Enrolled
House Bill 3201

Sponsored by Representative NELSON; Representatives BERGER, BRUUN, FLORES, GARRARD, Senator FERRIOLI (at the request of Oregon War Veterans Association)

CHAPTER .....

AN ACT

Relating to taxation; creating new provisions; amending ORS 90.635, 285C.506, 315.354, 315.356, 315.514, 316.085, 316.116, 316.502, 316.680, 316.699, 317.097, 348.841, 469.160, 469.165, 469.170, 469.172, 469.176, 469.180, 469.185, 469.200, 469.205, 469.206 and 469.215 and section 2, chapter 649, Oregon Laws 1975, section 2, chapter 422, Oregon Laws 1979, sections 28, 29, 31 and 32, chapter 618, Oregon Laws 2003, section 3, chapter 595, Oregon Laws 2005, and section 5a, chapter 832, Oregon Laws 2005; repealing ORS 316.153; and prescribing an effective date.

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

SECTION 1. ORS 316.680 is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c)(A) If the taxpayer does not qualify for the subtraction under subparagraph (B) of this paragraph, compensation (other than pension or retirement pay) received for active service performed by a member of the Armed Forces of the United States in an amount not to exceed [*$3,000*] **$6,000** per annum.

(B) For the tax year of initial draft or enlistment into the Armed Forces of the United States or for the tax year of discharge from or termination of full-time active duty for the Armed Forces of the United States, compensation (other than pension or retirement pay or pay for service when on military reserve duty) paid by the Armed Forces of the United States for services performed outside this state, if the taxpayer is on active duty as a full-time officer, enlistee or draftee, with the Armed Forces of the United States.

(d) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(e) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(f)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(g) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(h) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(i) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a college savings network account established under ORS 348.841 to 348.873.

(j) Any amount paid by the TRICARE military health care system to a health care provider during the first two years that the health care provider participates in the TRICARE system.

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(3) Discount and gain or loss on retirement or disposition of obligations described under subsection (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivision of a foreign state, were not tax exempt under the Internal Revenue Code.

SECTION 2. ORS 316.680, as amended by section 1 of this 2007 Act, is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c)(A) If the taxpayer does not qualify for the subtraction under subparagraph (B) of this paragraph, compensation (other than pension or retirement pay) received for active service performed by a member of the Armed Forces of the United States in an amount not to exceed $6,000 per annum.

(B) For the tax year of initial draft or enlistment into the Armed Forces of the United States or for the tax year of discharge from or termination of full-time active duty for the Armed Forces of the United States, compensation (other than pension or retirement pay or pay for service when on military reserve duty) paid by the Armed Forces of the United States for services performed outside this state, if the taxpayer is on active duty as a full-time officer, enlistee or draftee, with the Armed Forces of the United States.

(d) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(e) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(f)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before

October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(g) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(h) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(i) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a college savings network account established under ORS 348.841 to 348.873.

(j) Any amount paid by the TRICARE military health care system to a health care provider during the first two years that the health care provider participates in the TRICARE system.

(k) Any amounts included in the federal taxable income that are attributable to income earned by an employee of the Oregon Military Department for performing duties for the Oregon National Guard Youth Challenge Program in an amount not to exceed $6,000 per annum.

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(3) Discount and gain or loss on retirement or disposition of obligations described under subsection (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivision of a foreign state, were not tax exempt under the Internal Revenue Code.

SECTION 2a. ORS 316.680, as amended by sections 1 and 2 of this 2007 Act, is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c)(A) If the taxpayer does not qualify for the subtraction under subparagraph (B) of this paragraph, compensation (other than pension or retirement pay) received for active service performed by a member of the Armed Forces of the United States in an amount not to exceed $6,000 per annum.

(B) For the tax year of initial draft or enlistment into the Armed Forces of the United States or for the tax year of discharge from or termination of full-time active duty for the Armed Forces of the United States, compensation (other than pension or retirement pay or pay for service when on military reserve duty) paid by the Armed Forces of the United States for services performed outside this state, if the taxpayer is on active duty as a full-time officer, enlistee or draftee, with the Armed Forces of the United States.

(d) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(e) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(f)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before

October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(g) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(h) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(i) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a college savings network account established under ORS 348.841 to 348.873.

[*(j) Any amount paid by the TRICARE military health care system to a health care provider during the first two years that the health care provider participates in the TRICARE system.*]

[*(k) Any amounts included in the federal taxable income that are attributable to income earned by an employee of the Oregon Military Department for performing duties for the Oregon National Guard Youth Challenge Program in an amount not to exceed $6,000 per annum.*]

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(3) Discount and gain or loss on retirement or disposition of obligations described under subsection (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivision of a foreign state, were not tax exempt under the Internal Revenue Code.

SECTION 3. (1) A resident or nonresident individual physician licensed under ORS chapter 677 who is engaged in the practice of medicine qualifies for an annual credit against the taxes that are otherwise due under ORS chapter 316 if the physician provides medical care to residents of an Oregon Veterans' Home.

(2) The amount of the credit allowed under this section shall be equal to the lesser of:

(a) $1,000 for every eight residents to whom the physician provides care at an Oregon Veterans' Home; or

(b) $5,000.

(3) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year, and a credit allowed under this section that is unused may not be carried forward to a succeeding tax year.

(4) A nonresident shall be allowed the credit described in this section in the proportion provided in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(5) In order to qualify for the tax credit allowed under this section, the physician claiming the credit must submit with the physician's tax return a letter from the Oregon Veterans' Home at which the physician provided care to residents, confirming that the physician missed no more than five percent of the physician's scheduled visits with residents of the home during the tax year.

(6) In the case of a shareholder of a corporation or a member of a partnership, only the care provided by the individual shareholder or partner shall be considered, and the full amount of the credit shall be allowed to each shareholder or partner who qualifies in an individual capacity.

(7) The Director of Veterans' Affairs shall assist the Department of Revenue in determining if a taxpayer claiming a credit under this section qualifies for the credit.

SECTION 4. Sections 3 and 5 of this 2007 Act are added to and made a part of ORS chapter 315.

SECTION 5. **(1) A health care provider who enters into a contract for the first time on or after January 1, 2007, to provide health care services permitted under a TRICARE contract to patients enrolled in the TRICARE military health care system shall be allowed a one-time credit against taxes otherwise due under ORS chapter 316 in the amount of $2,500.**

(2) A health care provider who has a contract to provide health care services permitted under a TRICARE contract to patients enrolled in the TRICARE military health care system shall be allowed a credit each tax year against taxes otherwise due under ORS chapter 316 in the amount of $1,000 if the health care provider actively participates in the TRICARE military health care system and each tax year provides health care services to at least 10 patients enrolled in the TRICARE military health care system. A health care provider who serves patients in a rural community, as defined by the Office of Rural Health, may provide health care services to fewer than 10 patients in a tax year and qualify for the credit.

(3) A health care provider may not receive a credit under subsections (1) and (2) of this section in the same tax year.

(4) A nonresident shall be allowed a credit under this section in the proportion provided in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

SECTION 6. **(1) The Office of Rural Health shall establish criteria for certifying health care providers as eligible for a tax credit authorized by section 5 of this 2007 Act or a deduction from federal taxable income under ORS 316.680. Upon finding that a health care provider meets the eligibility criteria established by the office, the office shall certify the provider for a tax credit under section 5 of this 2007 Act or the tax deduction under ORS 316.680. The office may not issue more than 500 certifications under this section in any calendar year and may not certify more than 1,000 providers before December 31, 2009.**

(2) Prior to October 1 of each year, the office shall report to the legislative interim committees on revenue regarding the number of health care providers who qualify for the tax credit under section 5 (2) of this 2007 Act.

(3) Prior to December 31 of each year, the administrator of the TRICARE contracts with health care providers who provide health care services to patients in Oregon shall make a report to the office regarding the number of patients that each health care provider has contracted to provide health care services.

SECTION 7. **The amendments to ORS 316.680 by section 1 of this 2007 Act apply to tax years beginning on or after January 1, 2007.**

SECTION 8. **Sections 5 and 6 of this 2007 Act apply to tax years beginning on or after January 1, 2008, and before January 1, 2012.**

SECTION 9. **Section 3 of this 2007 Act and the amendments to ORS 316.680 by section 2 of this 2007 Act apply to tax years beginning on or after January 1, 2008, and before January 1, 2012.**

SECTION 10. **The amendments to ORS 316.680 by section 2a of this 2007 Act apply to tax years beginning on or after January 1, 2012.**

SECTION 11. ORS 316.699 is amended to read:

316.699. (1) There shall be subtracted from federal taxable income the amount contributed to a college savings network account established under ORS 348.841 to 348.873.

(2) Notwithstanding subsection (1) of this section, a subtraction under this section may not exceed the lesser of:

[*(a) $2,000 for the tax year or, in the case of a married individual filing separately, $1,000 for the tax year; and*]

(a) $4,000 for the tax year if the taxpayer files a joint return, or $2,000 for the tax year if the taxpayer files a return other than a joint return; and

(b) If an amount is carried forward to a succeeding tax year under subsection (3) of this section, the balance in the college savings network account at the close of the tax year for which the subtraction is being made.

(3)(a) The Department of Revenue shall annually adjust the maximum subtraction allowable under this section according to the cost-of-living adjustment for the calendar year. The department shall make this adjustment by multiplying the amount in subsection (2) of this section by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2007.

(b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

[*(3)*] **(4)** Any amounts contributed to a college savings network account that are not subtracted from federal taxable income because of the monetary limitations imposed by subsection (2) of this section may be carried forward for four succeeding tax years and subtracted from federal taxable income in any of those succeeding tax years in an amount that does not exceed the monetary limitations imposed by subsection (2) of this section.

[*(4)*] **(5)** The amount contributed to a college savings network account may be subtracted from a preceding tax year if the contribution is made before the taxpayer files a return or before the 15th day of the fourth month following the closing of the taxpayer's tax year, whichever is earlier.

SECTION 12. ORS 348.841 is amended to read:

348.841. As used in ORS 348.841 to 348.873:

(1) "Account" means an individual account established in accordance with ORS 348.841 to 348.873.

(2) "Account owner" means the person who has the right to withdraw funds from the account. The account owner may also be the designated beneficiary of the account.

(3) "Board" means the Oregon 529 College Savings Board established under ORS 348.849.

(4) "Designated beneficiary" means, except as provided in ORS 348.867, the individual designated at the time the account is opened as having the right to receive a qualified withdrawal for the payment of qualified higher education expenses, or if the designated beneficiary is replaced in accordance with ORS 348.867, the replacement.

(5) "Financial institution" means a bank, a commercial bank, a national bank, a savings bank, a savings and loan, a thrift institution, a credit union, an insurance company, a trust company, a mutual fund, an investment firm or other similar entity authorized to do business in this state.

(6) "Higher education institution" means an eligible education institution as defined in section 529(e)(5) of the Internal Revenue Code.

(7) "Internal Revenue Code" means the federal Internal Revenue Code[*, as amended and in effect on December 31, 2002*].

(8) "Member of the family" shall have the same meaning as contained in section 529(e) of the Internal Revenue Code.

(9) "Network" means the Oregon 529 College Savings Network established under ORS 348.841 to 348.873.

(10) "Nonqualified withdrawal" means a withdrawal from an account that is not a qualified withdrawal.

(11) "Qualified higher education expenses" means tuition and other permitted expenses as set forth in section 529(e) of the Internal Revenue Code for the enrollment or attendance of a designated beneficiary at a higher education institution.

(12) "Qualified withdrawal" means a withdrawal made as prescribed under ORS 348.870 and made:

(a) From an account to pay the qualified higher education expenses of the designated beneficiary;

(b) As the result of the death or disability of the designated beneficiary;

(c) As the result of a scholarship, allowance or payment described in section 135(d)(1)(A), (B) or (C) of the Internal Revenue Code that is received by the designated beneficiary, but only to the extent of the amount of the scholarship, allowance or payment; or

(d) As a rollover or change in the designated beneficiary described in ORS 348.867.

SECTION 13. The amendments to ORS 316.699 by section 11 of this 2007 Act apply to tax years beginning on or after January 1, 2008.

SECTION 14. ORS 315.354 is amended to read:

315.354. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the facility during the period for which that facility is certified under ORS 469.185 to 469.225. The credit is allowed as follows:

(a) Except as provided in paragraph (b) **or (c)** of this subsection, the credit allowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability of the taxpayer.

(b) If [*the application for certification under ORS 469.185 to 469.225 was filed with the State Department of Energy on or after January 1, 2001, and*] the certified cost of the facility does not exceed $20,000, the total amount of the credit allowable under subsection [*(3)*] **(4)** of this section may be claimed in the first tax year for which the credit may be claimed, but may not exceed the tax liability of the taxpayer.

(c) If the facility uses or produces renewable energy resources or is a renewable energy resource equipment manufacturing facility, the credit allowed in each of five succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer.

(2) Notwithstanding subsection (1) of this section:

(a) If the facility is one or more renewable energy resource systems installed in a single-family dwelling, the amount of the credit for each system shall be determined as if the facility was considered a residential alternative energy device under ORS 316.116, but subject to the maximum credit amount under subsection (4)(b) of this section;

(b) If the facility is a high-performance home, the amount of the credit shall equal the amount determined under paragraph (a) of this subsection plus $3,000; and

(c) If the facility is a high-performance home or a homebuilder-installed renewable energy system, the total amount of the credit may be claimed in the first tax year for which the credit is claimed, but may not exceed the tax liability of the taxpayer.

[*(2)*] **(3)** In order for a tax credit to be allowable under this section:

(a) The facility must be located in Oregon;

(b) The facility must have received final certification from the Director of the State Department of Energy under ORS 469.185 to 469.225; and

(c) The taxpayer must be an eligible applicant under ORS 469.205 (1)(c).

[*(3)*] **(4)** [*The maximum total credit or credits allowed for a facility under this section to eligible taxpayers*] **The total amount of credit allowable to an eligible taxpayer under this section** may not exceed**:**

(a) 50 percent of the certified cost of a renewable energy resources facility, a renewable energy resource equipment manufacturing facility or a high-efficiency combined heat and power facility;

(b) $9,000 per single-family dwelling for homebuilder-installed renewable energy systems;

(c) $12,000 per single-family dwelling for homebuilder-installed renewable energy systems, if the dwelling also constitutes a high-performance home; or

(d) 35 percent of the certified cost of [*the*] **any other** facility.

[*(4)(a)*] **(5)(a)** Upon any sale, termination of the lease or contract, exchange or other disposition of the facility, notice thereof shall be given to the Director of the State Department of Energy who shall revoke the certificate covering the facility as of the date of such disposition. The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new certificate under ORS 469.215, but the tax credit available to the new owner shall be limited to the amount of credit not claimed by the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all previous leases.

(b) The State Department of Energy may not revoke the certificate covering a facility under paragraph (a) of this subsection if the tax credit associated with the facility has been transferred to a taxpayer who is an eligible applicant under ORS 469.205 (1)(c)(A).

[*(5)*] **(6)** Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise, any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax year may be carried forward and used in the eighth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (1) of this section only as provided in this subsection.

[*(6)*] **(7)** The credit provided by this section is not in lieu of any depreciation or amortization deduction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

[*(7)*] **(8)** The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax credits allowed under this section.

(9) If a homebuilder claims a credit under this section with respect to a homebuilder-installed renewable energy system or a high-performance home:

(a) The homebuilder may not claim credits for both a homebuilder-installed renewable energy system and a high-performance home with respect to the same dwelling;

(b) The homebuilder must inform the buyer of the dwelling that the homebuilder is claiming a tax credit under this section with respect to the dwelling; and

(c) The buyer of the dwelling may not claim a credit under this section that is based on any facility for which the homebuilder has already claimed a credit.

(10) The definitions in ORS 469.185 apply to this section.

SECTION 15. ORS 315.356 is amended to read:

315.356. (1) If a taxpayer obtains a grant [*or tax credit*] from the federal government [*other than an investment tax credit or a low income housing tax credit*] in connection with a facility [*which*] **that** has been certified by the Director of the State Department of Energy, the certified cost of the facility shall be reduced on a dollar for dollar basis. Any income or excise tax credits [*which such*] **that the** taxpayer would be entitled to under ORS 315.354 and 469.185 to 469.225 after any [*such reduction shall*] **reduction described in this subsection may** not be reduced by [*such*] **the** federal [*grants or tax credits*] **grant**. A taxpayer applying for a federal grant [*or credit*] shall notify the Department of Revenue by certified mail within 30 days after each application, and after the receipt of any grant.

(2) A taxpayer is eligible to participate in both this tax credit program and low interest, government-sponsored loans.

(3) A taxpayer who receives a tax credit or [*ad valorem*] **property** tax relief on a pollution control facility or an alternative energy device under ORS 307.405, 315.304 or 316.116 is not eligible for a tax credit on the same facility or device under ORS 315.354 and 469.185 to 469.225.

(4) A credit may not be allowed under ORS 315.354 if the taxpayer has received a tax credit on the same facility or device under ORS 315.324.

SECTION 16. ORS 469.185 is amended to read:

469.185. As used in ORS 469.185 to 469.225 and 469.878:

(1) "Alternative fuel vehicle" means a vehicle as defined by the Director of the State Department of Energy by rule that is used primarily in connection with the conduct of a trade or business and that is manufactured or modified to use an alternative fuel, including but not limited to electricity, ethanol, methanol, gasohol and propane or natural gas, regardless of energy consumption savings.

(2) "Car sharing facility" means the expenses of operating a car sharing program, including but not limited to the fair market value of parking spaces used to store the fleet of cars available for a car sharing program, but does not include the costs of the fleet of cars.

(3) "Car sharing program" means a program in which drivers pay to become members in order to have joint access to a fleet of cars from a common parking area on an hourly basis. "Car sharing program" does not include operations conducted by car rental agencies.

(4) "Cost" means the capital costs and expenses necessarily incurred in the acquisition, erection, construction and installation of a facility, including site development costs and expenses for a sustainable building practices facility.

(5) "Energy facility" means any capital investment for which the first year energy savings yields a simple payback period of greater than one year. An energy facility includes:

(a) Any land, structure, building, installation, excavation, machinery, equipment or device, or any addition to, reconstruction of or improvement of, land or an existing structure, building, installation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or installed by any person in connection with the conduct of a trade or business and actually used in the processing or utilization of renewable energy resources to:

(A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

(B) Provide the initial use of energy where electricity, petroleum or natural gas would have been used;

(C) Generate electricity to replace an existing source of electricity or to provide a new source of electricity for sale by or use in the trade or business; [*or*]

(D) Perform a process that obtains energy resources from material that would otherwise be solid waste as defined in ORS 459.005**; or**

(E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol, methanol, gasohol or biodiesel.

(b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing structure, building, installation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or installed by any person in connection with the conduct of a trade or business in order to substantially reduce the consumption of purchased energy.

(c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is defined by ORS 469.160, that causes that building or dwelling to exceed an energy performance standard in the state building code.

(d) The replacement of an electric motor with another electric motor that substantially reduces the consumption of electricity.

(6) "Facility" means an energy facility, recycling facility, transportation facility, car sharing facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to operate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling station**, a high-efficiency combined heat and power facility, a high-performance home, a homebuilder-installed renewable energy system, or a renewable energy resource equipment manufacturing facility.**

(7) "High-efficiency combined heat and power facility" means a device or equipment that simultaneously produces heat and electricity from a single source of fuel and that meets the criteria established for a high-efficiency combined heat and power facility under section 22 of this 2007 Act.

(8) "High-performance home" means a new single-family dwelling that:

(a) Is designed and constructed to reduce net purchased energy through use of both energy efficiency and on-site renewable energy resources; and

(b) Meets the criteria established for a high-performance home under section 22 of this 2007 Act.

(9) "Homebuilder-installed renewable energy system" means a renewable energy resource system that:

(a) Meets the criteria established for a renewable energy resource system under section 22 of this 2007 Act; and

(b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder constructing the dwelling.

[*(7)*] **(10)** "Qualified transit pass contract" means a purchase agreement entered into between a transportation provider and a person, the terms of which obligate the person to purchase transit passes on behalf or for the benefit of employees, students, patients or other individuals over a specified period of time.

[*(8)*] **(11)** "Recycling facility" means equipment used by a trade or business solely for recycling:

(a) Including:

(A) Equipment used solely for hauling and refining used oil;

(B) New vehicles or modifications to existing vehicles used solely to transport used recyclable materials that cannot be used further in their present form or location such as glass, metal, paper, aluminum, rubber and plastic;

(C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to or attached to existing waste collection vehicles; and

(D) Any equipment used solely for processing recyclable materials such as bailers, flatteners, crushers, separators and scales.

(b) But not including equipment used for transporting or processing scrap materials that are recycled as a part of the normal operation of a trade or business as defined by the director.

[*(9)(a)*] **(12)(a)** "Renewable energy resource" includes, but is not limited to[*,*]**:**

(A) Straw, forest slash, wood waste or other wastes from farm or forest land, [*industrial waste*] **nonpetroleum plant or animal based biomass**, solar energy, wind power, water power or geothermal energy**; or**

(B) A hydroelectric generating facility that obtains all applicable permits and complies with all state and federal statutory requirements for the protection of fish and wildlife and:

(i) That does not exceed 10 megawatts of installed capacity; or

(ii) Qualifies as a research, development or demonstration facility.

(b) "Renewable energy resource" does not include a hydroelectric generating facility [*larger than one megawatt of installed capacity unless the facility qualifies as a research, development or demonstration facility*] **that is not described in paragraph (a) of this subsection.**

(13) "Renewable energy resource equipment manufacturing facility" means any structure, building, installation, excavation, machinery, equipment or device, or an addition, reconstruction or improvement to land or an existing structure, building, installation, excavation, machinery, equipment or device, that is necessarily acquired, constructed or installed by a person in connection with the conduct of a trade or business, that is used primarily to manufacture equipment, machinery or other products designed to use a renewable energy resource and that meets the criteria established under section 22 of this 2007 Act.

[*(10)*] **(14)** "Sustainable building practices facility" means a commercial building in which building practices that reduce the amount of energy, water or other resources needed for construction and operation of the building are used. "Sustainable building practices facility" may be further de-

fined by the State Department of Energy by rule, including rules that establish traditional building practice baselines in energy, water or other resource usage for comparative purposes for use in determining whether a facility is a sustainable building practices facility.

[*(11)*] **(15)** "Transportation facility" means a transportation project that reduces energy use during commuting to and from work or school, during work-related travel, or during travel to obtain medical or other services, and may be further defined by the department by rule. "Transportation facility" includes, but is not limited to, a qualified transit pass contract or a transportation services contract.

[*(12)*] **(16)** "Transportation provider" means a public, private or nonprofit entity that provides transportation services to members of the public.

[*(13)*] **(17)** "Transportation services contract" means a contract that is related to a transportation facility, and may be further defined by the department by rule.

SECTION 17. ORS 469.200 is amended to read:

469.200. **(1)** The total cost of a facility that receives a preliminary certification from the Director of the State Department of Energy for tax credits in any calendar year [*shall*] **may** not exceed**:**

(a) $20 million, in the case of a facility using or producing renewable energy resources, a renewable energy resource equipment manufacturing facility or a high-efficiency combined heat and power facility; or

(b) $10 million**, in the case of any other facility**.

(2) The director shall determine the dollar amount certified for any facility and the priority between applications for certification based upon the criteria contained in ORS 469.185 to 469.225 and applicable rules and standards adopted under ORS 469.185 to 469.225. The director may consider the status of a facility as a research, development or demonstration facility of new renewable resource generating and conservation technologies or a qualified transit pass contract in the determination.

SECTION 18. ORS 469.205 is amended to read:

469.205. (1) Prior to erection, construction, installation or acquisition of a proposed facility, any person may apply to the State Department of Energy for preliminary certification under ORS 469.210 if:

(a) The erection, construction, installation or acquisition of the facility is to be commenced on or after October 3, 1979;

(b) The facility complies with the standards or rules adopted by the Director of the State Department of Energy; and

(c) The applicant meets one of the following criteria:

(A) The applicant is a person to whom a tax credit has been transferred; or

(B) The applicant will be the owner or contract purchaser of the facility at the time of erection, construction, installation or acquisition of the proposed facility, and:

(i) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to utilize the facility in connection with Oregon property; or

(ii) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to lease the facility to a person who will utilize the facility in connection with Oregon property.

(2) An application for preliminary certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the applicant or the lessee of the applicant's facility:

(A) Intends to convert from a purchased energy source to a renewable energy resource;

(B) Plans to acquire, construct or install a facility that will use a renewable energy resource or solid waste instead of electricity, petroleum or natural gas;

(C) Plans to use a renewable energy resource in the generation of electricity for sale or to replace an existing or proposed use of an existing source of electricity;

(D) Plans to acquire, construct or install a facility that substantially reduces the consumption of purchased energy;

(E) Plans to acquire, construct or install equipment for recycling as defined in ORS 469.185 [*(8)*] **(11)**;

(F) Plans to acquire an alternative fuel vehicle or to convert an existing vehicle to an alternative fuel vehicle;

(G) Plans to acquire, construct or install a facility necessary to operate alternative fuel vehicles;

(H) Plans to acquire transit passes for use by individuals specified by the applicant;

(I) Plans to acquire, construct or install a transportation facility;

(J) Plans to acquire a sustainable building practices facility; [*or*]

(K) Plans to acquire a car sharing facility and operate a car sharing program**;**

(L) Plans to construct a high-efficiency combined heat and power facility;

(M) Is a homebuilder and plans to construct a homebuilder-installed renewable energy system;

(N) Is a homebuilder and plans to construct a high-performance home; or

(O) Plans to acquire, construct or install a renewable energy resource equipment manufacturing facility.

(b) A detailed description of the proposed facility and its operation and information showing that the facility will operate as represented in the application.

(c) Information on the amount by which consumption of electricity, petroleum or natural gas by the applicant or the lessee of the applicant's facility will be reduced, and on the amount of energy that will be produced for sale, as the result of using the facility or, if applicable, information about the expected level of sustainable building practices facility performance.

(d) The projected cost of the facility.

(e) If applicable, a copy of the proposed qualified transit pass contract, transportation services contract or contract for lease of parking spaces for a car sharing facility.

(f) Any other information the director considers necessary to determine whether the proposed facility is in accordance with the provisions of ORS 469.185 to 469.225, and any applicable rules or standards adopted by the director.

(3) An application for preliminary certification shall be accompanied by a fee established under ORS 469.217. The director may refund the fee if the application for certification is rejected.

(4) The director may allow an applicant to file the preliminary application after the start of erection, construction, installation or acquisition of the facility if the director finds:

(a) Filing the application before the start of erection, construction, installation or acquisition is inappropriate because special circumstances render filing earlier unreasonable; and

(b) The facility would otherwise qualify for tax credit certification pursuant to ORS 469.185 to 469.225.

(5) A preliminary certification of a sustainable building practices facility shall be applied for and issued as prescribed by the department by rule.

SECTION 19. ORS 469.206 is amended to read:

469.206. (1) The owner of a facility may transfer a tax credit for the facility in exchange for a cash payment equal to the present value of the tax credit.

(2) The State Department of Energy may establish by rule uniform discount rates to be used in calculating the present value of a tax credit under this section.

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

SECTION 20. ORS 469.215 is amended to read:

469.215. (1) [*No*] **A** final certification [*shall*] **may not** be issued by the Director of the State Department of Energy under this section unless the facility was acquired, erected, constructed or installed under a preliminary certificate of approval issued under ORS 469.210 and in accordance with the applicable provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the director.

(2) Any person may apply to the State Department of Energy for final certification of a facility:

(a) If the department issued preliminary certification for the facility under ORS 469.210; and

(b)(A) After completion of erection, construction, installation or acquisition of the proposed facility or, if the facility is a qualified transit pass contract, after entering into the contract with a transportation provider; or

(B) After transfer of the facility, as provided in ORS 315.354 [*(4)*] **(5)**.

(3) An application for final certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the conditions of the preliminary certification have been complied with;

(b) The actual cost of the facility certified to by a certified public accountant who is not an employee of the applicant or, if the actual cost of the facility is less than $50,000, copies of receipts for purchase and installation of the facility;

(c) A statement that the facility is in operation or, if not in operation, that the applicant has made every reasonable effort to make the facility operable; and

(d) Any other information determined by the director to be necessary prior to issuance of a final certificate, including inspection of the facility by the department.

(4) The director shall act on an application for certification before the 60th day after the filing of the application under this section. The director, after consultation with the Public Utility Commission, may issue the certificate together with such conditions as the director determines are appropriate to promote the purposes of this section and ORS 315.354, 469.185, 469.200, 469.205 and 469.878. The action of the director shall include certification of the actual cost of the facility. However, in no event shall the director certify an amount for tax credit purposes which is more than 10 percent in excess of the amount approved in the preliminary certificate issued for the facility.

(5) If the director rejects an application for final certification, or certifies a lesser actual cost of the facility than was claimed in the application, the director shall send to the applicant written notice of the action, together with a statement of the findings and reasons therefor, by certified mail, before the 60th day after the filing of the application. Failure of the director to act constitutes rejection of the application.

(6) Upon approval of an application for final certification of a facility, the director shall certify the facility. Each certificate shall bear a separate serial number for each device. Where one or more devices constitute an operational unit, the director may certify the operational unit under one certificate.

SECTION 21. Section 22 of this 2007 Act is added to and made a part of ORS 469.185 to 469.225.

SECTION 22. The State Department of Energy shall by rule establish all of the following criteria:

(1) For a high-performance home, the minimum design and construction standards that must be met or exceeded for a dwelling to be considered a high-performance home, including but not limited to standards for the building envelope, HVAC systems, lighting, appliances, water conservation measures, use of sustainable building materials and on-site renewable energy systems. The criteria must also establish the minimum reduction in estimated net purchased energy that a dwelling must achieve to be considered a high-performance home.

(2) For a homebuilder-installed renewable energy system, the minimum performance and efficiency standards that a solar electric system, solar domestic water heating system, passive solar space heating system, wind power system, geothermal heating system, fuel cell system or other system utilizing renewable resources must achieve to be considered a homebuilder-installed renewable energy system.

(3) For a high-efficiency combined heat and power facility, the minimum performance and efficiency standards that the facility must achieve to be considered a high-efficiency combined heat and power facility.

(4) For a renewable energy resource equipment manufacturing facility, standards relating to the type of equipment, machinery or other products being manufactured and related performance and efficiency standards applicable to the manufactured products.

SECTION 23. Section 24 of this 2007 Act is added to and made a part of ORS chapter 315.

SECTION 24. A taxpayer may not be allowed a credit under ORS 315.354 if the first tax year for which the credit with respect to a facility certified under ORS 469.215 would otherwise be allowed begins on or after January 1, 2016.

SECTION 25. Section 26 of this 2007 Act is added to and made a part of ORS 469.185 to 469.225.

SECTION 26. The Director of the State Department of Energy may not issue a final certification of a facility under ORS 469.215 on or after January 1, 2016.

SECTION 27. Section 22 of this 2007 Act and the amendments to ORS 315.354, 315.356, 469.185, 469.200, 469.205, 469.206 and 469.215 by sections 14 to 20 of this 2007 Act apply to facilities acquired, erected, constructed or installed on or after January 1, 2007, and to tax years beginning on or after January 1, 2007.

SECTION 28. ORS 469.160 is amended to read:

469.160. As used in ORS 316.116, 317.115 and 469.160 to 469.180:

[*(1) "Alternative energy device" means:*]

[*(a) Any system, mechanism or series of mechanisms, including photovoltaic systems, that uses solar radiation or wind for space heating, cooling or electrical energy for one or more dwellings;*]

[*(b) Any system that uses solar radiation for:*]

[*(A) Domestic water heating; or*]

[*(B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in ORS 316.116;*]

[*(c) A ground water heat pump and ground loop system;*]

[*(d) A wind powered turbine that generates electricity;*]

[*(e) Any wind powered device used to offset or supplement the use of electricity by performing a specific task such as pumping water;*]

[*(f) Equipment used in the production of alternative fuels;*]

[*(g) A generator powered by alternative fuels and used to produce electricity;*]

[*(h) A fuel cell;*]

[*(i) An energy efficient appliance; or*]

[*(j) An alternative fuel device.*]

(1) "Alternative energy device" means a category one alternative energy device or a category two alternative energy device.

(2) "Alternative fuel device" means any of the following:

(a) An alternative fuel vehicle;

(b) Related equipment; or

(c) A fueling station necessary to operate an alternative fuel vehicle.

(3) "Alternative fuel vehicle" means a motor vehicle as defined in ORS 801.360 that is:

(a) Registered in this state; and

(b) Manufactured or modified to use an alternative fuel, including but not limited to electricity, natural gas, ethanol, methanol, propane and any other fuel approved in rules adopted by the Director of the State Department of Energy that produces less exhaust emissions than vehicles fueled by gasoline or diesel. Determination that a vehicle is an alternative fuel vehicle shall be made without regard to energy consumption savings.

(4) "Category one alternative energy device" means:

(a) Any system, mechanism or series of mechanisms that uses solar radiation for space heating or cooling for one or more dwellings;

(b) Any system that uses solar radiation for:

(A) Domestic water heating; or

(B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in ORS 316.116;

(c) A ground water heat pump and ground loop system;

(d) Any wind powered device used to offset or supplement the use of electricity by performing a specific task such as pumping water;

(e) Equipment used in the production of alternative fuels;

(f) A generator powered by alternative fuels and used to produce electricity;

(g) An energy efficient appliance;

(h) An alternative fuel device; or

(i) A premium efficiency biomass combustion device that includes a dedicated outside combustion air source and that meets minimum performance standards that are established by the State Department of Energy.

(5) "Category two alternative energy device" means a fuel cell system, solar electric system or wind electric system.

[*(4)*] **(6)** "Coefficient of performance" means the ratio calculated by dividing the usable output energy by the electrical input energy. Both energy values must be expressed in equivalent units.

[*(5)*] **(7)** "Contractor" means a person whose trade or business consists of offering for sale an alternative energy device, construction service, installation service or design service.

[*(6)(a)*] **(8)(a)** "Cost" means the actual cost of the acquisition, construction and installation of the alternative energy device [*or solar electric system*] paid by the taxpayer for the alternative energy device [*or solar electric system*].

(b) For an alternative fuel vehicle, "cost" means the difference between the cost of the alternative fuel vehicle and the same vehicle or functionally similar vehicle manufactured to use conventional gasoline or diesel fuel or, in the case of modification of an existing vehicle, the cost of the modification. "Cost" does not include any amounts paid for remodification of the same vehicle.

(c) For a fueling station necessary to operate an alternative fuel vehicle, "cost" means the cost to the contractor of constructing or installing the fueling station in a dwelling and of making the fuel station operational in accordance with the specifications issued under ORS 469.160 to 469.180 and any rules adopted by the Director of the State Department of Energy.

(d) For related equipment, "cost" means the cost of the related equipment and any modifications or additions to the related equipment necessary to prepare the related equipment for use in converting a vehicle to alternative fuel use.

[*(7)*] **(9)** "Domestic water heating" means the heating of water used in a dwelling for bathing, clothes washing, dishwashing and other related functions.

[*(8)*] **(10)** "Dwelling" means real or personal property ordinarily inhabited as a principal or secondary residence and located within this state. "Dwelling" includes, but is not limited to, an individual unit within multiple unit residential housing.

[*(9)*] **(11)** "Energy efficient appliance" means a clothes washer, clothes dryer, water heater, refrigerator, freezer, dishwasher, appliance designed to heat or cool a dwelling or other major household appliance that has been certified by the State Department of Energy to have premium energy efficiency characteristics.

[*(10)*] **(12)** "First year energy yield" of an alternative energy device is the usable energy produced under average environmental conditions in one year.

(13) "Fuel cell system" means any system, mechanism or series of mechanisms that uses fuel cells or fuel cell technology to generate electrical energy for a dwelling.

[*(11)*] **(14)** "Fueling station" includes but is not limited to a compressed natural gas compressor fueling system or an electric charging system for vehicle power battery charging.

[*(12)*] **(15)** "Placed in service" means:

(a) The date an alternative energy device [*or solar electric system*] is ready and available to produce usable energy or save energy.

(b) For an alternative fuel vehicle:

(A) In the case of purchase, the date that the alternative fuel vehicle is first purchased as an alternative fuel vehicle ready and available for use.

(B) In the case of modification, the date that the modification is completed and the vehicle is ready and available for use as an alternative fuel vehicle.

(c) For a fueling station necessary to operate an alternative fuel vehicle, the date that the fueling station is first operational.

(d) For related equipment, the date that the equipment is first operational.

[*(13)*] **(16)** "Related equipment" means equipment necessary to convert a vehicle to use an alternative fuel.

[*(14)*] **(17)** "Solar electric system" means any system, mechanism or series of mechanisms, including photovoltaic systems, that uses solar radiation to generate electrical energy for a dwelling.

(18) "Wind electric system" means any system, mechanism or series of mechanisms that uses wind to generate electrical energy for a dwelling.

SECTION 29. ORS 316.116 is amended to read:

316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due under this chapter for costs paid or incurred for construction or installation of [*an*] **each of one or more** alternative energy [*device*] **devices** in a dwelling.

(b) A resident individual shall be allowed a credit against the taxes otherwise due under this chapter for costs paid or incurred to modify or purchase an alternative fuel vehicle or related equipment.

[*(c) A resident individual shall be allowed a credit against the taxes otherwise due under this chapter for costs paid or incurred for construction or installation of a solar electric system in a dwelling.*]

(2)(a) [*Except in the case of an alternative fuel device or a solar electric system*] **In the case of a category one alternative energy device that is not an alternative fuel device**, the credit shall be based upon the first year energy yield of the alternative energy device that qualifies under ORS 469.160 to 469.180. The amount of the credit shall be the same whether for collective or noncollective investment.

(b) The credit allowed under this section for **each category one alternative energy device for** each dwelling [*shall*] **may** not exceed the lesser of:

(A) $1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or domestic water heating for tax years beginning on or after January 1, 1990, and before January 1, 1996.

(B) $1,200 or the first year energy yield in kilowatt hours per year multiplied by 48 cents per dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or domestic water heating for tax years beginning on or after January 1, 1996, and before January 1, 1998.

(C) $1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or domestic water heating for tax years beginning on or after January 1, 1998.

(c) For [*an*] **each category one** alternative energy device used for swimming pool, spa or hot tub heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year's energy yield in kilowatt hours per year multiplied by 15 cents, whichever is lower, up to:

(A) $1,500 for tax years beginning on or after January 1, 1990, and before January 1, 1996.

(B) $1,200 for tax years beginning on or after January 1, 1996, and before January 1, 1998.

(C) $1,500 for tax years beginning on or after January 1, 1998.

(d) For [*an*] **each** alternative fuel device, the credit allowed under this section is 25 percent of the cost of the alternative fuel device but the total credit shall not exceed $750 if the device is placed in service on or after January 1, 1998.

(e)(A) For **each category two alternative energy device that is** a solar electric system **or fuel cell system**, the credit allowed under this section shall equal $3 per watt of installed output, but the installed output that is used to determine the amount of credit under this paragraph may not exceed 2,000 watts.

(B) For each category two alternative energy device that is a wind electric system, the credit allowed under this section may not exceed the lesser of $6,000 or the first year energy yield in kilowatt hours per year multiplied by $2.

[*(B)*] **(C)** Notwithstanding subparagraph (A) **or (B)** of this paragraph, the **total** amount of the [*credit*] **credits** allowed in any one tax year may not exceed the tax liability of the taxpayer or $1,500 **for each alternative energy device**, whichever is less. Unused credit amounts may be carried forward as provided in subsection (7) of this section, but may not be carried forward to a tax year that is more than five tax years following the first tax year for which any credit was allowed with respect to the [*solar electric system*] **category two alternative energy device** that is the basis for the credit.

[*(C)*] **(D)** Notwithstanding subparagraph (A) **or (B)** of this paragraph, the total amount of the credit **for each device** allowed under this paragraph may not exceed 50 percent of the total installed cost of the [*solar electric system*] **category two alternative energy device**.

(3)(a) In the case of a credit for [*an*] **a category one** alternative energy device that is an energy efficient appliance, the credit allowed **for each appliance** to a resident individual under this section shall equal:

(A) 48 cents per first year kilowatt hour saved, or the equivalent for other fuel saved, not to exceed $1,200 for each tax year beginning on or after January 1, 1998, and before January 1, 1999; and

(B) 40 cents per kilowatt hour saved, or the equivalent for other fuel saved, not to exceed $1,000 for each tax year beginning on or after January 1, 1999.

(b) Notwithstanding paragraph (a) of this subsection, the credit allowed for an energy efficient appliance [*shall*] **may** not exceed 25 percent of the cost of the appliance.

(4) To qualify for a credit under this section, all of the following are required:

(a) The alternative energy device [*or solar electric system*] must be purchased, constructed, installed and operated in accordance with ORS 469.160 to 469.180 and a certificate issued thereunder.

(b) Except for credits claimed for alternative fuel devices, the taxpayer who is allowed the credit must be the owner or contract purchaser of the dwelling or dwellings served by the alternative energy device [*or solar electric system*] or the tenant of the owner or of the contract purchaser and must:

(A) Use the dwelling or dwellings served by the alternative energy device [*or solar electric system*] as a principal or secondary residence; or

(B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant who uses the dwelling or dwellings as a principal or secondary residence, unless the basis for the credit is the installation of an energy efficient appliance. If the basis for the credit is the installation of an energy efficient appliance, the credit shall be allowed only to the taxpayer who actually occupies the dwelling as a principal or secondary residence.

(c) In the case of an alternative fuel device, if the device is a fueling station necessary to operate an alternative fuel vehicle, unless the verification form and certificate are transferred as authorized under ORS 469.170 (8), the taxpayer who is allowed the credit must be the contractor who constructs the dwelling that incorporates the fueling station into the dwelling or installs the fueling station in the dwelling. If the **category one** alternative energy device is an alternative fuel vehicle, the credit must be claimed by the owner as defined under ORS 801.375 or contract purchaser. If the **category one** alternative energy device is related equipment **for an alternative fuel vehicle**, the credit may be claimed by the owner or contract purchaser.

(d) The credit must be claimed for the tax year in which the alternative energy device [*or solar electric system*] was purchased if the device [*or system*] is operational by April 1 of the next following tax year.

(5) The credit provided by this section does not affect the computation of basis under this chapter.

(6) The [*credit*] **total credits** allowed under this section in any one year may not exceed the tax liability of the taxpayer.

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

(8) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

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

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

(11) A husband and wife who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each. However, a husband or wife living in a separate principal residence may claim the tax credit in the same amount as permitted a single person.

(12) As used in this section, unless the context requires otherwise:

(a) "Collective investment" means an investment by two or more taxpayers for the acquisition, construction and installation of an alternative energy device for one or more dwellings.

[*(b) "First year energy yield" has the meaning given in ORS 469.160.*]

[*(c)*] **(b)** "Noncollective investment" means an investment by an individual taxpayer for the acquisition, construction and installation of an alternative energy device for one or more dwellings.

[*(13)*] **(c)** [*As used in this section,*] "Taxpayer" includes a transferee of a verification form under ORS 469.170 (8).

[*(14)*] **(13)** Notwithstanding any provision of subsection (1) or (2) of this section, the sum of the credit allowed under subsection (1) of this section plus any similar credit allowed for federal income tax purposes [*shall*] **may** not exceed the cost to the taxpayer for the acquisition, construction and installation of the alternative energy device [*or solar electric system*].

SECTION 30. ORS 469.165 is amended to read:

469.165. (1) For the purposes of carrying out ORS 469.160 to 469.180, the State Department of Energy may adopt rules prescribing minimum performance criteria for alternative energy devices for dwellings [*and solar electric systems*].

(2) The department, in adopting rules under this section for solar heating and cooling systems, shall take into consideration applicable standards of federal performance criteria prescribed pursuant to the provisions of section 5506, title 42, United States Code (Solar Heating and Cooling Act of 1974).

(3) The Director of the State Department of Energy shall adopt rules governing the determination of eligibility, verification and certification of an alternative fuel device for purposes of the tax credits granted under ORS 316.116 and 317.115, including but not limited to rules that further define an alternative fuel vehicle, related equipment or fueling station necessary to operate an alternative fuel vehicle, that govern the computation of costs eligible for credit and that require equitable allocation of the tax credit benefits between the lessor and the lessee of an alternative fuel vehicle as a condition of tax credit eligibility.

SECTION 31. ORS 469.170 is amended to read:

469.170. (1) Any person may claim a tax credit under ORS 316.116 (or ORS 317.115, if the person is a corporation) if the person:

(a) Meets the requirements of ORS 316.116 (or ORS 317.115, if applicable);

(b) Meets the requirements of ORS 469.160 to 469.180; and

(c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative energy device [*or a solar electric system*].

(2) A credit under ORS 317.115 may be claimed only if the alternative energy device is a fueling station necessary to operate an alternative fuel vehicle.

(3)(a) In order to be eligible for a tax credit under ORS 316.116 or 317.115, a person claiming a tax credit for construction or installation of an alternative energy device (including a fueling station) [*or a solar electric system*] shall have the device [*or system*] certified by the State Department of Energy or constructed or installed by a contractor certified by the department under subsection (5) of this section. This paragraph does not apply to an alternative fuel vehicle or to related equipment.

(b) Certification of an alternative fuel vehicle or related equipment shall be accomplished under rules that shall be adopted by the Director of the State Department of Energy.

(4) Verification of the purchase, construction or installation of an alternative energy device [*or solar electric system*] shall be made in writing on a form provided by the Department of Revenue and, if applicable, shall contain:

(a) The location of the alternative energy device [*or solar electric system*];

(b) A description of the type of device [*or system*];

(c) If the device [*or system*] was constructed or installed by a contractor, evidence that the contractor has any license, bond, insurance and permit required to sell and construct or install the alternative energy device [*or solar electric system*];

(d) If the device [*or system*] was constructed or installed by a contractor, a statement signed by the contractor that the applicant has received:

(A) A statement of the reasonably expected energy savings of the device [*or system*];

(B) A copy of consumer information published by the State Department of Energy;

(C) An operating manual for the alternative energy device [*or solar electric system*]; and

(D) A copy of the contractor's certification certificate or alternative energy device system certificate for the alternative energy device [*or solar electric system*], as appropriate;

(e) If the device [*or system*] was not constructed or installed by a contractor, evidence that:

(A) The State Department of Energy has issued an alternative energy device system certificate for the alternative energy device [*or solar electric system*]; and

(B) The taxpayer has obtained all building permits required for construction or installation of the device [*or system*];

(f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device [*or system*] was constructed or installed by a contractor, that the construction or installation meets all the requirements of ORS 469.160 to 469.180 or, if the device is a fueling station and the taxpayer is the contractor, a statement signed by the contractor that the construction or installation meets all of the requirements of ORS 469.160 to 469.180;

(g) The date the alternative energy device [*or solar electric system*] was purchased;

(h) The date the alternative energy device [*or solar electric system*] was placed in service; and

(i) Any other information that the Director of the State Department of Energy or the Department of Revenue determines is necessary.

(5)(a) When the State Department of Energy finds that an alternative energy device [*or solar electric system*] can meet the standards adopted under ORS 469.165, the Director of the State Department of Energy may issue a contractor system certification to the person selling and constructing or installing the alternative energy device [*or solar electric system*].

(b) Any person who sells or installs more than 12 alternative energy devices [*or solar electric systems*] in one year shall apply for a contractor system certification. An application for a contractor system certification shall be made in writing on a form provided by the State Department of Energy and shall contain:

(A) A statement that the contractor has any license, bonding, insurance and permit that is required for the sale and construction or installation of the alternative energy device [*or solar electric system*];

(B) A specific description of the alternative energy device [*or solar electric system*], including, but not limited to, the material, equipment and mechanism used in the device [*or system*], operating procedure, sizing and siting method and construction or installation procedure;

(C) The addresses of three installations of the device [*or system*] that are available for inspection by the State Department of Energy;

(D) The range of installed costs to purchasers of the device [*or system*];

(E) Any important construction, installation or operating instructions; and

(F) Any other information that the State Department of Energy determines is necessary.

(c) A new application for contractor system approval shall be filed when there is a change in the information supplied under paragraph (b) of this subsection.

(d) The State Department of Energy may issue contractor system certificates to each contractor who on October 3, 1989, has a valid dealer system certification, which shall authorize the sale and installation of the same domestic water heating alternative energy devices authorized by the dealer certification.

(e) If the State Department of Energy finds that an alternative energy device [*or solar electric system*] can meet the standards adopted under ORS 469.165, the Director of the State Department of Energy may issue an alternative energy device system certificate to the taxpayer constructing or installing or having an alternative energy device [*or solar electric system*] constructed or installed.

(f) An application for an alternative energy device system certificate shall be made in writing on a form provided by the State Department of Energy and shall contain:

(A) A specific description of the alternative energy device [*or solar electric system*], including, but not limited to, the material, equipment and mechanism used in the device [*or system*], operating procedure, sizing, siting method and construction or installation procedure;

(B) The constructed or installed cost of the device [*or system*]; and

(C) A statement that the taxpayer has all permits required for construction or installation of the device [*or system*].

(6) To claim the tax credit, the verification form described in subsection (4) of this section shall be submitted with the taxpayer's tax return for the year the alternative energy device [*or solar electric system*] is placed in service or the immediately succeeding tax year. A copy of the contractor's certification certificate, alternative energy device system certificate or alternative fuel vehicle or related equipment certificate also shall be submitted.

(7) The verification form and contractor's certificate, alternative energy device system certificate or alternative fuel vehicle or related equipment certificate described under this section shall be effective for purposes of tax relief allowed under ORS 316.116 or 317.115.

(8) The verification form and contractor's certificate described under this section may be transferred to the first purchaser of a dwelling or, in the case of construction or installation of a fueling station in an existing dwelling, the current owner, who intends to use or is using the dwelling as a principal or secondary residence.

(9) Any person that pays the present value of the tax credit for an alternative energy device [*or solar electric system*] provided under ORS 316.116 or 317.115 and 469.160 to 469.180 to the person who constructs or installs the alternative energy device [*or solar electric system*] shall be entitled to claim the credit in the manner and subject to rules adopted by the Department of Revenue to carry out the purposes of this subsection. The State Department of Energy may establish by rule uniform discount rates to be used in calculating the present value of a tax credit under this subsection.

SECTION 32. ORS 469.172 is amended to read:

469.172. The following devices are not eligible for the tax credit under ORS 316.116:

(1) Standard efficiency furnaces;

(2) Standard back-up heating systems;

(3) Woodstoves or wood furnaces, or any part of a heating system that burns wood**, unless the woodstove, furnace or system constitutes a premium efficiency biomass combustion device described in ORS 469.160 (4)(i)**;

(4) Heat pump water heaters that are part of a geothermal heat pump space heating system;

(5) Structures that cover or enclose a swimming pool;

(6) Swimming pools, hot tubs or spas used to store heat;

(7) Above ground, uninsulated swimming pools, hot tubs or spas;

(8) Photovoltaic systems installed on recreational vehicles;

(9) Conversion of an existing alternative energy device [*or solar electric system*] to another type of alternative energy device [*or solar electric system*];

(10) Repair or replacement of an existing alternative energy device [*or solar electric system*];

(11) A [*solar electric system*] **category two alternative energy device**, if the equipment or other property that comprises the [*solar electric system*] **category two alternative energy device** is [*also*] the basis for an allowed credit for [*an*] **a category one** alternative energy device under ORS 316.116;

(12) [*An*] **A category one** alternative energy device, if the equipment or other property that comprises the **category one** alternative energy device is also the basis for an allowed credit for a [*solar electric system*] **category two alternative energy device** under ORS 316.116; or

(13) Any other device identified by the State Department of Energy. The department may adopt rules defining standards for eligible and ineligible devices under this section.

SECTION 33. ORS 469.176 is amended to read:

469.176. (1) Except for alternative fuel vehicles or related equipment, in order to carry out ORS 469.160 to 469.180, the State Department of Energy shall develop performance assumptions and prescriptive measures to determine the eligibility and tax credit amount for alternative energy devices [*and solar electric systems*] constructed or installed in a dwelling.

(2) The department shall use the performance assumptions and prescriptive measures to develop information for the Department of Revenue to use to allow taxpayers to determine their eligibility and tax credit amount. The State Department of Energy may review this information on an annual basis to take into consideration new technology and performance assumption accuracy.

(3) For the purpose of determining the first year energy yield of an alternative energy device, the department shall use the following assumptions and test standards:

(a) Solar Rating and Certification Corporation standard SRCC 100, 200, American Society of Heating, Refrigerating and Air-Conditioning Engineers 93-77, or the American Refrigeration Institute standard 325-85 test at 50 degrees entering water temperature, as appropriate. The testing requirements under this paragraph shall not apply to an owner-built alternative energy device.

(b) For an alternative energy device used as a source for domestic water heating energy, a hot water use of 75 gallons per day at 120 degrees Fahrenheit. The load of 75 gallons per day at 120 degrees Fahrenheit shall be achieved by including conservation measures in the construction or installation of the alternative energy device.

(c) For an alternative energy device used as a source for space heating or cooling, the heating or cooling energy load as determined by a heat loss or gain calculation performed in accordance with the methods established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers. Except for an owner-built or site-built system, an alternative energy device used as a source for domestic hot water heating must meet the SRCC OG 300 systems test or comply with comparable requirements as determined by the department.

(d) For an alternative energy device used as a source for electrical energy, the first year energy yield shall be based upon the electrical energy load of the dwelling as determined according to the procedure established by the department.

(e) For an alternative energy device used as a source for swimming pool, spa or hot tub heating, the first year energy yield shall be based on the heating load of the swimming pool, spa or hot tub as determined according to the procedure established by the department.

SECTION 34. ORS 469.180 is amended to read:

469.180. (1) Upon the Department of Revenue's own motion, or upon request of the State Department of Energy, the Department of Revenue may initiate proceedings for the forfeiture of a tax credit allowed under ORS 316.116 or 317.115 if:

(a) The verification was fraudulent because of a misrepresentation by the taxpayer or investor owned utility;

(b) The verification was fraudulent because of a misrepresentation by the contractor;

(c) In the case of [*a solar electric system or*] an alternative energy device other than an alternative fuel vehicle or related equipment, the [*solar electric system or*] alternative energy device has not been constructed, installed or operated in substantial compliance with the requirements of ORS 469.160 to 469.180; or

(d) The taxpayer or investor owned utility failed to consent to an inspection of the constructed or installed alternative energy device [*or solar electric system*] by the State Department of Energy after a reasonable, written request for such an inspection by the State Department of Energy. This paragraph does not apply to an alternative fuel vehicle or to related equipment.

(2) Pursuant to the procedures for a contested case under ORS chapter 183, the Director of the State Department of Energy may order the revocation of a contractor certificate issued under ORS 469.170 if the director finds that:

(a) The contractor certificate was obtained by fraud or misrepresentation by the contractor certificate holder;

(b) The contractor's performance for the alternative energy device [*or solar electric system*] for which the contractor is issued a certificate under ORS 469.170 does not meet industry standards; or

(c) The contractor has misrepresented to the customer either the tax credit program or the nature or quality of the alternative energy device [*or solar electric system*].

(3) If the tax credit allowed under ORS 316.116 or 317.115 for the purchase, construction or installation of an alternative energy device [*or solar electric system*] is ordered forfeited due to an action of the taxpayer or investor owned utility under subsection (1)(a), (c) or (d) of this section, all prior tax relief provided to the taxpayer or investor owned utility shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the taxpayer or utility as a result of the tax credit relief under ORS 316.116 or 317.115.

(4) If the tax credit for the construction or installation of an alternative energy device [*or solar electric system*] is ordered forfeited due to an action of the contractor under subsection (1)(b) of this section, the Department of Revenue shall proceed to collect, from the contractor, an amount equivalent to those taxes not paid by the taxpayer or investor owned utility as a result of the tax credit relief under ORS 316.116 or 317.115. As long as the forfeiture is due to an action of the contractor and not to an action of the taxpayer or utility, the assessment of such taxes shall be levied on the contractor and not on the taxpayer or utility. Notwithstanding ORS 314.835, the Department of Revenue may disclose information from income tax returns or reports to the extent such disclosure is necessary to collect amounts from contractors under this subsection.

(5) In order to obtain information necessary to verify eligibility and amount of the tax credit, the State Department of Energy or its representative may inspect an alternative energy device [*or solar electric system*] that has been purchased, constructed or installed. The inspection shall be made only with the consent of the owner of the dwelling. Failure to consent to the inspection is grounds for the forfeiture of any tax credit relief under ORS 316.116 or 317.115. The Department of Revenue shall proceed to collect any taxes due according to subsection (4) of this section. For electrical generating alternative energy devices [*or solar electric systems*], the State Department of Energy may obtain energy consumption records for the dwelling the device [*or system*] serves, for a 12-month period, in order to verify eligibility and amount of the tax credit.

SECTION 35. Section 5a, chapter 832, Oregon Laws 2005, is amended to read:

Sec. 5a. A taxpayer may not be allowed a credit under ORS 316.116 if the first tax year for which the credit would otherwise be allowed with respect to an alternative energy device[*, solar electric system*] or alternative fuel vehicle or related equipment is on or after January 1, 2016.

SECTION 36. The amendments to ORS 316.116, 469.160, 469.165, 469.170, 469.172, 469.176 and 469.180 and section 5a, chapter 832, Oregon Laws 2005, by sections 28 to 35 of this 2007 Act apply to alternative energy devices constructed or installed on or after January 1, 2007.

SECTION 37. Sections 38, 41 and 44 of this 2007 Act are added to and made a part of ORS chapter 468A.

SECTION 38. As used in this section and sections 41, 44, 47, 48, 50 and 51 of this 2007 Act:

(1) "Combined weight" has the meaning given that term in ORS 825.005.

(2) "Cost-effectiveness threshold" means the cost, in dollars, per ton of diesel particulate matter reduced, as established by rule of the Environmental Quality Commission.

(3) "Heavy-duty truck" means a motor vehicle or combination of vehicles operated as a unit that has a combined weight that is greater than 26,000 pounds.

(4) "Incremental cost" means the cost of a qualifying repower or retrofit less a baseline cost that would otherwise be incurred in the normal course of business.

(5) "Medium-duty truck" means a motor vehicle or combination of vehicles operated as a unit that has a combined weight that is greater than 14,000 pounds but less than or equal to 26,000 pounds.

(6) "Motor vehicle" has the meaning given that term in ORS 825.005.

(7) "Nonroad Oregon diesel engine" means any Oregon diesel engine that was not designed primarily to propel a motor vehicle on public highways of this state.

(8) "Oregon diesel engine" means an engine at least 50 percent of the use of which, as measured by miles driven or hours operated, will occur in Oregon for the three years following the repowering or retrofitting of the engine.

(9) "Oregon diesel truck engine" means a diesel engine in a truck at least 50 percent of the use of which, as measured by miles driven or hours operated, has occurred in Oregon for the two years preceding the scrapping of the engine.

(10) "Public highway" has the meaning given that term in ORS 825.005.

(11) "Repower" means to scrap an old diesel engine and replace it with a new engine, a used engine or a remanufactured engine, or with electric motors, drives or fuel cells, with a minimum useful life of seven years.

(12) "Retrofit" means to equip a diesel engine with new emissions-reducing parts or technology after the manufacture of the original engine. A retrofit must use the greatest degree of emissions reduction available for the particular application of the equipment retrofitted that meets the cost-effectiveness threshold.

(13) "Scrap" means to destroy and render inoperable.

(14) "Truck" means a motor vehicle or combination of vehicles operated as a unit that has a combined weight that is greater than 14,000 pounds.

SECTION 39. Section 38 of this 2007 Act is amended to read:

Sec. 38. As used in this section and sections 41[,] **and** 44[*, 47, 48, 50 and 51*] of this 2007 Act:

(1) "Combined weight" has the meaning given that term in ORS 825.005.

(2) "Cost-effectiveness threshold" means the cost, in dollars, per ton of diesel particulate matter reduced, as established by rule of the Environmental Quality Commission.

(3) "Heavy-duty truck" means a motor vehicle or combination of vehicles operated as a unit that has a combined weight that is greater than 26,000 pounds.

(4) "Incremental cost" means the cost of a qualifying repower or retrofit less a baseline cost that would otherwise be incurred in the normal course of business.

(5) "Medium-duty truck" means a motor vehicle or combination of vehicles operated as a unit that has a combined weight that is greater than 14,000 pounds but less than or equal to 26,000 pounds.

(6) "Motor vehicle" has the meaning given that term in ORS 825.005.

(7) "Nonroad Oregon diesel engine" means any Oregon diesel engine that was not designed primarily to propel a motor vehicle on public highways of this state.

(8) "Oregon diesel engine" means an engine at least 50 percent of the use of which, as measured by miles driven or hours operated, will occur in Oregon for the three years following the repowering or retrofitting of the engine.

(9) "Oregon diesel truck engine" means a diesel engine in a truck at least 50 percent of the use of which, as measured by miles driven or hours operated, has occurred in Oregon for the two years preceding the scrapping of the engine.

(10) "Public highway" has the meaning given that term in ORS 825.005.

(11) "Repower" means to scrap an old diesel engine and replace it with a new engine, a used engine or a remanufactured engine, or with electric motors, drives or fuel cells, with a minimum useful life of seven years.

(12) "Retrofit" means to equip a diesel engine with new emissions-reducing parts or technology after the manufacture of the original engine. A retrofit must use the greatest degree of emissions reduction available for the particular application of the equipment retrofitted that meets the cost-effectiveness threshold.

(13) "Scrap" means to destroy and render inoperable.

(14) "Truck" means a motor vehicle or combination of vehicles operated as a unit that has a combined weight that is greater than 14,000 pounds.

SECTION 40. The amendments to section 38 of this 2007 Act by section 39 of this 2007 Act become operative on January 2, 2018.

SECTION 41. (1) The Environmental Quality Commission by rule shall establish standards related to the certified cost necessary to perform a qualifying repower or retrofit, including but not limited to rules establishing the certified cost for purposes of the tax credit established in section 47 of this 2007 Act.

(2) For the purposes of subsection (1) of this section, certified cost:

(a) May not exceed the incremental cost of labor and hardware that the Department of Environmental Quality finds necessary to perform a qualifying repower or retrofit;

(b) Does not include the cost of any portion of a repower or retrofit undertaken to comply with any applicable local, state or federal pollution or emissions law or for ordinary maintenance, repair or replacement of a diesel engine; and

(c) May not exceed the cost-effectiveness threshold.

SECTION 42. Section 41 of this 2007 Act is amended to read:

Sec. 41. (1) The Environmental Quality Commission by rule shall establish standards related to the certified cost necessary to perform a qualifying repower or retrofit[*, including but not limited to rules establishing the certified cost for purposes of the tax credit established in section 47 of this 2007 Act*].

(2) For the purposes of subsection (1) of this section, certified cost:

(a) May not exceed the incremental cost of labor and hardware that the Department of Environmental Quality finds necessary to perform a qualifying repower or retrofit;

(b) Does not include the cost of any portion of a repower or retrofit undertaken to comply with any applicable local, state or federal pollution or emissions law or for ordinary maintenance, repair or replacement of a diesel engine; and

(c) May not exceed the cost-effectiveness threshold.

SECTION 43. The amendments to section 41 of this 2007 Act by section 42 of this 2007 Act become operative on January 2, 2018.

SECTION 44. (1) The Environmental Quality Commission by rule shall establish standards for the qualifying repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine, including but not limited to rules establishing repower or retrofit qualifications for purposes of the tax credit established in section 47 of this 2007 Act.

(2) The standards adopted by the commission under this section must include:

(a) A requirement for the reduction of diesel particulate matter emissions by at least 25 percent compared with the baseline emissions for the relevant engine year and application;

(b) A list of technologies approved as qualifying repowers or retrofits that have been verified by the United States Environmental Protection Agency or the California Air Resources Board; and

(c) A requirement that a qualifying repower or retrofit does not include the repower or retrofit of a vehicle or engine for which a tax credit under section 47 of this 2007 Act has been allowed, unless the repower or retrofit will reduce emissions further than the repower or retrofit funded by the tax credit.

SECTION 45. Section 44 of this 2007 Act is amended to read:

Sec. 44. (1) The Environmental Quality Commission by rule shall establish standards for the qualifying repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine[*, including but not limited to rules establishing repower or retrofit qualifications for purposes of the tax credit established in section 47 of this 2007 Act*].

(2) The standards adopted by the commission under this section must include:

(a) A requirement for the reduction of diesel particulate matter emissions by at least 25 percent compared with the baseline emissions for the relevant engine year and application; **and**

(b) A list of technologies approved as qualifying repowers or retrofits that have been verified by the United States Environmental Protection Agency or the California Air Resources Board[*; and*]**.**

[*(c) A requirement that a qualifying repower or retrofit does not include the repower or retrofit of a vehicle or engine for which a tax credit under section 47 of this 2007 Act has been allowed, unless the repower or retrofit will reduce emissions further than the repower or retrofit funded by the tax credit.*]

SECTION 46. The amendments to section 44 of this 2007 Act by section 45 of this 2007 Act become operative on January 2, 2018.

SECTION 47. (1) A personal income or corporate income or excise taxpayer is allowed a credit against the taxes that are otherwise due under ORS chapter 316, 317 or 318 for the certified costs of a repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine that occurs after the effective date of this 2007 Act if:

(a) The repower or retrofit has been identified as qualifying for the credit under rules adopted by the Environmental Quality Commission under section 44 of this 2007 Act;

(b) The engine will constitute an Oregon diesel engine; and

(c) The taxpayer has obtained a tax credit cost certification from the Department of Environmental Quality under section 51 of this 2007 Act for the cost of the repower or retrofit.

(2) The maximum amount of the tax credit allowed under this section is limited to:

(a) 25 percent of the certified cost of each qualifying repower; and

(b) 50 percent of the certified cost of each qualifying retrofit.

(3) The amount of the tax credit allowed to the taxpayer under this section in any one tax year may not exceed the tax liability of the taxpayer for the tax year.

(4) Any tax credit that is allowed under this section, but limited by subsection (3) of this section, and that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section for the second succeeding tax year. Any credit remaining unused in the second succeeding tax year may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section for the third succeeding tax year, but may not be carried forward for any tax year thereafter.

(5) The credit allowed under this section is not in lieu of any depreciation or amortization deduction for the engine to which the taxpayer otherwise may be entitled for purposes of

ORS chapter 316, 317 or 318. The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax credits allowed under this section.

(6)(a) The Department of Revenue may disallow the credit allowed under this section if the department finds that the credit was obtained by fraud or misrepresentation, or if the department learns that the engine that was the subject of the qualifying repower or retrofit was destroyed by arson committed by the taxpayer, or if the engine no longer meets the requirements for obtaining the tax credit.

(b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other law, all prior tax relief provided to the taxpayer shall be forfeited, the department shall proceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit and the taxpayer shall be denied any further credit provided under this section.

(c) The department may perform activities necessary to ensure that recipients of the tax credit comply with applicable requirements.

(7)(a) A nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

(8) The taxpayer shall claim the credit on a form prescribed by the Department of Revenue containing the information required by the Department of Revenue. The taxpayer shall maintain the tax credit cost certification issued by the Department of Environmental Quality under section 51 of this 2007 Act in the records of the taxpayer for the length of time prescribed by the Department of Revenue and shall provide a copy of the cost certification to the Department of Revenue if requested.

(9) A taxpayer may not claim a credit under this section and ORS 315.304 with respect to the same diesel engine or group of diesel engines. A taxpayer may claim a credit under this section and under ORS 469.185 to 469.225 with respect to the same diesel engine or group of diesel engines if the taxpayer and diesel engines otherwise meet the requirements to be allowed a tax credit under ORS 469.185 to 469.225.

SECTION 48. (1) A person that has obtained a tax credit cost certification from the Department of Environmental Quality under section 51 of this 2007 Act may transfer the cost certification to a personal income or corporate income or excise taxpayer in exchange for consideration from the taxpayer.

(2) In order for a credit under section 47 of this 2007 Act to be claimed by a person that does not own the repowered or retrofitted engine that qualifies for the credit, the person that received the tax credit cost certification and the taxpayer that will claim the credit must jointly file a cost certification transfer notice with the Department of Revenue to transfer the cost certification to the taxpayer. The transfer notice shall be on a form prescribed by the department and shall contain any information required by the department.

(3) The cost certification transfer notice shall be filed with the Department of Revenue prior to the first tax year for which a credit will be claimed under section 47 of this 2007 Act. A transfer is not allowed under this section if the transferor has claimed any portion of the credit allowed under section 47 of this 2007 Act.

SECTION 49. Sections 47 and 48 of this 2007 Act apply to diesel engine repower and retrofit tax credit cost certifications issued in tax years beginning on or after January 1, 2008.

SECTION 50. **(1) The Environmental Quality Commission shall adopt rules to implement this section and sections 47, 48 and 51 of this 2007 Act, including rules:**

(a) Imposing a nonrefundable application fee of $50 for applications for cost certification of repowers or retrofits that qualify for the tax credit allowed under section 47 of this 2007 Act.

(b) Imposing a nonrefundable application processing fee. The amount of the fee shall be the amount that in the judgment of the commission is needed for the Department of Environmental Quality to recoup its expenses in administering the tax credit cost certification under section 51 of this 2007 Act.

(2) The Environmental Quality Commission shall consult with the Department of Revenue prior to adopting or amending rules under this section.

SECTION 51. **(1) A person seeking a tax credit under section 47 of this 2007 Act or a person seeking to transfer a tax credit cost certification under section 48 of this 2007 Act shall first apply to the Department of Environmental Quality for certification of the cost of a repower or retrofit of an engine that qualifies for the tax credit under section 47 of this 2007 Act.**

(2) The application must contain the following information:

(a) The name, address and taxpayer identification number of the taxpayer;

(b) A statement that the engine on which the repower or retrofit was performed is owned by the applicant and is intended to be an Oregon diesel engine;

(c) A description of the technologies used in the repower or retrofit that are sufficient for the department to determine if the repower or retrofit qualifies for the tax credit;

(d) Invoices or other documentation of the cost and payment of the repower or retrofit; and

(e) Any other information required by the department or required under rules adopted by the Environmental Quality Commission.

(3) The taxpayer shall file the application within one year following the date of the invoice for the qualifying repower or retrofit. The application may not be accepted unless the application includes payment of the nonrefundable fees imposed under rules adopted under section 50 of this 2007 Act.

(4) The department shall consider completed applications and determine if the application describes a repower or retrofit that qualifies for a tax credit under section 47 of this 2007 Act and, if qualified, the certified cost of the repower or retrofit. In determining the amount of a tax credit under this section, the department shall reduce the incremental cost of a qualifying repower or retrofit by the value of any existing financial incentive that directly reduces the cost of the qualifying repower or retrofit, including tax credits, grants, loans or any other public financial assistance. The department shall send written notice of the certified cost to the taxpayer. The department may not certify more than $3 million of tax credits under this section during each calendar year.

(5) If the department determines that a repower or retrofit does not qualify for a tax credit under section 47 of this 2007 Act or certifies a lesser amount than was sought in the application, the taxpayer may appeal the determination as a contested case under ORS chapter 183.

(6) The department shall deposit fees collected under this section in a miscellaneous receipts account established in the State Treasury for the benefit of the department. Amounts in the account are continuously appropriated to the department for the purpose of reimbursing the department for expenses incurred in administering this section.

SECTION 52. **Sections 47, 48, 50 and 51 of this 2007 Act are repealed on January 2, 2018.**

SECTION 53. Section 28, chapter 618, Oregon Laws 2003, is amended to read:

Sec. 28. (1) As used in this section and section 29**, chapter 618, Oregon Laws 2003** [*of this 2003 Act*]:

(a) "Combined weight" has the meaning given that term in ORS 825.005.

(b) "Motor vehicle" has the meaning given that term in ORS 825.005.

(c) "Truck" means a motor vehicle or combination of vehicles that has a combined weight of more than 26,000 pounds.

(2) A taxpayer who owns a truck that is registered in Oregon under the provisions of ORS chapter 803 or 826 and that has a diesel engine that was purchased in Oregon on or after [*the effective date of this 2003 Act*] **the effective date of this 2007 Act**, and that is certified by the federal Environmental Protection Agency to emit [*oxides of nitrogen*] **particulate matter** at the rate of [*2.5*] **0.01** grams per brake horsepower-hour or less, is allowed a credit against the taxes otherwise due under ORS chapter 316, if the taxpayer is a resident individual, or against the taxes otherwise due under ORS chapter 317, if the taxpayer is a corporation. The total amount of the credit under this section depends on the number of trucks owned by the taxpayer prior to the purchase, as follows:

(a) 1 to 10 trucks, $925 for each qualifying engine purchased.

(b) 11 to 50 trucks, $705 for each qualifying engine purchased.

(c) 51 to 100 trucks, $525 for each qualifying engine purchased.

(d) More than 100 trucks, $400 for each qualifying engine purchased.

(3) Notwithstanding subsection (2) of this section, a taxpayer may not claim a credit under this section of more than $80,000 for purchases in any one year.

(4) A credit may not be allowed under this section unless the taxpayer claiming the credit complies with rules adopted by the [*Department of*] Environmental Quality **Commission** and the Department of Revenue as provided in section 29**, chapter 618, Oregon Laws 2003** [*of this 2003 Act*].

(5) Except as provided under subsection (6) of this section, the credit allowed in any one year may not exceed the tax liability of the taxpayer.

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

(7)(a) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the truck to which the taxpayer otherwise may be entitled under ORS chapter 316 or 317 for the tax year.

(b) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax credit allowed under this section.

(8)(a) Pursuant to the procedures for a contested case under ORS [*183.310 to 183.550*] **chapter 183**, the Department of Revenue may order the disallowance of the credit allowed under this section if it finds, by order, that the credit was obtained by fraud or misrepresentation.

(b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other law, all prior tax relief provided to the taxpayer shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit.

(c) If the tax credit is disallowed pursuant to this subsection, the taxpayer shall be denied any further credit provided under this section from and after the date that the order of disallowance becomes final.

(9) If the engine is destroyed by fire, flood, natural disaster or act of God before all of the credit has been used, the taxpayer may nevertheless claim the credit as if no destruction had taken place. In the event of fire, if the fire chief of the fire protection district or unit determines that the fire was caused by arson, as described in ORS 164.315 and 164.325, by the taxpayer or by another at the taxpayer's direction, then the fire chief shall notify the Department of Revenue. If the taxpayer is

convicted of arson, the Department of Revenue shall disallow the credit in accordance with subsection (8) of this section.

(10)(a) A nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

SECTION 54. Section 29, chapter 618, Oregon Laws 2003, is amended to read:

Sec. 29. (1) The [*Department of*] Environmental Quality **Commission, after consultation with** [*and*] the Department of Revenue**,** shall adopt rules for implementing section 28 [*of this 2003 Act*]**, chapter 618, Oregon Laws 2003**. Rules may include but need not be limited to rules specifying procedures for application, review and approval of the tax credit and rules for issuance and use of a certificate of credit approval.

(2) The application developed under subsection (1) of this section shall include:

(a) The name, address and taxpayer identification number of the taxpayer;

(b) The number of trucks owned by the taxpayer and the number of engines eligible for the tax credit that the taxpayer has purchased; and

(c) Any other information that the rules adopted under subsection (1) of this section may require.

(3) Applications filed in compliance with this section and section 28 [*of this 2003 Act*]**, chapter 618, Oregon Laws 2003,** shall be approved to the extent that the total of estimated tax credits for all approved purchases of engines for the calendar year is equal to or less than [*$3 million*] **$500,000**. An application may not be approved if the addition of the amount of the tax credit to the amount of the tax credits for all approved purchases for the calendar year would exceed [*$3 million*] **$500,000**.

(4) Notwithstanding section 31 [*of this 2003 Act*]**, chapter 618, Oregon Laws 2003**, the Department of Environmental Quality may approve applications for tax credits for qualifying engines purchased in calendar years 2004[*, 2005, 2006 and 2007*] **through 2011**, although the taxpayer may not claim the credit until a tax year beginning on or after January 1, 2005.

(5) The Department of Revenue may disallow, in whole or in part, a claim for credit under section 28 [*of this 2003 Act*]**, chapter 618, Oregon Laws 2003,** upon the Department of Revenue's determination that, under section 28 [*of this 2003 Act*]**, chapter 618, Oregon Laws 2003**, the taxpayer is not entitled to the credit or is entitled to only a portion of the amount claimed.

(6) The Department of Environmental Quality shall charge a fee of [*$15*] **$50** for each engine for which a taxpayer applies for a tax credit. The fee is payable to the department and may not be refunded to the applicant for any reason.

SECTION 55. Section 31, chapter 618, Oregon Laws 2003, is amended to read:

Sec. 31. The tax credit established in section 28 [*of this 2003 Act*]**, chapter 618, Oregon Laws 2003,** applies to tax years beginning on and after January 1, 2005, and to engine model years 2003[*, 2004, 2005, 2006 and 2007*] **through 2011**.

SECTION 56. Section 32, chapter 618, Oregon Laws 2003, is amended to read:

Sec. 32. A certificate of credit approval may not be issued under section 29**, chapter 618, Oregon Laws 2003,** [*of this 2003 Act*] after December 31, [*2007*] **2011**.

SECTION 57. The amendments to sections 28, 29, 31 and 32, chapter 618, Oregon Laws 2003, by sections 53 to 56 of this 2007 Act apply to certificates of credit approval under section 29, chapter 618, Oregon Laws 2003, that are issued on or after the effective date of this 2007 Act.

SECTION 58. **(1) Sections 47 and 48 of this 2007 Act and section 28, chapter 618, Oregon Laws 2003, are added to and made a part of ORS chapter 315.**

(2) Sections 50 and 51 of this 2007 Act and section 29, chapter 618, Oregon Laws 2003, are added to and made a part of ORS chapter 468A.

SECTION 59. ORS 315.514 is amended to read:

315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film production development contributions made by the taxpayer during the tax year to the Oregon Production Investment Fund established under ORS 284.367.

(2)(a) The amount of the tax credit shall equal the amount certified for credit by the Oregon Film and Video Office, except that a contribution must equal at least 90 percent of the tax credit.

(b) The Oregon Film and Video Office shall adopt rules for determining the amount of tax credit to be certified by the office. The rules shall be adopted in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of [*$1 million*] **$5 million** are certified for each fiscal year;

(B) Maximize income and excise tax revenues that are retained by the State of Oregon for state operations; and

(C) Provide the necessary financial incentives for taxpayers to make contributions, taking into consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

(3) A taxpayer seeking a tax credit under this section shall apply for tax credit certification to the Oregon Film and Video Office on a form supplied by the office. The taxpayer shall include payment of the contribution at the time of application.

(4) Contributions made under this section shall be deposited in the Oregon Production Investment Fund.

(5)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed [*$1 million*] **$5 million** for the fiscal year in which certification is made.

(b) The Oregon Film and Video Office is not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(6) To the extent the Oregon Film and Video Office does not certify contributed amounts as eligible for a tax credit under this section, the taxpayer may request a refund of the amount the taxpayer contributed, and the office shall refund that amount.

(7)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this section may not exceed the tax liability of the taxpayer and may not be carried over to another tax year.

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

(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2012.

(8) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer, the amount shall be allowed without proration under ORS 316.117.

(9) A taxpayer who has received a tax credit certificate under this section may sell the certificate to another taxpayer. The sale is effective only if a notice of tax credit certificate sale is filed with the Department of Revenue. The notice shall be filed on a form prescribed by the department on or before the date on which the income or corporate excise tax return of the buyer for the first

year for which the credit could be claimed is filed or due, whichever is earlier. The notice form shall include the following information:

(a) The name and taxpayer identification number of the seller;

(b) The name and taxpayer identification number of the buyer;

(c) The amount of the tax credit certificate that is being sold to the buyer;

(d) The amount of the tax credit certificate that is being retained by the seller; and

(e) Any other information required by the department.

(10) If requested by the Department of Revenue, the Oregon Film and Video Office shall supply a list of taxpayers that have obtained tax credit certification under this section, and for each listed taxpayer disclose:

(a) The amount of contribution made by the taxpayer; and

(b) The amount certified for tax credit under this section.

(11) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes.

SECTION 60. The amendments to ORS 315.514 by section 59 of this 2007 Act apply to tax credit certifications issued by the Oregon Film and Video Office on or after the effective date of this 2007 Act.

SECTION 61. ORS 317.097 is amended to read:

317.097. (1) A credit against taxes otherwise due under this chapter for the taxable year shall be allowed to a lending institution in an amount equal to the difference between:

(a) The amount of finance charge charged by the lending institution during the taxable year at an annual rate less than the market rate for a loan that is made before January 1, 2020, that complies with the requirements of this section; and

(b) The amount of finance charge that would have been charged during the taxable year by the lending institution for the loan for housing construction, development**, acquisition** or rehabilitation measured at the annual rate charged by the lending institution for nonsubsidized loans made under like terms and conditions at the time the loan for housing construction, development**, acquisition** or rehabilitation is made.

(2) The maximum amount of credit for the difference between the amounts described in subsection (1)(a) and (b) of this section may not exceed four percent of the average unpaid balance of the loan during the tax year for which the credit is claimed.

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

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

(a) Made to an individual or individuals who own the dwelling, participate in an owner-occupied community rehabilitation program and are certified by the local government or its designated agent as having an income level at the time the loan is made of less than 80 percent of the area median income; [*or*]

(b)(A) Made to a qualified borrower;

(B) Used to finance construction, **development, acquisition or** rehabilitation [*or development*] of housing; and

(C) Accompanied by a written certification by the Housing and Community Services Department that the:

(i) Housing created by the loan is or will be occupied by households earning less than 80 percent of the area median income; and

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments, regardless of other subsidies provided to the housing project[.]**;**

(c)(A) Made to a qualified borrower;

(B) Used to finance construction, development, acquisition, or acquisition and rehabilitation of housing consisting of a manufactured dwelling park; and

(C) Accompanied by a written certification by the Housing and Community Services Department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed; or

(d)(A) Made to a qualified borrower;

(B) Used to finance acquisition, or acquisition and rehabilitation, of housing consisting of a preservation project; and

(C) Accompanied by a written certification by the Housing and Community Services Department that the housing preserved by the loan:

(i) Is or will be occupied by households earning less than 80 percent of the area median income; and

(ii) Has a rent assistance contract with the United States Department of Housing and Urban Development or the United States Department of Agriculture that will be maintained by the qualified borrower.

(5) A loan made to refinance a loan that meets the criteria stated in subsection (4) of this section shall be treated the same as a loan that meets the criteria stated in subsection (4) of this section.

(6) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan also shall be accompanied by a written certification by the Housing and Community Services Department that:

(a) Specifies the period, as determined by the Housing and Community Services Department, during which the loan is eligible for the tax credit under subsection (1) of this section; and

(b) States that the loan is within the limitation imposed by subsection (7) of this section.

(7)(a) The Housing and Community Services Department may certify loans that are eligible under subsection (4) of this section if the total credits attributable to all loans eligible for credits under subsection (1) of this section and then outstanding do not exceed [*$11*] **$13** million for any **fiscal** year. In making loan certifications, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the State Housing Council to have the greatest need for affordable housing.

(b) The certification under subsection (6) of this section shall state the period for which the credit will be allowed, which may not exceed 20 years.

(8) The applicant's receipt of a credit under section 42 of the Internal Revenue Code does not affect the credit allowed under this section.

(9) A loan meeting the requirements of subsections (4) and (6) of this section may be sold to a qualified assignee with or without the lending institution's retaining servicing of the loan so long as a designated lending institution maintains records annually verified by a loan servicer that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

(10) As used in this section:

(a) "Annual rate" means the yearly interest rate specified on the note, and not the annual percentage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

(b) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed by the lending institution, and other charges related to the cost of obtaining credit.

(c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008, any mortgage banking company that maintains an office in this state or any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

(e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2006.

(f) "Preservation project" means housing that was previously developed as affordable housing with a contract for rent assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity.

[*(d)*] **(g)** "Qualified assignee" means any investor participating in the secondary market for real estate loans.

[*(e)*] **(h)** "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by the loan described in subsection (4) of this section. Such a controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

[*(f)*] **(i)** "Sponsoring entity" means a nonprofit corporation, **nonprofit cooperative,** state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any other person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, **nonprofit cooperative,** state governmental entity, local unit of government or housing authority.

(11) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Nonprofit Corporation Law may transfer any part or all of any tax credit arising under subsection (1) of this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more loans that generate the tax credit under subsection (1) of this section.

(12) The lending institution shall file an annual statement with the Housing and Community Services Department, specifying that it has conformed with all requirements imposed by law to qualify for this tax credit.

(13) The Housing and Community Services Department and the Department of Revenue may adopt rules to carry out the provisions of this section.

SECTION 62. The amendments to ORS 317.097 by section 61 of this 2007 Act apply to tax credit certifications issued on or after the effective date of this 2007 Act.

SECTION 63. ORS 316.085 is amended to read:

316.085. (1)(a) There shall be allowed a personal exemption credit against taxes otherwise due under this chapter. The credit shall equal $90 multiplied by the number of personal exemptions allowed under section 151 of the Internal Revenue Code.

(b) In the case of an individual with respect to whom a credit under paragraph (a) of this subsection is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the credit amount applicable to such individual for such individual's taxable year is zero.

(2)(a) A nonresident shall be allowed the credit provided under subsection (1) of this section computed in the same manner and subject to the same limitations as the credit allowed to a resident of this state. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

(3) The Department of Revenue shall recompute the dollar amount of the personal exemption credit allowed for state personal income tax purposes. The computation shall be as follows:

(a) Divide the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year by the monthly averaged index for the first six months of 1986.

(b) Recompute the dollar amount of the personal exemption credit by multiplying $90 by the appropriate indexing factor determined as provided in paragraph (a) of this subsection. Round off the amount obtained under this paragraph to the nearest $1.

(4) As used in this section, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

[*(5) For purposes of determining if a personal exemption credit or an additional personal exemption credit is allowable under this chapter or determining the number of personal exemption credits allowed, section 151(d)(3) of the Internal Revenue Code shall be disregarded.*]

(5) Notwithstanding subsections (1) to (3) of this section, if a taxpayer's federal adjusted gross income for the tax year exceeds the threshold amount, the exemption amount shall be the greater of:

(a) Thirty-three percent of the amount computed in subsection (3) of this section; or

(b) The amount computed in subsection (3) of this section reduced by:

(A) Two percentage points for each $2,500 (or fraction thereof) by which the taxpayer's federal adjusted gross income exceeds the threshold amount; or

(B) Two percentage points for each $1,250 (or fraction thereof) by which the taxpayer's federal adjusted gross income exceeds the threshold amount, if the taxpayer is married but filing separately.

(6) As used in this section, "threshold amount" means:

(a) $234,600 in the case of a joint return or a surviving spouse.

(b) $195,500 in the case of a head of a household.

(c) $156,400 in the case of an individual who is not a married individual and is not a surviving spouse.

(d) $117,300 in the case of a married individual filing a separate return.

(7) The Department of Revenue shall adjust the threshold amounts in subsection (6) of this section according to the cost-of-living adjustment for the calendar year. The department shall annually recompute the threshold amounts for the current tax year by multiplying each dollar amount by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2006.

(8) If a threshold amount computed under subsections (6) and (7) of this section is not a multiple of $50, the amount shall be rounded to the next lower multiple of $50.

SECTION 64. The amendments to ORS 316.085 by section 63 of this 2007 Act apply to tax years beginning or after January 1, 2007.

SECTION 65. Section 2, chapter 649, Oregon Laws 1975, as amended by section 3, chapter 422, Oregon Laws 1979, section 2, chapter 169, Oregon Laws 1985, section 5, chapter 748, Oregon Laws 1995, and section 5, chapter 67, Oregon Laws 2001, is amended to read:

Sec. 2. ORS 307.183 applies to tax years beginning on or after July 1, 1976[*, but prior to July 1, 2012*].

SECTION 66. Section 2, chapter 422, Oregon Laws 1979, as amended by section 3, chapter 169, Oregon Laws 1985, section 6, chapter 748, Oregon Laws 1995, and section 6, chapter 67, Oregon Laws 2001, is amended to read:

Sec. 2. ORS 307.184 applies to tax years beginning on or after July 1, 1980[*, but prior to July 1, 2012*].

SECTION 67. Section 68 of this 2007 Act is added to and made a part of ORS 118.005 to 118.840.

SECTION 68. (1) As used in this section, "natural resource property" means real property, as defined in ORS 307.010, lawfully qualified, at the decedent's death, for designation as:

(a) Farm use, as defined in ORS 308A.056, or as one or more farm use homesites, as defined in ORS 308A.250, related to that real property; or

(b) Forestland, as defined in ORS 321.201, or as one or more forestland homesites, as defined in ORS 308A.250, related to that real property, not to exceed 5,000 acres.

(2) For purposes of computing the tax imposed under ORS 118.010, the gross estate of a decedent may not include the value of:

(a) Natural resource property, to the extent the value of natural resource property does not exceed $7.5 million; or

(b) Property used in commercial fishing operations and any property used in processing or marketing of the product of those commercial fishing operations, to the extent the value of the property described in this paragraph does not exceed $7.5 million.

(3) Subsection (2) of this section applies only if the property that is excluded from the value of the gross estate under subsection (2) of this section is transferred to:

(a) The spouse of the decedent;

(b) A natural or adopted child of the decedent;

(c) A natural or adopted grandchild of the decedent;

(d) A natural or adopted brother or sister of the decedent; or

(e) A natural or adopted niece or nephew of the decedent.

(4)(a) For each calendar year beginning on or after January 1, 2009, the Department of Revenue shall recompute the maximum excluded value of the gross estate provided for in subsection (2) of this section by the change in the cost of living, if any. The computation shall be as follows:

(A) Divide the average U.S. City Average Consumer Price Index for the 12 consecutive months ending January 1 of the calendar year prior to the calculation by the average U.S. City Average Consumer Price Index for the calendar year 2007.

(B) Multiply $7.5 million by the indexing factor determined as provided in subparagraph (A) of this paragraph.

(b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(c) If any change in the maximum excluded value of the gross estate determined under paragraph (a) of this subsection is not a multiple of $500, the change shall be rounded to the nearest $500.

(5)(a) If property initially excluded from the value of a gross estate as natural resource property under this section is not then used as natural resource property for at least five out of the eight calendar years following the decedent's death or is disposed of by the transferee other than by disposition to another family member who is eligible for the exclusion allowed under this section, an additional tax under ORS 118.005 to 118.840 shall be imposed.

(b) The additional tax liability shall be an amount that is no greater than the amount of additional taxes that would have been due had the property been included in the gross estate, but at least the amount of such additional taxes multiplied by ((five minus the number of years the property was used as natural resource property) divided by five). The additional tax liability shall be apportioned to the estate for any time period prior to transfer and apportioned to the transferee for any time period thereafter.

(c) Prior to the transfer of property treated as natural resource property under this section, the executor or the decedent shall notify the transferee of the potential for tax

consequences to the transferee if the transferee fails to meet the conditions of paragraph (a) of this subsection. The transferee's written acknowledgment of this notice shall be attached to the inheritance tax return.

(6) The Department of Revenue shall adopt rules consistent with those adopted under section 2032A of the Internal Revenue Code, as that section was amended and in effect on December 31, 2006, to administer this section.

SECTION 69. Section 68 of this 2007 Act applies only to decedents who die on or after January 1, 2007.

SECTION 70. (1) As used in this section and section 71 of this 2007 Act:

(a) "Assessor" means the county assessor, or the Department of Revenue if under ORS 306.126 the department is responsible for appraisal of the facility at which the qualified machinery and equipment is located.

(b) "Egg processor" means a person engaged in the business of freezing, canning, dehydrating, concentrating, preserving, processing or repacking eggs for human consumption in any procedure that occurs prior to the point of first sale by the processor.

(c) "Integrated processing line" does not include forklifts, trucks or other rolling stock used to transport material to or from a point of manufacture or assembly.

(d) "Qualified machinery and equipment" means property, whether new or used, that is newly acquired by an egg processor and placed into service prior to January 1 preceding the first tax year for which an exemption under this section is sought, and that consists of:

(A) Real property machinery and equipment that is used by an egg processor in the primary processing of eggs; or

(B) Personal property machinery and equipment that is used in an integrated processing line for the primary processing of eggs.

(2)(a) On or before March 1 preceding the first tax year for which property is to be exempt from taxation under this section, an egg processor seeking an exemption under this section shall apply to the assessor for exemption. The application shall be on a form prescribed by the Department of Revenue and shall include any information required by the department, including a schedule of the qualified machinery and equipment for which certification is sought.

(b) Notwithstanding paragraph (a) of this subsection, the assessor may approve an application that is filed after March 1, and on or before December 31 of the assessment year, if the statement is accompanied by a late filing fee of the greater of $200 or one-tenth of one percent of the real market value of the property that is the subject of the application.

(c) The assessor shall review the application and, if the machinery and equipment that is the subject of the application constitutes qualified machinery and equipment certified by the State Department of Agriculture under section 71 of this 2007 Act, shall approve the application and exempt the qualified machinery and equipment.

(d) If any of the machinery and equipment that is the subject of the application does not constitute qualified machinery and equipment certified by the State Department of Agriculture under section 71 of this 2007 Act, the assessor shall exclude the nonqualified machinery and equipment from the application.

(3) Qualified machinery and equipment for which an application has been approved under subsection (2) of this section shall be exempt for the tax year for which the application was approved and for the next four succeeding tax years, if as of the assessment date for each year the property constitutes qualified machinery and equipment.

(4) The duration of the exemption under subsection (3) of this section may not be extended as the result of the value of changes to qualified machinery and equipment that are attributable to rehabilitation, reconditioning or ongoing maintenance or repair.

SECTION 71. (1) At the request of an egg processor or under the State Department of Agriculture's own initiative, the department shall certify qualified machinery and equipment as eligible for exemption under section 70 of this 2007 Act.

(2) The method of certification under this section shall be provided by rules adopted by the State Department of Agriculture, after consultation with the Department of Revenue.

(3) A decision by the State Department of Agriculture to deny certification of certain property may be appealed to the Director of Agriculture as a contested case under ORS chapter 183.

SECTION 72. The Department of Revenue and the State Department of Agriculture may adopt rules to implement the provisions of sections 70 and 71 of this 2007 Act.

SECTION 73. The exemption provided in section 70 of this 2007 Act applies only to the taxes of a taxing district the governing body of which has adopted an ordinance or resolution authorizing the exemption under section 70 of this 2007 Act.

SECTION 74. Sections 70 to 73 of this 2007 Act are added to and made a part of ORS chapter 307.

SECTION 75. Section 70 of this 2007 Act applies to tax years beginning on or after July 1, 2007, and before July 1, 2012.

SECTION 76. Section 77 of this 2007 Act is added to and made a part of ORS chapter 285C.

SECTION 77. ORS 285C.500 to 285C.506 may be cited as the Oregon Investment Advantage Act.

SECTION 78. ORS 285C.506 is amended to read:

285C.506. (1) Following completion of the construction, reconstruction, modification, acquisition, installation or lease of the facility, the hiring of employees to conduct business operations at the facility and the commencement of operations at the facility, a business firm that obtained preliminary certification under ORS 285C.503 may apply for annual certification under this section.

(2) The application shall be filed with the Economic and Community Development Department on or before 30 days after the end of the income or corporate excise tax year of the business firm.

(3) The application shall contain the following information:

(a) A description of the business operations conducted at the facility;

(b) The date business operations commenced at the facility;

(c) The number of full-time, year-round employees employed by the business firm at the facility;

(d) A schedule of the annual compensation paid to the employees; and

(e) Any other information required by the department.

(4) An application filed under this section must be accompanied by a fee in an amount prescribed by the department by rule. The fee required by the department may not exceed $100.

(5) The department shall review a business firm's application and approve the application if:

(a) The business operations of the firm at the facility commenced within 10 years before the end of the tax year preceding the date of application for annual certification; **and**

[*(b) The facility and the business operations actually conducted at the facility are reasonably similar to the proposed facility and proposed operations described in the application for preliminary certification; and*]

[*(c)*] **(b)** The business firm has satisfied the employment and minimum compensation requirements described in ORS 285C.503 (5)(c) and (d).

(6) In the case of the first application for annual certification filed by a business firm under this section, the department may approve the application only if, in addition to the requirements [*under*] **of** subsection (5) of this section:

(a) Business operations commenced at the facility within a reasonable period of time, as determined by the department by rule, following the date of preliminary certification under ORS 285C.503; [*and*]

(b) There has not been a significant interruption in construction, reconstruction, modification or installation activity at the location, as determined by the department by rule, following the date of preliminary certification under ORS 285C.503[.]**; and**

(c) The facility and the business operations actually conducted at the facility are reasonably similar to the proposed facility and proposed operations described in the application for preliminary certification.

(7) After the first application for annual certification, the department may approve a subsequent application or certification filed under this section only if:

(a) The business firm meets the requirements of subsection (5) of this section; and

(b) The facility and the business operations actually conducted at the facility retain similar characteristics to the facility and the business operations actually conducted at the facility during the period of prior certification. This paragraph does not preclude an applicant from changing the location of the facility, the ownership or organization of the business firm or other aspects of the facility or business firm that are within the intent of ORS 285C.500 to 285C.506 if the change is made in accordance with rules adopted by the department.

[*(7)*] **(8)** The department may consult with the city or county in determining whether to approve or disapprove an application under this section.

[*(8)*] **(9)** If the department approves an application, it shall issue an annual certification to the business firm.

[*(9)*] **(10)** If the department disapproves an application, the business firm or any owner of the business firm may not be allowed the exemption described in ORS 316.778 or 317.391 for the tax year for which the annual certification was sought or for any subsequent tax year.

[*(10)*] **(11)** The decision of the department to disapprove an application under this section may be appealed in the manner of a contested case under ORS chapter 183.

[*(11)*] **(12)** An annual certification may not be issued under this section for a tax year that is more than nine consecutive tax years following the first tax year an exemption is allowed under ORS 316.778 or 317.391 with respect to the facility.

[*(12)*] **(13)** The department must approve or disapprove an application under this section within 30 days of the date the application is filed.

SECTION 79. Section 3, chapter 595, Oregon Laws 2005, is amended to read:

Sec. 3. Notwithstanding ORS 285C.500 (5), for purposes of preliminary certifications issued under ORS 285C.503 on or after January 1, 2006, and before January 1, 2011, and annual certifications issued under ORS 285C.506 that are associated with preliminary certifications issued under ORS 285C.503 on or after January 1, 2006, and before January 1, 2011:

(1) "Qualified location" means any area that is:

(a) Within the urban growth boundary of a city that has 15,000 or fewer residents or is land zoned for industrial use; and

(b) Located in a county that, during either of the two years preceding the date an application for preliminary certification is filed under ORS 285C.503 and this section, had:

(A) A county unemployment rate that was in the highest third of county unemployment rates in this state; or

(B) A county per capita personal income that was in the lowest third of county per capita personal incomes in this state.

(2) The minimum annual compensation requirements of ORS 285C.503 (5)(d) do not apply.

(3) In lieu of the requirements of ORS 285C.506 (5), the Economic and Community Development Department shall approve an application for annual certification if the business firm satisfies the requirements of ORS 285C.506 (5)(a) and [*(b)*] **(6)(c)** and the business firm satisfies the employment requirements of ORS 285C.503 (5)(c).

SECTION 80. The amendments to ORS 285C.506 and section 3, chapter 595, Oregon Laws 2005, by sections 78 and 79 of this 2007 Act apply to tax years beginning on or after January 1, 2007.

SECTION 81. Section 82 of this 2007 Act is added to and made a part of ORS chapter 316.

SECTION 82. (1) As used in this section:

(a) "Household" has the meaning given that term in ORS 310.630.

(b) "Manufactured dwelling" has the meaning given that term in ORS 446.003.

(c) "Manufactured dwelling park" means a place within this state where four or more manufactured dwellings are located, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

(d) "Rental agreement" means a contract under which an individual rents space in a manufactured dwelling park for siting a manufactured dwelling.

(2) A credit of $5,000 against the taxes otherwise due under this chapter is allowed to an individual who:

(a) Rents space in a manufactured dwelling park for a manufactured dwelling that is owned and occupied by the individual as the individual's principal residence on the date that the landlord delivers notice that the park, or a portion of the park, is being closed and the rental agreement for the space is being terminated because of the exercise of eminent domain, by order of a federal, state or local agency or by the landlord; and

(b) Ends tenancy at the manufactured dwelling park site in response to the delivered notice described in paragraph (a) of this subsection.

(3) For purposes of subsection (2) of this section:

(a) Tenancy by the individual at the manufactured dwelling park site ends on the last day that a member of the individual's household occupies the manufactured dwelling at the manufactured dwelling park site; and

(b) Tenancy by the individual at the manufactured dwelling park site does not end if the manufactured dwelling park is converted to a subdivision under ORS 92.830 to 92.845 and the individual buys a space or lot in the subdivision or sells the manufactured dwelling to a person who buys a space or lot in the subdivision.

(4) Notwithstanding subsection (2) of this section, if the manufactured dwelling park, or a portion of the park, is being closed and the rental agreement of the individual is being terminated because of the exercise of eminent domain, the credit amount allowed to the individual is the amount described in subsection (2) of this section, reduced by any amount that was paid to the individual as compensation for the exercise of eminent domain.

(5) An individual may not claim more than one credit under this section for tenancies ended during the tax year.

(6) If, for the year in which the individual ends the tenancy at the manufactured dwelling park, the amount of the credit allowed by this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 and 316.583 plus other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by this chapter or ORS chapter 314 for the tax year, reduced by any nonrefundable credits allowable for purposes of this chapter for the tax year, the amount of the excess shall be refunded to the individual as provided in ORS 316.502.

(7) If more than one individual in a household qualifies under this section to claim the tax credit, the qualifying individuals may each claim a share of the available credit that is in proportion to their respective gross incomes for the tax year.

SECTION 83. Section 82 of this 2007 Act applies to individuals whose household ends tenancy at a manufactured dwelling park during a tax year that begins on or after January 1, 2007, and before January 1, 2013.

SECTION 84. ORS 316.502 is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of $1 million.

(3) Moneys are continuously appropriated to the Department of Revenue to make:

(a) The refunds authorized under subsection (2) of this section;

(b) The refund payments in excess of tax liability authorized under ORS 315.262 and 315.266 **and section 82 of this 2007 Act**; and

(c) The refund payments in excess of tax liability authorized under ORS 316.153 (4).

SECTION 85. ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of $1 million.

(3) Moneys are continuously appropriated to the Department of Revenue to make:

(a) The refunds authorized under subsection (2) of this section; and

(b) The refund payments in excess of tax liability authorized under ORS 315.262 and 315.266 **and section 82 of this 2007 Act**.

SECTION 86. ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, and section 60, chapter 832, Oregon Laws 2005, is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of $1 million.

(3) Moneys are continuously appropriated to the Department of Revenue to make:

(a) The refunds authorized under subsection (2) of this section; and

(b) The refund payments in excess of tax liability authorized under ORS 315.262 **and section 82 of this 2007 Act**.

SECTION 87. ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, section 60, chapter 832, Oregon Laws 2005, and section 86 of this 2007 Act, is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of $1 million.

(3) Moneys are continuously appropriated to the Department of Revenue to make:

(a) The refunds authorized under subsection (2) of this section; and

(b) The refund payments in excess of tax liability authorized under ORS 315.262 [*and section 82 of this 2007 Act*].

SECTION 88. (1) The amendments to ORS 316.502 by sections 84 to 86 of this 2007 Act apply to refunds for credits claimed for tax years beginning on or after January 1, 2007, and before January 1, 2013.

(2) The amendments to ORS 316.502 by section 87 of this 2007 Act become operative January 2, 2018.

SECTION 89. ORS 316.153 is repealed.

SECTION 90. The repeal of ORS 316.153 by section 89 of this 2007 Act applies to tax years beginning on or after January 1, 2007.

SECTION 91. ORS 90.635 is amended to read:

90.635. (1) If a facility is closed or a portion of a facility is closed, resulting in the termination of the rental agreement between the landlord of the facility and a tenant renting space for a manufactured dwelling, whether because of the exercise of eminent domain, by order of the state or local agencies, or as provided under ORS 90.630 (5), the landlord shall provide notice to the tenant of the tax credit provided under [*ORS 316.153*] **section 82 of this 2007 Act**. The notice shall state the eligibility requirements for the credit, information on how to apply for the credit and any other information required by the Office of Manufactured Dwelling Park Community Relations by rule.

(2) The landlord shall send the notice described under subsection (1) of this section to a tenant affected by a facility closure on or before:

(a) The date notice of rental termination must be given to the tenant under ORS 90.630 (5), if applicable; or

(b) In the event of facility closure by exercise of eminent domain or by order of a state or local agency, within 15 days of the date the landlord received notice of the closure.

(3) The landlord shall forward to the office a list of the names and addresses of tenants to whom notice under this section has been sent.

(4) The office may adopt rules to implement this section, including rules specifying the form and content of the notice described under this section.

SECTION 92. This 2007 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fourth Legislative Assembly adjourns sine die.

Passed by House June 7, 2007

Repassed by House June 25, 2007

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate June 21, 2007

.....
President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

.....
Secretary of State