

Senate Bill 1536

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires electric company to operate in compliance with risk-based wildfire protection plan acknowledged by Public Utility Commission. Requires periodic submission of new plan. Specifies minimum required contents for plan. Requires submission of initial plan no later than December 31, 2020.

Makes reasonable and prudent investment that electric company incurs to develop, implement or operate wildfire protection plan or to mitigate risk, severity or extent of wildfire recoverable as rates charged by company.

Requires consumer-owned utility to operate in compliance with risk-based wildfire mitigation plan approved by governing body of utility. Requires periodic submission of new plan. Requires submission of initial plan no later than December 31, 2021.

Requires consumer-owned utility to conduct wildfire risk assessment of utility facilities. Requires review and revision of assessment as required by governing body of utility.

Requires consumer-owned utility to construct, maintain and operate electrical lines and equipment in manner designed to reduce likelihood of wildfire.

Requires Public Utility Commission workshops to develop and share information for best practices regarding wildfire.

Requires Department of Land Conservation and Development to oversee and coordinate development and maintenance of comprehensive statewide map of wildfire risk. Requires department to establish minimum standards and provide consultation to cities and counties to implement and maintain wildfire risk planning and zoning and to develop wildfire risk mitigation standards. Requires Insurance Commissioner to order insurers to identify and provide incentives for policyholder actions to reduce wildfire risk.

Requires State Fire Marshal to establish minimum defensible space requirements. Requires local government to administer and enforce applicable State Fire Marshal defensible space requirements. Allows local government to adopt local defensible space requirements in excess of State Fire Marshal requirements.

Requires local government to periodically report to State Fire Marshal regarding compliance with defensible space requirements. Requires State Fire Marshal to maintain map of defensible space requirements and compliance.

Requires State Fire Marshal to administer and enforce program to provide assistance to local governments for administration and enforcement of defensible space requirements. Establishes Wildfire Defensible Space Fund. Establishes creation of defensible space on lands of certain underserved populations as priority use of financial assistance.

Requires Department of Land Conservation and Development to establish program to assist counties and cities to adopt local building code provisions and local wildfire safety requirements that exceed state requirements. Creates Local Wildfire Response Fund.

Requires Oregon Health Authority to establish standards for residential smoke filtration systems. Requires authority to establish program to increase availability of systems among vulnerable persons residing in areas susceptible to wildfire smoke. Authorizes authority to issue grants to increase availability of systems. Creates Wildfire Smoke Abatement Fund.

Establishes task force to identify barriers to installation of smoke filtration systems in areas susceptible to wildfire smoke. Requires task force report no later than September 15, 2021. Sunsets task force December 31, 2021.

Requires State Forestry Department to establish program for reducing fuel load on forestlands. Establishes Forestland Treatment Fund.

Requires State Forester to establish baseline level of wildfire protection for lands susceptible to wildfire.

Requires county to assist landowners and jurisdictions to form, expand or change boundaries of jurisdiction that provides wildfire protection. Requires county to assist jurisdiction in developing adequate wildfire protection facilities, equipment, training and other resources. Requires that county ensure lands susceptible to wildfire are provided with wildfire protection meeting or exceeding baseline level no later than January 1, 2025.

Requires State Forestry Department to contract for services of private consultant to evaluate and make recommendations on specified issues regarding wildfires. Requires consultant to report to

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

Governor and legislative committee no later than September 15, 2022.

Allows Governor to authorize joint state-federal partnerships to direct wildfire strategy based on recommendations of Governor's Council on Wildfire Response.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to wildfires; and declaring an emergency.

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

UTILITIES

SECTION 1. Sections 2 to 5 of this 2020 Act are added to and made a part of ORS chapter 757.

SECTION 2. (1) As used in this section, "electric company" has the meaning given that term in ORS 757.600.

(2) An electric company must have and operate in compliance with a risk-based wildfire protection plan acknowledged by the Public Utility Commission.

(3) An electric company shall submit a risk-based wildfire protection plan to the commission every three years. The plan must, at a minimum:

(a) Identify areas within the service territory of the electric company that are subject to a heightened risk of wildfire.

(b) Identify a means for mitigating wildfire risk that is cost effective and reflects a reasonable balancing of mitigation costs with the resulting reduction of wildfire risk.

(c) Identify preventative actions and programs that the electric company will carry out to minimize the risk of electric company facilities causing a wildfire.

(d) Identify a protocol for the deenergizing of power lines and adjusting power system operations to mitigate wildfires, promote the safety of the public and first responders and preserve health and communication infrastructure.

(e) Describe the procedures, standards and time frames that the electric company will use to inspect company infrastructure in areas that the company identifies under paragraph (a) of this subsection.

(f) Describe the procedures, standards and time frames that the electric company will use to carry out vegetation management in areas that the company identifies under paragraph (a) of this subsection.

(g) Identify the development, implementation and administration costs for the plan.

(h) Identify the community outreach and public awareness efforts that the electric company will use before, during and after a wildfire season.

(4) The commission, in consultation with the State Forestry Department and local emergency services agencies, shall review a wildfire protection plan that an electric company submits under this section. The commission shall:

(a) Acknowledge the submitted plan; or

(b) Disapprove the submitted plan and inform the electric company of the modifications necessary to obtain approval.

(5) The commission shall adopt rules for the submission, review, acknowledgment or disapproval of electric company wildfire protection plans.

SECTION 3. (1) Reasonable and prudent investments and expenditures by an electric company, including but not limited to the cost of capital, that are incurred to develop, im-

1 plement or operate a wildfire protection plan under section 2 of this 2020 Act are recoverable
 2 in the rates charged by the company. Reasonable and prudent investments and expenditures
 3 by an electric company, including but not limited to the cost of capital, that are incurred to
 4 mitigate the risk, severity or extent of wildfires are recoverable in the rates charged by the
 5 company.

6 (2) The Public Utility Commission shall establish processes and mechanisms to ensure
 7 timely cost recovery for costs associated with subsection (1) of this section. The commission
 8 shall establish the processes and mechanisms to address situations in which compliance with
 9 sections 2 to 5 of this 2020 Act results in the electric companies incurring costs for which
 10 cost recovery mechanisms otherwise authorized by law are not adequate.

11 **SECTION 4.** (1) As used in this section, “consumer-owned utility” and “governing body”
 12 have the meanings given those terms in ORS 757.600.

13 (2) A consumer-owned utility must have, and operate in compliance with, a risk-based
 14 wildfire mitigation plan approved by the governing body of the utility. The utility shall submit
 15 a risk-based wildfire mitigation plan to the governing body of the utility every three years.

16 (3) A consumer-owned utility shall conduct a wildfire risk assessment of utility facilities
 17 to determine the extent to which the facilities contribute to the direct causation of wildfires.
 18 The utility shall review and revise the assessment on a schedule the governing body deems
 19 consistent with prudent utility practices.

20 (4) A consumer-owned utility shall submit a copy of the risk-based wildfire mitigation
 21 plan approved by the utility governing body to the Public Utility Commission and the State
 22 Department of Energy to facilitate commission and department functions regarding state-
 23 wide wildfire mitigation planning and wildfire preparedness.

24 (5) A consumer-owned utility shall construct, maintain and operate the electrical lines
 25 and equipment of the utility in a manner designed to reduce the likelihood of wildfire. The
 26 construction, maintenance and operation must include provision for vegetation removal that
 27 meets or exceeds National Electrical Safety Code standards for vegetation removal.

28 **SECTION 5.** The Public Utility Commission shall periodically convene workshops for the
 29 purpose of helping electric companies, consumer-owned utilities and operators of electrical
 30 distribution systems to develop and share information for the identification, adoption and
 31 carrying out of best practices regarding wildfires, including, but not limited to, risk-based
 32 wildfire protection and risk-based wildfire mitigation procedures and standards.

33 **SECTION 6.** An electric company shall submit the first risk-based wildfire protection plan
 34 required of the company under section 2 of this 2020 Act no later than December 31, 2020.

35 **SECTION 7.** A consumer-owned utility shall submit the first risk-based wildfire miti-
 36 gation plan required under section 4 of this 2020 Act to the utility governing body no later
 37 than December 31, 2021.

38 LAND USE

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 41 **SECTION 8.** The Department of Land Conservation and Development shall oversee and
 42 coordinate the development and maintenance of a comprehensive statewide map of wildfire
 43 risk. The map shall be sufficiently detailed to allow the assessment of wildfire risk at the
 44 property-ownership level. The department shall collaborate with the State Forestry Depart-
 45 ment, the State Fire Marshal, other state and local governments and officials, other public

1 bodies, insurance companies and any other information sources that the Department of Land
 2 Conservation and Development deems appropriate to develop and maintain the map. The de-
 3 partment shall make the map described in this subsection accessible in electronic form to
 4 the public without charge.

5 **SECTION 9.** (1) The Department of Land Conservation and Development, in consultation
 6 with organizations representing cities and counties, shall adopt rules consistent with state-
 7 wide planning goals and guidelines regarding areas subject to natural hazards to establish
 8 minimum standards for city and county wildfire risk reduction planning and zoning and
 9 wildfire risk reduction.

10 (2) The department, the State Forestry Department and the State Fire Marshal shall
 11 provide technical assistance and resources to cities and counties to facilitate the implemen-
 12 tation and maintenance of wildfire risk planning and zoning and the development of wildfire
 13 risk mitigation standards.

14 **SECTION 10.** The Insurance Commissioner shall order companies that issue property
 15 insurance policies providing fire damage coverage for private property to identify and provide
 16 incentives for policyholders to undertake wildfire risk reduction measures.

17 18 DEFENSIBLE SPACE

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20 **SECTION 11.** (1) The State Fire Marshal shall establish minimum defensible space re-
 21 quirements for wildfire risk reduction on lands in areas susceptible to wildfire. The State
 22 Fire Marshal may establish different minimum defensible space requirements for homes and
 23 infrastructure on different types of land. Subject to additional local requirements, a mini-
 24 mum defensible space requirement that the State Fire Marshal establishes for a type of land
 25 shall apply statewide for all lands of that type that are in areas susceptible to wildfire. The
 26 State Fire Marshal shall select the minimum defensible space requirements from the stan-
 27 dards set forth in the International Wildland-Urban Interface Code (2012 Edition).

28 (2) Except as provided in subsection (3) of this section, a local government shall admin-
 29 ister and enforce the minimum defensible space requirements established by the State Fire
 30 Marshal under subsection (1) of this section that are applicable to the lands within the ju-
 31 risdiction of the local government.

32 (3) A local government may adopt minimum defensible space as local requirements for
 33 defensible space on lands that have requirements that are greater than the minimum
 34 defensible space requirements established by the State Fire Marshal. The local government
 35 shall select any local minimum defensible space requirements from the standards set forth
 36 in International Wildland-Urban Interface Code (2012 Edition).

37 (4) A local government described in this section shall inspect properties within the ju-
 38 risdiction for compliance with the minimum defensible space requirements established by the
 39 State Fire Marshal that apply to the lands or with any applicable local minimum defensible
 40 space requirements. If construction or other activities occur to change land to a type that
 41 is subject to different minimum defensible space requirements, the local jurisdiction shall
 42 inspect to determine whether the land continues to meet minimum defensible space re-
 43 quirements.

44 (5) The local jurisdiction shall periodically report to the State Fire Marshal regarding
 45 whether lands within the jurisdiction of the local government are in compliance with the

1 applicable minimum defensible space requirements. The reports shall state the extent of
 2 compliance for each property, the change in degree of compliance since the previous report
 3 and any other information required by the State Fire Marshal by rule. In addition to re-
 4 quiring periodic reports, the State Fire Marshal may at any time require a local jurisdiction
 5 to report the defensible space conditions for any lands within the jurisdiction of the local
 6 government.

7 (6) The State Fire Marshal shall oversee and coordinate the development and mainte-
 8 nance of a comprehensive statewide map of minimum defensible space requirements for
 9 lands susceptible to wildfire and the degree of compliance on those lands. The State Fire
 10 Marshal shall base the map on the local government reports described in subsection (5) of
 11 this section.

12 (7) The State Fire Marshal shall administer and enforce a program to provide financial,
 13 administrative, technical or other assistance to a local government to facilitate the admin-
 14 istration and enforcement of minimum defensible space requirements within the jurisdiction
 15 of the local government. A local government provided with financial assistance as described
 16 in this subsection shall give priority to the creation of defensible space on lands owned by
 17 communities of color, indigenous communities, persons with limited proficiency in English
 18 and persons of lower income as defined in ORS 456.055.

19 **SECTION 12.** The Wildfire Defensible Space Fund is established in the State Treasury,
 20 separate and distinct from the General Fund. Interest earned by the Wildfire Defensible
 21 Space Fund shall be credited to the fund. Moneys in the fund are continuously appropriated
 22 to the State Fire Marshal for the purpose of carrying out the local government financial
 23 assistance program described in section 11 of this 2020 Act.

24 BUILDING CODE

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 27 **SECTION 13.** (1) The Department of Land Conservation and Development shall establish
 28 a program to:

29 (a) Assist counties and cities to adopt, administer and enforce local building code pro-
 30 visions that address local conditions that increase wildfire risk; and

31 (b) Assist local governments to adopt, administer and enforce local fire safety require-
 32 ments that address local conditions that increase wildfire risk.

33 (2) The department, in consultation with counties, cities and the Department of Con-
 34 sumer and Business Services shall identify local conditions related to wildfire risk that merit
 35 the adoption of special building code requirements within a county or city that reduce that
 36 local risk. The Department of Land Conservation and Development shall assist counties and
 37 cities to develop local building code requirements that, based on local risk conditions, provide
 38 greater wildfire protection than the requirements imposed by the state building code.

39 (3) Notwithstanding ORS 455.030 and 455.040, a county or city that has a local condition
 40 described in subsection (2) of this section may adopt, administer and enforce a local building
 41 code requirement developed in consultation with the department under subsection (2) of this
 42 section.

43 (4) The department, in consultation with local governments as defined in ORS 174.116 and
 44 the State Fire Marshal shall identify local conditions related to wildfire risk that merit the
 45 adoption of special fire safety requirements within a county or city. The department shall

1 assist counties and cities to develop local wildfire safety requirements that, based on local
2 risk conditions, provide greater wildfire protection than the requirements imposed by the
3 state fire code.

4 (5) A local government that has a condition described in subsection (4) of this section
5 may adopt, administer and enforce special fire safety requirements developed in consultation
6 with the department under subsection (4) of this section.

7 **SECTION 14.** The Local Wildfire Risk Response Fund is established in the State Treas-
8 ury, separate and distinct from the General Fund. Interest earned by the Local Wildfire Risk
9 Response Fund shall be credited to the fund. Moneys in the fund are continuously appropri-
10 ated to the Department of Land Conservation and Development for the purpose of carrying
11 out the program described in section 13 of this 2020 Act, including but not limited to, the
12 issuing of grants to facilitate the adoption, administration and enforcement of county or city
13 building code and wildfire safety requirements under section 13 of this 2020 Act.

14 HEALTH EFFECTS

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17 **SECTION 15.** (1) As used in this section, “smoke filtration system” means a residential
18 air filtration system capable of removing particulates and other harmful components of
19 wildfire smoke.

20 (2) The Oregon Health Authority shall adopt rules establishing standards for smoke
21 filtration systems, including but not limited to, minimum acceptable efficiency for the re-
22 moval of particulates and other harmful substances generated by wildfires.

23 (3) The authority shall establish a program to increase the availability of smoke filtration
24 systems among persons vulnerable to the health effects of wildfire smoke who reside in areas
25 susceptible to wildfire smoke. The authority may issue grants for the installation of smoke
26 filtration systems in residential buildings in areas susceptible to wildfire smoke. The au-
27 thority shall give grant priority to installations in residential properties occupied by persons
28 of lower income as defined in ORS 456.055 who are vulnerable to the health effects of wildfire
29 smoke.

30 **SECTION 16.** The Wildfire Smoke Abatement Fund is established in the State Treasury,
31 separate and distinct from the General Fund. Interest earned by the Wildfire Smoke Abate-
32 ment Fund shall be credited to the fund. Moneys in the fund are continuously appropriated
33 to the Oregon Health Authority for the purpose of carrying out the program required under
34 section 15 of this 2020 Act.

35 **SECTION 17.** (1) The Task Force on Wildfire Smoke Health Effects is established.

36 (2) The task force consists of seven members appointed by the Director of the Oregon
37 Health Authority and having such qualifications as the director deems appropriate.

38 (3) The task force shall identify and consult with stakeholders to:

39 (a) Identify barriers to the installation of smoke filtration systems in areas susceptible
40 to wildfire smoke, and potential solutions to identified barriers; and

41 (b) Determine the extent to which renters are able to take advantage of smoke filtration
42 systems.

43 (4) A majority of the members of the task force constitutes a quorum for the transaction
44 of business.

45 (5) Official action by the task force requires the approval of a majority of the members

1 of the task force.

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

3 (7) If there is a vacancy for any cause, the director shall make an appointment to become
4 immediately effective.

5 (8) The task force shall meet at times and places specified by the call of the chairperson
6 or of a majority of the members of the task force.

7 (9) The task force may adopt rules necessary for the operation of the task force.

8 (10) The task force shall submit a report in the manner provided in ORS 192.245, and may
9 include recommendations for legislation, to the Governor, the director and a legislative
10 committee related to natural resources no later than September 15, 2021.

11 (11) The Oregon Health Authority shall provide staff support to the task force.

12 (12) Members of the task force are not entitled to compensation or reimbursement for
13 expenses and serve as volunteers on the task force.

14 SECTION 18. Section 17 of this 2020 Act is repealed on December 31, 2021.

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16 **EMERGENCY MANAGEMENT**

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18 SECTION 19. The Office of Emergency Management shall establish six positions within
19 the office whose responsibilities include, but need not be limited to, administering the office
20 response to wildfire emergencies within an assigned region of the state.

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22 **TREATMENT PROGRAM**

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24 SECTION 20. The State Forestry Department shall oversee a program to reduce fuel load
25 levels on forestlands within this state. The program shall be designed to treat 300,000 acres
26 of forestland annually. The department shall work in cooperation with units of federal, state
27 and local government, nonprofit organizations, private parties and other interested
28 stakeholders to identify and leverage available funding, identify priority sites for treatment
29 and coordinate treatment efforts to maximize the amount of fuel load reduction obtained.

30 SECTION 21. The program required under section 20 of this 2020 Act must:

31 (1) Include, but not be limited to, field work, providing adequate forester staffing to ex-
32 ecute treatment projects conducted pursuant to Good Neighbor Authority agreements and
33 providing adequate staffing for treatment procurement and contract administration.

34 (2) To the extent practicable, be linked to a stable funding stream derived from multiple
35 sources, including but not limited to, federal and state investments, timber, revenue from
36 benefited stakeholders and other revenues.

37 (3) Provide for the leveraging of state investments to maximized federal investments.

38 (4) Be maintained for a period of not less than 19 years, with a treatment goal of not less
39 than 5.6 million acres of forestland.

40 (5) Emphasize the treatment of forestlands that are in the three highest relative impor-
41 tance categories identified in the United States Forest Service report titled "Pacific North-
42 west Quantitative Wildfire Risk Assessment: Methods and Results" and dated April 9, 2018,
43 or on which treatment would provide a substantial benefit to the state.

44 (6) For federal lands, prioritize forestland treatment that has received approval under the
45 National Environmental Policy Act.

1 (7) For private lands, prioritize treatment work on forestlands of willing landowners.

2 (8) Focus publicly funded projects on the treatment of forestlands that have insufficient
3 commercial timber resources to offset the treatment costs.

4 **SECTION 22.** The Forestland Treatment Fund is established in the State Treasury, sep-
5 arate and distinct from the General Fund. Interest earned by the Forestland Treatment
6 Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the
7 State Forestry Department for the purpose of carrying out oversight and forestland treat-
8 ment under the program described in section 20 of this 2020 Act.

9
10 **PROTECTION OF LAND**

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12 **SECTION 23.** (1) The State Forester, in collaboration with the State Fire Marshal, state
13 agencies and local governments as defined in ORS 174.116, shall adopt rules establishing a
14 baseline level of wildfire protection for lands that are located in areas susceptible to wildfire.
15 A county shall ensure that all lands within the county that are susceptible to wildfire are
16 provided with wildfire protection services at the baseline level or a higher level.

17 (2) A county shall:

18 (a) Assist landowners with forming jurisdictions to provide wildfire protection or with
19 obtaining changes to boundaries or facility locations of jurisdictions that provide wildfire
20 protection;

21 (b) Assist jurisdictions to expand or adjust jurisdiction service boundaries to ensure ad-
22 equate wildfire protection for lands; and

23 (c) Assist jurisdictions in developing wildfire protection facilities, equipment, training and
24 other resources adequate to ensure that the jurisdiction provides timely and effective
25 wildfire protection at the baseline level or higher throughout the jurisdiction.

26 (3) The State Forester may provide financial assistance to counties for carrying out
27 county duties under subsection (2) of this section from any funds made available to the State
28 Forester and designated for that purpose.

29 **SECTION 24.** A county shall ensure no later than January 1, 2025, that all lands within
30 the county that are susceptible to wildfire have baseline level or higher wildfire protection
31 as described in section 23 of this 2020 Act.

32
33 **FUNDING STUDY**

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35 **SECTION 25.** (1) The State Forestry Department shall contract for the services of a pri-
36 vate consultant to evaluate and make findings regarding:

37 (a) Wildfire protection and suppression information, including but not limited to, the
38 availability, accuracy and utility of the information;

39 (b) The relative value delivered to public and private sectors from state-funded wildfire
40 suppression services, including but not limited to, social, ecological and economic benefits;

41 (c) Costs of Oregon wildfire protection and wildfire protection in similarly situated states,
42 adjusted to common bases suitable for comparison; and

43 (d) Economic aspects of wildfire protection and suppression that vary within regions of
44 the state.

45 (2) The consultant shall develop recommendations that include but need not be limited

1 to:

2 (a) Possible means for producing wildfire protection and suppression information in a
3 manner that maximizes the value of the information without undue burdens on information
4 suppliers; and

5 (b) Possible methods for allocating wildfire protection and suppression costs to achieve
6 equity in the distribution of costs and benefits.

7 (3) The consultant shall report the findings and recommendations described in this sec-
8 tion to the Governor and an interim committee of the Legislative Assembly relating to na-
9 tural resources in the manner provided by ORS 192.245 no later than September 15, 2022.

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11 **JOINT PARTNERSHIPS**

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13 **SECTION 26.** The Governor may, as the Governor deems appropriate, authorize joint
14 partnerships between state and federal agencies to administer and enforce a wildfire strategy
15 program based on the recommendations contained in the “Governor’s Council on Wildfire
16 Response, November 2019: Report and Recommendations.”

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18 **COUNCIL**

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20 **SECTION 27.** The Governor may assign duties to the Governor’s Council on Wildfire
21 Response as the Governor deems appropriate to assist state and local agencies and officials
22 to oversee and assist in the implementation of sections 2 to 26 of this 2020 Act. The council’s
23 duties may include, but need not be limited to, providing advice, suggesting priorities, re-
24 commending future actions and providing coordination with federal agencies.

25 **SECTION 28.** Section 27 of this 2020 Act is repealed on January 2, 2022.

26
27 **CAPTIONS**

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29 **SECTION 29.** The unit captions used in this 2020 Act are provided only for the conven-
30 ience of the reader and do not become part of the statutory law of this state or express any
31 legislative intent in the enactment of this 2020 Act.

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33 **EMERGENCY**

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35 **SECTION 30.** This 2020 Act being necessary for the immediate preservation of the public
36 peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect
37 on its passage.

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