

Requested by SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

**PROPOSED AMENDMENTS TO  
SENATE BILL 928**

- 1 On page 1 of the printed bill, line 8, after “469.097,” insert “469.100,”.
- 2 In line 9, after “469.300,” insert “469.310,”.
- 3 In line 10, after “469.450,” insert “469.470, 469.501,”.
- 4 In line 23, after “701.532,” insert “757.230,”.
- 5 In line 24, after “2007,” delete the rest of the line.
- 6 In line 25, delete “Oregon Laws 2007,”.
- 7 In line 26 delete “184.425, 184.427, 184.429, 184.431, 184.433, 184.435,”.
- 8 On page 2, line 1, after “468A.260,” insert “469.010,”.
- 9 In line 6, after “701.119” insert “and sections 8a and 8b, chapter 739,
- 10 Oregon Laws 2007”.
- 11 Delete line 14 and insert “469.010 to 469.155”.
- 12 Delete lines 21 through 24 and insert:
- 13 “(3) It is the goal of Oregon to promote the efficient use of energy re-
- 14 sources, to develop low-carbon technologies, resources and services to en-
- 15 hance this state’s economic competitiveness and to assist Oregon industries
- 16 and households with the equitable transition to an affordable and reliable
- 17 energy system and a mix of energy resources that can achieve the state’s
- 18 greenhouse gas emissions reduction goals.”.
- 19 In line 29, after “conservation” insert “, energy efficiency”.
- 20 Delete lines 40 and 41 and insert:
- 21 “(f) That the state pursue opportunities to conserve energy, to increase

1 energy efficiency, to enhance resilience to the impacts of climate change and  
2 to reduce emissions associated with the built environment.”.

3 On page 3, line 2, after “that” insert “promote innovation and”.

4 In line 21, delete “clean”.

5 Delete line 22 and insert “energy conservation, energy efficiency and en-  
6 ergy safety.”.

7 In line 23, after “cooperate” insert “as requested”.

8 In line 24, delete “any proceedings and all”.

9 In line 27, after “Governor” insert “and the Legislative Assembly”.

10 In line 29, delete “problems” and insert “challenges”.

11 In line 37, after “192.355,” insert “192.690,”.

12 In line 38, after “469.563,” insert “469.579,”.

13 In line 42, delete “clean”.

14 In line 43, delete “clean”.

15 On page 4, line 5, delete “clean”.

16 In line 6, delete “ORS 469.010” and insert “section 2 of this 2019 Act”.

17 On page 5, line 1, delete “and”.

18 In line 2, delete the period and insert “;

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

20 “(h) The Director of the Department of Environmental Quality or the  
21 director’s designee;

22 “(i) A member of the Public Utility Commission or the designee of the  
23 chairperson of the commission;

24 “(j) The Director of Transportation or the director’s designee;

25 “(k) The Director of the Housing and Community Services Department  
26 of the director’s designee;

27 “(L) The Water Resources Director or the director’s designee; and

28 “(m) The Director of the Oregon Health Authority or the director’s  
29 designee.”.

30 Delete lines 36 through 41 and insert:

1 **“SECTION 7. Notwithstanding the term of office specified by sec-**  
2 **tion 6 of this 2019 Act, of the members first appointed by the Governor**  
3 **to the Oregon Energy and Climate Board:**

4 **“(1) Two shall serve for terms ending July 1, 2020.**

5 **“(2) Two shall serve for terms ending July 1, 2021.**

6 **“(3) Two shall serve for terms ending July 1, 2022.**

7 **“(4) Three shall serve for terms ending July 1, 2023.”.**

8 On page 6, line 1, after “development of the” insert “rules and”.

9 After line 16, insert:

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

14 **“(2) The report shall include, but need not be limited to, informa-**  
15 **tion on:**

16 **“(a) The transfer of programs between the authority and other state**  
17 **agencies as provided for by law; and**

18 **“(b) The development of capacity by the authority to implement,**  
19 **administer and enforce the programs and activities of the authority.**

20 **“(3) The report may include recommendations for legislation.**

21 **“SECTION 8b. Section 8a of this 2019 Act is repealed January 2,**  
22 **2023.”.**

23 Delete lines 19 through 22 and insert:

24  
25 **“(Amendments to statute, operative on effective date of Act)**

26  
27 **“SECTION 8c. ORS 468A.280 is amended to read:**

28 **“468A.280. (1) [*In addition to any registration and reporting that may be***  
29 ***required under ORS 468A.050, the Environmental Quality Commission by rule***  
30 ***may require registration and reporting by:]* **As used in this section:****

1       “(a) ‘Air contamination source’ has the meaning given that term  
2 in ORS 468A.005.

3       “(b) ‘Greenhouse gas’ includes, but is not limited to, carbon dioxide,  
4 methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur  
5 hexafluoride and nitrogen trifluoride.

6       “(2) The Environmental Quality Commission by rule may require  
7 registration and reporting of information necessary to determine  
8 greenhouse gas emissions by:

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

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

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

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

24       “[(2)] (4) Rules adopted by the commission under this section for elec-  
25 tricity that is imported, sold, allocated or distributed for use in this state  
26 may require reporting of information necessary to determine greenhouse gas  
27 emissions from generating facilities used to produce the electricity and re-  
28 lated electricity transmission line losses.

29       “[(3)(a)] (5)(a) The commission shall allow consumer-owned utilities, as  
30 defined in ORS 757.270, to comply with reporting requirements imposed under

1 this section by the submission of a report prepared by a third party. A report  
2 submitted under this paragraph may include information for more than one  
3 consumer-owned utility, but must include all information required by the  
4 commission for each individual utility.

5 “(b) For the purpose of determining greenhouse gas emissions related to  
6 electricity purchased from the Bonneville Power Administration by a  
7 consumer-owned utility, as defined in ORS 757.270, the commission may re-  
8 quire only that the utility report:

9 “(A) The number of megawatt-hours of electricity purchased by the utility  
10 from the Bonneville Power Administration, segregated by the types of con-  
11 tracts entered into by the utility with the Bonneville Power Administration;  
12 and

13 “(B) The percentage of each fuel or energy type used to produce electric-  
14 ity purchased under each type of contract.

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

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

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

23 “[~~(B)~~] (C) Greenhouse gas emissions emitted from transmission equipment  
24 owned or operated by the electric company;

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

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

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

29 “[~~(D)~~] (E) An estimate of the amount of greenhouse gas emissions[, *using*  
30 *default greenhouse gas emissions factors established by the commission by*

1 *rule,*] attributable to:

2 “(i) Electricity purchases made by a particular seller to the electric  
3 company;

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

6 “(iii) Electricity purchases for which a renewable energy certificate under  
7 ORS 469A.130 has been issued but subsequently transferred or sold to a per-  
8 son other than the electric company;

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

10 “(v) Total energy losses from electricity transmission and distribution  
11 equipment owned or operated by the electric company.

12 “(b) Pursuant to paragraph (a) of this subsection, a multijurisdictional  
13 electric company may rely upon a cost allocation methodology approved by  
14 the Public Utility Commission for reporting emissions allocated in this state.

15 “[5] (7) Rules adopted by the commission under this section for [*fossil*]  
16 fuel that is imported, sold or distributed for use in this state may require  
17 reporting of the type and quantity of the fuel and any additional information  
18 necessary to determine the [*carbon content*] **greenhouse gas emissions as-**  
19 **sociated with the use or combustion** of the fuel. [*For the purpose of de-*  
20 *termining greenhouse gas emissions related to liquefied petroleum gas, the*  
21 *commission shall allow reporting using publications or submission of data by*  
22 *the American Petroleum Institute but may require reporting of such other in-*  
23 *formation necessary to achieve the purposes of the rules adopted by the com-*  
24 *mission under this section.*]

25 “[6] (8) To an extent that is consistent with the purposes of the rules  
26 adopted by the commission under this section, the commission shall minimize  
27 the burden of the reporting required under this section by:

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

30 “(b) Allowing electronic reporting;

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

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

6 “(e) Requiring reporting by the fewest number of persons in a fuel dis-  
7 tribution system that will allow the commission to acquire the information  
8 needed by the commission; or

9 “(f) Other appropriate means and procedures determined by the commis-  
10 sion.

11 “[*(7) As used in this section, ‘greenhouse gas’ has the meaning given that*  
12 *term in ORS 468A.210.*]

13 **“(9) The department may require a person for which registration**  
14 **and reporting is required under subsection (2) of this section to provide**  
15 **any pertinent records related to verification of greenhouse gas emis-**  
16 **sions in order to determine compliance with and to enforce this sec-**  
17 **tion and rules adopted pursuant to this section.**

18 **“(10) If a person required to register and report under subsection**  
19 **(2) of this section fails to submit a report under this section, the de-**  
20 **partment may develop an assigned emissions level for the person if**  
21 **necessary for the purpose of regulating persons under any program for**  
22 **the regulation of greenhouse gas emissions adopted by the Legislative**  
23 **Assembly.**

24 **“(11)(a) By rule the commission may establish a schedule of fees for**  
25 **registration and reporting under this section. Before establishing fees**  
26 **pursuant to this subsection, the commission shall consider the total**  
27 **fees for each person subject to registration and reporting under this**  
28 **section.**

29 **“(b) The commission shall limit the fees established under this**  
30 **subsection to the anticipated cost of developing, implementing and**

1 **analyzing data collected under greenhouse gas emissions registration**  
2 **and reporting programs.**

3

4 **“(Transfer from Department of Environmental Quality to**  
5 **Oregon Climate Authority, operative January 1, 2022)”**.

6

7 On page 8, delete lines 11 through 45 and delete page 9.

8 On page 10, delete lines 1 through 22 and insert:

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

11 “468A.280. (1) As used in this section:

12 “(a) ‘Air contamination source’ has the meaning given that term in ORS  
13 468A.005.

14 “(b) ‘Greenhouse gas’ includes, but is not limited to, carbon dioxide,  
15 methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur  
16 hexafluoride and nitrogen trifluoride.

17 “(2) The [*Environmental Quality Commission*] **Director of the Oregon**  
18 **Climate Authority** by rule may require registration and reporting of infor-  
19 mation necessary to determine greenhouse gas emissions by:

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

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

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

26 “(3) A person required to register and report under subsection (2) of this  
27 section shall register with the [*Department of Environmental Quality*]  
28 **Oregon Climate Authority** and make reports containing information that  
29 the [*commission*] **director** by rule may require that is relevant to determin-  
30 ing and verifying greenhouse gas emissions. The [*commission*] **director** may



1 by rule require the person to provide an audit by an independent and disin-  
2 terested party to verify that the greenhouse gas emissions information re-  
3 ported by the person is true and accurate.

4 “(4) Rules adopted by the [commission] **director** under this section for  
5 electricity that is imported, sold, allocated or distributed for use in this state  
6 may require reporting of information necessary to determine greenhouse gas  
7 emissions from generating facilities used to produce the electricity and re-  
8 lated electricity transmission line losses.

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

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

19 “(A) The number of megawatt-hours of electricity purchased by the utility  
20 from the Bonneville Power Administration, segregated by the types of con-  
21 tracts entered into by the utility with the Bonneville Power Administration;  
22 and

23 “(B) The percentage of each fuel or energy type used to produce electric-  
24 ity purchased under each type of contract.

25 “(6)(a) Rules adopted by the [commission] **director** pursuant to this sec-  
26 tion for electricity that is purchased, imported, sold, allocated or distributed  
27 for use in this state by an electric company, as defined in ORS 757.600, must  
28 be limited to the reporting of:

29 “(A) The generating facility fuel type and greenhouse gas emissions  
30 emitted from generating facilities owned or operated by the electric company;

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

3 “(C) Greenhouse gas emissions emitted from transmission equipment  
4 owned or operated by the electric company;

5 “(D) The number of megawatt-hours of electricity purchased by the elec-  
6 tric company for use in this state, including information, if known, on:

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

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

9 “(E) An estimate of the amount of greenhouse gas emissions attributable  
10 to:

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

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

15 “(iii) Electricity purchases for which a renewable energy certificate under  
16 ORS 469A.130 has been issued but subsequently transferred or sold to a per-  
17 son 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  
20 equipment owned or operated by the electric company.

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

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

29 “(8) To an extent that is consistent with the purposes of the rules adopted  
30 by the [commission] **director** under this section, the [commission] **director**

1 shall minimize the burden of the reporting required under this section by:

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

4 “(b) Allowing electronic reporting;

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

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

10 “(e) Requiring reporting by the fewest number of persons in a fuel dis-  
11 tribution system that will allow the [commission] **director** to acquire the  
12 information needed by the [commission] **director**; or

13 “(f) Other appropriate means and procedures determined by the [commis-  
14 sion] **director**.

15 “(9) The [department] **authority** may require a person for which regis-  
16 tration and reporting is required under subsection (2) of this section to pro-  
17 vide any pertinent records related to verification of greenhouse gas emissions  
18 in order to determine compliance with and to enforce this section and rules  
19 adopted pursuant to this section.

20 “(10) If a person required to register and report under subsection (2) of  
21 this section fails to submit a report under this section, the [department]  
22 **authority** may develop an assigned emissions level for the person if neces-  
23 sary for the purpose of regulating persons under any program for the regu-  
24 lation of greenhouse gas emissions adopted by the Legislative Assembly.

25 “(11)(a) By rule the [commission] **director** may establish a schedule of fees  
26 for registration and reporting under this section. Before establishing fees  
27 pursuant to this subsection, the [commission] **director** shall consider the  
28 total fees for each person subject to registration and reporting under this  
29 section.

30 “(b) The [commission] **director** shall limit the fees established under this

1 subsection to the anticipated cost of developing, implementing and analyzing  
2 data collected under greenhouse gas emissions registration and reporting  
3 programs.”.

4 In line 32, after “192.355,” insert “192.690,”.

5 In line 36, after “469.563,” insert “469.566 to 469.583, 469.584, 469.585,  
6 469.586, 469.587,”.

7 In line 42, delete “sections 8a and”.

8 In line 43, delete “8b (2), chapter 739, Oregon Laws 2017,”.

9 On page 13, delete lines 32 through 45 and delete pages 14 through 19.

10 On page 20, delete lines 1 through 32 and insert:  
11

12 **“(Provisions Related to the Energy Supplier Assessment,**  
13 **operative July 1, 2020)**

14  
15 **“SECTION 26.** ORS 469.120 is amended to read:

16 “469.120. (1) The [*State Department of Energy*] **Oregon Climate Author-**  
17 **ity** Account is established.

18 “(2) The account shall consist of all funds received by the [*State Depart-*  
19 *ment of Energy*] **Oregon Climate Authority** pursuant to law. All moneys in  
20 the account are continuously appropriated to the [*State Department of*  
21 *Energy*] **Oregon Climate Authority** for payment of expenses of the [*de-*  
22 *partment*] **authority** and of the Energy Facility Siting Council.

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

27 “(4) The Director of the [*State Department of Energy*] **Oregon Climate**  
28 **Authority** shall keep a record of all moneys deposited in the account. The  
29 record shall indicate by special cumulative accounts the source from which  
30 moneys are derived and the individual activity or program, including any

1 activities described in ORS 469.424, against which each withdrawal is  
2 charged. On or after October 1 of each year, the director shall make avail-  
3 able, upon request, the record for the prior fiscal year to any energy resource  
4 supplier that has paid the assessment imposed under ORS 469.421 (8). The  
5 director shall make the record available within 30 days of receiving the re-  
6 quest.

7 **“SECTION 27.** ORS 469.421 is amended to read:

8 “469.421. (1) Subject to the provisions of ORS 469.441, any person sub-  
9 mitting a notice of intent, a request for exemption under ORS 469.320, a re-  
10 quest for an expedited review under ORS 469.370, a request for an expedited  
11 review under ORS 469.373, a request for the [*State Department of Energy*]  
12 **Oregon Climate Authority** to approve a pipeline under ORS 469.405 (3), an  
13 application for a site certificate or a request to amend a site certificate shall  
14 pay all expenses incurred by the Energy Facility Siting Council and the  
15 [*department*] **authority** related to the review and decision of the council.  
16 Expenses under this subsection may include:

17 “(a) Legal expenses;

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

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

20 “(d) Expenses incurred in commissioning an independent study under ORS  
21 469.360;

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

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

27 “(2) Every person submitting a notice of intent to file for a site certifi-  
28 cate, a request for exemption or a request for expedited review shall pay the  
29 fee required under the fee schedule established under ORS 469.441 to the  
30 [*department*] **authority** prior to submitting the notice or request to the

1 council. To the extent possible, the full cost of the evaluation shall be paid  
2 from the fee paid under this subsection. However, if costs of the evaluation  
3 exceed the fee, the person submitting the notice or request shall pay any  
4 excess costs shown in an itemized statement prepared by the council. In no  
5 event shall the council incur evaluation expenses in excess of 110 percent  
6 of the fee initially paid unless the council provides prior notification to the  
7 applicant and a detailed projected budget the council believes necessary to  
8 complete the project. If costs are less than the fee paid, the excess shall be  
9 refunded to the person submitting the notice or request.

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

24 “(4) Any person who is delinquent in the payment of fees under sub-  
25 sections (1) to (3) of this section shall be subject to the provisions of sub-  
26 section (11) of this section.

27 “(5) Subject to the provisions of ORS 469.441, each holder of a certificate  
28 shall pay an annual fee, due every July 1 following issuance of a site cer-  
29 tificate. For each fiscal year, upon approval of the [*department's*]  
30 **authority's** budget authorization by an odd-numbered year regular session

1 of the Legislative Assembly or as revised by the Emergency Board meeting  
2 in an interim period or by the Legislative Assembly meeting in special ses-  
3 sion or in an even-numbered year regular session, the Director of the [*State*  
4 *Department of Energy*] **Oregon Climate Authority** promptly shall enter an  
5 order establishing an annual fee based on the amount of revenues that the  
6 director estimates is needed to fund the cost of ensuring that the facility is  
7 being operated consistently with the terms and conditions of the site certif-  
8 icate, any order issued by the [*department*] **authority** under ORS 469.405 (3)  
9 and any applicable health or safety standards. In determining this cost, the  
10 director shall include both the actual direct cost to be incurred by the  
11 council and the [*department*] **authority** to ensure that the facility is being  
12 operated consistently with the terms and conditions of the site certificate,  
13 any order issued by the [*department*] **authority** under ORS 469.405 (3) and  
14 any applicable health or safety standards, and the general costs to be in-  
15 curred by the council and the [*department*] **authority** to ensure that all  
16 certificated facilities are being operated consistently with the terms and  
17 conditions of the site certificates, any orders issued by the [*department*] **au-**  
18 **thority** under ORS 469.405 (3) and any applicable health or safety standards  
19 that cannot be allocated to an individual, licensed facility. Not more than  
20 35 percent of the annual fee charged each facility shall be for the recovery  
21 of these general costs. The fees for direct costs shall reflect the size and  
22 complexity of the facility, the anticipated costs of ensuring compliance with  
23 site certificate conditions, the anticipated costs of conducting site in-  
24 spections and compliance reviews as described in ORS 469.430, and the an-  
25 ticipated costs of compensating state agencies and local governments for  
26 participating in site inspection and compliance enforcement activities at the  
27 request of the council.

28 “(6) Each holder of a site certificate executed after July 1 of any fiscal  
29 year shall pay a fee for the remaining portion of the year. The amount of the  
30 fee shall be set at the cost of regulating the facility during the remaining

1 portion of the year determined in the same manner as the annual fee.

2 “(7) When the actual costs of regulation incurred by the council and the  
3 [*department*] **authority** for the year, including that portion of the general  
4 regulation costs that have been allocated to a particular facility, are less  
5 than the annual fees for that facility, the unexpended balance shall be re-  
6 funded to the site certificate holder. When the actual regulation costs in-  
7 curred by the council and the [*department*] **authority** for the year, including  
8 that portion of the general regulation costs that have been allocated to a  
9 particular facility, are projected to exceed the annual fee for that facility,  
10 the director may issue an order revising the annual fee.

11 “(8)(a) In addition to any other fees required by law, each energy resource  
12 supplier shall pay to the [*department*] **authority** annually its share of an  
13 assessment to fund the programs and activities of the council and the [*de-*  
14 *partment*] **authority**.

15 “(b) Prior to filing an agency request budget under ORS 291.208 for pur-  
16 poses related to the compilation and preparation of the Governor’s budget  
17 under ORS 291.216, the director shall determine the projected aggregate  
18 amount of revenue to be collected from energy resource suppliers under this  
19 subsection that will be necessary to fund the programs and activities of the  
20 council and the [*department*] **authority** for each fiscal year of the upcoming  
21 biennium. After making that determination, the director shall convene a  
22 public meeting with representatives of energy resource suppliers and other  
23 interested parties for the purpose of providing energy resource suppliers with  
24 a full accounting of:

25 “(A) The projected revenue needed to fund each [*department*] program or  
26 activity **of the authority**; and

27 “(B) The projected allocation of moneys derived from the assessment im-  
28 posed under this subsection to each [*department*] program or activity **of the**  
29 **authority**.

30 “(c) Upon approval of the budget authorization of the council and the



1 [department] **authority** by an odd-numbered year regular session of the  
2 Legislative Assembly, the director shall promptly enter an order establishing  
3 the amount of revenues required to be derived from an assessment pursuant  
4 to this subsection in order to fund programs and activities that the council  
5 and the [department] **authority** are charged with administering and author-  
6 ized to conduct under the laws of this state, including those enumerated in  
7 ORS 469.030, for the first fiscal year of the forthcoming biennium. On or  
8 before June 1 of each even-numbered year, the director shall enter an order  
9 establishing the amount of revenues required to be derived from an assess-  
10 ment pursuant to this subsection in order to fund the programs and activities  
11 that the council and the [department] **authority** are charged with adminis-  
12 tering and authorized to conduct under the laws of this state, including those  
13 enumerated in ORS 469.030, for the second fiscal year of the biennium. The  
14 order shall take into account any revisions to the biennial budget of the  
15 council and the [department] **authority** made by the Emergency Board  
16 meeting in an interim period or by the Legislative Assembly meeting in  
17 special session or in an even-numbered year regular session.

18 “(d) Each order issued by the director pursuant to paragraph (c) of this  
19 subsection shall allocate the aggregate assessment set forth in the order to  
20 energy resource suppliers in accordance with paragraph (e) of this sub-  
21 section.

22 “(e) The amount assessed to an energy resource supplier shall be based  
23 on the ratio which that supplier’s annual gross operating revenue derived  
24 within this state in the preceding calendar year bears to the total gross op-  
25 erating revenue derived within this state during that year by all energy re-  
26 source suppliers. The assessment against an energy resource supplier shall  
27 not exceed 0.375 percent of the supplier’s gross operating revenue derived  
28 within this state in the preceding calendar year. The director shall exempt  
29 from payment of an assessment any individual energy resource supplier  
30 whose calculated share of the annual assessment is less than \$250.

1 “(f) The director shall send each energy resource supplier subject to as-  
2 sessment pursuant to this subsection a copy of each order issued by regis-  
3 tered or certified mail or through use of an electronic medium with  
4 electronic receipt verification. The amount assessed to the energy resource  
5 supplier pursuant to the order shall be considered to the extent otherwise  
6 permitted by law a government-imposed cost and recoverable by the energy  
7 resource supplier as a cost included within the price of the service or prod-  
8 uct supplied.

9 “(g) The amounts assessed to individual energy resource suppliers pursu-  
10 ant to paragraph (e) of this subsection shall be paid to the [*department*]  
11 **authority** as follows:

12 “(A) Amounts assessed for the first fiscal year of a biennium shall be paid  
13 not later than 90 days following adjournment sine die of the odd-numbered  
14 year regular session of the Legislative Assembly; and

15 “(B) Amounts assessed for the second fiscal year of a biennium shall be  
16 paid not later than July 1 of each even-numbered year or 90 days following  
17 adjournment sine die of the even-numbered year regular session of the Leg-  
18 islative Assembly, whichever is later.

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

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

3 “(B) The energy supplier provides reasonable assurance that the energy  
4 supplier can comply with the revised deadline; and

5 “(C) The extension of time does not prevent the council or the  
6 [*department*] **authority** from fulfilling its statutory responsibilities.

7 “(i) As used in this section:

8 “(A) ‘Energy resource supplier’ means an electric utility, natural gas  
9 utility or petroleum supplier supplying, generating, transmitting or distrib-  
10 uting electricity, natural gas or petroleum products in Oregon.

11 “(B) ‘Gross operating revenue’ means gross receipts from sales or service  
12 made or provided within this state during the regular course of the energy  
13 supplier’s business, but does not include either revenue derived from interu-  
14 tility sales within the state or revenue received by a petroleum supplier from  
15 the sale of fuels that are subject to the requirements of Article IX, section  
16 3a, of the Oregon Constitution, or ORS 319.020 or 319.530.

17 “(C) ‘Petroleum supplier’ has the meaning given that term in ORS 469.020.

18 “(j) In determining the amount of revenues that must be derived from any  
19 class of energy resource suppliers by assessment pursuant to this subsection,  
20 the director shall take into account all other known or readily ascertainable  
21 sources of revenue to the council and [*department*] **authority**, including, but  
22 not limited to, fees imposed under this section and federal funds, and may  
23 take into account any funds previously assessed pursuant to ORS 469.420  
24 (1979 Replacement Part) or section 7, chapter 792, Oregon Laws 1981.

25 “(k) Orders issued by the director pursuant to this section shall be subject  
26 to judicial review under ORS 183.484. The taking of judicial review shall not  
27 operate to stay the obligation of an energy resource supplier to pay amounts  
28 assessed to it on or before the statutory deadline.

29 “(9)(a) In addition to any other fees required by law, each operator of a  
30 nuclear fueled thermal power plant or nuclear installation within this state

1 shall pay to the [*department*] **authority** annually on July 1 an assessment  
2 in an amount determined by the director to be necessary to fund the activ-  
3 ities of the state and the counties associated with emergency preparedness  
4 for a nuclear fueled thermal power plant or nuclear installation. The as-  
5 sessment shall not exceed \$461,250 per year. Moneys collected as assessments  
6 under this subsection are continuously appropriated to the [*department*] **au-**  
7 **thority** for this purpose.

8 “(b) The [*department*] **authority** shall maintain and cause other state  
9 agencies and counties to maintain time and billing records for the expendi-  
10 ture of any fees collected from an operator of a nuclear fueled thermal power  
11 plant under paragraph (a) of this subsection.

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

16 “(11)(a) All fees assessed by the [*director*] **authority** against holders of  
17 site certificates for facilities that have an installed capacity of 500 mega-  
18 watts or greater may be paid in several installments, the schedule for which  
19 shall be negotiated between the [*director*] **authority** and the site certificate  
20 holder.

21 “(b) Energy resource suppliers or applicants or holders of a site certifi-  
22 cate who fail to pay a fee provided under subsections (1) to (9) of this sec-  
23 tion after it is due and payable shall pay, in addition to that fee, a penalty  
24 of two percent of the fee a month for the period that the fee is past due. Any  
25 payment made according to the terms of a schedule negotiated under para-  
26 graph (a) of this subsection shall not be considered past due. The director  
27 may bring an action to collect an unpaid fee or penalty in the name of the  
28 State of Oregon in a court of competent jurisdiction. The court may award  
29 reasonable attorney fees to the director if the director prevails in an action  
30 under this subsection. The court may award reasonable attorney fees to a

1 defendant who prevails in an action under this subsection if the court de-  
2 termines that the director had no objectively reasonable basis for asserting  
3 the claim or no reasonable basis for appealing an adverse decision of the  
4 trial court.

5 **“SECTION 28.** ORS 469.426 is amended to read:

6 “469.426. (1) The Director of the [*State Department of Energy*] **Oregon**  
7 **Climate Authority** shall convene an advisory work group composed of  
8 stakeholders representing energy resource suppliers, the customers who ul-  
9 timately pay for the energy supplier assessment imposed under ORS 469.421  
10 (8) through their energy bills and other groups that have an interest in the  
11 provision and regulation of energy in this state.

12 “(2) The advisory work group shall review and make recommendations **to**  
13 **the director** on the [*State Department of Energy’s*] **Oregon Climate**  
14 **Authority’s** proposals related to:

15 “(a) Planning, policy and technical analysis;

16 “(b) Legislative concepts; and

17 “(c) The department’s requested budget.

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

20

21 **“(Provisions Related to the Energy Supplier Assessment,**  
22 **operative July 1, 2021)**

23

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

26 “469.120. (1) The Oregon Climate Authority Account is established.

27 “(2) The account shall consist of all funds received by the Oregon Climate  
28 Authority pursuant to law. All moneys in the account are continuously ap-  
29 propriated to the Oregon Climate Authority for payment of expenses of the  
30 authority and of the Energy Facility Siting Council.

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

6 “(4) The Director of the Oregon Climate Authority shall keep a record  
7 of all moneys deposited in the account. The record shall indicate by special  
8 cumulative accounts the source from which moneys are derived and the in-  
9 dividual activity or program, including any activities described in ORS  
10 469.424, against which each withdrawal is charged. On or after October 1 of  
11 each year, the director shall make available, upon request, the record for the  
12 prior fiscal year to any energy resource supplier that has paid the assessment  
13 imposed under ORS 469.421 (8). The director shall make the record available  
14 within 30 days of receiving the request.

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

17 “469.421. (1) Subject to the provisions of ORS 469.441, any person sub-  
18 mitting a notice of intent, a request for exemption under ORS 469.320, a re-  
19 quest for an expedited review under ORS 469.370, a request for an expedited  
20 review under ORS 469.373, a request for the Oregon Climate Authority to  
21 approve a pipeline under ORS 469.405 (3), an application for a site certificate  
22 or a request to amend a site certificate shall pay all expenses incurred by  
23 the Energy Facility Siting Council and the authority related to the review  
24 and decision of the council. Expenses under this subsection may include:

25 “(a) Legal expenses;

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

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

28 “(d) Expenses incurred in commissioning an independent study under ORS  
29 469.360;

30 “(e) Compensation paid to a state agency, a tribe or a local government

1 pursuant to a written contract or agreement relating to compensation as  
2 provided for in ORS 469.360; or

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

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

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

1 applicant.

2 “(4) Any person who is delinquent in the payment of fees under sub-  
3 sections (1) to (3) of this section shall be subject to the provisions of sub-  
4 section (11) of this section.

5 “(5) Subject to the provisions of ORS 469.441, each holder of a certificate  
6 shall pay an annual fee, due every July 1 following issuance of a site cer-  
7 tificate. For each fiscal year, upon approval of the authority’s budget au-  
8 thorization by an odd-numbered year regular session of the Legislative  
9 Assembly or as revised by the Emergency Board meeting in an interim period  
10 or by the Legislative Assembly meeting in special session or in an even-  
11 numbered year regular session, the Director of the Oregon Climate Authority  
12 promptly shall enter an order establishing an annual fee based on the  
13 amount of revenues that the director estimates is needed to fund the cost of  
14 ensuring that the facility is being operated consistently with the terms and  
15 conditions of the site certificate, any order issued by the authority under  
16 ORS 469.405 (3) and any applicable health or safety standards. In determining  
17 this cost, the director shall include both the actual direct cost to be incurred  
18 by the council and the authority to ensure that the facility is being operated  
19 consistently with the terms and conditions of the site certificate, any order  
20 issued by the authority under ORS 469.405 (3) and any applicable health or  
21 safety standards, and the general costs to be incurred by the council and the  
22 authority to ensure that all certificated facilities are being operated con-  
23 sistentlly with the terms and conditions of the site certificates, any orders  
24 issued by the authority under ORS 469.405 (3) and any applicable health or  
25 safety standards that cannot be allocated to an individual, licensed facility.  
26 Not more than 35 percent of the annual fee charged each facility shall be for  
27 the recovery of these general costs. The fees for direct costs shall reflect the  
28 size and complexity of the facility, the anticipated costs of ensuring compli-  
29 ance with site certificate conditions, the anticipated costs of conducting site  
30 inspections and compliance reviews as described in ORS 469.430, and the



1 anticipated costs of compensating state agencies and local governments for  
2 participating in site inspection and compliance enforcement activities at the  
3 request of the council.

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

8 “(7) When the actual costs of regulation incurred by the council and the  
9 authority for the year, including that portion of the general regulation costs  
10 that have been allocated to a particular facility, are less than the annual  
11 fees for that facility, the unexpended balance shall be refunded to the site  
12 certificate holder. When the actual regulation costs incurred by the council  
13 and the authority for the year, including that portion of the general regu-  
14 lation costs that have been allocated to a particular facility, are projected  
15 to exceed the annual fee for that facility, the director may issue an order  
16 revising the annual fee.

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

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

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

22 “(C) **The administrative overhead and shared services costs of the**  
23 **authority that are attributable to the programs and activities de-**  
24 **scribed in subparagraphs (A) and (B) of this paragraph, unless the**  
25 **administrative overhead or shared services costs are funded by ex-**  
26 **penses or fees paid pursuant to subsection (1), (5) or (6) of this section.**

27 “(b) Prior to filing an agency request budget under ORS 291.208 for pur-  
28 poses related to the compilation and preparation of the Governor’s budget  
29 under ORS 291.216, the director shall determine the projected aggregate  
30 amount of revenue to be collected from energy resource suppliers under this

1 subsection that will be necessary to fund the programs and activities of the  
2 council and the authority **described in paragraph (a) of this subsection**  
3 for each fiscal year of the upcoming biennium. After making that determi-  
4 nation, the director shall convene a public meeting with representatives of  
5 energy resource suppliers and other interested parties for the purpose of  
6 providing energy resource suppliers with a full accounting of:

7 “(A) The projected revenue needed to fund each [*program or activity*] **en-**  
8 **ergy services program** of the authority; and

9 “(B) The projected allocation of moneys derived from the assessment im-  
10 posed under this subsection to each [*program or activity*] **energy services**  
11 **program** of the authority.

12 “(c) Upon approval of the budget authorization of the council and the  
13 authority by an odd-numbered year regular session of the Legislative As-  
14 sembly, the director shall promptly enter an order establishing the amount  
15 of revenues required to be derived from an assessment pursuant to this sub-  
16 section in order to fund programs and activities **described in paragraph (a)**  
17 **of this subsection** that the council and the authority are charged with ad-  
18 ministering and authorized to conduct under the laws of this state[, *includ-*  
19 *ing those enumerated in ORS 469.030,*] for the first fiscal year of the  
20 forthcoming biennium. On or before June 1 of each even-numbered year, the  
21 director shall enter an order establishing the amount of revenues required  
22 to be derived from an assessment pursuant to this subsection in order to fund  
23 the programs and activities **described in paragraph (a) of this subsection**  
24 that the council and the authority are charged with administering and au-  
25 thorized to conduct under the laws of this state[, *including those enumerated*  
26 *in ORS 469.030,*] for the second fiscal year of the biennium. The order shall  
27 take into account any revisions to the biennial budget of the council and the  
28 authority made by the Emergency Board meeting in an interim period or by  
29 the Legislative Assembly meeting in special session or in an even-numbered  
30 year regular session.

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

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

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

22 “(g) The amounts assessed to individual energy resource suppliers pursu-  
23 ant to paragraph (e) of this subsection shall be paid to the authority as fol-  
24 lows:

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

28 “(B) Amounts assessed for the second fiscal year of a biennium shall be  
29 paid not later than July 1 of each even-numbered year or 90 days following  
30 adjournment sine die of the even-numbered year regular session of the Leg-

1 islative Assembly, whichever is later.

2 “(h) An energy resource supplier shall provide the director, on or before  
3 May 1 of each year, a verified statement showing its gross operating reve-  
4 nues derived within the state for the calendar or fiscal year that was used  
5 by the energy resource supplier for the purpose of reporting federal income  
6 taxes for the preceding calendar or fiscal year. The statement must be in the  
7 form prescribed by the director and is subject to audit by the director. The  
8 statement must include an entry showing the total operating revenue derived  
9 by petroleum suppliers from fuels sold that are subject to the requirements  
10 of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with  
11 reference to aircraft fuel and motor vehicle fuel, and ORS 319.530. The di-  
12 rector may grant an extension of not more than 15 days for the requirements  
13 of this subsection if:

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

16 “(B) The energy supplier provides reasonable assurance that the energy  
17 supplier can comply with the revised deadline; and

18 “(C) The extension of time does not prevent the council or the authority  
19 from fulfilling its statutory responsibilities.

20 “(i) As used in this section:

21 “(A) ‘Energy resource supplier’ means an electric utility, natural gas  
22 utility or petroleum supplier supplying, generating, transmitting or distrib-  
23 uting electricity, natural gas or petroleum products in Oregon.

24 “(B)(i) **‘Energy services program’ means a program or activity**  
25 **undertaken pursuant to the duties, functions and powers of the au-**  
26 **thority that:**

27 **“(I) Provides expertise or technical or research support related to**  
28 **the administration of state energy policies and programs;**

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

30 **“(III) Supports energy conservation, energy efficiency, energy sys-**

1 **tem planning, reliability and safety, energy storage, renewable energy**  
2 **resources, or alternative energy resources or fuels.**

3 **“(ii) ‘Energy services program’ does not mean any program adopted**  
4 **by the Legislative Assembly and administered by the authority to place**  
5 **a cap on anthropogenic greenhouse gas emissions and to provide for**  
6 **a market-based mechanism for covered entities to demonstrate com-**  
7 **pliance with the program.**

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

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

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

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

27 **“(L) No later than September 15 of each even-numbered year, the**  
28 **Secretary of State shall conduct an audit to determine whether the**  
29 **assessment and uses of the energy resource supplier assessment by the**  
30 **authority during the previous biennium complied with the provisions**

1 **of this subsection. The secretary shall provide a copy of the audit re-**  
2 **port issued for an audit under this section to the director and to the**  
3 **Oregon Climate Board.**

4 “(9)(a) In addition to any other fees required by law, each operator of a  
5 nuclear fueled thermal power plant or nuclear installation within this state  
6 shall pay to the authority annually on July 1 an assessment in an amount  
7 determined by the director to be necessary to fund the activities of the state  
8 and the counties associated with emergency preparedness for a nuclear fueled  
9 thermal power plant or nuclear installation. The assessment shall not exceed  
10 \$461,250 per year. Moneys collected as assessments under this subsection are  
11 continuously appropriated to the authority for this purpose.

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

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

20 “(11)(a) All fees assessed by the authority against holders of site certifi-  
21 cates for facilities that have an installed capacity of 500 megawatts or  
22 greater may be paid in several installments, the schedule for which shall be  
23 negotiated between the authority and the site certificate holder.

24 “(b) Energy resource suppliers or applicants or holders of a site certifi-  
25 cate who fail to pay a fee provided under subsections (1) to (9) of this sec-  
26 tion after it is due and payable shall pay, in addition to that fee, a penalty  
27 of two percent of the fee a month for the period that the fee is past due. Any  
28 payment made according to the terms of a schedule negotiated under para-  
29 graph (a) of this subsection shall not be considered past due. The director  
30 may bring an action to collect an unpaid fee or penalty in the name of the

1 State of Oregon in a court of competent jurisdiction. The court may award  
2 reasonable attorney fees to the director if the director prevails in an action  
3 under this subsection. The court may award reasonable attorney fees to a  
4 defendant who prevails in an action under this subsection if the court de-  
5 termines that the director had no objectively reasonable basis for asserting  
6 the claim or no reasonable basis for appealing an adverse decision of the  
7 trial court.

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

10 “469.426. (1) The Director of the Oregon Climate Authority shall convene  
11 an advisory work group composed of stakeholders representing energy re-  
12 source suppliers, the customers who ultimately pay for the energy supplier  
13 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  
15 in this state.

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

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

19 “[*(b) Legislative concepts; and*]

20 “[*(c) The department’s requested budget.*]

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

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

25 **“(c) The portion of the authority’s requested biennial budget that**  
26 **is eligible for funding through the energy supplier assessment pursu-**  
27 **ant to ORS 469.421 (8)(a).**

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

30

1                   **“(Provisions Related to the Energy Supplier Assessment,**  
2   **operative January 1, 2022)**

3  
4           **“SECTION 28d.** ORS 469.421, as amended by sections 27 and 28b of this  
5 2019 Act, is amended to read:

6           “469.421. (1) Subject to the provisions of ORS 469.441, any person sub-  
7 mitting a notice of intent, a request for exemption under ORS 469.320, a re-  
8 quest for an expedited review under ORS 469.370, a request for an expedited  
9 review under ORS 469.373, a request for the Oregon Climate Authority to  
10 approve a pipeline under ORS 469.405 (3), an application for a site certificate  
11 or a request to amend a site certificate shall pay all expenses incurred by  
12 the Energy Facility Siting Council and the authority related to the review  
13 and decision of the council. Expenses under this subsection may include:

14           “(a) Legal expenses;

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

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

17           “(d) Expenses incurred in commissioning an independent study under ORS  
18 469.360;

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

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

24           “(2) Every person submitting a notice of intent to file for a site certifi-  
25 cate, a request for exemption or a request for expedited review shall pay the  
26 fee required under the fee schedule established under ORS 469.441 to the  
27 authority prior to submitting the notice or request to the council. To the  
28 extent possible, the full cost of the evaluation shall be paid from the fee paid  
29 under this subsection. However, if costs of the evaluation exceed the fee, the  
30 person submitting the notice or request shall pay any excess costs shown in



1 an itemized statement prepared by the council. In no event shall the council  
2 incur evaluation expenses in excess of 110 percent of the fee initially paid  
3 unless the council provides prior notification to the applicant and a detailed  
4 projected budget the council believes necessary to complete the project. If  
5 costs are less than the fee paid, the excess shall be refunded to the person  
6 submitting the notice or request.

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

21 “(4) Any person who is delinquent in the payment of fees under sub-  
22 sections (1) to (3) of this section shall be subject to the provisions of sub-  
23 section (11) of this section.

24 “(5) Subject to the provisions of ORS 469.441, each holder of a certificate  
25 shall pay an annual fee, due every July 1 following issuance of a site cer-  
26 tificate. For each fiscal year, upon approval of the authority’s budget au-  
27 thorization by an odd-numbered year regular session of the Legislative  
28 Assembly or as revised by the Emergency Board meeting in an interim period  
29 or by the Legislative Assembly meeting in special session or in an even-  
30 numbered year regular session, the Director of the Oregon Climate Authority

1 promptly shall enter an order establishing an annual fee based on the  
2 amount of revenues that the director estimates is needed to fund the cost of  
3 ensuring that the facility is being operated consistently with the terms and  
4 conditions of the site certificate, any order issued by the authority under  
5 ORS 469.405 (3) and any applicable health or safety standards. In determining  
6 this cost, the director shall include both the actual direct cost to be incurred  
7 by the council and the authority to ensure that the facility is being operated  
8 consistently with the terms and conditions of the site certificate, any order  
9 issued by the authority under ORS 469.405 (3) and any applicable health or  
10 safety standards, and the general costs to be incurred by the council and the  
11 authority to ensure that all certificated facilities are being operated con-  
12 sistently with the terms and conditions of the site certificates, any orders  
13 issued by the authority under ORS 469.405 (3) and any applicable health or  
14 safety standards that cannot be allocated to an individual, licensed facility.  
15 Not more than 35 percent of the annual fee charged each facility shall be for  
16 the recovery of these general costs. The fees for direct costs shall reflect the  
17 size and complexity of the facility, the anticipated costs of ensuring compli-  
18 ance with site certificate conditions, the anticipated costs of conducting site  
19 inspections and compliance reviews as described in ORS 469.430, and the  
20 anticipated costs of compensating state agencies and local governments for  
21 participating in site inspection and compliance enforcement activities at the  
22 request of the council.

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

27 “(7) When the actual costs of regulation incurred by the council and the  
28 authority for the year, including that portion of the general regulation costs  
29 that have been allocated to a particular facility, are less than the annual  
30 fees for that facility, the unexpended balance shall be refunded to the site

1 certificate holder. When the actual regulation costs incurred by the council  
2 and the authority for the year, including that portion of the general regu-  
3 lation costs that have been allocated to a particular facility, are projected  
4 to exceed the annual fee for that facility, the director may issue an order  
5 revising the annual fee.

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

9 “(A) The programs and activities of the council;

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

11 “(C) The administrative overhead and shared services costs of the au-  
12 thority that are attributable to the programs and activities described in  
13 subparagraphs (A) and (B) of this paragraph, unless the administrative  
14 overhead or shared services costs are funded by fees pursuant to subsections  
15 (1), (5) or (6) of this section.

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

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

28 “(B) The projected allocation of moneys derived from the assessment im-  
29 posed under this subsection to each energy services program of the authority.

30 “(c) Upon approval of the budget authorization of the council and the

1 authority by an odd-numbered year regular session of the Legislative As-  
2 sembly, the director shall promptly enter an order establishing the amount  
3 of revenues required to be derived from an assessment pursuant to this sub-  
4 section in order to fund programs and activities described in paragraph (a)  
5 of this subsection that the council and the authority are charged with ad-  
6 ministering and authorized to conduct under the laws of this state for the  
7 first fiscal year of the forthcoming biennium. On or before June 1 of each  
8 even-numbered year, the director shall enter an order establishing the  
9 amount of revenues required to be derived from an assessment pursuant to  
10 this subsection in order to fund the programs and activities described in  
11 paragraph (a) of this subsection that the council and the authority are  
12 charged with administering and authorized to conduct under the laws of this  
13 state for the second fiscal year of the biennium. The order shall take into  
14 account any revisions to the biennial budget of the council and the authority  
15 made by the Emergency Board meeting in an interim period or by the Leg-  
16 islative Assembly meeting in special session or in an even-numbered year  
17 regular session.

18 “(d) Each order issued by the director pursuant to paragraph (c) of this  
19 subsection shall allocate the aggregate assessment set forth in the order to  
20 energy resource suppliers in accordance with paragraph (e) of this sub-  
21 section.

22 “(e) The amount assessed to an energy resource supplier shall be based  
23 on the ratio which that supplier’s annual gross operating revenue derived  
24 within this state in the preceding calendar year bears to the total gross op-  
25 erating revenue derived within this state during that year by all energy re-  
26 source suppliers. The assessment against an energy resource supplier shall  
27 not exceed 0.375 percent of the supplier’s gross operating revenue derived  
28 within this state in the preceding calendar year. The director shall exempt  
29 from payment of an assessment any individual energy resource supplier  
30 whose calculated share of the annual assessment is less than \$250.

1 “(f) The director shall send each energy resource supplier subject to as-  
2 sessment pursuant to this subsection a copy of each order issued by regis-  
3 tered or certified mail or through use of an electronic medium with  
4 electronic receipt verification. The amount assessed to the energy resource  
5 supplier pursuant to the order shall be considered to the extent otherwise  
6 permitted by law a government-imposed cost and recoverable by the energy  
7 resource supplier as a cost included within the price of the service or prod-  
8 uct supplied.

9 “(g) The amounts assessed to individual energy resource suppliers pursu-  
10 ant to paragraph (e) of this subsection shall be paid to the authority as fol-  
11 lows:

12 “(A) Amounts assessed for the first fiscal year of a biennium shall be paid  
13 not later than 90 days following adjournment sine die of the odd-numbered  
14 year regular session of the Legislative Assembly; and

15 “(B) Amounts assessed for the second fiscal year of a biennium shall be  
16 paid not later than July 1 of each even-numbered year or 90 days following  
17 adjournment sine die of the even-numbered year regular session of the Leg-  
18 islative Assembly, whichever is later.

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

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

3 “(B) The energy supplier provides reasonable assurance that the energy  
4 supplier can comply with the revised deadline; and

5 “(C) The extension of time does not prevent the council or the authority  
6 from fulfilling its statutory responsibilities.

7 “(i) As used in this section:

8 “(A) ‘Energy resource supplier’ means an electric utility, natural gas  
9 utility or petroleum supplier supplying, generating, transmitting or distrib-  
10 uting electricity, natural gas or petroleum products in Oregon.

11 “(B)(i) ‘Energy services program’ means a program or activity undertaken  
12 pursuant to the duties, functions and powers of the authority that:

13 “(I) Provides expertise, technical or research support related to the ad-  
14 ministration of state energy policies and programs;

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

16 “(III) Supports energy conservation, energy efficiency, energy system  
17 planning, reliability and safety, energy storage, renewable energy resources,  
18 or alternative energy resources or fuels.

19 “(ii) ‘Energy services program’ does not mean **the greenhouse gas re-**  
20 **porting program under ORS 468A.280 and rules adopted pursuant to**  
21 **ORS 468A.280** or any program adopted by the Legislative Assembly and ad-  
22 ministered by the authority to place a cap on anthropogenic greenhouse gas  
23 emissions and to provide for a market-based mechanism for covered entities  
24 to demonstrate compliance with the program.

25 “(C) ‘Gross operating revenue’ means gross receipts from sales or service  
26 made or provided within this state during the regular course of the energy  
27 supplier’s business, but does not include either revenue derived from interu-  
28 tility sales within the state or revenue received by a petroleum supplier from  
29 the sale of fuels that are subject to the requirements of Article IX, section  
30 3a, of the Oregon Constitution, or ORS 319.020 or 319.530.

1 “(D) ‘Petroleum supplier’ has the meaning given that term in ORS 469.020.

2 “(j) In determining the amount of revenues that must be derived from any  
3 class of energy resource suppliers by assessment pursuant to this subsection,  
4 the director shall take into account all other known or readily ascertainable  
5 sources of revenue to the council and authority, including, but not limited  
6 to, fees imposed under this section and federal funds, and may take into ac-  
7 count any funds previously assessed pursuant to ORS 469.420 (1979 Replace-  
8 ment Part) or section 7, chapter 792, Oregon Laws 1981.

9 “(k) Orders issued by the director pursuant to this section shall be subject  
10 to judicial review under ORS 183.484. The taking of judicial review shall not  
11 operate to stay the obligation of an energy resource supplier to pay amounts  
12 assessed to it on or before the statutory deadline.

13 “(L) No later than September 15 of each even-numbered year, the Secre-  
14 tary of State shall conduct an audit to determine whether the assessment and  
15 uses of the energy resource supplier assessment by the authority during the  
16 previous biennium complied with the provisions of this subsection. The sec-  
17 retary shall provide a copy of the audit report issued for an audit under this  
18 section to the director and to the Oregon Climate Board.

19 “(9)(a) In addition to any other fees required by law, each operator of a  
20 nuclear fueled thermal power plant or nuclear installation within this state  
21 shall pay to the authority annually on July 1 an assessment in an amount  
22 determined by the director to be necessary to fund the activities of the state  
23 and the counties associated with emergency preparedness for a nuclear fueled  
24 thermal power plant or nuclear installation. The assessment shall not exceed  
25 \$461,250 per year. Moneys collected as assessments under this subsection are  
26 continuously appropriated to the authority for this purpose.

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

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

5 “(11)(a) All fees assessed by the authority against holders of site certifi-  
6 cates for facilities that have an installed capacity of 500 megawatts or  
7 greater may be paid in several installments, the schedule for which shall be  
8 negotiated between the authority and the site certificate holder.

9 “(b) Energy resource suppliers or applicants or holders of a site certifi-  
10 cate who fail to pay a fee provided under subsections (1) to (9) of this sec-  
11 tion after it is due and payable shall pay, in addition to that fee, a penalty  
12 of two percent of the fee a month for the period that the fee is past due. Any  
13 payment made according to the terms of a schedule negotiated under para-  
14 graph (a) of this subsection shall not be considered past due. The director  
15 may bring an action to collect an unpaid fee or penalty in the name of the  
16 State of Oregon in a court of competent jurisdiction. The court may award  
17 reasonable attorney fees to the director if the director prevails in an action  
18 under this subsection. The court may award reasonable attorney fees to a  
19 defendant who prevails in an action under this subsection if the court de-  
20 termines that the director had no objectively reasonable basis for asserting  
21 the claim or no reasonable basis for appealing an adverse decision of the  
22 trial court.

23

24 **“(Energy Program Review Task Force)”**

25

26 **“SECTION 29. (1) The Energy Program Review Task Force is es-**  
27 **tablished.**

28 **“(2) The task force consists of:**

29 **“(a) Five members appointed as follows:**

30 **“(A) The President of the Senate shall appoint one member from**



1 among the members of the Senate who also serves as a member of a  
2 committee of the Legislative Assembly related to climate;

3 “(B) The Speaker of the House of Representatives shall appoint one  
4 member from among the members of the House of Representatives  
5 who also serves as a member of a committee of the Legislative As-  
6 sembly related to climate; and

7 “(C) The Governor shall appoint three members who represent the  
8 interests of key stakeholders of the Oregon Climate Authority; and

9 “(b) The following six ex officio, voting members:

10 “(A) The chairperson of the Oregon Climate Board;

11 “(B) The Director of the Oregon Climate Authority;

12 “(C) The Director of the Oregon Department of Administrative  
13 Services or a designee of the director;

14 “(D) One member of the Public Utility Commission or a designee  
15 of the chairperson of the commission;

16 “(E) The Director of the Department of Environmental Quality or  
17 a designee of the director; and

18 “(F) The Director of the Department of Land Conservation and  
19 Development or a designee of the director.

20 “(3) The task force shall:

21 “(a) Review and provide recommendations to the Governor and to  
22 the Legislative Assembly, which may include recommendations for  
23 legislation, regarding the most appropriate state agency to provide for  
24 administration of the duties of the Energy Facility Siting Council es-  
25 tablished under ORS 469.450;

26 “(b) If the task force determines that duties related to the Energy  
27 Facility Siting Council should be transferred to another state agency,  
28 provide recommendations to the Governor and to the Legislative As-  
29 sembly, which may include recommendations for legislation, for a  
30 proposal for accomplishing the transfer no later than July 1, 2021;

1       “(c) Review all the duties, functions and powers of the Oregon Cli-  
2 mate Authority to assess whether the programs and activities carried  
3 out pursuant to those duties, functions and powers properly align with  
4 the policy stated in section 2 of this 2019 Act and the duties of the  
5 authority provided for in section 3 of this 2019 Act; and

6       “(d) Provide recommendations to the Governor and to the Legisla-  
7 tive Assembly, which may include recommendations for legislation,  
8 on duties, functions and powers of the State Department of Energy  
9 that will be transferred to the Oregon Climate Authority on the oper-  
10 ative date specified in section 261 (1) of this 2019 Act that should be  
11 abolished, amended or transferred to other agencies of state govern-  
12 ment in order to ensure that the programs and activities of the Oregon  
13 Climate Authority properly align with the policy stated in section 2  
14 of this 2019 Act and the duties of the authority provided for in section  
15 3 of this 2019 Act.

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

18       “(a) Alignment of the duties, functions and powers of the Oregon  
19 Climate Authority with the policy stated in section 2 of this 2019 Act  
20 and the duties of the authority provided for in section 3 of this 2019  
21 Act, and otherwise with the mission of the authority;

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

23       “(c) The administrative capacities of the authority and other agen-  
24 cies of state government relative to administering specific duties,  
25 functions or powers of the authority; and

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

29       “(5) A majority of the voting members of the task force constitutes  
30 a quorum for the transaction of business.

1       **“(6) Official action by the task force requires the approval of a**  
2 **majority of the voting members of the task force.**

3       **“(7) The task force shall elect one of its members to serve as**  
4 **chairperson.**

5       **“(8) If there is a vacancy for any cause, the appointing authority**  
6 **shall make an appointment to become immediately effective.**

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

10       **“(10) The task force may adopt rules necessary for the operation**  
11 **of the task force.**

12       **“(11) In the manner provided by ORS 192.245, the task force:**

13       **“(a) Shall submit an initial report, which may include recommen-**  
14 **dations for legislation, to the Governor and an interim committee of**  
15 **the Legislative Assembly related to climate no later than November**  
16 **30, 2019; and**

17       **“(b) May submit an additional report, which may include recom-**  
18 **mendations for legislation, to the Governor and an interim committee**  
19 **of the Legislative Assembly related to climate no later than September**  
20 **15, 2020.**

21       **“(12) The Oregon Climate Authority shall provide staff support to**  
22 **the task force.**

23       **“(13) Members of the Legislative Assembly appointed to the task**  
24 **force are nonvoting members of the task force and may act in an ad-**  
25 **visory capacity only.**

26       **“(14) Members of the task force who are not members of the Leg-**  
27 **islative Assembly are not entitled to compensation or reimbursement**  
28 **for expenses and serve as volunteers on the task force.**

29       **“(15) All agencies of state government, as defined in ORS 174.111,**  
30 **are directed to assist the task force in the performance of the duties**

1 of the task force and, to the extent permitted by laws relating to  
2 confidentiality, to furnish information and advice the members of the  
3 task force consider necessary to perform their duties.

4 **“SECTION 30. Section 29 of this 2019 Act is repealed on December**  
5 **31, 2020.”**.

6 On page 74, delete line 11 and insert “in section 2 of this 2019 Act and  
7 ORS 469.310.”.

8 In line 24, delete “ORS 469.010 and” and insert “section 2 of this 2019 Act  
9 and ORS”.

10 In line 28, after “in” delete the rest of the line and insert “section 2 of  
11 this 2019 Act and ORS 469.310.”.

12 On page 75, line 7, restore “192.690,”.

13 In line 26, restore “192.690,”.

14 On page 76, after line 16, insert:

15 **“SECTION 90a.** ORS 469.100 is amended to read:

16 “469.100. (1) All agencies shall consider the policy stated in [*ORS*  
17 *469.010*] **section 2 of this 2019 Act** in adopting or modifying their rules and  
18 policies.

19 “(2) All agencies shall review their rules and policies to determine their  
20 consistency with the policy stated in [*ORS 469.010*] **section 2 of this 2019**  
21 **Act.**”.

22 In line 18, delete “(1)”.

23 Delete lines 25 through 27.

24 On page 83, after line 33, insert:

25 **“SECTION 98a.** ORS 469.310 is amended to read:

26 “469.310. In the interests of the public health and the welfare of the peo-  
27 ple of this state, it is the declared public policy of this state that the siting,  
28 construction and operation of energy facilities shall be accomplished in a  
29 manner consistent with protection of the public health and safety and in  
30 compliance with the energy policy and air, water, solid waste, land use and

1 other environmental protection policies of this state. It is, therefore, the  
2 purpose of ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 to  
3 exercise the jurisdiction of the State of Oregon to the maximum extent per-  
4 mitted by the United States Constitution and to establish in cooperation  
5 with the federal government a comprehensive system for the siting, moni-  
6 toring and regulating of the location, construction and operation of all en-  
7 ergy facilities in this state. It is furthermore the policy of this state,  
8 notwithstanding [*ORS 469.010 (2)(f)*] **section 2 (4)(j) of this 2019 Act** and  
9 the definition of cost-effective in ORS 469.020, that the need for new gener-  
10 ating facilities, as defined in ORS 469.503, is sufficiently addressed by reli-  
11 ance on competition in the market rather than by consideration of  
12 cost-effectiveness and shall not be a matter requiring determination by the  
13 Energy Facility Siting Council in the siting of a generating facility, as de-  
14 fined in ORS 469.503.”.

15 On page 97, after line 29, insert:

16 **“SECTION 112a.** ORS 469.470 is amended to read:

17 “469.470. The Energy Facility Siting Council shall:

18 “(1) Conduct and prepare, independently or in cooperation with others,  
19 studies, investigations, research and programs relating to all aspects of site  
20 selection.

21 “(2) In accordance with the applicable provisions of ORS chapter 183, and  
22 subject to the provisions of ORS 469.501 (3), adopt standards and rules to  
23 perform the functions vested by law in the council including the adoption  
24 of standards and rules for the siting of energy facilities pursuant to ORS  
25 469.501, and implementation of the energy policy of the State of Oregon set  
26 forth in [*ORS 469.010 and 469.310*] **section 2 of this 2019 Act and ORS**  
27 **469.310.**

28 “(3) Encourage voluntary cooperation by the people, municipalities,  
29 counties, industries, agriculture, and other pursuits, in performing the func-  
30 tions vested by law in the council.

1 “(4) Advise, consult, and cooperate with other agencies of the state, poli-  
2 tical subdivisions, industries, other states, the federal government and af-  
3 fected groups, in furtherance of the purposes of ORS 469.300 to 469.563,  
4 469.590 to 469.619, 469.930 and 469.992.

5 “(5) Consult with the Water Resources Commission on the need for power  
6 and other areas within the expertise of the council when the Water Re-  
7 sources Commission is determining whether to allocate water for hydroelec-  
8 tric development.

9 “(6) Perform such other and further acts as may be necessary, proper or  
10 desirable to carry out effectively the duties, powers and responsibilities of  
11 the council described in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930  
12 and 469.992.

13 **“SECTION 112b.** ORS 469.501 is amended to read:

14 “469.501. (1) The Energy Facility Siting Council shall adopt standards for  
15 the siting, construction, operation and retirement of facilities. The standards  
16 may address but need not be limited to the following subjects:

17 “(a) The organizational, managerial and technical expertise of the appli-  
18 cant to construct and operate the proposed facility.

19 “(b) Seismic hazards.

20 “(c) Areas designated for protection by the state or federal government,  
21 including but not limited to monuments, wilderness areas, wildlife refuges,  
22 scenic waterways and similar areas.

23 “(d) The financial ability and qualifications of the applicant.

24 “(e) Effects of the facility, taking into account mitigation, on fish and  
25 wildlife, including threatened and endangered fish, wildlife or plant species.

26 “(f) Impacts of the facility on historic, cultural or archaeological re-  
27 sources listed on, or determined by the State Historic Preservation Officer  
28 to be eligible for listing on, the National Register of Historic Places or the  
29 Oregon State Register of Historic Properties.

30 “(g) Protection of public health and safety, including necessary safety

1 devices and procedures.

2 “(h) The accumulation, storage, disposal and transportation of nuclear  
3 waste.

4 “(i) Impacts of the facility on recreation, scenic and aesthetic values.

5 “(j) Reduction of solid waste and wastewater generation to the extent  
6 reasonably practicable.

7 “(k) Ability of the communities in the affected area to provide sewers and  
8 sewage treatment, water, storm water drainage, solid waste management,  
9 housing, traffic safety, police and fire protection, health care and schools.

10 “(L) The need for proposed nongenerating facilities as defined in ORS  
11 469.503, consistent with the state energy policy set forth in [*ORS 469.010 and*  
12 *469.310*] **section 2 of this 2019 Act and ORS 469.310**. The council may con-  
13 sider least-cost plans when adopting a need standard or in determining  
14 whether an applicable need standard has been met. The council shall not  
15 adopt a standard requiring a showing of need or cost-effectiveness for gen-  
16 erating facilities as defined in ORS 469.503.

17 “(m) Compliance with the statewide planning goals adopted by the Land  
18 Conservation and Development Commission as specified by ORS 469.503.

19 “(n) Soil protection.

20 “(o) For energy facilities that emit carbon dioxide, the impacts of those  
21 emissions on climate change. For fossil-fueled power plants, as defined in  
22 ORS 469.503, the council shall apply a standard as provided for by ORS  
23 469.503 (2).

24 “(2) The council may adopt exemptions from any need standard adopted  
25 under subsection (1)(L) of this section if the exemption is consistent with the  
26 state’s energy policy set forth in [*ORS 469.010 and 469.310*] **section 2 of this**  
27 **2019 Act and ORS 469.310**.

28 “(3)(a) The council may issue a site certificate for a facility that does not  
29 meet one or more of the applicable standards adopted under subsection (1)  
30 of this section if the council determines that the overall public benefits of

1 the facility outweigh any adverse effects on a resource or interest protected  
2 by the applicable standards the facility does not meet.

3 “(b) The council by rule shall specify the criteria by which the council  
4 makes the determination described in paragraph (a) of this subsection.

5 “(4) Notwithstanding subsection (1) of this section, the council may not  
6 impose any standard developed under subsection (1)(b), (f), (j) or (k) of this  
7 section to approve or deny an application for an energy facility producing  
8 power from wind, solar or geothermal energy. However, the council may, to  
9 the extent it determines appropriate, apply any standards adopted under  
10 subsection (1)(b), (f), (j) or (k) of this section to impose conditions on any site  
11 certificate issued for any energy facility.”.

12 On page 105, line 16, delete “ORS”.

13 Delete line 17 and insert “section 2 of this 2019 Act and ORS 469.310.”.

14 On page 150, delete lines 43 through 45.

15 On page 151, delete lines 1 through 14 and insert:

16 “**NOTE:** Section 208 was deleted by amendment. Subsequent sections were  
17 not renumbered.”.

18 On page 170, after line 40, insert:

19 “**SECTION 243a.** ORS 757.230 is amended to read:

20 “757.230. (1) The Public Utility Commission shall provide for a compre-  
21 hensive classification of service for each public utility, and such classifica-  
22 tion may take into account the quantity used, the time when used, the  
23 purpose for which used, the existence of price competition or a service al-  
24 ternative, the services being provided, the conditions of service and any  
25 other reasonable consideration. Based on such considerations the commission  
26 may authorize classifications or schedules of rates applicable to individual  
27 customers or groups of customers. The service classifications and schedule  
28 forms shall be designed consistently with the requirements of [*ORS 469.010*]  
29 **section 2 of this 2019 Act.** Each public utility is required to conform its  
30 schedules of rates to such classification. If the commission determines that



1 a tariff filing under ORS 757.205 results in a rate classification primarily  
2 related to price competition or a service alternative, the commission, at a  
3 minimum, shall consider the following:

4 “(a) Whether the rate generates revenues at least sufficient to cover rel-  
5 evant short and long run costs of the utility during the term of the rates;

6 “(b) Whether the rate generates revenues sufficient to insure that just and  
7 reasonable rates are established for remaining customers of the utility;

8 “(c) For electric and natural gas utilities:

9 “(A) Whether it is appropriate to incorporate interruption of service in  
10 the utility’s rate agreement with the customer; and

11 “(B) Whether the rate agreement requires the utility to acquire new re-  
12 sources to serve the load; and

13 “(d) For electric utilities, for service to load not previously served, the  
14 effect of the rate on the utility’s average system cost through the residential  
15 exchange provision of the Pacific Northwest Electric Power Planning and  
16 Conservation Act of 1980, Public Law 96-501, as amended.

17 “(2) The commission may prescribe such changes in the form in which the  
18 schedules are issued by any public utility as may be found to be expedient.  
19 The commission shall adopt rules which allow any person who requests no-  
20 tice of tariff filings described under subsection (1) of this section to receive  
21 such notice.”.

22 On page 181, delete lines 8 through 21 and insert:

23 “**SECTION 251.** ORS 757.617 is amended to read:

24 “757.617. (1)[(a)] The Public Utility Commission and the [*State Department*  
25 *of Energy*] **Oregon Climate Authority** jointly shall select an independent  
26 nongovernmental entity to prepare a biennial report to the Legislative As-  
27 sembly describing program spending and results for public purpose require-  
28 ments undertaken pursuant to ORS 757.612. [*The first report shall be due on*  
29 *January 1, 2003.*] **The report may include:**

30 “(a) **Proposed modifications to public purpose requirements under-**

1 **taken pursuant to ORS 757.612; and**

2 **“(b) Recommendations regarding the public purpose funding re-**  
3 **quirements under ORS 757.612.**

4 *“(b) The commission and the department jointly shall select an independ-*  
5 *ent nongovernmental entity to prepare a report to the Legislative Assembly*  
6 *describing proposed modifications to public purpose requirements undertaken*  
7 *pursuant to ORS 757.612. The report shall be due on January 1, 2007.]*

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

12 **“(2) The Housing and Community Services Department shall prepare a**  
13 **biennial report to the Legislative Assembly describing program spending and**  
14 **needs for low-income bill assistance. [The first report shall be due on January**  
15 **1, 2003.]”.**

16 On page 184, delete lines 17 through 34 and insert:

17 **“SECTION 255. (1) The following funds are abolished on the opera-**  
18 **tive date specified in section 261 (1) of this 2019 Act:**

19 **“(a) The Energy Project Supplemental Fund;**

20 **“(b) The Energy Project Bond Loan Fund;**

21 **“(c) The Jobs, Energy and Schools Fund; and**

22 **“(d) The Energy Revenue Bond Repayment Fund.**

23 **“(2) Any moneys remaining in the funds specified in subsection**  
24 **(1)(a) and (b) of this section on the operative date specified in section**  
25 **261 (1) of this 2019 Act that are unexpended, unobligated and not sub-**  
26 **ject to any conditions shall be transferred to the Small Scale Local**  
27 **Energy Project Administration and Bond Sinking Fund created under**  
28 **ORS 470.300.**

29 **“(3) Any moneys remaining in the funds specified in subsection**  
30 **(1)(c) and (d) of this section on the operative date specified in section**

1 **261 (1) of this 2019 Act that are unexpended, unobligated and not sub-**  
2 **ject to any conditions shall be transferred to the Clean Energy De-**  
3 **ployment Fund established under ORS 470.800.”.**

4 On page 185, line 8, delete “2020” and insert “2021”.

5 In line 9, delete “2020” and insert “2021”.

6 In line 13, delete “184.425, 184.427, 184.429, 184.431, 184.433, 184.435.”.

7 In line 14, after “468A.260,” insert “469.010,”.

8 In line 19, after “701.119” insert “and sections 8a and 8b, chapter 739,  
9 Oregon Laws 2007,”.

10 Delete lines 23 through 44 and insert:

11 **“SECTION 261. (1)(a) Sections 17 to 25 and 255 to 259 of this 2019**  
12 **Act, the amendments to statutes and session law by sections 26 to 28**  
13 **and 31 to 254 of this 2019 Act and the repeal of statutes by section 260**  
14 **of this 2019 Act become operative on July 1, 2020.**

15 **“(b) The Director of the Oregon Climate Authority, the Oregon**  
16 **Climate Authority, the Director of the State Department of Energy,**  
17 **the State Department of Energy, the Director of the Oregon Business**  
18 **Development Department, the Oregon Business Development Depart-**  
19 **ment and the Governor may adopt rules and take any action before**  
20 **the operative date specified in paragraph (a) of this subsection that is**  
21 **necessary to enable the directors, the departments and the authority**  
22 **to exercise, on and after the operative date specified in paragraph (a)**  
23 **of this subsection, the duties, functions and powers of the directors,**  
24 **the departments and the authority pursuant to sections 17 to 25 and**  
25 **255 to 259 of this 2019 Act, the amendments to statutes and session law**  
26 **by sections 26 to 28 and 31 to 254 of this 2019 Act and the repeal of**  
27 **statutes by section 260 of this 2019 Act.**

28 **“(c) Any rules adopted pursuant to paragraph (b) of this subsection**  
29 **may not become operative before the operative date specified in para-**  
30 **graph (a) of this subsection.**

1       “(2)(a) The amendments to statutes by sections 28a, 28b and 28c of  
2 this 2019 Act become operative July 1, 2021.

3       “(b) The Director of the Oregon Climate Authority and the Oregon  
4 Climate Authority may take any action before the operative date  
5 specified in paragraph (a) of this subsection that is necessary to enable  
6 the director and the authority, on and after the operative date speci-  
7 fied in paragraph (a) of this subsection, to carry out the duties, func-  
8 tion and powers of the director and the authority pursuant to the  
9 amendments to statutes by sections 28a, 28b and 28c of this 2019 Act.

10       “(3)(a) Sections 9 to 15 of this 2019 Act and the amendments to  
11 statutes by sections 16 and 28d of this 2019 Act become operative on  
12 January 1, 2022.

13       “(b) The Director of the Oregon Climate Authority, the Oregon  
14 Climate Authority, the Director of the Department of Environmental  
15 Quality, the Department of Environmental Quality and the Environ-  
16 mental Quality Commission may take any action before the operative  
17 date specified in paragraph (a) of this subsection that is necessary to  
18 enable the directors, the department, the commission and the au-  
19 thority, on and after the operative date specified in paragraph (a) of  
20 this subsection, to carry out the duties, function and powers of the  
21 directors, the department, the commission and the authority pursuant  
22 to sections 9 to 15 of this 2019 Act and the amendments to statutes by  
23 sections 16 and 28d of this 2019 Act.”.

24

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