

Senate Bill 1044

Sponsored by Senator BEYER, Representative REARDON; Senator DEMBROW, Representatives EVANS, HELM, MARSH, NERON, SALINAS, SCHOUTEN (at the request of Forth, Oregon Environmental Council, Climate Solutions, Portland General Electric)

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**.

Establishes goals that promote zero-emission vehicle use and requires entities of executive department to promote zero-emission vehicle use.

Requires State Department of Energy to assess market for zero-emission vehicles and report to Governor and Legislative Assembly certain information related to zero-emission vehicles.

Establishes certain requirements for purchases and leases of zero-emission vehicles for state fleet purchases or leases.

Authorizes public utilities to submit public benefit proposals to recover in rates no more than \$500,000 per year from customers of public utilities costs of installing electric vehicle charging stations.

Authorizes school districts to use public purpose charge moneys for school fleet audits, for purchase or lease of zero-emission vehicles and for purchase or installation of electric vehicle charging stations.

A BILL FOR AN ACT

1
2 Relating to transportation electrification; creating new provisions; and amending ORS 276.255,
3 283.327, 283.337, 283.343, 757.355 and 757.612.

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

5 **SECTION 1. (1) As used in this section, "zero-emission vehicle" means a battery electric**
6 **vehicle, a plug-in hybrid electric vehicle or a hydrogen fuel cell vehicle or any type of vehicle**
7 **defined by the State Department of Energy by rule as a "zero-emission vehicle" if the**
8 **vehicle's type and fuel are consistent with the goals set forth in this section.**

9 **(2) The Legislative Assembly finds that:**

10 **(a) Motor vehicle emissions contribute significantly to air pollution in this state.**

11 **(b) In 2019, the Oregon transportation sector was responsible for approximately 40 per-**
12 **cent of this state's greenhouse gas emissions.**

13 **(c) Motor vehicle emissions, especially greenhouse gases, are difficult to reduce and will**
14 **rise over time if not limited by additional laws and regulations.**

15 **(d) Absent significant changes in the types of motor vehicles used by people and busi-**
16 **nesses in Oregon, the state will not meet the greenhouse gas emissions reduction goals set**
17 **forth in ORS 468A.205.**

18 **(e) In ORS 757.357, the Legislative Assembly found that transportation electrification is**
19 **necessary to reduce petroleum use, achieve optimum levels of energy efficiency and carbon**
20 **reduction, meet federal and state air quality standards, meet this state's greenhouse gas**
21 **emissions reduction goals set forth in ORS 468A.205 and improve the public health and**
22 **safety.**

23 **(f) Existing federal and state incentives and programs are insufficient to transform the**
24 **motor vehicle market on a timeline that will protect Oregonians from the worst impacts of**

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 global climate change.

2 (g) The purchase and ownership of zero-emission vehicles can reduce the overall energy
3 costs paid by Oregon households and the specific costs associated with meeting transporta-
4 tion needs.

5 (h) A robust and well-operating market for zero-emission vehicles is essential to meeting
6 this state's greenhouse gas emissions reduction goals.

7 (3) The Legislative Assembly declares the following goals:

8 (a) Transformation of the motor vehicle market must occur no later than 2035.

9 (b) Programs and support must be provided to accelerate Oregonians' purchase and use
10 of zero-emission vehicles until greenhouse gas emissions from vehicles are declining at a rate
11 consistent with this state's greenhouse gas emissions reduction goals set forth in ORS
12 468A.205.

13 (c) The adoption and use of zero-emission vehicles must be evaluated regularly to deter-
14 mine whether the rate of the adoption and use of zero-emission vehicles will put the state
15 on course to meet its greenhouse gas emissions reduction goals.

16 (4) All entities of the executive department, as defined in ORS 174.112, shall exert influ-
17 ence on the motor vehicle market by:

18 (a) Purchasing or leasing light-duty or medium-duty zero-emission vehicles, consistent
19 with ORS 283.327, when purchasing or leasing vehicles;

20 (b) Adopting policies and rules that promote the goals set forth in this section; and

21 (c) Considering proposals submitted in the report required by ORS 469.059 that relate to
22 zero-emission vehicles and adopting the proposals when feasible.

23 **SECTION 2.** (1) In the report required by ORS 469.059, the State Department of Energy
24 shall provide:

25 (a) An assessment of the market for zero-emission vehicles;

26 (b) An assessment of the state's progress in promoting the goals set forth in section 1
27 of this 2019 Act; and

28 (c) The date on which the state is predicted to meet the goals set forth in section 1 of
29 this 2019 act.

30 (2) The department may contract with third parties to perform assessments under sub-
31 section (1) of this section.

32 (3) To assess the state's progress under subsection (1)(b) of this section, the department
33 shall use the following ranked criteria:

34 (a) First, an evaluation of whether the transportation sector is on course to reduce the
35 transportation-related share of greenhouse gas emissions, consistent with the greenhouse
36 gas emissions reduction goals set forth in ORS 268A.205.

37 (b) Second, sales figures and numbers of zero-emission vehicles that are owned in
38 Oregon, including forecasts as to whether:

39 (A) By 2020, 50,000 registered motor vehicles will be zero-emission vehicles;

40 (B) By 2025, 250,000 registered motor vehicles will be zero-emission vehicles;

41 (C) By 2030, 25 percent of registered motor vehicles, and at least 50 percent of new motor
42 vehicles sold annually, will be zero-emission vehicles; and

43 (D) By 2035, 50 percent of registered motor vehicles, and at least 90 percent of new motor
44 vehicles sold annually, will be zero-emission vehicles.

45 (c) Third, the availability and reliability of public and private electric vehicle charging

1 infrastructure relative to the availability and reliability of electric vehicle charging
 2 infrastructure needed to support the targets for zero-emission vehicle sales and registration
 3 that are identified in subsection (3)(b) of this section.

4 (d) Fourth, any incremental purchase cost difference, after federal and state incentives,
 5 between the purchase cost of a zero-emission vehicle and the purchase cost of a comparable
 6 vehicle capable of using alternative fuel.

7 (e) Fifth, the zero-emission vehicles that are available for purchase in all market seg-
 8 ments.

9 (f) Sixth, Oregonians' awareness of motor vehicle options, the benefits of owning zero-
 10 emission vehicles and the true costs of motor vehicle ownership.

11 (g) Seventh, the carbon intensity of fuel consumed by the Oregon transportation sector
 12 as a whole.

13 (h) Eighth, the conversion of freight and mass transit in this state to zero-emission op-
 14 erations.

15 (4) If the department determines that the state is not on course to meet the goals set
 16 forth in section 1 of this 2019 Act, the department shall recommend legislation for inclusion
 17 in the report required by ORS 469.059. The recommended legislation must promote the
 18 zero-emission vehicle market, encourage transportation electrification and further the goals
 19 set forth in section 1 of this 2019 Act.

20 (5) As used in this section, "zero-emission vehicle" has the meaning given that term in
 21 section 1 of this 2019 Act.

22 **SECTION 3. (1) As used in this section:**

23 (a) "Electric vehicle charging station" means:

24 (A) Equipment that provides alternating or direct current to a battery electric vehicle
 25 or a plug-in hybrid electric vehicle; or

26 (B) Infrastructure that supports the equipment identified in subparagraph (A) of this
 27 paragraph, such as wiring, conduit, concrete, electrical panel, switchgear, metering equip-
 28 ment, controls and directly connected distribution system infrastructure, or any combination
 29 thereof.

30 (b) "Public benefit location" means real property that is owned, leased or controlled by
 31 a public body, as defined in ORS 174.109, and that contains at least 10 parking stalls for use
 32 by members of the public or by public vehicle fleets.

33 (c) "Public benefit proposal" means a filing in which a public utility seeks to recover in
 34 rates the costs of installing electric vehicle charging stations at public benefit locations
 35 within the public utility's service territory.

36 (2) Under a public benefit proposal:

37 (a) A public utility may not recover more than \$500,000 per year from all customers of
 38 the public utility for the costs of installing electric vehicle charging stations;

39 (b) Amounts approved for inclusion in rates must allow for a reasonable rate of return
 40 on any investment;

41 (c) The public utility may use a deferred accounting mechanism for capital investment;
 42 and

43 (d) Costs that the public utility may recover include capital, construction, operation and
 44 maintenance costs.

45 (3)(a) In consultation with or at the request of a public body, a public utility may file a

1 public benefit proposal with the Public Utility Commission as a supplemental filing to an
 2 application that the public utility files under ORS 757.357 for a program to accelerate trans-
 3 portation electrification.

4 (b) Notwithstanding ORS 757.357 (4), the commission shall approve a public benefit pro-
 5 posal if a public utility demonstrates that:

6 (A) The public utility has consulted with the public body that owns, leases or controls the
 7 public benefit location and the public body finds that the electric vehicle charging station is
 8 an important component of accomplishing the goals set forth in section 1 of this 2019 Act
 9 or the requirements under ORS 283.327;

10 (B) The public benefit proposal seeks to minimize overall costs and maximize overall
 11 benefits to utility customers from the public benefit proposal, such as by:

12 (i) Using multiple sources of funding to support the public benefit proposal;

13 (ii) Using electric vehicle charging stations to contribute to the utility system through
 14 demand response programs or time-of-use pricing; or

15 (iii) Returning revenues from electric vehicle charging stations to utility customers;

16 (C) The public benefit proposal is supported by data or analysis that indicates that an
 17 investment such as that proposed by the public benefit proposal can improve energy effi-
 18 ciency or travel, reduce environmental and health impacts from air pollution, reduce
 19 greenhouse gas emissions related to transportation, create high-quality jobs or provide other
 20 economic benefits; or

21 (D) The public benefit proposal will not provide for recovery in excess of \$500,000 per year
 22 from all customers of the public utility for the costs of installing electric vehicle charging
 23 stations.

24 (4) The commission shall take action on a public benefit proposal within 120 days after
 25 receipt unless the commission has good cause for delay. If the commission fails to take
 26 action on a public benefit proposal within 120 days, the commission shall provide the public
 27 utility with an explanation of the delay and an estimate of the additional time necessary to
 28 take action.

29 (5) If the commission finds that a public benefit proposal fails to meet a criterion listed
 30 in subsection (2) of this section, the public utility may resubmit the public benefit proposal.
 31 The commission shall take action on the resubmitted public benefit proposal as described in
 32 subsection (4) of this section.

33 **SECTION 4.** ORS 276.255, as amended by section 1, chapter 90, Oregon Laws 2018, is amended
 34 to read:

35 276.255. (1)(a) A state agency may locate, on premises the state agency owns or controls, devices
 36 or facilities that the state agency installs, or has installed, specifically to deliver electricity to the
 37 public for electric motor vehicles.

38 (b) A state agency may contract with a vendor, **including a public utility pursuant to section**
 39 **3 of this 2019 Act**, that will distribute, dispense or otherwise make available electricity from de-
 40 vices or facilities described in paragraph (a) of this subsection.

41 (2)(a) The Oregon Department of Administrative Services may install or have installed devices
 42 or facilities described in subsection (1)(a) of this section in as many locations as are sufficient to
 43 meet demand for the devices or facilities.

44 (b) The department by rule shall establish criteria by means of which a state agency shall de-
 45 termine an appropriate number of locations at which the state agency may install or have installed

1 devices or facilities described in subsection (1)(a) of this section.

2 (c) Notwithstanding paragraph (b) of this subsection, a state agency may install or have installed
3 devices or facilities described in subsection (1)(a) of this section at more than the number of lo-
4 cations determined in accordance with the department's rule if the state agency obtains a grant to
5 support the installations at each additional location.

6 (3) A state agency that contracts with a vendor under subsection (1)(b) of this section shall re-
7 quire in the contract that the vendor:

8 (a) Indemnify the state agency against any claim related to or arising out of the vendor's oper-
9 ations on premises that the state agency owns or controls; and

10 (b) Obtain a policy of liability insurance in an amount sufficient to pay foreseeable claims that
11 relate to or arise out of the vendor's operations, name the state agency as an insured party in the
12 policy and maintain coverage under the policy during the term of the contract and for two years
13 after the contract term expires.

14 (4) A state agency may by order establish and adjust prices for using devices or facilities de-
15 scribed in subsection (1)(a) of this section that are located on premises the state agency owns or
16 controls. The state agency shall set the price for using the devices or facilities at a level that:

17 (a) Recovers to the maximum extent practicable the cost of operating and administering the
18 devices or facilities described in subsection (1)(a) of this section; and

19 (b) Does not exceed 110 percent of the average market price for delivering electricity to the
20 public for the purpose described in subsection (1)(a) of this section in the county in which the device
21 or facility is located.

22 (5) Subject to subsection (4) of this section, a state agency shall set a uniform price for deliv-
23 ering electricity at devices and facilities located on premises that the state agency owns or controls.
24 The state agency shall use criteria and a methodology that the department specifies for calculating
25 the uniform price.

26 (6) The department shall report to the Legislative Assembly in the manner provided by ORS
27 192.245 not later than February 1, 2019, February 1, 2021, and February 1, 2023, concerning state
28 agency implementation of the authority granted in this section. Each report must, as of the date
29 of the report:

30 (a) List the number of devices or facilities for delivering electricity to the public for electric
31 motor vehicles that state agencies installed or had installed in the previous two years and the total
32 number of installations that have occurred since June 2, 2018;

33 (b) List the number of devices or facilities that state agencies have planned for installation in
34 the next two years;

35 (c) List the cost to the state agency of each installation and calculate:

36 (A) An average cost for installations that state agencies have completed or had completed; and

37 (B) An overall trend line for costs that state agencies have incurred;

38 (d) Specify the current uniform price that each state agency charges under subsection (5) of this
39 section and any changes in the uniform price that occurred in the previous two years;

40 (e) Specify for each state agency an average rate of utilization for all of the devices or facilities
41 located on premises that the state agency owns or controls, calculated as the ratio of the time each
42 day during which a person is actually using the devices or facilities and the time each day in which
43 the devices and facilities are available for use; and

44 (f) Specify whether and to what extent using electric motor vehicles and devices or facilities
45 located on premises that state agencies own or control to provide electricity for state agency elec-

1 tric motor vehicles results in a cost savings to the state agency in comparison to using motor ve-
 2 hicles that do not use electricity for propulsion.

3 **SECTION 5.** ORS 283.327 is amended to read:

4 283.327. (1)(a) **Unless a state agency finds that it is not feasible for a zero-emission vehi-**
 5 **cle, as defined in section 1 of this 2019 Act, to meet the specific use for which a vehicle will**
 6 **be purchased or leased, the agency shall purchase or lease zero-emission vehicles for at least**
 7 **25 percent of new light-duty state fleet purchases and leases, to the extent zero-emission**
 8 **vehicles are available.**

9 (b) **If the agency finds that purchasing or leasing zero-emission vehicles is not feasible,**
 10 **the agency may purchase or lease light-duty or medium-duty vehicles that are capable of**
 11 **using alternative fuel and that meet the requirements established by the Comprehensive**
 12 **National Energy Policy Act of 1992 (P.L. 102-486).**

13 (c) **If the agency finds that purchasing or leasing zero-emission vehicles is not feasible**
 14 **and that purchasing or leasing light-duty or medium-duty vehicles that are capable of using**
 15 **alternative fuel and that meet the requirements established by the Comprehensive National**
 16 **Energy Policy Act of 1992 (P.L. 102-486) is not feasible, the agency may purchase or lease**
 17 **vehicles that the Department of Environmental Quality has identified by rule as low-emission**
 18 **vehicles.**

19 [(1)] (2) To the maximum extent [*economically possible*] **feasible**, state-owned motor vehicles shall
 20 **be zero-emission vehicles or** use alternative fuel for operation.

21 [(2)] *State agencies shall acquire only motor vehicles capable of using alternative fuel, except that*
 22 *acquired vehicles assigned to areas unable economically to dispense alternative fuel need not be so*
 23 *configured.]*

24 (3) **A state agency that purchases or leases a vehicle that is not a zero-emission vehicle**
 25 **shall submit a report to the State Department of Energy that explains the reason for the**
 26 **purchase of an alternative fuel, hybrid or low-emission vehicle and demonstrates that a**
 27 **zero-emission vehicle was not feasible. To assess the feasibility of a zero-emission vehicle**
 28 **under this subsection, a state agency may not consider any incremental cost of a zero-**
 29 **emission vehicle over a comparable use vehicle. The State Department of Energy shall con-**
 30 **sult with the Oregon Department of Administrative Services to develop requirements for the**
 31 **reports required by this subsection.**

32 [(3)] (4) Each agency owning motor vehicles shall comply with all safety standards established
 33 by the United States Department of Transportation in the conversion, operation and maintenance
 34 of vehicles using alternative fuel.

35 [(4)] (5) To the maximum extent economically possible, state-owned structures shall use biofuel,
 36 or direct-application electricity generated from biofuel, where diesel is currently utilized for sta-
 37 tionary or back-up generation.

38 **SECTION 6.** ORS 283.327, as amended by section 5 of this 2019 Act, is amended to read:

39 283.327. (1)(a) **Unless a state agency finds that it is not feasible for a zero-emission vehicle, as**
 40 **defined in section 1 of this 2019 Act, to meet the specific use for which a vehicle will be purchased**
 41 **or leased, [the agency shall purchase or lease zero-emission vehicles for at least 25 percent of new**
 42 **light-duty state fleet purchases and leases, to the extent zero-emission vehicles are available.] the**
 43 **agency shall purchase or lease zero-emission vehicles for all new light-duty and medium-duty**
 44 **state fleet purchases and leases.**

45 (b) **If the agency finds that purchasing or leasing zero-emission vehicles is not feasible, the**

1 agency may purchase or lease light-duty or medium-duty vehicles that are capable of using alterna-
 2 tive fuel and that meet the requirements established by the Comprehensive National Energy Policy
 3 Act of 1992 (P.L. 102-486).

4 (c) If the agency finds that purchasing or leasing zero-emission vehicles is not feasible and that
 5 purchasing or leasing light-duty or medium-duty vehicles that are capable of using alternative fuel
 6 and that meet the requirements established by the Comprehensive National Energy Policy Act of
 7 1992 (P.L. 102-486) is not feasible, the agency may purchase or lease vehicles that the Department
 8 of Environmental Quality has identified by rule as low-emission vehicles.

9 (2) To the maximum extent feasible, state-owned motor vehicles shall be zero-emission vehicles
 10 or use alternative fuel for operation.

11 (3) A state agency that purchases or leases a vehicle that is not a zero-emission vehicle shall
 12 submit a report to the State Department of Energy that explains the reason for the purchase of an
 13 alternative fuel, hybrid or low-emission vehicle and demonstrates that a zero-emission vehicle was
 14 not feasible. To assess the feasibility of a zero-emission vehicle under this subsection, a state agency
 15 may not consider any incremental cost of a zero-emission vehicle over a comparable use vehicle.
 16 The State Department of Energy shall consult with the Oregon Department of Administrative Ser-
 17 vices to develop requirements for the reports required by this subsection.

18 (4) Each agency owning motor vehicles shall comply with all safety standards established by the
 19 United States Department of Transportation in the conversion, operation and maintenance of vehi-
 20 cles using alternative fuel.

21 (5) To the maximum extent economically possible, state-owned structures shall use biofuel, or
 22 direct-application electricity generated from biofuel, where diesel is currently utilized for stationary
 23 or back-up generation.

24 **SECTION 7.** ORS 283.337 is amended to read:

25 283.337. (1) Prior to December 31 of each year, each agency owning motor vehicles shall submit
 26 an annual report to the Department of Environmental Quality and the State Department of Energy.
 27 The report shall contain at a minimum:

28 [(1)] (a) The number of vehicles acquired that are capable of using alternative fuel;

29 [(2)] (b) The number of vehicles converted from the use of gasoline to the use of alternative fuel;

30 [(3)] (c) The [quantity] amount of each type of alternative fuel used in the vehicles; [and]

31 (d) **The number of zero-emission vehicles, as defined in section 1 of this 2019 Act, ac-**
 32 **quired;**

33 (e) **The amount of electricity used in the vehicles; and**

34 [(4)] (f) Any other information required by the Department of Environmental Quality and the
 35 State Department of Energy.

36 (2) **For purposes of the report, plug-in hybrid electric vehicles are not vehicles that are**
 37 **capable of using alternative fuel.**

38 **SECTION 8.** ORS 283.343 is amended to read:

39 283.343. At least biennially, the Oregon Department of Administrative Services shall examine
 40 compliance with rules adopted pursuant to ORS 283.340 by state agencies owning vehicles. The
 41 department shall submit biennially to the Joint Legislative Audit Committee a management report
 42 on state-owned motor vehicles that includes:

43 (1) Summaries of agency compliance examinations, with specific emphasis on noncomplying state
 44 agency fleets;

45 (2) Numbers of motor vehicles, listed by model and by state agency;

1 (3) Mileage utilization of motor vehicles, listed by state agency;

2 (4) Operating cost per mile of motor vehicles, listed by state agency; and

3 (5) Recommendations for increasing motor vehicle utilization, for decreasing the overall motor
4 vehicle population, **for increasing the percentage of zero-emission vehicles within the motor**
5 **pool and agency fleets** and for absorbing noncomplying state agency fleets into the motor pool.

6 **SECTION 9.** ORS 757.355 is amended to read:

7 757.355. (1) Except as provided in **section 3 of this 2019 Act and** subsection (2) of this section,
8 a public utility may not, directly or indirectly, by any device, charge, demand, collect or receive
9 from any customer rates that include the costs of construction, building, installation or real or
10 personal property not presently used for providing utility service to the customer.

11 (2) The Public Utility Commission may allow rates for a water utility that include the costs of
12 a specific capital improvement if the water utility is required to use the additional revenues solely
13 for the purpose of completing the capital improvement.

14 **SECTION 10.** ORS 757.612 is amended to read:

15 757.612. (1) There is established an annual public purpose expenditure standard for electric
16 companies and Oregon Community Power to fund new cost-effective energy conservation, new mar-
17 ket transformation efforts, the above-market costs of new renewable energy resources and new
18 low-income weatherization. The public purpose expenditure standard shall be funded by the public
19 purpose charge described in subsection (2) of this section.

20 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-
21 cess to retail electricity consumers, except residential electricity consumers, the electric company
22 or Oregon Community Power shall collect a public purpose charge from all of the retail electricity
23 consumers located within the electric company's or Oregon Community Power's service area until
24 January 1, 2026. Except as provided in paragraph (b) of this subsection, the public purpose charge
25 shall be equal to three percent of the total revenues collected by the electric company, Oregon
26 Community Power or the electricity service supplier from retail electricity consumers for electricity
27 services, distribution services, ancillary services, metering and billing, transition charges and other
28 types of costs included in electric rates on July 23, 1999.

29 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
30 per year, the electric company or Oregon Community Power, whichever serves territory that abuts
31 the greatest percentage of the site of the aluminum plant, shall collect from the aluminum company
32 a public purpose charge equal to one percent of the total revenue from the sale of electricity ser-
33 vices to the aluminum plant from any source.

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

36 (b) Except as provided in paragraph (e) of this subsection, funds collected through public pur-
37 pose charges under subsection (2) of this section shall be allocated as follows:

38 (A) Sixty-three percent for new cost-effective energy conservation and new market transforma-
39 tion efforts.

40 (B) Nineteen percent for the above-market costs of constructing and operating new renewable
41 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
42 megawatts or less.

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

44 (D) Five percent for deposit in the Housing and Community Services Department Electricity
45 Public Purpose Charge Fund established by ORS 456.587 (1) for the purpose of providing grants as

1 described in ORS 458.625 (2).

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

7 (d) The commission shall direct the manner in which public purpose charges are collected and
8 spent by an electric company or Oregon Community Power and may require an electric company
9 or Oregon Community Power to expend funds through competitive bids or other means designed to
10 encourage competition, except that funds dedicated for new low-income weatherization shall be di-
11 rected to the Housing and Community Services Department for purposes related to new low-income
12 weatherization. The commission may also require funds collected through public purpose charges to
13 be paid to a nongovernmental entity for investment in public purposes described in subsection (1)
14 of this section. Notwithstanding any other provision of this subsection:

15 (A) If an electric company collected the funds, at least 80 percent of the funds allocated for new
16 cost-effective energy conservation shall be spent within the service area of the electric company;
17 or

18 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
19 for new cost-effective energy conservation shall be spent within the service area of Oregon Com-
20 munity Power.

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

29 (B) A school district that receives funds under this paragraph shall use the funds first to pay
30 for energy **or fleet** audits for schools located within the school district. A school district may not
31 expend additional funds received under this paragraph *[on]* **for** a school until an *[energy]* audit has
32 been completed for that school. To the extent practicable, a school district shall coordinate with the
33 State Department of Energy and incorporate federal funding in complying with this paragraph.
34 Following completion of an *[energy]* audit for an individual school, the school district may expend
35 funds received under this paragraph *[to implement the energy audit]* **for the school**. Once an
36 *[energy]* audit has been conducted *[and completely implemented]* for each school within the school
37 district, the school district may expend funds received under this paragraph for any of the following
38 purposes:

39 (i) Conducting additional energy **or fleet** audits. A school district shall conduct an energy audit
40 prior to expending funds on any other purpose authorized under this paragraph unless the school
41 district has:

42 (I) Performed an energy audit within the three years immediately prior to receiving the
43 funds[.]; **or**

44 (II) **Performed a fleet audit at any time prior to receiving the funds and determined that**
45 **the previous fleet audit is up to date.**

1 (ii) Weatherizing school district facilities and upgrading the energy efficiency of school district
2 facilities.

3 (iii) Energy conservation education programs.

4 (iv) Purchasing electricity from environmentally focused sources.

5 (v) Investing in renewable energy resources.

6 **(vi) Purchasing or leasing zero-emission vehicles, as defined in section 1 of this 2019 Act,**
7 **including buses.**

8 **(vii) Purchasing or installing electric vehicle charging stations, as defined in section 3**
9 **of this 2019 Act.**

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

12 (g) If the commission requires funds collected through public purpose charges to be paid to a
13 nongovernmental entity, the entity shall:

14 (A) Include on the entity's board of directors an ex officio member designated by the commis-
15 sion, who shall also 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 such conflicts arise, and require an officer
22 or director to abstain from participating in any discussion or voting on any item where that officer
23 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict
24 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

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

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

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

32 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
33 ficer or director who fails to provide an annual disclosure of economic interest, or who fails to de-
34 clare an actual or potential conflict of interest, as described in paragraph (g)(B) and (C) of this
35 subsection, if the failure is connected to the allocation or expenditure of funds collected through
36 public purpose charges and paid to the entity.

37 (4)(a) An electric company that satisfies its obligations under this section:

38 (A) Has no further obligation to invest in new cost-effective energy conservation, new market
39 transformation or new low-income weatherization, or to provide a commercial energy conservation
40 services program; and

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

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

44 (A) Has no further obligation to invest in new cost-effective energy conservation, new market
45 transformation or new low-income weatherization, or to provide a commercial energy conservation

1 services program; and

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

3 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
4 any site in the prior year shall receive a credit against public purpose charges billed by an electric
5 company or Oregon Community Power for that site. The amount of the credit shall be equal to the
6 total amount of qualifying expenditures for new cost-effective energy conservation, not to exceed 68
7 percent of the annual public purpose charges, and the above-market costs of new renewable energy
8 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public
9 purpose charges, less administration costs incurred under this paragraph and paragraphs (b) and (c)
10 of this subsection. The credit may not exceed, on an annual basis, the lesser of:

11 (A) The amount of the retail electricity consumer's qualifying expenditures; or

12 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
13 dedicated to new cost-effective energy conservation, new market transformation or the above-market
14 costs of new renewable energy resources.

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

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

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

34 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-
35 agraph unless a subsequent independent audit determines that new conservation investment oppor-
36 tunities are available. The State Department of Energy may require that a new independent audit
37 be performed on the site to determine whether new conservation measures are available, provided
38 that the independent audits occur no more than once every two years.

39 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
40 paragraph.

41 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
42 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall
43 adopt rules to determine eligible expenditures and the method by which such credits are accounted
44 for and used. The State Department of Energy also shall adopt methods to account for eligible public
45 purpose expenditures made through consortia or collaborative projects.

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

4 (b) The commission shall establish the amount to be collected by each electric company from
5 retail electricity consumers, and the rates to be charged by each electric company to retail elec-
6 tricity consumers, so that the forecasted collection by all electric companies in calendar year 2018
7 is \$20 million. In subsequent calendar years, the commission may not decrease the rates below those
8 established for calendar year 2018. The commission may temporarily adjust the rates if forecasted
9 collections or actual collections are less than \$20 million in any calendar year. A retail electricity
10 consumer may not be required to pay more than \$500 per month per site for low-income electric bill
11 payment assistance.

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

20 (d)(A) The Housing and Community Services Department shall determine the manner in which
21 funds collected under this subsection will be allocated by the Housing and Community Services
22 Department to energy assistance program providers for the purpose of providing low-income bill
23 payment and crisis assistance.

24 (B) The Housing and Community Services Department, in consultation with electric companies,
25 shall investigate and may implement alternative delivery models to effectively reduce service dis-
26 connections and related costs to retail electricity consumers and electric utilities.

27 (C) Priority assistance shall be directed to low-income electricity consumers who are in danger
28 of having their electricity service disconnected.

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

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

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

45 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-

1 industrial consumer that purchases electricity without purchasing distribution services from the elec-
2 tric utility.

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

5 **SECTION 11. The amendments to ORS 283.327 by section 6 of this 2019 Act become op-**
6 **erative on January 1, 2025.**

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