

<b>Department of Energy (ODOE)</b>					
	<b>2017-19 Actual</b>	<b>2019-21 Legislatively Adopted</b>	<b>2019-21 Legislatively Approved *</b>	<b>2021-23 Current Service Level</b>	<b>2021-23 Governor's Budget</b>
General Fund	--	6,334,048	6,274,048	--	--
Lottery Funds	3,023,628	3,023,365	3,023,365	3,022,570	3,022,570
Other Funds	24,624,867	32,812,879	33,621,773	29,098,987	27,768,991
Other Funds (NL)	48,263,816	41,028,718	65,513,718	31,659,374	31,635,470
Federal Funds	2,269,529	2,196,096	3,347,683	2,818,981	3,038,773
Federal Funds (NL)	--	104,000	104,000	--	--
<b>Total Funds</b>	<b>78,181,840</b>	<b>85,499,106</b>	<b>111,884,587</b>	<b>66,599,912</b>	<b>65,465,804</b>
Positions	97	81	81	78	77
FTE	93.50	79.25	79.25	76.77	76.00
* Includes Emergency Board and administrative actions through January 2021.					

### Program Description

The Oregon Department of Energy (ODOE) works to ensure that Oregon has an adequate supply of reliable and affordable energy and is safe from nuclear contamination by helping Oregonians save energy, developing clean energy resources, promoting renewable energy, and cleaning up nuclear waste. ODOE encourages energy conservation through public information and incentive programs which provide loans or tax credits for implementing energy efficient technologies in residences, public sector buildings, and private sector business.

Other Funds revenues generated through fees and charges for services support the agency's energy incentive programs, facilities siting, and other specific projects. Policy development, planning, technical analysis and other agency support services are funded with an energy supplier assessment (ESA) levied annually on energy suppliers in Oregon. The largest source of Other Funds consists of the Small-Scale Energy Loan Program (SELP) revenues, including proceeds from the issuance of general obligation bonds, used to capitalize the program, loan principal and interest repayments, and investment earnings. Lottery Funds pay for debt service, and Federal Funds support nuclear safety programs and clean energy activities through the federal State Energy Program.

### CSL Summary and Issues

The 2021-23 current service level (CSL) total funds budget of \$66.6 million is a 40.5% decrease from the 2019-21 legislatively approved budget. This is largely the result of a reduction of \$33.8 million of Nonlimited Other Funds expenditure limitation from the SELP program. Phase-outs of one-time funding include \$2 million General Fund associated with the Solar Rebate Program established in HB 2618 (2019) and \$4.3 million General Fund for anticipated bond debt service payments for the SELP program due to a projected cash flow deficit.

## Policy Issues

Small-Scale Energy Loan Program (SELP) is designed to operate as an enterprise fund, using program fees and interest income earned on Article XI-J General Obligation Bond-funded energy loans to pay all program related-administrative expenses and bond debt service. However, due to more than \$28 million in loan losses sustained from loans originated in 2007-2008, the program is no longer forecasted to be self-sustaining. As the 2019-21 budget was being developed, the SELP Fund was projected to have a cash flow deficit that would require \$4,334,048 General Fund Debt Service allotment to cover the bond payment due April 1, 2021 and was estimated to have a potential shortfall of approximately \$8.5 million between 2021-2024 to meet debt service obligations. However, the deficit is dynamic, and changes based on actual program costs incurred and revenues received. Due to cost savings in the program and one of the largest borrowers prepaying their loan, the program ended up with enough cash flow to pay the April 2021 debt service payment without utilizing the General Fund. The timing of this cash flow, and the timing of the agency request budget development resulted in the Department not requesting General Fund Debt Service in 2021-23, however, the larger shortfall issue has not been entirely fixed, merely reduced and delayed.

At this time, the SELP program anticipates needed \$3.5 million in General Fund Debt Service to address payments due in April 2022 (\$2.5 million) and April 2023 (\$1 million). Under this current projection, there would then be one more debt service payment in April 2024 of \$1.5 million, for a total need of \$5 million, down from the 2019-21 projection of around \$8.5 million. The SELP program currently has 63 loans, around half with higher education institutions, two are large private loans but are performing well, and the remainder are mostly small loans with limited risk. Current projections also anticipate the SELP program will regain solvency and by 2035 have a balance of \$4.6 million with which the program could repay the General Fund. It should be noted that the 2017 and 2019 Legislature have not provided the program with additional bonding authority to continue the program beyond current capacity.

The energy supplier assessment (ESA) levied annually on energy suppliers in Oregon and is capped in statute at 0.375% of the energy suppliers gross operating revenues on energy sales in the state. ESA revenue is \$15.6 million in the 2021-23 CSL budget, equivalent to around 0.133% and is calculated by projecting the amount of revenue needed to fund the ODOE budget, after considering all other sources of revenue, and estimating the gross operating revenue of the energy suppliers that are subject to the ESA. The CSL amount is an 11.5% increase from the 2019-21 Legislatively Approved Budget, due primarily to increases to personal services costs across the agency. In 2017, the Department was sued by a group representing ten publicly owned utilities in Oregon over the ESA, asserting that it is a tax and that ODOE did not follow statutory procedures to provide a full accounting of the ESA revenue to energy resource suppliers. The court ruling found that while the ESA is a tax, it is not subject to constitutional requirements for bills that raise revenue, but also that the Department did not meet its statutory procedures to provide a full accounting. This ruling would require the Department to refund the 2016 ESA to the petitioners (estimated to be \$830,000); however, the Department appealed, and the Court of Appeals ruled in October 2020 that the 2016 trial court order is reversed. ODOE is not required to refund the ESA to the petitioners nor pay their attorney fees. Similar lawsuits for the 2017 and 2018 ESA were in abeyance awaiting the outcome of the appeal and the Department of Justice is now preparing a request for dismissals with prejudice in those cases. The Department has also learned that the ESA litigants do not intend to appeal the Court of Appeal's ruling regarding the 2016 suit.

### Other Significant Issues and Background

The Department included the following policy packages in its Agency Request Budget:

1. Package 201 - Continuation of the Solar Rebate Program -- \$3,586,343 General Fund -- this would provide \$3 million in funding for solar rebates, with 50% going to low- and moderate-income homeowners and 50% going to non-income qualified applicants. Would also fund three positions for two years (3.00 FTE) to administer the program.
2. Package 301 - Radioactive Waste Oversight -- \$80,092 General Fund -- this would provide the equivalent of 0.15 FTE of staff time that has been dedicated to monitoring and enforcing compliance with statutory and administrative rules around disposal of radioactive material in Oregon. This work is currently being paid for with Energy Supplier Assessment funds.
3. Package 401 -- Energy Siting Analyst Support -- \$488,630 Other Funds -- Request maintains two limited duration positions (2.00 FTE) to meet the increased workload associated with the review of applications and amendment requests in the Energy Facility Siting review process. The positions were first approved in 2019. The positions are funded by fees collected from developers and site certificate holders, as statute provides the Department's expenses for processing and evaluating an application for an energy project must be paid by the developer. No fee increase will be required to fund these positions.

In total funds, the Governor's Budget is 1.7% below CSL with reductions to standard inflation in services and supplies and the elimination of three vacant positions (2.77 FTE). The recommended budget includes the Energy Siting Analyst Support package (Package 401) but does not include either of the General Fund budget proposals.

### Key Performance Measures

A copy of the Department of Energy's Annual Performance Progress Report can be found on the LFO website:

[https://www.oregonlegislature.gov/lfo/APPR/APPR\\_DOE\\_2020-09-30.pdf](https://www.oregonlegislature.gov/lfo/APPR/APPR_DOE_2020-09-30.pdf)