Oregon Department of Energy

	2013-15 Actual	2015-17 Legislatively Approved*	2017-19 Current Service Level	2017-19 Governor's Budget
Lottery Funds	2,166,048	2,980,496	3,023,630	3,023,630
Other Funds	33,214,314	35,104,816	35,412,377	35,318,204
Other Funds (Nonlimited)	83,385,513	140,853,963	119,282,861	-
Federal Funds	2,553,392	3,187,299	3,153,122	2,475,582
Federal Funds (Nonlimited)	-	104,000	104,000	-
Total Funds	**121,319,267**	**182,230,574**	**160,975,990**	**40,817,416**
Positions	113	105	102	95
FTE	111.92	104.50	96.91	90.75

* Includes Emergency Board and administrative actions through December 2016.

Program Description

The mission of the Oregon Department of Energy (ODOE) is to lead Oregon to a safe, clean, and sustainable energy future. The Department works to ensure that Oregon has an adequate supply of reliable and affordable energy and is safe from nuclear contamination by helping Oregonians save energy, developing clean energy resources, promoting renewable energy, and cleaning up nuclear waste. ODOE encourages energy conservation through public information and incentive programs which provide loans or tax credits for implementing energy efficient technologies in residences, public sector buildings, and private sector businesses. The Department currently receives no General Fund support for its activities.

ODOE has five budgeted divisions:

- Energy Planning and Innovation (EPI) Division - provides expertise and pursues programs and policies related to energy resources, resiliency, efficiency and conservation.
- Energy Development Services (EDS) Division - administers financing and incentives for businesses, households, and the public sector to help implement conservation, energy efficiency, and renewable energy projects and alternative fuel vehicle infrastructure.
- Nuclear Safety and Energy Emergency Preparedness Division - oversees Oregon’s interest in the Hanford nuclear facility cleanup and prepares for nuclear and energy-related emergencies.
- Energy Facility Siting Division - works with energy facility developers and operating energy facilities to meet the state’s energy needs by ensuring that large power plants, transmission lines, and natural gas pipelines are built to meet Oregon requirements.
- Administrative Services Division - provides shared administrative services to the agency.

Other Funds revenues generated through fees and charges for services support the agency's energy incentive and tax credit programs, energy facilities siting program, specific projects or organizations, such as the Jordan Cove Energy Project and the Northwest Power and Conservation Council, the State Heating Oil Weatherization Program, and various other activities. Policy development, planning, technical analysis, and agency support services are funded with an energy supplier assessment (ESA) levied annually on energy suppliers in Oregon. The largest source of Other Funds for the Department consists of the Small-Scale Energy Loan Program (SELP) revenues, including proceeds from the issuance of general obligation bonds, used to capitalize the program, loan principal and interest repayments, and investment earnings. Lottery Funds pay for debt service, and Federal Funds support nuclear safety programs and clean energy activities through the federal State Energy Program.

CSL Summary and Issues

The 2017-19 current service level (CSL) budget of $161 million is $21.3 (or 11.7%) less than the 2015-17 legislatively approved budget (LAB) of $182.2 million. A budget note from the 2015 session instructed the Department to limit the Energy Supplier Assessment to a total of $13.1 million in its 2017-19 agency request budget. The ESA cap, combined with limited activity in SELP, and reduced federal funding has resulted in revenue shortfall packages totaling $2.3 million and 1.87 FTE. In addition, a total of $1.4 million and 5.25 FTE have been phased out of the budget due to the sunset of the energy incentive programs (EIP). ODOE also removed $21.6 million of nonlimited Other Funds expenditure limitation in SELP.

ODOE's CSL budget includes a package to increase facilities rent budget by $100,000. Department of Administrative Services (DAS) Chief Financial increased the package by an additional $200,000 to accommodate total moving/furniture costs that will be paid through rent and were unknown when the budget was developed. Total facilities rent budget was under market and the increase supports the Department's new lease agreement with DAS for the Public Utility Commission (PUC) building. ODOE relocated to the PUC building in December 2016. The CSL budget also includes a package shifting funding from Federal Funds to Other Funds to align the budget for two positions with actual revenue sources. Technical adjustments are included to move two positions out of the EDS division and into the EPI and Administrative divisions and centralize the rent budget in the Administrative Services division. The adjustment aligns workload with the appropriate divisions and better reflects total operational costs.

Policy Issues

The Department of Energy has experienced a great deal of change and attention in recent years. In the 2013 session, the Legislature created an Energy Advisory Work Group, and directed the Department of Energy to provide the Work Group with information on its requested budget, legislative concepts and policy activities. The agency provided the Energy Advisory Work Group with information and an opportunity to discuss its budget and legislative concepts during the development of its 2015-17 budget.

In December 2015, Governor Brown requested the Department of Administrative Services to lead an internal review team to examine ODOE. Upon completion of that review, she recommended that the Department of Energy be preserved to focus on leading the state to a safe, clean and sustainable energy future through the energy planning and innovation, nuclear safety, and energy facility siting divisions. Governor Brown also recommended that the Residential Energy Tax Credit (RETC), Biomass Producer and Collector Tax Credit, and Energy Incentive Program (EIP) be allowed to sunset at the end of 2017 and that the Small-Scale Energy Loan Program be transferred to Business Oregon.

SELP is designed to operate as an enterprise, using program fees and interest income earned on Article XI-J General Obligation Bond-funded energy loans to pay all program related administrative expenses and bond debt service. However, due to $30.5 million in losses on loans originated between 2007 and 2010, the fund is in a deficit position and not forecasted to be self-sustaining. The SELP Fund reported a net deficit position of $8.6 million at June 30, 2015, and is expected to have fully spent its cash reserves in 2020. Absent other mitigating strategies, this situation will require a General Fund appropriation in order to cover debt service on outstanding bond issues. The other (Constitutional) remedy would be to levy a statewide property tax. ODOE currently estimates a potential shortfall of approximately $16.2 million between the years 2020 and 2034 to meet debt service obligations. This estimate does not include debt service savings of approximately $2.5 million generated through a bond refunding in February 2017. The deficit is dynamic and changes based on actual program costs incurred and revenues received. ODOE has elected to leave several vacant positions within the program open pending additional clarity on the program's future and to help minimize costs. The Treasurer has also suspended the issuance of new bonds pending an evaluation and recommendation to the Legislature on the long term viability of the program.

The Joint Interim Committee on Department of Energy Oversight was appointed during the 2015-17 biennium to conduct a thorough review of the Oregon Department of Energy. The Committee was charged with focusing on:

- Review of the agency's charge, mission, and statutory responsibilities.
- Review of the agency's organizational structure and funding streams.
- Assessment of the current gaps and deficiencies in the agency's operational structure and personnel capacity to fulfill its mission and programs.
- Assessment of the agency's capacity to facilitate stakeholder relationships, both public and private, to fulfill its mission.

The Committee completed its work in December 2016, and provided draft recommendations for the 2017 session. Recommendations included updating the state's energy policy, establishing an Energy Board to oversee the Department, and requiring Senate confirmation of the ODOE Director. The Committee also recommended that the Energy Incentive Program and Biomass Producer and Collector Tax Credit Programs be allowed to sunset on January 1, 2018, but the Residential Energy Tax Credit (RETC) program be continued for an additional two years or until a replacement program is identified. Additionally, recommendations included repealing the Energy Efficiency and Sustainable Technology Loan Program, returning SELP to its original mission, and transferring it to Business Oregon, with ODOE retaining a role in project qualification. To address the SELP shortfall, the Committee recommended repealing the Alternative Vehicle Fuel Revolving Loan Program and transferring the remaining funds (approximately $3 million) to SELP. Statutory changes were recommended to clarify that ESA is an assessment on revenue for the benefit of the state's energy consumers and the minimum floor for ESA payments should be raised.

<u>Other Significant Issues and Current Discussions</u>

The Governor's Budget included three policy packages totaling $1.2 million Other Funds, supported by ESA revenues, to make the Governor's Energy Policy Advisor position (1.00 FTE) permanent; implement an industry standard Customer Relationship Management (CRM) system to help the agency better manage data, information, and customer relationships, including two information system specialist positons (2.00 FTE) to perform the work and provide ongoing maintenance; and increase funding for Attorney General costs due to anticipated and ongoing litigation expenses. An additional policy package totaling $202,097 Other Funds, supported by energy facility siting fees, makes a Fiscal Analyst 2 position (1.00 FTE), authorized during the 2015 legislative session, a permanent position. The position creates more efficiency and controls in the financial processes of the Energy Facility Siting Division.

The SELP budget was removed from ODOE and included in Business Oregon in the Governor's Budget, resulting in a 74.6% decrease from CSL. ODOE has a federally approved indirect cost recovery model that funds a significant percentage of the Administrative Services Division. SELP revolving fund earnings contributed to the support of administrative services through the indirect cost recovery model. Removing SELP revenues indirectly increases the portion of ESA revenues required to support the Administrative Services Division. Legislation was not introduced by the Governor on behalf of the agency to make the statutory changes necessary to transfer management of the program to Business Oregon. However, the co-chairs of the Joint Interim Committee on Department of Energy Oversight have introduced HB 2756 (2017), which transfers the SELP program to Business Oregon.

The Secretary of State (SOS) contracted with Marsh Minick, P.C. to conduct an investigative examination of the Business Energy Tax Credit (BETC) Program administered by ODOE. Marsh Minick, P.C. issued its report of findings September 2016. The auditors found that the Governor's energy policy goals prompted decisions to approve BETC projects. Legislative expansion of the program and economic development goals also influenced outcomes. The impact of the BETC program on General Fund revenues was significantly underestimated. ODOE lacked a good control environment, staff didn't have financial risk management expertise, and wasn't equipped to administer the rapidly expanding high-dollar financial program. No direct evidence of fraud was found, though the auditors did note circumstantial evidence of suspicious activity on 79 projects that were referred to the Oregon Department of Justice for further review.

The Oregon Department of Energy is also being sued by a group representing nine publicly owned utilities in Oregon over the Energy Supplier Assessment. A similar lawsuit was filed in 2012, but subsequently withdrawn. One of the Department's policy option packages is for funding to cover increased litigation costs.

No specific budget details or issues were identified in the Co-Chairs' budget framework for this agency.