, 2018.**

36
37 **OPERATIVE DATE**

38
39 **SECTION 157.** (1) **Except as provided in subsection (3) of this section, sections 2 to 10,**
40 **14 to 17, 22 to 28, 57, 65 to 71, 75 and 76 of this 2017 Act, the amendments to statutes by**
41 **sections 1, 11, 12, 18 to 20, 29 to 33, 35 to 56, 72 to 74, 77, 78 and 89 to 153 of this 2017 Act**
42 **and the repeal of statutes by sections 13, 34, 63 and 64 of this 2017 Act become operative**
43 **January 1, 2018.**

44 (2) **The members of the Oregon Energy Commission may be appointed and the State De-**
45 **partment of Energy, the Director of the State Department of Energy, the Oregon Energy**

1 Commission, the Oregon Business Development Department and the Housing and Community
2 Services Department may take any action before the operative date specified in subsection
3 (1) of this section that is necessary to enable the departments, the director and the com-
4 mission to exercise, on and after the operative date specified in subsection (1) of this section,
5 the duties, functions and powers of the departments, the director and the commission pur-
6 suant to sections 2 to 10, 14 to 17, 22 to 28, 57, 65 to 71, 75 and 76 of this 2017 Act, the
7 amendments to statutes by sections 1, 11, 12, 18 to 20, 29 to 33, 35 to 56, 72 to 74, 77, 78 and
8 89 to 153 of this 2017 Act and the repeal of statutes by sections 13, 34, 63 and 64 of this 2017
9 Act.

10 (3) The transfer of duties, functions and powers by section 6 of this 2017 Act does not
11 become operative until the members of the Oregon Energy Commission have been appointed
12 and have qualified. Until appointment and qualification, the State Department of Energy and
13 the Director of the State Department of Energy shall continue to perform the duties and
14 functions and exercise the powers.

15
16 **CAPTIONS**

17
18 **SECTION 158.** The unit captions used in this 2017 Act are provided only for the conven-
19 ience of the reader and do not become part of the statutory law of this state or express any
20 legislative intent in the enactment of this 2017 Act.

21
22 **EFFECTIVE DATE**

23
24 **SECTION 159.** This 2017 Act takes effect on the 91st day after the date on which the 2017
25 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.
26