

# Senate Bill 1509

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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**.

Provides that cost-effective energy efficiency measures, market transformation measures, new renewable energy resources and low-income weatherization are not purposes for which moneys may be collected through public purpose charge. Provides that funding of cost-effective energy efficiency measures, market transformation measures, new renewable energy resources and low-income weatherization is subject to ratemaking processes of Public Utility Commission.

Becomes operative on January 1, 2017.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to moneys collected by electric companies; creating new provisions; amending ORS 297.300, 456.587, 469A.200, 470.050, 470.510, 470.515, 470.530, 470.550, 470.555, 470.560, 470.815, 757.365, 757.612, 757.613, 757.617, 757.659, 757.689 and 757.872 and section 3, chapter 566, Oregon Laws 2011; and declaring an emergency.

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

## COST-EFFECTIVE ENERGY CONSERVATION, MARKET TRANSFORMATION, RENEWABLE ENERGY RESOURCES AND LOW-INCOME WEATHERIZATION

(Operative January 1, 2017)

**SECTION 1.** ORS 757.612 is amended to read:

757.612. *[(1) There is established an annual public purpose expenditure standard for electric companies and Oregon Community Power to fund new cost-effective local energy conservation, new market transformation efforts, the above-market costs of new renewable energy resources and new low-income weatherization. The public purpose expenditure standard shall be funded by the public purpose charge described in subsection (2) of this section.]*

*[(2)(a) Beginning on the date an electric company or Oregon Community Power offers direct access to its retail electricity consumers, except residential electricity consumers, the electric company or Oregon Community Power shall collect a public purpose charge from all of the retail electricity consumers located within its service area until January 1, 2026. Except as provided in paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the total revenues collected by the electric company, Oregon Community Power or the electricity service supplier from its retail electricity consumers for electricity services, distribution, ancillary services, metering and billing, transmission charges and other types of costs included in electric rates on July 23, 1999.]*

**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) For an aluminum plant that averages more than 100 average megawatts of electricity use per***  
 2 ***year, beginning on March 1, 2002, the electric company or Oregon Community Power whose territory***  
 3 ***abuts the greatest percentage of the site of the aluminum plant shall collect from the aluminum company***  
 4 ***a public purpose charge equal to one percent of the total revenue from the sale of electricity services***  
 5 ***to the aluminum plant from any source.]***

6       ***[(3)(a) The Public Utility Commission shall establish rules implementing the provisions of this***  
 7 ***section relating to electric companies and Oregon Community Power.]***

8       ***[(b) Subject to paragraph (e) of this subsection, funds collected by an electric company or Oregon***  
 9 ***Community Power through public purpose charges shall be allocated as follows:]***

10       ***[(A) Sixty-three percent for new cost-effective conservation, new market transformation.]***

11       ***[(B) Nineteen percent for the above-market costs of constructing and operating new renewable en-***  
 12 ***ergy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20 megawatts***  
 13 ***or less.]***

14       ***[(C) Thirteen percent for new low-income weatherization.]***

15       ***[(D) Five percent shall be transferred to the Housing and Community Services Department Elec-***  
 16 ***tricity Public Purpose Charge Fund established by ORS 456.587 (1) and used for the purpose of pro-***  
 17 ***viding grants as described in ORS 458.625 (2).]***

18       ***[(c) The costs of administering subsections (1) to (6) of this section for an electric company or***  
 19 ***Oregon Community Power shall be paid out of the funds collected through public purpose charges. The***  
 20 ***commission may require that an electric company or Oregon Community Power direct funds collected***  
 21 ***through public purpose charges to the state agencies responsible for implementing subsections (1) to (6)***  
 22 ***of this section in order to pay the costs of administering such responsibilities.]***

23       ***[(d) The commission shall direct the manner in which public purpose charges are collected and***  
 24 ***spent by an electric company or Oregon Community Power and may require an electric company or***  
 25 ***Oregon Community Power to expend funds through competitive bids or other means designed to en-***  
 26 ***courage competition, except that funds dedicated for low-income weatherization shall be directed to the***  
 27 ***Housing and Community Services Department as provided in subsection (7) of this section. The com-***  
 28 ***mission may also direct that funds collected by an electric company or Oregon Community Power***  
 29 ***through public purpose charges be paid to a nongovernmental entity for investment in public purposes***  
 30 ***described in subsection (1) of this section. Notwithstanding any other provision of this subsection:]***

31       ***[(A) At least 80 percent of the funds allocated for conservation shall be spent within the service***  
 32 ***area of the electric company that collected the funds; or]***

33       ***[(B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated for***  
 34 ***conservation shall be spent within the service area of Oregon Community Power.]***

35       ***[(e)(A) The first 10 percent of the funds collected annually by an electric company or Oregon***  
 36 ***Community Power under subsection (2) of this section shall be distributed to school districts that are***  
 37 ***located in the service territory of the electric company or Oregon Community Power. The funds shall***  
 38 ***be distributed to individual school districts according to the weighted average daily membership***  
 39 ***(ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The com-***  
 40 ***mission shall establish by rule a methodology for distributing a proportionate share of funds under this***  
 41 ***paragraph to school districts that are only partially located in the service territory of the electric com-***  
 42 ***pany or Oregon Community Power.]***

43       ***[(B) A school district that receives funds under this paragraph shall use the funds first to pay for***  
 44 ***energy audits for schools located within the school district. A school district may not expend additional***  
 45 ***funds received under this paragraph on a school facility until an energy audit has been completed for***

1 *that school facility. To the extent practicable, a school district shall coordinate with the State Depart-*  
 2 *ment of Energy and incorporate federal funding in complying with this paragraph. Following com-*  
 3 *pletion of an energy audit for an individual school, the school district may expend funds received under*  
 4 *this paragraph to implement the energy audit. Once an energy audit has been conducted and completely*  
 5 *implemented for each school within the school district, the school district may expend funds received*  
 6 *under this paragraph for any of the following purposes:]*

7 *[(i) Conducting energy audits. A school district shall conduct an energy audit prior to expending*  
 8 *funds on any other purpose authorized under this paragraph unless the school district has performed*  
 9 *an energy audit within the three years immediately prior to receiving the funds.]*

10 *[(ii) Weatherization and upgrading the energy efficiency of school district facilities.]*

11 *[(iii) Energy conservation education programs.]*

12 *[(iv) Purchasing electricity from environmentally focused sources and investing in renewable energy*  
 13 *resources.]*

14 *[(f) The commission may not establish a different public purpose charge than the public purpose*  
 15 *charge described in subsection (2) of this section.]*

16 *[(g) If the commission directs funds collected through public purpose charges to a nongovernmental*  
 17 *entity, the entity shall:]*

18 **(1)(a) The Public Utility Commission shall adopt by rule or order cost-effective energy**  
 19 **conservation measures and market transformation measures for electric companies to fund.**  
 20 **In adopting rules or orders under this subsection, the commission:**

21 **(A) Shall require an electric company to collect moneys from the retail electricity con-**  
 22 **sumers located within the electric company's service territory for the purpose of funding the**  
 23 **measures;**

24 **(B) Shall require an electric company to expend moneys collected under subparagraph (A)**  
 25 **of this paragraph in the manner described in subsection (5) of this section; and**

26 **(C) Shall require the costs associated with funding the measures to be borne equally by**  
 27 **all customer classes served by an electric company.**

28 **(b) All prudently incurred costs related to the funding of cost-effective energy conserva-**  
 29 **tion measures and market transformation measures under this subsection are recoverable**  
 30 **in the rates of an electric company.**

31 **(c) An electric company shall pay the cost of administering this subsection out of moneys**  
 32 **collected under this subsection.**

33 **(2)(a) The commission shall require by rule or order an electric company to collect**  
 34 **moneys from the retail electricity consumers located within the electric company's service**  
 35 **territory for the purpose of funding one or more of the following types of projects:**

36 **(A) The construction and operation of new renewable energy resources with a nominal**  
 37 **electric generating capacity, as defined in ORS 469.300, of not more than 20 megawatts; or**

38 **(B) Projects that do not rely on fossil fuels and that provide ancillary services or that**  
 39 **provide for the integration of renewable energy resources into an electric company's electric**  
 40 **system.**

41 **(b) The commission shall authorize an electric company to include in the electric**  
 42 **company's rates the above-market costs associated with the projects described in paragraph**  
 43 **(a) of this subsection provided that the rate impact of those costs:**

44 **(A) Is not less than \_\_\_\_\_ percent of the electric company's annual revenue requirement**  
 45 **as identified by the commission; and**

1 (B) Is not more than \_\_\_\_ percent of an electric company's annual revenue requirement  
2 as identified by the commission.

3 (c) An electric company shall pay the cost of administering this subsection out of moneys  
4 collected under this subsection.

5 (3)(a) The commission shall require by rule or order an electric company to collect  
6 moneys for low-income weatherization. Moneys collected under this subsection shall be  
7 transferred to the Housing and Community Services Department and deposited in the Hous-  
8 ing and Community Services Department Electricity Fund established in ORS 456.587 (1).

9 (b) The commission shall authorize an electric company to include in the electric  
10 company's rates the costs described in paragraph (a) of this subsection provided that the  
11 rate impact of those costs:

12 (A) Is not less than \_\_\_\_ percent of an electric company's annual revenue requirement  
13 as identified by the commission; and

14 (B) Is not more than \_\_\_\_ percent of an electric company's annual revenue requirement  
15 as identified by the commission.

16 (c) The department shall biennially contract for an independent audit of moneys trans-  
17 ferred to the department under this subsection. The audit must include a financial exam-  
18 ination of moneys directly spent by the department, moneys spent as part of a grant and  
19 moneys spent by contractors or other parties involved in expending moneys transferred to  
20 the department under this subsection.

21 (d) An electric company shall pay the cost of administering this subsection out of moneys  
22 collected under this subsection.

23 (4) In addition to the collection of moneys as described in subsections (1) to (3) of this  
24 section, there is established an annual public purpose charge to be collected by an electric  
25 company from the retail electricity consumers located within the electric company's service  
26 territory. The annual public purpose charge must be 0.135 percent of the total revenues col-  
27 lected by an electric company for electricity services, distribution services, ancillary ser-  
28 vices, metering and billing services, transition charges and other types of costs included in  
29 an electric company's rates, as identified by the commission by rule or order. Moneys col-  
30 lected under this subsection shall be transferred to the Housing and Community Services  
31 Department and deposited in the Housing and Community Services Department Electricity  
32 Fund established in ORS 456.587 (1).

33 (5)(a) Except as provided in paragraph (b) of this subsection, the commission shall re-  
34 quire, pursuant to a rule or order adopted under subsections (1) and (2) of this section, an  
35 electric company to expend moneys collected under subsections (1) and (2) of this section  
36 through competitive bids or other means designed to encourage competition, provided that  
37 at least 80 percent of the moneys collected for the purpose of funding cost-effective energy  
38 conservation measures are spent within the service territory of the electric company that  
39 collected the moneys. To achieve this purpose, the commission may direct moneys collected  
40 under subsections (1) and (2) of this section to be paid to a nongovernmental entity described  
41 in paragraph (c) of this subsection.

42 (b) As part of the cost-effective energy conservation measures adopted under subsection  
43 (1)(a) of this section, the commission shall require by rule or order a portion of the moneys  
44 collected pursuant to subsection (1) of this section to be diverted to a program through  
45 which cost-effective energy conservation measures are provided to school districts within the

1 **service territory of the electric company collecting the moneys. A program to which moneys**  
 2 **are diverted under this paragraph may include the following measures:**

3 **(A) Energy audits;**

4 **(B) Upgrades to the energy efficiency of school district facilities;**

5 **(C) Energy conservation education programs;**

6 **(D) Purchasing electricity from environmentally focused sources; and**

7 **(E) Investing in renewable energy resources.**

8 **(c) A nongovernmental entity to which the commission directs moneys to be paid under**  
 9 **paragraph (a) of this subsection shall:**

10 (A) Include on the entity's board of directors an ex officio member designated by the commis-  
 11 sion, who *[shall]* also **shall** serve on the entity's nominating committee for filling board vacancies.

12 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-  
 13 terest to be filed with the commission on or prior to April 15 of each calendar year for public review  
 14 in a form similar to the statement of economic interest required for public officials under ORS  
 15 244.060.

16 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest  
 17 at regular meetings of the entity's governing body when *[such]* conflicts **of interest** arise, and re-  
 18 quire an officer or director to abstain from participating in any discussion or vote on any item  
 19 where that officer or director has an actual conflict of interest. For the purposes of this subpara-  
 20 graph, "actual conflict of interest" and "potential conflict of interest" have the meanings given those  
 21 terms in ORS 244.020.

22 (D) Arrange for an independent auditor to audit the entity's financial statements annually, and  
 23 direct the auditor to file an audit opinion with the commission for public review.

24 (E) **Annually** file with the commission *[annually]* the entity's budget, action plan and quarterly  
 25 and annual reports for public review.

26 (F) At least once every five years, contract for an independent management evaluation to review  
 27 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a  
 28 report with the commission for public review.

29 *[(h)]* **(d)** The commission may remove from the board of directors of a nongovernmental entity  
 30 **to which the commission directs moneys to be paid under paragraph (a) of this subsection**  
 31 **an officer or director who fails to provide an annual disclosure of economic interest, or who fails**  
 32 **to declare actual or potential conflict of interest, as described in paragraph [(g)(B) and (C)] (c)(B)**  
 33 **and (C) of this subsection, in connection with the allocation or expenditure of [funds collected**  
 34 **through public purpose charges and directed to the entity] moneys collected under subsections (1)**  
 35 **and (2) of this section and paid to the nongovernmental entity.**

36 *[(4)(a)]* **(6)** An electric company that satisfies its obligations under this section *[shall have]* **has**  
 37 no further obligation to invest in **energy conservation measures**, *[new]* market transformation  
 38 **measures** or *[new]* low-income weatherization, or to provide a commercial energy conservation  
 39 services program, and is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

40 *[(b) Oregon Community Power, for any period during which Oregon Community Power collects a*  
 41 *public purpose charge under subsection (2) of this section:]*

42 *[(A) Shall have no other obligation to invest in conservation, new market transformation or new*  
 43 *low-income weatherization or to provide a commercial energy conservation services program; and]*

44 *[(B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.]*

45 *[(5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at any*

1 *site in the prior year shall receive a credit against public purpose charges billed by an electric company*  
 2 *or Oregon Community Power for that site. The amount of the credit shall be equal to the total amount*  
 3 *of qualifying expenditures for new energy conservation, not to exceed 68 percent of the annual public*  
 4 *purpose charges, and the above-market costs of purchases of new renewable energy resources incurred*  
 5 *by the retail electricity consumer, not to exceed 19 percent of the annual public purpose charges, less*  
 6 *administration costs incurred under this subsection. The credit may not exceed, on an annual basis, the*  
 7 *lesser of:]*

8 *[(A) The amount of the retail electricity consumer's qualifying expenditures; or]*

9 *[(B) The portion of the public purpose charge billed to the retail electricity consumer that is dedi-*  
 10 *cated to new energy conservation, new market transformation or the above-market costs of new*  
 11 *renewable energy resources.]*

12 *[(b) To obtain a credit under this subsection, a retail electricity consumer shall file with the State*  
 13 *Department of Energy a description of the proposed conservation project or new renewable energy re-*  
 14 *source and a declaration that the retail electricity consumer plans to incur the qualifying expenditure.*  
 15 *The State Department of Energy shall issue a notice of precertification within 30 days of receipt of the*  
 16 *filing, if such filing is consistent with this subsection. The credit may be taken after a retail electricity*  
 17 *consumer provides a letter from a certified public accountant to the State Department of Energy veri-*  
 18 *fying that the precertified qualifying expenditure has been made.]*

19 *[(c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that are*  
 20 *not used in one year may be carried forward for use in subsequent years.]*

21 *[(d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at any*  
 22 *site in the prior year may request that the State Department of Energy hire an independent auditor to*  
 23 *assess the potential for conservation investments at the site. If the independent auditor determines there*  
 24 *is no available conservation measure at the site that would have a simple payback of one to 10 years,*  
 25 *the retail electricity consumer shall be relieved of 54 percent of its payment obligation for public pur-*  
 26 *pose charges related to the site. If the independent auditor determines that there are potential conser-*  
 27 *vation measures available at the site, the retail electricity consumer shall be entitled to a credit against*  
 28 *public purpose charges related to the site equal to 54 percent of the public purpose charges less the*  
 29 *estimated cost of available conservation measures.]*

30 *[(B) A retail electricity consumer shall be entitled each year to the credit described in this sub-*  
 31 *section unless a subsequent independent audit determines that new conservation investment opportu-*  
 32 *nities are available. The State Department of Energy may require that a new independent audit be*  
 33 *performed on the site to determine whether new conservation measures are available, provided that the*  
 34 *independent audits shall occur no more than once every two years.]*

35 *[(C) The retail electricity consumer shall pay the cost of the independent audits described in this*  
 36 *subsection.]*

37 *[(6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit for*  
 38 *the public purpose expenditures of their energy suppliers. The State Department of Energy shall adopt*  
 39 *rules to determine eligible expenditures and the methodology by which such credits are accounted for*  
 40 *and used. The rules also shall adopt methods to account for eligible public purpose expenditures made*  
 41 *through consortia or collaborative projects.]*

42 **(7) The commission shall adopt rules under which a retail electricity consumer that uses**  
 43 **more than one average megawatt of electricity at a single site in the year immediately pre-**  
 44 **ceding the year in which moneys are collected under subsections (1) to (4) of this section**  
 45 **shall receive a credit against amounts billed by an electric company, provided that the retail**

1 **electricity consumer uses the credit to implement one or more energy conservation meas-**  
 2 **ures at the site.**

3 [(7)(a)] **(8)(a)** In addition to *[the public purpose charge provided under subsection (2)]* **the moneys**  
 4 **collected under subsections (1) to (4)** of this section, an electric company *[or Oregon Community*  
 5 *Power]* shall collect funds for low-income electric bill payment assistance in an amount determined  
 6 under paragraph (b) of this subsection.

7 (b) The commission shall establish the amount **of moneys** to be collected by each electric  
 8 company in **the** calendar year 2008 from retail electricity consumers served by the company, and  
 9 the rates to be charged to retail electricity consumers served by the company, so that the total  
 10 anticipated collection for low-income electric bill payment assistance by all electric companies in  
 11 **the** calendar year 2008 is \$15 million. In *[calendar year 2009 and]* subsequent calendar years, the  
 12 commission may not change the rates established for retail electricity consumers, but the total  
 13 amount **of moneys** collected in a calendar year for low-income electric bill payment assistance may  
 14 vary based on electricity usage by retail electricity consumers and changes in the number of retail  
 15 electricity consumers in this state. *[In no event shall]*, **provided that** a retail electricity consumer  
 16 *[be]* **is not** required to pay more than \$500 per month per site for low-income electric bill payment  
 17 assistance.

18 (c) *[Funds collected by the low-income electric bill payment assistance charge]* **Moneys collected**  
 19 **under this subsection** shall be paid into the Housing and Community Services Department Low-  
 20 Income Electric Bill Payment Assistance Fund established *[by]* **in** ORS 456.587 (2). Moneys deposited  
 21 in the fund under this paragraph shall be used by the Housing and Community Services Department  
 22 for the purpose of funding low-income electric bill payment assistance. *[The department's cost of ad-*  
 23 *ministering this subsection shall be paid out of funds collected by the low-income electric bill payment*  
 24 *assistance charge.]* **The department shall pay the cost of administering this subsection out of**  
 25 **moneys collected under this subsection.** Moneys deposited in the fund under this paragraph  
 26 *[shall]* **may** be expended solely for **the purpose of** low-income electric bill payment assistance.  
 27 *[Funds]* **Moneys** collected *[from]* **by** an electric company *[or Oregon Community Power]* shall be ex-  
 28 pended in the service *[area]* **territory** of the electric company *[or Oregon Community Power from*  
 29 *which the funds are collected]* **that collected the moneys.**

30 (d)(A) The Housing and Community Services Department shall determine the manner in which  
 31 *[funds]* **moneys** collected under this subsection *[will be]* **are** allocated by the department to energy  
 32 assistance program providers for the purpose of providing low-income **electric** bill payment *[and*  
 33 *crisis]* assistance.

34 (B) **In consultation with electric companies**, the department shall investigate and may im-  
 35 plement alternative delivery models *[in consultation with electric companies]* to effectively reduce  
 36 service disconnections and related costs to retail electricity consumers and electric *[utilities]* **com-**  
 37 **panies.**

38 (C) Priority assistance shall be directed to low-income electricity consumers *[who]* **that** are in  
 39 danger of having their electricity service disconnected.

40 (D) The department shall maintain records and provide those records upon request to an electric  
 41 company*[, Oregon Community Power]* and the Citizens' Utility Board established under ORS chapter  
 42 774 on a quarterly basis. Records maintained must include the numbers of low-income electricity  
 43 consumers served, the average amounts paid and the type of assistance provided. Electric companies  
 44 *[and Oregon Community Power]* shall, if requested, provide the department with aggregate data re-  
 45 lating to consumers served on a quarterly basis to support program development.

1 (e) Interest on moneys deposited in the Housing and Community Services Department Low-  
 2 Income Electric Bill Payment Assistance Fund established [by] in ORS 456.587 (2) may be used to  
 3 provide bill payment [and crisis] assistance to **retail** electricity consumers whose primary source  
 4 of heat is not electricity.

5 (f) Notwithstanding ORS 757.310, the commission may allow an electric company [or Oregon  
 6 Community Power] to provide reduced rates or other payment or crisis assistance or low-income  
 7 program assistance to a low-income household eligible for assistance under the federal Low Income  
 8 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

9 [(8)] (9) For purposes of this section, “retail electricity consumers” includes any direct service  
 10 industrial consumer that purchases electricity without purchasing distribution services from [the]  
 11 **an** electric utility.

12 [(9) For purposes of this section, amounts collected by Oregon Community Power through public  
 13 purpose charges are not considered moneys received from electric utility operations.]

14  
 15 **(Operative January 1, 2023)**

16  
 17 **SECTION 2.** ORS 757.612, as amended by section 1 of this 2016 Act, is amended to read:

18 757.612. (1)(a) The Public Utility Commission shall adopt by rule or order cost-effective energy  
 19 conservation measures and market transformation measures for electric companies to fund. In  
 20 adopting rules or orders under this subsection, the commission:

21 (A) Shall require an electric company to collect moneys from the retail electricity consumers  
 22 located within the electric company’s service territory for the purpose of funding the measures;

23 (B) Shall require an electric company to expend moneys collected under subparagraph (A) of this  
 24 paragraph in the manner described in subsection (5) of this section; and

25 (C) Shall require the costs associated with funding the measures to be borne equally by all  
 26 customer classes served by an electric company.

27 (b) All prudently incurred costs related to the funding of cost-effective energy conservation  
 28 measures and market transformation measures under this subsection are recoverable in the rates  
 29 of an electric company.

30 (c) An electric company shall pay the cost of administering this subsection out of moneys col-  
 31 lected under this subsection.

32 (2)(a) The commission shall require by rule or order an electric company to collect moneys from  
 33 the retail electricity consumers located within the electric company’s service territory for the pur-  
 34 pose of funding one or more of the following types of projects:

35 (A) The construction and operation of new renewable energy resources with a nominal electric  
 36 generating capacity, as defined in ORS 469.300, of not more than 20 megawatts; or

37 (B) Projects that do not rely on fossil fuels and that provide ancillary services or that provide  
 38 for the integration of renewable energy resources into an electric company’s electric system.

39 (b) The commission shall authorize an electric company to include in the electric company’s  
 40 rates the above-market costs associated with the projects described in paragraph (a) of this sub-  
 41 section provided that the rate impact of those costs:

42 (A) Is not less than \_\_\_\_\_ percent of the electric company’s annual revenue requirement as  
 43 identified by the commission; and

44 (B) Is not more than \_\_\_\_\_ percent of an electric company’s annual revenue requirement as  
 45 identified by the commission.



1 (c) An electric company shall pay the cost of administering this subsection out of moneys col-  
2 lected under this subsection.

3 (3)(a) The commission shall require by rule or order an electric company to collect moneys for  
4 low-income weatherization. Moneys collected under this subsection shall be transferred to the  
5 Housing and Community Services Department and deposited in the Housing and Community Services  
6 Department Electricity Fund established in ORS 456.587 (1).

7 (b) The commission shall authorize an electric company to include in the electric company's  
8 rates the costs described in paragraph (a) of this subsection provided that the rate impact of those  
9 costs:

10 (A) Is not less than \_\_\_\_\_ percent of an electric company's annual revenue requirement as  
11 identified by the commission; and

12 (B) Is not more than \_\_\_\_\_ percent of an electric company's annual revenue requirement as  
13 identified by the commission.

14 (c) The department shall biennially contract for an independent audit of moneys transferred to  
15 the department under this subsection. The audit must include a financial examination of moneys  
16 directly spent by the department, moneys spent as part of a grant and moneys spent by contractors  
17 or other parties involved in expending moneys transferred to the department under this subsection.

18 **(d) The Citizens' Utility Board established under ORS chapter 774 or the association**  
19 **representing the statewide community action agency network described in ORS 458.505 (1)**  
20 **may file, in a form and manner prescribed by the commission, a request for the commission**  
21 **to conduct a public hearing on and make a determination about the administration of moneys**  
22 **collected under this subsection. The commission shall make its determination by identifying**  
23 **the method of administering the moneys that best serves the public interest. The commis-**  
24 **sion may determine that the department should continue administering the moneys, that an**  
25 **independent third party should administer the moneys or that another means of adminis-**  
26 **tering the moneys should occur as proposed in a petition filed under this paragraph.**

27 [(d)] (e) An electric company shall pay the cost of administering this subsection out of moneys  
28 collected under this subsection.

29 (4) In addition to the collection of moneys as described in subsections (1) to (3) of this section,  
30 there is established an annual public purpose charge to be collected by an electric company from  
31 the retail electricity consumers located within the electric company's service territory. The annual  
32 public purpose charge must be 0.135 percent of the total revenues collected by an electric company  
33 for electricity services, distribution services, ancillary services, metering and billing services, tran-  
34 sition charges and other types of costs included in an electric company's rates, as identified by the  
35 commission by rule or order. Moneys collected under this subsection shall be transferred to the  
36 Housing and Community Services Department and deposited in the Housing and Community Services  
37 Department Electricity Fund established in ORS 456.587 (1).

38 (5)(a) Except as provided in paragraph (b) of this subsection, the commission shall require, pur-  
39 suant to a rule or order adopted under subsections (1) and (2) of this section, an electric company  
40 to expend moneys collected under subsections (1) and (2) of this section through competitive bids  
41 or other means designed to encourage competition, provided that at least 80 percent of the moneys  
42 collected for the purpose of funding cost-effective energy conservation measures are spent within the  
43 service territory of the electric company that collected the moneys. To achieve this purpose, the  
44 commission may direct moneys collected under subsections (1) and (2) of this section to be paid to  
45 a nongovernmental entity described in paragraph (c) of this subsection.

1 (b) As part of the cost-effective energy conservation measures adopted under subsection (1)(a)  
2 of this section, the commission shall require by rule or order a portion of the moneys collected  
3 pursuant to subsection (1) of this section to be diverted to a program through which cost-effective  
4 energy conservation measures are provided to school districts within the service territory of the  
5 electric company collecting the moneys. A program to which moneys are diverted under this para-  
6 graph may include the following measures:

7 (A) Energy audits;

8 (B) Upgrades to the energy efficiency of school district facilities;

9 (C) Energy conservation education programs;

10 (D) Purchasing electricity from environmentally focused sources; and

11 (E) Investing in renewable energy resources.

12 (c) A nongovernmental entity to which the commission directs moneys to be paid under para-  
13 graph (a) of this subsection shall:

14 (A) Include on the entity's board of directors an ex officio member designated by the commis-  
15 sion, who also shall serve on the entity's nominating committee for filling board vacancies.

16 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-  
17 terest to be filed with the commission on or prior to April 15 of each calendar year for public review  
18 in a form similar to the statement of economic interest required for public officials under ORS  
19 244.060.

20 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest  
21 at regular meetings of the entity's governing body when conflicts of interest arise, and require an  
22 officer or director to abstain from participating in any discussion or vote on any item where that  
23 officer or director has an actual conflict of interest. For the purposes of this subparagraph, "actual  
24 conflict of interest" and "potential conflict of interest" have the meanings given those terms in ORS  
25 244.020.

26 (D) Arrange for an independent auditor to audit the entity's financial statements annually, and  
27 direct the auditor to file an audit opinion with the commission for public review.

28 (E) Annually file with the commission the entity's budget, action plan and quarterly and annual  
29 reports for public review.

30 (F) At least once every five years, contract for an independent management evaluation to review  
31 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a  
32 report with the commission for public review.

33 (d) The commission may remove from the board of directors of a nongovernmental entity to  
34 which the commission directs moneys to be paid under paragraph (a) of this subsection an officer  
35 or director who fails to provide an annual disclosure of economic interest, or who fails to declare  
36 actual or potential conflict of interest, as described in paragraph (c)(B) and (C) of this subsection,  
37 in connection with the allocation or expenditure of moneys collected under subsections (1) and (2)  
38 of this section and paid to the nongovernmental entity.

39 (6) An electric company that satisfies its obligations under this section has no further obligation  
40 to invest in energy conservation measures, market transformation measures or low-income  
41 weatherization, or to provide a commercial energy conservation services program, and is not subject  
42 to ORS 469.631 to 469.645 and 469.860 to 469.900.

43 (7) The commission shall adopt rules under which a retail electricity consumer that uses more  
44 than one average megawatt of electricity at a single site in the year immediately preceding the year  
45 in which moneys are collected under subsections (1) to (4) of this section shall receive a credit

1 against amounts billed by an electric company, provided that the retail electricity consumer uses the  
2 credit to implement one or more energy conservation measures at the site.

3 (8)(a) In addition to the moneys collected under subsections (1) to (4) of this section, an electric  
4 company shall collect funds for low-income electric bill payment assistance in an amount determined  
5 under paragraph (b) of this subsection.

6 (b) The commission shall establish the amount of moneys to be collected by each electric com-  
7 pany in the calendar year 2008 from retail electricity consumers served by the company, and the  
8 rates to be charged to retail electricity consumers served by the company, so that the total antic-  
9 ipated collection for low-income electric bill payment assistance by all electric companies in the  
10 calendar year 2008 is \$15 million. In subsequent calendar years, the commission may not change the  
11 rates established for retail electricity consumers, but the total amount of moneys collected in a  
12 calendar year for low-income electric bill payment assistance may vary based on electricity usage  
13 by retail electricity consumers and changes in the number of retail electricity consumers in this  
14 state, provided that a retail electricity consumer is not required to pay more than \$500 per month  
15 per site for low-income electric bill payment assistance.

16 (c) Moneys collected under this subsection shall be paid into the Housing and Community Ser-  
17 vices Department Low-Income Electric Bill Payment Assistance Fund established in ORS 456.587 (2).  
18 Moneys deposited in the fund under this paragraph shall be used by the Housing and Community  
19 Services Department for the purpose of funding low-income electric bill payment assistance. The  
20 department shall pay the cost of administering this subsection out of moneys collected under this  
21 subsection. Moneys deposited in the fund under this paragraph may be expended solely for the pur-  
22 pose of low-income electric bill payment assistance. Moneys collected by an electric company shall  
23 be expended in the service territory of the electric company that collected the moneys.

24 (d)(A) The Housing and Community Services Department shall determine the manner in which  
25 moneys collected under this subsection are allocated by the department to energy assistance pro-  
26 gram providers for the purpose of providing low-income electric bill payment assistance.

27 (B) In consultation with electric companies, the department shall investigate and may implement  
28 alternative delivery models to effectively reduce service disconnections and related costs to retail  
29 electricity consumers and electric companies.

30 (C) Priority assistance shall be directed to low-income electricity consumers that are in danger  
31 of having their electricity service disconnected.

32 (D) The department shall maintain records and provide those records upon request to an electric  
33 company and the Citizens' Utility Board established under ORS chapter 774 on a quarterly basis.  
34 Records maintained must include the numbers of low-income electricity consumers served, the av-  
35 erage amounts paid and the type of assistance provided. Electric companies shall, if requested, pro-  
36 vide the department with aggregate data relating to consumers served on a quarterly basis to  
37 support program development.

38 (e) Interest on moneys deposited in the Housing and Community Services Department Low-  
39 Income Electric Bill Payment Assistance Fund established in ORS 456.587 (2) may be used to provide  
40 bill payment assistance to retail electricity consumers whose primary source of heat is not elec-  
41 tricity.

42 (f) Notwithstanding ORS 757.310, the commission may allow an electric company to provide re-  
43 duced rates or other payment or crisis assistance or low-income program assistance to a low-income  
44 household eligible for assistance under the federal Low Income Home Energy Assistance Act of  
45 1981, as amended and in effect on July 23, 1999.

(9) For purposes of this section, “retail electricity consumers” includes any direct service industrial consumer that purchases electricity without purchasing distribution services from an electric utility.

**HOUSING AND COMMUNITY SERVICES DEPARTMENT  
ELECTRICITY FUND**

**SECTION 3.** ORS 456.587 is amended to read:

456.587. (1) The Housing and Community Services Department Electricity [*Public Purpose Charge*] Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Housing and Community Services Department Electricity [*Public Purpose Charge*] Fund shall be credited to the fund. Moneys [*in the fund*] **deposited in the fund pursuant to ORS 757.612 (3)** are continuously appropriated to the Housing and Community Services Department to be used for purposes [*specified in ORS 757.612 (3)(b)(D)*] **related to providing low-income weatherization, as defined in ORS 757.600, and conducting audits, as required by ORS 757.612 (3)(c). Moneys deposited in the fund pursuant to ORS 757.612 (4) are continuously appropriated to the department for the purpose of providing grants as described in ORS 458.625 (2).**

(2) The Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the [*Housing and Community Services*] department for purposes described in ORS 757.612 [(7)] **(8)**.

**CONFORMING AMENDMENTS**

**SECTION 4.** ORS 297.300 is amended to read:

297.300. The records related to any [*funds*] **moneys** collected [*through public purpose charges*] **under ORS 757.612 (1) and (2)** and paid to a nongovernmental entity as described in ORS 757.612 **(5)** shall be subject to audit by the Secretary of State.

**SECTION 5.** ORS 469A.200 is amended to read:

469A.200. If an electric company or electricity service supplier that is subject to a renewable portfolio standard under ORS 469A.005 to 469A.210 fails to comply with the standard in the manner provided by ORS 469A.005 to 469A.210, the Public Utility Commission may impose a penalty against the company or supplier in an amount determined by the commission. A penalty under this section is in addition to any alternative compliance payment required or elected under ORS 469A.180. **If the commission directs moneys collected under ORS 757.612 (1) and (2) to be paid to a nongovernmental entity under ORS 757.612 (5),** moneys paid for penalties under this section shall be transmitted by the commission to the nongovernmental entity [*receiving moneys under ORS 757.612 (3)(d) and may be used only*] for the purposes specified in ORS 757.612 (1) **and (2)**.

**SECTION 6.** ORS 470.050 is amended to read:

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

(1) “Alternative fuel project” means:

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

1 (A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent de-  
2 natured alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other  
3 fuel approved by the Director of the State Department of Energy; and

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

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

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

9 (3) "Base efficiency package" means the package of energy efficiency upgrades or renewable  
10 energy projects for a property that, when energy savings, project repayment costs, tax or other in-  
11 centives, loan offset grants and other relevant economic factors are considered, is estimated to not  
12 increase the utility bill of the customer over the loan repayment term.

13 (4) "Committee" means the Small Scale Local Energy Project Advisory Committee created under  
14 ORS 470.070.

15 (5) "Cooperative" means a cooperative corporation organized under ORS chapter 62.

16 (6) "Director" means the Director of the State Department of Energy appointed under ORS  
17 469.040.

18 (7) "Eligible federal agency" means a federal agency or public corporation created by the federal  
19 government that proposes to use a loan for a small scale local energy project. "Eligible federal  
20 agency" does not include a federal agency or public corporation created by the federal government  
21 that proposes to use a loan for a small scale local energy project to generate electricity for sale.

22 (8) "Eligible state agency" means a state officer, board, commission, department, institution,  
23 branch or agency of the state whose costs are paid wholly or in part from funds held in the State  
24 Treasury.

25 (9) "Energy efficiency and sustainable technology loan" means a loan for a small scale local  
26 energy project that is repayable by means of:

27 (a) A charge included with the participant's utility customer account billing; or

28 (b) An alternative repayment method identified by the department and the borrower and speci-  
29 fied in the loan agreement.

30 (10) "Energy Project Bond Loan Fund" means the fund established under ORS 470.580.

31 (11) "Energy Project Supplemental Fund" means the fund established under ORS 470.570.

32 (12) "Energy Revenue Bond Repayment Fund" means the fund established under ORS 470.585.

33 (13) "Energy savings projection" means an examination of the energy performance and site  
34 characteristics of a property that, at a minimum, identifies:

35 (a) A base efficiency package; and

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

38 (14) "Jobs, Energy and Schools Fund" means the fund established under ORS 470.575.

39 (15) "Loan" includes the purchase or other acquisition of evidence of indebtedness and money  
40 used for the purchase or other acquisition of evidence of indebtedness.

41 (16) "Loan contract" means the evidence of indebtedness and all instruments used in the pur-  
42 chase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or mu-  
43 nicipal corporations that are tax exempt entities, a loan contract may include a lease purchase  
44 agreement with respect to personal property.

45 (17) "Loan offset grant" means moneys from the Jobs, Energy and Schools Fund that are used

1 to help offset the initial project costs or loan payments for energy efficiency, renewable energy and  
2 energy conservation projects.

3 (18) "Loan repayment charge" means an amount charged to a utility customer account through  
4 on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable tech-  
5 nology loan.

6 (19) "Municipal corporation" has the meaning given in ORS 297.405 and also includes any Indian  
7 tribe or authorized Indian tribal organization or any combination of two or more of these tribes or  
8 organizations acting jointly in connection with a small scale local energy project.

9 (20) "On-bill financing" means a mechanism for collecting the repayment of an energy efficiency  
10 and sustainable technology loan through a utility customer account billing system.

11 (21) "Optional package" means measures for promoting energy efficiency or the use of renewable  
12 energy:

13 (a) That are in addition to the measures described in the customer's base efficiency package;

14 (b) For which a customer has the ability to repay; and

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

16 (22) "Oregon business" means a sole proprietorship, partnership, company, cooperative, corpo-  
17 ration or other form of business entity that is organized or authorized to do business under Oregon  
18 law for profit.

19 (23) "Primary contractor" means a contractor that:

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

22 (b) Is responsible for the completion of the small scale local energy project;

23 (c) Undertakes to complete the small scale local energy project; and

24 (d) Is responsible for any subcontractors performing work on the small scale local energy  
25 project.

26 (24) "Public [*Purpose*] Fund Administrator" means the **nongovernmental** entity designated by  
27 the Public Utility Commission to [*administer moneys collected by a company through the public pur-  
28 pose charge described*] **receive moneys** under ORS 757.612 (5).

29 (25) "Recycling project" means a facility or equipment that converts waste into a new and usa-  
30 ble product.

31 (26) "Small business" means:

32 (a) An Oregon business that is:

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

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

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

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

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

42 (27) "Small scale local energy program loan" means a loan for a small scale local energy project  
43 other than an energy efficiency and sustainable technology loan.

44 (28) "Small scale local energy project" means any of the following:

45 (a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or

1 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-  
 2 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to  
 3 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-  
 4 gional energy need in this state.

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

8 (c) A recycling project.

9 (d) An alternative fuel project.

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

13 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility  
 14 that directly or indirectly reduces the amount of energy needed for the construction and operation  
 15 of the facility and that meets the sustainable building practices standard established by the State  
 16 Department of Energy by rule. For purposes of this paragraph, “system, mechanism or series of  
 17 mechanisms” includes related and integrated upgrades to attain compliance with standards set in  
 18 the State of Oregon Structural Specialty Code and Fire and Life Safety Code, and seismic safety  
 19 upgrades.

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

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

25 (29) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the fund  
 26 created under ORS 470.300.

27 (30) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Article XI-J  
 28 of the Oregon Constitution and appropriated to the State Department of Energy under ORS 470.130.

29 (31) “Sustainable energy project manager” means the organization responsible for promoting the  
 30 energy efficiency and sustainable technology loan program or the clean energy deployment program  
 31 and related incentives for energy efficiency and renewable energy at the neighborhood and commu-  
 32 nity level.

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

36 **SECTION 7.** ORS 470.515 is amended to read:

37 470.515. The Public Utility Commission may adopt rules for carrying out the duties, functions  
 38 and powers of the commission and the Public [*Purpose*] Fund Administrator under ORS 470.500 to  
 39 470.710.

40 **SECTION 8.** ORS 470.530 is amended to read:

41 470.530. (1) Except as provided in subsection (5) of this section, the Director of the State De-  
 42 partment of Energy may establish qualifications for sustainable energy project managers and may  
 43 exercise oversight to ensure compliance with those qualifications. A sustainable energy project  
 44 manager shall provide the promotion, technical and financial support and verifications necessary to  
 45 administer an energy efficiency and sustainable technology loan.

1 (2) A sustainable energy project manager may administer an energy efficiency and sustainable  
 2 technology loan only within a utility service territory of an investor-owned or consumer-owned  
 3 utility that provides electricity or gas services.

4 (3) A sustainable energy project manager shall serve the utility service territory for which the  
 5 sustainable energy project manager has been selected by the director. The sustainable energy  
 6 project manager shall provide loan program information and technical and financial information to  
 7 promote energy efficiency and use of renewable energy at the neighborhood and community levels.  
 8 The sustainable energy project manager shall be responsible for small scale local energy project  
 9 verification and for monitoring program effectiveness for energy efficiency and sustainable technol-  
 10 ogy loans and small scale local energy program loans. The sustainable energy project manager may  
 11 administer the energy efficiency and sustainable technology loan program within the utility service  
 12 territory.

13 (4) A city, county, metropolitan service district or other local government entity, or a nonprofit,  
 14 for-profit, tribal or state entity, may be a sustainable energy project manager if the entity meets the  
 15 qualifications established by the director under this section and is approved by the director to pro-  
 16 vide promotion, outreach and customer support related to the energy efficiency and sustainable  
 17 technology loan program within a utility service territory. The Public [*Purpose*] Fund Administrator  
 18 is an ex officio sustainable energy project manager. The Public [*Purpose*] Fund Administrator shall  
 19 act as the sustainable energy project manager in any utility service territory that is not served by  
 20 another sustainable energy project manager.

21 (5) The director shall establish a sustainable energy project manager certification program.  
 22 However, the Public [*Purpose*] Fund Administrator or a consumer-owned utility is not required to  
 23 obtain a sustainable energy project manager certificate and the Public [*Purpose*] Fund Administrator  
 24 is not subject to any qualifications established by the director for a sustainable energy project  
 25 manager.

26 **SECTION 9.** ORS 470.550 is amended to read:

27 470.550. (1) Unless the sustainable energy project manager is the Public [*Purpose*] Fund Admin-  
 28 istrator or a consumer-owned utility, the certification of a sustainable energy project manager shall  
 29 be for a five-year term. The Director of the State Department of Energy shall issue the sustainable  
 30 energy project manager a certification approval letter that states any conditions applicable to the  
 31 certification.

32 (2) The director may terminate the certification of a sustainable energy project manager for:

33 (a) Failure to adequately implement an applicable plan for implementing the energy efficiency  
 34 and sustainable technology loan program;

35 (b) Noncompliance with the regulatory or statutory requirements of the energy efficiency and  
 36 sustainable technology loan program;

37 (c) Failure to meet any sustainable energy project manager criteria established by the director;

38 or

39 (d) Failure to perform other certification conditions.

40 **SECTION 10.** ORS 470.555 is amended to read:

41 470.555. (1) The Public [*Purpose*] Fund Administrator shall be the sustainable energy project  
 42 manager for investor-owned electric utilities. The Public [*Purpose*] Fund Administrator shall inform  
 43 the Public Utility Commission and the State Department of Energy of the activities of the adminis-  
 44 trator by filing a yearly action plan and an end-of-year report with the commission and the depart-  
 45 ment.



1 (2) An investor-owned gas utility may act as a sustainable energy project manager for the utility  
2 service territory serviced by the utility or may contract with the Public [*Purpose*] Fund Adminis-  
3 trator to act as the sustainable energy project manager on behalf of the utility.

4 (3) A consumer-owned utility shall be the sustainable energy project manager for the utility  
5 service territory serviced by the utility if the utility agrees to promote energy efficiency and  
6 sustainable technology loans as part of an energy efficiency or renewable energy program offered  
7 by the utility. A consumer-owned utility may conduct energy efficiency and renewable energy pro-  
8 grams within the utility service territory of the utility regardless of whether the utility service  
9 territory is served by an energy efficiency and sustainable technology loan program. A consumer-  
10 owned utility may decline to participate in the energy efficiency and sustainable technology loan  
11 program.

12 (4) If a customer is served by both a gas utility and an electric utility that have energy effi-  
13 ciency and sustainable technology loan programs, the utility that supplies the customer's primary  
14 source of heat for the property shall supply loan program services for that customer.

15 (5) The existence of an energy efficiency and sustainable technology loan program, or the ap-  
16 pointment of a sustainable energy project manager, in a utility service territory does not prevent a  
17 consumer-owned utility from conducting an energy efficiency or renewable energy program offered  
18 by the utility. If the consumer-owned utility declines to serve as a sustainable energy project man-  
19 ager for the utility service territory, the utility may:

20 (a) Continue with existing utility services and policies; or

21 (b) Work with the Director of the State Department of Energy to solicit and select a qualified  
22 entity to serve as the sustainable energy project manager as described in ORS 470.535 and 470.540.

23 (6) Subject to approval by the director, a sustainable energy project manager may contract with  
24 a qualified third party to assist the sustainable energy project manager in serving a utility service  
25 territory. If a utility service territory is served by a sustainable energy project manager, the ap-  
26 pointment of additional sustainable energy project managers may be made only by entering into a  
27 subcontract approved by the existing sustainable energy project manager. If the third party is acting  
28 as a financier, the third party is not required to comply with laws regulating utilities based on the  
29 actions of the third party as a financier. The sustainable energy project manager may enter into  
30 agreements with trade associations and other public and private entities for the promotion or mar-  
31 keting of the energy efficiency and sustainable technology loan program.

32 (7) The Public [*Purpose*] Fund Administrator and sustainable energy project managers shall co-  
33 operate with, and coordinate their outreach and promotional efforts with, local utilities and other  
34 stakeholders to promote energy efficiency and renewable energy and to use the customer contacts,  
35 resources and capacity of the utilities to engage and inform utility customers about the energy ef-  
36 ficiency and sustainable technology loan program. The Public [*Purpose*] Fund Administrator and  
37 sustainable energy project managers shall coordinate with gas utilities regarding any changes to a  
38 gas pipeline and with electric utilities regarding electric charging or any changes to electrical  
39 connections that are external to a structure. The Public [*Purpose*] Fund Administrator and  
40 sustainable energy project managers shall coordinate with a gas utility regarding the installation  
41 of appliances used for space heating, water heating and compressed natural gas refueling.

42 **SECTION 11.** ORS 470.560 is amended to read:

43 470.560. (1) The State Department of Energy shall adopt rules establishing certification stan-  
44 dards for primary contractors participating in the construction of small scale local energy projects  
45 financed through the energy efficiency and sustainable technology loan program. The department

1 shall design the standards to ensure that the project work performed by a primary contractor  
 2 holding the certification and all the primary contractor's subcontractors is of high quality and will  
 3 result in a high degree of customer satisfaction.

4 (2) The certification standards established by the department must, at a minimum, require that  
 5 the primary contractor:

6 (a) Prove that the primary contractor and the primary contractor's subcontractors have suffi-  
 7 cient skill to successfully install energy efficiency, renewable energy or weatherization projects.

8 (b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Industries under  
 9 ORS 279C.860 as ineligible to receive a contract or subcontract for public works.

10 (c) Be an equal opportunity employer or small business or be a disadvantaged business enter-  
 11 prise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran  
 12 owns or an emerging small business, as those terms are defined in ORS 200.005.

13 (d) Demonstrate a history of compliance with the rules and other requirements of the Con-  
 14 struction Contractors Board and of the Workers' Compensation Division and the Occupational  
 15 Safety and Health Division of the Department of Consumer and Business Services.

16 (e) Employ at least 80 percent of employees used for energy efficiency and sustainable technol-  
 17 ogy loan program projects from the local work force, if a sufficient supply of skilled workers is  
 18 available locally.

19 (f) Demonstrate a history of compliance with federal and state wage and hour laws.

20 (g) Pay wages to employees used for energy efficiency and sustainable technology loan program  
 21 projects at a rate equal to at least 180 percent of the state minimum wage.

22 (3) The State Department of Energy shall consult with the Public [*Purpose*] Fund Administrator  
 23 and utilities when developing certification standards for primary contractors.

24 (4) The Construction Contractors Board may issue a qualifying primary contractor a certifica-  
 25 tion authorizing the primary contractor to participate in the construction of small scale local energy  
 26 projects financed through the energy efficiency and sustainable technology loan program. A primary  
 27 contractor seeking certification shall apply to the board as provided under ORS 701.119.

28 (5) The State Department of Energy shall identify certified primary contractors that provide  
 29 employees with health insurance benefits as preferred service providers and may take other actions  
 30 as practicable to encourage certified primary contractors to provide employees with health insur-  
 31 ance benefits.

32 **SECTION 12.** ORS 470.510 is amended to read:

33 470.510. (1) Except as provided in subsection (3) of this section, the State Department of Energy  
 34 may enter into contracts for the issuance of energy efficiency and sustainable technology loans.  
 35 Except as provided in ORS 470.700, the department shall finance the loans using moneys from the  
 36 Small Scale Local Energy Project Loan Fund, the Energy Project Supplemental Fund or the Energy  
 37 Project Bond Loan Fund, or from a combination of those funds.

38 (2) The sustainable energy project manager may enter into agreements with trade associations  
 39 and other public and private entities for the promotion or marketing of the energy efficiency and  
 40 sustainable technology loan program.

41 (3) The department must obtain the consent of the utility before operating an energy efficiency  
 42 and sustainable technology loan program within the service territory of:

43 (a) An investor-owned electric utility that serves fewer than 20,000 customers; or

44 (b) An investor-owned gas utility that is actively administering an energy conservation program  
 45 established:

1 (A) On or before January 1, 2009; and

2 (B) Without assistance from a nongovernmental entity [*that receives public purpose charge*] **des-**  
 3 **ignated by the Public Utility Commission to receive** moneys under ORS 757.612 (5).

4 **SECTION 13.** ORS 470.815 is amended to read:

5 470.815. (1) School districts that participate in the clean energy deployment program established  
 6 in ORS 470.810 may finance projects to:

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

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

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

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

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

18 (a) Paying directly for the projects;

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

21 (A) Grant moneys from the Jobs, Energy and Schools Fund;

22 (B) [*Public purpose charges directed*] **Moneys diverted** to a school district in areas served by  
 23 investor-owned utilities [*under*] **pursuant to** ORS 757.612 (5);

24 (C) Qualified Energy Conservation Bonds issued under the Energy Improvement and Extension  
 25 Act of 2008 or other federal loan programs; or

26 (D) Revenues generated by the savings in energy costs resulting from the energy efficiency im-  
 27 provements;

28 (c) Issuing general obligation bonds, subject to the bond election requirements under ORS  
 29 328.210; or

30 (d) Using any other source of moneys.

31 **SECTION 14.** ORS 757.365 is amended to read:

32 757.365. (1) The Public Utility Commission shall establish a pilot program for each electric  
 33 company to demonstrate the use and effectiveness of volumetric incentive rates and payments for  
 34 electricity or for the nonenergy attributes of electricity, or both, from solar photovoltaic energy  
 35 systems that are permanently installed in this state by retail electricity consumers and that first  
 36 become operational after the program begins. The cumulative nameplate capacity of the qualifying  
 37 systems enrolled in all of the pilot programs may not exceed 27.5 megawatts of alternating current.  
 38 Qualifying systems enrolled in the pilot program may not have nameplate generating capacity  
 39 greater than 500 kilowatts.

40 (2) The commission by rule shall adopt requirements for the pilot programs described in sub-  
 41 section (1) of this section. Each electric company shall file for commission approval tariff schedules  
 42 for the pilot programs that conform to the requirements.

43 (3) The commission may establish incentive rates for the pilot programs to enable the develop-  
 44 ment of the most efficient solar photovoltaic energy systems.

45 (4) A retail electricity consumer participating in a pilot program may receive payments based

1 on electricity generated from solar photovoltaic energy system output for 15 years from the  
 2 consumer's date of enrollment in the program, at rates or through a rate formula in a tariff schedule  
 3 established at the time of enrollment, or at rates otherwise established at the time of enrollment.  
 4 The consumer thereafter may receive payments based upon electricity generated from the qualifying  
 5 system at a rate equal to the resource value.

6 (5) The commission may adjust the tariff schedule as needed for new pilot program participants  
 7 for the purpose of meeting the goal established in subsection (1) of this section. Once a retail elec-  
 8 tricity consumer is enrolled in a program, the rates or rate formula for determining payments to the  
 9 consumer may not be modified.

10 (6) The commission may adopt and adjust a percentage goal for capacity deployed by residential  
 11 and small commercial qualifying systems based upon the costs of the energy generated, the feasi-  
 12 bility of attaining the goal and other factors. For purposes of attaining the goal described in this  
 13 subsection, the commission shall require 2.5 megawatts of alternating current from the cumulative  
 14 nameplate capacity of qualifying systems to be generated by individual systems with a nameplate  
 15 generating capacity between five and 100 kilowatts.

16 (7) The commission may establish total generator nameplate capacity limits for an electric  
 17 company so that the rate impact of the pilot program for any customer class does not exceed 0.25  
 18 percent of the electric company's revenue requirement for the class in any year.

19 (8) Ownership of renewable energy certificates established under ORS 469A.130 that are asso-  
 20 ciated with renewable energy generation under the pilot programs must be transferred to the elec-  
 21 tric company and may be used to comply with the renewable portfolio standard described in ORS  
 22 469A.052 or 469A.055.

23 (9) To the extent that rates paid under a pilot program exceed the resource value, qualifying  
 24 systems participating in the pilot programs are not eligible for expenditures under ORS 757.612  
 25 [(3)(b)(B)] (2)(a)(A) or tax credits under ORS 469B.100 to 469B.118 or 469B.130 to 469B.169.

26 (10) All prudently incurred costs associated with compliance with this section are recoverable  
 27 in the rates of an electric company.

28 (11) The commission shall advise and assist the owners and operators of qualifying systems in  
 29 identifying and using grants, incentive moneys, federal funding and other sources of noninvestment  
 30 financial support for the construction and operation of qualifying systems.

31 (12) The pilot programs described in subsection (1) of this section close to new participants on  
 32 the earlier of:

33 (a) March 31, 2016; or

34 (b) The date the cumulative nameplate capacity of solar photovoltaic energy systems that have  
 35 been permanently installed by retail electricity consumers under the pilot programs equals 27.5  
 36 megawatts of alternating current.

37 (13) The commission shall submit a report to the Legislative Assembly by January 1 of each  
 38 odd-numbered year. The report must evaluate the effectiveness of the pilot programs described in  
 39 subsection (1) of this section compared to the effectiveness of expenditures under ORS 757.612  
 40 [(3)(b)(B)] (2)(a)(A) or tax credits under ORS 469B.100 to 469B.118 or 469B.130 to 469B.169 for pro-  
 41 moting the use of solar photovoltaic energy systems and reducing system costs. The report must also  
 42 estimate the cost of the program to retail electricity consumers and the resource value of solar en-  
 43 ergy.

44 **SECTION 15.** ORS 757.613 is amended to read:

45 757.613. (1) *If an electric company or Oregon Community Power invests moneys collected as a*

1 *public purpose charge under ORS 757.612 on new cost-effective local energy conservation, or if the*  
 2 *nongovernmental entity described in ORS 757.612 (3)(g) invests moneys paid to the nongovernmental*  
 3 *entity under ORS 757.612 (3)(d) on new cost-effective local energy conservation, and if the investment*  
 4 *involves] **If moneys collected under ORS 757.612 (1) are spent on** updating the energy efficiency*  
 5 *of a residential or nonresidential building, [the electric company, Oregon Community Power or the*  
 6 *nongovernmental entity may make those investments by conducting] **the moneys may be used to***  
 7 **conduct** a whole building assessment of the energy efficiency of the building and, in consideration  
 8 of the whole building assessment, *[by maximizing] to maximize* the overall energy efficiency of the  
 9 building. For purposes of this subsection, a “whole building assessment” means a single assessment  
 10 of savings opportunities, as identified by the Public Utility Commission by rule or order.

11 (2) An *[investment] expenditure* described in subsection (1) of this section must be limited to an  
 12 *[investment] expenditure* in a single project, as authorized by the commission by rule or order.

13 **SECTION 16.** ORS 757.617 is amended to read:

14 757.617. *[(1)(a)] (1) The Public Utility Commission and the State Department of Energy jointly*  
 15 *shall select an independent nongovernmental entity to prepare a biennial report [to] for the Legis-*  
 16 *lative Assembly describing [program spending and results for public purpose requirements undertaken*  
 17 *pursuant to ORS 757.612. The first report shall be due on January 1, 2003.] **the expenditure of***  
 18 **moneys collected under ORS 757.612 (1) to (4). The independent nongovernmental entity shall**  
 19 **submit the biennial report to the Legislative Assembly on or before January 1 of each odd-**  
 20 **numbered year.**

21 *[(b) The commission and the department jointly shall select an independent nongovernmental entity*  
 22 *to prepare a report to the Legislative Assembly describing proposed modifications to public purpose*  
 23 *requirements undertaken pursuant to ORS 757.612. The report shall be due on January 1, 2007.]*

24 *[(c) The commission and the department jointly shall select an independent nongovernmental entity*  
 25 *to prepare a report to the Legislative Assembly recommending whether the public purpose funding re-*  
 26 *quirements under ORS 757.612 should be renewed. The report shall be due on January 1, 2011.]*

27 (2) The Housing and Community Services Department shall prepare a biennial report *[to] for* the  
 28 Legislative Assembly describing *[program spending and needs] **the expenditure of moneys received***  
 29 **by the department under ORS 757.612 (8) and the need** for low-income **electric bill payment**  
 30 **assistance. [The first report shall be due on January 1, 2003.] **The department shall submit the****  
 31 **biennial report to the Legislative Assembly on or before January 1 of each odd-numbered**  
 32 **year.**

33 **SECTION 17.** ORS 757.659 is amended to read:

34 757.659. According to the applicable provisions of ORS 756.060 and ORS chapter 183, the Public  
 35 Utility Commission shall adopt such rules as are necessary to implement ORS 757.600 to 757.667.  
 36 Rules adopted by the commission shall address at least the following:

37 (1) Requirements and methodologies for each electric company to provide unbundled rates and  
 38 services pursuant to ORS 757.642.

39 (2) Requirements for each electric company allowing aggregation of electricity loads pursuant  
 40 to ORS 757.627, which may include aggregation of demand for other services available under direct  
 41 access.

42 (3) Requirements for consumer protection. Consumer protection rules adopted by the commission  
 43 that relate to electricity service suppliers shall be applicable throughout this state and shall, at a  
 44 minimum, contain provisions for the disclosure of price, power source and environmental impact in  
 45 contract offers and marketing information.

1 (4) Market valuation methodologies for determining the amount and recovery of the costs of  
2 uneconomic utility investment and the amount of and credit for economic utility investment.

3 (5) Requirements for each electric company to offer a portfolio of rate options under ORS  
4 757.603.

5 (6) The method of determining a default supplier for those consumers who are not eligible to  
6 participate in a portfolio program under ORS 757.603 in a manner that provides for viable competi-  
7 tion among electricity service suppliers and among power generation companies. The commission  
8 may condition the use of a default service option by requiring reasonable notice and commitment  
9 from a consumer who intends to use the default service option in nonemergency situations.

10 (7) Requirements for market structure described in ORS 757.646.

11 [(8) *Requirements for public purpose charges and credits under ORS 757.612.*]

12 [(9)] (8) Requirements for meters, metering services, billing and collection services, and customer  
13 response functions.

14 **SECTION 18.** ORS 757.689 is amended to read:

15 757.689. (1) In addition to [*the public purpose charge established by ORS 757.612,*] **moneys col-**  
16 **lected under ORS 757.612,** the Public Utility Commission may authorize an electric company to  
17 include in its rates the costs of funding or implementing cost-effective energy conservation measures  
18 [*implemented on or after June 6, 2007*] **that meet the requirements of subsection (2) of this**  
19 **section.** The costs may include amounts for weatherization programs [*that*] **intended to conserve**  
20 energy.

21 (2) The commission shall ensure that a retail electricity consumer with a load greater than one  
22 average megawatt:

23 (a) Is not required to pay an amount that is more than [*three percent of the consumer's total cost*  
24 *of electricity service for the public purpose charge under ORS 757.612 and*] any amounts included in  
25 rates [*under this section*] **pursuant to ORS 757.612;** and

26 (b) Does not receive any direct benefit from energy conservation measures if the costs of the  
27 measures are included in rates under this section.

28 **SECTION 19.** ORS 757.872 is amended to read:

29 757.872. (1) Any equity of the incumbent utility, any electric utility assets of the incumbent  
30 utility or any combination of equity and assets of the incumbent utility that Oregon Community  
31 Power acquires under ORS 757.812 to 757.950 shall be held in trust by Oregon Community Power,  
32 acting as a trustee, for the exclusive purpose of carrying out the powers, rights and privileges of  
33 Oregon Community Power under ORS 757.812 to 757.950 for the benefit of the retail electricity  
34 consumers of Oregon Community Power. Notwithstanding any other provision of law, retail elec-  
35 tricity consumers of Oregon Community Power may not pursue any judicial remedy in any court of  
36 this state for any action of Oregon Community Power, except as provided in ORS 757.812 to 757.950.

37 (2) The State of Oregon declares that it has no proprietary interest in Oregon Community Power  
38 or in any tangible or intangible property of any form owned or acquired by Oregon Community  
39 Power. The state disclaims any right to reclaim any contributions made to Oregon Community  
40 Power under ORS 757.812 to 757.950.

41 (3) Except as provided in ORS 757.812 to 757.950, Oregon Community Power may not receive  
42 any moneys from the State of Oregon other than:

43 (a) Electric utility operational revenues;

44 [(b) *Public purpose charge revenues under ORS 757.612;*]

45 [(c)] (b) Nonrecourse bond proceeds or proceeds from any other nonrecourse borrowing; or

1 [(d)] (c) Loans, grants, payments or other assistance that any local government as defined in  
 2 ORS 174.116 would be eligible to receive.

3 **SECTION 20.** Section 3, chapter 566, Oregon Laws 2011, as amended by section 1, chapter 254,  
 4 Oregon Laws 2013, is amended to read:

5 **Sec. 3.** Notwithstanding the \$15 million limitation described in ORS 757.612 [(7)(b)] **(8)(b)**, the  
 6 Public Utility Commission shall direct electric companies [*or Oregon Community Power*] to collect  
 7 a combined total of an additional \$5 million per 12-month period from residential electricity con-  
 8 sumers for the low-income electric bill payment assistance provided for in ORS 757.612 [(7)(a)] **(8)(a)**  
 9 if the Housing and Community Services Department requests an increase.

10  
 11 **MISCELLANEOUS**

12  
 13 **(Applicability)**

14  
 15 **SECTION 21.** The amendments to ORS 757.612 by section 1 of this 2016 Act do not affect:

16 (1) The requirements for the expenditure of moneys collected by electric companies under  
 17 ORS 757.612 as operative immediately before the operative date specified in section 22 of this  
 18 2016 Act;

19 (2) The use of any bonds issued to a school district involving moneys collected under ORS  
 20 757.612 as operative immediately before the operative date specified in section 22 of this 2016  
 21 Act; or

22 (3) The terms of any contract entered into by a school district involving moneys collected  
 23 under ORS 757.612 as operative immediately before the operative date specified in section 22  
 24 of this 2016 Act.

25  
 26 **(Operative Dates)**

27  
 28 **SECTION 22.** (1) The amendments to ORS 297.300, 456.587, 469A.200, 470.050, 470.510,  
 29 470.515, 470.530, 470.550, 470.555, 470.560, 470.815, 757.365, 757.612, 757.613, 757.617, 757.659,  
 30 757.689 and 757.872 and section 3, chapter 566, Oregon Laws 2011, by sections 1 and 3 to 20  
 31 of this 2016 Act become operative on January 1, 2017.

32 (2) The Public Utility Commission may take any action before the operative date specified  
 33 in subsection (1) of this section that is necessary to enable the commission to exercise, on  
 34 and after the operative date specified in subsection (1) of this section, all the duties, powers  
 35 and functions conferred on the commission by the amendments to ORS 297.300, 456.587,  
 36 469A.200, 470.050, 470.510, 470.515, 470.530, 470.550, 470.555, 470.560, 470.815, 757.365, 757.612,  
 37 757.613, 757.617, 757.659, 757.689 and 757.872 and section 3, chapter 566, Oregon Laws 2011, by  
 38 sections 1 and 3 to 20 of this 2016 Act.

39 **SECTION 23.** The amendments to ORS 757.612 by section 2 of this 2016 Act become op-  
 40 erative on January 1, 2023.

41  
 42 **(Unit Captions)**

43  
 44 **SECTION 24.** The unit captions used in this 2016 Act are provided only for the conven-  
 45 ience of the reader and do not become part of the statutory law of this state or express any

1 **legislative intent in the enactment of this 2016 Act.**

2

3

**(Emergency Clause)**

4

5 **SECTION 25. This 2016 Act being necessary for the immediate preservation of the public**  
6 **peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect**  
7 **on its passage.**

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