

Requested by Representative BENTZ

**PROPOSED AMENDMENTS TO
HOUSE BILL 3386**

1 On page 1 of the printed bill, line 2, after “468A.275” insert “, 469A.200,
2 646.932, 757.612 and 757.613”.

3 Delete lines 5 through 28 and delete pages 2 through 6 and insert:
4

5 **“LOW CARBON FUEL STANDARDS; COST CONTAINMENT**
6

7 **“SECTION 1. (1) Sections 2 and 4 to 7 of this 2017 Act are added to
8 and made a part of ORS chapter 468A.**

9 **“(2) ORS 468A.275 is added to and made a part of sections 2 to 7 of
10 this 2017 Act.**

11 **“SECTION 2. As used in sections 2 to 7 of this 2017 Act:**

12 **“(1) ‘Biodiesel’ means a motor vehicle fuel consisting of mono-alkyl
13 esters of long chain fatty acids derived from vegetable oils, animal fats
14 or other nonpetroleum resources, not including palm oil.**

15 **“(2) ‘Compliance credit’ means an instrument issued by a compli-
16 ance credit generator that may be used by a regulated party in place
17 of a credit to demonstrate compliance with the low carbon fuel stan-
18 dards.**

19 **“(3) ‘Compliance credit generator’ means the nongovernmental en-
20 tity that has entered into an agreement with the Department of En-
21 vironmental Quality to issue compliance credits.**

1 “(4) ‘Credit’ means a unit of measure, expressed in metric tons of
2 carbon dioxide equivalent that is generated when the carbon intensity
3 of a fuel that is produced, imported, dispensed or used in Oregon is
4 less than the applicable low carbon fuel standard.

5 “(5) ‘Deficit’ means a unit of measure, expressed in metric tons of
6 carbon dioxide equivalent, that is generated when the carbon intensity
7 of a fuel that is produced, imported, dispensed or used in Oregon ex-
8 ceeds the applicable low carbon fuel standard.

9 “(6) ‘Greenhouse gas’ has the meaning given that term in ORS
10 468A.210.

11 “(7) ‘Low carbon fuel standards’ means standards adopted by the
12 Environmental Quality Commission by rule under ORS 468A.275 for the
13 reduction of greenhouse gas emissions, on average, per unit of fuel
14 energy.

15 “(8) ‘Motor vehicle’ has the meaning given that term in ORS
16 801.360.

17 “(9) ‘Regulated party’ means a person responsible for complying
18 with the low carbon fuel standards.

19 “SECTION 3. ORS 468A.275 is amended to read:

20 “468A.275. [(1) As used in this section:]

21 “[(a) ‘Greenhouse gas’ has the meaning given that term in ORS 468A.210.]

22 “[(b) ‘Low carbon fuel standards’ means standards for the reduction of
23 greenhouse gas emissions, on average, per unit of fuel energy.]

24 “[(c) ‘Motor vehicle’ has the meaning given that term in ORS 801.360.]

25 “[(2)(a)] (1) The Environmental Quality Commission shall adopt by rule
26 low carbon fuel standards for gasoline, diesel and fuels used as substitutes
27 for gasoline or diesel.

28 “[(b)] (2) The commission may adopt the following related to the stan-
29 dards, including but not limited to:

30 “[(A)] (a) A schedule to phase in implementation of the standards in a

1 manner that reduces the average amount of greenhouse gas emissions per
2 unit of fuel energy of the fuels by 10 percent below 2010 levels by the year
3 2025 or by a later date if the commission determines that an extension is
4 appropriate to implement the standards;

5 “[*B*]” **(b)** Standards for greenhouse gas emissions attributable to the fuels
6 throughout their lifecycles, including but not limited to emissions from the
7 production, storage, transportation and combustion of the fuels and from
8 changes in land use associated with the fuels;

9 “[*C*]” **(c)** Provisions allowing the use of all types of low carbon fuels to
10 meet the low carbon fuel standards, including but not limited to biofuels,
11 biogas, natural gas, liquefied petroleum gas, gasoline, diesel, hydrogen and
12 electricity;

13 “[*D*]” **(d)** Standards for the issuance of deferrals, established with ade-
14 quate lead time, as necessary to ensure adequate fuel supplies;

15 “[*E*]” **(e)** Exemptions for fuels that are used in volumes below thresholds
16 established by the commission;

17 “[*F*]” **(f)** Standards, specifications, testing requirements and other meas-
18 ures as needed to ensure the quality of fuels produced in accordance with
19 the low carbon fuel standards, including but not limited to the requirements
20 of ORS 646.910 to 646.923 and administrative rules adopted by the State De-
21 partment of Agriculture for motor fuel quality; and

22 “[*G*]” **(g)** Adjustments to the amounts of greenhouse gas emissions per
23 unit of fuel energy assigned to fuels for combustion and drive train effi-
24 ciency.

25 “[*c*]” **(3)** Before adopting standards under this section, the commission
26 shall consider the low carbon fuel standards of other states[, *including but*
27 *not limited to Washington,*] for the purpose of determining schedules and
28 goals for the reduction of the average amount of greenhouse gas emissions
29 per unit of fuel energy and the default values for these reductions for ap-
30 plicable fuels.

1 “(d) *The commission shall adopt by rule provisions for managing and*
2 *containing the costs of compliance with the standards, including but not lim-*
3 *ited to provisions to facilitate compliance with the standards by ensuring that*
4 *persons may obtain credits for fuels used as substitutes for gasoline or diesel*
5 *and by creating opportunities for persons to trade credits.]*

6 “[(e)] (4) The commission shall exempt from the standards any person who
7 imports in a calendar year less than 500,000 gallons of gasoline and diesel
8 fuel, in total. Any fuel imported by persons that are related or share common
9 ownership or control shall be aggregated together to determine whether a
10 person is exempt under this [paragraph] **subsection.**

11 “[(f)(A) *The commission by rule shall prohibit fuels that contain biodiesel*
12 *from being considered an alternative fuel under these standards unless the fuel*
13 *meets the following standards:]*

14 “[(i) *Fuel that consists entirely of biodiesel, designated as B100, shall*
15 *comply with ASTM D 6751 and shall have an oxidation stability induction*
16 *period of not less than eight hours as determined by the test method described*
17 *in European standard EN 15751; and]*

18 “[(ii) *Fuel that consists of a blend of diesel fuel and between 6 and 20*
19 *volume percent biodiesel, and designated as biodiesel blends B6 to B20, shall*
20 *comply with ASTM D 7467 and shall have an oxidation stability induction*
21 *period of not less than 20 hours as determined by the test method described*
22 *in European standard EN 15751.]*

23 “[(B) *The commission may adopt rules different from those required under*
24 *subparagraph (A) of this paragraph if an ASTM or EN standard applicable*
25 *to biodiesel is approved or amended after March 12, 2015, or if the commission*
26 *finds that different rules are necessary due to changes in technology or fuel*
27 *testing or production methods.]*

28 “[(C) *As used in this subsection, ‘biodiesel’ means a motor vehicle fuel*
29 *consisting of mono-alkyl esters of long chain fatty acids derived from vegetable*
30 *oils, animal fats or other nonpetroleum resources, not including palm oil.]*

1 “[(3) *In adopting rules under this section, the Environmental Quality*
2 *Commission shall evaluate:*]

3 “[(a) *Safety, feasibility, net reduction of greenhouse gas emissions and*
4 *cost-effectiveness;*]

5 “[(b) *Potential adverse impacts to public health and the environment, in-*
6 *cluding but not limited to air quality, water quality and the generation and*
7 *disposal of waste in this state;*]

8 “[(c) *Flexible implementation approaches to minimize compliance costs;*
9 *and]*

10 “[(d) *Technical and economic studies of comparable greenhouse gas emis-*
11 *sions reduction measures implemented in other states and any other studies*
12 *as determined by the commission.*]

13 “[(4)(a) *The provisions of this section do not apply to fuel that is demon-*
14 *strated to have been used in any of the following:*]

15 “[(A) *Motor vehicles registered as farm vehicles under the provisions of*
16 *ORS 805.300.*]

17 “[(B) *Farm tractors, as defined in ORS 801.265.*]

18 “[(C) *Implements of husbandry, as defined in ORS 801.310.*]

19 “[(D) *Motor trucks, as defined in ORS 801.355, used primarily to transport*
20 *logs.*]

21 “[(E) *Motor vehicles that are not designed primarily to transport persons*
22 *or property, that are operated on highways only incidentally, and that are used*
23 *primarily for construction work.*]

24 “[(F) *Watercraft.*]

25 “[(G) *Railroad locomotives.*]

26 “[(b) *The Environmental Quality Commission shall by rule adopt standards*
27 *for persons to qualify for the exemptions provided in this subsection.*]

28 “**SECTION 4. (1) The Environmental Quality Commission by rule**
29 **shall prohibit fuel that contain biodiesel from being considered an al-**
30 **ternative fuel under the low carbon fuel standards adopted under ORS**

1 468A.275 unless the fuel meets the following standards:

2 “(a) Fuel that consists entirely of biodiesel, designated as B100,
3 shall comply with ASTM D 6751 and shall have an oxidation stability
4 induction period of not less than eight hours as determined by the test
5 method described in European standard EN 15751; and

6 “(b) Fuel that consists of a blend of diesel fuel and between 6 and
7 20 volume percent biodiesel, and designated as biodiesel blends B6 to
8 B20, shall comply with ASTM D 7467 and shall have an oxidation sta-
9 bility induction period of not less than 20 hours as determined by the
10 test method described in European standard EN 15751.

11 “(2) The commission may adopt rules different from those required
12 under subsection (1) of this section if an ASTM or EN standard appli-
13 cable to biodiesel is approved or amended after March 12, 2015, or if
14 the commission finds that different rules are necessary due to changes
15 in technology or fuel testing or production methods.

16 **“SECTION 5. (1) In order to facilitate compliance with the low
17 carbon fuel standards adopted under ORS 468A.275, the Environmental
18 Quality Commission shall adopt by rule a program in which:**

19 “(a) Regulated parties generate deficits and may reconcile the defi-
20 cits, and thus be in compliance with the low carbon fuel standards for
21 a compliance period, by obtaining credits; and

22 “(b) Persons shall have opportunities to trade credits.

23 “(2) The program adopted by the Environmental Quality Commis-
24 sion under this section must include provisions for managing and
25 containing the costs of compliance with the low carbon fuel standards.
26 Provisions required by this subsection must include, but need not be
27 limited to, provisions for the use of compliance credits to demonstrate
28 compliance with the low carbon fuel standards. Provisions for the use
29 of compliance credits must provide that:

30 “(a) Compliance credits may not be banked; and

1 “(b) Compliance credits may not be traded.

2 “**SECTION 6.** (1) Under the program adopted by the Environmental
3 **Quality Commission pursuant to section 5 of this 2017 Act, the De-**
4 **partment of Environmental Quality shall enter into an agreement with**
5 **a nongovernmental entity for the nongovernmental entity to serve as**
6 **the compliance credit generator. The agreement entered into under**
7 **this section must require the compliance credit generator to:**

8 “(a) Offer for transfer to regulated parties an unlimited quantity
9 of compliance credits.

10 “(b) Transfer compliance credits at a price of \$75 per compliance
11 credit.

12 “(c) Use funds received through the transfer of compliance credits
13 for:

14 “(A) Providing grants to Oregon’s post-secondary institutions of
15 education to research, in partnership with manufacturers, low carbon
16 intensity transportation technology;

17 “(B) Establishing and managing a revolving loan fund to provide
18 loans for the manufacture of products in Oregon that will reduce
19 transportation-related greenhouse gas emissions;

20 “(C) Providing grants to school districts that do not provide trans-
21 portation to students on school buses, as defined in ORS 801.460, for
22 the costs incurred to provide transportation to students on a com-
23 mercial bus operated by a city or county, a mass transit district es-
24 tablished under ORS 267.010 to 267.390 or a transportation district
25 established under ORS 267.510 to 267.650; or

26 “(D) Establishing and managing a rebate program to provide re-
27 bates to low income persons for the purchase in this state of alterna-
28 tive fuel or zero-emission vehicles, under which an alternative fuel or
29 zero-emission vehicle for which a person receives a rebate must be:

30 “(i) Registered in this state; and

1 “(ii) Used to replace a motor vehicle powered by a combustion en-
2 gine.

3 “(d) Use any funds collected through public purpose charges and
4 received from an electric company or Oregon Community Power pur-
5 suant to ORS 757.612 for transportation electrification, as that term
6 is defined in section 20, chapter 28, Oregon Laws 2016, that benefits:

7 (A) The service area of the electric company that collected the
8 funds; or

9 (B) If Oregon Community Power collected the funds, the service
10 area of Oregon Community Power.

11 “(e) Regularly provide the commission with timely and detailed in-
12 formation on the activities under paragraph (c) of this subsection that
13 the compliance credit generator has funded in whole or in part by
14 funds received by the compliance credit generator through the transfer
15 of compliance credits.

16 “(f) Include on the governing body of the compliance credit gener-
17 ator an ex officio member designated by the department, who shall
18 also serve on the compliance credit generator’s nominating committee
19 for filling governing body vacancies.

20 “(g) Allow the department to inspect, after providing notice, any
21 financial record related to the activities under paragraphs (c) and (d)
22 of this subsection that are funded in whole or in part by funds received
23 by the compliance credit generator through the transfer of compliance
24 credits and under ORS 757.612.

25 “(h) Arrange, during the term of the agreement, to be audited by
26 the Secretary of State or an independent auditor selected by the Sec-
27 retary of State, and provide to the department all records related to
28 the audit.

29 “(i) Ensure that each officer of the compliance credit generator and
30 each member of the governing body of the compliance credit genera-

1 **tor:**

2 **“(A) Files with the department on or before April 15 of each year**
3 **a statement disclosing the economic interests of the officer or member**
4 **that contains the same information as a statement of economic in-**
5 **terest described in ORS 244.060;**

6 **“(B) At meetings of the governing body of the compliance credit**
7 **generator, declares any actual conflict of interest or potential conflict**
8 **of interest, as those terms are defined in ORS 244.020, whenever an**
9 **actual conflict of interest or potential conflict of interest arises; and**

10 **“(C) At meetings of the governing body of the compliance credit**
11 **generator, abstains from participating in any discussion or decision-**
12 **making process involving an actual conflict of interest as defined in**
13 **ORS 244.020.**

14 **“(2) An agreement entered into under this section must be for a**
15 **term that does not exceed one year, but may be renewed upon the**
16 **expiration of a term.**

17 **“(3) The department shall post all information received by the de-**
18 **partment pursuant to this section on a website of the department.**

19 **“(4) On or before February 1 of each year, the department shall**
20 **report to the appropriate interim committees of the Legislative As-**
21 **sembly, in the manner required by ORS 192.245, a summary of all ac-**
22 **tivities by the compliance credit generator under subsection (1)(c) and**
23 **(d) of this section that are funded in whole or in part by funds received**
24 **by the compliance credit generator through the transfer of compliance**
25 **credits and under ORS 757.612, and an estimate of the greenhouse gas**
26 **emissions reduced through the activities, expressed in metric tons of**
27 **carbon dioxide equivalent.**

28 **“(5) The commission may adopt rules to implement this section.**

29 **“SECTION 7. (1) In adopting rules under sections 2 to 7 of this 2017**
30 **Act, the Environmental Quality Commission shall evaluate:**

1 “(a) Safety, feasibility, net reduction of greenhouse gas emissions
2 and cost-effectiveness;

3 “(b) Potential adverse impacts to public health and the environ-
4 ment, including but not limited to air quality, water quality and the
5 generation and disposal of waste in this state;

6 “(c) Flexible implementation approaches to minimize compliance
7 costs; and

8 “(d) Technical and economic studies of comparable greenhouse gas
9 emissions reduction measures implemented in other states and any
10 other studies as determined by the commission.

11 “(2)(a) The provisions of sections 2 to 7 of this 2017 Act do not apply
12 to fuel that is demonstrated to have been used in any of the following:

13 “(A) Motor vehicles registered as farm vehicles under the provisions
14 of ORS 805.300.

15 “(B) Farm tractors, as defined in ORS 801.265.

16 “(C) Implements of husbandry, as defined in ORS 801.310.

17 “(D) Motor trucks, as defined in ORS 801.355, used primarily to
18 transport logs.

19 “(E) Motor vehicles that are not designed primarily to transport
20 persons or property, that are operated on highways only incidentally,
21 and that are used primarily for construction work.

22 “(F) Watercraft.

23 “(G) Railroad locomotives.

24 “(b) The commission shall by rule adopt standards for persons to
25 qualify for the exemptions provided in this subsection.

26

27 **“REDEDICATION OF CERTAIN PUBLIC PURPOSE CHARGE FUNDS**

28

29 **“SECTION 8.** ORS 757.612 is amended to read:

30 “757.612. (1) There is established an annual public purpose expenditure

1 standard for electric companies and Oregon Community Power to fund new
2 cost-effective local energy conservation, new market transformation efforts,
3 the above-market costs of new renewable energy resources and new low-
4 income weatherization. The public purpose expenditure standard shall be
5 funded by the public purpose charge described in subsection (2) of this sec-
6 tion.

7 “(2)(a) Beginning on the date an electric company or Oregon Community
8 Power offers direct access to *[its]* retail electricity consumers, except resi-
9 dential electricity consumers, the electric company or Oregon Community
10 Power shall collect a public purpose charge from all of the retail electricity
11 consumers located within *[its]* **the electric company’s or Oregon Com-**
12 **munity Power’s** service area until January 1, 2026. Except as provided in
13 paragraph (b) of this subsection, the public purpose charge shall be equal to
14 three percent of the total revenues collected by the electric company, Oregon
15 Community Power or the electricity service supplier from *[its]* retail elec-
16 tricity consumers for electricity services, distribution **services**, ancillary
17 services, metering and billing, transition charges and other types of costs
18 included in electric rates on July 23, 1999.

19 “(b) For an aluminum plant that averages more than 100 average mega-
20 watts of electricity use per year, *[beginning on March 1, 2002,]* the electric
21 company or Oregon Community Power *[whose]*, **whichever’s** territory abuts
22 the greatest percentage of the site of the aluminum plant, shall collect from
23 the aluminum company a public purpose charge equal to one percent of the
24 total revenue from the sale of electricity *[services]* to the aluminum plant
25 *[from any source]*.

26 “(3)(a) The Public Utility Commission shall establish rules implementing
27 the provisions of this section relating to electric companies and Oregon
28 Community Power.

29 “(b) *[Subject to paragraph (e)]* **Except as provided in paragraph (d)(B)**
30 of this subsection, funds collected *[by an electric company or Oregon Com-*

1 *munity Power*] through public purpose charges **under subsection (2) of this**
2 **section** shall be allocated as follows:

3 “(A) [*Sixty-three*] **Subject to paragraph (d)(B) of this subsection, 63**
4 percent for new cost-effective **local energy** conservation[,] **and** new market
5 transformation **efforts**.

6 “(B) [*Nineteen*] **Subject to paragraph (d)(B) of this subsection, 19**
7 percent for the above-market costs of constructing and operating new
8 renewable energy [*resources*] **resource projects** with a nominal electric
9 generating capacity, as defined in ORS 469.300, of 20 megawatts or less.

10 “(C) Thirteen percent for new low-income weatherization.

11 “(D) Five percent [*shall be transferred to*] **for deposit into** the Housing
12 and Community Services Department Electricity Public Purpose Charge
13 Fund established by ORS 456.587 (1) [*and used*] for the purpose of providing
14 grants as described in ORS 458.625 (2).

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

22 “(d)(A) The commission shall direct the manner in which public purpose
23 charges are collected and spent by an electric company or Oregon Commu-
24 nity Power and may require an electric company or Oregon Community
25 Power to expend funds through competitive bids or other means designed to
26 encourage competition, except that funds dedicated for **new** low-income
27 weatherization shall be directed to the Housing and Community Services
28 Department as provided in subsection (7) of this section.

29 “(B) [*The commission may also direct that*] **The commission also may**
30 **require** funds collected [*by an electric company or Oregon Community*

1 *Power*] through public purpose charges to be paid by an electric company
2 or Oregon Community Power:

3 “(i) To a nongovernmental entity for investment in public purposes de-
4 scribed in subsection (1) of this section[.]; and

5 “(ii) To a nongovernmental entity that is registered and has entered
6 into an agreement with the Department of Environmental Quality
7 under section 6 of this 2017 Act.

8 “(C) If the commission requires public purpose charges to be paid
9 as described in subparagraph (B) of this paragraph, the commission
10 shall require an electric company and Oregon Community Power to
11 make payments in the following amounts to the nongovernmental
12 entity described in subparagraph (B)(ii) of this paragraph, with the
13 remaining public purpose charges paid to the nongovernmental entity
14 described in subparagraph (B)(i) of this paragraph:

15 “(i) For the period beginning January 1, 2018, and ending December
16 31, 2018, 10 percent.

17 “(ii) For the period beginning January 1, 2019, and ending December
18 31, 2019, 20 percent.

19 “(iii) For the period beginning January 1, 2020, and ending Decem-
20 ber 31, 2020, 30 percent.

21 “(iv) For the period beginning January 1, 2021, and ending December
22 31, 2021, 40 percent.

23 “(v) For payments made on or after January 1, 2022, 50 percent.

24 “(D) [*Notwithstanding any other provision of this subsection.*] Except as
25 provided in subparagraphs (B) and (C) of this paragraph:

26 “[A] (i) At least 80 percent of the funds allocated for new cost-
27 effective local energy conservation shall be spent within the service area
28 of the electric company that collected the funds; or

29 “[B] (ii) If Oregon Community Power collected the funds, at least 80
30 percent of the funds allocated for new cost-effective local energy conser-

1 vation shall be spent within the service area of Oregon Community Power.

2 “(e)(A) The first 10 percent of [*the*] funds collected [*annually*] **each year**
3 by an electric company or Oregon Community Power under subsection (2)
4 of this section shall be distributed to school districts that are located in the
5 service territory of the electric company or Oregon Community Power. The
6 funds shall be distributed to individual school districts according to the
7 weighted average daily membership (ADMw) of each school district for the
8 prior fiscal year as calculated under ORS 327.013. The commission shall es-
9 tablish by rule a methodology for distributing a proportionate share of funds
10 under this paragraph to school districts that are only partially located in the
11 service territory of the electric company or Oregon Community Power.

12 “(B) A school district that receives funds under this paragraph shall use
13 the funds first to pay for energy audits for schools located within the school
14 district. A school district may not expend additional funds received under
15 this paragraph on a school [*facility*] until an energy audit has been completed
16 for that school [*facility*]. To the extent practicable, a school district shall
17 coordinate with the State Department of Energy and incorporate federal
18 funding in complying with this paragraph. Following completion of an en-
19 ergy audit for an individual school, the school district may expend funds
20 received under this paragraph to implement the energy audit. Once an energy
21 audit has been conducted and completely implemented for each school within
22 the school district, the school district may expend funds received under this
23 paragraph for any of the following purposes:

24 “(i) Conducting **additional** energy audits. A school district shall conduct
25 an energy audit prior to expending funds on any other purpose authorized
26 under this paragraph unless the school district has performed an energy au-
27 dit within the three years immediately prior to receiving the funds.

28 “(ii) [*Weatherization*] **Weatherizing school district facilities** and up-
29 grading the energy efficiency of school district facilities.

30 “(iii) Energy conservation education programs.

1 “(iv) Purchasing electricity from [*environmentally focused*] sources **that**
2 **protect the environment.** [*and*]

3 “(v) Investing in renewable energy resources.

4 “(f) The commission may not establish a different public purpose charge
5 than the public purpose charge described in subsection (2) of this section.

6 “(g) If the commission [*directs*] **requires** funds collected through public
7 purpose charges to [*a nongovernmental entity, the entity shall*] **be paid to the**
8 **nongovernmental entities described in paragraph (d)(B) of this sub-**
9 **section, the nongovernmental entity described in paragraph (d)(B)(i)**
10 **of this subsection shall, pursuant to an agreement entered into or re-**
11 **newed between the commission and the entity:**

12 “(A) Include on the entity’s board of directors an ex officio member des-
13 igned by the commission, who shall also serve on the entity’s nominating
14 committee for filling board vacancies.

15 “(B) Require the entity’s officers and directors to provide an annual dis-
16 closure of economic interest to be filed with the commission on or prior to
17 April 15 of each calendar year for public review in a form similar to the
18 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 po-
21 tential conflicts of interest at regular meetings of the entity’s governing body
22 when such conflicts arise, and require an officer or director to abstain from
23 participating in any discussion or [*vote*] **voting** on any item where that of-
24 ficer or director has an actual conflict of interest. For the purposes of this
25 subparagraph, ‘actual conflict of interest’ and ‘potential conflict of interest’
26 have the meanings given those terms in ORS 244.020.

27 “(D) **Annually**, arrange for an independent auditor to audit the entity’s
28 financial statements [*annually*], and direct the auditor to file an audit opin-
29 ion with the commission for public review.

30 “(E) **Annually** file with the commission [*annually*] the entity’s budget,

1 action plan and quarterly and annual reports for public review.

2 “(F) At least once every five years, contract for an independent manage-
3 ment evaluation to review the entity’s operations, efficiency and effective-
4 ness, and direct the independent reviewer to file a report with the
5 commission for public review.

6 “(h) The commission may remove from the board of directors of a non-
7 governmental entity an officer or director who fails to provide an annual
8 disclosure of economic interest, or **who fails to declare an** actual or poten-
9 tial conflict of interest, as described in paragraph (g)(B) and (C) of this
10 subsection, [*in connection with*] **if the failure is connected to** the allocation
11 or expenditure of funds collected through public purpose charges and [*di-*
12 *rected*] **paid** to the entity.

13 “(4)(a) An electric company that satisfies its obligations under this sec-
14 tion [*shall have*]:

15 “(A) **Has** no further obligation to invest in **new cost-effective local**
16 **energy** conservation, new market transformation or new low-income
17 weatherization or to provide a commercial energy conservation services
18 program; and

19 “(B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

20 “(b) Oregon Community Power, for any period during which Oregon
21 Community Power collects a public purpose charge under subsection (2) of
22 this section:

23 “(A) [*Shall have*] **Has** no [*other*] **further** obligation to invest in **new**
24 **cost-effective local energy** conservation, new market transformation or
25 new low-income weatherization or to provide a commercial energy conserva-
26 tion services program; and

27 “(B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

28 “(5)(a) A retail electricity consumer that uses more than one average
29 megawatt of electricity at any site in the prior year shall receive a credit
30 against public purpose charges billed by an electric company or Oregon

1 Community Power for that site. The amount of the credit shall be equal to
2 the total amount of qualifying expenditures for new **cost-effective local**
3 energy conservation, not to exceed 68 percent of the annual public purpose
4 charges, and the above-market costs [*of purchases*] of new renewable energy
5 resources incurred by the retail electricity consumer, not to exceed 19 per-
6 cent of the annual public purpose charges, less administration costs incurred
7 under this subsection. The credit may not exceed, on an annual basis, the
8 lesser of:

9 “(A) The amount of the retail electricity consumer’s qualifying expendi-
10 tures; or

11 “(B) The portion of the public purpose charge billed to the retail elec-
12 tricity consumer that is dedicated to new **cost-effective local** energy con-
13 servation, new market transformation or the above-market costs of new
14 renewable energy resources.

15 “(b) To obtain a credit under this subsection, a retail electricity consumer
16 shall file with the State Department of Energy a description of the proposed
17 conservation project or new renewable energy resource and a declaration
18 that the retail electricity consumer plans to incur the qualifying expenditure.
19 The State Department of Energy shall issue a notice of precertification
20 within 30 days of receipt of the filing, if such filing is consistent with this
21 subsection. The credit may be taken after a retail electricity consumer pro-
22 vides a letter from a certified public accountant to the State Department of
23 Energy verifying that the precertified qualifying expenditure has been made.

24 “(c) Credits earned by a retail electricity consumer as a result of quali-
25 fying expenditures that are not used in one year may be carried forward for
26 use in subsequent years.

27 “(d)(A) A retail electricity consumer that uses more than one average
28 megawatt of electricity at any site in the prior year may request that the
29 State Department of Energy hire an independent auditor to assess the po-
30 tential for conservation investments at the site. If the independent auditor

1 determines there is no available conservation measure at the site that would
2 have a simple payback of one to 10 years, the retail electricity consumer
3 shall be relieved of 54 percent of its payment obligation for public purpose
4 charges related to the site. If the independent auditor determines that there
5 are potential conservation measures available at the site, the retail elec-
6 tricity consumer shall be entitled to a credit against public purpose charges
7 related to the site equal to 54 percent of the public purpose charges less the
8 estimated cost of available conservation measures.

9 “(B) A retail electricity consumer shall be entitled each year to the credit
10 described in this subsection unless a subsequent independent audit deter-
11 mines that new conservation investment opportunities are available. The
12 State Department of Energy may require that a new independent audit be
13 performed on the site to determine whether new conservation measures are
14 available, provided that the independent audits [*shall*] occur no more than
15 once every two years.

16 “(C) The retail electricity consumer shall pay the cost of the independent
17 audits described in this subsection.

18 “(6) Electric utilities and retail electricity consumers shall receive a fair
19 and reasonable credit for the public purpose expenditures of their energy
20 suppliers. The State Department of Energy shall adopt rules to determine
21 eligible expenditures and the [*methodology*] **method** by which such credits
22 are accounted for and used. The [*rules*] **State Department of Energy** also
23 shall adopt methods to account for eligible public purpose expenditures made
24 through consortia or collaborative projects.

25 “(7)(a) In addition to the public purpose charge provided under subsection
26 (2) of this section, an electric company or Oregon Community Power shall
27 collect funds for low-income electric bill payment assistance in an amount
28 determined under paragraph (b) of this subsection.

29 “(b) The commission shall establish the amount to be collected by each
30 electric company in calendar year 2008 from retail electricity consumers

1 served by the company, and the rates to be charged to retail electricity
2 consumers served by the company, so that the total anticipated collection for
3 low-income electric bill payment assistance by all electric companies in **the**
4 calendar year 2008 is \$15 million. In **the** calendar year 2009 and subsequent
5 calendar years, the commission may not change the rates established for re-
6 tail electricity consumers, but the total amount collected in a calendar year
7 for low-income electric bill payment assistance may vary based on electricity
8 usage by retail electricity consumers and changes in the number of retail
9 electricity consumers in this state. In no event shall a retail electricity
10 consumer be required to pay more than \$500 per month per site for low-
11 income electric bill payment assistance.

12 “(c) Funds collected [by] **through** the low-income electric bill payment
13 assistance charge shall be paid into the Housing and Community Services
14 Department Low-Income Electric Bill Payment Assistance Fund established
15 by ORS 456.587 (2). Moneys deposited in the **Housing and Community**
16 **Services Department Low-Income Electric Bill Payment Assistance**
17 Fund under this paragraph shall be used by the Housing and Community
18 Services Department **solely** for [*the purpose of funding*] **purposes related**
19 **to** low-income electric bill payment assistance[.] **and for the Housing and**
20 **Community Services** Department’s cost of administering this subsection.
21 [*shall be paid out of funds collected by the low-income electric bill payment*
22 *assistance charge. Moneys deposited in the fund under this paragraph shall*
23 *be expended solely for low-income electric bill payment assistance.*] Funds
24 collected [*from*] **by** an electric company or Oregon Community Power **under**
25 **this subsection** shall be expended in the service area of the electric com-
26 pany or Oregon Community Power from which the funds are collected.

27 “(d)(A) The Housing and Community Services Department, **in consulta-**
28 **tion with the advisory committee on energy established by ORS**
29 **458.515**, shall determine the manner in which funds collected under this
30 subsection will be allocated by the department to energy assistance program

1 providers for the purpose of providing low-income bill payment [*and crisis*]
2 assistance.

3 “(B) The **Housing and Community Services** Department, in **consulta-**
4 **tion with electric companies**, shall investigate and may implement alter-
5 native delivery models [*in consultation with electric companies*] **specified by**
6 **the advisory committee on energy** to effectively reduce service discon-
7 nections and related costs to retail electricity consumers and electric utili-
8 ties.

9 “(C) Priority assistance shall be directed to low-income electricity con-
10 sumers who are in danger of having their electricity service disconnected.

11 “(D) The **Housing and Community Services** Department shall maintain
12 records and provide those records upon request to an electric company,
13 Oregon Community Power and the Citizens’ Utility Board established under
14 ORS chapter 774 on a quarterly basis. Records maintained must include the
15 numbers of low-income electricity consumers served, the average amounts
16 paid **to low-income electricity consumers** and the type of assistance pro-
17 vided **to low-income electricity consumers**. Electric companies and
18 Oregon Community Power shall, if requested, provide the **Housing and**
19 **Community Services** Department with aggregate data relating to consum-
20 ers served on a quarterly basis to support program development.

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

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

30 “(8) For purposes of this section, ‘retail electricity consumers’ includes

1 any direct service industrial consumer that purchases electricity without
2 purchasing distribution services from the electric utility.

3 “(9) For purposes of this section, [*amounts*] **funds** collected by Oregon
4 Community Power through public purpose charges are not considered moneys
5 received from electric utility operations.

6 “**SECTION 9.** ORS 469A.200 is amended to read:

7 “469A.200. If an electric company or electricity service supplier that is
8 subject to a renewable portfolio standard under ORS 469A.005 to 469A.210
9 fails to comply with the standard in the manner provided by ORS 469A.005
10 to 469A.210, the Public Utility Commission may impose a penalty against the
11 company or supplier in an amount determined by the commission. A penalty
12 under this section is in addition to any alternative compliance payment re-
13 quired or elected under ORS 469A.180. Moneys paid for penalties under this
14 section shall be transmitted by the commission to the nongovernmental en-
15 tity receiving moneys under ORS 757.612 (3)(d)(**B**)(**i**) and may be used only
16 for the purposes specified in ORS 757.612 (1).

17 “**SECTION 10.** ORS 757.613 is amended to read:

18 “757.613. (1) If an electric company or Oregon Community Power invests
19 moneys collected as a public purpose charge under ORS 757.612 on new
20 cost-effective local energy conservation, or if the nongovernmental entity
21 described in ORS 757.612 (3)(g) invests moneys paid to the nongovernmental
22 entity under ORS 757.612 (3)(d)(**B**)(**i**) on new cost-effective local energy con-
23 servation, and if the investment involves updating the energy efficiency of
24 a residential or nonresidential building, the electric company, Oregon Com-
25 munity Power or the nongovernmental entity may make those investments
26 by conducting a whole building assessment of the energy efficiency of the
27 building and, in consideration of the whole building assessment, by maxi-
28 mizing the overall energy efficiency of the building. For purposes of this
29 subsection, a ‘whole building assessment’ means a single assessment of
30 savings opportunities, as identified by the Public Utility Commission by rule

1 or order.

2 “(2) An investment described in subsection (1) of this section must be
3 limited to an investment in a single project, as authorized by the commission
4 by rule or order.

5 **“SECTION 11. The amendments to ORS 469A.200, 757.612 and 757.613**
6 **by sections 8 to 10 of this 2017 Act apply to revenues collected by**
7 **electric companies, Oregon Community Power and electricity service**
8 **suppliers on or after the operative date specified in section 23 of this**
9 **2017 Act.**

10

11 **“JUDICIAL REVIEW PROVISIONS**

12

13 **“SECTION 12. If the provisions of sections 2 and 4 to 7 of this 2017**
14 **Act and the amendments to ORS 468A.275 by section 3 of this 2017 Act**
15 **relating to the receipt of funds by compliance credit generators for the**
16 **transfer of compliance credits are, on or before January 1, 2021,**
17 **judicially declared by the Supreme Court to impose a tax or excise**
18 **levied on, with respect to, or measured by the storage, withdrawal,**
19 **use, sale, distribution, importation or receipt of motor vehicle fuel or**
20 **any other product used for the propulsion of motor vehicles, that is**
21 **subject to the provisions of Article IX, section 3a, of the Oregon Con-**
22 **stitution, then, on the date that the Office of the Legislative Counsel**
23 **receives written notice from the Supreme Court of the judicial decla-**
24 **ration:**

25 **“(1) Section 2 of this 2017 Act is repealed and section 13 of this 2017**
26 **Act is enacted in lieu thereof;**

27 **“(2) Section 5 of this 2017 Act is repealed and sections 14 and 15 of**
28 **this 2017 Act are enacted in lieu thereof;**

29 **“(3) Section 6 of this 2017 Act is repealed;**

30 **“(4) Section 19 of this 2017 Act and the amendments to ORS**

1 469A.200, 757.612 and 757.613 by sections 16 to 18 of this 2017 Act become
2 operative; and

3 “(5) The following funds that have been received by a nongovern-
4 mental entity that entered an agreement with the Department of En-
5 vironmental Quality under section 6 of this 2017 Act shall be
6 distributed as follows:

7 “(a) Any funds received through the transfer of compliance credits
8 shall be paid to the State Treasurer for deposit in the Transportation
9 Emissions Reduction Account established by section 15 of this 2017
10 Act; and

11 “(b) Any funds received under ORS 757.612 that are unexpended and
12 unobligated on the date that the Office of the Legislative Counsel re-
13 ceives written notice from the Supreme Court of the judicial declara-
14 tion shall be transferred to the electric company that collected the
15 funds, or if Oregon Community Power collected the funds to Oregon
16 Community Power, for use as provided for in ORS 757.612, as amended
17 by section 16 of this 2017 Act.

18 **“SECTION 13. As used in sections 2 to 7 of this 2017 Act:**

19 “(1) ‘Biodiesel’ means a motor vehicle fuel consisting of mono-alkyl
20 esters of long chain fatty acids derived from vegetable oils, animal fats
21 or other nonpetroleum resources, not including palm oil.

22 “(2) ‘Compliance credit’ means an instrument issued by the De-
23 partment of Environmental Quality that may be used by a regulated
24 party in place of a credit to demonstrate compliance with the low
25 carbon fuel standards.

26 “(3) ‘Credit’ means a unit of measure, expressed in metric tons of
27 carbon dioxide equivalent that is generated when the carbon intensity
28 of a fuel that is produced, imported, dispensed or used in Oregon is
29 less than the applicable low carbon fuel standard.

30 “(4) ‘Deficit’ means a unit of measure, expressed in metric tons of

1 carbon dioxide equivalent, that is generated when the carbon intensity
2 of a fuel that is produced, imported, dispensed or used in Oregon ex-
3 ceeds the applicable low carbon fuel standard.

4 “(5) ‘Greenhouse gas’ has the meaning given that term in ORS
5 468A.210.

6 “(6) ‘Low carbon fuel standards’ means standards adopted by the
7 Environmental Quality Commission by rule under ORS 468A.275 for the
8 reduction of greenhouse gas emissions, on average, per unit of fuel
9 energy.

10 “(7) ‘Motor vehicle’ has the meaning given that term in ORS
11 801.360.

12 “(8) ‘Regulated party’ means a person responsible for complying
13 with the low carbon fuel standards.

14 “SECTION 14. (1) In order to facilitate compliance with the low
15 carbon fuel standards adopted under ORS 468A.275, the Environmental
16 Quality Commission shall adopt by rule a program in which:

17 “(a) Regulated parties generate deficits and may reconcile the defi-
18 cits, and thus be in compliance with the low carbon fuel standards for
19 a compliance period, by obtaining credits; and

20 “(b) Persons shall have opportunities to trade credits.

21 “(2) The program adopted by the Environmental Quality Commis-
22 sion under this section must include provisions for managing and
23 containing the costs of compliance with the low carbon fuel standards.
24 Provisions required by this subsection must include, but need not be
25 limited to, provisions for the use of compliance credits to demonstrate
26 compliance with the low carbon fuel standards. Provisions for the use
27 of compliance credits must provide that compliance credits:

28 “(a) May not be banked;

29 “(b) May not be traded;

30 “(c) May be transferred only to regulated parties by the Department

1 **of Environmental Quality; and**

2 **“(d) May be transferred only at a price of \$75 per compliance credit.**

3 **“(3) Funds received by the department for the transfer of compli-**
4 **ance credits to regulated parties shall be paid to the State Treasurer**
5 **to be deposited into the Transportation Emissions Reduction Account**
6 **established in the State Highway Fund.**

7 **“SECTION 15. The Transportation Emissions Reduction Account is**
8 **established in the State Highway Fund. Interest earned by the account**
9 **shall be credited to the account. Moneys in the account are contin-**
10 **uously appropriated to the Department of Transportation to be used**
11 **only to carry out programs, projects or activities to reduce**
12 **transportation-related greenhouse gas emissions in this state as those**
13 **programs, projects or activities relate to the construction, recon-**
14 **struction, improvement, repair, maintenance, operation and use of**
15 **public highways, roads, streets and roadside rest areas as allowed by**
16 **Article IX, section 3a, of the Oregon Constitution.**

17 **“SECTION 16. ORS 757.612, as amended by section 8 of this 2017 Act, is**
18 **amended to read:**

19 **“757.612. (1) There is established an annual public purpose expenditure**
20 **standard for electric companies and Oregon Community Power to fund new**
21 **cost-effective local energy conservation, new market transformation efforts,**
22 **the above-market costs of new renewable energy resources and new low-**
23 **income weatherization. The public purpose expenditure standard shall be**
24 **funded by the public purpose charge described in subsection (2) of this sec-**
25 **tion.**

26 **“(2)(a) Beginning on the date an electric company or Oregon Community**
27 **Power offers direct access to retail electricity consumers, except residential**
28 **electricity consumers, the electric company or Oregon Community Power**
29 **shall collect a public purpose charge from all of the retail electricity con-**
30 **sumers located within the electric company’s or Oregon Community Power’s**

1 service area until January 1, 2026. Except as provided in paragraph (b) of
2 this subsection, the public purpose charge shall be equal to three percent of
3 the total revenues collected by the electric company, Oregon Community
4 Power or the electricity service supplier from retail electricity consumers for
5 electricity services, distribution services, ancillary services, metering and
6 billing, transition charges and other types of costs included in electric rates
7 on July 23, 1999.

8 “(b) For an aluminum plant that averages more than 100 average mega-
9 watts of electricity use per year, the electric company or Oregon Community
10 Power, whichever’s territory abuts the greatest percentage of the site of the
11 aluminum plant, shall collect from the aluminum company a public purpose
12 charge equal to one percent of the total revenue from the sale of electricity
13 to the aluminum plant.

14 “(3)(a) The Public Utility Commission shall establish rules implementing
15 the provisions of this section relating to electric companies and Oregon
16 Community Power.

17 “(b) Except as provided in paragraph (d)(B) of this subsection, funds col-
18 lected through public purpose charges under subsection (2) of this section
19 shall be allocated as follows:

20 “(A) Subject to paragraph (d)(B) of this subsection, 63 percent for new
21 cost-effective local energy conservation and new market transformation ef-
22 forts.

23 “(B) Subject to paragraph (d)(B) of this subsection, 19 percent for the
24 above-market costs of constructing and operating new renewable energy re-
25 source projects with a nominal electric generating capacity, as defined in
26 ORS 469.300, of 20 megawatts or less.

27 “(C) Thirteen percent for new low-income weatherization.

28 “(D) Five percent for deposit into the Housing and Community Services
29 Department Electricity Public Purpose Charge Fund established by ORS
30 456.587 (1) for the purpose of providing grants as described in ORS 458.625

1 (2).

2 “(c) The costs of administering subsections (1) to (6) of this section for
3 an electric company or Oregon Community Power shall be paid out of the
4 funds collected through public purpose charges. The commission may require
5 an electric company or Oregon Community Power to direct funds collected
6 through public purpose charges to state agencies responsible for implement-
7 ing subsections (1) to (6) of this section in order to pay the costs of imple-
8 mentation.

9 “(d)(A) The commission shall direct the manner in which public purpose
10 charges are collected and spent by an electric company or Oregon Commu-
11 nity Power and may require an electric company or Oregon Community
12 Power to expend funds through competitive bids or other means designed to
13 encourage competition, except that funds dedicated for new low-income
14 weatherization shall be directed to the Housing and Community Services
15 Department as provided in subsection (7) of this section.

16 “(B) The commission also may require funds collected through public
17 purpose charges to be paid by an electric company or Oregon Community
18 Power[:]

19 “[*i*] to a nongovernmental entity for investment in public purposes de-
20 scribed in subsection (1) of this section[; *and*].

21 “[*ii*] *To a nongovernmental entity that is registered and has entered into*
22 *an agreement with the Department of Environmental Quality under section 6*
23 *of this 2017 Act.*]

24 “[*C*] *If the commission requires public purpose charges to be paid as de-*
25 *scribed in subparagraph (B) of this paragraph, the commission shall require*
26 *an electric company and Oregon Community Power to make payments in the*
27 *following amounts to the nongovernmental entity described in subparagraph*
28 *(B)(ii) of this paragraph, with the remaining public purpose charges paid to*
29 *the nongovernmental entity described in subparagraph (B)(i) of this*
30 *paragraph.*]

1 “(i) For the period beginning January 1, 2018, and ending December 31,
2 2018, 10 percent.]

3 “(ii) For the period beginning January 1, 2019, and ending December 31,
4 2019, 20 percent.]

5 “(iii) For the period beginning January 1, 2020, and ending December 31,
6 2020, 30 percent.]

7 “(iv) For the period beginning January 1, 2021, and ending December 31,
8 2021, 40 percent.]

9 “(v) For payments made on or after January 1, 2022, 50 percent.]

10 “[(D)] (C) Except as provided in [subparagraphs (B) and (C)] **subpara-**
11 **graph (B)** of this paragraph:

12 “(i) At least 80 percent of the funds allocated for new cost-effective local
13 energy conservation shall be spent within the service area of the electric
14 company that collected the funds; or

15 “(ii) If Oregon Community Power collected the funds, at least 80 percent
16 of the funds allocated for new cost-effective local energy conservation shall
17 be spent within the service area of Oregon Community Power.

18 “(e)(A) The first 10 percent of funds collected each year by an electric
19 company or Oregon Community Power under subsection (2) of this section
20 shall be distributed to school districts that are located in the service terri-
21 tory of the electric company or Oregon Community Power. The funds shall
22 be distributed to individual school districts according to the weighted aver-
23 age daily membership (ADMw) of each school district for the prior fiscal
24 year as calculated under ORS 327.013. The commission shall establish by rule
25 a methodology for distributing a proportionate share of funds under this
26 paragraph to school districts that are only partially located in the service
27 territory of the electric company or Oregon Community Power.

28 “(B) A school district that receives funds under this paragraph shall use
29 the funds first to pay for energy audits for schools located within the school
30 district. A school district may not expend additional funds received under

1 this paragraph on a school until an energy audit has been completed for that
2 school. To the extent practicable, a school district shall coordinate with the
3 State Department of Energy and incorporate federal funding in complying
4 with this paragraph. Following completion of an energy audit for an indi-
5 vidual school, the school district may expend funds received under this par-
6 agraph to implement the energy audit. Once an energy audit has been
7 conducted and completely implemented for each school within the school
8 district, the school district may expend funds received under this paragraph
9 for any of the following purposes:

10 “(i) Conducting additional energy audits. A school district shall conduct
11 an energy audit prior to expending funds on any other purpose authorized
12 under this paragraph unless the school district has performed an energy au-
13 dit within the three years immediately prior to receiving the funds.

14 “(ii) Weatherizing school district facilities and upgrading the energy ef-
15 ficiency of school district facilities.

16 “(iii) Energy conservation education programs.

17 “(iv) Purchasing electricity from sources that protect the environment.

18 “(v) Investing in renewable energy resources.

19 “(f) The commission may not establish a different public purpose charge
20 than the public purpose charge described in subsection (2) of this section.

21 “(g) If the commission requires funds collected through public purpose
22 charges to be paid to [*the nongovernmental entities described in paragraph*
23 *(d)(B) of this subsection, the nongovernmental entity described in paragraph*
24 *(d)(B)(i) of this subsection*] **a nongovernmental entity, the entity** shall,
25 pursuant to an agreement entered into or renewed between the commission
26 and the entity:

27 “(A) Include on the entity’s board of directors an ex officio member des-
28 ignated by the commission, who shall also serve on the entity’s nominating
29 committee for filling board vacancies.

30 “(B) Require the entity’s officers and directors to provide an annual dis-

1 closure of economic interest to be filed with the commission on or prior to
2 April 15 of each calendar year for public review in a form similar to the
3 statement of economic interest required for public officials under ORS
4 244.060.

5 “(C) Require the entity’s officers and directors to declare actual and po-
6 tential conflicts of interest at regular meetings of the entity’s governing body
7 when such conflicts arise, and require an officer or director to abstain from
8 participating in any discussion or voting on any item where that officer or
9 director has an actual conflict of interest. For the purposes of this subpara-
10 graph, ‘actual conflict of interest’ and ‘potential conflict of interest’ have the
11 meanings given those terms in ORS 244.020.

12 “(D) Annually, arrange for an independent auditor to audit the entity’s
13 financial statements, and direct the auditor to file an audit opinion with the
14 commission for public review.

15 “(E) Annually file with the commission the entity’s budget, action plan
16 and quarterly and annual reports for public review.

17 “(F) At least once every five years, contract for an independent manage-
18 ment evaluation to review the entity’s operations, efficiency and effective-
19 ness, and direct the independent reviewer to file a report with the
20 commission for public review.

21 “(h) The commission may remove from the board of directors of a non-
22 governmental entity an officer or director who fails to provide an annual
23 disclosure of economic interest, or who fails to declare an actual or potential
24 conflict of interest, as described in paragraph (g)(B) and (C) of this sub-
25 section, if the failure is connected to the allocation or expenditure of funds
26 collected through public purpose charges and paid to the entity.

27 “(4)(a) An electric company that satisfies its obligations under this sec-
28 tion:

29 “(A) Has no further obligation to invest in new cost-effective local energy
30 conservation, new market transformation or new low-income weatherization

1 or to provide a commercial energy conservation services program; and

2 “(B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

3 “(b) Oregon Community Power, for any period during which Oregon
4 Community Power collects a public purpose charge under subsection (2) of
5 this section:

6 “(A) Has no further obligation to invest in new cost-effective local energy
7 conservation, new market transformation or new low-income weatherization
8 or to provide a commercial energy conservation services program; and

9 “(B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

10 “(5)(a) A retail electricity consumer that uses more than one average
11 megawatt of electricity at any site in the prior year shall receive a credit
12 against public purpose charges billed by an electric company or Oregon
13 Community Power for that site. The amount of the credit shall be equal to
14 the total amount of qualifying expenditures for new cost-effective local en-
15 ergy conservation, not to exceed 68 percent of the annual public purpose
16 charges, and the above-market costs of new renewable energy resources in-
17 curred by the retail electricity consumer, not to exceed 19 percent of the
18 annual public purpose charges, less administration costs incurred under this
19 subsection. The credit may not exceed, on an annual basis, the lesser of:

20 “(A) The amount of the retail electricity consumer’s qualifying expendi-
21 tures; or

22 “(B) The portion of the public purpose charge billed to the retail elec-
23 tricity consumer that is dedicated to new cost-effective local energy conser-
24 vation, new market transformation or the above-market costs of new
25 renewable energy resources.

26 “(b) To obtain a credit under this subsection, a retail electricity consumer
27 shall file with the State Department of Energy a description of the proposed
28 conservation project or new renewable energy resource and a declaration
29 that the retail electricity consumer plans to incur the qualifying expenditure.
30 The State Department of Energy shall issue a notice of precertification

1 within 30 days of receipt of the filing, if such filing is consistent with this
2 subsection. The credit may be taken after a retail electricity consumer pro-
3 vides a letter from a certified public accountant to the State Department of
4 Energy verifying that the precertified qualifying expenditure has been made.

5 “(c) Credits earned by a retail electricity consumer as a result of quali-
6 fying expenditures that are not used in one year may be carried forward for
7 use in subsequent years.

8 “(d)(A) A retail electricity consumer that uses more than one average
9 megawatt of electricity at any site in the prior year may request that the
10 State Department of Energy hire an independent auditor to assess the po-
11 tential for conservation investments at the site. If the independent auditor
12 determines there is no available conservation measure at the site that would
13 have a simple payback of one to 10 years, the retail electricity consumer
14 shall be relieved of 54 percent of its payment obligation for public purpose
15 charges related to the site. If the independent auditor determines that there
16 are potential conservation measures available at the site, the retail elec-
17 tricity consumer shall be entitled to a credit against public purpose charges
18 related to the site equal to 54 percent of the public purpose charges less the
19 estimated cost of available conservation measures.

20 “(B) A retail electricity consumer shall be entitled each year to the credit
21 described in this subsection unless a subsequent independent audit deter-
22 mines that new conservation investment opportunities are available. The
23 State Department of Energy may require that a new independent audit be
24 performed on the site to determine whether new conservation measures are
25 available, provided that the independent audits occur no more than once
26 every two years.

27 “(C) The retail electricity consumer shall pay the cost of the independent
28 audits described in this subsection.

29 “(6) Electric utilities and retail electricity consumers shall receive a fair
30 and reasonable credit for the public purpose expenditures of their energy

1 suppliers. The State Department of Energy shall adopt rules to determine
2 eligible expenditures and the method by which such credits are accounted for
3 and used. The State Department of Energy also shall adopt methods to ac-
4 count for eligible public purpose expenditures made through consortia or
5 collaborative projects.

6 “(7)(a) In addition to the public purpose charge provided under subsection
7 (2) of this section, an electric company or Oregon Community Power shall
8 collect funds for low-income electric bill payment assistance in an amount
9 determined under paragraph (b) of this subsection.

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

23 “(c) Funds collected through the low-income electric bill payment assist-
24 ance charge shall be paid into the Housing and Community Services De-
25 partment Low-Income Electric Bill Payment Assistance Fund established by
26 ORS 456.587 (2). Moneys deposited in the Housing and Community Services
27 Department Low-Income Electric Bill Payment Assistance Fund under this
28 paragraph shall be used by the Housing and Community Services Department
29 solely for purposes related to low-income electric bill payment assistance and
30 for the Housing and Community Services Department’s cost of administering

1 this subsection. Funds collected by an electric company or Oregon Commu-
2 nity Power under this subsection shall be expended in the service area of the
3 electric company or Oregon Community Power from which the funds are
4 collected.

5 “(d)(A) The Housing and Community Services Department, in consultation
6 with the advisory committee on energy established by ORS 458.515, shall
7 determine the manner in which funds collected under this subsection will be
8 allocated by the department to energy assistance program providers for the
9 purpose of providing low-income bill payment assistance.

10 “(B) The Housing and Community Services Department, in consultation
11 with electric companies, shall investigate and may implement alternative
12 delivery models specified by the advisory committee on energy to effectively
13 reduce service disconnections and related costs to retail electricity consum-
14 ers and electric utilities.

15 “(C) Priority assistance shall be directed to low-income electricity con-
16 sumers who are in danger of having their electricity service disconnected.

17 “(D) The Housing and Community Services Department shall maintain
18 records and provide those records upon request to an electric company,
19 Oregon Community Power and the Citizens’ Utility Board established under
20 ORS chapter 774 on a quarterly basis. Records maintained must include the
21 numbers of low-income electricity consumers served, the average amounts
22 paid to low-income electricity consumers and the type of assistance provided
23 to low-income electricity consumers. Electric companies and Oregon Com-
24 munity Power shall, if requested, provide the Housing and Community Ser-
25 vices Department with aggregate data relating to consumers served on a
26 quarterly basis to support program development.

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

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

6 “(8) For purposes of this section, ‘retail electricity consumers’ includes
7 any direct service industrial consumer that purchases electricity without
8 purchasing distribution services from the electric utility.

9 “(9) For purposes of this section, funds collected by Oregon Community
10 Power through public purpose charges are not considered moneys received
11 from electric utility operations.

12 **“SECTION 17.** ORS 469A.200, as amended by section 9 of this 2017 Act,
13 is amended to read:

14 “469A.200. If an electric company or electricity service supplier that is
15 subject to a renewable portfolio standard under ORS 469A.005 to 469A.210
16 fails to comply with the standard in the manner provided by ORS 469A.005
17 to 469A.210, the Public Utility Commission may impose a penalty against the
18 company or supplier in an amount determined by the commission. A penalty
19 under this section is in addition to any alternative compliance payment re-
20 quired or elected under ORS 469A.180. Moneys paid for penalties under this
21 section shall be transmitted by the commission to the nongovernmental en-
22 tity receiving moneys under ORS 757.612 [(3)(d)(B)(i)] **(3)(d)(B)** and may be
23 used only for the purposes specified in ORS 757.612 (1).

24 **“SECTION 18.** ORS 757.613, as amended by section 10 of this 2017 Act,
25 is amended to read:

26 “757.613. (1) If an electric company or Oregon Community Power invests
27 moneys collected as a public purpose charge under ORS 757.612 on new
28 cost-effective local energy conservation, or if the nongovernmental entity
29 described in ORS 757.612 (3)(g) invests moneys paid to the nongovernmental
30 entity under ORS 757.612 [(3)(d)(B)(i)] **(3)(d)(B)** on new cost-effective local

1 energy conservation, and if the investment involves updating the energy ef-
2 ficiency of a residential or nonresidential building, the electric company,
3 Oregon Community Power or the nongovernmental entity may make those
4 investments by conducting a whole building assessment of the energy effi-
5 ciency of the building and, in consideration of the whole building assessment,
6 by maximizing the overall energy efficiency of the building. For purposes of
7 this subsection, a ‘whole building assessment’ means a single assessment of
8 savings opportunities, as identified by the Public Utility Commission by rule
9 or order.

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

13 **“SECTION 19. The amendments to ORS 469A.200, 757.612 and 757.613**
14 **by sections 16 to 18 of this 2017 Act apply to revenues collected by**
15 **electric companies, Oregon Community Power and electricity service**
16 **suppliers on or after the date that the Office of the Legislative Counsel**
17 **receives written notice from the Supreme Court of the judicial decla-**
18 **ration under section 12 of this 2017 Act.**

19 **“SECTION 20. (1) It is the intent of the Legislative Assembly that**
20 **the provisions of sections 2 and 4 to 7 of this 2017 Act and the**
21 **amendments to ORS 468A.275 by section 3 of this 2017 Act relating to**
22 **the receipt of funds by compliance credit generators for the transfer**
23 **of compliance credits do not constitute a tax or excise subject to the**
24 **provisions of Article IX, section 3a, of the Oregon Constitution.**

25 **“(2) Jurisdiction is conferred on the Supreme Court to determine**
26 **whether the provisions of sections 2 and 4 to 7 of this 2017 Act and the**
27 **amendments to ORS 468A.275 by section 3 of this 2017 Act, as they re-**
28 **late to the receipt of funds by compliance credit generators for the**
29 **transfer of compliance credits, constitute a tax or excise subject to the**
30 **provisions of Article IX, section 3a, of the Oregon Constitution.**

1 **“(3) A person that is or that will be adversely affected by the pro-**
2 **visions of sections 2 and 4 to 7 of this 2017 Act and the amendments**
3 **to ORS 468A.275 by section 3 of this 2017 Act relating to the receipt of**
4 **funds by compliance credit generators for the transfer of compliance**
5 **credits may institute a proceeding for review by filing with the Su-**
6 **preme Court a petition that meets the following requirements:**

7 **“(a) The petition must be filed on or before January 1, 2018.**

8 **“(b) The petition must include the following:**

9 **“(A) A statement of the basis of the challenge; and**

10 **“(B) A statement and supporting affidavit showing how the**
11 **petitioner is or will be adversely affected.**

12 **“(4) The petitioner shall serve a copy of the petition by registered**
13 **or certified mail upon the Department of Environmental Quality, the**
14 **Attorney General and the Governor.**

15 **“(5) Proceedings for review under this section shall be given priority**
16 **over all other matters before the Supreme Court.**

17 **“(6) In the event that the Supreme Court determines that there are**
18 **factual issues in the petition, the Supreme Court may appoint a special**
19 **master to hear evidence and to prepare recommended findings of fact.**

20
21 **“INDICATION OF INFLUENCE OF LOW CARBON FUEL**
22 **STANDARDS ON COST OF GASOLINE**

23
24 **“SECTION 21. ORS 646.932 is amended to read:**

25 **“646.932. (1) As used in this section, ‘gas station’ includes a filling station,**
26 **service station, garage or any other place where gasoline is sold for use in**
27 **motor vehicles.**

28 **“(2) The owner or operator of a gas station shall post, in a manner visible**
29 **to customers, the following information:**

30 **“(a) The amount of the price per gallon that is federal tax;**

- 1 “(b) The amount of the price per gallon that is state tax;
2 “(c) The amount of the price per gallon that is local tax; and
3 “(d) The total amount of federal, state and local taxes per gallon.

4 “(3) The Department of Transportation shall furnish the information de-
5 scribed in subsection (2) of this section to each gas station in [*the*] **this** state.

6 **“(4)(a) The owner or operator of a gas station shall disclose to a
7 customer the cost, per gallon of gasoline, of the low carbon fuel
8 standards described in ORS 468A.275 after viewing or receiving from
9 the Department of Environmental Quality the calculation described in
10 subsection (5) of this section. The owner or operator may disclose the
11 cost to the customer by:**

12 **“(A) Posting the cost on a gasoline pump that is visible to the
13 customer;**

14 **“(B) Printing the cost on a receipt the owner or operator provides
15 to the customer; or**

16 **“(C) Otherwise displaying the cost near the point of payment or
17 another location that is visible to the customer.**

18 **“(b) The disclosure described in paragraph (a) of this subsection
19 must read:**

20 “ _____
21 **The Department of Environmental Quality has determined that
22 Oregon’s low carbon fuel standards last year added an average of \$___
23 to the cost per gallon of fuel. This average cost per gallon is an esti-
24 mate and might not be reflected in current prices. Gasoline and diesel
25 fuel prices can fluctuate widely over short periods of time.**

26 “ _____
27 **“(5) The Department of Environmental Quality each year shall cal-
28 culate for the preceding calendar year the average cost, per gallon of
29 gasoline, of the low carbon fuel standards the Environmental Quality
30 Commission adopts by rule under ORS 468A.275. The department shall**

1 post not later than April 15 of each year the formula the department
2 used for the calculation and the results of the calculation on the
3 department's website or otherwise furnish the formula and results of
4 the calculation to each gas station in this state so that the gas
5 station's owners or operators may meet the requirement set forth in
6 subsection (4) of this section.

7 **SECTION 22.** The amendments to ORS 646.932 by section 21 of this
8 2017 Act apply to any transaction for a purchase of gasoline in this
9 state that occurs on or after the operative date set forth in section 23
10 of this 2017 Act.

11

12

“OPERATIVE DATE

13

14 **SECTION 23.** (1) Sections 1, 2 and 4 to 7 of this 2017 Act and the
15 amendments to ORS 468A.275, 469A.200, 646.932, 757.612 and 757.613 by
16 sections 3, 8 to 10 and 21 of this 2017 Act become operative on January
17 1, 2018.

18 **“(2)** The Environmental Quality Commission and the Department
19 of Environmental Quality may take any action before the operative
20 date specified in subsection (1) of this section that is necessary for the
21 commission or the department to exercise, on and after the operative
22 date specified in subsection (1) of this section, all of the duties, func-
23 tions and powers conferred on the commission and the department by
24 sections 1, 2 and 4 to 7 of this 2017 Act and the amendments to ORS
25 468A.275, 469A.200, 646.932, 757.612 and 757.613 by sections 3, 8 to 10 and
26 21 of this 2017 Act.

27

28

“CAPTIONS

29

30 **SECTION 24.** The unit captions used in this 2017 Act are provided

1 only for the convenience of the reader and do not become part of the
2 statutory law of this state or express any legislative intent in the
3 enactment of this 2017 Act.

4

5

“EARLY EFFECTIVE DATE

6

7 **“SECTION 25. This 2017 Act takes effect on the 91st day after the**
8 **date on which the 2017 regular session of the Seventy-ninth Legislative**
9 **Assembly adjourns sine die.”**

10
