

A-Engrossed
Senate Bill 928

Ordered by the Senate April 15
Including Senate Amendments dated April 15

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

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.

Establishes Oregon Climate Authority[. *Establishes*] **and creates** Oregon Climate Board, **effective on passage**.

Transfers greenhouse gas reporting program from Department of Environmental Quality to Oregon Climate Authority, **operative January 1, 2022**.

Abolishes State Department of Energy. Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Transfers remaining duties, functions and powers of State Department of Energy to Oregon Climate Authority, **operative July 1, 2020**.

Modifies permissible uses of energy supplier assessment **and reduces maximum amount of energy supplier assessment, operative July 1, 2021**.

Abolishes [*Sustainability Board and*] Oregon Global Warming Commission.

Establishes Energy Program Review Task Force.

[*Becomes operative January 1, 2020.*]

Declares emergency, effective on passage.

A BILL FOR AN ACT

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Relating to the Oregon Climate Authority; creating new provisions; amending ORS 176.809, 176.820, 183.457, 183.530, 192.355, 215.044, 223.680, 227.190, 240.855, 244.050, 261.151, 261.161, 261.225, 261.470, 262.025, 262.065, 267.030, 267.517, 276.910, 276.915, 279A.065, 279C.527, 279C.528, 283.337, 285C.559, 286A.630, 286A.710, 286A.712, 286A.716, 286A.718, 286A.810, 291.055, 315.141, 315.144, 315.326, 315.329, 315.331, 315.336, 315.341, 315.354, 315.356, 315.357, 316.116, 317.112, 352.823, 401.054, 453.347, 455.492, 455.511, 466.380, 466.615, 468A.280, 468B.500, 469.020, 469.050, 469.055, 469.059, 469.080, 469.085, 469.097, 469.100, 469.110, 469.120, 469.135, 469.137, 469.150, 469.155, 469.255, 469.261, 469.300, 469.310, 469.320, 469.330, 469.350, 469.370, 469.373, 469.375, 469.402, 469.405, 469.410, 469.421, 469.424, 469.426, 469.430, 469.441, 469.442, 469.450, 469.470, 469.501, 469.503, 469.504, 469.507, 469.520, 469.530, 469.533, 469.534, 469.535, 469.536, 469.540, 469.550, 469.559, 469.560, 469.561, 469.571, 469.594, 469.605, 469.606, 469.609, 469.611, 469.613, 469.615, 469.617, 469.619, 469.651, 469.659, 469.700, 469.703, 469.717, 469.720, 469.745, 469.754, 469.756, 469.840, 469.880, 469.885, 469.890, 469.895, 469.900, 469.992, 469A.020, 469A.025, 469A.027, 469A.029, 469A.130, 469A.132, 469B.100, 469B.103, 469B.106, 469B.112, 469B.115, 469B.118, 469B.130, 469B.136, 469B.139, 469B.142, 469B.145, 469B.148, 469B.154, 469B.157, 469B.161, 469B.164, 469B.167, 469B.169, 469B.253, 469B.256, 469B.259, 469B.262, 469B.265, 469B.273, 469B.276, 469B.279, 469B.282, 469B.285, 469B.288, 469B.291, 469B.294, 469B.297, 469B.298, 469B.300, 469B.303, 469B.306, 469B.320, 469B.323, 469B.326, 469B.329, 469B.332, 469B.335, 469B.338, 469B.341, 469B.344, 469B.347, 469B.400, 469B.407, 469B.991, 470.050, 470.060, 470.080, 470.090, 470.100, 470.110, 470.120, 470.130, 470.135, 470.140, 470.145, 470.150, 470.160, 470.170,

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.

1 470.180, 470.190, 470.200, 470.210, 470.230, 470.270, 470.300, 470.310, 470.800, 470.805, 470.810,
2 470.815, 498.502, 522.125, 526.274, 526.280, 526.786, 701.527, 701.532, 757.230, 757.247, 757.528,
3 757.533, 757.538, 757.600, 757.612, 757.617, 757.687, 757.720 and 758.552 and section 25, chapter
4 301, Oregon Laws 2007, section 2, chapter 312, Oregon Laws 2015, and section 1, chapter 63,
5 Oregon Laws 2016; repealing ORS 468A.215, 468A.220, 468A.225, 468A.230, 468A.235, 468A.240,
6 468A.245, 468A.250, 468A.255, 468A.260, 469.010, 469.030, 469.040, 470.070, 470.500, 470.505,
7 470.510, 470.515, 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550, 470.555, 470.560,
8 470.565, 470.570, 470.575, 470.580, 470.585, 470.590, 470.595, 470.600, 470.605, 470.610, 470.615,
9 470.620, 470.630, 470.635, 470.640, 470.645, 470.650, 470.655, 470.660, 470.665, 470.670, 470.675,
10 470.680, 470.685, 470.690, 470.695, 470.700, 470.710, 470.715, 470.720, 701.108 and 701.119 and
11 sections 8a and 8b, chapter 739, Oregon Laws 2007; and declaring an emergency.

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

13

14

OREGON CLIMATE AUTHORITY

15

16

(Policy)

17

18 **SECTION 1. Sections 2 to 6 and 8 of this 2019 Act are added to and made a part of ORS**
19 **469.010 to 469.155.**

20

SECTION 2. The Legislative Assembly finds and declares that:

21

(1) Climate change resulting from greenhouse gas emissions is negatively impacting
22 **public health and Oregon’s economic vitality, natural resources and environment.**

23

(2) It is the goal of Oregon to reduce greenhouse gas emissions, to sequester and store
24 **greenhouse gas emissions on natural and working lands and to help communities and indus-**
25 **tries adapt to climate change.**

26

(3) It is the goal of Oregon to promote the efficient use of energy resources, to develop
27 **low-carbon technologies, resources and services to enhance this state’s economic**
28 **competitiveness and to assist Oregon industries and households with the equitable transition**
29 **to an affordable and reliable energy system and a mix of energy resources that can achieve**
30 **the state’s greenhouse gas emissions reduction goals.**

31

(4) The need exists for comprehensive state leadership on climate change, greenhouse gas
32 **mitigation and the transition to low-carbon, clean energy resources. It is therefore the policy**
33 **of Oregon:**

34

(a) That through example and policy, state government will promote greenhouse gas
35 **emissions reductions, energy conservation, energy efficiency and the adoption of low-carbon,**
36 **clean energy resources and technologies.**

37

(b) That Oregon’s energy policy and programs should be consistent and aligned with the
38 **state’s greenhouse gas emissions reduction goals and climate change policies.**

39

(c) That the state promote the development of a resilient, safe and affordable system of
40 **diverse energy resources and related infrastructure.**

41

(d) That state government assist every citizen and industry in adjusting to changes in
42 **the energy system and mix of energy resources to achieve the state’s greenhouse gas emis-**
43 **sions reduction goals.**

44

(e) That the state encourage low-carbon and energy-efficient modes of transportation for
45 **people and for freight.**

1 (f) That the state pursue opportunities to conserve energy, to increase energy efficiency,
2 to enhance resilience to the impacts of climate change and to reduce emissions associated
3 with the built environment.

4 (g) That the state identify and pursue opportunities to sequester and store carbon on
5 natural and working landscapes.

6 (h) That the state's climate change policies, goals and strategies will be informed by the
7 best available science and economics.

8 (i) That, to the greatest degree possible, the Oregon Climate Authority will pursue poli-
9 cies and programs that promote innovation and harness market incentives.

10 (j) That state agency decision-making relating to climate policy, energy sources, facilities
11 or conservation shall consider cost-effectiveness, alongside climate and environmental policy
12 objectives.

13 (k) That the authority shall be transparent and accountable to regulated entities and
14 stakeholders.

15 (L) That state government shall provide a source of impartial and objective information
16 in order that this energy and climate policy may be enhanced.

17
18 (Oregon Climate Authority; Duties)
19

20 **SECTION 3. (1) The Oregon Climate Authority is established.**

21 **(2) The Oregon Climate Authority shall:**

22 (a) Be the central repository within the state government for the collection and analysis
23 of data on climate change risks and impacts, greenhouse gas emissions, climate change
24 mitigation and adaptation, energy resources and energy markets.

25 (b) Coordinate state agency actions toward achieving reductions in greenhouse gas
26 emissions in accordance with ORS 468A.205 and other statutes, rules and policies that govern
27 state agency actions to reduce greenhouse gas emissions.

28 (c) Coordinate state agency actions toward achieving state goals related to energy, en-
29 ergy conservation, energy efficiency and energy safety.

30 (d) Advise, consult and cooperate as requested with other state agencies, political subdi-
31 visions, other states or the federal government in respect to matters pertaining to the re-
32 duction of greenhouse gas emissions levels in Oregon and the pursuit of goals related to
33 climate change and clean energy.

34 (e) Advise the Governor and the Legislative Assembly on climate change and energy-
35 related matters.

36 (f) Endeavor to utilize all public and private sources to inform and educate the public
37 about climate change and energy challenges and solutions, and about the ways in which the
38 public can conserve energy resources, mitigate greenhouse gas emissions and adapt to cli-
39 mate change.

40 (g) Engage in research but, whenever possible, contract with appropriate public or pri-
41 vate agencies and dispense funds for research projects and other services related to climate
42 change and energy, except that the Oregon Climate Authority shall endeavor to avoid dupli-
43 cation of research whether completed or in progress.

44 (h) Qualify for, accept and disburse or utilize any private or federal moneys or services
45 available for the administration of ORS 176.820, 192.338, 192.345, 192.355, 192.690, 469.010 to

1 469.155, 469.300 to 469.563, 469.579, 469.990, 757.710 and 757.720.

2 (i) Administer federal and state energy allocation and conservation programs and energy
3 research and development programs and apply for and receive available funds for the pro-
4 grams.

5 (j) Be a clearinghouse for climate change and energy research to which all agencies shall
6 send information on all climate change and energy related research.

7 (k) Prepare contingent energy programs to include all forms of energy not otherwise
8 provided pursuant to ORS 757.710 and 757.720.

9 (L) Maintain an inventory of energy and climate change research projects in Oregon and
10 the results of the projects.

11 (m) Collect, compile and analyze climate change and energy statistics, data and infor-
12 mation.

13 (n) Contract with public and private agencies for climate change and energy activities
14 consistent with section 2 of this 2019 Act and this section.

15 (o) Upon request of the governing body of any affected jurisdiction, coordinate a public
16 review of a proposed transmission line according to the provisions of ORS 469.442.

17
18 (Director of the Oregon Climate Authority)
19

20 **SECTION 4.** (1) The Oregon Climate Authority shall be under the supervision of the Di-
21 rector of the Oregon Climate Authority, who shall:

22 (a) Supervise the day-to-day functions of the Oregon Climate Authority;

23 (b) Supervise and facilitate the work and research on energy facility siting applications
24 at the direction of the Energy Facility Siting Council;

25 (c) Hire, assign, reassign and coordinate personnel of the Oregon Climate Authority,
26 prescribe their duties and fix their compensation, subject to the State Personnel Relations
27 Law; and

28 (d) Adopt rules and issue orders to carry out the duties of the director and the authority
29 in accordance with ORS chapter 183 and the policy stated in section 2 of this 2019 Act.

30 (2) The director may delegate to any officer or employee the exercise and discharge in
31 the director's name of any power, duty or function of whatever character vested in the di-
32 rector by law. The official act of any person acting in the director's name and by the
33 director's authority shall be considered an official act of the director.

34 (3) The director shall be appointed by the Governor, subject to confirmation by the Sen-
35 ate in the manner provided by ORS 171.562 and 171.565.
36

37 (Oregon Climate Board)
38

39 **SECTION 5.** (1) In order to ensure close correspondence among Oregon Climate Author-
40 ity policies and programs, the public interest and state climate policies, there is created the
41 Oregon Climate Board.

42 (2) The following shall serve as nonvoting, ex officio members of the board:

43 (a) The Director of the Oregon Climate Authority;

44 (b) One member jointly appointed by the President of the Senate and the Speaker of the
45 House of Representatives who is a member of either the Senate or the House of Represen-

1 tatives and who is also a member of the Republican Party and serves as a member of a
2 committee of the Legislative Assembly related to climate;

3 (c) One member jointly appointed by the President of the Senate and the Speaker of the
4 House of Representatives who is a member of either the Senate or the House of Represen-
5 tatives and who is also a member of the Democratic Party and serves as a member of a
6 committee of the Legislative Assembly related to climate;

7 (d) One member who is a member of the office of the Governor and who serves as a
8 policy advisor to the Governor on issues related to climate;

9 (e) One member who represents the Oregon Climate Change Research Institute;

10 (f) The chairperson of the Environmental Justice Task Force;

11 (g) The Director of Agriculture or the designee of the director;

12 (h) The Director of the Department of Environmental Quality or the director's designee;

13 (i) A member of the Public Utility Commission or the designee of the chairperson of the
14 commission;

15 (j) The Director of Transportation or the director's designee;

16 (k) The Director of the Housing and Community Services Department or the director's
17 designee;

18 (L) The Water Resources Director or the director's designee; and

19 (m) The Director of the Oregon Health Authority or the director's designee.

20 (3) The Governor shall appoint nine members to the board, subject to confirmation by the
21 Senate as provided in ORS 171.562 and 171.565. Members of the board appointed under this
22 subsection must be residents of this state well informed in energy and climate issues and
23 shall include the following:

24 (a) One member who is a tribal representative;

25 (b) Two members who are representatives of the energy sector;

26 (c) One member who represents environmental interests;

27 (d) One member who is an economist or who has experience and expertise in state fi-
28 nance;

29 (e) One member who represents industrial energy users;

30 (f) One member with expertise in transportation issues; and

31 (g) Two at-large members.

32 **SECTION 6.** (1) The term of office of each member appointed to the Oregon Climate
33 Board is four years, but the members of the board may be removed by the Governor. Before
34 the expiration of the term of a member, the Governor shall appoint a successor to assume
35 the duties of the member on July 1 of the next following year.

36 (2) A member is eligible for reappointment, but no member may serve more than two
37 consecutive terms. In case of a vacancy for any cause, the Governor shall make an ap-
38 pointment to become immediately effective for the unexpired term.

39 (3) The Governor shall select one of the voting members as chairperson and another as
40 vice chairperson, for terms and with duties and powers necessary for the performance of the
41 functions of the offices as the board determines.

42 (4) A majority of the voting members of the board constitutes a quorum for the trans-
43 action of business.

44 (5) The board shall meet once during each calendar quarter at a time and place deter-
45 mined by the chairperson. The board shall endeavor to hold meetings at various locations

1 throughout the state. The board may hold additional meetings at times and places deter-
2 mined by the chairperson or the Director of the Oregon Climate Authority, or as requested
3 by a majority of the voting members.

4 (6) A member of the board is not entitled to compensation but may be reimbursed from
5 funds available to the board for actual and necessary travel and other expenses incurred by
6 the member in the performance of the member's official duties in the manner and amount
7 provided in ORS 292.495.

8 **SECTION 7.** Notwithstanding the term of office specified by section 6 of this 2019 Act,
9 of the members first appointed by the Governor to the Oregon Climate Board:

- 10 (1) Two shall serve for terms ending July 1, 2020.
- 11 (2) Two shall serve for terms ending July 1, 2021.
- 12 (3) Two shall serve for terms ending July 1, 2022.
- 13 (4) Three shall serve for terms ending July 1, 2023.

14 **SECTION 8.** (1) The Oregon Climate Board shall advise the Director of the Oregon Cli-
15 mate Authority regarding:

16 (a) The implementation, administration and enforcement of the programs and activities
17 of the Oregon Climate Authority;

18 (b) The development of the rules and policies of the authority in accordance with the
19 policy stated in section 2 of this 2019 Act and state climate, energy and environmental poli-
20 cies; and

21 (c) The preparation for submission to the Governor of budget forms under ORS 291.208
22 for purposes related to the compilation and preparation of the Governor's budget under ORS
23 291.216.

24 (2) By arrangement with the chairperson of the Oregon Climate Board, the Director of
25 the Oregon Climate Authority shall review with the board the activities of the authority and,
26 subject to policy direction by the board, outline the methods, policies and program of work
27 for the authority.

28 (3) The board shall receive regular reports from the Energy Facility Siting Council and
29 the Oregon Hanford Cleanup Board.

30 (4) The Oregon Climate Board shall provide a biennial report to the Legislative Assembly
31 in the manner provided in ORS 192.245 on the progress of the state in meeting the state's
32 climate and clean energy and energy conservation goals.

33 (5) The board shall hold public hearings and provide an opportunity for public comment
34 in carrying out the board's activities under this section.

35 **SECTION 8a.** (1) No later than September 15 of each year, the Oregon Climate Board
36 shall submit a report, in the manner provided in ORS 192.245, to the Legislative Assembly
37 on activities related to implementing the establishment of the Oregon Climate Authority.

38 (2) The report shall include, but need not be limited to, information on:

39 (a) The transfer of programs between the authority and other state agencies as provided
40 for by law; and

41 (b) The development of capacity by the authority to implement, administer and enforce
42 the programs and activities of the authority.

43 (3) The report may include recommendations for legislation.

44 **SECTION 8b.** Section 8a of this 2019 Act is repealed on January 2, 2023.

45

1 **GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**

2
3 **(Amendments to statute, operative on effective date of Act)**

4
5 **SECTION 8c.** ORS 468A.280 is amended to read:

6 468A.280. (1) *[In addition to any registration and reporting that may be required under ORS*
7 *468A.050, the Environmental Quality Commission by rule may require registration and reporting by:]*

8 **As used in this section:**

9 **(a) “Air contamination source” has the meaning given that term in ORS 468A.005.**

10 **(b) “Greenhouse gas” includes, but is not limited to, carbon dioxide, methane, nitrous**
11 **oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitrogen trifluoride.**

12 **(2) The Environmental Quality Commission by rule may require registration and report-**
13 **ing of information necessary to determine greenhouse gas emissions by:**

14 **(a) A person in control of an air contamination source of any class for which registration**
15 **and reporting is required under ORS 468A.050.**

16 [(a)] **(b) [Any] A person who imports, sells, allocates or distributes electricity for use in this**
17 **state [electricity, the generation of which emits greenhouse gases].**

18 [(b)] **(c) [Any] A person who imports, sells or distributes for use in this state fossil fuel that**
19 **generates greenhouse gases when combusted.**

20 **(3) A person required to register and report under subsection (2) of this section shall**
21 **register with the Department of Environmental Quality and make reports containing infor-**
22 **mation that the commission by rule may require that is relevant to determining and verify-**
23 **ing greenhouse gas emissions. The commission may by rule require the person to provide an**
24 **audit by an independent and disinterested party to verify that the greenhouse gas emissions**
25 **information reported by the person is true and accurate.**

26 [(2)] **(4) Rules adopted by the commission under this section for electricity that is imported, sold,**
27 **allocated or distributed for use in this state may require reporting of information necessary to de-**
28 **termine greenhouse gas emissions from generating facilities used to produce the electricity and re-**
29 **lated electricity transmission line losses.**

30 [(3)(a)] **(5)(a) The commission shall allow consumer-owned utilities, as defined in ORS 757.270,**
31 **to comply with reporting requirements imposed under this section by the submission of a report**
32 **prepared by a third party. A report submitted under this paragraph may include information for**
33 **more than one consumer-owned utility, but must include all information required by the commission**
34 **for each individual utility.**

35 **(b) For the purpose of determining greenhouse gas emissions related to electricity purchased**
36 **from the Bonneville Power Administration by a consumer-owned utility, as defined in ORS 757.270,**
37 **the commission may require only that the utility report:**

38 **(A) The number of megawatt-hours of electricity purchased by the utility from the Bonneville**
39 **Power Administration, segregated by the types of contracts entered into by the utility with the**
40 **Bonneville Power Administration; and**

41 **(B) The percentage of each fuel or energy type used to produce electricity purchased under each**
42 **type of contract.**

43 [(4)(a)] **(6)(a) Rules adopted by the commission pursuant to this section for electricity that is**
44 **purchased, imported, sold, allocated or distributed for use in this state by an electric company, as**
45 **defined in ORS 757.600, must be limited to the reporting of:**

1 (A) **The generating facility fuel type and** greenhouse gas emissions emitted from generating
2 facilities owned or operated by the electric company;

3 (B) **The megawatt-hours of electricity generated by the electric company for use in this**
4 **state;**

5 [(B)] (C) Greenhouse gas emissions emitted from transmission equipment owned or operated by
6 the electric company;

7 [(C)] (D) The number of megawatt-hours of electricity purchased by the electric company for use
8 in this state, including information, if known, on:

9 (i) The seller of the electricity to the electric company; and

10 (ii) The original generating facility fuel type or types; and

11 [(D)] (E) An estimate of the amount of greenhouse gas emissions[, *using default greenhouse gas*
12 *emissions factors established by the commission by rule,*] attributable to:

13 (i) Electricity purchases made by a particular seller to the electric company;

14 (ii) Electricity purchases from an unknown origin or from a seller who is unable to identify the
15 original generating facility fuel type or types;

16 (iii) Electricity purchases for which a renewable energy certificate under ORS 469A.130 has
17 been issued but subsequently transferred or sold to a person other than the electric company;

18 (iv) Electricity transmitted for others by the electric company; and

19 (v) Total energy losses from electricity transmission and distribution equipment owned or oper-
20 ated by the electric company.

21 (b) Pursuant to paragraph (a) of this subsection, a multijurisdictional electric company may rely
22 upon a cost allocation methodology approved by the Public Utility Commission for reporting emis-
23 sions allocated in this state.

24 [(5)] (7) Rules adopted by the commission under this section for [*fossil*] fuel that is imported, sold
25 or distributed for use in this state may require reporting of the type and quantity of the fuel and
26 any additional information necessary to determine the [*carbon content*] **greenhouse gas emissions**
27 **associated with the use or combustion** of the fuel. [*For the purpose of determining greenhouse gas*
28 *emissions related to liquefied petroleum gas, the commission shall allow reporting using publications*
29 *or submission of data by the American Petroleum Institute but may require reporting of such other*
30 *information necessary to achieve the purposes of the rules adopted by the commission under this sec-*
31 *tion.*]

32 [(6)] (8) To an extent that is consistent with the purposes of the rules adopted by the commission
33 under this section, the commission shall minimize the burden of the reporting required under this
34 section by:

35 (a) Allowing concurrent reporting of information that is also reported to another state agency;

36 (b) Allowing electronic reporting;

37 (c) Allowing use of good engineering practice calculations in reports, or of emission factors
38 published by the United States Environmental Protection Agency;

39 (d) Establishing thresholds for the amount of specific greenhouse gases that may be emitted or
40 generated without reporting;

41 (e) Requiring reporting by the fewest number of persons in a fuel distribution system that will
42 allow the commission to acquire the information needed by the commission; or

43 (f) Other appropriate means and procedures determined by the commission.

44 [(7) *As used in this section, "greenhouse gas" has the meaning given that term in ORS*
45 *468A.210.*]

1 (9) The department may require a person for which registration and reporting is required
2 under subsection (2) of this section to provide any pertinent records related to verification
3 of greenhouse gas emissions in order to determine compliance with and to enforce this sec-
4 tion and rules adopted pursuant to this section.

5 (10) If a person required to register and report under subsection (2) of this section fails
6 to submit a report under this section, the department may develop an assigned emissions
7 level for the person if necessary for the purpose of regulating persons under any program
8 for the regulation of greenhouse gas emissions adopted by the Legislative Assembly.

9 (11)(a) By rule the commission may establish a schedule of fees for registration and re-
10 porting under this section. Before establishing fees pursuant to this subsection, the com-
11 mission shall consider the total fees for each person subject to registration and reporting
12 under this section.

13 (b) The commission shall limit the fees established under this subsection to the antic-
14 ipated cost of developing, implementing and analyzing data collected under greenhouse gas
15 emissions registration and reporting programs.

16
17 (Transfer from Department of Environmental Quality to
18 Oregon Climate Authority, operative January 1, 2022)
19

20 **SECTION 9. Transfer.** The duties, functions and powers of the Environmental Quality
21 Commission and the Department of Environmental Quality relating to ORS 468A.280 and
22 rules adopted pursuant to ORS 468A.280 are imposed upon, transferred to and vested in the
23 Oregon Climate Authority.

24 **SECTION 10. Records, property, employees.** (1) The Director of the Department of Envi-
25 ronmental Quality shall:

26 (a) Deliver to the Oregon Climate Authority all records and property within the juris-
27 diction of the director that relate to the duties, functions and powers transferred by section
28 9 of this 2019 Act; and

29 (b) Transfer to the Oregon Climate Authority those employees engaged primarily in the
30 exercise of the duties, functions and powers transferred by section 9 of this 2019 Act.

31 (2) The Director of the Oregon Climate Authority shall take possession of the records
32 and property, and shall take charge of the employees and employ them in the exercise of the
33 duties, functions and powers transferred by section 9 of this 2019 Act, without reduction of
34 compensation but subject to change or termination of employment or compensation as pro-
35 vided by law.

36 (3) The Governor shall resolve any dispute between the Department of Environmental
37 Quality and the Oregon Climate Authority relating to transfers of records, property and
38 employees under this section, and the Governor's decision is final.

39 **SECTION 11. Unexpended revenues.** (1) The unexpended balances of amounts authorized
40 to be expended by the Environmental Quality Commission or the Department of Environ-
41 mental Quality for the biennium beginning July 1, 2019, from revenues dedicated, contin-
42 uously appropriated, appropriated or otherwise made available for the purpose of
43 administering and enforcing the duties, functions and powers transferred by section 9 of this
44 2019 Act are transferred to and are available for expenditure by the Oregon Climate Au-
45 thority for the biennium beginning July 1, 2019, for the purpose of administering and en-

1 forcing the duties, functions and powers transferred by section 9 of this 2019 Act.

2 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
3 expenditures by the Department of Environmental Quality remain applicable to expenditures
4 by the Oregon Climate Authority under this section.

5 **SECTION 12. Action, proceeding, prosecution.** The transfer of duties, functions and
6 powers to the Oregon Climate Authority by section 9 of this 2019 Act does not affect any
7 action, proceeding or prosecution involving or with respect to the duties, functions and
8 powers begun before and pending at the time of the transfer, except that the Oregon Climate
9 Authority is substituted for the Environmental Quality Commission or the Department of
10 Environmental Quality, as appropriate, in the action, proceeding or prosecution.

11 **SECTION 13. Liability, duty, obligation.** (1) Nothing in sections 9 to 14 of this 2019 Act
12 relieves a person of a liability, duty or obligation accruing under or with respect to the du-
13 ties, functions and powers transferred by section 9 of this 2019 Act. The Oregon Climate
14 Authority may undertake the collection or enforcement of any such liability, duty or obli-
15 gation.

16 (2) The rights and obligations of the Environmental Quality Commission or the Depart-
17 ment of Environmental Quality legally incurred under contracts, leases and business trans-
18 actions executed, entered into or begun before the operative date of section 9 of this 2019
19 Act accruing under or with respect to the duties, functions and powers transferred by sec-
20 tion 9 of this 2019 Act are transferred to the Oregon Climate Authority. For the purpose of
21 succession to these rights and obligations, the Oregon Climate Authority is a continuation
22 of the Environmental Quality Commission or the Department of Environmental Quality, as
23 appropriate, and not a new authority.

24 **SECTION 14. Rules.** (1) Notwithstanding the transfer of duties, functions and powers by
25 section 9 of this 2019 Act, the rules of the Environmental Quality Commission with respect
26 to such duties, functions or powers that are in effect on the operative date of section 9 of
27 this 2019 Act continue in effect until superseded or repealed by rules of the Oregon Climate
28 Authority. References in the rules of the Environmental Quality Commission to the Envi-
29 ronmental Quality Commission are considered to be references to the Director of the Oregon
30 Climate Authority. References in the rules of the Environmental Quality Commission to the
31 Department of Environmental Quality or an officer or employee of the Department of Envi-
32 ronmental Quality are considered to be references to the Oregon Climate Authority or an
33 officer or employee of the Oregon Climate Authority.

34 (2) Whenever, in any uncodified law or resolution of the Legislative Assembly or in any
35 rule, document, record or proceeding authorized by the Legislative Assembly, in the context
36 of the duties, functions and powers transferred by section 9 of this 2019 Act, reference is
37 made to the Environmental Quality Commission, with relation to the duties, functions or
38 powers transferred by section 9 of this 2019 Act, the reference is considered to be a reference
39 to the Director of the Oregon Climate Authority for purposes of being charged by the terms
40 of this 2019 Act with carrying out the duties, functions and powers.

41 (3) Whenever, in any uncodified law or resolution of the Legislative Assembly or in any
42 rule, document, record or proceeding authorized by the Legislative Assembly, in the context
43 of the duties, functions and powers transferred by section 9 of this 2019 Act, reference is
44 made to the Department of Environmental Quality, or an officer or employee of the Depart-
45 ment of Environmental Quality whose duties, functions or powers are transferred by section

1 **9 of this 2019 Act, the reference is considered to be a reference to the Oregon Climate Au-**
2 **thority or an officer or employee of the Oregon Climate Authority who by this 2019 Act is**
3 **charged with carrying out the duties, functions and powers.**

4
5 (Amendments to Statutes)

6
7 **SECTION 15. ORS 468A.280 is added to and made a part of ORS chapter 469.**

8 **SECTION 16.** ORS 468A.280, as amended by section 8c of this 2019 Act is amended to read:

9 468A.280. (1) As used in this section:

10 (a) “Air contamination source” has the meaning given that term in ORS 468A.005.

11 (b) “Greenhouse gas” includes, but is not limited to, carbon dioxide, methane, nitrous oxide,
12 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitrogen trifluoride.

13 (2) The [*Environmental Quality Commission*] **Director of the Oregon Climate Authority** by
14 rule may require registration and reporting of information necessary to determine greenhouse gas
15 emissions by:

16 (a) A person in control of an air contamination source of any class for which registration and
17 reporting is required under ORS 468A.050.

18 (b) A person who imports, sells, allocates or distributes electricity for use in this state.

19 (c) A person who imports, sells or distributes for use in this state fossil fuel that generates
20 greenhouse gases when combusted.

21 (3) A person required to register and report under subsection (2) of this section shall register
22 with the [*Department of Environmental Quality*] **Oregon Climate Authority** and make reports con-
23 taining information that the [*commission*] **director** by rule may require that is relevant to deter-
24 mining and verifying greenhouse gas emissions. The [*commission*] **director** may by rule require the
25 person to provide an audit by an independent and disinterested party to verify that the greenhouse
26 gas emissions information reported by the person is true and accurate.

27 (4) Rules adopted by the [*commission*] **director** under this section for electricity that is imported,
28 sold, allocated or distributed for use in this state may require reporting of information necessary to
29 determine greenhouse gas emissions from generating facilities used to produce the electricity and
30 related electricity transmission line losses.

31 (5)(a) The [*commission*] **director** shall allow consumer-owned utilities, as defined in ORS 757.270,
32 to comply with reporting requirements imposed under this section by the submission of a report
33 prepared by a third party. A report submitted under this paragraph may include information for
34 more than one consumer-owned utility, but must include all information required by the
35 [*commission*] **director** for each individual utility.

36 (b) For the purpose of determining greenhouse gas emissions related to electricity purchased
37 from the Bonneville Power Administration by a consumer-owned utility, as defined in ORS 757.270,
38 the [*commission*] **director** may require only that the utility report:

39 (A) The number of megawatt-hours of electricity purchased by the utility from the Bonneville
40 Power Administration, segregated by the types of contracts entered into by the utility with the
41 Bonneville Power Administration; and

42 (B) The percentage of each fuel or energy type used to produce electricity purchased under each
43 type of contract.

44 (6)(a) Rules adopted by the [*commission*] **director** pursuant to this section for electricity that is
45 purchased, imported, sold, allocated or distributed for use in this state by an electric company, as

1 defined in ORS 757.600, must be limited to the reporting of:

2 (A) The generating facility fuel type and greenhouse gas emissions emitted from generating fa-
3 cilities owned or operated by the electric company;

4 (B) The megawatt-hours of electricity generated by the electric company for use in this state;

5 (C) Greenhouse gas emissions emitted from transmission equipment owned or operated by the
6 electric company;

7 (D) The number of megawatt-hours of electricity purchased by the electric company for use in
8 this state, including information, if known, on:

9 (i) The seller of the electricity to the electric company; and

10 (ii) The original generating facility fuel type or types; and

11 (E) An estimate of the amount of greenhouse gas emissions attributable to:

12 (i) Electricity purchases made by a particular seller to the electric company;

13 (ii) Electricity purchases from an unknown origin or from a seller who is unable to identify the
14 original generating facility fuel type or types;

15 (iii) Electricity purchases for which a renewable energy certificate under ORS 469A.130 has
16 been issued but subsequently transferred or sold to a person other than the electric company;

17 (iv) Electricity transmitted for others by the electric company; and

18 (v) Total energy losses from electricity transmission and distribution equipment owned or oper-
19 ated by the electric company.

20 (b) Pursuant to paragraph (a) of this subsection, a multijurisdictional electric company may rely
21 upon a cost allocation methodology approved by the Public Utility Commission for reporting emis-
22 sions allocated in this state.

23 (7) Rules adopted by the [commission] **director** under this section for fuel that is imported, sold
24 or distributed for use in this state may require reporting of the type and quantity of the fuel and
25 any additional information necessary to determine the greenhouse gas emissions associated with the
26 use or combustion of the fuel.

27 (8) To an extent that is consistent with the purposes of the rules adopted by the [commission]
28 **director** under this section, the [commission] **director** shall minimize the burden of the reporting
29 required under this section by:

30 (a) Allowing concurrent reporting of information that is also reported to another state agency;

31 (b) Allowing electronic reporting;

32 (c) Allowing use of good engineering practice calculations in reports, or of emission factors
33 published by the United States Environmental Protection Agency;

34 (d) Establishing thresholds for the amount of specific greenhouse gases that may be emitted or
35 generated without reporting;

36 (e) Requiring reporting by the fewest number of persons in a fuel distribution system that will
37 allow the [commission] **director** to acquire the information needed by the [commission] **director**; or

38 (f) Other appropriate means and procedures determined by the [commission] **director**.

39 (9) The [department] **authority** may require a person for which registration and reporting is
40 required under subsection (2) of this section to provide any pertinent records related to verification
41 of greenhouse gas emissions in order to determine compliance with and to enforce this section and
42 rules adopted pursuant to this section.

43 (10) If a person required to register and report under subsection (2) of this section fails to sub-
44 mit a report under this section, the [department] **authority** may develop an assigned emissions level
45 for the person if necessary for the purpose of regulating persons under any program for the regu-

1 lation of greenhouse gas emissions adopted by the Legislative Assembly.

2 (11)(a) By rule the [commission] **director** may establish a schedule of fees for registration and
3 reporting under this section. Before establishing fees pursuant to this subsection, the [commission]
4 **director** shall consider the total fees for each person subject to registration and reporting under
5 this section.

6 (b) The [commission] **director** shall limit the fees established under this subsection to the an-
7 ticipated cost of developing, implementing and analyzing data collected under greenhouse gas emis-
8 sions registration and reporting programs.

9
10 **STATE DEPARTMENT OF ENERGY**

11
12 **(Abolishment and Transfer of Duties)**

13
14 **SECTION 17. Abolish and transfer.** (1) **The State Department of Energy is abolished. On**
15 **the operative date of this section, the tenure of office of the Director of the State Depart-**
16 **ment of Energy ceases.**

17 (2) **All the duties, functions and powers of the State Department of Energy relating to**
18 **the administration of ORS 176.809, 176.820, 183.457, 183.530, 192.355, 192.690, 244.050, 261.151,**
19 **261.161, 261.225, 261.470, 262.025, 262.065, 276.900 to 276.915, 279A.065, 279C.527, 279C.528,**
20 **285C.559, 286A.630, 286A.710 to 286A.720, 286A.810, 291.055, 291.445, 315.141, 315.144, 315.326,**
21 **315.329, 315.331, 315.336, 315.354, 315.356, 315.357, 316.116, 401.054, 453.347, 455.146, 455.492,**
22 **455.496, 466.380, 466.615, 469.010 to 469.155, 469.229 to 469.261, 469.300 to 469.563, 469.566 to**
23 **469.583, 469.584, 469.585, 469.586, 469.587, 469.590 to 469.619, 469.631 to 469.645, 469.649 to**
24 **469.659, 469.700, 469.703, 469.710 to 469.720, 469.745, 469.752 to 469.756, 469.802 to 469.845, 469.860**
25 **to 469.900, 469.930, 469.950, 469.990, 469.992, 469A.005 to 469A.210, 469B.100 to 469B.118, 469B.130**
26 **to 469B.169, 469B.171, 469B.250 to 469B.265, 469B.270 to 469B.306, 469B.320 to 469B.347,**
27 **469B.400, 469B.403, 469B.407, 469B.991, 470.800, 470.805, 470.810, 470.815, 522.125, 526.274,**
28 **526.280, 526.786, 701.527, 757.522 to 757.536, 757.538, 757.600, 757.612, 757.687 and 757.720 and**
29 **section 25, chapter 301, Oregon Laws 2007, section 2, chapter 312, Oregon Laws 2015, and**
30 **sections 1 to 3, chapter 63, Oregon Laws 2016, are imposed upon, transferred to and vested**
31 **in the Oregon Climate Authority.**

32 (3) **All the duties, functions and powers of the State Department of Energy relating to**
33 **the administration of ORS 223.680, 470.050, 470.060, 470.080, 470.090, 470.100, 470.110, 470.120,**
34 **470.130, 470.135, 470.140, 470.145, 470.150, 470.160, 470.170, 470.180, 470.190, 470.200, 470.210,**
35 **470.230, 470.270, 470.300 and 470.310 are imposed upon, transferred to and vested in the**
36 **Oregon Business Development Department.**

37 **SECTION 18. Records, property, employees.** (1)(a) **The Director of the State Department**
38 **of Energy shall:**

39 (A) **Deliver to the Oregon Climate Authority all records and property within the juris-**
40 **isdiction of the director that relate to the duties, functions and powers transferred by section**
41 **17 (2) of this 2019 Act; and**

42 (B) **Transfer to the Oregon Climate Authority those employees engaged primarily in the**
43 **exercise of the duties, functions and powers transferred by section 17 (2) of this 2019 Act.**

44 (b) **The Oregon Climate Authority shall take possession of the records and property, and**
45 **shall take charge of the employees and employ them in the exercise of the duties, functions**

1 and powers transferred by section 17 (2) of this 2019 Act, without reduction of compensation
2 but subject to change or termination of employment or compensation as provided by law.

3 (2)(a) The Director of the State Department of Energy shall:

4 (A) Deliver to the Director of the Oregon Business Development Department all records
5 and property within the jurisdiction of the Director of the State Department of Energy that
6 relate to the duties, functions and powers transferred by section 17 (3) of this 2019 Act; and

7 (B) Transfer to the Director of the Oregon Business Development Department those
8 employees engaged primarily in the exercise of the duties, functions and powers transferred
9 by section 17 (3) of this 2019 Act.

10 (b) The Director of the Oregon Business Development Department shall take possession
11 of the records and property, and shall take charge of the employees and employ them in the
12 exercise of the duties, functions and powers transferred by section 17 (3) of this 2019 Act,
13 without reduction of compensation but subject to change or termination of employment or
14 compensation as provided by law.

15 (3) The Governor shall resolve any dispute between the State Department of Energy and
16 the Oregon Climate Authority or the Oregon Business Development Department relating to
17 transfers of records, property and employees under this section, and the Governor's decision
18 is final.

19 **SECTION 19. Unexpended revenues.** (1) The unexpended balances of amounts authorized
20 to be expended by the State Department of Energy for the biennium beginning July 1, 2019,
21 from revenues dedicated, continuously appropriated, appropriated or otherwise made avail-
22 able for the purpose of administering and enforcing the duties, functions and powers trans-
23 ferred by section 17 (2) of this 2019 Act are transferred to and are available for expenditure
24 by the Oregon Climate Authority for the biennium beginning July 1, 2019, for the purpose
25 of administering and enforcing the duties, functions and powers transferred by section 17 (2)
26 of this 2019 Act.

27 (2) The unexpended balances of amounts authorized to be expended by the State Depart-
28 ment of Energy for the biennium beginning July 1, 2019, from revenues dedicated, contin-
29 uously appropriated, appropriated or otherwise made available for the purpose of
30 administering and enforcing the duties, functions and powers transferred by section 17 (3)
31 of this 2019 Act are transferred to and are available for expenditure by the Oregon Business
32 Development Department for the biennium beginning July 1, 2019, for the purpose of admin-
33 istering and enforcing the duties, functions and powers transferred by section 17 (3) of this
34 2019 Act.

35 **SECTION 20. Action, proceeding, prosecution.** The transfer of duties, functions and
36 powers to the Oregon Climate Authority or the Oregon Business Development Department
37 by section 17 of this 2019 Act does not affect any action, proceeding or prosecution involving
38 or with respect to such duties, functions and powers begun before and pending at the time
39 of the transfer, except that:

40 (1) The Oregon Climate Authority is substituted for the State Department of Energy in
41 an action, proceeding or prosecution held pursuant to the laws specified in section 17 (2) of
42 this 2019 Act; and

43 (2) The Oregon Business Development Department is substituted for the State Depart-
44 ment of Energy in an action, proceeding or prosecution held pursuant to the laws specified
45 in section 17 (3) of this 2019 Act.

1 **SECTION 21. Liability, duty, obligation.** (1) Nothing in sections 17 to 25 and 255 to 259 of
2 this 2019 Act, the amendments to statutes and session law by sections 26 to 28 and 31 to 254
3 of this 2019 Act or the repeal of statutes by section 260 of this 2019 Act relieves a person of
4 a liability, duty or obligation accruing under or with respect to the duties, functions and
5 powers transferred by section 17 of this 2019 Act.

6 (2)(a) The Oregon Climate Authority may undertake the collection or enforcement of any
7 liability, duty or obligation relating to the administration of the laws specified in section 17
8 (2) of this 2019 Act.

9 (b) The rights and obligations of the State Department of Energy relating to the admin-
10 istration of the laws specified in section 17 (2) of this 2019 Act that are legally incurred under
11 contracts, leases and business transactions executed, entered into or begun before the op-
12 erative date of section 17 of this 2019 Act are transferred to the Oregon Climate Authority.
13 For the purpose of succession to these rights and obligations, the Oregon Climate Authority
14 is a continuation of the State Department of Energy and not a new authority.

15 (3)(a) The Oregon Business Development Department may undertake the collection or
16 enforcement of any liability, duty or obligation relating to the administration of the laws
17 specified in section 17 (3) of this 2019 Act.

18 (b) The rights and obligations of the State Department of Energy relating to the admin-
19 istration of the laws specified in section 17 (3) of this 2019 Act that are legally incurred under
20 contracts, leases and business transactions executed, entered into or begun before the op-
21 erative date of section 17 of this 2019 Act are transferred to the Oregon Business Develop-
22 ment Department. For the purpose of succession to these rights and obligations, the Oregon
23 Business Development Department is a continuation of the State Department of Energy and
24 not a new authority.

25 **SECTION 22. Rules.** Notwithstanding the transfer of duties, functions and powers by
26 section 17 of this 2019 Act, the rules of the State Department of Energy in effect on the op-
27 erative date of section 17 of this 2019 Act continue in effect until superseded or repealed by
28 rules of the Oregon Climate Authority or the Oregon Business Development Department.
29 References in rules of the State Department of Energy to the State Department of Energy
30 or an officer or employee of the State Department of Energy are considered to be references
31 to:

32 (1) The Oregon Climate Authority or an officer or employee of the authority for rules
33 relating to the administration of the laws specified in section 17 (2) of this 2019 Act; and

34 (2) The Oregon Business Development Department or an officer or employee of the
35 Oregon Business Development Department for rules relating to the administration of the
36 laws specified in section 17 (3) of this 2019 Act.

37 **SECTION 23.** Whenever, in any statutory law or resolution of the Legislative Assembly
38 or in any rule, document, record or proceeding authorized by the Legislative Assembly, ref-
39 erence is made to the State Department of Energy or an officer or employee of the State
40 Department of Energy, the reference is considered to be a reference to:

41 (1) The Oregon Climate Authority or an officer or employee of the authority for refer-
42 ences relating to the administration of the laws specified in section 17 (2) of this 2019 Act;
43 and

44 (2) The Oregon Business Development Department or an officer or employee of the
45 Oregon Business Development Department for references relating to the administration of

1 the laws specified in section 17 (3) of this 2019 Act.

2 **SECTION 24. Agency name change.** (1) For the purpose of harmonizing and clarifying
3 statutory law, the Legislative Counsel may substitute for words designating the “State De-
4 partment of Energy” or its officers, wherever they occur in the laws of this state that relate
5 to the duties, functions and powers imposed upon, transferred to and vested in the Oregon
6 Climate Authority under section 17 (2) of this 2019 Act, other words designating the “Oregon
7 Climate Authority” or its officers.

8 (2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel
9 may substitute for words designating the “State Department of Energy” or its officers,
10 wherever they occur in the laws of this state that relate to the duties, functions and powers
11 imposed upon, transferred to and vested in the Oregon Business Development Department
12 under section 17 (3) of this 2019 Act, other words designating the “Oregon Business Devel-
13 opment Department” or its officers.

14 **SECTION 25. Account name change.** For the purpose of harmonizing and clarifying
15 statutory law, the Legislative Counsel may substitute for words designating the “State De-
16 partment of Energy Account,” wherever they occur in statutory law, words designating the
17 “Oregon Climate Authority Account.”

18
19 (Provisions Related to the Energy Supplier Assessment,
20 operative July 1, 2020)
21

22 **SECTION 26.** ORS 469.120 is amended to read:

23 469.120. (1) The [*State Department of Energy*] **Oregon Climate Authority** Account is estab-
24 lished.

25 (2) The account shall consist of all funds received by the [*State Department of Energy*] **Oregon**
26 **Climate Authority** pursuant to law. All moneys in the account are continuously appropriated to the
27 [*State Department of Energy*] **Oregon Climate Authority** for payment of expenses of the
28 [*department*] **authority** and of the Energy Facility Siting Council.

29 (3) Moneys collected under ORS 469.421 (8) may be expended only for the purposes of programs
30 and activities that the council and the department are charged with administering and authorized
31 to conduct under the laws of this state, including those enumerated in ORS 469.030.

32 (4) The Director of the [*State Department of Energy*] **Oregon Climate Authority** shall keep a
33 record of all moneys deposited in the account. The record shall indicate by special cumulative ac-
34 counts the source from which moneys are derived and the individual activity or program, including
35 any activities described in ORS 469.424, against which each withdrawal is charged. On or after Oc-
36 tober 1 of each year, the director shall make available, upon request, the record for the prior fiscal
37 year to any energy resource supplier that has paid the assessment imposed under ORS 469.421 (8).
38 The director shall make the record available within 30 days of receiving the request.

39 **SECTION 27.** ORS 469.421 is amended to read:

40 469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,
41 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,
42 a request for an expedited review under ORS 469.373, a request for the [*State Department of*
43 *Energy*] **Oregon Climate Authority** to approve a pipeline under ORS 469.405 (3), an application for
44 a site certificate or a request to amend a site certificate shall pay all expenses incurred by the
45 Energy Facility Siting Council and the [*department*] **authority** related to the review and decision

1 of the council. Expenses under this subsection may include:

2 (a) Legal expenses;

3 (b) Expenses incurred in processing and evaluating the application;

4 (c) Expenses incurred in issuing a final order or site certificate;

5 (d) Expenses incurred in commissioning an independent study under ORS 469.360;

6 (e) Compensation paid to a state agency, a tribe or a local government pursuant to a written
7 contract or agreement relating to compensation as provided for in ORS 469.360; or

8 (f) Expenses incurred by the council in making rule changes that are specifically required and
9 related to the particular site certificate.

10 (2) Every person submitting a notice of intent to file for a site certificate, a request for ex-
11 emption or a request for expedited review shall pay the fee required under the fee schedule estab-
12 lished under ORS 469.441 to the [*department*] **authority** prior to submitting the notice or request to
13 the council. To the extent possible, the full cost of the evaluation shall be paid from the fee paid
14 under this subsection. However, if costs of the evaluation exceed the fee, the person submitting the
15 notice or request shall pay any excess costs shown in an itemized statement prepared by the council.
16 In no event shall the council incur evaluation expenses in excess of 110 percent of the fee initially
17 paid unless the council provides prior notification to the applicant and a detailed projected budget
18 the council believes necessary to complete the project. If costs are less than the fee paid, the excess
19 shall be refunded to the person submitting the notice or request.

20 (3) Before submitting a site certificate application, the applicant shall request from the [*depart-*
21 *ment*] **authority** an estimate of the costs expected to be incurred in processing the application. The
22 [*department*] **authority** shall inform the applicant of that amount and require the applicant to make
23 periodic payments of the costs pursuant to a cost reimbursement agreement. The cost reimbursement
24 agreement shall provide for payment of 25 percent of the estimated costs when the applicant submits
25 the application. If costs of the evaluation exceed the estimate, the applicant shall pay any excess
26 costs shown in an itemized statement prepared by the council. In no event shall the council incur
27 evaluation expenses in excess of 110 percent of the fee initially estimated unless the council pro-
28 vided prior notification to the applicant and a detailed projected budget the council believes is
29 necessary to complete the project. If costs are less than the fee paid, the council shall refund the
30 excess to the applicant.

31 (4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
32 section shall be subject to the provisions of subsection (11) of this section.

33 (5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual fee,
34 due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of the
35 [*department's*] **authority's** budget authorization by an odd-numbered year regular session of the
36 Legislative Assembly or as revised by the Emergency Board meeting in an interim period or by the
37 Legislative Assembly meeting in special session or in an even-numbered year regular session, the
38 Director of the [*State Department of Energy*] **Oregon Climate Authority** promptly shall enter an
39 order establishing an annual fee based on the amount of revenues that the director estimates is
40 needed to fund the cost of ensuring that the facility is being operated consistently with the terms
41 and conditions of the site certificate, any order issued by the [*department*] **authority** under ORS
42 469.405 (3) and any applicable health or safety standards. In determining this cost, the director shall
43 include both the actual direct cost to be incurred by the council and the [*department*] **authority** to
44 ensure that the facility is being operated consistently with the terms and conditions of the site
45 certificate, any order issued by the [*department*] **authority** under ORS 469.405 (3) and any applicable

1 health or safety standards, and the general costs to be incurred by the council and the
 2 *[department]* **authority** to ensure that all certificated facilities are being operated consistently with
 3 the terms and conditions of the site certificates, any orders issued by the *[department]* **authority**
 4 under ORS 469.405 (3) and any applicable health or safety standards that cannot be allocated to an
 5 individual, licensed facility. Not more than 35 percent of the annual fee charged each facility shall
 6 be for the recovery of these general costs. The fees for direct costs shall reflect the size and com-
 7 plexity of the facility, the anticipated costs of ensuring compliance with site certificate conditions,
 8 the anticipated costs of conducting site inspections and compliance reviews as described in ORS
 9 469.430, and the anticipated costs of compensating state agencies and local governments for partic-
 10 ipating in site inspection and compliance enforcement activities at the request of the council.

11 (6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
 12 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the
 13 facility during the remaining portion of the year determined in the same manner as the annual fee.

14 (7) When the actual costs of regulation incurred by the council and the *[department]* **authority**
 15 for the year, including that portion of the general regulation costs that have been allocated to a
 16 particular facility, are less than the annual fees for that facility, the unexpended balance shall be
 17 refunded to the site certificate holder. When the actual regulation costs incurred by the council and
 18 the *[department]* **authority** for the year, including that portion of the general regulation costs that
 19 have been allocated to a particular facility, are projected to exceed the annual fee for that facility,
 20 the director may issue an order revising the annual fee.

21 (8)(a) In addition to any other fees required by law, each energy resource supplier shall pay to
 22 the *[department]* **authority** annually its share of an assessment to fund the programs and activities
 23 of the council and the *[department]* **authority**.

24 (b) Prior to filing an agency request budget under ORS 291.208 for purposes related to the
 25 compilation and preparation of the Governor's budget under ORS 291.216, the director shall deter-
 26 mine the projected aggregate amount of revenue to be collected from energy resource suppliers un-
 27 der this subsection that will be necessary to fund the programs and activities of the council and the
 28 *[department]* **authority** for each fiscal year of the upcoming biennium. After making that determi-
 29 nation, the director shall convene a public meeting with representatives of energy resource suppliers
 30 and other interested parties for the purpose of providing energy resource suppliers with a full ac-
 31 counting of:

32 (A) The projected revenue needed to fund each *[department]* program or activity **of the au-**
 33 **thority**; and

34 (B) The projected allocation of moneys derived from the assessment imposed under this sub-
 35 section to each *[department]* program or activity **of the authority**.

36 (c) Upon approval of the budget authorization of the council and the *[department]* **authority** by
 37 an odd-numbered year regular session of the Legislative Assembly, the director shall promptly enter
 38 an order establishing the amount of revenues required to be derived from an assessment pursuant
 39 to this subsection in order to fund programs and activities that the council and the *[department]*
 40 **authority** are charged with administering and authorized to conduct under the laws of this state,
 41 including those enumerated in ORS 469.030, for the first fiscal year of the forthcoming biennium.
 42 On or before June 1 of each even-numbered year, the director shall enter an order establishing the
 43 amount of revenues required to be derived from an assessment pursuant to this subsection in order
 44 to fund the programs and activities that the council and the *[department]* **authority** are charged
 45 with administering and authorized to conduct under the laws of this state, including those enumer-

1 ated in ORS 469.030, for the second fiscal year of the biennium. The order shall take into account
 2 any revisions to the biennial budget of the council and the [*department*] **authority** made by the
 3 Emergency Board meeting in an interim period or by the Legislative Assembly meeting in special
 4 session or in an even-numbered year regular session.

5 (d) Each order issued by the director pursuant to paragraph (c) of this subsection shall allocate
 6 the aggregate assessment set forth in the order to energy resource suppliers in accordance with
 7 paragraph (e) of this subsection.

8 (e) The amount assessed to an energy resource supplier shall be based on the ratio which that
 9 supplier's annual gross operating revenue derived within this state in the preceding calendar year
 10 bears to the total gross operating revenue derived within this state during that year by all energy
 11 resource suppliers. The assessment against an energy resource supplier shall not exceed 0.375 per-
 12 cent of the supplier's gross operating revenue derived within this state in the preceding calendar
 13 year. The director shall exempt from payment of an assessment any individual energy resource
 14 supplier whose calculated share of the annual assessment is less than \$250.

15 (f) The director shall send each energy resource supplier subject to assessment pursuant to this
 16 subsection a copy of each order issued by registered or certified mail or through use of an electronic
 17 medium with electronic receipt verification. The amount assessed to the energy resource supplier
 18 pursuant to the order shall be considered to the extent otherwise permitted by law a government-
 19 imposed cost and recoverable by the energy resource supplier as a cost included within the price
 20 of the service or product supplied.

21 (g) The amounts assessed to individual energy resource suppliers pursuant to paragraph (e) of
 22 this subsection shall be paid to the [*department*] **authority** as follows:

23 (A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
 24 following adjournment sine die of the odd-numbered year regular session of the Legislative Assem-
 25 bly; and

26 (B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
 27 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year
 28 regular session of the Legislative Assembly, whichever is later.

29 (h) An energy resource supplier shall provide the director, on or before May 1 of each year, a
 30 verified statement showing its gross operating revenues derived within the state for the calendar
 31 or fiscal year that was used by the energy resource supplier for the purpose of reporting federal
 32 income taxes for the preceding calendar or fiscal year. The statement must be in the form prescribed
 33 by the director and is subject to audit by the director. The statement must include an entry showing
 34 the total operating revenue derived by petroleum suppliers from fuels sold that are subject to the
 35 requirements of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with reference
 36 to aircraft fuel and motor vehicle fuel, and ORS 319.530. The director may grant an extension of not
 37 more than 15 days for the requirements of this subsection if:

38 (A) The energy supplier makes a showing of hardship caused by the deadline;

39 (B) The energy supplier provides reasonable assurance that the energy supplier can comply with
 40 the revised deadline; and

41 (C) The extension of time does not prevent the council or the [*department*] **authority** from ful-
 42 filling its statutory responsibilities.

43 (i) As used in this section:

44 (A) "Energy resource supplier" means an electric utility, natural gas utility or petroleum sup-
 45 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-

1 ducts in Oregon.

2 (B) "Gross operating revenue" means gross receipts from sales or service made or provided
3 within this state during the regular course of the energy supplier's business, but does not include
4 either revenue derived from interutility sales within the state or revenue received by a petroleum
5 supplier from the sale of fuels that are subject to the requirements of Article IX, section 3a, of the
6 Oregon Constitution, or ORS 319.020 or 319.530.

7 (C) "Petroleum supplier" has the meaning given that term in ORS 469.020.

8 (j) In determining the amount of revenues that must be derived from any class of energy re-
9 source suppliers by assessment pursuant to this subsection, the director shall take into account all
10 other known or readily ascertainable sources of revenue to the council and [*department*]
11 **authority**, including, but not limited to, fees imposed under this section and federal funds, and may
12 take into account any funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part)
13 or section 7, chapter 792, Oregon Laws 1981.

14 (k) Orders issued by the director pursuant to this section shall be subject to judicial review
15 under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an en-
16 ergy resource supplier to pay amounts assessed to it on or before the statutory deadline.

17 (9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
18 power plant or nuclear installation within this state shall pay to the [*department*] **authority** annu-
19 ally on July 1 an assessment in an amount determined by the director to be necessary to fund the
20 activities of the state and the counties associated with emergency preparedness for a nuclear fueled
21 thermal power plant or nuclear installation. The assessment shall not exceed \$461,250 per year.
22 Moneys collected as assessments under this subsection are continuously appropriated to the [*de-*
23 *partment*] **authority** for this purpose.

24 (b) The [*department*] **authority** shall maintain and cause other state agencies and counties to
25 maintain time and billing records for the expenditure of any fees collected from an operator of a
26 nuclear fueled thermal power plant under paragraph (a) of this subsection.

27 (10) Reactors operated by a college, university or graduate center for research purposes and
28 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements
29 of subsections (5), (8) and (9) of this section.

30 (11)(a) All fees assessed by the [*director*] **authority** against holders of site certificates for facil-
31 ities that have an installed capacity of 500 megawatts or greater may be paid in several install-
32 ments, the schedule for which shall be negotiated between the [*director*] **authority** and the site
33 certificate holder.

34 (b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee
35 provided under subsections (1) to (9) of this section after it is due and payable shall pay, in addition
36 to that fee, a penalty of two percent of the fee a month for the period that the fee is past due. Any
37 payment made according to the terms of a schedule negotiated under paragraph (a) of this sub-
38 section shall not be considered past due. The director may bring an action to collect an unpaid fee
39 or penalty in the name of the State of Oregon in a court of competent jurisdiction. The court may
40 award reasonable attorney fees to the director if the director prevails in an action under this sub-
41 section. The court may award reasonable attorney fees to a defendant who prevails in an action
42 under this subsection if the court determines that the director had no objectively reasonable basis
43 for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

44 **SECTION 28.** ORS 469.426 is amended to read:

45 469.426. (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** shall

1 convene an advisory work group composed of stakeholders representing energy resource suppliers,
2 the customers who ultimately pay for the energy supplier assessment imposed under ORS 469.421 (8)
3 through their energy bills and other groups that have an interest in the provision and regulation
4 of energy in this state.

5 (2) The advisory work group shall review and make recommendations **to the director** on the
6 [State Department of Energy's] **Oregon Climate Authority's** proposals related to:

7 (a) Planning, policy and technical analysis;

8 (b) Legislative concepts; and

9 (c) The department's requested budget.

10 (3) The work group shall meet at least two times per year at the call of the director.

11
12 **(Provisions Related to the Energy Supplier Assessment,**
13 **operative July 1, 2021)**
14

15 **SECTION 28a.** ORS 469.120, as amended by section 26 of this 2019 Act, is amended to read:

16 469.120. (1) The Oregon Climate Authority Account is established.

17 (2) The account shall consist of all funds received by the Oregon Climate Authority pursuant
18 to law. All moneys in the account are continuously appropriated to the Oregon Climate Authority
19 for payment of expenses of the authority and of the Energy Facility Siting Council.

20 (3) Moneys collected under ORS 469.421 (8) may be expended only for the purposes [of programs
21 and activities that the council and the department are charged with administering and authorized to
22 conduct under the laws of this state, including those enumerated in ORS 469.030.] **specified in ORS**
23 **469.421 (8)(a).**

24 (4) The Director of the Oregon Climate Authority shall keep a record of all moneys deposited
25 in the account. The record shall indicate by special cumulative accounts the source from which
26 moneys are derived and the individual activity or program, including any activities described in ORS
27 469.424, against which each withdrawal is charged. On or after October 1 of each year, the director
28 shall make available, upon request, the record for the prior fiscal year to any energy resource sup-
29 plier that has paid the assessment imposed under ORS 469.421 (8). The director shall make the re-
30 cord available within 30 days of receiving the request.

31 **SECTION 28b.** ORS 469.421, as amended by section 27 of this 2019 Act, is amended to read:

32 469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,
33 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,
34 a request for an expedited review under ORS 469.373, a request for the Oregon Climate Authority
35 to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to
36 amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council and
37 the authority related to the review and decision of the council. Expenses under this subsection may
38 include:

39 (a) Legal expenses;

40 (b) Expenses incurred in processing and evaluating the application;

41 (c) Expenses incurred in issuing a final order or site certificate;

42 (d) Expenses incurred in commissioning an independent study under ORS 469.360;

43 (e) Compensation paid to a state agency, a tribe or a local government pursuant to a written
44 contract or agreement relating to compensation as provided for in ORS 469.360; or

45 (f) Expenses incurred by the council in making rule changes that are specifically required and

1 related to the particular site certificate.

2 (2) Every person submitting a notice of intent to file for a site certificate, a request for ex-
3 emption or a request for expedited review shall pay the fee required under the fee schedule estab-
4 lished under ORS 469.441 to the authority prior to submitting the notice or request to the council.
5 To the extent possible, the full cost of the evaluation shall be paid from the fee paid under this
6 subsection. However, if costs of the evaluation exceed the fee, the person submitting the notice or
7 request shall pay any excess costs shown in an itemized statement prepared by the council. In no
8 event shall the council incur evaluation expenses in excess of 110 percent of the fee initially paid
9 unless the council provides prior notification to the applicant and a detailed projected budget the
10 council believes necessary to complete the project. If costs are less than the fee paid, the excess
11 shall be refunded to the person submitting the notice or request.

12 (3) Before submitting a site certificate application, the applicant shall request from the authority
13 an estimate of the costs expected to be incurred in processing the application. The authority shall
14 inform the applicant of that amount and require the applicant to make periodic payments of the
15 costs pursuant to a cost reimbursement agreement. The cost reimbursement agreement shall provide
16 for payment of 25 percent of the estimated costs when the applicant submits the application. If costs
17 of the evaluation exceed the estimate, the applicant shall pay any excess costs shown in an itemized
18 statement prepared by the council. In no event shall the council incur evaluation expenses in excess
19 of 110 percent of the fee initially estimated unless the council provided prior notification to the
20 applicant and a detailed projected budget the council believes is necessary to complete the project.
21 If costs are less than the fee paid, the council shall refund the excess to the applicant.

22 (4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
23 section shall be subject to the provisions of subsection (11) of this section.

24 (5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual fee,
25 due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of the
26 authority's budget authorization by an odd-numbered year regular session of the Legislative Assem-
27 bly or as revised by the Emergency Board meeting in an interim period or by the Legislative As-
28 sembly meeting in special session or in an even-numbered year regular session, the Director of the
29 Oregon Climate Authority promptly shall enter an order establishing an annual fee based on the
30 amount of revenues that the director estimates is needed to fund the cost of ensuring that the fa-
31 cility is being operated consistently with the terms and conditions of the site certificate, any order
32 issued by the authority under ORS 469.405 (3) and any applicable health or safety standards. In de-
33 termining this cost, the director shall include both the actual direct cost to be incurred by the
34 council and the authority to ensure that the facility is being operated consistently with the terms
35 and conditions of the site certificate, any order issued by the authority under ORS 469.405 (3) and
36 any applicable health or safety standards, and the general costs to be incurred by the council and
37 the authority to ensure that all certificated facilities are being operated consistently with the terms
38 and conditions of the site certificates, any orders issued by the authority under ORS 469.405 (3) and
39 any applicable health or safety standards that cannot be allocated to an individual, licensed facility.
40 Not more than 35 percent of the annual fee charged each facility shall be for the recovery of these
41 general costs. The fees for direct costs shall reflect the size and complexity of the facility, the an-
42 ticipated costs of ensuring compliance with site certificate conditions, the anticipated costs of con-
43 ducting site inspections and compliance reviews as described in ORS 469.430, and the anticipated
44 costs of compensating state agencies and local governments for participating in site inspection and
45 compliance enforcement activities at the request of the council.

1 (6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
 2 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the
 3 facility during the remaining portion of the year determined in the same manner as the annual fee.

4 (7) When the actual costs of regulation incurred by the council and the authority for the year,
 5 including that portion of the general regulation costs that have been allocated to a particular fa-
 6 cility, are less than the annual fees for that facility, the unexpended balance shall be refunded to
 7 the site certificate holder. When the actual regulation costs incurred by the council and the au-
 8 thority for the year, including that portion of the general regulation costs that have been allocated
 9 to a particular facility, are projected to exceed the annual fee for that facility, the director may is-
 10 sue an order revising the annual fee.

11 (8)(a) In addition to any other fees required by law, each energy resource supplier shall pay to
 12 the authority annually its share of an assessment to fund:

13 (A) The programs and activities of the council [*and the authority.*];

14 (B) **The energy services programs of the authority; and**

15 (C) **The administrative overhead and shared services costs of the authority that are at-**
 16 **tributable to the programs and activities described in subparagraphs (A) and (B) of this**
 17 **paragraph, unless the administrative overhead or shared services costs are funded by ex-**
 18 **penses or fees paid pursuant to subsection (1), (5) or (6) of this section.**

19 (b) Prior to filing an agency request budget under ORS 291.208 for purposes related to the
 20 compilation and preparation of the Governor's budget under ORS 291.216, the director shall deter-
 21 mine the projected aggregate amount of revenue to be collected from energy resource suppliers un-
 22 der this subsection that will be necessary to fund the programs and activities of the council and the
 23 authority **described in paragraph (a) of this subsection** for each fiscal year of the upcoming
 24 biennium. After making that determination, the director shall convene a public meeting with repre-
 25 sentatives of energy resource suppliers and other interested parties for the purpose of providing
 26 energy resource suppliers with a full accounting of:

27 (A) The projected revenue needed to fund each [*program or activity*] **energy services program**
 28 of the authority; and

29 (B) The projected allocation of moneys derived from the assessment imposed under this sub-
 30 section to each [*program or activity*] **energy services program** of the authority.

31 (c) Upon approval of the budget authorization of the council and the authority by an odd-
 32 numbered year regular session of the Legislative Assembly, the director shall promptly enter an
 33 order establishing the amount of revenues required to be derived from an assessment pursuant to
 34 this subsection in order to fund programs and activities **described in paragraph (a) of this sub-**
 35 **section** that the council and the authority are charged with administering and authorized to con-
 36 duct under the laws of this state[, *including those enumerated in ORS 469.030,*] for the first fiscal
 37 year of the forthcoming biennium. On or before June 1 of each even-numbered year, the director
 38 shall enter an order establishing the amount of revenues required to be derived from an assessment
 39 pursuant to this subsection in order to fund the programs and activities **described in paragraph**
 40 **(a) of this subsection** that the council and the authority are charged with administering and au-
 41 thorized to conduct under the laws of this state[, *including those enumerated in ORS 469.030,*] for the
 42 second fiscal year of the biennium. The order shall take into account any revisions to the biennial
 43 budget of the council and the authority made by the Emergency Board meeting in an interim period
 44 or by the Legislative Assembly meeting in special session or in an even-numbered year regular ses-
 45 sion.

1 (d) Each order issued by the director pursuant to paragraph (c) of this subsection shall allocate
2 the aggregate assessment set forth in the order to energy resource suppliers in accordance with
3 paragraph (e) of this subsection.

4 (e) The amount assessed to an energy resource supplier shall be based on the ratio which that
5 supplier's annual gross operating revenue derived within this state in the preceding calendar year
6 bears to the total gross operating revenue derived within this state during that year by all energy
7 resource suppliers. The assessment against an energy resource supplier shall not exceed [0.375] **0.25**
8 percent of the supplier's gross operating revenue derived within this state in the preceding calendar
9 year. The director shall exempt from payment of an assessment any individual energy resource
10 supplier whose calculated share of the annual assessment is less than \$250.

11 (f) The director shall send each energy resource supplier subject to assessment pursuant to this
12 subsection a copy of each order issued by registered or certified mail or through use of an electronic
13 medium with electronic receipt verification. The amount assessed to the energy resource supplier
14 pursuant to the order shall be considered to the extent otherwise permitted by law a government-
15 imposed cost and recoverable by the energy resource supplier as a cost included within the price
16 of the service or product supplied.

17 (g) The amounts assessed to individual energy resource suppliers pursuant to paragraph (e) of
18 this subsection shall be paid to the authority as follows:

19 (A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
20 following adjournment sine die of the odd-numbered year regular session of the Legislative Assem-
21 bly; and

22 (B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
23 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year
24 regular session of the Legislative Assembly, whichever is later.

25 (h) An energy resource supplier shall provide the director, on or before May 1 of each year, a
26 verified statement showing its gross operating revenues derived within the state for the calendar
27 or fiscal year that was used by the energy resource supplier for the purpose of reporting federal
28 income taxes for the preceding calendar or fiscal year. The statement must be in the form prescribed
29 by the director and is subject to audit by the director. The statement must include an entry showing
30 the total operating revenue derived by petroleum suppliers from fuels sold that are subject to the
31 requirements of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with reference
32 to aircraft fuel and motor vehicle fuel, and ORS 319.530. The director may grant an extension of not
33 more than 15 days for the requirements of this subsection if:

34 (A) The energy supplier makes a showing of hardship caused by the deadline;

35 (B) The energy supplier provides reasonable assurance that the energy supplier can comply with
36 the revised deadline; and

37 (C) The extension of time does not prevent the council or the authority from fulfilling its stat-
38 utory responsibilities.

39 (i) As used in this section:

40 (A) "Energy resource supplier" means an electric utility, natural gas utility or petroleum sup-
41 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-
42 ducts in Oregon.

43 **(B)(i) "Energy services program" means a program or activity undertaken pursuant to**
44 **the duties, functions and powers of the authority that:**

45 **(I) Provides expertise or technical or research support related to the administration of**

1 **state energy policies and programs;**

2 **(II) Provides energy data, analysis and tools; or**

3 **(III) Supports energy conservation, energy efficiency, energy system planning, reliability**
4 **and safety, energy storage, renewable energy resources, or alternative energy resources or**
5 **fuels.**

6 **(ii) “Energy services program” does not mean any program adopted by the Legislative**
7 **Assembly and administered by the authority to place a cap on anthropogenic greenhouse gas**
8 **emissions and to provide for a market-based mechanism for covered entities to demonstrate**
9 **compliance with the program.**

10 [(B)] (C) “Gross operating revenue” means gross receipts from sales or service made or provided
11 within this state during the regular course of the energy supplier’s business, but does not include
12 either revenue derived from interutility sales within the state or revenue received by a petroleum
13 supplier from the sale of fuels that are subject to the requirements of Article IX, section 3a, of the
14 Oregon Constitution, or ORS 319.020 or 319.530.

15 [(C)] (D) “Petroleum supplier” has the meaning given that term in ORS 469.020.

16 (j) In determining the amount of revenues that must be derived from any class of energy re-
17 source suppliers by assessment pursuant to this subsection, the director shall take into account all
18 other known or readily ascertainable sources of revenue to the council and authority, including, but
19 not limited to, fees imposed under this section and federal funds, and may take into account any
20 funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter
21 792, Oregon Laws 1981.

22 (k) Orders issued by the director pursuant to this section shall be subject to judicial review
23 under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an en-
24 ergy resource supplier to pay amounts assessed to it on or before the statutory deadline.

25 **(L) No later than September 15 of each even-numbered year, the Secretary of State shall**
26 **conduct an audit to determine whether the assessment and uses of the energy resource**
27 **supplier assessment by the authority during the previous biennium complied with the pro-**
28 **visions of this subsection. The secretary shall provide a copy of the audit report issued for**
29 **an audit under this section to the director and to the Oregon Climate Board.**

30 (9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
31 power plant or nuclear installation within this state shall pay to the authority annually on July 1
32 an assessment in an amount determined by the director to be necessary to fund the activities of the
33 state and the counties associated with emergency preparedness for a nuclear fueled thermal power
34 plant or nuclear installation. The assessment shall not exceed \$461,250 per year. Moneys collected
35 as assessments under this subsection are continuously appropriated to the authority for this purpose.

36 (b) The authority shall maintain and cause other state agencies and counties to maintain time
37 and billing records for the expenditure of any fees collected from an operator of a nuclear fueled
38 thermal power plant under paragraph (a) of this subsection.

39 (10) Reactors operated by a college, university or graduate center for research purposes and
40 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements
41 of subsections (5), (8) and (9) of this section.

42 (11)(a) All fees assessed by the authority against holders of site certificates for facilities that
43 have an installed capacity of 500 megawatts or greater may be paid in several installments, the
44 schedule for which shall be negotiated between the authority and the site certificate holder.

45 (b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee

1 provided under subsections (1) to (9) of this section after it is due and payable shall pay, in addition
2 to that fee, a penalty of two percent of the fee a month for the period that the fee is past due. Any
3 payment made according to the terms of a schedule negotiated under paragraph (a) of this sub-
4 section shall not be considered past due. The director may bring an action to collect an unpaid fee
5 or penalty in the name of the State of Oregon in a court of competent jurisdiction. The court may
6 award reasonable attorney fees to the director if the director prevails in an action under this sub-
7 section. The court may award reasonable attorney fees to a defendant who prevails in an action
8 under this subsection if the court determines that the director had no objectively reasonable basis
9 for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

10 **SECTION 28c.** ORS 469.426, as amended by section 28 of this 2019 Act, is amended to read:

11 469.426. (1) The Director of the Oregon Climate Authority shall convene an advisory work group
12 composed of stakeholders representing energy resource suppliers, the customers who ultimately pay
13 for the energy supplier assessment imposed under ORS 469.421 (8) through their energy bills and
14 other groups that have an interest in the provision and regulation of energy in this state.

15 (2) The advisory work group shall review and make recommendations to the director on the
16 Oregon Climate Authority's proposals related to:

17 [(a) *Planning, policy and technical analysis;*]

18 [(b) *Legislative concepts; and*]

19 [(c) *The department's requested budget.*]

20 **(a) Planning, policy and technical analysis as it pertains to the provision of energy in this**
21 **state;**

22 **(b) The programs of the Oregon Climate Authority that are energy services programs,**
23 **as defined in ORS 469.421; and**

24 **(c) The portion of the authority's requested biennial budget that is eligible for funding**
25 **through the energy supplier assessment pursuant to ORS 469.421 (8)(a).**

26 (3) The work group shall meet at least two times per year at the call of the director.

27
28 **(Provisions Related to the Energy Supplier Assessment,**
29 **operative January 1, 2022)**

30
31 **SECTION 28d.** ORS 469.421, as amended by sections 27 and 28b of this 2019 Act, is amended
32 to read:

33 469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,
34 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,
35 a request for an expedited review under ORS 469.373, a request for the Oregon Climate Authority
36 to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to
37 amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council and
38 the authority related to the review and decision of the council. Expenses under this subsection may
39 include:

40 (a) Legal expenses;

41 (b) Expenses incurred in processing and evaluating the application;

42 (c) Expenses incurred in issuing a final order or site certificate;

43 (d) Expenses incurred in commissioning an independent study under ORS 469.360;

44 (e) Compensation paid to a state agency, a tribe or a local government pursuant to a written
45 contract or agreement relating to compensation as provided for in ORS 469.360; or

1 (f) Expenses incurred by the council in making rule changes that are specifically required and
2 related to the particular site certificate.

3 (2) Every person submitting a notice of intent to file for a site certificate, a request for ex-
4emption or a request for expedited review shall pay the fee required under the fee schedule estab-
5lished under ORS 469.441 to the authority prior to submitting the notice or request to the council.
6 To the extent possible, the full cost of the evaluation shall be paid from the fee paid under this
7 subsection. However, if costs of the evaluation exceed the fee, the person submitting the notice or
8 request shall pay any excess costs shown in an itemized statement prepared by the council. In no
9 event shall the council incur evaluation expenses in excess of 110 percent of the fee initially paid
10 unless the council provides prior notification to the applicant and a detailed projected budget the
11 council believes necessary to complete the project. If costs are less than the fee paid, the excess
12 shall be refunded to the person submitting the notice or request.

13 (3) Before submitting a site certificate application, the applicant shall request from the authority
14 an estimate of the costs expected to be incurred in processing the application. The authority shall
15 inform the applicant of that amount and require the applicant to make periodic payments of the
16 costs pursuant to a cost reimbursement agreement. The cost reimbursement agreement shall provide
17 for payment of 25 percent of the estimated costs when the applicant submits the application. If costs
18 of the evaluation exceed the estimate, the applicant shall pay any excess costs shown in an itemized
19 statement prepared by the council. In no event shall the council incur evaluation expenses in excess
20 of 110 percent of the fee initially estimated unless the council provided prior notification to the
21 applicant and a detailed projected budget the council believes is necessary to complete the project.
22 If costs are less than the fee paid, the council shall refund the excess to the applicant.

23 (4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
24 section shall be subject to the provisions of subsection (11) of this section.

25 (5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual fee,
26 due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of the
27 authority's budget authorization by an odd-numbered year regular session of the Legislative Assem-
28bly or as revised by the Emergency Board meeting in an interim period or by the Legislative As-
29sembly meeting in special session or in an even-numbered year regular session, the Director of the
30 Oregon Climate Authority promptly shall enter an order establishing an annual fee based on the
31 amount of revenues that the director estimates is needed to fund the cost of ensuring that the fa-
32cility is being operated consistently with the terms and conditions of the site certificate, any order
33 issued by the authority under ORS 469.405 (3) and any applicable health or safety standards. In de-
34termining this cost, the director shall include both the actual direct cost to be incurred by the
35 council and the authority to ensure that the facility is being operated consistently with the terms
36 and conditions of the site certificate, any order issued by the authority under ORS 469.405 (3) and
37 any applicable health or safety standards, and the general costs to be incurred by the council and
38 the authority to ensure that all certificated facilities are being operated consistently with the terms
39 and conditions of the site certificates, any orders issued by the authority under ORS 469.405 (3) and
40 any applicable health or safety standards that cannot be allocated to an individual, licensed facility.
41 Not more than 35 percent of the annual fee charged each facility shall be for the recovery of these
42 general costs. The fees for direct costs shall reflect the size and complexity of the facility, the an-
43ticipated costs of ensuring compliance with site certificate conditions, the anticipated costs of con-
44ducting site inspections and compliance reviews as described in ORS 469.430, and the anticipated
45 costs of compensating state agencies and local governments for participating in site inspection and

1 compliance enforcement activities at the request of the council.

2 (6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
3 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the
4 facility during the remaining portion of the year determined in the same manner as the annual fee.

5 (7) When the actual costs of regulation incurred by the council and the authority for the year,
6 including that portion of the general regulation costs that have been allocated to a particular fa-
7 cility, are less than the annual fees for that facility, the unexpended balance shall be refunded to
8 the site certificate holder. When the actual regulation costs incurred by the council and the au-
9 thority for the year, including that portion of the general regulation costs that have been allocated
10 to a particular facility, are projected to exceed the annual fee for that facility, the director may is-
11 sue an order revising the annual fee.

12 (8)(a) In addition to any other fees required by law, each energy resource supplier shall pay to
13 the authority annually its share of an assessment to fund:

14 (A) The programs and activities of the council;

15 (B) The energy services programs of the authority; and

16 (C) The administrative overhead and shared services costs of the authority that are attributable
17 to the programs and activities described in subparagraphs (A) and (B) of this paragraph, unless the
18 administrative overhead or shared services costs are funded by fees pursuant to subsections (1), (5)
19 or (6) of this section.

20 (b) Prior to filing an agency request budget under ORS 291.208 for purposes related to the
21 compilation and preparation of the Governor's budget under ORS 291.216, the director shall deter-
22 mine the projected aggregate amount of revenue to be collected from energy resource suppliers un-
23 der this subsection that will be necessary to fund the programs and activities of the council and the
24 authority described in paragraph (a) of this subsection for each fiscal year of the upcoming
25 biennium. After making that determination, the director shall convene a public meeting with repre-
26 sentatives of energy resource suppliers and other interested parties for the purpose of providing
27 energy resource suppliers with a full accounting of:

28 (A) The projected revenue needed to fund each energy services program of the authority; and

29 (B) The projected allocation of moneys derived from the assessment imposed under this sub-
30 section to each energy services program of the authority.

31 (c) Upon approval of the budget authorization of the council and the authority by an odd-
32 numbered year regular session of the Legislative Assembly, the director shall promptly enter an
33 order establishing the amount of revenues required to be derived from an assessment pursuant to
34 this subsection in order to fund programs and activities described in paragraph (a) of this subsection
35 that the council and the authority are charged with administering and authorized to conduct under
36 the laws of this state for the first fiscal year of the forthcoming biennium. On or before June 1 of
37 each even-numbered year, the director shall enter an order establishing the amount of revenues re-
38 quired to be derived from an assessment pursuant to this subsection in order to fund the programs
39 and activities described in paragraph (a) of this subsection that the council and the authority are
40 charged with administering and authorized to conduct under the laws of this state for the second
41 fiscal year of the biennium. The order shall take into account any revisions to the biennial budget
42 of the council and the authority made by the Emergency Board meeting in an interim period or by
43 the Legislative Assembly meeting in special session or in an even-numbered year regular session.

44 (d) Each order issued by the director pursuant to paragraph (c) of this subsection shall allocate
45 the aggregate assessment set forth in the order to energy resource suppliers in accordance with

1 paragraph (e) of this subsection.

2 (e) The amount assessed to an energy resource supplier shall be based on the ratio which that
3 supplier's annual gross operating revenue derived within this state in the preceding calendar year
4 bears to the total gross operating revenue derived within this state during that year by all energy
5 resource suppliers. The assessment against an energy resource supplier shall not exceed 0.25 percent
6 of the supplier's gross operating revenue derived within this state in the preceding calendar year.
7 The director shall exempt from payment of an assessment any individual energy resource supplier
8 whose calculated share of the annual assessment is less than \$250.

9 (f) The director shall send each energy resource supplier subject to assessment pursuant to this
10 subsection a copy of each order issued by registered or certified mail or through use of an electronic
11 medium with electronic receipt verification. The amount assessed to the energy resource supplier
12 pursuant to the order shall be considered to the extent otherwise permitted by law a government-
13 imposed cost and recoverable by the energy resource supplier as a cost included within the price
14 of the service or product supplied.

15 (g) The amounts assessed to individual energy resource suppliers pursuant to paragraph (e) of
16 this subsection shall be paid to the authority as follows:

17 (A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
18 following adjournment sine die of the odd-numbered year regular session of the Legislative Assem-
19 bly; and

20 (B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
21 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year
22 regular session of the Legislative Assembly, whichever is later.

23 (h) An energy resource supplier shall provide the director, on or before May 1 of each year, a
24 verified statement showing its gross operating revenues derived within the state for the calendar
25 or fiscal year that was used by the energy resource supplier for the purpose of reporting federal
26 income taxes for the preceding calendar or fiscal year. The statement must be in the form prescribed
27 by the director and is subject to audit by the director. The statement must include an entry showing
28 the total operating revenue derived by petroleum suppliers from fuels sold that are subject to the
29 requirements of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with reference
30 to aircraft fuel and motor vehicle fuel, and ORS 319.530. The director may grant an extension of not
31 more than 15 days for the requirements of this subsection if:

32 (A) The energy supplier makes a showing of hardship caused by the deadline;

33 (B) The energy supplier provides reasonable assurance that the energy supplier can comply with
34 the revised deadline; and

35 (C) The extension of time does not prevent the council or the authority from fulfilling its stat-
36 utory responsibilities.

37 (i) As used in this section:

38 (A) "Energy resource supplier" means an electric utility, natural gas utility or petroleum sup-
39 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-
40 ducts in Oregon.

41 (B)(i) "Energy services program" means a program or activity undertaken pursuant to the du-
42 ties, functions and powers of the authority that:

43 (I) Provides expertise, technical or research support related to the administration of state en-
44 ergy policies and programs;

45 (II) Provides energy data, analysis and tools; or

1 (III) Supports energy conservation, energy efficiency, energy system planning, reliability and
2 safety, energy storage, renewable energy resources, or alternative energy resources or fuels.

3 (ii) “Energy services program” does not mean **the greenhouse gas reporting program under**
4 **ORS 468A.280 and rules adopted pursuant to ORS 468A.280** or any program adopted by the
5 Legislative Assembly and administered by the authority to place a cap on anthropogenic greenhouse
6 gas emissions and to provide for a market-based mechanism for covered entities to demonstrate
7 compliance with the program.

8 (C) “Gross operating revenue” means gross receipts from sales or service made or provided
9 within this state during the regular course of the energy supplier’s business, but does not include
10 either revenue derived from interutility sales within the state or revenue received by a petroleum
11 supplier from the sale of fuels that are subject to the requirements of Article IX, section 3a, of the
12 Oregon Constitution, or ORS 319.020 or 319.530.

13 (D) “Petroleum supplier” has the meaning given that term in ORS 469.020.

14 (j) In determining the amount of revenues that must be derived from any class of energy re-
15 source suppliers by assessment pursuant to this subsection, the director shall take into account all
16 other known or readily ascertainable sources of revenue to the council and authority, including, but
17 not limited to, fees imposed under this section and federal funds, and may take into account any
18 funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter
19 792, Oregon Laws 1981.

20 (k) Orders issued by the director pursuant to this section shall be subject to judicial review
21 under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an en-
22 ergy resource supplier to pay amounts assessed to it on or before the statutory deadline.

23 (L) No later than September 15 of each even-numbered year, the Secretary of State shall conduct
24 an audit to determine whether the assessment and uses of the energy resource supplier assessment
25 by the authority during the previous biennium complied with the provisions of this subsection. The
26 secretary shall provide a copy of the audit report issued for an audit under this section to the di-
27 rector and to the Oregon Climate Board.

28 (9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
29 power plant or nuclear installation within this state shall pay to the authority annually on July 1
30 an assessment in an amount determined by the director to be necessary to fund the activities of the
31 state and the counties associated with emergency preparedness for a nuclear fueled thermal power
32 plant or nuclear installation. The assessment shall not exceed \$461,250 per year. Moneys collected
33 as assessments under this subsection are continuously appropriated to the authority for this purpose.

34 (b) The authority shall maintain and cause other state agencies and counties to maintain time
35 and billing records for the expenditure of any fees collected from an operator of a nuclear fueled
36 thermal power plant under paragraph (a) of this subsection.

37 (10) Reactors operated by a college, university or graduate center for research purposes and
38 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements
39 of subsections (5), (8) and (9) of this section.

40 (11)(a) All fees assessed by the authority against holders of site certificates for facilities that
41 have an installed capacity of 500 megawatts or greater may be paid in several installments, the
42 schedule for which shall be negotiated between the authority and the site certificate holder.

43 (b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee
44 provided under subsections (1) to (9) of this section after it is due and payable shall pay, in addition
45 to that fee, a penalty of two percent of the fee a month for the period that the fee is past due. Any

1 payment made according to the terms of a schedule negotiated under paragraph (a) of this sub-
2 section shall not be considered past due. The director may bring an action to collect an unpaid fee
3 or penalty in the name of the State of Oregon in a court of competent jurisdiction. The court may
4 award reasonable attorney fees to the director if the director prevails in an action under this sub-
5 section. The court may award reasonable attorney fees to a defendant who prevails in an action
6 under this subsection if the court determines that the director had no objectively reasonable basis
7 for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

8
9 **(Energy Program Review Task Force)**

10
11 **SECTION 29. (1) The Energy Program Review Task Force is established.**

12 **(2) The task force consists of:**

13 **(a) Five members appointed as follows:**

14 **(A) The President of the Senate shall appoint one member from among the members of**
15 **the Senate who also serves as a member of a committee of the Legislative Assembly related**
16 **to climate;**

17 **(B) The Speaker of the House of Representatives shall appoint one member from among**
18 **the members of the House of Representatives who also serves as a member of a committee**
19 **of the Legislative Assembly related to climate; and**

20 **(C) The Governor shall appoint three members who represent the interests of key**
21 **stakeholders of the Oregon Climate Authority; and**

22 **(b) The following six ex officio, voting members:**

23 **(A) The chairperson of the Oregon Climate Board;**

24 **(B) The Director of the Oregon Climate Authority;**

25 **(C) The Director of the Oregon Department of Administrative Services or a designee of**
26 **the director;**

27 **(D) One member of the Public Utility Commission or a designee of the chairperson of the**
28 **commission;**

29 **(E) The Director of the Department of Environmental Quality or a designee of the di-**
30 **rector; and**

31 **(F) The Director of the Department of Land Conservation and Development or a designee**
32 **of the director.**

33 **(3) The task force shall:**

34 **(a) Review and provide recommendations to the Governor and to the Legislative Assem-**
35 **bly, which may include recommendations for legislation, regarding the most appropriate**
36 **state agency to provide for administration of the duties of the Energy Facility Siting Council**
37 **established under ORS 469.450;**

38 **(b) If the task force determines that duties related to the Energy Facility Siting Council**
39 **should be transferred to another state agency, provide recommendations to the Governor**
40 **and to the Legislative Assembly, which may include recommendations for legislation, for a**
41 **proposal for accomplishing the transfer no later than July 1, 2021;**

42 **(c) Review all the duties, functions and powers of the Oregon Climate Authority to assess**
43 **whether the programs and activities carried out pursuant to those duties, functions and**
44 **powers properly align with the policy stated in section 2 of this 2019 Act and the duties of**
45 **the authority provided for in section 3 of this 2019 Act; and**

1 (d) Provide recommendations to the Governor and to the Legislative Assembly, which
2 may include recommendations for legislation, on duties, functions and powers of the State
3 Department of Energy that will be transferred to the Oregon Climate Authority on the op-
4 erative date specified in section 261 (1) of this 2019 Act that should be abolished, amended
5 or transferred to other agencies of state government in order to ensure that the programs
6 and activities of the Oregon Climate Authority properly align with the policy stated in sec-
7 tion 2 of this 2019 Act and the duties of the authority provided for in section 3 of this 2019
8 Act.

9 (4) In conducting the duties provided for in subsection (3) of this section, the task force
10 shall take into consideration:

11 (a) Alignment of the duties, functions and powers of the Oregon Climate Authority with
12 the policy stated in section 2 of this 2019 Act and the duties of the authority provided for in
13 section 3 of this 2019 Act, and otherwise with the mission of the authority;

14 (b) The core staffing and expertise of the authority;

15 (c) The administrative capacities of the authority and other agencies of state government
16 relative to administering specific duties, functions or powers of the authority; and

17 (d) The efficiencies that may be gained or lost by abolishing, amending or transferring
18 certain duties, functions or powers of the authority.

19 (5) A majority of the voting members of the task force constitutes a quorum for the
20 transaction of business.

21 (6) Official action by the task force requires the approval of a majority of the voting
22 members of the task force.

23 (7) The task force shall elect one of its members to serve as chairperson.

24 (8) If there is a vacancy for any cause, the appointing authority shall make an appoint-
25 ment to become immediately effective.

26 (9) The task force shall meet at times and places specified by the call of the chairperson
27 or of a majority of the voting members of the task force.

28 (10) The task force may adopt rules necessary for the operation of the task force.

29 (11) In the manner provided by ORS 192.245, the task force:

30 (a) Shall submit an initial report, which may include recommendations for legislation, to
31 the Governor and an interim committee of the Legislative Assembly related to climate no
32 later than November 30, 2019; and

33 (b) May submit an additional report, which may include recommendations for legislation,
34 to the Governor and an interim committee of the Legislative Assembly related to climate
35 no later than September 15, 2020.

36 (12) The Oregon Climate Authority shall provide staff support to the task force.

37 (13) Members of the Legislative Assembly appointed to the task force are nonvoting
38 members of the task force and may act in an advisory capacity only.

39 (14) Members of the task force who are not members of the Legislative Assembly are not
40 entitled to compensation or reimbursement for expenses and serve as volunteers on the task
41 force.

42 (15) All agencies of state government, as defined in ORS 174.111, are directed to assist
43 the task force in the performance of the duties of the task force and, to the extent permitted
44 by laws relating to confidentiality, to furnish information and advice the members of the task
45 force consider necessary to perform their duties.

SECTION 30. Section 29 of this 2019 Act is repealed on December 31, 2020.

(Housekeeping in ORS)

SECTION 31. ORS 176.809 is amended to read:

176.809. (1) The Governor, in consultation with the [*State Department of Energy*] **Oregon Climate Authority** and the Oregon Business Development Department, shall compile existing data and prepare an extensive statewide contingency plan to maintain emergency services, continue productivity and reduce hardship during an energy emergency.

(2) As used in this section, “energy emergency” means a severe fuel oil shortage caused by international market conditions or hostilities, or any other emergency threatening the availability of any energy resource necessary to maintain essential services and transportation, the shortage of which jeopardizes the health, safety and welfare of the people of the State of Oregon.

SECTION 32. ORS 176.820 is amended to read:

176.820. There is continuously appropriated from the Motor Vehicle Division Account to the [*State Department of Energy*] **Oregon Climate Authority**, for deposit in the [*State Department of Energy*] **Oregon Climate Authority** Account, sufficient moneys for the payment of expenses incurred under chapter 606, Oregon Laws 1975, subject to limitations on payment of expenses as approved under legislative authority.

SECTION 33. ORS 183.457 is amended to read:

183.457. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, and unless otherwise authorized by another law, a person participating in a contested case hearing conducted by an agency described in this subsection may be represented by an attorney or by an authorized representative subject to the provisions of subsection (2) of this section. The Attorney General shall prepare model rules for proceedings with lay representation that do not have the effect of precluding lay representation. No rule adopted by a state agency shall have the effect of precluding lay representation. The agencies before which an authorized representative may appear are:

(a) The State Landscape Contractors Board in the administration of the Landscape Contractors Law.

(b) The [*State Department of Energy*] **Oregon Climate Authority** and the Energy Facility Siting Council.

(c) The Environmental Quality Commission and the Department of Environmental Quality.

(d) The Department of Consumer and Business Services for proceedings in which an insured appears pursuant to ORS 737.505.

(e) The Department of Consumer and Business Services and any other agency for the purpose of proceedings to enforce the state building code, as defined by ORS 455.010.

(f) The State Fire Marshal in the Department of State Police.

(g) The Department of State Lands for proceedings regarding the issuance or denial of fill or removal permits under ORS 196.800 to 196.825.

(h) The Public Utility Commission.

(i) The Water Resources Commission and the Water Resources Department.

(j) The Land Conservation and Development Commission and the Department of Land Conservation and Development.

(k) The State Department of Agriculture, for purposes of hearings under ORS 215.705.

(L) The Bureau of Labor and Industries.

1 (2) A person participating in a contested case hearing as provided in subsection (1) of this sec-
2 tion may appear by an authorized representative if:

3 (a) The agency conducting the contested case hearing has determined that appearance of such
4 a person by an authorized representative will not hinder the orderly and timely development of the
5 record in the type of contested case hearing being conducted;

6 (b) The agency conducting the contested case hearing allows, by rule, authorized representatives
7 to appear on behalf of such participants in the type of contested case hearing being conducted; and

8 (c) The officer presiding at the contested case hearing may exercise discretion to limit an au-
9 thorized representative's presentation of evidence, examination and cross-examination of witnesses,
10 or presentation of factual arguments to ensure the orderly and timely development of the hearing
11 record, and shall not allow an authorized representative to present legal arguments except to the
12 extent authorized under subsection (3) of this section.

13 (3) The officer presiding at a contested case hearing in which an authorized representative ap-
14 pears under the provisions of this section may allow the authorized representative to present evi-
15 dence, examine and cross-examine witnesses, and make arguments relating to the:

16 (a) Application of statutes and rules to the facts in the contested case;

17 (b) Actions taken by the agency in the past in similar situations;

18 (c) Literal meaning of the statutes or rules at issue in the contested case;

19 (d) Admissibility of evidence; and

20 (e) Proper procedures to be used in the contested case hearing.

21 (4) Upon judicial review, no limitation imposed by an agency presiding officer on the partic-
22 ipation of an authorized representative shall be the basis for reversal or remand of agency action
23 unless the limitation resulted in substantial prejudice to a person entitled to judicial review of the
24 agency action.

25 (5) For the purposes of this section, "authorized representative" means a member of a partic-
26 ipating partnership, an authorized officer or regular employee of a participating corporation, asso-
27 ciation or organized group, or an authorized officer or employee of a participating governmental
28 authority other than a state agency.

29 **SECTION 34.** ORS 183.530 is amended to read:

30 183.530. A housing cost impact statement shall be prepared upon the proposal for adoption or
31 repeal of any rule or any amendment to an existing rule by:

32 (1) The Oregon Housing Stability Council;

33 (2) A building codes division of the Department of Consumer and Business Services or any board
34 associated with the department with regard to rules adopted under ORS 455.610 to 455.630;

35 (3) The Land Conservation and Development Commission;

36 (4) The Environmental Quality Commission;

37 (5) The Construction Contractors Board;

38 (6) The Occupational Safety and Health Division of the Department of Consumer and Business
39 Services; or

40 (7) The [State Department of Energy] **Oregon Climate Authority.**

41 **SECTION 35.** ORS 192.355 is amended to read:

42 192.355. The following public records are exempt from disclosure under ORS 192.311 to 192.478:

43 (1) Communications within a public body or between public bodies of an advisory nature to the
44 extent that they cover other than purely factual materials and are preliminary to any final agency
45 determination of policy or action. This exemption shall not apply unless the public body shows that

1 in the particular instance the public interest in encouraging frank communication between officials
2 and employees of public bodies clearly outweighs the public interest in disclosure.

3 (2)(a) Information of a personal nature such as but not limited to that kept in a personal, med-
4 ical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless
5 the public interest by clear and convincing evidence requires disclosure in the particular instance.
6 The party seeking disclosure shall have the burden of showing that public disclosure would not
7 constitute an unreasonable invasion of privacy.

8 (b) Images of a dead body, or parts of a dead body, that are part of a law enforcement agency
9 investigation, if public disclosure would create an unreasonable invasion of privacy of the family of
10 the deceased person, unless the public interest by clear and convincing evidence requires disclosure
11 in the particular instance. The party seeking disclosure shall have the burden of showing that public
12 disclosure would not constitute an unreasonable invasion of privacy.

13 (3) Upon compliance with ORS 192.363, public body employee or volunteer residential addresses,
14 residential telephone numbers, personal cellular telephone numbers, personal electronic mail ad-
15 dresses, driver license numbers, employer-issued identification card numbers, emergency contact in-
16 formation, Social Security numbers, dates of birth and other telephone numbers contained in
17 personnel records maintained by the public body that is the employer or the recipient of volunteer
18 services. This exemption:

19 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-
20 unteers who are elected officials, except that a judge or district attorney subject to election may
21 seek to exempt the judge's or district attorney's address or telephone number, or both, under the
22 terms of ORS 192.368;

23 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure
24 shows by clear and convincing evidence that the public interest requires disclosure in a particular
25 instance pursuant to ORS 192.363;

26 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-
27 fessional education association of which the substitute teacher may be a member; and

28 (d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

29 (4) Information submitted to a public body in confidence and not otherwise required by law to
30 be submitted, where such information should reasonably be considered confidential, the public body
31 has obliged itself in good faith not to disclose the information, and when the public interest would
32 suffer by the disclosure.

33 (5) Information or records of the Department of Corrections, including the State Board of Parole
34 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of
35 a person in custody of the department or substantially prejudice or prevent the carrying out of the
36 functions of the department, if the public interest in confidentiality clearly outweighs the public in-
37 terest in disclosure.

38 (6) Records, reports and other information received or compiled by the Director of the Depart-
39 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
40 otherwise required by law to be made public, to the extent that the interests of lending institutions,
41 their officers, employees and customers in preserving the confidentiality of such information out-
42 weighs the public interest in disclosure.

43 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

44 (8) Any public records or information the disclosure of which is prohibited by federal law or
45 regulations.

1 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-
2 wise made confidential or privileged under Oregon law.

3 (b) Subject to ORS 192.360, paragraph (a) of this subsection does not apply to factual information
4 compiled in a public record when:

5 (A) The basis for the claim of exemption is ORS 40.225;

6 (B) The factual information is not prohibited from disclosure under any applicable state or fed-
7 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.311
8 to 192.478;

9 (C) The factual information was compiled by or at the direction of an attorney as part of an
10 investigation on behalf of the public body in response to information of possible wrongdoing by the
11 public body;

12 (D) The factual information was not compiled in preparation for litigation, arbitration or an
13 administrative proceeding that was reasonably likely to be initiated or that has been initiated by
14 or against the public body; and

15 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement
16 characterizing or partially disclosing the factual information compiled by or at the attorney's di-
17 rection.

18 (10) Public records or information described in this section, furnished by the public body ori-
19 ginally compiling, preparing or receiving them to any other public officer or public body in con-
20 nection with performance of the duties of the recipient, if the considerations originally giving rise
21 to the confidential or exempt nature of the public records or information remain applicable.

22 (11) Records of the Energy Facility Siting Council concerning the review or approval of security
23 programs pursuant to ORS 469.530.

24 (12) Employee and retiree address, telephone number and other nonfinancial membership records
25 and employee financial records maintained by the Public Employees Retirement System pursuant to
26 ORS chapters 238 and 238A.

27 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the
28 agents of the treasurer or the council relating to active or proposed publicly traded investments
29 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or
30 liquidation of the investments. For the purposes of this subsection:

31 (a) The exemption does not apply to:

32 (A) Information in investment records solely related to the amount paid directly into an invest-
33 ment by, or returned from the investment directly to, the treasurer or council; or

34 (B) The identity of the entity to which the amount was paid directly or from which the amount
35 was received directly.

36 (b) An investment in a publicly traded investment is no longer active when acquisition, exchange
37 or liquidation of the investment has been concluded.

38 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the
39 Oregon Growth Board or the agents of the treasurer, council or board relating to actual or proposed
40 investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset
41 including but not limited to records regarding the solicitation, acquisition, deployment, exchange or
42 liquidation of the investments including but not limited to:

43 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership
44 or to their respective investment vehicles.

45 (B) Financial statements of an investment fund, an asset ownership or their respective invest-

1 ment vehicles.

2 (C) Meeting materials of an investment fund, an asset ownership or their respective investment
3 vehicles.

4 (D) Records containing information regarding the portfolio positions in which an investment
5 fund, an asset ownership or their respective investment vehicles invest.

6 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-
7 spective investment vehicles.

8 (F) Investment agreements and related documents.

9 (b) The exemption under this subsection does not apply to:

10 (A) The name, address and vintage year of each privately placed investment fund.

11 (B) The dollar amount of the commitment made to each privately placed investment fund since
12 inception of the fund.

13 (C) The dollar amount of cash contributions made to each privately placed investment fund since
14 inception of the fund.

15 (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State
16 Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer,
17 council or board from each privately placed investment fund.

18 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately
19 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment
20 Council, the Oregon Growth Board or the agents of the treasurer, council or board.

21 (F) The net internal rate of return of each privately placed investment fund since inception of
22 the fund.

23 (G) The investment multiple of each privately placed investment fund since inception of the fund.

24 (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end
25 basis to each privately placed investment fund.

26 (I) The dollar amount of cash profit received from each privately placed investment fund on a
27 fiscal year-end basis.

28 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the
29 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as
30 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

31 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted
32 by ORS 98.352.

33 (17)(a) The following records, communications and information submitted to the Oregon Business
34 Development Commission, the Oregon Business Development Department, the State Department of
35 Agriculture, the Oregon Growth Board, the Port of Portland or other ports as defined in ORS
36 777.005, or a county or city governing body and any board, department, commission, council or
37 agency thereof, by applicants for investment funds, grants, loans, services or economic development
38 moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

39 (A) Personal financial statements.

40 (B) Financial statements of applicants.

41 (C) Customer lists.

42 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
43 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
44 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
45 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-

1 ery or deposition statutes to a party to litigation or potential litigation.

2 (E) Production, sales and cost data.

3 (F) Marketing strategy information that relates to applicant's plan to address specific markets
4 and applicant's strategy regarding specific competitors.

5 (b) The following records, communications and information submitted to the [*State Department*
6 *of Energy*] **Oregon Climate Authority** by applicants for tax credits or for grants awarded under
7 ORS 469B.256:

8 (A) Personal financial statements.

9 (B) Financial statements of applicants.

10 (C) Customer lists.

11 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
12 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
13 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
14 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
15 ery or deposition statutes to a party to litigation or potential litigation.

16 (E) Production, sales and cost data.

17 (F) Marketing strategy information that relates to applicant's plan to address specific markets
18 and applicant's strategy regarding specific competitors.

19 (18) Records, reports or returns submitted by private concerns or enterprises required by law
20 to be submitted to or inspected by a governmental body to allow it to determine the amount of any
21 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such
22 information is in a form which would permit identification of the individual concern or enterprise.
23 Nothing in this subsection shall limit the use which can be made of such information for regulatory
24 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-
25 payer of the delinquency immediately by certified mail. However, in the event that the payment or
26 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the
27 public body shall disclose, upon the request of any person, the following information:

28 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the
29 payment or delivery of the taxes.

30 (b) The period for which the taxes are delinquent.

31 (c) The actual, or estimated, amount of the delinquency.

32 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-
33 pointed counsel, and all information supplied to the court from whatever source for the purpose of
34 verifying the financial eligibility of a person pursuant to ORS 151.485.

35 (20) Workers' compensation claim records of the Department of Consumer and Business Services,
36 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-
37 ness Services, in any of the following circumstances:

38 (a) When necessary for insurers, self-insured employers and third party claim administrators to
39 process workers' compensation claims.

40 (b) When necessary for the director, other governmental agencies of this state or the United
41 States to carry out their duties, functions or powers.

42 (c) When the disclosure is made in such a manner that the disclosed information cannot be used
43 to identify any worker who is the subject of a claim.

44 (d) When a worker or the worker's representative requests review of the worker's claim record.

45 (21) Sensitive business records or financial or commercial information of the Oregon Health and

1 Science University that is not customarily provided to business competitors.

2 (22) Records of Oregon Health and Science University regarding candidates for the position of
3 president of the university.

4 (23) The records of a library, including:

5 (a) Circulation records, showing use of specific library material by a named person;

6 (b) The name of a library patron together with the address or telephone number of the patron;
7 and

8 (c) The electronic mail address of a patron.

9 (24) The following records, communications and information obtained by the Housing and Com-
10 munity Services Department in connection with the department's monitoring or administration of
11 financial assistance or of housing or other developments:

12 (a) Personal and corporate financial statements and information, including tax returns.

13 (b) Credit reports.

14 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
15 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
16 of as part of the project, but only after the transactions have closed and are concluded.

17 (d) Market studies and analyses.

18 (e) Articles of incorporation, partnership agreements and operating agreements.

19 (f) Commitment letters.

20 (g) Project pro forma statements.

21 (h) Project cost certifications and cost data.

22 (i) Audits.

23 (j) Project tenant correspondence.

24 (k) Personal information about a tenant.

25 (L) Housing assistance payments.

26 (25) Raster geographic information system (GIS) digital databases, provided by private forestland
27 owners or their representatives, voluntarily and in confidence to the State Forestry Department,
28 that is not otherwise required by law to be submitted.

29 (26) Sensitive business, commercial or financial information furnished to or developed by a
30 public body engaged in the business of providing electricity or electricity services, if the information
31 is directly related to a transaction described in ORS 261.348, or if the information is directly related
32 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
33 disclosure of the information would cause a competitive disadvantage for the public body or its re-
34 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
35 velopment or review of generally applicable rate schedules.

36 (27) Sensitive business, commercial or financial information furnished to or developed by the
37 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
38 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085
39 and disclosure of the information would cause a competitive disadvantage for the Klamath
40 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
41 ment or review of generally applicable rate schedules.

42 (28) Personally identifiable information about customers of a municipal electric utility or a
43 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,
44 electronic mail addresses or Social Security numbers of customers who receive water, sewer or
45 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-

1 lease personally identifiable information about a customer, and a public body providing water, sewer
2 or storm drain services may release the name, date of birth, driver license number, telephone num-
3 ber, electronic mail address or Social Security number of a customer, if the customer consents in
4 writing or electronically, if the disclosure is necessary for the utility, district or other public body
5 to render services to the customer, if the disclosure is required pursuant to a court order or if the
6 disclosure is otherwise required by federal or state law. The utility, district or other public body
7 may charge as appropriate for the costs of providing such information. The utility, district or other
8 public body may make customer records available to third party credit agencies on a regular basis
9 in connection with the establishment and management of customer accounts or in the event such
10 accounts are delinquent.

11 (29) A record of the street and number of an employee's address submitted to a special district
12 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

13 (30) Sensitive business records, capital development plans or financial or commercial information
14 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

15 (31) Documents, materials or other information submitted to the Director of the Department of
16 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
17 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates
18 or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200
19 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code
20 when:

21 (a) The document, material or other information is received upon notice or with an under-
22 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of
23 the document, material or other information; and

24 (b) The director has obligated the Department of Consumer and Business Services not to dis-
25 close the document, material or other information.

26 (32) A county elections security plan developed and filed under ORS 254.074.

27 (33) Information about review or approval of programs relating to the security of:

28 (a) Generation, storage or conveyance of:

29 (A) Electricity;

30 (B) Gas in liquefied or gaseous form;

31 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

32 (D) Petroleum products;

33 (E) Sewage; or

34 (F) Water.

35 (b) Telecommunication systems, including cellular, wireless or radio systems.

36 (c) Data transmissions by whatever means provided.

37 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-
38 ignates the information as confidential by rule under ORS 1.002.

39 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.

40 (b) As used in this subsection, "employer account records" means all records maintained in any
41 form that are specifically related to the account of any employer insured, previously insured or un-
42 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-
43 mation obtained or developed by the corporation in connection with providing, offering to provide
44 or declining to provide insurance to a specific employer. "Employer account records" includes, but
45 is not limited to, an employer's payroll records, premium payment history, payroll classifications,

1 employee names and identification information, experience modification factors, loss experience and
2 dividend payment history.

3 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
4 discovery documents in litigation pursuant to applicable rules of civil procedure.

5 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

6 (b) As used in this subsection, “claimant files” includes, but is not limited to, all records held
7 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all
8 records pertaining to such a claim.

9 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
10 discovery documents in litigation pursuant to applicable rules of civil procedure.

11 (37) Except as authorized by ORS 408.425, records that certify or verify an individual’s discharge
12 or other separation from military service.

13 (38) Records of or submitted to a domestic violence service or resource center that relate to the
14 name or personal information of an individual who visits a center for service, including the date of
15 service, the type of service received, referrals or contact information or personal information of a
16 family member of the individual. As used in this subsection, “domestic violence service or resource
17 center” means an entity, the primary purpose of which is to assist persons affected by domestic or
18 sexual violence by providing referrals, resource information or other assistance specifically of ben-
19 efit to domestic or sexual violence victims.

20 (39) Information reported to the Oregon Health Authority under ORS 431A.860, except as pro-
21 vided in ORS 431A.860 (2)(b) information disclosed by the authority under ORS 431A.865 and any
22 information related to disclosures made by the authority under ORS 431A.865, including information
23 identifying the recipient of the information.

24 (40)(a) Electronic mail addresses in the possession or custody of an agency or subdivision of the
25 executive department, as defined in ORS 174.112, the legislative department, as defined in ORS
26 174.114, a local government or local service district, as defined in ORS 174.116, or a special gov-
27 ernment body, as defined in ORS 174.117.

28 (b) This subsection does not apply to electronic mail addresses assigned by a public body to
29 public employees for use by the employees in the ordinary course of their employment.

30 (c) This subsection and ORS 244.040 do not prohibit the campaign office of the current
31 officeholder or current candidates who have filed to run for that elective office from receiving upon
32 request the electronic mail addresses used by the current officeholder’s legislative office for news-
33 letter distribution, except that a campaign office that receives electronic mail addresses under this
34 paragraph may not make a further disclosure of those electronic mail addresses to any other person.

35 (41) Residential addresses, residential telephone numbers, personal cellular telephone numbers,
36 personal electronic mail addresses, driver license numbers, emergency contact information, Social
37 Security numbers, dates of birth and other telephone numbers of individuals currently or previously
38 certified or licensed by the Department of Public Safety Standards and Training contained in the
39 records maintained by the department.

40 (42) Personally identifiable information and contact information of veterans as defined in ORS
41 408.225 and of persons serving on active duty or as reserve members with the Armed Forces of the
42 United States, National Guard or other reserve component that was obtained by the Department of
43 Veterans’ Affairs in the course of performing its duties and functions, including but not limited to
44 names, residential and employment addresses, dates of birth, driver license numbers, telephone
45 numbers, electronic mail addresses, Social Security numbers, marital status, dependents, the char-

1 acter of discharge from military service, military rating or rank, that the person is a veteran or has
2 provided military service, information relating to an application for or receipt of federal or state
3 benefits, information relating to the basis for receipt or denial of federal or state benefits and in-
4 formation relating to a home loan or grant application, including but not limited to financial infor-
5 mation provided in connection with the application.

6 **SECTION 36.** ORS 215.044 is amended to read:

7 215.044. (1) County governing bodies may adopt and implement solar access ordinances. The or-
8 dinances shall provide and protect to the extent feasible solar access to the south face of buildings
9 during solar heating hours, taking into account latitude, topography, microclimate, existing devel-
10 opment, existing vegetation and planned uses and densities. The county governing body shall con-
11 sider for inclusion in any solar access ordinance, but not be limited to, standards for:

12 (a) The orientation of new streets, lots and parcels;

13 (b) The placement, height, bulk and orientation of new buildings;

14 (c) The type and placement of new trees on public street rights of way and other public prop-
15 erty; and

16 (d) Planned uses and densities to conserve energy, facilitate the use of solar energy, or both.

17 [(2) *The State Department of Energy shall actively encourage and assist county governing bodies'*
18 *efforts to protect and provide for solar access.*]

19 [(3)] (2) As used in this section, "solar heating hours" means those hours between three hours
20 before and three hours after the sun is at its highest point above the horizon on December 21.

21 **SECTION 37.** ORS 223.680 is amended to read:

22 223.680. (1) As used in this section:

23 (a) "Local government" means cities and counties.

24 (b) "Qualifying real property" means multifamily residential dwellings or commercial or indus-
25 trial buildings that the local government has determined can be benefited by utilities improvements.

26 (c) "Utilities improvements" means improvements to qualifying real property for any of the fol-
27 lowing purposes:

28 (A) Energy efficiency.

29 (B) Renewable energy.

30 (C) Energy storage.

31 (D) Smart electric vehicle charging stations.

32 (E) Water efficiency.

33 (2)(a) Subject to subsection (3) of this section, a local government may establish a program to
34 assist owners of record of qualifying real property in financing cost-effective utilities improvements
35 to the qualifying real property.

36 (b) The utilities improvements must be authorized by:

37 (A) A local government implementing a program established under this section; or

38 (B) The [State Department of Energy] **Oregon Infrastructure Finance Authority Board** for a
39 loan issued under subsection (10) of this section to a local government that establishes a program
40 in cooperation with a local government described in subparagraph (A) of this paragraph.

41 (c) A program established pursuant to this subsection may provide for the local government to:

42 (A) Make loans to owners financed with the net proceeds and interest earnings of revenue bonds
43 authorized by subsection (9) of this section;

44 (B) Facilitate private financing by the owners; or

45 (C) Make loans under subparagraph (A) of this paragraph and facilitate private financing under

1 subparagraph (B) of this paragraph.

2 (3) Before establishing a program under this section, the local government shall provide notice
3 to utilities that distribute electric energy, natural gas or water within the areas in which the local
4 government will operate the program.

5 (4) A local government that establishes a program under this section may:

6 (a) Require performance of an energy or water audit on the qualifying real property before the
7 local government approves a loan for utilities improvements to the property;

8 (b) Impose requirements intended to ensure that the costs of the improvements financed under
9 this section do not exceed the cumulative cost savings of the improvements over the useful life of
10 the improvements; and

11 (c) Impose requirements and conditions on loans or financing agreements that are designed to
12 ensure timely repayment.

13 (5)(a) If the owner of record of qualifying real property requests financing pursuant to a program
14 established under this section, subject to subsection (6) of this section, the local government imple-
15 menting the program may:

16 (A) Enter into a loan agreement with the owner, and any other person benefited by the loan;
17 or

18 (B) Facilitate a financing agreement for the owner, and any other person benefited by the fi-
19 nancing.

20 (b) A loan agreement or financing agreement entered into pursuant to paragraph (a) of this
21 subsection must be in a principal amount sufficient to pay:

22 (A) The costs of utilities improvements the local government determines will benefit the quali-
23 fying real property and the borrowers;

24 (B) The costs of the energy or water audit; and

25 (C) The costs and reserves of the program.

26 (c) A local government acting pursuant to paragraph (a) of this subsection may:

27 (A) If the local government makes a loan, charge the borrower an interest rate on the principal
28 amount that is sufficient to pay the financing costs of the loan program, including loan delinquen-
29 cies; and

30 (B) Charge periodic fees to pay for program costs.

31 (6) A local government may not enter into a loan agreement, or facilitate a financing agreement,
32 under subsection (5) of this section unless the owner has:

33 (a) Provided written notice to all mortgagees of the qualifying real property that the owner in-
34 tends to enter into a loan agreement or financing agreement under this section; and

35 (b) Received written consent from the mortgagees stating that the loan agreement or financing
36 agreement entered into under this section does not constitute an event of default or give rise to any
37 remedies under the terms of the mortgage loan agreements.

38 (7) The local government implementing a program established under this section may:

39 (a) Secure a loan or financing with a lien on the benefited qualifying real property with the
40 same priority, as determined under ORS 223.230 (3), as a lien for assessments for local improvements
41 arising under ORS 223.393.

42 (b) Assess the benefited qualifying real property for the amounts due under a loan agreement
43 or financing agreement.

44 (c) Enforce a lien and collect an assessment authorized by this section as provided in ORS
45 223.505 to 223.650.

1 (d) Secure a loan or financing in any other manner that the local government determines is
2 reasonable.

3 (8)(a) In lieu of enforcing liens and collecting assessments as provided in subsection (7)(c) of this
4 section, a local government may certify the assessment, in the manner provided in ORS 310.060, to
5 the county assessor of each county in which benefited qualifying real property is located.

6 (b) If the assessments are certified as provided in this subsection, the county assessor shall:

7 (A) Enter the assessment upon the county assessment roll against the property described in the
8 certificate, in the manner that other local government assessments are entered;

9 (B) Collect, account for and enforce the assessments in the manner that local government
10 property taxes are collected, accounted for and enforced; and

11 (C) Transfer, as provided by law, the assessments collected to the local government that imposed
12 the assessment.

13 (9) A local government may issue revenue bonds pursuant to ORS 287A.150 to finance the costs
14 of a program established under this section, including the costs of making loans for utilities im-
15 provements.

16 (10) The [State Department of Energy] **Oregon Business Development Department** may lend
17 money under the provisions of ORS 470.060 to 470.080 and 470.090 to a local government that es-
18 tablishes a program under this section in cooperation with a local government implementing a pro-
19 gram under this section.

20 **SECTION 38.** ORS 227.190 is amended to read:

21 227.190. (1) City councils may adopt and implement solar access ordinances. The ordinances
22 shall provide and protect to the extent feasible solar access to the south face of buildings during
23 solar heating hours, taking into account latitude, topography, microclimate, existing development,
24 existing vegetation and planned uses and densities. The city council shall consider for inclusion in
25 any solar access ordinance, but not be limited to, standards for:

26 (a) The orientation of new streets, lots and parcels;

27 (b) The placement, height, bulk and orientation of new buildings;

28 (c) The type and placement of new trees on public street rights of way and other public prop-
29 erty; and

30 (d) Planned uses and densities to conserve energy, facilitate the use of solar energy, or both.

31 [(2) *The State Department of Energy shall actively encourage and assist city councils' efforts to*
32 *protect and provide for solar access.*]

33 [(3)] (2) As used in this section, "solar heating hours" means those hours between three hours
34 before and three hours after the sun is at its highest point above the horizon on December 21.

35 **SECTION 39.** ORS 240.855 is amended to read:

36 240.855. (1) As used in this section:

37 (a) "State agency" means any state office, department, division, bureau, board and commission,
38 whether in the executive, legislative or judicial branch.

39 (b) "Telecommute" means to work from the employee's home or from an office near the
40 employee's home, rather than from the principal place of employment.

41 (2) It is the policy of the State of Oregon to encourage state agencies to allow employees to
42 telecommute when there are opportunities for improved employee performance, reduced commuting
43 miles or agency savings.

44 (3) Each state agency shall adopt a written policy that:

45 (a) Defines specific criteria and procedures for telecommuting;

1 (b) Is applied consistently throughout the agency; and

2 (c) Requires the agency, in exercising its discretion, to consider an employee request to tele-
3 commute in relation to the agency's operating and customer needs.

4 (4) Each state agency that has an electronic bulletin board, home page or similar means of
5 communication shall post the policy adopted under subsection (3) of this section on the bulletin
6 board, home page or similar site.

7 (5) The Oregon Department of Administrative Services[, *in consultation with the State Department*
8 *of Energy,*] shall provide a biennial report to the Joint Committee on Technology, or a similar
9 committee of the Legislative Assembly, containing at least the following:

10 (a) The number of employees telecommuting;

11 (b) The number of trips, miles and hours of travel time saved annually;

12 (c) A summary of efforts made by the state agency to promote and encourage telecommuting;

13 (d) An evaluation of the effectiveness of efforts to encourage employees to telecommute; and

14 (e) Such other matters as may be requested by the committee.

15 **SECTION 40.** ORS 244.050 is amended to read:

16 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
17 Government Ethics Commission a verified statement of economic interest as required under this
18 chapter:

19 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
20 Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

21 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem
22 judicial officer who does not otherwise serve as a judicial officer.

23 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

24 (d) The Deputy Attorney General.

25 (e) The Deputy Secretary of State.

26 (f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
27 Legislative Policy and Research Director, the Secretary of the Senate and the Chief Clerk of the
28 House of Representatives.

29 (g) The president and vice presidents, or their administrative equivalents, in each public uni-
30 versity listed in ORS 352.002.

31 (h) The following state officers:

32 (A) Adjutant General.

33 (B) Director of Agriculture.

34 (C) Manager of State Accident Insurance Fund Corporation.

35 (D) Water Resources Director.

36 (E) Director of Department of Environmental Quality.

37 (F) Director of Oregon Department of Administrative Services.

38 (G) State Fish and Wildlife Director.

39 (H) State Forester.

40 (I) State Geologist.

41 (J) Director of Human Services.

42 (K) Director of the Department of Consumer and Business Services.

43 (L) Director of the Department of State Lands.

44 (M) State Librarian.

45 (N) Administrator of Oregon Liquor Control Commission.

- 1 (O) Superintendent of State Police.
- 2 (P) Director of the Public Employees Retirement System.
- 3 (Q) Director of Department of Revenue.
- 4 (R) Director of Transportation.
- 5 (S) Public Utility Commissioner.
- 6 (T) Director of Veterans' Affairs.
- 7 (U) Executive director of Oregon Government Ethics Commission.
- 8 (V) Director of the [*State Department of Energy*] **Oregon Climate Authority**.
- 9 (W) Director and each assistant director of the Oregon State Lottery.
- 10 (X) Director of the Department of Corrections.
- 11 (Y) Director of the Oregon Department of Aviation.
- 12 (Z) Executive director of the Oregon Criminal Justice Commission.
- 13 (AA) Director of the Oregon Business Development Department.
- 14 (BB) Director of the Office of Emergency Management.
- 15 (CC) Director of the Employment Department.
- 16 (DD) Chief of staff for the Governor.
- 17 (EE) Director of the Housing and Community Services Department.
- 18 (FF) State Court Administrator.
- 19 (GG) Director of the Department of Land Conservation and Development.
- 20 (HH) Board chairperson of the Land Use Board of Appeals.
- 21 (II) State Marine Director.
- 22 (JJ) Executive director of the Oregon Racing Commission.
- 23 (KK) State Parks and Recreation Director.
- 24 (LL) Public defense services executive director.
- 25 (MM) Chairperson of the Public Employees' Benefit Board.
- 26 (NN) Director of the Department of Public Safety Standards and Training.
- 27 (OO) Executive director of the Higher Education Coordinating Commission.
- 28 (PP) Executive director of the Oregon Watershed Enhancement Board.
- 29 (QQ) Director of the Oregon Youth Authority.
- 30 (RR) Director of the Oregon Health Authority.
- 31 (SS) Deputy Superintendent of Public Instruction.
- 32 (i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
- 33 the Governor's office.
- 34 (j) Every elected city or county official.
- 35 (k) Every member of a city or county planning, zoning or development commission.
- 36 (L) The chief executive officer of a city or county who performs the duties of manager or prin-
- 37 cipal administrator of the city or county.
- 38 (m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 39 (n) Every member of a governing body of a metropolitan service district and the auditor and
- 40 executive officer thereof.
- 41 (o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 42 (p) The chief administrative officer and the financial officer of each common and union high
- 43 school district, education service district and community college district.
- 44 (q) Every member of the following state boards and commissions:
- 45 (A) Governing board of the State Department of Geology and Mineral Industries.

- 1 (B) Oregon Business Development Commission.
- 2 (C) State Board of Education.
- 3 (D) Environmental Quality Commission.
- 4 (E) Fish and Wildlife Commission of the State of Oregon.
- 5 (F) State Board of Forestry.
- 6 (G) Oregon Government Ethics Commission.
- 7 (H) Oregon Health Policy Board.
- 8 (I) Oregon Investment Council.
- 9 (J) Land Conservation and Development Commission.
- 10 (K) Oregon Liquor Control Commission.
- 11 (L) Oregon Short Term Fund Board.
- 12 (M) State Marine Board.
- 13 (N) Mass transit district boards.
- 14 (O) Energy Facility Siting Council.
- 15 (P) Board of Commissioners of the Port of Portland.
- 16 (Q) Employment Relations Board.
- 17 (R) Public Employees Retirement Board.
- 18 (S) Oregon Racing Commission.
- 19 (T) Oregon Transportation Commission.
- 20 (U) Water Resources Commission.
- 21 (V) Workers' Compensation Board.
- 22 (W) Oregon Facilities Authority.
- 23 (X) Oregon State Lottery Commission.
- 24 (Y) Pacific Northwest Electric Power and Conservation Planning Council.
- 25 (Z) Columbia River Gorge Commission.
- 26 (AA) Oregon Health and Science University Board of Directors.
- 27 (BB) Capitol Planning Commission.
- 28 (CC) Higher Education Coordinating Commission.
- 29 (DD) Oregon Growth Board.
- 30 (EE) Early Learning Council.
- 31 (r) The following officers of the State Treasurer:
- 32 (A) Deputy State Treasurer.
- 33 (B) Chief of staff for the office of the State Treasurer.
- 34 (C) Director of the Investment Division.
- 35 (s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
- 36 or 777.915 to 777.953.
- 37 (t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.
- 38 (u) Every member of a governing board of a public university listed in ORS 352.002.
- 39 (v) Every member of the board of directors of an authority created under ORS 465.600 to
- 40 465.621.
- 41 (2) By April 15 next after the date an appointment takes effect, every appointed public official
- 42 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-
- 43 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070
- 44 and 244.090.
- 45 (3) By April 15 next after the filing deadline for the primary election, each candidate described

1 in subsection (1) of this section shall file with the commission a statement of economic interest as
2 required under ORS 244.060, 244.070 and 244.090.

3 (4) Not later than the 40th day before the date of the statewide general election, each candidate
4 described in subsection (1) of this section who will appear on the statewide general election ballot
5 and who was not required to file a statement of economic interest under subsections (1) to (3) of this
6 section shall file with the commission a statement of economic interest as required under ORS
7 244.060, 244.070 and 244.090.

8 (5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or
9 appointed public officials as of April 15 and to persons who are candidates on April 15.

10 (6) If a statement required to be filed under this section has not been received by the commis-
11 sion within five days after the date the statement is due, the commission shall notify the public of-
12 ficial or candidate and give the public official or candidate not less than 15 days to comply with the
13 requirements of this section. If the public official or candidate fails to comply by the date set by the
14 commission, the commission may impose a civil penalty as provided in ORS 244.350.

15 **SECTION 41.** ORS 261.151 is amended to read:

16 261.151. Upon certification of a petition for formation or adoption of a resolution by the county
17 governing body for district formation, the county clerk shall submit a copy of the resolution or pe-
18 tition, without signatures attached, to the Director of the [*State Department of Energy*] **Oregon**
19 **Climate Authority**. Not less than 30 days after receipt of the petition or resolution copy, the di-
20 rector shall hold a hearing within the proposed district for the purpose of receiving public testimony
21 on the proposed district formation. Notice of the hearing, stating the time and place of the hearing,
22 together with the electors' petition, when applicable, without the signatures attached, shall be pub-
23 lished at least two times prior to the date of the meeting. The first publication shall not be more
24 than 25 days nor less than 15 days preceding the hearing and the last publication shall not be more
25 than 14 days nor less than eight days preceding the hearing. Within 60 days after receipt of the
26 petition or resolution copy, the director[, *with the advice and assistance of the Public Utility Com-*
27 *mission of Oregon,*] shall prepare and publish a concise report showing the availability and cost of
28 power resources, potential tax consequences and any other information considered by the director
29 to be relevant to the proposed formation of the district. A copy of the report shall be mailed, upon
30 publication, by the director to the county governing body.

31 **SECTION 42.** ORS 261.161 is amended to read:

32 261.161. (1) After certification of a petition, or passage of the resolution when the formation,
33 annexation or consolidation proposal is by resolution of the county governing body, the county
34 governing body shall, within 10 days, fix a date for a hearing on the boundaries described in the
35 electors' petition or resolution of the county governing body for inclusion in the proposed or estab-
36 lished district. The hearing shall be held by the county governing body not less than 60 days nor
37 more than 90 days after certification of the petition or passage of the resolution. Notice of the
38 hearing, stating the time and place of the meeting, together with the electors' petition, when appli-
39 cable, without the signatures attached, shall be published at least two times prior to the date of the
40 meeting. The first publication shall not be more than 25 days nor less than 15 days preceding the
41 hearing and the last publication shall not be more than 14 days nor less than eight days preceding
42 the hearing. Notice of the hearing, and all other publications required by this chapter, shall be
43 published in at least one newspaper of general circulation in the proposed or established district.
44 The hearing may be adjourned from time to time, but shall not exceed four weeks in total length.
45 Public testimony shall be taken at the hearing.

1 (2) Based upon the record of the hearing prescribed in subsection (1) of this section on the
 2 proposed boundaries and, if district formation is proposed, the report of the Director of the [*State*
 3 *Department of Energy*] **Oregon Climate Authority** under ORS 261.151, the county governing body
 4 within 10 days of the last date of hearing shall determine the boundaries of the proposed or estab-
 5 lished district.

6 (3) No lands shall be included in the boundaries fixed by the governing body lying outside the
 7 boundaries described in the electors' petition unless the owners of that land request inclusion in
 8 writing before the hearing under subsection (1) of this section is completed.

9 (4) An electors' petition shall not be denied by a county governing body because of any defi-
 10 ciency in the description of the boundaries of the proposed district, but the county governing body
 11 shall correct those deficiencies.

12 **SECTION 43.** ORS 261.225 is amended to read:

13 261.225. (1) The [*State Department of Energy, the Public Utility Commission of Oregon*] **Oregon**
 14 **Climate Authority** and any privately owned utility serving the affected territory shall cooperate
 15 in providing information and data as requested by a people's utility district for construction or ac-
 16 quisition of the initial utility system.

17 (2) As requested, the [*State Department of Energy and the Public Utility Commission of Oregon*]
 18 **Oregon Climate Authority** shall provide copies of records on file pertinent to the operation of a
 19 utility system.

20 (3) As requested, the privately owned utility serving the affected territory shall provide data and
 21 records regarding the affected territory including:

22 (a) Peak load and monthly variations of load required to serve the territory;

23 (b) Load requirements of various classifications of users;

24 (c) Gross revenue;

25 (d) Distribution costs, including operation, maintenance and debt retirement;

26 (e) Inventory of assets by type and value;

27 (f) List of customers with customer addresses;

28 (g) Amount of money loaned to each customer for conservation activity; and

29 (h) Replacement value of an investor owned utility's unreimbursed investment in energy effi-
 30 ciency measures and installations within the territory.

31 **SECTION 44.** ORS 261.470 is amended to read:

32 261.470. (1) The board shall adopt the effective uniform system of accounts prescribed by the
 33 Federal Energy Regulatory Commission and require that accounting for receipts and disbursements
 34 for the district be accomplished in accordance with said system of accounts.

35 (2) The board shall file with the Director of the [*State Department of Energy*] **Oregon Climate**
 36 **Authority** and with the county clerk of each county included within the boundaries of the district
 37 an annual report in the form required by the Federal Energy Regulatory Commission.

38 (3) An annual audit shall be made in the manner provided in ORS 297.405 to 297.555. A copy
 39 of such audit shall be filed with each county clerk of the county in which the district or any portion
 40 of the boundaries of the district is located, and in the office of the Secretary of State and in the
 41 office of the Director of the [*State Department of Energy*] **Oregon Climate Authority**, where it shall
 42 remain a public record.

43 **SECTION 45.** ORS 262.025 is amended to read:

44 262.025. A joint operating agency shall be formed and come into existence by order of the Di-
 45 rector of the [*State Department of Energy*] **Oregon Climate Authority** in accordance with the fol-

1 lowing procedures:

2 (1) The legislative body of each city and people’s utility district desiring to form and be a
3 member of a joint operating agency shall adopt an ordinance declaring their intention and author-
4 izing formation and membership. The ordinance shall be effective only if submitted to the electors
5 of the city or people’s utility district voting on the ordinance at any general election or at a special
6 election called for that purpose. The ordinance shall include:

7 (a) A statement of the purpose or purposes for which the joint operating agency is to be formed.

8 (b) A finding by the legislative body that the formation of a joint operating agency is necessary
9 or desirable in order to plan for and provide an adequate supply of electric energy to meet the needs
10 of the customers of publicly owned utilities in Oregon.

11 (c) A statement of the projected energy loads and resources relied upon by the legislative body
12 to support such finding.

13 (d) A general description of the means by which the joint operating agency proposes to accom-
14 plish its purposes, including a description of any specific utility properties then identified as a pro-
15 posed activity of the joint operating agency.

16 (e) A statement of the financial contribution, if any, to be made by the city or district to the
17 joint operating agency at the time of organization as a condition of membership.

18 (2) Upon such approval of such an ordinance or ordinances, each such city and district shall file
19 with the director an application to form and be a member of a joint operating agency. The appli-
20 cation shall:

21 (a) State the proposed name of the operating agency, the proposed address of its principal
22 business office, and the purpose or purposes for which it is to be formed;

23 (b) Contain a certified copy of the ordinance of each applicant city and district as approved by
24 the electors; and

25 (c) State generally how the joint operating agency proposes to accomplish its purposes.

26 (3) The director shall cause notice of an application to be published forthwith in the bulletin
27 referred to in ORS 183.360. Such notice shall:

28 (a) Summarize fairly the contents of the application;

29 (b) Fix a date not less than 20 nor more than 30 days after the date of publication prior to which
30 interested parties may submit in writing any data, views, or arguments with respect to the applica-
31 tion; and

32 (c) Fix a date not less than 30 nor more than 60 days after the date of publication for the entry
33 of an order approving or disapproving an application.

34 (4) In considering the application, the director shall give full and fair consideration to all data,
35 views and arguments submitted on behalf of the applicants or any other interested person.

36 (5) On or before the date fixed in subsection (3)(c) of this section, the director shall enter an
37 order establishing the joint operating agency in accordance with the application if the director finds
38 (a) that the statements set forth in the application are substantially correct; (b) that formation of
39 the proposed joint operating agency is necessary or desirable to plan for or provide an adequate
40 supply of electric energy to meet the needs of the customers of publicly owned utilities in Oregon;
41 and (c) that adequate provision has been or can be made for financing the activities of the joint
42 operating agency. The joint operating agency shall be established as of the date of such order.

43 (6) If the director finds that the application is not in the required form or that additional data
44 is required to support the application, the director shall enter an order so finding. Such an order
45 shall not preclude the applicants from filing a revised application based upon the same approved

1 ordinances.

2 (7) If the director does not enter an order as authorized under subsection (5) or (6) of this sec-
3 tion within 60 days after the date of publication, the application shall be considered approved, and
4 the joint operating agency shall be established as of such 60th day.

5 (8) A joint operating agency, organized as provided by this section shall have all of the powers
6 and responsibilities contained in ORS 262.005 to 262.105.

7 (9) Any party who has joined in filing an application in accordance with this section, or who
8 has filed timely objections to such application, and who feels aggrieved by any finding or order of
9 the director shall have the right of judicial review pursuant to ORS 183.480.

10 **SECTION 46.** ORS 262.065 is amended to read:

11 262.065. (1) Except as permitted in ORS 262.085, the treasurer shall be custodian of all funds of
12 the joint operating agency and shall pay them out only by order of the board, except as provided
13 in subsection (2) of this section.

14 (2) The board may delegate to the treasurer standing authority to make payments of routine
15 expenses as defined by the board.

16 (3) Before the treasurer enters upon the treasurer's duties, the treasurer shall give bond or an
17 irrevocable letter of credit to the joint operating agency in an amount which the board finds by
18 resolution will protect the agency against loss, conditioned for the faithful discharge of duties and
19 further conditioned that all funds which the treasurer receives as treasurer will be faithfully kept
20 and accounted for. Any letter of credit shall be issued by an insured institution, as defined in ORS
21 706.008. The amount of the treasurer's bond may be increased or decreased from time to time as the
22 board may by resolution direct. The surety on any such bond shall be a corporate surety authorized
23 to do business in this state. The premiums on the bond or the fee for issuing the letter of credit of
24 the treasurer shall be paid by the joint operating agency.

25 (4) All moneys of the joint operating agency shall be deposited by the treasurer in depositories
26 designated by the board of directors, with such security as may be prescribed by the board. The
27 treasurer shall establish a general fund and such special funds as may be created by the board, to
28 which the treasurer shall credit all funds of the joint operating agency as the board by motion or
29 resolution may direct.

30 (5)(a) The board shall adopt the uniform system of accounts prescribed from time to time by the
31 Federal Energy Regulatory Commission and require that accounting for receipts and disbursements
32 for the joint operating agency be accomplished in accordance with the uniform system of accounts.

33 (b) The board shall file with the Director of the [*State Department of Energy*] **Oregon Climate**
34 **Authority** an annual report in the form required by the Federal Energy Regulatory Commission.

35 (c) An annual audit shall be made in the manner provided in ORS 297.405 to 297.555. A copy
36 of such audit shall be filed in the office of the Secretary of State and in the office of the Director
37 of the [*State Department of Energy*] **Oregon Climate Authority**.

38 (6)(a) The board of each joint operating agency may appoint a manager. The manager shall be
39 appointed for such term and receive such salary as the board shall fix by resolution. Appointments
40 and removals of the manager shall be by resolutions adopted by a majority vote.

41 (b) In case of absence or temporary disability of the manager, the board shall designate an act-
42 ing manager.

43 (c) The manager shall be chief administrative officer of the joint operating agency, shall have
44 control of the administrative functions of the joint operating agency and shall be responsible to the
45 board for efficient administration of all affairs of the joint operating agency placed in the manager's

1 charge. The manager may attend meetings of the board and its committees and take part in dis-
2 cussion of any matters pertaining to the manager's duties, but shall have no vote. The manager
3 shall:

4 (A) Carry out orders of the board and see that all laws of this state pertaining to matters within
5 the functions of the joint operating agency are duly enforced;

6 (B) Keep the board advised as to the financial condition and needs of the joint operating agency;

7 (C) Prepare an annual estimate for the ensuing fiscal year of the probable expenses of the joint
8 operating agency, and recommend to the board what development work should be undertaken, and
9 any extensions and additions which should be made during the ensuing fiscal year, with an estimate
10 of the costs of such development work, extensions and additions;

11 (D) Certify to the board all bills, allowances and payrolls, including claims due contractors of
12 public works;

13 (E) Recommend to the board appropriate salaries of the employees of the office, and scale of
14 salaries or wages to be paid for different classes of service required by the joint operating agency;

15 (F) Hire and discharge clerks, laborers and other employees under the manager's direction; and

16 (G) Perform such other duties as may be imposed by the board.

17 **SECTION 47.** ORS 267.030 is amended to read:

18 267.030. (1) To the maximum extent possible, motor vehicles subject to the control of a district
19 shall use alternative fuel for operation.

20 (2) To the extent that it is economically and technologically possible, all motor vehicles pur-
21 chased or leased by the board of the district shall be capable of using alternative fuel. However, this
22 subsection does not apply if the vehicle will be primarily used in an area that does not have and
23 cannot reasonably be expected to establish an alternative fuel refueling station or if the district is
24 unable to secure financing sufficient to cover additional costs resulting from the requirement of this
25 subsection.

26 (3) Prior to July 1 of each year, the board of the district shall submit an annual report to the
27 Department of Environmental Quality and the [*State Department of Energy*] **Oregon Climate Au-**
28 **thority**. The report shall contain at a minimum:

29 (a) The number of purchases and leases of vehicles capable of using alternative fuel;

30 (b) The number of conversions of vehicles from the use of gasoline or diesel fuel to the use of
31 alternative fuel;

32 (c) The quantity of each type of alternative fuel used; and

33 (d) Any other information required by the department [*of Environmental Quality and the State*
34 *Department of Energy*] **or the authority** to carry out [*their*] **the department's or the authority's**
35 functions under subsection (4) of this section.

36 (4) If the department [*of Environmental Quality and State Department of Energy determine*] **or**
37 **the authority determines** that the use of alternative fuel required by this section has been effec-
38 tive in reducing total annual motor vehicle emissions in the district, the motor vehicles subject to
39 the control of the board of the district shall be capable of using alternative fuel, to the maximum
40 extent possible.

41 (5) The board of the district shall comply with all safety standards established by the United
42 States Department of Transportation in the conversion, operation and maintenance of vehicles using
43 alternative fuel.

44 (6) As used in this section, "alternative fuel" means any fuel determined by the Department of
45 Environmental Quality to be less polluting than conventional gasoline, including but not necessarily

1 limited to reformulated gasoline, low sulfur diesel fuel, natural gas, liquefied petroleum gas,
2 methanol, ethanol, any fuel mixture containing at least 85 percent methanol or ethanol and elec-
3 tricity.

4 **SECTION 48.** ORS 267.517 is amended to read:

5 267.517. (1) To the maximum extent possible, motor vehicles subject to the control of a trans-
6 portation district established under ORS 267.510 to 267.650 having a city within the district with a
7 population exceeding 30,000 shall use alternative fuel for operation.

8 (2) To the extent that it is economically and technologically possible, all motor vehicles pur-
9 chased or leased by the board of the district shall be capable of using alternative fuel. However, this
10 subsection does not apply if the vehicle will be primarily used in an area that does not have and
11 cannot reasonably be expected to establish an alternative fuel refueling station or if the district is
12 unable to secure financing sufficient to cover additional costs resulting from the requirement of this
13 subsection.

14 (3) Prior to July 1 of each year, the board of the district shall submit an annual report to the
15 Department of Environmental Quality and the [*State Department of Energy*] **Oregon Climate Au-**
16 **thority**. The report shall contain at a minimum:

17 (a) The number of purchases and leases of vehicles capable of using alternative fuel;

18 (b) The number of conversions of vehicles from the use of gasoline or diesel fuel to the use of
19 alternative fuel;

20 (c) The quantity of each type of alternative fuel used; and

21 (d) Any other information required by the department [*of Environmental Quality and the State*
22 *Department of Energy*] **or the authority** to carry out their functions under subsection (4) of this
23 section.

24 (4) If the department [*of Environmental Quality and State Department of Energy determine*] **and**
25 **the authority determine** that the use of alternative fuel required by this section has been effective
26 in reducing total annual motor vehicle emissions in the district, the motor vehicles subject to the
27 control of the board of the district shall be capable of using alternative fuel, to the maximum extent
28 possible.

29 (5) The board of the district shall comply with all safety standards established by the United
30 States Department of Transportation in the conversion, operation and maintenance of vehicles using
31 alternative fuel.

32 (6) As used in this section, "alternative fuel" means any fuel determined by the Department of
33 Environmental Quality to be less polluting than conventional gasoline, including but not necessarily
34 limited to reformulated gasoline, low sulfur diesel fuel, natural gas, liquefied petroleum gas,
35 methanol, ethanol, any fuel mixture containing at least 85 percent methanol or ethanol and elec-
36 tricity.

37 **SECTION 49.** ORS 276.910 is amended to read:

38 276.910. (1) Before constructing or renovating a major facility, an authorized state agency shall,
39 after comparing various equipment options and to the greatest extent practicable, use fuel cell
40 power systems for emergency backup power applications and for critical power applications in lieu
41 of other equipment options.

42 (2)(a) The [*State Department of Energy*] **Oregon Climate Authority** shall, in consultation with
43 the Oregon Department of Administrative Services, adopt rules establishing criteria for the com-
44 parison of fuel cell power systems and other equipment options required by subsection (1) of this
45 section.

1 (b) Criteria to be established under this subsection must address:

2 (A) The impact of emissions, including but not limited to nitrous oxide, sulfur oxide, carbon
3 monoxide, carbon dioxide and particulates, from various equipment options, on the environment, re-
4 gardless of whether the equipment is installed indoors or installed outdoors;

5 (B) Life cycle costs, including but not limited to acquisition costs, installation and commission-
6 ing costs, siting and permitting costs, maintenance costs and fueling and decommissioning costs; and

7 (C) The complexity of equipment options and any ancillary equipment.

8 **SECTION 50.** ORS 276.915 is amended to read:

9 276.915. (1) An authorized state agency may construct or renovate a facility only if the author-
10 ized state agency determines that the design incorporates all reasonable cost-effective energy con-
11 servation measures and alternative energy systems. The determination by the authorized state
12 agency shall include consideration of indoor air quality issues and operation and maintenance costs.

13 (2) Whenever an authorized state agency determines that a major facility is to be constructed
14 or renovated, the authorized state agency shall cause to be included in the design phase of the
15 construction or renovation a provision that requires an energy consumption analysis to be prepared
16 for the facility under the direction of a professional engineer or registered architect or under the
17 direction of a person that is prequalified in accordance with this section. The authorized state
18 agency and the [*State Department of Energy*] **Oregon Climate Authority** shall agree to the list of
19 energy conservation measures and alternative energy systems that the energy consumption analysis
20 will include. The energy consumption analysis and facility design shall be delivered to the [*State*
21 *Department of Energy*] **Oregon Climate Authority** during the design development phase of the fa-
22 cility design. The [*State Department of Energy*] **Oregon Climate Authority** shall review the energy
23 consumption analysis and forward its findings to the authorized state agency within 10 working days
24 after receiving the energy consumption analysis, if practicable.

25 (3) The [*State Department of Energy*] **Oregon Climate Authority**, in consultation with author-
26 ized state agencies, shall adopt rules to carry out the provisions of ORS 276.900 to 276.915. These
27 rules shall:

28 (a) Include a simplified and usable method for determining which energy conservation measures
29 and alternative energy systems are cost-effective. The method shall reflect the energy costs of the
30 utility serving the facility.

31 (b) Prescribe procedures for determining if a facility design incorporates all reasonable cost-
32 effective energy conservation measures and alternative energy systems.

33 (c) Establish fees through which an authorized state agency will reimburse the [*State Department*
34 *of Energy*] **Oregon Climate Authority** for the [*department's*] **authority's** review of energy con-
35 sumption analyses and facility designs and the [*department's*] **authority's** reporting tasks. The fees
36 imposed may not exceed 0.2 percent of the capital construction cost of the facility and must be in-
37 cluded in the energy consumption analysis required in subsection (2) of this section. The [*State De-*
38 *partment of Energy*] **Oregon Climate Authority** may provide for a waiver of fees and reviews if the
39 authorized state agency demonstrates that the facility will be designed and constructed in a manner
40 that incorporates only cost-effective energy conservation measures or in a manner that exceeds the
41 energy conservation provisions of the state building code by 20 percent or more.

42 (d) Periodically define highly efficient facilities. A facility constructed or renovated after June
43 30, 2001, shall exceed the energy conservation provisions of the state building code by 20 percent
44 or more, unless otherwise required by rules adopted under this section.

45 (e) Establish guidelines for implementing subsection (4) of this section.

1 (f) Establish guidelines for incorporating energy efficiency requirements into lease agreements
 2 of 10 or more years to be phased in as current lease agreements expire or as new lease agreements
 3 are entered into, allowing reasonable time for the owner to implement the requirements of this
 4 section.

5 (g) Establish criteria by which the [*State Department of Energy*] **Oregon Climate Authority**
 6 determines that a person is prequalified to perform work in accordance with this section.

7 (4) Before June 30, 2015, an authorized state agency shall reduce the total amount of energy the
 8 authorized state agency uses in the authorized state agency's owned facilities by at least 20 percent
 9 from a baseline amount the [*State Department of Energy*] **Oregon Climate Authority** determines by
 10 rule based on usage in calendar year 2000.

11 (5) An authorized state agency shall report annually to the [*State Department of Energy*] **Oregon**
 12 **Climate Authority** concerning energy use in the authorized state agency's facilities. The [*State*
 13 *Department of Energy*] **Oregon Climate Authority** shall specify by rule the form and content of and
 14 deadlines for the reports.

15 (6) An authorized state agency that fails to achieve and maintain a 20 percent reduction in en-
 16 ergy use on and after June 30, 2015, shall submit biennial energy conservation plans to the [*State*
 17 *Department of Energy*] **Oregon Climate Authority**. The [*State Department of Energy*] **Oregon Cli-**
 18 **mate Authority** shall specify by rule the form and content of and deadlines for the energy conser-
 19 vation plans.

20 (7) The [*State Department of Energy*] **Director of the Oregon Climate Authority** by rule may
 21 require mandatory prequalification as a condition for a person to submit a bid or proposal to per-
 22 form the following work for an authorized state agency:

23 (a) Direct an energy consumption analysis for an authorized state agency under subsection (2)
 24 of this section, unless the person is a professional engineer or a registered architect;

25 (b) Enter into an energy savings performance contract; or

26 (c) Perform energy audits, building commissioning, monitoring and verification services and
 27 other services related to the operation and management of a facility's energy systems, except for
 28 architectural, engineering, photogrammetric mapping, transportation planning or land surveying
 29 services as defined in ORS 279C.100.

30 (8) The [*State Department of Energy*] **Oregon Climate Authority** may recover from authorized
 31 state agencies the costs associated with administering the provisions of this section, including costs
 32 associated with adopting rules, maintaining a state energy use database and prequalifying a person
 33 under this section.

34 (9) The [*State Department of Energy*] **Oregon Climate Authority** and the Oregon Department
 35 of Administrative Services shall jointly prepare a biennial report summarizing the progress toward
 36 achieving the goals of this section. The biennial report shall be made available to the public.

37 **SECTION 51.** ORS 279A.065 is amended to read:

38 279A.065. (1) The Attorney General shall prepare and maintain model rules that specify proce-
 39 dures for public contracting under the Public Contracting Code and that are appropriate for all
 40 contracting agencies to use. The Attorney General may devise and publish forms for use with the
 41 model rules. The Attorney General shall adopt the model rules in accordance with ORS chapter 183.
 42 Before adopting or amending a model rule, the Attorney General shall consult with the Director of
 43 the Oregon Department of Administrative Services, the Director of Transportation, representatives
 44 of county governments, representatives of city governments, representatives of school boards and
 45 other knowledgeable persons.

1 (2) The Attorney General shall adopt model rules that specify procedures for all contracting
2 agencies to use to enter into energy savings performance contracts. Before adopting or amending a
3 rule under this subsection, the Attorney General shall consult with the Oregon Department of Ad-
4 ministrative Services, the [*State Department of Energy*] **Oregon Climate Authority**, local contract-
5 ing agencies and other knowledgeable persons. The Attorney General may develop standard contract
6 forms for use with energy savings performance contracts.

7 (3)(a) The Attorney General shall adopt model rules that specify procedures for all contracting
8 agencies to use to procure construction manager/general contractor services. Before adopting or
9 amending a rule under this subsection, the Attorney General shall consult with the Director of the
10 Oregon Department of Administrative Services, the Director of Transportation, local contracting
11 agencies, construction contractors, construction subcontractors and other knowledgeable persons.

12 (b) Notwithstanding subsection (6) of this section, a contracting agency may not adopt the con-
13 tracting agency's own rules for procuring construction manager/general contractor services.

14 (4) After each legislative session, the Attorney General shall review all laws the Legislative
15 Assembly passed that affect public contracting to determine if the Attorney General should amend
16 or repeal a model rule prepared under this section or adopt a new rule. If the Attorney General
17 determines that a modification of the model rules is necessary, the Attorney General shall prepare
18 the modification within such time as to allow the modification to take effect no later than 120 days
19 after the effective date of the legislation that caused the Attorney General to modify the rule. The
20 Attorney General may prepare a modification to take effect 121 or more days after the effective date
21 of the legislation if the Attorney General, in a notice to the state agencies and persons listed in
22 subsection (1) of this section, specifies when the modification will take effect.

23 (5) A contracting agency that has not adopted the contracting agency's own rules of procedure
24 in accordance with subsection (6) of this section is subject to the model rules the Attorney General
25 adopts under this section, including all modifications to the model rules that the Attorney General
26 may adopt.

27 (6)(a) A contracting agency may adopt the contracting agency's own rules of procedure for
28 public contracts that:

29 (A) Specifically state that the model rules the Attorney General adopts under this section do
30 not apply to the contracting agency; and

31 (B) Prescribe the rules of procedure that the contracting agency will use for public contracts,
32 which may include portions of the model rules the Attorney General adopts.

33 (b) A contracting agency that adopts rules under this subsection shall review the rules each
34 time the Attorney General modifies the model rules under this section to determine whether the
35 contracting agency should modify the contracting agency's rules to ensure compliance with statu-
36 tory changes.

37 **SECTION 52.** ORS 279C.527 is amended to read:

38 279C.527. (1) As used in this section and ORS 279C.528:

39 (a)(A) "Green energy technology" means a system that employs:

40 (i) Solar or geothermal energy directly for space or water heating or to generate electricity; or

41 (ii) Building design that uses solar energy passively to reduce energy use from other sources
42 by at least 20 percent from a level required under ORS 276.900 to 276.915 or achieved in buildings
43 constructed according to state building code standards that the Department of Consumer and Busi-
44 ness Services approves under ORS 455.496.

45 (B) "Green energy technology" does not include a system that:

1 (i) Uses water, groundwater or the ground as a heat source at temperatures less than 140 de-
2 grees Fahrenheit, or less than 128 degrees Fahrenheit if the system is used for a public school
3 building; or

4 (ii) Incorporates solar energy indirectly into other methods for generating energy, such as from
5 the action of waves on water, from hydroelectric facilities or from wind-powered turbines.

6 (b) "Public building" means a building that a public body, as defined in ORS 174.109, owns or
7 controls, and that is:

8 (A) Used or occupied by employees of the public body; or

9 (B) Used for conducting public business.

10 (c)(A) "Woody biomass energy technology" means a system that, for space or water heating or
11 as a combined heat and power system, uses a boiler with a lower heating value combustion effi-
12 ciency of at least 80 percent and that uses as fuel material from trees and woody plants, such as
13 limbs, tops, needles, leaves and other woody parts, that:

14 (i) Grows in a forest, a woodland, a farm, a rangeland or a wildland that borders on an urban
15 area; and

16 (ii) Is a by-product of forest management, agriculture, ecosystem restoration or fire prevention
17 or related activities.

18 (B) "Woody biomass energy technology" does not include a system that uses for fuel:

19 (i) Wood pieces that have been treated with creosote, pentachlorophenol, chromated copper
20 arsenate or other chemical preservatives; or

21 (ii) Municipal solid waste.

22 (2)(a) Except as otherwise provided in this section, a contracting agency that intends to enter
23 into a public improvement contract for constructing a public building or for reconstructing or per-
24 forming a major renovation of a public building, if the cost of the reconstruction or major renovation
25 exceeds 50 percent of the value of the public building, shall first make a determination under sub-
26 section (3) of this section as to whether green energy technology is appropriate for the public
27 building and, if the contracting agency determines that green energy technology is appropriate, shall
28 ensure that the public improvement contract provides an amount equal to at least 1.5 percent of the
29 total contract price for the purpose of including appropriate green energy technology as part of the
30 construction, reconstruction or major renovation of the public building.

31 (b) A public improvement contract to construct, reconstruct or renovate a public building may
32 provide for constructing green energy technology at a site that is located away from the site of the
33 public building if:

34 (A) Constructing green energy technology away from the site of the public building and using
35 the energy from the green energy technology at the site of the public building is more cost-effective,
36 taking into account additional costs associated with transmitting generated energy to the site of the
37 public building, than is constructing and using green energy technology at the site of the public
38 building;

39 (B) The green energy technology that is located away from the site of the public building is lo-
40 cated within this state and in the same county as, or in a county adjacent to, the site of the public
41 building; and

42 (C) The public improvement contract provides that all of the moneys for constructing green en-
43 ergy technology away from the site of the public building must fund new energy generating capacity
44 that does not replace or constitute a purchase and use of energy generated from green energy
45 technology that:

1 (i) Employs solar energy and that existed on the date that the original building permit for the
2 public building was issued; or

3 (ii) Employs geothermal energy and for which construction was completed before January 1,
4 2013.

5 (c) In evaluating whether a contracting agency can construct green energy technology at a site
6 away from the site of the public building in accordance with paragraph (b)(A) of this subsection, the
7 contracting agency shall compare the costs of constructing green energy technology that employs
8 a particular fuel source or method of energy generation at the site of the public building only with
9 the corresponding costs of green energy technology that employs the same fuel source or method
10 of energy generation at a location away from the site of the public building.

11 (d)(A) As an alternative to including appropriate green energy technology as part of the con-
12 struction, reconstruction or major renovation of a public building, a contracting agency may include
13 woody biomass energy technology as part of constructing, reconstructing or performing a major
14 renovation on the public building if the woody biomass energy technology creates new energy gen-
15 eration capacity that did not exist on the date on which the original building permit for the public
16 building was issued, the contracting agency has considered the potential costs of the woody biomass
17 energy technology and:

18 (i) The facility that uses woody biomass energy technology is located in an area of the state that
19 complies with standards that the Department of Environmental Quality has adopted for emissions
20 of particulate matter; or

21 (ii) The contracting agency demonstrates to the Department of Environmental Quality, if the
22 facility that uses woody biomass energy technology is located in an area that does not comply with
23 standards the department has adopted for emissions of particulate matter, that one of the following
24 two conditions applies:

25 (I) The fuel that the woody biomass energy technology uses is pelletized; or

26 (II) The woody biomass energy technology produces particulate matter emissions at the same
27 level as, or a lower level than, a functionally equivalent system that is capable of producing the
28 same energy output and that uses fuel that is pelletized.

29 (B) Notwithstanding a contracting agency's demonstrations in accordance with subparagraph
30 (A)(ii) of this paragraph, the Department of Environmental Quality may require additional emissions
31 control technologies or specifications before the contracting agency may include woody biomass
32 energy technology in the construction, reconstruction or major renovation of a public building.

33 (3) In making a determination as to whether green energy technology is appropriate, or whether
34 woody biomass energy technology is a suitable alternative to green energy technology, in con-
35 structing, reconstructing or performing a major renovation of a public building, a contracting
36 agency shall list in the determination the total contract price and specify the amount the agency
37 intends to expend on including green energy technology or woody biomass energy technology as part
38 of the construction, reconstruction or major renovation. The *[State Department of Energy]* **Oregon**
39 **Climate Authority** shall develop a form that a contracting agency may use to prepare the written
40 determination described in this subsection.

41 (4)(a) If the contracting agency determines that green energy technology is not appropriate for
42 the public building, subsection (2) of this section does not apply to the public improvement contract,
43 except that if the contracting agency determines that woody biomass energy technology is a suitable
44 alternative, the contracting agency will make the determination specified in subsection (3) of this
45 section for the woody biomass energy technology. A contracting agency's determination under this

1 paragraph must consider whether constructing green energy technology or woody biomass energy
2 technology at the site of the public building is appropriate and whether constructing green energy
3 technology or woody biomass energy technology away from the site of the public building and in
4 accordance with subsection (2)(b) and (c) of this section, or with subsection (2)(d) of this section, as
5 applicable, is appropriate.

6 (b) If subsection (2) of this section does not apply to the public improvement contract:

7 (A) The contracting agency shall spend an amount equal to at least 1.5 percent of the total
8 contract price to include appropriate green energy technology or woody biomass energy technology
9 as part of a future public building project; and

10 (B) The amount the contracting agency spends on the future public building project in accord-
11 ance with subparagraph (A) of this paragraph is in addition to any amount required under sub-
12 section (2) of this section for including appropriate green energy technology or woody biomass
13 energy technology as part of the future public building project.

14 (5)(a) A contracting agency need not set aside the amount described in subsection (4)(b) of this
15 section in an account or otherwise reserve moneys for a future public building at the time the
16 contracting agency makes the determination described in subsection (3) of this section, but the
17 contracting agency shall report the amount described in subsection (4)(b) of this section to the [*State*
18 *Department of Energy*] **Oregon Climate Authority** as provided in ORS 279C.528 (2).

19 (b) Subsection (4)(b) of this section does not apply to a public improvement contract for which
20 state funds are not directly or indirectly used.

21 (6)(a) This section does not exempt an authorized state agency, as defined in ORS 276.905, from
22 complying with ORS 276.900 to 276.915, except that an authorized state agency, without complying
23 with ORS 276.900 to 276.915, may determine that green energy technology or woody biomass energy
24 technology is appropriate to include as part of constructing, reconstructing or performing a major
25 renovation of a public building.

26 (b) A contracting agency may not use an amount described in subsection (4)(b) of this section
27 to comply with requirements set forth in ORS 276.900 to 276.915 or with a state building code
28 standard that the Department of Consumer and Business Services approves under ORS 455.496.

29 (7) Notwithstanding the provisions of ORS 174.108 (3), this section applies to intergovernmental
30 entities described in ORS 174.108 (3).

31 **SECTION 53.** ORS 279C.528 is amended to read:

32 279C.528. (1) Each contracting agency, in soliciting, awarding and administering public im-
33 provement contracts that are subject to ORS 279C.527, is subject to rules the [*State Department of*
34 *Energy*] **Director of the Oregon Climate Authority** adopts that include, but are not limited to,
35 requirements and specifications for:

36 (a) Using particular green energy technologies in public improvements;

37 (b) Determining the cost-effectiveness of green energy technologies;

38 (c) Submitting documents required under ORS 279C.527 to the [*department*] **Oregon Climate**
39 **Authority** for review; and

40 (d) Determining whether a structure is a public building subject to the requirements of ORS
41 279C.527.

42 (2)(a) Each contracting agency shall collect and maintain information concerning the contract-
43 ing agency's compliance with ORS 279C.527, which must include, at a minimum:

44 (A) Records that show how the contracting agency spent moneys the contracting agency used
45 in including appropriate green energy technology or woody biomass energy technology as part of

1 constructing, reconstructing or performing a major renovation of a public building;

2 (B) An identification of each public improvement contract for which the contracting agency
3 spent moneys to include appropriate green energy technology or woody biomass energy technology
4 as part of constructing, reconstructing or performing a major renovation of a public building;

5 (C) An identification of each public improvement contract for which the contracting agency de-
6 termined that including green energy technology or woody biomass energy technology as part of
7 constructing, reconstructing or performing a major renovation of a public building was not appro-
8 priate;

9 (D) The total amount the contracting agency would have spent on each public improvement
10 contract identified in subparagraph (C) of this paragraph and the total aggregated amount that the
11 contracting agency must spend to include green energy technology or woody biomass energy tech-
12 nology as part of constructing, reconstructing or performing a major renovation of a future public
13 building; and

14 (E) An identification of each public improvement contract that uses moneys the contracting
15 agency did not spend in a previous public improvement contract for including appropriate green
16 energy technology or woody biomass energy technology as part of constructing, reconstructing or
17 performing a major renovation of a public building.

18 (b) Each contracting agency shall compile the information the contracting agency collected un-
19 der paragraph (a) of this subsection and report the information to the [*department*] **authority** at
20 times, in a manner and on forms that the [*department*] **director** specifies by rule.

21 (c) The [*department*] **authority** shall:

22 (A) Compile and summarize the information the [*department*] **authority** receives under para-
23 graph (b) of this subsection and, in the [*department's*] **authority's** compilation and summary, specif-
24 ically:

25 (i) Identify contracting agencies that have not complied with the requirements of ORS 279C.527
26 or the reporting requirements set forth in paragraph (b) of this subsection;

27 (ii) Identify public improvement contracts for which contracting agencies have determined that
28 including green energy technology or woody biomass energy technology as part of constructing, re-
29 constructing or performing a major renovation of a public building was not appropriate; and

30 (iii) Identify public improvement contracts that use moneys a contracting agency did not spend
31 in a previous public improvement contract on including appropriate green energy technology or
32 woody biomass energy technology as part of constructing, reconstructing or performing a major
33 renovation of a public building.

34 (B) Deliver annually to the Legislative Assembly, on or before the date on which each regular
35 session of the Legislative Assembly begins, a report concerning contracting agency compliance with
36 this section and ORS 279C.527 that includes the compilation and summary the [*department*] **au-**
37 **thority** prepared under subparagraph (A) of this paragraph.

38 **SECTION 54.** ORS 283.337 is amended to read:

39 283.337. Prior to December 31 of each year, each agency owning motor vehicles shall submit an
40 annual report to the Department of Environmental Quality and the [*State Department of Energy*]
41 **Oregon Climate Authority**. The report shall contain at a minimum:

42 (1) The number of vehicles acquired that are capable of using alternative fuel;

43 (2) The number of vehicles converted from the use of gasoline to the use of alternative fuel;

44 (3) The quantity of each type of alternative fuel used; and

45 (4) Any other information required by the Department of Environmental Quality and the [*State*

1 *Department of Energy*] **Oregon Climate Authority.**

2 **SECTION 55.** Section 1, chapter 63, Oregon Laws 2016, is amended to read:

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

4 (a) "Investor-owned utility" means an investor-owned utility, as defined in ORS 469.631, that
5 distributes electricity.

6 (b) "Nameplate capacity" means the maximum rated output of a generator, inverter or other
7 electric power production equipment measured in alternating current under specific conditions des-
8 ignated by the manufacturer of the equipment.

9 (c) "Publicly owned utility" has the meaning given that term in ORS 469.649.

10 (d) "Solar photovoltaic energy system" means equipment and devices that have the primary
11 purpose of collecting solar energy and generating electricity by photovoltaic effect.

12 (2) The Oregon Business Development Department shall establish a program to incentivize the
13 generation of electricity derived from solar energy. In establishing the program, the department
14 shall:

15 (a) Prescribe the form and manner by which the owner or operator of a solar photovoltaic en-
16 ergy system may apply to participate in the program;

17 (b) Require an owner or operator of a solar photovoltaic energy system applying to participate
18 in the program to submit a plan to complete construction of the solar photovoltaic energy system
19 and begin to generate electricity within one year after being enrolled in the program;

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

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

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

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

28 (B) January 2, 2017.

29 (3)(a) To participate in the program, an owner or operator of a solar photovoltaic energy system
30 must demonstrate to the satisfaction of the department that the solar photovoltaic energy system is
31 qualified to be included in the program. A solar photovoltaic energy system is qualified to be in-
32 cluded in the program if the solar photovoltaic energy system:

33 (A) Is located in this state;

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

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

36 (D) Has a commercial operations date, as specified in a power purchase agreement, of January
37 1, 2016, or later;

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

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

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

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

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

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

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

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

22 (a) Consult with the [*State Department of Energy*] **Oregon Climate Authority** to ensure that:

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

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

28 (b) If applicable, consult with the Public Utility Commission to ensure that the costs associated
29 with a solar photovoltaic energy system will be recoverable pursuant to a schedule submitted to and
30 approved by the commission in accordance with ORS 757.205 and 757.210 or pursuant to other ap-
31 plicable provisions of law providing for the recovery of costs borne by investor-owned utilities.

32 (6) The owner of a solar photovoltaic energy system included in the program established under
33 this section:

34 (a) Also owns all renewable energy certificates established under ORS 469A.130 that are asso-
35 ciated with the generation of electricity by the solar photovoltaic energy system; and

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

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

39 (8) The department shall submit a report on implementing this section in the manner provided
40 by ORS 192.245 to an interim committee of the Legislative Assembly related to energy no later than
41 September 15 of each odd-numbered year.

42 **SECTION 56.** ORS 285C.559 is amended to read:

43 285C.559. (1) Under the procedures for a contested case under ORS chapter 183, the Director
44 of the Oregon Business Development Department may order the suspension or revocation of the
45 certificate issued under ORS 285C.553 or 469B.161 if the director finds that:

1 (a) The certification was obtained by fraud or misrepresentation;

2 (b) The holder of the certificate or the operator of the facility has failed to construct or operate
3 the facility in compliance with the plans, specifications and procedures in the certificate or the
4 performance agreement; or

5 (c) The facility is no longer in operation.

6 (2) As soon as the order of revocation under this section becomes final, the director shall notify
7 the Department of Revenue, the facility owner, contract purchaser or lessee and any transferee un-
8 der ORS 285C.549 of the order of revocation. Upon notification, the Department of Revenue imme-
9 diately shall proceed to collect:

10 (a) In the case in which no portion of a certificate has been transferred under ORS 285C.549,
11 those taxes not paid by the certificate holder as a result of the tax credits provided to the certificate
12 holder under ORS 315.341, from the certificate holder or a successor in interest to the business in-
13 terests of the certificate holder. All prior tax credits provided to the holder of the certificate by
14 virtue of the certificate shall be forfeited.

15 (b) In the case in which all or a portion of a certificate has been transferred under ORS
16 285C.549, the maximum theoretical amount of the tax credits allowable under ORS 315.341, from the
17 transferor.

18 (3)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to
19 the collection of income and excise taxes and may proceed to collect the amounts described in
20 subsection (2) of this section from the person that obtained certification from the [*State Department*
21 *of Energy*] **Oregon Climate Authority** or from the Oregon Business Development Department, or
22 any successor in interest to the business interests of that person. No assessment of tax shall be
23 necessary and no statute of limitation shall preclude the collection of taxes described in this sub-
24 section.

25 (b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires
26 an interest through bankruptcy or through foreclosure of a security interest is not considered to be
27 a successor in interest to the business interests of the person that obtained certification.

28 (4) Notwithstanding subsections (1) to (3) of this section, a certificate or portion of a certificate
29 held by a transferee under ORS 285C.549 may not be considered revoked for purposes of the
30 transferee, the tax credit allowable to the transferee under ORS 315.341 may not be reduced and a
31 transferee is not liable under subsections (2) and (3) of this section.

32 **SECTION 57.** ORS 286A.630 is amended to read:

33 286A.630. (1) The Legislative Assembly finds that the American Recovery and Reinvestment Act
34 of 2009 (P.L. 111-5) provides that the State of Oregon may receive, allocate and reallocate the au-
35 thority to issue certain kinds of state and local government bonds that qualify for tax credits, fed-
36 eral subsidies or exclusion of bond interest from gross income under the United States Internal
37 Revenue Code of 1986, as amended.

38 (2) As described in subsections (3) to (6) of this section, state agencies and the Private Activity
39 Bond Committee may allocate and reallocate or take any additional actions that are desirable to
40 maximize the benefits of bonding programs created or expanded by the American Recovery and Re-
41 investment Act of 2009 (P.L. 111-5).

42 (3) The Department of Education, with the approval of the Governor, may allocate, reallocate
43 and otherwise manage this state's qualified school construction bonding authority.

44 (4) The Oregon Business Development Department may allocate, reallocate and otherwise man-
45 age this state's recovery zone economic development bonding authority and this state's recovery

1 zone facility bonding authority.

2 (5) The [*State Department of Energy*] **Oregon Climate Authority** may allocate, reallocate and
3 otherwise manage this state’s qualified energy conservation bonding authority.

4 (6) The Private Activity Bond Committee may allocate, reallocate and otherwise manage any
5 bonding authority that is created or expanded by the American Recovery and Reinvestment Act of
6 2009 (P.L. 111-5) if that responsibility is not assigned to a state agency by this section, or if an
7 agency that is assigned that responsibility requests the Private Activity Bond Committee to allocate
8 that authority on behalf of that agency.

9 (7) The Department of Education, the Oregon Business Development Department, the [*State De-*
10 *partment of Energy*] **Director of the Oregon Climate Authority** and the Private Activity Bond
11 Committee may adopt rules to implement the provisions of this section including, but not limited to,
12 rules prescribing:

13 (a) Application processes and requirements to receive a subsequent allocation or reallocation;

14 (b) Standards upon which an allocation or reallocation may be based; and

15 (c) Any conditions that must be met to receive an allocation or reallocation of the bonding au-
16 thority or to receive the benefits of such bonding authority.

17 **SECTION 58.** ORS 286A.710 is amended to read:

18 286A.710. As used in ORS 286A.710 to 286A.720:

19 (1) “Article XI-D bonds” means general obligation bonds issued under the authority of Article
20 XI-D of the Oregon Constitution.

21 (2) “Bond-related costs” means:

22 (a) The costs of paying the principal of, the interest on and the premium, if any, on Article XI-D
23 bonds;

24 (b) The costs and expenses of issuing, administering and maintaining Article XI-D bonds includ-
25 ing, but not limited to, redeeming Article XI-D bonds and paying amounts due in connection with
26 credit enhancements or the administrative costs and expenses of the State Treasurer, the [*State*
27 *Department of Energy*] **Oregon Climate Authority** and the Oregon Department of Administrative
28 Services, including costs of consultants or advisers retained by the State Treasurer, the [*State De-*
29 *partment of Energy*] **Oregon Climate Authority** or the Oregon Department of Administrative Ser-
30 vices for the purpose of issuing, administering or maintaining Article XI-D bonds;

31 (c) Capitalized interest on Article XI-D bonds;

32 (d) Costs of funding reserves for Article XI-D bonds, including costs of surety bonds and similar
33 instruments;

34 (e) Rebates or penalties due the United States Government in connection with Article XI-D
35 bonds; and

36 (f) Other costs or expenses that the Director of the Oregon Department of Administrative Ser-
37 vices determines are necessary or desirable in connection with issuing, administering or maintaining
38 Article XI-D bonds.

39 **SECTION 59.** ORS 286A.712 is amended to read:

40 286A.712. (1) Article XI-D bonds are a general obligation of the State of Oregon and must con-
41 tain a direct promise on behalf of the State of Oregon to pay the principal of, the interest on and
42 the premium, if any, on the Article XI-D bonds. The State of Oregon shall pledge its full faith and
43 credit and taxing power to pay Article XI-D bonds, except that the ad valorem taxing power of the
44 State of Oregon may not be pledged to pay Article XI-D bonds.

45 (2) In accordance with the applicable provisions of this chapter, the State Treasurer, with the

1 concurrence of the Director of the [*State Department of Energy*] **Oregon Climate Authority**, may
2 issue Article XI-D bonds:

3 (a) At the request of the Director of the Oregon Department of Administrative Services for any
4 of the purposes specified in Article XI-D of the Oregon Constitution, plus an amount determined by
5 the State Treasurer to pay estimated bond-related costs; and

6 (b) Subject to the limit on bond issuance established for the particular biennium in ORS
7 286A.035.

8 (3) The State Treasurer may issue Article XI-D bonds for the purpose of financing the refund
9 of Article XI-D bonds.

10 (4) The State Treasurer shall transfer the net proceeds of Article XI-D bonds issued for the
11 purpose described in subsection (2)(a) of this section to the [*State Department of Energy*] **Oregon**
12 **Climate Authority** for deposit in the Renewable Energy Fund established under ORS 286A.718.

13 **SECTION 60.** ORS 286A.716 is amended to read:

14 286A.716. (1) The Article XI-D Bond Administration Fund is established in the State Treasury,
15 separate and distinct from the General Fund. Amounts in the bond administration fund may be in-
16 vested as provided in ORS 293.701 to 293.857, and interest earned on the bond administration fund
17 must be credited to the bond administration fund. Amounts credited to the bond administration fund
18 are continuously appropriated to the Oregon Department of Administrative Services for payment of
19 bond-related costs. The department shall credit to the bond administration fund:

20 (a) Proceeds of Article XI-D bonds that were issued to pay bond-related costs;

21 (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the
22 bond administration fund; and

23 (c) Amounts transferred from the Renewable Energy Fund by the [*State Department of Energy*]
24 **Oregon Climate Authority** as provided in ORS 286A.718.

25 (2) The department may create separate accounts in the bond administration fund.

26 **SECTION 61.** ORS 286A.718 is amended to read:

27 286A.718. (1) The Renewable Energy Fund is established in the State Treasury, separate and
28 distinct from the General Fund. Amounts in the fund may be invested as provided in ORS 293.701
29 to 293.857, and interest earned on the fund must be credited to the fund. Amounts credited to the
30 fund are continuously appropriated to the [*State Department of Energy*] **Oregon Climate Authority**
31 for the purpose described in ORS 286A.712 (2)(a) and for the purpose of paying bond-related costs.
32 The [*department*] **authority** shall deposit in the fund:

33 (a) The net proceeds of Article XI-D bonds transferred pursuant to ORS 286A.712 (4);

34 (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the
35 fund; and

36 (c) Gifts, grants or contributions received by the [*department*] **authority** for the purpose de-
37 scribed in ORS 286A.712 (2)(a).

38 (2) The [*State Department of Energy*] **Oregon Climate Authority** may create separate accounts
39 in the Renewable Energy Fund as appropriate for the management of moneys in the fund.

40 (3) The [*State Department of Energy*] **Oregon Climate Authority** and any other state agency
41 or other entity receiving or holding net proceeds of Article XI-D bonds shall, at the direction of the
42 Oregon Department of Administrative Services, take action necessary to maintain the excludability
43 of interest on Article XI-D bonds from gross income under the Internal Revenue Code.

44 (4) If at any time the Oregon Department of Administrative Services or the [*State Department*
45 *of Energy*] **Oregon Climate Authority** determines that there are moneys in the Renewable Energy

1 Fund in excess of the amounts necessary for the purpose described in ORS 286A.712 (2)(a), the
2 Oregon Department of Administrative Services or the [*State Department of Energy*] **Oregon Climate**
3 **Authority** may transfer the excess amounts to the Article XI-D Bond Fund or to the Article XI-D
4 Bond Administration Fund.

5 (5) The [*State Department of Energy*] **Director of the Oregon Climate Authority** may adopt
6 rules to carry out this section, including procedures for distributing and monitoring the use of
7 moneys from the Renewable Energy Fund.

8 **SECTION 62.** ORS 286A.810 is amended to read:

9 286A.810. (1) As used in this section:

10 (a) “Green Globes program” means a building guidance and assessment program to advance
11 overall environmental performance and sustainability of commercial buildings established by the
12 Green Building Initiative.

13 (b) “LEED” means the Leadership in Energy and Environmental Design rating system for cer-
14 tification of energy efficient and environmentally sustainable buildings established by the United
15 States Green Building Council.

16 (c) “LEED Silver” means the second of four tiers of standards for certification in the LEED
17 rating system.

18 (d) “Two globes” means the second of four tiers of ratings for certification in the Green Globes
19 program rating system.

20 (2) If general obligation bonds are issued under Article XI-P of the Oregon Constitution, and
21 proceeds from the bonds are used for the construction, improvement, remodel, equipment, mainte-
22 nance or repair of a building of a school district, the building of the school district that is con-
23 structed, improved, remodeled, equipped, maintained or repaired must qualify for, at a minimum:

24 (a) LEED Silver certification;

25 (b) A two globes rating from the Green Globes program; or

26 (c) An equivalent numeric rating from a nationally recognized, accepted and appropriate
27 sustainable development rating system as determined by the [*State Department of Energy*] **Oregon**
28 **Climate Authority**.

29 **SECTION 63.** ORS 291.055 is amended to read:

30 291.055. (1) Notwithstanding any other law that grants to a state agency the authority to es-
31 tablish fees, all new state agency fees or fee increases adopted during the period beginning on the
32 date of adjournment sine die of a regular session of the Legislative Assembly and ending on the date
33 of adjournment sine die of the next regular session of the Legislative Assembly:

34 (a) Are not effective for agencies in the executive department of government unless approved
35 in writing by the Director of the Oregon Department of Administrative Services;

36 (b) Are not effective for agencies in the judicial department of government unless approved in
37 writing by the Chief Justice of the Supreme Court;

38 (c) Are not effective for agencies in the legislative department of government unless approved
39 in writing by the President of the Senate and the Speaker of the House of Representatives;

40 (d) Shall be reported by the state agency to the Oregon Department of Administrative Services
41 within 10 days of their adoption; and

42 (e) Are rescinded on adjournment sine die of the next regular session of the Legislative Assem-
43 bly as described in this subsection, unless otherwise authorized by enabling legislation setting forth
44 the approved fees.

45 (2) This section does not apply to:

- 1 (a) Any tuition or fees charged by a public university listed in ORS 352.002.
- 2 (b) Taxes or other payments made or collected from employers for unemployment insurance re-
3 quired by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contri-
4 butions and assessments calculated by cents per hour for workers' compensation coverage required
5 by ORS 656.506.
- 6 (c) Fees or payments required for:
- 7 (A) Health care services provided by the Oregon Health and Science University, by the Oregon
8 Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.
- 9 (B) Copayments and premiums paid to the Oregon medical assistance program.
- 10 (C) Assessments paid to the Department of Consumer and Business Services under sections 3
11 and 5, chapter 538, Oregon Laws 2017.
- 12 (d) Fees created or authorized by statute that have no established rate or amount but are cal-
13 culated for each separate instance for each fee payer and are based on actual cost of services pro-
14 vided.
- 15 (e) State agency charges on employees for benefits and services.
- 16 (f) Any intergovernmental charges.
- 17 (g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the
18 Oregon Forest Land Protection Fund fees established by ORS 477.760.
- 19 (h) [*State Department of Energy*] **Oregon Climate Authority** assessments required by ORS
20 456.595 and 469.421 (8).
- 21 (i) Assessments on premiums charged by the Director of the Department of Consumer and
22 Business Services pursuant to ORS 731.804 or fees charged by the director to banks, trusts and
23 credit unions pursuant to ORS 706.530 and 723.114.
- 24 (j) Public Utility Commission operating assessments required by ORS 756.310 or charges paid to
25 the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.
- 26 (k) Fees charged by the Housing and Community Services Department for intellectual property
27 pursuant to ORS 456.562.
- 28 (L) New or increased fees that are anticipated in the legislative budgeting process for an
29 agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted
30 budget or the legislatively approved budget for the agency.
- 31 (m) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.
- 32 (n) Portal provider fees as defined in ORS 276A.270 and established by the State Chief Infor-
33 mation Officer under ORS 276A.276 (3) and recommended by the Electronic Government Portal Ad-
34 visory Board.
- 35 (o) Fees set by the State Parks and Recreation Director and approved by the State Parks and
36 Recreation Commission under ORS 390.124 (2)(b).
- 37 (3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unex-
38 pected and temporary revenue surpluses may be increased to not more than their prior level without
39 compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency
40 specifies the following:
- 41 (A) The reason for the fee decrease; and
- 42 (B) The conditions under which the fee will be increased to not more than its prior level.
- 43 (b) Fees that are decreased for reasons other than those described in paragraph (a) of this sub-
44 section may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160.
- 45 **SECTION 64.** ORS 315.141 is amended to read:

1 315.141. (1) As used in this section:

2 (a) "Agricultural producer" means a person that produces biomass in Oregon that is used, in
3 Oregon, as biofuel or to produce biofuel.

4 (b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been con-
5 verted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct
6 biomass energy use at the biofuel producer's site.

7 (c) "Biofuel producer" means a person that through activities in Oregon:

8 (A) Alters the physical makeup of biomass to convert it into biofuel;

9 (B) Changes one biofuel into another type of biofuel; or

10 (C) Uses biomass in Oregon to produce energy.

11 (d) "Biomass" means organic matter that is available on a renewable or recurring basis and that
12 is derived from:

13 (A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest
14 or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

15 (B) Wood material from hardwood timber described in ORS 321.267 (3);

16 (C) Agricultural residues;

17 (D) Offal and tallow from animal rendering;

18 (E) Food wastes collected as provided under ORS chapter 459 or 459A;

19 (F) Wood debris collected as provided under ORS chapter 459 or 459A;

20 (G) Wastewater solids; or

21 (H) Crops grown solely to be used for energy.

22 (e) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, in-
23 organic arsenic or other inorganic chemical compounds or waste, other than matter described in
24 paragraph (d) of this subsection.

25 (f) "Biomass collector" means a person that collects biomass in Oregon to be used, in Oregon,
26 as biofuel or to produce biofuel.

27 (g) "Canola" means plants of the genus Brassica:

28 (A) In which seeds having a high oil content are the primary economically valuable product; and

29 (B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content
30 suitable for edible oils.

31 (h) "Oilseed processor" means a person that receives agricultural oilseeds and separates them
32 into meal and oil by mechanical or chemical means.

33 (i) "Willamette Valley" means Clackamas, Linn, Marion, Multnomah, Polk, Washington and
34 Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast
35 Range.

36 (2) The Director of the [*State Department of Energy*] **Oregon Climate Authority** may adopt
37 rules to define criteria, only as the criteria apply to organic biomass, to determine additional char-
38 acteristics of biomass for purposes of this section.

39 (3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes
40 that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS
41 chapter 317 or 318 for:

42 (A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce
43 biofuel; or

44 (B) The collection of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

45 (b) A credit under this section may be claimed in the tax year in which the credit is certified

1 under subsection (5) of this section.

2 (c) A taxpayer may be allowed a credit under this section for more than one of the roles defined
3 in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or
4 a biomass collector may not claim a credit under this section.

5 (d) A credit under this section may be claimed only once for each unit of biomass.

6 (e) Notwithstanding paragraph (a) of this subsection, a tax credit:

7 (A) Is not allowed for canola grown, collected or produced in the Willamette Valley; and

8 (B) Is not allowed for grain corn, but a tax credit shall be allowed for other corn material.

9 (4) The amount of the credit shall equal the amount certified under subsection (5) of this section.

10 (5)(a) The [*State Department of Energy*] **Director of the Oregon Climate Authority** may es-
11 tablish by rule procedures and criteria for determining the amount of the tax credit to be certified
12 under this section, consistent with ORS 469B.403. The [*department*] **Oregon Climate Authority** shall
13 provide written certification to taxpayers that are eligible to claim the credit under this section.

14 (b) The [*State Department of Energy*] **Oregon Climate Authority** may charge and collect a fee
15 from taxpayers for certification of credits under this section. The fee may not exceed the cost to the
16 [*department*] **authority** of determining the amount of certified cost.

17 (c) The [*State Department of Energy*] **Oregon Climate Authority** shall provide to the Depart-
18 ment of Revenue a list, by tax year, of taxpayers for which a credit is certified under this section,
19 upon request of the Department of Revenue.

20 (6) The amount of the credit claimed under this section for any tax year may not exceed the tax
21 liability of the taxpayer.

22 (7) Each agricultural producer or biomass collector shall maintain the written documentation
23 of the amount certified for tax credit under this section in its records for a period of at least five
24 years after the tax year in which the credit is claimed and provide the written documentation to the
25 Department of Revenue upon request.

26 (8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains
27 the information required by the department.

28 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
29 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
30 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
31 forward and used in the second succeeding tax year, and likewise any credit not used in that second
32 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
33 credit not used in that third succeeding tax year may be carried forward and used in the fourth
34 succeeding tax year, but may not be carried forward for any tax year thereafter.

35 (10) In the case of a credit allowed under this section:

36 (a) A nonresident shall be allowed the credit under this section in the proportion provided in
37 ORS 316.117.

38 (b) If a change in the status of the taxpayer from resident to nonresident or from nonresident
39 to resident occurs, the credit allowed by this section shall be determined in a manner consistent
40 with ORS 316.117.

41 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the
42 department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this
43 section shall be prorated or computed in a manner consistent with ORS 314.085.

44 **SECTION 65.** ORS 315.144 is amended to read:

45 315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit

1 to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

2 (2) A tax credit allowed under ORS 315.141 may be transferred on or before the date on which
3 the return is due for the tax year in which the credit may first be claimed. After that date, no
4 portion of a credit allowed under ORS 315.141 may be transferred.

5 (3) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will claim
6 the credit shall, on or before the date prescribed in subsection (2) of this section, jointly file a notice
7 of tax credit transfer with the Department of Revenue. The notice shall be given on a form pre-
8 scribed by the department that contains all of the following:

- 9 (a) The name and address of the transferor and transferee;
- 10 (b) The amount of the tax credit that is being transferred;
- 11 (c) The amount of the tax credit that is being retained by the transferor; and
- 12 (d) Any other information required by the department.

13 (4) The [*State Department of Energy*] **Director of the Oregon Climate Authority** may establish
14 by rule a minimum discounted value of a tax credit under this section.

15 (5) The Department of Revenue, in consultation with the [*State Department of Energy*] **Oregon**
16 **Climate Authority**, may by rule establish procedures for the transfer of tax credits provided by this
17 section.

18 **SECTION 66.** ORS 315.326 is amended to read:

19 315.326. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
20 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified
21 renewable energy development contributions made by the taxpayer during the tax year to the
22 Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy De-
23 ployment Fund established in ORS 470.800.

24 (2)(a) The Department of Revenue shall, in cooperation with the [*State Department of Energy*]
25 **Oregon Climate Authority**, conduct an auction of tax credits under this section. The auction may
26 be conducted no later than April 15 following December 31 of any tax year for which the credit is
27 allowed. The Department **of Revenue** may conduct the auction in the manner that it determines is
28 best suited to maximize the return to the state on the sale of tax credit certifications and shall an-
29 nounce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 per-
30 cent of the total amount of the tax credit. Moneys necessary to reimburse the Department of
31 Revenue for the actual costs incurred by the department in administering an auction, not to exceed
32 0.25 percent of auction proceeds, are continuously appropriated to the department. The Department
33 of Revenue shall deposit net receipts from the auction required under this section in the Renewable
34 Energy Development Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund
35 established in ORS 470.800. Net receipts from the auction required under this section shall be used
36 only for purposes related to renewable energy development.

37 (b) The [*State Department of Energy*] **Director of the Oregon Climate Authority** shall adopt
38 rules in order to achieve the following goals:

39 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of
40 \$1.5 million are certified for each fiscal year;

41 (B) Maximize income and excise tax revenues that are retained by the State of Oregon for state
42 operations; and

43 (C) Provide the necessary financial incentives for taxpayers to make contributions, taking into
44 consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

45 (3) Contributions made under this section shall be deposited in the Renewable Energy Develop-

1 ment Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in
2 ORS 470.800.

3 (4)(a) Upon receipt of a contribution, the [*State Department of Energy*] **Oregon Climate Au-**
4 **thority** shall, except as provided in ORS 315.329, issue to the taxpayer written certification of the
5 amount certified for tax credit under this section to the extent the amount certified for tax credit,
6 when added to all amounts previously certified for tax credit under this section, does not exceed \$1.5
7 million for the fiscal year in which certification is made.

8 (b) The [*State Department of Energy*] **Oregon Climate Authority** and the Department of Re-
9 venue are not liable, and a refund of a contributed amount need not be made, if a taxpayer who has
10 received tax credit certification is unable to use all or a portion of the tax credit to offset the tax
11 liability of the taxpayer.

12 (5) The tax credit allowed under this section for any one tax year may not exceed the tax li-
13 ability of the taxpayer.

14 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
15 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
16 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
17 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
18 succeeding tax year may be carried forward and used in the third succeeding tax year but may not
19 be carried forward for any tax year thereafter.

20 (7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,
21 the amount shall be allowed without proration under ORS 316.117.

22 (8) If the amount of contribution for which a tax credit certification is made is allowed as a
23 deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable
24 income for Oregon tax purposes.

25 **SECTION 67.** ORS 315.329 is amended to read:

26 315.329. (1) In any fiscal year, the amount of tax credits allowed under ORS 315.326 may be re-
27 duced or eliminated, and the Legislative Assembly may, no later than 30 days prior to the end of
28 each fiscal year, in lieu of the issuance of certifications for tax credit under ORS 315.326 by the
29 [*State Department of Energy*] **Oregon Climate Authority**, make an appropriation to the [*State De-*
30 *partment of Energy*] **Oregon Climate Authority** for deposit into the Renewable Energy Development
31 Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in ORS
32 470.800. Moneys deposited under this section are to be used only for purposes related to renewable
33 energy development.

34 (2) After a tax credit certificate has been sold as provided in ORS 315.326, the [*State Department*
35 *of Energy*] **Oregon Climate Authority** may not revoke the certificate.

36 **SECTION 68.** ORS 315.331 is amended to read:

37 315.331. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 or, if the
38 taxpayer is a corporation, under ORS chapter 317 or 318, for an energy conservation project that
39 is certified under ORS 469B.270 to 469B.306. The credit is allowed as follows:

40 (a) Except as provided in ORS 469B.298 and in paragraph (b) of this subsection, the credit al-
41 lowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the
42 certified cost of the facility, but may not exceed the tax liability of the taxpayer. The credit allowed
43 in each of the succeeding three years shall be five percent of the certified cost, but may not exceed
44 the tax liability of the taxpayer.

45 (b) If the certified cost of the facility does not exceed \$20,000, the total amount of the credit

1 allowable under subsection (3) of this section may be claimed in the first tax year for which the
2 credit may be claimed, but may not exceed the tax liability of the taxpayer.

3 (2) In order for a tax credit to be allowable under this section:

4 (a) The project must be located in Oregon.

5 (b) The project must have received final certification from the Director of the [*State Department*
6 *of Energy*] **Oregon Climate Authority** under ORS 469B.270 to 469B.306.

7 (c) If the project is a research and development project, it must receive, prior to certification
8 under ORS 469B.288, a recommendation from a qualified third party selected by the director.

9 (d) If the project is new construction or a total building retrofit, then the project must achieve,
10 at a minimum, the energy efficiency standards required for:

11 (A) LEED Platinum certification;

12 (B) A four globes rating from the Green Globes program;

13 (C) A nationally or regionally recognized and appropriate sustainable building program whose
14 performance standards are equivalent to the standards required for LEED Platinum certification or
15 a four globes rating from the Green Globes program, as determined by the [*department*] **Oregon**
16 **Climate Authority**; or

17 (D) Verification that the construction conformed to the standards of the Reach Code adopted
18 pursuant to ORS 455.500.

19 (3) The total amount of credit allowable to an eligible taxpayer under this section may not ex-
20 ceed 35 percent of the certified cost of the project.

21 (4)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the
22 project, notice thereof shall be given to the director, who shall revoke the certificate covering the
23 project as of the date of such disposition.

24 (b) A new owner, or, upon re-leasing of the project, a new lessee, may apply for a new certificate
25 under ORS 469B.291. The new lessee or owner must meet the requirements of ORS 469B.270 to
26 469B.306 and may claim a tax credit under this section only if all moneys owed by the new owner
27 or lessee to the State of Oregon have been paid, if the project continues to operate and if all con-
28 ditions in the final certification are met. The tax credit available to the new owner shall be limited
29 to the amount of credit not claimed by the former owner or, for a new lessee, the amount of credit
30 not claimed by the lessee under all previous leases. The [*State Department of Energy*] **Oregon Cli-**
31 **mate Authority** may waive the requirement that a new owner or lessee apply for a new certificate
32 under ORS 469B.291 if the remaining credit is less than \$20,000.

33 (c) The [*department*] **authority** may not revoke the certificate covering a project under para-
34 graph (a) of this subsection if the tax credit associated with the project has been transferred to a
35 taxpayer who is an eligible applicant under ORS 469B.285.

36 (5) The tax credit allowed under this section for any one tax year may not exceed the tax li-
37 ability of the taxpayer.

38 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
39 particular year may be carried forward and offset against the taxpayer's tax liability for the next
40 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried
41 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
42 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,
43 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
44 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be
45 carried forward and used in the fifth succeeding tax year, but may not be carried forward for any

1 tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years
2 specified in subsection (1) of this section only as provided in this subsection.

3 (7) The credit allowed under this section is not in lieu of any depreciation or amortization de-
4 duction for the project to which the taxpayer otherwise may be entitled for purposes of ORS chapter
5 316, 317 or 318 for such year.

6 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax
7 credits allowed under this section.

8 (9) The definitions in ORS 469B.270 apply to this section.

9 **SECTION 69.** ORS 315.336 is amended to read:

10 315.336. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 or, if the
11 taxpayer is a corporation, under ORS chapter 317 or 318, for a transportation project, based upon
12 the certified cost of the project during the period for which the project is certified under ORS
13 469B.320 to 469B.347.

14 (2) The credit allowed for a project other than an alternative fuel vehicle project shall be as
15 follows:

16 (a) For tax years beginning on or after January 1, 2011, and before January 1, 2012, the maxi-
17 mum allowed credit shall be:

18 (A) 35 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 prior
19 to July 1, 2011; or

20 (B) 25 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 on
21 or after July 1, 2011, and before January 1, 2012.

22 (b) For tax years beginning on or after January 1, 2012, and before January 1, 2013, the maxi-
23 mum allowed credit shall be 25 percent of certified cost.

24 (c) For tax years beginning on or after January 1, 2013, and before January 1, 2014, the maxi-
25 mum allowed credit shall be 20 percent of certified cost.

26 (d) For tax years beginning on or after January 1, 2014, and before January 1, 2015, the maxi-
27 mum allowed credit shall be 15 percent of certified cost.

28 (e) For tax years beginning on or after January 1, 2015, and before January 1, 2016, the maxi-
29 mum allowed credit shall be 10 percent of certified cost.

30 (3) The total amount of the credit allowable for an alternative fuel vehicle project under this
31 section may not exceed 35 percent of the certified cost of the project.

32 (4)(a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of the
33 first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the
34 project, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the
35 succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability
36 of the taxpayer.

37 (b) If the amount of the credit allowed under this section is less than 35 percent of the certified
38 cost of the project, the credit allowed in any tax year may not exceed five percent of the certified
39 cost of the project, and may not exceed the tax liability of the taxpayer.

40 (5) In order for a tax credit to be allowable under this section:

41 (a) The project must be located in Oregon.

42 (b) The project must have received final certification from the Director of the [*State Department*
43 *of Energy*] **Oregon Climate Authority** under ORS 469B.320 to 469B.347.

44 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
45 particular year may be carried forward and offset against the taxpayer's tax liability for the next

1 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried
2 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
3 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,
4 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
5 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be
6 carried forward and used in the fifth succeeding tax year, but may not be carried forward for any
7 tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years
8 specified in subsection (2) of this section only as provided in this subsection.

9 (7) The credit allowed under this section is not in lieu of any depreciation or amortization de-
10 duction for the transportation project to which the taxpayer otherwise may be entitled for purposes
11 of ORS chapter 316, 317 or 318 for such year.

12 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax
13 credits allowed under this section.

14 (9) The definitions in ORS 469B.320 apply to this section.

15 **SECTION 70.** ORS 315.341 is amended to read:

16 315.341. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if
17 the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of a
18 renewable energy resource equipment manufacturing facility during the period for which the facility
19 is certified under ORS 285C.540 to 285C.559. The credit allowed under this section in each of five
20 succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the
21 tax liability of the taxpayer.

22 (2) In order for a tax credit to be allowable under this section:

23 (a) The facility must be located in Oregon;

24 (b) The facility must have received:

25 (A) Final certification from the Director of the Oregon Business Development Department under
26 ORS 285C.540 to 285C.559; or

27 (B) Final certification from the Director of the State Department of Energy under ORS 469B.130
28 to 469B.169 (**2017 Edition**), prior to January 1, 2012; and

29 (c) The taxpayer must be an eligible applicant under ORS 285C.547 (1)(b).

30 (3) The total amount of credit allowable to an eligible taxpayer under this section may not ex-
31 ceed 50 percent of the certified cost of a facility.

32 (4)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the
33 facility, notice thereof shall be given to the Director of the Oregon Business Development Depart-
34 ment, who shall revoke the certificate covering the facility as of the date of such disposition.

35 (b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new cer-
36 tificate under ORS 285C.553. The new lessor or owner must meet the requirements of ORS 285C.540
37 to 285C.559 and may claim a tax credit under this section only if all moneys owed to the State of
38 Oregon have been paid, the facility continues to operate, unless continued operation is waived by
39 the Oregon Business Development Department, and all conditions in the final certification are met.
40 The tax credit available to the new owner shall be limited to the amount of credit not claimed by
41 the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all
42 previous leases.

43 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
44 particular year may be carried forward and offset against the taxpayer's tax liability for the next
45 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried

1 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
2 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,
3 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
4 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be
5 carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that
6 fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and
7 likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in
8 the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax
9 year may be carried forward and used in the eighth succeeding tax year, but may not be carried
10 forward for any tax year thereafter. Credits may be carried forward to and used in a tax year be-
11 yond the years specified in subsection (1) of this section only as provided in this subsection.

12 (6) The credit allowed under this section is not in lieu of any depreciation or amortization de-
13 duction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter
14 316, 317 or 318 for such year.

15 (7) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax
16 credits allowed under this section.

17 (8) The definitions in ORS 285C.540 apply to this section.

18 **SECTION 71.** ORS 315.354 is amended to read:

19 315.354. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if
20 the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the
21 facility during the period for which that facility is certified under ORS 469B.130 to 469B.169. The
22 credit is allowed as follows:

23 (a) Except as provided in paragraph (b) or (c) of this subsection, the credit allowed in each of
24 the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the
25 facility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the
26 succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability
27 of the taxpayer.

28 (b) If the certified cost of the facility does not exceed \$20,000, the total amount of the credit
29 allowable under subsection (4) of this section may be claimed in the first tax year for which the
30 credit may be claimed, but may not exceed the tax liability of the taxpayer.

31 (c) If the facility uses or produces renewable energy resources, the credit allowed in each of five
32 succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the
33 tax liability of the taxpayer.

34 (2) Notwithstanding subsection (1) of this section:

35 (a) If the facility is one or more renewable energy resource systems installed in a single-family
36 dwelling, the amount of the credit for each system shall be determined as if the facility was con-
37 sidered a residential alternative energy device under ORS 316.116, but subject to the maximum
38 credit amount under subsection (4)(b) of this section;

39 (b) If the facility is a high-performance home, the amount of the credit shall equal the amount
40 determined under paragraph (a) of this subsection plus \$3,000; and

41 (c) If the facility is a high-performance home or a homebuilder-installed renewable energy sys-
42 tem, the total amount of the credit may be claimed in the first tax year for which the credit is
43 claimed, but may not exceed the tax liability of the taxpayer.

44 (3) In order for a tax credit to be allowable under this section:

45 (a) The facility must be located in Oregon;

1 (b) The facility must have received final certification from the Director of the [*State Department*
2 *of Energy*] **Oregon Climate Authority** under ORS 469B.130 to 469B.169;

3 (c) The taxpayer must be an eligible applicant under ORS 469B.145 (1)(c); and

4 (d) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for electric
5 plug-in charging, it must be purchased before January 1, 2010.

6 (4) The total amount of credit allowable to an eligible taxpayer under this section may not ex-
7 ceed:

8 (a) 50 percent of the certified cost of a renewable energy resources facility or a high-efficiency
9 combined heat and power facility;

10 (b) \$9,000 per single-family dwelling for homebuilder-installed renewable energy systems;

11 (c) \$12,000 per single-family dwelling for homebuilder-installed renewable energy systems, if the
12 dwelling also constitutes a high-performance home; or

13 (d) 35 percent of the certified cost of any other facility.

14 (5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the
15 facility, notice thereof shall be given to the Director of the [*State Department of Energy*] **Oregon**
16 **Climate Authority**, who shall revoke the certificate covering the facility as of the date of such
17 disposition.

18 (b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new cer-
19 tificate under ORS 469B.161. The new lessor or owner must meet the requirements of ORS 469B.130
20 to 469B.169 and may claim a tax credit under this section only if all moneys owed to the State of
21 Oregon have been paid, the facility continues to operate, unless continued operation is waived by
22 the [*State Department of Energy*] **Oregon Climate Authority**, and all conditions in the final certi-
23 fication are met. The tax credit available to the new owner shall be limited to the amount of credit
24 not claimed by the former owner or, for a new lessor, the amount of credit not claimed by the lessor
25 under all previous leases.

26 (c) The [*State Department of Energy*] **Oregon Climate Authority** may not revoke the certificate
27 covering a facility under paragraph (a) of this subsection if the tax credit associated with the facility
28 has been transferred to a taxpayer who is an eligible applicant under ORS 469B.145 (1)(c)(A).

29 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
30 particular year may be carried forward and offset against the taxpayer's tax liability for the next
31 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried
32 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
33 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,
34 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
35 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be
36 carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that
37 fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and
38 likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in
39 the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax
40 year may be carried forward and used in the eighth succeeding tax year, but may not be carried
41 forward for any tax year thereafter. Credits may be carried forward to and used in a tax year be-
42 yond the years specified in subsection (1) of this section only as provided in this subsection.

43 (7) The credit provided by this section is not in lieu of any depreciation or amortization de-
44 duction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter
45 316, 317 or 318 for such year.

1 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax
2 credits allowed under this section.

3 (9) If a homebuilder claims a credit under this section with respect to a homebuilder-installed
4 renewable energy system or a high-performance home:

5 (a) The homebuilder may not claim credits for both a homebuilder-installed renewable energy
6 system and a high-performance home with respect to the same dwelling;

7 (b) The homebuilder must inform the buyer of the dwelling that the homebuilder is claiming a
8 tax credit under this section with respect to the dwelling; and

9 (c) The buyer of the dwelling may not claim a credit under this section that is based on any
10 facility for which the homebuilder has already claimed a credit.

11 (10) The definitions in ORS 469B.130 apply to this section.

12 **SECTION 72.** ORS 315.356 is amended to read:

13 315.356. (1) If a taxpayer obtains a grant from the federal government in connection with a fa-
14 cility that has been certified by the Director of the [*State Department of Energy*] **Oregon Climate**
15 **Authority**, the total cost of the facility shall be reduced on a dollar for dollar basis. Any income
16 or excise tax credits that the taxpayer would be entitled to under ORS 285C.540 to 285C.559, 315.341,
17 315.354 and 469B.130 to 469B.169 after any reduction described in this subsection may not be re-
18 duced by the federal grant. A taxpayer applying for a federal grant shall notify the Department of
19 Revenue by certified mail within 30 days after each application, and after the receipt of any grant.

20 (2) A taxpayer, or an applicant who is otherwise eligible, is eligible to participate in both this
21 tax credit program and low interest, government-sponsored loans.

22 (3) A taxpayer who receives a tax credit or property tax relief on a pollution control facility
23 or an alternative energy device under ORS 307.405, 315.304 or 316.116 is not eligible for a tax credit
24 on the same facility or device under ORS 285C.540 to 285C.559, 315.341, 315.354 and 469B.130 to
25 469B.169.

26 **SECTION 73.** ORS 315.357 is amended to read:

27 315.357. (1) For a facility other than a renewable energy resource equipment manufacturing fa-
28 cility, a taxpayer may not be allowed a credit under ORS 315.354 unless the taxpayer:

29 (a) Files an application for preliminary certification under ORS 469B.145 on or before April 15,
30 2011;

31 (b) Receives preliminary certification under ORS 469B.157 before July 1, 2011; and

32 (c) Receives final certification under ORS 469B.161 before January 1, 2013, or has demonstrated,
33 to the [*State Department of Energy*] **Oregon Climate Authority**, evidence of beginning construction
34 before April 15, 2011.

35 (2) Any preliminary certification issued for a facility, other than a renewable energy resource
36 equipment manufacturing facility, under ORS 469B.157 that remains outstanding as of July 1, 2011,
37 shall expire on July 1, 2014.

38 **SECTION 74.** ORS 316.116 is amended to read:

39 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due
40 under this chapter for costs paid or incurred for construction or installation of each of one or more
41 alternative energy devices in or at a dwelling.

42 (b) A credit against the taxes otherwise due under this chapter is not allowed for an alternative
43 energy device that does not meet or exceed all applicable federal, state and local requirements for
44 energy efficiency, including equipment codes, state and federal appliance standards, the state build-
45 ing code, specialty codes and any other standards.

1 (2)(a) For each category one alternative energy device other than an alternative fuel device or
 2 an alternative energy device that uses solar radiation for domestic water heating or swimming pool
 3 heating, the credit allowed under this section may not exceed the lesser of 50 percent of the cost
 4 of the alternative energy device or \$1,500, and shall be computed as follows:

5 (A) For a category one alternative energy device that is not an alternative fuel device, the
 6 credit shall be based upon the first year energy yield of the alternative energy device that qualifies
 7 under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether for collective
 8 or noncollective investment.

9 (B) For each category one alternative energy device for a dwelling, the credit shall be based
 10 upon the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling uti-
 11 lizing the alternative energy device used for space heating, cooling, electrical energy or domestic
 12 water heating.

13 (C) Except as provided in paragraph (c) of this subsection, for each category one alternative
 14 energy device used for swimming pool, spa or hot tub heating, the credit shall be based upon the
 15 first year energy yield in kilowatt hours per year multiplied by 15 cents.

16 (b) For each alternative fuel device, the credit allowed under this section may not exceed the
 17 lesser of 50 percent of the cost of the alternative fuel device or \$750.

18 (c) For each category one alternative energy device that uses solar radiation for:

19 (A) Domestic water heating, the credit allowed under this section shall be based upon 50 percent
 20 of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by \$2,
 21 whichever is lower, up to \$6,000.

22 (B) Swimming pool heating, the credit allowed under this section shall be based upon 50 percent
 23 of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by 20
 24 cents, whichever is lower, up to \$2,500.

25 (d)(A) For each category two alternative energy device that is a solar electric system or fuel
 26 cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of in-
 27 stalled output or \$6,000.

28 (B) For each category two alternative energy device that is a wind electric system, the credit
 29 allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in
 30 kilowatt hours per year multiplied by \$2.

31 (3)(a) Notwithstanding subsection (2)(a), (c) or (d) of this section, the total amount of the credits
 32 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-
 33 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-
 34 vided in subsection (8) of this section, but may not be carried forward to a tax year that is more
 35 than five tax years following the first tax year for which any credit was allowed with respect to the
 36 category two alternative energy device that is the basis for the credit.

37 (b) Notwithstanding subsection (2)(d) of this section, the total amount of the credit for each de-
 38 vice allowed under subsection (2)(d) of this section may not exceed 50 percent of the total installed
 39 cost of the category two alternative energy device.

40 (4) The [*State Department of Energy*] **Director of the Oregon Climate Authority** may by rule
 41 provide for a lesser amount of incentive for each type of alternative energy device as market con-
 42 ditions warrant.

43 (5) To qualify for a credit under this section, all of the following are required:

44 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-
 45 cordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

1 (b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the
2 dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the
3 contract purchaser and must:

4 (A) Use the dwelling or dwellings served by the alternative energy device as a principal or
5 secondary residence; or

6 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant
7 who uses the dwelling or dwellings as a principal or secondary residence.

8 (c) The credit must be claimed for the tax year in which the alternative energy device was
9 purchased if the device is operational by April 1 of the next following tax year.

10 (6) The credit provided by this section does not affect the computation of basis under this
11 chapter.

12 (7) The total credits allowed under this section in any one year may not exceed the tax liability
13 of the taxpayer.

14 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
15 particular year may be carried forward and offset against the taxpayer's tax liability for the next
16 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
17 forward and used in the second succeeding tax year, and likewise any credit not used in that second
18 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
19 credit not used in that third succeeding tax year may be carried forward and used in the fourth
20 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
21 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
22 thereafter.

23 (9) A nonresident shall be allowed the credit under this section in the proportion provided in
24 ORS 316.117.

25 (10) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
26 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
27 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

28 (11) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
29 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
30 ORS 316.117.

31 (12) Spouses in a marriage who file separate returns for a taxable year may each claim a share
32 of the tax credit that would have been allowed on a joint return in proportion to the contribution
33 of each. However, a spouse living in a separate principal residence may claim the tax credit in the
34 same amount as permitted a single person.

35 (13) As used in this section, unless the context requires otherwise:

36 (a) "Collective investment" means an investment by two or more taxpayers for the acquisition,
37 construction and installation of an alternative energy device for one or more dwellings.

38 (b) "Noncollective investment" means an investment by an individual taxpayer for the acquisi-
39 tion, construction and installation of an alternative energy device for one or more dwellings.

40 (c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (8).

41 (14) Notwithstanding any provision of subsections (1) to (4) of this section, the sum of the credit
42 allowed under subsection (1) of this section plus any similar credit allowed for federal income tax
43 purposes may not exceed the cost for the acquisition, construction and installation of the alternative
44 energy device.

45 **SECTION 75.** ORS 317.112 is amended to read:

1 317.112. (1) A credit against taxes otherwise due under this chapter for the taxable year shall
2 be allowed to a commercial lending institution in an amount equal to the difference between:

3 (a) The amount of finance charge charged during the taxable year including interest on the loan
4 and interest on any loan fee financed at an annual rate of six and one-half percent, by the lending
5 institution to a dwelling owner who is or who rents to a residential fuel oil customer, or who is or
6 who rents to a wood heating resident for the purpose of financing energy conservation measures;
7 and

8 (b) The amount of finance charge that would have been charged during the taxable year, in-
9 cluding interest on the loan and interest on any loan fee financed by the lending institution for the
10 loan for energy conservation measures at an annual rate that is the lesser of the following:

11 (A) The annual rate charged by the commercial lending institution for nonsubsidized loans made
12 under like terms and conditions at the time the loan for energy conservation measures is made; or

13 (B) An upper limit established by rule by the Director of the **former** State Department of En-
14 ergy **on or before the effective date of this 2019 Act.**

15 (2) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
16 particular year may be carried forward and offset against the taxpayer's tax liability for the next
17 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
18 forward and used in the second succeeding tax year, and likewise until the 15th succeeding tax year.
19 The credit may not be carried forward beyond the 15th succeeding tax year.

20 (3) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan
21 shall:

22 (a) Be made only to an owner of an oil-heated or wood-heated dwelling who presents the results
23 of an energy audit pursuant to ORS 469.631 to 469.645, 469.649 to 469.659 or 469.685 that is con-
24 ducted by an investor-owned utility or publicly owned utility or through the **former** State Depart-
25 ment of Energy, regardless of whether that utility provides the dwelling's space heating energy.

26 (b) Be subject to an annual rate not to exceed six and one-half percent and have a term not
27 exceeding 10 years.

28 (c) Not finance any materials installed in the construction of a new dwelling, additions to ex-
29 isting structures or remodeling that adds living space.

30 (d) Finance only those energy conservation measures that are recommended as cost-effective in
31 the energy audit, and any loan fee that is included in the body of the loan.

32 (4) The credit allowed under this section may not be allowed to the extent that the loan exceeds
33 \$5,000 for a single dwelling unit, or, if the dwelling owner is a corporation described in ORS 307.375,
34 to the extent that the loan exceeds \$2,000 for a single dwelling unit.

35 (5) A commercial lending institution may charge, finance and collect a nonrefundable front-end
36 loan fee, and such a fee does not affect the eligibility of the loan for a tax credit under this section.
37 The fee, if any, may not exceed that charged by the lending institution for nonsubsidized loans made
38 under like terms and conditions at the time the loan for energy conservation measures is made.

39 (6) Nothing in this section or in rules adopted under this section shall be construed to cause a
40 loan to violate the usury laws of this state.

41 (7) As used in this section, "annual rate," "commercial lending institution," "cost-effective,"
42 "dwelling," "dwelling owner," "energy audit," "energy conservation measures," "finance charge,"
43 "fuel oil dealer," "residential fuel oil customer," "space heating" and "wood heating resident" have
44 the meaning given those terms in ORS 469.710.

45 **SECTION 76.** ORS 352.823 is amended to read:

1 352.823. (1) The Oregon Climate Change Research Institute is established at Oregon State Uni-
2 versity. In administering the institute, Oregon State University may seek the cooperation of other
3 public universities listed in ORS 352.002.

4 (2) The purpose of the Oregon Climate Change Research Institute is to:

5 (a) Facilitate research by faculty at public universities listed in ORS 352.002 on climate change
6 and its effects on natural and human systems in Oregon;

7 (b) Serve as a clearinghouse for climate change information;

8 (c) Provide climate change information to the public in integrated and accessible formats;

9 (d) Support the [*Oregon Global Warming Commission*] **Oregon Climate Authority** in developing
10 strategies to prepare for and to mitigate the effects of climate change on natural and human sys-
11 tems; and

12 (e) Provide technical assistance to local governments to assist them in developing climate
13 change policies, practices and programs.

14 (3) The Oregon Climate Change Research Institute shall assess, at least once each biennium, the
15 state of climate change science, including biological, physical and social science, as it relates to
16 Oregon and the likely effects of climate change on the state. The institute shall submit the assess-
17 ment to the Legislative Assembly in the manner provided in ORS 192.245 and to the Governor.

18 (4) State agencies may contract with the Oregon Climate Change Research Institute to fulfill
19 agency needs regarding the collection, storage, integration, analysis, dissemination and monitoring
20 of climate change information, research and training.

21 **SECTION 77.** ORS 401.054 is amended to read:

22 401.054. (1) Each of the following agencies, entities and officials shall designate an individual to
23 act as a liaison with the Office of Emergency Management:

24 (a) The Department of Consumer and Business Services;

25 (b) The Department of Corrections;

26 (c) The Department of Education;

27 (d) The Department of Environmental Quality;

28 (e) The Department of Human Services;

29 (f) The Department of Justice;

30 (g) The Department of Land Conservation and Development;

31 (h) The Department of Public Safety Standards and Training;

32 (i) The Department of State Lands;

33 (j) The Department of State Police;

34 (k) The Department of Transportation;

35 (L) The Department of Veterans' Affairs;

36 (m) The Employment Department;

37 (n) The Housing and Community Services Department;

38 (o) The Judicial Department;

39 (p) The Oregon Business Development Department;

40 **(q) The Oregon Climate Authority;**

41 [(q)] **(r)** The Oregon Department of Administrative Services;

42 [(r)] **(s)** The Oregon Department of Aviation;

43 [(s)] **(t)** The Oregon Health Authority;

44 [(t)] **(u)** The Oregon Military Department;

45 [(u)] **(v)** The Oregon Tourism Commission;

- 1 [(v)] (w) The Public Utility Commission of Oregon;
- 2 [(w)] (x) The Secretary of State;
- 3 [(x)] (y) The State Department of Agriculture;
- 4 [(y) *The State Department of Energy*];
- 5 (z) The State Department of Fish and Wildlife;
- 6 (aa) The State Department of Geology and Mineral Industries;
- 7 (bb) The State Fire Marshal;
- 8 (cc) The State Forestry Department;
- 9 (dd) The State Marine Board;
- 10 (ee) The State Parks and Recreation Department;
- 11 (ff) The Travel Information Council; and
- 12 (gg) The Water Resources Department.

13 (2) Each agency, entity and official required to designate a liaison under this section shall des-
14 ignate an individual who has authority during an emergency to allocate resources and assets of the
15 agency, entity or official.

16 (3) Each individual designated as a liaison under subsection (1) of this section shall assist in the
17 coordination of the functions of the agency, entity or official that designated the individual that
18 relate to emergency preparedness and response with similar functions of the Office of Emergency
19 Management.

20 **SECTION 78.** ORS 453.347 is amended to read:

21 453.347. (1) The State Fire Marshal shall assist with emergency response planning by appropri-
22 ate agencies of government at the local, state and national levels to assure that the response to a
23 hazardous substance fixed site or transportation accident is swift and appropriate to minimize dam-
24 age to any person, property or wildlife. This planning shall include assisting in and training for the
25 preparation of localized plans setting forth agency responsibilities for on-scene response.

26 (2) The State Fire Marshal may apply for funds as available to train, equip and maintain an
27 appropriate response capability at the state and local level.

28 (3) The State Fire Marshal shall issue certificates to local agency personnel who have completed
29 the training.

30 (4) To the extent practicable, the emergency preparedness and response program for hazardous
31 substances as provided in this section shall be consistent with the program for radioactive material,
32 wastes and substances developed by the [*State Department of Energy*] **Oregon Climate Authority**
33 and the Oregon Health Authority under ORS chapters 453 and 469.

34 **SECTION 79.** ORS 455.492 is amended to read:

35 455.492. (1) There is established a Construction Industry Energy Board, consisting of 11 mem-
36 bers. The membership shall consist of the following:

37 (a) Two members selected by the Electrical and Elevator Board from the members of the Elec-
38 trical and Elevator Board who have practical experience in the electric industry.

39 (b) Two members selected by the Residential and Manufactured Structures Board from the
40 members of the Residential and Manufactured Structures Board who have practical experience in
41 the residential structure industry or manufactured structure industry.

42 (c) Two members selected by the Building Codes Structures Board from the members of the
43 Building Codes Structures Board who have practical experience in construction.

44 (d) Two members selected by the State Plumbing Board from the members of the State Plumbing
45 Board who have practical experience in construction.

1 (e) Two members selected by the Mechanical Board from the members of the Mechanical Board
2 who have practical experience in construction.

3 (f) One member who is an employee or officer of the [*State Department of Energy*] **Oregon Cli-**
4 **mate Authority** appointed by the Director of the [*State Department of Energy*] **Oregon Climate**
5 **Authority**.

6 (2) The Construction Industry Energy Board shall select one of its members as chairperson and
7 another as vice chairperson, for such terms and with duties and powers necessary for the perform-
8 ance of the functions of those positions as the board determines.

9 (3) Except as provided in ORS 455.496 (2), a majority of the members of the board constitutes
10 a quorum for the transaction of business.

11 (4) A member of the board is not entitled to compensation, but at the discretion of the director
12 may be reimbursed from funds available to the Department of Consumer and Business Services for
13 actual and necessary travel and other expenses incurred by the member in the performance of the
14 member's official duties in the manner and amount provided in ORS 292.495.

15 **SECTION 80.** ORS 455.511 is amended to read:

16 455.511. (1) As used in this section, "energy efficiency" means the use of construction and design
17 standards, construction methods, products, equipment and devices to increase efficient use of, and
18 reduce consumption of, electricity, natural gas and fossil fuels in buildings undergoing new con-
19 struction, reconstruction, alteration or repair.

20 (2) The Director of the Department of Consumer and Business Services, after consultation with
21 the [*State Department of Energy*] **Oregon Climate Authority** and subject to the approval of the
22 appropriate advisory boards, shall adopt amendments to the state building code under ORS 455.030
23 to increase energy efficiency in buildings that are newly constructed, reconstructed, altered or re-
24 paired. In adopting the amendments, the director shall consider generally accepted model codes,
25 products and product standards, the Reach Code adopted under ORS 455.500 and other available
26 data to evaluate codes and standards that promote energy efficiency in buildings.

27 (3) The director, in consultation with the appropriate advisory boards, shall develop a schedule
28 for the periodic review of energy efficiency standards and shall establish goals for increasing the
29 level of energy conservation achieved by the use of energy efficiency standards contained in the
30 state building code and the Reach Code. In establishing goals and the schedule for periodic review
31 of standards under this section, the director shall consider the publication schedule of generally
32 accepted construction codes and standards. If the director determines that the adopted review
33 schedule or energy efficiency goals are not practicable for economic or technical reasons, the di-
34 rector may amend the schedule or goals as the director considers appropriate.

35 **SECTION 81.** ORS 466.380 is amended to read:

36 466.380. The Department of Environmental Quality and the [*State Department of Energy*] **Oregon**
37 **Climate Authority** shall enter into an interagency agreement providing for the implementation of
38 the provisions of ORS 466.360 to 466.385 relating to radioactive waste disposal sites.

39 **SECTION 82.** ORS 466.615 is amended to read:

40 466.615. Nothing in ORS 466.605 to 466.680, 466.990 (3) and (4) and 466.995 (2) is intended to
41 grant the Environmental Quality Commission or the Department of Environmental Quality authority
42 over any radioactive substance regulated by the Oregon Health Authority under ORS chapter 453,
43 or any radioactive material or waste regulated by the [*State Department of Energy*] **Oregon Climate**
44 **Authority** or Energy Facility Siting Council under ORS chapter 469.

45 **SECTION 83.** ORS 468B.500 is amended to read:

1 468B.500. The plan developed under ORS 468B.495 shall include at a minimum:

2 (1) A compilation of maps and information about the waters of the state including shorelines,
3 access points, critical habitats, shoreline sensitivity, disposal sites, ownership and jurisdictional
4 control over each area. [*This portion of the plan shall use and expand the computer mapping system*
5 *currently being developed by the State Department of Energy.*]

6 (2) An index of federal, state and local agency personnel, private contractors, volunteers, labor
7 employment centers, wildlife rehabilitation centers and other sources of persons and equipment
8 available to respond in the event of an oil or hazardous material spill. The index shall include in-
9 formation necessary to contact the organizations and persons in the index in the event of an oil or
10 hazardous material spill.

11 (3) A spill response strategy. This strategy shall include methods for discovery of the spill, no-
12 tification of agencies, organizations and individuals in the index, evaluation and initiation of re-
13 sponse, containment and countermeasures and cleanup. The spill response strategy shall also include
14 provisions for documenting the response measures taken and procedures for cost recovery.

15 (4) Provisions for coordinating Oregon's oil or hazardous material spill response procedures for
16 coastal and interstate waters with the states of Washington and California. To the maximum extent
17 practicable, interstate cooperation shall include but need not be limited to coordination of:

18 (a) Development of coastal and ocean information systems with those of adjacent states; and

19 (b) Oregon's oil or hazardous material spill response, damage assessment and cost recovery
20 procedures for coastal or interstate waters with those developed by adjacent states.

21 **SECTION 84.** ORS 469.020 is amended to read:

22 469.020. As used in ORS 176.820, 469.010 to 469.155, 469.860 (3), 469.880 to 469.895, 469.900 (3),
23 469.990, 469.992, 757.710 and 757.720, unless the context requires otherwise:

24 (1) "Agency" includes a department or other agency of state government, city, county, municipal
25 corporation, political subdivision, port, people's utility district, joint operating agency and electric
26 cooperative.

27 (2) "Coal supplier" means any person engaged in the wholesale distribution in this state of coal
28 intended for use in this state for an energy facility.

29 (3) "Cost-effective" means that an energy resource, facility or conservation measure during its
30 life cycle results in delivered power costs to the ultimate consumer no greater than the comparable
31 incremental cost of the least cost alternative new energy resource, facility or conservation measure.
32 Cost comparison under this definition shall include but not be limited to:

33 (a) Cost escalations and future availability of fuels;

34 (b) Waste disposal and decommissioning costs;

35 (c) Transmission and distribution costs;

36 (d) Geographic, climatic and other differences in the state; and

37 (e) Environmental impact.

38 (4) "Council" means the Energy Facility Siting Council established under ORS 469.450.

39 [(5) "Department" means the State Department of Energy created under ORS 469.030.]

40 [(6) "Director" means the Director of the State Department of Energy appointed under ORS
41 469.040.]

42 [(7)] (5) "Energy facility" has the meaning given in ORS 469.300.

43 [(8)] (6) "Energy generation area" means an area within which the effects of two or more small
44 generating plants may accumulate so the small generating plants have effects of a magnitude similar
45 to a single generating plant of 25 megawatts or more. An energy generation area for facilities using

1 a geothermal resource and covered by a unit agreement, as provided in ORS 522.405 to 522.545 or
2 by federal law, shall be defined in that unit agreement. If no such unit agreement exists, an energy
3 generation area for facilities using a geothermal resource shall be the area that is within two miles,
4 measured from the electrical generating equipment of the facility, of an existing or proposed
5 geothermal electric power generating plant, not including the site of any other such plant not owned
6 or controlled by the same person.

7 [(9)] (7) “Geothermal reservoir” means an aquifer or aquifers containing a common geothermal
8 fluid.

9 [(10)] (8) “Nominal electric generating capacity” has the meaning given in ORS 469.300.

10 [(11)] (9) “Person” means an individual, partnership, joint venture, private or public corporation,
11 association, firm, public service company, political subdivision, municipal corporation, government
12 agency, people’s utility district, or any other entity, public or private, however organized.

13 [(12)] (10) “Petroleum supplier” means a petroleum refiner in this state, or any person engaged
14 in the wholesale distribution of crude petroleum or derivative thereof or of propane in this state.

15 [(13)] (11) “Related or supporting facilities” means any structure, proposed by the applicant, to
16 be constructed or substantially modified in connection with the construction of an energy facility,
17 including associated transmission lines, reservoirs, storage facilities, intake structure, road and rail
18 access, pipelines, barge basins, office or public buildings, and commercial and industrial structures.
19 “Related or supporting facilities” does not include geothermal or underground gas storage reser-
20 voirs, production, injection or monitoring wells or wellhead equipment or pumps.

21 [(14)] (12) “Site” means a proposed location of an energy facility, and its related or supporting
22 facilities.

23 [(15)] (13) “Thermal power plant” has the meaning given that term by ORS 469.300.

24 [(16)] (14) “Utility” includes:

25 (a) An individual, a regulated electrical company, a people’s utility district, a joint operating
26 agency, an electric cooperative, municipality or any combination thereof, engaged in or authorized
27 to engage in the business of generating, transmitting or distributing electric energy;

28 (b) A person or public agency generating electric energy from an energy facility for its own
29 consumption; and

30 (c) A person engaged in this state in the transmission or distribution of natural or synthetic gas.

31 **SECTION 85.** ORS 469.050 is amended to read:

32 469.050. (1) A person who has been the Director of the [*State Department of Energy*] **Oregon**
33 **Climate Authority** shall not, within two years after the person ceases to be the director, be an
34 employee of:

35 (a) An owner or operator of an energy facility;

36 (b) An applicant for a site certificate; or

37 (c) Any person who engages in the sale or manufacture of any energy resource or of any major
38 component of an energy facility in Oregon.

39 (2) Employment of any individual in violation of subsection (1)(a) or (b) of this section shall be
40 grounds for the revocation of any license issued by this state or any agency thereof and held by the
41 person that employs such individual.

42 **SECTION 86.** ORS 469.055 is amended to read:

43 469.055. For the purpose of requesting a state or nationwide criminal records check under ORS
44 181A.195, the [*State Department of Energy*] **Oregon Climate Authority** may require the fingerprints
45 of a person who:

- 1 (1)(a) Is employed or applying for employment by the [department] **authority**; or
- 2 (b) Provides services or seeks to provide services to the [department] **authority** as a contractor
- 3 or volunteer; and
- 4 (2) Is, or will be, working or providing services in a position:
 - 5 (a) In the Hanford nuclear safety program;
 - 6 (b) In which the person conducts energy audits in schools, colleges, universities or medical fa-
 - 7 cilities;
 - 8 (c) In the budget and finance section of the [department] **authority**;
 - 9 (d) That has personnel or human resources functions as one of the position's primary responsi-
 - 10 bilities;
 - 11 (e) In which the person is providing information technology services and has control over, or
 - 12 access to, information technology systems that would allow the person to harm the information
 - 13 technology systems or the information contained in the systems;
 - 14 (f) In which the person has access to personal information about employees or members of the
 - 15 public including Social Security numbers, dates of birth, driver license numbers or criminal back-
 - 16 ground information; or
 - 17 (g) In which the person has access to tax or financial information about individuals or business
 - 18 entities or processes tax credits.

19 **SECTION 87.** ORS 469.059 is amended to read:

20 469.059. (1) No later than November 1 of every even-numbered year, the [State Department of
21 Energy] **Oregon Climate Authority** shall transmit to the Governor and the Legislative Assembly
22 a comprehensive report on energy resources, policies, trends and forecasts in Oregon. The purposes
23 of the report shall be to inform local, state, regional and federal energy policy development, energy
24 planning and energy investments, and to identify opportunities to further the energy policies stated
25 [in ORS 469.010 and 469.310] **in section 2 of this 2019 Act and ORS 469.310.**

26 (2) Consistent with the legislatively approved budget, the report shall include, but need not be
27 limited to, data and information on:

- 28 (a) The consumption, generation, transmission and production of energy, including fuel energy;
- 29 (b) Energy costs;
- 30 (c) Energy sectors, markets, technologies, resources and facilities;
- 31 (d) Energy efficiency and conservation;
- 32 (e) The effects of energy use, including effects related to greenhouse gas emissions;
- 33 (f) Local, state, regional and federal regulations, policies and planning activities related to en-
- 34 ergy; and
- 35 (g) Emerging energy opportunities, challenges and impacts.

36 (3) The report may include, but need not be limited to:

37 (a) Recommendations for the development and maximum use of cost-effective conservation
38 methods and renewable resources, consistent with the energy policies stated in [ORS 469.010 and]
39 **section 2 of this 2019 Act and ORS 469.310** and, where appropriate, the energy plan and fish and
40 wildlife program adopted by the Pacific Northwest Electric Power and Conservation Planning
41 Council pursuant to P.L. 96-501; and

42 (b) Recommendations for proposed research, development and demonstration projects and pro-
43 grams necessary to further the energy policies stated in [ORS 469.010 and 469.310] **section 2 of this**
44 **2019 Act and ORS 469.310.**

45 (4) The report shall be compiled by collecting, organizing and refining data and information ac-

1 quired by the [*department*] **authority** in the performance of its existing duties and under its existing
2 authority.

3 (5)(a) This section is not intended to allow disclosure of records exempt from disclosure under
4 ORS 192.311 to 192.478.

5 (b) The [*department*] **authority** shall establish procedures for the development and compilation
6 of the report that:

7 (A) Allow for a person to request the exclusion from the report of specific data or information
8 submitted by the person to the [*department*] **authority** and to provide, in the request, reasoning as
9 to why the data or information is exempt from disclosure under ORS 192.311 to 192.478; and

10 (B) Protect data and information that the [*department*] **authority** determines to be exempt from
11 disclosure in accordance with ORS 192.338.

12 (c) The [*department*] **authority** may utilize data and information that is exempt from disclosure
13 under ORS 192.311 to 192.478 in compilation or analysis that is included in the report, provided that
14 the exempt data and information is not disclosed in a manner that is individually identifiable.

15 (6) Upon request from the [*department*] **authority**, other agencies shall assist the [*department*]
16 **authority** in the performance of its duties under this section.

17 (7) The [*department*] **authority** shall seek public input and provide opportunities for public
18 comment during the development of the report.

19 **SECTION 88.** ORS 469.080 is amended to read:

20 469.080. (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** may
21 obtain all necessary information from producers, suppliers and consumers of energy resources within
22 Oregon, and from political subdivisions in this state, as necessary to carry out ORS 176.820, 192.338,
23 192.345, 192.355, 192.690, 469.010 to 469.155, 469.300 to 469.563, 469.990, 469.992, 757.710 and 757.720.
24 Such information may include, but not be limited to:

- 25 (a) Sales volume;
26 (b) Forecasts of energy resource requirements;
27 (c) Inventory of energy resources; and
28 (d) Local distribution patterns of information under paragraphs (a) to (c) of this subsection.

29 (2) In obtaining information under subsection (1) of this section, the director, with the written
30 consent of the Governor, may subpoena witnesses, material and relevant books, papers, accounts,
31 records and memoranda, administer oaths, and may cause the depositions of persons residing within
32 or without Oregon to be taken in the manner prescribed for depositions in civil actions in circuit
33 courts, to obtain information relevant to energy resources.

34 (3) In obtaining information under this section, the director:

35 (a) Shall avoid eliciting information already furnished by a person or political subdivision in this
36 state to a federal, state or local regulatory authority that is available to the director for such study;
37 and

38 (b) Shall cause reporting procedures, including forms, to conform to existing requirements of
39 federal, state and local regulatory authorities.

40 (4) Any person who is served with a subpoena to give testimony orally or in writing or to
41 produce books, papers, correspondence, memoranda, agreements or the documents or records as
42 provided in ORS 176.820, 192.338, 192.345, 192.355, 192.690, 469.010 to 469.155, 469.300 to 469.563,
43 469.990, 469.992, 757.710 and 757.720, may apply to any circuit court in Oregon for protection against
44 abuse or hardship in the manner provided in ORCP 36 C.

45 **SECTION 89.** ORS 469.085 is amended to read:

1 469.085. (1) Except as otherwise provided in this section, civil penalties under ORS 469.992 shall
2 be imposed as provided in ORS 183.745.

3 (2) Notwithstanding ORS 183.745 (2), the notice to the person against whom a civil penalty is
4 to be imposed shall reflect a complete statement of the consideration given to the factors listed in
5 subsection (7) of this section. The notice may be served by either the Director of the [*State Depart-*
6 *ment of Energy*] **Oregon Climate Authority** or the Energy Facility Siting Council.

7 (3) Notwithstanding ORS 183.745, if a hearing is not requested or if the person requesting a
8 hearing fails to appear, a final order shall be entered upon a prima facie case made on the record
9 of the agency.

10 (4) The provisions of this section are in addition to and not in lieu of any other penalty or
11 sanction provided by law. An action taken by the director or the council under this section may be
12 joined by the director or the council with any other action against the same person under this
13 chapter.

14 (5) Any civil penalty recovered under this section shall be paid into the General Fund.

15 (6) The director or the council shall adopt by rule a schedule of the amount of civil penalty that
16 may be imposed for a particular violation.

17 (7) In imposing a penalty under ORS 469.992, the director or the council shall consider:

18 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
19 necessary or appropriate to correct or prevent any violation;

20 (b) Any prior violations of ORS chapter 469 or rules, orders or permits relating to the alleged
21 violation;

22 (c) The impact of the violation on public health and safety or public interests in fishery, navi-
23 gation and recreation;

24 (d) Any other factors determined by the director or the council to be relevant; and

25 (e) The alleged violator's cooperativeness and effort to correct the violation.

26 (8) The penalty imposed under ORS 469.992 may be remitted or mitigated upon such terms and
27 conditions as the director or council determines to be proper. Upon the request of the person in-
28 curring the penalty, the director or council shall consider evidence of the economic and financial
29 condition of the person in determining whether a penalty shall be remitted or mitigated.

30 **SECTION 90.** ORS 469.097 is amended to read:

31 469.097. The [*State Department of Energy*] **Oregon Climate Authority** shall to the extent per-
32 mitted by its resources monitor industry progress in achieving energy conservation.

33 **SECTION 90a.** ORS 469.100 is amended to read:

34 469.100. (1) All agencies shall consider the policy stated in [*ORS 469.010*] **section 2 of this 2019**
35 **Act** in adopting or modifying their rules and policies.

36 (2) All agencies shall review their rules and policies to determine their consistency with the
37 policy stated in [*ORS 469.010*] **section 2 of this 2019 Act**.

38 **SECTION 91.** ORS 469.110 is amended to read:

39 469.110. [(1)] At the direction of the Director of the [*State Department of Energy*] **Oregon Cli-**
40 **mate Authority**, the [*State Department of Energy*] **Oregon Climate Authority** may represent the
41 state's energy-related interests in any matter involving the federal government, its departments or
42 agencies, which is within the scope of the power and duties of the [*State Department of Energy*]
43 **Oregon Climate Authority**, and may, upon request, represent the interest of a county, city, state
44 agency, federally recognized Native American or American Indian tribe, special district or owner
45 or operator of an energy facility.

1 [(2) *At the direction of the director, the department may intervene in any proceeding undertaken*
2 *by an agency for the purpose of expressing its views as to the effect of an agency action, upon state*
3 *energy resources and state energy policy.*]

4 **SECTION 92.** ORS 469.135 is amended to read:

5 469.135. The [*State Department of Energy*] **Oregon Climate Authority** shall expand the Energy
6 Conservation Clearinghouse for Commerce and Industry so that it provides:

7 (1) Current information to business and industry on:

8 (a) State and federal financing mechanisms;

9 (b) Tax advantages of energy conservation investments; and

10 (c) General economic advantages of energy conservation investments.

11 (2) Teaching on conservation techniques and management of energy by corporations.

12 **SECTION 93.** ORS 469.137 is amended to read:

13 469.137. (1) As used in this section:

14 (a) “Biogas” means gas that is generated from organic waste or other organic materials through
15 anaerobic digestion, gasification, pyrolysis or other technology that converts organic waste to gas.

16 (b) “Renewable natural gas” is biogas that has been processed to be interchangeable with con-
17 ventional natural gas for the purpose of meeting pipeline quality standards or transportation fuel
18 grade requirements.

19 (2) The [*State Department of Energy*] **Oregon Climate Authority** shall develop, maintain and
20 periodically update an inventory of biogas and renewable natural gas resources available to this
21 state. The inventory must include, but need not be limited to:

22 (a) A list of the potential biogas and renewable natural gas sources in this state and the esti-
23 mated potential production quantities available at each source;

24 (b) An estimate of the energy content of listed potential biogas and renewable natural gas
25 sources;

26 (c) An estimate of the range of technologies available to this state for renewable natural gas
27 production by conversion technologies such as anaerobic digestion and thermal gasification; and

28 (d) A list of the existing biogas production sites in this state that includes:

29 (A) The location of each site; and

30 (B) An assessment of the supply-chain infrastructure associated with the site.

31 (3) The [*department*] **authority** shall utilize the inventory required by this section, and any other
32 relevant information as considered necessary by the [*department*] **authority**, to develop and period-
33 ically revise an estimate of:

34 (a) The potential quantity of renewable natural gas that could be produced in this state and
35 delivered for use:

36 (A) As a transportation fuel in the form of compressed natural gas or liquefied natural gas; and

37 (B) By residential, commercial and industrial consumers of natural gas;

38 (b) The potential for the use of renewable natural gas in this state to reduce greenhouse gas
39 emissions;

40 (c) The potential for renewable natural gas in this state to improve air quality; and

41 (d) The technical, market, policy and regulatory barriers to developing and utilizing renewable
42 natural gas in this state.

43 (4) The [*department*] **authority** shall appoint an advisory committee to assist in developing,
44 maintaining and periodically updating the inventory required by this section. The committee must
45 include but not be limited to persons familiar with the renewable natural gas industry. The com-

1 mittee shall make recommendations to the [department] **authority**:

2 (a) Regarding the identification and removal of barriers to producing and utilizing biogas and
3 renewable natural gas in this state as a means toward providing the greatest feasible reductions in
4 greenhouse gas emissions and improvements in air quality;

5 (b) On establishing policies to promote renewable natural gas; and

6 (c) On any other matters related to this section, as requested by the [department] **authority**.

7 **SECTION 94.** ORS 469.150 is amended to read:

8 469.150. (1) As used in this section “energy conservation services” means services provided by
9 energy suppliers to educate and inform customers and the public about energy conservation. Such
10 services include but are not limited to providing answers to questions concerning energy saving
11 devices and providing inspections and making suggestions concerning the construction and siting
12 of buildings and residences.

13 (2) Energy suppliers other than public utilities as defined in ORS 757.005, that produce, transmit,
14 deliver or furnish heat, light or power shall establish energy conservation services and shall provide
15 energy conservation information to customers and to the public. The services shall be performed in
16 accordance with such guidelines as the Director of the [State Department of Energy] **Oregon Cli-**
17 **mate Authority** may by rule prescribe.

18 (3) As used in this section “energy supplier” means a publicly owned utility or fuel oil dealer
19 which supplies electricity or fuel oil for the space heating of dwellings.

20 **SECTION 95.** ORS 469.155 is amended to read:

21 469.155. (1) As used in this section:

22 (a) “Dwelling” means real or personal property inhabited as the principal residence of an owner
23 or renter. “Dwelling” includes a manufactured dwelling as defined in ORS 446.003, a floating home
24 as defined in ORS 830.700 and multiple unit residential housing. “Dwelling” does not include a rec-
25 reational vehicle as defined in ORS 446.003.

26 (b) “Energy conservation standards” means standards for the efficient use of energy for space
27 and water heating in a dwelling.

28 (2) The Director of the [State Department of Energy] **Oregon Climate Authority** shall establish
29 advisory energy conservation standards for existing dwellings. The standards shall be adopted by
30 rule in accordance with ORS 183.310 to 183.410. The standards:

31 (a) Shall take cost-effectiveness into account; and

32 (b) Shall be compatible with and further the state’s incentive programs for residential energy
33 conservation.

34 (3) The director shall publicize the energy conservation standards and encourage home owners
35 to voluntarily comply with the standards.

36 **SECTION 96.** ORS 469.255 is amended to read:

37 469.255. (1) A manufacturer of a product specified in ORS 469.238 that is sold or offered for sale,
38 or installed or offered for installation, in this state shall test samples of the manufacturer’s products
39 in accordance with the test methods specified in ORS 469.233 or, if more stringent, those specified
40 in the state building code.

41 (2) If the test methods for products required to be tested under this section are not provided for
42 in ORS 469.233 or in the state building code, the [State Department of Energy] **Director of the**
43 **Oregon Climate Authority** shall adopt test methods for these products. The [department] **Oregon**
44 **Climate Authority** shall use test methods approved by the United States Department of Energy or,
45 in the absence of federal test methods, other appropriate nationally recognized test methods for

1 guidance in adopting test methods. The [*State Department of Energy*] **director** may periodically re-
 2 view and revise [*its*] **the authority's** test methods.

3 (3) A manufacturer of a product regulated pursuant to ORS 469.229 to 469.261, except for man-
 4 ufacturers of single-voltage external AC to DC power supplies, walk-in refrigerators and walk-in
 5 freezers, shall certify to the [*State Department of Energy*] **Oregon Climate Authority** that the pro-
 6 ducts are in compliance with the minimum energy efficiency standards specified in ORS 469.233. The
 7 [*department*] **authority** shall establish rules governing the certification of these products and may
 8 coordinate with the certification and testing programs of other states and federal agencies with
 9 similar standards.

10 (4)(a) The [*department*] **director** shall establish rules governing the identification of the products
 11 that comply with the minimum energy efficiency standards specified in ORS 469.233. The rules shall
 12 be coordinated to the greatest extent practicable with the labeling programs of other states and
 13 federal agencies with equivalent efficiency standards.

14 (b) Identification required under paragraph (a) of this subsection shall be by means of a mark,
 15 label or tag on the product and packaging at the time of sale or installation.

16 (c) The [*department*] **authority** shall waive marking, labeling or tagging requirements for pro-
 17 ducts marked, labeled or tagged in compliance with federal requirements or for products certified
 18 pursuant to subsection (3) of this section, unless the [*department*] **authority** determines that state
 19 marking, labeling or tagging is required to provide adequate energy efficiency information to the
 20 consumer.

21 **SECTION 97.** ORS 469.261 is amended to read:

22 469.261. (1)(a) Notwithstanding ORS 469.233, the [*State Department of Energy*] **Director of the**
 23 **Oregon Climate Authority** shall periodically review the minimum energy efficiency standards
 24 specified in ORS 469.233.

25 (b) After the review pursuant to paragraph (a) of this subsection, the director [*of the State De-*
 26 *partment of Energy*] may adopt rules to update the minimum energy efficiency standards specified in
 27 ORS 469.233 if the director determines that the standards need to be updated:

28 (A) To promote energy conservation in the state;

29 (B) To achieve cost-effectiveness for consumers; or

30 (C) Due to federal action or to the outcome of collaborative consultations with manufacturers
 31 and the energy departments of other states.

32 (c)(A) In addition to the rules adopted under paragraph (b) of this subsection, the director may
 33 postpone by rule the operative date of any of the minimum energy efficiency standards specified in
 34 ORS 469.233 if the director determines that:

35 (i) Adjoining states with similar minimum energy efficiency standards have postponed the oper-
 36 ative date of their corresponding minimum energy efficiency standards; or

37 (ii) Failure to modify the operative date of any of the minimum energy efficiency standards
 38 would impose a substantial hardship on manufacturers, retailers or the public.

39 (B)(i) The director may not postpone the operative date of a minimum energy efficiency standard
 40 under subparagraph (A) of this paragraph for more than one year.

41 (ii) If at the end of the first postponement period the director determines that adjoining states
 42 have further postponed the operative date of minimum energy efficiency standards and the require-
 43 ments of subparagraph (A) of this paragraph continue to be met, the director may postpone the op-
 44 erative date for not more than one additional year.

45 (d) After the review pursuant to paragraph (a) of this subsection, the director may adopt rules

1 to establish new minimum energy efficiency standards if the director determines that new standards
2 are needed:

3 (A) To promote energy conservation in the state;

4 (B) To achieve cost-effectiveness for consumers; or

5 (C) Due to federal action or to the outcome of collaborative consultations with manufacturers
6 and the energy departments of other states.

7 (e) If the director adopts rules under paragraph (b) of this subsection to update the minimum
8 energy efficiency standards specified in ORS 469.233 or under paragraph (d) of this subsection to
9 establish new minimum energy efficiency standards:

10 (A) The rules may not take effect until one year following their adoption by the director; and

11 (B) The Governor shall cause to be introduced at the next Legislative Assembly a bill to con-
12 form the statutory minimum energy efficiency standards to the minimum energy efficiency standards
13 adopted by the director by rule.

14 (2) If the director determines that implementation of a state minimum energy efficiency standard
15 requires a waiver of federal preemption, the director shall apply for a waiver of federal preemption
16 pursuant to 42 U.S.C. 6297(d).

17 **SECTION 98.** ORS 469.300 is amended to read:

18 469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992, unless the
19 context requires otherwise:

20 (1) "Applicant" means any person who makes application for a site certificate in the manner
21 provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

22 (2) "Application" means a request for approval of a particular site or sites for the construction
23 and operation of an energy facility or the construction and operation of an additional energy facility
24 upon a site for which a certificate has already been issued, filed in accordance with the procedures
25 established pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

26 (3) "Associated transmission lines" means new transmission lines constructed to connect an en-
27 ergy facility to the first point of junction of such transmission line or lines with either a power
28 distribution system or an interconnected primary transmission system or both or to the Northwest
29 Power Grid.

30 (4) "Average electric generating capacity" means the peak generating capacity of the facility
31 divided by one of the following factors:

32 (a) For wind facilities, 3.00;

33 (b) For geothermal energy facilities, 1.11; or

34 (c) For all other energy facilities, 1.00.

35 (5) "Combustion turbine power plant" means a thermal power plant consisting of one or more
36 fuel-fired combustion turbines and any associated waste heat combined cycle generators.

37 (6) "Construction" means work performed on a site, excluding surveying, exploration or other
38 activities to define or characterize the site, the cost of which exceeds \$250,000.

39 (7) "Council" means the Energy Facility Siting Council established under ORS 469.450.

40 [(8) "Department" means the State Department of Energy created under ORS 469.030.]

41 [(9) "Director" means the Director of the State Department of Energy appointed under ORS
42 469.040.]

43 [(10)] (8) "Electric utility" means persons, regulated electrical companies, people's utility dis-
44 tricts, joint operating agencies, electric cooperatives, municipalities or any combination thereof,
45 engaged in or authorized to engage in the business of generating, supplying, transmitting or dis-

1 tributing electric energy.

2 [(11)(a)] (9)(a) "Energy facility" means any of the following:

3 (A) An electric power generating plant with a nominal electric generating capacity of 25 mega-
4 watts or more, including but not limited to:

- 5 (i) Thermal power;
- 6 (ii) Combustion turbine power plant; or
- 7 (iii) Solar thermal power plant.

8 (B) A nuclear installation as defined in this section.

9 (C) A high voltage transmission line of more than 10 miles in length with a capacity of 230,000
10 volts or more to be constructed in more than one city or county in this state, but excluding:

11 (i) Lines proposed for construction entirely within 500 feet of an existing corridor occupied by
12 high voltage transmission lines with a capacity of 230,000 volts or more; and

13 (ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000 volts along the same
14 right of way.

15 (D) A solar photovoltaic power generation facility using more than:

16 (i) 100 acres located on high-value farmland as defined in ORS 195.300;

17 (ii) 100 acres located on land that is predominantly cultivated or that, if not cultivated, is pre-
18 dominantly composed of soils that are in capability classes I to IV, as specified by the National
19 Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United
20 States Department of Agriculture; or

21 (iii) 320 acres located on any other land.

22 (E) A pipeline that is:

23 (i) At least six inches in diameter, and five or more miles in length, used for the transportation
24 of crude petroleum or a derivative thereof, liquefied natural gas, a geothermal energy form in a
25 liquid state or other fossil energy resource, excluding a pipeline conveying natural or synthetic gas;

26 (ii) At least 16 inches in diameter, and five or more miles in length, used for the transportation
27 of natural or synthetic gas, but excluding:

28 (I) A pipeline proposed for construction of which less than five miles of the pipeline is more than
29 50 feet from a public road, as defined in ORS 368.001; or

30 (II) A parallel or upgraded pipeline up to 24 inches in diameter that is constructed within the
31 same right of way as an existing 16-inch or larger pipeline that has a site certificate, if all studies
32 and necessary mitigation conducted for the existing site certificate meet or are updated to meet
33 current site certificate standards; or

34 (iii) At least 16 inches in diameter and five or more miles in length used to carry a geothermal
35 energy form in a gaseous state but excluding a pipeline used to distribute heat within a geothermal
36 heating district established under ORS chapter 523.

37 (F) A synthetic fuel plant which converts a natural resource including, but not limited to, coal
38 or oil to a gas, liquid or solid product intended to be used as a fuel and capable of being burned to
39 produce the equivalent of two billion Btu of heat a day.

40 (G) A plant which converts biomass to a gas, liquid or solid product, or combination of such
41 products, intended to be used as a fuel and if any one of such products is capable of being burned
42 to produce the equivalent of six billion Btu of heat a day.

43 (H) A storage facility for liquefied natural gas constructed after September 29, 1991, that is de-
44 signed to hold at least 70,000 gallons.

45 (I) A surface facility related to an underground gas storage reservoir that, at design injection

1 or withdrawal rates, will receive or deliver more than 50 million cubic feet of natural or synthetic
 2 gas per day, or require more than 4,000 horsepower of natural gas compression to operate, but ex-
 3 cluding:

4 (i) The underground storage reservoir;

5 (ii) The injection, withdrawal or monitoring wells and individual wellhead equipment; and

6 (iii) An underground gas storage reservoir into which gas is injected solely for testing or res-
 7 ervoir maintenance purposes or to facilitate the secondary recovery of oil or other hydrocarbons.

8 (J) An electric power generating plant with an average electric generating capacity of 35
 9 megawatts or more if the power is produced from geothermal or wind energy at a single energy fa-
 10 cility or within a single energy generation area.

11 (b) "Energy facility" does not include a hydroelectric facility or an energy facility under para-
 12 graph (a)(A)(iii) or (D) of this subsection that is established on the site of a decommissioned United
 13 States Air Force facility that has adequate transmission capacity to serve the energy facility.

14 [(12)] (10) "Energy generation area" means an area within which the effects of two or more
 15 small generating plants may accumulate so the small generating plants have effects of a magnitude
 16 similar to a single generating plant of 35 megawatts average electric generating capacity or more.
 17 An "energy generation area" for facilities using a geothermal resource and covered by a unit
 18 agreement, as provided in ORS 522.405 to 522.545 or by federal law, shall be defined in that unit
 19 agreement. If no such unit agreement exists, an energy generation area for facilities using a
 20 geothermal resource shall be the area that is within two miles, measured from the electrical gener-
 21 ating equipment of the facility, of an existing or proposed geothermal electric power generating
 22 plant, not including the site of any other such plant not owned or controlled by the same person.

23 [(13)] (11) "Extraordinary nuclear occurrence" means any event causing a discharge or dispersal
 24 of source material, special nuclear material or by-product material as those terms are defined in
 25 ORS 453.605, from its intended place of confinement off-site, or causing radiation levels off-site, that
 26 the United States Nuclear Regulatory Commission or its successor determines to be substantial and
 27 to have resulted in or to be likely to result in substantial damages to persons or property off-site.

28 [(14)] (12) "Facility" means an energy facility together with any related or supporting facilities.

29 [(15)] (13) "Geothermal reservoir" means an aquifer or aquifers containing a common geothermal
 30 fluid.

31 [(16)] (14) "Local government" means a city or county.

32 [(17)] (15) "Nominal electric generating capacity" means the maximum net electric power output
 33 of an energy facility based on the average temperature, barometric pressure and relative humidity
 34 at the site during the times of the year when the facility is intended to operate.

35 [(18)] (16) "Nuclear incident" means any occurrence, including an extraordinary nuclear occur-
 36 rence, that results in bodily injury, sickness, disease, death, loss of or damage to property or loss
 37 of use of property due to the radioactive, toxic, explosive or other hazardous properties of source
 38 material, special nuclear material or by-product material as those terms are defined in ORS 453.605.

39 [(19)] (17) "Nuclear installation" means any power reactor, nuclear fuel fabrication plant, nu-
 40 clear fuel reprocessing plant, waste disposal facility for radioactive waste, and any facility handling
 41 that quantity of fissionable materials sufficient to form a critical mass. "Nuclear installation" does
 42 not include any such facilities that are part of a thermal power plant.

43 [(20)] (18) "Nuclear power plant" means an electrical or any other facility using nuclear energy
 44 with a nominal electric generating capacity of 25 megawatts or more, for generation and distribution
 45 of electricity, and associated transmission lines.

1 [(21)] **(19)** “Person” means an individual, partnership, joint venture, private or public corpo-
 2 ration, association, firm, public service company, political subdivision, municipal corporation, gov-
 3 ernment agency, people’s utility district, or any other entity, public or private, however organized.

4 [(22)] **(20)** “Project order” means the order, including any amendments, issued by the [*State De-*
 5 *partment of Energy*] **Oregon Climate Authority** under ORS 469.330.

6 [(23)(a)] **(21)(a)** “Radioactive waste” means all material which is discarded, unwanted or has no
 7 present lawful economic use, and contains mined or refined naturally occurring isotopes, accelerator
 8 produced isotopes and by-product material, source material or special nuclear material as those
 9 terms are defined in ORS 453.605. The term does not include those radioactive materials identified
 10 in OAR 345-50-020, 345-50-025 and 345-50-035, adopted by the council on December 12, 1978, and re-
 11 vised periodically for the purpose of adding additional isotopes which are not referred to in OAR
 12 345-50 as presenting no significant danger to the public health and safety.

13 (b) Notwithstanding paragraph (a) of this subsection, “radioactive waste” does not include ura-
 14 nium mine overburden or uranium mill tailings, mill wastes or mill by-product materials as those
 15 terms are defined in Title 42, United States Code, section 2014, on June 25, 1979.

16 [(24)] **(22)** “Related or supporting facilities” means any structure, proposed by the applicant, to
 17 be constructed or substantially modified in connection with the construction of an energy facility,
 18 including associated transmission lines, reservoirs, storage facilities, intake structures, road and rail
 19 access, pipelines, barge basins, office or public buildings, and commercial and industrial structures.
 20 “Related or supporting facilities” does not include geothermal or underground gas storage reser-
 21 voirs, production, injection or monitoring wells or wellhead equipment or pumps.

22 [(25)] **(23)** “Site” means any proposed location of an energy facility and related or supporting
 23 facilities.

24 [(26)] **(24)** “Site certificate” means the binding agreement between the State of Oregon and the
 25 applicant, authorizing the applicant to construct and operate a facility on an approved site, incor-
 26 porating all conditions imposed by the council on the applicant.

27 [(27)] **(25)** “Thermal power plant” means an electrical facility using any source of thermal en-
 28 ergy with a nominal electric generating capacity of 25 megawatts or more, for generation and dis-
 29 tribution of electricity, and associated transmission lines, including but not limited to a
 30 nuclear-fueled, geothermal-fueled or fossil-fueled power plant, but not including a portable power
 31 plant the principal use of which is to supply power in emergencies. “Thermal power plant” includes
 32 a nuclear-fueled thermal power plant that has ceased to operate.

33 [(28)] **(26)** “Transportation” means the transport within the borders of the State of Oregon of
 34 radioactive material destined for or derived from any location.

35 [(29)] **(27)** “Underground gas storage reservoir” means any subsurface sand, strata, formation,
 36 aquifer, cavern or void, whether natural or artificially created, suitable for the injection, storage
 37 and withdrawal of natural gas or other gaseous substances. “Underground gas storage reservoir”
 38 includes a pool as defined in ORS 520.005.

39 [(30)] **(28)** “Utility” includes:

40 (a) A person, a regulated electrical company, a people’s utility district, a joint operating agency,
 41 an electric cooperative, municipality or any combination thereof, engaged in or authorized to engage
 42 in the business of generating, transmitting or distributing electric energy;

43 (b) A person or public agency generating electric energy from an energy facility for its own
 44 consumption; and

45 (c) A person engaged in this state in the transmission or distribution of natural or synthetic gas.

1 [(31)] (29) “Waste disposal facility” means a geographical site in or upon which radioactive
 2 waste is held or placed but does not include a site at which radioactive waste used or generated
 3 pursuant to a license granted under ORS 453.635 is stored temporarily, a site of a thermal power
 4 plant used for the temporary storage of radioactive waste from that plant for which a site certificate
 5 has been issued pursuant to this chapter or a site used for temporary storage of radioactive waste
 6 from a reactor operated by a college, university or graduate center for research purposes and not
 7 connected to the Northwest Power Grid. As used in this subsection, “temporary storage” includes
 8 storage of radioactive waste on the site of a nuclear-fueled thermal power plant for which a site
 9 certificate has been issued until a permanent storage site is available by the federal government.

10 **SECTION 98a.** ORS 469.310 is amended to read:

11 469.310. In the interests of the public health and the welfare of the people of this state, it is the
 12 declared public policy of this state that the siting, construction and operation of energy facilities
 13 shall be accomplished in a manner consistent with protection of the public health and safety and in
 14 compliance with the energy policy and air, water, solid waste, land use and other environmental
 15 protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.563, 469.590 to
 16 469.619, 469.930 and 469.992 to exercise the jurisdiction of the State of Oregon to the maximum ex-
 17 tent permitted by the United States Constitution and to establish in cooperation with the federal
 18 government a comprehensive system for the siting, monitoring and regulating of the location, con-
 19 struction and operation of all energy facilities in this state. It is furthermore the policy of this state,
 20 notwithstanding [ORS 469.010 (2)(f)] **section 2 (4)(j) of this 2019 Act** and the definition of cost-
 21 effective in ORS 469.020, that the need for new generating facilities, as defined in ORS 469.503, is
 22 sufficiently addressed by reliance on competition in the market rather than by consideration of
 23 cost-effectiveness and shall not be a matter requiring determination by the Energy Facility Siting
 24 Council in the siting of a generating facility, as defined in ORS 469.503.

25 **SECTION 99.** ORS 469.320 is amended to read:

26 469.320. (1) Except as provided in subsections (2) and (5) of this section, no facility shall be
 27 constructed or expanded unless a site certificate has been issued for the site thereof in the manner
 28 provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992. No facility shall be
 29 constructed or operated except in conformity with the requirements of ORS 469.300 to 469.563,
 30 469.590 to 469.619, 469.930 and 469.992.

31 (2) A site certificate is not required for:

32 (a) An energy facility for which no site certificate has been issued that, on August 2, 1993, had
 33 operable electric generating equipment for a modification that uses the same fuel type and increases
 34 electric generating capacity, if:

35 (A) The site is not enlarged; and

36 (B) The ability of the energy facility to use fuel for electricity production under peak steady
 37 state operating conditions is not more than 200 million Btu per hour greater than it was on August
 38 2, 1993, or the energy facility expansion is called for in the short-term plan of action of an energy
 39 resource plan that has been acknowledged by the Public Utility Commission of Oregon.

40 (b) Construction or expansion of any interstate natural gas pipeline or associated underground
 41 natural gas storage facility authorized by and subject to the continuing regulation of the Federal
 42 Energy Regulatory Commission or successor agency.

43 (c) An energy facility, except coal and nuclear power plants, if the energy facility:

44 (A) Sequentially produces electrical energy and useful thermal energy from the same fuel source;

45 and

1 (B) Under average annual operating conditions, has a nominal electric generating capacity:

2 (i) Of less than 50 megawatts and the fuel chargeable to power heat rate value is not greater
3 than 6,000 Btu per kilowatt hour;

4 (ii) Of 50 megawatts or more and the fuel chargeable to power heat rate value is not greater
5 than 5,500 Btu per kilowatt hour; or

6 (iii) Specified by the Energy Facility Siting Council by rule based on the council's determination
7 relating to emissions of the energy facility.

8 (d) Temporary storage, at the site of a nuclear-fueled thermal power plant for which a site cer-
9 tificate has been issued by the State of Oregon, of radioactive waste from the plant.

10 (e) An energy facility as defined in ORS 469.300 [(11)(a)(G)] **(9)(a)(G)**, if the plant also produces
11 a secondary fuel used on site for the production of heat or electricity, if the output of the primary
12 fuel is less than six billion Btu of heat a day.

13 (f) An energy facility as defined in ORS 469.300 [(11)(a)(G)] **(9)(a)(G)**, if the facility:

14 (A) Exclusively uses biomass, including but not limited to grain, whey, potatoes, oilseeds, waste
15 vegetable oil or cellulosic biomass, as the source of material for conversion to a liquid fuel;

16 (B) Has received local land use approval under the applicable acknowledged comprehensive plan
17 and land use regulations of the affected local government and the facility complies with any state-
18 wide planning goals or rules of the Land Conservation and Development Commission that are di-
19 rectly applicable to the facility;

20 (C) Requires no new electric transmission lines or gas or petroleum product pipelines that would
21 require a site certificate under subsection (1) of this section;

22 (D) Produces synthetic fuel, at least 90 percent of which is used in an industrial or refueling
23 facility located within one mile of the facility or is transported from the facility by rail or barge;
24 and

25 (E) Emits less than 118 pounds of carbon dioxide per million Btu from fossil fuel used for con-
26 version energy.

27 (g) A standby generation facility, if the facility complies with all of the following:

28 (A) The facility has received local land use approval under the applicable acknowledged com-
29 prehensive plan and land use regulations of the affected local government and the facility complies
30 with all statewide planning goals and applicable rules of the Land Conservation and Development
31 Commission;

32 (B) The standby generators have been approved by the Department of Environmental Quality
33 as having complied with all applicable air and water quality requirements. For an applicant that
34 proposes to provide the physical facilities for the installation of standby generators, the requirement
35 of this subparagraph may be met by agreeing to require such a term in the lease contract for the
36 facility; and

37 (C) The standby generators are electrically incapable of being interconnected to the trans-
38 mission grid. For an applicant that proposes to provide the physical facilities for the installation of
39 standby generators, the requirement of this subparagraph may be met by agreeing to require such
40 a term in the lease contract for the facility.

41 (3) The Energy Facility Siting Council may review and, if necessary, revise the fuel chargeable
42 to power heat rate value set forth in subsection (2)(c)(B) of this section. In making its determination,
43 the council shall ensure that the fuel chargeable to power heat rate value for facilities set forth in
44 subsection (2)(c)(B) of this section remains significantly lower than the fuel chargeable to power
45 heat rate value for the best available, commercially viable thermal power plant technology at the

1 time of the revision.

2 (4) Any person who proposes to construct or enlarge an energy facility and who claims an ex-
3 emption under subsection (2)(a), (c), (f) or (g) of this section from the requirement to obtain a site
4 certificate shall request the Energy Facility Siting Council to determine whether the proposed fa-
5 cility qualifies for the claimed exemption. The council shall make its determination within 60 days
6 after the request for exemption is filed. An appeal from the council's determination on a request for
7 exemption shall be made under ORS 469.403, except that the scope of review by the Supreme Court
8 shall be the same as a review by a circuit court under ORS 183.484. The record on review by the
9 Supreme Court shall be the record established in the council proceeding on the exemption.

10 (5) Notwithstanding subsection (1) of this section, a separate site certificate shall not be re-
11 quired for:

12 (a) Transmission lines, storage facilities, pipelines or similar related or supporting facilities, if
13 such related or supporting facilities are addressed in and are subject to a site certificate for another
14 energy facility;

15 (b) Expansion within the site or within the energy generation area of a facility for which a site
16 certificate has been issued, if the existing site certificate has been amended to authorize expansion;
17 or

18 (c) Expansion, either within the site or outside the site, of an existing council certified surface
19 facility related to an underground gas storage reservoir, if the existing site certificate is amended
20 to authorize expansion.

21 (6) If the substantial loss of the steam host causes a facility exempt under subsection (2)(c) of
22 this section to substantially fail to meet the exemption requirements under subsection (2)(c) of this
23 section, the electric generating facility shall cease to operate one year after the substantial loss of
24 the steam host unless an application for a site certificate has been filed in accordance with the
25 provisions of ORS 469.300 to 469.563.

26 (7) As used in this section:

27 (a) "Standby generation facility" means an electric power generating facility, including standby
28 generators and the physical structures necessary to install and connect standby generators, that
29 provides temporary electric power in the event of a power outage and that is electrically incapable
30 of being interconnected with the transmission grid.

31 (b) "Total energy output" means the sum of useful thermal energy output and useful electrical
32 energy output.

33 (c) "Useful thermal energy" means the verifiable thermal energy used in any viable industrial
34 or commercial process, heating or cooling application.

35 (8) Notwithstanding the definition of "energy facility" in ORS 469.300 [(11)(a)(J)] **(9)(a)(J)**, an
36 electric power generating plant with an average electric generating capacity of less than 35 mega-
37 watts produced from wind energy at a single energy facility or within a single energy generation
38 area may elect to obtain a site certificate in the manner provided in ORS 469.300 to 469.563, 469.590
39 to 469.619, 469.930 and 469.992. An election to obtain a site certificate under this subsection shall
40 be final upon submission of an application for a site certificate.

41 **SECTION 100.** ORS 469.330 is amended to read:

42 469.330. (1) Each applicant for a site certificate shall submit to the Energy Facility Siting
43 Council a notice of intent to file an application for a site certificate. The notice of intent must
44 provide information about the proposed site and the characteristics of the facility sufficient for the
45 preparation of the [State Department of Energy's] **Oregon Climate Authority's** project order.

1 (2) The council shall cause public notice to be given upon receipt of a notice of intent by the
2 council. The public notice shall provide a description of the proposed site and facility in sufficient
3 detail to inform the public of the location and proposed use of the site.

4 (3) Following review of the notice of intent and any public comments received in response to the
5 notice of intent, the *[department]* **authority** may hold a preapplication conference with state agen-
6 cies and local governments that have regulatory or advisory responsibility with respect to the fa-
7 cility. After the preapplication conference, the *[department]* **authority** shall issue a project order
8 establishing the statutes, administrative rules, council standards, local ordinances, application re-
9 quirements and study requirements for the site certificate application. A project order is not a final
10 order.

11 (4) A project order issued under subsection (3) of this section may be amended at any time by
12 either the *[department]* **authority** or the council.

13 **SECTION 101.** ORS 469.350 is amended to read:

14 469.350. (1) Applications for site certificates shall be made to the Energy Facility Siting Council
15 in a form prescribed by the council and accompanied by the fee required by ORS 469.421.

16 (2) Copies of the notice of intent and of the application shall be sent for comment and recom-
17 mendation within specified deadlines established by the council to the Department of Environmental
18 Quality, the Water Resources Commission, the State Fish and Wildlife Commission, the Water Re-
19 sources Director, the State Geologist, the State Forestry Department, the Public Utility Commission
20 of Oregon, the State Department of Agriculture, the Department of Land Conservation and Devel-
21 opment, the Oregon Department of Aviation, any other state agency that has regulatory or advisory
22 responsibility with respect to the facility and any city or county affected by the application.

23 (3) Any state agency, city or county that is requested by the council to comment and make
24 recommendations under this section shall respond to the council by the specified deadline. If a state
25 agency, city or county determines that it cannot respond to the council by the specified deadline
26 because the state agency, city or county lacks sufficient resources to review and comment on the
27 application, the state agency, city or county shall contract with another entity to assist in preparing
28 a response. A state agency, city or county that enters into a contract to assist in preparing a re-
29 sponse may request funding to pay for that contract from the council pursuant to ORS 469.360.

30 (4) The *[State Department of Energy]* **Oregon Climate Authority** shall notify the applicant
31 whether the application is complete. When the *[department]* **authority** determines an application is
32 complete, the *[department]* **authority** shall notify the applicant and provide notice to the public.

33 **SECTION 102.** ORS 469.370 is amended to read:

34 469.370. (1) Based on its review of the application and the comments and recommendations on
35 the application from state agencies and local governments, the *[State Department of Energy]* **Oregon**
36 **Climate Authority** shall prepare and issue a draft proposed order on the application.

37 (2) Following issuance of the draft proposed order, the Energy Facility Siting Council shall hold
38 one or more public hearings on the application for a site certificate in the affected area and else-
39 where, as the council considers necessary. Notice of the hearing shall be mailed at least 20 days
40 before the hearing. The notice shall, at a minimum:

- 41 (a) Comply with the requirements of ORS 197.763 (2), with respect to the persons notified;
- 42 (b) Include a description of the facility and the facility's general location;
- 43 (c) Include the name of an agency representative to contact and the telephone number where
44 additional information may be obtained;
- 45 (d) State that copies of the application and draft proposed order are available for inspection at

1 no cost and will be provided at a reasonable cost; and

2 (e) State that failure to raise an issue in person or in writing prior to the close of the record
3 of the public hearing with sufficient specificity to afford the decision maker an opportunity to re-
4 spond to the issue precludes consideration of the issue in a contested case.

5 (3) Any issue that may be the basis for a contested case shall be raised not later than the close
6 of the record at or following the final public hearing prior to issuance of the [*department's*]
7 **authority's** proposed order. Such issues shall be raised with sufficient specificity to afford the
8 council, the [*department*] **authority** and the applicant an adequate opportunity to respond to each
9 issue. A statement of this requirement shall be made at the commencement of any public hearing
10 on the application.

11 (4) After reviewing the application, the draft proposed order and any testimony given at the
12 public hearing and after consulting with other agencies, the [*department*] **authority** shall issue a
13 proposed order recommending approval or rejection of the application. The [*department*] **authority**
14 shall issue public notice of the proposed order, that shall include notice of a contested case hearing
15 specifying a deadline for requests to participate as a party or limited party and a date for the pre-
16 hearing conference.

17 (5) Following receipt of the proposed order from the [*department*] **authority**, the council shall
18 conduct a contested case hearing on the application for a site certificate in accordance with the
19 applicable provisions of ORS chapter 183 and any procedures adopted by the council. The applicant
20 shall be a party to the contested case. The council may permit any other person to become a party
21 to the contested case in support of or in opposition to the application only if the person appeared
22 in person or in writing at the public hearing on the site certificate application. Issues that may be
23 the basis for a contested case shall be limited to those raised on the record of the public hearing
24 under subsection (3) of this section, unless:

25 (a) The [*department*] **authority** failed to follow the requirements of subsection (2) or (3) of this
26 section; or

27 (b) The action recommended in the proposed order, including any recommended conditions of the
28 approval, differs materially from that described in the draft proposed order, in which case only new
29 issues related to such differences may be raised.

30 (6) If no person requests party status to challenge the [*department's*] **authority's** proposed order,
31 the proposed order shall be forwarded to the council and the contested case hearing shall be con-
32 cluded.

33 (7) At the conclusion of the contested case, the council shall issue a final order, either approving
34 or rejecting the application based upon the standards adopted under ORS 469.501 and any additional
35 statutes, rules or local ordinances determined to be applicable to the facility by the project order,
36 as amended. The council shall make its decision by the affirmative vote of at least four members
37 approving or rejecting any application for a site certificate. The council may amend or reject the
38 proposed order, so long as the council provides public notice of its hearing to adopt a final order,
39 and provides an opportunity for the applicant and any party to the contested case to comment on
40 material changes to the proposed order, including material changes to conditions of approval re-
41 sulting from the council's review. The council's order shall be considered a final order for purposes
42 of appeal.

43 (8) Rejection or approval of an application, together with any conditions that may be attached
44 to the certificate, shall be subject to judicial review as provided in ORS 469.403.

45 (9) The council shall either approve or reject an application for a site certificate:

1 (a) Within 24 months after filing an application for a nuclear installation, or for a thermal power
2 plant, other than that described in paragraph (b) of this subsection, with a nameplate rating of more
3 than 200,000 kilowatts;

4 (b) Within nine months after filing of an application for a site certificate for a combustion tur-
5 bine power plant, a geothermal-fueled power plant or an underground storage facility for natural
6 gas;

7 (c) Within six months after filing an application for a site certificate for an energy facility, if
8 the application is:

9 (A) To expand an existing industrial facility to include an energy facility;

10 (B) To expand an existing energy facility to achieve a nominal electric generating capacity of
11 between 25 and 50 megawatts; or

12 (C) To add injection or withdrawal capacity to an existing underground gas storage facility; or

13 (d) Within 12 months after filing an application for a site certificate for any other energy facil-
14 ity.

15 (10) At the request of the applicant, the council shall allow expedited processing of an applica-
16 tion for a site certificate for an energy facility with an average electric generating capacity of less
17 than 100 megawatts. No notice of intent shall be required. Following approval of a request for ex-
18 pedited review, the [department] **authority** shall issue a project order, which may be amended at any
19 time. The council shall either approve or reject an application for a site certificate within six
20 months after filing the site certificate application if there are no intervenors in the contested case
21 conducted under subsection (5) of this section. If there are intervenors in the contested case, the
22 council shall either approve or reject an application within nine months after filing the site certif-
23 icate application. For purposes of this subsection, the generating capacity of a thermal power plant
24 is the nameplate rating of the electrical generator proposed to be installed in the plant.

25 (11) Failure of the council to comply with the deadlines set forth in subsection (9) or (10) of this
26 section shall not result in the automatic issuance or denial of a site certificate.

27 (12) The council shall specify in the site certificate a date by which construction of the facility
28 must begin.

29 (13) For a facility that is subject to and has been or will be reviewed by a federal agency under
30 the National Environmental Policy Act, 42 U.S.C. Section 4321, et seq., the council shall conduct its
31 site certificate review, to the maximum extent feasible, in a manner that is consistent with and does
32 not duplicate the federal agency review. Such coordination shall include, but need not be limited to:

33 (a) Elimination of duplicative application, study and reporting requirements;

34 (b) Council use of information generated and documents prepared for the federal agency review;

35 (c) Development with the federal agency and reliance on a joint record to address applicable
36 council standards;

37 (d) Whenever feasible, joint hearings and issuance of a site certificate decision in a time frame
38 consistent with the federal agency review; and

39 (e) To the extent consistent with applicable state standards, establishment of conditions in any
40 site certificate that are consistent with the conditions established by the federal agency.

41 **SECTION 103.** ORS 469.373 is amended to read:

42 469.373. (1) Notwithstanding the expedited review process established pursuant to ORS 469.370,
43 an applicant may apply under the provisions of this section for expedited review of an application
44 for a site certificate for an energy facility if the energy facility:

45 (a) Is a combustion turbine energy facility fueled by natural gas or is a reciprocating engine

1 fueled by natural gas, including an energy facility that uses petroleum distillate fuels for backup
2 power generation;

3 (b) Is a permitted or conditional use allowed under an applicable local acknowledged compre-
4 hensive plan, land use regulation or federal land use plan, and is located:

5 (A) At or adjacent to an existing energy facility; or

6 (B)(i) At, adjacent to or in close proximity to an existing industrial use; and

7 (ii) In an area currently zoned or designated for industrial use;

8 (c)(A) Requires no more than three miles of associated transmission lines or three miles of new
9 natural gas pipelines outside of existing rights of way for transmission lines or natural gas pipelines;
10 or

11 (B) Imposes, in the determination of the Energy Facility Siting Council, no significant impact in
12 the locating of associated transmission lines or new natural gas pipelines outside of existing rights
13 of way;

14 (d) Requires no new water right or water right transfer;

15 (e) Provides funds to a qualified organization in an amount determined by the council to be
16 sufficient to produce any required reduction in emissions as specified in ORS 469.503 (2)(c)(C) and
17 in rules adopted under ORS 469.503 for the total carbon dioxide emissions produced by the energy
18 facility for the life of the energy facility; and

19 (f)(A) Discharges process wastewater to a wastewater treatment facility that has an existing
20 National Pollutant Discharge Elimination System permit, can obtain an industrial pretreatment
21 permit, if needed, within the expedited review process time frame and has written confirmation from
22 the wastewater facility permit holder that the additional wastewater load will be accommodated by
23 the facility without resulting in a significant thermal increase in the facility effluent or without re-
24 quiring any changes to the wastewater facility National Pollutant Discharge Elimination System
25 permit;

26 (B) Plans to discharge process wastewater to a wastewater treatment facility owned by a mu-
27 nicipal corporation that will accommodate the wastewater from the energy facility and supplies ev-
28 idence from the municipal corporation that:

29 (i) The municipal corporation has included, or intends to include, the process wastewater load
30 from the energy facility in an application for a National Pollutant Discharge Elimination System
31 permit; and

32 (ii) All conditions required of the energy facility to allow the discharge of process wastewater
33 from the energy facility will be satisfied; or

34 (C) Obtains a National Pollutant Discharge Elimination System or water pollution control fa-
35 cility permit for process wastewater disposal, supplies evidence to support a finding that the dis-
36 charge can likely be permitted within the expedited review process time frame and that the
37 discharge will not require:

38 (i) A new National Pollutant Discharge Elimination System permit, except for a storm water
39 general permit for construction activities; or

40 (ii) A change in any effluent limit or discharge location under an existing National Pollutant
41 Discharge Elimination System or water pollution control facility permit.

42 (2) An applicant seeking expedited review under this section shall submit documentation to the
43 [State Department of Energy] **Oregon Climate Authority**, prior to the submission of an application
44 for a site certificate, that demonstrates that the energy facility meets the qualifications set forth in
45 subsection (1) of this section. The [department] **authority** shall determine, within 14 days of receipt

1 of the documentation, on a preliminary, nonbinding basis, whether the energy facility qualifies for
2 expedited review.

3 (3) If the *[department]* **authority** determines that the energy facility preliminarily qualifies for
4 expedited review, the applicant may submit an application for expedited review. Within 30 days after
5 the date that the application for expedited review is submitted, the *[department]* **authority** shall
6 determine whether the application is complete. If the *[department]* **authority** determines that the
7 application is complete, the application shall be deemed filed on the date that the *[department]* **au-**
8 **thority** sends the applicant notice of its determination. If the *[department]* **authority** determines
9 that the application is not complete, the *[department]* **authority** shall notify the applicant of the
10 deficiencies in the application and shall deem the application filed on the date that the
11 *[department]* **authority** determines that the application is complete. The *[department]* **authority** or
12 the council may request additional information from the applicant at any time.

13 (4) The *[State Department of Energy]* **Oregon Climate Authority** shall send a copy of a filed
14 application to the Department of Environmental Quality, the Water Resources Department, the State
15 Department of Fish and Wildlife, the State Department of Geology and Mineral Industries, the State
16 Department of Agriculture, the Department of Land Conservation and Development, the Public
17 Utility Commission and any other state agency, city, county or political subdivision of the state that
18 has regulatory or advisory responsibility with respect to the proposed energy facility. The *[State*
19 *Department of Energy]* **Oregon Climate Authority** shall send with the copy of the filed application
20 a notice specifying that:

21 (a) In the event the council issues a site certificate for the energy facility, the site certificate
22 will bind the state and all counties, cities and political subdivisions in the state as to the approval
23 of the site, the construction of the energy facility and the operation of the energy facility, and that
24 after the issuance of a site certificate, all permits, licenses and certificates addressed in the site
25 certificate must be issued as required by ORS 469.401 (3); and

26 (b) The comments and recommendations of state agencies, counties, cities and political subdivi-
27 sions concerning whether the proposed energy facility complies with any statute, rule or local
28 ordinance that the state agency, county, city or political subdivision would normally administer in
29 determining whether a permit, license or certificate required for the construction or operation of the
30 energy facility should be approved will be considered only if the comments and recommendations
31 are received by the *[department]* **authority** within a reasonable time after the date the application
32 and notice of the application are sent by the *[department]* **authority**.

33 (5) Within 90 days after the date that the application was filed, the *[department]* **authority** shall
34 issue a draft proposed order setting forth:

35 (a) A description of the proposed energy facility;

36 (b) A list of the permits, licenses and certificates that are addressed in the application and that
37 are required for the construction or operation of the proposed energy facility;

38 (c) A list of the statutes, rules and local ordinances that are the standards and criteria for ap-
39 proval of any permit, license or certificate addressed in the application and that are required for the
40 construction or operation of the proposed energy facility; and

41 (d) Proposed findings specifying how the proposed energy facility complies with the applicable
42 standards and criteria for approval of a site certificate.

43 (6) The council shall review the application for site certification in the manner set forth in
44 subsections (7) to (10) of this section and shall issue a site certificate for the facility if the council
45 determines that the facility, with any required conditions to the site certificate, will comply with:

- 1 (a) The requirements for expedited review as specified in this section;
- 2 (b) The standards adopted by the council pursuant to ORS 469.501 (1)(a), (c) to (e), (g), (h) and
3 (L) to (o);
- 4 (c) The requirements of ORS 469.503 (3); and
- 5 (d) The requirements of ORS 469.504 (1)(b).
- 6 (7) Following submission of an application for a site certificate, the council shall hold a public
7 informational meeting on the application. Following the issuance of the proposed order, the council
8 shall hold at least one public hearing on the application. The public hearing shall be held in the area
9 affected by the energy facility. The council shall mail notice of the hearing at least 20 days prior
10 to the hearing. The notice shall comply with the notice requirements of ORS 197.763 (2) and shall
11 include, but need not be limited to, the following:
- 12 (a) A description of the energy facility and the general location of the energy facility;
- 13 (b) The name of [*a department*] **an authority** representative to contact and the telephone num-
14 ber at which people may obtain additional information;
- 15 (c) A statement that copies of the application and proposed order are available for inspection
16 at no cost and will be provided at reasonable cost; and
- 17 (d) A statement that the record for public comment on the application will close at the conclu-
18 sion of the hearing and that failure to raise an issue in person or in writing prior to the close of
19 the record, with sufficient specificity to afford the decision maker an opportunity to respond to the
20 issue, will preclude consideration of the issue, by the council or by a court on judicial review of the
21 council's decision.
- 22 (8) Prior to the conclusion of the hearing, the applicant may request an opportunity to present
23 additional written evidence, arguments or testimony regarding the application. In the alternative,
24 prior to the conclusion of the hearing, the applicant may request a contested case hearing on the
25 application. If the applicant requests an opportunity to present written evidence, arguments or tes-
26 timony, the council shall leave the record open for that purpose only for a period not to exceed 14
27 days after the date of the hearing. Following the close of the record, the [*department*] **authority**
28 shall prepare a draft final order for the council. If the applicant requests a contested case hearing,
29 the council may grant the request if the applicant has shown good cause for a contested case
30 hearing. If a request for a contested case hearing is granted, subsections (9) to (11) of this section
31 do not apply, and the application shall be considered under the same contested case procedures used
32 for a nonexpedited application for a site certificate.
- 33 (9) The council shall make its decision based on the record and the draft final order prepared
34 by the [*department*] **authority**. The council shall, within six months of the date that the application
35 is deemed filed:
- 36 (a) Grant the application;
- 37 (b) Grant the application with conditions;
- 38 (c) Deny the application; or
- 39 (d) Return the application to the site certification process required by ORS 469.320.
- 40 (10) If the application is granted, the council shall issue a site certificate pursuant to ORS
41 469.401 and 469.402. Notwithstanding subsection (6) of this section, the council may impose condi-
42 tions based on standards adopted under ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an
43 application based on those standards.
- 44 (11) Judicial review of the approval or rejection of a site certificate by the council under this
45 section shall be as provided in ORS 469.403.

1 **SECTION 104.** ORS 469.375 is amended to read:

2 469.375. The Energy Facility Siting Council shall not issue a site certificate for a waste disposal
3 facility for uranium mine overburden or uranium mill tailings, mill wastes or mill by-product or for
4 radioactive waste or radioactively contaminated containers or receptacles used in the transporta-
5 tion, storage, use or application of radioactive material, unless, accompanying its decision it finds:

6 (1) The site is:

7 (a) Suitable for disposal of such wastes, and the amount of the wastes, intended for disposal at
8 the site;

9 (b) Not located in or adjacent to:

10 (A) An area determined to be potentially subject to river or creek erosion within the lifetime
11 of the facility;

12 (B) Within the 500-year floodplain of a river, taking into consideration the area determined to
13 be potentially subject to river or creek erosion within the lifetime of the facility;

14 (C) An active fault or an active fault zone;

15 (D) An area of ancient, recent or active mass movement including land sliding, flow or creep;

16 (E) An area subject to ocean erosion; or

17 (F) An area having experienced volcanic activity within the last two million years.

18 (2) There is no available disposal technology and no available alternative site for disposal of
19 such wastes that would better protect the health, safety and welfare of the public and the environ-
20 ment;

21 (3) The disposal of such wastes and the amount of the wastes, at the site will be compatible with
22 the regulatory programs of federal government for disposal of such wastes;

23 (4) The disposal of such wastes, and the amount of the wastes, at the site will be coordinated
24 with the regulatory programs of adjacent states for disposal of such wastes;

25 (5) That following closure of the site, there will be no release of radioactive materials or radi-
26 ation from the waste;

27 (6) That suitable deed restrictions have been placed on the site recognizing the hazard of the
28 material; and

29 (7) That, where federal funding for remedial actions is not available, a surety bond in the name
30 of the state has been provided in an amount determined by the [*State Department of Energy*] **Oregon**
31 **Climate Authority** to be sufficient to cover any costs of closing the site and monitoring it or pro-
32 viding for its security after closure and to secure performance of any site certificate conditions. The
33 bond may be withdrawn when the council finds that:

34 (a) The radioactive waste has been disposed of at a waste disposal facility for which a site
35 certificate has been issued; and

36 (b) A fee has been paid to the State of Oregon sufficient for monitoring the site after closure.

37 (8) If any section, portion, clause or phrase of this section is for any reason held to be invalid
38 or unconstitutional the remaining sections, portions, clauses and phrases shall not be affected but
39 shall remain in full force or effect, and to this end the provisions of this section are severable.

40 **SECTION 105.** ORS 469.402 is amended to read:

41 469.402. If the Energy Facility Siting Council elects to impose conditions on a site certificate
42 or an amended site certificate, that require subsequent review and approval of a future action, the
43 council may delegate the future review and approval to the [*State Department of Energy*] **Oregon**
44 **Climate Authority** if, in the council's discretion, the delegation is warranted under the circum-
45 stances of the case.

1 **SECTION 106.** ORS 469.405 is amended to read:

2 469.405. (1) A site certificate may be amended with the approval of the Energy Facility Siting
3 Council. The council may establish by rule the type of amendment that must be considered in a
4 contested case proceeding. Judicial review of an amendment to a site certificate shall be as provided
5 in ORS 469.403.

6 (2) Notwithstanding ORS 34.020 or 197.825, or any other provision of law, the land use approval
7 by an affected local government of a proposed amendment to a facility and the recommendation of
8 the special advisory group of applicable substantive criteria shall be subject to judicial review only
9 as provided in ORS 469.403. If the applicant elects to show compliance with the statewide planning
10 goals by demonstrating that the facility has received local land use approval, the provisions of this
11 section shall apply only to proposed projects for which the land use approval by the local govern-
12 ment occurs after the date an application for amendment is submitted to the [*State Department of*
13 *Energy*] **Oregon Climate Authority**.

14 (3) An amendment to a site certificate is not required for a pipeline less than 16 inches in di-
15 ameter and less than five miles in length that is proposed to be constructed to test or maintain an
16 underground gas storage reservoir. If the proposed pipeline will connect to a council certified sur-
17 face facility related to an underground gas storage reservoir or to a council certified gas pipeline,
18 whether the proposed pipeline is to be located inside or outside the site of a council certified facil-
19 ity, the certificate holder must obtain, prior to construction, the approval of the [*department*] **au-**
20 **thority** for the construction, operation and retirement of the proposed pipeline. The [*department*]
21 **authority** shall approve such a proposed pipeline if the pipeline meets applicable council substan-
22 tive standards. Notwithstanding ORS 469.503 (3), the [*department*] **authority** may not review the
23 proposed pipeline for compliance with other state standards. Notwithstanding ORS 469.503 (4), or
24 any council rule addressing compliance with land use standards, the [*department*] **authority** shall
25 not review such a proposed pipeline for compliance with land use requirements. Notwithstanding
26 ORS 469.401 (3), the approval by the [*department*] **authority** of such pipeline shall not bind any state
27 or local agency. The council may adopt appropriate procedural rules for the [*department*] **authority**
28 review. The [*department*] **authority** shall issue an order approving or rejecting the proposed pipe-
29 line. Judicial review of [*a department*] **an authority** order under this section shall be as provided
30 in ORS 469.403.

31 **SECTION 107.** ORS 469.410 is amended to read:

32 469.410. (1) Any applicant for a site certificate for an energy facility shall be deemed to have
33 met all the requirements of ORS [*176.820, 192.338, 192.345, 192.355, 192.690,*] 469.010 to 469.155,
34 469.300 to 469.563, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site
35 certificate shall be issued by the Energy Facility Siting Council for:

36 (a) Any transmission lines for which application has been filed with the federal government and
37 the Public Utility Commission of Oregon prior to July 2, 1975; and

38 (b) Any energy facility under construction on July 2, 1975.

39 (2) Each applicant for a site certificate under this section shall pay the fees required by ORS
40 469.421 (2) to (9), if applicable, and shall execute a site certificate in which the applicant agrees:

41 (a) To abide by the conditions of all licenses, permits and certificates required by the State of
42 Oregon or any subdivision in the state to operate the energy facility and issued prior to July 2, 1975;
43 and

44 (b) On and after July 2, 1975, to abide by the rules of the Director of the [*State Department of*
45 *Energy*] **Oregon Climate Authority** adopted pursuant to [*ORS 469.040 (1)(d)*] **section 4 of this 2019**

1 **Act** and rules of the council adopted pursuant to ORS 469.300 to 469.563, 469.590 to 469.619 and
2 469.930.

3 (3) The council has continuing authority over the site for which the site certificate is issued and
4 may inspect, or direct the [*State Department of Energy*] **Oregon Climate Authority** to inspect, or
5 request another state agency or local government to inspect, the site at any time in order to ensure
6 that the facility is being operated consistently with the terms and conditions of the site certificate
7 and any applicable health or safety standards.

8 (4) The council shall establish programs for monitoring the environmental and ecological effects
9 of the operation and the decommissioning of energy facilities subject to site certificates issued prior
10 to July 2, 1975, to ensure continued compliance with the terms and conditions of the site certificate
11 and any applicable health or safety standards.

12 (5) Site certificates executed by the Governor under ORS 469.400 (1991 Edition) prior to July
13 2, 1975, shall bind successor agencies created hereunder in accordance with the terms of such site
14 certificates. Any holder of a site certificate issued prior to July 2, 1975, shall abide by the rules of
15 the director adopted pursuant to [*ORS 469.040 (1)(d)*] **section 4 of this 2019 Act** and rules of the
16 council adopted pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

17 **SECTION 108.** ORS 469.424 is amended to read:

18 469.424. (1) As used in this section, “energy resource supplier” has the meaning given that term
19 in ORS 469.421.

20 (2)(a) If the [*State Department of Energy*] **Oregon Climate Authority** submits comments or
21 written or oral testimony in a rulemaking, contested case, ratemaking or other proceeding con-
22 ducted by another agency, as defined in ORS 183.310, and if the comment or testimony is about a
23 substantive matter at issue in the proceeding, the [*department*] **authority** shall provide, once for
24 each proceeding, notice to energy resource suppliers as described in this section.

25 (b) If the [*department*] **authority** submits written comments or intervenes in a proceeding con-
26 ducted by a federal agency, the [*department*] **authority** shall provide, once for each proceeding, no-
27 tice to energy resource suppliers as described in this section.

28 (c) This section does not apply to:

29 (A) The [*department’s*] **authority’s** participation in a procedural matter related to a proceeding
30 described in paragraph (a) or (b) of this subsection;

31 (B) The [*department’s*] **authority’s** participation in a federal facility siting proceeding;

32 (C) The [*department’s*] **authority’s** work with the Energy Facility Siting Council;

33 (D) The [*department’s*] **authority’s** work on nuclear safety and emergency preparedness; or

34 (E) Federal judicial or legislative proceedings.

35 (3) The [*department*] **authority** shall create and maintain a list of energy resource suppliers that
36 request to receive notice described in subsection (2) of this section. The [*department*] **authority** may
37 create separate lists for the different types of proceedings.

38 (4) Notice provided under this section may be provided by electronic mail and must include a
39 description of the [*department’s*] **authority’s** interest in the proceeding.

40 (5) Except as provided in subsection (6) of this section, notice must be provided under this sec-
41 tion:

42 (a) No later than seven days before submitting initial comments on a substantive matter at issue
43 in a rulemaking proceeding described in subsection (2)(a) of this section or a proceeding involving
44 the adoption of federal regulations;

45 (b) No later than 15 days before submitting initial comments or written or oral testimony on a

1 substantive matter at issue in a contested case, ratemaking or other proceeding described in sub-
 2 section (2)(a) of this section; or

3 (c) No later than 15 days before submitting initial written comments or written testimony on a
 4 substantive matter at issue in a proceeding conducted by a federal agency other than a proceeding
 5 involving the adoption of federal regulations.

6 (6) If providing notice in accordance with subsection (5) of this section is prejudicial to the
 7 [*department's*] **authority's** ability to participate in a rulemaking, contested case, ratemaking or
 8 other proceeding described in subsection (2) of this section, the [*department*] **authority** may provide
 9 notice as soon as it is practicable to provide notice. If the [*department*] **authority** provides notice
 10 as described in this subsection, the [*department*] **authority** shall include in the notice an explanation
 11 of why providing notice in accordance with subsection (5) of this section is prejudicial to the [*de-*
 12 *partment*] **authority**.

13 (7) The [*department*] **Director of the Oregon Climate Authority** may adopt rules as necessary
 14 to implement this section.

15 **SECTION 109.** ORS 469.430 is amended to read:

16 469.430. (1) The Energy Facility Siting Council has continuing authority over the site for which
 17 the site certificate is issued, including but not limited to the authority to:

18 (a) Inspect, or direct the [*State Department of Energy*] **Oregon Climate Authority** to inspect,
 19 or request another state agency or local government to inspect, the site at any time in order to
 20 ensure that the facility is being operated consistently with the terms and conditions of the site
 21 certificate or any order issued by the [*department*] **authority** under ORS 469.405 (3); and

22 (b) Periodically review documents, reports and other materials, or direct the [*State Department*
 23 *of Energy*] **Oregon Climate Authority** or request another state agency or local government to re-
 24 view documents, reports or other materials, to ensure that the facility continues to comply with all
 25 terms and conditions of the site certificate or any order issued by the [*department*] **authority** under
 26 ORS 469.405 (3).

27 (2) The council shall avoid duplication of effort with site inspections and compliance reviews
 28 by other state and federal agencies and local governments that have issued permits or licenses for
 29 the facility.

30 (3) If the council requests that another state agency or local government conduct a site in-
 31 spection or compliance review under this section, the council may compensate that state agency or
 32 local government for expenses related to the site inspection or compliance review.

33 **SECTION 110.** ORS 469.441 is amended to read:

34 469.441. (1) All expenses incurred by the Energy Facility Siting Council and the [*State Depart-*
 35 *ment of Energy*] **Oregon Climate Authority** under ORS 469.360 and 469.421 that are charged to or
 36 allocated to the fee paid by an applicant or the holder of a site certificate shall be necessary, just
 37 and reasonable. Upon request, the [*department*] **authority** or the council shall provide a detailed
 38 justification for all charges to the applicant or site certificate holder. Not later than January 1 of
 39 each odd-numbered year, the council by order shall establish a schedule of fees which those persons
 40 submitting a notice of intent, a request for an exemption, a request for a pipeline described in ORS
 41 469.405 (3) or a request for an expedited review must submit under ORS 469.421 prior to submitting
 42 the notice of intent, request for exemption, request for pipeline or request for expedited review. The
 43 fee schedule shall be designed to recover the council's actual costs of evaluating the notice of intent,
 44 request for exemption, request for pipeline or request for expedited review subject to any applicable
 45 expenditure limitation in the council's budget. Fees shall be based upon actual, historical costs in-

1 curred by the council and [department] **the authority** to the extent historical costs are available.
 2 The fees established by the schedule shall reflect the size and complexity of the project for which
 3 a notice of intent, request for exemption, request for pipeline or request for expedited review is
 4 submitted, whether the notice of intent, request for exemption, request for pipeline or request for
 5 expedited review is for a new or existing facility and other appropriate variables having an effect
 6 on the expense of evaluation.

7 (2) If a dispute arises regarding the necessity or reasonableness of expenses charged to or allo-
 8 cated to the fee paid by an applicant or site certificate holder, the applicant or holder may seek
 9 judicial review for the amount of expenses charged or allocated in circuit court as provided in ORS
 10 183.480, 183.484, 183.490 and 183.500. If the applicant or holder establishes that any of the charges
 11 or allocations are unnecessary or unreasonable, the council or the [department] **authority** shall re-
 12 fund the amount found to be unnecessary or unreasonable. The applicant or holder shall not waive
 13 the right to judicial review by paying the portion of the fee or expense in dispute.

14 **SECTION 111.** ORS 469.442 is amended to read:

15 469.442. (1) Any person who proposes to construct a transmission line in excess of 230,000 volts
 16 capacity that is not otherwise under the jurisdiction of the Energy Facility Siting Council shall:

17 (a) Give public notice of the proposed action at least six months before beginning any process
 18 to obtain local permits required for the proposed transmission line. Notification shall be given:

19 (A) By publication once a week for four consecutive weeks in a newspaper of general circulation
 20 in the county or counties in which the transmission line is to be constructed; and

21 (B) To the governing bodies and planning directors of cities and counties which are within or
 22 partially within the project study area.

23 (b) Provide an opportunity for public comment on the proposed transmission line and conduct
 24 public meetings to review the proposal.

25 (c) Respond specifically and in writing to local concerns and recommendations regarding the
 26 proposed transmission line.

27 (2) The Director of the [State Department of Energy] **Oregon Climate Authority** shall establish
 28 a committee to include technical experts and members of the public to coordinate public review of
 29 a proposed transmission line under subsection (1) of this section when requested to do so by ordi-
 30 nance or resolution of the affected governing body.

31 (3) At the conclusion of the public review, the committee shall make a summary report to the
 32 affected governing body including public concerns and recommendations concerning the proposed
 33 transmission line.

34 (4) The scope of work and cost of conducting the review shall be negotiated between the [State
 35 Department of Energy] **Oregon Climate Authority** and the project sponsor. The negotiated cost
 36 shall be paid by the project sponsor.

37 (5) Subsections (1) to (4) of this section shall not apply to a person who proposes to construct
 38 transmission lines entirely within 500 feet of an existing corridor occupied by transmission lines
 39 with a capacity in excess of 230,000 volts.

40 **SECTION 112.** ORS 469.450 is amended to read:

41 469.450. (1) There is established in the [State Department of Energy] **Oregon Climate Authority**
 42 an Energy Facility Siting Council, consisting of seven public members, who shall be appointed by
 43 the Governor, subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and
 44 171.565.

45 (2) The term of office of each member is four years, but a member serves at the pleasure of the

1 Governor. Before the expiration of the term of a member, the Governor shall appoint a successor
2 whose term begins on July 1 next following. A member is eligible for reappointment, but no member
3 shall serve more than two full terms. If there is a vacancy for any cause, the Governor shall make
4 an appointment to become immediately effective for the unexpired term.

5 (3) No member of the council shall be an employee, director or retired employee or director of,
6 or a consultant to, or have any pecuniary interest, other than an incidental interest which is dis-
7 closed and made a matter of public record at the time of the appointment to the council, in:

8 (a) Any corporation or utility operating or interested in establishing an energy facility in this
9 state; or

10 (b) Any manufacturer of equipment related to the operation or establishment of an energy fa-
11 cility in this state.

12 (4) No member shall for two years after the expiration of the term of the member accept em-
13 ployment with an owner or operator of an energy facility that is subject to ORS 469.300 to 469.563,
14 469.590 to 469.619, 469.930 and 469.992.

15 (5) Employment of a person in violation of this section shall be grounds for revocation of any
16 license issued by this state or an agency of this state that is held by the owner or operator of the
17 energy facility that employs the person.

18 (6) The [*State Department of Energy*] **Oregon Climate Authority** shall provide clerical and staff
19 support to the council and fund the activities of the council through fees collected under ORS
20 469.421.

21 **SECTION 112a.** ORS 469.470 is amended to read:

22 469.470. The Energy Facility Siting Council shall:

23 (1) Conduct and prepare, independently or in cooperation with others, studies, investigations,
24 research and programs relating to all aspects of site selection.

25 (2) In accordance with the applicable provisions of ORS chapter 183, and subject to the pro-
26 visions of ORS 469.501 (3), adopt standards and rules to perform the functions vested by law in the
27 council including the adoption of standards and rules for the siting of energy facilities pursuant to
28 ORS 469.501, and implementation of the energy policy of the State of Oregon set forth in [*ORS*
29 *469.010 and 469.310*] **section 2 of this 2019 Act and ORS 469.310.**

30 (3) Encourage voluntary cooperation by the people, municipalities, counties, industries, agricul-
31 ture, and other pursuits, in performing the functions vested by law in the council.

32 (4) Advise, consult, and cooperate with other agencies of the state, political subdivisions, in-
33 dustries, other states, the federal government and affected groups, in furtherance of the purposes
34 of ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

35 (5) Consult with the Water Resources Commission on the need for power and other areas within
36 the expertise of the council when the Water Resources Commission is determining whether to allo-
37 cate water for hydroelectric development.

38 (6) Perform such other and further acts as may be necessary, proper or desirable to carry out
39 effectively the duties, powers and responsibilities of the council described in ORS 469.300 to 469.563,
40 469.590 to 469.619, 469.930 and 469.992.

41 **SECTION 112b.** ORS 469.501 is amended to read:

42 469.501. (1) The Energy Facility Siting Council shall adopt standards for the siting, construction,
43 operation and retirement of facilities. The standards may address but need not be limited to the
44 following subjects:

45 (a) The organizational, managerial and technical expertise of the applicant to construct and

1 operate the proposed facility.

2 (b) Seismic hazards.

3 (c) Areas designated for protection by the state or federal government, including but not limited
4 to monuments, wilderness areas, wildlife refuges, scenic waterways and similar areas.

5 (d) The financial ability and qualifications of the applicant.

6 (e) Effects of the facility, taking into account mitigation, on fish and wildlife, including threat-
7 ened and endangered fish, wildlife or plant species.

8 (f) Impacts of the facility on historic, cultural or archaeological resources listed on, or deter-
9 mined by the State Historic Preservation Officer to be eligible for listing on, the National Register
10 of Historic Places or the Oregon State Register of Historic Properties.

11 (g) Protection of public health and safety, including necessary safety devices and procedures.

12 (h) The accumulation, storage, disposal and transportation of nuclear waste.

13 (i) Impacts of the facility on recreation, scenic and aesthetic values.

14 (j) Reduction of solid waste and wastewater generation to the extent reasonably practicable.

15 (k) Ability of the communities in the affected area to provide sewers and sewage treatment,
16 water, storm water drainage, solid waste management, housing, traffic safety, police and fire pro-
17 tection, health care and schools.

18 (L) The need for proposed nongenerating facilities as defined in ORS 469.503, consistent with the
19 state energy policy set forth in [ORS 469.010 and 469.310] **section 2 of this 2019 Act and ORS**
20 **469.310**. The council may consider least-cost plans when adopting a need standard or in determining
21 whether an applicable need standard has been met. The council shall not adopt a standard requiring
22 a showing of need or cost-effectiveness for generating facilities as defined in ORS 469.503.

23 (m) Compliance with the statewide planning goals adopted by the Land Conservation and De-
24 velopment Commission as specified by ORS 469.503.

25 (n) Soil protection.

26 (o) For energy facilities that emit carbon dioxide, the impacts of those emissions on climate
27 change. For fossil-fueled power plants, as defined in ORS 469.503, the council shall apply a standard
28 as provided for by ORS 469.503 (2).

29 (2) The council may adopt exemptions from any need standard adopted under subsection (1)(L)
30 of this section if the exemption is consistent with the state's energy policy set forth in [ORS 469.010
31 and 469.310] **section 2 of this 2019 Act and ORS 469.310**.

32 (3)(a) The council may issue a site certificate for a facility that does not meet one or more of
33 the applicable standards adopted under subsection (1) of this section if the council determines that
34 the overall public benefits of the facility outweigh any adverse effects on a resource or interest
35 protected by the applicable standards the facility does not meet.

36 (b) The council by rule shall specify the criteria by which the council makes the determination
37 described in paragraph (a) of this subsection.

38 (4) Notwithstanding subsection (1) of this section, the council may not impose any standard de-
39 veloped under subsection (1)(b), (f), (j) or (k) of this section to approve or deny an application for
40 an energy facility producing power from wind, solar or geothermal energy. However, the council
41 may, to the extent it determines appropriate, apply any standards adopted under subsection (1)(b),
42 (f), (j) or (k) of this section to impose conditions on any site certificate issued for any energy facility.

43 **SECTION 113.** ORS 469.503 is amended to read:

44 469.503. In order to issue a site certificate, the Energy Facility Siting Council shall determine
45 that the preponderance of the evidence on the record supports the following conclusions:

1 (1) The facility complies with the applicable standards adopted by the council pursuant to ORS
2 469.501 or the overall public benefits of the facility outweigh any adverse effects on a resource or
3 interest protected by the applicable standards the facility does not meet.

4 (2) If the energy facility is a fossil-fueled power plant, the energy facility complies with any
5 applicable carbon dioxide emissions standard adopted by the council or enacted by statute. Base
6 load gas plants shall comply with the standard set forth in subsection (2)(a) of this section. Other
7 fossil-fueled power plants shall comply with any applicable standard adopted by the council by rule
8 pursuant to subsection (2)(b) of this section. Subsections (2)(c) and (d) of this section prescribe the
9 means by which an applicant may comply with the applicable standard.

10 (a) The net carbon dioxide emissions rate of the proposed base load gas plant shall not exceed
11 0.70 pounds of carbon dioxide emissions per kilowatt hour of net electric power output, with carbon
12 dioxide emissions and net electric power output measured on a new and clean basis.
13 Notwithstanding the foregoing, the council may by rule modify the carbon dioxide emissions stand-
14 ard for base load gas plants if the council finds that the most efficient stand-alone combined cycle,
15 combustion turbine, natural gas-fired energy facility that is commercially demonstrated and operat-
16 ing in the United States has a net heat rate of less than 7,200 Btu per kilowatt hour higher heating
17 value adjusted to ISO conditions. In modifying the carbon dioxide emission standard, the council
18 shall determine the rate of carbon dioxide emissions per kilowatt hour of net electric output of such
19 energy facility, adjusted to ISO conditions, and reset the carbon dioxide emissions standard at 17
20 percent below this rate.

21 (b) The council shall adopt carbon dioxide emissions standards for other types of fossil-fueled
22 power plants. Such carbon dioxide emissions standards shall be promulgated by rule. In adopting
23 or amending such carbon dioxide emissions standards, the council shall consider and balance at
24 least the following principles, the findings on which shall be contained in the rulemaking record:

25 (A) Promote facility fuel efficiency;

26 (B) Promote efficiency in the resource mix;

27 (C) Reduce net carbon dioxide emissions;

28 (D) Promote cogeneration that reduces net carbon dioxide emissions;

29 (E) Promote innovative technologies and creative approaches to mitigating, reducing or avoiding
30 carbon dioxide emissions;

31 (F) Minimize transaction costs;

32 (G) Include an alternative process that separates decisions on the form and implementation of
33 offsets from the final decision on granting a site certificate;

34 (H) Allow either the applicant or third parties to implement offsets;

35 (I) Be attainable and economically achievable for various types of power plants;

36 (J) Promote public participation in the selection and review of offsets;

37 (K) Promote prompt implementation of offset projects;

38 (L) Provide for monitoring and evaluation of the performance of offsets; and

39 (M) Promote reliability of the regional electric system.

40 (c) The council shall determine whether the applicable carbon dioxide emissions standard is met
41 by first determining the gross carbon dioxide emissions that are reasonably likely to result from the
42 operation of the proposed energy facility. Such determination shall be based on the proposed design
43 of the energy facility. The council shall adopt site certificate conditions to ensure that the predicted
44 carbon dioxide emissions are not exceeded on a new and clean basis. For any remaining emissions
45 reduction necessary to meet the applicable standard, the applicant may elect to use any of subpar-

1 agragraphs (A) to (D) of this paragraph, or any combination thereof. The council shall determine the
2 amount of carbon dioxide or other greenhouse gas emissions reduction that is reasonably likely to
3 result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the
4 applicable carbon dioxide emissions standard. For purposes of determining the net carbon dioxide
5 emissions, the council shall by rule establish the global warming potential of each greenhouse gas
6 based on a generally accepted scientific method, and convert any greenhouse gas emissions to a
7 carbon dioxide equivalent. Unless otherwise provided by the council by rule, the global warming
8 potential of methane is 23 times that of carbon dioxide, and the global warming potential of nitrous
9 oxide is 296 times that of carbon dioxide. If the council or a court on judicial review concludes that
10 the applicant has not demonstrated compliance with the applicable carbon dioxide emissions stand-
11 ard under subparagraphs (A), (B) or (D) of this paragraph, or any combination thereof, and the ap-
12 plicant has agreed to meet the requirements of subparagraph (C) of this paragraph for any
13 deficiency, the council or a court shall find compliance based on such agreement.

14 (A) The facility will sequentially produce electrical and thermal energy from the same fuel
15 source, and the thermal energy will be used to displace another source of carbon dioxide emissions
16 that would have otherwise continued to occur, in which case the council shall adopt site certificate
17 conditions ensuring that the carbon dioxide emissions reduction will be achieved.

18 (B) The applicant or a third party will implement particular offsets, in which case the council
19 may adopt site certificate conditions ensuring that the proposed offsets are implemented but shall
20 not require that predicted levels of avoidance, displacement or sequestration of greenhouse gas
21 emissions be achieved. The council shall determine the quantity of greenhouse gas emissions re-
22 duction that is reasonably likely to result from each of the proposed offsets based on the criteria in
23 sub-subparagraphs (i) to (iii) of this subparagraph. In making this determination, the council shall
24 not allow credit for offsets that have already been allocated or awarded credit for greenhouse gas
25 emissions reduction in another regulatory setting. In addition, the fact that an applicant or other
26 parties involved with an offset may derive benefits from the offset other than the reduction of
27 greenhouse gas emissions is not, by itself, a basis for withholding credit for an offset.

28 (i) The degree of certainty that the predicted quantity of greenhouse gas emissions reduction
29 will be achieved by the offset;

30 (ii) The ability of the council to determine the actual quantity of greenhouse gas emissions re-
31 duction resulting from the offset, taking into consideration any proposed measurement, monitoring
32 and evaluation of mitigation measure performance; and

33 (iii) The extent to which the reduction of greenhouse gas emissions would occur in the absence
34 of the offsets.

35 (C) The applicant or a third party agrees to provide funds in an amount deemed sufficient to
36 produce the reduction in greenhouse gas emissions necessary to meet the applicable carbon dioxide
37 emissions standard, in which case the funds shall be used as specified in paragraph (d) of this sub-
38 section. Unless modified by the council as provided below, the payment of 57 cents shall be deemed
39 to result in a reduction of one ton of carbon dioxide emissions. The council shall determine the
40 offset funds using the monetary offset rate and the level of emissions reduction required to meet the
41 applicable standard. If a site certificate is approved based on this subparagraph, the council may
42 not adjust the amount of such offset funds based on the actual performance of offsets. After three
43 years from June 26, 1997, the council may by rule increase or decrease the monetary offset rate of
44 57 cents per ton of carbon dioxide emissions. Any change to the monetary offset rate shall be based
45 on empirical evidence of the cost of offsets and the council's finding that the standard will be eco-

1 nometrically achievable with the modified rate for natural gas-fired power plants. Following the initial
2 three-year period, the council may increase or decrease the monetary offset rate no more than 50
3 percent in any two-year period.

4 (D) Any other means that the council adopts by rule for demonstrating compliance with any
5 applicable carbon dioxide emissions standard.

6 (d) If the applicant elects to meet the applicable carbon dioxide emissions standard in whole or
7 in part under paragraph (c)(C) of this subsection, the applicant shall identify the qualified organ-
8 ization. The applicant may identify an organization that has applied for, but has not received, an
9 exemption from federal income taxation, but the council may not find that the organization is a
10 qualified organization unless the organization is exempt from federal taxation under section 501(c)(3)
11 of the Internal Revenue Code as amended and in effect on December 31, 1996. The site certificate
12 holder shall provide a bond or comparable security in a form reasonably acceptable to the council
13 to ensure the payment of the offset funds and the amount required under subparagraph (A)(ii) of this
14 paragraph. Such security shall be provided by the date specified in the site certificate, which shall
15 be no later than the commencement of construction of the facility. The site certificate shall require
16 that the offset funds be disbursed as specified in subparagraph (A) of this paragraph, unless the
17 council finds that no qualified organization exists, in which case the site certificate shall require
18 that the offset funds be disbursed as specified in subparagraph (B) of this paragraph.

19 (A) The site certificate holder shall disburse the offset funds and any other funds required by
20 sub-subparagraph (ii) of this subparagraph to the qualified organization as follows:

21 (i) When the site certificate holder receives written notice from the qualified organization cer-
22 tifying that the qualified organization is contractually obligated to pay any funds to implement off-
23 sets using the offset funds, the site certificate holder shall make the requested amount available to
24 the qualified organization unless the total of the amount requested and any amounts previously re-
25 quested exceeds the offset funds, in which case only the remaining amount of the offset funds shall
26 be made available. The qualified organization shall use at least 80 percent of the offset funds for
27 contracts to implement offsets. The qualified organization shall assess offsets for their potential to
28 qualify in, generate credits in or reduce obligations in other regulatory settings. The qualified or-
29 ganization may use up to 20 percent of the offset funds for monitoring, evaluation, administration
30 and enforcement of contracts to implement offsets.

31 (ii) At the request of the qualified organization and in addition to the offset funds, the site cer-
32 tificate holder shall pay the qualified organization an amount equal to 10 percent of the first
33 \$500,000 of the offset funds and 4.286 percent of any offset funds in excess of \$500,000. This amount
34 shall not be less than \$50,000 unless a lesser amount is specified in the site certificate. This amount
35 compensates the qualified organization for its costs of selecting offsets and contracting for the im-
36 plementation of offsets.

37 (iii) Notwithstanding any provision to the contrary, a site certificate holder subject to this sub-
38 paragraph shall have no obligation with regard to offsets, the offset funds or the funds required by
39 sub-subparagraph (ii) of this subparagraph other than to make available to the qualified organization
40 the total amount required under paragraph (c) of this subsection and sub-subparagraph (ii) of this
41 subparagraph, nor shall any nonperformance, negligence or misconduct on the part of the qualified
42 organization be a basis for revocation of the site certificate or any other enforcement action by the
43 council with respect to the site certificate holder.

44 (B) If the council finds there is no qualified organization, the site certificate holder shall select
45 one or more offsets to be implemented pursuant to criteria established by the council. The site cer-

1 tificate holder shall give written notice of its selections to the council and to any person requesting
 2 notice. On petition by the [*State Department of Energy*] **Oregon Climate Authority**, or by any per-
 3 son adversely affected or aggrieved by the site certificate holder's selection of offsets, or on the
 4 council's own motion, the council may review such selection. The petition must be received by the
 5 council within 30 days of the date the notice of selection is placed in the United States mail, with
 6 first-class postage prepaid. The council shall approve the site certificate holder's selection unless it
 7 finds that the selection is not consistent with criteria established by the council. The site certificate
 8 holder shall contract to implement the selected offsets within 18 months after commencing con-
 9 struction of the facility unless good cause is shown requiring additional time. The contracts shall
 10 obligate the expenditure of at least 85 percent of the offset funds for the implementation of offsets.
 11 No more than 15 percent of the offset funds may be spent on monitoring, evaluation and enforcement
 12 of the contract to implement the selected offsets. The council's criteria for selection of offsets shall
 13 be based on the criteria set forth in paragraphs (b)(C) and (c)(B) of this subsection and may also
 14 consider the costs of particular types of offsets in relation to the expected benefits of such offsets.
 15 The council's criteria shall not require the site certificate holder to select particular offsets, and
 16 shall allow the site certificate holder a reasonable range of choices in selecting offsets. In addition,
 17 notwithstanding any other provision of this section, the site certificate holder's financial liability for
 18 implementation, monitoring, evaluation and enforcement of offsets pursuant to this subsection shall
 19 be limited to the amount of any offset funds not already contractually obligated. Nonperformance,
 20 negligence or misconduct by the entity or entities implementing, monitoring or evaluating the se-
 21 lected offset shall not be a basis for revocation of the site certificate or any other enforcement
 22 action by the council with respect to the site certificate holder.

23 (C) Every qualified organization that has received funds under this paragraph shall, at five-year
 24 intervals beginning on the date of receipt of such funds, provide the council with the information
 25 the council requests about the qualified organization's performance. The council shall evaluate the
 26 information requested and, based on such information, shall make any recommendations to the
 27 Legislative Assembly that the council deems appropriate.

28 (e) As used in this subsection:

29 (A) "Adjusted to ISO conditions" means carbon dioxide emissions and net electric power output
 30 as determined at 59 degrees Fahrenheit, 14.7 pounds per square inch atmospheric pressure and 60
 31 percent humidity.

32 (B) "Base load gas plant" means a generating facility that is fueled by natural gas, except for
 33 periods during which an alternative fuel may be used and when such alternative fuel use shall not
 34 exceed 10 percent of expected fuel use in Btu, higher heating value, on an average annual basis, and
 35 where the applicant requests and the council adopts no condition in the site certificate for the
 36 generating facility that would limit hours of operation other than restrictions on the use of alter-
 37 native fuel. The council shall assume a 100 percent capacity factor for such plants and a 30-year
 38 life for the plants for purposes of determining gross carbon dioxide emissions.

39 (C) "Carbon dioxide equivalent" means the global warming potential of a greenhouse gas re-
 40 flected in units of carbon dioxide.

41 (D) "Fossil-fueled power plant" means a generating facility that produces electric power from
 42 natural gas, petroleum, coal or any form of solid, liquid or gaseous fuel derived from such material.

43 (E) "Generating facility" means those energy facilities that are defined in ORS 469.300
 44 [(11)(a)(A)] **(9)(a)(A)**, (B) and (D).

45 (F) "Global warming potential" means the determination of the atmospheric warming resulting

1 from the release of a unit mass of a particular greenhouse gas in relation to the warming resulting
2 from the release of the equivalent mass of carbon dioxide.

3 (G) "Greenhouse gas" means carbon dioxide, methane and nitrous oxide.

4 (H) "Gross carbon dioxide emissions" means the predicted carbon dioxide emissions of the pro-
5 posed energy facility measured on a new and clean basis.

6 (I) "Net carbon dioxide emissions" means gross carbon dioxide emissions of the proposed energy
7 facility, less carbon dioxide or other greenhouse gas emissions avoided, displaced or sequestered by
8 any combination of cogeneration or offsets.

9 (J) "New and clean basis" means the average carbon dioxide emissions rate per hour and net
10 electric power output of the energy facility, without degradation, as determined by a 100-hour test
11 at full power completed during the first 12 months of commercial operation of the energy facility,
12 with the results adjusted for the average annual site condition for temperature, barometric pressure
13 and relative humidity and use of alternative fuels, and using a rate of 117 pounds of carbon dioxide
14 per million Btu of natural gas fuel and a rate of 161 pounds of carbon dioxide per million Btu of
15 distillate fuel, if such fuel use is proposed by the applicant. The council may by rule adjust the rate
16 of pounds of carbon dioxide per million Btu for natural gas or distillate fuel. The council may by
17 rule set carbon dioxide emissions rates for other fuels.

18 (K) "Nongenerating facility" means those energy facilities that are defined in ORS 469.300
19 [(11)(a)(C)] **(9)(a)(C)** and (E) to (I).

20 (L) "Offset" means an action that will be implemented by the applicant, a third party or through
21 the qualified organization to avoid, sequester or displace emissions.

22 (M) "Offset funds" means the amount of funds determined by the council to satisfy the applicable
23 carbon dioxide emissions standard pursuant to paragraph (c)(C) of this subsection.

24 (N) "Qualified organization" means an entity that:

25 (i) Is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code as
26 amended and in effect on December 31, 1996;

27 (ii) Either is incorporated in the State of Oregon or is a foreign corporation authorized to do
28 business in the State of Oregon;

29 (iii) Has in effect articles of incorporation that require that offset funds received pursuant to
30 this section are used for offsets that require that decisions on the use of the offset funds are made
31 by a decision-making body composed of seven voting members of which three are appointed by the
32 council, three are Oregon residents appointed by the Bullitt Foundation or an alternative environ-
33 mental nonprofit organization named by the body, and one is appointed by the applicants for site
34 certificates that are subject to paragraph (d) of this subsection and the holders of such site certif-
35 icates, and that require nonvoting membership on the body for holders of site certificates that have
36 provided funds not yet disbursed under paragraph (d)(A) of this subsection;

37 (iv) Has made available on an annual basis, beginning after the first year of operation, a signed
38 opinion of an independent certified public accountant stating that the qualified organization's use
39 of funds pursuant to this statute conforms with generally accepted accounting procedures except
40 that the qualified organization shall have one year to conform with generally accepted accounting
41 principles in the event of a nonconforming audit;

42 (v) Has to the extent applicable, except for good cause, entered into contracts obligating at least
43 60 percent of the offset funds to implement offsets within two years after the commencement of
44 construction of the facility; and

45 (vi) Has to the extent applicable, except for good cause, complied with paragraph (d)(A)(i) of this

1 subsection.

2 (3) Except as provided in ORS 469.504 for land use compliance and except for those statutes and
3 rules for which the decision on compliance has been delegated by the federal government to a state
4 agency other than the council, the facility complies with all other Oregon statutes and administra-
5 tive rules identified in the project order, as amended, as applicable to the issuance of a site certif-
6 icate for the proposed facility. If compliance with applicable Oregon statutes and administrative
7 rules, other than those involving federally delegated programs, would result in conflicting conditions
8 in the site certificate, the council may resolve the conflict consistent with the public interest. A
9 resolution may not result in the waiver of any applicable state statute.

10 (4) The facility complies with the statewide planning goals adopted by the Land Conservation
11 and Development Commission.

12 **SECTION 114.** ORS 469.504 is amended to read:

13 469.504. (1) A proposed facility shall be found in compliance with the statewide planning goals
14 under ORS 469.503 (4) if:

15 (a) The facility has received local land use approval under the acknowledged comprehensive
16 plan and land use regulations of the affected local government; or

17 (b) The Energy Facility Siting Council determines that:

18 (A) The facility complies with applicable substantive criteria from the affected local
19 government's acknowledged comprehensive plan and land use regulations that are required by the
20 statewide planning goals and in effect on the date the application is submitted, and with any Land
21 Conservation and Development Commission administrative rules and goals and any land use statutes
22 that apply directly to the facility under ORS 197.646;

23 (B) For an energy facility or a related or supporting facility that must be evaluated against the
24 applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility
25 does not comply with one or more of the applicable substantive criteria but does otherwise comply
26 with the applicable statewide planning goals, or that an exception to any applicable statewide
27 planning goal is justified under subsection (2) of this section; or

28 (C) For a facility that the council elects to evaluate against the statewide planning goals pur-
29 suant to subsection (5) of this section, that the proposed facility complies with the applicable state-
30 wide planning goals or that an exception to any applicable statewide planning goal is justified under
31 subsection (2) of this section.

32 (2) The council may find goal compliance for a facility that does not otherwise comply with one
33 or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding
34 the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process
35 or any rules of the Land Conservation and Development Commission pertaining to an exception
36 process goal, the council may take an exception to a goal if the council finds:

37 (a) The land subject to the exception is physically developed to the extent that the land is no
38 longer available for uses allowed by the applicable goal;

39 (b) The land subject to the exception is irrevocably committed as described by the rules of the
40 Land Conservation and Development Commission to uses not allowed by the applicable goal because
41 existing adjacent uses and other relevant factors make uses allowed by the applicable goal imprac-
42 ticable; or

43 (c) The following standards are met:

44 (A) Reasons justify why the state policy embodied in the applicable goal should not apply;

45 (B) The significant environmental, economic, social and energy consequences anticipated as a

1 result of the proposed facility have been identified and adverse impacts will be mitigated in ac-
 2 cordance with rules of the council applicable to the siting of the proposed facility; and

3 (C) The proposed facility is compatible with other adjacent uses or will be made compatible
 4 through measures designed to reduce adverse impacts.

5 (3) If compliance with applicable substantive local criteria and applicable statutes and state
 6 administrative rules would result in conflicting conditions in the site certificate or amended site
 7 certificate, the council shall resolve the conflict consistent with the public interest. A resolution
 8 may not result in a waiver of any applicable state statute.

9 (4) An applicant for a site certificate shall elect whether to demonstrate compliance with the
 10 statewide planning goals under subsection (1)(a) or (b) of this section. The applicant shall make the
 11 election on or before the date specified by the council by rule.

12 (5) Upon request by the [*State Department of Energy*] **Oregon Climate Authority**, the special
 13 advisory group established under ORS 469.480 shall recommend to the council, within the time
 14 stated in the request, the applicable substantive criteria under subsection (1)(b)(A) of this section.
 15 If the special advisory group does not recommend applicable substantive criteria within the time
 16 established in the [*department's*] **authority's** request, the council may either determine and apply
 17 the applicable substantive criteria under subsection (1)(b) of this section or determine compliance
 18 with the statewide planning goals under subsection (1)(b)(B) or (C) of this section. If the special
 19 advisory group recommends applicable substantive criteria for an energy facility described in ORS
 20 469.300 or a related or supporting facility that does not pass through more than one local govern-
 21 ment jurisdiction or more than three zones in any one jurisdiction, the council shall apply the cri-
 22 teria recommended by the special advisory group. If the special advisory group recommends
 23 applicable substantive criteria for an energy facility as defined in ORS 469.300 [(11)(a)(C)] **(9)(a)(C)**
 24 to (E) or a related or supporting facility that passes through more than one jurisdiction or more
 25 than three zones in any one jurisdiction, the council shall review the recommended criteria and
 26 determine whether to evaluate the proposed facility against the applicable substantive criteria re-
 27 commended by the special advisory group, against the statewide planning goals or against a combi-
 28 nation of the applicable substantive criteria and statewide planning goals. In making its
 29 determination, the council shall consult with the special advisory group and shall consider:

30 (a) The number of jurisdictions and zones in question;

31 (b) The degree to which the applicable substantive criteria reflect local government consider-
 32 ation of energy facilities in the planning process; and

33 (c) The level of consistency of the applicable substantive criteria from the various zones and
 34 jurisdictions.

35 (6) The council is not subject to ORS 197.180 and a state agency may not require an applicant
 36 for a site certificate to comply with any rules or programs adopted under ORS 197.180.

37 (7) On or before its next periodic review, each affected local government shall amend its com-
 38 prehensive plan and land use regulations as necessary to reflect the decision of the council per-
 39 taining to a site certificate or amended site certificate.

40 (8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law, the affected local
 41 government's land use approval of a proposed facility under subsection (1)(a) of this section and the
 42 special advisory group's recommendation of applicable substantive criteria under subsection (5) of
 43 this section shall be subject to judicial review only as provided in ORS 469.403. If the applicant
 44 elects to comply with subsection (1)(a) of this section, the provisions of this subsection shall apply
 45 only to proposed projects for which the land use approval of the local government occurs after the

1 date a notice of intent or an application for expedited processing is submitted to the [*State Depart-*
2 *ment of Energy*] **Oregon Climate Authority**.

3 (9) The [*State Department of Energy*] **Oregon Climate Authority**, in cooperation with other
4 state agencies, shall provide, to the extent possible, technical assistance and information about the
5 siting process to local governments that request such assistance or that anticipate having a facility
6 proposed in their jurisdiction.

7 **SECTION 115.** ORS 469.507 is amended to read:

8 469.507. (1) The site certificate holder shall establish programs for monitoring the environmental
9 and ecological effects of the construction and operation of facilities subject to site certificates to
10 assure continued compliance with the terms and conditions of the certificate. The programs shall
11 be subject to review and approval by the Energy Facility Siting Council.

12 (2) The site certificate holder shall perform the testing and sampling necessary for the moni-
13 toring program or require the operator of the plant to perform the necessary testing or sampling
14 pursuant to guidelines established by the Energy Facility Siting Council or its designee. The council
15 and the Director of the [*State Department of Energy*] **Oregon Climate Authority** shall have access
16 to operating logs, records and reprints of the certificate holder, including those required by federal
17 agencies.

18 (3) The monitoring program may be conducted in cooperation with any federally operated pro-
19 gram if the information available from the federal program is acceptable to the council, but no fed-
20 eral program shall be substituted totally for monitoring supervised by the council or its designee.

21 (4) The monitoring program shall include monitoring of the transportation process for all ra-
22 dioactive material removed from any nuclear fueled thermal power plant or nuclear installation.

23 **SECTION 116.** ORS 469.520 is amended to read:

24 469.520. (1) Each state agency and political subdivision in this state that is concerned with en-
25 ergy facilities shall inform the [*State Department of Energy,*] **Oregon Climate Authority** promptly
26 of its activities and programs relating to energy and radiation.

27 (2) Each state agency proposing to adopt, amend or rescind a rule relating to energy facility
28 development first shall file a copy of its proposal with the **Energy Facility Siting** Council, which
29 may order such changes as it considers necessary to conform to state policy as stated in [*ORS*
30 *469.010 and 469.310*] **section 2 of this 2019 Act and ORS 469.310**.

31 (3) The effective date of a rule relating to energy facility development, or an amendment or
32 rescission thereof, shall not be sooner than 10 days subsequent to the filing of a copy of such pro-
33 posal with the council.

34 **SECTION 117.** ORS 469.530 is amended to read:

35 469.530. The Energy Facility Siting Council and the Director of the [*State Department of*
36 *Energy*] **Oregon Climate Authority** shall review and approve all security programs attendant to a
37 nuclear-fueled thermal power plant, a nuclear installation and the transportation of radioactive ma-
38 terial derived from or destined for a nuclear-fueled thermal power plant or a nuclear installation.
39 The council shall provide reasonable public notice of a meeting of the council held for purposes of
40 such review and approval.

41 **SECTION 118.** ORS 469.533 is amended to read:

42 469.533. Notwithstanding ORS chapter 401, the [*State Department of Energy*] **Director of the**
43 **Oregon Climate Authority** in cooperation with the Oregon Health Authority and the Office of
44 Emergency Management shall establish rules for the protection of health and procedures for the
45 evacuation of people and communities who would be affected by radiation in the event of an acci-

1 dent or a catastrophe in the operation of a nuclear power plant or nuclear installation.

2 **SECTION 119.** ORS 469.534 is amended to read:

3 469.534. Each county in this state that has a nuclear-fueled thermal power plant located within
4 county boundaries and each county within this state that has any portion of its area located within
5 50 miles of a site within this state of a nuclear-fueled thermal power plant shall develop written
6 procedures that are compatible with the rules adopted by the [*State Department of Energy*] **Director**
7 **of the Oregon Climate Authority** under ORS 469.533. The [*department*] **Oregon Climate Author-**
8 **ity** shall review the county procedures to determine whether they are compatible with the rules of
9 the [*department*] **authority**.

10 **SECTION 120.** ORS 469.535 is amended to read:

11 469.535. Notwithstanding ORS chapter 401, when an emergency exists because of an accident
12 or catastrophe in the operation of a nuclear power plant or nuclear installation or in the transpor-
13 tation of radioactive material, the Governor, for the duration of the emergency, may:

14 (1) Assume complete control of all emergency operations in the area affected by the accident
15 or catastrophe, direct all rescue and salvage work and do all things deemed advisable and necessary
16 to alleviate the immediate conditions.

17 (2) Assume control of all police and law enforcement activities in such area, including the ac-
18 tivities of all local police and peace officers.

19 (3) Close all roads and highways in such area to traffic or by order of the Director of the [*State*
20 *Department of Energy*] **Oregon Climate Authority** limit the travel on such roads to such extent as
21 the director deems necessary and expedient.

22 (4) Designate persons to coordinate the work of public and private relief agencies operating in
23 such area and exclude from such area any person or agency refusing to cooperate with other
24 agencies engaged in emergency work.

25 (5) Require the aid and assistance of any state or other public or quasi-public agencies in the
26 performance of duties and work attendant upon the emergency conditions in such area.

27 **SECTION 121.** ORS 469.536 is amended to read:

28 469.536. A public utility which operates a nuclear power plant or nuclear installation shall dis-
29 seminate to the governing bodies of cities and counties that may be affected information approved
30 by the [*State Department of Energy*] **Oregon Climate Authority** which explains rules or procedures
31 adopted under ORS 469.533.

32 **SECTION 122.** ORS 469.540 is amended to read:

33 469.540. (1) In instances where the Director of the [*State Department of Energy*] **Oregon Climate**
34 **Authority** determines either from the monitoring or surveillance of the director that there is danger
35 of violation of a safety standard adopted under ORS 469.501 from the continued operation of a plant
36 or installation, the director may order temporary reductions or curtailment of operations until such
37 time as proper safety precautions can be taken.

38 (2) An order of reduction or curtailment shall be entered only after notice to the thermal power
39 plant or installation and only after a reasonable time, considering the extent of the danger, has been
40 allowed for repairs or other alterations that would bring the plant or installation into conformity
41 with applicable safety standards.

42 (3) The director may order compliance or impose other safety conditions on the transport or
43 disposal of radioactive materials or wastes if the director believes that ORS 469.300 to 469.619 and
44 469.930 or rules adopted pursuant thereto are being violated or are in danger of being violated.

45 **SECTION 123.** ORS 469.550 is amended to read:

1 469.550. (1) Whenever in the judgment of the Director of the [*State Department of Energy*]
 2 **Oregon Climate Authority** from the results of monitoring or surveillance of operation of any
 3 nuclear-fueled thermal power plant or nuclear installation or based upon information from the En-
 4 ergy Facility Siting Council there is cause to believe that there is clear and immediate danger to
 5 the public health and safety from continued operation of the plant or installation, the director shall,
 6 in cooperation with appropriate state and federal agencies, without hearing or prior notice, order
 7 the operation of the plant halted by service of the order on the plant superintendent or other person
 8 charged with the operation thereof. Within 24 hours after such order, the director must appear in
 9 the appropriate circuit court to petition for the relief afforded under ORS 469.563 and may com-
 10 mence proceedings for revocation of the site certificate if grounds therefor exist.

11 (2) Whenever, in the judgment of the director based upon monitoring or surveillance by the di-
 12 rector, or based upon information from the council, there is cause to believe that there is clear and
 13 immediate danger to the public health and safety from the accumulation or storage of radioactive
 14 material located at a nuclear-fueled thermal power plant or a nuclear installation, the director shall
 15 in cooperation with appropriate state and federal agencies, without hearing or prior notice, order
 16 such accumulation, storage, disposal or transportation halted or immediately impose safety pre-
 17 cautions by service of the order on the officer responsible for the accumulation, storage, disposal
 18 or transportation. Within 24 hours after such an order, the director must appear in the appropriate
 19 circuit court to petition for the relief afforded under ORS 469.563.

20 (3)(a) If the director believes there is a clear and immediate danger to public health or safety,
 21 the director shall halt the transportation or disposal of radioactive material or waste.

22 (b) The director shall serve an order to halt the transportation or disposal of radioactive mate-
 23 rial on the person responsible for the transport or disposal. The order may be served without prior
 24 hearing or notice.

25 (c) Within 24 hours after the director serves an order under paragraph (b) of this subsection, the
 26 director shall petition the appropriate circuit court for relief under ORS 469.563.

27 (4) The Governor, in the absence of the director, may issue orders and petition for judicial relief
 28 as provided in this section.

29 **SECTION 124.** ORS 469.559 is amended to read:

30 469.559. (1) Notwithstanding the authority of the Oregon Health Authority pursuant to ORS
 31 453.605 to 453.800 to regulate radiation sources or the requirements of ORS 469.525, the Energy
 32 Facility Siting Council may enter into and carry out cooperative agreements with the Secretary of
 33 Energy pursuant to Title I and the Nuclear Regulatory Commission pursuant to Title II of the
 34 Uranium Mill Tailings Radiation Control Act of 1978, Public Law 95-604, and perform or cause to
 35 be performed any and all acts necessary to be performed by the state, including the acquisition by
 36 condemnation or otherwise, retention and disposition of land or interests therein, in order to im-
 37 plement that Act and rules, standards and guidelines adopted pursuant thereto. The Energy Facility
 38 Siting Council may adopt, amend or repeal rules in accordance with ORS chapter 183 and may re-
 39 ceive and disburse funds in connection with the implementation and administration of this section.

40 (2) The Energy Facility Siting Council and the [*State Department of Energy*] **Oregon Climate**
 41 **Authority** may enter into and carry out cooperative agreements and arrangements with any agency
 42 of the federal government implementing the Comprehensive Environmental Response, Compensation,
 43 and Liability Act, as amended, 42 U.S.C. section 9601 et seq., to clean up wastes and contaminated
 44 material, including overburden, created by uranium mining before June 29, 1989. Any such project
 45 need not obtain a site certificate from the council, but shall nevertheless comply with all applicable,

1 relevant or appropriate state standards including but not limited to those set forth in ORS 469.375
2 and rules adopted by the council and other state agencies to implement such standards.

3 (3) The Governor may do any and all things necessary to implement the requirements of the
4 federal Acts referred to in subsections (1) and (2) of this section.

5 (4) Notwithstanding ORS 469.553, after June 25, 1979, no site certificate is required for the
6 cleanup and disposal of an inactive or abandoned uranium mill tailings site as authorized under
7 subsection (1) of this section and Title I of the Uranium Mill Tailings Radiation Control Act of 1978,
8 Public Law 95-604.

9 **SECTION 125.** ORS 469.560 is amended to read:

10 469.560. (1) Except as provided in subsection (2) of this section and ORS 192.338, 192.345 and
11 192.355, any information filed or submitted pursuant to ORS 469.300 to 469.563, 469.590 to 469.619,
12 469.930 and 469.992 shall be made available for public inspection and copying during regular office
13 hours of the [*State Department of Energy*] **Oregon Climate Authority** at the expense of any person
14 requesting copies.

15 (2) Any information, other than that relating to the public safety, relating to secret process,
16 device, or method of manufacturing or production obtained in the course of inspection, investigation
17 or activities under ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 shall be kept
18 confidential and shall not be made a part of public record of any hearing.

19 **SECTION 126.** ORS 469.561 is amended to read:

20 469.561. (1) A person owning and operating a nuclear power plant in this state under a license
21 issued by the United States Nuclear Regulatory Commission or under a site certificate issued under
22 ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 shall obtain and maintain property
23 insurance in the maximum insurable amount available for each nuclear incident occurring within
24 this state, as required by this section. The insurance shall cover property damage occurring within
25 a nuclear plant and its related or supporting facilities as a result of the nuclear incident.

26 (2) Insurance required under this section does not apply to:

27 (a) Any claim of an employee of a person obtaining insurance under this section, if the claim is
28 made under a state or federal workers' compensation Act and if the employee is employed at the site
29 of and in connection with the nuclear power plant at which the nuclear incident occurred; or

30 (b) Any claim arising out of an act of war.

31 (3) A person obtaining insurance under this section shall maintain insurance for the term of the
32 license issued to the nuclear power plant by the United States Nuclear Regulatory Commission and
33 for any extension of the term, and until all radioactive material has been removed from the nuclear
34 power plant and transportation of the radioactive material from the nuclear power plant has ended.

35 (4) A person obtaining insurance under this section shall file a copy of the insurance policy, any
36 amendment to the policy and any superseding insurance policy with the Director of the [*State De-*
37 *partment of Energy*] **Oregon Climate Authority**.

38 (5) Property insurance required under this section is in addition to and not in lieu of insurance
39 coverage provided under the Price-Anderson Act (42 U.S.C. 2210).

40 (6) Property insurance required by subsections (1) to (5) of this section may include private in-
41 surance, self-insurance, utility industry association self-assurance pooling programs, or a combina-
42 tion of all three.

43 (7) A person may fulfill the requirements for an insurance policy under subsections (1) to (5) of
44 this section by obtaining policies of one or more insurance carriers if the policies together meet the
45 requirements of subsections (1) to (5) of this section.

1 **SECTION 127.** ORS 469.571 is amended to read:

2 469.571. There is created an Oregon Hanford Cleanup Board that shall consist of the following
3 members:

4 (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** or designee;

5 (2) The Water Resources Director or designee;

6 (3) A representative of the Governor;

7 (4) One member representing the Confederated Tribes of the Umatilla Indian Reservation;

8 (5) Ten members of the public, appointed by the Governor, one of whom shall be a representative
9 of a local emergency response organization in eastern Oregon and one of whom shall serve as
10 chairperson; and

11 (6) Three members of the Senate, appointed by the President of the Senate, and three members
12 of the House of Representatives, appointed by the Speaker of the House of Representatives who shall
13 serve as advisory members without vote.

14 **SECTION 128.** ORS 469.594 is amended to read:

15 469.594. (1) Notwithstanding the definition of a “waste disposal facility” under ORS 469.300, no
16 high-level radioactive waste should be stored at the site of a nuclear-fueled thermal power plant
17 after the expiration of the operating license issued to the nuclear power plant by the United States
18 Nuclear Regulatory Commission.

19 (2) Notwithstanding subsection (1) of this section, a person operating a nuclear power plant
20 under a license issued by the United States Nuclear Regulatory Commission shall remain responsible
21 for proper temporary storage of high-level radioactive materials at the site of the nuclear power
22 plant after termination of a license and until such materials are removed from the site for permanent
23 storage.

24 (3) The [*State Department of Energy*] **Oregon Climate Authority** and the operators of nuclear-
25 fueled thermal plants shall pursue agreements with the United States Department of Energy and the
26 United States Nuclear Regulatory Commission to fulfill the provisions of this section.

27 **SECTION 129.** ORS 469.605 is amended to read:

28 469.605. (1) No person shall ship or transport radioactive material identified by the Energy Fa-
29 cility Siting Council by rule as posing a significant hazard to public health and safety or the envi-
30 ronment if improperly transported into or within the State of Oregon without first obtaining a
31 permit from the [*State Department of Energy*] **Oregon Climate Authority**.

32 (2) Such permit shall be issued for a period not to exceed one year and shall be valid for all
33 shipments within that period of time unless specifically limited by permit conditions.

34 (3) Application for a permit under this section shall be made in a form and manner prescribed
35 by the Director of the [*State Department of Energy*] **Oregon Climate Authority** and may include:

36 (a) A description of the kind, quantity and radioactivity of the material to be transported;

37 (b) A description of the route or routes proposed to be taken and the transport schedule;

38 (c) A description of any mode of transportation; and

39 (d) Other information required by the director to evaluate the application.

40 (4) The director shall collect a fee from all applicants for permits under this section in an
41 amount reasonably calculated to provide for the costs to the [*department*] **authority** of performing
42 the duties of the [*department*] **authority** under ORS 469.550 (3), 469.563, 469.603 to 469.619 and
43 469.992. Fees collected under this subsection shall be deposited in the [*State Department of Energy*]
44 **Oregon Climate Authority** Account established under ORS 469.120.

45 (5) The director shall issue a permit only if the application demonstrates that the proposed

1 transportation will comply with all applicable rules adopted under ORS 469.603 to 469.619 and if the
2 proposed route complies with federal law as provided in ORS 469.606.

3 (6) The director may delegate the authority to issue permits for the transportation of radioactive
4 material to the Department of Transportation. In exercising such authority, the Department of
5 Transportation shall comply with the applicable provisions of ORS 469.603 to 469.619 and rules
6 adopted by the director or the Energy Facility Siting Council under ORS 469.603 to 469.619. Permits
7 issued by the Department of Transportation under this subsection shall be enforced according to the
8 provisions of ORS 825.258. The director also may delegate other authority granted under ORS
9 469.605 to 469.619 to other state agencies if the delegation will maintain or enhance the quality of
10 the transportation safety program.

11 **SECTION 130.** ORS 469.606 is amended to read:

12 469.606. (1) Upon receipt of an application required under ORS 469.605 for which radioactive
13 material is proposed to be transported by highway, the [*State Department of Energy*] **Oregon Cli-**
14 **mate Authority** shall confer with the following persons to determine whether the proposed route
15 is safe, and complies with applicable routing requirements of the United States Department of
16 Transportation and the United States Nuclear Regulatory Commission:

17 (a) The Oregon Department of Transportation, or a designee of the Oregon Department of
18 Transportation;

19 (b) The Energy Facility Siting Council, or a designee of the Energy Facility Siting Council; and

20 (c) The Oregon Transportation Commission, or a designee of the Oregon Transportation Com-
21 mission.

22 (2) If, after consultation with the persons set forth in subsection (1) of this section, a determi-
23 nation is made that the proposed route is not the best and safest route for transporting the material,
24 the Director of the [*State Department of Energy*] **Oregon Climate Authority** shall deny the appli-
25 cation except as provided in subsection (3) of this section.

26 (3) If the applicant is prohibited by a statute, rule or other action of an adjacent state or a
27 political subdivision in an adjacent state from using the route that complies with federal law, the
28 director:

29 (a) Shall petition the United States Department of Transportation for an administrative deter-
30 mination of preemption of the ban, pursuant to section 13 of the Hazardous Materials Transportation
31 Uniform Safety Act of 1990, P.L. 101-615.

32 (b) May issue a permit as provided under ORS 469.605 (5) with conditions necessary to ensure
33 safe transport over a route available to the applicant, until the United States Department of
34 Transportation determines whether the prohibition by the other state or political subdivision is
35 preempted.

36 **SECTION 131.** ORS 469.609 is amended to read:

37 469.609. Annually, the Director of the [*State Department of Energy*] **Oregon Climate Authority**
38 shall report to interested state agencies and all local government agencies trained under ORS
39 469.611 on shipment of radioactive material made during the preceding year. The director's report
40 shall include:

41 (1) The type and quantity of material transported;

42 (2) Any mode of transportation used;

43 (3) The route or routes taken; and

44 (4) Any other information at the discretion of the director.

45 **SECTION 132.** ORS 469.611 is amended to read:

1 469.611. Notwithstanding ORS chapter 401:

2 (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** shall coordi-
3 nate emergency preparedness and response with appropriate agencies of government at the local,
4 state and national levels to ensure that the response to a radioactive material transportation acci-
5 dent is swift and appropriate to minimize damage to any person, property or wildlife. This program
6 shall include the preparation of localized plans setting forth agency responsibilities for on-scene re-
7 sponse.

8 (2) The director shall:

9 (a) Apply for federal funds as available to train, equip and maintain an appropriate response
10 capability at the state and local level; and

11 (b) Request all available training and planning materials.

12 (3) The Oregon Health Authority shall maintain a trained and equipped radiation emergency
13 response team available at all times for dispatch to any radiological emergency. Before arrival of
14 the team at the scene of a radiological accident, the director may designate other technical advisors
15 to work with the local response agencies.

16 (4) The **Oregon Health** Authority shall assist the director to ensure that all emergency services
17 organizations along major transport routes for radioactive materials are offered training and re-
18 training in the proper procedures for identifying and dealing with a radiological accident pending
19 the arrival of persons with technical expertise. The **Oregon Health** Authority shall report annually
20 to the director on training of emergency response personnel.

21 **SECTION 133.** ORS 469.613 is amended to read:

22 469.613. (1) Any person obtaining a permit under ORS 469.605 shall establish and maintain any
23 records, make any reports and provide any information as the Energy Facility Siting Council may
24 by rule or order require to assure compliance with the conditions of the permit or other rules af-
25 fecting the transportation of radioactive materials and submit the reports and make the records and
26 information available at the request of the Director of the [*State Department of Energy*] **Oregon**
27 **Climate Authority**. Any requirement imposed by the council under this subsection shall be con-
28 sistent with regulations of the United States Department of Transportation and the United States
29 Nuclear Regulatory Commission.

30 (2) The director may authorize any employee or agent of the director to enter upon, inspect and
31 examine, at reasonable times and in a reasonable manner for the purpose of administration or
32 enforcement of the provisions of ORS 469.550, 469.563, 469.603 to 469.619 and 469.992 or rules
33 adopted thereunder, the records and property of persons within this state who have applied for
34 permits under ORS 469.605.

35 (3) The director shall provide for:

36 (a) The inspection of each highway route controlled shipment prior to or upon entry of the
37 shipment into this state or at the point of origin for the transportation of highway route controlled
38 shipments within the state; and

39 (b) Inspection of a representative sample of shipments containing material required to bear a
40 radioactive placard as specified by federal regulations.

41 **SECTION 134.** ORS 469.615 is amended to read:

42 469.615. (1) A person transporting radioactive materials in this state shall indemnify the State
43 of Oregon and its political subdivisions and agents for any claims arising from the release of radio-
44 active material during that transportation and pay for the cost of response to an accident involving
45 the radioactive material.

1 (2) With respect to radioactive materials, the Director of the [*State Department of Energy*]
2 **Oregon Climate Authority** shall ascertain and certify that insurance coverage required under 42
3 U.S.C. 2210 is in force and effect at the time the permit is issued under ORS 469.605.

4 (3) A person who owns, designs or maintains facilities, structures, vehicles or equipment used
5 for handling, transportation, shipment, storage or disposal of nuclear material shall reimburse the
6 state for all expenses reasonably incurred by the state or a political subdivision of the state, in
7 protecting the public health and safety and the environment from a nuclear incident or the imminent
8 danger of a nuclear incident caused by the person's acts or omissions. These expenses include but
9 need not be limited to, costs incurred for precautionary evacuations, emergency response measures
10 and decontamination or other cleanup measures. As used in this subsection "nuclear incident" has
11 the meaning given that term in 42 U.S.C. 2014(q).

12 (4) Nothing in subsection (3) of this section shall affect any provision of subsection (1) or (2) of
13 this section.

14 **SECTION 135.** ORS 469.617 is amended to read:

15 469.617. The Director of the [*State Department of Energy*] **Oregon Climate Authority** shall
16 prepare and submit to the Governor for transmittal to the Legislative Assembly, on or before the
17 beginning of each odd-numbered year regular legislative session, a comprehensive report on the
18 transportation of radioactive material in Oregon and provide an evaluation of the adequacy of the
19 state's emergency response agencies. The report shall include, but need not be limited to:

20 (1) A brief description and compilation of any accidents and casualties involving the transpor-
21 tation of radioactive material in Oregon;

22 (2) An evaluation of the effectiveness of enforcement activities and the degree of compliance
23 with applicable rules;

24 (3) A summary of outstanding problems confronting the [*State Department of Energy*] **Oregon**
25 **Climate Authority** in administering ORS 469.550, 469.563, 469.603 to 469.619 and 469.992; and

26 (4) Such recommendations for additional legislation as the Energy Facility Siting Council con-
27 siders necessary and appropriate.

28 **SECTION 136.** ORS 469.619 is amended to read:

29 469.619. The [*State Department of Energy*] **Oregon Climate Authority** shall maintain and make
30 available copies of all federal regulation and federal code provisions referred to in ORS 469.300,
31 469.550, 469.563, 469.603 to 469.619 and 469.992.

32 **SECTION 137.** ORS 469.651 is amended to read:

33 469.651. Within 30 days after November 1, 1981, each publicly owned utility shall submit to the
34 Director of the [*State Department of Energy*] **Oregon Climate Authority** a residential energy con-
35 servation program that:

36 (1) Makes available to all residential customers of the utility information about:

37 (a) Energy conservation measures; and

38 (b) Energy conservation measure financing available to dwelling owners.

39 (2) Provides within 60 days of a request by a residential customer of the publicly owned utility
40 or a dwelling owner, assistance and technical advice concerning various methods of saving energy
41 in that customer's or dwelling owner's dwelling including, but not limited to, an energy audit of the
42 customer's or dwelling owner's dwelling.

43 (3) Provides financing for cost-effective energy conservation measures at the request of a
44 dwelling owner who occupies the dwelling as a residential customer or rents the dwelling to a ten-
45 ant who is a residential customer. The financing program shall give the dwelling owner a choice

1 between a cash payment and a loan. The dwelling owner may not receive both a cash payment and
2 a loan. Completion of an energy audit of the dwelling offered under the program required by this
3 section or described in ORS 469.685 shall be a condition of eligibility for either a cash payment or
4 a loan. The financing program shall provide:

5 (a) The following minimum levels of assistance:

6 (A) A loan for a dwelling owner with approved credit upon the following terms:

7 (i) A principal amount of up to \$4,000; or

8 (ii) An interest rate that does not exceed six and one-half percent annually[;] and

9 [(iii)] a reasonable repayment period that does not exceed 10 years; and

10 (B) A cash payment to a dwelling owner eligible under ORS 469.657 for the lesser of:

11 (i) Twenty-five percent of the cost of the energy conservation measures provided in the dwelling;

12 or

13 (ii) \$350;

14 (b) That an otherwise eligible dwelling owner may obtain up to \$4,000 in loans or \$350 in cash
15 payments for each dwelling;

16 (c) That there may be up to \$4,000 in loans or \$350 in cash payments for each dwelling;

17 (d) That a change in ownership of a dwelling shall not prevent the new dwelling owner from
18 obtaining a loan or a cash payment for energy conservation measures for the newly acquired
19 dwelling under circumstances including, but not necessarily limited to, when:

20 (A) The new dwelling owner chooses the same financing option chosen by the previous dwelling
21 owner who obtained financing under ORS 469.649 to 469.659; and

22 (B) The amount of the financing is within the limit for that dwelling prescribed in paragraph (c)
23 of this subsection;

24 (e) If the publicly owned utility so determines, that energy conservation measures for any of the
25 following building and improvement activities may not be financed under the financing program:

26 (A) Construction of a new dwelling; or

27 (B) If the construction increases or otherwise changes the living space in the dwelling:

28 (i) An addition or substantial alteration; or

29 (ii) Remodeling; and

30 (f) If the publicly owned utility so determines, that no cash payment shall be allowed or paid for
31 the cost of energy conservation measures provided more than one year before the date of the ap-
32 plication for payment.

33 (4) Provides for verification through a reasonable number of inspections that energy conserva-
34 tion measures financed by the publicly owned utility are installed. The verification provisions of the
35 residential energy conservation program shall further provide that:

36 (a) An installation shall be performed in such a workmanlike manner and with such materials
37 as to satisfy prevailing industry standards; and

38 (b) The publicly owned utility shall provide a post-installation inspection upon the dwelling
39 owner's request.

40 (5) Provides, upon the dwelling owner's request, information relevant to the specific site of a
41 dwelling with access to:

42 (a) Water resources that have hydroelectric potential;

43 (b) Wind, which means the natural movement of air at an annual average speed of at least eight
44 miles an hour; or

45 (c) A resource area known to have geothermal space-heating potential.

1 (6) Provides that the publicly owned utility will mail to a dwelling owner an offer to provide
2 energy conservation measures in accordance with ORS 469.649 to 469.659 when a tenant who is the
3 residential customer:

4 (a) Requests that the offer be mailed to the dwelling owner; and

5 (b) Furnishes the dwelling owner's name and address with the request.

6 **SECTION 138.** ORS 469.659 is amended to read:

7 469.659. After the publicly owned utility has submitted to the Director of the [*State Department*
8 *of Energy*] **Oregon Climate Authority** the residential energy conservation program required by
9 ORS 469.651, the publicly owned utility promptly shall implement that program.

10 **SECTION 139.** ORS 469.700 is amended to read:

11 469.700. (1) The Residential and Manufactured Structures Board or the Construction Industry
12 Energy Board, after public hearing and subject to the approval of the Director of the Department
13 of Consumer and Business Services, shall adopt a recommended voluntary energy efficiency rating
14 system for single family residences and provide the [*State Department of Energy*] **Oregon Climate**
15 **Authority** with a copy thereof.

16 (2) The rating system shall provide a single numerical value or other simple concise means to
17 measure the energy efficiency of any single family residence, taking into account factors including,
18 but not limited to, the heat loss characteristics of ceilings, walls, floors, windows, doors and heating
19 ducts.

20 (3) Upon adoption of the rating system under subsections (1) and (2) of this section, the [*de-*
21 *partment*] **authority** shall publicize the availability of the system, and encourage its voluntary use
22 in real estate transactions.

23 (4) As used in subsections (1) to (3) of this section, "single family residence" means a structure
24 designed as a residence for one family and sharing no common wall with another residence of any
25 type.

26 **SECTION 140.** ORS 469.703 is amended to read:

27 469.703. (1) As used in this section:

28 (a) "Home energy assessor" has the meaning given that term in ORS 701.527.

29 (b) "Home energy audit" means the evaluation or testing of components or systems in a resi-
30 dential building for the purpose of identifying options for increasing energy conservation and energy
31 efficiency.

32 (c) "Home energy performance score" has the meaning given that term in ORS 701.527.

33 (2) In consultation with the Public Utility Commission, the [*State Department of Energy*] **Direc-**
34 **tor of the Oregon Climate Authority** shall adopt by rule a home energy performance score system
35 by which a person may assign a residential building a home energy performance score for the pur-
36 pose of evaluating the energy conservation and energy efficiency of the building.

37 (3) The [*department*] **director** shall designate by rule programs for the training of home energy
38 assessors. Programs designated by the [*department*] **director** under this subsection must ensure
39 competency in conducting home energy audits and assigning home energy performance scores.

40 (4) Subject to subsection (5) of this section, the [*department*] **director** may adopt by rule re-
41 quirements under which home energy assessors who are certified under ORS 701.532 must report to
42 the [*department*] **Oregon Climate Authority** the home energy performance scores assigned by the
43 home energy assessors. The [*department*] **authority** shall keep and maintain a database of infor-
44 mation reported to the [*department*] **authority** under this subsection.

45 (5) Rules adopted under subsection (4) of this section may not allow for the reporting of indi-

1 vidual addresses of residential structures or the names of individual homeowners, but may allow for
 2 the reporting of information regarding the jurisdiction in which a residential structure is located
 3 and the utility services provided, any specific energy efficiency features of the residential structure
 4 or other general information that allows the [department] **authority** to make any aggregated evalu-
 5 ations of savings attributable to energy efficiency.

6 **SECTION 141.** ORS 469.717 is amended to read:

7 469.717. (1) Installation of the energy conservation measures must be completed within 90 days
 8 after receipt of loan funds. The [State Department of Energy] **Oregon Climate Authority** may pro-
 9 vide an inspection at the owner's request.

10 (2) Notwithstanding the provisions of subsection (1) of this section, the [department] **authority**
 11 may inspect installation of energy conservation measures to verify that all loan or other state sub-
 12 sidy funds have been used for energy conservation measures recommended in the audit, that instal-
 13 lation has been performed in a workmanlike manner and that materials used satisfy prevailing
 14 industry standards. If requested to do so by the [department] **authority**, the dwelling owner shall
 15 provide the [department] **authority** with copies of receipts and any other documents verifying the
 16 cost of energy conservation measures.

17 **SECTION 142.** ORS 469.720 is amended to read:

18 469.720. (1) A dwelling owner who is or who rents to a residential fuel oil customer, or who is
 19 or who rents to a wood heating resident, may not apply for low-interest financing under ORS 469.710
 20 to 469.720 unless:

21 (a) The dwelling owner, customer or resident has first requested and obtained an energy audit
 22 from [a fuel oil dealer,] a publicly owned utility or an investor-owned utility [or from a person under
 23 contract with the State Department of Energy] under ORS [316.744, 317.111, 317.386, 456.594 to 456.599
 24 and] 469.631 to 469.687;

25 (b) The dwelling owner first submits to the [Department] **Oregon Climate Authority** written
 26 permission to inspect the installations to verify that installation of energy conservation measures
 27 has been made;

28 (c) The dwelling owner presents to the lending institution a copy of the energy audit together
 29 with certification that the dwelling in question receives space heating from fuel oil or wood and a
 30 copy of the written permission to inspect submitted to the [department] **authority** under paragraph
 31 (b) of this subsection; and

32 (d) The dwelling owner does not receive any other state incentives for that part of the cost of
 33 the energy conservation measures to be financed by the loan.

34 (2) Any dwelling owner applying for low-interest financing under ORS 469.710 to 469.720 who is
 35 or who rents to a residential fuel oil customer, or who is or who rents to a wood heating resident,
 36 may use without obtaining a new energy audit any assistance and technical advice obtained from
 37 an energy supplier before November 1, 1981, under chapter 887, Oregon Laws 1977, or from a public
 38 utility under chapter 889, Oregon Laws 1977, including an estimate of cost for installation of
 39 weatherization materials.

40 **SECTION 143.** ORS 469.745 is amended to read:

41 469.745. To provide the public with a guide for energy conservation, the Director of the [State
 42 Department of Energy] **Oregon Climate Authority** shall adopt a program for voluntary compliance
 43 by the public with the standard adopted by the Director of the Department of Consumer and Busi-
 44 ness Services under ORS 469.740.

45 **SECTION 144.** ORS 469.754 is amended to read:

1 469.754. (1) State agencies are authorized to enter into such contractual and other arrangements
 2 as may be necessary or convenient to design, develop, operate and finance projects on-site at state
 3 owned or state rented facilities. In developing such projects, state agencies shall offer a right of first
 4 refusal of two months for conservation and direct use renewable resources and three months for
 5 cogeneration and generating renewable resources to each local utility providing utility service to
 6 the agency to jointly develop, finance, operate and otherwise act together in the development and
 7 operation of such projects. The [*State Department of Energy*] **Director of the Oregon Climate Au-**
 8 **thority** shall adopt rules to establish the procedure by which the right of first refusal shall be ad-
 9 ministered. In adopting the rules, the [*department*] **director** shall insure that the local utility
 10 providing utility service to the state agency is entitled to the first right to negotiate with the state
 11 agency and that the utility is entitled to match any offer made by any other entity to participate in
 12 the project. The [*department*] **director** also shall adopt procedures that insure that the right to first
 13 negotiate and the right to match any offer applies to the sale of electrical or steam output from the
 14 project.

15 (2)(a) For as long as a project established under ORS 469.752 to 469.756 produces savings:

16 (A) A state agency's budget shall not be cut because of savings due to the project; and

17 (B) A state agency shall retain 50 percent of the net savings to the state agency after any
 18 project debt service.

19 (b) Savings from a project shall be deposited in a revolving fund administered by the state
 20 agency.

21 (3) A state agency shall spend the savings under subsection (2) of this section to increase pro-
 22 ductivity through:

23 (a) Energy efficiency projects;

24 (b) High-tech improvements, such as the purchase or installation of new desktop or laptop com-
 25 puters or the linkage of computers into systems or networks; or

26 (c) Infrastructure improvements.

27 (4) The moneys credited to the revolving fund may be invested and reinvested as provided in
 28 ORS 293.701 to 293.790. Notwithstanding ORS 293.105 (3) or any other provision of law, interest or
 29 other earnings on moneys in the revolving fund shall be credited to the revolving fund.

30 (5) The remaining 50 percent of net savings to the state agency after any project debt service
 31 shall be deposited in the General Fund.

32 (6) Nothing in ORS 469.752 to 469.756 authorizes a state agency to sell electricity to an entity
 33 other than an investor owned utility, a publicly owned utility, an electric cooperative utility or the
 34 Bonneville Power Administration.

35 (7) Nothing in ORS 469.752 to 469.756 limits the authority of a state agency conferred by any
 36 other provision of law, or affects any authority, including the authority of a municipality, to regulate
 37 utility service under existing law.

38 **SECTION 145.** ORS 469.756 is amended to read:

39 469.756. The [*State Department of Energy*] **Director of the Oregon Climate Authority** in con-
 40 sultation with other state agencies and utilities shall adopt rules, guidelines and procedures that are
 41 necessary to establish savings for projects and to implement other provisions of ORS 469.752 to
 42 469.756, including, but not limited to, rules prescribing the procedures to be followed by an agency
 43 in negotiating with local utilities to develop agreements suitable for the joint development of
 44 projects, and procedures to determine which local utility, if any, shall be chosen to jointly develop
 45 the project. The [*department*] **Oregon Climate Authority** may enter into agreements under ORS

1 chapter 190 with state agencies to provide technical assistance in selecting appropriate projects and
2 to evaluate and determine energy and cost savings.

3 **SECTION 146.** ORS 469.840 is amended to read:

4 469.840. (1) There is established a Northwest Regional Power and Conservation Account. Mon-
5 eys received pursuant to Public Law 96-501 shall be placed in the account.

6 (2) The account created by subsection (1) of this section is continuously appropriated for dis-
7 bursement to state agencies, including but not limited to the Public Utility Commission, the [*State*
8 *Department of Energy*] **Oregon Climate Authority**, the State Department of Fish and Wildlife and
9 the Water Resources Department to carry out the purposes of Public Law 96-501, subject to legis-
10 lative approval or limitation by law or Emergency Board action.

11 **SECTION 147.** ORS 469.880 is amended to read:

12 469.880. Each publicly owned utility serving Oregon shall, either independently or as part of an
13 association, provide an energy audit program for its commercial customers. The Director of the
14 [*State Department of Energy*] **Oregon Climate Authority** shall adopt rules governing the commer-
15 cial energy audit program established under this section and may provide for coordination among
16 electric utilities and gas utilities that serve the same commercial building.

17 **SECTION 148.** ORS 469.885 is amended to read:

18 469.885. (1) Within 180 days after the adoption of rules by the Director of the [*State Department*
19 *of Energy*] **Oregon Climate Authority** under ORS 469.880, each publicly owned utility shall present
20 for the director's approval a commercial energy audit program that shall, to the director's satisfac-
21 tion:

22 (a) Make information about energy conservation available to any commercial building customer
23 of the publicly owned utility, upon request;

24 (b) Regularly notify all customers in commercial buildings of the availability of the services de-
25 scribed in this section;

26 (c) Provide to any commercial building customer of the publicly owned utility, upon request, an
27 on-site energy audit of the customer's commercial building, including, but not limited to, an estimate
28 of the cost of the energy conservation measures; and

29 (d) Set a reasonable time schedule for effective implementation of the elements set forth in this
30 section.

31 (2) The commercial energy audit program submitted under subsection (1) of this section shall
32 specify whether the publicly owned utility proposes to charge the customer a fee for the energy
33 audit and, if so, the fee amount.

34 **SECTION 149.** ORS 469.890 is amended to read:

35 469.890. (1) [*Within 365 days after November 1, 1981,*] The Director of the [*State Department of*
36 *Energy*] **Oregon Climate Authority** shall adopt rules governing energy conservation programs
37 prescribed by ORS 469.895 and 469.900 (3) and this section and may provide for coordination among
38 electric utilities and gas utilities that serve the same commercial building. Within 180 days of the
39 adoption of rules by the director, each covered publicly owned utility shall present for the director's
40 approval a commercial energy conservation services program that shall, to the director's satisfac-
41 tion:

42 (a) Make information about energy conservation available to all commercial building customers
43 of the covered publicly owned utility, upon request;

44 (b) Regularly notify all customers in commercial buildings of the availability of the services de-
45 scribed in this section; and

1 (c) Provide to any commercial building customer of the covered publicly owned utility, upon
2 request, an on-site energy audit of the customer's commercial building, including, but not limited to,
3 an estimate of the cost of energy conservation measures.

4 (2) The programs submitted and approved under this section shall include a reasonable time
5 schedule for effective implementation of the elements set forth in subsection (1) of this section in
6 the service areas of the covered publicly owned utility.

7 (3) The commercial energy conservation services program submitted under subsections (1) and
8 (2) of this section shall specify whether the covered publicly owned utility proposes to charge the
9 customer a fee for the energy audit and, if so, the fee amount.

10 **SECTION 150.** ORS 469.895 is amended to read:

11 469.895. (1) ORS 469.890 and 469.900 (3) and this section apply in any calendar year to a publicly
12 owned utility only if during the second preceding calendar year sales of electric energy by the
13 publicly owned utility for purposes other than resale exceeded 750 million kilowatt-hours. For the
14 purpose of ORS 469.890 and 469.900 (3) and this section, a publicly owned utility with sales for
15 nonresale purposes in excess of 750 million kilowatt-hours during the second preceding calendar
16 year shall be known as a "covered publicly owned utility."

17 (2) ORS 469.890 and 469.900 (3) and this section shall not apply to a covered publicly owned
18 utility if the Director of the [*State Department of Energy*] **Oregon Climate Authority** determines
19 that its existing commercial energy conservation services program meets or exceeds the require-
20 ments of those sections.

21 (3) Before the beginning of each calendar year, the director shall publish a list identifying each
22 covered publicly owned utility to which ORS 469.890 and 469.900 (3) and this section shall apply
23 during that calendar year.

24 (4) Any covered publicly owned utility is exempt from the requirements of ORS 469.880 and
25 469.885.

26 **SECTION 151.** ORS 469.900 is amended to read:

27 469.900. (1) The Public Utility Commission shall insure that each electric utility's commercial
28 energy conservation services program does not conflict with federal statutes and regulations appli-
29 cable to electric utilities and energy conservation in commercial buildings.

30 (2) The commission shall insure that each gas utility's commercial energy conservation services
31 program does not conflict with federal statutes and regulations applicable to gas utilities and energy
32 conservation in commercial buildings.

33 (3) The Director of the [*State Department of Energy*] **Oregon Climate Authority** shall insure
34 that each covered publicly owned utility's commercial energy conservation services program does
35 not conflict with federal statutes and regulations applicable to covered publicly owned utilities and
36 energy conservation in commercial buildings.

37 **SECTION 152.** ORS 469.992 is amended to read:

38 469.992. (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** or the
39 Energy Facility Siting Council may impose civil penalties for violation of ORS 469.300 to 469.619 and
40 469.930, for violations of rules adopted under ORS 469.300 to 469.619 and 469.930, for violation of
41 any site certificate or amended site certificate issued under ORS 469.300 to 469.601 or for violation
42 of [*a State Department of Energy*] **an Oregon Climate Authority** order issued pursuant to ORS
43 469.405 (3). A civil penalty in an amount of not more than \$25,000 per day for each day of violation
44 may be assessed.

45 (2) Subject to ORS 153.022, violation of an order entered pursuant to ORS 469.550 is punishable

1 upon conviction by a fine of \$50,000. Each day of violation constitutes a separate offense.

2 (3) A civil penalty in an amount not less than \$100 per day nor more than \$1,000 per day may
3 be assessed by the director or the Energy Facility Siting Council for a willful failure to comply with
4 a subpoena served by the director pursuant to ORS 469.080 (2).

5 (4) A civil penalty in an amount of not more than \$25,000 per day for each day in violation of
6 any provision of ORS 469.603 to 469.619 may be assessed by the circuit court upon complaint of any
7 person injured by the violation.

8 **SECTION 153.** ORS 469.992, as amended by section 17, chapter 653, Oregon Laws 1991, section
9 14, chapter 385, Oregon Laws 1999, section 310, chapter 1051, Oregon Laws 1999, and section 54,
10 chapter 186, Oregon Laws 2003, is amended to read:

11 469.992. (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** or the
12 Energy Facility Siting Council may impose civil penalties for violation of ORS 469.300 to 469.619 and
13 469.930, for violations of rules adopted under ORS 469.300 to 469.619 and 469.930, for violation of
14 any site certificate or amended site certificate issued under ORS 469.300 to 469.601 or for violation
15 of [*a State Department of Energy*] **an Oregon Climate Authority** order issued pursuant to ORS
16 469.405 (3). A civil penalty in an amount of not more than \$25,000 per day for each day of violation
17 may be assessed.

18 (2) Subject to ORS 153.022, violation of an order entered pursuant to ORS 469.550 is punishable
19 upon conviction by a fine of \$50,000. Each day of violation constitutes a separate offense.

20 (3) A civil penalty in an amount not less than \$100 per day nor more than \$1,000 per day may
21 be assessed by the director or the Energy Facility Siting Council for a willful failure to comply with
22 a subpoena served by the director pursuant to ORS 469.080 (2).

23 (4) A civil penalty in an amount of not more than \$25,000 per day for each day in violation of
24 any provision of ORS 469.603 to 469.619 or section 14, chapter 653, Oregon Laws 1991, may be as-
25 sessed by the circuit court upon complaint of any person injured by the violation.

26 **SECTION 154.** ORS 469A.020 is amended to read:

27 469A.020. (1) Except as provided in this section, electricity may be used to comply with a
28 renewable portfolio standard only if the electricity is generated by a facility that becomes opera-
29 tional on or after January 1, 1995.

30 (2) Electricity from a generating facility, other than a hydroelectric facility, that became opera-
31 tional before January 1, 1995, may be used to comply with a renewable portfolio standard if the
32 electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

33 (3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may
34 be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency
35 upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power
36 Administration facility, only that portion of the electricity generation attributable to Oregon's share
37 of the electricity may be used to comply with a renewable portfolio standard.

38 (4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility
39 that became operational before January 1, 1995, may be used to comply with a renewable portfolio
40 standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995,
41 by a national certification organization recognized by the [*State Department of Energy*] **Director of**
42 **the Oregon Climate Authority** by rule, and if the facility is either:

43 (a) Owned by an electric utility; or

44 (b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy
45 Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such

1 license.

2 (5) Electricity from a generating facility located in this state that uses biomass and that became
3 operational before January 1, 1995, may be used to comply with a renewable portfolio standard if
4 the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L.
5 95-617) on March 4, 2010.

6 (6) A facility located in this state that generates electricity from direct combustion of municipal
7 solid waste and that became operational before January 1, 1995, may be used to comply with a
8 renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar
9 year.

10 **SECTION 155.** ORS 469A.025 is amended to read:

11 469A.025. (1) Electricity generated utilizing the following types of energy may be used to comply
12 with a renewable portfolio standard:

- 13 (a) Wind energy.
- 14 (b) Solar photovoltaic and solar thermal energy.
- 15 (c) Wave, tidal and ocean thermal energy.
- 16 (d) Geothermal energy.

17 (2) Except as provided in subsection (3) of this section, electricity generated from biomass and
18 biomass by-products may be used to comply with a renewable portfolio standard, including but not
19 limited to electricity generated from:

- 20 (a) Organic human or animal waste;
- 21 (b) Spent pulping liquor;
- 22 (c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest
23 or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;
- 24 (d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);
- 25 (e) Agricultural residues;
- 26 (f) Dedicated energy crops; and
- 27 (g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or
28 municipal solid waste.

29 (3) Electricity generated from the direct combustion of biomass may not be used to comply with
30 a renewable portfolio standard if any of the biomass combusted to generate the electricity includes
31 wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or
32 chromated copper arsenate.

33 (4) Electricity generated by a hydroelectric facility may be used to comply with a renewable
34 portfolio standard only if:

35 (a) The facility is located outside any protected area designated by the Pacific Northwest Elec-
36 tric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the
37 federal Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805
38 to 390.925; or

39 (b) The electricity is attributable to efficiency upgrades made to the facility on or after January
40 1, 1995.

41 (5)(a) Up to 50 average megawatts of electricity per year generated by an electric utility from
42 certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(a) may be used to comply
43 with a renewable portfolio standard, without regard to the number of certified facilities operated
44 by the electric utility or the generating capacity of those facilities. A hydroelectric facility described
45 in this paragraph is not subject to the requirements of subsection (4) of this section.

1 (b) Up to 40 average megawatts of electricity per year generated by certified low-impact hy-
 2 droelectric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable
 3 portfolio standard, without regard to the number of certified facilities or the generating capacity
 4 of those facilities. A hydroelectric facility described in this paragraph is not subject to the require-
 5 ments of subsection (4) of this section.

6 (6)(a) Direct combustion of municipal solid waste in a generating facility located in this state
 7 may be used to comply with a renewable portfolio standard. The qualification of a municipal solid
 8 waste facility for use in compliance with a renewable portfolio standard has no effect on the quali-
 9 fication of the facility for a tax credit under ORS 469B.130 to 469B.169.

10 (b) The total amount of electricity generated in this state by direct combustion of municipal
 11 solid waste by generating facilities that became operational in this state on or after January 1, 1995,
 12 may not exceed nine average megawatts per year for the purpose of complying with a renewable
 13 portfolio standard.

14 (7) Electricity generated from hydrogen gas, including electricity generated by hydrogen power
 15 stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable port-
 16 folio standard if:

17 (a) The electricity is derived from:

18 (A) Any source of energy described in subsection (1) or (2) of this section; or

19 (B) A hydroelectric facility that complies with subsection (4) of this section and that is certified
 20 as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and

21 (b) The output of the original source of energy is not also used to comply with a renewable
 22 portfolio standard.

23 (8) If electricity generation employs multiple energy sources, that portion of the electricity
 24 generated that is attributable to energy sources described in this section may be used to comply
 25 with a renewable portfolio standard.

26 (9) The [*State Department of Energy*] **Director of the Oregon Climate Authority** by rule may
 27 approve energy sources other than those described in this section that may be used to comply with
 28 a renewable portfolio standard. The [*department*] **director** may not approve petroleum, natural gas,
 29 coal or nuclear fission as an energy source that may be used to comply with a renewable portfolio
 30 standard.

31 **SECTION 156.** ORS 469A.027 is amended to read:

32 469A.027. The [*State Department of Energy*] **Oregon Climate Authority** may certify as eligible
 33 for renewable energy certificates a facility that qualifies under ORS 469A.020 (5) and (6) and
 34 469A.025 (6) and (7) only for electricity generated on or after January 1, 2011.

35 **SECTION 157.** ORS 469A.029 is amended to read:

36 469A.029. To be eligible for renewable energy certificates, the owner or operator of a generating
 37 facility that qualifies under ORS 469A.020 (5) and (6) and 469A.025 (6) and (7) must register the
 38 generating facility with the Western Renewable Energy Generation Information System or other
 39 regional system or trading program designated by the **former** State Department of Energy before
 40 January 1, 2011.

41 **SECTION 158.** ORS 469A.130 is amended to read:

42 469A.130. (1) The [*State Department of Energy*] **Oregon Climate Authority** shall establish a
 43 system of renewable energy certificates that can be used by an electric utility or electricity service
 44 supplier to establish compliance with the applicable renewable portfolio standard. The [*department*]
 45 **authority** shall consult with the Public Utility Commission before establishing a system of

1 renewable energy certificates under this section. The [*department*] **authority** may allow use of
 2 renewable energy certificates that are issued, monitored, accounted for or transferred by or through
 3 a regional system or trading program, including but not limited to the Western Renewable Energy
 4 Generation Information System. The system established by the [*department*] **authority** shall allow
 5 issuance, transfer and use of renewable energy certificates in electronic form.

6 (2) The validity of a bundled renewable energy certificate for purposes of compliance with the
 7 applicable renewable portfolio standard is not affected by the substitution of any other electricity
 8 for the qualifying electricity at any point after the time of generation.

9 **SECTION 159.** ORS 469A.132 is amended to read:

10 469A.132. If a facility that generates electricity using biomass also generates thermal energy for
 11 a secondary purpose, the [*State Department of Energy*] **Oregon Climate Authority**, as part of the
 12 system established under ORS 469A.130, shall provide that renewable energy certificates must be
 13 issued for the generation of the thermal energy. For purposes of issuing renewable energy certifi-
 14 cates under this section, 3,412,000 British thermal units are equivalent to one megawatt-hour.

15 **SECTION 160.** Section 25, chapter 301, Oregon Laws 2007, is amended to read:

16 **Sec. 25.** [(1)] The [*State Department of Energy*] **Oregon Climate Authority** shall periodically
 17 conduct a study to evaluate the impact of [*sections 1 to 24 of this 2007 Act*] **ORS 469A.005 to**
 18 **469A.210** on jobs in this state. The study shall assess the number of new jobs created in the
 19 renewable energy sector in this state and the average wage rates and the provision of health care
 20 and other benefits for those jobs. In addition, the study shall investigate the extent to which
 21 workforce training opportunities are being provided to employees to prepare the employees for jobs
 22 in the renewable energy sector.

23 [(2) *The department shall conduct the first study under this section not later than two years after*
 24 *the effective date of this 2007 Act.*]

25 **SECTION 161.** ORS 469B.100 is amended to read:

26 469B.100. As used in ORS 316.116 and 469B.100 to 469B.118:

27 (1) "Alternative energy device" means a category one alternative energy device or a category
 28 two alternative energy device.

29 (2) "Alternative fuel device" includes a facility for mixing, storing, compressing or dispensing
 30 fuels for alternative fuel vehicles, and any other necessary and reasonable equipment.

31 (3) "Category one alternative energy device" means:

32 (a) Any system, mechanism or series of mechanisms that uses solar radiation for space heating
 33 or cooling for one or more dwellings;

34 (b) Any system that uses solar radiation for:

35 (A) Domestic water heating; or

36 (B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in ORS
 37 316.116;

38 (c) A ground source heat pump and ground loop system;

39 (d) Any wind powered device used to offset or supplement the use of electricity by performing
 40 a specific task such as pumping water;

41 (e) Equipment used in the production of alternative fuels;

42 (f) A generator powered by alternative fuels and used to produce electricity;

43 (g) An energy efficient appliance;

44 (h) An alternative fuel device; or

45 (i) A premium efficiency biomass combustion device that includes a dedicated outside com-

1 bustion air source and that meets minimum performance standards that are established by the [*State*
2 *Department of Energy*] **Oregon Climate Authority**.

3 (4) “Category two alternative energy device” means a fuel cell system, solar electric system or
4 wind electric system.

5 (5) “Coefficient of performance” means the ratio calculated by dividing the usable output energy
6 by the electrical input energy. Both energy values must be expressed in equivalent units.

7 (6) “Contractor” means a person whose trade or business consists of offering for sale an alter-
8 native energy device, construction service, installation service or design service.

9 (7) “Cost” means the actual cost of the acquisition, construction and installation of the alter-
10 native energy device.

11 (8) “Domestic water heating” means the heating of water used in a dwelling for bathing, clothes
12 washing, dishwashing and other related functions.

13 (9) “Dwelling” means real or personal property ordinarily inhabited as a principal or secondary
14 residence and located within this state. “Dwelling” includes, but is not limited to, an individual unit
15 within multiple unit residential housing.

16 (10) “Energy efficient appliance” includes emerging technologies that exceed state and federal
17 appliance standards.

18 (11) “First year energy yield” of an alternative energy device is the usable energy produced or
19 energy saved under average environmental conditions in one year.

20 (12) “Fuel cell system” means any system, mechanism or series of mechanisms that uses fuel
21 cells or fuel cell technology to generate electrical energy for a dwelling.

22 (13) “Placed in service” means the date an alternative energy device is ready and available to
23 produce usable energy or save energy.

24 (14) “Solar electric system” means any system, mechanism or series of mechanisms, including
25 photovoltaic systems, that uses solar radiation to generate electrical energy for a dwelling.

26 (15) “Third-party alternative energy device installation” means an alternative energy device that
27 is installed in connection with residential property and owned by a person other than the residential
28 property owner in accordance with an agreement in effect for at least 10 years between the resi-
29 dential property owner and the alternative energy device owner. The agreement must cover main-
30 tenance and either the use of or the power generated by the alternative energy device.

31 (16) “Wind electric system” means any system, mechanism or series of mechanisms that uses
32 wind to generate electrical energy for a dwelling.

33 **SECTION 162.** ORS 469B.103 is amended to read:

34 469B.103. (1) For the purposes of carrying out ORS 469B.100 to 469B.118, the [*State Department*
35 *of Energy*] **Director of the Oregon Climate Authority** may adopt rules prescribing minimum per-
36 formance criteria for alternative energy devices for dwellings. The [*department*] **director** may, in
37 prescribing criteria, rely on applicable federal, state and local requirements for energy efficiency,
38 including the state building code, state and federal appliance standards and any specialty codes and
39 any code adopted by the Building Codes Division of the Department of Consumer and Business
40 Services.

41 (2) The [*department*] **director** shall take into consideration evolving market conditions in pre-
42 scribing minimum performance criteria for alternative energy devices and in determining credit
43 amounts, consistent with ORS 316.116.

44 (3) The [*department*] **director**, in adopting rules under this section for solar heating and cooling
45 systems, shall take into consideration applicable standards of federal performance criteria prescribed

1 pursuant to the provisions of the Solar Heating and Cooling Demonstration Act of 1974, 42 U.S.C.
2 5506.

3 (4) The director [*of the State Department of Energy*] shall adopt rules governing the determi-
4 nation of eligibility, verification and certification of an alternative fuel device for purposes of the
5 tax credits granted under ORS 316.116, including but not limited to rules that further define an al-
6 ternative fuel device and that govern the computation of costs eligible for credit.

7 (5) The [*department*] **director** shall by rule establish policies and procedures for the adminis-
8 tration and enforcement of the provisions of ORS 316.116 and 469B.100 to 469B.118.

9 **SECTION 163.** ORS 469B.106 is amended to read:

10 469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon Laws 2011, any person
11 may claim a tax credit under ORS 316.116 if the person:

12 (a) Meets the requirements of ORS 316.116;

13 (b) Meets the requirements of ORS 469B.100 to 469B.118; and

14 (c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative
15 energy device.

16 (2) In order to be eligible for a tax credit under ORS 316.116, a person claiming a tax credit for
17 construction or installation of an alternative energy device shall have the device certified by the
18 [*State Department of Energy*] **Oregon Climate Authority** or constructed or installed by a contractor
19 certified by the [*department*] **authority** under subsection (4) of this section.

20 (3) Verification of the purchase, construction or installation of an alternative energy device
21 shall be made in writing on a form provided by the Department of Revenue and, if applicable, shall
22 contain:

23 (a) The location of the alternative energy device;

24 (b) A description of the type of device;

25 (c) If the device was constructed or installed by a contractor, evidence that the contractor has
26 any license, bond, insurance and permit required to sell and construct or install the alternative en-
27 ergy device;

28 (d) If the device was constructed or installed by a contractor, a statement signed by the con-
29 tractor that the applicant has received:

30 (A) A statement of the reasonably expected energy savings of the device;

31 (B) A copy of consumer information published by the [*State Department of Energy*] **Oregon Cli-**
32 **mate Authority**;

33 (C) An operating manual for the alternative energy device; and

34 (D) A copy of the contractor's certification certificate or alternative energy device system cer-
35 tificate for the alternative energy device, as appropriate;

36 (e) If the device was not constructed or installed by a contractor, evidence that:

37 (A) The [*State Department of Energy*] **Oregon Climate Authority** has issued an alternative en-
38 ergy device system certificate for the alternative energy device; and

39 (B) The taxpayer has obtained all building permits required for construction or installation of
40 the device;

41 (f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device
42 was constructed or installed by a contractor, that the construction or installation meets all the re-
43 quirements of ORS 469B.100 to 469B.118;

44 (g) The date the alternative energy device was purchased by the residential property owner, or,
45 for a third-party alternative energy device installation, the date that the residential property owner

1 and the alternative energy device owner signed a contract;

2 (h) The date the alternative energy device was placed in service; and

3 (i) Any other information that the Director of the [*State Department of Energy*] **Oregon Climate**
4 **Authority** or the Department of Revenue determines is necessary.

5 (4)(a) When the [*State Department of Energy*] **Oregon Climate Authority** finds that an alterna-
6 tive energy device can meet the standards adopted under ORS 469B.103, the Director of the [*State*
7 *Department of Energy*] **Oregon Climate Authority** may issue a contractor system certification to
8 the person selling and constructing or installing the alternative energy device.

9 (b) Any person who sells or installs more than 12 alternative energy devices in one year shall
10 apply for a contractor system certification. An application for a contractor system certification shall
11 be made in writing on a form provided by the [*State Department of Energy*] **authority** and shall
12 contain:

13 (A) A statement that the contractor has any license, bonding, insurance and permit that is re-
14 quired for the sale and construction or installation of the alternative energy device;

15 (B) A specific description of the alternative energy device, including, but not limited to, the
16 material, equipment and mechanism used in the device, operating procedure, sizing and siting
17 method and construction or installation procedure;

18 (C) The addresses of three installations of the device that are available for inspection by the
19 [*State Department of Energy*] **authority**;

20 (D) The range of installed costs to purchasers of the device;

21 (E) Any important construction, installation or operating instructions; and

22 (F) Any other information that the [*State Department of Energy*] **authority** determines is neces-
23 sary.

24 (c) A new application for contractor system approval shall be filed when there is a change in
25 the information supplied under paragraph (b) of this subsection.

26 (d) The [*State Department of Energy*] **authority** may issue contractor system certificates to each
27 contractor who on October 3, 1989, has a valid dealer system certification, which shall authorize the
28 sale and installation of the same domestic water heating alternative energy devices authorized by
29 the dealer certification.

30 (e) If the [*State Department of Energy*] **authority** finds that an alternative energy device can
31 meet the standards adopted under ORS 469B.103, the director [*of the State Department of Energy*]
32 may issue an alternative energy device system certificate to the taxpayer constructing or installing
33 or having an alternative energy device constructed or installed.

34 (f) An application for an alternative energy device system certificate shall be made in writing
35 on a form provided by the [*State Department of Energy*] **authority** and shall contain:

36 (A) A specific description of the alternative energy device, including, but not limited to, the
37 material, equipment and mechanism used in the device, operating procedure, sizing, siting method
38 and construction or installation procedure;

39 (B) The constructed or installed cost of the device; and

40 (C) A statement that the taxpayer has all permits required for construction or installation of the
41 device.

42 (5) Prior to commencing installation of alternative energy devices, installers of third-party al-
43 ternative energy device installations must apply to the [*State Department of Energy*] **authority** to
44 reserve credits on behalf of owners of residential property. Installers may reserve credit for no more
45 than 25 installations under this subsection in one application.

1 (6) To claim the tax credit, the verification form described in subsection (3) of this section shall
 2 be submitted with the taxpayer's tax return for the year the alternative energy device is placed in
 3 service or the immediately succeeding tax year. A copy of the contractor's certification certificate
 4 or alternative energy device system certificate also shall be submitted.

5 (7) The verification form and contractor's certificate or alternative energy device system certifi-
 6 cate described under this section shall be effective for purposes of tax relief allowed under ORS
 7 316.116.

8 (8) The verification form and contractor's certificate described under this section may be
 9 transferred to the first purchaser of a dwelling who intends to use the dwelling as a principal or
 10 secondary residence.

11 (9) Any person that pays the present value of the tax credit for an alternative energy device
 12 provided under ORS 316.116 and 469B.100 to 469B.118 to the person who constructs or installs the
 13 alternative energy device shall be entitled to claim the credit in the manner and subject to rules
 14 adopted by the Department of Revenue to carry out the purposes of this subsection. The [*State De-*
 15 *partment of Energy*] **Director of the Oregon Climate Authority** may establish by rule uniform
 16 discount rates to be used in calculating the present value of a tax credit under this subsection.

17 **SECTION 164.** ORS 469B.112 is amended to read:

18 469B.112. The following devices are not eligible for the tax credit under ORS 316.116:

- 19 (1) Standard efficiency furnaces;
- 20 (2) Air conditioning systems;
- 21 (3) Boilers;
- 22 (4) Standard back-up heating systems;
- 23 (5) Woodstoves or wood furnaces, or any part of a heating system that burns wood, unless the
 24 woodstove, furnace or system constitutes a premium efficiency biomass combustion device described
 25 in ORS 469B.100 (3)(i);
- 26 (6) Heat pump water heaters that are part of a geothermal heat pump space heating system;
- 27 (7) Structures that cover or enclose a swimming pool;
- 28 (8) Swimming pools, hot tubs or spas used to store heat;
- 29 (9) Above ground, uninsulated swimming pools, hot tubs or spas;
- 30 (10) Photovoltaic systems installed on recreational vehicles;
- 31 (11) Conversion of an existing alternative energy device to another type of alternative energy
 32 device;
- 33 (12) Repair or replacement of an existing alternative energy device;
- 34 (13) A category two alternative energy device, if the equipment or other property that comprises
 35 the category two alternative energy device is the basis for an allowed credit for a category one al-
 36 ternative energy device under ORS 316.116;
- 37 (14) A category one alternative energy device, if the equipment or other property that comprises
 38 the category one alternative energy device is also the basis for an allowed credit for a category two
 39 alternative energy device under ORS 316.116; or
- 40 (15) Any other device identified by the [*State Department of Energy*] **Oregon Climate**
 41 **Authority**. The [*department*] **Director of the Oregon Climate Authority** may adopt rules defining
 42 standards for eligible and ineligible devices under this section.

43 **SECTION 165.** ORS 469B.115 is amended to read:

44 469B.115. (1) In order to carry out ORS 469B.100 to 469B.118, the [*State Department of Energy*]
 45 **Director of the Oregon Climate Authority** shall develop performance assumptions and

1 prescriptive measures to determine the eligibility and tax credit amount for alternative energy de-
2 vices constructed or installed in a dwelling.

3 (2) The [department] **director** shall use the performance assumptions and prescriptive measures
4 to develop information for the Department of Revenue to use to allow taxpayers to determine their
5 eligibility and tax credit amount. The [State Department of Energy] **director** may review this infor-
6 mation on an annual basis to take into consideration new technology and performance assumption
7 accuracy.

8 (3) For the purpose of determining the first year energy yield of an alternative energy device,
9 the [department] **director** shall use the following assumptions and test standards:

10 (a) Solar Rating and Certification Corporation standards SRCC 100, 300, American Society of
11 Heating, Refrigerating and Air-Conditioning Engineers 93-77, or the Air-Conditioning, Heating, and
12 Refrigeration Institute under ANSI/AHRI/ASHRAE/ISO Standard 13256-1 test at 50 degrees
13 Fahrenheit entering water temperature, as appropriate. The testing requirements under this para-
14 graph do not apply to an owner-built alternative energy device.

15 (b) For an alternative energy device used as a source for space heating or cooling, the heating
16 or cooling energy load as determined by a heat loss or gain calculation performed in accordance
17 with the methods established by the American Society of Heating, Refrigerating and Air-
18 Conditioning Engineers. Except for an owner-built or site-built system, an alternative energy device
19 used as a source for domestic hot water heating must meet the SRCC OG 300 systems test or comply
20 with comparable requirements as determined by the [department] **director**.

21 (c) For an alternative energy device used as a source for electrical energy, the first year energy
22 yield shall be based upon the electrical energy load of the dwelling as determined according to the
23 procedure established by the [department] **director**.

24 (d) For an alternative energy device used as a source for swimming pool, spa or hot tub heating,
25 the first year energy yield shall be based on the heating load of the swimming pool, spa or hot tub
26 as determined according to the procedure established by the [department] **director**.

27 **SECTION 166.** ORS 469B.118 is amended to read:

28 469B.118. (1) Upon the Department of Revenue's own motion, or upon request of the [State De-
29 partment of Energy] **Oregon Climate Authority**, the Department of Revenue may initiate pro-
30 ceedings for the forfeiture of a tax credit allowed under ORS 316.116 if:

31 (a) The verification was fraudulent because of a misrepresentation by the taxpayer;

32 (b) The verification was fraudulent because of a misrepresentation by the contractor;

33 (c) The alternative energy device has not been constructed, installed or operated in substantial
34 compliance with the requirements of ORS 469B.100 to 469B.118; or

35 (d) The taxpayer failed to consent to an inspection of the constructed or installed alternative
36 energy device by the [State Department of Energy] **Oregon Climate Authority** after a reasonable,
37 written request for such an inspection by the [State Department of Energy] **authority**.

38 (2) Pursuant to the procedures for a contested case under ORS chapter 183, the Director of the
39 [State Department of Energy] **Oregon Climate Authority** may order the revocation of a contractor
40 certificate issued under ORS 469B.106 if the director finds that:

41 (a) The contractor certificate was obtained by fraud or misrepresentation by the contractor
42 certificate holder;

43 (b) The contractor's performance for the alternative energy device for which the contractor is
44 issued a certificate under ORS 469B.106 does not meet industry standards; or

45 (c) The contractor has misrepresented to the customer either the tax credit program or the na-

1 ture or quality of the alternative energy device.

2 (3) If the tax credit allowed under ORS 316.116 for the purchase, construction or installation of
3 an alternative energy device is ordered forfeited due to an action of the taxpayer under subsection
4 (1)(a), (c) or (d) of this section, all prior tax relief provided to the taxpayer shall be forfeited and the
5 Department of Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of
6 the tax credit relief under ORS 316.116.

7 (4) If the tax credit for the construction or installation of an alternative energy device is or-
8 dered forfeited due to an action of the contractor under subsection (1)(b) of this section, the De-
9 partment of Revenue shall proceed to collect, from the contractor, an amount equivalent to those
10 taxes not paid by the taxpayer as a result of the tax credit relief under ORS 316.116. As long as the
11 forfeiture is due to an action of the contractor and not to an action of the taxpayer, the assessment
12 of such taxes shall be levied on the contractor and not on the taxpayer. Notwithstanding ORS
13 314.835, the Department of Revenue may disclose information from income tax returns or reports to
14 the extent such disclosure is necessary to collect amounts from contractors under this subsection.

15 (5) In order to obtain information necessary to verify eligibility and amount of the tax credit,
16 the [State Department of Energy] **Oregon Climate Authority** or its representative may inspect an
17 alternative energy device that has been purchased, constructed or installed. The inspection shall be
18 made only with the consent of the owner of the dwelling. Failure to consent to the inspection is
19 grounds for the forfeiture of any tax credit relief under ORS 316.116. The Department of Revenue
20 shall proceed to collect any taxes due according to subsection (4) of this section. For electrical
21 generating alternative energy devices, the [State Department of Energy] **Oregon Climate Authority**
22 may obtain energy consumption records for the dwelling the device serves, for a 12-month period,
23 in order to verify eligibility and amount of the tax credit.

24 **SECTION 167.** ORS 469B.130 is amended to read:

25 469B.130. As used in ORS 469B.130 to 469B.169 and 469B.171:

26 (1) "Alternative fuel vehicle" means a vehicle as defined by the Director of the [State Depart-
27 ment of Energy] **Oregon Climate Authority** by rule that is used primarily in connection with the
28 conduct of a trade or business and that is manufactured or modified to use an alternative fuel, in-
29 cluding but not limited to electricity, ethanol, methanol, gasohol and propane or natural gas, re-
30 gardless of energy consumption savings.

31 (2) "Car sharing facility" means the expenses of operating a car sharing program, including but
32 not limited to the fair market value of parking spaces used to store the fleet of cars available for
33 a car sharing program, but does not include the costs of the fleet of cars.

34 (3) "Car sharing program" means a program in which drivers pay to become members in order
35 to have joint access to a fleet of cars from a common parking area on an hourly basis. "Car sharing
36 program" does not include operations conducted by car rental agencies.

37 (4) "Cost" means the capital costs and expenses necessarily incurred in the erection, con-
38 struction, installation and acquisition of a facility, including site development costs and expenses for
39 a sustainable building practices facility.

40 (5) "Energy facility" means any capital investment for which the first year energy savings yields
41 a simple payback period of greater than one year. An energy facility includes:

42 (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or
43 any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-
44 lation, excavation, machinery, equipment or device necessarily erected, constructed, installed or
45 acquired by any person in connection with the conduct of a trade or business and actually used in

1 the processing or utilization of renewable energy resources to:

2 (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

3 (B) Provide the initial use of energy where electricity, petroleum or natural gas would have been
4 used;

5 (C) Generate electricity to replace an existing source of electricity or to provide a new source
6 of electricity for sale by or use in the trade or business;

7 (D) Perform a process that obtains energy resources from material that would otherwise be solid
8 waste as defined in ORS 459.005; or

9 (E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol,
10 methanol, gasohol or biodiesel.

11 (b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing
12 structure, building, installation, excavation, machinery, equipment or device necessarily erected,
13 constructed, installed or acquired by any person in connection with the conduct of a trade or busi-
14 ness in order to substantially reduce the consumption of purchased energy.

15 (c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is
16 defined by ORS 469B.100, that causes that building or dwelling to exceed an energy performance
17 standard in the state building code.

18 (d) The replacement of an electric motor with another electric motor that substantially reduces
19 the consumption of electricity.

20 (6) "Facility" means an energy facility, recycling facility, transportation facility, car sharing
21 facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to op-
22 erate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling
23 station, a high-efficiency combined heat and power facility, a high-performance home or a
24 homebuilder-installed renewable energy system.

25 (7) "High-efficiency combined heat and power facility" means a device or equipment that simul-
26 taneously produces heat and electricity from a single source of fuel and that meets the criteria es-
27 tablished for a high-efficiency combined heat and power facility under ORS 469B.139.

28 (8) "High-performance home" means a new single-family dwelling that:

29 (a) Is designed and constructed to reduce net purchased energy through use of both energy ef-
30 ficiency and on-site renewable energy resources; and

31 (b) Meets the criteria established for a high-performance home under ORS 469B.139.

32 (9) "Homebuilder-installed renewable energy system" means a renewable energy resource system
33 that:

34 (a) Meets the criteria established for a renewable energy resource system under ORS 469B.139;
35 and

36 (b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder con-
37 structing the dwelling.

38 (10) "Qualified transit pass contract" means a purchase agreement entered into between a
39 transportation provider and a person, the terms of which obligate the person to purchase transit
40 passes on behalf or for the benefit of employees, students, patients or other individuals over a
41 specified period of time.

42 (11) "Recycling facility" means equipment used by a trade or business solely for recycling:

43 (a) Including:

44 (A) Equipment used solely for hauling and refining used oil;

45 (B) New vehicles or modifications to existing vehicles used solely to transport used recyclable

1 materials that cannot be used further in their present form or location such as glass, metal, paper,
2 aluminum, rubber and plastic;

3 (C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to
4 or attached to existing waste collection vehicles; and

5 (D) Any equipment used solely for processing recyclable materials such as balers, flatteners,
6 crushers, separators and scales.

7 (b) But not including equipment used for transporting or processing scrap materials that are
8 recycled as a part of the normal operation of a trade or business as defined by the director.

9 (12)(a) "Renewable energy resource" includes, but is not limited to:

10 (A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant
11 or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal
12 energy;

13 (B) A hydroelectric generating facility that obtains all applicable permits and complies with all
14 state and federal statutory requirements for the protection of fish and wildlife and that:

15 (i) Does not exceed 10 megawatts of installed capacity; or

16 (ii) Qualifies as a research, development or demonstration facility; or

17 (C) A renewable energy storage device as defined by the director by rule.

18 (b) "Renewable energy resource" does not include a hydroelectric generating facility that is not
19 described in paragraph (a) of this subsection.

20 (13) "Sustainable building practices facility" means a commercial building in which building
21 practices that reduce the amount of energy, water or other resources needed for construction and
22 operation of the building are used. "Sustainable building practices facility" may be further defined
23 by the [*State Department of Energy*] **director** by rule, including rules that establish traditional
24 building practice baselines in energy, water or other resource usage for comparative purposes for
25 use in determining whether a facility is a sustainable building practices facility.

26 (14) "Transportation facility" means a transportation project that reduces energy use during
27 commuting to and from work or school, during work-related travel, or during travel to obtain med-
28 ical or other services, and may be further defined by the [*department*] **director** by rule. "Transpor-
29 tation facility" includes, but is not limited to:

30 (a) A qualified transit pass contract or a transportation services contract; or

31 (b) The purchase of efficient truck technology and related truck trailers, as defined in ORS
32 801.580, for commercial motor vehicles, as defined in ORS 801.208, that are registered under ORS
33 803.420, or for commercial motor vehicles that are proportionally registered under ORS 826.009 or
34 826.011.

35 (15) "Transportation provider" means a public, private or nonprofit entity that provides trans-
36 portation services to members of the public.

37 (16) "Transportation services contract" means a contract that is related to a transportation fa-
38 cility, and may be further defined by the [*department*] **director** by rule.

39 **SECTION 168.** ORS 469B.136 is amended to read:

40 469B.136. (1) In determining the eligibility of any facility for tax credits, preference shall be
41 given to those projects that:

42 (a) Provide energy savings for real or personal property within the state inhabited as the prin-
43 cipal residence of a tenant, including:

44 (A) Nonowner occupied single family dwellings; and

45 (B) Multiple unit residential housing; or

1 (b) Provide long-term energy savings from the use of renewable resources or conservation of
2 energy resources.

3 (2) The Director of the [*State Department of Energy*] **Oregon Climate Authority** shall establish
4 by rule a tiered priority system to be used in evaluating applicants for certification of facilities us-
5 ing or producing renewable energy resources. The tier system shall be based upon the projected
6 costs of facilities. In determining the eligibility for tax credits and in allocating the available certi-
7 fied cost pursuant to section 2 (1), chapter 76, Oregon Laws 2010, among facilities, the director shall
8 subject facilities with higher projected costs to closer scrutiny, shall compare projects of similar
9 costs against each other and may certify less than the total cost of any facility based on this eval-
10 uation. The director may employ criteria including the following factors as defined by rule:

11 (a) Technology-specific energy production standards;

12 (b) Market sector;

13 (c) Delivery of energy into existing distribution and transmission network;

14 (d) Investment payback period;

15 (e) Expected lifespan of the facility;

16 (f) Potential for long-term viability;

17 (g) Environmental standards established by the director;

18 (h) Potential to create and sustain new jobs;

19 (i) Projected siting in a location that is geographically or socioeconomically advantageous;

20 (j) Demonstrated readiness to begin implementation;

21 (k) Amount and quality of energy generated;

22 (L) Strength of business plan;

23 (m) Provision of operations and maintenance data, with appropriate protections for trade secrets
24 consistent with ORS chapter 192;

25 (n) Connection to existing infrastructure;

26 (o) Third-party review of the applicant's business plan; or

27 (p) Data related to projected return on investment.

28 **SECTION 169.** ORS 469B.139 is amended to read:

29 469B.139. The [*State Department of Energy*] **Director of the Oregon Climate Authority** shall
30 by rule establish all of the following criteria:

31 (1) For a high-performance home, the minimum design and construction standards that must be
32 met or exceeded for a dwelling to be considered a high-performance home, including but not limited
33 to standards for the building envelope, HVAC systems, lighting, appliances, water conservation
34 measures, use of sustainable building materials and on-site renewable energy systems. The criteria
35 must also establish the minimum reduction in estimated net purchased energy that a dwelling must
36 achieve to be considered a high-performance home.

37 (2) For a homebuilder-installed renewable energy system, the minimum performance and effi-
38 ciency standards that a solar electric system, solar domestic water heating system, passive solar
39 space heating system, wind power system, geothermal heating system, fuel cell system or other sys-
40 tem utilizing renewable resources must achieve to be considered a homebuilder-installed renewable
41 energy system.

42 (3) For a high-efficiency combined heat and power facility, the minimum performance and effi-
43 ciency standards that the facility must achieve to be considered a high-efficiency combined heat and
44 power facility.

45 (4) For a facility using or producing renewable energy resources, standards relating to criteria

1 required under ORS 469B.136 (2).

2 (5) Standards, consistent with the definitions in ORS 469B.130, relating to what constitutes a
3 single facility.

4 **SECTION 170.** ORS 469B.142 is amended to read:

5 469B.142. (1) For a facility, the total cost that receives a preliminary certification from the Di-
6 rector of the [*State Department of Energy*] **Oregon Climate Authority** for tax credits in any calen-
7 dar year may not exceed:

8 (a) \$20 million, in the case of a facility using or producing renewable energy resources or a
9 high-efficiency combined heat and power facility;

10 (b) Five percent of the total cost of the facility but no more than \$3 million, in the case of a
11 facility that uses or produces renewable energy resources and is a wind facility with an installed
12 capacity of more than 10 megawatts; or

13 (c) \$10 million, in the case of any other facility.

14 (2) The director shall determine the dollar amount certified for any facility and the priority be-
15 tween applications for certification based upon the criteria contained in ORS 469B.130 to 469B.169
16 and applicable rules and standards adopted under ORS 469B.130 to 469B.169. The director may
17 consider the status of a facility as a research, development or demonstration facility of new
18 renewable resource generating and conservation technologies or a qualified transit pass contract in
19 the determination.

20 **SECTION 171.** ORS 469B.145 is amended to read:

21 469B.145. (1) Prior to erection, construction, installation or acquisition of a proposed facility,
22 any person may apply to the [*State Department of Energy*] **Oregon Climate Authority** for prelimi-
23 nary certification under ORS 469B.157 if:

24 (a) The erection, construction, installation or acquisition of the facility is to be commenced on
25 or after October 3, 1979;

26 (b) The facility complies with the standards or rules adopted by the Director of the [*State De-*
27 *partment of Energy*] **Oregon Climate Authority**; and

28 (c) The applicant meets one of the following criteria:

29 (A) The applicant is a person to whom a tax credit for the facility has been transferred; or

30 (B) The applicant will be the owner, contract purchaser or lessee of the facility at the time of
31 erection, construction, installation or acquisition of the proposed facility, and:

32 (i) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to
33 utilize the facility in connection with Oregon property; or

34 (ii) The applicant is the owner, contract purchaser or lessee of a trade or business that plans
35 to lease the facility to a person that will utilize the facility in connection with Oregon property.

36 (2) An application for preliminary certification shall be made in writing on a form prepared by
37 the [*department*] **authority** and shall contain:

38 (a) A statement that the applicant or the lessee of the applicant's facility:

39 (A) Intends to convert from a purchased energy source to a renewable energy resource;

40 (B) Plans to acquire, construct or install a facility that will use a renewable energy resource
41 or solid waste instead of electricity, petroleum or natural gas;

42 (C) Plans to use a renewable energy resource in the generation of electricity for sale or to re-
43 place an existing or proposed use of an existing source of electricity;

44 (D) Plans to acquire, construct or install a facility that substantially reduces the consumption
45 of purchased energy;

1 (E) Plans to acquire, construct or install equipment for recycling as described in ORS 469B.130
2 (11);

3 (F) Plans to acquire an alternative fuel vehicle or to convert an existing vehicle to an alterna-
4 tive fuel vehicle;

5 (G) Plans to acquire, construct or install a facility necessary to operate alternative fuel vehicles;

6 (H) Plans to acquire transit passes for use by individuals specified by the applicant;

7 (I) Plans to acquire, construct or install a transportation facility;

8 (J) Plans to acquire a sustainable building practices facility;

9 (K) Plans to acquire a car sharing facility and operate a car sharing program;

10 (L) Plans to construct a high-efficiency combined heat and power facility;

11 (M) Is a homebuilder and plans to construct a homebuilder-installed renewable energy system;
12 or

13 (N) Is a homebuilder and plans to construct a high-performance home.

14 (b) A detailed description of the proposed facility and its operation and information showing that
15 the facility will operate as represented in the application and remain in operation for at least five
16 years, unless the director by rule specifies a shorter period of operation.

17 (c) Information on the amount by which consumption of electricity, petroleum or natural gas by
18 the applicant or the lessee of the applicant's facility will be reduced, and on the amount of energy
19 that will be produced for sale, as the result of using the facility or, if applicable, information about
20 the expected level of sustainable building practices facility performance.

21 (d) The projected cost of the facility.

22 (e) If applicable, a copy of the proposed qualified transit pass contract, transportation services
23 contract or contract for lease of parking spaces for a car sharing facility.

24 (f) Information on the number and type of jobs that will be created, the number of jobs sustained
25 throughout the construction, installation and operation of the facility and the benefits of the facility
26 with regard to overall economic activity in this state.

27 (g) Information demonstrating that the proposed facility will comply with applicable state and
28 local laws and regulations and obtain required licenses and permits.

29 (h) Information relating to the criteria required under ORS 469B.136.

30 (i) Any other information the director considers necessary to determine whether the proposed
31 facility is in accordance with the provisions of ORS 469B.130 to 469B.169, and any applicable rules
32 or standards adopted by the director.

33 (3) An application for preliminary certification shall be accompanied by a fee established under
34 ORS 469B.164. The director may refund all or a portion of the fee if the application for certification
35 is rejected.

36 (4) The director may allow an applicant to file the preliminary application or a reapplication
37 under subsection (6) of this section after the start of erection, construction, installation or acquisi-
38 tion of the facility if the director finds:

39 (a) Filing the application before the start of erection, construction, installation or acquisition is
40 inappropriate because special circumstances render filing earlier unreasonable; and

41 (b) The facility would otherwise qualify for tax credit certification pursuant to ORS 469B.130 to
42 469B.169.

43 (5) A preliminary certification of a sustainable building practices facility shall be applied for and
44 issued as prescribed by the [department] **director** by rule.

45 (6) A preliminary certification shall remain valid for a period of three calendar years after the

1 date the preliminary certification is issued by the director. The director may extend the three-year
 2 period for two additional calendar years upon reapplication and submission of the fee required by
 3 this section.

4 **SECTION 172.** ORS 469B.148 is amended to read:

5 469B.148. (1) The owner of a facility may transfer a tax credit for the facility in exchange for
 6 a cash payment equal to the present value of the potential tax credit, as determined at the time of
 7 the application for preliminary certification.

8 (2) The [*State Department of Energy*] **Director of the Oregon Climate Authority** shall establish
 9 by rule a formula to be employed in the determination of prices of credits transferred under this
 10 section. In establishing the formula the [*department*] **director** shall incorporate inflation projections
 11 and market real rate of return.

12 (3) The [*department*] **Oregon Climate Authority** shall recalculate credit transfer prices quar-
 13 terly, employing the formula established under subsection (2) of this section.

14 (4) Notwithstanding any other provision of law, a tax credit transferred pursuant to this section
 15 does not decrease the amount of taxes required to be reported by a public utility.

16 **SECTION 173.** ORS 469B.154 is amended to read:

17 469B.154. (1) The owner of a rental housing unit may transfer a tax credit for energy conser-
 18 vation measures installed in rental housing units under ORS 469B.151 in exchange for a cash pay-
 19 ment equal to the present value of the tax credit. To be eligible for a transfer, the energy
 20 conservation measures must have been recommended in an energy audit as provided in ORS 469.633
 21 or 469.651.

22 (2) The [*State Department of Energy*] **Director of the Oregon Climate Authority** may establish
 23 by rule uniform discount rates to be used in calculating the present value of a tax credit under this
 24 section.

25 **SECTION 174.** ORS 469B.157 is amended to read:

26 469B.157. (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** may
 27 require the submission of plans, specifications and contract terms, and after examination thereof,
 28 may request corrections and revisions of the plans, specifications and terms.

29 (2) If the director determines that the proposed acquisition, erection, construction or installation
 30 is technically feasible and should operate in accordance with the representations made by the ap-
 31 plicant, and is in accordance with the provisions of ORS 469B.130 to 469B.169 and any applicable
 32 rules or standards adopted by the director, the director shall issue a preliminary certificate ap-
 33 proving the acquisition, erection, construction or installation of the facility. The certificate shall
 34 indicate the potential amount of tax credit allowable and shall list any conditions for claiming the
 35 credit.

36 (3) The director may issue an order altering, conditioning, suspending or denying preliminary
 37 certification if the director determines that:

38 (a) The acquisition, erection, construction or installation does not comply with the provisions
 39 of ORS 469B.130 to 469B.169 and applicable rules and standards;

40 (b) The applicant has previously received preliminary or final certification for the same costs;

41 (c) The applicant is unable to demonstrate that the facility would be economically viable without
 42 the allowance of additional credits under ORS 315.354;

43 (d) The applicant was directly involved in an act for which the director has levied civil penalties
 44 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169; or

45 (e) The applicant or the principal, director, officer, owner, majority shareholder or member of

1 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
2 arrears for payments owed to any government agency while in any capacity with direct or indirect
3 control over a business.

4 **SECTION 175.** ORS 469B.161 is amended to read:

5 469B.161. (1) A final certification may not be issued by the Director of the [*State Department of*
6 *Energy*] **Oregon Climate Authority** under this section unless:

7 (a) The facility was acquired, erected, constructed or installed under a preliminary certificate
8 of approval issued under ORS 469B.157;

9 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.145
10 (2) and does not violate any condition that may be imposed as described in ORS 469B.157 (3); and

11 (c) The facility was acquired, erected, constructed or installed in accordance with the applicable
12 provisions of ORS 469B.130 to 469B.169 and any applicable rules or standards adopted by the di-
13 rector.

14 (2) Any person may apply to the [*State Department of Energy*] **Oregon Climate Authority** for
15 final certification of a facility:

16 (a) If the [*department*] **authority** issued preliminary certification for the facility under ORS
17 469B.157; and

18 (b)(A) After completion of erection, construction, installation or acquisition of the proposed fa-
19 cility or, if the facility is a qualified transit pass contract, after entering into the contract with a
20 transportation provider; or

21 (B) After transfer of the facility, as provided in ORS 315.354 (5).

22 (3) An application for final certification shall be made in writing on a form prepared by the
23 [*department*] **authority** and shall contain:

24 (a) A statement that the conditions of the preliminary certification have been complied with;

25 (b) The actual cost of the facility certified to by a certified public accountant who is not an
26 employee of the applicant or, if the actual cost of the facility is less than \$50,000, copies of receipts
27 for purchase and installation of the facility;

28 (c) The amount of the credit under ORS 315.354 that is to be claimed;

29 (d) The number and type of jobs created by the operation and maintenance of the facility over
30 the five-year period beginning with the year of preliminary certification under ORS 469B.157 and
31 information on the benefits of the facility with regard to overall economic activity in this state;

32 (e) Information sufficient to demonstrate that the facility will remain in operation for at least
33 five years, unless the director by rule specifies a shorter period of operation;

34 (f) Information sufficient to demonstrate, in the case of a research, development or demon-
35 stration facility that is not in operation, that the applicant has made reasonable efforts to make the
36 facility operable and meet the requirements of the preliminary certificate;

37 (g) Documentation of compliance with applicable state and local laws and regulations and li-
38 censing and permitting requirements as defined by the director; and

39 (h) Any other information determined by the director to be necessary prior to issuance of a final
40 certificate, including inspection of the facility by the [*department*] **authority**.

41 (4) The director shall act on an application for certification before the 60th day after the filing
42 of the application under this section. The director may issue the certificate, or certificates for effi-
43 cient truck technology within a transportation facility, together with such conditions as the director
44 determines are appropriate to promote the purposes of ORS 315.354, 469B.130 to 469B.169 and
45 469B.171. If the applicant is an entity subject to regulation by the Public Utility Commission, the

1 director may consult with the commission prior to issuance of the certificate. The action of the di-
 2 rector shall include certification of the actual cost of the facility. However, the director may not
 3 certify an amount for tax credit purposes that is more than the amount approved in the preliminary
 4 certificate issued for the facility.

5 (5) If the director rejects an application for final certification, or certifies a lesser actual cost
 6 of the facility than was claimed in the application, the director shall send to the applicant written
 7 notice of the action, together with a statement of the findings and reasons therefor, by certified mail,
 8 before the 60th day after the filing of the application. Failure of the director to act constitutes re-
 9 jection of the application.

10 (6) Upon approval of an application for final certification of a facility, the director shall certify
 11 the facility. Each certificate shall bear a separate serial number for each device. Where one or
 12 more devices constitute an operational unit, the director may certify the operational unit under one
 13 certificate.

14 (7) The director may establish by rule timelines and intermediate deadlines for submission of
 15 application materials.

16 **SECTION 176.** ORS 469B.164 is amended to read:

17 469B.164. By rule and after hearing, the Director of the [*State Department of Energy*] **Oregon**
 18 **Climate Authority** may adopt a schedule of reasonable fees which the [*State Department of*
 19 *Energy*] **Oregon Climate Authority** may require of applicants for preliminary or final certification
 20 under ORS 469B.130 to 469B.169. Before the adoption or revision of the fees, the [*department*] **au-**
 21 **thority** shall estimate the total cost of the program to the [*department*] **authority**. The fees shall
 22 be used to recover the anticipated cost of filing, investigating, granting and rejecting applications
 23 for certification and shall be designed not to exceed the total cost estimated by the [*department*]
 24 **authority**. Any excess fees shall be held by the [*department*] **authority** and shall be used by the
 25 [*department*] **authority** to reduce any future fee increases. The fee may vary according to the size
 26 and complexity of the facility. The fee shall not be considered as part of the cost of the facility to
 27 be certified.

28 **SECTION 177.** ORS 469B.167 is amended to read:

29 469B.167. (1)(a) A certificate issued under ORS 469B.161 is required for purposes of obtaining
 30 tax credits in accordance with ORS 315.354. Such certification shall be granted for a period not to
 31 exceed five years. The five-year period shall begin with the tax year of the applicant during which
 32 the completed application for final certification of the facility under ORS 469B.161 is received by the
 33 [*State Department of Energy*] **Oregon Climate Authority**.

34 (b) For a transferee holding a credit that has been transferred under ORS 469B.148 or 469B.154,
 35 the five-year period shall begin with the tax year in which the transferee pays for the credit.

36 (2) Notwithstanding subsection (1) of this section, for a facility using or producing renewable
 37 energy resources with a certified cost that exceeds \$10 million and that receives final certification
 38 under ORS 469B.161 after January 1, 2010:

39 (a) The five-year period prescribed in subsection (1)(a) of this section shall begin with the tax
 40 year immediately following the tax year during which the completed application for final certifica-
 41 tion of the facility under ORS 469B.161 is received by the [*department*] **authority**.

42 (b) If claimed by a transferee, the first of five tax years in which the transferee may claim the
 43 credit is the tax year in which the transferee paid for the credit or the tax year prescribed in par-
 44 agraph (a) of this subsection, whichever is later.

45 (c) An application shall be considered complete without the identification of a transferee for

1 purposes of ORS 469B.148 or 469B.154.

2 (3) If the original owner of the certificate uses any portion of the credit, the certificate becomes
3 nontransferable.

4 **SECTION 178.** ORS 469B.169 is amended to read:

5 469B.169. (1) Under the procedures for a contested case under ORS chapter 183, the Director
6 of the [*State Department of Energy*] **Oregon Climate Authority** may order the suspension or revo-
7 cation of the certificate issued under ORS 469B.161 if the director finds that:

8 (a) The certification was obtained by fraud or misrepresentation;

9 (b) The holder of the certificate or the operator of the facility has failed to construct or operate
10 the facility in compliance with the plans, specifications and procedures in the certificate; or

11 (c) The facility is no longer in operation.

12 (2) As soon as the order of revocation under this section becomes final, the director shall notify
13 the Department of Revenue, the facility owner, contract purchaser or lessee and any transferee un-
14 der ORS 469B.148 of the order of revocation.

15 (3) If the certificate is ordered revoked pursuant to subsection (1)(a) of this section, all prior tax
16 credits provided to the holder of the certificate by virtue of the certificate shall be forfeited and
17 upon notification under subsection (2) of this section the Department of Revenue immediately shall
18 proceed to collect those taxes not paid by the certificate holder as a result of the tax credits pro-
19 vided to the holder under ORS 315.354.

20 (4)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to
21 the collection of income and excise taxes and may proceed to collect the amounts described in
22 subsection (3) of this section from the person that obtained certification from the [*State Department*
23 *of Energy*] **Oregon Climate Authority** or any successor in interest to the business interests of that
24 person. No assessment of tax shall be necessary and no statute of limitation shall preclude the col-
25 lection of taxes described in this subsection.

26 (b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires
27 an interest through bankruptcy or through foreclosure of a security interest is not considered to be
28 a successor in interest to the business interests of the person that obtained certification from the
29 [*State Department of Energy*] **Oregon Climate Authority**.

30 (5) If the certificate is ordered revoked pursuant to subsection (1)(b) of this section, the certif-
31 icate holder shall be denied any further relief under ORS 315.354 in connection with the facility from
32 and after the date that the order of revocation becomes final.

33 (6) Notwithstanding subsections (1) to (5) of this section, a certificate or portion of a certificate
34 held by a transferee under ORS 469B.148 may not be considered revoked for purposes of the
35 transferee, the tax credit allowable to the transferee under ORS 315.354 may not be reduced and a
36 transferee is not liable under subsections (3) and (4) of this section.

37 **SECTION 179.** ORS 469B.253 is amended to read:

38 469B.253. (1) Prior to the installation or construction of a renewable energy production system,
39 any person may apply to the [*State Department of Energy*] **Oregon Climate Authority** for a grant
40 under ORS 469B.256 if:

41 (a) The applicant will be the owner, contract purchaser or lessee of the system at the time of
42 installation or construction of the proposed system;

43 (b) The system does not exceed 35 megawatts of nameplate capacity;

44 (c) The system is located in Oregon; and

45 (d) The system complies with the standards or rules adopted by the Director of the [*State De-*

1 *partment of Energy*] **Oregon Climate Authority**.

2 (2) An application for a grant under ORS 469B.256 shall be made in writing on a form prepared
3 by the [*department*] **authority** and shall contain:

4 (a) A detailed description of the system and its operation and information showing that the
5 system will operate as represented in the application and remain in operation for at least five years,
6 unless the director by rule specifies another period of operation.

7 (b) The anticipated total system cost.

8 (c) Information on the number and type of jobs, directly connected to the awarding of the grant,
9 that will be:

10 (A) Created by the system; and

11 (B) Sustained throughout the construction, installation and operation of the system.

12 (d) Information demonstrating that the system will comply with applicable state and local laws
13 and regulations and obtain required licenses and permits.

14 (e) Any other information the director considers necessary to determine whether the system is
15 in accordance with the provisions of ORS 469B.250 to 469B.265, and any applicable rules or stan-
16 dards adopted by the director.

17 (3) An application for a grant shall be accompanied by a fee established under ORS 469B.259.
18 The director may refund all or a portion of the fee if the application for a grant is rejected.

19 (4) The director may allow an applicant to file the application for a grant after the start of in-
20 stallation or construction of the system if the director finds that:

21 (a) Filing the application before the start of installation or construction is inappropriate because
22 special circumstances render filing earlier unreasonable; and

23 (b) The system would otherwise qualify for a grant under ORS 469B.250 to 469B.265.

24 **SECTION 180.** ORS 469B.256 is amended to read:

25 469B.256. (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** may
26 require an applicant for a grant under this section for a renewable energy production system to
27 submit plans, specifications and contract terms, and after examination of the plans, specifications
28 and terms may request corrections and revisions.

29 (2) If the director determines that the system is technically feasible and should operate in ac-
30 cordance with the representations made by the applicant, and is in accordance with the provisions
31 of ORS 469B.250 to 469B.265 and any applicable rules or standards adopted by the director, the di-
32 rector may enter into a performance agreement with the applicant and award a grant under this
33 section to the applicant. The grant provided for in the performance agreement may not exceed 35
34 percent of the cost of the project and may not exceed \$250,000 per system. If construction does not
35 begin within 12 months of an award under this section, the performance agreement shall be void and
36 the [*State Department of Energy*] **Oregon Climate Authority** shall revoke the grant.

37 (3) The director may, in accordance with ORS chapter 183, deny a grant under this section if
38 the director determines that:

39 (a) The system does not comply with the provisions of ORS 469B.250 to 469B.265 and applicable
40 rules and standards;

41 (b) The applicant was directly involved in an act for which the director has levied civil penalties
42 or revoked, canceled or suspended any certification under ORS 315.326 or 469B.130 to 469B.169, or
43 any grant under ORS 469B.250 to 469B.265; or

44 (c) The applicant or the principal, director, officer, owner, majority shareholder or member of
45 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in

1 arrears for payments owed to any government agency while in any capacity with direct or indirect
2 control over a business.

3 (4) The *[department]* **authority** shall reduce the amount of grant allowable to an applicant if,
4 when combined with other government incentives or grants available to the applicant, the amount
5 calculated under subsection (2) of this section exceeds 75 percent of the total system cost calculated
6 under this section.

7 (5) Upon determination by the director that the applicant has violated the provisions of the
8 performance agreement or ORS 469B.250 to 469B.265, the applicant will be liable to the
9 *[department]* **authority** for all grant moneys disbursed to the applicant.

10 **SECTION 181.** ORS 469B.259 is amended to read:

11 469B.259. By rule and after hearing, the Director of the *[State Department of Energy]* **Oregon**
12 **Climate Authority** may adopt a schedule of reasonable fees that the *[State Department of Energy]*
13 **Oregon Climate Authority** may require of applicants for a grant for a renewable energy production
14 system under ORS 469B.250 to 469B.265 or for tax credit certification under ORS 315.326. Before the
15 adoption or revision of the fees, the *[department]* **authority** shall estimate the total cost of the
16 program to the *[department]* **authority**. The fees shall be used to recover the anticipated cost of
17 administering and enforcing the provisions of ORS 469B.250 to 469B.265, including filing, investi-
18 gating, granting and rejecting applications for grant or tax credit certification and ensuring com-
19 pliance with ORS 315.326, 315.329 and 469B.250 to 469B.265 and shall be designed not to exceed the
20 total cost estimated by the *[department]* **authority**. Any excess fees shall be held by the
21 *[department]* **authority** and shall be used by the *[department]* **authority** to reduce any future fee
22 increases. The fee may vary according to the size and complexity of the system. The fee is not
23 considered part of the cost of the system for which a grant is being sought.

24 **SECTION 182.** ORS 469B.262 is amended to read:

25 469B.262. (1) The total amount of potential tax credits for certified renewable energy develop-
26 ment contributions in this state may not, at the time of certification under ORS 315.326, exceed:

27 (a) \$3 million for any biennium; or

28 (b) \$750,000 for the six months beginning July 1, 2017, and ending December 31, 2017.

29 (2) In the event that the Director of the *[State Department of Energy]* **Oregon Climate Au-**
30 **thority** receives applications for grants under ORS 469B.256 in excess of the contributions received
31 pursuant to ORS 315.326, the director shall allocate the issuance of grants according to standards
32 and criteria established by rule by the director.

33 **SECTION 183.** ORS 469B.265 is amended to read:

34 469B.265. The *[State Department of Energy]* **Director of the Oregon Climate Authority** shall
35 by rule establish policies and procedures for the administration and enforcement of the provisions
36 of ORS 315.326, 315.329 and 469B.250 to 469B.265, including standards for what constitutes a single
37 renewable energy production system.

38 **SECTION 184.** ORS 469B.273 is amended to read:

39 469B.273. (1) In determining the priority of any energy conservation project for tax credits,
40 preference shall be given to those projects that have the highest energy savings over the five-year
41 credit allowance period per tax credit dollar.

42 (2) In administering this section, the Director of the *[State Department of Energy]* **Oregon Cli-**
43 **mate Authority** shall compare projects of similar technology types against each other, take into
44 account the amount of energy saved over the life of the equipment, market or industry sector, ex-
45 pected lifespan of the project compared to the simple payback period, whether the energy savings

1 of the project benefit a party other than the owner and any other factors defined in [*State Depart-*
2 *ment of Energy rule*] **the rules of the director**. The [*department*] **Oregon Climate Authority** may
3 certify less than the total cost of any project based on this evaluation.

4 **SECTION 185.** ORS 469B.276 is amended to read:

5 469B.276. (1) The owner of a project may transfer a tax credit for the project in exchange for
6 a cash payment equal to the present value of the potential tax credit, as determined at the time of
7 the application for preliminary certification. If the tax credit is subject to recertification, only that
8 portion of the tax credit that has been recertified may be transferred.

9 (2) The [*State Department of Energy*] **Director of the Oregon Climate Authority** shall establish
10 by rule a formula to be employed in the determination of prices of credits transferred under this
11 section. In establishing the formula the [*department*] **director** shall incorporate inflation projections
12 and market real rate of return.

13 (3) The [*department*] **Oregon Climate Authority** shall recalculate credit transfer prices quar-
14 terly, employing the formula established under subsection (2) of this section.

15 **SECTION 186.** ORS 469B.279 is amended to read:

16 469B.279. The [*State Department of Energy*] **Director of the Oregon Climate Authority** shall
17 by rule establish the following standards relating to energy conservation projects:

18 (1) In consultation with the Department of Consumer and Business Services Building Codes Di-
19 vision, standards relating to energy savings in new construction.

20 (2) Standards relating to what constitutes a replacement of inefficient equipment.

21 (3) Standards for the determination of total project cost.

22 (4) Standards for the application of third party review of research and development projects by
23 a qualified third party selected by the Director of the [*State Department of Energy*] **Oregon Climate**
24 **Authority**, as required in ORS 469B.285.

25 **SECTION 187.** ORS 469B.282 is amended to read:

26 469B.282. For an energy conservation project, the total amount that receives a preliminary
27 certification from the Director of the [*State Department of Energy*] **Oregon Climate Authority** may
28 not exceed \$10 million in certified cost.

29 **SECTION 188.** ORS 469B.285 is amended to read:

30 469B.285. (1) Prior to the installation or construction of an energy conservation project, any
31 person may apply to the [*State Department of Energy*] **Oregon Climate Authority** for preliminary
32 certification under ORS 469B.288 if:

33 (a) The project complies with the standards adopted by the Director of the [*State Department*
34 *of Energy*] **Oregon Climate Authority**; and

35 (b) The applicant will be the owner, contract purchaser or lessee of the project at the time of
36 installation or construction of the project.

37 (2) An application for preliminary certification shall be made in writing on a form prepared by
38 the [*department*] **authority** and shall contain:

39 (a) A statement that the applicant plans to acquire, construct or install a project that substan-
40 tially reduces the consumption of purchased energy or uses energy more efficiently.

41 (b) A detailed description of the project and its operation and information showing that the
42 project will operate as represented in the application and remain in operation for at least five years,
43 unless the director by rule specifies another period of operation.

44 (c) Information on the amount by which consumption of purchased energy by the applicant will
45 be reduced, and, if applicable, information about the expected level of sustainable building practices

1 project performance.

2 (d) The anticipated total project cost.

3 (e) Information on the number and type of jobs, directly connected to the allowance of the
4 credit, that will be:

5 (A) Created by the project; and

6 (B) Sustained throughout the construction, installation and operation of the project.

7 (f) Information demonstrating that the project will comply with applicable state and local laws
8 and regulations and obtain required licenses and permits.

9 (g) Information relating to the standards described in ORS 469B.279.

10 (h) A recommendation for a research and development project as demonstrative of innovation
11 that has been made by a qualified third party selected by the director.

12 (i) Any other information the director considers necessary to determine whether the project is
13 in accordance with the provisions of ORS 469B.270 to 469B.306, and any applicable rules or stan-
14 dards adopted by the director.

15 (3) An application for preliminary certification shall be accompanied by a fee established under
16 ORS 469B.294. The director may refund all or a portion of the fee if the application for certification
17 is rejected.

18 (4) The director may allow an applicant to file the application for preliminary certification after
19 the start of installation or construction of the project if the director finds that:

20 (a) Filing the application before the start of installation or construction is inappropriate because
21 special circumstances render filing earlier unreasonable; and

22 (b) The project would otherwise qualify for certification under ORS 469B.270 to 469B.306.

23 (5) The director may, by rule, waive preliminary certification under ORS 469B.288, or may es-
24 tablish an informational filing system in place of preliminary certification, for projects that:

25 (a) Have eligible costs of less than \$20,000;

26 (b) Consist of measures that the director determines to be eligible for waiver of preliminary
27 certification; and

28 (c) Comply with any other requirements established by the director.

29 (6) A preliminary certification shall remain valid for a period of three calendar years after the
30 date on which the preliminary certification is issued by the director, after which the certification
31 becomes invalid even if:

32 (a) The applicant is awaiting identification of a pass-through partner; or

33 (b) The preliminary certification has been amended.

34 **SECTION 189.** ORS 469B.288 is amended to read:

35 469B.288. (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** may
36 require an applicant for certification of an energy conservation project to submit plans, specifica-
37 tions and contract terms, and after examination of the plans, specifications and terms may request
38 corrections and revisions.

39 (2) If the director determines that the project is technically feasible and should operate in ac-
40 cordance with the representations made by the applicant, and is in accordance with the provisions
41 of ORS 469B.270 to 469B.306 and any applicable rules or standards adopted by the director, the di-
42 rector may issue a preliminary certificate approving the installation or construction of the project.
43 The certificate shall indicate the potential amount of tax credit allowable and shall list any condi-
44 tions for claiming the credit.

45 (3) In accordance with ORS chapter 183, the director may issue an order altering, conditioning,

1 suspending or denying preliminary certification if the director determines that:

2 (a) The project does not comply with the provisions of ORS 469B.270 to 469B.306 and applicable
3 rules and standards;

4 (b) The applicant has previously received preliminary or final certification for the project;

5 (c) The applicant was directly involved in an act for which the director has levied civil penalties
6 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169 or 469B.270 to
7 469B.306; or

8 (d) The applicant or the principal, director, officer, owner, majority shareholder or member of
9 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
10 arrears for payments owed to any government agency while in any capacity with direct or indirect
11 control over a business.

12 **SECTION 190.** ORS 469B.291 is amended to read:

13 469B.291. (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** may
14 issue a final certification for an energy conservation project under this section only if:

15 (a) The project was installed or constructed under a preliminary certificate of approval issued
16 under ORS 469B.288, unless preliminary certification is waived under ORS 469B.285 (5);

17 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.285
18 (2) and does not violate any condition that may be imposed as described in subsections (4) and (5)
19 of this section; and

20 (c) The project was installed or constructed in accordance with the applicable provisions of ORS
21 469B.270 to 469B.306 and any applicable rules or standards adopted by the director.

22 (2) Any person may apply to the [*State Department of Energy*] **Oregon Climate Authority** for
23 final certification of a project:

24 (a) If the person received preliminary certification for the project under ORS 469B.288; and

25 (b) After completion of the installation or construction of the project.

26 (3) An application for final certification shall be made in writing on a form prepared by the
27 [*department*] **authority** and shall contain:

28 (a) A statement that the conditions of the preliminary certification have been complied with;

29 (b) The actual cost of the project attested to by a certified public accountant who is not an
30 employee of the applicant or, if the actual cost of the project is less than \$50,000, copies of receipts
31 for purchase and installation of the project;

32 (c) The amount of the credit under ORS 315.331 that is to be claimed;

33 (d) The number and type of jobs, directly connected to the allowance of the credit, that will be
34 created by the operation and maintenance of the project over the five-year period beginning with
35 the year of preliminary certification under ORS 469B.288;

36 (e) Information sufficient to demonstrate that the project will remain in operation for at least
37 five years, unless the director by rule specifies another period of operation;

38 (f) Documentation of compliance with applicable state and local laws and regulations and li-
39 censing and permitting requirements as defined by the director;

40 (g) Information, if applicable, pertaining to prior recommendation of the project by a qualified
41 third party selected by the director; and

42 (h) Any other information determined by the director to be necessary prior to issuance of a final
43 certificate, including inspection of the project by the [*department*] **authority**.

44 (4) As part of the final certification process, the director may require the applicant to enter into
45 a performance agreement with the [*department*] **authority**. The performance agreement may include

1 a recertification requirement under ORS 469B.298 and any additional requirements that the director
2 determines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to 469B.306.

3 (5) After the filing of the application under this section, the director may issue the certificate
4 together with any conditions, including conditions imposed by a performance agreement, that the
5 director determines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to
6 469B.306. If the applicant is an entity subject to regulation by the Public Utility Commission, the
7 director may consult with the commission prior to issuance of the certificate. The action of the di-
8 rector shall include certification of the actual cost of the project. However, the director may not
9 certify an amount for tax credit purposes that is more than the amount approved in the preliminary
10 certificate issued for the project.

11 (6) Except as otherwise provided in ORS 469B.298, if the director rejects an application for final
12 certification, or certifies a lesser amount of credit than was claimed in the application, the director
13 shall send to the applicant written notice of the action, together with a statement of the findings
14 and reasons for the action, by certified mail, before the 60th day after the filing of the application.
15 Failure of the director to act constitutes rejection of the application.

16 (7) Upon approval of an application for final certification of a project, the director shall certify
17 the project. The final certification shall indicate the amount of projected energy savings attributable
18 to the project and the total project cost.

19 (8) The director may establish by rule timelines and intermediate deadlines for submission of
20 application materials.

21 **SECTION 191.** ORS 469B.294 is amended to read:

22 469B.294. By rule and after hearing, the Director of the [*State Department of Energy*] **Oregon**
23 **Climate Authority** may adopt a schedule of reasonable fees that the [*State Department of Energy*]
24 **Oregon Climate Authority** may require of applicants for preliminary or final certification or re-
25 certification of an energy conservation project under ORS 469B.270 to 469B.306. Before the adoption
26 or revision of the fees, the [*department*] **authority** shall estimate the total cost of the program to
27 the [*department*] **authority**. The fees shall be used to recover the anticipated cost of administering
28 and enforcing the provisions of ORS 469B.270 to 469B.306, including filing, investigating, granting
29 and rejecting applications for certification or recertification and ensuring compliance with ORS
30 469B.270 to 469B.306 and shall be designed not to exceed the total cost estimated by the
31 [*department*] **authority**. Any excess fees shall be held by the [*department*] **authority** and shall be
32 used by the [*department*] **authority** to reduce any future fee increases. The fee may vary according
33 to the size and complexity of the project. The fee is not considered part of the cost of the project
34 to be certified.

35 **SECTION 192.** ORS 469B.297 is amended to read:

36 469B.297. (1) A certificate issued under ORS 469B.291 is required for purposes of obtaining tax
37 credits in accordance with ORS 315.331. Except as otherwise provided in ORS 469B.298, such certi-
38 fication shall be granted for a period not to exceed five years. The five-year period shall begin with
39 the tax year of the applicant during which the completed application for final certification of the
40 project under ORS 469B.291 is received by the [*State Department of Energy*] **Oregon Climate Au-**
41 **thority**. If required by the [*department*] **authority** in a performance agreement, the project owner
42 shall seek recertification during the five-year period, as provided in ORS 469B.298.

43 (2) If the original owner of the certificate uses any portion of the credit, the certificate becomes
44 nontransferable.

45 (3) For a transferee holding a credit that has been transferred under ORS 469B.276, the five-year

1 period shall begin with the tax year in which the transferee pays for the credit.

2 **SECTION 193.** ORS 469B.298 is amended to read:

3 469B.298. (1) An owner of an energy conservation project with a total project cost certified un-
4 der ORS 469B.291 of \$1 million or more that is subject to a recertification requirement in a per-
5 formance agreement shall apply under this section for recertification of eligibility for the tax credit
6 allowed under ORS 315.331.

7 (2) The applicant shall file an application for recertification with the [*State Department of En-*
8 *ergy*] **Oregon Climate Authority** at least 60 days prior to the anniversary date of the issuance of
9 the final certificate. The Director of the [*State Department of Energy*] **Oregon Climate Authority**
10 may require recertification for the three years following the date of the issuance of the final cer-
11 tificate.

12 (3) The recertification application shall contain the following information:

13 (a) A description of the business operations conducted at the facility and any changes in the
14 business operations since the project was completed;

15 (b) Energy consumption for the project or facility as shown in the preceding 12 months of utility
16 billing records;

17 (c) A statement signed by the applicant attesting that the project is in compliance with all ap-
18 plicable laws related to the ownership and operation of the project;

19 (d) A statement signed by the project owner attesting that the project owner is current on all
20 obligations to the state, including but not limited to taxes and permitting fees;

21 (e) An inspection of the project by the [*department*] **authority**, if required by the [*department*]
22 **authority**; and

23 (f) Any other information required by the [*department*] **authority**.

24 (4) A recertification application filed under this section must be accompanied by the fee estab-
25 lished under ORS 469B.294.

26 (5) The [*department*] **authority** shall review the recertification application and approve the ap-
27 plication if it meets the requirements of subsections (3) and (4) of this section and the project is in
28 compliance with all applicable statutes and administrative rules and with the performance agree-
29 ment.

30 (6) The [*department*] **authority** may consult with the city or county in which the facility is lo-
31 cated or with any state agency in determining whether to approve a recertification application un-
32 der this section.

33 (7) If the director approves a recertification application, the director shall issue a recertification
34 of eligibility for a tax credit under ORS 315.331 for up to 10 percent of the total project cost certi-
35 fied under ORS 469B.291. The director may deny the recertification or issue a recertification in an
36 amount of credit less than 10 percent of the total project cost certified under ORS 469B.291 if the
37 director determines that the project is not in compliance with all applicable statutes and adminis-
38 trative rules and with the performance agreement.

39 (8) If the director does not approve a recertification application or reduces the amount of tax
40 credit, the project owner may not claim, use or transfer that portion of the tax credit for which the
41 recertification was denied.

42 (9) A person aggrieved by a decision of the director to deny or reduce the amount of a recer-
43 tification for a tax credit may request and be granted a contested case hearing under ORS chapter
44 183.

45 **SECTION 194.** ORS 469B.300 is amended to read:

1 469B.300. (1) Under the procedures for a contested case under ORS chapter 183, the Director
2 of the [*State Department of Energy*] **Oregon Climate Authority** may order the revocation of a cer-
3 tificate issued under ORS 469B.291 if the director finds that:

4 (a) The certification was obtained by fraud or misrepresentation;

5 (b) The holder of the certificate or the operator of the project has failed to construct or operate
6 the project in compliance with the plans, specifications and procedures in the certificate; or

7 (c) The project is no longer in operation.

8 (2) As soon as an order of revocation under this section becomes final, the director shall notify
9 the Department of Revenue and the project owner, contract purchaser or lessee of the order of re-
10 vocation. Upon notification, the Department of Revenue immediately shall proceed to collect those
11 taxes not paid by the certificate holder as a result of the tax credits provided to the certificate
12 holder under ORS 315.331, from the certificate holder or a successor in interest to the business in-
13 terests of the certificate holder. All prior tax credits provided to the holder of the certificate by
14 virtue of the certificate shall be forfeited.

15 (3)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to
16 the collection of income and excise taxes and may proceed to collect the amounts described in
17 subsection (2) of this section from the person that obtained certification from the [*State Department*
18 *of Energy*] **Oregon Climate Authority**, or any successor in interest to the business interests of that
19 person. An assessment of tax is not necessary and a statute of limitation does not preclude the
20 collection of taxes described in this subsection.

21 (b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires
22 an interest through bankruptcy or through foreclosure of a security interest is not considered to be
23 a successor in interest to the business interests of the person that obtained certification.

24 (4) If the certificate is ordered revoked pursuant to subsection (1)(b) of this section, the certif-
25 icate holder shall be denied any further relief under ORS 315.331 in connection with the project from
26 and after the date that the order of revocation becomes final.

27 (5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a certificate
28 held by a transferee under ORS 469B.276 may not be considered revoked for purposes of the
29 transferee, the tax credit allowable to the transferee under ORS 469B.276 may not be reduced, and
30 a transferee is not liable under subsections (2) to (4) of this section.

31 (6) If the project owner is subject to a performance agreement requiring recertification under
32 ORS 469B.298, the certificate shall be considered revoked as to any portion of the tax credit that
33 has not previously received approval under a recertification application that was required to have
34 been filed pursuant to ORS 469B.298.

35 **SECTION 195.** ORS 469B.303 is amended to read:

36 469B.303. (1) The total amount of potential tax credits for all energy conservation projects in
37 this state may not, at the time of preliminary certification under ORS 469B.288, exceed:

38 (a) \$28 million for any biennium; or

39 (b) \$7.5 million for the six months beginning July 1, 2017, and ending December 31, 2017.

40 (2) In the event that the Director of the [*State Department of Energy*] **Oregon Climate Au-**
41 **thority** receives applications for preliminary certification with a total amount of certified costs for
42 potential tax credits in excess of the limitations in subsection (1) of this section, the director shall
43 allocate the issuance of preliminary certifications according to standards and criteria established
44 by rule by the director.

45 **SECTION 196.** ORS 469B.306 is amended to read:

1 469B.306. The [State Department of Energy] **Director of the Oregon Climate Authority** shall
2 by rule establish policies and procedures for the administration and enforcement of the provisions
3 of ORS 315.331 and 469B.270 to 469B.306 and section 36, chapter 730, Oregon Laws 2011, including
4 standards for what constitutes a single energy conservation project.

5 **SECTION 197.** ORS 469B.320 is amended to read:

6 469B.320. As used in ORS 315.336 and 469B.320 to 469B.347:

7 (1) "Acquisition of an alternative fuel vehicle fleet" includes the replacement of two or more
8 vehicles that are not used primarily for personal, family or household purposes, that are modified
9 or acquired directly from the factory and that:

10 (a) Use an alternative fuel, including electricity, biofuel, gasohol with at least 20 percent dena-
11 tured alcohol content, hydrogen, Hythane, methane, methanol, natural gas, propane or any other fuel
12 approved by the Director of the [State Department of Energy] **Oregon Climate Authority** as an al-
13 ternative fuel; and

14 (b) Produce lower exhaust emissions, or are more energy efficient, than equivalent vehicles fu-
15 eled by gasoline or diesel.

16 (2) "Alternative fuel vehicle infrastructure project" includes a facility for mixing, storing, com-
17 pressing or dispensing fuels for alternative fuel vehicles, and any other necessary and reasonable
18 equipment.

19 (3) "Alternative fuel vehicle project" means:

20 (a) The acquisition of an alternative fuel vehicle fleet; or

21 (b) An alternative fuel vehicle infrastructure project.

22 (4) "Cost" includes capital expenditures and core expenses such as vehicle repair, fuel, personnel
23 and administrative expenses.

24 (5) "Transportation project" means:

25 (a) Transit services provided to members of the public by a public or nonprofit entity that re-
26 ceives state or federal funding for those services, or is the direct recipient of funding from an entity
27 that receives state or federal funding for the services; or

28 (b) An alternative fuel vehicle project.

29 **SECTION 198.** ORS 469B.323 is amended to read:

30 469B.323. (1) The owner of a transportation project may transfer a tax credit for the project in
31 exchange for a cash payment equal to the present value of the tax credit.

32 (2) The [State Department of Energy] **Director of the Oregon Climate Authority** shall establish
33 by rule a formula to be employed in the determination of prices of credits transferred under this
34 section. In establishing the formula the [department] **director** shall incorporate inflation projections
35 and market real rate of return.

36 (3) The [department] **Oregon Climate Authority** shall recalculate credit transfer prices quar-
37 terly, employing the formula established under subsection (2) of this section.

38 **SECTION 199.** ORS 469B.326 is amended to read:

39 469B.326. (1) Prior to the acquisition or performance of a transportation project, a person may
40 apply to the [State Department of Energy] **Oregon Climate Authority** for preliminary certification
41 for the project under ORS 469B.329 if:

42 (a) The project complies with the standards adopted by the Director of the [State Department
43 of Energy] **Oregon Climate Authority**; and

44 (b) The applicant will be the owner, contract purchaser or lessee of the project at the time of
45 acquisition or performance of the project.

1 (2) An application for preliminary certification shall be made in writing on a form prepared by
2 the [*department*] **authority** and shall contain:

3 (a) A statement that the applicant plans to acquire or perform a project that substantially re-
4 duces the consumption of purchased petroleum energy.

5 (b) A detailed description of the project and its operation and information showing that the
6 project will operate as represented in the application and remain in operation for at least five years,
7 unless the director by rule specifies another period of operation.

8 (c) Information on the amount by which consumption of purchased petroleum energy by the ap-
9 plicant will be reduced, and, if applicable, information about the expected level of project perform-
10 ance.

11 (d) The anticipated total project cost.

12 (e) Information on the number and types of jobs, directly connected to the allowance of the
13 credit, that will be:

14 (A) Created by the project; and

15 (B) Sustained throughout the acquisition and performance of the project.

16 (f) Information demonstrating that the project will comply with applicable state and local laws
17 and regulations and obtain required licenses and permits.

18 (g) Any other information the director considers necessary to determine whether the project is
19 in accordance with the provisions of ORS 469B.320 to 469B.347, and any applicable rules or stan-
20 dards adopted by the director.

21 (3) An application for preliminary certification shall be accompanied by a fee established under
22 ORS 469B.335. The director may refund all or a portion of the fee if the application for certification
23 is rejected.

24 (4) The director may allow an applicant to file the application for preliminary certification after
25 the start of acquisition or performance of the project if the director finds that:

26 (a) Filing the application before the start of acquisition or performance is inappropriate because
27 special circumstances render filing earlier unreasonable; and

28 (b) The project would otherwise qualify for certification under ORS 469B.320 to 469B.347.

29 (5) A preliminary certification shall remain valid for a period of three calendar years after the
30 date on which the preliminary certification is issued by the director, after which the certification
31 becomes invalid even if:

32 (a) The applicant is awaiting identification of a pass-through partner; or

33 (b) The preliminary certification has been amended.

34 **SECTION 200.** ORS 469B.329 is amended to read:

35 469B.329. (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** may
36 require an applicant for certification of a transportation project to submit plans, specifications and
37 contract terms, and after examination of the plans, specifications and terms may request corrections
38 and revisions.

39 (2) If the director determines that the project is technically feasible and should operate in ac-
40 cordance with the representations made by the applicant, and is in accordance with the provisions
41 of ORS 469B.320 to 469B.347 and any applicable rules or standards adopted by the director, the di-
42 rector may issue a preliminary certificate approving the acquisition or performance of the project.
43 The certificate shall indicate the potential amount of tax credit allowable and shall list any condi-
44 tions for claiming the credit.

45 (3) In accordance with ORS chapter 183, the director may issue an order altering, conditioning,

1 suspending or denying preliminary certification if the director determines that:

2 (a) The project does not comply with the provisions of ORS 469B.320 to 469B.347 and applicable
3 rules and standards;

4 (b) The applicant has previously received preliminary or final certification for the project;

5 (c) The applicant was directly involved in an act for which the director has levied civil penalties
6 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169 or 469B.320 to
7 469B.347; or

8 (d) The applicant or the principal, director, officer, owner, majority shareholder or member of
9 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
10 arrears for payments owed to any government agency while in any capacity with direct or indirect
11 control over a business.

12 **SECTION 201.** ORS 469B.332 is amended to read:

13 469B.332. (1) A final certification for a transportation project may not be issued by the Director
14 of the [*State Department of Energy*] **Oregon Climate Authority** under this section unless:

15 (a) The project was acquired or performed under a preliminary certificate of approval issued
16 under ORS 469B.329;

17 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.326
18 (2) and does not violate any condition that may be imposed as described in subsection (4) of this
19 section; and

20 (c) The project was acquired or performed in accordance with the applicable provisions of ORS
21 469B.320 to 469B.347 and any applicable rules or standards adopted by the director.

22 (2) A person may apply to the [*State Department of Energy*] **Oregon Climate Authority** for final
23 certification of a project:

24 (a) If the person received preliminary certification for the project under ORS 469B.329; and

25 (b) After completion of the acquisition or performance of the project.

26 (3) An application for final certification shall be made in writing on a form prepared by the
27 [*department*] **authority** and shall contain:

28 (a) A statement that the conditions of the preliminary certification have been complied with;

29 (b)(A) The actual cost of the project attested to by a certified public accountant who is not an
30 employee of the applicant or the applicant's completed audit in compliance with federal Office of
31 Management and Budget Circular A-133; or

32 (B) If the actual cost of the project is less than \$50,000, copies of receipts for acquisition and
33 performance of the project;

34 (c) The amount of the credit under ORS 315.336 that is to be claimed;

35 (d) The number and types of jobs, directly connected to the allowance of the credit, created by
36 the acquisition and performance of the project over the five-year period beginning on the date of
37 issuance of the preliminary certification under ORS 469B.329;

38 (e) Information sufficient to demonstrate that the project will remain in operation for at least
39 five years, unless the director by rule specifies another period of operation;

40 (f) Documentation of compliance with applicable state and local laws and regulations and li-
41 censing and permitting requirements as defined by the director; and

42 (g) Any other information determined by the director to be necessary prior to issuance of a final
43 certificate, including inspection of the project by the [*department*] **authority**.

44 (4) After the filing of the application under this section, the director may issue the certificate
45 together with any conditions that the director determines are appropriate to promote the purposes

1 of ORS 315.336 and 469B.320 to 469B.347. If the applicant is an entity subject to regulation by the
 2 Public Utility Commission, the director may consult with the commission prior to issuance of the
 3 certificate. The action of the director shall include certification of the actual cost of the project.
 4 However, the director may not certify an amount for tax credit purposes that is more than the
 5 amount of credit approved in the preliminary certificate issued for the project.

6 (5) If the director rejects an application for final certification, or certifies a lesser amount of
 7 credit than was claimed in the application, the director shall send to the applicant written notice
 8 of the action, together with a statement of the findings and reasons for the action, by certified mail,
 9 before the 60th day after the filing of the application. Failure of the director to act constitutes re-
 10 jection of the application.

11 (6) Upon approval of an application for final certification of a project, the director shall certify
 12 the project. The final certification shall indicate the amount of projected energy savings attributable
 13 to the project and the certified cost of the project.

14 (7) The director may establish by rule timelines and intermediate deadlines for submission of
 15 application materials.

16 **SECTION 202.** ORS 469B.335 is amended to read:

17 469B.335. By rule and after hearing, the Director of the [*State Department of Energy*] **Oregon**
 18 **Climate Authority** may adopt a schedule of reasonable fees that the [*State Department of Energy*]
 19 **Oregon Climate Authority** may require of applicants for preliminary or final certification of a
 20 transportation project under ORS 469B.320 to 469B.347. Before the adoption or revision of the fees,
 21 the [*department*] **authority** shall estimate the total cost of the program to the [*department*] **au-**
 22 **thority**. The fees shall be used to recover the anticipated cost of administering and enforcing the
 23 provisions of ORS 469B.320 to 469B.347, including filing, investigating, granting and rejecting appli-
 24 cations for certification and ensuring compliance with ORS 469B.320 to 469B.347 and shall be de-
 25 signed not to exceed the total cost estimated by the [*department*] **authority**. Any excess fees shall
 26 be held by the [*department*] **authority** and shall be used by the [*department*] **authority** to reduce
 27 any future fee increases. The fee may vary according to the size and complexity of the project. The
 28 fee is not considered part of the cost of the project to be certified.

29 **SECTION 203.** ORS 469B.338 is amended to read:

30 469B.338. (1) A certificate issued under ORS 469B.332 is required for purposes of obtaining tax
 31 credits in accordance with ORS 315.336. Such certification shall be granted for a period not to ex-
 32 ceed five years. The five-year period shall begin with the tax year of the applicant during which the
 33 completed application for final certification of the transportation project under ORS 469B.332 is re-
 34 ceived by the [*State Department of Energy*] **Oregon Climate Authority**.

35 (2) If the original owner of the certificate uses any portion of the credit, the certificate becomes
 36 nontransferable.

37 (3) For a transferee holding a credit that has been transferred under ORS 469B.323, the five-year
 38 period shall begin with the tax year in which the transferee pays for the credit.

39 **SECTION 204.** ORS 469B.341 is amended to read:

40 469B.341. (1) Under the procedures for a contested case under ORS chapter 183, the Director
 41 of the [*State Department of Energy*] **Oregon Climate Authority** may order the revocation of a cer-
 42 tificate issued under ORS 469B.332 if the director finds that:

43 (a) The certification was obtained by fraud or misrepresentation;

44 (b) The holder of the certificate or the operator of the transportation project has failed to ac-
 45 quire or perform the project in compliance with the plans, specifications and contract terms in the

1 certificate; or

2 (c) The project is no longer in operation.

3 (2) As soon as an order of revocation under this section becomes final, the director shall notify
4 the Department of Revenue and the project owner, contract purchaser or lessee of the order of re-
5 vocation. Upon notification, the Department of Revenue immediately shall proceed to collect those
6 taxes not paid by the certificate holder as a result of the tax credits provided to the certificate
7 holder under ORS 315.336, from the certificate holder or a successor in interest to the business in-
8 terests of the certificate holder. All prior tax credits provided to the holder of the certificate by
9 virtue of the certificate shall be forfeited.

10 (3)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to
11 the collection of income and excise taxes and may proceed to collect the amounts described in
12 subsection (2) of this section from the person that obtained certification from the [*State Department*
13 *of Energy*] **Oregon Climate Authority**, or any successor in interest to the business interests of that
14 person. An assessment of tax is not necessary and a statute of limitation does not preclude the
15 collection of taxes described in subsection (2) of this section.

16 (b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires
17 an interest through bankruptcy or through foreclosure of a security interest is not considered to be
18 a successor in interest to the business interests of the person that obtained certification.

19 (4) If the certificate is ordered revoked pursuant to subsection (1)(b) of this section, the certif-
20 icate holder shall be denied any further relief under ORS 315.336 in connection with the project from
21 and after the date that the order of revocation becomes final.

22 (5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a certificate
23 held by a transferee under ORS 469B.323 may not be considered revoked for purposes of the
24 transferee, the tax credit allowable to the transferee under ORS 469B.323 may not be reduced, and
25 a transferee is not liable under subsections (2) to (4) of this section.

26 **SECTION 205.** ORS 469B.344 is amended to read:

27 469B.344. (1)(a) The total amount of potential tax credits for all transportation projects in this
28 state may not, at the time of preliminary certification under ORS 469B.329, exceed \$20 million for
29 any biennium.

30 (b) For each tax year, the Director of the [*State Department of Energy*] **Oregon Climate Au-**
31 **thority** may allocate a percentage of the amount allowed in paragraph (a) of this subsection to al-
32 ternative fuel vehicle projects and a percentage to transit services.

33 (2) Notwithstanding ORS 315.336, in the event that the director receives applications for pre-
34 liminary certification with a total amount of potential tax credits in excess of the limits set by the
35 director pursuant to subsection (1)(b) of this section, the director shall allocate the issuance of
36 preliminary certifications among applicants as follows:

37 (a) If an excess of applications for credits for transit services is received, the director shall al-
38 locate the issuance of preliminary certifications among applicants for credits for transit services and
39 proportionately reduce the amount of allowed credit, with no applicant receiving more than 20 per-
40 cent of the amount established under subsection (1)(b) of this section for transit services.

41 (b) The director may allocate the issuance of preliminary certifications among applicants for
42 credits for alternative fuel vehicle projects and may award credits for less than the amount other-
43 wise allowed applicants.

44 (c) If, after making any reductions required under paragraph (a) of this subsection, an unallo-
45 cated amount remains, the director shall allocate this additional amount among applicants affected

1 by the percentage restriction in paragraph (a) of this subsection.

2 **SECTION 206.** ORS 469B.347 is amended to read:

3 469B.347. The [*State Department of Energy*] **Director of the Oregon Climate Authority** shall
4 by rule establish policies and procedures for the administration and enforcement of the provisions
5 of ORS 315.336 and 469B.320 to 469B.347, including standards for what constitutes a single trans-
6 portation project.

7 **SECTION 207.** ORS 469B.400 is amended to read:

8 469B.400. The [*State Department of Energy*] **Director of the Oregon Climate Authority** shall
9 by rule identify categories of fuel blend and solid biofuel that qualify for the personal income tax
10 credit allowed under ORS 315.465.

11 **NOTE:** Section 208 was deleted by amendment. Subsequent sections were not renumbered.

12 **SECTION 209.** ORS 469B.407 is amended to read:

13 469B.407. (1) Under the procedures for a contested case under ORS chapter 183, the Director
14 of the [*State Department of Energy*] **Oregon Climate Authority** may order the suspension or revo-
15 cation of the certificate or portion of the certificate issued under ORS 315.141 if the director finds
16 that:

17 (a) The certification was obtained by fraud or misrepresentation; or

18 (b) The certification was obtained by mistake or miscalculation.

19 (2) As soon as the order of revocation under this section becomes final, the director shall notify
20 the Department of Revenue and the person that obtained the tax credit certification from the [*State*
21 *Department of Energy*] **Oregon Climate Authority** of the order of revocation. Upon notification, the
22 Department of Revenue immediately shall proceed to collect:

23 (a) In the case in which no portion of a certificate has been transferred under ORS 315.144,
24 those taxes not paid by the certificate holder as a result of the tax credits provided to the certificate
25 holder under ORS 315.141 and 469B.403 pursuant to the revoked certification, from the certificate
26 holder or a successor in interest to the business interests of the certificate holder. All tax credits
27 provided to the holder of the certificate and attributable to the fraudulently or mistakenly obtained
28 certificate or portion of the certificate shall be forfeited.

29 (b) In the case in which all of a certificate has been transferred under ORS 315.144, an amount
30 equal to the amount of the tax credits allowable to the transferee under ORS 315.141 and 469B.403
31 pursuant to the revoked certification, from the transferor.

32 (c) In the case in which a portion of a certificate has been transferred under ORS 315.144, those
33 taxes not paid by the transferor as a result of the tax credits provided to the transferor under ORS
34 315.141 and 469B.403 pursuant to the revoked certification, from the transferor or a successor in
35 interest to the business interests of the transferor, and an amount equal to the amount of the tax
36 credits allowable to the transferee under ORS 315.141 and 469B.403 pursuant to the revoked certi-
37 fication, from the transferor. All tax credits provided to the transferor and attributable to the
38 fraudulently or mistakenly obtained certificate or portion of the certificate shall be forfeited.

39 (3)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to
40 the collection of income and excise taxes and may proceed to collect the amounts described in
41 subsection (2) of this section from the person that obtained certification from the [*State Department*
42 *of Energy*] **Oregon Climate Authority**, or a successor in interest to the business interests of that
43 person. No assessment of tax shall be necessary and no statute of limitation shall preclude the col-
44 lection of taxes described in this subsection.

45 (b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires

1 an interest through bankruptcy or through foreclosure of a security interest is not considered to be
2 a successor in interest to the business interests of the person that obtained certification.

3 (4) Notwithstanding subsections (1) to (3) of this section, a certificate or portion of a certificate
4 held by a transferee under ORS 315.144 may not be considered revoked for purposes of the
5 transferee, the tax credit allowable to the transferee under ORS 315.144 may not be reduced and a
6 transferee is not liable under subsections (2) and (3) of this section.

7 **SECTION 210.** ORS 469B.991 is amended to read:

8 469B.991. (1) The Director of the [*State Department of Energy*] **Oregon Climate Authority** may
9 impose a civil penalty against a contractor if a contractor certificate is revoked under ORS
10 469B.118. The amount of the penalty shall be equal to the total amount of tax relief estimated to
11 have been provided under ORS 316.116 to the contractor or to purchasers of the system for which
12 a contractor's certificate has been revoked.

13 (2) The [*State Department of Energy*] **Oregon Climate Authority** may not collect any of the
14 amount of a civil penalty imposed under subsection (1) of this section from a purchaser of the system
15 for which the final certificate has been revoked. However, the Department of Revenue shall proceed
16 under ORS 469B.118 (3) to collect taxes not paid by a taxpayer if the tax credit is ordered forfeited
17 because of that taxpayer's fraud or misrepresentation under ORS 469B.118 (1)(a).

18 (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

19 (4) A penalty recovered under this section shall be paid into the State Treasury and credited to
20 the General Fund and is available for general governmental expenses.

21 **SECTION 211.** ORS 470.050 is amended to read:

22 470.050. As used in this chapter, unless the context requires otherwise:

23 (1) "Alternative fuel project" means:

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

26 (A) Uses an alternative fuel, including **but not limited to** electricity, biofuel, gasohol with at
27 least 20 percent denatured alcohol content, hydrogen, hythane, methane, methanol, natural gas[,] **or**
28 **or** propane [*or any other fuel approved by the Director of the State Department of Energy*]; and

29 (B) Produces lower exhaust emissions or is more energy efficient than equivalent equipment fu-
30 eled by gasoline or diesel; and

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

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

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

38 [(4) "*Committee*" means the Small Scale Local Energy Project Advisory Committee created under
39 ORS 470.070.]

40 [(5)] (3) "Cooperative" means a cooperative [corporation organized under ORS chapter 62.

41 [(6) "*Director*" means the Director of the State Department of Energy appointed under ORS
42 469.040.]

43 [(7)] (4) "Eligible federal agency" means a federal agency or public corporation created by the
44 federal government that proposes to use a loan for a small scale local energy project. "Eligible
45 federal agency" does not include a federal agency or public corporation created by the federal

1 government that proposes to use a loan for a small scale local energy project to generate electricity
2 for sale.

3 [(8)] (5) “Eligible state agency” means a state officer, board, commission, department, institution,
4 branch or agency of the state whose costs are paid wholly or in part from funds held in the State
5 Treasury.

6 [(9) “Energy efficiency and sustainable technology loan” means a loan for a small scale local en-
7 ergy project that is repayable by means of:]

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

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

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

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

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

14 [(13) “Energy savings projection” means an examination of the energy performance and site char-
15 acteristics of a property that, at a minimum, identifies:]

16 [(a) A base efficiency package; and]

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

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

20 [(15)] (6) “Loan” includes the purchase or other acquisition of evidence of indebtedness and
21 money used for the purchase or other acquisition of evidence of indebtedness.

22 [(16)] (7) “Loan contract” means the evidence of indebtedness and all instruments used in the
23 purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or
24 municipal corporations that are tax exempt entities, a loan contract may include a lease purchase
25 agreement with respect to personal property.

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

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

32 [(19)] (8) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any
33 Indian tribe or authorized Indian tribal organization or any combination of two or more of these
34 tribes or organizations acting jointly in connection with a small scale local energy project.

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

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

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

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

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

42 [(22)] (9) “Oregon business” means a sole proprietorship, partnership, company, cooperative,
43 corporation or other form of business entity that is organized or authorized to do business under
44 Oregon law for profit.

45 [(23) “Primary contractor” means a contractor that:]

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

3 [(b) Is responsible for the completion of the small scale local energy project;]

4 [(c) Undertakes to complete the small scale local energy project; and]

5 [(d) Is responsible for any subcontractors performing work on the small scale local energy
6 project.]

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

10 [(25)] (10) “Recycling project” means a facility or equipment that converts waste into a new and
11 usable product.

12 [(26)] (11) “Small business” means:

13 (a) An Oregon business that is:

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

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

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

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

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

23 [(27) “Small scale local energy program loan” means a loan for a small scale local energy project
24 other than an energy efficiency and sustainable technology loan.]

25 [(28)] (12) “Small scale local energy project” means any of the following:

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

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

34 (c) A recycling project.

35 (d) An alternative fuel project.

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

39 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
40 that directly or indirectly reduces the amount of energy needed for the construction and operation
41 of the facility and that meets [the sustainable building practices standard established by the State
42 Department of Energy] **any applicable sustainable building practices standards identified by the**
43 **Oregon Business Development Department** by rule. For purposes of this paragraph, “system,
44 mechanism or series of mechanisms” includes related and integrated upgrades to attain compliance
45 with standards set in the State of Oregon Structural Specialty Code and Fire and Life Safety Code,

1 and seismic safety upgrades.

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

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

7 [(29)] (13) "Small Scale Local Energy Project Administration and Bond Sinking Fund" means the
8 fund created under ORS 470.300.

9 [(30)] (14) "Small Scale Local Energy Project Loan Fund" means the loan fund created by Arti-
10 cle XI-J of the Oregon Constitution and appropriated to the [State] department [of Energy] under
11 ORS 470.130.

12 [(31) "Sustainable energy project manager" means the organization responsible for promoting the
13 energy efficiency and sustainable technology loan program or the clean energy deployment program and
14 related incentives for energy efficiency and renewable energy at the neighborhood and community
15 level.]

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

19 **SECTION 212.** ORS 470.060 is amended to read:

20 470.060. (1) The following may file with the [State Department of Energy] **Oregon Business**
21 **Development Department** an application to obtain moneys for a small scale local energy project
22 as provided in this chapter:

23 (a) An individual who is an Oregon resident;

24 (b) An Oregon business;

25 (c) A nonprofit or public cooperative;

26 (d) A nonprofit corporation;

27 (e) An eligible federal agency;

28 (f) An eligible state agency;

29 (g) A public corporation created by this state;

30 (h) An intergovernmental entity created pursuant to an intergovernmental agreement under ORS
31 190.003 to 190.130;

32 (i) A special district;

33 (j) A local improvement district;

34 (k) A public university listed in ORS 352.002; or

35 (L) A municipal corporation.

36 (2) Applications to obtain financing for a small scale local energy project shall be made in
37 writing on a form prescribed by the [State] department [of Energy]. Applications submitted to the
38 [State] department [of Energy] shall:

39 (a) Describe the nature and purpose of the proposed small scale local energy project.

40 (b) State whether any purposes other than energy production, but consistent with energy pro-
41 duction, will be served by the proposed small scale local energy project, and the nature of the other
42 purposes, if any.

43 (c) Include an evaluation of the potential of the small scale local energy project to meet local
44 community energy needs.

45 (d) Include an evaluation of the potential environmental impacts of the small scale local energy

1 project.

2 (e) State whether any moneys other than those in the loan fund are proposed to be used for the
3 development of the proposed small scale local energy project, and whether any other moneys are
4 available or have been sought for the project.

5 (f) Describe the source of moneys for repayment of the loan applied for.

6 (3) *[If the application is for a loan other than an energy efficiency and sustainable technology loan*
7 *to an individual,]* A fee of **\$500 or** one-tenth of one percent of the amount of the loan applied for
8 *[or]* **up to a fee of \$2,500**, whichever is *[less]* **more**, shall be submitted with each application. In
9 addition, the applicant may be required to pay for costs incurred in connection with the application
10 that exceed the application fee and which the Director of the *[State Department of Energy]* **Oregon**
11 **Business Development Department** determines are incurred solely in connection with processing
12 the application. The applicant shall be advised of any additional costs the applicant must pay before
13 the costs are incurred.

14 **SECTION 213.** ORS 470.080 is amended to read:

15 470.080. (1) *[After consultation with the Small Scale Local Energy Project Advisory Committee, the*
16 *Director of the State Department of Energy]* **As informed by the study conducted under section**
17 **257 of this 2019 Act, the Director of the Oregon Business Development Department** shall es-
18 tablish by rule standards and criteria for small scale local energy projects to be funded under this
19 chapter. *[other than projects funded through energy efficiency and sustainable technology loans. The*
20 *standards and criteria shall operate to encourage diversity in projects funded, give preference to the*
21 *maximum extent practical to projects proposed by individuals and small businesses, ensure acceptability*
22 *of environmental impacts and shall require consideration of the potential contribution of a project if*
23 *developed at other suitable locations to meeting the energy needs of this state. The standards and cri-*
24 *teria shall give the least preference to projects proposed by an eligible federal agency.]* **Standards and**
25 **criteria adopted by rule under this subsection must include, but need not be limited to:**

26 (a) **Credit underwriting standards and criteria, including credit eligibility criteria for**
27 **small scale local energy projects to be funded under this chapter; and**

28 (b) **Energy and energy policy standards and criteria, including but not limited to stan-**
29 **dards and criteria for ensuring that:**

30 (A) **Small scale local energy projects funded under this chapter are consistent with the**
31 **preservation and enhancement of environmental quality;**

32 (B) **A dwelling constructed before January 1, 1979, that will be served by a proposed space**
33 **heating project is weatherized according to the standards established under ORS 469.155; and**

34 (C) **Except for a proposed space heating project for a dwelling under subparagraph (B)**
35 **of this paragraph, a loan under this chapter does not finance any project for which the**
36 **projected economic value of the energy savings of the project during the first year of the**
37 **project is implemented is equal to or greater than the cost of the project.**

38 (2) **Except as provided in subsection (4)(b) of this section,** all applications submitted under
39 ORS 470.060 *[shall]* **must** be reviewed by the *[State Department of Energy]* **Oregon Business De-**
40 **velopment Department.** The department may request that the applicant submit additional infor-
41 mation or revise the application. The department shall:

42 (a) Determine whether the application meets the standards and criteria adopted under sub-
43 section (1) of this section; and

44 (b) **Based on the department's determination under paragraph (a) of this subsection, de-**
45 **velop a recommendation to the Oregon Infrastructure Finance Authority Board, or a**

1 **designee of the board, on the** *[recommend]* approval or denial of the loan application[, *and if ap-*
2 *proval is recommended in what amount the loan should be made.*]

3 (3) After concluding its review, *[unless the application meets the criteria established by the com-*
4 *mittee under subsection (4) of this section,]* the department shall refer the application and its findings
5 and recommendation to the *[committee]* **board** for *[its]* review. The department shall notify the ap-
6 plicant of the date, time and place of any oral presentation to the *[committee]* **board** on the appli-
7 cation. *[The committee shall review the application and the department's findings and recommendations*
8 *and advise the director whether the proposed small scale local energy project meets the criteria estab-*
9 *lished by the director under subsection (1) of this section, whether the project should be financed with*
10 *moneys from the Small Scale Local Energy Project Loan Fund and in what amount the loan should*
11 *be made if approved.]*

12 *[(4) The committee may provide for direct referral of an application by the department to the di-*
13 *rector if the application meets criteria established by the committee.]*

14 (4) **The department may:**

15 (a) **In adopting energy and energy policy standards and criteria under subsection (1)(b)**
16 **of this section, consult as necessary with state or federal agencies or nongovernmental en-**
17 **tities that have appropriate energy or energy policy expertise.**

18 (b) **Contract for the review of applications under this section to determine whether the**
19 **applications meet the energy and energy policy standards and criteria adopted under sub-**
20 **section (1)(b) of this section.**

21 **SECTION 214.** ORS 470.090 is amended to read:

22 470.090. (1) After consideration of the recommendation of the *[Small Scale Local Energy Project*
23 *Advisory Committee or the State Department of Energy]* **Oregon Business Development Depart-**
24 **ment** as provided by ORS 470.080, the *[Director of the State Department of Energy]* **Oregon**
25 **Infrastructure Finance Authority Board, or a designee of the board,** may approve or reject the
26 financing of a small scale local energy project described in an application filed as provided in ORS
27 470.060, using moneys in the Small Scale Local Energy Project Loan Fund. Approval of a loan by
28 the *[director]* **board** shall include a certification of the amount of the loan.

29 (2) The *[director's]* **board's** approval of a loan for a small scale local energy project shall be
30 based on a finding that:

31 (a) The proposed small scale local energy project meets established standards and criteria under
32 ORS 470.080;

33 (b) *[The proposed project is consistent with the preservation and enhancement of environmental*
34 *quality;]* **The proposed small scale local energy project is secured by good and sufficient**
35 **collateral;**

36 (c) The proposed **small scale local energy** project is feasible and a reasonable risk from prac-
37 tical and economic standpoints;

38 (d) The plan for development of the **small scale local energy** project is satisfactory;

39 (e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into
40 a contract with the Director **of the Oregon Business Development Department** for development
41 and repayment as provided in ORS 470.150 *[or 470.645];*

42 (f) There is a need for the proposed small scale local energy project and the applicant's financial
43 resources are adequate to provide the working capital to maintain the project after completion;

44 (g) Moneys in the loan fund are or will be available for the development of the proposed small
45 scale local energy project; **and**

1 *[(h) A dwelling constructed before January 1, 1979, that will be served by a proposed space heating*
 2 *project is weatherized according to the standards established under ORS 469.155;]*

3 *[(i) Except for a proposed space heating project for a dwelling under paragraph (h) of this sub-*
 4 *section, the loan does not finance any project for which the projected economic value of the energy*
 5 *savings of the project during the first year the project is implemented is equal to or greater than the*
 6 *cost of the project; and]*

7 *[(j) (h) The loan will not preclude individuals and small businesses from access to loan moneys.*

8 (3) The *[director]* **Oregon Business Development Department** shall notify the applicant *[and*
 9 *the presiding officer of the committee of the director's]* **of the board's** action and of the reasons for
 10 that action. The *[director]* **department** shall inform the applicant of the review procedure estab-
 11 lished in ORS 470.100.

12 **SECTION 215.** ORS 470.100 is amended to read:

13 470.100. (1) If the *[Director of the State Department of Energy]* **Oregon Infrastructure Finance**
 14 **Authority Board, or a designee of the board,** rejects a loan application or approves a loan
 15 amount different than that requested by the applicant, the applicant may request that the *[Small*
 16 *Scale Local Energy Project Advisory Committee review the director's action]* **board review the**
 17 **action.**

18 (2) *[The committee may review the director's action on its own motion or at the request of the ap-*
 19 *PLICANT. A majority of the members of the committee may authorize the presiding officer of the committee*
 20 *to appeal the director's action to the Governor.]* **At the request of the applicant, the board may**
 21 **review the request and any new documentation that the applicant may provide that may**
 22 **support reconsideration. If, upon further consideration, a majority of the board determines**
 23 **that further action is necessary, the board may amend the previous action, approve or reject**
 24 **the loan or approve the loan for a different amount than previously approved.**

25 (3) An appeal of the *[director's]* **board's** action may be initiated by the *[presiding officer of the*
 26 *committee]* **applicant** no later than 45 days after the date the applicant receives notice of the
 27 *[director's]* **board's** action under ORS 470.090.

28 (4) The decision of the *[Governor]* **board** is final. If the *[Governor]* **board** fails to act within 30
 29 days after receiving the appeal, the appeal shall be considered to be denied.

30 (5) Notwithstanding ORS chapter 183, a decision of the *[director or the Governor]* **board** on an
 31 application for financing under ORS 470.090 or this section is not subject to judicial review.

32 **SECTION 216.** ORS 470.110 is amended to read:

33 470.110. The Director of the *[State Department of Energy]* **Oregon Business Development De-**
 34 **partment** may accept gifts of money or other property from any source, given for the purposes of
 35 ORS 470.050 to 470.120, 470.140 (1) and 470.150 to 470.210. Money so received shall be paid into the
 36 Small Scale Local Energy Project Loan Fund. Money or other property so received shall be used for
 37 the purposes for which received.

38 **SECTION 217.** ORS 470.120 is amended to read:

39 470.120. If the applicant receives from any source other than the Small Scale Local Energy
 40 Project Loan Fund*[, the Energy Project Supplemental Fund or the Energy Project Bond Loan Fund]*
 41 any moneys to assist in the development of the **small scale local energy** project, the amount of the
 42 loan to the applicant from the Small Scale Local Energy Project Loan Fund*[, Energy Project Sup-*
 43 *plemental Fund or Energy Project Bond Loan Fund]* shall be limited to that amount necessary for
 44 the development of those portions of the project not funded by other sources.

45 **SECTION 218.** ORS 470.130 is amended to read:

1 470.130. All moneys in the Small Scale Local Energy Project Loan Fund created by Article XI-J
 2 of the Oregon Constitution are appropriated continuously to the [*State Department of Energy*]
 3 **Oregon Business Development Department** and shall be used for the purposes authorized under
 4 this chapter.

5 **SECTION 219.** ORS 470.135 is amended to read:

6 470.135. The duties of the Director of the Oregon Department of Administrative Services to es-
 7 tablish, maintain and keep accounts of, and make disbursements or transfers out of, the funds and
 8 accounts established or identified in the two bond indentures, as supplemented, dated June 1, 1981,
 9 and September 1, 1985, that relate to the Small Scale Local Energy Project Loan Program estab-
 10 lished by Article XI-J of the Oregon Constitution and this chapter are transferred to the [*State De-*
 11 *partment of Energy*] **Oregon Business Development Department**. Notwithstanding the transfer of
 12 these fiscal functions to the [*State Department of Energy*] **Oregon Business Development Depart-**
 13 **ment**, in accordance with ORS 291.015 (2), the [*State Department of Energy's*] **Oregon Business**
 14 **Development Department's** performance of these fiscal functions shall remain subject to the con-
 15 trol of the Oregon Department of Administrative Services.

16 **SECTION 220.** ORS 470.140 is amended to read:

17 470.140. (1) In accordance with the applicable provisions of ORS chapter 183, the Director of the
 18 [*State Department of Energy*] **Oregon Business Development Department** may adopt rules con-
 19 sidered necessary to carry out the purposes of this chapter.

20 (2) The director shall submit to the Legislative Assembly and the Governor a biennial report
 21 of the transactions of the Small Scale Local Energy Project Loan Fund and the Small Scale Local
 22 Energy Project Administration and Bond Sinking Fund in such detail as will accurately indicate the
 23 condition of the funds.

24 **SECTION 221.** ORS 470.145 is amended to read:

25 470.145. The [*State Department of Energy*] **Oregon Business Development Department** shall
 26 develop, implement and periodically update a marketing plan to inform potential applicants of the
 27 availability of small scale local energy project loans. The first priority of the marketing plan shall
 28 be to inform individuals and small businesses that small scale local energy project loans are avail-
 29 able.

30 **SECTION 222.** ORS 470.150 is amended to read:

31 470.150. Except as provided in ORS 470.155 and 470.170, if the [*Director of the State Department*
 32 *of Energy*] **Oregon Infrastructure Finance Authority Board** approves the financing of a small
 33 scale local energy project, the Director of the **Oregon Business Development Department**, on
 34 behalf of the state, and the applicant may enter into a loan contract, secured by a first lien or by
 35 other good and sufficient collateral in the manner provided in ORS 470.155 to 470.210. For purposes
 36 of this section, the interest of the [*State Department of Energy*] **Oregon Business Development**
 37 **Department** under a lease purchase contract entered into with an eligible federal or state agency
 38 or a municipal corporation may constitute good and sufficient collateral. The contract:

39 (1) May provide that the [*director*] **board**, on behalf of the state, must approve the arrangements
 40 made by the applicant for the development, operation and maintenance of the small scale local en-
 41 ergy project, using moneys in the Small Scale Local Energy Project Loan Fund for the project de-
 42 velopment.

43 (2) Shall provide a plan for repayment by the applicant of moneys borrowed from the loan fund
 44 used for the development of the small scale local energy project and interest on those moneys used
 45 at a rate of interest the [*director*] **board** determines is necessary to provide adequate funds to re-

1 cover the administrative expenses incurred in connection with the loan. The [*director*] **board** shall
 2 set the interest rate at an incremental rate above the interest rate on the underlying bonds in an
 3 amount sufficient to recover all program-related costs including, but not limited to, implementation,
 4 financing, administration, **losses** and promotional costs for the program. The incremental rate for
 5 projects proposed by an eligible federal agency shall be greater than the incremental rate charged
 6 to any other governmental borrower. The repayment plan, among other matters:

7 (a) Shall provide for commencement of repayment by the applicant of moneys used for project
 8 development and interest thereon not later than two years after the date of the loan contract or at
 9 any other time as the [*director*] **board** may provide. [*In addition to any other prepayment option*
 10 *provided in a borrower's loan agreement, the department shall provide a borrower the opportunity to*
 11 *prepay the borrower's loan, without any additional premium, by defeasing such loan to the call date*
 12 *of the bond or bonds funding the applicable loan, or any refunding bonds linked to the loan, but such*
 13 *defeasance shall occur only if the director finds that after the defeasance, the sinking fund will have*
 14 *sufficient funds to make payments required under ORS 470.300 (1).]*

15 (b) May provide for reasonable extension of the time for making any repayment in emergency
 16 or hardship circumstances, if approved by the [*director*] **board**.

17 (c) Shall provide for evidence of debt assurance of and security for repayment by the applicant
 18 considered necessary or proper by the [*director*] **board**.

19 (d) Shall set forth the period of loan, which may not exceed the usable life of the completed
 20 project, or 30 years from the date of the loan contract, whichever is less.

21 (e) [*May*] **Shall** set forth a procedure for formal declaration of default of payment by the direc-
 22 tor, including formal notification of all relevant federal, state and local agencies; and further, a
 23 procedure for notification of all relevant federal, state and local agencies that declaration of default
 24 has been rescinded when appropriate.

25 **(f) Shall require the loan to be paid in full in the event that:**

26 **(A) The director makes a formal declaration of default of payment pursuant to paragraph**
 27 **(e) of this subsection; or**

28 **(B) The small scale local energy project fails to meet the standards and criteria estab-**
 29 **lished under ORS 470.080.**

30 (3) May include provisions satisfactory to the [*director*] **board** for field inspection, the
 31 [*director*] **board** to be the final judge of completion of the project.

32 (4) May provide that the liability of the state under the contract is contingent upon the avail-
 33 ability of moneys in the loan fund for use in the planning and development of the project.

34 (5) May include further provisions the director considers necessary to ensure expenditure of the
 35 funds for the purposes set forth in the approved application.

36 (6) May provide that the director may institute an appropriate action or suit to prevent use of
 37 the project financed by the loan fund by any person who is delinquent in the repayment of any
 38 moneys due the sinking fund.

39 [*(7) If the project is being financed by an energy efficiency and sustainable technology loan or*
 40 *small scale local energy program loan, in addition to the requirements of subsections (1) to (6) of this*
 41 *section, shall include:]*

42 [*(a) For an energy efficiency and sustainable technology loan that relies on an on-bill financing*
 43 *system for the collection of a loan repayment charge, an agreement by the applicant to notify a person*
 44 *acquiring ownership of, or an interest in, the property from the applicant that the loan repayment*
 45 *charge will be transferred to the utility customer account of the person acquiring the ownership or in-*

1 *terest unless the loan is discharged before or at the time the ownership or interest transfers;]*

2 *[(b) A plainly worded acknowledgment by the applicant that failure to make payments as required*
3 *under the loan agreement may result in the foreclosure of a property lien or other debt collection*
4 *actions;]*

5 *[(c) A waiver stating that the applicant waives any jurisdictional or other irregularities or defects*
6 *in:]*

7 *[(A) The energy efficiency and sustainable technology loan program;]*

8 *[(B) A small scale local energy project;]*

9 *[(C) The small scale local energy program loan provisions;]*

10 *[(D) This chapter; or]*

11 *[(E) Department rules that relate in any way to the loan repayment charge, real property lien pro-*
12 *visions or any form or combination of loan security or to the requirement to satisfy the loan*
13 *obligation;]*

14 *[(d) If the applicant is not the owner of the property to be burdened by the loan repayment charge,*
15 *fixture filing or real property lien, provision for participation by the property owner as a party to the*
16 *contract or a notarized authorization by the owner for the fixture filing and lien; and]*

17 *[(e) A description of any other conditions required by the department.]*

18 **SECTION 223.** ORS 470.160 is amended to read:

19 470.160. If the *[Director of the State Department of Energy]* **Oregon Infrastructure Finance**
20 **Authority Board** approves a loan for a small scale local energy project, the State Treasurer shall
21 pay moneys for such project from the Small Scale Local Energy Project Loan Fund *[or Energy*
22 *Project Bond Loan Fund]* in accordance with the terms of the loan contract, as prescribed by the
23 *[director]* **board and the Director of the Oregon Business Development Department under ORS**
24 **470.150.**

25 **SECTION 224.** ORS 470.170 is amended to read:

26 470.170. *[(1)(a)]* (1) *[Except as otherwise provided in this subsection,]* When a loan is made under
27 this chapter to an applicant other than a municipal corporation, the loan shall be secured pursuant
28 to a mortgage, trust deed, security agreement, pledge, assignment or similar instrument, by a secu-
29 rity interest or lien on real or personal property in the full amount of the loan or as the *[Director*
30 *of the State Department of Energy]* **Oregon Infrastructure Finance Authority Board** shall require
31 for adequate security, including but not limited to long-term leasehold interests or equitable inter-
32 ests in real property or personal property. In lieu of, or in addition to, any of the collateral other-
33 wise described in this *[paragraph]* **subsection**, the applicant may secure the loan by providing credit
34 enhancement, including but not limited to a letter of credit or payment bond, or a guaranty ac-
35 ceptable to the *[director]* **board.**

36 *[(b) To the extent consistent with any declaration, pledge or agreement for bonds issued under ORS*
37 *470.220 to 470.290, an energy efficiency and sustainable technology loan shall be secured as provided*
38 *in ORS 470.680 or 470.685.]*

39 (2) When a loan is made to a municipal corporation for the development of a small scale local
40 energy project under this chapter, the loan shall be secured as the *[director]* **board** shall require for
41 adequate security. The security may be in the form of a lien, mortgage, interest under a lease-
42 purchase contract or other form of security acceptable to the *[director]* **board** and the municipal
43 corporation.

44 (3) When a loan made under this chapter is secured by a lien on the real property of the appli-
45 cant, the Director **of the Oregon Business Development Department** shall perfect the lien by

1 recording as provided by law.

2 (4) Upon payment of all amounts loaned to an applicant pursuant to this chapter, the director
3 shall file a satisfaction or release notice that indicates repayment of the loan.

4 (5) The director may cause to be instituted appropriate proceedings to foreclose liens for delin-
5 quent loan payments, and shall pay the proceeds of any such foreclosure, less the director's expenses
6 incurred in foreclosing, into the Small Scale Local Energy Project Administration and Bond Sinking
7 Fund if the loan was issued from the Small Scale Local Energy Project Loan Fund[, or into the *En-*
8 *ergy Project Bond Loan Fund if the loan was from the Energy Project Bond Loan Fund*]. In a fore-
9 closure proceeding the [*director*] **Oregon Business Development Department** may bid on property
10 offered for sale in the proceedings and may acquire title to the property on behalf of the state.

11 (6) The director may take any action, make any disbursement, hold any funds or institute any
12 action or proceeding necessary to protect the state's interest.

13 (7) The director may settle, compromise or release, for reasons other than uncollectibility as
14 provided in ORS 293.240, all or part of any loan obligation so long as the director's action is con-
15 sistent with the purposes of this chapter and does not impair the ability to pay the administrative
16 expenses of the [*State Department of Energy*] **Oregon Business Development Department** or the
17 obligations of any bonds then outstanding.

18 **SECTION 225.** ORS 470.180 is amended to read:

19 470.180. In addition to any other remedy available to the [*State Department of Energy*], **Oregon**
20 **Business Development Department**, if a municipal corporation entitled by law to share in the
21 apportionment of any state revenues or funds defaults on any payments due to the State of Oregon
22 under a loan contract entered into under ORS 470.150, the [*State Department of Energy*] **Oregon**
23 **Business Development Department** may certify that fact to the Oregon Department of Adminis-
24 trative Services and the Oregon Department of Administrative Services shall withhold payment of
25 any revenues or funds in the State Treasury to which the municipal corporation is entitled, in an
26 amount not to exceed the balance owing on the loan, until the [*State Department of Energy*] **Oregon**
27 **Business Development Department** certifies that the default has been remedied.

28 **SECTION 226.** ORS 470.190 is amended to read:

29 470.190. If an applicant fails to comply with a contract entered into with the Director of the
30 [*State Department of Energy*] **Oregon Business Development Department** for development and
31 repayment as provided in ORS 470.150 [*or 470.645*], the director, in addition to remedies provided in
32 ORS 470.170 and 470.180, may seek other appropriate legal remedies to secure the loan and may
33 contract as provided in ORS 470.150 with any other person for continuance of development and for
34 repayment of moneys from the Small Scale Local Energy Project Loan Fund [*or from the Energy*
35 *Project Bond Loan Fund*] used therefor and interest thereon.

36 **SECTION 227.** ORS 470.200 is amended to read:

37 470.200. If any small scale local energy project is refinanced or an additional grant or loan in-
38 tended to finance the project development is obtained from other sources after the execution of the
39 loan from the state, all such funds shall be used to repay the state unless the [*Director of the State*
40 *Department of Energy*] **Oregon Infrastructure Finance Authority Board** finds that repayment of
41 the state from the additional grant or loan would be contrary to public interest.

42 **SECTION 228.** ORS 470.210 is amended to read:

43 470.210. (1) Notwithstanding any other provision of law, a municipal corporation may enter into
44 a loan contract with the [*State Department of Energy*] **Oregon Business Development Department**
45 to finance a small scale local energy project.

1 (2) In order to finance a small scale local energy project, the Director of the [*State Department*
2 *of Energy*,] **Oregon Business Development Department**, on behalf of the state and in lieu of enter-
3 ing into a loan contract under subsection (1) of this section, may purchase or otherwise acquire
4 a municipal corporation's general obligations or revenue obligations, including but not limited to
5 bonds, notes, certificates of participation, warrants or lease purchase agreements.

6 **SECTION 229.** ORS 470.230 is amended to read:

7 470.230. Except as provided in ORS 470.270, all moneys obtained from the sale of general obli-
8 gation bonds under ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution shall be
9 credited by the State Treasurer to the Small Scale Local Energy Project Loan Fund. Those moneys
10 shall be used only for the purposes stated in Article XI-J of the Oregon Constitution, including
11 payment of the costs of issuing the bonds and of obtaining credit enhancement for the bonds, and
12 making payments of interest on bonds issued pursuant to the provisions of ORS 470.220 to 470.290
13 if there are insufficient funds in the Small Scale Local Energy Project Administration and Bond
14 Sinking Fund to make the payments referred to in ORS 470.300 (1). Moneys loaned to municipal
15 corporations but withheld by the [*State Department of Energy*] **Oregon Business Development**
16 **Department** for security or to pay for future project costs may remain in the loan fund. Pending
17 the use of the moneys in the loan fund for the proper purposes, the moneys may be invested in the
18 manner provided by law.

19 **SECTION 230.** ORS 470.270 is amended to read:

20 470.270. (1) After consultation with the State Treasurer, the Director of the [*State Department*
21 *of Energy*] **Oregon Business Development Department** may issue general obligation refunding
22 bonds for the purpose of refunding outstanding bonds issued under ORS 470.220 to 470.290 and Ar-
23 ticle XI-J of the Oregon Constitution. The refunding bonds may be sold in the same manner as other
24 bonds are sold under ORS 470.220 to 470.290. All moneys obtained from the sale of refunding bonds
25 shall be credited by the State Treasurer to the Small Scale Local Energy Project Administration and
26 Bond Sinking Fund. The refunding bonds may be issued to refund bonds previously issued for re-
27 funding purposes. Pending the use of moneys obtained from the sale of refunding bonds for proper
28 purposes, such moneys may be invested in the manner provided by law.

29 (2) Notwithstanding any provision of ORS 470.150, if the [*State Department of Energy*] **Oregon**
30 **Business Development Department** issues taxable refunding bonds at a lower interest rate to re-
31 fund outstanding general obligation bonds, and is unable to allow loan recipients to receive a por-
32 tion of the interest savings, the director shall allow the loan recipient to prepay the outstanding
33 loan balance upon the request of the recipient. The director shall respond to such a request within
34 30 days after receiving the request by specifying the outstanding principal balance after applying
35 reserves held by the state for the borrower and the prepayment premium as listed in the bond doc-
36 ument, loan document or bond purchase agreement.

37 (3) The department shall pursue opportunities for refunding bonds to reduce interest sums pay-
38 able by the department. When the department refunds a bond with tax-exempt bonds, the department
39 shall share, on an equitable basis, the savings from any refunding with the borrowers whose loans
40 were made with the proceeds of the refunded bonds in an amount consistent with a finding by the
41 director that the sinking fund has, and will continue to have, sufficient funds to make payments re-
42 quired under ORS 470.300 (1). The department may not refund tax-exempt bonds with taxable bonds,
43 unless the department is able to share the savings associated with such a refunding with the bor-
44 rowers whose loans are linked to such bonds. At least 120 days before the date on which the de-
45 partment intends to issue refunding bonds, the director shall notify each borrower whose loan was

1 made from the proceeds of the bonds being refunded and shall offer the borrower the opportunity
2 to prepay the borrower's loan. A borrower shall respond within 60 days of the date of the notice
3 described in this subsection if the borrower intends to prepay the borrower's loan.

4 **SECTION 231.** ORS 470.300 is amended to read:

5 470.300. (1) There hereby is created the Small Scale Local Energy Project Administration and
6 Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

7 (a) Administrative expenses of the [*State Department of Energy and the Director of the State De-*
8 *partment of Energy*] **Oregon Business Development Department and the Director of the Oregon**
9 **Business Development Department** in processing applications, investigating potential small scale
10 local energy projects and proposed loans and servicing and collecting outstanding loans made from
11 the Small Scale Local Energy Project Loan Fund, if the expense is not paid directly by the applicant.

12 (b) Administrative expenses of the State Treasurer in carrying out the duties, functions and
13 powers imposed upon the State Treasurer by this chapter.

14 (c) Principal, interest and redemption premium, if any, of all bonds issued pursuant to the pro-
15 visions of ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution.

16 (d) Net investment earnings on any funds loaned to municipal corporations but withheld as
17 provided in ORS 470.230.

18 (e) Costs of issuing the bonds and of obtaining credit enhancement for the bonds.

19 (2) The fund created by subsection (1) of this section shall consist of:

20 (a) Application fees required by ORS 470.060, unless the department requires the applicant to
21 pay the fee directly for a cost incurred in connection with the application.

22 (b) Repayment of moneys loaned to applicants from the Small Scale Local Energy Project Loan
23 Fund, including interest on such moneys.

24 (c) Such moneys as may be appropriated to the fund by the Legislative Assembly.

25 (d) Moneys obtained from the sale of refunding bonds under ORS 470.220 to 470.290 and any
26 accrued interest on such bonds.

27 (e) Moneys received from ad valorem taxes levied pursuant to Article XI-J of the Oregon Con-
28 stitution, and all moneys that the Legislative Assembly may provide in lieu of such taxes.

29 (f) Interest earned on cash balances invested by the State Treasurer.

30 (g) Moneys transferred from the loan fund.

31 (h) Gifts, grants, donations or other moneys for promoting small scale local energy [*program*
32 *loan purposes and goals.*] **projects.**

33 (3) The director, with the approval of the State Treasurer, may transfer moneys from the sinking
34 fund to the loan fund if:

35 (a) A cash flow projection shows that, for the term of the bonds outstanding at the time the
36 director transfers the moneys, remaining moneys in the sinking fund, together with expected loan
37 contract payments and fund earnings, will improve the financial basis of the program and will con-
38 tinue to be adequate to pay bond principal, interest, redemption premiums, if any, and administration
39 costs; and

40 (b) The transfer will not create the need for issuance of any bonds.

41 (4) The director, with the approval of the State Treasurer, may establish separate and distinct
42 accounts within the sinking fund to accomplish the purpose of this section.

43 **SECTION 232.** ORS 470.310 is amended to read:

44 470.310. (1) If there are insufficient funds in the Small Scale Local Energy Project Adminis-
45 tration and Bond Sinking Fund to make the payments referred to in ORS 470.300 (1), the Director

1 of the [*State Department of Energy*] **Oregon Business Development Department** may request the
 2 funds necessary for such payments from the Legislative Assembly or the Emergency Board.

3 (2) When the director determines that moneys in sufficient amount are available in the sinking
 4 fund, the State Treasurer shall reimburse the General Fund without interest, in an amount equal to
 5 the amount allocated by the Legislative Assembly or the Emergency Board pursuant to subsection
 6 (1) of this section. The moneys used to reimburse the General Fund under this subsection shall not
 7 be considered a budget item on which a limitation is otherwise fixed by law, but shall be in addition
 8 to any specific appropriations or amounts authorized to be expended from continually appropriated
 9 moneys.

10 **SECTION 233.** ORS 470.800 is amended to read:

11 470.800. (1) The Clean Energy Deployment Fund is established in the State Treasury, separate
 12 and distinct from the General Fund. Interest earned by the Clean Energy Deployment Fund shall
 13 be credited to the Clean Energy Deployment Fund. Moneys in the fund are continuously appropri-
 14 ated to the [*State Department of Energy*] **Oregon Climate Authority** for use as provided in ORS
 15 470.810.

16 (2) The [*department*] **authority** may accept grants, donations, contributions or gifts from any
 17 source for deposit in the Clean Energy Deployment Fund.

18 **SECTION 234.** ORS 470.805 is amended to read:

19 470.805. (1) The Renewable Energy Development Subaccount is established in the Clean Energy
 20 Deployment Fund established in ORS 470.800. Interest earned by the Renewable Energy Develop-
 21 ment Subaccount shall be credited to the subaccount. Moneys in the fund are continuously appro-
 22 priated to the [*State Department of Energy*] **Oregon Climate Authority** for purposes related to
 23 renewable energy development.

24 (2) The [*department*] **authority** may accept grants, donations, contributions or gifts from any
 25 source for deposit in the Renewable Energy Development Subaccount.

26 **SECTION 235.** ORS 470.810 is amended to read:

27 470.810. (1) The [*State Department of Energy*] **Oregon Climate Authority** shall establish the
 28 clean energy deployment program to provide grants and loans to support energy efficiency or clean
 29 energy projects in this state. The [*department*] **authority** shall establish criteria for qualifications
 30 of the projects by rule.

31 (2)(a) The [*department*] **authority** may use funds from [*the Jobs, Energy and Schools Fund and*]
 32 the Clean Energy Deployment Fund to provide loans and grants to school districts that have
 33 projects to weatherize, upgrade and retrofit kindergarten through grade 12 public schools in this
 34 state, in order to improve energy efficiency.

35 (b) A school district that finances a project through the clean energy deployment program may
 36 not self-perform work constituting more than five percent of the total cost of the project being fi-
 37 nanced.

38 (c) All school projects financed pursuant to paragraph (a) of this subsection through the clean
 39 energy deployment program are deemed to be public works projects and are subject to the prevailing
 40 wage requirements of ORS 279C.800 to 279C.870.

41 (3) The [*department*] **authority** may contract for the implementation of the clean energy de-
 42 ployment program [*in all or parts of this state with a sustainable energy project manager as defined*
 43 *in ORS 470.050*].

44 **SECTION 236.** ORS 470.815 is amended to read:

45 470.815. (1) School districts that participate in the clean energy deployment program established

1 in ORS 470.810 may finance projects to:

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

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

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

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

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

13 (a) Paying directly for the projects;

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

16 [(A) *Grant moneys from the Jobs, Energy and Schools Fund;*]

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

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

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

23 (c) Issuing general obligation bonds, subject to the bond election requirements under ORS
24 328.210; or

25 (d) Using any other source of moneys.

26 **SECTION 237.** ORS 498.502 is amended to read:

27 498.502. (1) Subject to and consistent with the federal Endangered Species Act of 1973 (P.L.
28 93-205, 16 U.S.C. 1531 et seq.) and notwithstanding any provision of ORS 496.171 to 496.182:

29 (a) If a person applies for a permit, license, authorization or other form of permission required
30 by law from a state agency for a proposed action that may affect core area habitat of sage grouse,
31 the person may file with the State Department of Fish and Wildlife, at any time before or after the
32 commencement of the relevant permitting, licensing, authorization or other form of permission pro-
33 cess, a report that uses the best scientific and commercial data available to provide a description
34 of the proposed action and its possible effects on the habitat.

35 (b) The report described in this section must describe the core area habitat of sage grouse af-
36 fected by the proposed action, specify whether the habitat is essential and irreplaceable and provide
37 proposals for off-site mitigation or a mitigation bank.

38 (c)(A) Within 60 days after the filing of the report described in this section, the department shall
39 evaluate whether the proposals specified in the report result in a net loss of either the quality or
40 quantity of sage grouse habitat and provide a net benefit to the quality or quantity of sage grouse
41 habitat.

42 (B)(i) If the department concludes that the proposals specified in the report do not result in a
43 net loss of either the quality or quantity of sage grouse habitat and do provide a net benefit to the
44 quality or quantity of sage grouse habitat, the department shall issue an order finding that the core
45 area habitat of sage grouse affected by the proposed action is not irreplaceable. The department

1 may not thereafter reverse or modify the order except pursuant to a judgment of a court.

2 (ii) If the department concludes that the proposals specified in the report result in a net loss
3 of either the quality or quantity of sage grouse habitat and do not provide a net benefit to the
4 quality or quantity of sage grouse habitat, a person affected by the action may request a contested
5 case hearing before the State Fish and Wildlife Commission, to be conducted as provided in ORS
6 chapter 183.

7 (2) The provisions of this section apply to a site certificate for an energy facility described in
8 ORS 469.300 [(11)(a)(F)] **(9)(a)(F)**, but do not apply to a site certificate for any other facility under
9 the provisions of ORS 469.300 to 469.563.

10 (3) The commission may adopt rules to carry out the provisions of this section.

11 **SECTION 238.** ORS 522.125 is amended to read:

12 522.125. (1) Upon receipt of a complete application for a permit to drill or operate a geothermal
13 well, the State Department of Geology and Mineral Industries shall circulate copies of the applica-
14 tion to the Water Resources Department, the State Department of Fish and Wildlife, the Department
15 of Environmental Quality, the State Parks and Recreation Department, the Department of Land
16 Conservation and Development, the [State Department of Energy] **Oregon Climate Authority**, the
17 Department of State Lands and the governing body of the county and the geothermal heating district
18 in which the well will be located. The State Department of Geology and Mineral Industries may
19 circulate copies to other public agencies that have an interest in the application.

20 (2) Any public agency receiving a copy of the application as provided in subsection (1) of this
21 section may suggest conditions under which a permit should be granted. A public agency shall sub-
22 mit any suggested conditions to the State Department of Geology and Mineral Industries within 45
23 days of the public agency's receipt of the copy of the application. The department shall consider any
24 suggested conditions that a public agency submits to the department within the 45-day period.

25 **SECTION 239.** ORS 526.274 is amended to read:

26 526.274. In furtherance of the policy established in ORS 526.271, the State Board of Forestry, in
27 consultation with the Governor, may:

28 (1) In conformance with federal law, including Public Law 108-7, direct the State Forester to
29 facilitate the development of stewardship contracts utilizing private contractors and, when appro-
30 priate, to seek and enter into a stewardship contract agreement with federal agencies to carry out
31 forest management activities on federal lands. The State Forester may, under the stewardship con-
32 tract agreements:

- 33 (a) Perform road and trail maintenance;
- 34 (b) Set prescribed fires to improve forest health, composition, structure and condition;
- 35 (c) Manage vegetation;
- 36 (d) Perform watershed restoration and maintenance;
- 37 (e) Restore wildlife habitat;
- 38 (f) Control exotic weeds and species; and
- 39 (g) Perform other activities related to stewardship.

40 (2) Create a forum for interagency cooperation and collaborative public involvement regarding
41 federal forest management issues that may include, at the discretion of the board, the appointment
42 of advisory committees, the use of existing advisory committees and procedures for holding public
43 hearings.

44 (3) Provide guidelines for the State Forestry Department and State Forester to follow that con-
45 tain directions regarding the management of federal lands and that specify the goals and objectives

1 of the board regarding the management of federal lands.

2 (4) Participate, to the extent allowed by federal law, in the development of federal forest policies
3 and the forest management planning processes of federal agencies.

4 (5) Provide guidelines for the department to follow in implementing this section.

5 (6) Coordinate with Oregon State University, the State Department of Fish and Wildlife, the
6 Oregon Forest Resources Institute, the Department of Environmental Quality, the Oregon Business
7 Development Department, the [*State Department of Energy*] **Oregon Climate Authority** and other
8 agencies of the executive department, as defined in ORS 174.112, to assist the State Forestry De-
9 partment in carrying out the provisions of this section.

10 **SECTION 240.** ORS 526.280 is amended to read:

11 526.280. In furtherance of the policy established in ORS 526.277, the State Forester shall:

12 (1) Establish a policy of active and inclusive communication with the federal government, public
13 bodies as defined in ORS 174.109, residents of Oregon and interested parties regarding the utilization
14 of woody biomass produced through forest health restoration. The State Forester shall actively uti-
15 lize the statutory provisions of the National Forest Management Act of 1976, the Forest and
16 Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act of
17 1969, the Federal Land Policy and Management Act of 1976 and the Healthy Forests Restoration
18 Act of 2003 that allow the state to participate in federal policy development in a manner that ex-
19 presses the policy established in ORS 526.277.

20 (2) Promote public involvement in the identification of the areas of interface between urban
21 lands and forestlands that pose the highest potential to threaten lives and private property.

22 (3) Solicit public comment on the location of biomass-based energy projects and conversion fa-
23 cilities.

24 (4) Promote public understanding, through education and outreach, of forest conditions, forest
25 management options, the potential benefits and potential consequences of woody biomass utilization,
26 the quality and quantity of woody biomass on federal lands and the potential for woody biomass
27 utilization to assist in reducing wildfire risk and in enhancing forest health, diversity and resilience.
28 The State Forestry Department may coordinate with the [*State Department of Energy*] **Oregon Cli-
29 mate Authority**, the Oregon Business Development Department, Oregon State University, the State
30 Department of Fish and Wildlife, the Department of Environmental Quality and other entities in any
31 education and outreach performed pursuant to this subsection.

32 (5) Assess the types of woody biomass available and serve as an information resource for per-
33 sons seeking to utilize woody biomass for energy development. Notwithstanding ORS 192.345, reports
34 on any assessment of woody biomass conducted by the State Forester shall be made available for
35 public inspection.

36 (6) Promote public understanding that woody biomass utilization may be an effective tool for
37 restoration of forest health and for economic development in rural communities.

38 (7) Develop and apply, with advice from the forestry program at Oregon State University, the
39 State Department of Fish and Wildlife, the Department of Environmental Quality and other sources,
40 the best available scientific knowledge and technologies pertaining to forest and wildlife habitat
41 restoration and woody biomass utilization when developing rules under ORS 527.630.

42 (8) Seek opportunities to provide a source of woody biomass from federal, tribal, state and pri-
43 vate forests.

44 (9) Periodically prepare a report utilizing, to the greatest extent practicable, data collected from
45 state and federal sources that specify the effect of woody biomass collection and conversion on the

1 plant and wildlife resources and on the air and water quality of this state. The report shall identify
2 any changes that the State Forester determines are necessary to encourage woody biomass col-
3 lection and conversion and to avoid negative effects on the environment from woody biomass col-
4 lection and conversion. The State Forester shall submit the report to the Governor and to an
5 appropriate legislative interim committee with jurisdiction over forestry issues.

6 **SECTION 241.** ORS 526.786 is amended to read:

7 526.786. (1) The State Board of Forestry may develop administrative rules that define principles
8 and standards relating to the creation, measurement, accounting, marketing, verifying, registering,
9 transferring and selling of forestry carbon offsets from nonfederal forestlands.

10 (2) Rules adopted by the board under this section shall set standards to ensure that in order to
11 be marketed, registered, transferred or sold, a forestry carbon offset must be created as a result of
12 forest management activities that:

13 (a) Have the effect of increasing carbon storage on forestlands as measured by a forestry carbon
14 offset accounting system;

15 (b) Would not otherwise occur but for the carbon storage objective; and

16 (c) Provide environmental, social and economic benefits for Oregon and its citizens, including
17 but not limited to, protection or enhancement of long term timber supplies, native fish and wildlife
18 habitat and water quality.

19 (3) Rules adopted by the board under this section shall establish principles to ensure that the
20 forestry carbon offset accounting system shall:

21 (a) Account for relevant sources of carbon dioxide emission debits and credits for carbon storage
22 or sequestration;

23 (b) Account for the duration and permanence of the carbon dioxide storage or emission re-
24 ductions;

25 (c) Include provisions for establishing the appropriate baseline for projects, practices, rotation
26 ages, harvest schedules and ownership from which measured carbon dioxide emission debits, and
27 credits for carbon storage or sequestration are made;

28 (d) Account for other relevant and measurable greenhouse gas consequences, specifically credits
29 and debits expressed as a carbon dioxide emissions equivalent, when establishing baselines or oth-
30 erwise as appropriate;

31 (e) Account for the specific forest management practices used on-site and include provisions for
32 monitoring carbon dioxide emission debits and credits for carbon storage or sequestration, from the
33 implementation of specific practices;

34 (f) Account for continuing carbon dioxide emission debits, and credits for carbon storage or
35 sequestration, based on the end product use of harvested biomass;

36 (g) Account for environmental, social and economic benefits of forestry carbon offsets and en-
37 sure that practices with unsustainable, long term consequences are not used to create forestry car-
38 bon offsets;

39 (h) Allow for public access to information in monitoring reports; and

40 (i) Encourage third-party verification of forestry carbon offsets.

41 (4) Rules adopted by the board under this section may address qualifications for persons and
42 agencies that provide third-party verification and registration of forestry carbon offsets.

43 (5) Rules adopted by the board under this section shall be developed with the assistance of an
44 advisory committee appointed by the board. The advisory committee shall consist of at least nine
45 persons and shall contain:

1 (a) Persons from businesses, governmental agencies and nongovernmental organizations with
2 knowledge and experience in the accounting of greenhouse gas emissions, sequestration and storage;

3 (b) At least one person from a nongovernmental forestry conservation organization;

4 (c) At least one nonindustrial private forest landowner or a representative of an organization
5 that represents nonindustrial private forest landowners;

6 (d) One representative of the [*State Department of Energy*] **Oregon Climate Authority**;

7 (e) One representative of the State Department of Fish and Wildlife, or a designee of the State
8 Department of Fish and Wildlife;

9 (f) One representative of the Department of Environmental Quality, or a designee of the De-
10 partment of Environmental Quality;

11 (g) At least one representative from a qualified organization, as defined in ORS 469.503; and

12 (h) At least one representative from the State Forestry Department who shall serve as the sec-
13 retary to the advisory committee.

14 **SECTION 242.** ORS 701.527 is amended to read:

15 701.527. As used in ORS 701.527 to 701.536:

16 (1) "Home energy assessor" means a person who assigns residential buildings a home energy
17 performance score.

18 (2) "Home energy performance score" means a score assigned to a residential building using the
19 home energy performance score system adopted by the [*State Department of Energy*] **Oregon Cli-
20 mate Authority** under ORS 469.703.

21 **SECTION 243.** ORS 701.532 is amended to read:

22 701.532. (1) The Construction Contractors Board shall certify an individual as a home energy
23 assessor if the individual meets the requirements of this section and of any rule adopted by the
24 board under this section. A home energy assessor certificate must be renewed annually.

25 (2) The board shall require that an applicant for a home energy assessor certificate present
26 proof of passing a training program designated by the [*State Department of Energy*] **Oregon Climate
27 Authority** under ORS 469.703.

28 (3) The board may adopt rules to regulate the practice of assigning home energy performance
29 scores, including:

30 (a) Prescribing the form and manner of applying for a home energy assessor certificate;

31 (b) Establishing procedures for the issuance, renewal or revocation of a home energy assessor
32 certificate; and

33 (c) Establishing fees necessary for the administration of ORS 701.527 to 701.536 that do not ex-
34 ceed the following amounts:

35 (A) \$100 for application for a home energy assessor certificate;

36 (B) \$100 for issuance of an initial one-year home energy assessor certificate; and

37 (C) \$100 for renewal of a one-year home energy assessor certificate.

38 **SECTION 243a.** ORS 757.230 is amended to read:

39 757.230. (1) The Public Utility Commission shall provide for a comprehensive classification of
40 service for each public utility, and such classification may take into account the quantity used, the
41 time when used, the purpose for which used, the existence of price competition or a service alter-
42 native, the services being provided, the conditions of service and any other reasonable consider-
43 ation. Based on such considerations the commission may authorize classifications or schedules of
44 rates applicable to individual customers or groups of customers. The service classifications and
45 schedule forms shall be designed consistently with the requirements of [*ORS 469.010*] **section 2 of**

1 **this 2019 Act.** Each public utility is required to conform its schedules of rates to such classifica-
2 tion. If the commission determines that a tariff filing under ORS 757.205 results in a rate classi-
3 fication primarily related to price competition or a service alternative, the commission, at a
4 minimum, shall consider the following:

5 (a) Whether the rate generates revenues at least sufficient to cover relevant short and long run
6 costs of the utility during the term of the rates;

7 (b) Whether the rate generates revenues sufficient to insure that just and reasonable rates are
8 established for remaining customers of the utility;

9 (c) For electric and natural gas utilities:

10 (A) Whether it is appropriate to incorporate interruption of service in the utility's rate agree-
11 ment with the customer; and

12 (B) Whether the rate agreement requires the utility to acquire new resources to serve the load;
13 and

14 (d) For electric utilities, for service to load not previously served, the effect of the rate on the
15 utility's average system cost through the residential exchange provision of the Pacific Northwest
16 Electric Power Planning and Conservation Act of 1980, Public Law 96-501, as amended.

17 (2) The commission may prescribe such changes in the form in which the schedules are issued
18 by any public utility as may be found to be expedient. The commission shall adopt rules which allow
19 any person who requests notice of tariff filings described under subsection (1) of this section to re-
20 ceive such notice.

21 **SECTION 244.** ORS 757.247 is amended to read:

22 757.247. (1) The Public Utility Commission may authorize a public utility, upon application of the
23 utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of
24 energy resource measures provided to an individual property owner or customer pursuant to an
25 agreement entered into between the individual property owner or customer and the public utility.
26 Energy resource measures provided under this section may include:

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

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

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

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

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

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

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

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

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

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

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

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

9 (5) A public utility may use moneys obtained through a rate established under ORS 757.603 (2)(a)
10 to provide a renewable energy generation facility to a property owner or customer under this sec-
11 tion. A public utility may not charge interest to a property owner or customer for a renewable en-
12 ergy generation facility acquired with moneys obtained through a rate established under ORS
13 757.603 (2)(a).

14 [(6) Agreements entered into and tariff schedules placed into effect under this section are not sub-
15 ject to ORS 470.500 to 470.710, 757.612 or 757.689.]

16 **SECTION 245.** ORS 757.528 is amended to read:

17 757.528. (1) Unless modified by rule by the [*State Department of Energy*] **Director of the Oregon**
18 **Climate Authority** as provided in this section, the greenhouse gas emissions standard that applies
19 to consumer-owned utilities is 1,100 pounds of greenhouse gases per megawatt-hour for a generating
20 facility.

21 (2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions
22 standard includes only carbon dioxide emissions.

23 (3) For purposes of applying the emissions standard to cogeneration facilities, the [*department*]
24 **director** shall establish an output-based methodology to ensure that the calculation of emissions of
25 greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process
26 and includes all greenhouse gases emitted by the facility in the production of both electrical and
27 thermal energy.

28 (4) The [*department*] **director** shall review the greenhouse gas emissions standard established
29 under this section no more than once every three years. After public notice and hearing, [*and con-*
30 *sultation with the Public Utility Commission,*] the [*department*] **director** may:

31 (a) Modify the emissions standard to include other greenhouse gases as defined in ORS 468A.210,
32 with the other greenhouse gases expressed as their carbon dioxide equivalent; and

33 (b) Modify the emissions standard based upon current information on the rate of greenhouse gas
34 emissions from a commercially available combined-cycle natural gas generating facility that:

35 (A) Employs a combination of one or more gas turbines and one or more steam turbines and
36 produces electricity in the steam turbines from waste heat produced by the gas turbines;

37 (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordi-
38 nating Council; and

39 (C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

40 (5) In modifying the greenhouse gas emissions standard, the [*department*] **director** shall:

41 (a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions
42 through cogeneration recognizes the total usable energy output of the process and includes all
43 greenhouse gases emitted by the generating facility in the production of both electrical and thermal
44 energy; and

45 (b) Consider the effects of the emissions standard on system reliability and overall costs to

1 electricity consumers.

2 (6) If upon a review conducted pursuant to subsection (4) of this section, the [*department*] **di-**
 3 **rector** determines that a mandatory greenhouse gas emissions limit has been established pursuant
 4 to state or federal law, the [*department*] **Oregon Climate Authority** shall issue a report to the ap-
 5 propriate legislative committees of the Legislative Assembly stating which portions, if any, of the
 6 greenhouse gas emissions standard are no longer necessary as a matter of state law.

7 **SECTION 246.** ORS 757.533 is amended to read:

8 757.533. (1)(a) A governing board of a consumer-owned utility may not enter into a long-term
 9 financial commitment unless the baseload electricity acquired under the commitment is produced by
 10 a generating facility that complies with a greenhouse gas emissions standard established under ORS
 11 757.528.

12 (b) A generating facility complies with the greenhouse gas emissions standard established under
 13 ORS 757.528 if the rate of emissions of the facility does not exceed the emissions standard.

14 (c) In determining whether a generating facility complies with the emissions standard, the total
 15 emissions associated with producing baseload electricity at the generating facility shall be included
 16 in determining the rate of emissions of greenhouse gases. The total emissions associated with
 17 producing electricity at the generating facility do not include emissions associated with transporta-
 18 tion, fuel extraction or other life-cycle emissions associated with obtaining the fuel for the facility.

19 (2) Notwithstanding subsection (1) of this section, the emissions standard does not apply to
 20 greenhouse gas emissions produced by a generating facility owned by a consumer-owned utility or
 21 contracted through a long-term financial commitment if the emissions:

22 (a) Come from a facility powered exclusively by renewable energy sources described in ORS
 23 469A.025;

24 (b) Come from a cogeneration facility in this state that is fueled by natural gas, synthetic gas,
 25 distillate fuels, waste gas or a combination of these fuels, and that is producing energy, in service
 26 for tax purposes, commercially operable, or in rates as of July 1, 2010, until the facility is subject
 27 to a new long-term financial commitment; or

28 (c) Come from a generating facility that has in place a plan to be a low-carbon emission re-
 29 source, as determined by the [*State Department of Energy*] **Oregon Climate Authority**, pursuant to
 30 sufficient technical documentation, within seven years of commencing plant operations.

31 (3) The governing board may provide an exemption for an individual generating facility from the
 32 emissions performance standard to address:

33 (a) Unanticipated electricity system reliability needs;

34 (b) Catastrophic events or threat of significant financial harm that may arise from unforeseen
 35 circumstances; or

36 (c) Long-term financial commitments between members of a joint operating entity recognized
 37 under federal law or the joint operating entity's predecessor organization, or with the joint operat-
 38 ing entity for a baseload resource that the consumer-owned utility had an ownership interest in
 39 prior to July 1, 2010.

40 (4) A governing board shall report to the consumer-owned utility's customers or members and
 41 to the [*State Department of Energy*] **Oregon Climate Authority** information on any case-by-case
 42 exemption from the emissions performance standard granted by the governing board.

43 (5) For purposes of ORS 757.522 to 757.536, a long-term financial commitment for a consumer-
 44 owned utility does not include agreements to purchase electricity from the Bonneville Power Ad-
 45 ministration.

1 (6) The [department] **Director of the Oregon Climate Authority** by rule shall establish:

2 (a) Standards for identifying contracts for electricity for which the emissions cannot readily be
3 determined with any specificity; and

4 (b) Emissions to be attributed to such contracts for purposes of determining compliance with the
5 emissions standard established under ORS 757.528.

6 **SECTION 247.** ORS 757.538 is amended to read:

7 757.538. The Public Utility Commission and the [State Department of Energy] **Director of the**
8 **Oregon Climate Authority** shall adopt rules as necessary to implement ORS 757.522 to 757.536.

9 **SECTION 248.** Section 2, chapter 312, Oregon Laws 2015, is amended to read:

10 **Sec. 2.** (1) If authorized under section 3 (3), **chapter 312, Oregon Laws 2015**, [of this 2015
11 Act,] an electric company shall procure, on or before January 1, 2020, as part of a project described
12 in section 3, **chapter 312, Oregon Laws 2015**, [of this 2015 Act,] one or more qualifying energy
13 storage systems that have the capacity to store at least five megawatt hours of energy.

14 (2)(a) The total capacity of qualifying energy storage systems procured under this section by any
15 one electric company may not exceed one percent of the electric company's peak load for the year
16 2014.

17 (b) The Public Utility Commission may waive the limit described in paragraph (a) of this sub-
18 section if the commission determines, in consultation with the [State Department of Energy] **Oregon**
19 **Climate Authority**, that a qualifying energy storage system is of statewide significance and one or
20 more electric utilities, as defined in ORS 757.600, participates in procuring the qualifying energy
21 storage system and shares the costs and benefits associated with procuring the qualifying energy
22 storage system.

23 (3) An electric company may recover in the electric company's rates all costs prudently incurred
24 by the electric company in procuring one or more qualifying energy storage systems under this
25 section, including any above-market costs associated with procurement.

26 **SECTION 249.** ORS 757.600 is amended to read:

27 757.600. As used in ORS 757.600 to 757.689, unless the context requires otherwise:

28 (1) "Aggregate" means combining retail electricity consumers into a buying group for the pur-
29 chase of electricity and related services.

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

33 (3) "Commission" means the Public Utility Commission.

34 (4) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an
35 electric cooperative.

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

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

41 (7) "Direct service industrial consumer" means an end user of electricity that obtains electricity
42 directly from the transmission grid and not through a distribution utility.

43 (8) "Distribution" means the delivery of electricity to retail electricity consumers through a
44 distribution system consisting of local area power poles, transformers, conductors, meters, sub-
45 stations and other equipment.

1 (9) "Distribution utility" means an electric utility that owns and operates a distribution system
2 connecting the transmission grid to the retail electricity consumer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (26) "Qualifying expenditures" means those expenditures for energy conservation measures that
6 have a simple payback period of not less than one year and not more than 10 years, and expen-
7 ditures for the above-market costs of new renewable energy resources, provided that the [*State De-*
8 *partment of Energy*] **Director of the Oregon Climate Authority** by rule may establish a limit on
9 the maximum above-market cost for renewable energy that is allowed as a credit.

10 (27) "Renewable energy resources" means:

11 (a) Electricity generation facilities fueled by wind, waste, solar or geothermal power or by low-
12 emission nontoxic biomass based on solid organic fuels from wood, forest and field residues.

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

14 (c) Landfill gas and digester gas.

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

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

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

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

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

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

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

37 (34) "Undue market power" means the unfair or improper exercise of influence to increase or
38 decrease the availability or price of a service or product in a manner inconsistent with competitive
39 markets.

40 (35) "Uneconomic utility investment" means all electric company investments, including plants
41 and equipment and contractual or other legal obligations, properly dedicated to generation, conser-
42 vation and workforce commitments, that were prudent at the time the obligations were assumed but
43 the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent
44 transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed
45 by the commission in a prudence review or other proceeding, to the extent of such disallowance, and

1 does not include fines or penalties as authorized by state or federal law.

2 **SECTION 250.** ORS 757.612 is amended to read:

3 757.612. (1) There is established an annual public purpose expenditure standard for electric
4 companies and Oregon Community Power to fund new cost-effective energy conservation, new mar-
5 ket transformation efforts, the above-market costs of new renewable energy resources and new
6 low-income weatherization. The public purpose expenditure standard shall be funded by the public
7 purpose charge described in subsection (2) of this section.

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

17 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
18 per year, the electric company or Oregon Community Power, whichever serves territory that abuts
19 the greatest percentage of the site of the aluminum plant, shall collect from the aluminum company
20 a public purpose charge equal to one percent of the total revenue from the sale of electricity ser-
21 vices to the aluminum plant from any source.

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

24 (b) Except as provided in paragraph (e) of this subsection, funds collected through public pur-
25 pose charges under subsection (2) of this section shall be allocated as follows:

26 (A) Sixty-three percent for new cost-effective energy conservation and new market transforma-
27 tion efforts.

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

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

32 (D) Five percent for deposit in the Housing and Community Services Department Electricity
33 Public Purpose Charge Fund established by ORS 456.587 (1) for the purpose of providing grants as
34 described in ORS 458.625 (2).

35 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
36 Oregon Community Power shall be paid out of the funds collected through public purpose charges.
37 The commission may require an electric company or Oregon Community Power to direct funds col-
38 lected through public purpose charges to state agencies responsible for implementing subsections (1)
39 to (6) of this section in order to pay the costs of administering subsections (1) to (6) of this section.

40 (d) The commission shall direct the manner in which public purpose charges are collected and
41 spent by an electric company or Oregon Community Power and may require an electric company
42 or Oregon Community Power to expend funds through competitive bids or other means designed to
43 encourage competition, except that funds dedicated for new low-income weatherization shall be di-
44 rected to the Housing and Community Services Department for purposes related to new low-income
45 weatherization. The commission may also require funds collected through public purpose charges to

1 be paid to a nongovernmental entity for investment in public purposes described in subsection (1)
2 of this section. Notwithstanding any other provision of this subsection:

3 (A) If an electric company collected the funds, at least 80 percent of the funds allocated for new
4 cost-effective energy conservation shall be spent within the service area of the electric company;
5 or

6 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
7 for new cost-effective energy conservation shall be spent within the service area of Oregon Com-
8 munity Power.

9 (e)(A) The first 10 percent of funds collected each year by an electric company or Oregon
10 Community Power under subsection (2) of this section shall be distributed to school districts that
11 are located in the service territory of the electric company or Oregon Community Power. The funds
12 shall be distributed to individual school districts according to the weighted average daily member-
13 ship (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The
14 commission shall establish by rule a methodology for distributing a proportionate share of funds
15 under this paragraph to school districts that are only partially located in the service territory of the
16 electric company or Oregon Community Power.

17 (B) A school district that receives funds under this paragraph shall use the funds first to pay
18 for energy audits for schools located within the school district. A school district may not expend
19 additional funds received under this paragraph on a school until an energy audit has been completed
20 for that school. To the extent practicable, a school district shall coordinate with the [*State De-*
21 *partment of Energy*] **Oregon Climate Authority** and incorporate federal funding in complying with
22 this paragraph. Following completion of an energy audit for an individual school, the school district
23 may expend funds received under this paragraph to implement the energy audit. Once an energy
24 audit has been conducted and completely implemented for each school within the school district, the
25 school district may expend funds received under this paragraph for any of the following purposes:

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

29 (ii) Weatherizing school district facilities and upgrading the energy efficiency of school district
30 facilities.

31 (iii) Energy conservation education programs.

32 (iv) Purchasing electricity from environmentally focused sources.

33 (v) Investing in renewable energy resources.

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

36 (g) If the commission requires funds collected through public purpose charges to be paid to a
37 nongovernmental entity, the entity shall:

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

40 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-
41 terest to be filed with the commission on or prior to April 15 of each calendar year for public review
42 in a form similar to the statement of economic interest required for public officials under ORS
43 244.060.

44 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest
45 at regular meetings of the entity's governing body when such conflicts arise, and require an officer

1 or director to abstain from participating in any discussion or voting on any item where that officer
 2 or director has an actual conflict of interest. For the purposes of this subparagraph, “actual conflict
 3 of interest” and “potential conflict of interest” have the meanings given those terms in ORS 244.020.

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

6 (E) Annually file with the commission the entity’s budget, action plan and quarterly and annual
 7 reports for public review.

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

11 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
 12 ficer or director who fails to provide an annual disclosure of economic interest, or who fails to de-
 13 clare an actual or potential conflict of interest, as described in paragraph (g)(B) and (C) of this
 14 subsection, if the failure is connected to the allocation or expenditure of funds collected through
 15 public purpose charges and paid to the entity.

16 (4)(a) An electric company that satisfies its obligations under this section:

17 (A) Has no further obligation to invest in new cost-effective energy conservation, new market
 18 transformation or new low-income weatherization, or to provide a commercial energy conservation
 19 services program; and

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

21 (b) Oregon Community Power, for any period during which Oregon Community Power collects
 22 a public purpose charge under subsection (2) of this section:

23 (A) Has no further obligation to invest in new cost-effective energy conservation, new market
 24 transformation or new low-income weatherization, or to provide a commercial energy conservation
 25 services program; and

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

27 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
 28 any site in the prior year shall receive a credit against public purpose charges billed by an electric
 29 company or Oregon Community Power for that site. The amount of the credit shall be equal to the
 30 total amount of qualifying expenditures for new cost-effective energy conservation, not to exceed 68
 31 percent of the annual public purpose charges, and the above-market costs of new renewable energy
 32 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public
 33 purpose charges, less administration costs incurred under this paragraph and paragraphs (b) and (c)
 34 of this subsection. The credit may not exceed, on an annual basis, the lesser of:

35 (A) The amount of the retail electricity consumer’s qualifying expenditures; or

36 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
 37 dedicated to new cost-effective energy conservation, new market transformation or the above-market
 38 costs of new renewable energy resources.

39 (b) To obtain a credit under paragraph (a) of this subsection, a retail electricity consumer shall
 40 file with the [*State Department of Energy*] **Oregon Climate Authority** a description of the proposed
 41 conservation project or new renewable energy resource and a declaration that the retail electricity
 42 consumer plans to incur the qualifying expenditure. The [*State Department of Energy*] **Oregon Cli-**
 43 **mate Authority** shall issue a notice of precertification within 30 days of receipt of the filing, if such
 44 filing is consistent with paragraph (a) of this subsection. The credit may be taken after a retail
 45 electricity consumer provides a letter from a certified public accountant to the [*State Department*

1 of Energy] **Oregon Climate Authority** verifying that the precertified qualifying expenditure has
2 been made.

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

5 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
6 any site in the prior year may request that the [*State Department of Energy*] **Oregon Climate Au-**
7 **thority** hire an independent auditor to assess the potential for conservation investments at the site.
8 If the independent auditor determines there is no available conservation measure at the site that
9 would have a simple payback of one to 10 years, the retail electricity consumer shall be relieved
10 of 54 percent of its payment obligation for public purpose charges related to the site. If the inde-
11 pendent auditor determines that there are potential conservation measures available at the site, the
12 retail electricity consumer shall be entitled to a credit against public purpose charges related to the
13 site equal to 54 percent of the public purpose charges less the estimated cost of available conser-
14 vation measures.

15 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-
16 agraph unless a subsequent independent audit determines that new conservation investment oppor-
17 tunities are available. The [*State Department of Energy*] **Oregon Climate Authority** may require
18 that a new independent audit be performed on the site to determine whether new conservation
19 measures are available, provided that the independent audits occur no more than once every two
20 years.

21 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
22 paragraph.

23 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
24 for the public purpose expenditures of their energy suppliers. The [*State Department of Energy*] **Di-**
25 **rector of the Oregon Climate Authority** shall adopt rules to determine eligible expenditures and
26 the method by which such credits are accounted for and used. The [*State Department of Energy*]
27 **director** also shall adopt methods to account for eligible public purpose expenditures made through
28 consortia or collaborative projects.

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

32 (b) The commission shall establish the amount to be collected by each electric company from
33 retail electricity consumers, and the rates to be charged by each electric company to retail elec-
34 tricity consumers, so that the forecasted collection by all electric companies in calendar year 2018
35 is \$20 million. In subsequent calendar years, the commission may not decrease the rates below those
36 established for calendar year 2018. The commission may temporarily adjust the rates if forecasted
37 collections or actual collections are less than \$20 million in any calendar year. A retail electricity
38 consumer may not be required to pay more than \$500 per month per site for low-income electric bill
39 payment assistance.

40 (c) Funds collected through the low-income electric bill payment assistance charge shall be paid
41 into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance
42 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
43 used by the Housing and Community Services Department solely for purposes related to low-income
44 electric bill payment assistance and for the Housing and Community Services Department's cost of
45 administering this subsection. Funds collected by an electric company or Oregon Community Power

1 under this subsection shall be expended in the service area of the electric company or Oregon
2 Community Power from which the funds are collected.

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

7 (B) The Housing and Community Services Department, in consultation with electric companies,
8 shall investigate and may implement alternative delivery models to effectively reduce service dis-
9 connections and related costs to retail electricity consumers and electric utilities.

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

12 (D) The Housing and Community Services Department shall maintain records and provide those
13 records upon request to an electric company, Oregon Community Power and the Citizens' Utility
14 Board established under ORS chapter 774 on a quarterly basis. Records maintained must include
15 the numbers of low-income electricity consumers served, the average amounts paid to low-income
16 electricity consumers and the type of assistance provided to low-income electricity consumers.
17 Electric companies and Oregon Community Power shall, if requested, provide the Housing and
18 Community Services Department with aggregate data relating to low-income electricity consumers
19 served on a quarterly basis to support program development.

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

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

28 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-
29 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
30 tric utility.

31 (9) For purposes of this section, funds collected by Oregon Community Power through public
32 purpose charges are not considered moneys received from electric utility operations.

33 **SECTION 251.** ORS 757.617 is amended to read:

34 757.617. (1)[(a)] The Public Utility Commission and the [*State Department of Energy*] **Oregon**
35 **Climate Authority** jointly shall select an independent nongovernmental entity to prepare a biennial
36 report to the Legislative Assembly describing program spending and results for public purpose re-
37 quirements undertaken pursuant to ORS 757.612. [*The first report shall be due on January 1, 2003.*]

38 **The report may include:**

39 **(a) Proposed modifications to public purpose requirements undertaken pursuant to ORS**
40 **757.612; and**

41 **(b) Recommendations regarding the public purpose funding requirements under ORS**
42 **757.612.**

43 [*(b) The commission and the department jointly shall select an independent nongovernmental entity*
44 *to prepare a report to the Legislative Assembly describing proposed modifications to public purpose*
45 *requirements undertaken pursuant to ORS 757.612. The report shall be due on January 1, 2007.*]

1 *[(c) The commission and the department jointly shall select an independent nongovernmental entity*
 2 *to prepare a report to the Legislative Assembly recommending whether the public purpose funding re-*
 3 *quirements under ORS 757.612 should be renewed. The report shall be due on January 1, 2011.]*

4 (2) The Housing and Community Services Department shall prepare a biennial report to the
 5 Legislative Assembly describing program spending and needs for low-income bill assistance. [*The*
 6 *first report shall be due on January 1, 2003.*]

7 **SECTION 252.** ORS 757.687 is amended to read:

8 757.687. (1) Beginning on the date a consumer-owned utility provides direct access to any class
 9 of retail electric consumers, the consumer-owned utility shall collect from that consumer class a
 10 nonbypassable public purpose charge until January 1, 2026. Except as provided in subsection (8)
 11 of this section, the amount of the public purpose charge shall be sufficient to produce revenue of
 12 not less than three percent of the total revenue collected by the consumer-owned utility from its
 13 retail electricity consumers for electricity services, distribution, ancillary services, metering and
 14 billing, transition charges and any other costs included in rates as of July 23, 1999, except that the
 15 consumer-owned utility may exclude from the calculation of such costs any cost related to the public
 16 purposes described in subsection (5) of this section. If a consumer-owned utility has fewer than 17
 17 consumers per mile of distribution line, the amount of the public purpose charge shall be sufficient
 18 to produce revenue not less than three percent of the total revenue from the sale of electricity
 19 services in the utility's service area to the consumer class that is provided direct access, or the
 20 utility's consumer class percentage share of state total electricity sales multiplied by three percent
 21 of total statewide retail electric revenue, whichever is less.

22 (2) Except as provided in subsection (9) of this section, the governing body of a consumer-owned
 23 utility shall determine the manner of collecting and expending funds for public purposes required
 24 by law to be assessed against and paid by the retail electric consumers of the utility. A determi-
 25 nation by the governing body shall include:

- 26 (a) The manner for collecting public purpose charges;
- 27 (b) Public purpose programs upon which revenue from the charges may be expended; and
- 28 (c) The allocation of expenditures for each program.

29 (3) Beginning on the same date two years after July 23, 1999, a consumer-owned utility shall
 30 report annually to the [*State Department of Energy created under ORS 469.030*] **Oregon Climate**
 31 **Authority** on the public purpose charges paid to the utility by its retail electric consumers and the
 32 public purposes on which the revenue was expended.

33 (4) A consumer-owned utility may comply with the public purpose requirements of this section
 34 by participating in collaborative efforts with other consumer-owned utilities located in this state.

35 (5) Funds assessed and paid by, and credits or other financial assistance issued or extended to,
 36 retail electric consumers for purposes of this section may, in the discretion of the governing body
 37 of the consumer-owned utility, be expended to fund programs for energy conservation, renewable
 38 resources or low-income energy services otherwise required by the laws of this state, adopted by the
 39 governing body pursuant to the National Energy Conservation Policy Act (Public Law 95-619, as
 40 amended November 10, 1981), or conducted by the utility pursuant to agreement with the Bonneville
 41 Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act
 42 (Public Law 96-501). All such funds expended, credits issued and incremental costs incurred in con-
 43 nection with the performance of a consumer-owned utility's obligations under this section shall be
 44 credited toward the utility's public purpose funding obligation under this section.

45 (6) A consumer-owned utility also may credit toward its funding obligations under this section

1 any incremental costs incurred by the utility for capital expenditures made to reduce its distribution
2 system energy losses, existing biomass gas and waste to energy systems, existing hydroelectric
3 generation projects using fish attraction water, for new energy conservation and renewable resource
4 funding costs included in its wholesale power supplier's charges and for electric power generated
5 by renewable or cogeneration resources pursuant to requirements of the Public Utilities Regulatory
6 Policy Act of 1978 (Public Law 95-617), to the extent that such costs exceed the average cost of the
7 utility's other electric power resources.

8 (7) A consumer-owned utility also may credit toward its public purpose funding obligations under
9 this section any costs incurred in complying with ORS 469.649 to 469.659.

10 (8) Beginning on March 1, 2002, a consumer-owned utility whose territory abuts the greatest
11 percentage of the site of an aluminum plant that averages more than 100 megawatts of electricity
12 use per year shall collect from the aluminum company a public purpose charge equal to one percent
13 of the total revenue from the sale of electricity services to the aluminum plant from any source.

14 (9)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
15 any site in the prior year shall receive a credit against public purpose charges billed by a
16 consumer-owned utility for that site. The amount of the credit shall be equal to the total amount
17 of qualifying expenditures for new energy conservation, not to exceed 68 percent of the annual
18 public purpose charges, and the above-market costs of purchases of new renewable energy resources
19 incurred by the retail electricity consumer, less administration costs incurred under this subsection.
20 The credit shall not exceed, on an annual basis, the lesser of:

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

22 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
23 dedicated to new energy conservation, new market transformation or the above-market costs of new
24 renewable resources.

25 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
26 *[department]* **Oregon Climate Authority** a description of the proposed conservation project, new
27 market transformation or new renewable energy resource and a declaration that the retail elec-
28 tricity consumer plans to incur the qualifying expenditure. The *[department]* **authority** shall issue
29 a notice of precertification within 30 days of receipt of the filing, if such filing is consistent with
30 this subsection. Notice shall be issued to the retail electricity consumer and the appropriate
31 consumer-owned utility. The credit may be taken after a retail electricity consumer provides a letter
32 from a certified public accountant to the *[department]* **authority** verifying that the precertified
33 qualifying expenditure has been made.

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

36 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
37 any site in the prior year may request that the *[department]* **authority** hire an independent auditor
38 to assess the potential for conservation measures at the site. If the independent auditor determines
39 there is no available conservation measure at the site that would have a simple payback of one to
40 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment obligation for
41 public purpose charges related to the site. If the auditor determines that there are potential con-
42 servation measures available at the site, the retail electricity consumer shall be entitled to a credit
43 against public purpose charges related to the site equal to 54 percent of the public purpose charges
44 less the estimated cost of available conservation measures.

45 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-

1 agraph unless a subsequent audit determines that new conservation investment opportunities are
 2 available. The [department] **authority** may require that a new audit be performed on the site to
 3 determine whether new conservation measures are available, provided that the audits occur no more
 4 than once every two years.

5 (C) The retail electricity consumer shall pay the cost of the audits described in this subsection.

6 (10) A retail electricity consumer with a load greater than one average megawatt shall not be
 7 required to pay a public purpose charge in excess of three percent of the consumer's total cost of
 8 electricity services unless the charge is established in an agreement between the consumer and the
 9 consumer-owned utility.

10 (11) Beginning on March 1, 2002, a consumer-owned utility shall have in operation a bill assist-
 11 ance program for households that qualify for federal low-income energy assistance in the
 12 consumer-owned utility's service area. A consumer-owned utility shall report annually to the Hous-
 13 ing and Community Services Department detailing the utility's program and program expenditures.

14 (12) A consumer-owned utility may require an electricity service supplier to provide information
 15 necessary to ensure compliance with this section. The consumer-owned utility shall ensure the pri-
 16 vacy and protection of any proprietary information provided.

17 **SECTION 253.** ORS 757.720 is amended to read:

18 757.720. (1) Approval of utility plans for the curtailment of load shall be based on the following
 19 factors:

20 (a) The consistency of the plan with the public health, safety and welfare;

21 (b) The technical feasibility of implementation of the plan;

22 (c) The effectiveness with which the plan minimizes the impact of any curtailment; and

23 (d) Consistency with Oregon energy policies formulated under ORS 469.010 to 469.155, 469.300
 24 to 469.563 and 757.710 and this section.

25 (2) In the event of an emergency threatening the health, safety and welfare of the general public,
 26 the Public Utility Commission may on the commission's own motion and without hearing establish
 27 a plan for the curtailment of load by any person referred to in ORS 757.710. If an emergency is not
 28 present, the commission shall prior to approval hold public hearings with respect to any proposed
 29 plan and give reasonable notice of such hearings.

30 (3) The commission shall consult with the Director of the [State Department of Energy] **Oregon**
 31 **Climate Authority** before approving a plan.

32 **SECTION 254.** ORS 758.552 is amended to read:

33 758.552. (1) For contracts executed pursuant to the Public Utility Regulatory Policies Act of
 34 1978 (16 U.S.C. 2601 et seq.) and in effect prior to November 30, 2005, renewable energy certificates
 35 created pursuant to a system established by the [State Department of Energy] **Oregon Climate Au-**
 36 **thority** under ORS 469A.130, for generation during the term of such a contract, are owned by the
 37 owner of a qualifying facility, unless the owner has transferred a certificate in a contract between
 38 the owner and another person.

39 (2) Subsection (1) of this section applies to qualifying facilities that:

40 (a) Are located in this state;

41 (b) Are certified as qualifying small power production facilities or qualifying cogeneration fa-
 42 cilities under the Federal Power Act (16 U.S.C. 796) as in effect on June 7, 2011; and

43 (c) Produce electricity that is priced under ORS 758.525.

44
 45

TRANSFER OF MONEYS

1 **SECTION 255.** (1) The following funds are abolished on the operative date specified in
2 section 261 (1) of this 2019 Act:

- 3 (a) The Energy Project Supplemental Fund;
- 4 (b) The Energy Project Bond Loan Fund;
- 5 (c) The Jobs, Energy and Schools Fund; and
- 6 (d) The Energy Revenue Bond Repayment Fund.

7 (2) Any moneys remaining in the funds specified in subsection (1)(a) and (b) of this sec-
8 tion on the operative date specified in section 261 (1) of this 2019 Act that are unexpended,
9 unobligated and not subject to any conditions shall be transferred to the Small Scale Local
10 Energy Project Administration and Bond Sinking Fund created under ORS 470.300.

11 (3) Any moneys remaining in the funds specified in subsection (1)(c) and (d) of this sec-
12 tion on the operative date specified in section 261 (1) of this 2019 Act that are unexpended,
13 unobligated and not subject to any conditions shall be transferred to the Clean Energy De-
14 ployment Fund established under ORS 470.800.

15
16 **SMALL SCALE LOCAL ENERGY PROJECTS NEEDS STUDY**

17
18 **SECTION 256.** Section 257 of this 2019 Act is added to and made a part of ORS chapter
19 470.

20 **SECTION 257.** (1) The Oregon Business Development Department shall conduct a study
21 to determine the commercial needs in this state for loans for small scale local energy
22 projects. The purposes of the study must be to identify the highest and best uses of funds
23 available for the issuance of loans for small scale local energy projects.

24 (2) The Director of the Oregon Business Development Department shall utilize the in-
25 formation developed through the study required by this section in adopting rules under ORS
26 470.080.

27 (3) The department may periodically update the information developed through the study
28 required by this section, as necessary, to account for changes in the commercial needs in
29 this state for loans for small scale local energy projects.

30 **SECTION 258.** The Oregon Business Development Department shall initially complete the
31 study required by section 257 of this 2019 Act, and shall report the findings of the study to
32 the Governor and to the appropriate interim committees of the Legislative Assembly in the
33 manner required under ORS 192.245, no later than September 15, 2021.

34 **SECTION 259.** Section 258 of this 2019 Act is repealed on December 31, 2021.

35
36 **REPEALS**

37
38 **SECTION 260.** ORS 468A.215, 468A.220, 468A.225, 468A.230, 468A.235, 468A.240, 468A.245,
39 468A.250, 468A.255, 468A.260, 469.010, 469.030, 469.040, 470.070, 470.500, 470.505, 470.510, 470.515,
40 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570,
41 470.575, 470.580, 470.585, 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630,
42 470.635, 470.640, 470.645, 470.650, 470.655, 470.660, 470.665, 470.670, 470.675, 470.680, 470.685,
43 470.690, 470.695, 470.700, 470.710, 470.715, 470.720, 701.108 and 701.119 and sections 8a and 8b,
44 chapter 739, Oregon Laws 2007, are repealed.

OPERATIVE DATE

SECTION 261. (1)(a) Sections 17 to 25 and 255 to 259 of this 2019 Act, the amendments to statutes and session law by sections 26 to 28 and 31 to 254 of this 2019 Act and the repeal of statutes by section 260 of this 2019 Act become operative on July 1, 2020.

(b) The Director of the Oregon Climate Authority, the Oregon Climate Authority, the Director of the State Department of Energy, the State Department of Energy, the Director of the Oregon Business Development Department, the Oregon Business Development Department and the Governor may adopt rules and take any action before the operative date specified in paragraph (a) of this subsection that is necessary to enable the directors, the departments and the authority to exercise, on and after the operative date specified in paragraph (a) of this subsection, the duties, functions and powers of the directors, the departments and the authority pursuant to sections 17 to 25 and 255 to 259 of this 2019 Act, the amendments to statutes and session law by sections 26 to 28 and 31 to 254 of this 2019 Act and the repeal of statutes by section 260 of this 2019 Act.

(c) Any rules adopted pursuant to paragraph (b) of this subsection may not become operative before the operative date specified in paragraph (a) of this subsection.

(2)(a) The amendments to statutes by sections 28a, 28b and 28c of this 2019 Act become operative July 1, 2021.

(b) The Director of the Oregon Climate Authority and the Oregon Climate Authority may take any action before the operative date specified in paragraph (a) of this subsection that is necessary to enable the director and the authority, on and after the operative date specified in paragraph (a) of this subsection, to carry out the duties, function and powers of the director and the authority pursuant to the amendments to statutes by sections 28a, 28b and 28c of this 2019 Act.

(3)(a) Sections 9 to 15 of this 2019 Act and the amendments to statutes by sections 16 and 28d of this 2019 Act become operative on January 1, 2022.

(b) The Director of the Oregon Climate Authority, the Oregon Climate Authority, the Director of the Department of Environmental Quality, the Department of Environmental Quality and the Environmental Quality Commission may take any action before the operative date specified in paragraph (a) of this subsection that is necessary to enable the directors, the department, the commission and the authority, on and after the operative date specified in paragraph (a) of this subsection, to carry out the duties, function and powers of the directors, the department, the commission and the authority pursuant to sections 9 to 15 of this 2019 Act and the amendments to statutes by sections 16 and 28d of this 2019 Act.

CAPTIONS

SECTION 262. The unit and section captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

EMERGENCY CLAUSE

SECTION 263. This 2019 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
2 **on its passage.**

3
