

# D R A F T

## SUMMARY

Reduces public purpose charge for retail electricity consumers within service areas of electric companies and Oregon Community Power. Modifies allocation of funds collected through public purpose charges.

Requires recovery in rates by electric company of funds necessary to plan for and pursue all available energy efficiency resources that are cost effective, reliable and feasible. Allows for credit against amounts recovered in certain circumstances.

Modifies reporting requirements for nongovernmental entity that is paid certain funds as directed by commission.

Requires Public Utility Commission to establish and update metrics for assessing, addressing and creating accountability for environmental justice in expenditure and investment of funds collected for certain purposes and paid to nongovernmental entity. Requires reporting by nongovernmental entity on progress in achieving equity metrics.

Temporarily increases, by \$10 million annually, funds collected by electric companies for low-income electric bill payment and crisis assistance. Temporary increase sunsets January 2, 2024

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to energy; creating new provisions; amending ORS 297.300, 317A.100, 456.587, 757.054, 757.247, 757.365, 757.612, 757.613 and 757.617 and section 1, chapter 63, Oregon Laws 2016; repealing ORS 757.689; and declaring an emergency.

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

## PUBLIC PURPOSE CHARGE

**SECTION 1.** ORS 757.612 is amended to read:

**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.

1 757.612. (1)(a) There is established an annual public purpose expenditure  
2 standard for electric companies and Oregon Community Power to fund [*new*  
3 *cost-effective energy conservation, new market transformation efforts,*]:

4 (A) The above-market costs of new renewable energy resources and **cus-**  
5 **tomer investments in distribution system-connected technologies that**  
6 **support reliability, resilience and the integration of new renewable**  
7 **energy resources with the distribution systems of electric companies**  
8 **and Oregon Community Power;**

9 (B) New low-income weatherization;

10 (C) **New energy-related investments in schools; and**

11 (D) **Low-income housing.**

12 (b) The public purpose expenditure standard shall be funded by the public  
13 purpose charge described in subsection (2) of this section.

14 (2)(a) [*Beginning on the date an electric company or Oregon Community*  
15 *Power offers direct access to retail electricity consumers, except residential*  
16 *electricity consumers, the*] **Until January 1, 2036, an** electric company or  
17 Oregon Community Power shall collect a **nonbypassable** public purpose  
18 charge **equal to 1.5 percent of the revenues described in paragraph (b)**  
19 **of this subsection, apportioned as further set forth in subsection (3)(b)**  
20 **of this section. The electric company or Oregon Community Power**  
21 **shall collect the public purpose charge** from all of the retail electricity  
22 consumers located within the electric company's or Oregon Community  
23 Power's service [*area until January 1, 2026*] **territory, including retail**  
24 **electricity consumers served by electricity service suppliers.**

25 (b) [*Except as provided in paragraph (b) of this subsection, The public*  
26 *purpose charge shall be equal to three percent*] **The percentages described**  
27 **in paragraph (a) of this subsection and subsection (3)(b) of this section**  
28 **shall be calculated as percentages** of the total revenues collected by the  
29 electric company, Oregon Community Power or the electricity service sup-  
30 plier from retail electricity consumers for electricity services, distribution  
31 services, ancillary services, metering and billing, transition charges and

1 other types of costs included in electric rates on July 23, 1999.

2 *[(b) For an aluminum plant that averages more than 100 average megawatts*  
3 *of electricity use per year, the electric company or Oregon Community Power,*  
4 *whichever serves territory that abuts the greatest percentage of the site of the*  
5 *aluminum plant, shall collect from the aluminum company a public purpose*  
6 *charge equal to one percent of the total revenue from the sale of electricity*  
7 *services to the aluminum plant from any source.]*

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

11 (b) *[Except as provided in paragraph (e) of this subsection, Funds collected*  
12 *through public purpose charges under subsection (2) of this section shall be*  
13 *allocated as follows:]* **The public purpose charge described in subsection**  
14 **(2)(a) of this section shall be the sum total of the following percent-**  
15 **ages of revenues described in subsection (2)(b) of this section, allocated**  
16 **for the following purposes:**

17 *[(A) Sixty-three percent for new cost-effective energy conservation and new*  
18 *market transformation efforts.]*

19 **(A) 0.3 percent of revenues for school districts that are located in**  
20 **the service territory of the electric company or Oregon Community**  
21 **Power, as further directed under paragraph (e) of this subsection.**

22 **(B) [Nineteen percent for] As further directed under paragraph (f) of**  
23 **this subsection, 0.51 percent of revenues for:**

24 **(i)** The above-market costs of constructing and operating new renewable  
25 energy resources with a nominal electric generating capacity, as defined in  
26 ORS 469.300, of 20 megawatts or less[.]; **and**

27 **(ii) Customer investments in distribution system-connected tech-**  
28 **nologies that support reliability, resilience and the integration of new**  
29 **renewable energy resources with the distribution system of the electric**  
30 **company or Oregon Community Power.**

31 **(C) [Thirteen percent] 0.55 percent of revenues for new low-income**

1 weatherization, **as further directed under paragraph (g) of this sub-**  
2 **section.**

3 (D) *[Five percent]* **0.14 percent of revenues** for deposit in the Housing  
4 and Community Services Department Electricity Public Purpose Charge  
5 Fund established by ORS 456.587 (1) for the purpose of providing grants as  
6 described in ORS 458.625 (2).

7 (c) The costs of administering subsections (1) to ~~[(6)]~~ **(5)** of this section  
8 for an electric company or Oregon Community Power shall be paid out of the  
9 funds collected through public purpose charges. The commission may require  
10 an electric company or Oregon Community Power to direct funds collected  
11 through public purpose charges to state agencies responsible for implement-  
12 ing subsections (1) to ~~[(6)]~~ **(5)** of this section in order to pay the costs of  
13 administering subsections (1) to ~~[(6)]~~ **(5)** of this section.

14 (d) The commission shall direct the manner in which public purpose  
15 charges are collected and spent by an electric company or Oregon Commu-  
16 nity Power and may require an electric company or Oregon Community  
17 Power to expend funds through competitive bids or other means designed to  
18 encourage competition, except that funds dedicated for new low-income  
19 weatherization shall be directed to the Housing and Community Services  
20 Department for purposes related to new low-income weatherization, **as fur-**  
21 **ther directed in paragraph (g) of this subsection.** The commission may  
22 also require funds collected through public purpose charges to be paid to a  
23 nongovernmental entity for investment in public purposes described in sub-  
24 section (1) of this section. *[Notwithstanding any other provision of this sub-*  
25 *section:]*

26 *[(A) If an electric company collected the funds, at least 80 percent of the*  
27 *funds allocated for new cost-effective energy conservation shall be spent within*  
28 *the service area of the electric company; or]*

29 *[(B) If Oregon Community Power collected the funds, at least 80 percent*  
30 *of the funds allocated for new cost-effective energy conservation shall be spent*  
31 *within the service area of Oregon Community Power.]*

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

12 (B) A school district that receives funds under this paragraph shall use  
13 the funds first to pay for energy audits for schools located within the school  
14 district or for a fleet audit for the school district. To the extent practicable,  
15 a school district shall coordinate with the State Department of Energy and  
16 incorporate federal funding in complying with this paragraph. Following  
17 completion of an audit, the school district may expend funds received under  
18 this paragraph to implement the audit.

19 (C) Once an energy audit has been conducted and completely implemented  
20 for each school within the school district, the school district may expend  
21 funds received under this paragraph for any of the following purposes:

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

26 (ii) Weatherizing school district facilities and upgrading the energy effi-  
27 ciency of school district facilities.

28 (iii) Energy conservation education programs.

29 (iv) Purchasing electricity from environmentally focused sources.

30 (v) Investing in renewable energy resources.

31 (D) Once a fleet audit has been conducted for the school district, the

1 school district may expend funds received under this paragraph for any of  
2 the following purposes:

3 (i) Purchasing or leasing zero-emission vehicles, as defined in ORS  
4 283.398, including buses.

5 (ii) Purchasing or installing electric vehicle charging stations to provide  
6 electricity to zero-emission vehicles.

7 **(f) Of the funds allocated under subsection (3)(b)(B) of this section,**  
8 **25 percent must be used for activities, resources and technologies that**  
9 **serve low and moderate income customers, including for technologies**  
10 **that do not have above-market costs.**

11 **(g)(A) Funds collected by an electric company or Oregon Commu-**  
12 **nity Power, allocated for new low-income weatherization under sub-**  
13 **section (3)(b)(C) of this section and directed to the Housing and**  
14 **Community Services Department shall be spent within the service**  
15 **territory of the electric company or Oregon Community Power from**  
16 **which the funds are collected.**

17 **(B) As further determined by the Housing and Community Services**  
18 **Department, a portion of the funds described in this paragraph may**  
19 **be used for manufactured housing replacements as a means to deliver**  
20 **energy efficiency, pursuant to a program dedicated to manufactured**  
21 **housing replacement.**

22 **(C) For purposes of this paragraph and as further determined by the**  
23 **Housing and Community Services Department, purposes related to**  
24 **new low-income weatherization includes providing funding for partic-**  
25 **ipants in programs by low-income weatherization service providers to**  
26 **change energy sources from bulk fuels to electricity service.**

27 [(f)] **(h) The commission may not establish a different public purpose**  
28 **charge than the public purpose charge described in subsection (2) of this**  
29 **section.**

30 [(g) *If the commission requires funds collected through public purpose*  
31 *charges to be paid to a nongovernmental entity, the entity shall:]*

1        *[(A) Include on the entity's board of directors an ex officio member desig-*  
2 *nated by the commission, who shall also serve on the entity's nominating*  
3 *committee for filling board vacancies.]*

4        *[(B) Require the entity's officers and directors to provide an annual dis-*  
5 *closure of economic interest to be filed with the commission on or prior to*  
6 *April 15 of each calendar year for public review in a form similar to the*  
7 *statement of economic interest required for public officials under ORS*  
8 *244.060.]*

9        *[(C) Require the entity's officers and directors to declare actual and poten-*  
10 *tial conflicts of interest at regular meetings of the entity's governing body when*  
11 *such conflicts arise, and require an officer or director to abstain from partic-*  
12 *ipating in any discussion or voting on any item where that officer or director*  
13 *has an actual conflict of interest. For the purposes of this subparagraph, "ac-*  
14 *tual conflict of interest" and "potential conflict of interest" have the meanings*  
15 *given those terms in ORS 244.020.]*

16        *[(D) Annually, arrange for an independent auditor to audit the entity's fi-*  
17 *nancial statements, and direct the auditor to file an audit opinion with the*  
18 *commission for public review.]*

19        *[(E) Annually file with the commission the entity's budget, action plan and*  
20 *quarterly and annual reports for public review.*

21        *(F) At least once every five years, contract for an independent management*  
22 *evaluation to review the entity's operations, efficiency and effectiveness, and*  
23 *direct the independent reviewer to file a report with the commission for public*  
24 *review.]*

25        *[(h) The commission may remove from the board of directors of a nongov-*  
26 *ernmental entity an officer or director who fails to provide an annual disclo-*  
27 *sure of economic interest, or who fails to declare an actual or potential conflict*  
28 *of interest, as described in paragraph (g)(B) and (C) of this subsection, if the*  
29 *failure is connected to the allocation or expenditure of funds collected through*  
30 *public purpose charges and paid to the entity.]*

31        *[(4)(a) An electric company that satisfies its obligations under this*

1 *section:]*

2 [(A) *Has no further obligation to invest in new cost-effective energy con-*  
3 *servation, new market transformation or new low-income weatherization, or to*  
4 *provide a commercial energy conservation services program; and]*

5 [(B) *Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.]*

6 [(b) *Oregon Community Power, for any period during which Oregon Com-*  
7 *munity Power collects a public purpose charge under subsection (2) of this*  
8 *section:]*

9 [(A) *Has no further obligation to invest in new cost-effective energy con-*  
10 *servation, new market transformation or new low-income weatherization, or to*  
11 *provide a commercial energy conservation services program; and]*

12 [(B) *Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.]*

13 [(5)(a)] **(4)(a)** A retail electricity consumer that uses more than one av-  
14 erage megawatt of electricity at any site in the prior year shall receive a  
15 credit against public purpose charges billed by an electric company or  
16 Oregon Community Power for that site. The amount of the credit shall be  
17 equal to the total amount of qualifying expenditures for [*new cost-effective*  
18 *energy conservation, not to exceed 68 percent of the annual public purpose*  
19 *charges, and]* the above-market costs of new renewable energy resources **and**  
20 **investments in distribution system-connected technologies** incurred by  
21 the retail electricity consumer, not to exceed [19] **25.5** percent of the annual  
22 public purpose charges, less administration costs incurred under this para-  
23 graph and paragraphs (b) and (c) of this subsection. The credit may not ex-  
24 ceed, on an annual basis, the lesser of:

25 (A) The amount of the retail electricity consumer's qualifying expendi-  
26 tures; or

27 (B) The portion of the public purpose charge billed to the retail electricity  
28 consumer that is dedicated to [*new cost-effective energy conservation, new*  
29 *market transformation or]* the above-market costs of new renewable energy  
30 resources **and investments in distribution system-connected technolo-**  
31 **gies.**



1 (b) To obtain a credit under paragraph (a) of this subsection, a retail  
2 electricity consumer shall file with the State Department of Energy a de-  
3 scription of the proposed [*conservation project or*] new renewable energy re-  
4 source **or investment in distribution system-connected technology** and  
5 a declaration that the retail electricity consumer plans to incur the qualify-  
6 ing expenditure. The State Department of Energy shall issue a notice of  
7 precertification within 30 days of receipt of the filing, if such filing is con-  
8 sistent with paragraph (a) of this subsection. The credit may be taken after  
9 a retail electricity consumer provides a letter from a certified public ac-  
10 countant to the State Department of Energy verifying that the precertified  
11 qualifying expenditure has been made.

12 (c) Credits earned by a retail electricity consumer as a result of qualify-  
13 ing expenditures that are not used in one year may be carried forward for  
14 use in subsequent years.

15 [(d)(A) *A retail electricity consumer that uses more than one average*  
16 *megawatt of electricity at any site in the prior year may request that the State*  
17 *Department of Energy hire an independent auditor to assess the potential for*  
18 *conservation investments at the site. If the independent auditor determines*  
19 *there is no available conservation measure at the site that would have a simple*  
20 *payback of one to 10 years, the retail electricity consumer shall be relieved of*  
21 *54 percent of its payment obligation for public purpose charges related to the*  
22 *site. If the independent auditor determines that there are potential conservation*  
23 *measures available at the site, the retail electricity consumer shall be entitled*  
24 *to a credit against public purpose charges related to the site equal to 54 percent*  
25 *of the public purpose charges less the estimated cost of available conservation*  
26 *measures.*]

27 [(B) *A retail electricity consumer shall be entitled each year to the credit*  
28 *described in this paragraph unless a subsequent independent audit determines*  
29 *that new conservation investment opportunities are available. The State De-*  
30 *partment of Energy may require that a new independent audit be performed*  
31 *on the site to determine whether new conservation measures are available,*

1 *provided that the independent audits occur no more than once every two*  
2 *years.]*

3 *[(C) The retail electricity consumer shall pay the cost of the independent*  
4 *audits described in this paragraph.]*

5 *[(6)] (5) Electric utilities and retail electricity consumers shall receive a*  
6 *fair and reasonable credit for the public purpose expenditures of their energy*  
7 *suppliers. The State Department of Energy shall adopt rules to determine*  
8 *eligible expenditures and the method by which such credits are accounted for*  
9 *and used. The State Department of Energy also shall adopt methods to ac-*  
10 *count for eligible public purpose expenditures made through consortia or*  
11 *collaborative projects.*

12 *[(7)(a) In addition to the public purpose charge provided under subsection*  
13 *(2) of this section, an electric company or Oregon Community Power shall*  
14 *collect funds for low-income electric bill payment assistance in an amount de-*  
15 *termined under paragraph (b) of this subsection.]*

16 *[(b) The commission shall establish the amount to be collected by each*  
17 *electric company from retail electricity consumers, and the rates to be charged*  
18 *by each electric company to retail electricity consumers, so that the forecasted*  
19 *collection by all electric companies in calendar year 2018 is \$20 million. In*  
20 *subsequent calendar years, the commission may not decrease the rates below*  
21 *those established for calendar year 2018. The commission may temporarily ad-*  
22 *just the rates if forecasted collections or actual collections are less than \$20*  
23 *million in any calendar year. A retail electricity consumer may not be required*  
24 *to pay more than \$500 per month per site for low-income electric bill payment*  
25 *assistance.]*

26 *[(c) Funds collected through the low-income electric bill payment assistance*  
27 *charge shall be paid into the Housing and Community Services Department*  
28 *Low-Income Electric Bill Payment Assistance Fund established by ORS*  
29 *456.587 (2). Moneys deposited in the fund under this paragraph shall be used*  
30 *by the Housing and Community Services Department solely for purposes re-*  
31 *lated to low-income electric bill payment assistance and for the Housing and*

1 *Community Services Department's cost of administering this subsection. Funds*  
2 *collected by an electric company or Oregon Community Power under this sub-*  
3 *section shall be expended in the service area of the electric company or Oregon*  
4 *Community Power from which the funds are collected.]*

5 *[(d)(A) The Housing and Community Services Department shall determine*  
6 *the manner in which funds collected under this subsection will be allocated*  
7 *by the Housing and Community Services Department to energy assistance*  
8 *program providers for the purpose of providing low-income bill payment and*  
9 *crisis assistance.]*

10 *[(B) The Housing and Community Services Department, in consultation*  
11 *with electric companies, shall investigate and may implement alternative de-*  
12 *livery models to effectively reduce service disconnections and related costs to*  
13 *retail electricity consumers and electric utilities.]*

14 *[(C) Priority assistance shall be directed to low-income electricity consumers*  
15 *who are in danger of having their electricity service disconnected.]*

16 *[(D) The Housing and Community Services Department shall maintain re-*  
17 *ords and provide those records upon request to an electric company, Oregon*  
18 *Community Power and the Citizens' Utility Board established under ORS*  
19 *chapter 774 on a quarterly basis. Records maintained must include the num-*  
20 *bers of low-income electricity consumers served, the average amounts paid to*  
21 *low-income electricity consumers and the type of assistance provided to low-*  
22 *income electricity consumers. Electric companies and Oregon Community*  
23 *Power shall, if requested, provide the Housing and Community Services De-*  
24 *partment with aggregate data relating to low-income electricity consumers*  
25 *served on a quarterly basis to support program development.]*

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

30 *[(f) Notwithstanding ORS 757.310, the commission may allow an electric*  
31 *company or Oregon Community Power to provide reduced rates or other bill*

1 *payment or crisis assistance or low-income program assistance to a low-income*  
2 *household eligible for assistance under the federal Low Income Home Energy*  
3 *Assistance Act of 1981, as amended and in effect on July 23, 1999.]*

4 [(8)] (6) For purposes of this section, “retail electricity consumers” in-  
5 cludes any direct service industrial consumer that purchases electricity  
6 without purchasing distribution services from the electric utility.

7 [(9)] (7) For purposes of this section, funds collected by Oregon Commu-  
8 nity Power through public purpose charges are not considered moneys re-  
9 ceived from electric utility operations.

10

11

## COST-EFFECTIVE ENERGY EFFICIENCY

12

13 **SECTION 2.** ORS 757.054 is amended to read:

14 757.054. (1) As used in this section[,]:

15 (a) “Electric company” has the meaning given that term in ORS 757.600.

16 (b) **“Retail electricity consumer” means a retail electricity con-**  
17 **sumer, as defined in ORS 757.600, that is located in Oregon.**

18 (2) The Legislative Assembly finds and declares that:

19 (a) Energy efficiency programs promote lower energy bills, protect the  
20 public health and safety, improve environmental benefits, stimulate  
21 sustainable economic development, create new employment opportunities and  
22 reduce reliance on imported fuels; and

23 (b) Demand response resources result in more efficient use of existing  
24 resources and reduce the need for procuring new power generating resources,  
25 which, in turn, reduces energy bills, protects the public health and safety  
26 and improves environmental benefits.

27 (3) For the purpose of ensuring prudent investments by an electric com-  
28 pany in energy efficiency and demand response before the electric company  
29 acquires new generating resources, and in order to produce cost-effective  
30 energy savings, reduce customer demand for energy, reduce overall electrical  
31 system costs, increase the public health and safety and improve environ-

1 mental benefits, each electric company serving customers in this state shall:

2 (a) Plan for and pursue all available energy efficiency resources that are  
3 cost effective, reliable and feasible; and

4 (b) As directed by the Public Utility Commission by rule or order, plan  
5 for and pursue the acquisition of **available** cost-effective demand response  
6 resources.

7 **(4) All funds necessary to plan for and pursue cost-effective energy**  
8 **efficiency resources pursuant to subsection (3)(a) of this section must**  
9 **be collected in the rates of an electric company through charges paid**  
10 **by all retail electricity consumers, such that retail electricity con-**  
11 **sumers that purchase electricity from electricity service suppliers pay**  
12 **the same amount for energy efficiency resources as retail electricity**  
13 **consumers that are not served by electricity service suppliers. The**  
14 **commission may require that a portion of all of the funds collected**  
15 **under this subsection be paid to a nongovernmental entity to make**  
16 **expenditures consistent with this section.**

17 **(5)(a) A retail electricity consumer that uses more than one average**  
18 **megawatt of electricity at any site in the prior year shall receive a**  
19 **credit against the amount charged in rates pursuant to subsection (4)**  
20 **of this section for that site for qualifying expenditures for energy ef-**  
21 **iciency resources made by the retail electricity consumer. The**  
22 **amount of the credit may not exceed the lesser of:**

23 **(A) The amount charged to the retail electricity consumer in rates;**  
24 **or**

25 **(B) The total amount of qualifying energy efficiency expenditures**  
26 **described in subsection (3)(a) of this section made by the retail elec-**  
27 **tricity consumer for that site, less administration costs incurred under**  
28 **this subsection.**

29 **(b) The commission shall adopt by rule procedures and other pro-**  
30 **visions necessary for a retail electricity consumer to obtain a credit**  
31 **under this subsection.**

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

2        (a) “Single contiguous area” includes an area of land crossed by a  
3 public or railroad right of way, but does not include infrastructure  
4 facilities located within the public or railroad right of way for purposes  
5 of determining whether the single contiguous area of land constitutes  
6 a site.

7        (b) “Site” means:

8        (A) Buildings and related structures that are interconnected by fa-  
9 cilities owned by a single retail electricity consumer and that are  
10 served through a single electric meter; or

11        (B) A single contiguous area of land containing buildings or other  
12 structures within which each building or structure is no more than  
13 1,000 feet from at least one other building or structure, if the buildings  
14 and structures and the land containing and connecting the buildings  
15 and structures are all owned by a single retail electricity consumer,  
16 either directly or through a wholly owned subsidiary, that is billed for  
17 electricity use at the buildings and structures.

18        (2) For the period beginning on the effective date of this 2021 Act  
19 and ending December 31, 2025, a retail electricity consumer that uses  
20 more than one average megawatt of electricity at any site in the prior  
21 year may not be charged an amount in rates pursuant to ORS 757.054  
22 (4) that exceeds 1.7 percent of the total revenue received from the sale  
23 of electricity services to the site from any source.

24        (3) For the period beginning January 1, 2026, and ending December  
25 31, 2035, the combined annual amount charged under ORS 757.054 and  
26 757.612 to a retail electricity consumer that uses more than one aver-  
27 age megawatt and less than 10 average megawatts of electricity at any  
28 site in the prior year may not exceed \$250,000.

29        (4)(a) For the period beginning January 1, 2026, and ending Decem-  
30 ber 31, 2030, the combined annual amount charged under ORS 757.054  
31 and 757.612 to a retail electricity consumer that uses more than 10

1 average megawatts of electricity at any site in the prior year may not  
2 exceed \$4 million.

3 (b) For the period beginning January 1, 2031, and ending December  
4 31, 2035, the combined annual amount charged under ORS 757.054 and  
5 757.612 to a retail electricity consumer that uses more than 10 average  
6 megawatts of electricity at any site in the prior year may not exceed  
7 \$4.5 million.

8 **SECTION 4.** Section 3 of this 2021 Act is repealed on January 2, 2036.

9 **SECTION 5.** ORS 757.613 is amended to read:

10 757.613. (1) If an electric company [*or Oregon Community Power*] invests  
11 moneys collected **under ORS 757.054** [*as a public purpose charge under ORS*  
12 *757.612*] on new cost-effective local energy conservation, or if the nongov-  
13 ernmental entity described in [*ORS 757.612 (3)(g)*] **section 9 of this 2021**  
14 **Act** invests moneys paid to the nongovernmental entity under [*ORS 757.612*  
15 *(3)(d)*] **ORS 757.054** on new cost-effective local energy conservation, and if  
16 the investment involves updating the energy efficiency of a residential or  
17 nonresidential building, the electric company, Oregon Community Power or  
18 the nongovernmental entity may make those investments by conducting a  
19 whole building assessment of the energy efficiency of the building and, in  
20 consideration of the whole building assessment, by maximizing the overall  
21 energy efficiency of the building. For purposes of this subsection, a “whole  
22 building assessment” means a single assessment of savings opportunities, as  
23 identified by the Public Utility Commission by rule or order.

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

27

28 **APPLICABILITY OF CERTAIN ENERGY CONSERVATION PROGRAM**  
29 **REQUIREMENTS TO ELECTRIC COMPANIES**

30

31 **SECTION 6.** Section 7 of this 2021 Act is added to and made a part

1 of ORS chapter 757.

2 **SECTION 7.** Notwithstanding the specific requirements imposed on  
3 an electric company by ORS 469.631 to 469.645 and 469.860 to 469.900,  
4 an electric company meets the requirements of ORS 469.631 to 469.645  
5 and 469.860 to 469.900 if the electric company:

6 (1) Meets the public purpose expenditure standard established under  
7 ORS 757.612; and

8 (2) Plans for and pursues cost-effective energy efficiency and de-  
9 mand response resources as required under ORS 757.054.

10

11 **REQUIREMENTS RELATED TO NONGOVERNMENTAL ENTITIES**

12 (Generally)

13

14 **SECTION 8.** Section 9 of this 2021 Act is added to and made a part  
15 of ORS chapter 757.

16 **SECTION 9.** (1) If the Public Utility Commission requires funds  
17 collected pursuant to ORS 757.054, through natural gas tariffs or  
18 through public purpose charges pursuant to ORS 757.612 to be paid to  
19 a nongovernmental entity, the entity shall:

20 (a) Include on the entity's board of directors an ex officio member  
21 designated by the commission, who shall also serve on the entity's  
22 nominating committee for filling board vacancies.

23 (b) Require the entity's officers and directors to provide an annual  
24 disclosure of economic interest to be filed with the commission on or  
25 prior to April 15 of each calendar year for public review in a form  
26 similar to the statement of economic interest required for public offi-  
27 cials under ORS 244.060.

28 (c) Require the entity's officers and directors to declare actual and  
29 potential conflicts of interest at regular meetings of the entity's gov-  
30 erning body when such conflicts arise, and require an officer or di-  
31 rector to abstain from participating in any discussion or voting on any



1 **item where that officer or director has an actual conflict of interest.**  
2 **For the purposes of this paragraph, “actual conflict of interest” and**  
3 **“potential conflict of interest” have the meanings given those terms**  
4 **in ORS 244.020.**

5 **(d) Annually, arrange for an independent auditor to audit the**  
6 **entity’s financial statements, and direct the auditor to file an audit**  
7 **opinion with the commission for public review.**

8 **(e) With public utilities, jointly develop public utility-specific**  
9 **budgets, action plans and agreements that detail the entity’s public**  
10 **utility-specific planned activities, resources and technologies pursuant**  
11 **to ORS 757.054 and 757.612 (3)(b)(B), including coordinated activities**  
12 **that require joint investment and deployment. Each action plan must**  
13 **reflect stakeholder feedback gathered through a public process man-**  
14 **aged by the entity and the relevant public utility as overseen by the**  
15 **commission.**

16 **(f) File with the commission the entity’s budget, action plan and**  
17 **quarterly and annual reports for public review. The entity’s budget**  
18 **and action plan must include the budget and action plans jointly de-**  
19 **veloped with public utilities under paragraph (e) of this subsection.**

20 **(g) At least once every five years, contract for an independent**  
21 **management evaluation to review the entity’s operations, efficiency**  
22 **and effectiveness, and direct the independent reviewer to file a report**  
23 **with the commission for public review.**

24 **(2) The commission may remove from the board of directors of a**  
25 **nongovernmental entity an officer or director who fails to provide an**  
26 **annual disclosure of economic interest, or who fails to declare an ac-**  
27 **tual or potential conflict of interest, as described in this section, if the**  
28 **failure is connected to the allocation or expenditure of funds collected**  
29 **pursuant to ORS 757.054, through natural gas tariffs or through public**  
30 **purpose charges pursuant to ORS 757.612 and paid to the entity.**

31

(Environmental Justice)

**SECTION 10.** Section 11 of this 2021 Act is added to and made a part of ORS chapter 757.

**SECTION 11.** (1) As used in this section, “Environmental justice” means the equal treatment, protection from environmental and health hazards, and meaningful involvement of environmental justice communities in the development, implementation and enforcement of regulations and policies that affect the environment in which people live, work, learn, practice spirituality and play.

(2) The Public Utility Commission shall establish, and update no less than once every four years, equity metrics for the purpose of assessing, addressing and creating accountability for environmental justice in the expenditure and investment of funds collected pursuant to ORS 757.054, through natural gas tariffs or through public purpose charges pursuant to ORS 757.612 and paid to a nongovernmental entity. The equity metrics and each update required by this section must reflect feedback gathered through a public process that is managed by the commission and that, at a minimum, includes representatives of environmental justice communities.

(3) Each nongovernmental entity that is paid funds collected pursuant to ORS 757.054, through natural gas tariffs or through public purpose charges pursuant to ORS 757.612 shall, as part of the entity’s filings required under section 9 (1)(f) of this 2021 Act, report on the entity’s progress in achieving the equity metrics established pursuant to this section.

**SECTION 12.** The equity metrics required to be established under section 11 of this 2021 Act shall first be established by the Public Utility Commission no later than December 31, 2022.

**REPEAL**

1       **SECTION 13. ORS 757.689 is repealed.**

2  
3               **LOW-INCOME ELECTRIC BILL PAYMENT ASSISTANCE**

4  
5       **SECTION 14. Sections 15 and 16 of this 2021 Act are added to and**  
6 **made a part of ORS chapter 757.**

7       **SECTION 15. (1) An electric company, as defined in ORS 757.600, or**  
8 **Oregon Community Power shall collect funds for low-income electric**  
9 **bill payment and crisis assistance in an amount determined by the**  
10 **Public Utility Commission. The commission shall:**

11       **(a) Establish the amount to be collected and rates to be charged by**  
12 **each electric company from its customers, including customers re-**  
13 **ceiving electricity from other sources, such that the forecasted col-**  
14 **lection by all electric companies in a calendar year is at least \$20**  
15 **million.**

16       **(b) Adjust the rates if forecasted collections or actual collections**  
17 **are less than \$20 million in any calendar year but shall not otherwise**  
18 **adjust the rates once set.**

19       **(c) Ensure that no customer pays more than \$500 per month per**  
20 **customer site for low-income electric bill payment and crisis assist-**  
21 **ance.**

22       **(2) Funds collected by an electric company or Oregon Community**  
23 **Power under this section shall be:**

24       **(a) Paid into the Housing and Community Services Department**  
25 **Low-Income Electric Bill Payment Assistance Fund established by**  
26 **ORS 456.587 (2);**

27       **(b) Used by the Housing and Community Services Department solely**  
28 **for purposes related to low-income electric bill payment and crisis as-**  
29 **sistance and for the Housing and Community Services Department's**  
30 **cost of administering this section; and**

31       **(c) Expended in the service area of the electric company or Oregon**

1 **Community Power from which the funds are collected.**

2 **(3) The Housing and Community Services Department shall deter-**  
3 **mine the manner in which funds collected under this subsection are**  
4 **allocated by the department to energy assistance program providers**  
5 **for the purpose of providing low-income electric bill payment and cri-**  
6 **sis assistance. However, the department shall:**

7 **(a) In consultation with electric companies, investigate and may**  
8 **implement alternative delivery models to effectively reduce service**  
9 **disconnections and related costs to customers and electric companies;**  
10 **and**

11 **(b) Direct priority assistance to low-income customers who are in**  
12 **danger of having their electricity service disconnected.**

13 **(4) The department shall maintain records and provide those re-**  
14 **ords upon request to an electric company, Oregon Community Power**  
15 **and the Citizens' Utility Board established under ORS chapter 774 on**  
16 **a quarterly basis. Records maintained must include the numbers of**  
17 **low-income customers served, the average amounts paid and the type**  
18 **of assistance provided. Electric companies and Oregon Community**  
19 **Power shall, if requested, provide the department with aggregate data**  
20 **relating to low-income customers served on a quarterly basis to sup-**  
21 **port program development.**

22 **(5) Interest on moneys deposited in the Housing and Community**  
23 **Services Department Low-Income Electric Bill Payment Assistance**  
24 **Fund established by ORS 456.587 (2) may be used to provide bill pay-**  
25 **ment and crisis assistance to customers whose primary source of heat**  
26 **is not electricity.**

27 **(6) Notwithstanding ORS 757.310, the commission may allow an**  
28 **electric company or Oregon Community Power to provide reduced**  
29 **rates or other bill payment or crisis assistance or low-income program**  
30 **assistance to a low-income household eligible for assistance under the**  
31 **federal Low Income Home Energy Assistance Act of 1981, as amended**

1 and in effect on July 23, 1999.

2 **SECTION 16. (1) In addition to the funds collected pursuant to**  
3 **section 15 (1) of this 2021 Act, the Public Utility Commission shall**  
4 **provide for, through rates charged to all customers of electric com-**  
5 **panies, as that term is defined in ORS 757.600, collection of \$10 million**  
6 **per calendar year for low-income electric bill payment and crisis as-**  
7 **sistance.**

8 **(2) Notwithstanding section 15 (1) of this 2021 Act, the rates estab-**  
9 **lished by the commission for low-income electric bill payment and**  
10 **crisis assistance may not be less than the rates in effect on the effec-**  
11 **tive date of this 2021 Act.**

12 **(3) Notwithstanding section 15 (3) of this 2021 Act, for purposes of**  
13 **the additional amounts collected pursuant to this section, the Housing**  
14 **and Community Services Department shall:**

15 **(a) Ensure that the additional amounts collected respond to and are**  
16 **delivered to customers of electric companies who have lost income due**  
17 **to circumstances arising from the disease caused by the severe acute**  
18 **respiratory syndrome coronavirus 2 (SARS-CoV-2);**

19 **(b) Design delivery of the additional amounts in alignment with**  
20 **existing energy assistance programs but broaden income eligibility and**  
21 **benefit levels such that:**

22 **(A) Income eligibility is expanded to households at or below 80**  
23 **percent of area median income;**

24 **(B) Standard household benefit levels may be increased to account**  
25 **for utility arrearages directly related to employment, income or health**  
26 **effects of SARS-CoV-2; and**

27 **(C) Persons already enrolled in or receiving state-administered,**  
28 **low-income assistance from programs determined by the department,**  
29 **including but not limited to through the federal Low Income Home**  
30 **Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), are automat-**  
31 **ically eligible for low-income electric bill payment and crisis assist-**

1 **ance.**

2 **SECTION 17. Section 16 of this 2021 Act is repealed on January 2,**  
3 **2024.**

4

5

### CONFORMING AMENDMENTS

6

7 **SECTION 18.** Section 1, chapter 63, Oregon Laws 2016, is amended to  
8 read:

9 **Sec. 1.** (1) As used in this section:

10 (a) “Investor-owned utility” means an investor-owned utility, as defined  
11 in ORS 469.631, that distributes electricity.

12 (b) “Nameplate capacity” means the maximum rated output of a genera-  
13 tor, inverter or other electric power production equipment measured in al-  
14 ternating current under specific conditions designated by the manufacturer  
15 of the equipment.

16 (c) “Publicly owned utility” has the meaning given that term in ORS  
17 469.649.

18 (d) “Solar photovoltaic energy system” means equipment and devices that  
19 have the primary purpose of collecting solar energy and generating electric-  
20 ity by photovoltaic effect.

21 (2) The Oregon Business Development Department shall establish a pro-  
22 gram to incentivize the generation of electricity derived from solar energy.  
23 In establishing the program, the department shall:

24 (a) Prescribe the form and manner by which the owner or operator of a  
25 solar photovoltaic energy system may apply to participate in the program;

26 (b) Require an owner or operator of a solar photovoltaic energy system  
27 applying to participate in the program to submit a plan to complete con-  
28 struction of the solar photovoltaic energy system and begin to generate  
29 electricity within one year after being enrolled in the program;

30 (c) Enroll in the program applicants that own or operate solar  
31 photovoltaic energy systems qualified to be included in the program;

1 (d) Limit the cumulative nameplate capacity of solar photovoltaic energy  
2 systems included in the program that are owned or operated by a single  
3 program enrollee, and any business affiliated with the program enrollee, to  
4 35 megawatts; and

5 (e) Close the program to new applicants on the earlier of the following  
6 dates:

7 (A) The date on which all solar photovoltaic energy systems included in  
8 the program have a cumulative nameplate capacity of 150 megawatts; or

9 (B) January 2, 2017.

10 (3)(a) To participate in the program, an owner or operator of a solar  
11 photovoltaic energy system must demonstrate to the satisfaction of the de-  
12 partment that the solar photovoltaic energy system is qualified to be in-  
13 cluded in the program. A solar photovoltaic energy system is qualified to be  
14 included in the program if the solar photovoltaic energy system:

15 (A) Is located in this state;

16 (B) Has a nameplate capacity of at least two megawatts;

17 (C) Has a nameplate capacity of no more than 10 megawatts;

18 (D) Has a commercial operations date, as specified in a power purchase  
19 agreement, of January 1, 2016, or later;

20 (E) Is either directly connected to the electrical system of an investor-  
21 owned utility or publicly owned utility, or is indirectly connected to the  
22 electrical system of an investor-owned utility or publicly owned utility in a  
23 manner that the department determines is acceptable for program enrollees;

24 (F) Has a meter or other device that monitors and measures the quantity  
25 of energy generated by the solar photovoltaic energy system; and

26 (G) Meets any other siting, design, interconnection, installation and  
27 electric output standards required by the laws of this state.

28 (b) An investor-owned utility or a publicly owned utility that owns a  
29 qualified solar photovoltaic energy system is eligible to participate in the  
30 program.

31 (4)(a) Subject to paragraphs (b) and (c) of this subsection, for the purpose

1 of incentivizing the generation of electricity derived from solar energy, the  
2 department shall make a monthly payment to a program enrollee for a solar  
3 photovoltaic energy system that generates electricity for an amount that  
4 equals one-half cent per kilowatt hour of electricity generated by the solar  
5 photovoltaic energy system during the preceding month. Payments shall  
6 continue for five years after the date on which the department makes the  
7 initial payment to the program enrollee for energy generated by the solar  
8 photovoltaic energy system.

9 (b) Beginning one year after a program enrollee is enrolled in the pro-  
10 gram, for each month that the program enrollee's solar photovoltaic energy  
11 system does not generate electricity, the department shall reduce by one  
12 month the number of monthly payments otherwise required to be paid to the  
13 program enrollee under paragraph (a) of this subsection for that solar  
14 photovoltaic energy system.

15 (c) If by two years after a program enrollee is enrolled in the program the  
16 program enrollee's solar photovoltaic energy system has not generated elec-  
17 tricity, the department shall remove the solar photovoltaic energy system  
18 from the program established under this section and the program enrollee  
19 may not receive any payments otherwise required to be paid to the program  
20 enrollee under paragraph (a) of this subsection for that solar photovoltaic  
21 energy system.

22 (5) Before enrolling an applicant as described in subsection (2)(c) of this  
23 section, the Oregon Business Development Department shall:

24 (a) Consult with the State Department of Energy to ensure that:

25 (A) A proposed solar photovoltaic energy system is qualified as described  
26 in subsection (3) of this section; and

27 (B) The solar photovoltaic energy system, if not generating electricity on  
28 the date of application, is likely to begin generating electricity no later than  
29 one year after the date on which the owner or operator of the solar  
30 photovoltaic energy system applies to be included in the program; and

31 (b) If applicable, consult with the Public Utility Commission to ensure



1 that the costs associated with a solar photovoltaic energy system will be  
2 recoverable pursuant to a schedule submitted to and approved by the com-  
3 mission in accordance with ORS 757.205 and 757.210 or pursuant to other  
4 applicable provisions of law providing for the recovery of costs borne by  
5 investor-owned utilities.

6 (6) The owner of a solar photovoltaic energy system included in the pro-  
7 gram established under this section:

8 (a) Also owns all renewable energy certificates established under ORS  
9 469A.130 that are associated with the generation of electricity by the solar  
10 photovoltaic energy system; and

11 (b) Is not eligible to receive funds under ORS 757.612 (3)(b)(B) (**2019**  
12 **Edition**) unless the funds are received pursuant to an agreement entered  
13 into before [*the effective date of this 2016 Act*] **March 16, 2016**.

14 (7) The Oregon Business Development Department may adopt rules to  
15 implement this section.

16 (8) The department shall submit a report on implementing this section in  
17 the manner provided by ORS 192.245 to an interim committee of the Legis-  
18 lative Assembly related to energy no later than September 15 of each odd-  
19 numbered year.

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

21 297.300. The records related to any funds collected **pursuant to ORS**  
22 **757.054, through natural gas tariffs or** through public purpose charges  
23 **pursuant to ORS 757.612** and paid to a nongovernmental entity as described  
24 in [*ORS 757.612*] **section 9 of this 2021 Act** shall be subject to audit by the  
25 Secretary of State.

26 **SECTION 20.** ORS 317A.100, as amended by section 1, chapter 2, Oregon  
27 Laws 2020 (first special session), is amended to read:

28 317A.100. As used in ORS 317A.100 to 317A.158:

29 (1)(a) “Commercial activity” means:

30 (A) The total amount realized by a person, arising from transactions and  
31 activity in the regular course of the person’s trade or business, without de-

1 duction for expenses incurred by the trade or business;

2 (B) If received by a financial institution:

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

5 (ii) If the reporting person for a financial institution is a bank organiza-  
6 tion, all items of income reported on the call report filed by the bank or-  
7 ganization; and

8 (iii) If the reporting person for a financial institution is a nonbank fi-  
9 nancial organization, all items of income reported in accordance with gen-  
10 erally accepted accounting principles; and

11 (C)(i) If received by an insurer, as reported on the statement of premiums  
12 accompanying the annual statement required under ORS 731.574 to be filed  
13 with the Director of the Department of Consumer and Business Services, all  
14 gross direct life insurance premiums, gross direct accident and health insur-  
15 ance premiums and gross direct property and casualty insurance premiums;  
16 and

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

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

20 (A) Interest income except:

21 (i) Interest on credit sales; or

22 (ii) Interest income, including service charges, received by financial in-  
23 stitutions;

24 (B) Receipts from the sale, exchange or other disposition of an asset de-  
25 scribed in section 1221 or 1231 of the Internal Revenue Code, without regard  
26 to the length of time the person held the asset;

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

30 (D) Receipts from hedging transactions, to the extent that the trans-  
31 actions are entered into primarily to protect a financial position, including

1 transactions intended to manage the risk of exposure to foreign currency  
2 fluctuations that affect assets, liabilities, profits, losses, equity or invest-  
3 ments in foreign operations, risk of exposure to interest rate fluctuations or  
4 risk of commodity price fluctuations;

5 (E) Proceeds received attributable to the repayment, maturity or redemp-  
6 tion of the principal of a loan, bond, mutual fund, certificate of deposit or  
7 marketable instrument;

8 (F) The principal amount received under a repurchase agreement or on  
9 account of any transaction properly characterized as a loan to the person;

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

14 (H) Compensation, whether current or deferred, and whether in cash or  
15 in kind, received or to be received by an employee, a former employee or the  
16 employee's legal successor for services rendered to or for an employer, in-  
17 cluding reimbursements received by or for an individual for medical or edu-  
18 cation expenses, health insurance premiums or employee expenses or on  
19 account of a dependent care spending account, legal services plan, any cafe-  
20 teria plan described in section 125 of the Internal Revenue Code or any  
21 similar employee reimbursement;

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

25 (J) Proceeds received on the account of payments from insurance policies,  
26 including crop insurance policies, owned by the taxpayer, except those pro-  
27 ceeds received for the loss of commercial activity;

28 (K) Gifts or charitable contributions received, membership dues received  
29 by trade, professional, homeowners' or condominium associations, payments  
30 received for educational courses, meetings or meals, or similar payments to  
31 a trade, professional or other similar association, and fundraising receipts

1 received by any person when any excess receipts are donated or used exclu-  
2 sively for charitable purposes;

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

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

8 (N) Tax refunds from any tax program, other tax benefit recoveries and  
9 reimbursements for the tax imposed under ORS 317A.100 to 317A.158 made  
10 by entities that are part of the same unitary group as provided under ORS  
11 317A.106, and reimbursements made by entities that are not members of a  
12 unitary group that are required to be made for economic parity among mul-  
13 tiple owners of an entity whose tax obligation under ORS 317A.100 to  
14 317A.158 is required to be reported and paid entirely by one owner, as pro-  
15 vided in ORS 317A.106;

16 (O) Pension reversions;

17 (P) Contributions to capital;

18 (Q) Receipts from the sale, transfer, exchange or other disposition of mo-  
19 tor vehicle fuel or any other product used for the propulsion of motor vehi-  
20 cles;

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

26 (S) In the case of receipts from the sale of malt beverages or wine, as  
27 defined in ORS 471.001, cider, as defined in ORS 471.023 or distilled liquor,  
28 as defined in ORS 471.001, by a person holding a license issued under ORS  
29 chapter 471, an amount equal to the federal and state excise taxes paid by  
30 any person on or for such malt beverages, wine or distilled liquor under  
31 subtitle E of the Internal Revenue Code or ORS chapter 471 or 473, and any

1 amount paid to the Oregon Liquor Control Commission for sales of distilled  
2 spirits by an agent appointed under ORS 471.750;

3 (T) In the case of receipts from the sale of marijuana items, as defined in  
4 ORS 475B.015, by a person holding a license issued under ORS 475B.010 to  
5 475B.545, an amount equal to the federal and state excise taxes paid by any  
6 person on or for such marijuana items under subtitle E of the Internal Rev-  
7 enue Code or ORS 475B.700 to 475B.760 and any local retail taxes authorized  
8 under ORS 475B.491;

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

11 (V) Tips or gratuities collected by a restaurant or other food establish-  
12 ment and passed on to employees;

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

19 (X) Registration fees or taxes collected by a vehicle dealer certified under  
20 ORS 822.020 or a person described in ORS 320.400 (8)(a)(B) at the sale or  
21 other transfer of a motor vehicle, as defined in ORS 801.360, that are owed  
22 to a third party by the purchaser of the motor vehicle and passed to the third  
23 party by the dealer;

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

30 (Z) In the case of amounts retained as commissions by a holder of a li-  
31 cense under ORS chapter 462, an amount equal to the amounts specified un-

1 der ORS chapter 462 that must be paid to or collected by the Department of  
2 Revenue as a tax and the amounts specified under ORS chapter 462 to be  
3 used as purse money;

4 (AA) Net revenue of residential care facilities as defined in ORS 443.400  
5 or in-home care agencies as defined in ORS 443.305, to the extent that the  
6 revenue is derived from or received as compensation for providing services  
7 to a medical assistance or Medicare recipient;

8 (BB) Dividends received;

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

10 (DD) Receipts from sales to a wholesaler in this state, if the seller re-  
11 ceives certification at the time of sale from the wholesaler that the whole-  
12 saler will sell the purchased property outside this state;

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

14 (FF) Receipts from transactions among members of a unitary group;

15 (GG) Moneys, including public purpose charge moneys collected under  
16 ORS 757.612 and [*costs of funding or implementing cost-effective energy con-*  
17 *servation measures collected under ORS 757.689*] **moneys collected to plan**  
18 **for and pursue cost-effective energy efficiency resources under ORS**  
19 **757.054**, that are collected from customers, passed to a utility and approved  
20 by the Public Utility Commission and that support energy conservation,  
21 renewable resource acquisition and low-income assistance programs;

22 (HH) Moneys collected by a utility from customers for the payment of  
23 loans through on-bill financing;

24 (II) Surcharges collected under ORS 757.736;

25 (JJ) Moneys passed to a utility by the Bonneville Power Administration  
26 for the purpose of effectuating the Regional Power Act Exchange credits or  
27 pursuant to any settlement associated with the exchange credit;

28 (KK) Moneys collected or recovered, by entities listed in ORS 756.310,  
29 cable operators as defined in 47 U.S.C. 522(5), telecommunications carriers  
30 as defined in 47 U.S.C. 153(51) and providers of information services as de-  
31 fined in 47 U.S.C. 153(24), for fees payable under ORS 756.310, right-of-way

1 fees, franchise fees, privilege taxes, federal taxes and local taxes;

2 (LL) Charges paid to the Residential Service Protection Fund required  
3 by chapter 290, Oregon Laws 1987;

4 (MM) Universal service surcharge moneys collected or recovered and paid  
5 into the universal service fund established in ORS 759.425;

6 (NN) Moneys collected for public purpose funding as described in ORS  
7 759.430;

8 (OO) Moneys collected or recovered and paid into the federal universal  
9 service fund as determined by the Federal Communications Commission;

10 (PP) In the case of a seller or provider of telecommunications services,  
11 the amount of tax imposed under ORS 403.200 for access to the emergency  
12 communications system that is collected from subscribers or consumers;

13 (QQ) In the case of a transient lodging tax collector, the amount of tax  
14 imposed under ORS 320.305 and of any local transient lodging tax imposed  
15 upon the occupancy of transit lodging;

16 (RR) In the case of a seller of bicycles, the amount of tax imposed under  
17 ORS 320.415 upon retail sales of bicycles;

18 (SS) In the case of a qualified heavy equipment provider, the amount of  
19 tax imposed under ORS 307.872 upon the rental price of heavy equipment;

20 (TT) Farmer sales to an agricultural cooperative in this state that is a  
21 cooperative organization described in section 1381 of the Internal Revenue  
22 Code;

23 (UU) Revenue received by a business entity that is mandated by contract  
24 or subcontract to be distributed to another person or entity if the revenue  
25 constitutes sales commissions that are paid to a person who is not an em-  
26 ployee of the business entity, including, without limitation, a split-fee real  
27 estate commission; and

28 (VV) Receipts from the sale of fluid milk by dairy farmers that are not  
29 members of an agricultural cooperative.

30 (2) "Cost inputs" means:

31 (a) The cost of goods sold as calculated in arriving at federal taxable in-

1 come under the Internal Revenue Code; or

2 (b) In the case of a taxpayer that is engaged in a farming operation, as  
3 defined in section 6, chapter 2, Oregon Laws 2020 (first special session)  
4 (Enrolled House Bill 4202), and that does not report cost of goods sold for  
5 federal tax purposes, the taxpayer's operating expenses excluding labor costs.

6 (3) "Doing business" means engaging in any activity, whether legal or il-  
7 legal, that is conducted for, or results in, the receipt of commercial activity  
8 at any time during a calendar year.

9 (4) "Excluded person" means any of the following:

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

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

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

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

19 (e) Charitable risk pools described in section 501(n) of the Internal Reve-  
20 nue Code.

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

22 (g) Qualified state tuition programs described in section 529 of the Inter-  
23 nal Revenue Code.

24 (h) Foreign or alien insurance companies, but only with respect to the  
25 underwriting profit derived from writing wet marine and transportation in-  
26 surance subject to tax under ORS 731.824 and 731.828.

27 (i) Governmental entities.

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

31 (k) Hospitals subject to assessment under ORS 414.855, long term care



1 facilities subject to assessment under ORS 409.801 or any entity subject to  
2 assessment under ORS 414.880 or section 3 or 5, chapter 538, Oregon Laws  
3 2017.

4 (L) Manufactured dwelling park nonprofit cooperatives organized under  
5 ORS chapter 62.

6 (5) “Financial institution” has the meaning given that term in ORS  
7 314.610, except that “financial institution” does not include a credit union.

8 (6)(a) “FR Y-9” means the consolidated or parent-only financial state-  
9 ments that a holding company is required to file with the Federal Reserve  
10 Board pursuant to 12 U.S.C. 1844.

11 (b) In the case of a holding company required to file both consolidated  
12 and parent-only financial statements, “FR Y-9” means the consolidated fi-  
13 nancial statements that the holding company is required to file.

14 (7) “Governmental entity” means:

15 (a) The United States and any of its unincorporated agencies and instru-  
16 mentalities.

17 (b) Any incorporated agency or instrumentality of the United States  
18 wholly owned by the United States or by a corporation wholly owned by the  
19 United States.

20 (c) The State of Oregon and any of its unincorporated agencies and in-  
21 strumentalities.

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

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

24 (f) A federally recognized Indian tribe.

25 (8) “Groceries” means food as defined in 7 U.S.C. 2012(k), but does not  
26 include cannabinoid edibles or marijuana seeds.

27 (9)(a) “Hedging transaction” means a hedging transaction as defined in  
28 section 1221 of the Internal Revenue Code or a transaction accorded hedge  
29 accounting treatment under Financial Accounting Standards Board State-  
30 ment No. 133.

31 (b) “Hedging transaction” does not include a transaction in which an ac-

1 tual transfer of title of real or tangible property to another entity occurs.

2 (10) “Insurer” has the meaning given that term in ORS 317.010.

3 (11) “Internal Revenue Code,” except where the Legislative Assembly has  
4 provided otherwise, refers to the laws of the United States or to the Internal  
5 Revenue Code as they are amended and in effect on December 31, 2018.

6 (12) “Labor costs” means total compensation of all employees, not to in-  
7 clude compensation paid to any single employee in excess of \$500,000.

8 (13)(a) “Motor vehicle fuel or any other product used for the propulsion  
9 of motor vehicles” means:

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

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

13 (b) “Motor vehicle fuel or any other product used for the propulsion of  
14 motor vehicles” does not mean:

15 (A) Electricity; or

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

18 (14) “Person” includes individuals, combinations of individuals of any  
19 form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-  
20 stock companies, business trusts, estates, partnerships, limited liability  
21 partnerships, limited liability companies, associations, joint ventures, clubs,  
22 societies, entities organized as for-profit corporations under ORS chapter 60,  
23 C corporations, S corporations, qualified subchapter S subsidiaries, qualified  
24 subchapter S trusts, trusts, entities that are disregarded for federal income  
25 tax purposes and any other entities.

26 (15) “Retailer” means a person doing business by selling tangible personal  
27 property to a purchaser for a purpose other than:

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

30 (b) Incorporation by the purchaser of the property in the course of regular  
31 business as an ingredient or component of real or personal property; or

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

3 (16) "Taxable commercial activity" means commercial activity sourced to  
4 this state under ORS 317A.128, less any subtraction pursuant to ORS  
5 317A.119.

6 (17)(a) "Taxpayer" means any person or unitary group required to regis-  
7 ter, file or pay tax under ORS 317A.100 to 317A.158.

8 (b) "Taxpayer" does not include excluded persons, except to the extent  
9 that a tax-exempt entity has unrelated business income as described in the  
10 Internal Revenue Code.

11 (18)(a) "Unitary business" means a business enterprise in which there  
12 exists directly or indirectly between the members or parts of the enterprise  
13 a sharing or exchange of value as demonstrated by:

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

15 (B) Centralized administrative services or functions resulting in econo-  
16 mies of scale; or

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

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

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

23 (B) Constitute steps in a vertically integrated process, such as the steps  
24 involved in the production of natural resources, which might include explo-  
25 ration, mining, refining and marketing.

26 (19) "Unitary group" means a group of persons with more than 50 percent  
27 common ownership, either direct or indirect, that is engaged in business ac-  
28 tivities that constitute a unitary business.

29 (20) "Wholesaler" means a person primarily doing business by merchant  
30 distribution of tangible personal property to retailers or to other whole-  
31 salers.

1        **SECTION 21.** ORS 456.587 is amended to read:

2        456.587. (1) The Housing and Community Services Department Electricity  
3 Public Purpose Charge Fund is established in the State Treasury, separate  
4 and distinct from the General Fund. Interest earned by the Housing and  
5 Community Services Department Electricity Public Purpose Charge Fund  
6 shall be credited to the fund. Moneys in the fund are continuously appro-  
7 priated to the Housing and Community Services Department to be used for  
8 purposes specified in ORS 757.612 (3)(b)(D).

9        (2) The Housing and Community Services Department Low-Income Elec-  
10 tric Bill Payment Assistance Fund is established in the State Treasury, sep-  
11 arate and distinct from the General Fund. Interest earned by the Housing  
12 and Community Services Department Low-Income Electric Bill Payment As-  
13 sistance Fund shall be credited to the fund. Moneys in the fund are contin-  
14 uously appropriated to the Housing and Community Services Department for  
15 purposes described in [ORS 757.612 (7)] **section 15 of this 2021 Act.**

16        **SECTION 22.** ORS 757.365 is amended to read:

17        757.365. (1) The Public Utility Commission shall establish a pilot program  
18 for each electric company to demonstrate the use and effectiveness of  
19 volumetric incentive rates and payments for electricity or for the nonenergy  
20 attributes of electricity, or both, from solar photovoltaic energy systems that  
21 are permanently installed in this state by retail electricity consumers and  
22 that first become operational after the program begins. The cumulative  
23 nameplate capacity of the qualifying systems enrolled in all of the pilot  
24 programs may not exceed 27.5 megawatts of alternating current. Qualifying  
25 systems enrolled in the pilot program may not have nameplate generating  
26 capacity greater than 500 kilowatts.

27        (2) The commission by rule shall adopt requirements for the pilot pro-  
28 grams described in subsection (1) of this section. Each electric company shall  
29 file for commission approval tariff schedules for the pilot programs that  
30 conform to the requirements.

31        (3) The commission may establish incentive rates for the pilot programs

1 to enable the development of the most efficient solar photovoltaic energy  
2 systems.

3 (4) A retail electricity consumer participating in a pilot program may re-  
4 ceive payments based on electricity generated from solar photovoltaic energy  
5 system output for 15 years from the consumer's date of enrollment in the  
6 program, at rates or through a rate formula in a tariff schedule established  
7 at the time of enrollment, or at rates otherwise established at the time of  
8 enrollment. The consumer thereafter may receive payments based upon elec-  
9 tricity generated from the qualifying system at a rate equal to the resource  
10 value.

11 (5) The commission may adjust the tariff schedule as needed for new pilot  
12 program participants for the purpose of meeting the goal established in sub-  
13 section (1) of this section. Once a retail electricity consumer is enrolled in  
14 a program, the rates or rate formula for determining payments to the con-  
15 sumer may not be modified.

16 (6) The commission may adopt and adjust a percentage goal for capacity  
17 deployed by residential and small commercial qualifying systems based upon  
18 the costs of the energy generated, the feasibility of attaining the goal and  
19 other factors. For purposes of attaining the goal described in this subsection,  
20 the commission shall require 2.5 megawatts of alternating current from the  
21 cumulative nameplate capacity of qualifying systems to be generated by in-  
22 dividual systems with a nameplate generating capacity between five and 100  
23 kilowatts.

24 (7) The commission may establish total generator nameplate capacity  
25 limits for an electric company so that the rate impact of the pilot program  
26 for any customer class does not exceed 0.25 percent of the electric company's  
27 revenue requirement for the class in any year.

28 (8) Ownership of renewable energy certificates established under ORS  
29 469A.130 that are associated with renewable energy generation under the  
30 pilot programs must be transferred to the electric company and may be used  
31 to comply with the renewable portfolio standard described in ORS 469A.052

1 or 469A.055.

2 (9) To the extent that rates paid under a pilot program exceed the re-  
3 source value, qualifying systems participating in the pilot programs are not  
4 eligible for expenditures under ORS 757.612 (3)(b)(B) (**2019 Edition**) or tax  
5 credits under ORS 469B.100 to 469B.118 or 469B.130 to 469B.169.

6 (10) All prudently incurred costs associated with compliance with this  
7 section are recoverable in the rates of an electric company.

8 (11) The commission shall advise and assist the owners and operators of  
9 qualifying systems in identifying and using grants, incentive moneys, federal  
10 funding and other sources of noninvestment financial support for the con-  
11 struction and operation of qualifying systems.

12 (12) The pilot programs described in subsection (1) of this section close  
13 to new participants on the earlier of:

14 (a) March 31, 2016; or

15 (b) The date the cumulative nameplate capacity of solar photovoltaic en-  
16 ergy systems that have been permanently installed by retail electricity con-  
17 sumers under the pilot programs equals 27.5 megawatts of alternating  
18 current.

19 (13) The commission shall submit a report to the Legislative Assembly by  
20 January 1 of each odd-numbered year. The report must evaluate the effec-  
21 tiveness of the pilot programs described in subsection (1) of this section  
22 compared to the effectiveness of expenditures under ORS 757.612 (3)(b)(B)  
23 (**2019 Edition**) or tax credits under ORS 469B.100 to 469B.118 or 469B.130 to  
24 469B.169 for promoting the use of solar photovoltaic energy systems and re-  
25 ducing system costs. The report must also estimate the cost of the program  
26 to retail electricity consumers and the resource value of solar energy.

27 **SECTION 23.** ORS 757.247 is amended to read:

28 757.247. (1) The Public Utility Commission may authorize a public utility,  
29 upon application of the utility, to file and place into effect a tariff schedule  
30 establishing rates or charges for the cost of energy resource measures pro-  
31 vided to an individual property owner or customer pursuant to an agreement

1 entered into between the individual property owner or customer and the  
2 public utility. Energy resource measures provided under this section may  
3 include:

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

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

8 (c) The installation of equipment or devices or the implementation of  
9 measures that enable demand reduction, peak load reduction, improved inte-  
10 gration of renewable energy generation or more effective utilization of en-  
11 ergy resources;

12 (d) Loans for the purposes described in paragraphs (a) to (c) of this sub-  
13 section; and

14 (e) Direct payments to third parties for the purposes described in para-  
15 graphs (a) to (c) of this subsection.

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

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

20 (b) Except as provided in subsection (5) of this section, a reasonable rate  
21 of return on any investment made by the public utility;

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

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

29 (3) Application of a tariff schedule under this section is subject to ap-  
30 proval by the commission.

31 (4) If a payment obligation applies to successive property owners or cus-

1 tomers as described in subsection (2)(c) of this section, a public utility shall  
 2 record a notice of the payment obligation in the records maintained by the  
 3 county clerk under ORS 205.130. The commission may prescribe by rule other  
 4 methods by which the public utility shall notify property owners or custom-  
 5 ers of such payment obligations.

6 (5) A public utility may use moneys obtained through a rate established  
 7 under ORS 757.603 (2)(a) to provide a renewable energy generation facility  
 8 to a property owner or customer under this section. A public utility may not  
 9 charge interest to a property owner or customer for a renewable energy  
 10 generation facility acquired with moneys obtained through a rate established  
 11 under ORS 757.603 (2)(a).

12 (6) Agreements entered into and tariff schedules placed into effect under  
 13 this section are not subject to ORS 470.500 to 470.710, ~~757.054~~ or 757.612 [or  
 14 757.689].

15 **SECTION 24.** ORS 757.617 is amended to read:

16 757.617. (1)[(a)] The Public Utility Commission and the State Department  
 17 of Energy jointly shall select an independent nongovernmental entity to  
 18 prepare a biennial report to the Legislative Assembly describing program  
 19 spending and results for public purpose requirements undertaken pursuant  
 20 to ORS 757.612. [*The first report shall be due on January 1, 2003.*]

21 [(b) *The commission and the department jointly shall select an independent*  
 22 *nongovernmental entity to prepare a report to the Legislative Assembly de-*  
 23 *scribing proposed modifications to public purpose requirements undertaken*  
 24 *pursuant to ORS 757.612. The report shall be due on January 1, 2007.*]

25 [(c) *The commission and the department jointly shall select an independent*  
 26 *nongovernmental entity to prepare a report to the Legislative Assembly recom-*  
 27 *mending whether the public purpose funding requirements under ORS 757.612*  
 28 *should be renewed. The report shall be due on January 1, 2011.*]

29 (2) The Housing and Community Services Department shall prepare a  
 30 biennial report to the Legislative Assembly describing program spending and  
 31 needs for low-income bill assistance. [*The first report shall be due on January*



1 1, 2003.]

2

3

**CAPTIONS**

4

5 **SECTION 25. The unit captions used in this 2021 Act are provided**  
6 **only for the convenience of the reader and do not become part of the**  
7 **statutory law of this state or express any legislative intent in the**  
8 **enactment of this 2021 Act.**

9

10

**EMERGENCY CLAUSE**

11

12 **SECTION 26. This 2021 Act being necessary for the immediate**  
13 **preservation of the public peace, health and safety, an emergency is**  
14 **declared to exist, and this 2021 Act takes effect on its passage.**

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