

Business Energy Tax Credits (BETC)

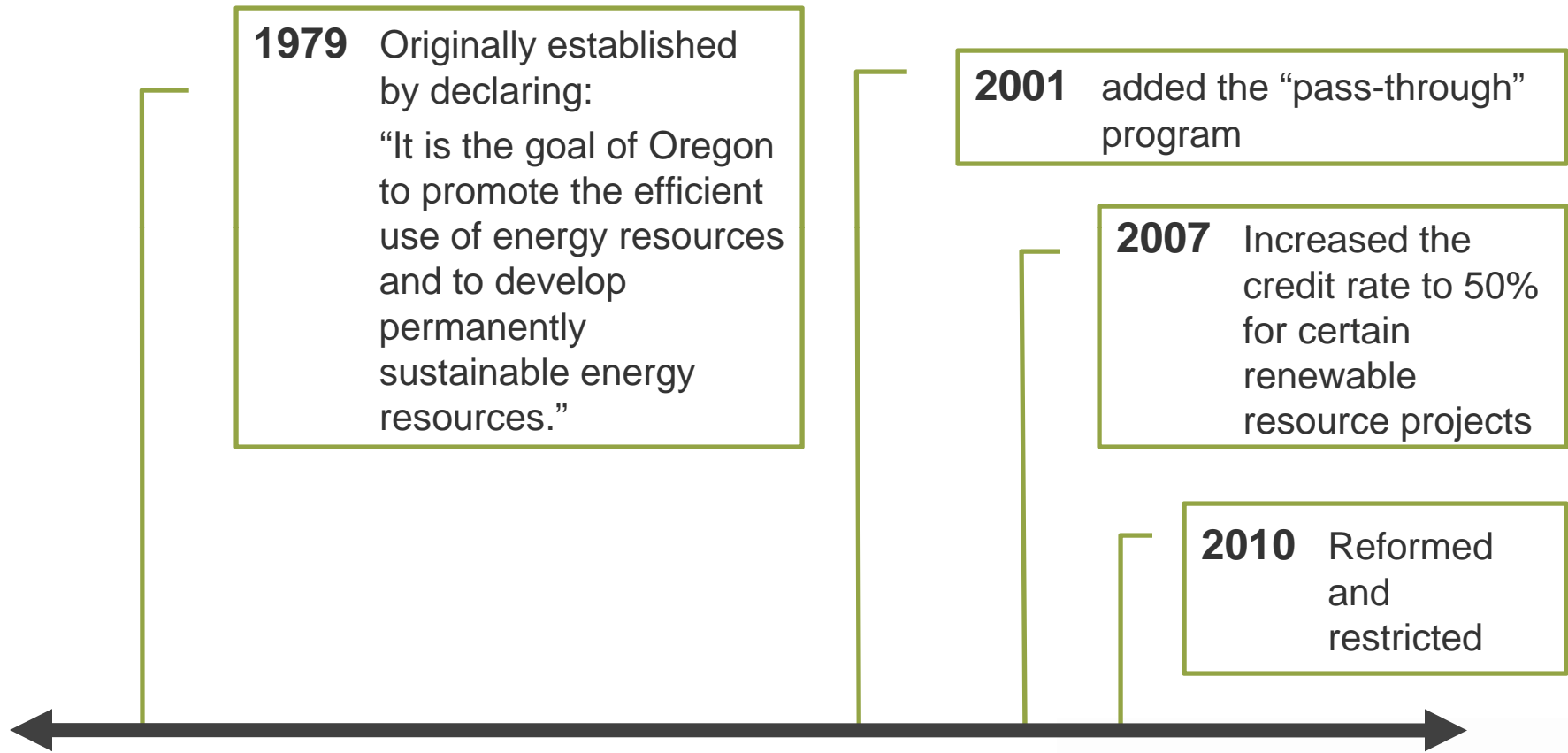
Evolution of the Program &
Certain Federal Incentives

By Tim Kalberg

Overview

- BETC Evolution
- Federal Grant Program (ITC) – Sec. 1603
- Federal 179D Deduction
- Energy Incentives Resources

BETC Evolution



BETC Evolution

| | 1980-2005 (Cumulative) | 2005 | 2008 |
|------------------------|---------------------------|-----------------|-----------------|
| Number of Projects | 10,181 | 1,622 | 2,264 |
| Total Project Costs | \$801.0 Million | \$106.7 Million | \$441.4 Million |

BETC Evolution

2008 Final Certifications

| Project Size | | | | |
|-----------------------------|--------|-------|---------|-------|
| Size \$ | Number | Share | Amount | Share |
| < \$100,000 | 2,058 | 91% | \$32.3 | 7% |
| \$100,000 to \$500,000 | 130 | 6% | \$29.5 | 7% |
| \$500,000 to \$1 million | 28 | 1% | \$18.5 | 4% |
| \$1 million to \$5 million | 24 | 1% | \$54.0 | 12% |
| \$5 million to \$10 million | 12 | 1% | \$86.1 | 20% |
| > \$10 million | 12 | 1% | \$221.0 | 50% |
| Total | 2,264 | 100% | \$441.4 | 100% |

| Project Type | | | | |
|-------------------------|--------|-------|---------|-------|
| Type | Number | Share | Amount | Share |
| Wind | 5 | 0% | \$110.0 | 25% |
| Biomass | 28 | 1% | \$85.9 | 19% |
| Conservation | 1,259 | 56% | \$66.3 | 15% |
| Co-generation | 5 | 0% | \$41.0 | 9% |
| Renewable Manufacturing | 2 | 0% | \$40.1 | 9% |
| Transportation | 816 | 36% | \$39.9 | 9% |
| Solar | 114 | 5% | \$14.0 | 3% |
| Other | 35 | 2% | \$44.2 | 10% |



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Current Rules

- Renewable resource projects
 - 50% of eligible project costs
 - Credit claimed 10% per year over 5 years
 - Includes solar, wind, hydro, geothermal and bio-mass projects
- Energy conservation projects
 - 35% of eligible project costs
 - Credit claimed 10% each in years 1 - 2, and 5% each in years 3 – 5
 - Includes lighting improvements, HVAC controls, improved pumps & motors, etc.



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Current Rules (cont)

- Other qualifying projects
 - Renewable energy projects by homebuilders
 - Renewable energy resource equipment manufacturing facilities
 - Sustainable building projects (LEED Buildings)
 - Transportation projects
 - Alternative fuel and hybrid vehicle projects
 - Rental dwelling weatherization projects
 - Recycling projects



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Current Rules (cont)

- Projects with eligible project costs < \$20,000 can claim credit all in first year
- Unused credits may be carried forward for up to 8 years
- Eligible project costs typically include:
 - Direct equipment costs, supplies & materials
 - Direct labor costs
 - Engineering and design fees
 - Installation costs



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Process

- Application for Preliminary Certification
 - Establishes “eligible cost effective date”
 - Must be done prior to project commencement
 - Exception for certain pre-application costs
 - New for 2010 – ODOE will begin issuing postcards to applicants with an assigned project number to acknowledge receipt of preliminary applications
- Preliminary Certificate issued by ODOE



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Process (cont)

- Application for Final Certification
 - Cost verification
 - Under \$50,000
 - Vendor invoices marked “paid in full”
 - Cancelled checks (both sides)
 - \$50,000 or more
 - CPA verification letter/report
 - Updated guidance January 2010
- Final certificate issued by ODOE



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Pass-through option

- Allows project owners to transfer the tax credits to a pass-through partner in return for a lump sum payment upon completion of the project
- Project owners are responsible for finding pass-through partners (though ODOE will assist in this process)
- Additional paperwork required with ODOE

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Pass-through option (cont)

| | Pre – 2010 Rate | | Post – 2009 Rate (Estimated) | |
|---------------------|-----------------|---------------|---------------------------------|-----------------|
| | 35% Credit | 50% Credit | 35% Credit | 50% Credit |
| \$20,000 or less | 30.5% | 43.5% | 32.8% | 46.9% |
| > \$20,000 | 25.5% | 33.5% | 28.4%/ 25.4% | 40.6%/ 36.3% |

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Pass-through option (cont)

- Pre-certifications issued after 12/31/2009
 - HB 2068
 - ODOE required to establish a formula based upon inflation projections and market returns, to be adjusted quarterly
 - OAR 330-090-0140
 - New rates tied to 2 year/5 year US Treasury Notes and the net change in the Urban Consumer Price Index for the West Region

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Pending changes

- December 2009
 - Governor recommendations for program changes based upon initial review by ODOE and Oregon Business Development Department
 - Codify new ODOE administrative rules to increase accountability and ensure return on investment for approved projects
 - Develop a program cap for renewable energy production projects tied to gross operating revenues for Oregon energy suppliers and prioritize projects within the cap

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Pending changes (cont)

- Allow ODOE to reduce eligible project costs and size of the tax credit if other public money is being used for the project
- Develop an alternative incentive program with and incentive cap for large renewable wind energy projects
- Extend the BETC for conservation, energy efficiency and manufacturing projects until 2016
- Codify recent administrative changes to the pass-through option program
- Apply the renewable energy program cap and alternative incentive program for large-scale wind energy projects retroactively to at least July 1, 2009

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Pending changes (cont)

- February 2010 – House Bill 3680
 - Passed by Legislature on 2/23/2010, on to governor for signature
 - Key provisions:
 - Caps total amount of credits for renewable projects @ \$300 million for the 2009-2011 biennium and \$150 million for fye 6/30/2012
 - Caps total amount of credits for renewable manufacturing projects @ \$200 million for both the 2009-2011 and 2011-2013 bienniums, and \$50 million for 6 months ending 12/31/2013
 - Makes electric vehicle manufacturers eligible for the manufacturing credit, and limits maximum eligible project costs for these manufacturers to \$2.5 million



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Pending changes (cont)

- For “big wind” (> 10 megawatts), caps credit amount @ 5% of total facility cost, maximum of \$3.5 million for 2010, \$2.5 million for 2011, & \$1.5 million for 2012
- Extends sunset period to 7/1/2012 (date of final cert) for all projects other than renewable energy resource manufacturing facilities, which are extended to pre-certs received prior to 1/1/2014
- Adjusts timeframe for application review based upon project cost (90 days for projects < \$6 million, 6 months for projects of \$6 million or more)
- Limits length of validity of preliminary certification to 3 years

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Pending changes (cont)

- Adds accountability standards to the program effective 7/1/2009 (remain operational for 5 years, type and number of jobs created, compliance with applicable state and local laws and regulations, etc.)
- Changes the timing for when the credit period begins to the year in which the completed application for final certification is received by ODOE
 - Exception: Start year is deferred to year following year of receipt of final certification for facilities using or producing renewable energy resources with certified costs in excess of \$10 million

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Pending changes (cont)

- February 2010 - House Bill 3681
 - Passed House, in Senate Finance Committee
 - Directs ODOE & Oregon Business Development Department to work together to plan for potential transfer of credit administration for renewable energy resource equipment manufacturing facilities away from ODOE
 - Otherwise clarifies or amends some of the BETC provisions similar to House Bill 3680

Federal ITC Grants

Sec. 1603

- Generally applies to property placed in service between 1/1/2009 & 12/31/2010
- Provides for payment to taxpayers in lieu of ITC for eligible costs as follows:
 - 10% for geothermal property, qualified microturbine property, combined heat and power system property, or geothermal heat pump property
 - 30% for all other specified energy property (ie, solar, wind, biomass, etc.)

Federal ITC Grants

Sec. 1603

- Application process
 - On-line @ www.treasury.gov/recovery/
 - Done after the property is placed in service
 - Treasury will review completed application and make payment within 60 days of receipt
 - Independent accountant report required for projects with eligible costs of \$500,000 or more

Federal ITC Grants

Sec. 1603

- Grants received are not taxable income for federal or Oregon purposes
- Federal depreciable basis of property must be reduced by 50% of grants received

Federal 179D Deduction

- Immediate deduction for the cost of qualified energy-saving improvements to commercial building property in the US
- Enacted in 2005, applies to property placed in service after 2005 and before 2014
- Up to \$1.80 psf of qualifying projects
 - \$0.60 psf for lighting
 - \$0.60 psf for HVAC
 - \$0.60 psf for building envelope



Federal 179D Deduction

- Basis reduction required
 - No AMT adjustment required
 - No Oregon adjustment required
- For government-owned buildings, the deduction may be allocated to “the person primarily responsible for designing the property”
 - Specific written requirements must be met

Federal 179D Deduction

- Certification requirements must be met
 - Must utilize specifically designated software applications approved by DOE
- Potential future changes
 - Extension of time?
 - Expansion of incentive from \$1.80 psf to \$3.00 psf?

Energy Incentives Resources

- Comprehensive excel table
- Websites of interest:
 - <http://oregon.gov/energy/>
 - <http://www.efficientbuildings.org/>
 - <http://www.ashrae.org/>
 - <http://www.iesna.org/>
 - <http://perkinsaccounting.com/>

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