Response to Questions from Joint Committee on Ways and Means
Natural Resources Subcommittee
February 20, 2013

Prior Question:

3. The department agreed to provide a list of known Federal Fund sources included in the 2013-15 Governor's Budget. Also, please provide information about the impact of federal budget sequestration on the Department's federal funds. (Co-chairs Edwards and Unger)

List of New Questions:

1. Who controls how Public Purpose Charge Funds are spent in schools? (Co-chair Unger)

2. What was the department's administrative ratio for managing Federal Recovery Act funds? (Representative Hanna)

3. Is the energy tax credit annuitized, how does this work? Given 600 BETC inspections, what percentatage of total applications does this represent? (Representative Hanna)

4. When is cash flow negative for the State Energy Loan Program (SELP)? Why is the Governor's proposed investment of $5 million in Lottery bond proceeds in SELP necessary right now? (Co-chair Unger)

5. Can some statistics be provided about the new energy incentive programs to understand the need for resources? (Co-chair Unger) – **The department will provide a response to this question by the end of the week.**

6. Can you provide more information for the need for the compliance re-inspection fee? How often does this happen? (Co-chair Edwards and Representative Hanna) – **The department will provide a resonse to this question by the end of the week.**

Question 3 from February 19, 2013: Federal Fund Sources in the 2013-15 Governor's Balanced Budget & Impact of Federal Budget Sequestration

Detailed sources of federal revenues included in the 2013-15 Governor's Balanced Budget are provided in the following table.

Details of federal fund revenues included in the Governor's Balanced Budget

Program	Amount
Hanford Technical Review and Public Information - US Department of Energy	$1,825,000
State Energy Program (SEP) - formula Grant - US Department of Energy	1,200,000
Western Governor's Association: Transport Transuranic Waste	210,000
Renewable Energy Assessment - Christmas Valley (Awarded Grant) – US Department of Energy	467,533
Capacity for Competitive Grants and Miscellaneous	482,691
Total Federal Funds Budgeted	$4,185,224

If Federal Sequestration goes forward on March 1, the department's future Federal Fund revenues will be impacted for the next 10 years. No official communication has been provided to the agency about these impacts which can vary based on federal funding priorities which have not yet been determined.

Based on information from the US Department of Energy, the best estimate is a 10% reduction in funding for Oregon's Hanford Program and a 5.1% reduction to the SEP Formula grant. The department was not able to get information about the potential impacts to the Western Governors' Association grant. The remaining grants on the list above are one-time grants, so the department does not anticipate that these will be impacted by Federal Sequestration.

Potential reductions have not yet been considered in the revenues listed above. However, assuming reductions do not exceed estimates, the department anticipates no further impacts on Energy Supplier Assessment due to Federal Fund reductions during the 2013-15 biennium. We will be looking for efficiencies so that it will not impact the target Energy Supplier Assessment rate of 0.08%.

Question 1: Who controls how Public Purpose Charge Funds are spent in schools?

ORS 757.612 defines requirements related to the Public Purpose Charge, a 3% charge on utility bills for customers of PGE and PacifiCorp. Section (3)(e)(A) directs 10% of these funds to school districts. ODOE's administration of the Public Purpose Charge Schools Program derives from Section (3)(e)(B) but does not grant rulemaking authority: *"To the extent practicable, a school district shall coordinate with the State Department of Energy and incorporate federal funding in complying with this paragraph."*

The development and monitoring of Public Purpose Program Guidelines is one of the services the department provides. The intent is for all school districts who receive Public Purpose Charge funds to adhere to the guidelines. However, guidelines do not enable the same enforcement authority as administrative rules or statute. The department has no specific enforcement authority related to the administration of this program. However, the department makes every effort to ensure school districts are aware of and comply with the guidelines. The department does not have any remedies to apply when school districts violate the guidelines.

<u>Additional Background</u>
In the context of this question, a committee member made an observation about Newberg School District's roof insulation having a payback of 111 years, as it was referenced in the Secretary of State Audit of Public Purpose Charge funds.

The roof insulation at Mabel Rush Elementary in the Newberg School District was installed in 2005. The Public Purpose Charge Program Guidelines in effect from 2002 through 2005 required measures with a simple payback of less than 10 years to be installed first. At that point the school districts could install measures with longer paybacks at their discretion. The guidelines were revised in 2005 so that measures with payback periods greater than 50 years required ODOE approval for reimbursement. This exception has been granted five times since 2005.

Paybacks for Measures Implemented With Public Purpose Charge Funds

	Under 20 Years	20 to 40 Years	40 to 50 Years	Over 50 Years
2002	11	1		3
2003	146	6		1
2004	291	10	3	1
2005	308	34	11	4
2006	249	20	8	
2007	112	25	8	
2008	178	35	10	3
2009	121	23	6	1
2010	122	27	7	1
2011	81	24	2	
2012	101	29	6	
Total	**1720**	**234**	**61**	**14**
Total (%)	**84.8%**	**11.5%**	**3.0%**	**0.7%**

Question 2: What was the department's administrative ratio for managing Federal Recovery Act funds?

The table below details the department's staffing structure for the four American Reinvestment and Recovery (ARRA) grants. The 2011-13 Legislatively Approved Budget for the ARRA team included 14 positions. The ratio of ARRA administrative staffing to total ARRA staffing was 4 to 14, or 29%.

Details of 2011-13 ARRA Staffing

Positions (No.)	Functions Provided
Program Manager (1)	Led team, resolved issues, coordinated with US Department of Energy, managed selected projects, and facilitated completion of federal OMB 1512 and program reporting.
Program Administrative Assistant (1)	Coordinated data/documentation and provided administrative support for team.
Project Managers (7)	Managed projects to ensure compliance with federal grant standards, such as NEPA, Buy American and Davis-Bacon prevailing wages ; portfolio of projects ranged from 10-70 depending upon complexity and timing.
Energy Technology Expert (1)	Ensured compliance with technical energy standards, advised project managers.
Communications/Outreach Coordinator (1)	Facilitated development of forms, program guidance documents and documented program performance results, as required by US Department of Energy.
Contracting Support (1)	Developed and oversaw approximately 300 contracts and agreements associated with the grants.
Budget Support (1)	Filed for federal reimbursement on a weekly basis, coordinated financial tracking for internal projects and grant management and provided reports to the US Department of Energy.
Accounting Support (1)	Processed invoices required to transfer payment to grant recipients.

In practice, many other partners inside and outside the agency contributed to making Oregon's ARRA program one of the best in the nation. A final report to the legislature on ARRA can be found at: http://www.oregon.gov/energy/docs/ARRA_Leg_Report_2012_FINAL.pdf

Question 3: Current Energy Incentives Program and Legacy Business Energy Tax Credit Program

Is the tax credit annuitized, and how does it work?

ORS 315.354 describes how the tax credits are applied over time. As Director Schwartz testified, eligible projects under the Business Energy Tax Credit (BETC) receive a 35% tax credit taken over five years. The following five-year schedule is statutory and based on project cost: 10% / 10% / 5% / 5% / 5%. There is a carry forward provision for recipients who cannot use the entire amount of their credit in a given tax year.

In addition:

- Renewable energy projects that were eligible for a 50% tax credit during a portion of BETC's life are taken over five years using the following schedule: 10% / 10% /10% / 10% / 10%.
- Under the new energy incentive programs, conservation credits and alternative fuel vehicle infrastructure projects are eligible for a 35% credit taken over five years. There is a carry forward provision for recipients who cannot use the entire amount of their credit in a given tax year. For both BETC and the new energy incentives program, tax credits $20,000 or less can be taken in full at one time, although recipients may not use a tax credit to offset more than 100\% of their tax liability. If they cannot use the credit in a single year, they can carry the unused portion forward to subsequent tax years.

Given 600 BETC inspections, what percentage of total applications does this represent? Staff have updated the figures and have calculated that the department has performed inspections on 23% of the BETC projects eligible for compliance review since mid-2010. Compliance review is triggered when we receive a request for certification from the applicant. To date, we have received 3,548 such requests. We have inspected 821 projects (some projects more than once, so we have conducted a total of 917 compliance reviews.) In addition, we have inspected nearly 100% of projects with certified costs greater than $100,000.

Question 4: When is cash flow negative for the State Energy Loan Program (SELP)? Why is the Governor's proposed investment of $5 million in Lottery bond proceeds in SELP necessary right now?

The department projects an initial negative balance for SELP during the 2017-19 biennium. The deficit is cumulative over a period of 15 to 20 years.

Does SELP need capitalization?
Yes, it is prudent to begin appropriating funds to capitalize SELP as soon as possible. A continued economic malaise could impact existing borrowers, and the program could experience new defaults, experience higher rates of delinquency, or both. It is important to note that any acceleration of SELP's deficit could exhaust current reserves and have an immediate impact on the General Fund. For example, based on SELP's current risk rating system, the department has placed two borrowers on watch status. Neither borrower is delinquent at this point in time, but a continued downward decline in their industry could result in total defaults of approximately $11.5 million. SELP is well collateralized on these loans, but the time needed to liquidate the assets in the event of foreclosure would require immediate General Fund support.

In addition to the Governor's proposal to use Lottery bond proceeds, SELP is also analyzing other potential mitigation steps that may reduce the need for General Fund dollars, such as a restructuring of the bond portfolio. Note restructuring the current portfolio may require legislative action to allow for potential refunding that could save the program money.

The department also recognizes that the 2013 Report of the State Debt Policy Advisory Commission (2013 Commission Report) notes a concern regarding the current financial status of the department's bond program. "The Commission recommends that the Legislature and the Governor actively monitor SELP's financial situation and put tight parameters on SELP's future loan commitments, to assure that General Fund support of this "non-tax supported" general obligation bond program is kept to a minimum." The Commission also has noted this concern and its recommendation in prior reports. As outlined in the department's presentation to the subcommittee, SELP has taken steps to mitigate prior loan defaults and appreciate the concern and recommendation of the State Debt Policy Advisory Commission.