

# Senate Bill 100

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## 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**.

Repeals fuel oil dealer program. Requires moneys received by State Department of Energy through petroleum supplier assessment to be used by department to provide certain information and cash payments related to energy conservation measures for dwellings heated primarily by fuel oil.

Changes name of Oil-Heated Dwellings Energy Audit Account to Oil-Heated Dwellings Energy Account.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to residential energy conservation for oil-heated dwellings; creating new provisions;  
3 amending ORS 317.112, 469.673, 469.681, 469.683 and 469B.154; repealing ORS 469.675, 469.677  
4 and 469.679; and prescribing an effective date.

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

## FUEL OIL DEALER PROGRAM REVISIONS

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8  
9 **SECTION 1. ORS 469.675, 469.677 and 469.679 are repealed.**

10 **SECTION 2.** ORS 469.673 is amended to read:

11 469.673. As used in ORS 469.673 to 469.683:

12 (1) "Cash payment" means a payment made by the State Department of Energy to the dwelling  
13 owner or to the contractor on behalf of the dwelling owner for energy conservation measures.

14 [(2) "*Commercial lending institution*" means any bank, mortgage banking company, trust company,  
15 savings bank, savings and loan association, credit union, national banking association, federal savings  
16 and loan association or federal credit union maintaining an office in this state.]

17 [(3) "*Cost-effective*" means that an energy conservation measure that provides or saves a specific  
18 amount of energy during its life cycle results in the lowest present value of delivered energy costs of  
19 any available alternative. However, the present value of the delivered energy costs of an energy con-  
20 servation measure shall not be treated as greater than that of a nonconservation energy resource or  
21 facility unless that cost is greater than 110 percent of the present value of the delivered energy cost of  
22 the nonconservation energy resource or facility.]

23 [(4) "*Director*" means the Director of the State Department of Energy appointed under ORS  
24 469.040.]

25 **(2) "Contractor" means a person that installs or assists a dwelling owner to install en-  
26 ergy conservation measures in a dwelling.**

27 [(5)] **(3)(a)** "Dwelling" means real or personal property within the state inhabited as the princi-  
28 pal residence of a dwelling owner or a tenant.

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

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

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

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

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

9       [(7) “Energy audit” means:]

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

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

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

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

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

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

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

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

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

26       [(8)] **(6)(a)** “Energy conservation measures” [*means measures that include*] **includes** the instal-  
27 lation of **energy conservation** items and the **energy conservation** items installed, **where the**  
28 **items** [*that*] are primarily designed to improve the space heating and energy utilization efficiency  
29 of a dwelling. [*These items include, but are not limited to, caulking, weatherstripping and other infil-*  
30 *tration preventative materials, ceiling and wall insulation, crawl space insulation, vapor barrier mate-*  
31 *rials, timed thermostats, insulation of heating ducts, hot water pipes and water heaters in unheated*  
32 *spaces, storm doors and windows, double glazed windows, and dehumidifiers.*]

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

34       [(9)] **(7)** “Fuel oil dealer” means a person, association, corporation or other form of organization  
35 that supplies fuel oil at retail for the space heating of dwellings.

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

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

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

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

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

1       **SECTION 3.** ORS 469.681 is amended to read:

2       469.681. (1) Each petroleum supplier shall **annually** pay to the State Department of Energy **its**  
3 **share of a petroleum supplier assessment.** [*annually its share of an assessment to fund:*]

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

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

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

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

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

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

15       [(2)] **(3)** The amount of the assessment required by subsection (1) of this section shall be deter-  
16 mined by the Director **of the State Department of Energy** in a manner consistent with the method  
17 prescribed in ORS 469.421. The aggregate amount of the assessment shall not exceed \$400,000. In  
18 making this assessment, the director shall exclude all gallons of distillate fuel oil sold by petroleum  
19 suppliers that are subject to the requirements of [*section 3a,*] Article IX, **section 3a**, of the Oregon  
20 Constitution, or ORS 319.020 or 319.530.

21       [(3)] **(4)** If any petroleum supplier fails to pay any amount assessed to it under this section  
22 within 30 days after the payment is due, the Attorney General, on behalf of the State Department  
23 of Energy, may institute a proceeding in the circuit court to collect the amount due.

24       [(4)] **(5)** Interest on delinquent assessments shall be added to and paid at the rate of one and  
25 one-half percent of the payment due per month or fraction of a month from the date the payment  
26 was due to the date of payment.

27       [(5)] **(6)** The assessment required by subsection (1) of this section is in addition to any assess-  
28 ment required by ORS 469.421 (8), and any other fee or assessment required by law.

29       [(6) *As used in this section, "petroleum supplier" means a petroleum refiner in this state or any*  
30 *person engaged in the wholesale distribution of distillate fuel oil in the State of Oregon.*]

31       **SECTION 4.** ORS 469.683 is amended to read:

32       469.683. (1) [*There is established, separate and distinct from the General Fund, the Oil-Heated*  
33 *Dwellings Energy Audit Account.*] **The Oil-Heated Dwellings Energy Account is established in**  
34 **the State Treasury, separate and distinct from the General Fund. Interest earned by the**  
35 **Oil-Heated Dwellings Energy Account shall be credited to the account.** [*Moneys deposited in the*  
36 *account under subsections (2) to (5) of this section shall be used to pay the cost of the information,*  
37 *assistance and technical advice required of fuel oil dealers under ORS 469.675 for which the Director*  
38 *of the State Department of Energy contracts under ORS 469.677.*]

39       [(2) *The State Department of Energy shall pay into the State Treasury all assessment moneys re-*  
40 *ceived by the department under ORS 469.681 during the preceding calendar month. The State Treas-*  
41 *urer shall deposit the moneys to the credit of the Oil-Heated Dwellings Energy Audit Account.*]

42       [(3)] **(2)** [*The*] Moneys in the Oil-Heated Dwellings Energy [*Audit*] Account are continuously  
43 appropriated to the State Department of Energy **to be used only for the purposes specified in**  
44 **ORS 469.681 (2).** [*for the purpose of:*]

45       [(a) *Paying the cost of information, assistance and technical advice required of fuel oil dealers*

1 under ORS 469.675 for which the director contracts under ORS 469.677; and]

2 [(b) Providing cash payments to a dwelling owner or contractor for energy conservation  
3 measures.]

4 [(4) Notwithstanding ORS 293.140, any interest attributable to moneys in the Oil-Heated Dwellings  
5 Energy Audit Account shall accrue to that account.]

6 [(5)] (3) The [State Department of Energy] department shall keep a record of all moneys depos-  
7 ited in the Oil-Heated Dwellings Energy [Audit] Account.

8 **SECTION 5. Section 6 of this 2017 Act is added to and made a part of ORS 469.673 to**  
9 **469.683.**

10 **SECTION 6. The State Department of Energy may adopt by rule policies and procedures**  
11 **for the administration and enforcement of ORS 469.673 to 469.683.**

12  
13 **CONFORMING AMENDMENTS TO TAX CREDITS APPLICABLE TO PRIOR TAX YEARS**

14  
15 **SECTION 7.** ORS 317.112 is amended to read:

16 317.112. (1) A credit against taxes otherwise due under this chapter for the taxable year shall  
17 be allowed to a commercial lending institution in an amount equal to the difference between:

18 (a) The amount of finance charge charged during the taxable year including interest on the loan  
19 and interest on any loan fee financed at an annual rate of six and one-half percent, by the lending  
20 institution to a dwelling owner who is or who rents to a residential fuel oil customer, or who is or  
21 who rents to a wood heating resident for the purpose of financing energy conservation measures;  
22 and

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

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

28 (B) An upper limit established by rule by the Director of the State Department of Energy.

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

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

36 (a) Be made only to an owner of an oil-heated or wood-heated dwelling who presents the results  
37 of an energy audit pursuant to ORS 469.631 to 469.645, 469.649 to 469.659, [469.673 to 469.683]  
38 **469.681** or 469.685 that is conducted by [a fuel oil dealer,] **an** investor-owned utility or publicly  
39 owned utility or through the State Department of Energy, regardless of whether that fuel oil dealer  
40 or utility provides the dwelling's space heating energy.

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

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

45 (d) Finance only those energy conservation measures that are recommended as cost-effective in

1 the energy audit, and any loan fee that is included in the body of the loan.

2 (4) The credit allowed under this section may not be allowed to the extent that the loan exceeds  
 3 \$5,000 for a single dwelling unit, or, if the dwelling owner is a corporation described in ORS 307.375,  
 4 to the extent that the loan exceeds \$2,000 for a single dwelling unit.

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

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

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

15 **SECTION 8.** ORS 469B.154 is amended to read:

16 469B.154. (1) The owner of a rental housing unit may transfer a tax credit for energy conser-  
 17 vation measures installed in rental housing units under ORS 469B.151 in exchange for a cash pay-  
 18 ment equal to the present value of the tax credit. To be eligible for a transfer, the energy  
 19 conservation measures must have been recommended in an energy audit as provided in ORS 469.633,  
 20 469.651 or [469.675] **469.681**.

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

23  
 24 **CAPTIONS**

25  
 26 **SECTION 9.** **The unit captions used in this 2017 Act are provided only for the convenience**  
 27 **of the reader and do not become part of the statutory law of this state or express any leg-**  
 28 **islative intent in the enactment of this 2017 Act.**

29  
 30 **EFFECTIVE DATE**

31  
 32 **SECTION 10.** **This 2017 Act takes effect on the 91st day after the date on which the 2017**  
 33 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**