

House Bill 4151

Sponsored by Representative SMITH DB, Senator ROBLAN, Representative WITT; Representatives BARKER, BARRETO, BOSCHART DAVIS, DOHERTY, EVANS, GOMBERG, LEIF, LEWIS, LIVELY, MCLAIN, MEEK, NOBLE, POST, REARDON, RESCHKE, SCHOUTEN, SMITH G, WILLIAMS, ZIKA, Senators FINDLEY, FREDERICK, GOLDEN, KNOPP (Presession filed.)

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**.

Increases rate of privilege tax imposed on Oregon motor vehicle dealers upon retail sale of taxable motor vehicle and rate of use tax imposed on storage, use or other consumption in this state of taxable motor vehicle purchased at retail. Applies to any taxable motor vehicle sold at retail in any jurisdiction within or outside this state that is registered by purchaser residing within boundaries of metropolitan service district to address within district. Directs revenue from increase in privilege tax to be used to supplement rebates otherwise made under zero-emission and electric vehicle rebate program and Charge Ahead Oregon Program.

Requires electric companies, Oregon Community Power and consumer-owned utilities to collect one percent public purpose charge from retail electricity consumers located within part of service area that is within Portland metropolitan service district. Requires investment of public purpose charge funds in programs to accelerate transportation electrification and grid modernization efforts that support transportation electrification. Authorizes certain retail electricity consumers to direct their own transportation electrification projects and receive credit against public purpose charges.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to funding the transition to electric motor vehicles; creating new provisions; amending ORS
3 297.300, 317A.100, 757.247, 757.600, 757.649, 757.676 and 757.872; prescribing an effective date;
4 and providing for revenue raising that requires approval by a three-fifths majority.

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

6 **SECTION 1. Section 2 of this 2020 Act is added to and made a part of ORS 320.400 to**
7 **320.490.**

8 **SECTION 2. (1)(a) This section applies to any taxable motor vehicle sold at retail in any**
9 **jurisdiction within or outside this state that is registered by a purchaser residing within the**
10 **boundaries of a metropolitan service district established under ORS chapter 268 to an ad-**
11 **dress within the district.**

12 **(b) All provisions of ORS 320.400 to 320.490 and 803.203 that are not inconsistent with this**
13 **section apply to this section.**

14 **(2)(a) The tax imposed under ORS 320.405 on each vehicle dealer for the privilege of en-**
15 **gaging in the business of selling taxable motor vehicles described in subsection (1)(a) of this**
16 **section at retail in this state is increased by _____ percent.**

17 **(b) The use tax imposed under ORS 320.410 on the storage, use or other consumption in**
18 **this state of taxable motor vehicles described in subsection (1)(a) of this section that are**
19 **purchased at retail from any seller is increased by _____ percent.**

20 **(3) ORS 320.435 applies to all revenue collected by the Department of Revenue under this**
21 **section.**

22 **(4)(a) Revenue attributable to the increase in the privilege tax rate imposed under this**

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 section shall be used to increase rebates made under the zero-emission and electric vehicle
 2 rebate program established pursuant to section 149, chapter 750, Oregon Laws 2017, and the
 3 Charge Ahead Oregon Program established pursuant to section 150, chapter 750, Oregon
 4 Laws 2017, by \$2,500 per rebate.

5 (b) Paragraph (a) of this subsection does not apply to rebates made under section 149,
 6 chapter 750, Oregon Laws 2017, for neighborhood electric vehicles or zero-emission motor-
 7 cycles, as those terms are defined in section 148, chapter 750, Oregon Laws 2017.

8 (c) The \$2,500 increase per rebate provided under paragraph (a) of this subsection is in-
 9 tended to supplement and not supplant the rebates otherwise made under the zero-emission
 10 and electric vehicle rebate program and the Charge Ahead Oregon Program.

11 (5) The tax increases imposed under subsection (2) of this section apply to a taxable
 12 motor vehicle regardless of whether the taxable motor vehicle is a qualifying vehicle as de-
 13 fined in chapter 148, section 750, Oregon Laws 2017, or a vehicle eligible for a rebate under
 14 section 150 (4), chapter 750, Oregon Laws 2017.

15 **SECTION 3.** Section 2 of this 2020 Act applies to taxable motor vehicles sold at retail on
 16 or after January 1, 2021.

17 **SECTION 4.** ORS 757.600 is amended to read:

18 757.600. As used in ORS 757.600 to 757.689, unless the context requires otherwise:

19 (1) “Aggregate” means combining retail electricity consumers into a buying group for the pur-
 20 chase of electricity and related services.

21 (2) “Ancillary services” means services necessary or incidental to the transmission and delivery
 22 of electricity from generating facilities to retail electricity consumers, including but not limited to
 23 scheduling, load shaping, reactive power, voltage control and energy balancing services.

24 (3) “Commission” means the Public Utility Commission.

25 (4) “Consumer-owned utility” means a municipal electric utility, a people’s utility district or an
 26 electric cooperative.

27 (5) “Default supplier” means an electricity service supplier or electric company that has a legal
 28 obligation to provide electricity services to a consumer, as determined by the commission.

29 (6) “Direct access” means the ability of a retail electricity consumer to purchase electricity and
 30 certain ancillary services, as determined by the commission for an electric company or the govern-
 31 ing body of a consumer-owned utility, directly from an entity other than the distribution utility.

32 (7) “Direct service industrial consumer” means an end user of electricity that obtains electricity
 33 directly from the transmission grid and not through a distribution utility.

34 (8) “Distribution” means the delivery of electricity to retail electricity consumers through a
 35 distribution system consisting of local area power poles, transformers, conductors, meters, sub-
 36 stations and other equipment.

37 (9) “Distribution utility” means an electric utility that owns and operates a distribution system
 38 connecting the transmission grid to the retail electricity consumer.

39 (10) “Economic utility investment” means all electric company investments, including plants and
 40 equipment and contractual or other legal obligations, properly dedicated to generation or conser-
 41 vation, that were prudent at the time the obligations were assumed but the full benefits of which
 42 are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition
 43 credits. “Economic utility investment” does not include costs or expenses disallowed by the com-
 44 mission in a prudence review or other proceeding, to the extent of such disallowance, and does not
 45 include fines or penalties authorized and imposed under state or federal law.

1 (11) "Electric company" means an entity engaged in the business of distributing electricity to
2 retail electricity consumers in this state, but does not include a consumer-owned utility.

3 (12) "Electric cooperative" means an electric cooperative corporation organized under ORS
4 chapter 62 or under the laws of another state if the service territory of the electric cooperative
5 includes a portion of this state.

6 (13) "Electric utility" means an electric company or consumer-owned utility that is engaged in
7 the business of distributing electricity to retail electricity consumers in this state.

8 (14) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity,
9 measured in kilowatts, or both.

10 (15) "Electricity services" means electricity distribution, transmission, generation or
11 generation-related services.

12 (16) "Electricity service supplier" means a person or entity that offers to sell electricity services
13 available pursuant to direct access to more than one retail electricity consumer. "Electricity ser-
14 vice supplier" does not include an electric utility selling electricity to retail electricity consumers
15 in its own service territory.

16 (17) "Governing body" means the board of directors or the commissioners of an electric coop-
17 erative or people's utility district, or the council or board of a city with respect to a municipal
18 electric utility.

19 (18) "Load" means the amount of electricity delivered to or required by a retail electricity
20 consumer at a specific point of delivery.

21 (19) "Low-income weatherization" means repairs, weatherization and installation of energy effi-
22 cient appliances and fixtures for low-income residences for the purpose of enhancing energy effi-
23 ciency.

24 (20) "Municipal electric utility" means an electric distribution utility owned and operated by or
25 on behalf of a city.

26 (21) "New renewable energy resource" means a renewable energy resource project, or a new
27 addition to an existing renewable energy resource project, or the electricity produced by the project,
28 that is not in operation on July 23, 1999. "New renewable energy resource" does not include any
29 portion of a renewable energy resource project under contract to the Bonneville Power Adminis-
30 tration on or before July 23, 1999.

31 (22) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

32 (23) "People's utility district" has the meaning given that term in ORS 261.010.

33 (24) "Portfolio access" means the ability of a retail electricity consumer to choose from a set
34 of product and pricing options for electricity determined by the governing board of a consumer-
35 owned utility and may include product and pricing options offered by the utility or by an electricity
36 service supplier.

37 (25) "Power generation company" means a company engaged in the production and sale of
38 electricity to wholesale customers, including but not limited to independent power producers, affil-
39 iated generation companies, municipal and state authorities, provided the company is not regulated
40 by the commission.

41 (26) "Qualifying expenditures" means those expenditures for energy conservation measures that
42 have a simple payback period of not less than one year and not more than 10 years, and expen-
43 ditures for the above-market costs of new renewable energy resources, provided that the State De-
44 partment of Energy by rule may establish a limit on the maximum above-market cost for renewable
45 energy that is allowed as a credit.

1 (27) “Renewable energy resources” means:

2 (a) Electricity generation facilities fueled by wind, waste, solar or geothermal power or by low-
3 emission nontoxic biomass based on solid organic fuels from wood, forest and field residues.

4 (b) Dedicated energy crops available on a renewable basis.

5 (c) Landfill gas and digester gas.

6 (d) Hydroelectric facilities located outside protected areas as defined by federal law in effect
7 on July 23, 1999.

8 (28) “Residential electricity consumer” means an electricity consumer who resides at a dwelling
9 primarily used for residential purposes. “Residential electricity consumer” does not include retail
10 electricity consumers in a dwelling typically used for residency periods of less than 30 days, in-
11 cluding hotels, motels, camps, lodges and clubs. As used in this subsection, “dwelling” includes but
12 is not limited to single family dwellings, separately metered apartments, adult foster homes, manu-
13 factured dwellings, recreational vehicles and floating homes.

14 (29) “Retail electricity consumer” means the end user of electricity for specific purposes such
15 as heating, lighting or operating equipment, and includes all end users of electricity served through
16 the distribution system of an electric utility on or after July 23, 1999, whether or not each end user
17 purchases the electricity from the electric utility.

18 (30) “Site” means a single contiguous area of land containing buildings or other structures that
19 are separated by not more than 1,000 feet, or buildings and related structures that are intercon-
20 nected by facilities owned by a single retail electricity consumer and that are served through a
21 single electric meter.

22 (31) “Transition charge” means a charge or fee that recovers all or a portion of an uneconomic
23 utility investment.

24 (32) “Transition credit” means a credit that returns to consumers all or a portion of the benefits
25 from an economic utility investment.

26 (33) “Transmission facility” means the plant and equipment used to transmit electricity in
27 interstate commerce.

28 **(34) “Transportation electrification” has the meaning given that term in ORS 757.357.**

29 [(34)] **(35)** “Undue market power” means the unfair or improper exercise of influence to increase
30 or decrease the availability or price of a service or product in a manner inconsistent with compet-
31 itive markets.

32 [(35)] **(36)** “Uneconomic utility investment” means all electric company investments, including
33 plants and equipment and contractual or other legal obligations, properly dedicated to generation,
34 conservation and workforce commitments, that were prudent at the time the obligations were as-
35 sumed but the full costs of which are no longer recoverable as a direct result of ORS 757.600 to
36 757.667, absent transition charges. “Uneconomic utility investment” does not include costs or ex-
37 penses disallowed by the commission in a prudence review or other proceeding, to the extent of such
38 disallowance, and does not include fines or penalties as authorized by state or federal law.

39 **SECTION 5. Sections 6 to 8 of this 2020 Act are added to and made a part of ORS 757.600**
40 **to 757.689.**

41 **SECTION 6. (1)(a) In addition to any public purpose charge collected under ORS 757.612,**
42 **each electric company or Oregon Community Power shall collect a public purpose charge**
43 **from all of the retail electricity consumers located within that part of the electric company’s**
44 **or Oregon Community Power’s service area that is within the boundaries of the metropolitan**
45 **service district established under ORS chapter 268.**

1 (b) The public purpose charge shall be equal to one percent of the total revenues collected
 2 by the electric company or Oregon Community Power, or by the electricity service supplier
 3 providing direct access within the area described in paragraph (a) of this subsection, from
 4 retail electricity consumers for electricity services, distribution services, ancillary services,
 5 metering and billing, transition charges and other types of costs included in electric rates
 6 on the effective date of this 2020 Act.

7 (2)(a) Funds collected through the public purpose charge established under this section
 8 shall be invested in programs to accelerate transportation electrification and to engage in
 9 grid modernization efforts that support transportation electrification.

10 (b) Notwithstanding paragraph (a) of this subsection, the costs of administering this
 11 section for an electric company or Oregon Community Power shall be paid out of the funds
 12 collected through the public purpose charge. The Public Utility Commission may require an
 13 electric company or Oregon Community Power to direct funds collected through the public
 14 purpose charge to state agencies responsible for implementing this section in order to pay
 15 the costs of administering this section.

16 (c) The commission shall direct the manner in which the public purpose charge is col-
 17 lected and spent by an electric company or Oregon Community Power and may require an
 18 electric company or Oregon Community Power to expend funds through competitive bids or
 19 other means designed to encourage competition. The commission may also require funds
 20 collected through the public purpose charge to be paid to a nongovernmental entity for in-
 21 vestment as required under paragraph (a) of this subsection. Funds collected through the
 22 public purpose charge must be spent within the area described in subsection (1)(a) of this
 23 section.

24 (3) Electric utilities and retail electricity consumers shall receive a fair and reasonable
 25 credit for the public purpose expenditures of their energy suppliers. The State Department
 26 of Energy shall adopt rules to determine eligible expenditures and the method by which
 27 credits described in this subsection are accounted for and used. The department also shall
 28 adopt methods to account for eligible public purpose expenditures made through consortia
 29 or collaborative projects.

30 (4) For purposes of this section, “retail electricity consumers” includes any direct service
 31 industrial consumer that purchases electricity without purchasing distribution services from
 32 the electric company.

33 (5) For purposes of this section, funds collected by Oregon Community Power through
 34 the public purpose charge are not considered moneys received from electric utility oper-
 35 ations.

36 (6) The commission shall adopt rules to implement the provisions of this section relating
 37 to electric companies.

38 **SECTION 7.** (1)(a) In addition to any public purpose charge collected under ORS 757.687,
 39 a consumer-owned utility shall collect a public purpose charge from all of the retail elec-
 40 tricity consumers located within that part of the consumer-owned utility’s service area that
 41 is within the boundaries of the metropolitan service district established under ORS chapter
 42 268.

43 (b) The public purpose charge shall be equal to one percent of the total revenues collected
 44 by the consumer-owned utility, or by the electricity service supplier providing direct access
 45 within the area described in paragraph (a) of this subsection, from retail electricity con-

1 consumers for electricity services, distribution services, ancillary services, metering and billing,
 2 transition charges and other types of costs included in electric rates on the effective date
 3 of this 2020 Act.

4 (2)(a) Funds collected through the public purpose charge established under this section
 5 shall be invested, at the direction of the governing body of the consumer-owned utility, in
 6 programs to accelerate transportation electrification and to engage in grid modernization
 7 efforts that support transportation electrification.

8 (b) Notwithstanding paragraph (a) of this subsection, the costs of administering this
 9 section for the consumer-owned utility shall be paid out of the funds collected through the
 10 public purpose charge.

11 (c) The governing body of the consumer-owned utility shall direct the manner in which
 12 the public purpose charge is collected and spent. A consumer-owned utility shall report an-
 13 nually to the State Department of Energy on the public purpose charge paid to the utility
 14 by its retail electricity consumers and the public purposes on which the revenue was ex-
 15 pended.

16 (3) A consumer-owned utility may comply with the expenditure requirements of this
 17 section by participating in collaborative efforts with other consumer-owned utilities located
 18 in this state.

19 (4) A consumer-owned utility may require an electricity service supplier to provide in-
 20 formation necessary to ensure compliance with this section. The consumer-owned utility
 21 shall ensure the privacy and protection of any proprietary information provided.

22 **SECTION 8.** (1) A retail electricity consumer that uses more than one average megawatt
 23 of electricity at any site in the prior year shall receive a credit against the public purpose
 24 charge billed for that site by:

25 (a) An electric company or Oregon Community Power pursuant to section 6 of this 2020
 26 Act; or

27 (b) A consumer-owned utility pursuant to section 7 of this 2020 Act.

28 (2) The amount of the credit shall be equal to the total amount of qualifying expenditures
 29 by the retail electricity consumer for transportation electrification, less administration costs
 30 incurred under this subsection and subsections (3) and (4) of this section. The credit may
 31 not exceed, on an annual basis, the lesser of:

32 (a) The amount of the retail electricity consumer's qualifying expenditures; or

33 (b) The portion of the public purpose charge billed to the retail electricity consumer that
 34 is dedicated to transportation electrification.

35 (3) To obtain a credit under subsections (1) and (2) of this section, a retail electricity
 36 consumer shall file with the State Department of Energy a description of the proposed
 37 transportation electrification expenditures and a declaration that the retail electricity con-
 38 sumer plans to incur the qualifying expenditures. The department shall issue a notice of
 39 precertification within 30 days of receipt of the filing, if the filing is consistent with sub-
 40 section (1) of this section. The credit may be taken after a retail electricity consumer pro-
 41 vides a letter from a certified public accountant to the department verifying that the
 42 precertified qualifying expenditures have been made.

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

45 (5)(a) A retail electricity consumer that uses more than one average megawatt of elec-

1 tricity at any site in the prior year may request that the State Department of Energy hire
 2 an independent auditor to assess the potential for transportation electrification measures
 3 at the site. If the independent auditor determines there is no potential transportation
 4 electrification measure available at the site that would have a simple payback of one to 10
 5 years, the retail electricity consumer shall be relieved of 54 percent of its payment obligation
 6 for public purpose charges related to the site. If the independent auditor determines that
 7 there are potential transportation electrification measures available at the site, the retail
 8 electricity consumer shall be entitled to a credit against public purpose charges related to
 9 the site equal to 54 percent of the public purpose charges less the estimated cost of available
 10 transportation electrification measures.

11 (b) A retail electricity consumer shall be entitled each year to the credit described in this
 12 subsection unless a subsequent independent audit determines that new transportation
 13 electrification investment opportunities are available. The department may require that a
 14 new independent audit be performed on the site to determine whether new transportation
 15 electrification measures are available, provided that the independent audits occur no more
 16 than once every two years.

17 (c) The retail electricity consumer shall pay the cost of the independent audits described
 18 in this subsection.

19 **SECTION 9.** ORS 297.300 is amended to read:

20 297.300. The records related to any funds collected through public purpose charges and paid to
 21 a nongovernmental entity as described in ORS 757.612 and section 6 of this 2020 Act shall be
 22 subject to audit by the Secretary of State.

23 **SECTION 10.** ORS 317A.100 is amended to read:

24 317A.100. As used in ORS 317A.100 to 317A.158:

25 (1)(a) "Commercial activity" means:

26 (A) The total amount realized by a person, arising from transactions and activity in the regular
 27 course of the person's trade or business, without deduction for expenses incurred by the trade or
 28 business;

29 (B) If received by a financial institution:

30 (i) If the reporting person for a financial institution is a holding company, all items of income
 31 reported on the FR Y-9 filed by the holding company;

32 (ii) If the reporting person for a financial institution is a bank organization, all items of income
 33 reported on the call report filed by the bank organization; and

34 (iii) If the reporting person for a financial institution is a nonbank financial organization, all
 35 items of income reported in accordance with generally accepted accounting principles; and

36 (C)(i) If received by an insurer, as reported on the statement of premiums accompanying the
 37 annual statement required under ORS 731.574 to be filed with the Director of the Department of
 38 Consumer and Business Services, all gross direct life insurance premiums, gross direct accident and
 39 health insurance premiums and gross direct property and casualty insurance premiums; and

40 (ii) The gross amount of surplus lines premiums received on Oregon home state risks as shown
 41 in the report required by ORS 735.465.

42 (b) "Commercial activity" does not include:

43 (A) Interest income except:

44 (i) Interest on credit sales; or

45 (ii) Interest income, including service charges, received by financial institutions;

1 (B) Receipts from the sale, exchange or other disposition of an asset described in section 1221
2 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;

3 (C) If received by an insurer, federally reinsured premiums or income from transactions between
4 a reciprocal insurer and its attorney in fact operating under ORS 731.142;

5 (D) Receipts from hedging transactions, to the extent that the transactions are entered into
6 primarily to protect a financial position, including transactions intended to manage the risk of ex-
7 posure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity or in-
8 vestments in foreign operations, risk of exposure to interest rate fluctuations or risk of commodity
9 price fluctuations;

10 (E) Proceeds received attributable to the repayment, maturity or redemption of the principal of
11 a loan, bond, mutual fund, certificate of deposit or marketable instrument;

12 (F) The principal amount received under a repurchase agreement or on account of any trans-
13 action properly characterized as a loan to the person;

14 (G) Contributions received by a trust, plan or other arrangement, any of which is described in
15 section 501(a) of the Internal Revenue Code, or to which title 26, subtitle A, chapter 1, subchapter
16 (D) of the Internal Revenue Code applies;

17 (H) Compensation, whether current or deferred, and whether in cash or in kind, received or to
18 be received by an employee, a former employee or the employee's legal successor for services ren-
19 dered to or for an employer, including reimbursements received by or for an individual for medical
20 or education expenses, health insurance premiums or employee expenses or on account of a de-
21 pendent care spending account, legal services plan, any cafeteria plan described in section 125 of
22 the Internal Revenue Code or any similar employee reimbursement;

23 (I) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts or
24 calls, or from the sale of the taxpayer's treasury stock;

25 (J) Proceeds received on the account of payments from insurance policies owned by the tax-
26 payer, except those proceeds received for the loss of business revenue;

27 (K) Gifts or charitable contributions received, membership dues received by trade, professional,
28 homeowners' or condominium associations, payments received for educational courses, meetings or
29 meals, or similar payments to a trade, professional or other similar association, and fundraising re-
30 cepts received by any person when any excess receipts are donated or used exclusively for chari-
31 table purposes;

32 (L) Damages received as the result of litigation in excess of amounts that, if received without
33 litigation, would be treated as commercial activity;

34 (M) Property, money and other amounts received or acquired by an agent on behalf of another
35 in excess of the agent's commission, fee or other remuneration;

36 (N) Tax refunds, other tax benefit recoveries and reimbursements for the tax imposed under ORS
37 317A.100 to 317A.158 made by entities that are part of the same unitary group as provided under
38 ORS 317A.106, and reimbursements made by entities that are not members of a unitary group that
39 are required to be made for economic parity among multiple owners of an entity whose tax obli-
40 gation under ORS 317A.100 to 317A.158 is required to be reported and paid entirely by one owner,
41 as provided in ORS 317A.106;

42 (O) Pension reversions;

43 (P) Contributions to capital;

44 (Q) Receipts from the sale, transfer, exchange or other disposition of motor vehicle fuel or any
45 other product used for the propulsion of motor vehicles;

1 (R) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer,
 2 retail dealer, distributor, manufacturer or seller, an amount equal to the federal and state excise
 3 taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the
 4 Internal Revenue Code or ORS chapter 323;

5 (S) In the case of receipts from the sale of malt beverages or wine, as defined in ORS 471.001,
 6 cider, as defined in ORS 471.023 or distilled liquor, as defined in ORS 471.001, by a person holding
 7 a license issued under ORS chapter 471, an amount equal to the federal and state excise taxes paid
 8 by any person on or for such malt beverages, wine or distilled liquor under subtitle E of the Internal
 9 Revenue Code or ORS chapter 471 or 473, and any amount paid to the Oregon Liquor Control
 10 Commission for sales of distilled spirits by an agent appointed under ORS 471.750;

11 (T) In the case of receipts from the sale of marijuana items, as defined in ORS 475B.015, by a
 12 person holding a license issued under ORS 475B.010 to 475B.545, an amount equal to the federal and
 13 state excise taxes paid by any person on or for such marijuana items under subtitle E of the Internal
 14 Revenue Code or ORS 475B.700 to 475B.760 and any local retail taxes authorized under ORS
 15 475B.491;

16 (U) Local taxes collected by a restaurant or other food establishment on sales of meals, prepared
 17 food or beverages;

18 (V) Tips or gratuities collected by a restaurant or other food establishment and passed on to
 19 employees;

20 (W) Receipts realized by a vehicle dealer certified under ORS 822.020 or a person described in
 21 ORS 320.400 (8)(a)(B) from the sale or other transfer of a motor vehicle, as defined in ORS 801.360,
 22 to another vehicle dealer for the purpose of resale by the transferee vehicle dealer, but only if the
 23 sale or other transfer was based upon the transferee's need to meet a specific customer's preference
 24 for a motor vehicle;

25 (X) Registration fees or taxes collected by a vehicle dealer certified under ORS 822.020 at the
 26 sale or other transfer of a motor vehicle, as defined in ORS 801.360, that are owed to a third party
 27 by the purchaser of the motor vehicle and passed to the third party by the dealer;

28 (Y) Receipts from a financial institution for services provided to the financial institution in
 29 connection with the issuance, processing, servicing and management of loans or credit accounts, if
 30 the financial institution and the recipient of the receipts have at least 50 percent of their ownership
 31 interests owned or controlled, directly or constructively through related interests, by common own-
 32 ers;

33 (Z) In the case of amounts retained as commissions by a holder of a license under ORS chapter
 34 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or col-
 35 lected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to
 36 be used as purse money;

37 (AA) Net revenue of residential care facilities as defined in ORS 443.400 or in-home care agen-
 38 cies as defined in ORS 443.305, to the extent that the revenue is derived from or received as com-
 39 pensation for providing services to a medical assistance or Medicare recipient;

40 (BB) Dividends received;

41 (CC) Distributive income received from a pass-through entity;

42 (DD) Receipts from sales to a wholesaler in this state, if the seller receives certification at the
 43 time of sale from the wholesaler that the wholesaler will sell the purchased property outside this
 44 state;

45 (EE) Receipts from the wholesale or retail sale of groceries;

- 1 (FF) Receipts from transactions among members of a unitary group;
- 2 (GG) Moneys, including public purpose charge moneys collected under ORS 757.612 **or section**
 3 **6 of this 2020 Act** and costs of funding or implementing cost-effective energy conservation measures
 4 **or programs to accelerate transportation electrification and to engage in grid modernization**
 5 **efforts that support transportation electrification** collected under ORS 757.689 **or section 7 of**
 6 **this 2020 Act**, that are collected from customers, passed to a utility and approved by the Public
 7 Utility Commission and that support energy conservation, renewable resource acquisition, [and]
 8 low-income assistance programs **and transportation electrification**;
- 9 (HH) Moneys collected by a utility from customers for the payment of loans through on-bill fi-
 10 nancing;
- 11 (II) Surcharges collected under ORS 757.736;
- 12 (JJ) Moneys passed to a utility by the Bonneville Power Administration for the purpose of
 13 effectuating the Regional Power Act Exchange credits or pursuant to any settlement associated with
 14 the exchange credit;
- 15 (KK) Moneys collected or recovered, by entities listed in ORS 756.310, cable operators as de-
 16 fined in 47 U.S.C. 522(5), telecommunications carriers as defined in 47 U.S.C. 153(51) and providers
 17 of information services as defined in 47 U.S.C. 153(24), for fees payable under ORS 756.310, right-of-
 18 way fees, franchise fees, privilege taxes, federal taxes and local taxes;
- 19 (LL) Charges paid to the Residential Service Protection Fund required by chapter 290, Oregon
 20 Laws 1987;
- 21 (MM) Universal service surcharge moneys collected or recovered and paid into the universal
 22 service fund established in ORS 759.425;
- 23 (NN) Moneys collected for public purpose funding as described in ORS 759.430;
- 24 (OO) Moneys collected or recovered and paid into the federal universal service fund as deter-
 25 mined by the Federal Communications Commission;
- 26 (PP) In the case of a seller or provider of telecommunications services, the amount of tax im-
 27 posed under ORS 403.200 for access to the emergency communications system that is collected from
 28 subscribers or consumers;
- 29 (QQ) In the case of a transient lodging tax collector, the amount of tax imposed under ORS
 30 320.305 and of any local transient lodging tax imposed upon the occupancy of transit lodging;
- 31 (RR) In the case of a seller of bicycles, the amount of tax imposed under ORS 320.415 upon retail
 32 sales of bicycles;
- 33 (SS) In the case of a qualified heavy equipment provider, the amount of tax imposed under ORS
 34 307.872 upon the rental price of heavy equipment;
- 35 (TT) Farmer sales to an agricultural cooperative in this state that is a cooperative organization
 36 described in section 1381 of the Internal Revenue Code; and
- 37 (UU) Revenue received by a business entity that is mandated by contract or subcontract to be
 38 distributed to another person or entity if the revenue constitutes sales commissions that are paid
 39 to a person who is not an employee of the business entity, including, without limitation, a split-fee
 40 real estate commission.
- 41 (2) "Cost inputs" means the cost of goods sold as calculated in arriving at federal taxable in-
 42 come under the Internal Revenue Code.
- 43 (3) "Doing business" means engaging in any activity, whether legal or illegal, that is conducted
 44 for, or results in, the receipt of commercial activity at any time during a calendar year.
- 45 (4) "Excluded person" means any of the following:

1 (a) Organizations described in sections 501(c) and 501(j) of the Internal Revenue Code, unless the
2 exemption is denied under section 501(h), (i) or (m) or under section 502, 503 or 505 of the Internal
3 Revenue Code.

4 (b) Organizations described in section 501(d) of the Internal Revenue Code, unless the exemption
5 is denied under section 502 or 503 of the Internal Revenue Code.

6 (c) Organizations described in section 501(e) of the Internal Revenue Code.

7 (d) Organizations described in section 501(f) of the Internal Revenue Code.

8 (e) Charitable risk pools described in section 501(n) of the Internal Revenue Code.

9 (f) Organizations described in section 521 of the Internal Revenue Code.

10 (g) Qualified state tuition programs described in section 529 of the Internal Revenue Code.

11 (h) Foreign or alien insurance companies, but only with respect to the underwriting profit de-
12 rived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and
13 731.828.

14 (i) Governmental entities.

15 (j) Any person with commercial activity that does not exceed \$750,000 for the calendar year,
16 other than a person that is part of a unitary group as provided in ORS 317A.106 with commercial
17 activity in excess of \$750,000.

18 (k) Hospitals subject to assessment under ORS 414.855, long term care facilities subject to as-
19 sessment under ORS 409.801 or any entity subject to assessment under ORS 414.880 or section 3 or
20 5, chapter 538, Oregon Laws 2017.

21 (5) "Financial institution" has the meaning given that term in ORS 314.610, except that "finan-
22 cial institution" does not include a credit union.

23 (6)(a) "FR Y-9" means the consolidated or parent-only financial statements that a holding com-
24 pany is required to file with the Federal Reserve Board pursuant to 12 U.S.C. 1844.

25 (b) In the case of a holding company required to file both consolidated and parent-only financial
26 statements, "FR Y-9" means the consolidated financial statements that the holding company is re-
27 quired to file.

28 (7) "Governmental entity" means:

29 (a) The United States and any of its unincorporated agencies and instrumentalities.

30 (b) Any incorporated agency or instrumentality of the United States wholly owned by the United
31 States or by a corporation wholly owned by the United States.

32 (c) The State of Oregon and any of its unincorporated agencies and instrumentalities.

33 (d) Any county, city, district or other political subdivision of the state.

34 (e) A special government body as defined in ORS 174.117.

35 (f) A federally recognized Indian tribe.

36 (8) "Groceries" means food as defined in 7 U.S.C. 2012(k), but does not include cannabinoid
37 edibles or marijuana seeds.

38 (9)(a) "Hedging transaction" means a hedging transaction as defined in section 1221 of the
39 Internal Revenue Code or a transaction accorded hedge accounting treatment under Financial Ac-
40 counting Standards Board Statement No. 133.

41 (b) "Hedging transaction" does not include a transaction in which an actual transfer of title of
42 real or tangible property to another entity occurs.

43 (10) "Insurer" has the meaning given that term in ORS 317.010.

44 (11) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise,
45 refers to the laws of the United States or to the Internal Revenue Code as they are amended and

1 in effect on December 31, 2018.

2 (12) "Labor costs" means total compensation of all employees, not to include compensation paid
3 to any single employee in excess of \$500,000.

4 (13)(a) "Motor vehicle fuel or any other product used for the propulsion of motor vehicles"
5 means:

6 (A) Motor vehicle fuel as defined in ORS 319.010; and

7 (B) Fuel the use of which in a motor vehicle is subject to taxation under ORS 319.530.

8 (b) "Motor vehicle fuel or any other product used for the propulsion of motor vehicles" does not
9 mean:

10 (A) Electricity; or

11 (B) Electric batteries or any other mechanical or physical component or accessory of a motor
12 vehicle.

13 (14) "Person" includes individuals, combinations of individuals of any form, receivers, assignees,
14 trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partner-
15 ships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs,
16 societies, entities organized as for-profit corporations under ORS chapter 60, C corporations, S cor-
17 porations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are
18 disregarded for federal income tax purposes and any other entities.

19 (15) "Retailer" means a person doing business by selling tangible personal property to a pur-
20 chaser for a purpose other than:

21 (a) Resale by the purchaser of the property as tangible personal property in the regular course
22 of business;

23 (b) Incorporation by the purchaser of the property in the course of regular business as an in-
24 gredient or component of real or personal property; or

25 (c) Consumption by the purchaser of the property in the production for sale of a new article of
26 tangible personal property.

27 (16) "Taxable commercial activity" means commercial activity sourced to this state under ORS
28 317A.128, less any subtraction pursuant to ORS 317A.119.

29 (17)(a) "Taxpayer" means any person or unitary group required to register, file or pay tax under
30 ORS 317A.100 to 317A.158.

31 (b) "Taxpayer" does not include excluded persons, except to the extent that a tax-exempt entity
32 has unrelated business income that is taxable under the Internal Revenue Code.

33 (18)(a) "Unitary business" means a business enterprise in which there exists directly or indi-
34 rectly between the members or parts of the enterprise a sharing or exchange of value as demon-
35 strated by:

36 (A) Centralized management or a common executive force;

37 (B) Centralized administrative services or functions resulting in economies of scale; or

38 (C) Flow of goods, capital resources or services demonstrating functional integration.

39 (b) "Unitary business" may include a business enterprise the activities of which:

40 (A) Are in the same general line of business, such as manufacturing, wholesaling or retailing;

41 or

42 (B) Constitute steps in a vertically integrated process, such as the steps involved in the pro-
43 duction of natural resources, which might include exploration, mining, refining and marketing.

44 (19) "Unitary group" means a group of persons with more than 50 percent common ownership,
45 either direct or indirect, that is engaged in business activities that constitute a unitary business.

1 (20) "Wholesaler" means a person primarily doing business by merchant distribution of tangible
 2 personal property to retailers or to other wholesalers.

3 **SECTION 11.** ORS 757.247 is amended to read:

4 757.247. (1) The Public Utility Commission may authorize a public utility, upon application of the
 5 utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of
 6 energy resource measures provided to an individual property owner or customer pursuant to an
 7 agreement entered into between the individual property owner or customer and the public utility.
 8 Energy resource measures provided under this section may include:

9 (a) The installation of renewable energy generation facilities on the property of property owners
 10 or the premises of customers;

11 (b) The implementation of energy conservation measures, including measures that are not cost-
 12 effective;

13 (c) The installation of equipment or devices or the implementation of measures that enable de-
 14 mand reduction, peak load reduction, improved integration of renewable energy generation or more
 15 effective utilization of energy resources;

16 (d) Loans for the purposes described in paragraphs (a) to (c) of this subsection; and

17 (e) Direct payments to third parties for the purposes described in paragraphs (a) to (c) of this
 18 subsection.

19 (2) Subject to the agreement entered into between the individual property owner or customer
 20 and the public utility, a tariff schedule placed into effect under this section may include provisions
 21 for:

22 (a) The payment of the rates or charges over a period of time;

23 (b) Except as provided in subsection (5) of this section, a reasonable rate of return on any in-
 24 vestment made by the public utility;

25 (c) The application of any payment obligation to successive owners of the property to which the
 26 energy resource measure is attached or to successive customers located at the premises to which
 27 the energy resource measure is attached; and

28 (d) The application of the payment obligation to the current property owner or customer alone,
 29 secured by methods agreed to by the property owner or customer and the public utility.

30 (3) Application of a tariff schedule under this section is subject to approval by the commission.

31 (4) If a payment obligation applies to successive property owners or customers as described in
 32 subsection (2)(c) of this section, a public utility shall record a notice of the payment obligation in
 33 the records maintained by the county clerk under ORS 205.130. The commission may prescribe by
 34 rule other methods by which the public utility shall notify property owners or customers of such
 35 payment obligations.

36 (5) A public utility may use moneys obtained through a rate established under ORS 757.603 (2)(a)
 37 to provide a renewable energy generation facility to a property owner or customer under this sec-
 38 tion. A public utility may not charge interest to a property owner or customer for a renewable en-
 39 ergy generation facility acquired with moneys obtained through a rate established under ORS
 40 757.603 (2)(a).

41 (6) Agreements entered into and tariff schedules placed into effect under this section are not
 42 subject to ORS 470.500 to 470.710, 757.612 or 757.689 **or section 6 or 7 of this 2020 Act.**

43 **SECTION 12.** ORS 757.649 is amended to read:

44 757.649. (1)(a) A person or other entity shall not act as an electricity service supplier unless the
 45 person or entity is certified by the Public Utility Commission. The commission, by rule, shall es-

1 tablish standards for certification of persons or other entities as electricity service suppliers in this
 2 state. The rules shall, at a minimum, address:

3 (A) The ability of the person or entity to meet the person's or entity's obligation to provide
 4 electricity services pursuant to direct access; and

5 (B) The ability of the person or entity to comply with applicable consumer protection laws.

6 (b) The commission may require an electricity service supplier to provide a bond or other se-
 7 curity.

8 (c) The commission may establish a fee, not to exceed \$500, for initial certification and annual
 9 recertification of electricity service suppliers.

10 (d) The commission, at any time, may revoke an electricity service supplier's certification for
 11 failure to comply with applicable statutes and rules.

12 (e) The commission may require an electricity service supplier to provide information necessary
 13 to ensure compliance with ORS 757.612 **and section 6 of this 2020 Act**. The commission shall en-
 14 sure the privacy of all information and the protection of any proprietary information provided.

15 (2) Every electric utility shall maintain the integrity of its transmission facilities and distrib-
 16 ution system and provide safe, reliable service to all retail electricity consumers. Nothing in ORS
 17 757.600 to 757.667 or 757.669 to 757.687 shall reduce or diminish the statutory or contractual obli-
 18 gations of electric utilities to maintain the safety and reliability of their transmission facilities and
 19 distribution system and other infrastructure and equipment used to deliver electricity.

20 (3) The commission for electric companies, or the governing body for other electric utilities,
 21 shall adopt rules, ordinances, policies and service quality standards designed to maintain a reliable,
 22 safe and efficient distribution system. The commission shall regulate electrical safety regarding
 23 generation, transmission, substation and distribution facilities for electric utilities and other elec-
 24 trical system owners and operators as provided under ORS 757.035.

25 (4) Every bill to a direct access retail electricity consumer from an electricity service supplier
 26 shall contain at least:

27 (a) The rate and amount due for each service or product that the retail electricity consumer is
 28 purchasing and other price information necessary to facilitate direct access, as determined by the
 29 commission;

30 (b) The rates and amounts of state and local taxes or fees, if any, imposed on the retail elec-
 31 tricity consumer;

32 (c) The amount of any public purpose charge or credit;

33 (d) The amount of any transition charge or transition credit; and

34 (e) Power source and environmental impact information necessary to ensure that all consumers
 35 have useful, reliable and necessary information to exercise informed choice, as determined by the
 36 commission.

37 (5)(a) A retail electricity consumer of an electric company shall receive, upon request, a sepa-
 38 rate bill from every individual electricity service supplier that provides products or services to the
 39 retail electricity consumer. If a retail electricity consumer of an electric company does not request
 40 separate bills, or a consolidated bill from an electricity service supplier as provided in paragraph
 41 (c) of this subsection, the electric company shall consolidate the bills for all electricity services into
 42 a single statement, and electricity service suppliers shall provide to the electric company the infor-
 43 mation necessary to prepare a consolidated statement.

44 (b) The requirement for bill consolidation by an electric company shall continue through De-
 45 cember 31, 2001, after which time the commission may waive the requirement if the waiver results

1 in effective billing procedures for retail electricity consumers.

2 (c) Upon the request of a retail electricity consumer of an electric company, an electricity ser-
 3 vice supplier shall consolidate the bills for all electricity services into a single statement, and
 4 electric utilities and other electricity service suppliers shall provide to the billing electricity service
 5 supplier any information necessary to prepare a consolidated statement.

6 (d) For retail electricity consumers of an electric company, the commission shall adopt by rule
 7 provisions relating to the failure of a consumer to make full payment on a consolidated bill. The
 8 rules shall address collection of payments, service disconnection and reconnection, and the allo-
 9 cation of costs associated with collection, disconnection and reconnection. A distribution utility
 10 shall be solely responsible for actual disconnection and reconnection.

11 **SECTION 13.** ORS 757.676 is amended to read:

12 757.676. The governing body of a consumer-owned utility is authorized to determine whether and
 13 under what terms and conditions it will offer its retail electricity consumers direct access, portfolio
 14 access or other forms of access to electric service suppliers. In making such determination, the
 15 governing body of a consumer-owned utility shall consider such factors as it deems appropriate. A
 16 consumer-owned utility shall have sole authority to determine:

17 (1) The quality and nature of electric service, including but not limited to different product and
 18 pricing options, which shall be made available to its retail electricity consumers.

19 (2) The extent to which products and services will be unbundled and the rates, tariffs, terms and
 20 conditions on which they may be offered.

21 (3) Whether one or more pilot programs for direct access, portfolio access or other forms of
 22 access to alternative suppliers will be offered.

23 (4) Notwithstanding ORS 757.600 (10) and [(35)] **(36)**, what constitutes an economic or uneco-
 24 nomic utility investment, the value of such investments and, in the case of uneconomic utility in-
 25 vestments, the manner and means of mitigating such investments.

26 (5) Whether and on what basis a transition charge will be adopted, assessed and collected from
 27 a retail electricity consumer located within the utility's service territory, including but not limited
 28 to a nonbypassable distribution charge, the amount and period of recovery for the charges, the al-
 29 location of the charges among retail electricity consumers located within the utility's service terri-
 30 tory and the method of collecting such charges including but not limited to whether to impose a
 31 nonbypassable distribution charge.

32 (6) The manner of collecting stranded distribution charges, systems benefit charges, franchise
 33 fees, taxes and payments made in lieu of taxes from retail electricity consumers located within the
 34 utility's service territory for electric power transactions using transmission facilities, whether or
 35 not such transactions use distribution facilities. The governing body may assign charges on the basis
 36 of usage, demand or any combination or method it finds appropriate. Charges need not be assigned
 37 to specific facilities.

38 (7) The collection from retail electricity consumers located within the utility's service territory
 39 through rates, fees or charges, including the imposition of a nonbypassable distribution charge, in
 40 amounts sufficient to recover 100 percent of stranded costs imposed by, or incurred pursuant to the
 41 purchase of cost-based electric power from, the Bonneville Power Administration. Such stranded cost
 42 charges may include the difference in cost associated with purchasing electric power from the
 43 Bonneville Power Administration and the cost of purchasing a like and similar amount of electric
 44 power at market prices.

45 (8) The establishment of technical capability requirements, financial responsibility requirements

1 and other protections for retail electricity consumers located within the utility's service territory
2 and the consumer-owned utility in dealings with electric service suppliers.

3 (9) Access to or use of the utility's transmission facilities or distribution system by retail elec-
4 tricity consumers or electric service suppliers.

5 (10) The utility's qualification standards for energy service suppliers in addition to any certi-
6 fication standards established by the Public Utility Commission, provided that the qualification
7 standards are uniformly applied to electricity service providers in a nondiscriminatory manner.

8 **SECTION 14.** ORS 757.872 is amended to read:

9 757.872. (1) Any equity of the incumbent utility, any electric utility assets of the incumbent
10 utility or any combination of equity and assets of the incumbent utility that Oregon Community
11 Power acquires under ORS 757.812 to 757.950 shall be held in trust by Oregon Community Power,
12 acting as a trustee, for the exclusive purpose of carrying out the powers, rights and privileges of
13 Oregon Community Power under ORS 757.812 to 757.950 for the benefit of the retail electricity
14 consumers of Oregon Community Power. Notwithstanding any other provision of law, retail elec-
15 tricity consumers of Oregon Community Power may not pursue any judicial remedy in any court of
16 this state for any action of Oregon Community Power, except as provided in ORS 757.812 to 757.950.

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

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

23 (a) Electric utility operational revenues;

24 (b) Public purpose charge revenues under ORS 757.612 **and section 6 of this 2020 Act**;

25 (c) Nonrecourse bond proceeds or proceeds from any other nonrecourse borrowing; or

26 (d) Loans, grants, payments or other assistance that any local government as defined in ORS
27 174.116 would be eligible to receive.

28 **SECTION 15. Sections 6 to 8 of this 2020 Act and the amendments to ORS 297.300,**
29 **317A.100, 757.247, 757.600, 757.649, 757.676 and 757.872 by sections 4 and 9 to 14 of this 2020**
30 **Act become operative on January 1, 2021.**

31 **SECTION 16. This 2020 Act takes effect on the 91st day after the date on which the 2020**
32 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

33