

House Bill 3620

Sponsored by Representative RESCHKE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Repeals the public purpose charge. (Flesch Readability Score: 66.4).

Repeals the public purpose charge and public purpose expenditure standard for electric companies and Oregon Community Power.

Repeals the Housing and Community Services Department Electricity Public Purpose Charge Fund.

A BILL FOR AN ACT

Relating to the public purpose charge; creating new provisions; amending ORS 297.300, 317A.100, 456.587, 458.395, 469A.200, 469B.460, 469B.480, 470.050, 470.510, 470.515, 470.530, 470.550, 470.555, 470.560, 470.815, 757.053, 757.247, 757.365, 757.617, 757.649, 757.659, 757.698, 757.746, 757.747 and 757.872 and section 3, chapter 547, Oregon Laws 2021; and repealing ORS 757.612.

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

SECTION 1. ORS 757.612 is repealed.

SECTION 2. ORS 297.300 is amended to read:

297.300. The records related to any funds collected pursuant to ORS 757.054[,] **or** through natural gas tariffs [*or through public purpose charges pursuant to ORS 757.612*] and paid to a nongovernmental entity as described in ORS 757.746 shall be subject to audit by the Secretary of State.

SECTION 3. ORS 317A.100, as amended by section 26, chapter 75, Oregon Laws 2024, is amended to read:

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

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

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

(B) If received by a financial institution:

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

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

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

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

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.

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

(b) "Commercial activity" does not include:

(A) Interest income except:

(i) Interest on credit sales; or

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

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

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

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

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

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

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

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

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

(J) Proceeds received on the account of payments from insurance policies, including crop insurance policies, owned by the taxpayer, except those proceeds received for the loss of commercial activity;

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

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

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

(N) Tax refunds from any tax program, other tax benefit recoveries and reimbursements for the tax imposed under ORS 317A.100 to 317A.158 made by entities that are part of the same unitary group as provided under ORS 317A.106, and reimbursements made by entities that are not members

1 of a unitary group that are required to be made for economic parity among multiple owners of an
2 entity whose tax obligation under ORS 317A.100 to 317A.158 is required to be reported and paid
3 entirely by one owner, as provided in ORS 317A.106;

4 (O) Pension reversions;

5 (P) Contributions to capital;

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

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

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

18 (T) In the case of receipts from the sale of marijuana items, as defined in ORS 475C.009, by a
19 person holding a license issued under ORS 475C.005 to 475C.525, an amount equal to the federal and
20 state excise taxes paid by any person on or for such marijuana items under subtitle E of the Internal
21 Revenue Code or ORS 475C.670 to 475C.734 and any local retail taxes authorized under ORS
22 475C.453;

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

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

27 (W) Receipts realized by a vehicle dealer certified under ORS 822.020 or a person described in
28 ORS 320.400 (8)(a)(B) from the sale or other transfer of a motor vehicle, as defined in ORS 801.360,
29 to another vehicle dealer for the purpose of resale by the transferee vehicle dealer, but only if the
30 sale or other transfer was based upon the transferee's need to meet a specific customer's preference
31 for a motor vehicle or is an exchange of new vehicles between franchised motor vehicle dealerships;

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

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

41 (Z) In the case of amounts retained as commissions by a holder of a license under ORS chapter
42 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or col-
43 lected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to
44 be used as purse money;

45 (AA) Receipts of residential care facilities as defined in ORS 443.400 or in-home care agencies

1 as defined in ORS 443.305, to the extent that the receipts are derived from or received as compensation for providing services to a medical assistance or Medicare recipient;

3 (BB) Dividends received;

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

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

8 (EE) Receipts from the wholesale or retail sale of groceries, including receipts of a person that
9 owns groceries at the time of sale and compensation of any consignee engaged in effecting the sale
10 of groceries on behalf the owner of the groceries, but only to the extent that the compensation relates to grocery sales;

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

13 (GG) Moneys, including *[public purpose charge moneys collected under ORS 757.612 and]* moneys
14 collected to plan for and pursue cost-effective energy efficiency resources under ORS 757.054, that
15 are collected from customers, passed to a utility and approved by the Public Utility Commission and
16 that support energy conservation, renewable resource acquisition and low-income assistance programs;

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

20 (II) Surcharges collected under ORS 757.736;

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

24 (KK) Moneys collected or recovered, by entities listed in ORS 756.310, cable operators as defined in 47 U.S.C. 522(5), telecommunications carriers as defined in 47 U.S.C. 153(51) and providers of information services as defined in 47 U.S.C. 153(24), for fees payable under ORS 756.310, right-of-way fees, franchise fees, privilege taxes, federal taxes and local taxes;

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

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

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

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

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

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

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

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

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

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

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

(WW)(i) Cost paid by a dealer for items of precious metal.

(ii) As used in this subparagraph, “item of precious metal” means an item of gold, silver, platinum, rhodium or palladium that has been put through a process of smelting or refining and that is in a state or condition that its value depends on its contents and not its form.

(2) “Cost inputs” means:

(a) The cost of goods sold as calculated in arriving at federal taxable income under the Internal Revenue Code; or

(b) In the case of a taxpayer that is engaged in a farming operation, as defined in ORS 317A.102, and that does not report cost of goods sold for federal tax purposes, the taxpayer’s operating expenses excluding labor costs.

(3) “Doing business” means engaging in any activity, whether legal or illegal, that is conducted for, or results in, the receipt of commercial activity at any time during a calendar year.

(4) “Excluded person” means any of the following:

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

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

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

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

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

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

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

(h) Foreign or alien insurance companies, but only with respect to the underwriting profit derived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and 731.828 or if an insurance company is subject to the retaliatory tax under ORS 731.854 and 731.859.

(i) Governmental entities.

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

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

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

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

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

(b) In the case of a holding company required to file both consolidated and parent-only financial

statements, "FR Y-9" means the consolidated financial statements that the holding company is required to file.

(7) "Governmental entity" means:

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

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

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

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

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

(f) A federally recognized Indian tribe.

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

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

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

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

(11) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise, refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect on December 31, 2023.

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

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

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

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

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

(A) Electricity; or

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

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

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

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

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

(c) Consumption by the purchaser of the property in the production for sale of a new article of

1 tangible personal property.

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

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

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

8 (18) "Tax year" means, except as otherwise provided in ORS 317A.103, a taxpayer's annual ac-
9 counting period used for federal income tax purposes under section 441 of the Internal Revenue
10 Code.

11 (19)(a) "Unitary business" means a business enterprise in which there exists directly or indi-
12 rectly between the members or parts of the enterprise a sharing or exchange of value as demon-
13 strated by:

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

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

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

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

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

19 or

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

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

24 (21) "Wholesaler" means a person primarily doing business by merchant distribution of tangible
25 personal property to retailers or to other wholesalers.

26 **SECTION 4.** ORS 456.587 is amended to read:

27 456.587. [(1) *The Housing and Community Services Department Electricity Public Purpose Charge*
28 *Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned*
29 *by the Housing and Community Services Department Electricity Public Purpose Charge Fund shall be*
30 *credited to the fund. Moneys in the fund are continuously appropriated to the Housing and Community*
31 *Services Department to be used for purposes specified in ORS 757.612 (3)(b)(D).]*

32 [(2)] The Housing and Community Services Department Low-Income Electric Bill Payment As-
33 sistance Fund is established in the State Treasury, separate and distinct from the General Fund.
34 Interest earned by the Housing and Community Services Department Low-Income Electric Bill Pay-
35 ment Assistance Fund shall be credited to the fund. Moneys in the fund are continuously appropri-
36 ated to the Housing and Community Services Department for purposes described in ORS 757.698.

37 **SECTION 5. The Housing and Community Services Department Electricity Public Pur-**
38 **pose Charge Fund, established under ORS 456.587, is abolished. Any moneys remaining in the**
39 **fund on the effective date of this 2025 Act shall be transferred to the General Fund.**

40 **SECTION 6.** ORS 458.395 is amended to read:

41 458.395. The Housing and Community Services Department shall make available on the
42 department's website:

43 (1) A list of dates and counties in which there exists an extreme heat event for a forecast zone
44 in this state as defined in ORS 90.355. Dates published on the website must remain on the website
45 for at least one year.

(2) Information regarding relevant programs and services available to landlords to provide adequate cooling under ORS 90.320 (1)(m) or 90.730 (3)(d), including:

(a) Programs administered by the department;

(b) Information provided by the Oregon Health Authority regarding programs administered by the authority, including the list of eligible distribution entities compiled under ORS 431A.430 (5);

(c) Information provided by the State Department of Energy regarding programs administered by the department; **and**

[(d) Programs administered by the nongovernmental entity that administers public purpose charge moneys under ORS 757.612 (3)(d); and]

[(e)] (d) Federal programs, rebates or incentives, including those administered by the Bonneville Power Administration.

SECTION 7. ORS 469A.200 is amended to read:

469A.200. If an electric company or electricity service supplier that is subject to a renewable portfolio standard under ORS 469A.005 to 469A.210 fails to comply with the standard in the manner provided by ORS 469A.005 to 469A.210, the Public Utility Commission may impose a penalty against the company or supplier in an amount determined by the commission. A penalty under this section is in addition to any alternative compliance payment required or elected under ORS 469A.180. *[Moneys paid for penalties under this section shall be transmitted by the commission to the nongovernmental entity receiving moneys under ORS 757.612 (3)(d) and may be used only for the purposes specified in ORS 757.612 (1).]*

SECTION 8. ORS 469B.460 is amended to read:

469B.460. (1) As used in this section:

(a) “Bulk fuel” means liquid petroleum, propane, coal, wood, wood-based products or other fuel delivered and stored until used on-site by the final consumer to produce energy.

(b) “Climate zone” means a heating or cooling climate zone assigned to a county by the Bonneville Power Administration.

(c) “Electric resistance heat” means heat produced by passing an electric current through a material that has high resistance, such as used in an electric baseboard, wall or space heater.

(d) “Electric utility” has the meaning given that term in ORS 757.600.

(e) “Eligible entity” means a:

(A) Local government as defined in ORS 174.116;

(B) Local housing authority;

(C) Nonprofit organization;

(D) Federally recognized Indian tribe in Oregon;

(E) Coordinated care organization as defined in ORS 414.025;

(F) Community action agency as described in ORS 458.505;

(G) Manufactured dwelling park nonprofit cooperative as defined in ORS 62.803; or

(H) An electric utility.

(f) “Energy burden” means the percentage of gross household income spent on energy costs.

(g) “Environmental justice communities” has the meaning given that term in ORS 469A.400.

(h) “Heat pump” means an air-source or ground-source heat pump with an energy efficiency rating set by the State Department of Energy under subsection (5) of this section or a higher efficiency rating.

(i) “Region” means an economic development district in Oregon, designated by the Economic Development Administration of the United States Department of Commerce, for which a regional

1 solutions center has been established under ORS 284.754.

2 (2) The Heat Pump Deployment Program is established within the State Department of Energy.
 3 The purpose of the program is to award grants to one eligible entity for each region and federally
 4 recognized Indian tribe in Oregon to provide financial assistance, including loans, grants, rebates
 5 or incentives, for the purchase and installation of heat pumps and related upgrades to individuals
 6 who reside within that region or who are members of that tribe.

7 (3)(a) To be eligible to receive a grant from the Heat Pump Deployment Program, an eligible
 8 entity must establish that it:

9 (A) Serves or represents:

10 (i) An environmental justice community or communities within a region; or

11 (ii) Members of a federally recognized Indian tribe in Oregon; and

12 (B) Has the capacity to administer grant funds received under this section.

13 (b) An eligible entity applying for a grant may partner with other eligible entities, but the entity
 14 that is awarded the grant shall take a lead role in administering grant funds and providing financial
 15 assistance.

16 (c) An eligible entity that serves or represents a community that is located within more than
 17 one region may apply for a grant only for the region within which the greatest percentage of the
 18 individuals of that community reside.

19 (d) An eligible entity that serves a specific geographical area may propose, in consultation with
 20 any electric utility that serves the area, that the department use alternative boundaries to define
 21 a region. The department may approve the use of alternative boundaries to define a region provided
 22 that a minimum percentage, as determined by the department, of the eligible entity's specific ge-
 23 ographical area is within the alternative boundaries of the region.

24 (e) If an electric utility is awarded a grant from the Heat Pump Deployment Program:

25 (A) The electric utility may provide financial assistance from grant funds only to individuals
 26 who reside within the electric utility's service area and within the region for which the electric
 27 utility is awarded a grant.

28 (B) The electric utility shall partner with one or more other eligible entities to provide financial
 29 assistance from grant funds to individuals who reside outside the electric utility's service area and
 30 within the region for which the electric utility is awarded a grant.

31 (4) An eligible entity that is awarded a grant from the Heat Pump Deployment Program shall:

32 (a) Use the grant funds to cover up to:

33 (A) One hundred percent of the purchase and installation costs of a heat pump.

34 (B) A percentage, as determined by the department, of the costs for related upgrades that sup-
 35 port or enable the use of a heat pump, including:

36 (i) A new electrical panel or other upgrades to the electrical system of a home or building.

37 (ii) Weatherization or other structural repairs to reduce home or building heat and cooling loss.

38 (iii) Upgrades to improve the airflow of a home or building.

39 (b) Prioritize the provision of financial assistance to:

40 (A) Environmental justice communities.

41 (B) Individuals who rely on bulk fuels or electric resistance heating.

42 (C) Individuals who reside in a home or structure that does not have a functioning heating or
 43 cooling system.

44 (c) Enter into a performance agreement with the department as described in subsection (8) of
 45 this section.

(5) The department shall:

(a) Award grants using available funds in the Heat Pump Deployment Fund established under ORS 469B.466.

(b) In awarding grants, give preference to eligible entities with:

(A) Experience in administering state grant programs or programs similar to the Heat Pump Deployment Program.

(B) Experience with community program development within a region or with members of a tribe.

(C) Connections to communities within a region or with members of a tribe.

(c) Develop criteria for allocating the amount of each grant based on the energy burden of residences within the region or of members of the tribe and the climate zones that make up the counties of that region or of tribal lands.

(d) Permit a review of awarded grant funds by members of communities who may benefit from the Heat Pump Deployment Program.

(e) In consultation with electric utilities[,] **and** the Bonneville Power Administration [*and the nongovernmental entity that administers public purpose charge moneys collected under ORS 757.612 (3)(d)*], set the minimum energy efficiency rating that a heat pump must have to be eligible for grant funds. The minimum energy efficiency rating for a heat pump set by the department must be equal to or greater than federal energy efficiency rating standards for heat pumps.

(6) The department may not use moneys collected through the energy resource supplier assessment required under ORS 469.421 (8) to fund grants awarded under the Heat Pump Deployment Program.

(7) The department may:

(a) Establish a maximum amount of grant funds payable toward the purchase and installation of a heat pump and related upgrades.

(b) Permit the use of loans, grants, rebates or incentives offered by an electric utility or other programs toward any costs of the purchase and installation of a heat pump and related upgrades not covered by the Heat Pump Deployment Program.

(c) Provide information to individuals receiving financial assistance from the Heat Pump Deployment Program about other loans, grants, rebates or incentives that may be offered by an electric utility or other programs.

(d) Develop criteria for how specific loans, grants, rebates or incentives offered by an electric utility or other programs may be used toward the costs of the purchase or installation of a heat pump and related upgrades.

(e) Establish incentives to encourage the purchase and installation of heat pumps and related upgrades that have higher efficiency ratings.

(f) Establish incentives for the purchase and installation of a heating or cooling device that has an efficiency rating similar to or higher than that of a heat pump and that provides additional benefits such as improving indoor air quality or lowering an individual's energy burden.

(g) Develop program procedures and practices that align with the reporting and other requirements of loans, grants, rebates or incentives offered by an electric utility or other programs.

(h) Require, by rule, that eligible entities notify electric utilities of a heat pump installation and whether grant funds may be used for necessary electric distribution system upgrades associated with the installation of the heat pump.

(8) Before receiving a grant under this section, an eligible entity shall enter into a performance

1 agreement with the department that:

2 (a) Indicates the purposes for which the grant funds may be used;

3 (b) Prohibits the eligible entity from using more than 15 percent of awarded grant funds for
4 administrative expenses and marketing costs;

5 (c) Includes the repayment provisions set forth in subsection (9) of this section;

6 (d) Permits the department to conduct audits and investigations of the eligible entity regarding
7 the use of grant funds; and

8 (e) Requires the eligible entity to provide reports as required by subsection (10) of this section.

9 (9) An eligible entity must repay to the department, in whole or in part, grant funds received
10 under this section to the extent that:

11 (a) The eligible entity does not use the grant funds in accordance with the provisions of the
12 performance agreement executed between the department and the eligible entity under subsection
13 (8) of this section; or

14 (b) The Director of the State Department of Energy determines that the eligible entity must
15 repay all or part of the grant funds on grounds of misappropriation, fraud or similar reasons after
16 auditing or investigating the eligible entity's operations and conducting a contested case hearing
17 under ORS 183.413 to 183.470.

18 (10) Each eligible entity that receives a grant under this section shall report to the department
19 each year concerning the status and use of grant funds for the period of July 1 to June 30. The
20 report must be submitted on a schedule determined by the department. The report may not disclose
21 the personal information of the recipients of financial assistance under the program. The report must
22 include:

23 (a) A detailed description of the eligible entity's use of grant funds;

24 (b) A list of each loan, grant or other financial assistance that the eligible entity has provided
25 and, where applicable, a full accounting of the repayment status of the loans;

26 (c) The nature and amounts of the administrative expenses and marketing costs the eligible en-
27 tity has incurred in providing loans, grants and other financial assistance under the program; and

28 (d) Any other information required by the department.

29 (11) The department shall adopt rules to carry out the provisions of this section. The rules shall
30 be developed in consultation with:

31 (a) The Bureau of Labor and Industries on issues related to the workforce.

32 (b) The Building Codes Division of the Department of Consumer and Business Services on issues
33 related to building codes and commissioning.

34 (c) The Housing and Community Services Department to ensure the Heat Pump Deployment
35 Program complements any existing programs or services.

36 (d) The Department of Environmental Quality on issues of air quality related to bulk fuels and
37 to ensure the Heat Pump Deployment Program complements any existing programs or services.

38 (e) The Oregon Health Authority on any health impacts and health impact data related to the
39 Heat Pump Deployment Program and to ensure the program complements any existing programs or
40 services.

41 (f) Electric utilities and utility program administrators on any impacts the Heat Pump Deploy-
42 ment Program may have on utility systems or services and to ensure the program complements any
43 existing programs, incentives or services.

44 (g) Nonprofit organizations, housing providers, heat pump technicians and other stakeholders
45 as appropriate.

SECTION 9. ORS 469B.480 is amended to read:

469B.480. (1) The State Department of Energy shall provide a grant to *[the]* a nongovernmental entity *[that administers public purpose charge moneys under ORS 757.612 (3)(d)]* to enable the nongovernmental entity to assist landlords in creating or operating, whenever there is an extreme heat event for the forecast zone of the premises as described in ORS 90.355, one or more private community cooling spaces available to the landlord's tenants during the extreme heat event that are on or near the premises and that maintain a temperature of not higher than 80 degrees Fahrenheit.

(2) Assistance provided under this section may include:

(a) Grants to landlords to create or operate community cooling spaces that will accommodate at least five individuals.

(b) Information to landlords regarding:

(A) Lists of providers and installers of suitable cooling devices;

(B) Private and government programs that may be used to create or operate community cooling spaces; and

(C) Best practices and model technical specifications for installing and operating various temporary and permanent community cooling spaces.

(c) Promoting the services relating to community cooling spaces under this section that are provided by the nongovernmental entity.

(3) The nongovernmental entity receiving a grant under this section shall maintain separate accounting of the expenditures of the grant funds and shall report the accounting to the Public Utility Commission and the independent auditor described in ORS 757.746 (1)(d). The nongovernmental entity may not utilize moneys received under ORS 757.054 (4) *[or 757.612 (3)(d)]* for grant purposes under this section.

SECTION 10. ORS 470.050 is amended to read:

470.050. As used in this chapter, unless the context requires otherwise:

(1) "Alternative fuel project" means:

(a) Equipment, including vehicles that are not used primarily for personal, family or household purposes, that is modified or acquired directly from a factory and that:

(A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent denatured alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other fuel approved by the Director of the State Department of Energy; and

(B) Produces lower exhaust emissions or is more energy efficient than equivalent equipment fueled by gasoline or diesel; and

(b) A facility, including a fueling station, or equipment necessary to produce alternative fuel or operate equipment that uses an alternative fuel.

(2) "Applicant" means an applicant for a loan to construct a small scale local energy project.

(3) "Base efficiency package" means the package of energy efficiency upgrades or renewable energy projects for a property that, when energy savings, project repayment costs, tax or other incentives, loan offset grants and other relevant economic factors are considered, is estimated to not increase the utility bill of the customer over the loan repayment term.

(4) "Committee" means the Small Scale Local Energy Project Advisory Committee created under ORS 470.070.

(5) "Cooperative" means a cooperative corporation organized under ORS chapter 62.

(6) "Director" means the Director of the State Department of Energy appointed under ORS 469.040.

(7) “Eligible federal agency” means a federal agency or public corporation created by the federal government that proposes to use a loan for a small scale local energy project. “Eligible federal agency” does not include a federal agency or public corporation created by the federal government that proposes to use a loan for a small scale local energy project to generate electricity for sale.

(8) “Eligible state agency” means a state officer, board, commission, department, institution, branch or agency of the state whose costs are paid wholly or in part from funds held in the State Treasury.

(9) “Energy efficiency and sustainable technology loan” means a loan for a small scale local energy project that is repayable by means of:

(a) A charge included with the participant’s utility customer account billing; or

(b) An alternative repayment method identified by the department and the borrower and specified in the loan agreement.

(10) “Energy Project Bond Loan Fund” means the fund established under ORS 470.580.

(11) “Energy Project Supplemental Fund” means the fund established under ORS 470.570.

(12) “Energy Revenue Bond Repayment Fund” means the fund established under ORS 470.585.

(13) “Energy savings projection” means an examination of the energy performance and site characteristics of a property that, at a minimum, identifies:

(a) A base efficiency package; and

(b) Any additional optional measures that a customer is able to repay and that the sustainable energy project manager believes to be feasible for the site.

(14) “Jobs, Energy and Schools Fund” means the fund established under ORS 470.575.

(15) “Loan” includes the purchase or other acquisition of evidence of indebtedness and money used for the purchase or other acquisition of evidence of indebtedness.

(16) “Loan contract” means the evidence of indebtedness and all instruments used in the purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or municipal corporations that are tax exempt entities, a loan contract may include a lease purchase agreement with respect to personal property.

(17) “Loan offset grant” means moneys from the Jobs, Energy and Schools Fund that are used to help offset the initial project costs or loan payments for energy efficiency, renewable energy and energy conservation projects.

(18) “Loan repayment charge” means an amount charged to a utility customer account through on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable technology loan.

(19) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any Indian tribe or authorized Indian tribal organization or any combination of two or more of these tribes or organizations acting jointly in connection with a small scale local energy project.

(20) “On-bill financing” means a mechanism for collecting the repayment of an energy efficiency and sustainable technology loan through a utility customer account billing system.

(21) “Optional package” means measures for promoting energy efficiency or the use of renewable energy:

(a) That are in addition to the measures described in the customer’s base efficiency package;

(b) For which a customer has the ability to repay; and

(c) That the sustainable energy project manager believes to be feasible for the site.

(22) “Oregon business” means a sole proprietorship, partnership, company, cooperative, corporation or other form of business entity that is organized or authorized to do business under Oregon

1 law for profit.

2 (23) "Primary contractor" means a contractor that:

3 (a) Has entered into a contract with an owner of property for which a proposed small scale local
4 energy project will be located;

5 (b) Is responsible for the completion of the small scale local energy project;

6 (c) Undertakes to complete the small scale local energy project; and

7 (d) Is responsible for any subcontractors performing work on the small scale local energy
8 project.

9 [(24) "*Public Purpose Fund Administrator*" means the entity designated by the Public Utility
10 Commission to administer moneys collected by a company through the public purpose charge described
11 under ORS 757.612.]

12 [(25)] (24) "Recycling project" means a facility or equipment that converts waste into a new and
13 usable product.

14 [(26)] (25) "Small business" means:

15 (a) An Oregon business that is:

16 (A) A retail or service business employing 50 or fewer persons at the time the loan is made; or

17 (B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan
18 is made; or

19 (b) An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-
20 ration or other form of business entity for which the total number of employees for both the sub-
21 sidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other
22 form of business entity at the time the loan is made is:

23 (A) Fifty or fewer persons if the subsidiary is a retail or service business; and

24 (B) Two hundred or fewer if the subsidiary is an industrial or manufacturing business.

25 [(27)] (26) "Small scale local energy program loan" means a loan for a small scale local energy
26 project other than an energy efficiency and sustainable technology loan.

27 [(28)] (27) "Small scale local energy project" means any of the following:

28 (a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or
29 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-
30 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to
31 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-
32 gional energy need in this state.

33 (b) A system, mechanism or series of mechanisms located primarily in Oregon or providing
34 substantial benefits to Oregon that directly or indirectly conserves energy or enables the conserva-
35 tion of energy by the applicant or another person, including energy used in transportation.

36 (c) A recycling project.

37 (d) An alternative fuel project.

38 (e) An improvement that increases the production or efficiency, or extends the operating life,
39 of a system, mechanism, series of mechanisms or project otherwise described in this subsection, in-
40 cluding but not limited to restarting a dormant project.

41 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
42 that directly or indirectly reduces the amount of energy needed for the construction and operation
43 of the facility and that meets the sustainable building practices standard established by the State
44 Department of Energy by rule. For purposes of this paragraph, "system, mechanism or series of
45 mechanisms" includes related and integrated upgrades to attain compliance with standards set in

the State of Oregon Structural Specialty Code and Fire and Life Safety Code, and seismic safety upgrades.

(g) A project described in paragraphs (a) to (f) of this subsection, whether or not the existing project was originally financed under this chapter, together with any refinancing necessary to remove prior liens or encumbrances against the existing project.

(h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or produces energy by generation or by processing or collection of a renewable resource.

[(29)] **(28)** “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the fund created under ORS 470.300.

[(30)] **(29)** “Small Scale Local Energy Project Loan Fund” means the loan fund created by Article XI-J of the Oregon Constitution and appropriated to the State Department of Energy under ORS 470.130.

[(31)] **(30)** “Sustainable energy project manager” means the organization responsible for promoting the energy efficiency and sustainable technology loan program or the clean energy deployment program and related incentives for energy efficiency and renewable energy at the neighborhood and community level.

[(32)] **(31)** “Utility service territory” means the allocated territory in which a utility subject to this chapter provides a utility service. For the purposes of this subsection, “allocated territory” and “utility service” have the meanings given those terms in ORS 758.400.

SECTION 11. ORS 470.510 is amended to read:

470.510. (1) Except as provided in subsection (3) of this section, the State Department of Energy may enter into contracts for the issuance of energy efficiency and sustainable technology loans. Except as provided in ORS 470.700, the department shall finance the loans using moneys from the Small Scale Local Energy Project Loan Fund, the Energy Project Supplemental Fund or the Energy Project Bond Loan Fund, or from a combination of those funds.

(2) The sustainable energy project manager may enter into agreements with trade associations and other public and private entities for the promotion or marketing of the energy efficiency and sustainable technology loan program.

(3) The department must obtain the consent of the utility before operating an energy efficiency and sustainable technology loan program within the service territory of:

(a) An investor-owned electric utility that serves fewer than 20,000 customers; or

(b) An investor-owned gas utility that is actively administering an energy conservation program established[.]

[(A)] on or before January 1, 2009[; and]

[(B)] *Without assistance from a nongovernmental entity that receives public purpose charge moneys under ORS 757.612*].

SECTION 12. ORS 470.515 is amended to read:

470.515. The Public Utility Commission may adopt rules for carrying out the duties, functions and powers of the commission [*and the Public Purpose Fund Administrator*] under ORS 470.500 to 470.710.

SECTION 13. ORS 470.530 is amended to read:

470.530. (1) Except as provided in subsection (5) of this section, the Director of the State Department of Energy may establish qualifications for sustainable energy project managers and may exercise oversight to ensure compliance with those qualifications. A sustainable energy project manager shall provide the promotion, technical and financial support and verifications necessary to

1 administer an energy efficiency and sustainable technology loan.

2 (2) A sustainable energy project manager may administer an energy efficiency and sustainable
3 technology loan only within a utility service territory of an investor-owned or consumer-owned
4 utility that provides electricity or gas services.

5 (3) A sustainable energy project manager shall serve the utility service territory for which the
6 sustainable energy project manager has been selected by the director. The sustainable energy
7 project manager shall provide loan program information and technical and financial information to
8 promote energy efficiency and use of renewable energy at the neighborhood and community levels.
9 The sustainable energy project manager shall be responsible for small scale local energy project
10 verification and for monitoring program effectiveness for energy efficiency and sustainable technol-
11 ogy loans and small scale local energy program loans. The sustainable energy project manager may
12 administer the energy efficiency and sustainable technology loan program within the utility service
13 territory.

14 (4) A city, county, metropolitan service district or other local government entity, or a nonprofit,
15 for-profit, tribal or state entity, may be a sustainable energy project manager if the entity meets the
16 qualifications established by the director under this section and is approved by the director to pro-
17 vide promotion, outreach and customer support related to the energy efficiency and sustainable
18 technology loan program within a utility service territory. [*The Public Purpose Fund Administrator*
19 *is an ex officio sustainable energy project manager. The Public Purpose Fund Administrator shall act*
20 *as the sustainable energy project manager in any utility service territory that is not served by another*
21 *sustainable energy project manager.*]

22 (5) The director shall establish a sustainable energy project manager certification program.
23 However, [*the Public Purpose Fund Administrator or*] a consumer-owned utility is not required to
24 obtain a sustainable energy project manager certificate[*and the Public Purpose Fund Administrator*
25 *is not subject to any qualifications established by the director for a sustainable energy project*
26 *manager*].

27 **SECTION 14.** ORS 470.550 is amended to read:

28 470.550. (1) Unless the sustainable energy project manager is [*the Public Purpose Fund Admin-*
29 *istrator or*] a consumer-owned utility, the certification of a sustainable energy project manager shall
30 be for a five-year term. The Director of the State Department of Energy shall issue the sustainable
31 energy project manager a certification approval letter that states any conditions applicable to the
32 certification.

33 (2) The director may terminate the certification of a sustainable energy project manager for:

34 (a) Failure to adequately implement an applicable plan for implementing the energy efficiency
35 and sustainable technology loan program;

36 (b) Noncompliance with the regulatory or statutory requirements of the energy efficiency and
37 sustainable technology loan program;

38 (c) Failure to meet any sustainable energy project manager criteria established by the director;

39 or

40 (d) Failure to perform other certification conditions.

41 **SECTION 15.** ORS 470.555 is amended to read:

42 470.555. [*(1) The Public Purpose Fund Administrator shall be the sustainable energy project*
43 *manager for investor-owned electric utilities. The Public Purpose Fund Administrator shall inform the*
44 *Public Utility Commission and the State Department of Energy of the activities of the administrator*
45 *by filing a yearly action plan and an end-of-year report with the commission and the department.*]

1 [(2)] (1) An investor-owned **electric utility or** gas utility may act as a sustainable energy
 2 project manager for the utility service territory serviced by the utility[*or may contract with the*
 3 *Public Purpose Fund Administrator to act as the sustainable energy project manager on behalf of the*
 4 *utility*].

5 [(3)] (2) A consumer-owned utility shall be the sustainable energy project manager for the utility
 6 service territory serviced by the utility if the utility agrees to promote energy efficiency and
 7 sustainable technology loans as part of an energy efficiency or renewable energy program offered
 8 by the utility. A consumer-owned utility may conduct energy efficiency and renewable energy pro-
 9 grams within the utility service territory of the utility regardless of whether the utility service
 10 territory is served by an energy efficiency and sustainable technology loan program. A consumer-
 11 owned utility may decline to participate in the energy efficiency and sustainable technology loan
 12 program.

13 [(4)] (3) If a customer is served by both a gas utility and an electric utility that have energy
 14 efficiency and sustainable technology loan programs, the utility that supplies the customer's primary
 15 source of heat for the property shall supply loan program services for that customer.

16 [(5)] (4) The existence of an energy efficiency and sustainable technology loan program, or the
 17 appointment of a sustainable energy project manager, in a utility service territory does not prevent
 18 a consumer-owned utility from conducting an energy efficiency or renewable energy program offered
 19 by the utility. If the consumer-owned utility declines to serve as a sustainable energy project man-
 20 ager for the utility service territory, the utility may:

21 (a) Continue with existing utility services and policies; or

22 (b) Work with the Director of the State Department of Energy to solicit and select a qualified
 23 entity to serve as the sustainable energy project manager as described in ORS 470.535 and 470.540.

24 [(6)] (5) Subject to approval by the director, a sustainable energy project manager may contract
 25 with a qualified third party to assist the sustainable energy project manager in serving a utility
 26 service territory. If a utility service territory is served by a sustainable energy project manager, the
 27 appointment of additional sustainable energy project managers may be made only by entering into
 28 a subcontract approved by the existing sustainable energy project manager. If the third party is
 29 acting as a financier, the third party is not required to comply with laws regulating utilities based
 30 on the actions of the third party as a financier. The sustainable energy project manager may enter
 31 into agreements with trade associations and other public and private entities for the promotion or
 32 marketing of the energy efficiency and sustainable technology loan program.

33 [(7)] (6) The [*Public Purpose Fund Administrator and*] sustainable energy project managers shall
 34 cooperate with, and coordinate their outreach and promotional efforts with, local utilities and other
 35 stakeholders to promote energy efficiency and renewable energy and to use the customer contacts,
 36 resources and capacity of the utilities to engage and inform utility customers about the energy ef-
 37 ficiency and sustainable technology loan program. The [*Public Purpose Fund Administrator and*]
 38 sustainable energy project managers shall coordinate with gas utilities regarding any changes to a
 39 gas pipeline and with electric utilities regarding electric charging or any changes to electrical
 40 connections that are external to a structure. The [*Public Purpose Fund Administrator and*]
 41 sustainable energy project managers shall coordinate with a gas utility regarding the installation
 42 of appliances used for space heating, water heating and compressed natural gas refueling.

43 **SECTION 16.** ORS 470.560 is amended to read:

44 470.560. (1) The State Department of Energy shall adopt rules establishing certification stan-
 45 dards for primary contractors participating in the construction of small scale local energy projects

1 financed through the energy efficiency and sustainable technology loan program. The department
 2 shall design the standards to ensure that the project work performed by a primary contractor
 3 holding the certification and all the primary contractor's subcontractors is of high quality and will
 4 result in a high degree of customer satisfaction.

5 (2) The certification standards established by the department must, at a minimum, require that
 6 the primary contractor:

7 (a) Prove that the primary contractor and the primary contractor's subcontractors have suffi-
 8 cient skill to successfully install energy efficiency, renewable energy or weatherization projects.

9 (b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Industries under
 10 ORS 279C.860 as ineligible to receive a contract or subcontract for public works.

11 (c) Be an equal opportunity employer or small business or be a disadvantaged business enter-
 12 prise, a minority-owned business, a woman-owned business, a veteran-owned business or an emerging
 13 small business, as those terms are defined in ORS 200.005.

14 (d) Demonstrate a history of compliance with the rules and other requirements of the Con-
 15 struction Contractors Board and of the Workers' Compensation Division and the Occupational
 16 Safety and Health Division of the Department of Consumer and Business Services.

17 (e) Employ at least 80 percent of employees used for energy efficiency and sustainable technol-
 18 ogy loan program projects from the local work force, if a sufficient supply of skilled workers is
 19 available locally.

20 (f) Demonstrate a history of compliance with federal and state wage and hour laws.

21 (g) Pay wages to employees used for energy efficiency and sustainable technology loan program
 22 projects at a rate equal to at least 180 percent of the state minimum wage.

23 *[(3) The State Department of Energy shall consult with the Public Purpose Fund Administrator*
 24 *and utilities when developing certification standards for primary contractors.]*

25 *[(4)]* (3) The Construction Contractors Board may issue a qualifying primary contractor a certi-
 26 fication authorizing the primary contractor to participate in the construction of small scale local
 27 energy projects financed through the energy efficiency and sustainable technology loan program. A
 28 primary contractor seeking certification shall apply to the board as provided under ORS 701.119.

29 *[(5)]* (4) The State Department of Energy shall identify certified primary contractors that provide
 30 employees with health insurance benefits as preferred service providers and may take other actions
 31 as practicable to encourage certified primary contractors to provide employees with health insur-
 32 ance benefits.

33 **SECTION 17.** ORS 470.815 is amended to read:

34 470.815. (1) School districts that participate in the clean energy deployment program established
 35 in ORS 470.810 may finance projects to:

36 (a) Weatherize, upgrade and retrofit kindergarten through grade 12 public schools;

37 (b) Retrofit school bus fleets to operate on compressed natural gas or other alternative fuels
 38 such as propane or to operate with high-efficiency types of engines such as hybrid electric engines;
 39 or

40 (c) Replace school bus fleets with school buses that operate on compressed natural gas or other
 41 alternative fuels such as propane or that operate with high-efficiency types of engines such as hybrid
 42 electric engines.

43 (2) The projects described in subsection (1) of this section shall be designed to improve energy
 44 efficiency, decrease fuel costs, increase use of alternative fuels and decrease emissions of air con-
 45 taminants.

(3) School districts may finance the projects described in subsection (1) of this section by:

(a) Paying directly for the projects;

(b) Receiving lower interest loans from the Clean Energy Deployment Fund or the Small Scale Local Energy Project Loan Fund, supported by:

(A) Grant moneys from the Jobs, Energy and Schools Fund;

[(B) *Public purpose charges directed to a school district in areas served by investor-owned utilities under ORS 757.612;*]

[(C)] (B) Qualified Energy Conservation Bonds issued under the Energy Improvement and Extension Act of 2008 or other federal loan programs; or

[(D)] (C) Revenues generated by the savings in energy costs resulting from the energy efficiency improvements;

(c) Issuing general obligation bonds, subject to the bond election requirements under ORS 328.210; or

(d) Using any other source of moneys.

SECTION 18. ORS 757.053 is amended to read:

757.053. Notwithstanding the specific requirements imposed on an electric company by ORS 469.631 to 469.645 and 469.860 to 469.900, an electric company meets the requirements of ORS 469.631 to 469.645 and 469.860 to 469.900 if the electric company[:]

[(1) *Meets the public purpose expenditure standard established under ORS 757.612; and*]

[(2)] plans for and pursues cost-effective energy efficiency and demand response resources as required under ORS 757.054.

SECTION 19. Section 3, chapter 547, Oregon Laws 2021, is amended to read:

Sec. 3. (1) As used in this section:

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

(b) "Site" means:

(A) Buildings and related structures that are interconnected by facilities owned by a single retail electricity consumer and that are served through a single electric meter;

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

(C) For any single retail electricity consumer, each account of the retail electricity consumer that has exceeded 4,000 kilowatts at least twice within the most recent 13-month period and for which the retail electricity consumer maintains a load factor of 80 percent or greater, if the combined electricity usage across all of the accounts described in this subparagraph, in the aggregate, equals 100 average megawatts or more in a calendar year.

(2) For the period beginning on *[the effective date of this 2021 Act]* **September 25, 2021**, and ending December 31, 2025, a retail electricity consumer that uses more than one average megawatt of electricity at any site in the prior year may not be charged an amount in rates pursuant to ORS 757.054 (4) that exceeds 1.7 percent of the total revenue received from the sale of electricity services to the site from any source.

(3) For the period beginning January 1, 2026, and ending December 31, 2035, the *[combined]* an-

1 nual amount charged under ORS 757.054 [and 757.612] to a retail electricity consumer that uses
 2 more than one average megawatt and less than 10 average megawatts of electricity at any site in
 3 the prior year may not exceed \$250,000.

4 (4)(a) For the period beginning January 1, 2026, and ending December 31, 2030, the [combined]
 5 annual amount charged under ORS 757.054 [and 757.612] to a retail electricity consumer that uses
 6 more than 10 average megawatts of electricity at any site in the prior year may not exceed \$4
 7 million.

8 (b) For the period beginning January 1, 2031, and ending December 31, 2035, the [combined] an-
 9 nual amount charged under ORS 757.054 [and 757.612] to a retail electricity consumer that uses
 10 more than 10 average megawatts of electricity at any site in the prior year may not exceed \$4.5
 11 million.

12 **SECTION 20.** ORS 757.247 is amended to read:

13 757.247. (1) The Public Utility Commission may authorize a public utility, upon application of the
 14 utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of
 15 energy resource measures provided to an individual property owner or customer pursuant to an
 16 agreement entered into between the individual property owner or customer and the public utility.
 17 Energy resource measures provided under this section may include:

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

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

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

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

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

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

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

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

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

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

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

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

45 (5) A public utility may use moneys obtained through a rate established under ORS 757.603 (3)(a)

1 to provide a renewable energy generation facility to a property owner or customer under this sec-
2 tion. A public utility may not charge interest to a property owner or customer for a renewable en-
3 ergy generation facility acquired with moneys obtained through a rate established under ORS
4 757.603 (3)(a).

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

7 **SECTION 21.** ORS 757.365 is amended to read:

8 757.365. (1) The Public Utility Commission shall establish a pilot program for each electric
9 company to demonstrate the use and effectiveness of volumetric incentive rates and payments for
10 electricity or for the nonenergy attributes of electricity, or both, from solar photovoltaic energy
11 systems that are permanently installed in this state by retail electricity consumers and that first
12 become operational after the program begins. The cumulative nameplate capacity of the qualifying
13 systems enrolled in all of the pilot programs may not exceed 27.5 megawatts of alternating current.
14 Qualifying systems enrolled in the pilot program may not have nameplate generating capacity
15 greater than 500 kilowatts.

16 (2) The commission by rule shall adopt requirements for the pilot programs described in sub-
17 section (1) of this section. Each electric company shall file for commission approval tariff schedules
18 for the pilot programs that conform to the requirements.

19 (3) The commission may establish incentive rates for the pilot programs to enable the develop-
20 ment of the most efficient solar photovoltaic energy systems.

21 (4) A retail electricity consumer participating in a pilot program may receive payments based
22 on electricity generated from solar photovoltaic energy system output for 15 years from the
23 consumer's date of enrollment in the program, at rates or through a rate formula in a tariff schedule
24 established at the time of enrollment, or at rates otherwise established at the time of enrollment.
25 The consumer thereafter may receive payments based upon electricity generated from the qualifying
26 system at a rate equal to the resource value.

27 (5) The commission may adjust the tariff schedule as needed for new pilot program participants
28 for the purpose of meeting the goal established in subsection (1) of this section. Once a retail elec-
29 tricity consumer is enrolled in a program, the rates or rate formula for determining payments to the
30 consumer may not be modified.

31 (6) The commission may adopt and adjust a percentage goal for capacity deployed by residential
32 and small commercial qualifying systems based upon the costs of the energy generated, the feasi-
33 bility of attaining the goal and other factors. For purposes of attaining the goal described in this
34 subsection, the commission shall require 2.5 megawatts of alternating current from the cumulative
35 nameplate capacity of qualifying systems to be generated by individual systems with a nameplate
36 generating capacity between five and 100 kilowatts.

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

40 (8) Ownership of renewable energy certificates established under ORS 469A.130 that are asso-
41 ciated with renewable energy generation under the pilot programs must be transferred to the elec-
42 tric company and may be used to comply with the renewable portfolio standard described in ORS
43 469A.052 or 469A.055.

44 (9) To the extent that rates paid under a pilot program exceed the resource value, qualifying
45 systems participating in the pilot programs are not eligible for *[expenditures under ORS 757.612*

(3)(b)(B) (2019 Edition) or] tax credits under ORS 469B.100 to 469B.118 or 469B.130 to 469B.169.

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

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

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

(a) March 31, 2016; or

(b) The date the cumulative nameplate capacity of solar photovoltaic energy systems that have been permanently installed by retail electricity consumers under the pilot programs equals 27.5 megawatts of alternating current.

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

SECTION 22. ORS 757.617 is amended to read:

757.617. *[(1) The Public Utility Commission and the State Department of Energy jointly shall select an independent nongovernmental entity to prepare a biennial report to the Legislative Assembly describing program spending and results for public purpose requirements undertaken pursuant to ORS 757.612.]*

[(2)] The Housing and Community Services Department shall prepare a biennial report to the Legislative Assembly describing program spending and needs for low-income bill assistance.

SECTION 23. ORS 757.649 is amended to read:

757.649. (1)(a) A person or other entity shall not act as an electricity service supplier unless the person or entity is certified by the Public Utility Commission. The commission, by rule, shall establish standards for certification of persons or other entities as electricity service suppliers in this state. The rules shall, at a minimum, address:

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

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

(b) The commission may require an electricity service supplier to provide a bond or other security.

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

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

[(e) The commission may require an electricity service supplier to provide information necessary to ensure compliance with ORS 757.612. The commission shall ensure the privacy of all information and the protection of any proprietary information provided.]

[(f)] (e) The commission shall require an electricity service supplier to publicly disclose a summary of the aggregated energy supply mix and associated emissions of the power sources that serve

the direct access retail electricity consumers of the electricity service supplier, or such other aggregated information comparable to information provided by electric companies to retail electricity consumers as the commission may require.

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

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

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

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

(b) The rates and amounts of state and local taxes or fees, if any, imposed on the retail electricity consumer;

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

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

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

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

(b) The requirement for bill consolidation by an electric company shall continue through December 31, 2001, after which time the commission may waive the requirement if the waiver results in effective billing procedures for retail electricity consumers.

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

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

SECTION 24. ORS 757.659 is amended to read:

1 757.659. According to the applicable provisions of ORS 756.060 and ORS chapter 183, the Public
 2 Utility Commission shall adopt such rules as are necessary to implement ORS 757.600 to 757.667.
 3 Rules adopted by the commission shall address at least the following:

4 (1) Requirements and methodologies for each electric company to provide unbundled rates and
 5 services pursuant to ORS 757.642.

6 (2) Requirements for each electric company allowing aggregation of electricity loads pursuant
 7 to ORS 757.627, which may include aggregation of demand for other services available under direct
 8 access.

9 (3) Requirements for consumer protection. Consumer protection rules adopted by the commission
 10 that relate to electricity service suppliers shall be applicable throughout this state and shall, at a
 11 minimum, contain provisions for the disclosure of price, power source and environmental impact in
 12 contract offers and marketing information.

13 (4) Market valuation methodologies for determining the amount and recovery of the costs of
 14 uneconomic utility investment and the amount of and credit for economic utility investment.

15 (5) Requirements for each electric company to offer a portfolio of rate options under ORS
 16 757.603.

17 (6) The method of determining a default supplier for those consumers who are not eligible to
 18 participate in a portfolio program under ORS 757.603 in a manner that provides for viable competi-
 19 tion among electricity service suppliers and among power generation companies. The commission
 20 may condition the use of a default service option by requiring reasonable notice and commitment
 21 from a consumer who intends to use the default service option in nonemergency situations.

22 (7) Requirements for market structure described in ORS 757.646.

23 [(8) *Requirements for public purpose charges and credits under ORS 757.612.*]

24 [(9)] (8) Requirements for meters, metering services, billing and collection services, and customer
 25 response functions.

26 **SECTION 25.** ORS 757.698 is amended to read:

27 757.698. (1) An electric company, as defined in ORS 757.600, or Oregon Community Power shall
 28 collect funds for low-income electric bill payment and crisis assistance in an amount determined by
 29 the Public Utility Commission. The commission shall:

30 (a) Establish the amount to be collected and rates to be charged by each electric company from
 31 its customers, including customers receiving electricity from other sources, such that the forecasted
 32 collection by all electric companies in a calendar year is at least \$20 million.

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

35 (c) Ensure that no customer pays more than \$500 per month per customer site for low-income
 36 electric bill payment and crisis assistance.

37 (2) Funds collected by an electric company or Oregon Community Power under this section must
 38 be:

39 (a) Paid into the Housing and Community Services Department Low-Income Electric Bill Pay-
 40 ment Assistance Fund established by ORS 456.587 [(2)];

41 (b) Used by the Housing and Community Services Department solely for purposes related to
 42 low-income electric bill payment and crisis assistance and for the Housing and Community Services
 43 Department's cost of administering this section; and

44 (c) Expended in the service area of the electric company or Oregon Community Power from
 45 which the funds are collected.

(3) The Housing and Community Services Department shall determine the manner in which funds collected under this section are allocated by the department to energy assistance program providers for the purpose of providing low-income electric bill payment and crisis assistance. However, the department shall:

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

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

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

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

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

SECTION 26. ORS 757.746 is amended to read:

757.746. (1) If the Public Utility Commission requires funds collected pursuant to ORS 757.054[,] **or** through natural gas tariffs [*or through public purpose charges pursuant to ORS 757.612*] to be paid to a nongovernmental entity, the entity shall:

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

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

(c) Require the entity's officers and directors to declare actual and potential conflicts of interest at regular meetings of the entity's governing body when such conflicts arise, and require an officer or director to abstain from participating in any discussion or voting on any item where that officer or director has an actual conflict of interest. For the purposes of this paragraph, "actual conflict of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

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

(e) With public utilities, jointly develop public utility-specific budgets, action plans and agreements that detail the entity's public utility-specific planned activities, resources and technologies pursuant to ORS 757.054[*and 757.612 (3)(b)(B)*], including coordinated activities that require joint investment and deployment. Each action plan must reflect stakeholder feedback gathered through a public process managed by the entity and the relevant public utility as overseen by the commis-

1 sion.

2 (f) File with the commission the entity's budget, action plan and quarterly and annual reports
3 for public review. The entity's budget and action plan must include the budget and action plans
4 jointly developed with public utilities under paragraph (e) of this subsection.

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

8 (2) The commission may remove from the board of directors of a nongovernmental entity an of-
9 ficer or director who fails to provide an annual disclosure of economic interest, or who fails to de-
10 clare an actual or potential conflict of interest, as described in this section, if the failure is
11 connected to the allocation or expenditure of funds collected pursuant to ORS 757.054[,] **or** through
12 natural gas tariffs [*or through public purpose charges pursuant to ORS 757.612*] and paid to the en-
13 tity.

14 **SECTION 27.** ORS 757.747 is amended to read:

15 757.747. (1) As used in this section, "environmental justice" means the equal treatment, pro-
16 tection from environmental and health hazards, and meaningful involvement of environmental justice
17 communities in the development, implementation and enforcement of regulations and policies that
18 affect the environment in which people live, work, learn, practice spirituality and play.

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

26 (3) Each nongovernmental entity that is paid funds collected pursuant to ORS 757.054[,] **or**
27 through natural gas tariffs [*or through public purpose charges pursuant to ORS 757.612*] shall, as part
28 of the entity's filings required under ORS 757.746 (1)(f), report on the entity's progress in achieving
29 the equity metrics established pursuant to this section.

30 **SECTION 28.** ORS 757.872 is amended to read:

31 757.872. (1) Any equity of the incumbent utility, any electric utility assets of the incumbent
32 utility or any combination of equity and assets of the incumbent utility that Oregon Community
33 Power acquires under ORS 757.812 to 757.950 shall be held in trust by Oregon Community Power,
34 acting as a trustee, for the exclusive purpose of carrying out the powers, rights and privileges of
35 Oregon Community Power under ORS 757.812 to 757.950 for the benefit of the retail electricity
36 consumers of Oregon Community Power. Notwithstanding any other provision of law, retail elec-
37 tricity consumers of Oregon Community Power may not pursue any judicial remedy in any court of
38 this state for any action of Oregon Community Power, except as provided in ORS 757.812 to 757.950.

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

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

45 (a) Electric utility operational revenues;

1 *[(b) Public purpose charge revenues under ORS 757.612;]*
2 *[(c)]* **(b)** Nonrecourse bond proceeds or proceeds from any other nonrecourse borrowing; or
3 *[(d)]* **(c)** Loans, grants, payments or other assistance that any local government as defined in
4 ORS 174.116 would be eligible to receive.
5 _____