

**A-Engrossed
Senate Bill 80**

Ordered by the Senate May 6
Including Senate Amendments dated May 6

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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.

[Directs Environmental Quality Commission to adopt by rule greenhouse gas cap-and-trade system to achieve greenhouse gas emissions reduction goals. Requires application of cap-and-trade system to all energy facilities. Allows suspension of state's cap-and-trade system if federal cap-and-trade system is adopted. Allows commission to require registration and reporting relating to greenhouse gas emissions and to establish registration fees.]

[Establishes Climate Improvement Fund. Continuously appropriates moneys in fund to Department of Environmental Quality for certain expenses related to greenhouse gas emissions.]

[Creates Oregon Climate Initiative Task Force. Authorizes task force to develop and present design recommendations for greenhouse gas cap-and-trade system to department. Sunsets task force on January 2, 2012.]

[Requires department to report on development of greenhouse gas cap-and-trade system and to submit to Seventy-sixth Legislative Assembly rules adopted by commission that implement cap-and-trade system.]

Requires Department of Transportation, Public Utility Commission and Department of Environmental Quality to develop and implement plans to meet 2020 greenhouse gas emissions reduction goal or, if meeting goal is not technologically or economically feasible, to develop and implement alternative greenhouse gas emissions reduction strategy. Specifies duties and powers of state agencies in developing plans.

Establishes Climate Policy Advisory Council for purpose of coordinating actions of state agencies to achieve reduction goal. Specifies duties and powers of council.

Imposes deadlines on state agencies for submitting plans to council. Requires council to submit report to Legislative Assembly on state agency plans prior to January 1, 2011. Requires council to submit report to Legislative Assembly on progress in implementing plans for each odd-numbered year through 2019.

Directs council to appoint certain advisory committees for purposes related to carbon offsets. Requires committees to report recommendations to appropriate legislative interim committees prior to October 1, 2012.

Requires governing bodies of consumer-owned utility to establish local conservation and energy efficiency plan and to use specified amount of revenues to fund annual conservation, energy efficiency and carbon reduction or avoidance program. Specifies duties and powers of utilities in establishing plans and programs.

Authorizes Department of Environmental Quality to require registration and reporting by certain persons whose activities result in emission or generation of greenhouse gases.

Specifies responsibilities of Oregon Global Warming Commission.

Provides whistleblower protection to employee who in good faith reports possible violation of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to greenhouse gas emissions; creating new provisions; amending ORS 468A.210 and
3 659A.885; repealing ORS 468A.235, 468A.240, 468A.255 and 468A.260; and declaring an emer-
4 gency.

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

6 **SECTION 1. Legislative purpose. As provided in sections 3 to 8 of this 2009 Act, the**

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

1 Legislative Assembly directs state agencies to use existing authorities, where appropriate,
2 to reduce greenhouse gas emissions immediately and to develop comprehensive planning to
3 enable this state to meet its 2020 statutory greenhouse gas emissions reduction goal specified
4 in ORS 468A.205 (1)(b). If achieving the statutory greenhouse gas emissions reduction goal
5 is not technologically or economically feasible, the planning must be designed to achieve the
6 maximum reductions that are technologically and economically feasible.

7 **SECTION 2. Definitions.** As used in sections 3 to 8, 9, 10 and 11 of this 2009 Act,
8 “greenhouse gas” has the meaning given that term in ORS 468A.210.

9 **SECTION 3. Climate Policy Advisory Council.** (1) There is established the Climate Policy
10 Advisory Council for the purpose of coordinating the actions of state agencies identified in
11 section 4 of this 2009 Act that are planning to achieve the greenhouse gas emissions re-
12 duction goal specified in ORS 468A.205 (1)(b).

13 (2) The council shall consist of the Director of the Department of Environmental Quality,
14 the Director of Transportation, the chairperson of the Public Utility Commission and the
15 Director of the State Department of Energy.

16 (3) The Director of the Department of Environmental Quality shall serve as chairperson
17 of the council.

18 (4) The State Department of Energy shall provide clerical, technical and management
19 personnel to serve the council. Other state agencies, including but not limited to the De-
20 partment of Land Conservation and Development, the Housing and Community Services De-
21 partment, the State Forestry Department and the State Department of Agriculture, shall
22 provide support as requested by the State Department of Energy or the council. The council
23 may employ staff and enter into contracts as necessary to meet its obligations under
24 sections 3 to 8 of this 2009 Act. The council may also set a budget.

25 (5) The council may:

26 (a) Investigate, research, develop and propose mechanisms for reducing greenhouse gas
27 emissions in this state from sectors of the economy over which the state agencies that are
28 part of the council have authority.

29 (b) Coordinate activities of state agencies in accomplishing greenhouse gas emissions
30 reduction activities across economic sectors and state agency authority.

31 (c) In cooperation with the Oregon Department of Administrative Services, coordinate
32 activities of state agencies, including the Oregon University System, in assessing the state
33 agency greenhouse gas emissions and accomplishing greenhouse gas emissions reduction
34 activities for state government.

35 (d) Inventory all carbon reduction activities under way in this state, including but not
36 limited to those related to:

37 (A) The renewable portfolio standards established by ORS 469A.005 to 469A.210.

38 (B) The public purpose charge and costs specified in ORS 757.612 and 757.689 and pro-
39 visions related to small scale local energy projects in ORS chapter 470.

40 (C) Provisions specified in ORS 469.160 to 469.180 and 469.185 to 469.225.

41 (D) Other energy efficiency and conservation programs established by law in this state,
42 including those related to building codes and energy-efficiency standards for appliances.

43 (E) The transportation and land use plans and policies of the State of Oregon or of cities,
44 counties, metropolitan planning organizations or any regional government.

45 (F) Limits on emissions from vehicles sold in this state.

1 (G) Anticipated reductions in emissions from fuels combusted for transportation in this
2 state.

3 (H) Other policies, programs or measures the council reasonably expects may reduce
4 greenhouse gas emissions.

5 (e) Estimate the amount of the reduction in greenhouse gas emissions attained from
6 existing carbon reduction activities and quantify other emissions that must be reduced in
7 order to meet the greenhouse gas emissions reduction goal specified in ORS 468A.205 (1)(b).

8 (f) Undertake a series of exercises by economic sector to identify greenhouse gas emis-
9 sions reduction strategies and activities that may be implemented.

10 (g) Quantify the economic costs, on a per ton basis, of accomplishing carbon reduction
11 activities.

12 (h) Make recommendations to state agencies regarding the reduction of greenhouse gas
13 emissions.

14 (i) Monitor the progress and effect of policies and programs to meet greenhouse gas
15 emissions reduction goals specified in ORS 468A.205.

16 (j) Review and provide recommendations, at least once every three years, to plan for
17 accomplishing carbon reduction activities as needed in order to meet the greenhouse gas
18 emissions reduction goals specified in ORS 468A.205.

19 (k) Identify, to the greatest extent practicable, greenhouse gas emissions reductions from
20 which a benefit may accrue to this state under existing federal laws or regulations or legis-
21 lation enacted by or under consideration by Congress.

22 (L) Determine whether penalties imposed upon persons emitting greenhouse gases would
23 affect emissions and how those penalties would be implemented and enforced.

24 (6) The council shall submit a report to the Legislative Assembly prior to January 1 of
25 each odd-numbered year through 2019. The reports shall include:

26 (a) The state agency plans described in sections 4, 6, 7 and 8 of this 2009 Act;

27 (b) The council's activities under this section concerning a coordinated effort to meet the
28 greenhouse gas emissions reduction goal specified in ORS 468.205 (1)(b); and

29 (c) Progress toward achieving reductions as designed in the state agency plans.

30 (7) In coordinating the greenhouse gas emissions reduction plans of the state agencies
31 identified in section 4 of this 2009 Act to meet the goal specified in ORS 468A.205 (1)(b), the
32 council shall consider the potential costs and benefits to the environment, public health and
33 the economy of Oregon. These costs and benefits include, but are not limited to, effects on
34 individuals employed by economic sectors required to reduce greenhouse gas emissions, ef-
35 fective methods to minimize the potential to export pollution, jobs and economic opportunity,
36 effects on low-income and middle-income individuals, methods to track job losses or gains,
37 methods to coordinate existing, or to establish new, workforce development, training and
38 recovery programs, impacts on overall utility rates and impacts on public and ecosystem
39 health.

40 (8) In coordinating the greenhouse gas emissions reduction plans of the state agencies
41 identified in section 4 of this 2009 Act, the council shall consider the impacts and opportu-
42 nities associated with greenhouse gas emissions reduction measures, primary, sector-wide,
43 market and fee-based sources of reductions including but not limited to an emissions trading
44 market or a carbon tax, opportunities for emissions reduction measures from all verifiable
45 and quantifiable voluntary actions including but not limited to carbon sequestration and best

1 management practices, compliance mechanisms, administrative costs and staffing, imple-
2 mentation, tracking and monitoring, evaluation, program and measure funding and any new
3 regulatory authority that may be required.

4 (9) All agencies of the executive department, as defined in ORS 174.112, are directed to
5 assist the council in the performance of its duties and to furnish such information and advice
6 as the members of the council consider necessary to perform their duties.

7 (10) If the council determines that meeting the greenhouse gas emissions reduction goal
8 specified in ORS 468A.205 (1)(b) is not in the state's best economic interest, the council shall
9 demonstrate and explain in a report to the Legislative Assembly the reasons for that deter-
10 mination.

11 **SECTION 4. State agency plans.** (1) The Public Utility Commission shall, pursuant to
12 section 6 of this 2009 Act, develop and implement a plan, within existing authority, designed
13 to meet the greenhouse gas emissions reduction goal specified in ORS 468A.205 (1)(b) for
14 public utilities.

15 (2) The Department of Transportation, in coordination with the Department of Environ-
16 mental Quality, the State Department of Energy and the Department of Land Conservation
17 and Development, shall, pursuant to section 7 of this 2009 Act, develop and implement a plan,
18 within existing authority, designed to meet the greenhouse gas emissions reduction goal
19 specified in ORS 468A.205 (1)(b) for transportation.

20 (3) The Department of Environmental Quality shall, pursuant to section 8 of this 2009
21 Act, develop and implement a plan, within existing authority, designed to meet the
22 greenhouse gas emissions reduction goal specified in ORS 468A.205 (1)(b) for industry.

23 (4) If a state agency identified in subsections (1) to (3) of this section determines that
24 meeting the goal specified in ORS 468A.205 (1)(b) is not technologically or economically fea-
25 sible for the particular sector, the agency shall develop and implement an alternative
26 greenhouse gas emissions reduction strategy that, as determined by the agency, is feasible
27 and effective, instead of meeting the goal specified in ORS 468.205 (1)(b).

28 (5) The plans required by subsections (1) to (3) of this section must be subject to review
29 and comment before their adoption by the relevant state agency.

30 (6) The plans required by subsections (1) to (3) of this section must be updated at least
31 once every two years to account for changes in technology, cost feasibility and other factors
32 the state agency updating the plan determines are relevant.

33 (7) The plans required by subsections (1) to (3) of this section are not intended to delay
34 actions by state agencies to reduce greenhouse gas emissions under existing authority. Each
35 state agency shall identify any new authority the agency deems necessary or useful to
36 achieve greenhouse gas emissions reductions and incorporate those recommendations into
37 the agency's plan for submission to the Legislative Assembly under section 5 of this 2009 Act.

38 **SECTION 5. Deadlines for agencies and the Climate Policy Advisory Council.** The Climate
39 Policy Advisory Council and each state agency identified in section 4 of this 2009 Act shall
40 meet the following deadlines:

41 (1) Prior to July 1, 2010, each agency shall submit draft plans to the council for the sec-
42 tors regulated by that agency.

43 (2) Prior to September 1, 2010, the council shall consider all agency plans and suggest
44 revisions for the coordination of the plans.

45 (3) Prior to December 1, 2010, each agency shall submit final plans to the council.

1 (4) Prior to January 1, 2011, the council shall report to the Legislative Assembly on the
2 final plans.

3 (5) Prior to January 1 of every odd-numbered year through 2019, the council shall report
4 to the Legislative Assembly on progress in implementing the adopted plans.

5 **SECTION 6. Public Utility Commission plan.** (1) Utilizing a public process pursuant to its
6 investigatory authority under ORS 756.515, the Public Utility Commission shall develop a plan
7 to achieve greenhouse gas emissions reduction measures for electric companies as defined
8 in ORS 757.600 and natural gas companies. Except as provided in section 4 (4) of this 2009
9 Act, the plan shall be designed to meet the greenhouse gas emissions reduction goal specified
10 in ORS 468A.205 (1)(b). In developing the plan, the commission shall:

11 (a) Consider the integrated resource planning process developed by the commission and
12 related orders, and the integrated resource plans that result from that process and provide
13 a means for encouraging greenhouse gas emissions reductions;

14 (b) Design the plan in a manner that is equitable, that seeks to balance costs with the
15 existing standard to ensure rates are fair, just and reasonable, that balances the total ben-
16 efits to both customers and electric and natural gas companies and that encourages early
17 actions to reduce greenhouse gas emissions;

18 (c) Recognize the impact of the steps that this state has taken prior to the development
19 of the plan that address and affect greenhouse gas emissions, including but not limited to
20 emissions reduction goals, a renewable portfolio standard, a power plant carbon dioxide
21 emissions performance standard, a renewable fuels standard, a tax credit system that re-
22 wards investment in renewable energy, a public purpose charge requirement, energy effi-
23 ciency standards for appliances, loan programs, building codes related to energy consumption
24 and stringent land use planning;

25 (d) Ensure that activities undertaken to comply with the plan do not disproportionately
26 impact low-income customers and low-income and rural communities served by electric and
27 natural gas companies and adopt measures as appropriate that mitigate the impact on those
28 customers and communities;

29 (e) Consider measures that vary by utility, customer type or technology;

30 (f) Consider the significance of the contribution of each source or category of sources to
31 statewide emissions of greenhouse gases;

32 (g) Use least-cost programs utilizing prudently incurred investments for reducing
33 greenhouse gas emissions, including but not limited to demand reduction, energy efficiency
34 and energy conservation, distributed generation, improvements in efficiency of transmission
35 and delivery systems and advanced transmissions and delivery systems; and

36 (h) Consider the costs and the effect that the plan will have on the competitiveness, as
37 compared to other states, of Oregon's businesses and business sectors, as well as the costs
38 of inaction on Oregon utility ratepayers.

39 (2) The commission shall have authority to include greenhouse gas emissions impacts and
40 proposals to reduce greenhouse gas emissions when considering integrated resource plans,
41 proposed rates and other policy issues. The commission shall adopt by rule guidelines for
42 integrating greenhouse gas emissions reduction planning with the existing integrated re-
43 source planning process. These guidelines shall require electric and natural gas companies
44 to set goals for reducing greenhouse gas emissions on a five-year time horizon and to identify
45 actions needed to meet these reduction goals. Measures used to meet the reduction goals

1 may include but are not limited to:

2 (a) Energy conservation and energy efficiency, including smart grid, low-income
3 weatherization programs and other energy efficiency projects;

4 (b) Development of renewable energy resources;

5 (c) Investment in research and development for carbon reduction and renewable energy;

6 (d) Infrastructure improvements, including transmission and distribution investments,
7 for efficiency and for expanding access to renewable energy generation;

8 (e) Energy storage devices;

9 (f) Combined heat and power;

10 (g) Distributed generation, including small scale renewable generation, thermal energy
11 devices and related interconnection equipment and controls;

12 (h) Transportation-related electrification including residential and commercial charging
13 infrastructure and utility fleet demonstration projects; and

14 (i) Demand response programs.

15 (3) An electric or natural gas company that files an integrated resource plan with the
16 commission must identify, within the integrated resource plan, the greenhouse gas emissions
17 of the company that would be reduced relative to the greenhouse gas reduction goal specified
18 in ORS 468A.205 (1)(b). The filed integrated resource plan must ensure that the electric or
19 natural gas company meets the reductions identified under the commission's emissions re-
20 duction plan developed under subsection (1) of this section.

21 (4) The commission shall consider recommendations made by the committees appointed
22 under section 10 of this 2009 Act for the use carbon offsets to meet the goals established in
23 the commission's emissions reduction plan developed under subsection (1) of this section.
24 The commission shall ensure that the emissions reductions achieved through the use of
25 carbon offsets:

26 (a) Are real, permanent, quantifiable, verifiable and enforceable; and

27 (b) Accrue to the electric or natural gas company's customers that pay for the offsets.

28 (5) To the greatest extent possible, the commission shall place a higher priority on ac-
29 complishing reductions in the emissions reduction plan developed under subsection (1) of this
30 section for which the commission identifies a benefit that may accrue to this state under
31 greenhouse gas emissions reduction legislation enacted by or under consideration by Con-
32 gress or under federal regulations.

33 (6) The commission shall use its existing authorities to pursue all cost-effective conser-
34 vation and energy efficiency measures in the service territories of electric companies and
35 natural gas companies.

36 SECTION 7. Department of Transportation plan. (1) The Department of Transportation,
37 in coordination with the Department of Environmental Quality, the State Department of
38 Energy and the Department of Land Conservation and Development, shall develop a plan for
39 the transportation sector designed to reduce greenhouse gas emissions. Except as provided
40 in section 4 (4) of this 2009 Act, the plan must be designed to meet the greenhouse gas
41 emissions reduction goal specified in ORS 468A.205 (1)(b).

42 (2) The plan must prioritize the most appropriate and effective solutions to reduce
43 greenhouse gas emissions and provide:

44 (a) An assessment of expected emissions reductions from all policies and programs in
45 place as of August 7, 2007, that recognizes the steps that Oregon has taken to affect

1 **greenhouse gas emissions reductions prior to the development of the plan.**

2 **(b) An inventory of measures other than those outlined in paragraph (a) of this sub-**
3 **section that are necessary to meet the goal specified in ORS 468A.205 (1)(b) for the trans-**
4 **portation sector, including:**

5 **(A) Recommendations to the Legislative Assembly of measures that:**

6 **(i) Limit greenhouse gas emissions from vehicles sold in Oregon.**

7 **(ii) Reduce greenhouse gas emissions from fuels combusted for transportation in Oregon.**

8 **(iii) Provide additional funding mechanisms separate from the State Highway Fund for**
9 **activities within the transportation sector that result in greenhouse gas emissions re-**
10 **ductions.**

11 **(iv) Grant authority, if necessary, to implement additional policies, tools and programs**
12 **that will result in reductions in greenhouse gas emissions by the transportation sector.**

13 **(B) An inventory of rules and any legislative authority approved in the 2009 legislative**
14 **session.**

15 **(C) An inventory of rules adopted to facilitate the development of infrastructure for**
16 **electrification of passenger vehicles, light trucks and commercial fleets at existing fuel**
17 **stations.**

18 **(D) An inventory of rules adopted by state agencies to implement additional policies, tools**
19 **and programs that will result in reductions in greenhouse gas emissions by the transporta-**
20 **tion sector.**

21 **SECTION 8. Department of Environmental Quality plan. (1) Utilizing a public process**
22 **than conforms with ORS chapter 183, the Environmental Quality Commission shall direct the**
23 **Department of Environmental Quality in the development of a plan to achieve greenhouse**
24 **gas emissions reduction measures from industrial facilities with stationary sources. Except**
25 **as provided in section 4 (4) of this 2009 Act, the plan must be designed to meet the**
26 **greenhouse gas emissions reduction goal specified in ORS 468A.205 (1)(b).**

27 **(2) The plan shall focus on direct emissions from industrial facilities with stationary**
28 **sources that emit more than 25,000 tons of carbon dioxide equivalent pollution in one year.**

29 **(3) The plan may not include energy-related emissions reductions accounted for in the**
30 **plan developed by the Public Utility Commission under section 6 of this 2009 Act or for**
31 **energy-related emissions reductions reported by consumer-owned utilities under section 9**
32 **of this 2009 Act.**

33 **(4) Industrial facilities with stationary sources may implement the greenhouse gas**
34 **emissions reduction plan on a voluntary basis prior to January 1, 2014. If the Climate Policy**
35 **Advisory Council determines that incorporation of emissions reductions from the industrial**
36 **sector are necessary for this state to meet the greenhouse gas emissions reduction goal**
37 **specified in ORS 468A.205 (1)(b) and that achieving these reductions can be done in a way**
38 **that is cost-effective and technologically feasible, compliance is required after January 1,**
39 **2014.**

40 **(5) The plan developed under subsection (1) of this section shall:**

41 **(a) Prioritize the most effective solutions and consider allowing industrial facilities with**
42 **stationary sources to reduce emissions through energy efficiency, distributed generation,**
43 **cogeneration, fuel switching or other measures.**

44 **(b) Assess whether cost-effective greenhouse gas emissions reduction measures can**
45 **provide other pollution reduction benefits.**

1 (c) Analyze potential emissions reductions, costs, cost effectiveness and technical feasi-
2 bility of measures.

3 (d) Consider whether proposed emissions reduction strategies would require new state,
4 federal or local environmental permits or modifications to existing permits.

5 (e) Consider barriers to the viability or implementation of greenhouse gas emissions re-
6 duction strategies.

7 (f) Consider what incentives might be necessary to achieve reductions in greenhouse gas
8 emissions.

9 (g) Propose rules for the enforcement of greenhouse gas emissions reduction strategies
10 to ensure compliance after January 1, 2014, if inclusion of the industrial facilities with sta-
11 tionary sources is necessary for this state to meet the greenhouse gas emissions reduction
12 goal specified in ORS 468A.205 (1)(b).

13 (h) Consider short-term voluntary measures for the reduction of greenhouse gas emis-
14 sions from industrial facilities with stationary sources, including verification of greenhouse
15 gas emissions reduction measures.

16 **SECTION 9. Consumer-owned utilities; adoption of plan or program.** (1) As used in this
17 section, “consumer-owned utility” and “governing body” have the meanings given those
18 terms in ORS 757.600.

19 (2) Each governing body of a consumer-owned utility shall adopt a resolution:

20 (a) To establish a local conservation and energy efficiency plan that implements cost-
21 effective conservation and energy efficiency measures within the utility’s service territory;
22 or

23 (b) To fund an annual conservation, energy efficiency and carbon reduction or avoidance
24 program in an amount equal to two percent of the utility’s annual retail electric sales re-
25 venues or, in the case of a utility with fewer than 17 customers per mile of distribution line,
26 the utility’s share of state total electric sales revenues multiplied by two percent of total
27 statewide retail electric sales revenues, whichever is less.

28 (3)(a) The local conservation and energy efficiency plan described in subsection (2)(a) of
29 this section shall:

30 (A) Identify the potentially achievable levels of conservation and energy efficiency for the
31 consumer-owned utility over a 10-year period; and

32 (B) Specify a conservation acquisition target for cost-effective conservation for each
33 five-year period.

34 (b) The consumer-owned utility shall implement the plan to achieve the targets specified
35 in the plan.

36 (c) In implementing the local conservation and energy efficiency plan and conservation
37 acquisition targets, the consumer-owned utility shall utilize methodologies of the Pacific
38 Northwest Electric Power and Conservation Planning Council’s current regional power plan.
39 The governing body of the consumer-owned utility may package conservation or energy effi-
40 ciency measures in the local conservation and energy efficiency plan to meet the utility’s
41 conservation acquisition target.

42 (d) If the governing body of a consumer-owned utility that is a small electric utility as
43 described in ORS 469A.055 determines that the small electric utility cannot meet its conser-
44 vation acquisition target within a five-year period, the governing body shall acquire
45 renewable resources equal to the projected shortfall.

1 (e) The governing body of a consumer-owned utility may contract with an independent,
2 qualified third party to operate a local conservation and energy efficiency plan.

3 (4) In establishing an annual conservation, energy efficiency and carbon reduction or
4 avoidance program described in subsection (2)(b) of this section, a consumer-owned utility:

5 (a) May credit against the amount described in subsection (2)(b) of this section all direct
6 and indirect expenditures made for conservation and energy efficiency programs, regional
7 market transformation, low-income weatherization, utility loan financing programs or any
8 other conservation and energy efficiency measures including conservation programs and en-
9 ergy efficiency programs of the Bonneville Power Administration;

10 (b) May collect a charge associated with the annual conservation, energy efficiency and
11 carbon reduction or avoidance program as part of retail electric rates or through a
12 nonbypassable fee on each customer's electric bill as specified by the governing body of the
13 consumer-owned utility and meet the conservation acquisition target over the five-year pe-
14 riod;

15 (c) Shall use revenue from a charge associated with the annual conservation, energy ef-
16 ficiency and carbon reduction or avoidance program to fund the direct and indirect costs of
17 conservation, energy efficiency and carbon reduction or avoidance projects, including but not
18 limited to projects related to renewable resources; and

19 (d) May roll over revenue from the annual conservation, energy efficiency and carbon
20 reduction or avoidance program for up to five years in order to save revenue for large
21 projects or to provide flexibility in developing large commercial or industrial projects.

22 (5) The governing body of a consumer-owned utility may fulfill its obligations under this
23 section by participating in a joint operating entity or a joint operating agency established for
24 purposes of energy conservation and efficiency. The joint operating entity's or joint operating
25 agency's obligation for energy conservation is determined by combining the conservation
26 acquisition targets for all members. The members shall determine the allocation of the obli-
27 gation.

28 (6) The following are eligible for funding as part of a local conservation and energy effi-
29 ciency plan or an annual conservation, energy efficiency and carbon reduction or avoidance
30 program described in this section:

31 (a) Energy conservation, energy efficiency and weatherization initiatives;

32 (b) Low-income weatherization, as defined in ORS 757.600;

33 (c) Energy efficiency projects in schools and local governments;

34 (d) Electricity market transformation;

35 (e) Renewable resource facilities of any size that are net metering facilities, as defined
36 in ORS 757.300;

37 (f) Efficiency improvements in the electricity distribution system;

38 (g) Combined heat and power programs;

39 (h) Demand response programs;

40 (i) Customer loan programs that promote energy efficiency measures;

41 (j) Infrastructure and incentives to support sustainable electric vehicle programs;

42 (k) Renewable resources; and

43 (L) Other activities approved by governing bodies of consumer-owned utilities as neces-
44 sary to reduce the utility's greenhouse gas emissions.

45 (7) Consumer-owned utilities with fewer than 2,500 customers in this state that are

1 load-following customers of the Bonneville Power Administration may fulfill their obligations
2 under this section by participating in the conservation programs of the Bonneville Power
3 Administration.

4 (8) If the Public Utility Commission by order determines that there is a pending emer-
5 gency in Oregon electricity markets, the governing body of a consumer-owned utility need
6 not comply with the requirements of this section for the duration of the emergency.

7 (9)(a) Each consumer-owned utility shall provide an annual report by December 31 of
8 each year describing its actions under this section to:

9 (A) The governing body of the consumer-owned utility; and

10 (B) The State Department of Energy.

11 (b) A report provided under paragraph (a) of this subsection may be a copy of the
12 consumer-owned utility's conservation and energy efficiency report made to the Bonneville
13 Power Administration as part of the regional reporting system.

14 (10) Each governing body of a consumer-owned utility shall adopt the resolution required
15 by this section not later than January 1, 2012.

16 (11) This state shall credit actions taken by consumer-owned utilities under this section
17 against future state and federal carbon reduction requirements including early action credit.

18 **SECTION 10. Offsets.** (1) The Climate Policy Advisory Council shall appoint one or more
19 advisory committees for the purpose of:

20 (a) Investigating the ability of a state agency to identify and use existing carbon offset
21 markets to reduce greenhouse gas emissions;

22 (b) Investigating the ability of the state to act as an aggregator of approved carbon off-
23 sets and to act as an initial supplier of carbon offsets to the market by a periodic auction;

24 (c) Identifying statutory, regulatory and budgetary barriers to the adoption of strategies
25 to use existing carbon offset programs pursuant to existing authority;

26 (d) Establishing guidelines to determine whether reported carbon offsets are real, per-
27 manent, quantifiable, additional and verifiable;

28 (e) Determining the geographical scope of allowable investments in carbon offset mar-
29 kets; and

30 (f) Determining the extent to which carbon offsets are used to achieve carbon reductions.

31 (2) The council:

32 (a) Shall appoint advisory committees within 90 days of the effective date of this 2009 Act;

33 (b) Shall determine the membership and operating rules of the advisory committees;

34 (c) May cooperate and coordinate with other state agencies to minimize duplication of
35 effort; and

36 (d) May focus the council's efforts on integrating the potential carbon offsets with any
37 legislation or regulations that are being or may be contemplated by the federal government.

38 (3) An advisory committee, in consultation with interested stakeholders, shall develop
39 recommendations for the state's policy for forestry offset projects within this state. The
40 committee shall submit the final policy recommendations to the appropriate legislative in-
41 terim committees prior to October 1, 2012. The policy recommendations may address:

42 (a) Specific standards and guidelines that will support carbon accounting in managed
43 forests participating in an offset program;

44 (b) Recommendations on how any carbon that is reduced or sequestered by a forestry
45 offset project may be eligible for an offset credit within a national cap-and-trade program;

1 (c) Recognition of management activities that increase carbon stocks including, but not
2 limited to, thinning, lengthening rotations, increased retention of trees after harvest,
3 fertilization, genetics, timber stand improvement, fire management, creation or maintenance
4 of long-term or permanent reserves and specific site class and productivity of a managed
5 forest;

6 (d) Specific standards and guidelines to support wood products accounting, recognizing
7 that carbon is stored in products after trees are harvested, including the use of the 100-year
8 method, which estimates the amount of carbon stored in wood products that are projected
9 to remain in use after 100 years;

10 (e) Guidelines on how transfer of development rights or on-site cluster development
11 projects may be used to create forestry offset projects;

12 (f) Guidelines on how forestry offset projects and forestry financial incentive programs
13 can work together so that this state's forest landowners will not be disadvantaged in com-
14 parison to other jurisdictions participating in a national cap-and-trade program;

15 (g) Verification or certification of carbon stocks in a manner that will not be adminis-
16 tratively burdensome; and

17 (h) A process and timeline to survey, catalog and map Oregon soils in a manner that
18 describes the soil carbon sequestration of the soils.

19 (4) An advisory committee, in consultation with interested stakeholders, shall develop
20 recommendations for the state's policy for agricultural offset projects within this state. The
21 committee shall submit its final policy recommendations to the appropriate legislative in-
22 terim committees prior to October 1, 2012. The policy recommendations may address:

23 (a) A process and timeline to survey, catalog and map Oregon soils in a manner that
24 describes the soil carbon sequestration level of the soils;

25 (b) Activities that would increase carbon sequestration in soils or mitigate uncontrolled
26 emissions of methane emitted by livestock and therefore potentially qualify as offset
27 projects; and

28 (c) Recommendations on how any carbon that is reduced or sequestered by an agricul-
29 tural offset project may be eligible for an offset credit within a national cap-and-trade pro-
30 gram.

31 (5) An advisory committee, in consultation with interested stakeholders, shall develop
32 recommendations for the state's policy for on-road and off-road transportation electrification
33 offset projects within this state. The committee shall submit its final policy recommen-
34 dations to the appropriate legislative interim committees prior to October 1, 2012. The policy
35 recommendations may address:

36 (a) Specific standards and guidelines that support carbon accounting for the transporta-
37 tion sector participating in a transportation electrification offset project; and

38 (b) Recommendations on how any carbon that is reduced or avoided by a transportation
39 electrification offset project, an idling emissions reduction project or other type of project
40 may be eligible for an offset credit within a national cap-and-trade program.

41 **SECTION 11. Reporting requirements.** (1) In addition to any registration and reporting
42 required under ORS 468A.050, the Environmental Quality Commission by rule may require
43 registration and reporting by:

44 (a) Any person who imports, sells or distributes for use in this state electricity, the
45 generation of which emits greenhouse gases; or

1 (b) Any person who imports, sells or distributes for use in this state fossil fuel that
2 generates greenhouse gases when combusted.

3 (2) Rules adopted by the commission under this section for electricity that is imported,
4 sold or distributed for use in this state may require reporting of information necessary to
5 determine greenhouse gas emissions from generating facilities and transmission equipment
6 that are used to produce and transmit the electricity.

7 (3)(a) The commission shall allow consumer-owned utilities, as defined in ORS 757.270, to
8 comply with reporting requirements imposed under this section by the submission of a report
9 prepared by a third party. A report submitted as provided in this paragraph may include in-
10 formation for more than one consumer-owned utility, but must include all information re-
11 quired by the commission for each individual utility.

12 (b) For the purpose of determining greenhouse gas emissions related to electricity pur-
13 chased from the Bonneville Power Administration by a consumer-owned utility, as defined
14 in ORS 757.270, the commission may require that the utility report only:

15 (A) The number of megawatt hours of electricity purchased by the utility from the
16 Bonneville Power Administration, segregated by the types of contracts entered into by the
17 utility with the Bonneville Power Administration; and

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

20 (4) Rules adopted by the commission under this section for fossil fuel that is imported,
21 sold or distributed for use in this state may require reporting of the type and quantity of the
22 fuel and any additional information necessary to determine the carbon content of the fuel.
23 For the purpose of determining greenhouse gas emissions related to liquefied petroleum gas,
24 the commission shall allow reporting using publications or submission of data by the Amer-
25 ican Petroleum Institute but may require reporting of such other information necessary to
26 achieve the purposes of the rules adopted by the commission under this section.

27 (5) To an extent that is consistent with the purposes of the rules adopted by the com-
28 mission under this section, the commission shall minimize the burden of the reporting re-
29 quired under this section by:

30 (a) Allowing concurrent reporting of information that is also reported to another agency
31 of the executive department, as defined in ORS 174.112;

32 (b) Allowing electronic reporting;

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

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

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

39 (f) Developing other appropriate means and procedures, as determined by the commis-
40 sion.

41 SECTION 12. Section 13 of this 2009 Act is added to and made a part of ORS 468A.200 to
42 468A.260.

43 SECTION 13. Oregon Global Warming Commission. The Oregon Global Warming Com-
44 mission shall be responsible for:

45 (1) Planning and preparing for impacts caused by global warming at the state and local

1 levels, including public health, land use, natural resources, ecosystems health and the vi-
2 ability of certain economic sectors, including agriculture, so that Oregon is less vulnerable
3 to the impacts and well-prepared to adapt to the impacts of global warming at the state and
4 local levels;

5 (2) Conducting public education and outreach efforts mandated by ORS 468A.245;

6 (3) Tracking other regional, national and international global warming policies as they
7 relate to adaptation strategies and planning; and

8 (4) Coordinating with the Oregon Climate Change Research Institute to track the phys-
9 ical science of climate change as mandated by ORS 468A.250 to inform the public on new
10 global warming policies and strategies for this state.

11 **SECTION 14. Whistleblower protection.** It is an unlawful employment practice under ORS
12 chapter 659A for an employer to discharge, demote, suspend or in any manner discriminate
13 or retaliate against an employee with regard to promotion, compensation or other terms,
14 conditions or privileges of employment for the reason that the employee has in good faith
15 reported possible violations of sections 3 to 8, 9, 10 and 11 of this 2009 Act.

16 **SECTION 15.** ORS 659A.885, as amended by section 12, chapter 100, Oregon Laws 2007, section
17 8, chapter 180, Oregon Laws 2007, section 3, chapter 278, Oregon Laws 2007, section 1, chapter 280,
18 Oregon Laws 2007, section 4, chapter 525, Oregon Laws 2007, section 13, chapter 903, Oregon Laws
19 2007, and section 16, chapter 36, Oregon Laws 2008, is amended to read:

20 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
21 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
22 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
23 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
24 court may order back pay in an action under this subsection only for the two-year period imme-
25 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
26 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
27 year period immediately preceding the filing of the action. In any action under this subsection, the
28 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
29 cept as provided in subsection (3) of this section:

30 (a) The judge shall determine the facts in an action under this subsection; and

31 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
32 review the judgment pursuant to the standard established by ORS 19.415 (3).

33 (2) An action may be brought under subsection (1) of this section alleging a violation of ORS
34 25.337, 25.424, 171.120, 399.235, 408.230, 476.574, 652.355, 653.060, 659A.030, 659A.040, 659A.043,
35 659A.046, 659A.063, 659A.069, 659A.100 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.203,
36 659A.218, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.300, 659A.306,
37 659A.309, 659A.315, 659A.318 or 659A.421 **or section 14 of this 2009 Act.**

38 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
39 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.100 to 659A.145, 659A.230, 659A.250 to
40 659A.262, 659A.318 or 659A.421:

41 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
42 compensatory damages or \$200, whichever is greater, and punitive damages;

43 (b) At the request of any party, the action shall be tried to a jury;

44 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
45 ment pursuant to the standard established by ORS 19.415 (1); and

1 (d) Any attorney fee agreement shall be subject to approval by the court.

2 (4) In any action under subsection (1) of this section alleging a violation of ORS 652.355 or
3 653.060, the court may award, in addition to the relief authorized under subsection (1) of this section,
4 compensatory damages or \$200, whichever is greater.

5 (5) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574,
6 659A.203 or 659A.218, the court may award, in addition to the relief authorized under subsection (1)
7 of this section, compensatory damages or \$250, whichever is greater.

8 (6) Any individual against whom any distinction, discrimination or restriction on account of
9 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual
10 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
11 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
12 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
13 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
14 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
15 section:

16 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
17 compensatory and punitive damages;

18 (b) The operator or manager of the place of public accommodation, the employee or person
19 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
20 damages awarded in the action;

21 (c) At the request of any party, the action shall be tried to a jury;

22 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

23 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
24 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
25 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
26 and

27 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
28 judgment pursuant to the standard established by ORS 19.415 (1).

29 (7) When the commissioner or the Attorney General has reasonable cause to believe that a
30 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
31 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied
32 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner
33 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same
34 manner as a person or group of persons may file a civil action under this section. In a civil action
35 filed under this subsection, the court may assess against the respondent, in addition to the relief
36 authorized under subsections (1) and (3) of this section, a civil penalty:

37 (a) In an amount not exceeding \$50,000 for a first violation; and

38 (b) In an amount not exceeding \$100,000 for any subsequent violation.

39 (8) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
40 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
41 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
42 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
43 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
44 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
45 appealing an adverse decision of the trial court.

1 (9) In an action under subsection (1) or (7) of this section alleging a violation of ORS 659A.145
2 or 659A.421 or discrimination under federal housing law:

3 (a) "Aggrieved person" includes a person who believes that the person:

4 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

5 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
6 occur.

7 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
8 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
9 tifies that the case is of general public importance. The court may allow an intervenor prevailing
10 party costs and reasonable attorney fees at trial and on appeal.

11 **SECTION 16. Applicability of amendments. The amendments to ORS 659A.885 by section**
12 **15 of this 2009 Act apply to conduct occurring on or after the effective date of this 2009 Act.**

13 **SECTION 17. Repeals. ORS 468A.235, 468A.240, 468A.255 and 468A.260 are repealed.**

14 **SECTION 18. ORS 468A.210 is amended to read:**

15 468A.210. As used in ORS 352.247 and 468A.200 to 468A.260:

16 (1) "Global warming" means an increase in the average temperature of the earth's atmosphere
17 that is associated with the release of greenhouse gases.

18 (2) "Greenhouse gas" means any gas that contributes to anthropogenic global warming includ-
19 ing, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons
20 and sulfur hexafluoride.

21 [(3) "Greenhouse gas cap-and-trade system" means a system that:]

22 [(a) Establishes a total cap on greenhouse gas emissions from an identified group of emitters;]

23 [(b) Establishes a market for allowances that represent emissions; and]

24 [(c) Allows trading of allowances among greenhouse gas emitters.]

25 **SECTION 19. Captions. The section captions used in this 2009 Act are provided only for**
26 **the convenience of the reader and do not become part of the statutory law of this state or**
27 **express any legislative intent in the enactment of this 2009 Act.**

28 **SECTION 20. Emergency clause. This 2009 Act being necessary for the immediate pres-**
29 **ervation of the public peace, health and safety, an emergency is declared to exist, and this**
30 **2009 Act takes effect on its passage.**

31