

# House Bill 3019

Sponsored by COMMITTEE ON ENERGY AND ENVIRONMENT

## 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**.

Provides that certain amount of moneys collected from retail electricity consumers as public purpose charge may be used for transportation electrification.

## A BILL FOR AN ACT

1  
2 Relating to transportation electrification; creating new provisions; and amending ORS 757.600,  
3 757.612 and 757.676.

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

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

6 757.612. (1) There is established an annual public purpose expenditure standard for electric  
7 companies and Oregon Community Power to fund new cost-effective local energy conservation, new  
8 market transformation efforts, **transportation electrification efforts**, the above-market costs of  
9 new renewable energy resources and new low-income weatherization. The public purpose expendi-  
10 ture standard shall be funded by the public purpose charge described in subsection (2) of this sec-  
11 tion.

12 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-  
13 cess to *[its]* retail electricity consumers, except residential electricity consumers, the electric com-  
14 pany or Oregon Community Power shall collect a public purpose charge from all of the retail  
15 electricity consumers located within *[its]* **the electric company's or Oregon Community Power's**  
16 service area until January 1, 2026. Except as provided in paragraph (b) of this subsection, the public  
17 purpose charge shall be equal to three percent of the total revenues collected by the electric com-  
18 pany, Oregon Community Power or the electricity service supplier from *[its]* retail electricity con-  
19 sumers for electricity services, distribution **services**, ancillary services, metering and billing,  
20 transition charges and other types of costs included in electric rates on July 23, 1999.

21 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use  
22 per year, *[beginning on March 1, 2002,]* the electric company or Oregon Community Power *[whose]*,  
23 **whichever serves** territory **that** abuts the greatest percentage of the site of the aluminum plant,  
24 shall collect from the aluminum company a public purpose charge equal to one percent of the total  
25 revenue from the sale of electricity *[services]* to the aluminum plant *[from any source]*.

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

28 (b) *[Subject to paragraph (e)]* **Except as provided in paragraph (e)** of this subsection, funds  
29 collected *[by an electric company or Oregon Community Power]* through public purpose charges **un-**  
30 **der subsection (2) of this section** shall be allocated as follows:

31 (A) Sixty-three percent for new cost-effective **local energy** conservation, new market transfor-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 mation **efforts and transportation electrification efforts.**

2 (B) Nineteen percent for the above-market costs of constructing and operating new renewable  
3 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20  
4 megawatts or less.

5 (C) Thirteen percent for new low-income weatherization.

6 (D) Five percent *[shall be transferred to]* **for deposit in** the Housing and Community Services  
7 Department Electricity Public Purpose Charge Fund established by ORS 456.587 (1) *[and used]* for  
8 the purpose of providing grants as described in ORS 458.625 (2).

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

15 (d) The commission shall direct the manner in which public purpose charges are collected and  
16 spent by an electric company or Oregon Community Power and may require an electric company  
17 or Oregon Community Power to expend funds through competitive bids or other means designed to  
18 encourage competition, except that funds dedicated for **new** low-income weatherization shall be di-  
19 rected to the Housing and Community Services Department *[as provided in subsection (7) of this*  
20 *section]* **for purposes related to new low-income weatherization.** The commission *[may also direct*  
21 *that]* **may also require** funds collected *[by an electric company or Oregon Community Power]* through  
22 public purpose charges **to** be paid to a nongovernmental entity for investment in public purposes  
23 described in subsection (1) of this section. Notwithstanding any other provision of this subsection:

24 (A) **If an electric company collected the funds,** at least 80 percent of the funds allocated *[for*  
25 *conservation]* **under paragraph (b)(A) of this subsection** shall be spent within the service area of  
26 the electric company *[that collected the funds];* or

27 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated  
28 *[for conservation]* **under paragraph (b)(A) of this subsection** shall be spent within the service area  
29 of Oregon Community Power.

30 (e)(A) The first 10 percent of *[the]* funds collected *[annually]* **each year** by an electric company  
31 or Oregon Community Power under subsection (2) of this section shall be distributed to school dis-  
32 tricts that are located in the service territory of the electric company or Oregon Community Power.  
33 The funds shall be distributed to individual school districts according to the weighted average daily  
34 membership (ADMw) of each school district for the prior fiscal year as calculated under ORS  
35 327.013. The commission shall establish by rule a methodology for distributing a proportionate share  
36 of funds under this paragraph to school districts that are only partially located in the service ter-  
37 ritory of the electric company or Oregon Community Power.

38 (B) A school district that receives funds under this paragraph shall use the funds first to pay  
39 for energy audits for schools located within the school district. A school district may not expend  
40 additional funds received under this paragraph on a school *[facility]* until an energy audit has been  
41 completed for that school *[facility]*. To the extent practicable, a school district shall coordinate with  
42 the State Department of Energy and incorporate federal funding in complying with this paragraph.  
43 Following completion of an energy audit for an individual school, the school district may expend  
44 funds received under this paragraph to implement the energy audit. Once an energy audit has been  
45 conducted and completely implemented for each school within the school district, the school district

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

2 (i) Conducting **additional** energy audits. A school district shall conduct an energy audit prior  
3 to expending funds on any other purpose authorized under this paragraph unless the school district  
4 has performed an energy audit within the three years immediately prior to receiving the funds.

5 (ii) [*Weatherization*] **Weatherizing school district facilities** and upgrading the energy effi-  
6 ciency of school district facilities.

7 (iii) Energy conservation education programs.

8 (iv) Purchasing electricity from [*environmentally focused*] sources **that protect the environ-**  
9 **ment.** [*and*]

10 (v) Investing in renewable energy resources.

11 (f) The commission may not establish a different public purpose charge than the public purpose  
12 charge described in subsection (2) of this section.

13 (g) If the commission [*directs*] **requires** funds collected through public purpose charges to **be**  
14 **paid to** a nongovernmental entity, the entity shall, **pursuant to an agreement entered into or**  
15 **renewed between the commission and the entity:**

16 (A) Include on the entity's board of directors an ex officio member designated by the commis-  
17 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

18 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-  
19 terest to be filed with the commission on or prior to April 15 of each calendar year for public review  
20 in a form similar to the statement of economic interest required for public officials under ORS  
21 244.060.

22 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest  
23 at regular meetings of the entity's governing body when such conflicts arise, and require an officer  
24 or director to abstain from participating in any discussion or [*vote*] **voting** on any item where that  
25 officer or director has an actual conflict of interest. For the purposes of this subparagraph, "actual  
26 conflict of interest" and "potential conflict of interest" have the meanings given those terms in ORS  
27 244.020.

28 (D) **Annually**, arrange for an independent auditor to audit the entity's financial statements  
29 [*annually*], and direct the auditor to file an audit opinion with the commission for public review.

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

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

35 (h) The commission may remove from the board of directors of a nongovernmental entity an of-  
36 ficer or director who fails to provide an annual disclosure of economic interest, or **who fails to**  
37 **declare an** actual or potential conflict of interest, as described in paragraph (g)(B) and (C) of this  
38 subsection, [*in connection with*] **if the failure is connected to** the allocation or expenditure of funds  
39 collected through public purpose charges and [*directed*] **paid** to the entity.

40 (4)(a) An electric company that satisfies its obligations under this section [*shall have*]:

41 (A) **Has** no further obligation to invest in **new cost-effective local energy** conservation, new  
42 market transformation, **transportation electrification** or new low-income weatherization, or to  
43 provide a commercial energy conservation services program; and

44 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

45 (b) Oregon Community Power, for any period during which Oregon Community Power collects

1 a public purpose charge under subsection (2) of this section:

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

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

6 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at  
7 any site in the prior year shall receive a credit against public purpose charges billed by an electric  
8 company or Oregon Community Power for that site. The amount of the credit shall be equal to the  
9 total amount of qualifying expenditures for [*new energy conservation*] **purposes specified in sub-**  
10 **section (3)(b)(A) of this section**, not to exceed 68 percent of the annual public purpose charges,  
11 and the above-market costs [*of purchases*] of new renewable energy resources incurred by the retail  
12 electricity consumer, not to exceed 19 percent of the annual public purpose charges, less adminis-  
13 tration costs incurred under **this paragraph and paragraphs (b) and (c) of this subsection**. The  
14 credit may not exceed, on an annual basis, the lesser of:

15 (A) The amount of the retail electricity consumer's qualifying expenditures; or

16 (B) The portion of the public purpose charge billed to the retail electricity consumer that is  
17 dedicated to new **cost-effective local energy** conservation, new market transformation, **transport-**  
18 **ation electrification** or the above-market costs of new renewable energy resources.

19 (b) To obtain a credit under **paragraph (a) of this subsection**, a retail electricity consumer shall  
20 file with the State Department of Energy a description of the proposed conservation project or new  
21 renewable energy resource and a declaration that the retail electricity consumer plans to incur the  
22 qualifying expenditure. The State Department of Energy shall issue a notice of precertification  
23 within 30 days of receipt of the filing, if such filing is consistent with **paragraph (a) of this sub-**  
24 **section**. The credit may be taken after a retail electricity consumer provides a letter from a certified  
25 public accountant to the State Department of Energy verifying that the precertified qualifying ex-  
26 penditure has been made.

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

29 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at  
30 any site in the prior year may request that the State Department of Energy hire an independent  
31 auditor to assess the potential for conservation investments at the site. If the independent auditor  
32 determines there is no available conservation measure at the site that would have a simple payback  
33 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment  
34 obligation for public purpose charges related to the site. If the independent auditor determines that  
35 there are potential conservation measures available at the site, the retail electricity consumer shall  
36 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the  
37 public purpose charges less the estimated cost of available conservation measures.

38 (B) A retail electricity consumer shall be entitled each year to the credit described in this  
39 [*subsection*] **paragraph** unless a subsequent independent audit determines that new conservation  
40 investment opportunities are available. The State Department of Energy may require that a new  
41 independent audit be performed on the site to determine whether new conservation measures are  
42 available, provided that the independent audits [*shall*] occur no more than once every two years.

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

45 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit

1 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall  
 2 adopt rules to determine eligible expenditures and the [*methodology*] **method** by which such credits  
 3 are accounted for and used. The [*rules*] **State Department of Energy** also shall adopt methods to  
 4 account for eligible public purpose expenditures made through consortia or collaborative projects.

5 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an  
 6 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-  
 7 ment assistance in an amount determined under paragraph (b) of this subsection.

8 (b) The commission shall establish the amount to be collected by each electric company in cal-  
 9 endar year 2008 from retail electricity consumers served by the company, and the rates to be  
 10 charged to retail electricity consumers served by the company, so that the total anticipated col-  
 11 lection for low-income electric bill payment assistance by all electric companies in calendar year  
 12 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission may not  
 13 change the rates established for retail electricity consumers, but the total amount collected in a  
 14 calendar year for low-income electric bill payment assistance may vary based on electricity usage  
 15 by retail electricity consumers and changes in the number of retail electricity consumers in this  
 16 state. In no event shall a retail electricity consumer be required to pay more than \$500 per month  
 17 per site for low-income electric bill payment assistance.

18 (c) Funds collected [*by*] **through** the low-income electric bill payment assistance charge shall  
 19 be paid into the Housing and Community Services Department Low-Income Electric Bill Payment  
 20 Assistance Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph  
 21 shall be used by the Housing and Community Services Department **solely** for [*the purpose of*  
 22 *funding*] **purposes related to** low-income electric bill payment assistance[.] **and for the Housing**  
 23 **and Community Services** Department's cost of administering this subsection. [*shall be paid out of*  
 24 *funds collected by the low-income electric bill payment assistance charge. Moneys deposited in the fund*  
 25 *under this paragraph shall be expended solely for low-income electric bill payment assistance.*] Funds  
 26 collected [*from*] **by** an electric company or Oregon Community Power **under this subsection** shall  
 27 be expended in the service area of the electric company or Oregon Community Power from which  
 28 the funds are collected.

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

33 (B) The **Housing and Community Services** Department, **in consultation with electric com-**  
 34 **panies**, shall investigate and may implement alternative delivery models [*in consultation with electric*  
 35 *companies*] to effectively reduce service disconnections and related costs to retail electricity con-  
 36 sumers and electric utilities.

37 (C) Priority assistance shall be directed to low-income electricity consumers who are in danger  
 38 of having their electricity service disconnected.

39 (D) The **Housing and Community Services** Department shall maintain records and provide  
 40 those records upon request to an electric company, Oregon Community Power and the Citizens'  
 41 Utility Board established under ORS chapter 774 on a quarterly basis. Records maintained must  
 42 include the numbers of low-income electricity consumers served, the average amounts paid **to low-**  
 43 **income electricity consumers** and the type of assistance provided **to low-income electricity**  
 44 **consumers**. Electric companies and Oregon Community Power shall, if requested, provide the  
 45 **Housing and Community Services** Department with aggregate data relating to **low-income elec-**

1 **tricity** consumers served on a quarterly basis to support program development.

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

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

10 (8) For purposes of this section, “retail electricity consumers” includes any direct service in-  
11 dustrial consumer that purchases electricity without purchasing distribution services from the elec-  
12 tric utility.

13 (9) For purposes of this section, [*amounts*] **funds** collected by Oregon Community Power through  
14 public purpose charges are not considered moneys received from electric utility operations.

15 **SECTION 2.** ORS 757.600 is amended to read:

16 757.600. As used in ORS 757.600 to 757.689, unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (27) "Renewable energy resources" means:

45 (a) Electricity generation facilities fueled by wind, waste, solar or geothermal power or by low-

1 emission nontoxic biomass based on solid organic fuels from wood, forest and field residues.

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

3 (c) Landfill gas and digester gas.

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

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

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

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

20 (31) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic  
21 utility investment.

22 (32) "Transition credit" means a credit that returns to consumers all or a portion of the benefits  
23 from an economic utility investment.

24 (33) "Transmission facility" means the plant and equipment used to transmit electricity in  
25 interstate commerce.

26 **(34) "Transportation electrification" means:**

27 **(a) The use of electricity from external sources to provide power to all or part of a ve-**  
28 **hicle;**

29 **(b) Programs related to developing the use of electricity for the purpose described in**  
30 **paragraph (a) of this subsection; and**

31 **(c) Infrastructure investments related to developing the use of electricity for the purpose**  
32 **described in paragraph (a) of this subsection.**

33 [(34)] **(35)** "Undue market power" means the unfair or improper exercise of influence to increase  
34 or decrease the availability or price of a service or product in a manner inconsistent with compet-  
35 itive markets.

36 [(35)] **(36)** "Uneconomic utility investment" means all electric company investments, including  
37 plants and equipment and contractual or other legal obligations, properly dedicated to generation,  
38 conservation and workforce commitments, that were prudent at the time the obligations were as-  
39 sumed but the full costs of which are no longer recoverable as a direct result of ORS 757.600 to  
40 757.667, absent transition charges. "Uneconomic utility investment" does not include costs or ex-  
41 penses disallowed by the commission in a prudence review or other proceeding, to the extent of such  
42 disallowance, and does not include fines or penalties as authorized by state or federal law.

43 **SECTION 3.** ORS 757.676 is amended to read:

44 757.676. The governing body of a consumer-owned utility is authorized to determine whether and  
45 under what terms and conditions it will offer its retail electricity consumers direct access, portfolio



1 access or other forms of access to electric service suppliers. In making such determination, the  
 2 governing body of a consumer-owned utility shall consider such factors as it deems appropriate. A  
 3 consumer-owned utility shall have sole authority to determine:

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

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

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

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

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

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

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

32 (8) The establishment of technical capability requirements, financial responsibility requirements  
 33 and other protections for retail electricity consumers located within the utility's service territory  
 34 and the consumer-owned utility in dealings with electric service suppliers.

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

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

40 **SECTION 4. The amendments to ORS 757.612 by section 1 of this 2017 Act apply to public**  
 41 **purpose charge moneys allocated on or after the effective date of this 2017 Act.**