

House Bill 2756

Sponsored by Representative HOLVEY, Senator BEYER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Becomes operative on January 1, 2018.

Requires loan contracts to make loans payable in full in event that Director of Oregon Business Development Department declares default of payment of loan or project that is subject of loan fails to meet standards and criteria for projects. Becomes operative on January 1, 2018.

Transfers moneys from Alternative Fuel Vehicle Revolving Fund to Small Scale Local Energy Project Loan Fund.

Appropriates moneys from General Fund to Oregon Business Development Department for purposes of Act.

Repeals energy efficiency and sustainable technology loan program.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to small scale local energy projects; creating new provisions; amending ORS 223.680, 291.445, 470.050, 470.060, 470.070, 470.080, 470.090, 470.100, 470.110, 470.120, 470.130, 470.135, 470.140, 470.145, 470.150, 470.160, 470.170, 470.180, 470.190, 470.200, 470.210, 470.230, 470.270, 470.300, 470.310, 470.810, 470.815 and 757.247; and repealing ORS 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585, 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630, 470.635, 470.640, 470.645, 470.650, 470.655, 470.660, 470.665, 470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700, 470.710, 470.715, 470.720, 701.108 and 701.119; and prescribing an effective date.

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

TRANSFER OF DUTIES, FUNCTIONS AND POWERS RELATED TO SMALL SCALE LOCAL ENERGY PROJECTS

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

RECORDS, PROPERTY, EMPLOYEES

SECTION 2. (1) The Director of the State Department of Energy shall:

(a) Deliver to the Oregon Business Development Department all records and property

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 within the jurisdiction of the director that relate to the duties, functions and powers trans-
 2 ferred by section 1 of this 2017 Act; and

3 (b) Transfer to the Oregon Business Development Department those employees engaged
 4 primarily in the exercise of the duties, functions and powers transferred by section 1 of this
 5 2017 Act.

6 (2) The Director of the Oregon Business Development Department shall take possession
 7 of the records and property, and shall take charge of the employees and employ them in the
 8 exercise of the duties, functions and powers transferred by section 1 of this 2017 Act, without
 9 reduction of compensation but subject to change or termination of employment or compen-
 10 sation as provided by law.

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

14
 15 **UNEXPENDED REVENUES**

16
 17 **SECTION 3.** (1) The unexpended balances of amounts authorized to be expended by the
 18 State Department of Energy for the biennium beginning July 1, 2017, from revenues dedi-
 19 cated, continuously appropriated, appropriated or otherwise made available for the purpose
 20 of administering and enforcing the duties, functions and powers transferred by section 1 of
 21 this 2017 Act are transferred to and are available for expenditure by the Oregon Business
 22 Development Department for the biennium beginning July 1, 2017, for the purpose of admin-
 23 istering and enforcing the duties, functions and powers transferred by section 1 of this 2017
 24 Act.

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

28
 29 **ACTION, PROCEEDING, PROSECUTION**

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 31 **SECTION 4.** The transfer of duties, functions and powers to the Oregon Business Devel-
 32 opment Department by section 1 of this 2017 Act does not affect any action, proceeding or
 33 prosecution involving or with respect to the duties, functions and powers begun before and
 34 pending at the time of the transfer, except that the Oregon Business Development Depart-
 35 ment is substituted for the State Department of Energy in the action, proceeding or prose-
 36 cution.

37
 38 **LIABILITY, DUTY, OBLIGATION**

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 40 **SECTION 5.** (1) Nothing in sections 1 to 7 of this 2017 Act or in the amendments to
 41 statutes by sections 8 to 32 of this 2017 Act relieves a person of a liability, duty or obligation
 42 accruing under or with respect to the duties, functions and powers transferred by section 1
 43 of this 2017 Act. The Oregon Business Development Department may undertake the col-
 44 lection or enforcement of any such liability, duty or obligation.

45 (2) The rights and obligations of the State Department of Energy legally incurred under

1 contracts, leases and business transactions executed, entered into or begun before the op-
 2 erative date of section 1 of this 2017 Act accruing under or with respect to the duties, func-
 3 tions and powers transferred by section 1 of this 2017 Act are transferred to the Oregon
 4 Business Development Department. For the purpose of succession to these rights and obli-
 5 gations, the Oregon Business Development Department is a continuation of the State De-
 6 partment of Energy and not a new authority.

7
 8 **RULES**
 9

10 **SECTION 6.** Notwithstanding the transfer of duties, functions and powers by section 1
 11 of this 2017 Act, the rules of the State Department of Energy with respect to such duties,
 12 functions or powers that are in effect on the operative date of section 1 of this 2017 Act
 13 continue in effect until superseded or repealed by rules of the Oregon Business Development
 14 Department. References in the rules of the State Department of Energy to the State De-
 15 partment of Energy or an officer or employee of the State Department of Energy are con-
 16 sidered to be references to the Oregon Business Development Department or an officer or
 17 employee of the Oregon Business Development Department.

18 **SECTION 7.** Whenever, in any uncodified law or resolution of the Legislative Assembly
 19 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
 20 the context of the duties, functions and powers transferred by section 1 of this 2017 Act,
 21 reference is made to the State Department of Energy, or an officer or employee of the State
 22 Department of Energy whose duties, functions or powers are transferred by section 1 of this
 23 2017 Act, the reference is considered to be a reference to the Oregon Business Development
 24 Department or an officer or employee of the Oregon Business Development Department who
 25 by this 2017 Act is charged with carrying out the duties, functions and powers.

26
 27 **AMENDMENTS TO STATUTES**
 28

29 **SECTION 8.** ORS 470.050 is amended to read:

30 470.050. As used in this chapter, unless the context requires otherwise:

31 (1) "Alternative fuel project" means:

32 (a) Equipment, including vehicles that are not used primarily for personal, family or household
 33 purposes, that is modified or acquired directly from a factory and that:

34 (A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent de-
 35 natured alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other
 36 fuel approved by the Director of the [*State Department of Energy*] **Oregon Business Development**
 37 **Department**; and

38 (B) Produces lower exhaust emissions or is more energy efficient than equivalent equipment fu-
 39 eled by gasoline or diesel; and

40 (b) A facility, including a fueling station, or equipment necessary to produce alternative fuel or
 41 operate equipment that uses an alternative fuel.

42 (2) "Applicant" means an applicant for a loan to construct a small scale local energy project.

43 [(3) "*Base efficiency package*" means the package of energy efficiency upgrades or renewable energy
 44 projects for a property that, when energy savings, project repayment costs, tax or other incentives, loan
 45 offset grants and other relevant economic factors are considered, is estimated to not increase the utility

1 *bill of the customer over the loan repayment term.]*

2 [(4)] (3) “Committee” means the Small Scale Local Energy Project Advisory Committee created
3 under ORS 470.070.

4 [(5)] (4) “Cooperative” means a cooperative corporation organized under ORS chapter 62.

5 [(6)] “Director” means the Director of the State Department of Energy appointed under ORS
6 469.040.]

7 [(7)] (5) “Eligible federal agency” means a federal agency or public corporation created by the
8 federal government that proposes to use a loan for a small scale local energy project. “Eligible
9 federal agency” does not include a federal agency or public corporation created by the federal
10 government that proposes to use a loan for a small scale local energy project to generate electricity
11 for sale.

12 [(8)] (6) “Eligible state agency” means a state officer, board, commission, department, institution,
13 branch or agency of the state whose costs are paid wholly or in part from funds held in the State
14 Treasury.

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

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

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

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

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

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

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

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

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

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

29 [(15)] (7) “Loan” includes the purchase or other acquisition of evidence of indebtedness and
30 money used for the purchase or other acquisition of evidence of indebtedness.

31 [(16)] (8) “Loan contract” means the evidence of indebtedness and all instruments used in the
32 purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or
33 municipal corporations that are tax exempt entities, a loan contract may include a lease purchase
34 agreement with respect to personal property.

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

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

41 [(19)] (9) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any
42 Indian tribe or authorized Indian tribal organization or any combination of two or more of these
43 tribes or organizations acting jointly in connection with a small scale local energy project.

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

1 [(21) *“Optional package” means measures for promoting energy efficiency or the use of renewable*
 2 *energy.*]

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

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

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

6 [(22)] (10) *“Oregon business” means a sole proprietorship, partnership, company, cooperative,*
 7 *corporation or other form of business entity that is organized or authorized to do business under*
 8 *Oregon law for profit.*

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

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

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

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

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

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

19 (25) (11) *“Recycling project” means a facility or equipment that converts waste into a new and*
 20 *usable product.*

21 [(26)] (12) *“Small business” means:*

22 (a) *An Oregon business that is:*

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

24 (B) *An industrial or manufacturing business employing 200 or fewer persons at the time the loan*
 25 *is made; or*

26 (b) *An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-*
 27 *ration or other form of business entity for which the total number of employees for both the sub-*
 28 *subsidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other*
 29 *form of business entity at the time the loan is made is:*

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

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

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

34 [(28)] (13) *“Small scale local energy project” means any of the following:*

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

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

43 (c) *A recycling project.*

44 (d) *An alternative fuel project.*

45 (e) *An improvement that increases the production or efficiency, or extends the operating life,*

1 of a system, mechanism, series of mechanisms or project otherwise described in this subsection, in-
 2 cluding but not limited to restarting a dormant project.

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

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

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

15 [(29)] (14) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the
 16 fund created under ORS 470.300.

17 [(30)] (15) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Arti-
 18 cle XI-J of the Oregon Constitution and appropriated to the [*State*] department [*of Energy*] under
 19 ORS 470.130.

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

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

27 **SECTION 9.** ORS 470.060 is amended to read:

28 470.060. (1) The following may file with the [*State Department of Energy*] **Oregon Business**
 29 **Development Department** an application to obtain moneys for a small scale local energy project
 30 as provided in this chapter:

- 31 (a) An individual who is an Oregon resident;
- 32 (b) An Oregon business;
- 33 (c) A nonprofit or public cooperative;
- 34 (d) A nonprofit corporation;
- 35 (e) An eligible federal agency;
- 36 (f) An eligible state agency;
- 37 (g) A public corporation created by this state;
- 38 (h) An intergovernmental entity created pursuant to an intergovernmental agreement under ORS
 39 190.003 to 190.130;
- 40 (i) A special district;
- 41 (j) A local improvement district;
- 42 (k) A public university listed in ORS 352.002; or
- 43 (L) A municipal corporation.

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

1 [State] department [of Energy] shall:

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

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

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

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

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

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

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

21 **SECTION 10.** ORS 470.070 is amended to read:

22 470.070. (1) The Director of the [State Department of Energy] **Oregon Business Development**
23 **Department** shall appoint a Small Scale Local Energy Project Advisory Committee to review ap-
24 plications made under ORS 470.060 and rules adopted under ORS 470.080[*other than applications for*
25 *energy efficiency and sustainable technology loans,*] and make recommendations regarding those ap-
26 plications to the director.

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

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

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

39 **SECTION 11.** ORS 470.080 is amended to read:

40 470.080. (1) After consultation with the Small Scale Local Energy Project Advisory Committee,
41 the Director of the State Department of Energy, **in consultation with the Director of the Oregon**
42 **Business Development Department**, shall establish by rule standards and criteria for small scale
43 local energy projects to be funded under this chapter [*other than projects funded through energy ef-*
44 *iciency and sustainable technology loans*]. The standards and criteria shall operate to encourage di-
45 versity in projects funded, give preference to the maximum extent practical to projects proposed by

1 individuals and small businesses, ensure acceptability of environmental impacts and shall require
 2 consideration of the potential contribution of a project if developed at other suitable locations to
 3 meeting the energy needs of this state. The standards and criteria shall give the least preference to
 4 projects proposed by an eligible federal agency.

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

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

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

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

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

23 **SECTION 12.** ORS 470.090 is amended to read:

24 470.090. (1) After consideration of the recommendation of the Small Scale Local Energy Project
 25 Advisory Committee or the [*State Department of Energy*] **Oregon Business Development Depart-**
 26 **ment** as provided by ORS 470.080, the Director of the [*State Department of Energy*] **Oregon Busi-**
 27 **ness Development Department** may approve or reject the financing of a small scale local energy
 28 project described in an application filed as provided in ORS 470.060, using moneys in the Small Scale
 29 Local Energy Project Loan Fund. Approval of a loan by the director shall include a certification
 30 of the amount of the loan.

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

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

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

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

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

40 (e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into
 41 a contract with the director for development and repayment as provided in ORS 470.150 [*or*
 42 *470.645*];

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

45 (g) Moneys in the loan fund are or will be available for the development of the proposed small

1 scale local energy project;

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

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

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

9 (3) The director shall notify the applicant and the presiding officer of the committee of the
10 director's action and of the reasons for that action. The director shall inform the applicant of the
11 review procedure established in ORS 470.100.

12 **SECTION 13.** ORS 470.100 is amended to read:

13 470.100. (1) If the Director of the [*State Department of Energy*] **Oregon Business Development**
14 **Department** rejects a loan application or approves a loan amount different than that requested by
15 the applicant, the applicant may request that the Small Scale Local Energy Project Advisory Com-
16 mittee review the director's action.

17 (2) The committee may review the director's action on its own motion or at the request of the
18 applicant. A majority of the members of the committee may authorize the presiding officer of the
19 committee to appeal the director's action to the Governor.

20 (3) An appeal of the director's action may be initiated by the presiding officer of the committee
21 no later than 45 days after the date the applicant receives notice of the director's action under ORS
22 470.090.

23 (4) The decision of the Governor is final. If the Governor fails to act within 30 days after re-
24 ceiving the appeal, the appeal shall be considered to be denied.

25 (5) Notwithstanding ORS chapter 183, a decision of the director or the Governor on an appli-
26 cation for financing under ORS 470.090 or this section is not subject to judicial review.

27 **SECTION 14.** ORS 470.110 is amended to read:

28 470.110. The Director of the [*State Department of Energy*] **Oregon Business Development De-**
29 **partment** may accept gifts of money or other property from any source, given for the purposes of
30 ORS 470.050 to 470.120, 470.140 (1) and 470.150 to 470.210. Money so received shall be paid into the
31 Small Scale Local Energy Project Loan Fund. Money or other property so received shall be used for
32 the purposes for which received.

33 **SECTION 15.** ORS 470.120 is amended to read:

34 470.120. If the applicant receives from any source other than the Small Scale Local Energy
35 Project Loan Fund[, *the Energy Project Supplemental Fund or the Energy Project Bond Loan Fund*]
36 any moneys to assist in the development of the **small scale local energy** project, the amount of the
37 loan to the applicant from the Small Scale Local Energy Project Loan Fund[, *Energy Project Sup-*
38 *plemental Fund or Energy Project Bond Loan Fund*] shall be limited to that amount necessary for
39 the development of those portions of the project not funded by other sources.

40 **SECTION 16.** ORS 470.130 is amended to read:

41 470.130. All moneys in the Small Scale Local Energy Project Loan Fund created by Article XI-J
42 of the Oregon Constitution are appropriated continuously to the [*State Department of Energy*]
43 **Oregon Business Development Department** and shall be used for the purposes authorized under
44 this chapter.

45 **SECTION 17.** ORS 470.135 is amended to read:

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

11 **SECTION 18.** ORS 470.140 is amended to read:

12 470.140. (1) In accordance with the applicable provisions of ORS chapter 183, **and except as**
13 **provided by ORS 470.080 (1)**, the Director of the [*State Department of Energy*] **Oregon Business**
14 **Development Department** may adopt rules considered necessary to carry out the purposes of this
15 chapter.

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

20 **SECTION 19.** ORS 470.145 is amended to read:

21 470.145. The [*State Department of Energy*] **Oregon Business Development Department** shall
22 develop, implement and periodically update a marketing plan to inform potential applicants of the
23 availability of small scale local energy project loans. The first priority of the marketing plan shall
24 be to inform individuals and small businesses that small scale local energy project loans are avail-
25 able.

26 **SECTION 20.** ORS 470.150 is amended to read:

27 470.150. Except as provided in ORS 470.155 and 470.170, if the Director of the [*State Department*
28 *of Energy*] **Oregon Business Development Department** approves the financing of a small scale
29 local energy project, the director, on behalf of the state, and the applicant may enter into a loan
30 contract, secured by a first lien or by other good and sufficient collateral in the manner provided
31 in ORS 470.155 to 470.210. For purposes of this section, the interest of the [*State Department of En-*
32 *ergy*] **Oregon Business Development Department** under a lease purchase contract entered into
33 with an eligible federal or state agency or a municipal corporation may constitute good and suffi-
34 cient collateral. The contract:

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

39 (2) Shall provide a plan for repayment by the applicant of moneys borrowed from the loan fund
40 used for the development of the small scale local energy project and interest on those moneys used
41 at a rate of interest the director determines is necessary to provide adequate funds to recover the
42 administrative expenses incurred in connection with the loan. The director shall set the interest rate
43 at an incremental rate above the interest rate on the underlying bonds in an amount sufficient to
44 recover all program-related costs including, but not limited to, implementation, financing, adminis-
45 tration and promotional costs for the program. The incremental rate for projects proposed by an

1 eligible federal agency shall be greater than the incremental rate charged to any other govern-
2 mental borrower. The repayment plan, among other matters:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 *[(D) This chapter; or]*

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

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

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

14 **SECTION 21.** ORS 470.160 is amended to read:

15 470.160. If the Director of the *[State Department of Energy]* **Oregon Business Development**
 16 **Department** approves a loan for a small scale local energy project, the State Treasurer shall pay
 17 moneys for such project from the Small Scale Local Energy Project Loan Fund *[or Energy Project*
 18 *Bond Loan Fund]* in accordance with the terms of the loan contract, as prescribed by the director.

19 **SECTION 22.** ORS 470.170 is amended to read:

20 470.170. *[(1)(a)]* **(1)** *[Except as otherwise provided in this subsection,]* When a loan is made under
 21 this chapter to an applicant other than a municipal corporation, the loan shall be secured pursuant
 22 to a mortgage, trust deed, security agreement, pledge, assignment or similar instrument, by a secu-
 23 rity interest or lien on real or personal property in the full amount of the loan or as the Director
 24 of the *[State Department of Energy]* **Oregon Business Development Department** shall require for
 25 adequate security, including but not limited to long-term leasehold interests or equitable interests
 26 in real property or personal property. In lieu of, or in addition to, any of the collateral otherwise
 27 described in this *[paragraph]* **subsection**, the applicant may secure the loan by providing credit
 28 enhancement, including but not limited to a letter of credit or payment bond, or a guaranty ac-
 29 ceptable to the director.

30 *[(b) To the extent consistent with any declaration, pledge or agreement for bonds issued under ORS*
 31 *470.220 to 470.290, an energy efficiency and sustainable technology loan shall be secured as provided*
 32 *in ORS 470.680 or 470.685.]*

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

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

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

41 (5) The director may cause to be instituted appropriate proceedings to foreclose liens for delin-
 42 quent loan payments, and shall pay the proceeds of any such foreclosure, less the director's expenses
 43 incurred in foreclosing, into the Small Scale Local Energy Project Administration and Bond Sinking
 44 Fund if the loan was issued from the Small Scale Local Energy Project Loan Fund, *or into the En-*
 45 *ergy Project Bond Loan Fund if the loan was from the Energy Project Bond Loan Fund].* In a fore-

1 closure proceeding the director may bid on property offered for sale in the proceedings and may
2 acquire title to the property on behalf of the state.

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

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

10 **SECTION 23.** ORS 470.180 is amended to read:

11 470.180. In addition to any other remedy available to the [*State Department of Energy*,] **Oregon**
12 **Business Development Department**, if a municipal corporation entitled by law to share in the
13 apportionment of any state revenues or funds defaults on any payments due to the State of Oregon
14 under a loan contract entered into under ORS 470.150, the [*State Department of Energy*] **Oregon**
15 **Business Development Department** may certify that fact to the Oregon Department of Adminis-
16 trative Services and the Oregon Department of Administrative Services shall withhold payment of
17 any revenues or funds in the State Treasury to which the municipal corporation is entitled, in an
18 amount not to exceed the balance owing on the loan, until the [*State Department of Energy*] **Oregon**
19 **Business Development Department** certifies that the default has been remedied.

20 **SECTION 24.** ORS 470.190 is amended to read:

21 470.190. If an applicant fails to comply with a contract entered into with the Director of the
22 [*State Department of Energy*] **Oregon Business Development Department** for development and
23 repayment as provided in ORS 470.150 [*or 470.645*], the director, in addition to remedies provided in
24 ORS 470.170 and 470.180, may seek other appropriate legal remedies to secure the loan and may
25 contract as provided in ORS 470.150 with any other person for continuance of development and for
26 repayment of moneys from the Small Scale Local Energy Project Loan Fund [*or from the Energy*
27 *Project Bond Loan Fund*] used therefor and interest thereon.

28 **SECTION 25.** ORS 470.200 is amended to read:

29 470.200. If any small scale local energy project is refinanced or an additional grant or loan in-
30 tended to finance the project development is obtained from other sources after the execution of the
31 loan from the state, all such funds shall be used to repay the state unless the Director of the [*State*
32 *Department of Energy*] **Oregon Business Development Department** finds that repayment of the
33 state from the additional grant or loan would be contrary to public interest.

34 **SECTION 26.** ORS 470.210 is amended to read:

35 470.210. (1) Notwithstanding any other provision of law, a municipal corporation may enter into
36 a loan contract with the [*State Department of Energy*] **Oregon Business Development Department**
37 to finance a small scale local energy project.

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

43 **SECTION 27.** ORS 470.230 is amended to read:

44 470.230. Except as provided in ORS 470.270, all moneys obtained from the sale of general obli-
45 gation bonds under ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution shall be

1 credited by the State Treasurer to the Small Scale Local Energy Project Loan Fund. Those moneys
 2 shall be used only for the purposes stated in Article XI-J of the Oregon Constitution, including
 3 payment of the costs of issuing the bonds and of obtaining credit enhancement for the bonds, and
 4 making payments of interest on bonds issued pursuant to the provisions of ORS 470.220 to 470.290
 5 if there are insufficient funds in the Small Scale Local Energy Project Administration and Bond
 6 Sinking Fund to make the payments referred to in ORS 470.300 (1). Moneys loaned to municipal
 7 corporations but withheld by the [*State Department of Energy*] **Oregon Business Development**
 8 **Department** for security or to pay for future project costs may remain in the loan fund. Pending
 9 the use of the moneys in the loan fund for the proper purposes, the moneys may be invested in the
 10 manner provided by law.

11 **SECTION 28.** ORS 470.270 is amended to read:

12 470.270. (1) After consultation with the State Treasurer, the Director of the [*State Department*
 13 *of Energy*] **Oregon Business Development Department** may issue general obligation refunding
 14 bonds for the purpose of refunding outstanding bonds issued under ORS 470.220 to 470.290 and Ar-
 15 ticle XI-J of the Oregon Constitution. The refunding bonds may be sold in the same manner as other
 16 bonds are sold under ORS 470.220 to 470.290. All moneys obtained from the sale of refunding bonds
 17 shall be credited by the State Treasurer to the Small Scale Local Energy Project Administration and
 18 Bond Sinking Fund. The refunding bonds may be issued to refund bonds previously issued for re-
 19 funding purposes. Pending the use of moneys obtained from the sale of refunding bonds for proper
 20 purposes, such moneys may be invested in the manner provided by law.

21 (2) Notwithstanding any provision of ORS 470.150, if the [*State Department of Energy*] **Oregon**
 22 **Business Development Department** issues taxable refunding bonds at a lower interest rate to re-
 23 fund outstanding general obligation bonds, and is unable to allow loan recipients to receive a por-
 24 tion of the interest savings, the director shall allow the loan recipient to prepay the outstanding
 25 loan balance upon the request of the recipient. The director shall respond to such a request within
 26 30 days after receiving the request by specifying the outstanding principal balance after applying
 27 reserves held by the state for the borrower and the prepayment premium as listed in the bond doc-
 28 ument, loan document or bond purchase agreement.

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

41 **SECTION 29.** ORS 470.300 is amended to read:

42 470.300. (1) There hereby is created the Small Scale Local Energy Project Administration and
 43 Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

44 (a) Administrative expenses of the [*State Department of Energy and the Director of the State De-*
 45 *partment of Energy*] **Oregon Business Development Department and the Director of the Oregon**

1 **Business Development Department** in processing applications, investigating potential small scale
 2 local energy projects and proposed loans and servicing and collecting outstanding loans made from
 3 the Small Scale Local Energy Project Loan Fund, if the expense is not paid directly by the applicant.

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

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

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

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

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

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

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

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

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

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

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

22 (g) Moneys transferred from the loan fund.

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

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

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

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

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

35 **SECTION 30.** ORS 470.310 is amended to read:

36 470.310. (1) If there are insufficient funds in the Small Scale Local Energy Project Adminis-
 37 tration and Bond Sinking Fund to make the payments referred to in ORS 470.300 (1), the Director
 38 of the [*State Department of Energy*] **Oregon Business Development Department** may request the
 39 funds necessary for such payments from the Legislative Assembly or the Emergency Board.

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

1 moneys.

2 **SECTION 31.** ORS 470.810 is amended to read:

3 470.810. (1) The State Department of Energy shall establish the clean energy deployment pro-
 4 gram to provide grants and loans to support energy efficiency or clean energy projects in this state.
 5 The department shall establish criteria for qualifications of the projects by rule.

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

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

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

16 (3) The department may contract for the implementation of the clean energy deployment pro-
 17 gram [*in all or parts of this state with a sustainable energy project manager as defined in ORS*
 18 *470.050*].

19 **SECTION 32.** ORS 470.815 is amended to read:

20 470.815. (1) School districts that participate in the clean energy deployment program established
 21 in ORS 470.810 may finance projects to:

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

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

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

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

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

33 (a) Paying directly for the projects;

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

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

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

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

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

43 (c) Issuing general obligation bonds, subject to the bond election requirements under ORS
 44 328.210; or

45 (d) Using any other source of moneys.

SECTION 33. ORS 223.680 is amended to read:

223.680. (1) As used in this section:

(a) “Energy improvements” means energy efficiency and renewable energy improvements to qualifying real property authorized by:

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

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

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

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

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

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

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

(B) Facilitate private financing by the owners; or

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

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

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

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

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

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

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

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

(B) Facilitate a financing agreement for the owner, and any other person benefited by the financing.

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

(A) The costs of energy improvements the local government determines will benefit the qualifying real property and the borrowers;

(B) The costs of the energy audit; and

(C) The costs and reserves of the program.

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

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

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

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

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

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

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

13 (a) Secure a loan or financing with a lien on the benefited qualifying real property in the man-
 14 ner and with the same priority as a lien for assessments for local improvements authorized by ORS
 15 223.393.

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

18 (c) Enforce a lien and collect an assessment authorized by this section as provided in ORS
 19 223.505 to 223.650.

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

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

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

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

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

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

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

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

39 **SECTION 34.** ORS 291.445 is amended to read:

40 291.445. (1) Before July 1 of each fiscal year, the Oregon Department of Administrative Services
 41 shall request from the appropriate state agency a certificate as prescribed in this section. The re-
 42 quest shall be made by letter to the agency.

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

45 (a) Certify to the Director of the Oregon Department of Administrative Services that the

1 amounts available or that will become available during the current year to the bond program debt
 2 service fund to pay bond principal and interest that has accrued or will accrue during the current
 3 year are sufficient and will be sufficient to pay bond program principal and interest scheduled for
 4 payment during the current year; or

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

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

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

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

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

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

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

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

5 (7) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 **SECTION 35.** ORS 757.247 is amended to read:

44 757.247. (1) The Public Utility Commission may authorize a public utility, upon application of the
 45 utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of

1 energy resource measures provided to an individual property owner or customer pursuant to an
 2 agreement entered into between the individual property owner or customer and the public utility.
 3 Energy resource measures provided under this section may include:

4 (a) The installation of renewable energy generation facilities on the property of property owners
 5 or the premises of customers;

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

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

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

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

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

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

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

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

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

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

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

31 (5) A public utility may use moneys obtained through a rate established under ORS 757.603 (2)(a)
 32 to provide a renewable energy generation facility to a property owner or customer under this sec-
 33 tion. A public utility may not charge interest to a property owner or customer for a renewable en-
 34 ergy generation facility acquired with moneys obtained through a rate established under ORS
 35 757.603 (2)(a).

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

38
 39 **TRANSFER OF MONEYS AND APPROPRIATIONS**

40
 41 **SECTION 36. (1) The following funds are abolished on the operative date specified in
 42 section 40 of this 2017 Act:**

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

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

45 **(c) The Energy Project Bond Loan Fund; and**

1 (d) The Energy Revenue Bond Repayment Fund.

2 (2) Any moneys remaining in the funds specified in subsection (1) of this section on the
 3 operative date specified in section 40 of this 2017 Act that are unexpended, unobligated and
 4 not subject to any conditions shall be transferred to the Small Scale Local Energy Project
 5 Loan Fund created by Article XI-J of the Oregon Constitution.

6 SECTION 37. On the operative date specified in section 40 of this 2017 Act, \$3,000,000 shall
 7 be transferred from the Alternative Fuel Vehicle Revolving Fund to the Small Scale Local
 8 Energy Project Loan Fund created by Article XI-J of the Oregon Constitution. Amounts
 9 transferred under this section may be used for the purposes specified by Article XI-J of the
 10 Oregon Constitution and for the purposes authorized under ORS chapter 470.

11 SECTION 38. There is appropriated to the Oregon Business Development Department, for
 12 the biennium beginning July 1, 2017, out of the General Fund, the amount of \$3,000,000 for
 13 the purpose of carrying out the provisions of sections 1 to 7 of this 2017 Act and the
 14 amendments to statutes by sections 8 to 35 of this 2017 Act.

15
 16 **REPEALS**

17
 18 SECTION 39. ORS 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530, 470.535,
 19 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585, 470.590,
 20 470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630, 470.635, 470.640, 470.645, 470.650,
 21 470.655, 470.660, 470.665, 470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700, 470.710,
 22 470.715, 470.720, 701.108 and 701.119 are repealed.

23
 24 **OPERATIVE DATE**

25
 26 SECTION 40. (1) Sections 1 to 7 and 36 of this 2017 Act, the amendments to statutes by
 27 sections 8 to 35 of this 2017 Act and the repeal of statutes by section 39 of this 2017 Act be-
 28 come operative on January 1, 2018.

29 (2) The Oregon Business Development Department and the State Department of Energy
 30 may take any action before the operative date specified in subsection (1) of this section that
 31 is necessary to enable the Oregon Business Development Department and the State Depart-
 32 ment of Energy to exercise, on and after the operative date specified in subsection (1) of this
 33 section, all the duties, functions and powers conferred on the Oregon Business Development
 34 Department and the State Department of Energy by sections 1 to 7 and 36 of this 2017 Act,
 35 the amendments to statutes by sections 8 to 35 of this 2017 Act and the repeal of statutes
 36 by section 39 of this 2017 Act.

37
 38 **UNIT CAPTIONS**

39
 40 SECTION 41. The unit captions used in this 2017 Act are provided only for the conven-
 41 ience of the reader and do not become part of the statutory law of this state or express any
 42 legislative intent in the enactment of this 2017 Act.

43
 44 **EFFECTIVE DATE**

1 **SECTION 42.** This 2017 Act takes effect on the 91st day after the date on which the 2017
2 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.
3 _____