

HB 2020-94
(LC 894)
5/15/19 (MAM/ps)

Requested by JOINT COMMITTEE ON CARBON REDUCTION

**PROPOSED AMENDMENTS TO
HOUSE BILL 2020**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and lines 3 and 4 and insert “244.050, 352.823, 468.953, 468A.205, 468A.235,
3 468A.240, 468A.245, 468A.255, 468A.260, 468A.265, 468A.279, 468A.280, 469.300,
4 469.310, 469.373, 469.405, 469.407, 469.501, 469.503, 469.504, 469.505, 530.050,
5 530.500, 757.259 and 757.528 and section 12, chapter 751, Oregon Laws 2009;
6 repealing ORS 469.409, 468A.200, 468A.210, 468A.215, 468A.220, 468A.225,
7 468A.230, 468A.250, 526.780, 526.783, 526.786 and 526.789; and declaring an
8 emergency.

9 “Whereas climate change and ocean acidification caused by greenhouse
10 gas emissions are having significant detrimental effects on public health and
11 on Oregon’s economic vitality, natural resources and environment; and

12 “Whereas the potential impacts of climate change and ocean acidification
13 include increasingly devastating wildfires, communities overwhelmed by
14 smoke, drinking water compromised by algal blooms, a rise in sea levels re-
15 sulting in flooding and the displacement of thousands of coastal businesses
16 and residences, damage to marine ecosystems and food sources, extreme
17 weather events, severe harm to this state’s agriculture, forestry and tourism
18 industries, and an increase in the incidences of infectious diseases, asthma
19 and other human health-related problems; and

20 “Whereas climate change has a disproportionate effect on fish and
21 wildlife populations, many of which require specific habitat conditions and

1 are therefore particularly vulnerable to warmer temperatures, modified pre-
2 cipitation patterns, diminished snowpack, ocean acidification and other ef-
3 fects of climate change; and

4 “Whereas climate change has a disproportionate effect on impacted com-
5 munities, such as Indian tribes, rural communities, coastal communities,
6 workers, low-income households and people of color, who typically have
7 fewer resources for adapting to climate change and are therefore the most
8 vulnerable to displacement, adverse health effects, job loss, property damage
9 and other effects of climate change; and

10 “Whereas the world’s leading climate scientists, including those in the
11 Oregon Climate Change Research Institute, predict that these serious im-
12 pacts of climate change will worsen if prompt action is not taken to curb
13 emissions; and

14 “Whereas in the absence of effective federal engagement, it is the re-
15 sponsibility of the individual states, deemed to be the laboratories of
16 progress, to take immediate leadership actions to address climate change and
17 ocean acidification; and

18 “Whereas by joining together with other leadership jurisdictions similarly
19 resolved to address climate change and ocean acidification, Oregon will help
20 encourage other states, the federal government and the international com-
21 munity to act; and

22 “Whereas by exercising a leadership role in addressing climate change
23 and ocean acidification, Oregon will position its economy, technology cen-
24 ters, financial institutions and businesses to benefit from the national and
25 international efforts that must occur to reduce greenhouse gas emissions;
26 and

27 “Whereas Oregon’s forests and other natural and working lands are
28 among the world’s most productive carbon sinks, providing many other im-
29 portant ecological, social and economic benefits, and Oregon’s sequestration
30 strategies can play an enormous and unique role in the global effort to

1 combat climate change; and

2 “Whereas Oregon’s forests and other natural and working lands include
3 Indian trust lands, the utilization of which as part of Oregon’s sequestration
4 strategies produces trust revenues for the benefit of Indian tribes and indi-
5 vidual Indians; and

6 “Whereas after many years of study, debate and discussion, the State of
7 Oregon is prepared to design and implement a carbon pricing program that
8 balances sequestration, mitigation, adaptation, resilience and transition
9 strategies to benefit Oregon’s economy and help achieve the state’s agreed-
10 upon greenhouse gas emission reduction goals; and

11 “Whereas Oregon’s emissions reduction policies must be designed to pro-
12 tect climate impacted communities and promote the resiliency of these com-
13 munities through providing opportunities for job creation and training,
14 investments in both natural and built infrastructure and economic develop-
15 ment and increased utilization of clean energy technologies; and

16 “Whereas vehicle electrification and investment in lower-carbon trans-
17 portation infrastructure can increase energy security and resilience in the
18 face of climate change; and

19 “Whereas the carbon pricing program must support a just economic
20 transition to a clean energy future by protecting the existing workforce and
21 creating new pathways to employment through workforce development in
22 clean energy, energy efficiency, adaptation and carbon sequestration sectors;
23 and

24 “Whereas the carbon pricing program must address manufacturing
25 leakage to ensure a level playing field between in-state and out-of-state
26 companies and prevent jobs from leaving this state to emit elsewhere; and

27 “Whereas the carbon pricing program must respect the rights and ability
28 of Indian tribes to exercise their stewardship and sovereign authority over
29 their sovereign trust lands and resources, and the state must make reason-
30 able efforts to cooperate with tribes in the development and implementation

1 of programs that affect Indian tribes; and

2 “Whereas a key strategy in promoting net reductions of atmospheric car-
3 bon dioxide and adapting to climate change is preserving and maintaining
4 the resilient, healthy function of this state’s forests and other natural and
5 working lands; and

6 “Whereas resilient, healthy forests produce many added benefits, includ-
7 ing clean water and good jobs; and

8 “Whereas it is the intent of the Legislative Assembly to obtain reductions
9 in greenhouse gas emissions through a comprehensive suite of existing and
10 future measures that include a legally binding, market-based carbon pricing
11 mechanism, and that must lay out a predictable pathway to success, be
12 flexible and adaptable to changing circumstances, be based on best available
13 science, recognize the benefit of Oregon’s natural and working lands in re-
14 ducing carbon, and be designed to reduce emissions and to successfully
15 transition to a clean energy economy with benefits available to all
16 Oregonians; and

17 “Whereas linkage with other jurisdictions will create efficiencies, spur
18 innovation and create simplicity for businesses, and can be balanced with the
19 ability to maintain Oregon’s authority over its carbon reduction,
20 sequestration, mitigation, adaptation, resilience and transition activities; and

21 “Whereas any resources generated by the carbon pricing program must
22 be invested to maximize multiple cobenefits aligned with the program’s goals
23 in an efficient and cost-effective manner overseen by the Legislative Assem-
24 bly and inclusive of communities throughout Oregon to ensure statewide
25 benefits; and

26 “Whereas the benefits and effectiveness of any investments must be eval-
27 uated through regular and rigorous third-party auditing; and

28 “Whereas the Legislative Assembly must maintain transparent oversight
29 of program design, implementation, evaluation and subsequent decision-
30 making; now, therefore,”.

1 Delete lines 6 through 18 and delete pages 2 through 55 and insert:

2
3 **“STATEWIDE GREENHOUSE GAS EMISSIONS**
4 **REDUCTION GOALS**

5
6 **“SECTION 1.** ORS 468A.205 is amended to read:

7 “468A.205. (1) The Legislative Assembly declares that it is the [*policy*]
8 **goal** of this state to **achieve a reduction in anthropogenic greenhouse**
9 **gas emissions levels in Oregon:** [*reduce greenhouse gas emissions in Oregon*
10 *pursuant to the following greenhouse gas emissions reduction goals:*]

11 “[*(a) By 2010, arrest the growth of Oregon’s greenhouse gas emissions and*
12 *begin to reduce greenhouse gas emissions.*]

13 “[*(b) By 2020, achieve greenhouse gas levels that are 10 percent below 1990*
14 *levels.*]

15 “[*(c) By 2050, achieve greenhouse gas levels that are at least 75 percent*
16 *below 1990 levels.*]

17 **“(a) To at least 45 percent below 1990 emissions levels by 2035; and**

18 **“(b) To at least 80 percent below 1990 emissions levels by 2050.**

19 “(2) The Legislative Assembly declares that it is the policy of this state
20 for state and local governments, businesses, nonprofit organizations and in-
21 dividual residents to prepare for the effects of global warming and by doing
22 so, prevent and reduce the social, economic and environmental effects of
23 global warming.

24 “(3) This section does not create any additional regulatory authority for
25 an agency of the executive department as defined in ORS 174.112.

26
27 **“JOINT COMMITTEE ON CLIMATE ACTION**

28
29 **“SECTION 2. (1) There is established the Joint Committee on Cli-**
30 **mate Action.**

1 **“(2) The joint committee consists of members of the Senate ap-**
2 **pointed by the President of the Senate and members of the House of**
3 **Representatives appointed by the Speaker of the House of Represen-**
4 **tatives.**

5 **“(3) The President of the Senate and the Speaker of the House of**
6 **Representatives shall each appoint one cochair for the joint committee**
7 **with the duties and powers necessary for the performance of the**
8 **functions of the offices as the President and the Speaker determine.**

9 **“(4) The joint committee has a continuing existence and may meet,**
10 **act and conduct its business during sessions of the Legislative As-**
11 **sembly or any recess thereof and in the interim between sessions.**

12 **“(5) The term of a member shall expire upon the date of the con-**
13 **vening of the odd-numbered year regular session of the Legislative**
14 **Assembly next following the commencement of the member’s term.**

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

17 **“(b) When a vacancy occurs in the membership of the joint com-**
18 **mittee in the interim between odd-numbered year regular sessions,**
19 **until the vacancy is filled:**

20 **“(A) The membership of the joint committee shall be considered not**
21 **to include the vacant position for the purpose of determining whether**
22 **a quorum is present; and**

23 **“(B) A majority of the remaining members constitutes a quorum.**

24 **“(7)(a) Members of the joint committee shall receive an amount**
25 **equal to that authorized under ORS 171.072 from funds appropriated**
26 **to the Legislative Assembly for each day spent in the performance of**
27 **their duties as members of the joint committee or any subcommittee**
28 **of the joint committee in lieu of reimbursement for in-state travel**
29 **expenses.**

30 **“(b) Notwithstanding paragraph (a) of this subsection, when en-**

1 gaged in out-of-state travel, members shall be entitled to receive their
2 actual and necessary expenses in lieu of the amount authorized by this
3 subsection. Payment shall be made from funds appropriated to the
4 Legislative Assembly.

5 “(8) The joint committee may not transact business unless a quo-
6 rum is present. Except as provided in subsection (6)(b)(B) of this sec-
7 tion, a quorum consists of a majority of joint committee members
8 from the House of Representatives and a majority of joint committee
9 members from the Senate.

10 “(9) Action by the joint committee requires the affirmative vote of
11 a majority of joint committee members from the House of Represen-
12 tatives and a majority of joint committee members from the Senate.

13 “(10) The joint committee may adopt rules necessary for the oper-
14 ation of the joint committee.

15 “(11) The Legislative Policy and Research Director may employ
16 persons necessary for the performance of the functions of the joint
17 committee. The director shall fix the duties and amounts of compen-
18 sation of the employees. The joint committee shall use the services
19 of continuing legislative staff, without employing additional persons,
20 to the greatest extent practicable.

21 “(12) All agencies of state government, as defined in ORS 174.111,
22 are directed to assist the joint committee in the performance of the
23 duties of the joint committee and, to the extent permitted by laws
24 relating to confidentiality, to furnish information and advice the
25 members of the joint committee consider necessary to perform their
26 duties.

27 **“SECTION 3. (1) The Joint Committee on Climate Action shall:**

28 **“(a) Provide general legislative oversight of policy related to cli-**
29 **mate, including but not limited to the Oregon Climate Action Program**
30 **established under sections 15 to 40 of this 2019 Act;**

1 **“(b) Examine and prioritize the uses of state proceeds from auctions**
2 **conducted under section 34 of this 2019 Act; and**

3 **“(c) Make recommendations related to the uses of state proceeds**
4 **from auctions conducted under section 34 of this 2019 Act to the Joint**
5 **Committee on Ways and Means.**

6 **“(2) In developing recommendations under subsection (1)(c) of this**
7 **section, the Joint Committee on Climate Action shall consider:**

8 **“(a) The biennial expenditure reports and audit report required by**
9 **sections 54 and 55 of this 2019 Act;**

10 **“(b) The biennial climate action investment plan required by section**
11 **57 of this 2019 Act;**

12 **“(c) The recommendations of the Environmental Justice Task Force**
13 **required by section 61 of this 2019 Act; and**

14 **“(d) The Just Transition Plan required by section 52 of this 2019 Act.**

15
16 **“CLIMATE POLICY OFFICE ESTABLISHED**

17 **“(Establishment; Duties)**

18
19 **“SECTION 4. Climate Policy Office. (1) The Climate Policy Office**
20 **is established within the Oregon Department of Administrative Ser-**
21 **vices.**

22 **“(2) The office shall:**

23 **“(a) Coordinate state actions toward achieving reductions in**
24 **greenhouse gas emissions in accordance with ORS 468A.205 and other**
25 **statutes, rules and policies that govern the state’s or state agencies’**
26 **actions to reduce greenhouse gas emissions; and**

27 **“(b) Carry out the duties, functions and powers vested in the office**
28 **by law.**

29 **“(3) The office may advise, consult and cooperate with other agen-**
30 **cies of the state, political subdivisions, other states, eligible Indian**

1 tribes as defined in section 15 of this 2019 Act or the federal govern-
2 ment, with respect to any proceedings and all matters pertaining to
3 the reduction of greenhouse gas emissions levels in Oregon.

4 “(4) The office may adopt rules in accordance with ORS chapter 183
5 and may employ personnel, including specialists and consultants,
6 purchase materials and supplies and enter into contracts necessary to
7 exercise and carry out the duties, functions and powers of the office.

8

9 “(Director of the Climate Policy Office)

10

11 “SECTION 5. Director. (1) The Climate Policy Office is under the
12 supervision and control of a director, who is responsible for the per-
13 formance of the duties, functions and powers of the office.

14 “(2) The Governor shall appoint the Director of the Climate Policy
15 Office, subject to confirmation by the Senate in the manner prescribed
16 in ORS 171.562 and 171.565. The director holds office at the pleasure of
17 the Governor.

18 “(3) The director shall be paid a salary as provided by law or, if not
19 so provided, as prescribed by the Governor.

20 “(4) Subject to the approval of the Governor, the director may or-
21 ganize and reorganize the administrative structure of the office as the
22 director considers appropriate to properly conduct the work of the of-
23 fice.

24 “(5) The director may divide the functions of the office into ad-
25 ministrative divisions. The director may appoint an individual to ad-
26 minister each division. The administrator of each division serves at
27 the pleasure of the director and is not subject to the provisions of ORS
28 chapter 240. Each individual appointed under this subsection must be
29 well qualified by technical training and experience in the functions to
30 be performed by the individual.

1 **“(6) Subject to any applicable provisions of ORS chapter 240, the**
2 **director shall appoint all subordinate officers and employees of the**
3 **office, prescribe their duties and fix their compensation.**

4 **“SECTION 6.** ORS 244.050 is amended to read:

5 “244.050. (1) On or before April 15 of each year the following persons shall
6 file with the Oregon Government Ethics Commission a verified statement of
7 economic interest as required under this chapter:

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

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

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

16 “(d) The Deputy Attorney General.

17 “(e) The Deputy Secretary of State.

18 “(f) The Legislative Administrator, the Legislative Counsel, the Legisla-
19 tive Fiscal Officer, the Legislative Policy and Research Director, the Secre-
20 tary of the Senate and the Chief Clerk of the House of Representatives.

21 “(g) The president and vice presidents, or their administrative equiv-
22 alents, in each public university listed in ORS 352.002.

23 “(h) The following state officers:

24 “(A) Adjutant General.

25 “(B) Director of Agriculture.

26 “(C) Manager of State Accident Insurance Fund Corporation.

27 “(D) Water Resources Director.

28 “(E) Director of Department of Environmental Quality.

29 “(F) Director of Oregon Department of Administrative Services.

30 “(G) State Fish and Wildlife Director.

- 1 “(H) State Forester.
- 2 “(I) State Geologist.
- 3 “(J) Director of Human Services.
- 4 “(K) Director of the Department of Consumer and Business Services.
- 5 “(L) Director of the Department of State Lands.
- 6 “(M) State Librarian.
- 7 “(N) Administrator of Oregon Liquor Control Commission.
- 8 “(O) Superintendent of State Police.
- 9 “(P) Director of the Public Employees Retirement System.
- 10 “(Q) Director of Department of Revenue.
- 11 “(R) Director of Transportation.
- 12 “(S) Public Utility Commissioner.
- 13 “(T) Director of Veterans’ Affairs.
- 14 “(U) Executive director of Oregon Government Ethics Commission.
- 15 “(V) Director of the State Department of Energy.
- 16 “(W) Director and each assistant director of the Oregon State Lottery.
- 17 “(X) Director of the Department of Corrections.
- 18 “(Y) Director of the Oregon Department of Aviation.
- 19 “(Z) Executive director of the Oregon Criminal Justice Commission.
- 20 “(AA) Director of the Oregon Business Development Department.
- 21 “(BB) Director of the Office of Emergency Management.
- 22 “(CC) Director of the Employment Department.
- 23 “(DD) Chief of staff for the Governor.
- 24 “(EE) Director of the Housing and Community Services Department.
- 25 “(FF) State Court Administrator.
- 26 “(GG) Director of the Department of Land Conservation and Development.
- 27 “(HH) Board chairperson of the Land Use Board of Appeals.
- 28 “(II) State Marine Director.
- 29 “(JJ) Executive director of the Oregon Racing Commission.
- 30 “(KK) State Parks and Recreation Director.

1 “(LL) Public defense services executive director.
2 “(MM) Chairperson of the Public Employees’ Benefit Board.
3 “(NN) Director of the Department of Public Safety Standards and Train-
4 ing.
5 “(OO) Executive director of the Higher Education Coordinating Commis-
6 sion.
7 “(PP) Executive director of the Oregon Watershed Enhancement Board.
8 “(QQ) Director of the Oregon Youth Authority.
9 “(RR) Director of the Oregon Health Authority.
10 “(SS) Deputy Superintendent of Public Instruction.
11 “(TT) **Director of the Climate Policy Office.**
12 “(i) The First Partner, the legal counsel, the deputy legal counsel and all
13 policy advisors within the Governor’s office.
14 “(j) Every elected city or county official.
15 “(k) Every member of a city or county planning, zoning or development
16 commission.
17 “(L) The chief executive officer of a city or county who performs the du-
18 ties of manager or principal administrator of the city or county.
19 “(m) Members of local government boundary commissions formed under
20 ORS 199.410 to 199.519.
21 “(n) Every member of a governing body of a metropolitan service district
22 and the auditor and executive officer thereof.
23 “(o) Each member of the board of directors of the State Accident Insur-
24 ance Fund Corporation.
25 “(p) The chief administrative officer and the financial officer of each
26 common and union high school district, education service district and com-
27 munity college district.
28 “(q) Every member of the following state boards and commissions:
29 “(A) Governing board of the State Department of Geology and Mineral
30 Industries.

- 1 “(B) Oregon Business Development Commission.
- 2 “(C) State Board of Education.
- 3 “(D) Environmental Quality Commission.
- 4 “(E) Fish and Wildlife Commission of the State of Oregon.
- 5 “(F) State Board of Forestry.
- 6 “(G) Oregon Government Ethics Commission.
- 7 “(H) Oregon Health Policy Board.
- 8 “(I) Oregon Investment Council.
- 9 “(J) Land Conservation and Development Commission.
- 10 “(K) Oregon Liquor Control Commission.
- 11 “(L) Oregon Short Term Fund Board.
- 12 “(M) State Marine Board.
- 13 “(N) Mass transit district boards.
- 14 “(O) Energy Facility Siting Council.
- 15 “(P) Board of Commissioners of the Port of Portland.
- 16 “(Q) Employment Relations Board.
- 17 “(R) Public Employees Retirement Board.
- 18 “(S) Oregon Racing Commission.
- 19 “(T) Oregon Transportation Commission.
- 20 “(U) Water Resources Commission.
- 21 “(V) Workers’ Compensation Board.
- 22 “(W) Oregon Facilities Authority.
- 23 “(X) Oregon State Lottery Commission.
- 24 “(Y) Pacific Northwest Electric Power and Conservation Planning Coun-
25 cil.
- 26 “(Z) Columbia River Gorge Commission.
- 27 “(AA) Oregon Health and Science University Board of Directors.
- 28 “(BB) Capitol Planning Commission.
- 29 “(CC) Higher Education Coordinating Commission.
- 30 “(DD) Oregon Growth Board.

1 “(EE) Early Learning Council.

2 “(r) The following officers of the State Treasurer:

3 “(A) Deputy State Treasurer.

4 “(B) Chief of staff for the office of the State Treasurer.

5 “(C) Director of the Investment Division.

6 “(s) Every member of the board of commissioners of a port governed by
7 ORS 777.005 to 777.725 or 777.915 to 777.953.

8 “(t) Every member of the board of directors of an authority created under
9 ORS 441.525 to 441.595.

10 “(u) Every member of a governing board of a public university listed in
11 ORS 352.002.

12 “(v) Every member of the board of directors of an authority created under
13 ORS 465.600 to 465.621.

14 “(2) By April 15 next after the date an appointment takes effect, every
15 appointed public official on a board or commission listed in subsection (1)
16 of this section shall file with the Oregon Government Ethics Commission a
17 statement of economic interest as required under ORS 244.060, 244.070 and
18 244.090.

19 “(3) By April 15 next after the filing deadline for the primary election,
20 each candidate described in subsection (1) of this section shall file with the
21 commission a statement of economic interest as required under ORS 244.060,
22 244.070 and 244.090.

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

29 “(5) Subsections (1) to (3) of this section apply only to persons who are
30 incumbent, elected or appointed public officials as of April 15 and to persons

1 who are candidates on April 15.

2 “(6) If a statement required to be filed under this section has not been
3 received by the commission within five days after the date the statement is
4 due, the commission shall notify the public official or candidate and give the
5 public official or candidate not less than 15 days to comply with the re-
6 quirements of this section. If the public official or candidate fails to comply
7 by the date set by the commission, the commission may impose a civil pen-
8 alty as provided in ORS 244.350.

9

10

“(Oregon Climate Board)”

11

12 **“SECTION 7. (1) In order to ensure close correspondence among the**
13 **Climate Policy Office, the public interest and state climate policies,**
14 **there is created the Oregon Climate Board.**

15 **“(2) The following shall serve as nonvoting, ex officio members of**
16 **the board:**

17 **“(a) One member jointly appointed by the President of the Senate**
18 **and the Speaker of the House of Representatives who is a member of**
19 **either the Senate or the House of Representatives and who is also a**
20 **member of the Republican party and serves as a member of a com-**
21 **mittee of the Legislative Assembly related to climate;**

22 **“(b) One member jointly appointed by the President of the Senate**
23 **and the Speaker of the House of Representatives who is a member of**
24 **either the Senate or the House of Representatives and who is also a**
25 **member of the Democratic party and serves as a member of a com-**
26 **mittee of the Legislative Assembly related to climate;**

27 **“(c) One member who represents the Oregon Climate Change Re-**
28 **search Institute;**

29 **“(d) The chairperson of the Environmental Justice Task Force;**

30 **“(e) The Director of Agriculture;**

1 **“(f) The Director of the Department of Environmental Quality;**

2 **“(g) A member of the Public Utility Commission;**

3 **“(h) The Director of Transportation;**

4 **“(i) The Director of the Housing and Community Services Department;**

5 **“(j) The Water Resources Director;**

6 **“(k) The Director of the State Department of Energy;**

7 **“(L) The Director of the Oregon Health Authority; and**

8 **“(m) The State Forester.**

9 **“(3) The Governor shall appoint nine voting members to the board,**
10 **subject to confirmation by the Senate as provided in ORS 171.562 and**
11 **171.565. Members of the board appointed under this subsection must**
12 **be residents of this state well informed in energy and climate issues**
13 **and shall include the following:**

14 **“(a) One member who is a tribal representative;**

15 **“(b) Two members who have expertise in the energy sector;**

16 **“(c) One member who represents environmental interests;**

17 **“(d) One member who is an economist or who has experience and**
18 **expertise in conservation finance;**

19 **“(e) One member who has expertise in industrial energy use;**

20 **“(f) One member with expertise in sustainable transportation is-**
21 **ssues; and**

22 **“(g) Two at-large members.**

23 **“SECTION 8. (1) The term of office of each voting member ap-**
24 **pointed to the Oregon Climate Board is four years, but the members**
25 **of the board may be removed by the Governor. Before the expiration**
26 **of the term of a voting member, the Governor shall appoint a succes-**
27 **sor to assume the duties of the voting member on July 1 of the next**
28 **following year.**

29 **“(2) A voting member is eligible for reappointment, but no voting**
30

1 member may serve more than two consecutive terms. In case of a
2 vacancy for any cause, the Governor shall make an appointment to
3 become immediately effective for the unexpired term.

4 “(3) The Governor shall select one of the voting members as chair-
5 person and another as vice chairperson, for terms and with duties and
6 powers necessary for the performance of the functions of the offices
7 as the board determines.

8 “(4) A majority of the voting members of the board constitutes a
9 quorum for the transaction of business.

10 “(5) The board shall meet once during each calendar quarter at a
11 time and place determined by the chairperson. The board shall en-
12 deavor to hold meetings at various locations throughout this state.
13 The board may hold additional meetings at times and places deter-
14 mined by the chairperson or the Director of the Climate Policy Office,
15 or as requested by a majority of the voting members.

16 “(6)(a) Members of the board who are not members of the Legisla-
17 tive Assembly are not entitled to compensation but may be reimbursed
18 from funds available to the board for actual and necessary travel and
19 other expenses the members incur in the performance of the members’
20 official duties in the manner and amount provided in ORS 292.495.

21 (b) Members of the committee who are members of the Legislative
22 Assembly shall be entitled to payment of per diem and expense re-
23 imbursement under ORS 171.072, payable from funds appropriated to
24 the Legislative Assembly.

25 **“SECTION 9. Notwithstanding the term of office specified by sec-**
26 **tion 8 of this 2019 Act, of the voting members first appointed by the**
27 **Governor to the Oregon Climate Board:**

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

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

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

1 person is engaged in or is about to engage in any acts or practices that
2 constitute a violation of sections 15 to 40 of this 2019 Act, or any rule,
3 standard or order adopted or entered pursuant sections 15 to 40 of this
4 2019 Act, the office may institute actions or proceedings for legal or
5 equitable remedies to enforce compliance or to restrain further vio-
6 lations.

7 “(2) The proceedings authorized by subsection (1) of this section
8 may be instituted without the necessity of prior agency notice, hearing
9 and order, or during an agency hearing if the hearing has been ini-
10 tially commenced by the office.

11 “(3) The provisions of this section are in addition to and not in
12 substitution of any other civil or criminal enforcement provisions
13 available to the office.

14 **“SECTION 12. Civil penalties. (1) As used in this section:**

15 “(a) ‘Intentional’ means conduct by a person with a conscious ob-
16 jective to cause the result of the conduct.

17 “(b) ‘Reckless’ means conduct by a person who is aware of and
18 consciously disregards a substantial and unjustifiable risk that the
19 result will occur or that the circumstance exists. The risk must be of
20 such nature and degree that disregard thereof constitutes a gross de-
21 viation from the standard of care a reasonable person would observe
22 in that situation.

23 “(2) In addition to any other liability or penalty provided by law, the
24 Climate Policy Office may impose a civil penalty on a person for any
25 of the following:

26 “(a) A violation of a provision of sections 15 to 40 of this 2019 Act
27 or rules adopted under sections 15 to 40 of this 2019 Act.

28 “(b) Submitting any record, information or report required by
29 sections 15 to 40 of this 2019 Act or rules adopted under sections 15 to
30 40 of this 2019 Act that falsifies or conceals a material fact or makes

1 any false or fraudulent representation.

2 “(3) Each day of violation under subsection (2) of this section con-
3 stitutes a separate offense.

4 “(4)(a) The office shall adopt by rule a schedule of civil penalties
5 that may be imposed for violations described in subsection (2) of this
6 section. Except as provided in paragraphs (b) and (c) of this sub-
7 section, a civil penalty may not exceed \$10,000 per offense.

8 “(b) Except as provided in paragraph (c) of this subsection, the civil
9 penalty for a violation described in subsection (2) of this section aris-
10 ing from an intentional, reckless or negligent act may not exceed
11 \$25,000 per offense.

12 “(c) In addition to any other civil penalty provided by law, the civil
13 penalty for a violation described in subsection (2) of this section may
14 include an amount equal to an estimate of the economic benefit re-
15 ceived as a result of the violation.

16 “(5) In imposing a civil penalty pursuant to this section, the office
17 shall consider the following factors:

18 “(a) The history of the person incurring the civil penalty in taking
19 all feasible steps or procedures necessary or appropriate to correct any
20 violation.

21 “(b) Any actions taken by the person to mitigate the violation.

22 “(c) Any prior act that resulted in a violation described in sub-
23 section (2) of this section.

24 “(d) The economic and financial conditions of the person incurring
25 the civil penalty.

26 “(e) The gravity and magnitude of the violation.

27 “(f) Whether the violation was repeated or continuous.

28 “(g) Whether the cause of the violation was an unavoidable acci-
29 dent, negligence or an intentional act.

30 “(h) The person’s cooperativeness and efforts to correct the vio-

1 **lation.**

2 **“(i) Whether the person incurring the civil penalty gained an eco-**
3 **nomical benefit as a result of the violation.**

4 **“(6) Civil penalties under this section must be imposed in the**
5 **manner provided by ORS 183.745. All civil penalties recovered under**
6 **this section shall be paid to the Oregon Department of Administrative**
7 **Services for deposit with the State Treasurer to the credit of the**
8 **Oregon Climate Action Program Operating Fund established under**
9 **section 39 of this 2019 Act and may be used only pursuant to section**
10 **39 (3) of this 2019 Act.**

11 **“SECTION 13.** ORS 468.953 is amended to read:

12 **“468.953. (1) A person commits the crime of supplying false information**
13 **to any agency if the person:**

14 **“(a) Makes any false material statement, representation or certification**
15 **knowing it to be false, in any application, notice, plan, record, report or**
16 **other document required by any provision of ORS chapter 465, 466, 468, 468A**
17 **or 468B or sections 15 to 40 of this 2019 Act or any rule adopted pursuant**
18 **to ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019**
19 **Act;**

20 **“(b) Omits any material or required information, knowing it to be re-**
21 **quired, from any document described in paragraph (a) of this subsection; or**

22 **“(c) Alters, conceals or fails to file or maintain any document described**
23 **in paragraph (a) of this subsection in knowing violation of any provision of**
24 **ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019**
25 **Act or any rule adopted pursuant to ORS chapter 465, 466, 468, 468A or 468B**
26 **or sections 15 to 40 of this 2019 Act.**

27 **“(2) Supplying false information is a Class C felony.**

28

29 **“OREGON CLIMATE ACTION PROGRAM**

30 **“(Statement of Purpose)**

1 **“SECTION 14. (1) The Legislative Assembly finds and declares that**
2 **the purposes of sections 14, 15 to 40, 41 to 45, 46, 47, 48, 49, 50, 51, 52,**
3 **53, 54 to 59, 60 and 61 of this 2019 Act are:**

4 **“(a) To achieve a reduction in total levels of regulated emissions**
5 **under sections 15 to 40 of this 2019 Act to at least 45 percent below 1990**
6 **emissions levels by 2035 and to achieve a reduction in total regulated**
7 **emissions levels to at least 80 percent below 1990 emissions levels by**
8 **2050;**

9 **“(b) To promote greenhouse gas emissions sequestration and miti-**
10 **gation;**

11 **“(c) To promote the adaptation and resilience of natural and work-**
12 **ing lands, fish and wildlife resources, communities, the economy and**
13 **this state’s infrastructure in the face of climate change and ocean**
14 **acidification; and**

15 **“(d) To provide assistance to households, businesses and workers**
16 **impacted by climate change or climate change policies that allow for**
17 **the State of Oregon to achieve the greenhouse gas reduction goals set**
18 **forth in ORS 468A.205.**

19 **“(2) Sections 14, 15 to 40, 41 to 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 to**
20 **59, 60 and 61 of this 2019 Act and the rules adopted pursuant to sections**
21 **14, 15 to 40, 41 to 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 to 59, 60 and 61 of**
22 **this 2019 Act may not be interpreted to limit the authority of any state**
23 **agency to adopt and implement measures to reduce greenhouse gas**
24 **emissions.**

25
26 **“(Greenhouse Gas Cap and Market-Based Compliance Mechanism)**

27
28 **“SECTION 15. Definitions. As used in sections 14 and 15 to 40 of this**
29 **2019 Act:**

30 **“(1) ‘Aggregation’ means an approach for qualifying and quantify-**

1 ing offset projects, for the purposes of reducing costs and increasing
2 the development of offset projects, that allows for the grouping to-
3 gether of two or more geographically separate activities undertaken
4 by one or more parties that result in reductions or removals of
5 greenhouse gases in a similar manner.

6 “(2) ‘Allowance’ means a tradable authorization to emit one metric
7 ton of carbon dioxide equivalent.

8 “(3) ‘Annual allowance budget’ means the number of allowances
9 available to be allocated during one year of the Oregon Climate Action
10 Program.

11 “(4) ‘Anthropogenic greenhouse gas emissions’ means greenhouse
12 gas emissions that are not biogenic emissions.

13 “(5) ‘Best available science’ means science that:

14 “(a) Maximizes the quality, objectivity and integrity of information,
15 including statistical information;

16 “(b) Uses peer-reviewed and publicly available data; and

17 “(c) Clearly documents and communicates risks and uncertainties
18 in scientific citations.

19 “(6) ‘Biogenic emissions’ means carbon dioxide emissions generated
20 from the combustion of biomass-derived fuels.

21 “(7) ‘Biomass-derived fuels’ includes:

22 “(a) Nonfossilized and biodegradable organic material originating
23 from plants, animals or microorganisms;

24 “(b) Products, by-products, residues or waste from agriculture,
25 forestry or related industries; and

26 “(c) The nonfossilized and biodegradable organic fractions of in-
27 dustrial and municipal wastes, including gases and liquids recovered
28 from:

29 “(A) The decomposition of nonfossilized and biodegradable organic
30 material originating from plants, animals or microorganisms; or

1 **“(B) Municipal solid waste disposed of in a landfill.**

2 **“(8)(a) ‘Business unit’ means a business operation that is located**
3 **at a facility permitted as a single air contamination source under ORS**
4 **468.065, 468A.040 or 468A.155, but that is distinguishable from one or**
5 **more other business operations located at the facility by:**

6 **“(A) The short title and six-digit code in the North American In-**
7 **dustry Classification System applicable to the business operation;**

8 **“(B) Accounting practices for the business operation that maintain**
9 **the finances for the business operation as distinct from the finances**
10 **of other business operations located at the facility; and**

11 **“(C) The capability of the business operation to operate separately**
12 **and independently of other business operations at the facility if not**
13 **colocated with the other business operations.**

14 **“(b) ‘Business unit’ does not mean a cogeneration facility.**

15 **“(9) ‘Carbon dioxide equivalent’ means the amount of carbon**
16 **dioxide by weight that would produce the same global warming impact**
17 **as a given weight of another greenhouse gas, based on considerations**
18 **including but not limited to the best available science, including in-**
19 **formation from the Intergovernmental Panel on Climate Change.**

20 **“(10) ‘Compliance instrument’ means one allowance or one offset**
21 **credit that may be used to fulfill a compliance obligation.**

22 **“(11) ‘Compliance obligation’ means the quantity of regulated**
23 **emissions that are attributable to a covered entity, and for which**
24 **compliance instruments must be retired, for a compliance period.**

25 **“(12) ‘Consumer-owned utility’ has the meaning given that term in**
26 **ORS 757.270.**

27 **“(13) ‘Covered entity’ means a person that is designated by the Cli-**
28 **mate Policy Office as subject to the Oregon Climate Action Program.**

29 **“(14) ‘Direct environmental benefits in this state’ means:**

30 **“(a) A reduction in or avoidance of emissions of any air contam-**

1 inant in this state other than a greenhouse gas;

2 “(b) A reduction in or avoidance of pollution of any of the waters
3 of the state, as the terms ‘pollution’ and ‘the waters of the state’ are
4 defined in ORS 468B.005; or

5 “(c) An improvement in the health of natural and working lands in
6 this state.

7 “(15) ‘EITE entity’ means a covered entity or an opt-in entity that
8 is engaged in the manufacture of goods through one or more
9 emissions-intensive, trade-exposed processes, as further designated by
10 the office pursuant to section 24 of this 2019 Act.

11 “(16) ‘Electric company’ has the meaning given that term in ORS
12 757.600.

13 “(17) ‘Electricity service supplier’ has the meaning given that term
14 in ORS 757.600.

15 “(18) ‘Electric system manager’ includes any entity that, as needed,
16 operates or markets electricity generating facilities, or purchases
17 wholesale electricity, to manage the load for wholesale or retail elec-
18 tricity customers within a balancing authority area that is at least
19 partially located in Oregon, including but not limited to the following
20 types of entities:

21 “(a) Electric companies.

22 “(b) Electricity service suppliers.

23 “(c) Consumer-owned utilities.

24 “(d) The Bonneville Power Administration.

25 “(e) Electric generation and transmission cooperatives.

26 “(19) ‘Eligible Indian tribe’ means each of the Burns Paiute Tribe,
27 the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians,
28 the Confederated Tribes of the Grand Ronde Community of Oregon,
29 the Confederated Tribes of Siletz Indians of Oregon, the Confederated
30 Tribes of the Umatilla Indian Reservation, the Confederated Tribes of

1 the Warm Springs Reservation of Oregon, the Coquille Indian Tribe,
2 the Cow Creek Band of Umpqua Tribe of Indians and the Klamath
3 Tribes.

4 “(20) ‘General market participant’ means a person that is not a
5 covered entity or an opt-in entity and that intends to purchase, hold,
6 sell or voluntarily surrender compliance instruments.

7 “(21) ‘Greenhouse gas’ includes, but is not limited to, carbon
8 dioxide, methane, nitrous oxide, hydrofluorocarbons,
9 perfluorocarbons, sulfur hexafluoride and nitrogen trifluoride.

10 “(22) ‘Impacted community’ means a community at risk of being
11 disproportionately impacted by climate change as designated by the
12 office under section 33 of this 2019 Act.

13 “(23) ‘Indian trust lands’ means lands within this state held in trust
14 by the United States for the benefit of an eligible Indian tribe or in-
15 dividual members of an eligible Indian tribe.

16 “(24) ‘Multistate jurisdictional electric company’ means an electric
17 company that serves electricity customers in both Oregon and one or
18 more other states.

19 “(25) ‘Natural and working lands’ means:

20 “(a) Lands and waters:

21 “(A) Actively used by an agricultural owner or operator for an ag-
22 ricultural operation that includes, but need not be limited to, active
23 engagement in farming or ranching;

24 “(B) Producing forest products;

25 “(C) Consisting of forests, woodlands, grasslands, sagebrush
26 steppes, deserts, freshwater and riparian systems, wetlands, coastal
27 and estuarine areas, the submerged and submersible lands within
28 Oregon’s territorial sea, watersheds, wildlands or wildlife habitats; or

29 “(D) Used for recreational purposes such as parks, urban and com-
30 munity forests, trails, greenbelts and other similar open space land;

1 and

2 “(b) Lands and waters described in paragraph (a) of this subsection
3 that are Indian trust lands or lands within the boundaries of the res-
4 ervation of an eligible Indian tribe.

5 “(26) ‘Natural gas supplier’ means any entity that is not a natural
6 gas utility and:

7 “(a) That procures natural gas for end use in this state; or

8 “(b) That owns natural gas as it is imported into this state for end
9 use in this state.

10 “(27) ‘Natural gas utility’ means a natural gas utility regulated by
11 the Public Utility Commission under ORS chapter 757.

12 “(28) ‘Offset credit’ means a tradable credit generated by an offset
13 project that represents a greenhouse gas emissions reduction or re-
14 moval of one metric ton of carbon dioxide equivalent.

15 “(29) ‘Offset project’ means a project that reduces or removes
16 greenhouse gas emissions that are not regulated emissions.

17 “(30) ‘Opt-in entity’ means a person that is not designated as a
18 covered entity by the office and that voluntarily chooses to participate
19 in the Oregon Climate Action Program as if the entity were a covered
20 entity.

21 “(31) ‘Oregon Climate Action Program’ means the program adopted
22 by rule by the office under section 16 (1) of this 2019 Act and in ac-
23 cordance with the provisions of sections 15 to 40 of this 2019 Act.

24 “(32) ‘Permitted air contamination source’ means an air contam-
25 ination source as defined in ORS 468A.005 for which a permit is issued
26 by the Department of Environmental Quality pursuant to ORS 468.065,
27 468A.040 or 468A.155.

28 “(33) ‘Person’ includes individuals, corporations, associations,
29 firms, partnerships, joint stock companies, public and municipal cor-
30 porations, political subdivisions, the state and any agencies thereof

1 and the federal government and any agencies thereof.

2 “(34) ‘Registered entity’ means a covered entity, opt-in entity or
3 general market participant that has successfully registered to partic-
4 ipate in the Oregon Climate Action Program.

5 “(35) ‘Regulated emissions’ means the verified anthropogenic
6 greenhouse gas emissions reported by or assigned to a covered entity
7 or opt-in entity under ORS 468A.280 that the office determines by rule
8 are anthropogenic greenhouse gas emissions regulated under sections
9 15 to 40 of this 2019 Act.

10 “(36) ‘Surrender’ means to transfer a compliance instrument to the
11 office to fulfill a compliance obligation or on a voluntary basis.

12 “SECTION 16. Adoption of program; general provisions. (1)(a) The
13 Climate Policy Office shall adopt an Oregon Climate Action Program
14 by rule in accordance with ORS chapter 183 and sections 15 to 40 of
15 this 2019 Act. The program shall:

16 “(A) Place a cap on the total anthropogenic greenhouse gas emis-
17 sions that are regulated emissions through setting annual allowance
18 budgets for 2021 to 2050; and

19 “(B) Provide a market-based mechanism for covered entities to
20 demonstrate compliance with the program.

21 “(b)(A) The annual allowance budget for 2021 shall be a number of
22 allowances equal to baseline emissions as calculated under paragraph
23 (c) of this subsection.

24 “(B) Beginning in 2022 and for each following year until and in-
25 cluding 2035, the number of allowances available in each annual al-
26 lowance budget shall decline by a constant amount as necessary to
27 accomplish a reduction in total regulated emissions levels to at least
28 45 percent below 1990 emissions levels by 2035.

29 “(C) Beginning in 2036 and for each following year until and in-
30 cluding 2050, the number of allowances available in each annual al-

1 lowance budget shall decline by a constant amount as necessary to
2 accomplish a reduction in total regulated emissions levels to at least
3 80 percent below 1990 emissions levels by 2050.

4 “(c) The office shall calculate baseline emissions to be equal to a
5 forecast of regulated emissions for 2021, informed by the three-year
6 average of the total, expressed in metric tons of carbon dioxide
7 equivalent, of anthropogenic greenhouse gas emissions attributable to
8 all persons that the office designates to be covered entities under the
9 program. In calculating baseline emissions, the office shall use
10 greenhouse gas emissions information from the three most recent
11 years prior to 2021 for which greenhouse gas emissions information is
12 available and confirmed by the office. The office shall exclude from the
13 calculation of baseline emissions those greenhouse gas emissions dur-
14 ing the three most recent years prior to 2021 that would not have been
15 regulated emissions if the Oregon Climate Action Program had been
16 in effect during the time that the greenhouse gas emissions occurred.

17 “(2) Subject to section 17 of this 2019 Act, the office shall designate
18 persons as covered entities as follows:

19 “(a) Except as provided in paragraphs (b) and (c) of this subsection,
20 the office shall designate a permitted air contamination source as a
21 covered entity if the annual regulated emissions attributable to the
22 air contamination source meet or exceed 25,000 metric tons of carbon
23 dioxide equivalent.

24 “(b) For the purpose of regulating anthropogenic greenhouse gas
25 emissions attributable to the generation of electricity in this state, the
26 office shall designate a permitted air contamination source as a cov-
27 ered entity if the applicable code to the permitted air contamination
28 source under the North American Industry Classification System is
29 221112 and the permitted air contamination source is a natural gas
30 powered electric power generation facility, regardless of whether the

1 annual regulated emissions attributable to the permitted air contam-
2 ination source meet or exceed 25,000 metric tons of carbon dioxide
3 equivalent.

4 “(c) If a permitted air contamination source is a facility composed
5 of two or more business units colocated with a cogeneration facility
6 that generates energy utilized by the permitted air contamination
7 source, the office shall designate the permitted air contamination
8 source as a covered entity for each individual business unit with an-
9 nual regulated emissions attributable to the business unit that meet
10 or exceed 25,000 metric tons of carbon dioxide equivalent. A person
11 designated as a covered entity under this paragraph shall be a covered
12 entity only for addressing the annual regulated emissions attributable
13 to the business units for which the person is designated as a covered
14 entity. For the purposes of this paragraph, the office shall attribute
15 to a business unit the annual regulated emissions from the
16 cogeneration facility colocated with the business unit that are
17 proportionate to the annual energy usage of the business unit.

18 “(d) The office shall designate an electric system manager as a
19 covered entity for the purpose of addressing annual regulated emis-
20 sions from outside this state that are attributable to the generation
21 of electricity that the electric system manager schedules for delivery
22 and consumption in this state, including wholesale market purchases
23 for which the energy source for the electricity is not known, and ac-
24 counting for transmission and distribution line losses. For the pur-
25 poses of this paragraph, the office may adopt rules as necessary to
26 address electricity scheduled for delivery and consumption in this state
27 through an energy imbalance market or other centralized market ad-
28 ministered by a market operator.

29 “(e) The office shall designate a natural gas supplier as a covered
30 entity for the purpose of addressing annual regulated emissions that

1 are attributable to the combustion of natural gas that is sold by the
2 natural gas supplier for use in this state and that is either directly
3 consumed by or resold to persons that are not designated as covered
4 entities under paragraph (a), (b) or (c) of this subsection.

5 “(f) The office shall designate a natural gas utility as a covered
6 entity for the purpose of addressing annual regulated emissions that
7 are attributable to the combustion of natural gas that the natural gas
8 utility imports, sells or distributes for use in this state and that are
9 not emissions accounted for through the regulation of permitted air
10 contamination sources under paragraph (a), (b) or (c) of this sub-
11 section or natural gas suppliers under paragraph (e) of this subsection.

12 “(g) The office shall designate as covered entities persons not de-
13 scribed in paragraphs (e) and (f) of this subsection that produce in
14 Oregon, or import into Oregon, fuel that is sold or distributed for use
15 in this state, as necessary to address annual regulated emissions that
16 are attributable to the combustion of the fuel.

17 “(3) The office shall adopt rules for the market-based compliance
18 mechanism required by subsection (1) of this section that include, but
19 need not be limited to:

20 “(a) Rules allowing for the trading of compliance instruments;

21 “(b) Rules allowing registered entities to bank and carry forward
22 allowances;

23 “(c) Rules prohibiting the borrowing of allowances from future
24 compliance periods;

25 “(d) Rules allowing opt-in entities and general market participants
26 to participate in the Oregon Climate Action Program; and

27 “(e) Compliance periods, standards for calculating compliance obli-
28 gations and procedures for covered entities and opt-in entities to fulfill
29 their compliance obligations.

30 “(4) The office shall require a covered entity or opt-in entity to

1 **surrender to the office the quantity of compliance instruments neces-**
2 **sary to fulfill the covered entity's or opt-in entity's compliance obli-**
3 **gation no later than the surrender date specified by the office by rule**
4 **or order.**

5 **“(5) For purposes of determining the compliance obligation for a**
6 **covered entity that is an electric system manager, electricity sched-**
7 **uled by the electric system manager that is generated from a**
8 **renewable energy resource, regardless of the disposition of the**
9 **renewable energy certificate associated with the electricity, shall be**
10 **considered to have the emissions attributes of the underlying**
11 **renewable energy resource.**

12 **“(6) A natural gas utility or natural gas supplier that delivers na-**
13 **tural gas to a customer that is a covered entity or opt-in entity may**
14 **not include in the rate or bill charged to the customer any costs as-**
15 **sociated with compliance by the natural gas utility or natural gas**
16 **supplier with sections 15 to 40 of this 2019 Act.**

17 **“(7) In addition to any penalty provided by law, rules adopted by the**
18 **office:**

19 **“(a) Shall require a covered entity or opt-in entity that fails to**
20 **timely surrender to the office a sufficient quantity of compliance in-**
21 **struments to fulfill a compliance obligation to surrender to the office**
22 **a number of compliance instruments that is in addition to the entity's**
23 **compliance obligation; and**

24 **“(b) May establish a process for placing restrictions on the holding**
25 **account of a registered entity determined to have engaged in a vio-**
26 **lation described in section 12 of this 2019 Act.**

27 **“(8) A compliance instrument issued by the office does not consti-**
28 **tute property or a property right.**

29 **“(9)(a) All covered entities, opt-in entities and general market par-**
30 **ticipants must register as registered entities to participate in the**

1 **Oregon Climate Action Program.**

2 **“(b) The office shall adopt by rule registration requirements and**
3 **any additional requirements necessary for registered entities to par-**
4 **ticipate in auctions administered pursuant to section 34 of this 2019**
5 **Act.**

6 **“SECTION 17. Exemptions and exclusions. (1) The Climate Policy**
7 **Office shall exempt from regulation as a covered entity under sections**
8 **15 to 40 of this 2019 Act a cogeneration facility, as defined in ORS**
9 **758.505, that is owned or operated by a public university listed in ORS**
10 **352.002 or by the Oregon Health and Science University established**
11 **under ORS 353.020.**

12 **“(2) The office shall exclude from regulated emissions under**
13 **sections 15 to 40 of this 2019 Act:**

14 **“(a) Greenhouse gas emissions from the combustion of fuel that is**
15 **demonstrated to have been used as aviation fuel or as fuel in**
16 **watercraft or railroad locomotives; and**

17 **“(b) The emissions attributable to a landfill, as defined in ORS**
18 **459.005.**

19 **“(3) For purposes of section 16 (2)(g) of this 2019 Act, the office may**
20 **exempt from designation as a covered entity any person that imports**
21 **in a calendar year less than a de minimis amount of gasoline and**
22 **diesel fuel, in total, as determined by the office by rule. Gasoline and**
23 **diesel fuel imported by persons that are related or share common**
24 **ownership or control shall be aggregated in determining whether a**
25 **person may be exempted under this subsection.**

26 **“SECTION 18. Allocation of allowances, generally. (1) The Climate**
27 **Policy Office shall allocate the allowances available in each annual**
28 **allowance budget as follows:**

29 **“(a) The office shall allocate a number of the allowances for deposit**
30 **in an allowance price containment reserve.**

1 **“(b) The office may allocate a number of the allowances for deposit**
2 **in a voluntary renewable electricity generation reserve. The office**
3 **shall adopt rules for the distribution of allowances from the voluntary**
4 **renewable electricity generation reserve for voluntary renewable elec-**
5 **tricity generated by generating facilities that begin operations on or**
6 **after January 1, 2021.**

7 **“(c) The office shall allocate a number of the allowances for re-**
8 **tirement pursuant to section 19 of this 2019 Act.**

9 **“(d) The office shall allocate a number of the allowances for direct**
10 **distribution at no cost to covered entities that are electric companies**
11 **pursuant to rules adopted under section 20 of this 2019 Act.**

12 **“(e) The office shall allocate a number of the allowances for direct**
13 **distribution at no cost to covered entities that are electric system**
14 **managers other than electric companies pursuant to section 21 of this**
15 **2019 Act.**

16 **“(f) The office shall allocate a number of the allowances for deposit**
17 **in an electricity price containment reserve. Allowances may be di-**
18 **rectly distributed at no cost from the electricity price containment**
19 **reserve only when the distribution is necessary to protect electricity**
20 **ratepayers from cost increases associated with unexpected increases**
21 **in regulated emissions attributable to an electric system manager that**
22 **are outside of the control of the electric system manager, including**
23 **but not limited to unexpected increases in regulated emissions due to**
24 **hydroelectric power generation variability. The office shall adopt rules**
25 **for electric system managers to apply for direct distribution at no cost**
26 **of allowances from the electricity price containment reserve. The rules**
27 **shall prioritize distribution of allowances from the electricity price**
28 **containment reserve to electric system managers that experience un-**
29 **expected increases in regulated emissions attributable to variation in**
30 **hydroelectric power generation to serve the load of electricity cus-**

1 tomers in Oregon.

2 “(g) The office shall allocate a number of the allowances for direct
3 distribution at no cost to covered entities that are natural gas utilities
4 pursuant to rules adopted under section 23 of this 2019 Act.

5 “(h) In order to mitigate leakage and pursuant to sections 24 and
6 26 of this 2019 Act, the office shall allocate a number of the allowances
7 for direct distribution at no cost to covered entities and opt-in entities
8 that are EITE entities.

9 “(i) The office shall allocate a number of the allowances for deposit
10 in an emissions-intensive, trade-exposed process reserve. Allowances
11 in the emissions-intensive, trade-exposed process reserve may be di-
12 rectly distributed at no cost only to:

13 “(A) EITE entities pursuant to rules adopted under section 26 (8)
14 of this 2019 Act; or

15 “(B) An EITE entity designated as such pursuant to section 24 (2)(a)
16 of this 2019 Act.

17 “(j) The office may allocate a number of the allowances for deposit
18 in any other reserves or accounts that the office establishes by rule
19 and as the office determines is necessary.

20 “(k) The office shall allocate the allowances that are not otherwise
21 allocated pursuant to paragraphs (a) to (j) of this subsection for de-
22 posit in an auction holding account for auction pursuant to section
23 34 of this 2019 Act. If allowances deposited in the auction holding ac-
24 count under this paragraph remain unsold after two or more consec-
25 utive auctions held pursuant to section 34 of this 2019 Act, the office
26 may redistribute the unsold allowances to the allowance price con-
27 tainment reserve described in subsection (1)(a) of this section.

28 “(2) The receipt by a covered entity of an allowance directly dis-
29 tributed by the office at no cost to the covered entity is exempt from
30 taxation under ORS chapters 316, 317 and 318.

1 **SECTION 19. Retirement of allowances.** (1) Beginning in 2021 and
2 for each following year until and including 2026, the Climate Policy
3 Office shall retire from the annual allowance budget, on behalf of a
4 covered entity described in section 16 (2)(b) of this 2019 Act, a number
5 of allowances equal to the regulated emissions that are attributable
6 to the generation in this state by the covered entity of electricity that
7 is:

8 “(a) Delivered to and consumed in another state, accounting for
9 transmission and distribution line losses; and

10 “(b) For which the capital and fuel costs associated with the gen-
11 eration are included in the rates of a multistate jurisdictional electric
12 company that are charged to electricity customers in a state other
13 than Oregon.

14 “(2) Beginning in 2021 and for each following year until and in-
15 cluding 2050, the office shall retire from the annual allowance budget,
16 on behalf of a covered entity that is an electric system manager, a
17 number of allowances equal to the regulated emissions attributable to
18 a consumer-owned utility, if the three-year average of the annual
19 anthropogenic greenhouse gas emissions attributable to electricity
20 that is scheduled, by the consumer-owned utility or by an electric
21 generation and transmissions cooperative, for final delivery by the
22 consumer-owned utility for consumption in this state is less than
23 25,000 metric tons of carbon dioxide equivalent.

24 “(3) Allowances directly retired by the office on behalf of a covered
25 entity under this section shall count toward fulfilling the covered
26 entity’s compliance obligation for the compliance period during which
27 the allowances are directly retired.

28 **SECTION 20. Direct distribution of allowances for electric compa-**
29 **nies.** The Climate Policy Office shall, in consultation with the Public
30 Utility Commission, adopt rules for allocating allowances for direct

1 **distribution at no cost to covered entities that are electric companies.**
2 **Direct distributions under this section must be for the exclusive ben-**
3 **efit of retail customers that are supplied electricity by the electric**
4 **company. Rules adopted under this section must allow for an electric**
5 **company to use allowances directly distributed under this section to**
6 **fulfill compliance obligations associated with electricity supplied by**
7 **the electric company to serve the load of the electric company’s retail**
8 **customers in Oregon, subject to the oversight of the commission. The**
9 **rules must include provisions necessary to implement direct distrib-**
10 **utions of allowances to electric companies as follows:**

11 **“(1)(a) For the purpose of aligning the effects of sections 15 to 40**
12 **of this 2019 Act with the trajectory of emissions reductions by electric**
13 **companies resulting from the requirements of ORS 469A.005 to 469A.210**
14 **and 757.518:**

15 **“(A) The annual direct distributions to an electric company during**
16 **2021 and for each following year until and including 2029 must be in a**
17 **number of allowances such that the electric company receives a total**
18 **direct distribution of allowances over that time period equal to 100**
19 **percent of the electric company’s forecast regulated emissions for 2021**
20 **and for each following year until and including 2029 associated with**
21 **the electricity supplied to serve the load of the electric company’s re-**
22 **tail customers in Oregon; and**

23 **“(B) The direct distribution to an electric company during 2030 must**
24 **be in a number of allowances equal to 100 percent of the electric**
25 **company’s forecast regulated emissions associated with the electricity**
26 **supplied to serve the load of the electric company’s retail electricity**
27 **customers in Oregon for the calendar year 2030.**

28 **“(b) For purposes of this subsection, forecast regulated emissions**
29 **for an electric company must be based on or contained in the follow-**
30 **ing, as of January 1, 2021:**

1 “(A) The most recent integrated resource plan filed by the electric
2 company and acknowledged by order by the commission;

3 “(B) Any updates to the integrated resource plan filed by the elec-
4 tric company with the commission; or

5 “(C) In the case of a multistate jurisdictional electric company,
6 other information developed consistent with a methodology approved
7 by the commission.

8 “(2) Beginning in 2031 and for each following year until and in-
9 cluding 2050, the direct distribution to an electric company under this
10 section shall decline annually from the number of allowances directly
11 distributed to the electric company in 2030 by a constant amount, as
12 necessary to reduce the annual direct distributions such that the di-
13 rect distribution in 2050 is a number of allowances equal to 20 percent
14 of the average of the annual emissions of the electric company for the
15 five most recent years prior to the effective date of this 2019 Act, as
16 reported under ORS 468A.280.

17 “SECTION 21. Direct distribution of allowances for certain electric
18 system managers. (1) The Climate Policy Office shall allocate allow-
19 ances for direct distribution at no cost to covered entities that are
20 electric system managers other than electric companies as follows:

21 “(a) The direct distribution to an electric system manager under
22 this subsection during 2021 shall be in a number of allowances equal
23 to 100 percent of the anthropogenic greenhouse gas emissions that are:

24 “(A) The electric system manager’s 2021 baseline emissions attrib-
25 utable to electricity scheduled by the electric system manager for final
26 delivery by consumer-owned utilities for consumption in this state;
27 and

28 “(B) Not regulated emissions for which the office has retired al-
29 lowances pursuant to section 19 of this 2019 Act.

30 “(b) Beginning in 2022 and for each following year until and in-

1 cluding 2050, the direct distribution received by an electric system
2 manager for emissions described in paragraph (a) of this subsection
3 shall decline annually by a constant amount proportionate to the de-
4 cline in the number of allowances available in annual allowance
5 budgets pursuant to section 16 (1)(b) of this 2019 Act.

6 “(c) Notwithstanding paragraph (b) of this subsection, the direct
7 distribution to an electric system manager in any year may not be in
8 a number of allowances that is less than 20 percent of the number of
9 allowances directly distributed to the electric system manager in 2021.

10 “(2) Proceeds from the sale by a consumer-owned utility of allow-
11 ances distributed at no cost under this section must be used by the
12 consumer-owned utility for the benefit of ratepayers, in furtherance
13 of the purposes set forth in section 14 of this 2019 Act and as further
14 required by the governing body of the consumer-owned utility.

15 “(3) The governing body of a consumer-owned utility that receives
16 or sells directly distributed allowances under this section shall, no
17 later than September 15 of each even-numbered year, submit a report
18 to the Joint Committee on Climate Action on the use by the
19 consumer-owned utility of the directly distributed allowances. The re-
20 port must include, but not be limited to, a description of the uses by
21 the consumer-owned utility of proceeds from the sale of allowances
22 distributed to the consumer-owned utility under this section.

23 “SECTION 22. 2021 emissions baseline for electric system managers.
24 In determining the baseline of anthropogenic greenhouse gas emis-
25 sions for 2021 for an electric system manager as required by section
26 21 (1)(a)(A) of this 2019 Act, the Climate Policy Office shall consider:

27 “(1) Anthropogenic greenhouse gas emissions information available
28 for the electric system manager for representative years prior to 2021,
29 as reported under ORS 468A.280;

30 “(2) Hydroelectric power generation variability;

1 **“(3) Increases in load requirements anticipated to occur on or be-**
2 **fore January 1, 2025, due to acquisitions of large industrial customers**
3 **not previously served by the electric system manager; and**

4 **“(4) Any other indicators of changes in load requirements on or**
5 **before January 1, 2025, that are relevant to determining an electric**
6 **system manager’s 2021 baseline anthropogenic greenhouse gas emis-**
7 **sions.**

8 **“SECTION 23. Direct distribution of allowances for natural gas**
9 **utilities. (1) The Climate Policy Office shall, in consultation with the**
10 **Public Utility Commission, adopt rules for allocating allowances for**
11 **direct distribution at no cost to covered entities that are natural gas**
12 **utilities.**

13 **“(2) Rules adopted under this section must allow for a natural gas**
14 **utility to receive directly distributed at no cost a number of allowances**
15 **equal to the regulated emissions attributable to the provision of na-**
16 **tural gas service to the natural gas utility’s low-income residential**
17 **sales customers. By January 1 of the first year of each compliance**
18 **period, the office shall determine, after consultation with the com-**
19 **mission, the quantity of allowances to distribute directly at no cost to**
20 **a natural gas utility under this subsection. Allowances distributed to**
21 **a natural gas utility under this subsection must be used by the natural**
22 **gas utility only to fulfill a compliance obligation, with the benefit of**
23 **the use accruing to the natural gas utility’s low-income residential**
24 **sales customers in a manner authorized by the commission pursuant**
25 **to section 70 of this 2019 Act.**

26 **“(3) Subject to subsection (4) of this section and in addition to the**
27 **direct distribution provided under subsection (2) of this section, rules**
28 **adopted under this section must allow for a natural gas utility to re-**
29 **ceive directly distributed allowances at no cost as follows:**

30 **“(a) The annual direct distribution to a natural gas utility during**

1 2021 must be a number of allowances equal to 60 percent of the
2 weather normalized anthropogenic greenhouse gas emissions forecast,
3 for 2021, to be regulated emissions attributable to the natural gas
4 utility.

5 “(b) Beginning in 2022 and for each following year until and in-
6 cluding 2050, the direct distribution received by a natural gas utility
7 for emissions described in paragraph (a) of this subsection shall de-
8 cline annually by a constant amount proportionate to the decline in
9 the number of allowances available in annual allowance budgets pur-
10 suant to section 16 (1)(b) of this 2019 Act.

11 “(4) The total annual direct distribution of allowances to a natural
12 gas utility under subsections (2) and (3) of this section may not exceed
13 a number of allowances equal to 75 percent of the weather normalized
14 anthropogenic greenhouse gas emissions attributable to the utility for
15 the year that the allowances are to be directly distributed. The office
16 shall reduce the number of allowances directly distributed under sub-
17 section (3) of this section for a year if necessary to comply with this
18 subsection.

19 “(5) The office shall require a natural gas utility to consign all al-
20 lowances directly distributed under subsection (3) of this section to the
21 state to be auctioned pursuant to section 34 of this 2019 Act.

22 **“SECTION 24. Designation of covered entities and opt-in entities**
23 **engaged in emissions-intensive, trade-exposed processes as EITE enti-**
24 **ties.** (1) The Climate Policy Office shall designate a covered entity or
25 opt-in entity as an EITE entity, if the covered entity or opt-in entity
26 is a permitted air contamination source and is engaged, as of the op-
27 erative date of this section and as may be verified by the office, in the
28 manufacture of goods through one or more of the following
29 emissions-intensive, trade-exposed processes, as identified by industry
30 group and code in the North American Industry Classification System:

- 1 **“(a) Basic Chemical Manufacturing, code 3251.**
- 2 **“(b) Cement and Concrete Product Manufacturing, code 3273.**
- 3 **“(c) Foundries, code 3315.**
- 4 **“(d) Fruit and Vegetable Preserving and Specialty Food Manufac-**
5 **turing, code 3114.**
- 6 **“(e) Glass and Glass Product Manufacturing, code 3272.**
- 7 **“(f) Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.**
- 8 **“(g) Lime and Gypsum Product Manufacturing, code 3274.**
- 9 **“(h) Nonmetallic Mineral Mining and Quarrying, code 2123.**
- 10 **“(i) Other Nonmetallic Mineral Product Manufacturing, code 3279.**
- 11 **“(j) Plastics Product Manufacturing, code 3261.**
- 12 **“(k) Pulp, Paper, and Paperboard Mills, code 3221.**
- 13 **“(L) Sawmills and Wood Preservation, code 3211.**
- 14 **“(m) Semiconductor and Other Electronic Component Manufactur-**
15 **ing, code 3344.**
- 16 **“(n) Veneer, Plywood, and Engineered Wood Product Manufactur-**
17 **ing, code 3212.**
- 18 **“(2)(a) The office shall adopt by rule a procedure for designating as**
19 **an EITE entity a covered entity or opt-in entity that:**
- 20 **“(A) Begins manufacturing a good or goods in this state after the**
21 **operative date of this section through an emissions-intensive, trade-**
22 **exposed process listed in subsection (1) of this section; or**
- 23 **“(B) Manufactures a good or goods through a process not listed in**
24 **subsection (1) of this section that the office, by rule, identifies as an**
25 **emissions-intensive, trade-exposed process.**
- 26 **“(b) The office may hire or contract with a third-party organization**
27 **to assist the office in gathering data and conducting analyses as nec-**
28 **essary to carry out the procedure required by this subsection.**
- 29 **“(c) Rules adopted under this subsection may allow for the office**
30 **to assign a good manufactured by a covered entity or opt-in entity**

1 designated as an EITE entity pursuant to this subsection a temporary
2 benchmark, consistent with the processes for calculating benchmarks
3 under section 26 of this 2019 Act, and to adjust the temporary
4 benchmark after the close of the first compliance period for which the
5 EITE entity must fulfill a compliance obligation.

6 “(3) A covered entity or opt-in entity that is a fossil fuel distrib-
7 ution and storage facility or infrastructure, or an electric generating
8 unit, may not be designated as an EITE entity and may not receive
9 allowances at no cost under section 26 of this 2019 Act.

10 “SECTION 25. Leakage risk study. (1) No later than September 15,
11 2020, the Climate Policy Office shall complete a study on the leakage
12 risk of permitted air contamination sources in this state that report
13 annual verified anthropogenic greenhouse gas emissions under ORS
14 468A.280 of between 10,000 and 25,000 metric tons of carbon dioxide
15 equivalent. The Director of the Climate Policy Office may hire or
16 contract with a third-party organization to assist the office in gath-
17 ering data and conducting analyses as necessary to assist the director
18 in carrying out the study required by this section.

19 “(2) The purpose of the study shall be to evaluate the emissions
20 intensiveness and trade exposure of the permitted air contamination
21 sources described in subsection (1) of this section and to aid the office
22 in implementing the process for designation of EITE entities adopted
23 by rule under section 24 (2) of this 2019 Act.

24 “(3) The office shall provide a report on the study to the Joint
25 Committee on Climate Action in the manner provided in ORS 192.245.

26 “SECTION 26. Direct distribution of allowances for EITE entities.

27 (1) As used in this section, ‘annual benchmarked emissions
28 calculation’ means the product of an emissions efficiency benchmark
29 for a good or group of goods, multiplied by the EITE entity’s output,
30 during the calendar year prior to the calendar year in which allow-

1 **ances will be allocated for direct distribution at no cost to the EITE**
2 **entity, of the good or group of goods to which the emissions efficiency**
3 **benchmark applies.**

4 **“(2) The annual allocation of allowances for direct distribution at**
5 **no cost to an EITE entity shall be a number of allowances equal to the**
6 **sum total of the annual benchmarked emissions calculations for the**
7 **goods manufactured by the EITE entity, multiplied by 95 percent.**

8 **“(3) The Climate Policy Office shall establish, by order, the emis-**
9 **sions efficiency benchmarks for goods manufactured in this state by**
10 **EITE entities.**

11 **“(4) In establishing the emissions efficiency benchmarks, the office**
12 **may:**

13 **“(a) Establish an emissions efficiency benchmark separately for**
14 **each individual good manufactured in this state by an EITE entity;**
15 **or**

16 **“(b) Establish a single emissions efficiency benchmark for a group**
17 **of goods manufactured in this state by an EITE entity, if the office**
18 **determines that the anthropogenic greenhouse gas emissions attrib-**
19 **utable to the manufacture of each of the goods in the group:**

20 **“(A) Are not materially different in quantity; or**

21 **“(B) Cannot be distinguished as emissions attributable to any one**
22 **of the goods in the group.**

23 **“(5)(a) The office shall establish emissions efficiency benchmarks**
24 **based on recent years’ efficiency as provided in this subsection. An**
25 **emissions efficiency benchmark established based on recent years’ ef-**
26 **iciency shall be applicable for the period beginning January 1, 2021,**
27 **and ending December 31, 2024. To determine each emissions efficiency**
28 **benchmark, the office shall:**

29 **“(A) Calculate the three-year average of the total, expressed in**
30 **metric tons of carbon dioxide equivalent, of the anthropogenic**

1 greenhouse gas emissions attributable to the manufacture of the good
2 or group of goods for which the EITE entity would have been the
3 regulated covered entity if the Oregon Climate Action Program had
4 been in effect during the time that the anthropogenic greenhouse gas
5 emissions occurred; and

6 “(B) Divide the number calculated under subparagraph (A) of this
7 paragraph by the three-year average of the total annual output of the
8 good or group of goods in this state by the EITE entity, using output
9 data from the three most recent years prior to 2021.

10 “(b) In conducting the calculation required by paragraph (a)(A) of
11 this subsection, the office shall use anthropogenic greenhouse gas
12 emissions information from the three most recent years prior to 2021
13 for which anthropogenic greenhouse gas emissions information is
14 available and verified by the office.

15 “(6) An EITE entity may file with the office a written request for
16 a contested case hearing to challenge an order establishing the emis-
17 sions efficiency benchmarks for goods produced by the EITE entity.
18 The request shall be filed within 30 days after the date the order was
19 entered. If an EITE entity requests a hearing, the hearing shall be
20 conducted in accordance with the provisions applicable to contested
21 case proceedings under ORS chapter 183.

22 “(7) In order to implement this section, the office shall adopt by
23 rule:

24 “(a) A means for attributing an EITE entity’s anthropogenic
25 greenhouse gas emissions to the manufacture of individual goods or
26 groups of goods;

27 “(b) Requirements for EITE entities to provide any pertinent re-
28 cords necessary for the office to verify output data; and

29 “(c) A process for adjusting an allocation of allowances for direct
30 distribution at no cost, if necessary, to reconcile for output variability

1 or type of good.

2 “(8) The office shall adopt by rule a process for EITE entities to
3 apply to the office for an adjustment to the allocation of allowances
4 for direct distribution at no cost that the EITE entity may receive.
5 The office may grant an adjustment under this subsection only for a
6 significant change beyond the control of the EITE entity in the
7 anthropogenic greenhouse gas emissions attributable to the manufac-
8 ture of a good or group of goods in this state by the EITE entity, based
9 on a finding by the office that the adjustment is necessary to accom-
10 modate changes to the manufacturing process that have a material
11 impact on anthropogenic greenhouse gas emissions. Rules adopted
12 under this subsection may provide for the office to contract with an
13 external third-party expert to assist the office in making individual
14 determinations on applications for adjustments.

15 “SECTION 27. Operation of emissions efficiency benchmarks based
16 on best available technology. (1) The amendments to section 26 of this
17 2019 Act by section 28 of this 2019 Act become operative on January
18 1, 2025.

19 “(2) The Climate Policy Office shall first establish, by order, emis-
20 sions efficiency benchmarks based on best available technology for
21 EITE entities under the amendments to section 26 of this 2019 Act by
22 section 28 of this 2019 Act no later than January 1, 2024. An order is-
23 sued under this subsection may not become effective prior to January
24 1, 2025.

25 “(3) The office may adopt or amend rules, issue orders or take any
26 actions before the operative date specified in subsection (1) of this
27 section that are necessary to enable the office, on and after the oper-
28 ative date specified in subsection (1) of this section, to carry out sub-
29 section (2) of this section and the amendments to section 26 by section
30 28 of this 2019 Act.

1 **“SECTION 28.** Section 26 of this 2019 Act is amended to read:

2 **“Sec. 26.** (1) As used in this section[,]:

3 **“(a)** ‘Annual benchmarked emissions calculation’ means the product of
4 an emissions efficiency benchmark for a good or group of goods, multiplied
5 by the EITE entity’s output, during the calendar year prior to the calendar
6 year in which allowances will be allocated for direct distribution at no cost
7 to the EITE entity, of the good or group of goods to which the emissions
8 efficiency benchmark applies.

9 **“(b) ‘Best available technology’ means the fuels, processes, equip-**
10 **ment and technology that will most effectively reduce the regulated**
11 **emissions:**

12 **(A) For which an EITE entity must meet a compliance obligation;**
13 **and**

14 **(B) That are associated with the manufacture by an EITE entity**
15 **of a good, without changing the characteristics of the good being**
16 **manufactured, that is technically feasible, commercially available,**
17 **economically viable and compliant with all applicable laws.**

18 “(2) The annual allocation of allowances for direct distribution at no cost
19 to an EITE entity shall be a number of allowances equal to the sum total
20 of the annual benchmarked emissions calculations for the goods manufac-
21 tured by the EITE entity, multiplied by 95 percent.

22 “(3) The Climate Policy Office shall establish, by order, the emissions ef-
23 ficiency benchmarks for goods manufactured in this state by EITE entities.

24 “(4) In establishing the emissions efficiency benchmarks, the office may:

25 “(a) Establish an emissions efficiency benchmark separately for each in-
26 dividual good manufactured in this state by an EITE entity; or

27 “(b) Establish a single emissions efficiency benchmark for a group of
28 goods manufactured in this state by an EITE entity, if the office determines
29 that the anthropogenic greenhouse gas emissions attributable to the manu-
30 facture of each of the goods in the group:

1 “(A) Are not materially different in quantity; or

2 “(B) Cannot be distinguished as emissions attributable to any one of the
3 goods in the group.

4 “[*(5)(a) The office shall establish emissions efficiency benchmarks based on*
5 *recent years’ efficiency as provided in this subsection. An emissions efficiency*
6 *benchmark established based on recent years’ efficiency shall be applicable for*
7 *the period beginning January 1, 2021, and ending December 31, 2024. To de-*
8 *termine each emissions efficiency benchmark, the office shall:]*

9 “[*(A) Calculate the three-year average of the total, expressed in metric tons*
10 *of carbon dioxide equivalent, of the anthropogenic greenhouse gas emissions*
11 *attributable to the manufacture of the good or group of goods for which the*
12 *EITE entity would have been the regulated covered entity if the Oregon Cli-*
13 *mate Action Program had been in effect during the time that the anthropogenic*
14 *greenhouse gas emissions occurred; and]*

15 “[*(B) Divide the number calculated under subparagraph (A) of this para-*
16 *graph by the three-year average of the total annual output of the good or group*
17 *of goods in this state by the EITE entity, using output data from the three*
18 *most recent years prior to 2021.]*

19 “[*(b) In conducting the calculation required by paragraph (a)(A) of this*
20 *subsection, the office shall use anthropogenic greenhouse gas emissions infor-*
21 *mation from the three most recent years prior to 2021 for which anthropogenic*
22 *greenhouse gas emissions information is available and verified by the office.]*

23 “**(5)(a) The office shall establish emissions efficiency benchmarks**
24 **based on best available technology as provided in this subsection. The**
25 **office shall update each emissions efficiency benchmark once every**
26 **nine years. Each emissions efficiency benchmark must represent the**
27 **anthropogenic greenhouse gas emissions that would be the resulting**
28 **regulated emissions attributable to an EITE entity for the manufac-**
29 **ture of a good or group of goods in this state, if the EITE entity were**
30 **to use the best available technology, as of the date that the emissions**

1 intensity benchmark was last updated, that materially contributes to
2 the regulated emissions of the EITE entity.

3 “(b) In determining an emissions efficiency benchmark, the office
4 shall consider:

5 “(A) Any anthropogenic greenhouse gas emissions intensity audit
6 reports specific to the EITE entity submitted under paragraph (c) of
7 this subsection;

8 “(B) The commercial availability, technical feasibility and economic
9 viability of options to reduce anthropogenic greenhouse gas emissions,
10 including whether pursuing those options would lead to a substantial
11 increase in leakage risk;

12 “(C) The fuels, processes, equipment and technology used by facili-
13 ties in this state or in other jurisdictions to produce goods of compa-
14 rable type, quantity and quality; and

15 “(D) Barriers that would prevent adoption of best available tech-
16 nology by the EITE entity.

17 “(c) An EITE entity may submit to the office, for consideration in
18 adopting emissions efficiency benchmarks, an anthropogenic
19 greenhouse gas emissions intensity audit report produced by a quali-
20 fied, independent third-party organization. The audit report must:

21 “(A) Include an analysis of the current fuels, processes, equipment
22 and technology that materially contribute to the regulated emissions
23 of the EITE entity attributable to the manufacture of each good or
24 group of goods by the EITE entity and the resulting emissions inten-
25 sity per unit of output for each good or group of goods.

26 “(B) Include an analysis of the best available technology to produce
27 the goods manufactured by the EITE entity and the resulting
28 anthropogenic greenhouse gas emissions intensity per unit of output
29 for each good or group of goods if best available technology were used
30 by the EITE entity. The analysis required by this subparagraph must,

1 **to the greatest extent practical, consider the factors described in par-**
2 **agraph (b)(C) and (D) of this subsection.**

3 **“(C) Based on the analyses required under subparagraphs (A) and**
4 **(B) of this paragraph, provide an estimate of the anthropogenic**
5 **greenhouse gas emissions intensity per unit of output to produce the**
6 **same goods or groups of goods at the same facility if the facility used**
7 **the best available technology.**

8 “(6) An EITE entity may file with the office a written request for a con-
9 tested case hearing to challenge an order establishing the emissions effi-
10 ciency benchmarks for goods produced by the EITE entity. The request shall
11 be filed within 30 days after the date the order was entered. If an EITE en-
12 tity requests a hearing, the hearing shall be conducted in accordance with
13 the provisions applicable to contested case proceedings under ORS chapter
14 183.

15 “(7) In order to implement this section, the office shall adopt by rule:

16 “(a) A means for attributing an EITE entity’s anthropogenic greenhouse
17 gas emissions to the manufacture of individual goods or groups of goods;

18 “(b) Requirements for EITE entities to provide any pertinent records
19 necessary for the office to verify output data; and

20 “(c) A process for adjusting an allocation of allowances for direct dis-
21 tribution at no cost, if necessary, to reconcile for output variability or type
22 of good.

23 “(8) The office shall adopt by rule a process for EITE entities to apply
24 to the office for an adjustment to the allocation of allowances for direct
25 distribution at no cost that the EITE entity may receive. The office may
26 grant an adjustment under this subsection only for a significant change be-
27 yond the control of the EITE entity in the anthropogenic greenhouse gas
28 emissions attributable to the manufacture of a good or group of goods in this
29 state by the EITE entity, based on a finding by the office that the adjustment
30 is necessary to accommodate changes to the manufacturing process that have

1 a material impact on anthropogenic greenhouse gas emissions. Rules adopted
2 under this subsection may provide for the office to contract with an external
3 third-party expert to assist the office in making individual determinations
4 on applications for adjustments.

5 **“SECTION 29. Benchmark report. No later than September 15, 2030,**
6 **the Climate Policy Office shall provide a report to the Joint Committee**
7 **on Climate Action, in the manner provided in ORS 192.245, on the**
8 **emissions efficiency benchmarks established pursuant to section 26 of**
9 **this 2019 Act. The report may include recommendations for legislation.**
10 **The report shall assess:**

11 **“(1) The anthropogenic greenhouse gas emissions intensity and**
12 **trade exposure of covered entities and opt-in entities that have been**
13 **designated as EITE entities pursuant to section 24 of this 2019 Act;**

14 **“(2) The anthropogenic greenhouse gas emissions reduction oppor-**
15 **tunities available to the covered entities and opt-in entities described**
16 **in subsection (1) of this section; and**

17 **“(3) Whether the conclusions of the assessments required under**
18 **subsections (1) and (2) of this section warrant an adjustment to the**
19 **methods of calculating the emissions efficiency benchmarks developed**
20 **pursuant to section 26 of this 2019 Act.**

21 **“SECTION 30. Offsets generally; rules. (1) Offset projects:**

22 **“(a) Must be located in the United States or approved by a juris-**
23 **diction with which the State of Oregon has entered into a linkage**
24 **agreement pursuant to section 38 of this 2019 Act;**

25 **“(b) May not be otherwise required by law; and**

26 **“(c) Must result in greenhouse gas emissions reductions or re-**
27 **movals that:**

28 **“(A) Are real, permanent, quantifiable, verifiable and enforceable;**
29 **and**

30 **“(B) Are in addition to greenhouse gas emissions reductions or re-**

1 **movals otherwise required by law or legally enforceable mandate and**
2 **that exceed any other greenhouse gas emissions reductions or re-**
3 **movals that would otherwise occur in a conservative business-as-usual**
4 **scenario.**

5 **“(2)(a) A total of no more than eight percent of a covered entity’s**
6 **or opt-in entity’s compliance obligation may be fulfilled by surrender-**
7 **ing offset credits. A total of no more than four percent of a covered**
8 **entity’s or opt-in entity’s compliance obligation may be fulfilled by**
9 **surrendering offset credits generated by offset projects that do not**
10 **provide direct environmental benefits in this state.**

11 **“(b) The Climate Policy Office may by rule adopt additional re-**
12 **strictions on the number of offset credits that may be surrendered by**
13 **a covered entity or opt-in entity that is a permitted air contamination**
14 **source and that is geographically located in an impacted community**
15 **if:**

16 **“(A) The geographic area within which the permitted air contam-**
17 **ination source is located is also a nonattainment area and the per-**
18 **mitted air contamination source substantially contributes to or causes**
19 **the nonattainment of air quality standards; or**

20 **“(B) The permitted air contamination source is in violation of the**
21 **terms or conditions of any permit required or authorized under ORS**
22 **468.065 or ORS chapter 468A and issued by the Department of Envi-**
23 **ronmental Quality or a regional air quality control authority formed**
24 **under ORS 468A.105.**

25 **“(3) The office shall adopt rules governing offset projects and the**
26 **generation, issuance and use of offset credits. The rules must:**

27 **“(a) Provide for the development of offset protocols in a manner**
28 **that enables the state to pursue linkage agreements with other juris-**
29 **dictions pursuant to section 38 of this 2019 Act;**

30 **“(b) Take into consideration standards, rules or protocols for:**

1 **“(A) Offset projects and the generation, issuance and use of offset**
2 **credits, as established by other states, provinces and countries with**
3 **programs comparable to the Oregon Climate Action Program; and**

4 **“(B) Voluntary offset projects and the generation, issuance and use**
5 **of offset credits, as established by organizations that operate offset**
6 **credit registries;**

7 **“(c) Allow for the broadest possible participation by landowners in**
8 **developing and operating offset projects across the broadest possible**
9 **variety of types and sizes of lands;**

10 **“(d) Encourage opportunities for developing offset projects that**
11 **provide direct environmental benefits in this state;**

12 **“(e) Prioritize offset projects that benefit impacted communities,**
13 **members of eligible Indian tribes and natural and working lands; and**

14 **“(f) Address qualifications for persons and agencies that provide**
15 **third-party verification and registration of offset projects and offset**
16 **credits.**

17 **“(4) The office shall adopt by rule a process for issuing early action**
18 **offset credits for greenhouse gas emissions reductions or removals**
19 **that occur during the period beginning on January 1, 2019, and ending**
20 **on January 1, 2021. Rules adopted under this subsection may include:**

21 **“(a) Designation of offset protocols under which an offset project**
22 **may qualify for early action offset credits;**

23 **“(b) Requirements for offset projects to be registered with qualified**
24 **third-party organizations that operate offset credit registries to receive**
25 **early action offset credits; and**

26 **“(c) Requirements for offset credits issued by qualified third-party**
27 **organizations that operate offset credit registries to be converted to**
28 **offset credits issued by or acceptable under the Oregon Climate Action**
29 **Program.**

30 **“(5) The office shall adopt by rule a process to investigate and in-**

1 validate issued offset credits as necessary to uphold the environmental
2 integrity of the Oregon Climate Action Program. Reasons for invali-
3 dating issued offset credits may include, but are not limited to:

4 “(a) A misstatement, of more than five percent, of the amount of
5 greenhouse gas emissions reductions or removals attributable to an
6 offset project for which offset credits were issued;

7 “(b) An environmental, health or safety violation by an offset
8 project for which offset credits were issued; or

9 “(c) A determination that offset credits are duplicative of other
10 offset credits issued for the same greenhouse gas emissions reductions
11 or removals through another offset credit issuing body and that the
12 invalidation is necessary to remedy the duplication.

13 “(6) The office shall establish by rule one or more offset integrity
14 accounts. The office shall withhold a percentage of the offset credits
15 issued by the office for each offset project and deposit the withheld
16 offset credits in an offset integrity account. Uses of offset integrity
17 accounts may include, but need not be limited to, using offset credits
18 deposited in an offset integrity account to replace offset credits that
19 are invalidated pursuant to rules adopted under subsection (5) of this
20 section.

21 **“SECTION 31. Offset protocols. (1) Offset protocols, and any**
22 **greenhouse gas emission inventory and monitoring requirements re-**
23 **lated to the offset protocols, developed pursuant to rules adopted un-**
24 **der section 30 of this 2019 Act:**

25 “(a) Must be straightforward and effective to implement and ad-
26 minister, for both offset project operators and persons purchasing
27 offset credits;

28 “(b) Must provide for flexibility for landowners in the development
29 and operation of offset projects;

30 “(c) Must establish, for each offset protocol, a predetermined cred-

1 **iting period for which an offset project will remain eligible to receive**
2 **offset credits for greenhouse gas emissions reductions or removals;**
3 **and**

4 **“(d) May make use of aggregation or other mechanisms, including**
5 **cost-effective inventory and monitoring provisions, to increase the**
6 **development of offset projects by landowners across the broadest pos-**
7 **sible variety of types and sizes of lands.**

8 **“(2)(a) The Climate Policy Office shall collaborate and consult with**
9 **the State Forestry Department in developing and monitoring offset**
10 **protocols related to forestry. Offset protocols related to forestry that**
11 **are developed pursuant to this subsection:**

12 **“(A) Must prioritize reforestation, avoided forest conversion and**
13 **improved forest management.**

14 **“(B) Must, to the extent practicable, prioritize low-carbon-impact**
15 **building materials and urban forestry.**

16 **“(C) Must have the ability to be administered consistently with the**
17 **applicable state and local land use laws of Oregon.**

18 **“(D) May account for differences in forest management practices**
19 **between private owners of forestland and state or other owners of**
20 **nonfederal forestlands in establishing the baselines for the generation**
21 **of offset credits by offset projects on the private, state or other non-**
22 **federal forestlands.**

23 **“(b) In developing offset protocols related to forestry, the office and**
24 **the department shall consider ways to avoid significant net cumulative**
25 **reductions, attributable to offset projects, in the regional supply of**
26 **wood fiber available to wood products manufacturing facilities in this**
27 **state.**

28 **“(c) The office and the department shall jointly convene a technical**
29 **advisory committee to advise the office and the department in devel-**
30 **oping and monitoring offset protocols related to forestry. The techni-**

1 cal advisory committee must include members with expertise in offset
2 protocols related to forestry.

3 “(3) The office shall collaborate and consult with all relevant state
4 agencies, including but not limited to the State Department of Agri-
5 culture and the Oregon Watershed Enhancement Board, in developing
6 and monitoring offset protocols related to agriculture and conserva-
7 tion on natural and working lands. In developing offset protocols
8 pursuant to this subsection, the office shall:

9 “(a) Consider developing offset protocols for:

10 “(A) Manure management that reduces methane emissions from
11 agricultural operations;

12 “(B) Avoided grassland conversion; and

13 “(C) Other categories of offset projects that would otherwise result
14 in the reduction of greenhouse gas emissions related to agricultural
15 operations; and

16 “(b) Ensure that the offset protocols have the ability to be admin-
17 istered consistently with the applicable state and local land use laws
18 of Oregon.

19 “(4) In developing any offset protocol related to a matter not ad-
20 dressed by subsections (2) and (3) of this section, the office shall con-
21 vene a technical advisory committee composed of persons with
22 expertise relevant to the development of the offset protocol.

23 “(5) The office shall regularly review and update offset protocols
24 developed pursuant to rules adopted under section 30 of this 2019 Act.
25 The reviews and updates of offset protocols shall include any updates,
26 as necessary, to the methods or technologies used for measuring and
27 monitoring the greenhouse gas emissions reductions or removals at-
28 tributable to the offset projects addressed by the offset protocols.

29 “(6) Offset protocols shall be developed and updated by the office
30 pursuant to the rulemaking provisions of ORS chapter 183.

1 **“SECTION 32. Offsets; consultation and reporting. (1) In developing**
2 **and updating rules and offset protocols pursuant to sections 30 and 31**
3 **of this 2019 Act, the Climate Policy Office:**

4 **“(a) Shall consult with and consider the recommendations of:**

5 **“(A) The State Department of Agriculture, the State Forestry De-**
6 **partment, the Environmental Justice Task Force, the Oregon**
7 **Watershed Enhancement Board, other relevant state agencies and el-**
8 **igible Indian tribes; and**

9 **“(B) Persons and agencies that provide third-party verification and**
10 **registration of offset projects and offset credits; and**

11 **“(b) May contract with one or more persons or agencies that pro-**
12 **vide third-party verification and registration of offset projects and**
13 **offset credits to assist in the development of offset protocols.**

14 **“(2) The office shall convene a compliance offsets program advisory**
15 **committee to advise the office in developing and updating rules and**
16 **offset protocols pursuant to sections 30 and 31 of this 2019 Act. The**
17 **compliance offsets program advisory committee shall provide guidance**
18 **to the office in designing the rules and offset protocols to promote**
19 **offset projects that provide direct environmental benefits in this state**
20 **and to prioritize offset projects that benefit impacted communities,**
21 **members of eligible Indian tribes and natural and working lands. The**
22 **office shall appoint at least one member to the advisory committee**
23 **from each of the following groups:**

24 **“(a) Scientists;**

25 **“(b) Public health experts;**

26 **“(c) Carbon market experts;**

27 **“(d) Representatives of eligible Indian tribes;**

28 **“(e) Environmental justice advocates;**

29 **“(f) Labor and workforce representatives;**

30 **“(g) Forestry experts;**

- 1 **“(h) Agriculture experts;**
- 2 **“(i) Environmental advocates;**
- 3 **“(j) Conservation advocates; and**
- 4 **“(k) Dairy experts.**

5 **“(3)(a) No later than September 15 of the final year of each compliance period, the State Forestry Department, in collaboration with**
6 **the office, shall submit a report to the Joint Committee on Climate**
7 **Action that provides an analysis of the implementation in Oregon of**
8 **offset protocols related to forestry. The report shall:**

10 **“(A) Describe the location and scope of offset projects in Oregon**
11 **registered under offset protocols related to forestry developed pursuant to sections 30 and 31 of this 2019 Act for which offset credits have**
12 **been issued under the Oregon Climate Action Program, to date, and**
13 **the number of offset credits issued;**

15 **“(B) Describe forestry carbon offsets marketed, registered, transferred or sold, to date, by the State Forester under ORS 526.725, 530.050**
16 **and 530.500.**

18 **“(C) Include information and analysis of any cobenefits attributable**
19 **to the forestry offset projects and forestry carbon offsets described**
20 **under subparagraphs (A) and (B) of this paragraph; and**

21 **“(D) Identify and address any significant effects attributable to the**
22 **forestry offset projects and forestry carbon offsets described in sub-**
23 **paragraphs (A) and (B) of this paragraph on the supply of wood fiber**
24 **available from nonfederal forestlands to wood products manufacturing**
25 **facilities in this state.**

26 **“(b) The information and analysis required under paragraph (a)(D)**
27 **of this subsection shall include and consider:**

28 **“(A) Data identifying the exports and imports of logs harvested**
29 **from nonfederal forestlands in Oregon; and**

30 **“(B) Significant effects attributable to the forestry offset projects**

1 and forestry carbon offsets on the supply of wood fiber that are ap-
2 plicable to specific geographic areas of this state.

3 “(c) The report required by this subsection may include recom-
4 mendations by the State Forestry Department on whether a temporary
5 suspension of acceptance of new offset project applications under off-
6 set protocols related to forestry developed pursuant to sections 30 and
7 31 of this 2019 Act is necessary to address any significant effects at-
8 tributable to forestry offset projects on the supply of wood fiber
9 available from nonfederal forestlands to wood products manufacturing
10 facilities in this state. If the department recommends a temporary
11 suspension, the recommendation must also include recommendations
12 for measures to minimize adverse effects on landowners developing
13 offset projects.

14 **“SECTION 33. Methodology for designating impacted communities.**

15 (1) The Climate Policy Office, by rule and in consultation with the
16 Portland State University Population Research Center, the Oregon
17 Health Authority and other relevant state agencies and local agencies
18 and officials, shall designate impacted communities. In carrying out
19 this section, the office shall identify impacted communities based on
20 a methodology that takes into consideration geographic,
21 socioeconomic, historic disadvantage, public health and environmental
22 hazard criteria. Impacted communities may include, but are not lim-
23 ited to:

24 “(a) Rural communities.

25 “(b) Coastal communities.

26 “(c) Areas with above-average concentrations of low-income
27 households, historically disadvantaged households, high unemploy-
28 ment, high linguistic isolation, low levels of homeownership, high rent
29 burden, sensitive populations or residents with low levels of educa-
30 tional attainment.

1 “(d) Areas disproportionately affected by environmental pollution
2 and other hazards that can lead to negative public health effects, ex-
3 posure or environmental degradation.

4 “(2) The methodology required by this section must give greater
5 weight to those criteria that the office determines are the most accu-
6 rate measurements of vulnerability to the impacts of climate change
7 and ocean acidification.

8 “(3) The office shall review and update the methodology required
9 by this section and the designation of impacted communities at least
10 once every five years.

11 “SECTION 34. Auctions. (1) Except as provided in subsection (7) of
12 this section, auctions of allowances are open to registered entities.

13 “(2) The Climate Policy Office shall hold auctions at least annually.

14 “(3) The office may engage:

15 “(a) A qualified, independent auction administrator to administer
16 auctions; or

17 “(b) A qualified financial services administrator to conduct finan-
18 cial transactions related to the auction.

19 “(4) The office shall issue notice for an upcoming auction prior to
20 the auction.

21 “(5) The office shall:

22 “(a) Set an auction floor price for 2021 and a schedule for the floor
23 price to increase by a fixed percentage over inflation each calendar
24 year.

25 “(b) Set an allowance price containment reserve floor price for 2021
26 and a schedule for the allowance price containment reserve floor price
27 to increase by a fixed percentage over inflation each calendar year.

28 “(c) Set a hard price ceiling for 2021 and a schedule for the hard
29 price ceiling to increase by a fixed percentage over inflation each cal-
30 endar year, and adopt rules for making an unlimited number of al-

1 allowances available for auction upon exceedance of the hard price
2 ceiling.

3 “(d) Take actions to minimize the potential for market manipu-
4 lation and to guard against bidder collusion, including but not limited
5 to specifying as holding limits the maximum number of allowances
6 that may be held for use or trade by a registered entity at any time.

7 “(6) In setting the auction floor price, allowance price containment
8 reserve floor price and hard price ceiling and adopting rules as re-
9 quired by subsection (5) of this section, the office shall consider:

10 “(a) Prevailing prices for carbon in other jurisdictions; and

11 “(b) Setting price requirements in a manner that enables the state
12 to pursue linkage agreements pursuant to section 38 of this 2019 Act
13 with other jurisdictions.

14 “(7) Sales of allowances from the allowance price containment re-
15 serve shall be conducted separately from the auction of other allow-
16 ances for the purpose of addressing high costs of compliance
17 instruments. Allowances unsold from the reserve sale must be made
18 available again at future reserve sales. General market participants
19 may not purchase allowances at reserve sales.

20 “(8)(a) If the hard price ceiling for an auction is reached, the office
21 shall offer for sale, at the hard price ceiling, allowances from any re-
22 serve described in section 18 of this 2019 Act or established by rule
23 pursuant to section 18 of this 2019 Act, as necessary to meet demand
24 from covered entities and opt-in entities. If the supplies of all allow-
25 ances from all reserves are exhausted and additional sales of allow-
26 ances are necessary for one or more covered entities or opt-in entities
27 to fulfill a compliance obligation, the office may sell price ceiling al-
28 lowances in addition to the allowances available in the annual allow-
29 ance budget at the hard price ceiling.

30 “(b) The proceeds from any sales of allowances pursuant to this

1 subsection shall be paid to the Oregon Department of Administrative
2 Services and deposited with the State Treasurer to be credited as fol-
3 lows:

4 “(A) All moneys that constitute revenues described in Article IX,
5 section 3a, of the Oregon Constitution, shall be credited to the Trans-
6 portation Decarbonization Investments Account established in section
7 42 of this 2019 Act;

8 “(B) All moneys that constitute revenues described in Article VIII,
9 section 2 (1)(g), of the Oregon Constitution, shall be credited to the
10 Common School Fund; and

11 “(C) Moneys remaining after meeting the requirements of subpara-
12 graphs (A) and (B) of this paragraph shall be credited to the Oregon
13 Climate Action Program Operating Fund established under section 39
14 of this 2019 Act, to be used only as described in section 39 (4) of this
15 2019 Act.

16 “(9) The proceeds of an auction shall be paid to the Oregon De-
17 partment of Administrative Services and deposited with the State
18 Treasurer to be credited as follows:

19 “(a) Auction proceeds from the sale of allowances consigned to the
20 state for auction by a natural gas utility pursuant to section 23 of this
21 2019 Act shall be credited to the appropriate trust account established
22 by the Public Utility Commission pursuant to section 65 of this 2019
23 Act; and

24 “(b) Auction proceeds payable to the state shall be credited to the
25 Auction Proceeds Distribution Fund established under section 35 of
26 this 2019 Act.

27 “(10) The office may adopt rules necessary to administer auctions.

28 **SECTION 35. Auction Proceeds Distribution Fund.** (1) The Auction
29 Proceeds Distribution Fund is established in the State Treasury, sep-
30 arate and distinct from the General Fund.

1 **“(2) The Auction Proceeds Distribution Fund shall consist of mon-**
2 **eys transferred to the fund under section 34 of this 2019 Act. Interest**
3 **earned by the fund shall be credited to the fund.**

4 **“(3) The Climate Policy Office shall certify the amount of moneys**
5 **deposited in the Auction Proceeds Distribution Fund available for dis-**
6 **tribution and shall cause the moneys to be distributed as follows:**

7 **“(a) All moneys that constitute revenues described in Article IX,**
8 **section 3a, of the Oregon Constitution, shall be transferred to the**
9 **Transportation Decarbonization Investments Account established in**
10 **section 42 of this 2019 Act;**

11 **“(b) All moneys that constitute revenues described in Article VIII,**
12 **section 2 (1)(g), of the Oregon Constitution, shall be transferred to the**
13 **Common School Fund;**

14 **“(c) An amount necessary for administration of sections 7, 8, 9, 10,**
15 **11, 12, 14, 15 to 40 and 54 to 59 of this 2019 Act and rules adopted pur-**
16 **suant to sections 7, 8, 9, 10, 11, 12, 14, 15 to 40 and 54 to 59 of this 2019**
17 **Act shall be transferred to the Oregon Climate Action Program Oper-**
18 **ating Fund established under section 39 of this 2019 Act; and**

19 **“(d) Moneys remaining after the transfers under paragraphs (a) to**
20 **(c) of this subsection shall be transferred to the Climate Investments**
21 **Fund established under section 46 of this 2019 Act.**

22 **“SECTION 36. Annual Oregon Climate Action Program report. The**
23 **Climate Policy Office shall annually submit a report in the manner**
24 **provided by ORS 192.245 to the Joint Committee on Climate Action**
25 **detailing activity during the compliance period under the market-**
26 **based compliance mechanism adopted by the office by rule under sec-**
27 **tion 16 of this 2019 Act. A report required by this section must include,**
28 **but need not be limited to, aggregated information on the following**
29 **for the compliance period:**

30 **“(1) The number of allowances bought and sold at each auction held**

1 and all auction prices, including the floor and ceiling prices, for the
2 allowances bought and sold at each auction;

3 “(2) The beginning and ending balances of all auction holding ac-
4 counts and reserves held by the office;

5 “(3) The anthropogenic greenhouse gas emissions reductions
6 achieved during the compliance period and progress made toward
7 achieving a reduction in total anthropogenic greenhouse gas emissions
8 levels to at least 45 percent below 1990 levels by 2035 and a reduction
9 in total anthropogenic greenhouse gas emissions levels to at least 80
10 percent below 1990 emissions levels by 2050; and

11 “(4) The estimated impacts of the Oregon Climate Action Program
12 on fuel prices, and on electricity and natural gas bills, in Oregon.

13 “SECTION 37. Participation in nonprofit corporation for adminis-
14 trative and technical support. (1) It is the intent of the Legislative
15 Assembly that the State of Oregon pursue membership on the board
16 of directors of, participation in and the receipt of services from a
17 nonprofit corporation established for the purpose of providing admin-
18 istrative and technical support to state and provincial greenhouse gas
19 emissions trading programs, through which the nonprofit corporation
20 provides for enhanced security, enhanced effectiveness of greenhouse
21 gas emissions trading program infrastructure and lower administrative
22 costs.

23 “(2) The Governor may enter into agreements to secure membership
24 for the State of Oregon on the board of directors of the nonprofit
25 corporation described in subsection (1) of this section, and to access
26 the benefits of the administrative and technical support provided by
27 the nonprofit corporation, including but not limited to access to an
28 auction platform, allowance tracking systems, market monitoring
29 services, financial services administration and other administrative
30 services.

1 “(3) An agreement authorized under this section to secure mem-
2 bership on the board of directors of the nonprofit corporation de-
3 scribed in subsection (1) of this section or to receive the services
4 provided by the nonprofit corporation does not constitute a linkage
5 agreement pursuant to section 38 of this 2019 Act.

6 “SECTION 38. Linkage with market-based compliance mechanisms
7 in other jurisdictions. (1) In adopting and implementing rules under
8 sections 15 to 40 of this 2019 Act, the Climate Policy Office shall:

9 “(a) Consider market-based compliance mechanisms designed to
10 reduce greenhouse gas emissions in other jurisdictions; and

11 “(b) Provide for implementation of the Oregon Climate Action
12 Program in a manner that:

13 “(A) Avoids double counting of greenhouse gas emissions or emis-
14 sions reductions; and

15 “(B) Enables the state to pursue linkage agreements pursuant to
16 this section with other jurisdictions.

17 “(2) The State of Oregon may not link the market-based compliance
18 mechanism established pursuant to sections 15 to 40 of this 2019 Act
19 and rules adopted under sections 15 to 40 of this 2019 Act with the
20 market-based compliance mechanism of any other jurisdiction unless
21 the office notifies the Governor that the office intends to link the
22 market-based compliance mechanism and the Governor approves the
23 proposed linkage agreement by making the following findings, as ap-
24 plicable to the proposed linkage agreement:

25 “(a) The jurisdiction with which the office proposes to enter an
26 agreement to link has adopted program requirements for greenhouse
27 gas emission reductions that are consistent with those required by
28 sections 15 to 40 of this 2019 Act and will not have the effect of
29 undermining the greenhouse gas emissions reductions or removals
30 required or effectuated by the Oregon Climate Action Program;

1 **“(b) Under the proposed linkage agreement, the State of Oregon has**
2 **sufficient authority to enforce sections 15 to 40 of this 2019 Act against**
3 **any person subject to regulation under sections 15 to 40 of this 2019**
4 **Act, including any person located within the linking jurisdiction, to**
5 **the maximum extent permitted by law;**

6 **“(c) The proposed linkage agreement provides for enforcement of**
7 **applicable laws by the Climate Policy Office or by the linking juris-**
8 **diction of program requirements that are consistent with those re-**
9 **quired by sections 15 to 40 of this 2019 Act; and**

10 **“(d) The proposed linkage agreement and any related engagement**
11 **by the State of Oregon of an independent third-party organization to**
12 **provide administrative or technical services to support the implemen-**
13 **tation of sections 15 to 40 of this 2019 Act will not impose any signif-**
14 **icant liability on the state or any state agency for any failure**
15 **associated with the linkage.**

16 **“(3) The Governor shall issue findings pursuant to subsection (2)**
17 **of this section within 45 days of receiving a notice from the office that**
18 **the office intends to link the market-based compliance mechanism and**
19 **shall provide the findings to the Legislative Assembly. The Governor,**
20 **in making the findings, shall consider the advice of the Attorney**
21 **General.**

22 **“(4) The State of Oregon may not enter a finalized linkage agree-**
23 **ment unless the office has first provided a report on the proposed**
24 **linkage agreement to the Joint Committee on Climate Action. The**
25 **report shall include:**

26 **“(a) A description of the scope of the proposed linkage agreement;**

27 **“(b) An analysis by the office of the proposed linkage agreement;**

28 **and**

29 **“(c) The findings issued by the Governor pursuant to subsections**
30 **(2) and (3) of this section.**

1 **“SECTION 39. Operating fund. (1) The Oregon Climate Action Pro-**
2 **gram Operating Fund is established in the State Treasury, separate**
3 **and distinct from the General Fund. Interest earned by the Oregon**
4 **Climate Action Program Operating Fund shall be credited to the fund.**
5 **Moneys in the Oregon Climate Action Program Operating Fund are**
6 **continuously appropriated to the Oregon Department of Administra-**
7 **tive Services for use by the Climate Policy Office in the performance**
8 **of the duties, functions and powers vested in the office by law.**

9 **“(2) The Oregon Climate Action Program Operating Fund shall**
10 **consist of:**

11 **“(a) Moneys deposited in the fund pursuant to sections 12, 34 and**
12 **35 of this 2019 Act;**

13 **“(b) Moneys appropriated or otherwise transferred to the fund by**
14 **the Legislative Assembly; and**

15 **“(c) Other moneys deposited in the fund from any source.**

16 **“(3) Civil penalties deposited in the fund under section 12 of this**
17 **2019 Act shall be deposited in a separate subaccount created in the**
18 **fund and must be used only for providing technical assistance to cov-**
19 **ered entities and opt-in entities.**

20 **“(4) The proceeds from sales of allowances at the hard price ceiling**
21 **pursuant to section 34 (8) of this 2019 Act shall be deposited in a sep-**
22 **arate subaccount created in the fund and must be used by the office**
23 **only for the purchase and retirement of offset credits.**

24 **“SECTION 40. Public records law; application. (1) The Legislative**
25 **Assembly finds and declares that it is the policy of this state that the**
26 **market-based compliance mechanism of the Oregon Climate Action**
27 **Program operate free of abuse and disruptive activity. It is therefore**
28 **the intent of the Legislative Assembly that the provisions of this sec-**
29 **tion and sections 16 (3), 34, 36, 37 and 38 of this 2019 Act be imple-**
30 **mented in a manner necessary to prevent fraud, abuse or market**

1 manipulation to the greatest extent possible while upholding the public
2 interest in transparency in public process and government through
3 making certain market activity information available in aggregated
4 form.

5 “(2) The following information obtained by the State of Oregon
6 pursuant to sections 15 to 40 of this 2019 Act, or rules adopted pursuant
7 to sections 15 to 40 of this 2019 Act, shall be treated as confidential
8 business information, is exempt from disclosure under the public re-
9 cords law, ORS 192.311 to 192.478, and may not be disclosed to any
10 person or entity except as provided in subsection (3) or (4) of this
11 section:

12 “(a) Individually identifiable information related to a registered
13 entity’s application to participate, and participation, in auctions held
14 under section 34 of this 2019 Act, including but not limited to bid ac-
15 tivity and auction results for the registered entity.

16 “(b) Other individually identifiable information not described in
17 paragraph (a) of this subsection related to the holding, transfer or
18 surrender of compliance instruments by registered entities.

19 “(c) Any individually identifiable information on the manufacturing
20 output of goods, other than emissions data submitted under ORS
21 468A.280, obtained by the Climate Policy Office as necessary to ad-
22 minister and implement sections 24, 25, 26 and 29 of this 2019 Act.

23 “(3) Information described in subsection (2) of this section may be
24 used and disclosed in aggregated form.

25 “(4) This section does not prohibit the disclosure of information
26 between the Climate Policy Office and other agencies of the executive
27 department, as defined in ORS 174.112, jurisdictions with which the
28 State of Oregon has entered into a linkage agreement under section
29 38 of this 2019 Act or persons engaged by the State of Oregon to pro-
30 vide administrative or technical services to support implementation

1 of sections 15 to 40 of this 2019 Act if the disclosure is necessary for
2 purposes of the administration and implementation of sections 15 to
3 40 of this 2019 Act.

4 “(5) Any person to whom information described in subsection (2)
5 of this section is disclosed under subsection (4) of this section shall
6 treat the information as confidential business information, exempt
7 from disclosure under the public records law, ORS 192.311 to 192.478.
8 Redislosure of individually identifiable information outside the Cli-
9 mate Policy Office remains subject to the provisions of this section.

10

11 “INVESTMENT OF STATE PROCEEDS FROM OREGON
12 CLIMATE ACTION PROGRAM AUCTIONS

13 “(Transportation Decarbonization Investments Account)

14

15 “SECTION 41. Definitions. As used in sections 41 to 45 of this 2019
16 Act:

17 “(1) ‘Eligible Indian tribe’ has the meaning given that term in sec-
18 tion 15 of this 2019 Act.

19 “(2) ‘Impacted community’ has the meaning given that term in
20 section 15 of this 2019 Act.

21 “(3) ‘Metropolitan planning organization’ has the meaning given
22 that term in ORS 197.629.

23 “SECTION 42. Transportation Decarbonization Investments Ac-
24 count. (1) The Transportation Decarbonization Investments Account
25 is established as a separate account within the State Highway Fund.
26 Interest earned by the Transportation Decarbonization Investments
27 Account shall be credited to the account.

28 “(2) Moneys in the Transportation Decarbonization Investments
29 Account are continuously appropriated to the Department of Trans-
30 portation for the purposes described in subsections (4) and (5) of this

1 section and sections 43 and 44 of this 2019 Act.

2 “(3) The Transportation Decarbonization Investments Account
3 consists of moneys deposited in the account under sections 34 and 35
4 of this 2019 Act.

5 “(4) Of the moneys deposited in the Transportation Decarbonization
6 Investments Account each biennium:

7 “(a) 50 percent shall be used by the Department of Transportation
8 for transportation projects selected by the Oregon Transportation
9 Commission pursuant to section 44 of this 2019 Act; and

10 “(b) 50 percent shall be used to provide grants for transportation
11 projects pursuant to sections 43 and 44 of this 2019 Act and to provide
12 technical assistance, which may include grant writing assistance, to
13 applicants for and recipients of the grants.

14 “(5) The amount of moneys used to provide technical assistance
15 under subsection (4)(b) of this section may not exceed one percent of
16 the amount of moneys deposited in the account each biennium.

17 “(6) Expenditures from the Transportation Decarbonization Invest-
18 ments Account shall, to the extent feasible and consistent with law,
19 be in addition to and not in replacement of any existing allocation or
20 appropriation for transportation projects.

21 “(7) Examples of uses of moneys deposited in the Transportation
22 Decarbonization Investments Account may include, but are not limited
23 to, uses related to:

24 “(a) Enhancing roadway drainage, improving slope stability, in-
25 vestment in the safe routes to schools program established under ORS
26 184.741, the repower, retrofit or replacement of certain diesel engines,
27 reducing vehicle miles traveled through bike, pedestrian or other
28 multimodal improvements and traffic signal optimization; and

29 “(b) Increasing the resilience of transportation infrastructure and
30 evacuation routes against the effects of climate change, extreme pre-

1 **cipitation, sea level rise, and extreme temperatures and wildfires.**

2 **“SECTION 43. Grant program. (1) The Department of Transporta-**
3 **tion may provide, pursuant to section 44 of this 2019 Act and from**
4 **moneys in the Transportation Decarbonization Investments Account**
5 **established under section 42 of this 2019 Act, grants for transportation**
6 **projects to cities, counties and metropolitan planning organizations.**

7 **“(2)(a) The department shall adopt rules specifying the competitive**
8 **process by which a city, county or metropolitan planning organization**
9 **may apply for a grant under this section and prescribing the terms and**
10 **conditions of grants.**

11 **“(b) In adopting rules under this section, the department shall**
12 **consult with the Oregon Climate Board established under section 7 of**
13 **this 2019 Act.**

14 **“SECTION 44. Selection of transportation projects. (1) The Oregon**
15 **Transportation Commission shall select the transportation projects to**
16 **be funded with moneys in the Transportation Decarbonization Invest-**
17 **ments Account established under section 42 of this 2019 Act.**

18 **“(2) A transportation project may not be funded with moneys in the**
19 **Transportation Decarbonization Investments Account unless the com-**
20 **mission determines that the transportation project furthers one or**
21 **more of the purposes set forth in section 14 of this 2019 Act and that**
22 **the project may constitutionally be funded by revenues described in**
23 **Article IX, section 3a, of the Oregon Constitution.**

24 **“(3) Prior to selecting transportation projects, the commission shall**
25 **seek input from the applicable area commission on transportation.**

26 **“(4) In selecting transportation projects, the Oregon Transportation**
27 **Commission shall consider whether a proposed transportation project:**

28 **“(a) Will further the objectives of the statewide transportation**
29 **strategy on greenhouse gas emissions adopted by the commission**
30 **pursuant to ORS 184.617;**

1 “(b) Will further the objectives of the biennial climate action in-
2 vestment plan delivered by the Climate Policy Office under section 57
3 of this 2019 Act; and

4 “(c) Is consistent with or complements investments that may be
5 funded by moneys in the Climate Investments Fund established under
6 section 46 of this 2019 Act.

7 “(5) In selecting transportation projects, the commission shall give
8 priority to projects that:

9 “(a) Benefit impacted communities.

10 “(b) Complement efforts to achieve and maintain local air quality.

11 “(c) Provide opportunities for businesses that are owned by mem-
12 bers of impacted communities and eligible Indian tribes to participate
13 in and benefit from statewide efforts to reduce greenhouse gas emis-
14 sions.

15 “(d) Promote low carbon economic development opportunities and
16 the creation of jobs that sustain living wages.

17 “(e) Will facilitate:

18 “(A) The implementation of land use and transportation scenarios
19 required to be adopted by metropolitan service districts under section
20 37, chapter 865, Oregon Laws 2009, and that have been approved by the
21 Land Conservation and Development Commission; or

22 “(B) The planning, development or implementation of land use and
23 transportation scenarios by local governments and metropolitan plan-
24 ning organizations in accordance with the guidelines established by
25 the Department of Transportation and the Department of Land Con-
26 servation and Development under ORS 184.893.

27 “(f) Will, to the greatest extent practicable, serve to conserve, re-
28 store, preserve and enhance adjacent natural resources through the
29 use of roadside vegetation in a manner designed to:

30 “(A) Minimize soil erosion;

1 **“(B) Improve or maintain slope stability;**
2 **“(C) Reduce storm water runoff volume and velocity;**
3 **“(D) Promote water conservation and plant survivability; and**
4 **“(E) Otherwise best address the full range of impacts associated**
5 **with the use of the roadside vegetation.**

6 **“(6) In selecting transportation projects, the commission shall:**

7 **“(a) Strive to provide for a balanced distribution over time of**
8 **moneys in the Transportation Decarbonization Investments Account:**

9 **“(A) Among all geographic areas of this state; and**

10 **“(B) To the extent practicable, in a manner that provides equal**
11 **funding support between transportation projects that result in**
12 **greenhouse gas emissions reductions and transportation projects that**
13 **support climate change adaptation; and**

14 **“(b) To the extent practicable, provide for a distribution of moneys**
15 **in the Transportation Decarbonization Investments Account during**
16 **each biennium that considers the requirements of fairness and pro-**
17 **portionality required by Article IX, section 3a (3), of the Oregon Con-**
18 **stitution.**

19 **“(7) If a transportation project is eligible only in part to be funded**
20 **by moneys deposited in the Transportation Decarbonization Invest-**
21 **ments Account, the transportation project may also be eligible to re-**
22 **ceive funding through the allocation of moneys in the Climate**
23 **Investments Fund established in section 46 of this 2019 Act for those**
24 **portions of the transportation project that may not be constitutionally**
25 **funded by revenues described in Article IX, section 3a, of the Oregon**
26 **Constitution.**

27 **“(8) Transportation projects selected by the commission under this**
28 **section are subject to the provisions of section 50 of this 2019 Act.**

29 **“SECTION 45. Procurement provisions related to transportation**
30 **projects. (1) As used in this section:**

1 “(a) ‘Building materials’ means asphalt, cement, concrete or any
2 other aggregate product, aluminum, steel, iron, coatings for steel and
3 iron, glass, manufactured wood products and copper.

4 “(b) ‘Contracting agency’ has the meaning given that term in ORS
5 279A.010.

6 “(c) ‘Nursery stock’ has the meaning given that term in ORS
7 571.005.

8 “(d) ‘Oregon Climate Action Program’ has the meaning given that
9 term in section 15 of this 2019 Act.

10 “(e) ‘State contracting agency’ has the meaning given that term in
11 ORS 279A.010.

12 “(f) ‘Subject to a carbon pricing program’ means a building mate-
13 rials manufacturer whose emissions from the manufacture of goods:

14 “(A) Are subject to a tax or governmental regulatory program that
15 has the effect of placing a price on greenhouse gas emissions and that
16 is at least as stringent as the Oregon Climate Action Program, as de-
17 termined by the Climate Policy Office by rule; or

18 “(B) Are directly regulated by the jurisdiction where the manufac-
19 turing facility is located for the greenhouse gas emissions attributable
20 to the manufacturing of goods at the facility operated by the man-
21 ufacturer.

22 “(2) Notwithstanding provisions of law requiring a contracting
23 agency to award a contract to the lowest responsible bidder or best
24 proposer or provider of a quotation, and except as provided in sub-
25 section (4) of this section or as prohibited by federal law, a state con-
26 tracting agency, when using funds from the Transportation
27 Decarbonization Investments Account, shall give a preference of not
28 more than 10 percent to building materials procured from manufac-
29 turers subject to a carbon pricing program.

30 “(3) Notwithstanding provisions of law requiring a contracting

1 agency to award a contract to the lowest responsible bidder or best
2 proposer or provider of a quotation, and except as provided in sub-
3 section (4) of this section or as prohibited by federal law, a contracting
4 agency other than a state contracting agency, when using funds from
5 the Transportation Decarbonization Investments Account, may give a
6 preference of not more than 10 percent to building materials procured
7 from manufacturers subject to a carbon pricing program.

8 “(4) If the contracting agency finds in a written determination that
9 the building material is not available in the quantity, quality, type or
10 time frame required for the procurement, or if the cost of the building
11 material is more than 10 percent more than the building material costs
12 from manufacturers not subject to a carbon pricing program, the
13 contracting agency may decline to give the building material prefer-
14 ence.

15 “(5) If a transportation project described in section 42 (4)(a) of this
16 2019 Act that involves the use of roadside vegetation is funded by
17 moneys deposited in the Transportation Decarbonization Investments
18 Account, the Department of Transportation shall purchase the
19 roadside vegetation from nursery stock that is grown and propagated
20 entirely within this state. The Oregon Transportation Commission
21 may specify by rule grades, standards, considerations and processes for
22 roadside vegetation expenditures conducted pursuant to this sub-
23 section.

24 “(6) This section does not apply to emergency work, minor alter-
25 ations, ordinary repairs or maintenance work for public improvements
26 or to other construction contracts described in ORS 279C.320 (1).

27

28

“(Climate Investments Fund)

29

30 **“SECTION 46. Climate Investments Fund. (1) The Climate Invest-**

1 ments Fund is established in the State Treasury, separate and distinct
2 from the General Fund. The Climate Investments Fund shall consist
3 of moneys deposited in the fund under sections 34 and 35 of this 2019
4 Act. Interest earned by the fund shall be credited to the fund. The
5 Oregon Department of Administrative Services shall administer the
6 fund.

7 “(2) Moneys in the fund are continuously appropriated to be used
8 only for programs, projects and activities that further one or more of
9 the purposes set forth in section 14 of this 2019 Act consistent with
10 section 59 of this 2019 Act.

11 “(3) The Legislative Assembly shall allocate the moneys deposited
12 in the fund as informed by the biennial climate action investment plan
13 delivered by the Climate Policy Office under section 57 of this 2019 Act.

14 “(4) Of the moneys deposited in the fund each biennium:

15 “(a) 10 percent shall be allocated for uses that directly benefit eli-
16 gible Indian tribes, as defined in section 15 of this 2019 Act;

17 “(b) 40 percent shall be allocated for uses that benefit impacted
18 communities, as defined in section 15 of this 2019 Act;

19 “(c) 20 percent shall be allocated for uses that benefit natural and
20 working lands, as defined in section 15 of this 2019 Act;

21 “(d) No more than one percent shall be allocated to provide tech-
22 nical assistance to applicants for or recipients of moneys described in
23 paragraphs (a) to (c) of this subsection; and

24 “(e) \$10 million shall be allocated for deposit in the Just Transition
25 Fund established in section 51 of this 2019 Act to be used to establish
26 a Just Transition Program and develop a Just Transition Plan pursu-
27 ant to section 52 of this 2019 Act.

28 “(5) Moneys allocated for investments and expenditures that benefit
29 natural and working lands pursuant to subsection (4)(c) of this section
30 shall be allocated to promote adaptation and resilience in the face of

1 climate change and ocean acidification through actions that may in-
2 clude, but need not be limited to:

3 “(a) Programs, projects or activities that achieve energy efficiency
4 or emissions reductions in the agricultural sector such as through
5 fertilizer management, soil management, bioenergy or biofuels;

6 “(b) Programs, projects or activities that result in sequestration of
7 carbon in forests, agricultural soils, and other terrestrial and aquatic
8 areas;

9 “(c) Improving forest and natural and working lands health and
10 resilience to climate change impacts through actions including
11 thinning, prescribed fire and wildland fire prevention;

12 “(d) Project-specific planning, design and construction projects that
13 reduce the storm water impacts of existing infrastructure and devel-
14 opment;

15 “(e) Reducing the risk of flooding by restoring natural floodplain
16 ecological functions, protecting against damage caused by floods and
17 protecting or restoring naturally functioning areas where floods occur;

18 “(f) Improving the availability and reliability of water supplies for
19 instream uses and out-of-stream uses;

20 “(g) Projects to prepare for sea level rise and to restore and protect
21 estuaries, fisheries, marine shoreline and inland habitats; and

22 “(h) Increasing the ability to adapt to and remediate the impacts
23 of ocean acidification.

24 “(6) Allocations from the Climate Investments Fund shall, to the
25 maximum extent feasible and consistent with law, be in addition to
26 and not in replacement of any existing allocations or appropriations
27 for programs, projects and activities.

28 “SECTION 47. Adjustment of certain funding percentage require-
29 ments. The amendments to section 46 of this 2019 Act by section 48 of
30 this 2019 Act become operative on July 1, 2027.

1 **“SECTION 48.** Section 46 of this 2019 Act is amended to read:

2 **“Sec. 46.** (1) The Climate Investments Fund is established in the State
3 Treasury, separate and distinct from the General Fund. The Climate In-
4 vestments Fund shall consist of moneys deposited in the fund under sections
5 34 and 35 of this 2019 Act. Interest earned by the fund shall be credited to
6 the fund. The Oregon Department of Administrative Services shall administer
7 the fund.

8 “(2) Moneys in the fund are continuously appropriated to be used only for
9 programs, projects and activities that further one or more of the purposes
10 set forth in section 14 of this 2019 Act consistent with section 59 of this 2019
11 Act.

12 “(3) The Legislative Assembly shall allocate the moneys deposited in the
13 fund as informed by the biennial climate action investment plan delivered
14 by the Climate Policy Office under section 57 of this 2019 Act.

15 “(4) Of the moneys deposited in the fund each biennium[:],

16 “*[(a)] 10 percent shall be allocated for uses that directly benefit eligible*
17 *Indian tribes, as defined in section 15 of this 2019 Act[;].*

18 “*[(b) 40 percent shall be allocated for uses that benefit impacted communi-*
19 *ties, as defined in section 15 of this 2019 Act;]*

20 “*[(c) 20 percent shall be allocated for uses that benefit natural and working*
21 *lands, as defined in section 15 of this 2019 Act;]*

22 “*[(d) No more than one percent shall be allocated to provide technical as-*
23 *sistance to applicants for or recipients of moneys described in paragraphs (a)*
24 *to (c) of this subsection; and]*

25 “*[(e) \$10 million shall be allocated for deposit in the Just Transition Fund*
26 *established in section 51 of this 2019 Act to be used to establish a Just Tran-*
27 *sition Program and develop a Just Transition Plan pursuant to section 52 of*
28 *this 2019 Act.]*

29 “*[(5) Moneys allocated for investments and expenditures that benefit na-*
30 *tural and working lands pursuant to subsection (4)(c) of this section shall be*

1 *allocated to promote adaptation and resilience in the face of climate change*
2 *and ocean acidification through actions that may include, but need not be*
3 *limited to:]*

4 *“(a) Programs, projects or activities that achieve energy efficiency or*
5 *emissions reductions in the agricultural sector such as through fertilizer*
6 *management, soil management, bioenergy or biofuels;]*

7 *“(b) Programs, projects or activities that result in sequestration of carbon*
8 *in forests, agricultural soils, and other terrestrial and aquatic areas;]*

9 *“(c) Improving forest and natural and working lands health and resilience*
10 *to climate change impacts through actions including thinning, prescribed fire*
11 *and wildland fire prevention;]*

12 *“(d) Project-specific planning, design and construction projects that reduce*
13 *the storm water impacts of existing infrastructure and development;]*

14 *“(e) Reducing the risk of flooding by restoring natural floodplain ecologi-*
15 *cal functions, protecting against damage caused by floods and protecting or*
16 *restoring naturally functioning areas where floods occur;]*

17 *“(f) Improving the availability and reliability of water supplies for in-*
18 *stream uses and out-of-stream uses;]*

19 *“(g) Projects to prepare for sea level rise and to restore and protect*
20 *estuaries, fisheries, marine shoreline and inland habitats; and]*

21 *“(h) Increasing the ability to adapt to and remediate the impacts of ocean*
22 *acidification.]*

23 *“(6) (5) Allocations from the Climate Investments Fund shall, to the*
24 *maximum extent feasible and consistent with law, be in addition to and not*
25 *in replacement of any existing allocations or appropriations for programs,*
26 *projects and activities.*

27 **“SECTION 49. Procurement preferences. (1) As used in this section:**

28 **“(a) ‘Building materials’ means asphalt, cement, concrete or any**
29 **other aggregate product, aluminum, steel, iron, coatings for steel and**
30 **iron, glass, manufactured wood products and copper.**

1 “(b) ‘Contracting agency’ has the meaning given that term in ORS
2 279A.010.

3 “(c) ‘Oregon Climate Action Program’ has the meaning given that
4 term in section 15 of this 2019 Act.

5 “(d) ‘State contracting agency’ has the meaning given that term in
6 ORS 279A.010.

7 “(e) ‘Subject to a carbon pricing program’ means building materials
8 manufactured by a manufacturing facility that:

9 “(A) Is subject to a tax or governmental regulatory program that
10 has the effect of placing a price on greenhouse gas emissions and that
11 is at least as stringent as the Oregon Climate Action Program, as de-
12 termined by the Climate Policy Office by rule; or

13 “(B) Is directly regulated by the jurisdiction where the manufac-
14 turing facility is located for the greenhouse gas emissions attributable
15 to the manufacturing of goods at the facility operated by the man-
16 ufacturer.

17 “(2) Notwithstanding provisions of law requiring a contracting
18 agency to award a contract to the lowest responsible bidder or best
19 proposer or provider of a quotation, and except as provided in sub-
20 section (3) of this section or as prohibited by federal law, a state con-
21 tracting agency, when using funds from the Climate Investments
22 Fund, shall give a preference of not more than 10 percent to building
23 materials procured from manufacturers subject to a carbon pricing
24 program.

25 “(3) Notwithstanding provisions of law requiring a contracting
26 agency to award a contract to the lowest responsible bidder or best
27 proposer or provider of a quotation, and except as provided in sub-
28 section (4) of this section or as prohibited by federal law, a contracting
29 agency other than a state contracting agency, when using funds from
30 the Climate Investments Fund, may give a preference of not more

1 than 10 percent to building materials procured from manufacturers
2 subject to a carbon pricing program.

3 “(4) If the contracting agency finds in a written determination that
4 the building material is not available in the quantity, quality, type or
5 time frame required for the procurement, or if the building material
6 cost is more than 10 percent more than the building material costs
7 from producers not subject to a carbon pricing program, the con-
8 tracting agency may decline to give the building material preference.

9

10 “(Labor and Contracting Provisions)

11

12 “SECTION 50. Construction projects funded by certain auction
13 proceeds; requirements. (1) If a construction project receives more
14 than \$50,000 in funding from moneys in the Climate Investments Fund
15 established under section 46 of this 2019 Act or the Transportation
16 Decarbonization Investments Account established under section 42 of
17 this 2019 Act, the primary contractor participating in the construction
18 project:

19 “(a) Shall pay the prevailing rate of wage for an hour’s work in the
20 same trade or occupation in the locality where the labor is performed;

21 “(b) Shall offer health care and retirement benefits to the employ-
22 ees performing the labor on the construction project;

23 “(c) Shall participate in an apprenticeship program registered with
24 the State Apprenticeship and Training Council;

25 “(d) May not be a contractor listed by the Commissioner of the
26 Bureau of Labor and Industries under ORS 279C.860 as ineligible to
27 receive a contract or subcontract for public works;

28 “(e) Must demonstrate a history of material compliance with the
29 rules and other requirements of the Construction Contractors Board
30 and of the Workers’ Compensation Division, the Building Codes Divi-

1 sion and the Occupational Safety and Health Division of the Depart-
2 ment of Consumer and Business Services; and

3 “(f) Must demonstrate a history of compliance with federal and
4 state wage and hour laws.

5 “(2) A farm labor contractor, as defined in ORS 658.405, may not
6 receive moneys allocated by the Legislative Assembly from the Climate
7 Investments Fund or the Transportation Decarbonization Investments
8 Account unless the farm labor contractor is in compliance with all li-
9 censing and any other requirements or regulations imposed upon farm
10 labor contractors pursuant to ORS 658.405 to 658.503.

11 “(3)(a) The Oregon Department of Administrative Services, in con-
12 sultation with the Attorney General, shall adopt model rules that
13 specify labor, workforce and contracting procedures for state agencies
14 to use in administering funds for construction projects that receive
15 more than \$50,000 in funding from moneys in the Climate Investments
16 Fund or the Transportation Decarbonization Investments Account.
17 The department shall adopt the rules in accordance with ORS chapter
18 183.

19 “(b) Model rules adopted under this subsection shall require the use
20 of a project labor agreement for construction projects that receive
21 more than \$200,000 in funding from moneys in the Climate Investments
22 Fund or the Transportation Decarbonization Investments Account.
23 For all other construction projects funded as described in paragraph
24 (a) of this subsection, the model rules shall:

25 “(A) Establish measurable, enforceable goals for the training and
26 hiring of persons who are members of impacted communities, as de-
27 fined in section 15 of this 2019 Act, and for contracting with businesses
28 that are owned or operated by members of impacted communities; and

29 “(B) Establish wage, benefit and labor relations standards consist-
30 ent with the provisions of this section.

1 “(c) The model rules shall promote best practices in procurement
2 and contracting.

3 “(d)(A) The model rules shall require that, in each contract awarded
4 by a state agency for a construction project funded as described in
5 paragraph (a) of this subsection, cement, concrete, steel, iron,
6 coatings for steel and iron and manufactured products that the con-
7 tractor purchases for the project and that become part of a permanent
8 structure be produced in the United States.

9 “(B) The requirement in subparagraph (A) of this paragraph shall
10 not apply if the administering agency finds that:

11 “(i) The requirement is inconsistent with the public interest;

12 “(ii) Cement, concrete, steel, iron, coatings for steel and iron and
13 manufactured products required for the project are not produced in
14 the United States in sufficient and reasonably available quantities and
15 with satisfactory quality; or

16 “(iii) The requirement set forth in subparagraph (A) of this para-
17 graph will increase the costs of the project, exclusive of labor costs
18 involved in final assembly for manufactured products, by 25 percent
19 or more.

20 “(C) Notwithstanding a finding by the administering agency under
21 paragraph (d)(B) of this subsection, a contractor shall spend at least
22 75 percent of the total amount the contractor spends in connection
23 with the construction project on cement, concrete, steel, iron,
24 coatings for steel and iron and manufactured products that become
25 part of a permanent structure to purchase cement, concrete, steel,
26 iron, coatings for steel and iron and manufactured products that are
27 produced in the United States.

28 “(e) Before adopting or amending a rule under this subsection, the
29 department shall consult with representatives of labor, contractors
30 and other knowledgeable persons.

1 be maintained and used by the commission only for the purposes de-
2 scribed in section 52 (2)(b) of this 2019 Act.

3 **“SECTION 52. (1) The Higher Education Coordinating Commission,**
4 **in consultation with the State Workforce and Talent Development**
5 **Board, the Employment Department and other interested state agen-**
6 **cies, shall:**

7 **“(a) Establish a Just Transition Program for the purpose of dis-**
8 **tributing moneys, other than moneys deposited in the reserve account,**
9 **that are deposited in the Just Transition Fund established under sec-**
10 **tion 51 of this 2019 Act; and**

11 **“(b) A Just Transition Plan for:**

12 **“(A) The implementation and administration of the Just Transition**
13 **Program; and**

14 **“(B) The use of moneys deposited in the reserve account of the Just**
15 **Transition Fund.**

16 **“(2)(a) Moneys distributed through the Just Transition Program**
17 **shall be distributed to support economic diversification, job creation,**
18 **job training and other employment services.**

19 **“(b) Moneys deposited in the reserve account of the Just Transition**
20 **Fund may be used only to fund programs and activities that provide**
21 **financial support for workers dislocated or adversely affected by cli-**
22 **mate change or climate change policies.**

23 **“(3) Each even-numbered year, the commission shall deliver a re-**
24 **port, in the manner provided in ORS 192.245, to the Governor and the**
25 **Joint Committee on Climate Action on the Just Transition Plan. The**
26 **report shall include:**

27 **“(a) Information on implementing the Just Transition Program;**

28 **“(b) Recommendations regarding the level of funding necessary to**
29 **carry out activities pursuant to the Just Transition Program; and**

30 **“(c) Recommendations regarding the maintenance and use of the**

1 reserve account of the Just Transition Fund, including but not limited
2 to recommendations regarding:

3 “(A) The funding necessary to maintain the reserve account at a
4 level necessary to carry out the provisions of subsection (2)(b) of this
5 section, based on an evaluation of the impacts of climate change or
6 climate change policies on workers; and

7 “(B) The use of moneys deposited in the reserve account for the
8 replacement of wages or benefits for workers dislocated or adversely
9 affected by climate change or climate change policies.

10 “(4) The commission shall seek to develop and implement the Just
11 Transition Program in a manner that is consistent with and comple-
12 mentary to other local, state and federal programs, policies and in-
13 centives that serve to carry out the activities described in subsection
14 (2) of this section, including but not limited to activities undertaken
15 by the commission under ORS 660.318. The Just Transition Program
16 may include, but need not be limited to, a competitive grant program.

17 “(5) The commission may adopt rules as necessary to administer
18 this section, including but not limited to rules that set standards for
19 awarding grants.

20 “(6) A grant program adopted as part of the Just Transition Pro-
21 gram may:

22 “(a) Encourage, but not require, a grant applicant to provide
23 matching funds for completion of the project, program or activity for
24 which a grant is awarded; and

25 “(b) Allow a grant applicant to appeal to the commission for ree-
26 valuation of any determination of grant funding.

27 “(7) The commission may perform activities necessary to ensure
28 that recipients of moneys distributed from the Just Transition Fund
29 comply with applicable requirements. If the commission determines
30 that a recipient has not complied with applicable requirements, the

1 commission may order the recipient to refund all moneys distributed
2 from the fund. Moneys refunded pursuant to this subsection shall be
3 paid to the commission and deposited with the State Treasurer for
4 credit to the Just Transition Fund.

5 “(8) The commission shall appoint a just transition advisory com-
6 mittee. The committee shall be composed of representatives from
7 communities and work places that have the potential to be adversely
8 affected by climate change or climate change policies and shall include
9 members representing labor and management. The committee shall:

10 “(a) Advise the commission in developing rules under this section;

11 “(b) Provide recommendations for grant awards and other expendi-
12 tures from the Just Transition Fund, including expenditures from the
13 reserve account of the Just Transition Fund; and

14 “(c) Provide other recommendations related to the Just Transition
15 Plan and the Just Transition Program.

16

17 “(Common School Fund)

18

19 “SECTION 53. Moneys deposited in the Common School Fund under
20 sections 34 and 35 of this 2019 Act are continuously appropriated to the
21 Department of State Lands to be used in a manner that:

22 “(1) Is consistent with the requirements of the Oregon Constitution;
23 and

24 “(2) Furthers one or more of the purposes set forth in section 14
25 of this 2019 Act.

26

27 “(Distribution of Auction Proceeds; Expenditure Reporting)

28

29 “SECTION 54. Biennial expenditure reporting. (1) All agencies of
30 the executive department as defined in ORS 174.112, counties, cities

1 and all other public and private entities receiving moneys allocated
2 from the Climate Investments Fund shall annually report to the Cli-
3 mate Policy Office on the expenditure of the moneys received and the
4 results of the expenditures. No later than January 1 of each even-
5 numbered year, the office shall deliver a biennial report, in the man-
6 ner provided in ORS 192.245, to the Governor and the Joint Committee
7 on Climate Action describing:

8 “(a) The investments from the Climate Investments Fund;

9 “(b) Whether the investments met the requirements for allocations
10 under section 46 of this 2019 Act; and

11 “(c) The effectiveness of those investments in furthering the pur-
12 poses set forth in section 14 of this 2019 Act.

13 “(2) All agencies of the executive department, counties, cities and
14 all other public and private entities receiving moneys allocated from
15 the Transportation Decarbonization Investments Account shall annu-
16 ally report to the Department of Transportation on the expenditure
17 of the moneys received and the results of the expenditures. No later
18 than January 1 of each even-numbered year, the department shall de-
19 liver a biennial report, in the manner provided in ORS 192.245, to the
20 Oregon Transportation Commission, the Governor, the Joint Commit-
21 tee on Climate Action and the Joint Committee on Transportation
22 describing:

23 “(a) The transportation projects funded by moneys from the
24 Transportation Decarbonization Investments Account;

25 “(b) How the transportation projects met the requirements of sec-
26 tion 44 of this 2019 Act; and

27 “(c) The results of the transportation projects in furthering the
28 purposes set forth in section 14 of this 2019 Act.

29 **“SECTION 55. Biennial expenditure audit.** (1) The Climate Policy
30 Office and the Department of Transportation jointly shall select an

1 independent third-party organization to prepare a biennial audit of:

2 “(a) All programs, projects or activities funded by moneys from the
3 Climate Investments Fund; and

4 “(b) All transportation projects funded by moneys from the Trans-
5 portation Decarbonization Investments Account.

6 “(2) The office and the department shall provide for the audit report
7 prepared by the independent third-party organization under this sec-
8 tion to be transmitted, together with the reports required under sec-
9 tion 54 of this 2019 Act, to the Oregon Transportation Commission, the
10 Governor, the Joint Committee on Climate Action and the Joint
11 Committee on Transportation.

12
13 “(Biennial Climate Action Investments Plan)

14
15 “SECTION 56. Definitions. As used in sections 57 and 59 of this 2019
16 Act:

17 “(1) ‘Best available science’ has the meaning given that term in
18 section 15 of this 2019 Act.

19 “(2) ‘Eligible Indian tribe’ has the meaning given that term in sec-
20 tion 15 of this 2019 Act.

21 “(3) ‘Impacted community’ has the meaning given that term in
22 section 15 of this 2019 Act.

23 “SECTION 57. Biennial climate action investment plan. (1) No later
24 than June 1 of each even-numbered year and in the manner provided
25 in ORS 192.245, the Climate Policy Office shall deliver a biennial cli-
26 mate action investment plan to the Environmental Justice Task Force,
27 the Oregon Transportation Commission, the Governor, the Joint
28 Committee on Climate Action and the Joint Committee on Transpor-
29 tation. The climate action investment plan shall identify the short-
30 term and long-term opportunities for uses of state proceeds from

1 auctions conducted under section 34 of this 2019 Act that further the
2 purposes set forth in section 14 of this 2019 Act and that are consistent
3 with the requirements of the Oregon Constitution.

4 **“(2) The biennial climate action investment plan must:**

5 **“(a) Be based on consideration of the best available science, and the**
6 **best economic information available, as of the time of the preparation**
7 **of the plan; and**

8 **“(b) Include an analysis of how the programs, projects and activities**
9 **that may be funded by the investment or expenditure of state proceeds**
10 **from auctions conducted under section 34 of this 2019 Act would serve**
11 **to effectively further the purposes set forth in section 14 of this 2019**
12 **Act.**

13 **“(3) In preparing the biennial climate action investment plan, the**
14 **office shall consult with:**

15 **“(a) The Department of Transportation, the Public Utility Com-**
16 **mission, the Environmental Justice Task Force and any other relevant**
17 **agencies of the executive department as defined in ORS 174.112;**

18 **“(b) Representatives of eligible Indian tribes; and**

19 **“(c) The citizens’ advisory committee required by subsection (4) of**
20 **this section.**

21 **“(4) The Director of the Climate Policy Office shall convene a**
22 **13-member citizens’ advisory committee to advise the office in carry-**
23 **ing out the requirements of this section. The members of the com-**
24 **mittee must reflect the geographic, socioeconomic, racial and cultural**
25 **diversity of this state and shall be appointed by the director as follows:**

26 **“(a) One member to represent the interests of urban environmental**
27 **justice communities.**

28 **“(b) One member to represent the interests of rural environmental**
29 **justice communities.**

30 **“(c) One member to represent eligible Indian tribes.**

1 “(d) One member to represent agriculture or forestry.

2 “(e) One member to represent fisheries.

3 “(f) One member to represent covered entities, as defined in section
4 15 of this 2019 Act.

5 “(g) One member to represent the clean energy industry.

6 “(h) One member to represent local governments.

7 “(i) One member to represent labor.

8 “(j) One member to represent environmental or conservation in-
9 terests.

10 “(k) One member who is a scientist at public university listed in
11 ORS 352.002 or Oregon Health and Science University.

12 “(L) One member to represent home weatherization interests.

13 “(m) One member to represent public health equity.

14 “SECTION 58. The Climate Policy Office shall deliver the first
15 biennial climate action investment plan as required by section 57 of
16 this 2019 Act no later than June 1, 2022.

17 “SECTION 59. Priorities for investment of moneys from Climate
18 Investments Fund. (1) In conducting the analysis required under sec-
19 tion 57 (2) of this 2019 Act for potential uses of moneys deposited in
20 the Climate Investments Fund, the Climate Policy Office shall give
21 first priority to considering whether a potential use will:

22 “(a) Further the state’s objectives in meeting the requirements
23 under section 46 of this 2019 Act for allocations of moneys deposited
24 in the Climate Investments Fund;

25 “(b) Benefit impacted communities;

26 “(c) Complement efforts to achieve and maintain local air quality;

27 “(d) Provide opportunities for eligible Indian tribes, members of
28 impacted communities and businesses owned by women or members
29 of minority groups to participate in and benefit from statewide efforts
30 to reduce greenhouse gas emissions, including technical assistance for

1 **businesses owned by women or members of minority groups, nonprofit**
2 **organizations and other community institutions that serve or repre-**
3 **sent impacted communities or low-income households;**

4 **“(e) Promote low carbon economic development opportunities and**
5 **the creation of jobs that sustain living wages; or**

6 **“(f) Aid households, businesses and workers in the transition to the**
7 **State of Oregon achieving the greenhouse gas emissions reduction**
8 **goals set forth in ORS 468A.205.**

9 **“(2) The analysis required by section 57 (2) of this 2019 Act shall**
10 **address use of moneys deposited in the Climate Investments Fund each**
11 **biennium in a manner that, in total, would result in:**

12 **“(a) An amount of moneys that is approximately equal to half of**
13 **the amount of moneys deposited in the Climate Investments Fund as**
14 **proceeds received through the purchase at auction of allowances by**
15 **EITE entities to be used to assist the EITE entities in using best**
16 **available technology; and**

17 **“(b) An amount of moneys that is approximately equal to half of**
18 **the amount of moneys deposited in the Climate Investments Fund as**
19 **proceeds received through the purchase of allowances related to**
20 **greenhouse gas emissions attributable to the direct combustion of**
21 **municipal solid waste to generate renewable energy to be used for**
22 **programs for reducing plastics-related greenhouse gas emissions.**

23 **“(3) In addition to and not exclusive of the considerations required**
24 **by subsections (1) and (2) of this section, the analysis for use of mon-**
25 **eys deposited in the Climate Investments Fund shall prioritize funding**
26 **to:**

27 **“(a) Reduce greenhouse gas emissions or promote adaptation or**
28 **resiliency through energy efficiency and energy conservation in**
29 **buildings, low-income weatherization and activities to address energy**
30 **burden in this state.**

1 **“(b) Reduce greenhouse gas emissions through electrical grid**
2 **decarbonization efforts, including but not limited to investments in**
3 **energy generation from renewable resources, distributed energy re-**
4 **sources, transmission and storage projects for renewable energy, de-**
5 **mand response, community solar projects and other community-scale**
6 **renewable energy projects.**

7 **“(c) Reduce greenhouse gas emissions associated with transporta-**
8 **tion, including but not limited to investments in transportation**
9 **electrification, compressed natural gas and hydrogen fuel vehicle**
10 **infrastructure, transit, fuel and energy efficiency in vessels powered**
11 **by marine engines and roadside landscape management efforts that**
12 **promote carbon sequestration.**

13 **“(d) Support planning or the implementation of planning by local**
14 **governments and metropolitan planning organizations for reducing**
15 **greenhouse gas emissions or promoting carbon sequestration, adapta-**
16 **tion or resilience.**

17 **“(e) Reduce greenhouse gas emissions, support greenhouse gas**
18 **sequestration or support adaptation or resiliency through investments**
19 **in natural and working lands, including but not limited to investments**
20 **in agricultural or forestry practices or forest products manufacturing**
21 **that serve to reduce greenhouse gas emissions or promote carbon**
22 **sequestration, wildfire prevention, restoration of tidal marsh or inter-**
23 **tidal areas of estuaries, irrigation efficiency projects, riparian zone**
24 **restoration projects, methane emissions reduction or recovery**
25 **projects, soil health and biomass pyrolysis projects.**

26 **“(f) Facilitate the development in Oregon of clean energy**
27 **infrastructure or technologies, low carbon infrastructure or technolo-**
28 **gies, carbon capture and storage or carbon-free infrastructure and**
29 **technologies.**

30 **“(g) Assist air contamination sources for which a permit is issued**

1 pursuant to ORS 468.065, 468A.040 or 468A.155 in reducing greenhouse
2 gas emissions.

3 “(h) Assist Oregon small and medium businesses in reducing
4 greenhouse gas emissions through the adoption of more emissions-
5 efficient equipment and processes, including but not limited to
6 retrofits, weatherization or equipment upgrades or replacements.

7 “(i) Strengthen the resilience of fish, wildlife and ecosystems in the
8 face of climate change through investments that include but are not
9 limited to projects involving instream flow acquisition and protection,
10 fish barrier removal, habitat restoration and enhancement and pro-
11 tection of wildlife corridors, cold water refugia areas and species
12 strongholds.

13 “(j) Protect sources of domestic drinking water.

14 “(k) Promote research by nonprofit organizations or public univer-
15 sities listed in ORS 352.002 into methods for reducing greenhouse gas
16 emissions, sequestering carbon or adapting to climate change, includ-
17 ing but not limited to research investigating feedstocks to reduce
18 emissions from dairy cows and cattle, research investigating crops and
19 agricultural practices that reduce greenhouse gas emissions or pro-
20 mote resilience to climate change, and research to promote resilience
21 to ocean acidification.

22 “(L) Provide youth training for employment in, and youth educa-
23 tional opportunities for, careers in the natural resources sector, the
24 clean technologies sector and other public or private sector jobs in
25 activities that serve to reduce greenhouse gas emissions.

26 “SECTION 60. Use of biennial climate investments plan in budget
27 process. In preparing the Governor’s budget as required under ORS
28 291.202, the Governor shall consider the recommendations contained
29 in the biennial climate action investment plan prepared by the Climate
30 Policy Office under section 57 of this 2019 Act.

1 **“SECTION 61. Environmental Justice Task Force review of biennial**
2 **climate action investment plan; report.** The Environmental Justice
3 Task Force shall review and develop recommendations in response to
4 the biennial climate action investment plan required under section 57
5 of this 2019 Act and shall, no later than August 1 of each even-
6 numbered year and in the manner provided in ORS 192.245, deliver a
7 report on the task force’s recommendations to the Governor and the
8 Joint Committee on Climate Action.

9
10 **“PROVISIONS RELATED TO THE PUBLIC UTILITY COMMISSION**

11
12 **“SECTION 62. Sections 63 to 68, 70 and 71 of this 2019 Act are added**
13 **to and made a part of ORS chapter 757.**

14 **“SECTION 63. As used in sections 63 to 68 of this 2019 Act:**

15 **“(1) ‘Allowance’ has the meaning given that term in section 15 of**
16 **this 2019 Act.**

17 **“(2) ‘Electric company’ has the meaning given that term in ORS**
18 **757.600.**

19 **“(3) ‘Natural gas utility’ has the meaning given that term in section**
20 **15 of this 2019 Act.**

21 **“(4) ‘Oregon Climate Action Program’ has the meaning given that**
22 **term in section 15 of this 2019 Act.**

23 **“SECTION 64. (1) If, rather than surrendering the allowances to**
24 **fulfill its compliance obligation, an electric company sells allowances**
25 **that were directly distributed at no cost to the electric company under**
26 **sections 18 and 20 of this 2019 Act, the Public Utility Commission shall**
27 **require the proceeds received by the electric company through the**
28 **sale:**

29 **“(a) To be spent by the electric company for the exclusive benefit**
30 **of retail customers that are supplied electricity by the electric com-**

1 pany; and

2 “(b) To be used only for activities that serve to reduce greenhouse
3 gas emissions or provide assistance to the electric company’s retail
4 customers, in furtherance of the purposes set forth in section 14 of
5 this 2019 Act.

6 “(2) Subject to subsection (1) of this section, an electric company
7 shall prioritize the use of proceeds received by the electric company
8 from the sale of allowances that were directly distributed at no cost
9 to the electric company for:

10 “(a) Providing weatherization, energy efficiency improvements, bill
11 assistance or rate assistance to the electric company’s low-income
12 residential customers;

13 “(b) Accelerated transportation electrification;

14 “(c) Investments and activities that serve to reduce greenhouse gas
15 emissions through actions such as energy efficiency improvements,
16 voltage optimization, portfolio optimization and renewable energy
17 procurement; and

18 “(d) Facilitating integration and utilization of variable energy re-
19 sources through investments in programs and technologies such as
20 demand response, smart grid communication and control systems, grid
21 connected end uses and energy storage.

22 “(3) An electric company that receives allowances directly distrib-
23 uted at no cost under sections 18 and 20 of this 2019 Act shall develop
24 a plan for the use of the allowances and file the plan with the com-
25 mission. The plan must be revised and updated on a schedule estab-
26 lished by the commission by rule. At a minimum, a plan must contain:

27 “(a) A strategy for the use of proceeds received by the electric
28 company from the sale of the allowances in compliance with this sec-
29 tion; and

30 “(b) A description of any previous uses of proceeds received by the

1 electric company from the sale of the allowances.

2 “(4) The commission shall, pursuant to ORS 756.040 and after con-
3 sultation with the Housing and Community Services Department,
4 adopt rules for the implementation and enforcement of this section.

5 “SECTION 65. (1) The Public Utility Commission, as trustee, shall
6 establish a separate trust account for the benefit of each natural gas
7 utility. Moneys in each trust account shall consist of proceeds from
8 the sale of allowances consigned to the state for auction, pursuant to
9 section 23 of this 2019 Act, by the natural gas utility for which the
10 trust account is established. The commission shall establish the trust
11 account with the State Treasurer for the natural gas utility. The State
12 Treasurer may invest moneys deposited in the trust accounts as pro-
13 vided in ORS 293.701 to 293.857. Interest earned by a trust account must
14 be credited to the account. Upon request by a natural gas utility, the
15 commission shall require the State Treasurer to transfer from the
16 natural gas utility’s trust account to the natural gas utility amounts
17 necessary to pay for programs or activities found to be consistent with
18 the plan required under subsection (2) of this section.

19 “(2) A natural gas utility shall develop a plan for meeting the re-
20 quirements of this section and file the plan for acknowledgment with
21 the commission as part of each of the natural gas utility’s integrated
22 resource plan filings, as further specified by the commission by rule.

23 “(3) A plan must:

24 “(a) Identify a portfolio of approaches in furtherance of the pur-
25 poses set forth in section 14 of this 2019 Act;

26 “(b) Provide that no less than 25 percent of the proceeds from the
27 sale of allowances consigned to the state for auction by the natural
28 gas utilities pursuant to section 23 of this 2019 Act be used for
29 nonvolumetric bill credits or other rate relief for residential, com-
30 mercial and industrial sales customers; and

1 “(c) Address the impacts of the regulated emissions attributable to
2 the natural gas utility with due consideration of the risks associated
3 with climate change and the need for urgent action to address
4 greenhouse gas reductions, through one or more of the following ap-
5 proaches:

6 “(A) Implementation of programs, activities or technologies de-
7 signed to reduce greenhouse gas emissions through weatherization and
8 more efficient residential, commercial and industrial use of natural
9 gas by sales customers, including programs for low and moderate in-
10 come residential customers;

11 “(B) Development of renewable natural gas or renewable hydrogen
12 infrastructure and the provision of renewable natural gas or renewable
13 hydrogen to the natural gas utility’s sales customers;

14 “(C) Provision of renewable thermal resources for sales customers;

15 “(D) Provision of natural gas or renewable natural gas to vehicles
16 and the necessary related infrastructure in the utility’s service terri-
17 tory as consistent with section 71 of this 2019 Act; or

18 “(E) Implementation of pilot projects or research, development and
19 demonstration activities to determine the cost and viability of activ-
20 ities described in subparagraphs (A) to (D) of this paragraph.

21 “(4) The commission may adopt rules for the implementation and
22 enforcement of this section.

23 “SECTION 66. (1) An electric company shall develop and file with
24 the Public Utility Commission an initial plan under section 64 of this
25 2019 Act no later than December 31, 2021.

26 “(2) A natural gas utility shall develop and file with the Public
27 Utility Commission an initial plan under section 65 of this 2019 Act no
28 later than June 30, 2021.

29 “SECTION 67. No later than September 15 of each even-numbered
30 year, the Public Utility Commission shall, in the manner provided by

1 **ORS 192.245, provide a report to the Joint Committee on Climate**
2 **Action and to the Climate Policy Office on:**

3 **“(1) How electric companies have made use of allowances that were**
4 **directly distributed at no cost to each electric company, including a**
5 **description of how any proceeds received by the electric company from**
6 **the sale of the allowances were used; and**

7 **“(2) How natural gas utilities have expended proceeds from the sale**
8 **of allowances consigned to the state for auction by the natural gas**
9 **utilities pursuant to section 23 of this 2019 Act.**

10 **“SECTION 68. The Public Utility Commission shall establish pro-**
11 **cesses and mechanisms to ensure timely cost recovery for prudent and**
12 **reasonable costs incurred by public utilities associated with compli-**
13 **ance with the Oregon Climate Action Program. The processes and**
14 **mechanisms shall be established to address situations in which com-**
15 **pliance with the Oregon Climate Action Program results in public**
16 **utilities incurring costs for which cost recovery mechanisms otherwise**
17 **authorized by law are not adequate.**

18 **“SECTION 69. ORS 757.259 is amended to read:**

19 **“757.259. (1) In addition to powers otherwise vested in the Public Utility**
20 **Commission, and subject to the limitations contained in this section, under**
21 **amortization schedules set by the commission, a rate or rate schedule:**

22 **“(a) May reflect:**

23 **“(A) Amounts lawfully imposed retroactively by order of another govern-**
24 **mental agency; or**

25 **“(B) Amounts deferred under subsection (2) of this section.**

26 **“(b) Shall reflect amounts deferred under subsection (3) of this section if**
27 **the public utility so requests.**

28 **“(2) Upon application of a utility or ratepayer or upon the commission’s**
29 **own motion and after public notice, opportunity for comment and a hearing**
30 **if any party requests a hearing, the commission by order may authorize**

1 deferral of the following amounts for later incorporation in rates:

2 “(a) Amounts incurred by a utility resulting from changes in the whole-
3 sale price of natural gas or electricity approved by the Federal Energy Reg-
4 ulatory Commission;

5 “(b) Balances resulting from the administration of Section 5(c) of the
6 Pacific Northwest Electric Power Planning and Conservation Act of 1980;

7 “(c) Direct or indirect costs arising from any purchase made by a public
8 utility from the Bonneville Power Administration pursuant to ORS 757.663,
9 provided that such costs shall be recovered only from residential and small-
10 farm retail electricity consumers;

11 “(d) Amounts accruing under a plan for the protection of short-term
12 earnings under ORS 757.262 (2); or

13 “(e) Identifiable utility [*expenses*] **costs** or revenues, **including the cost**
14 **of capital**, the recovery or refund of which the commission finds should be
15 deferred in order to minimize the frequency of rate changes or the fluctu-
16 ation of rate levels or to match appropriately the costs borne by and benefits
17 received by ratepayers.

18 “(3) Upon request of the public utility, the commission by order shall al-
19 low deferral of amounts provided as financial assistance under an agreement
20 entered into under ORS 757.072 for later incorporation in rates.

21 “(4) The commission may authorize deferrals under subsection (2) of this
22 section beginning with the date of application, together with interest estab-
23 lished by the commission. A deferral may be authorized for a period not to
24 exceed 12 months beginning on or after the date of application. However,
25 amounts deferred under subsection (2)(c) and (d) or (3) of this section are not
26 subject to subsection (5), (6), (7), (8) or (10) of this section, but are subject
27 to such limitations and requirements that the commission may prescribe and
28 that are consistent with the provisions of this section.

29 “(5) Unless subject to an automatic adjustment clause under ORS 757.210
30 (1), amounts described in this section shall be allowed in rates only to the

1 extent authorized by the commission in a proceeding under ORS 757.210 to
2 change rates and upon review of the utility's earnings at the time of appli-
3 cation to amortize the deferral. The commission may require that amorti-
4 zation of deferred amounts be subject to refund. The commission's final
5 determination on the amount of deferrals allowable in the rates of the utility
6 is subject to a finding by the commission that the amount was prudently
7 incurred by the utility.

8 “(6) Except as provided in subsections (7), (8) and (10) of this section, the
9 overall average rate impact of the amortizations authorized under this sec-
10 tion in any one year may not exceed three percent of the utility's gross
11 revenues for the preceding calendar year.

12 “(7) The commission may allow an overall average rate impact greater
13 than that specified in subsection (6) of this section for natural gas commod-
14 ity and pipeline transportation costs incurred by a natural gas utility if the
15 commission finds that allowing a higher amortization rate is reasonable un-
16 der the circumstances.

17 “(8) The commission may authorize amortizations for an electric utility
18 under this section with an overall average rate impact not to exceed six
19 percent of the electric utility's gross revenues for the preceding calendar
20 year. If the commission allows an overall average rate impact greater than
21 that specified in subsection (6) of this section, the commission shall estimate
22 the electric utility's cost of capital for the deferral period and may also
23 consider estimated changes in the electric utility's costs and revenues during
24 the deferral period for the purpose of reviewing the earnings of the electric
25 utility under the provisions of subsection (5) of this section.

26 “(9) The commission may impose requirements similar to those described
27 in subsection (8) of this section for the amortization of other deferrals under
28 this section, but may not impose such requirements for deferrals under sub-
29 section (2)(c) or (d) or (3) of this section.

30 “(10) The commission may authorize amortization of a deferred amount

1 for an electric utility under this section with an overall average rate impact
2 greater than that allowed by subsections (6) and (8) of this section if:

3 “(a) The deferral was directly related to extraordinary power supply ex-
4 penses incurred during 2001;

5 “(b) The amount to be deferred was greater than 40 percent of the revenue
6 received by the electric utility in 2001 from Oregon customers; and

7 “(c) The commission determines that the higher rate impact is reasonable
8 under the circumstances.

9 “(11) If the commission authorizes amortization of a deferred amount un-
10 der subsection (10) of this section, an electric utility customer that uses more
11 than one average megawatt of electricity at any site in the immediately
12 preceding calendar year may prepay the customer’s share of the deferred
13 amount. The commission shall adopt rules governing the manner in which:

14 “(a) The customer’s share of the deferred amount is calculated; and

15 “(b) The customer’s rates are to be adjusted to reflect the prepayment of
16 the deferred amount.

17 “(12) The provisions of this section do not apply to a telecommunications
18 utility.

19 **“SECTION 70. The Public Utility Commission may, in such manner**
20 **as the commission considers proper, allow a rate or rate schedule of**
21 **a public utility to include differential rates or to reflect amounts for**
22 **programs that enable the public utility to assist low-income residential**
23 **customers. Rates or rate schedules allowed under this section must**
24 **minimize the shifting of costs to ratepayers that do not qualify for**
25 **low-income assistance.**

26 **“SECTION 71. (1) As used in this section:**

27 **“(a) ‘Electric company’ has the meaning given that term in ORS**
28 **757.600.**

29 **“(b) ‘Natural gas utility’ means a natural gas utility regulated by**
30 **the Public Utility Commission under this chapter.**

1 “(2) The Public Utility Commission may allow a rate or rate sched-
2 ule of an electric company or natural gas utility to reflect amounts for
3 investments in infrastructure measures that support the adoption of
4 alternative forms of transportation vehicles if the investments are
5 consistent with and meet the requirements of subsection (3) of this
6 section.

7 “(3) An investment in infrastructure measures that support the
8 adoption of alternative forms of transportation vehicles is a utility
9 service and a benefit to utility ratepayers if:

10 “(a) The infrastructure measures will support the adoption of al-
11 ternative vehicles that are powered by electricity, compressed natural
12 gas or hydrogen; and

13 “(b) The investment can be reasonably anticipated to:

14 “(A) Cost-effectively reduce transportation sector greenhouse gas
15 emissions over time; and

16 “(B) Benefit the electric company’s or natural gas utility’s cus-
17 tomers. Benefits may include, but need not be limited to:

18 “(i) Distribution or transmission management benefits;

19 “(ii) System efficiencies or other economic values inuring to the
20 benefit of ratepayers over the long term; or

21 “(iii) Increased ratepayer choice by providing greater deployment
22 of a variety of fueling technologies to increase availability and access
23 to publicly available fueling stations for alternative forms of trans-
24 portation vehicles.

25 “**SECTION 72.** Section 12, chapter 751, Oregon Laws 2009, is amended to
26 read:

27 “**Sec. 12.** Section 9 [*of this 2009 Act*], chapter 751, Oregon Laws 2009,
28 is repealed on [*January 2, 2020*] the effective date of this 2019 Act.

29

30 “**BIENNIAL STATEWIDE ENERGY BURDEN REPORT**”

1 **“SECTION 73. (1) No later than November 1 of each even-numbered**
2 **year, the Housing and Community Services Department and the State**
3 **Department of Energy shall jointly transmit to the Governor and the**
4 **Legislative Assembly a biennial statewide energy burden report. The**
5 **Housing and Community Services Department and the State Depart-**
6 **ment of Energy shall jointly adopt rules for gathering data necessary**
7 **to prepare the report. In adopting rules under this section, the Hous-**
8 **ing and Community Services Department and the State Department**
9 **of Energy shall consult with consumer-owned utilities as defined in**
10 **ORS 757.600 regarding the availability and collection of data necessary**
11 **to develop the report.**

12 **“(2) The purposes of the biennial statewide energy burden report**
13 **are to:**

14 **“(a) Establish a baseline for assessing the energy burden experi-**
15 **enced by the residents of this state on a statewide level, by county and**
16 **by utility service territory, and for assessing the differences in re-**
17 **gional or demographic data that may impact the energy burden expe-**
18 **rienced;**

19 **“(b) Develop and maintain an inventory of all programs in Oregon**
20 **that contribute to reducing energy burden that are funded through**
21 **state, federal or utility programs and include in the inventory a de-**
22 **scription of the annual funding necessary for each program and the**
23 **sources for funding received;**

24 **“(c) Explore new statewide mechanisms for reducing energy burden,**
25 **with an emphasis on addressing the specific needs of renters, mobile**
26 **home and manufactured dwelling park residents and residents of**
27 **multifamily housing;**

28 **“(d) Develop and provide recommendations for restructuring pro-**
29 **grams or for creating new programs to enhance efforts for addressing**
30 **energy burden in this state; and**

1 “(e) Develop and provide recommendations for improving the de-
2 livery of services for reducing energy burden by improving data gath-
3 ering and knowledge sharing between state agencies, utilities,
4 community action agencies and other organizations that implement
5 energy assistance programs.

6 “(3) The Housing and Community Services Department, in consul-
7 tation with the State Department of Energy, shall convene an Energy
8 Burden and Poverty Working Group to provide guidance and assist-
9 ance to the departments in developing the biennial statewide energy
10 burden report. The working group shall include representatives of
11 low-income and environmental justice communities, consumer-owned
12 utilities, investor-owned utilities, at least one community action
13 agency and organizations that implement energy assistance on a
14 statewide level. The Housing and Community Services Department
15 shall provide staff support to the working group. The working group
16 shall meet regularly, as is necessary for the working group to review
17 the statewide progress in addressing energy burden since issuance of
18 the previous biennial statewide energy burden report and to assist in
19 developing the upcoming biennial statewide energy burden report.

20
21 **“GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**

22 **“(Amendments to Statutes, Operative on Effective Date of Act)**

23
24 **“SECTION 74.** ORS 468A.280 is amended to read:

25 “468A.280. *[(1) In addition to any registration and reporting that may be*
26 *required under ORS 468A.050, the Environmental Quality Commission by rule*
27 *may require registration and reporting by:]*

28 **“(1) As used in this section:**

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

1 **“(b) ‘Greenhouse gas’ has the meaning given that term in section**
2 **15 of this 2019 Act.**

3 **“(2) The Environmental Quality Commission by rule may require**
4 **registration and reporting of information necessary to determine**
5 **greenhouse gas emissions by:**

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

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

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

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

21 **“[(2)] (4) Rules adopted by the commission under this section for elec-**
22 **tricity that is imported, sold, allocated or distributed for use in this state**
23 **may require reporting of information necessary to determine greenhouse gas**
24 **emissions from generating facilities used to produce the electricity and re-**
25 **lated electricity transmission line losses.**

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

1 commission for each individual utility.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “[*iii*] *Electricity purchases for which a renewable energy certificate under*
4 *ORS 469A.130 has been issued but subsequently transferred or sold to a person*
5 *other than the electric company;*]

6 “[*iv*] **(iii)** Electricity transmitted for others by the electric company; and

7 “[*v*] **(iv)** Total energy losses from electricity transmission and distrib-
8 ution equipment owned or operated by the electric company.

9 “(b) Pursuant to paragraph (a) of this subsection, a [*multijurisdictional*]
10 **multistate jurisdictional** electric company may rely upon a cost allocation
11 methodology approved by the Public Utility Commission for reporting emis-
12 sions allocated in this state.

13 “[*5*] **(7)** Rules adopted by the commission under this section for [*fossil*]
14 fuel that is imported, sold or distributed for use in this state may require
15 reporting of the type and quantity of the fuel and any additional information
16 necessary to determine the [*carbon content*] **greenhouse gas emissions as-**
17 **sociated with the use or combustion** of the fuel. [*For the purpose of de-*
18 *termining greenhouse gas emissions related to liquefied petroleum gas, the*
19 *commission shall allow reporting using publications or submission of data by*
20 *the American Petroleum Institute but may require reporting of such other in-*
21 *formation necessary to achieve the purposes of the rules adopted by the com-*
22 *mission under this section.*]

23 “[*6*] **(8)** To an extent that is consistent with the purposes of the rules
24 adopted by the commission under this section, the commission shall minimize
25 the burden of the reporting required under this section by:

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

28 “(b) Allowing electronic reporting;

29 “(c) Allowing use of good engineering practice calculations in reports, or
30 of emission factors published by the United States Environmental Protection

1 Agency;

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

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

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

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

11 **“(9) The commission may adjust by rule the registration and re-**
12 **porting requirements under subsection (2) of this section if necessary**
13 **to accommodate participation in an energy imbalance market by per-**
14 **sons that import, sell, allocate or distribute electricity, or as necessary**
15 **to otherwise address developments in electricity markets.**

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

21 **“(11) If a person required to register and report under subsection**
22 **(2) of this section fails to submit a report under this section, the de-**
23 **partment may develop an assigned emissions level for the person if**
24 **necessary for the purpose of regulating persons under sections 15 to**
25 **40 of this 2019 Act.**

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

1 compensation as provided by law.

2 “(3) The Governor shall resolve any dispute between the Depart-
3 ment of Environmental Quality and the Climate Policy Office relating
4 to transfers of records, property and employees under this section, and
5 the Governor’s decision is final.

6 **“SECTION 77. Unexpended revenues. (1) The unexpended balances**
7 **of amounts authorized to be expended by the Environmental Quality**
8 **Commission or the Department of Environmental Quality for the**
9 **biennium beginning July 1, 2021, from revenues dedicated, contin-**
10 **uously appropriated, appropriated or otherwise made available for the**
11 **purpose of administering and enforcing the duties, functions and**
12 **powers transferred by section 75 of this 2019 Act are transferred to and**
13 **are available for expenditure by the Climate Policy Office for the**
14 **biennium beginning July 1, 2021, for the purpose of administering and**
15 **enforcing the duties, functions and powers transferred by section 75**
16 **of this 2019 Act.**

17 “(2) The expenditure classifications, if any, established by Acts au-
18 thorizing or limiting expenditures by the Department of Environ-
19 mental Quality remain applicable to expenditures by the Climate
20 Policy Office under this section.

21 **“SECTION 78. Action, proceeding, prosecution. The transfer of du-**
22 **ties, functions and powers to the Climate Policy Office by section 75**
23 **of this 2019 Act does not affect any action, proceeding or prosecution**
24 **involving or with respect to the duties, functions and powers begun**
25 **before and pending at the time of the transfer, except that the Climate**
26 **Policy Office is substituted for the Environmental Quality Commission**
27 **or the Department of Environmental Quality, as appropriate, in the**
28 **action, proceeding or prosecution.**

29 **“SECTION 79. Liability, duty, obligation. (1) Nothing in sections 75**
30 **to 81 of this 2019 Act relieves a person of a liability, duty or obligation**

1 accruing under or with respect to the duties, functions and powers
2 transferred by section 75 of this 2019 Act. The Climate Policy Office
3 may undertake the collection or enforcement of any such liability,
4 duty or obligation.

5 “(2) The rights and obligations of the Environmental Quality Com-
6 mission or the Department of Environmental Quality legally incurred
7 under contracts, leases and business transactions executed, entered
8 into or begun before the operative date of section 75 of this 2019 Act
9 accruing under or with respect to the duties, functions and powers
10 transferred by section 75 of this 2019 Act are transferred to the Climate
11 Policy Office. For the purpose of succession to these rights and obli-
12 gations, the Climate Policy Office is a continuation of the Environ-
13 mental Quality Commission or the Department of Environmental
14 Quality, as appropriate, and not a new authority.

15 “SECTION 80. Rules. (1) Notwithstanding the transfer of duties,
16 functions and powers by section 75 of this 2019 Act, the rules of the
17 Environmental Quality Commission with respect to such duties, func-
18 tions or powers that are in effect on the operative date of section 75
19 of this 2019 Act continue in effect until superseded or repealed by rules
20 of the Climate Policy Office. References in the rules of the Environ-
21 mental Quality Commission to the Environmental Quality Commission
22 are considered to be references to the Director of the Climate Policy
23 Office. References in the rules of the Environmental Quality Com-
24 mission to the Department of Environmental Quality or an officer or
25 employee of the Department of Environmental Quality are considered
26 to be references to the Climate Policy Office or an officer or employee
27 of the Climate Policy Office.

28 “(2) Whenever, in any uncodified law or resolution of the Legisla-
29 tive Assembly or in any rule, document, record or proceeding author-
30 ized by the Legislative Assembly, in the context of the duties,

1 functions and powers transferred by section 75 of this 2019 Act, refer-
2 ence is made to the Environmental Quality Commission, with relation
3 to the duties, functions or powers transferred by section 75 of this 2019
4 Act, the reference is considered to be a reference to the Director of
5 the Climate Policy Office for purposes of being charged by the terms
6 of this 2019 Act with carrying out the duties, functions and powers.

7 “(3) Whenever, in any uncodified law or resolution of the Legisla-
8 tive Assembly or in any rule, document, record or proceeding author-
9 ized by the Legislative Assembly, in the context of the duties,
10 functions and powers transferred by section 75 of this 2019 Act, refer-
11 ence is made to the Department of Environmental Quality, or an of-
12 ficer or employee of the Department of Environmental Quality, whose
13 duties, functions or powers are transferred by section 75 of this 2019
14 Act, the reference is considered to be a reference to the Climate Policy
15 Office or an officer or employee of the Climate Policy Office who by
16 this 2019 Act is charged with carrying out the duties, functions and
17 powers.

18

19 “(Housekeeping in ORS)

20

21 “SECTION 81. Notwithstanding any other provision of law, ORS
22 468A.280 shall not be considered to have been added to or made a part
23 of ORS chapter 468A for the purpose of statutory compilation or for
24 the application of definitions, penalties or administrative provisions
25 applicable to statute sections in that series.

26

27 “(Conforming Amendments)

28

29 “SECTION 82. ORS 468A.280, as amended by section 74 of this 2019 Act,
30 is amended to read:

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

2 “(a) ‘Air contamination source’ has the meaning given that term in ORS
3 468A.005.

4 “(b) ‘Greenhouse gas’ has the meaning given that term in section 15 of
5 this 2019 Act.

6 “(2) The [*Environmental Quality Commission*] **Climate Policy Office** by
7 rule may require registration and reporting of information necessary to de-
8 termine greenhouse gas emissions by:

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

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

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

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

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

28 “(5)(a) The [*commission*] **office** shall allow consumer-owned utilities, as
29 defined in ORS 757.270, to comply with reporting requirements imposed under
30 this section by the submission of a report prepared by a third party. A report

1 submitted under this paragraph may include information for more than one
2 consumer-owned utility, but must include all information required by the
3 [commission] **office** for each individual utility.

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

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

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

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

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

20 “(B) The number of megawatt-hours of electricity generated by the elec-
21 tric company for use in this state;

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

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

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

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

28 “(E) An estimate of the amount of greenhouse gas emissions attributable
29 to:

30 “(i) Electricity purchases made by a particular seller to the electric

1 company;

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

4 “(iii) Electricity transmitted for others by the electric company; and

5 “(iv) Total energy losses from electricity transmission and distribution
6 equipment owned or operated by the electric company.

7 “(b) Pursuant to paragraph (a) of this subsection, a multistate jurisdic-
8 tional electric company may rely upon a cost allocation methodology ap-
9 proved by the Public Utility Commission for reporting emissions allocated
10 in this state.

11 “(7) Rules adopted by the [*commission*] **office** under this section for fuel
12 that is imported, sold or distributed for use in this state may require re-
13 porting of the type and quantity of the fuel and any additional information
14 necessary to determine the greenhouse gas emissions associated with the use
15 or combustion of the fuel.

16 “(8) To an extent that is consistent with the purposes of the rules adopted
17 by the [*commission*] **office** under this section, the [*commission*] **office** shall
18 minimize the burden of the reporting required under this section by:

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

21 “(b) Allowing electronic reporting;

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

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

27 “(e) Requiring reporting by the fewest number of persons in a fuel dis-
28 tribution system that will allow the [*commission*] **office** to acquire the in-
29 formation needed by the [*commission*] **office**; or

30 “(f) Other appropriate means and procedures determined by the [*commis-*

1 *sion*] **office**.

2 “(9) The [*commission*] **office** may adjust by rule the registration and re-
3 porting requirements under subsection (2) of this section if necessary to ac-
4 commodate participation in an energy imbalance market by persons that
5 import, sell, allocate or distribute electricity, or as necessary to otherwise
6 address developments in electricity markets.

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

12 “(11) If a person required to register and report under subsection (2) of
13 this section fails to submit a report under this section, the [*department*] **of-**
14 **office** may develop an assigned emissions level for the person if necessary for
15 the purpose of regulating persons under sections 15 to 40 of this 2019 Act.

16 “(12)(a) By rule, the [*commission*] **office** may establish a schedule of fees
17 for registration and reporting under this section. Before establishing fees
18 pursuant to this subsection, the [*commission*] **office** shall consider the total
19 fees for each person subject to registration and reporting under this section.

20 “(b) The [*commission*] **office** shall limit the fees established under this
21 subsection to the anticipated cost of developing, implementing and analyzing
22 data collected under greenhouse gas emissions registration and reporting
23 programs.

24 “(c) **All fees collected by the office under this section shall be de-**
25 **posited with the State Treasurer to the credit of the Oregon Climate**
26 **Action Program Operating Fund established under section 39 of this**
27 **2019 Act.**

28 “(13) Emissions data submitted to the [*department*] **office** under this sec-
29 tion is public information and may not be designated as confidential for
30 purposes of disclosure under the public records law, ORS 192.311 to 192.478.

1 **SECTION 83.** Section 39 of this 2019 Act is amended to read:

2 **“Sec. 39.** (1) The Oregon Climate Action Program Operating Fund is es-
3 tablished in the State Treasury, separate and distinct from the General Fund.
4 Interest earned by the Oregon Climate Action Program Operating Fund shall
5 be credited to the fund. Moneys in the Oregon Climate Action Program
6 Operating Fund are continuously appropriated to the Oregon Department of
7 Administrative Services for use by the Climate Policy Office in the per-
8 formance of the duties, functions and powers vested in the office by law.

9 “(2) The Oregon Climate Action Program Operating Fund shall consist
10 of:

11 “(a) Moneys deposited in the fund pursuant to sections 12, 34 and 35 of
12 this 2019 Act **and ORS 468A.280**;

13 “(b) Moneys appropriated or otherwise transferred to the fund by the
14 Legislative Assembly; and

15 “(c) Other moneys deposited in the fund from any source.

16 “(3) Civil penalties deposited in the fund under section 12 of this 2019
17 Act shall be deposited in a separate subaccount created in the fund and must
18 be used only for providing technical assistance to covered entities and opt-in
19 entities.

20 “(4) The proceeds from sales of allowances at the hard price ceiling pur-
21 suant to section 34 (8) of this 2019 Act shall be deposited in a separate sub-
22 account created in the fund and must be used by the office only for the
23 purchase and retirement of offset credits.

24 **“(5) Moneys deposited in the fund from the collection of fees under**
25 **ORS 468A.280 may only be used to develop, and to implement and an-**
26 **alyze data collected under, greenhouse gas emissions registration and**
27 **reporting programs pursuant to ORS 468A.280.**

28 **SECTION 84.** Section 11 of this 2019 Act is amended to read:

29 **“Sec. 11.** (1) Whenever the Climate Policy Office has good cause to be-
30 lieve that any person is engaged in or is about to engage in any acts or

1 practices that constitute a violation of sections 15 to 40 of this 2019 Act **or**
2 **ORS 468A.280**, or any rule, standard or order adopted or entered pursuant
3 to sections 15 to 40 of this 2019 Act **or ORS 468A.280**, the office may insti-
4 tute actions or proceedings for legal or equitable remedies to enforce com-
5 pliance or to restrain further violations.

6 “(2) The proceedings authorized by subsection (1) of this section may be
7 instituted without the necessity of prior agency notice, hearing and order,
8 or during an agency hearing if the hearing has been initially commenced by
9 the office.

10 “(3) The provisions of this section are in addition to and not in substi-
11 tution of any other civil or criminal enforcement provisions available to the
12 office.

13 **“SECTION 85.** Section 12 of this 2019 Act is amended to read:

14 **“Sec. 12.** (1) As used in this section:

15 “(a) ‘Intentional’ means conduct by a person with a conscious objective
16 to cause the result of the conduct.

17 “(b) ‘Reckless’ means conduct by a person who is aware of and con-
18 sciously disregards a substantial and unjustifiable risk that the result will
19 occur or that the circumstance exists. The risk must be of such nature and
20 degree that disregard thereof constitutes a gross deviation from the standard
21 of care a reasonable person would observe in that situation.

22 “(2) In addition to any other liability or penalty provided by law, the
23 Climate Policy Office may impose a civil penalty on a person for any of the
24 following:

25 “(a) A violation of a provision of sections 15 to 40 of this 2019 Act or
26 rules adopted under sections 15 to 40 of this 2019 Act.

27 **“(b) A violation of ORS 468A.280 or rules adopted under ORS**
28 **468A.280.**

29 “[*b*] (c) Submitting any record, information or report required by
30 sections 15 to 40 of this 2019 Act **or ORS 468A.280** or rules adopted under

1 sections 15 to 40 of this 2019 Act or **ORS 468A.280** that falsifies or conceals
2 a material fact or makes any false or fraudulent representation.

3 “(3) Each day of violation under subsection (2) of this section constitutes
4 a separate offense.

5 “(4)(a) The office shall adopt by rule a schedule of civil penalties that
6 may be imposed for violations described in subsection (2) of this section.
7 Except as provided in paragraphs (b) and (c) of this subsection, a civil pen-
8 alty may not exceed \$10,000 per offense.

9 “(b) Except as provided in paragraph (c) of this subsection, the civil
10 penalty for a violation described in subsection (2) of this section arising from
11 an intentional, reckless or negligent act may not exceed \$25,000 per offense.

12 “(c) In addition to any other civil penalty provided by law, the civil pen-
13 alty for a violation described in subsection (2) of this section may include
14 an amount equal to an estimate of the economic benefit received as a result
15 of the violation.

16 “(5) In imposing a civil penalty pursuant to this section, the office shall
17 consider the following factors:

18 “(a) The history of the person incurring the civil penalty in taking all
19 feasible steps or procedures necessary or appropriate to correct any vio-
20 lation.

21 “(b) Any actions taken by the person to mitigate the violation.

22 “(c) Any prior act that resulted in a violation described in subsection (2)
23 of this section.

24 “(d) The economic and financial conditions of the person incurring the
25 civil penalty.

26 “(e) The gravity and magnitude of the violation.

27 “(f) Whether the violation was repeated or continuous.

28 “(g) Whether the cause of the violation was an unavoidable accident,
29 negligence or an intentional act.

30 “(h) The person’s cooperativeness and efforts to correct the violation.

1 “(i) Whether the person incurring the civil penalty gained an economic
2 benefit as a result of the violation.

3 “(6) Civil penalties under this section must be imposed in the manner
4 provided by ORS 183.745. All civil penalties recovered under this section
5 shall be paid to the Oregon Department of Administrative Services for de-
6 posit with the State Treasurer to the credit of the Oregon Climate Action
7 Program Operating Fund established under section 39 of this 2019 Act and
8 may be used only pursuant to section 39 (3) of this 2019 Act.

9 **“SECTION 86.** ORS 468.953, as amended by section 13 of this 2019 Act,
10 is amended to read:

11 “468.953. (1) A person commits the crime of supplying false information
12 to any agency if the person:

13 “(a) Makes any false material statement, representation or certification
14 knowing it to be false, in any application, notice, plan, record, report or
15 other document required by any provision of **ORS 468.280** or ORS chapter
16 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act or any rule
17 adopted pursuant to **ORS 468A.280** or ORS chapter 465, 466, 468, 468A or
18 468B or sections 15 to 40 of this 2019 Act;

19 “(b) Omits any material or required information, knowing it to be re-
20 quired, from any document described in paragraph (a) of this subsection; or

21 “(c) Alters, conceals or fails to file or maintain any document described
22 in paragraph (a) of this subsection in knowing violation of any provision of
23 **ORS 468A.280** or ORS chapter 465, 466, 468, 468A or 468B or sections 15 to
24 40 of this 2019 Act or any rule adopted pursuant to **ORS 468A.280** or ORS
25 chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act.

26 “(2) Supplying false information is a Class C felony.

27

28 **“ENERGY FACILITY CARBON DIOXIDE EMISSIONS STANDARDS**

29 **“(Repeal of Carbon Dioxide Emissions Standards)**

30

1 **“SECTION 87.** ORS 469.503 is amended to read:

2 “469.503. In order to issue a site certificate, the Energy Facility Siting
3 Council shall determine that the preponderance of the evidence on the record
4 supports the following conclusions:

5 “(1) The facility complies with the applicable standards adopted by the
6 council pursuant to ORS 469.501 or the overall public benefits of the facility
7 outweigh any adverse effects on a resource or interest protected by the ap-
8 plicable standards the facility does not meet.

9 “[(2) *If the energy facility is a fossil-fueled power plant, the energy facility*
10 *complies with any applicable carbon dioxide emissions standard adopted by the*
11 *council or enacted by statute. Base load gas plants shall comply with the*
12 *standard set forth in subsection (2)(a) of this section. Other fossil-fueled power*
13 *plants shall comply with any applicable standard adopted by the council by*
14 *rule pursuant to subsection (2)(b) of this section. Subsections (2)(c) and (d)*
15 *of this section prescribe the means by which an applicant may comply with the*
16 *applicable standard.*]

17 “[(a) *The net carbon dioxide emissions rate of the proposed base load gas*
18 *plant shall not exceed 0.70 pounds of carbon dioxide emissions per kilowatt*
19 *hour of net electric power output, with carbon dioxide emissions and net elec-*
20 *tric power output measured on a new and clean basis. Notwithstanding the*
21 *foregoing, the council may by rule modify the carbon dioxide emissions stand-*
22 *ard for base load gas plants if the council finds that the most efficient stand-*
23 *alone combined cycle, combustion turbine, natural gas-fired energy facility that*
24 *is commercially demonstrated and operating in the United States has a net*
25 *heat rate of less than 7,200 Btu per kilowatt hour higher heating value ad-*
26 *justed to ISO conditions. In modifying the carbon dioxide emission standard,*
27 *the council shall determine the rate of carbon dioxide emissions per kilowatt*
28 *hour of net electric output of such energy facility, adjusted to ISO conditions,*
29 *and reset the carbon dioxide emissions standard at 17 percent below this*
30 *rate.*]

1 “[(b) *The council shall adopt carbon dioxide emissions standards for other*
2 *types of fossil-fueled power plants. Such carbon dioxide emissions standards*
3 *shall be promulgated by rule. In adopting or amending such carbon dioxide*
4 *emissions standards, the council shall consider and balance at least the fol-*
5 *lowing principles, the findings on which shall be contained in the rulemaking*
6 *record:]*

7 “[(A) *Promote facility fuel efficiency;*]

8 “[(B) *Promote efficiency in the resource mix;*]

9 “[(C) *Reduce net carbon dioxide emissions;*]

10 “[(D) *Promote cogeneration that reduces net carbon dioxide emissions;*]

11 “[(E) *Promote innovative technologies and creative approaches to mitigat-*
12 *ing, reducing or avoiding carbon dioxide emissions;*]

13 “[(F) *Minimize transaction costs;*]

14 “[(G) *Include an alternative process that separates decisions on the form*
15 *and implementation of offsets from the final decision on granting a site cer-*
16 *tificate;*]

17 “[(H) *Allow either the applicant or third parties to implement offsets;*]

18 “[(I) *Be attainable and economically achievable for various types of power*
19 *plants;*]

20 “[(J) *Promote public participation in the selection and review of offsets;*]

21 “[(K) *Promote prompt implementation of offset projects;*]

22 “[(L) *Provide for monitoring and evaluation of the performance of offsets;*
23 *and]*

24 “[(M) *Promote reliability of the regional electric system.*]

25 “[(c) *The council shall determine whether the applicable carbon dioxide*
26 *emissions standard is met by first determining the gross carbon dioxide emis-*
27 *sions that are reasonably likely to result from the operation of the proposed*
28 *energy facility. Such determination shall be based on the proposed design of*
29 *the energy facility. The council shall adopt site certificate conditions to ensure*
30 *that the predicted carbon dioxide emissions are not exceeded on a new and*

1 clean basis. For any remaining emissions reduction necessary to meet the ap-
2 plicable standard, the applicant may elect to use any of subparagraphs (A) to
3 (D) of this paragraph, or any combination thereof. The council shall determine
4 the amount of carbon dioxide or other greenhouse gas emissions reduction that
5 is reasonably likely to result from the applicant's offsets and whether the re-
6 sulting net carbon dioxide emissions meet the applicable carbon dioxide emis-
7 sions standard. For purposes of determining the net carbon dioxide emissions,
8 the council shall by rule establish the global warming potential of each
9 greenhouse gas based on a generally accepted scientific method, and convert
10 any greenhouse gas emissions to a carbon dioxide equivalent. Unless otherwise
11 provided by the council by rule, the global warming potential of methane is
12 23 times that of carbon dioxide, and the global warming potential of nitrous
13 oxide is 296 times that of carbon dioxide. If the council or a court on judicial
14 review concludes that the applicant has not demonstrated compliance with the
15 applicable carbon dioxide emissions standard under subparagraphs (A), (B)
16 or (D) of this paragraph, or any combination thereof, and the applicant has
17 agreed to meet the requirements of subparagraph (C) of this paragraph for any
18 deficiency, the council or a court shall find compliance based on such agree-
19 ment.]

20 “[A] The facility will sequentially produce electrical and thermal energy
21 from the same fuel source, and the thermal energy will be used to displace
22 another source of carbon dioxide emissions that would have otherwise contin-
23 ued to occur, in which case the council shall adopt site certificate conditions
24 ensuring that the carbon dioxide emissions reduction will be achieved.]

25 “[B] The applicant or a third party will implement particular offsets, in
26 which case the council may adopt site certificate conditions ensuring that the
27 proposed offsets are implemented but shall not require that predicted levels of
28 avoidance, displacement or sequestration of greenhouse gas emissions be
29 achieved. The council shall determine the quantity of greenhouse gas emissions
30 reduction that is reasonably likely to result from each of the proposed offsets

1 based on the criteria in sub-subparagraphs (i) to (iii) of this subparagraph. In
2 making this determination, the council shall not allow credit for offsets that
3 have already been allocated or awarded credit for greenhouse gas emissions
4 reduction in another regulatory setting. In addition, the fact that an applicant
5 or other parties involved with an offset may derive benefits from the offset
6 other than the reduction of greenhouse gas emissions is not, by itself, a basis
7 for withholding credit for an offset.]

8 “[i] The degree of certainty that the predicted quantity of greenhouse gas
9 emissions reduction will be achieved by the offset;]

10 “[ii] The ability of the council to determine the actual quantity of
11 greenhouse gas emissions reduction resulting from the offset, taking into con-
12 sideration any proposed measurement, monitoring and evaluation of mitigation
13 measure performance; and]

14 “[iii] The extent to which the reduction of greenhouse gas emissions would
15 occur in the absence of the offsets.]

16 “[C] The applicant or a third party agrees to provide funds in an amount
17 deemed sufficient to produce the reduction in greenhouse gas emissions neces-
18 sary to meet the applicable carbon dioxide emissions standard, in which case
19 the funds shall be used as specified in paragraph (d) of this subsection. Unless
20 modified by the council as provided below, the payment of 57 cents shall be
21 deemed to result in a reduction of one ton of carbon dioxide emissions. The
22 council shall determine the offset funds using the monetary offset rate and the
23 level of emissions reduction required to meet the applicable standard. If a site
24 certificate is approved based on this subparagraph, the council may not adjust
25 the amount of such offset funds based on the actual performance of offsets.
26 After three years from June 26, 1997, the council may by rule increase or de-
27 crease the monetary offset rate of 57 cents per ton of carbon dioxide emissions.
28 Any change to the monetary offset rate shall be based on empirical evidence
29 of the cost of offsets and the council’s finding that the standard will be eco-
30 nomically achievable with the modified rate for natural gas-fired power plants.

1 *Following the initial three-year period, the council may increase or decrease*
2 *the monetary offset rate no more than 50 percent in any two-year period.]*

3 *“(D) Any other means that the council adopts by rule for demonstrating*
4 *compliance with any applicable carbon dioxide emissions standard.]*

5 *“(d) If the applicant elects to meet the applicable carbon dioxide emissions*
6 *standard in whole or in part under paragraph (c)(C) of this subsection, the*
7 *applicant shall identify the qualified organization. The applicant may identify*
8 *an organization that has applied for, but has not received, an exemption from*
9 *federal income taxation, but the council may not find that the organization is*
10 *a qualified organization unless the organization is exempt from federal taxa-*
11 *tion under section 501(c)(3) of the Internal Revenue Code as amended and in*
12 *effect on December 31, 1996. The site certificate holder shall provide a bond*
13 *or comparable security in a form reasonably acceptable to the council to ensure*
14 *the payment of the offset funds and the amount required under subparagraph*
15 *(A)(ii) of this paragraph. Such security shall be provided by the date specified*
16 *in the site certificate, which shall be no later than the commencement of con-*
17 *struction of the facility. The site certificate shall require that the offset funds*
18 *be disbursed as specified in subparagraph (A) of this paragraph, unless the*
19 *council finds that no qualified organization exists, in which case the site cer-*
20 *tificate shall require that the offset funds be disbursed as specified in sub-*
21 *paragraph (B) of this paragraph.]*

22 *“(A) The site certificate holder shall disburse the offset funds and any*
23 *other funds required by sub-subparagraph (ii) of this subparagraph to the*
24 *qualified organization as follows:]*

25 *“(i) When the site certificate holder receives written notice from the quali-*
26 *fied organization certifying that the qualified organization is contractually*
27 *obligated to pay any funds to implement offsets using the offset funds, the site*
28 *certificate holder shall make the requested amount available to the qualified*
29 *organization unless the total of the amount requested and any amounts previ-*
30 *ously requested exceeds the offset funds, in which case only the remaining*

1 amount of the offset funds shall be made available. The qualified organization
2 shall use at least 80 percent of the offset funds for contracts to implement off-
3 sets. The qualified organization shall assess offsets for their potential to
4 qualify in, generate credits in or reduce obligations in other regulatory set-
5 tings. The qualified organization may use up to 20 percent of the offset funds
6 for monitoring, evaluation, administration and enforcement of contracts to im-
7 plement offsets.]

8 “[ii) At the request of the qualified organization and in addition to the
9 offset funds, the site certificate holder shall pay the qualified organization an
10 amount equal to 10 percent of the first \$500,000 of the offset funds and 4.286
11 percent of any offset funds in excess of \$500,000. This amount shall not be less
12 than \$50,000 unless a lesser amount is specified in the site certificate. This
13 amount compensates the qualified organization for its costs of selecting offsets
14 and contracting for the implementation of offsets.]

15 “[iii) Notwithstanding any provision to the contrary, a site certificate
16 holder subject to this subparagraph shall have no obligation with regard to
17 offsets, the offset funds or the funds required by sub-subparagraph (ii) of this
18 subparagraph other than to make available to the qualified organization the
19 total amount required under paragraph (c) of this subsection and sub-
20 subparagraph (ii) of this subparagraph, nor shall any nonperformance,
21 negligence or misconduct on the part of the qualified organization be a basis
22 for revocation of the site certificate or any other enforcement action by the
23 council with respect to the site certificate holder.]

24 “[B) If the council finds there is no qualified organization, the site certif-
25 icate holder shall select one or more offsets to be implemented pursuant to
26 criteria established by the council. The site certificate holder shall give written
27 notice of its selections to the council and to any person requesting notice. On
28 petition by the State Department of Energy, or by any person adversely affected
29 or aggrieved by the site certificate holder’s selection of offsets, or on the
30 council’s own motion, the council may review such selection. The petition must

1 *be received by the council within 30 days of the date the notice of selection is*
2 *placed in the United States mail, with first-class postage prepaid. The council*
3 *shall approve the site certificate holder's selection unless it finds that the se-*
4 *lection is not consistent with criteria established by the council. The site cer-*
5 *tificate holder shall contract to implement the selected offsets within 18 months*
6 *after commencing construction of the facility unless good cause is shown re-*
7 *quiring additional time. The contracts shall obligate the expenditure of at least*
8 *85 percent of the offset funds for the implementation of offsets. No more than*
9 *15 percent of the offset funds may be spent on monitoring, evaluation and*
10 *enforcement of the contract to implement the selected offsets. The council's*
11 *criteria for selection of offsets shall be based on the criteria set forth in para-*
12 *graphs (b)(C) and (c)(B) of this subsection and may also consider the costs of*
13 *particular types of offsets in relation to the expected benefits of such offsets.*
14 *The council's criteria shall not require the site certificate holder to select*
15 *particular offsets, and shall allow the site certificate holder a reasonable range*
16 *of choices in selecting offsets. In addition, notwithstanding any other provision*
17 *of this section, the site certificate holder's financial liability for implementa-*
18 *tion, monitoring, evaluation and enforcement of offsets pursuant to this sub-*
19 *section shall be limited to the amount of any offset funds not already*
20 *contractually obligated. Nonperformance, negligence or misconduct by the en-*
21 *tity or entities implementing, monitoring or evaluating the selected offset shall*
22 *not be a basis for revocation of the site certificate or any other enforcement*
23 *action by the council with respect to the site certificate holder.]*

24 *"[(C) Every qualified organization that has received funds under this par-*
25 *agraph shall, at five-year intervals beginning on the date of receipt of such*
26 *funds, provide the council with the information the council requests about the*
27 *qualified organization's performance. The council shall evaluate the informa-*
28 *tion requested and, based on such information, shall make any recommen-*
29 *dations to the Legislative Assembly that the council deems appropriate.]*

30 *"[(e) As used in this subsection:]*

1 “[A] ‘Adjusted to ISO conditions’ means carbon dioxide emissions and net
2 electric power output as determined at 59 degrees Fahrenheit, 14.7 pounds per
3 square inch atmospheric pressure and 60 percent humidity.]

4 “[B] ‘Base load gas plant’ means a generating facility that is fueled by
5 natural gas, except for periods during which an alternative fuel may be used
6 and when such alternative fuel use shall not exceed 10 percent of expected fuel
7 use in Btu, higher heating value, on an average annual basis, and where the
8 applicant requests and the council adopts no condition in the site certificate
9 for the generating facility that would limit hours of operation other than re-
10 strictions on the use of alternative fuel. The council shall assume a 100 per-
11 cent capacity factor for such plants and a 30-year life for the plants for
12 purposes of determining gross carbon dioxide emissions.]

13 “[C] ‘Carbon dioxide equivalent’ means the global warming potential of a
14 greenhouse gas reflected in units of carbon dioxide.]

15 “[D] ‘Fossil-fueled power plant’ means a generating facility that produces
16 electric power from natural gas, petroleum, coal or any form of solid, liquid
17 or gaseous fuel derived from such material.]

18 “[E] ‘Generating facility’ means those energy facilities that are defined in
19 ORS 469.300 (11)(a)(A), (B) and (D).]

20 “[F] ‘Global warming potential’ means the determination of the atmo-
21 spheric warming resulting from the release of a unit mass of a particular
22 greenhouse gas in relation to the warming resulting from the release of the
23 equivalent mass of carbon dioxide.]

24 “[G] ‘Greenhouse gas’ means carbon dioxide, methane and nitrous oxide.]

25 “[H] ‘Gross carbon dioxide emissions’ means the predicted carbon dioxide
26 emissions of the proposed energy facility measured on a new and clean
27 basis.]

28 “[I] ‘Net carbon dioxide emissions’ means gross carbon dioxide emissions
29 of the proposed energy facility, less carbon dioxide or other greenhouse gas
30 emissions avoided, displaced or sequestered by any combination of cogeneration

1 or offsets.]

2 “[(J) ‘New and clean basis’ means the average carbon dioxide emissions
3 rate per hour and net electric power output of the energy facility, without de-
4 gradation, as determined by a 100-hour test at full power completed during the
5 first 12 months of commercial operation of the energy facility, with the results
6 adjusted for the average annual site condition for temperature, barometric
7 pressure and relative humidity and use of alternative fuels, and using a rate
8 of 117 pounds of carbon dioxide per million Btu of natural gas fuel and a rate
9 of 161 pounds of carbon dioxide per million Btu of distillate fuel, if such fuel
10 use is proposed by the applicant. The council may by rule adjust the rate of
11 pounds of carbon dioxide per million Btu for natural gas or distillate fuel.
12 The council may by rule set carbon dioxide emissions rates for other fuels.]

13 “[(K) ‘Nongenerating facility’ means those energy facilities that are defined
14 in ORS 469.300 (11)(a)(C) and (E) to (I).]

15 “[(L) ‘Offset’ means an action that will be implemented by the applicant, a
16 third party or through the qualified organization to avoid, sequester or dis-
17 place emissions.]

18 “[(M) ‘Offset funds’ means the amount of funds determined by the council
19 to satisfy the applicable carbon dioxide emissions standard pursuant to para-
20 graph (c)(C) of this subsection.]

21 “[(N) ‘Qualified organization’ means an entity that:]

22 “[(i) Is exempt from federal taxation under section 501(c)(3) of the Internal
23 Revenue Code as amended and in effect on December 31, 1996;]

24 “[(ii) Either is incorporated in the State of Oregon or is a foreign corpo-
25 ration authorized to do business in the State of Oregon;]

26 “[(iii) Has in effect articles of incorporation that require that offset funds
27 received pursuant to this section are used for offsets that require that decisions
28 on the use of the offset funds are made by a decision-making body composed
29 of seven voting members of which three are appointed by the council, three are
30 Oregon residents appointed by the Bullitt Foundation or an alternative envi-

1 *ronmental nonprofit organization named by the body, and one is appointed by*
2 *the applicants for site certificates that are subject to paragraph (d) of this*
3 *subsection and the holders of such site certificates, and that require nonvoting*
4 *membership on the body for holders of site certificates that have provided*
5 *funds not yet disbursed under paragraph (d)(A) of this subsection;]*

6 *“(iv) Has made available on an annual basis, beginning after the first year*
7 *of operation, a signed opinion of an independent certified public accountant*
8 *stating that the qualified organization’s use of funds pursuant to this statute*
9 *conforms with generally accepted accounting procedures except that the quali-*
10 *fied organization shall have one year to conform with generally accepted ac-*
11 *counting principles in the event of a nonconforming audit;]*

12 *“(v) Has to the extent applicable, except for good cause, entered into con-*
13 *tracts obligating at least 60 percent of the offset funds to implement offsets*
14 *within two years after the commencement of construction of the facility; and]*

15 *“(vi) Has to the extent applicable, except for good cause, complied with*
16 *paragraph (d)(A)(i) of this subsection.]*

17 **“(3) (2)** Except as provided in ORS 469.504 for land use compliance and
18 except for those statutes and rules for which the decision on compliance has
19 been delegated by the federal government to a state agency other than the
20 council, the facility complies with all other Oregon statutes and adminis-
21 trative rules identified in the project order, as amended, as applicable to the
22 issuance of a site certificate for the proposed facility. If compliance with
23 applicable Oregon statutes and administrative rules, other than those in-
24 volving federally delegated programs, would result in conflicting conditions
25 in the site certificate, the council may resolve the conflict consistent with
26 the public interest. A resolution may not result in the waiver of any appli-
27 cable state statute.

28 **“(4) (3)** The facility complies with the statewide planning goals adopted
29 by the Land Conservation and Development Commission.

30 **“SECTION 88.** ORS 469.501 is amended to read:

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

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

6 “(b) Seismic hazards.

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

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

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

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

17 “(g) Protection of public health and safety, including necessary safety
18 devices and procedures.

19 “(h) The accumulation, storage, disposal and transportation of nuclear
20 waste.

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

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

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

27 “(L) The need for proposed nongenerating facilities [*as defined in ORS*
28 *469.503*], consistent with the state energy policy set forth in ORS 469.010 and
29 469.310. The council may consider least-cost plans when adopting a need
30 standard or in determining whether an applicable need standard has been

1 met. The council shall not adopt a standard requiring a showing of need or
2 cost-effectiveness for generating facilities [*as defined in ORS 469.503*].

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

5 “(n) Soil protection.

6 “[*o*] *For energy facilities that emit carbon dioxide, the impacts of those*
7 *emissions on climate change. For fossil-fueled power plants, as defined in ORS*
8 *469.503, the council shall apply a standard as provided for by ORS 469.503*
9 *(2).*]

10 “(2) The council may adopt exemptions from any need standard adopted
11 under subsection (1)(L) of this section if the exemption is consistent with the
12 state’s energy policy set forth in ORS 469.010 and 469.310.

13 “(3)(a) The council may issue a site certificate for a facility that does not
14 meet one or more of the applicable standards adopted under subsection (1)
15 of this section if the council determines that the overall public benefits of
16 the facility outweigh any adverse effects on a resource or interest protected
17 by the applicable standards the facility does not meet.

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

20 “(4) Notwithstanding subsection (1) of this section, the council may not
21 impose any standard developed under subsection (1)(b), (f), (j) or (k) of this
22 section to approve or deny an application for an energy facility producing
23 power from wind, solar or geothermal energy. However, the council may, to
24 the extent it determines appropriate, apply any standards adopted under
25 subsection (1)(b), (f), (j) or (k) of this section to impose conditions on any site
26 certificate issued for any energy facility.

27

28 “(Transitional Provisions)

29

30 “**SECTION 89.** (1) **Notwithstanding ORS 469.401 (2), any conditions**

1 in a site certificate or amended site certificate issued before January
2 1, 2021, that are conditions related to any carbon dioxide emissions
3 standard applicable pursuant to ORS 469.501 (1)(o) (2017 Edition) or
4 469.503 (2017 Edition) or to rules adopted by the Energy Facility Siting
5 Council pursuant to ORS 469.501 (1)(o) (2017 Edition) or 469.503 (2017
6 Edition) cease to be enforceable on January 1, 2021.

7 “(2) Any provision in a site certificate or amended site certificate
8 for a generating facility issued before January 1, 2021, requiring the
9 holder to demonstrate the need for the facility shall cease to be en-
10 forceable on January 1, 2021.

11 “(3) Any site certificate amendment approved by the council on or
12 after January 1, 2021, shall remove from the site certificate being
13 amended all conditions and provisions rendered unenforceable by sub-
14 sections (1) and (2) of this section. Notwithstanding ORS 469.405 or
15 any council rule, the contested case hearing on a site certificate
16 amendment subject to this subsection may not include hearing on
17 amendments necessary to comply with this subsection. The provisions
18 of the council’s order relevant to compliance with this subsection are
19 not subject to judicial review.

20 “SECTION 90. The Energy Facility Siting Council shall, no later
21 than January 1, 2022, complete rulemaking to amend or repeal any
22 rules adopted by the council relating to the application of a carbon
23 dioxide emissions standard to generating facilities or nongenerating
24 facilities as necessary to bring the rules of the council into compliance
25 with the amendments to ORS 469.501 and 469.503 by sections 87 and 88
26 of this 2019 Act and the provisions of section 89 of this 2019 Act.

27 “SECTION 91. (1) As used in this section and section 92 of this 2019
28 Act, ‘qualified organization’ has the meaning given that term in ORS
29 469.503 (2)(e)(N) (2017 Edition).

30 “(2) On or after the operative date of this section and the amend-

1 ments to ORS 469.503 by section 87 of this 2019 Act and in accordance
2 with the provisions of ORS 469.503 (2)(d) (2017 Edition), a qualified or-
3 ganization that, before the operative date of this section and the
4 amendments to ORS 469.503 by section 87 of this 2019 Act, received
5 payment of offset funds pursuant to ORS 469.503 (2)(c)(C) (2017 Edi-
6 tion):

7 “(a) Shall use at least 80 percent of the offset funds for contracts
8 to implement offsets and assess offsets for their potential to qualify
9 in, generate credits in or reduce obligations in other regulatory set-
10 tings;

11 “(b) May use up to 20 percent of the offset funds for monitoring,
12 evaluating, administering and enforcing contracts to implement off-
13 sets; and

14 “(c) Shall, at five-year intervals beginning on the date of the receipt
15 of the offset funds and ending the year after the year that the qualified
16 organization in no longer involved in the investment of offset funds
17 received pursuant to ORS 469.503 (2)(c)(C) (2017 Edition), provide the
18 Energy Facility Siting Council with the information the council re-
19 quests about the qualified organization’s performance. The council
20 shall evaluate the information requested and, based on the informa-
21 tion, shall make any recommendations to the Legislative Assembly
22 that the council deems appropriate.

23 “SECTION 92. Section 91 of this 2019 Act is repealed on the date
24 that the Legislative Counsel receives written notice from the Energy
25 Facility Siting Council that the council has confirmed that all quali-
26 fied organizations that received payment of offset funds pursuant to
27 ORS 469.503 (2)(c)(C) (2017 Edition) have ceased to be involved in the
28 investment of the offset funds.

29

30

“(Repeal)”

1 **SECTION 93. ORS 469.409 is repealed.**

2
3 **“(Conforming Amendments)”**

4
5 **SECTION 94. ORS 469.300 is amended to read:**

6 “469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and
7 469.992, unless the context requires otherwise:

8 “(1) ‘Applicant’ means any person who makes application for a site cer-
9 tificate in the manner provided in ORS 469.300 to 469.563, 469.590 to 469.619,
10 469.930 and 469.992.

11 “(2) ‘Application’ means a request for approval of a particular site or sites
12 for the construction and operation of an energy facility or the construction
13 and operation of an additional energy facility upon a site for which a cer-
14 tificate has already been issued, filed in accordance with the procedures es-
15 tablished pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and
16 469.992.

17 “(3) ‘Associated transmission lines’ means new transmission lines con-
18 structed to connect an energy facility to the first point of junction of such
19 transmission line or lines with either a power distribution system or an
20 interconnected primary transmission system or both or to the Northwest
21 Power Grid.

22 “(4) ‘Average electric generating capacity’ means the peak generating ca-
23 pacity of the facility divided by one of the following factors:

24 “(a) For wind facilities, 3.00;

25 “(b) For geothermal energy facilities, 1.11; or

26 “(c) For all other energy facilities, 1.00.

27 “(5) ‘Combustion turbine power plant’ means a thermal power plant con-
28 sisting of one or more fuel-fired combustion turbines and any associated
29 waste heat combined cycle generators.

30 “(6) ‘Construction’ means work performed on a site, excluding surveying,

1 exploration or other activities to define or characterize the site, the cost of
2 which exceeds \$250,000.

3 “(7) ‘Council’ means the Energy Facility Siting Council established under
4 ORS 469.450.

5 “(8) ‘Department’ means the State Department of Energy created under
6 ORS 469.030.

7 “(9) ‘Director’ means the Director of the State Department of Energy ap-
8 pointed under ORS 469.040.

9 “(10) ‘Electric utility’ means persons, regulated electrical companies,
10 people’s utility districts, joint operating agencies, electric cooperatives,
11 municipalities or any combination thereof, engaged in or authorized to en-
12 gage in the business of generating, supplying, transmitting or distributing
13 electric energy.

14 “(11)(a) ‘Energy facility’ means any of the following:

15 “(A) An electric power generating plant with a nominal electric generat-
16 ing capacity of 25 megawatts or more, including but not limited to:

17 “(i) Thermal power;

18 “(ii) Combustion turbine power plant; or

19 “(iii) Solar thermal power plant.

20 “(B) A nuclear installation as defined in this section.

21 “(C) A high voltage transmission line of more than 10 miles in length
22 with a capacity of 230,000 volts or more to be constructed in more than one
23 city or county in this state, but excluding:

24 “(i) Lines proposed for construction entirely within 500 feet of an existing
25 corridor occupied by high voltage transmission lines with a capacity of
26 230,000 volts or more; and

27 “(ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000
28 volts along the same right of way.

29 “(D) A solar photovoltaic power generation facility using more than:

30 “(i) 100 acres located on high-value farmland as defined in ORS 195.300;

1 “(ii) 100 acres located on land that is predominantly cultivated or that,
2 if not cultivated, is predominantly composed of soils that are in capability
3 classes I to IV, as specified by the National Cooperative Soil Survey operated
4 by the Natural Resources Conservation Service of the United States De-
5 partment of Agriculture; or

6 “(iii) 320 acres located on any other land.

7 “(E) A pipeline that is:

8 “(i) At least six inches in diameter, and five or more miles in length, used
9 for the transportation of crude petroleum or a derivative thereof, liquefied
10 natural gas, a geothermal energy form in a liquid state or other fossil energy
11 resource, excluding a pipeline conveying natural or synthetic gas;

12 “(ii) At least 16 inches in diameter, and five or more miles in length, used
13 for the transportation of natural or synthetic gas, but excluding:

14 “(I) A pipeline proposed for construction of which less than five miles of
15 the pipeline is more than 50 feet from a public road, as defined in ORS
16 368.001; or

17 “(II) A parallel or upgraded pipeline up to 24 inches in diameter that is
18 constructed within the same right of way as an existing 16-inch or larger
19 pipeline that has a site certificate, if all studies and necessary mitigation
20 conducted for the existing site certificate meet or are updated to meet cur-
21 rent site certificate standards; or

22 “(iii) At least 16 inches in diameter and five or more miles in length used
23 to carry a geothermal energy form in a gaseous state but excluding a pipeline
24 used to distribute heat within a geothermal heating district established un-
25 der ORS chapter 523.

26 “(F) A synthetic fuel plant which converts a natural resource including,
27 but not limited to, coal or oil to a gas, liquid or solid product intended to
28 be used as a fuel and capable of being burned to produce the equivalent of
29 two billion Btu of heat a day.

30 “(G) A plant which converts biomass to a gas, liquid or solid product, or

1 combination of such products, intended to be used as a fuel and if any one
2 of such products is capable of being burned to produce the equivalent of six
3 billion Btu of heat a day.

4 “(H) A storage facility for liquefied natural gas constructed after Sep-
5 tember 29, 1991, that is designed to hold at least 70,000 gallons.

6 “(I) A surface facility related to an underground gas storage reservoir
7 that, at design injection or withdrawal rates, will receive or deliver more
8 than 50 million cubic feet of natural or synthetic gas per day, or require
9 more than 4,000 horsepower of natural gas compression to operate, but ex-
10 cluding:

11 “(i) The underground storage reservoir;

12 “(ii) The injection, withdrawal or monitoring wells and individual
13 wellhead equipment; and

14 “(iii) An underground gas storage reservoir into which gas is injected
15 solely for testing or reservoir maintenance purposes or to facilitate the sec-
16 ondary recovery of oil or other hydrocarbons.

17 “(J) An electric power generating plant with an average electric gener-
18 ating capacity of 35 megawatts or more if the power is produced from
19 geothermal or wind energy at a single energy facility or within a single en-
20 ergy generation area.

21 “(b) ‘Energy facility’ does not include a hydroelectric facility or an energy
22 facility under paragraph (a)(A)(iii) or (D) of this subsection that is estab-
23 lished on the site of a decommissioned United States Air Force facility that
24 has adequate transmission capacity to serve the energy facility.

25 “(12) ‘Energy generation area’ means an area within which the effects of
26 two or more small generating plants may accumulate so the small generating
27 plants have effects of a magnitude similar to a single generating plant of 35
28 megawatts average electric generating capacity or more. An ‘energy gener-
29 ation area’ for facilities using a geothermal resource and covered by a unit
30 agreement, as provided in ORS 522.405 to 522.545 or by federal law, shall be

1 defined in that unit agreement. If no such unit agreement exists, an energy
2 generation area for facilities using a geothermal resource shall be the area
3 that is within two miles, measured from the electrical generating equipment
4 of the facility, of an existing or proposed geothermal electric power gener-
5 ating plant, not including the site of any other such plant not owned or
6 controlled by the same person.

7 “(13) ‘Extraordinary nuclear occurrence’ means any event causing a dis-
8 charge or dispersal of source material, special nuclear material or by-product
9 material as those terms are defined in ORS 453.605, from its intended place
10 of confinement off-site, or causing radiation levels off-site, that the United
11 States Nuclear Regulatory Commission or its successor determines to be
12 substantial and to have resulted in or to be likely to result in substantial
13 damages to persons or property off-site.

14 “(14) ‘Facility’ means an energy facility together with any related or
15 supporting facilities.

16 “(15) ‘Generating facility’ means those energy facilities that are
17 defined in subsection (11)(a)(A), (B) and (D) of this section.

18 “[15] (16) ‘Geothermal reservoir’ means an aquifer or aquifers containing
19 a common geothermal fluid.

20 “[16] (17) ‘Local government’ means a city or county.

21 “[17] (18) ‘Nominal electric generating capacity’ means the maximum net
22 electric power output of an energy facility based on the average temperature,
23 barometric pressure and relative humidity at the site during the times of the
24 year when the facility is intended to operate.

25 “(19) ‘Nongenerating facility’ means those energy facilities that are
26 defined in subsection (11)(a)(C) and (E) to (I) of this section.

27 “[18] (20) ‘Nuclear incident’ means any occurrence, including an ex-
28 traordinary nuclear occurrence, that results in bodily injury, sickness, dis-
29 ease, death, loss of or damage to property or loss of use of property due to
30 the radioactive, toxic, explosive or other hazardous properties of source ma-

1 terial, special nuclear material or by-product material as those terms are
2 defined in ORS 453.605.

3 “[~~(19)~~] **(21)** ‘Nuclear installation’ means any power reactor, nuclear fuel
4 fabrication plant, nuclear fuel reprocessing plant, waste disposal facility for
5 radioactive waste, and any facility handling that quantity of fissionable ma-
6 terials sufficient to form a critical mass. ‘Nuclear installation’ does not in-
7 clude any such facilities that are part of a thermal power plant.

8 “[~~(20)~~] **(22)** ‘Nuclear power plant’ means an electrical or any other facility
9 using nuclear energy with a nominal electric generating capacity of 25
10 megawatts or more, for generation and distribution of electricity, and asso-
11 ciated transmission lines.

12 “[~~(21)~~] **(23)** ‘Person’ means an individual, partnership, joint venture, pri-
13 vate or public corporation, association, firm, public service company, poli-
14 tical subdivision, municipal corporation, government agency, people’s utility
15 district, or any other entity, public or private, however organized.

16 “[~~(22)~~] **(24)** ‘Project order’ means the order, including any amendments,
17 issued by the State Department of Energy under ORS 469.330.

18 “[~~(23)(a)~~] **(25)(a)** ‘Radioactive waste’ means all material which is dis-
19 carded, unwanted or has no present lawful economic use, and contains mined
20 or refined naturally occurring isotopes, accelerator produced isotopes and
21 by-product material, source material or special nuclear material as those
22 terms are defined in ORS 453.605. The term does not include those radioac-
23 tive materials identified in OAR 345-50-020, 345-50-025 and 345-50-035, adopted
24 by the council on December 12, 1978, and revised periodically for the purpose
25 of adding additional isotopes which are not referred to in OAR 345-50 as
26 presenting no significant danger to the public health and safety.

27 “(b) Notwithstanding paragraph (a) of this subsection, ‘radioactive
28 waste’ does not include uranium mine overburden or uranium mill tailings,
29 mill wastes or mill by-product materials as those terms are defined in Title
30 42, United States Code, section 2014, on June 25, 1979.

1 “[24] (26) ‘Related or supporting facilities’ means any structure, pro-
2 posed by the applicant, to be constructed or substantially modified in con-
3 nection with the construction of an energy facility, including associated
4 transmission lines, reservoirs, storage facilities, intake structures, road and
5 rail access, pipelines, barge basins, office or public buildings, and commercial
6 and industrial structures. ‘Related or supporting facilities’ does not include
7 geothermal or underground gas storage reservoirs, production, injection or
8 monitoring wells or wellhead equipment or pumps.

9 “[25] (27) ‘Site’ means any proposed location of an energy facility and
10 related or supporting facilities.

11 “[26] (28) ‘Site certificate’ means the binding agreement between the
12 State of Oregon and the applicant, authorizing the applicant to construct and
13 operate a facility on an approved site, incorporating all conditions imposed
14 by the council on the applicant.

15 “[27] (29) ‘Thermal power plant’ means an electrical facility using any
16 source of thermal energy with a nominal electric generating capacity of 25
17 megawatts or more, for generation and distribution of electricity, and asso-
18 ciated transmission lines, including but not limited to a nuclear-fueled,
19 geothermal-fueled or fossil-fueled power plant, but not including a portable
20 power plant the principal use of which is to supply power in emergencies.
21 ‘Thermal power plant’ includes a nuclear-fueled thermal power plant that has
22 ceased to operate.

23 “[28] (30) ‘Transportation’ means the transport within the borders of the
24 State of Oregon of radioactive material destined for or derived from any lo-
25 cation.

26 “[29] (31) ‘Underground gas storage reservoir’ means any subsurface
27 sand, strata, formation, aquifer, cavern or void, whether natural or arti-
28 ficially created, suitable for the injection, storage and withdrawal of natural
29 gas or other gaseous substances. ‘Underground gas storage reservoir’ in-
30 cludes a pool as defined in ORS 520.005.

1 “[30] (32) ‘Utility’ includes:

2 “(a) A person, a regulated electrical company, a people’s utility district,
3 a joint operating agency, an electric cooperative, municipality or any com-
4 bination thereof, engaged in or authorized to engage in the business of gen-
5 erating, transmitting or distributing electric energy;

6 “(b) A person or public agency generating electric energy from an energy
7 facility for its own consumption; and

8 “(c) A person engaged in this state in the transmission or distribution of
9 natural or synthetic gas.

10 “[31] (33) ‘Waste disposal facility’ means a geographical site in or upon
11 which radioactive waste is held or placed but does not include a site at
12 which radioactive waste used or generated pursuant to a license granted
13 under ORS 453.635 is stored temporarily, a site of a thermal power plant used
14 for the temporary storage of radioactive waste from that plant for which a
15 site certificate has been issued pursuant to this chapter or a site used for
16 temporary storage of radioactive waste from a reactor operated by a college,
17 university or graduate center for research purposes and not connected to the
18 Northwest Power Grid. As used in this subsection, ‘temporary storage’ in-
19 cludes storage of radioactive waste on the site of a nuclear-fueled thermal
20 power plant for which a site certificate has been issued until a permanent
21 storage site is available by the federal government.

22 **“SECTION 95.** ORS 469.310 is amended to read:

23 “469.310. In the interests of the public health and the welfare of the peo-
24 ple of this state, it is the declared public policy of this state that the siting,
25 construction and operation of energy facilities shall be accomplished in a
26 manner consistent with protection of the public health and safety and in
27 compliance with the energy policy and air, water, solid waste, land use and
28 other environmental protection policies of this state. It is, therefore, the
29 purpose of ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 to
30 exercise the jurisdiction of the State of Oregon to the maximum extent per-

1 mitted by the United States Constitution and to establish in cooperation
2 with the federal government a comprehensive system for the siting, moni-
3 toring and regulating of the location, construction and operation of all en-
4 ergy facilities in this state. It is furthermore the policy of this state,
5 notwithstanding ORS 469.010 (2)(f) and the definition of cost-effective in ORS
6 469.020, that the need for new generating facilities[, *as defined in ORS*
7 *469.503*,] is sufficiently addressed by reliance on competition in the market
8 rather than by consideration of cost-effectiveness and shall not be a matter
9 requiring determination by the Energy Facility Siting Council in the siting
10 of a generating facility[, *as defined in ORS 469.503*].

11 **“SECTION 96.** ORS 469.373 is amended to read:

12 “469.373. (1) Notwithstanding the expedited review process established
13 pursuant to ORS 469.370, an applicant may apply under the provisions of this
14 section for expedited review of an application for a site certificate for an
15 energy facility if the energy facility:

16 “(a) Is a combustion turbine energy facility fueled by natural gas or is a
17 reciprocating engine fueled by natural gas, including an energy facility that
18 uses petroleum distillate fuels for backup power generation;

19 “(b) Is a permitted or conditional use allowed under an applicable local
20 acknowledged comprehensive plan, land use regulation or federal land use
21 plan, and is located:

22 “(A) At or adjacent to an existing energy facility; or

23 “(B)(i) At, adjacent to or in close proximity to an existing industrial use;
24 and

25 “(ii) In an area currently zoned or designated for industrial use;

26 “(c)(A) Requires no more than three miles of associated transmission lines
27 or three miles of new natural gas pipelines outside of existing rights of way
28 for transmission lines or natural gas pipelines; or

29 “(B) Imposes, in the determination of the Energy Facility Siting Council,
30 no significant impact in the locating of associated transmission lines or new

1 natural gas pipelines outside of existing rights of way;

2 “(d) Requires no new water right or water right transfer; **and**

3 “[*e*] Provides funds to a qualified organization in an amount determined
4 by the council to be sufficient to produce any required reduction in emissions
5 as specified in ORS 469.503 (2)(c)(C) and in rules adopted under ORS 469.503
6 for the total carbon dioxide emissions produced by the energy facility for the
7 life of the energy facility; and]

8 “[*f*](A) **(e)(A)** Discharges process wastewater to a wastewater treatment
9 facility that has an existing National Pollutant Discharge Elimination Sys-
10 tem permit, can obtain an industrial pretreatment permit, if needed, within
11 the expedited review process time frame and has written confirmation from
12 the wastewater facility permit holder that the additional wastewater load
13 will be accommodated by the facility without resulting in a significant
14 thermal increase in the facility effluent or without requiring any changes to
15 the wastewater facility National Pollutant Discharge Elimination System
16 permit;

17 “(B) Plans to discharge process wastewater to a wastewater treatment
18 facility owned by a municipal corporation that will accommodate the
19 wastewater from the energy facility and supplies evidence from the municipal
20 corporation that:

21 “(i) The municipal corporation has included, or intends to include, the
22 process wastewater load from the energy facility in an application for a
23 National Pollutant Discharge Elimination System permit; and

24 “(ii) All conditions required of the energy facility to allow the discharge
25 of process wastewater from the energy facility will be satisfied; or

26 “(C) Obtains a National Pollutant Discharge Elimination System or water
27 pollution control facility permit for process wastewater disposal, supplies
28 evidence to support a finding that the discharge can likely be permitted
29 within the expedited review process time frame and that the discharge will
30 not require:

1 “(i) A new National Pollutant Discharge Elimination System permit, ex-
2 cept for a storm water general permit for construction activities; or

3 “(ii) A change in any effluent limit or discharge location under an exist-
4 ing National Pollutant Discharge Elimination System or water pollution
5 control facility permit.

6 “(2) An applicant seeking expedited review under this section shall submit
7 documentation to the State Department of Energy, prior to the submission
8 of an application for a site certificate, that demonstrates that the energy
9 facility meets the qualifications set forth in subsection (1) of this section.
10 The department shall determine, within 14 days of receipt of the documen-
11 tation, on a preliminary, nonbinding basis, whether the energy facility qual-
12 ifies for expedited review.

13 “(3) If the department determines that the energy facility preliminarily
14 qualifies for expedited review, the applicant may submit an application for
15 expedited review. Within 30 days after the date that the application for ex-
16 pedited review is submitted, the department shall determine whether the ap-
17 plication is complete. If the department determines that the application is
18 complete, the application shall be deemed filed on the date that the depart-
19 ment sends the applicant notice of its determination. If the department de-
20 termines that the application is not complete, the department shall notify the
21 applicant of the deficiencies in the application and shall deem the applica-
22 tion filed on the date that the department determines that the application
23 is complete. The department or the council may request additional infor-
24 mation from the applicant at any time.

25 “(4) The State Department of Energy shall send a copy of a filed appli-
26 cation to the Department of Environmental Quality, the Water Resources
27 Department, the State Department of Fish and Wildlife, the State Depart-
28 ment of Geology and Mineral Industries, the State Department of Agricul-
29 ture, the Department of Land Conservation and Development, the Public
30 Utility Commission and any other state agency, city, county or political

1 subdivision of the state that has regulatory or advisory responsibility with
2 respect to the proposed energy facility. The State Department of Energy shall
3 send with the copy of the filed application a notice specifying that:

4 “(a) In the event the council issues a site certificate for the energy fa-
5 cility, the site certificate will bind the state and all counties, cities and
6 political subdivisions in the state as to the approval of the site, the con-
7 struction of the energy facility and the operation of the energy facility, and
8 that after the issuance of a site certificate, all permits, licenses and certifi-
9 cates addressed in the site certificate must be issued as required by ORS
10 469.401 (3); and

11 “(b) The comments and recommendations of state agencies, counties, cities
12 and political subdivisions concerning whether the proposed energy facility
13 complies with any statute, rule or local ordinance that the state agency,
14 county, city or political subdivision would normally administer in determin-
15 ing whether a permit, license or certificate required for the construction or
16 operation of the energy facility should be approved will be considered only
17 if the comments and recommendations are received by the department within
18 a reasonable time after the date the application and notice of the application
19 are sent by the department.

20 “(5) Within 90 days after the date that the application was filed, the de-
21 partment shall issue a draft proposed order setting forth:

22 “(a) A description of the proposed energy facility;

23 “(b) A list of the permits, licenses and certificates that are addressed in
24 the application and that are required for the construction or operation of the
25 proposed energy facility;

26 “(c) A list of the statutes, rules and local ordinances that are the stan-
27 dards and criteria for approval of any permit, license or certificate addressed
28 in the application and that are required for the construction or operation
29 of the proposed energy facility; and

30 “(d) Proposed findings specifying how the proposed energy facility com-

1 plies with the applicable standards and criteria for approval of a site certifi-
2 cate.

3 “(6) The council shall review the application for site certification in the
4 manner set forth in subsections (7) to (10) of this section and shall issue a
5 site certificate for the facility if the council determines that the facility,
6 with any required conditions to the site certificate, will comply with:

7 “(a) The requirements for expedited review as specified in this section;

8 “(b) The standards adopted by the council pursuant to ORS 469.501 (1)(a),
9 (c) to (e), (g), (h) and (L) to [(o)] **(n)**;

10 “(c) The requirements of ORS 469.503 [(3)] **(2)**; and

11 “(d) The requirements of ORS 469.504 (1)(b).

12 “(7) Following submission of an application for a site certificate, the
13 council shall hold a public informational meeting on the application. Fol-
14 lowing the issuance of the proposed order, the council shall hold at least one
15 public hearing on the application. The public hearing shall be held in the
16 area affected by the energy facility. The council shall mail notice of the
17 hearing at least 20 days prior to the hearing. The notice shall comply with
18 the notice requirements of ORS 197.763 (2) and shall include, but need not
19 be limited to, the following:

20 “(a) A description of the energy facility and the general location of the
21 energy facility;

22 “(b) The name of a department representative to contact and the tele-
23 phone number at which people may obtain additional information;

24 “(c) A statement that copies of the application and proposed order are
25 available for inspection at no cost and will be provided at reasonable cost;
26 and

27 “(d) A statement that the record for public comment on the application
28 will close at the conclusion of the hearing and that failure to raise an issue
29 in person or in writing prior to the close of the record, with sufficient
30 specificity to afford the decision maker an opportunity to respond to the is-

1 sue, will preclude consideration of the issue, by the council or by a court
2 on judicial review of the council's decision.

3 “(8) Prior to the conclusion of the hearing, the applicant may request an
4 opportunity to present additional written evidence, arguments or testimony
5 regarding the application. In the alternative, prior to the conclusion of the
6 hearing, the applicant may request a contested case hearing on the applica-
7 tion. If the applicant requests an opportunity to present written evidence,
8 arguments or testimony, the council shall leave the record open for that
9 purpose only for a period not to exceed 14 days after the date of the hearing.
10 Following the close of the record, the department shall prepare a draft final
11 order for the council. If the applicant requests a contested case hearing, the
12 council may grant the request if the applicant has shown good cause for a
13 contested case hearing. If a request for a contested case hearing is granted,
14 subsections (9) to (11) of this section do not apply, and the application shall
15 be considered under the same contested case procedures used for a nonexpe-
16 dited application for a site certificate.

17 “(9) The council shall make its decision based on the record and the draft
18 final order prepared by the department. The council shall, within six months
19 of the date that the application is deemed filed:

20 “(a) Grant the application;

21 “(b) Grant the application with conditions;

22 “(c) Deny the application; or

23 “(d) Return the application to the site certification process required by
24 ORS 469.320.

25 “(10) If the application is granted, the council shall issue a site certificate
26 pursuant to ORS 469.401 and 469.402. Notwithstanding subsection (6) of this
27 section, the council may impose conditions based on standards adopted under
28 ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an application based
29 on those standards.

30 “(11) Judicial review of the approval or rejection of a site certificate by

1 the council under this section shall be as provided in ORS 469.403.

2 **“SECTION 97.** ORS 469.405 is amended to read:

3 “469.405. (1) A site certificate may be amended with the approval of the
4 Energy Facility Siting Council. The council may establish by rule the type
5 of amendment that must be considered in a contested case proceeding. Judi-
6 cial review of an amendment to a site certificate shall be as provided in ORS
7 469.403.

8 “(2) Notwithstanding ORS 34.020 or 197.825, or any other provision of law,
9 the land use approval by an affected local government of a proposed amend-
10 ment to a facility and the recommendation of the special advisory group of
11 applicable substantive criteria shall be subject to judicial review only as
12 provided in ORS 469.403. If the applicant elects to show compliance with the
13 statewide planning goals by demonstrating that the facility has received lo-
14 cal land use approval, the provisions of this section shall apply only to pro-
15 posed projects for which the land use approval by the local government
16 occurs after the date an application for amendment is submitted to the State
17 Department of Energy.

18 “(3) An amendment to a site certificate is not required for a pipeline less
19 than 16 inches in diameter and less than five miles in length that is proposed
20 to be constructed to test or maintain an underground gas storage reservoir.
21 If the proposed pipeline will connect to a council certified surface facility
22 related to an underground gas storage reservoir or to a council certified gas
23 pipeline, whether the proposed pipeline is to be located inside or outside the
24 site of a council certified facility, the certificate holder must obtain, prior
25 to construction, the approval of the department for the construction, opera-
26 tion and retirement of the proposed pipeline. The department shall approve
27 such a proposed pipeline if the pipeline meets applicable council substantive
28 standards. Notwithstanding ORS 469.503 [(3)] (2), the department may not
29 review the proposed pipeline for compliance with other state standards.
30 Notwithstanding ORS 469.503 [(4)] (3), or any council rule addressing com-

1 pliance with land use standards, the department shall not review such a
2 proposed pipeline for compliance with land use requirements. Notwithstand-
3 ing ORS 469.401 (3), the approval by the department of such pipeline shall
4 not bind any state or local agency. The council may adopt appropriate pro-
5 cedural rules for the department review. The department shall issue an order
6 approving or rejecting the proposed pipeline. Judicial review of a department
7 order under this section shall be as provided in ORS 469.403.

8 **SECTION 98.** ORS 469.407 is amended to read:

9 “469.407. (1) A recipient may by amendment of its application for a site
10 certificate or by amendment of its site certificate increase the capacity of the
11 facility if the Energy Facility Siting Council finds that:

12 “(a) The facility will satisfy the conditions of the 500-megawatt ex-
13 emption, unless modified by the council;

14 “(b) The enlarged facility does not exceed 500 megawatts and meets the
15 applicable carbon dioxide standard provided for in ORS 469.503 (2) (**2017**
16 **Edition**) for any increase in capacity beyond the capacity of the
17 500-megawatt exemption; and

18 “(c) The enlarged facility meets all other applicable council standards.

19 “(2) A recipient is deemed to meet any applicable need standard and car-
20 bon dioxide emissions standard for the nominal generating capacity of the
21 500-megawatt exemption provided that the recipient satisfies the conditions
22 of the 500-megawatt exemption, unless the council modifies the conditions.

23 “(3) As used in this section:

24 “(a) ‘Recipient’ means any base load gas plant, as defined in ORS 469.503
25 (**2017 Edition**), determined by the council to have the lowest net monetized
26 air emissions among the applicants participating in a contested case pro-
27 ceeding.

28 “(b) ‘500-megawatt exemption’ means the council order in which a recipi-
29 ent was determined to have the lowest net monetized air emissions.

30 **SECTION 99.** ORS 469.504 is amended to read:

1 “469.504. (1) A proposed facility shall be found in compliance with the
2 statewide planning goals under ORS 469.503 [(4)] (3) if:

3 “(a) The facility has received local land use approval under the acknowl-
4 edged comprehensive plan and land use regulations of the affected local
5 government; or

6 “(b) The Energy Facility Siting Council determines that:

7 “(A) The facility complies with applicable substantive criteria from the
8 affected local government’s acknowledged comprehensive plan and land use
9 regulations that are required by the statewide planning goals and in effect
10 on the date the application is submitted, and with any Land Conservation
11 and Development Commission administrative rules and goals and any land
12 use statutes that apply directly to the facility under ORS 197.646;

13 “(B) For an energy facility or a related or supporting facility that must
14 be evaluated against the applicable substantive criteria pursuant to sub-
15 section (5) of this section, that the proposed facility does not comply with
16 one or more of the applicable substantive criteria but does otherwise comply
17 with the applicable statewide planning goals, or that an exception to any
18 applicable statewide planning goal is justified under subsection (2) of this
19 section; or

20 “(C) For a facility that the council elects to evaluate against the state-
21 wide planning goals pursuant to subsection (5) of this section, that the pro-
22 posed facility complies with the applicable statewide planning goals or that
23 an exception to any applicable statewide planning goal is justified under
24 subsection (2) of this section.

25 “(2) The council may find goal compliance for a facility that does not
26 otherwise comply with one or more statewide planning goals by taking an
27 exception to the applicable goal. Notwithstanding the requirements of ORS
28 197.732, the statewide planning goal pertaining to the exception process or
29 any rules of the Land Conservation and Development Commission pertaining
30 to an exception process goal, the council may take an exception to a goal if

1 the council finds:

2 “(a) The land subject to the exception is physically developed to the ex-
3 tent that the land is no longer available for uses allowed by the applicable
4 goal;

5 “(b) The land subject to the exception is irrevocably committed as de-
6 scribed by the rules of the Land Conservation and Development Commission
7 to uses not allowed by the applicable goal because existing adjacent uses and
8 other relevant factors make uses allowed by the applicable goal impractica-
9 ble; or

10 “(c) The following standards are met:

11 “(A) Reasons justify why the state policy embodied in the applicable goal
12 should not apply;

13 “(B) The significant environmental, economic, social and energy conse-
14 quences anticipated as a result of the proposed facility have been identified
15 and adverse impacts will be mitigated in accordance with rules of the council
16 applicable to the siting of the proposed facility; and

17 “(C) The proposed facility is compatible with other adjacent uses or will
18 be made compatible through measures designed to reduce adverse impacts.

19 “(3) If compliance with applicable substantive local criteria and applica-
20 ble statutes and state administrative rules would result in conflicting con-
21 ditions in the site certificate or amended site certificate, the council shall
22 resolve the conflict consistent with the public interest. A resolution may not
23 result in a waiver of any applicable state statute.

24 “(4) An applicant for a site certificate shall elect whether to demonstrate
25 compliance with the statewide planning goals under subsection (1)(a) or (b)
26 of this section. The applicant shall make the election on or before the date
27 specified by the council by rule.

28 “(5) Upon request by the State Department of Energy, the special advisory
29 group established under ORS 469.480 shall recommend to the council, within
30 the time stated in the request, the applicable substantive criteria under

1 subsection (1)(b)(A) of this section. If the special advisory group does not
2 recommend applicable substantive criteria within the time established in the
3 department's request, the council may either determine and apply the appli-
4 cable substantive criteria under subsection (1)(b) of this section or determine
5 compliance with the statewide planning goals under subsection (1)(b)(B) or
6 (C) of this section. If the special advisory group recommends applicable
7 substantive criteria for an energy facility described in ORS 469.300 or a re-
8 lated or supporting facility that does not pass through more than one local
9 government jurisdiction or more than three zones in any one jurisdiction, the
10 council shall apply the criteria recommended by the special advisory group.
11 If the special advisory group recommends applicable substantive criteria for
12 an energy facility as defined in ORS 469.300 (11)(a)(C) to (E) or a related or
13 supporting facility that passes through more than one jurisdiction or more
14 than three zones in any one jurisdiction, the council shall review the re-
15 commended criteria and determine whether to evaluate the proposed facility
16 against the applicable substantive criteria recommended by the special advi-
17 sory group, against the statewide planning goals or against a combination
18 of the applicable substantive criteria and statewide planning goals. In mak-
19 ing its determination, the council shall consult with the special advisory
20 group and shall consider:

21 “(a) The number of jurisdictions and zones in question;

22 “(b) The degree to which the applicable substantive criteria reflect local
23 government consideration of energy facilities in the planning process; and

24 “(c) The level of consistency of the applicable substantive criteria from
25 the various zones and jurisdictions.

26 “(6) The council is not subject to ORS 197.180 and a state agency may not
27 require an applicant for a site certificate to comply with any rules or pro-
28 grams adopted under ORS 197.180.

29 “(7) On or before its next periodic review, each affected local government
30 shall amend its comprehensive plan and land use regulations as necessary

1 to reflect the decision of the council pertaining to a site certificate or
2 amended site certificate.

3 “(8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law,
4 the affected local government’s land use approval of a proposed facility under
5 subsection (1)(a) of this section and the special advisory group’s recommen-
6 dation of applicable substantive criteria under subsection (5) of this section
7 shall be subject to judicial review only as provided in ORS 469.403. If the
8 applicant elects to comply with subsection (1)(a) of this section, the pro-
9 visions of this subsection shall apply only to proposed projects for which the
10 land use approval of the local government occurs after the date a notice of
11 intent or an application for expedited processing is submitted to the State
12 Department of Energy.

13 “(9) The State Department of Energy, in cooperation with other state
14 agencies, shall provide, to the extent possible, technical assistance and in-
15 formation about the siting process to local governments that request such
16 assistance or that anticipate having a facility proposed in their jurisdiction.

17 **“SECTION 100.** ORS 469.505 is amended to read:

18 “469.505. (1) In making a determination regarding compliance with stat-
19 utes, rules and ordinances administered by another agency or compliance
20 with requirements of ORS 469.300 to 469.563 and 469.590 to 469.619 where
21 another agency has special expertise, consultation with the other agency
22 shall occur during the notice of intent and site certificate application pro-
23 cess. Any permit application for which the permitting decision has been de-
24 legated by the federal government to a state agency other than the Energy
25 Facility Siting Council shall be reviewed, whenever feasible, simultaneously
26 with the council’s review of the site certificate application. Any hearings
27 required on such permit applications shall be consolidated, whenever feasi-
28 ble, with hearings under ORS 469.300 to 469.563 and 469.590 to 469.619.

29 “(2) Before resolving any conflicting conditions in site certificates or
30 amended site certificates under ORS 469.503 [(3)] (2) and 469.504, the council

1 shall notify and consult with the agencies and local governments responsible
2 for administering the statutes, administrative rules or substantive local cri-
3 teria that result in the conflicting conditions regarding potential conflict
4 resolution.

5

6 **“REPEAL OF FORESTRY CARBON OFFSET PROVISIONS**

7

8 **“SECTION 101. ORS 526.780, 526.783, 526.786 and 526.789 are repealed.**

9 **“SECTION 102. ORS 530.050 is amended to read:**

10 “530.050. Under the authority and direction of the State Board of Forestry
11 except as otherwise provided for the sale of forest products, the State
12 Forester shall manage the lands acquired pursuant to ORS 530.010 to 530.040
13 so as to secure the greatest permanent value of those lands to the state, and
14 to that end may:

15 “(1) Protect the lands from fire, disease and insect pests, cooperate with
16 the counties and with persons owning lands within the state in the pro-
17 tection of the lands and enter into all agreements necessary or convenient
18 for the protection of the lands.

19 “(2) Sell forest products from the lands, and execute mining leases and
20 contracts as provided for in ORS 273.551.

21 “(3) Enter into and administer contracts for the sale of timber from lands
22 owned or managed by the State Board of Forestry and the State Forestry
23 Department.

24 “(4) Enter into and administer contracts for activities necessary or con-
25 venient for the sale of timber under subsection (3) of this section, either
26 separately from or in conjunction with contracts for the sale of timber, in-
27 cluding but not limited to activities such as timber harvesting and sorting,
28 transporting, gravel pit development or operation, and road construction,
29 maintenance or improvement.

30 “(5) Permit the use of the lands for other purposes, including but not

1 limited to forage and browse for domestic livestock, fish and wildlife envi-
2 ronment, landscape effect, protection against floods and erosion, recreation,
3 and protection of water supplies when, in the opinion of the board, the use
4 is not detrimental to the best interest of the state.

5 “(6) Grant easements, permits and licenses over, through and across the
6 lands. The State Forester may require and collect reasonable fees or charges
7 relating to the location and establishment of easements, permits and licenses
8 granted by the state over the lands. The fees and charges collected shall be
9 used exclusively for the expenses of locating and establishing the easements,
10 permits and licenses under this subsection and shall be placed in the State
11 Forestry Department Account.

12 “(7) Require and collect fees or charges for the use of state forest roads.
13 The fees or charges collected shall be used exclusively for purposes of
14 maintenance and improvements of the roads and shall be placed in the State
15 Forestry Department Account.

16 “(8) Reforest the lands and cooperate with the counties, and with persons
17 owning timberlands within the state, in the reforestation, and make all
18 agreements necessary or convenient for the reforestation.

19 “(9) Require such undertakings as in the opinion of the board are neces-
20 sary or convenient to secure performance of any contract entered into under
21 the terms of this section or ORS 273.551.

22 “(10) Sell rock, sand, gravel, pumice and other such materials from the
23 lands. The sale may be negotiated without bidding, provided the appraised
24 value of the materials does not exceed \$2,500.

25 “(11) Enter into agreements, each for not more than 10 years duration, for
26 the production of minor forest products.

27 “(12) [*Establish a forestry carbon offset program to*] Market, register,
28 transfer or sell forestry carbon offsets. [*In establishing the program, the*
29 *forester may:*]

30 “[*a*] *Execute any contracts or agreements necessary to create opportunities*

1 *for the creation of forestry carbon offsets; and]*

2 *“[(b) Negotiate prices that are at, or greater than, fair market value for the*
3 *transfer or sale of forestry carbon offsets.]*

4 “(13) Do all things and make all rules, not inconsistent with law, neces-
5 sary or convenient for the management, protection, utilization and conser-
6 vation of the lands.

7 **“SECTION 103.** ORS 530.500 is amended to read:

8 “530.500. In order to accomplish the purposes of ORS 530.490, the State
9 Forester may:

10 “(1) Protect the lands from fire, disease and insect pests, cooperate with
11 the counties and with persons owning lands within the state in the pro-
12 tection of the lands and enter into all agreements necessary or convenient
13 for the protection of the lands.

14 “(2) Enter into and administer contracts for the sale of timber from lands
15 owned or managed by the State Board of Forestry and the State Forestry
16 Department.

17 “(3) Enter into and administer contracts for activities necessary or con-
18 venient for the sale of timber under subsection (2) of this section, either
19 separately from or in conjunction with contracts for the sale of timber, in-
20 cluding but not limited to activities such as timber harvesting and sorting,
21 transporting, gravel pit development or operation, and road construction,
22 maintenance or improvement.

23 “(4) Permit the use of the lands for other purposes, including but not
24 limited to fish and wildlife environment, landscape effect, protection against
25 flood and erosion, recreation and production and protection of water supplies
26 when the use is not detrimental to the purpose for which the lands are ded-
27 icated.

28 “(5) Contract with other governmental bodies for the protection of water
29 supplies to facilitate the multiple use of publicly owned water supplies for
30 recreational purposes as well as a source of water for domestic and indus-

1 trial use.

2 “(6) Grant permits and licenses on, over and across the lands.

3 “(7) Reforest the lands and cooperate with persons owning timberlands
4 within the state in the reforestation, and make all agreements necessary or
5 convenient for the reforestation.

6 “(8) [*Establish a forestry carbon offset program to*] Market, register,
7 transfer or sell forestry carbon offsets. [*In establishing the program, the*
8 *forester may:*]

9 “[*(a) Execute any contracts or agreements necessary to create opportunities*
10 *for the creation of forestry carbon offsets; and*]

11 “[*(b) Negotiate prices that are at, or greater than, fair market value for the*
12 *transfer or sale of forestry carbon offsets.*]

13 “(9) Do all things and make all rules and regulations, not inconsistent
14 with law, necessary or convenient for the management, protection, utiliza-
15 tion and conservation of the lands.

16 “(10) Require such undertakings as in the opinion of the State Forester
17 are necessary or convenient to secure performance of any agreement au-
18 thorized in ORS 530.450 to 530.520.

19

20 **“REGULATION OF LANDFILL METHANE EMISSIONS**

21

22 **“SECTION 104. Section 105 of this 2019 Act is added to and made a**
23 **part of ORS chapter 468A.**

24 **“SECTION 105. (1) As used in this section:**

25 **“(a) ‘Anthropogenic greenhouse gas emissions’ has the meaning**
26 **given that term in section 15 of this 2019 Act.**

27 **“(b) ‘Carbon dioxide equivalent’ has the meaning given that term**
28 **in section 15 of this 2019 Act.**

29 **“(c) ‘Hazardous waste’ has the meaning given that term in ORS**
30 **466.005.**

1 “(d) ‘Land disposal site’ has the meaning given that term in ORS
2 459.005.

3 “(e) ‘Landfill’ has the meaning given that term in ORS 459.005.

4 “(f) ‘Solid waste’ has the meaning given that term in ORS 459.005.

5 “(2) It is the intent of the Legislative Assembly that the standards
6 and requirements adopted by rule under this section be at least as
7 stringent as the most stringent standards and requirements for re-
8 ducing methane gas emissions from landfills adopted among the states
9 having a boundary with Oregon.

10 “(3) The Environmental Quality Commission shall adopt by rule
11 standards and requirements for reducing methane gas emissions from
12 landfills.

13 “(4) The following landfills are exempt from standards and require-
14 ments adopted by rule under this section:

15 “(a) Landfills that emit less than 25,000 metric tons of carbon
16 dioxide equivalent in anthropogenic greenhouse gas emissions annu-
17 ally, as reported under ORS 468A.280.

18 “(b) Landfills that receive only hazardous waste.

19 “(c) Landfills that receive only waste from building demolition or
20 construction.

21 “(d) Land disposal sites that are closed as of the effective date of
22 this 2019 Act and are no longer receiving solid waste, are maintained
23 in compliance with ORS 459.268 and have less than 450,000 metric tons
24 of waste in place.

25 “(5) Rules adopted under this section shall include but need not be
26 limited to:

27 “(a) Reporting requirements related to waste in place, calculated
28 landfill gas heat input capacity, and landfill surface emissions moni-
29 toring.

30 “(b) Methane gas collection and control system requirements for

1 landfills with reported calculated landfill gas heat input capacity ex-
2 ceeding 3 million British thermal units per hour.

3 “(c) Standards and requirements for methane surface emissions,
4 monitoring and corrective actions.

5 “(d) Alternative compliance measures and methods that may be
6 applied for certain landfills on a case-by-case basis.

7 “(e) Standards and requirements for records retention, landfill clo-
8 sure notification, methane gas collection and control device removal
9 or modification and annual operating reports.

10 “SECTION 106. The Environmental Quality Commission shall adopt
11 rules under section 105 of this 2019 Act in time for the rules to become
12 operative no later than July 1, 2021.

13

14 “OREGON GLOBAL WARMING COMMISSION

15 “(Abolish and Transfer of Duties to Oregon Climate Board)

16

17 “SECTION 107. (1) The Oregon Global Warming Commission is
18 abolished. On the operative date of this section, the tenure of office
19 of the members of the Oregon Global Warming Commission ceases.

20 “(2) All the duties, functions and powers of the Oregon Global
21 Warming Commission are imposed upon, transferred to and vested in
22 the Oregon Climate Board.

23 “SECTION 108. (1) The chairperson of the Oregon Global Warming
24 Commission shall deliver to the Oregon Climate Board all records and
25 property within the jurisdiction of the chairperson that relate to the
26 duties, functions and powers transferred by section 107 of this 2019 Act.

27 “(2) The chairperson of the Oregon Climate Board shall take pos-
28 session of the records and property.

29 “(3) The Governor shall resolve any dispute between the Oregon
30 Global Warming Commission and the Oregon Climate Board relating

1 to transfers of records and property under this section, and the
2 Governor's decision is final.

3 **SECTION 109.** (1) The unexpended balances of amounts authorized
4 to be expended by the Oregon Global Warming Commission for the
5 biennium beginning July 1, 2019, from revenues dedicated, contin-
6 uously appropriated, appropriated or otherwise made available for the
7 purpose of administering and enforcing the duties, functions and
8 powers transferred by section 107 of this 2019 Act are transferred to
9 and are available for expenditure by the Oregon Climate Board for the
10 biennium beginning July 1, 2019, for the purpose of administering and
11 enforcing the duties, functions and powers transferred by section 107
12 of this 2019 Act.

13 **“(2)** The expenditure classifications, if any, established by Acts au-
14 thORIZING or limiting expenditures by the Oregon Global Warming
15 Commission remain applicable to expenditures by the Oregon Climate
16 Board under this section.

17 **SECTION 110.** The transfer of duties, functions and powers to the
18 Oregon Climate Board by section 107 of this 2019 Act does not affect
19 any action, proceeding or prosecution involving or with respect to
20 such duties, functions and powers begun before and pending at the
21 time of the transfer, except that the Oregon Climate Board is substi-
22 tuted for the Oregon Global Warming Commission in the action, pro-
23 ceeding or prosecution.

24 **SECTION 111.** (1) Nothing in sections 107 to 114 of this 2019 Act,
25 the amendments to statutes by sections 116 to 121 of this 2019 Act or
26 the repeal of statutes by section 115 of this 2019 Act relieves a person
27 of a liability, duty or obligation accruing under or with respect to the
28 duties, functions and powers transferred by section 107 of this 2019 Act.
29 The Oregon Climate Board may undertake the collection or enforce-
30 ment of any such liability, duty or obligation.

1 “[(3) *The commission shall examine possible funding mechanisms to obtain*
2 *low-cost greenhouse gas emissions reductions and energy efficiency enhance-*
3 *ments, including but not limited to those in the natural gas industry.*]

4 “**SECTION 118.** ORS 468A.245 is amended to read:

5 “468A.245. The [*Oregon Global Warming Commission*] **Oregon Climate**
6 **Board** shall develop an outreach strategy to educate Oregonians about the
7 scientific aspects and economic impacts of [*global warming*] **climate change**
8 and to inform Oregonians of ways to reduce greenhouse gas emissions and
9 ways to prepare for the effects of [*global warming*] **climate change**. The
10 [*commission*] **board**, at a minimum, shall work with state and local govern-
11 ments, **the Climate Policy Office**, the State Department of Energy, the
12 Department of Education, the Higher Education Coordinating Commission
13 and businesses to implement the outreach strategy.

14 “**SECTION 119.** ORS 468A.255 is amended to read:

15 “468A.255. The [*Oregon Global Warming Commission*] **Oregon Climate**
16 **Board** may recommend to the Governor the formation of citizen advisory
17 groups to explore particular areas of concern with regard to the reduction
18 of greenhouse gas emissions and the effects of [*global warming*] **climate**
19 **change**.

20 “**SECTION 120.** ORS 468A.260 is amended to read:

21 “468A.260. The [*Oregon Global Warming Commission*] **Oregon Climate**
22 **Board** shall submit a report to the Legislative Assembly, in the manner
23 provided by ORS 192.245, by March 31 of each odd-numbered year that de-
24 scribes Oregon’s progress toward achievement of the greenhouse gas emis-
25 sions reduction goals established by ORS 468A.205. The report may include
26 relevant issues and trends of significance, including trends of greenhouse gas
27 emissions, emerging public policy and technological advances. The report
28 also may discuss measures the state may adopt to mitigate the impacts of
29 [*global warming*] **climate change** on the environment, the economy and the
30 residents of Oregon and to prepare for those impacts.

1 **SECTION 121.** ORS 352.823 is amended to read:

2 “352.823. (1) The Oregon Climate Change Research Institute is established
3 at Oregon State University. In administering the institute, Oregon State
4 University may seek the cooperation of other public universities listed in
5 ORS 352.002.

6 “(2) The purpose of the Oregon Climate Change Research Institute is to:

7 “(a) Facilitate research by faculty at public universities listed in ORS
8 352.002 on climate change and its effects on natural and human systems in
9 Oregon;

10 “(b) Serve as a clearinghouse for climate change information;

11 “(c) Provide climate change information to the public in integrated and
12 accessible formats;

13 “(d) Support the [*Oregon Global Warming Commission*] **Oregon Climate**
14 **Board** in developing strategies to prepare for and to mitigate the effects of
15 climate change on natural and human systems; and

16 “(e) Provide technical assistance to local governments to assist them in
17 developing climate change policies, practices and programs.

18 “(3) The Oregon Climate Change Research Institute shall assess, at least
19 once each biennium, the state of climate change science, including biological,
20 physical and social science, as it relates to Oregon and the likely effects of
21 climate change on the state. The institute shall submit the assessment to the
22 Legislative Assembly in the manner provided in ORS 192.245 and to the
23 Governor.

24 “(4) State agencies may contract with the Oregon Climate Change Re-
25 search Institute to fulfill agency needs regarding the collection, storage, in-
26 tegration, analysis, dissemination and monitoring of climate change
27 information, research and training.

28 **SECTION 121a.** ORS 468A.265 is amended to read:

29 “468A.265. As used in ORS 468A.265 to 468A.277:

30 “(1) ‘Biodiesel’ means a motor vehicle fuel consisting of mono-alkyl esters

1 of long chain fatty acids derived from vegetable oils, animal fats or other
2 nonpetroleum resources, not including palm oil.

3 “(2) ‘Clean fuels program’ means the program adopted by rule by the En-
4 vironmental Quality Commission under ORS 468A.266 (1)(b).

5 “(3) ‘Compliance period’ means the calendar year during which a regu-
6 lated party must demonstrate compliance with the low carbon fuel standards
7 through participation in the clean fuels program.

8 “(4) ‘Credit’ means a unit of measure generated when a fuel with a carbon
9 intensity that is less than the applicable low carbon fuel standard is
10 produced, imported or dispensed for use in Oregon, such that one credit is
11 equal to one metric ton of carbon dioxide equivalent.

12 “(5) ‘Credit aggregator’ means a person who voluntarily registers to par-
13 ticipate in the clean fuels program to facilitate credit generation on behalf
14 of a credit generator and to trade credits with regulated parties, credit gen-
15 erators and other credit aggregators.

16 “(6) ‘Credit generator’ means a person eligible to generate credits by
17 providing fuels for use in Oregon with carbon intensities less than the ap-
18 plicable low carbon fuel standard.

19 “(7) ‘Deferral’ means a delay or change in the applicability of a scheduled
20 applicable low carbon fuel standard for a period of time, accomplished pur-
21 suant to an order issued under ORS 468A.273 or 468A.274.

22 “(8) ‘Deficit’ means a unit of measure generated when a fuel with a car-
23 bon intensity that is more than the applicable low carbon fuel standard is
24 produced, imported or dispensed for use in Oregon, such that one deficit is
25 equal to one metric ton of carbon dioxide equivalent.

26 “(9) ‘Greenhouse gas’ [*has the meaning given that term in ORS 468A.210*]
27 **includes, but is not limited to, carbon dioxide, methane, nitrous oxide,**
28 **hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitro-**
29 **gen trifluoride.**

30 “(10) ‘Low carbon fuel standard’ means a standard adopted by the com-

1 mission by rule under ORS 468A.266 for the reduction of greenhouse gas
2 emissions, on average, per unit of fuel energy.

3 “(11) ‘Motor vehicle’ has the meaning given that term in ORS 801.360.

4 “(12) ‘Regulated party’ means a person responsible for complying with the
5 low carbon fuel standards.

6 “(13) ‘Small deficit’ means a net deficit balance at the end of a compliance
7 period, after retirement of all credits held by a regulated party, that does
8 not exceed a percentage set by the commission by rule of the total number
9 of deficits that the regulated party generated for a compliance period and
10 that may not be greater than 10 percent of the total number of deficits that
11 the regulated party generated for a compliance period.

12 **“SECTION 121b.** ORS 468A.279 is amended to read:

13 “468A.279. (1) As used in this section:

14 “(a) ‘Greenhouse gas’ has the meaning given that term in ORS
15 [~~468A.210~~] **468A.265**.

16 “(b) ‘Motor vehicle’ has the meaning given that term in ORS 801.360.

17 “(2) The Environmental Quality Commission may adopt by rule standards
18 and requirements described in this section to reduce greenhouse gas emis-
19 sions.

20 “(3)(a) The commission may adopt requirements to prevent the tampering,
21 alteration and modification of the original design or performance of motor
22 vehicle pollution control systems.

23 “(b) Before adopting requirements under this section, the commission
24 shall consider the antitampering requirements and exemptions of the State
25 of California.

26 “(4) The commission may adopt requirements for motor vehicle service
27 providers to check and inflate tire pressure according to the tire
28 manufacturer’s or motor vehicle manufacturer’s recommended specifications,
29 provided that the requirements:

30 “(a) Do not apply when the primary purpose of the motor vehicle service

1 is fueling vehicles; and

2 “(b) Do not require motor vehicle service providers to purchase equipment
3 to check and inflate tire pressure.

4 “(5) The commission may adopt restrictions on engine use by commercial
5 ships while at port, and requirements that ports provide alternatives to en-
6 gine use such as electric power, provided that:

7 “(a) Engine use shall be allowed when necessary to power mechanical or
8 electrical operations if alternatives are not reasonably available;

9 “(b) Engine use shall be allowed when necessary for reasonable periods
10 due to emergencies and other considerations as determined by the commis-
11 sion; and

12 “(c) The requirements must be developed in consultation with represen-
13 tatives of Oregon ports and take into account operational considerations,
14 operational agreements, international protocols and limitations, the ability
15 to fund the purchase and use of electric power equipment and the potential
16 effect of the requirements on competition with other ports.

17 “(6) In adopting rules under this section, the commission shall evaluate:

18 “(a) Safety, feasibility, net reduction of greenhouse gas emissions and
19 cost-effectiveness;

20 “(b) Potential adverse impacts to public health and the environment, in-
21 cluding but not limited to air quality, water quality and the generation and
22 disposal of waste in this state;

23 “(c) Flexible implementation approaches to minimize compliance costs;
24 and

25 “(d) Technical and economic studies of comparable greenhouse gas emis-
26 sions reduction measures implemented in other states and any other studies
27 as determined by the commission.

28 “(7) The provisions of this section do not apply to:

29 “(a) Motor vehicles registered as farm vehicles under the provisions of
30 ORS 805.300.

1 “(b) Farm tractors, as defined in ORS 801.265.

2 “(c) Implements of husbandry, as defined in ORS 801.310.

3 “(d) Motor trucks, as defined in ORS 801.355, used primarily to transport
4 logs.

5 **“SECTION 121c.** ORS 757.528 is amended to read:

6 “757.528. (1) Unless modified by rule by the State Department of Energy
7 as provided in this section, the greenhouse gas emissions standard that ap-
8 plies to consumer-owned utilities is 1,100 pounds of greenhouse gases per
9 megawatt-hour for a generating facility.

10 “(2) Unless modified pursuant to subsection (4) of this section, the
11 greenhouse gas emissions standard includes only carbon dioxide emissions.

12 “(3) For purposes of applying the emissions standard to cogeneration fa-
13 cilities, the department shall establish an output-based methodology to en-
14 sure that the calculation of emissions of greenhouse gases for cogeneration
15 facilities recognizes the total usable energy output of the process and in-
16 cludes all greenhouse gases emitted by the facility in the production of both
17 electrical and thermal energy.

18 “(4) The department shall review the greenhouse gas emissions standard
19 established under this section no more than once every three years. After
20 public notice and hearing, and consultation with the Public Utility Com-
21 mission, the department may:

22 “(a) Modify the emissions standard to include other greenhouse gases as
23 defined in ORS [~~468A.210~~] **468A.265**, with the other greenhouse gases ex-
24 pressed as their carbon dioxide equivalent; and

25 “(b) Modify the emissions standard based upon current information on the
26 rate of greenhouse gas emissions from a commercially available combined-
27 cycle natural gas generating facility that:

28 “(A) Employs a combination of one or more gas turbines and one or more
29 steam turbines and produces electricity in the steam turbines from waste
30 heat produced by the gas turbines;

1 “(B) Has a heat rate at high elevation within the boundaries of the
2 Western Electricity Coordinating Council; and

3 “(C) Has a heat rate at ambient temperatures when operating during the
4 hottest day of the year.

5 “(5) In modifying the greenhouse gas emissions standard, the department
6 shall:

7 “(a) Use an output-based methodology to ensure that the calculation of
8 greenhouse gas emissions through cogeneration recognizes the total usable
9 energy output of the process and includes all greenhouse gases emitted by
10 the generating facility in the production of both electrical and thermal en-
11 ergy; and

12 “(b) Consider the effects of the emissions standard on system reliability
13 and overall costs to electricity consumers.

14 “(6) If upon a review conducted pursuant to subsection (4) of this section,
15 the department determines that a mandatory greenhouse gas emissions limit
16 has been established pursuant to state or federal law, the department shall
17 issue a report to the appropriate legislative committees of the Legislative
18 Assembly stating which portions, if any, of the greenhouse gas emissions
19 standard are no longer necessary as a matter of state law.

20

21 **“EXPEDITED JUDICIAL REVIEW TO SUPREME COURT;**
22 **EXPIRATION**

23

24 **“SECTION 122. (1) It is the intent of the Legislative Assembly that**
25 **the provisions of this 2019 Act relating to the receipt of moneys by the**
26 **state through the sale of allowances by auction under section 34 of this**
27 **2019 Act do not render this 2019 Act a bill for raising revenue subject**
28 **to the provisions of Article IV, sections 18 and 25 (2), of the Oregon**
29 **Constitution.**

30 **“(2) Original jurisdiction is conferred on the Supreme Court to de-**

1 termine whether this 2019 Act is a bill for raising revenue subject to
2 the provisions of Article IV, sections 18 and 25 (2), of the Oregon
3 Constitution.

4 “(3)(a) Any person interested in or affected or aggrieved by, or who
5 will be affected or aggrieved by, section 34 of this 2019 Act may petition
6 for judicial review under this section. A petition for review must be
7 filed within 60 days after the effective date of this 2019 Act.

8 “(b) The petition must state facts showing how the petitioner is
9 interested, affected or aggrieved and the grounds upon which the pe-
10 tition is based.

11 “(4) The petitioner shall serve a copy of the petition by registered
12 or certified mail upon the Oregon Department of Administrative Ser-
13 vices, the Director of the Climate Policy Office, the Attorney General
14 and the Governor.

15 “(5) Proceedings for review under this section shall be given priority
16 over all other matters before the Supreme Court.

17 “(6) In the event that the Supreme Court determines that there are
18 factual issues in the petition, the Supreme Court may appoint a special
19 master to hear evidence and to prepare recommended findings of fact.

20 “SECTION 123. (1) Original jurisdiction to determine whether auc-
21 tions conducted under section 34 of this 2019 Act impose a tax that is
22 subject to the provisions of Article IX, section 3a, of the Oregon Con-
23 stitution, is conferred on the Supreme Court.

24 “(2)(a) Any person interested in or affected or aggrieved by, or who
25 will be affected or aggrieved by, section 34 of this 2019 Act may petition
26 for judicial review under this section. A petition for review must be
27 filed within 60 days after the effective date of this 2019 Act.

28 “(b) The petition must state facts showing how the petitioner is
29 interested, affected or aggrieved and the grounds upon which the pe-
30 tition is based.

1 “(3) The petitioner shall serve a copy of the petition by registered
2 or certified mail upon the Oregon Department of Administrative Ser-
3 vices, the Director of the Climate Policy Office, the Attorney General
4 and the Governor.

5 “(4) Proceedings for review under this section shall be given priority
6 over all other matters before the Supreme Court.

7 “(5) In the event that the Supreme Court determines that there are
8 factual issues in the petition, the Supreme Court may appoint a special
9 master to hear evidence and to prepare recommended findings of fact.

10
11 **“REPORTS AND REVIEWS**

12
13 **“SECTION 124. Initial implementation report. On or before Sep-**
14 **tember 15, 2020, the Oregon Department of Administrative Services**
15 **shall report on the actions being taken to prepare for the implemen-**
16 **tation of sections 15 to 40 of this 2019 Act to the Joint Committee on**
17 **Climate Action.**

18 **“SECTION 125. Greenhouse gas emissions reporting program coor-**
19 **dination report.** On or before December 31, 2020, the Oregon Depart-
20 ment of Administrative Services and the Department of
21 Environmental Quality shall jointly report, in the manner provided by
22 ORS 192.245, on the coordination between the Oregon Department of
23 Administrative Services and the Department of Environmental Quality
24 for administration of ORS 468A.280 and rules adopted under ORS
25 468A.280, and for the sharing and administration of information col-
26 lected under ORS 468A.280 and rules adopted under ORS 468A.280. The
27 report shall include recommendations, which may include recommen-
28 dations for legislation, on whether modification of the transfer of du-
29 ties related to greenhouse gas reporting provided in sections 75 to 81
30 of this 2019 Act should be made to ensure that the appropriate laws

1 related to greenhouse gas reporting are administered by the appropri-
2 ate department.

3 **“SECTION 126. Offset implementation report.** On or before Sep-
4 tember 15, 2031, the Climate Policy Office shall conduct a review and
5 provide a report to the Joint Committee on Climate Action, in the
6 manner provided by ORS 192.245, on the implementation of sections
7 30 to 32 of this 2019 Act and rules adopted under section 30 of this 2019
8 Act. The report may include recommendations for legislation. The re-
9 view and report must:

10 **“(1) Assess the implementation of laws and policies for offset**
11 **projects and the use of offset credits by covered entities;**

12 **“(2) Include a review of:**

13 **“(a) Offset project development costs and the time it takes for state**
14 **agencies to review offset projects;**

15 **“(b) To date, the offset projects developed and the offset credits**
16 **generated and issued under rules adopted and offset protocols devel-**
17 **oped pursuant to sections 30 to 32 of this 2019 Act;**

18 **“(c) To date, the offset credits that have been invalidated pursuant**
19 **to section 30 (5) of this 2019 Act;**

20 **“(d) Offset credit prices and offset credit market conditions; and**

21 **“(e) Advancements in the methods or technologies used for meas-**
22 **uring and monitoring the greenhouse gas emissions reductions or re-**
23 **movals attributable to offset projects;**

24 **“(3) Identify barriers to the adoption of offset protocols; and**

25 **“(4) Make determinations and recommendations regarding whether**
26 **changes to laws and policies are necessary or advisable to address any**
27 **negative impacts related to offset projects or offset credits or to best**
28 **align the laws or policies for offset projects and the use of offset**
29 **credits by covered entities with the purposes set forth in section 14 of**
30 **this 2019 Act.**

1 **SECTION 127. Report on certain exclusions from regulated emis-**
2 **sions.** (1) No later than January 1, 2025, the Climate Policy Office shall
3 conduct research and submit a report, in the manner provided by ORS
4 192.245, to the Joint Committee on Climate Action regarding the ex-
5 clusion from regulated emissions, as provided in section 17 (2)(a) of
6 this 2019 Act, of the greenhouse gas emissions from aviation fuel and
7 fuel used in watercraft and railroad locomotives. The purpose of the
8 report shall be to provide analysis of the anticipated effect of amend-
9 ing section 17 of this 2019 Act and any other statutes as necessary such
10 that, beginning in the first compliance period that begins after Janu-
11 ary 1, 2027, the greenhouse gas emissions from the combustion of fuel
12 described in section 17 (2)(a) of this 2019 Act would be included in
13 regulated emissions.

14 “(2) In carrying out the provisions of this section, the office shall
15 research and provide analysis on:

16 “(a) Whether the aviation, marine and railroad industries in Oregon
17 are reducing greenhouse gas emissions consistent with the best avail-
18 able technologies and energy alternatives;

19 “(b) Whether other jurisdictions that have adopted carbon pricing
20 mechanisms require aviation fuels, marine fuels or railroad fuels to
21 comply with those carbon pricing mechanisms;

22 “(c) The costs and economic impacts of eliminating the exclusion
23 provided under section 17 (2)(a) of this 2019 Act, analyzed separately
24 for each industry that would be impacted by the elimination of the
25 exclusion; and

26 “(d) The environmental impacts of eliminating the exclusion pro-
27 vided under section 17 (2)(a) of this 2019 Act, analyzed separately for
28 each industry that would be impacted by the elimination of the ex-
29 clusion.

30 **SECTION 128. Credit proposal.** (1) The Department of Transporta-

1 tion, in consultation with the Department of Revenue, the Legislative
2 Revenue Officer and any other relevant state agencies, shall develop
3 a proposal for a program or process for issuing the following refunds
4 or credits of moneys received by the state as proceeds from auctions
5 of allowances conducted under section 34 of this 2019 Act, in order to
6 offset estimated increases in motor vehicle fuel costs in Oregon at-
7 tributable to the regulation of motor vehicle fuel producers and
8 importers as covered entities under sections 15 to 40 of this 2019 Act:

9 “(a) A refund or credit available, in an amount up to 100 percent
10 of the estimated increase in the cost of motor vehicle fuel used to
11 propel motor vehicles on the highways of this state, to individuals with
12 an adjusted gross income that does not exceed 250 percent of the fed-
13 eral poverty guidelines based on the individual’s household size and
14 household members.

15 “(b) One or more refunds or credits available, in order to offset the
16 estimated increase in the cost of motor vehicle fuel used to propel
17 motor vehicles that are not operated on the highways of this state, for
18 motor vehicle fuel that is used in farm vehicles, motor vehicles used
19 in the forest products industry or motor vehicles otherwise used in the
20 agricultural and natural resource sectors.

21 “(2) On or before September 15, 2019, and in the manner provided
22 by ORS 192.245, the Department of Transportation shall provide a re-
23 port detailing the proposal and steps, which may include recommen-
24 dations for legislation, necessary to implement the proposal to the
25 Joint Committee on Climate Action and the Joint Committee on
26 Transportation.

27 “SECTION 129. Residential home heating assistance program pro-
28 posal. (1) The Housing and Community Services Department, in con-
29 sultation with the Climate Policy Office, the Oregon Housing Stability
30 Council and interested stakeholders, shall develop a proposal for as-

1 **sisting households that for residential home heating use propane, fuel**
2 **oil or other fossil fuels that are not natural gas. The proposal shall**
3 **give priority to assisting low-income households or impacted commu-**
4 **nities, as defined in section 15 of this 2019 Act, through:**

5 **“(a) Bill assistance; and**

6 **“(b) Weatherization, including options for upgrading to more effi-**
7 **cient home heating equipment or to home heating systems powered**
8 **by less greenhouse gas emissions-intensive power sources.**

9 **“(2) The department shall develop the proposal in a manner in-**
10 **tended to achieve the following goals:**

11 **“(a) Reducing greenhouse gas emissions;**

12 **“(b) Saving energy;**

13 **“(c) Reducing the energy burden experienced by households; and**

14 **“(d) Reducing residential home heating service disparities in his-**
15 **torically underserved populations.**

16 **“(3) The proposal required by this section may be for any combina-**
17 **tion of:**

18 **“(a) The development of a single new program;**

19 **“(b) The development of multiple new programs or activities to**
20 **achieve different goals as outlined in subsection (2) of this section; or**

21 **“(c) Utilization of existing programs or partnerships to deliver as-**
22 **sistance to households.**

23 **“(4) On or before September 15, 2020, and in the manner provided**
24 **by ORS 192.245, the Housing and Community Services Department**
25 **shall provide a report detailing the proposal, and steps, which may**
26 **include recommendations for legislation, necessary to implement the**
27 **proposal, to the Joint Committee on Climate Action.**

28 **“SECTION 130. Commercial and industrial natural gas and propane**
29 **user emissions reduction program proposal. (1) The Oregon Business**
30 **Development Department shall:**

1 “(a) Conduct the analysis described in subsection (2) of this section;
2 and

3 “(b) Based on the analysis described in subsection (2) of this sec-
4 tion, develop a proposal for a program to serve the needs identified in
5 the analysis in a manner that furthers one or more of the purposes
6 set forth in section 14 of this 2019 Act.

7 “(2) The department shall analyze and determine the commercial
8 needs in this state for loans or other financial assistance to commer-
9 cial and industrial natural gas users or propane users for projects or
10 activities to:

11 “(a) Increase the energy efficiency of or reduce the greenhouse gas
12 emissions from natural gas or propane-fueled equipment used in in-
13 dustrial or commercial facilities;

14 “(b) Facilitate replacing existing equipment in order to reduce
15 greenhouse gas emissions; and

16 “(c) Reduce process emissions.

17 “(3) In conducting the analysis and designing a proposal for a pro-
18 gram as required by this section, the department may consult and
19 contract for services as necessary with state or federal agencies or
20 nongovernmental entities that have expertise in climate or energy
21 policy or in industrial energy efficiency, or other relevant expertise.

22 “(4) On or before September 15, 2020, and in the manner provided
23 by ORS 192.245, the department shall provide a report to the Joint
24 Committee on Climate Action detailing the analysis conducted and the
25 proposal developed pursuant to this section and the steps, which may
26 include recommendations for legislation, necessary to implement the
27 proposal.

28

29

“APPROPRIATIONS

30

1 “(2)(a) Sections 11, 12, 14 to 26, 29 to 36, 38 to 46, 49 to 68 and 89 to
2 92 of this 2019 Act, the amendments to statutes by sections 13, 69, 87,
3 88, 94 to 100, 102 and 103 of this 2019 Act, and the repeal of statutes by
4 sections 93 and 101 of this 2019 Act become operative on January 1,
5 2021.

6 “(b) The Director of the Climate Policy Office, the Climate Policy
7 Office, the Public Utility Commission, the Housing and Community
8 Services Department, the State Department of Energy, the Oregon
9 Department of Administrative Services, the Environmental Quality
10 Commission, the Department of Environmental Quality, the Depart-
11 ment of Transportation and the Governor may adopt rules, issue or-
12 ders or take any actions before the operative date specified in
13 paragraph (a) of this subsection that are necessary to enable the di-
14 rector, the office, the commissions, the departments and the Gover-
15 nor, on and after the operative date specified in paragraph (a) of this
16 subsection, to carry out the provisions of sections 11, 12, 14 to 26, 29
17 to 36, 38 to 46, 49 to 68 and 89 to 92 of this 2019 Act, the amendments
18 to statutes by sections 13, 69, 87, 88, 94 to 100, 102 and 103 of this 2019
19 Act, and the repeal of statutes by sections 93 and 101 of this 2019 Act.

20 “(c)(A) If, in adopting rules, issuing orders or taking any actions
21 before the operative date specified in paragraph (a) of this subsection
22 as authorized by paragraph (b) of this subsection, information is ob-
23 tained by the State of Oregon that is information described in section
24 40 (2)(a) to (c) of this 2019 Act, the information shall be treated as
25 confidential business information, is exempt from disclosure under the
26 public records law, ORS 192.311 to 192.478, and may not be disclosed to
27 any person or entity except as provided in subparagraphs (B) and (C)
28 of this paragraph.

29 “(B) Information described in subparagraph (A) of this paragraph
30 may be used and disclosed in aggregated form.

1 **“(C) This paragraph does not prohibit the disclosure of information**
2 **between the Climate Policy Office and other agencies of the executive**
3 **department, as defined in ORS 174.112, or persons engaged by the State**
4 **of Oregon to provide administrative or technical services to support**
5 **the implementation of sections 15 to 40 of this 2019 Act if the disclo-**
6 **sure is necessary for purposes of adopting rules, issuing orders or**
7 **taking any actions before the operative date specified in paragraph (a)**
8 **of this subsection to carry out the provisions of sections 14 to 27, 29**
9 **to 36, 38 to 47, 49 to 68 and 89 to 92 of this 2019 Act, the amendments**
10 **to statutes by sections 69, 87, 94 to 100, 102 and 103 of this 2019 Act,**
11 **and the repeal of statutes by sections 93 and 101 of this 2019 Act.**

12 **“(3)(a) Sections 75 to 81 of this 2019 Act, the amendments to ORS**
13 **468.953 and 468A.280 by sections 82 and 86 of this 2019 Act and the**
14 **amendments to sections 11, 12 and 39 of this 2019 Act by sections 83**
15 **to 85 of this 2019 Act become operative on January 1, 2022.**

16 **“(b) The Environmental Quality Commission, the Department of**
17 **Environmental Quality, the Oregon Department of Administrative**
18 **Services, the Director of the Climate Policy Office and the Climate**
19 **Policy Office may adopt rules or take any actions before the operative**
20 **date specified in paragraph (a) of this subsection that are necessary**
21 **to enable the Environmental Quality Commission, the Department of**
22 **Environmental Quality, the Oregon Department of Administrative**
23 **Services, the Director of the Climate Policy Office and the Climate**
24 **Policy Office, on and after the operative date specified in paragraph**
25 **(a) of this subsection, to carry out the provisions of sections 75 to 81**
26 **of this 2019 Act, the amendments to ORS 468.953 and 468A.280 by**
27 **sections 82 and 86 of this 2019 Act and the amendments to sections 11,**
28 **12 and 39 of this 2019 Act by sections 83 to 85 of this 2019 Act.**

29

30

“CAPTIONS

1 **“SECTION 134. The unit and section captions used in this 2019 Act**
2 **are provided only for the convenience of the reader and do not become**
3 **part of the statutory law of this state or express any legislative intent**
4 **in the enactment of this 2019 Act.**

5

6

“EMERGENCY CLAUSE

7

8 **“SECTION 135. This 2019 Act being necessary for the immediate**
9 **preservation of the public peace, health and safety, an emergency is**
10 **declared to exist, and this 2019 Act takes effect on its passage.”.**

11
