Summary

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

Establishes Climate Policy Office within Oregon Department of Administrative Services and directs office to adopt Oregon Climate Action Program by rule. Creates Oregon Climate Board to advise office.

Modifies statewide greenhouse gas emissions reduction goals.

Establishes Joint Committee on Climate Action.

Becomes operative on effective date of Act.

Establishes purposes of Oregon Climate Action Program and provisions for investment of monies received by state as proceeds from auctions conducted under program. Requires program to place cap on greenhouse gas emissions that are regulated emissions and to provide market-based mechanism for covered entities to demonstrate compliance with program. Sets forth certain other requirements for program and for rules adopted by office related to program. Establishes certain funds. Sets forth requirements for uses of monies deposited in funds. Sets forth certain duties of Public Utility Commission related to program.

Authorizes commission to allow rate or rate schedule to include differential rates or to reflect amounts for programs that enable public utilities to assist low-income residential customers.

Authorizes commission to allow rate or rate schedule to reflect amounts for investments in infrastructure measures that support adoption of alternative forms of transportation vehicles.

Amends greenhouse gas reporting statute.

Repeals Energy Facility Siting Council carbon dioxide emissions standards. Includes provisions for treatment of site certificate conditions affected by repeal of carbon dioxide emissions standards.

Repeals authority for State Forester to establish forestry carbon offset program.

Requires Environmental Quality Commission to adopt by rule standards and requirements for reducing methane gas emissions from landfills. Becomes operative on effective date of Act.

Abolishes Oregon Global Warming Commission and transfers duties to Oregon Climate Board.


Transfers to Climate Policy Office duties, functions and powers of Environmental Quality Commission and Department of Environmental Quality related to greenhouse gas reporting. Becomes operative January 1, 2022.

Provides for expedited review of certain questions on Act to Supreme Court upon petition by adversely affected party. If Supreme Court declares upon expedited review that auctions conducted under Act do not impose tax subject to Article IX, section 3a, Oregon Constitution, requires Climate Policy Office to identify certain specific opportunities for using certain state proceeds from auctions.

Requires certain reports and proposals. Modifies study related to highway maintenance, operation and improvement costs.

Declares emergency, effective on passage.

A BILL FOR AN ACT


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.

LC 894
Whereas climate change and ocean acidification caused by greenhouse gas emissions are having significant detrimental effects on public health and on Oregon's economic vitality, natural resources and environment; and

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

Whereas climate change has a disproportionate effect on fish and wildlife populations, many of which require specific habitat conditions and are therefore particularly vulnerable to warmer temperatures, modified precipitation patterns, diminished snowpack, ocean acidification and other effects of climate change; and

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

Whereas the world's leading climate scientists, including those in the Oregon Climate Change Research Institute, predict that these serious impacts of climate change will worsen if prompt action is not taken to curb emissions; and

Whereas in the absence of effective federal engagement, it is the responsibility of the individual states, deemed to be the laboratories of progress, to take immediate leadership actions to address climate change and ocean acidification; and

Whereas by joining together with other leadership jurisdictions similarly resolved to address climate change and ocean acidification, Oregon will help encourage other states, the federal government and the international community to act; and

Whereas by exercising a leadership role in addressing climate change and ocean acidification, Oregon will position its economy, technology centers, financial institutions and businesses to benefit from the national and international efforts that must occur to reduce greenhouse gas emissions; and

Whereas Oregon's forests and other natural and working lands are among the world's most productive carbon sinks, providing many other important ecological, social and economic benefits, and Oregon's sequestration strategies can play an enormous and unique role in the global effort to combat climate change; and

Whereas Oregon's forests and other natural and working lands include Indian trust lands, the utilization of which as part of Oregon's sequestration strategies produces trust revenues for the benefit of Indian tribes and individual Indians; and

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

Whereas Oregon's emissions reduction policies must be designed to protect climate impacted communities and promote the resiliency of these communities through providing opportunities for job creation and training, investments in both natural and built infrastructure and economic devel-
opment and increased utilization of clean energy technologies; and
Whereas vehicle electrification and investment in lower-carbon transportation infrastructure can
increase energy security and resilience in the face of climate change; and
Whereas the carbon pricing program must support a just economic transition to a clean energy
future by protecting the existing workforce and creating new pathways to employment through
workforce development in clean energy, energy efficiency, adaptation and carbon sequestration sec-
tors; and
Whereas the carbon pricing program must address manufacturing leakage to ensure a level
playing field between in-state and out-of-state companies and prevent jobs from leaving this state to
emit elsewhere; and
Whereas the carbon pricing program must respect the rights and ability of Indian tribes to ex-
ercise their stewardship and sovereign authority over their sovereign trust lands and resources, and
the state must make reasonable efforts to cooperate with tribes in the development and implement-
tion of programs that affect Indian tribes; and
Whereas a key strategy in promoting net reductions of atmospheric carbon dioxide and adapting
to climate change is preserving and maintaining the resilient, healthy function of this state’s forests
and other natural and working lands; and
Whereas resilient, healthy forests produce many added benefits, including clean water and good
jobs; and
Whereas it is the intent of the Legislative Assembly to obtain reductions in greenhouse gas
emissions through a comprehensive suite of existing and future measures that include a legally
binding, market-based carbon pricing mechanism, and that must lay out a predictable pathway to
success, be flexible and adaptable to changing circumstances, be based on best available science,
recognize the benefit of Oregon’s natural and working lands in reducing carbon, and be designed to
reduce emissions and to successfully transition to a clean energy economy with benefits available
to all Oregonians; and
Whereas linkage with other jurisdictions will create efficiencies, spur innovation and create
simplicity for businesses, and can be balanced with the ability to maintain Oregon’s authority over
its carbon reduction, sequestration, mitigation, adaptation, resilience and transition activities; and
Whereas any resources generated by the carbon pricing program must be invested to maximize
multiple cobenefits aligned with the program’s goals in an efficient and cost-effective manner over-
seen by the Legislative Assembly and inclusive of communities throughout Oregon to ensure state-
wide benefits; and
Whereas the benefits and effectiveness of any investments must be evaluated through regular
and rigorous third-party auditing; and
Whereas the Legislative Assembly must maintain transparent oversight of program design, im-
plementation, evaluation and subsequent decision-making; now, therefore,

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

**STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTION GOALS**

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

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

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

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

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

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

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

(2) The Legislative Assembly declares that it is the policy of this state for state and local governments, businesses, nonprofit organizations and individual residents to prepare for the effects of global warming and by doing so, prevent and reduce the social, economic and environmental effects of global warming.

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

JOINT COMMITTEE ON CLIMATE ACTION

SECTION 2. (1) There is established the Joint Committee on Climate Action.

(2) The joint committee consists of members of the Senate appointed by the President of the Senate and members of the House of Representatives appointed by the Speaker of the House of Representatives.

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

(4) The joint committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof and in the interim between sessions.

(5) The term of a member shall expire upon the date of the convening of the odd-numbered year regular session of the Legislative Assembly next following the commencement of the member’s term.

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

(b) When a vacancy occurs in the membership of the joint committee in the interim between odd-numbered year regular sessions, until the vacancy is filled:

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

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

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

(b) Notwithstanding paragraph (a) of this subsection, when engaged in out-of-state travel, members shall be entitled to receive their actual and necessary expenses in lieu of the amount authorized by this subsection. Payment shall be made from funds appropriated to the Legislative Assembly.
(8) The joint committee may not transact business unless a quorum is present. Except as provided in subsection (6)(b)(B) of this section, a quorum consists of a majority of joint committee members from the House of Representatives and a majority of joint committee members from the Senate.

(9) Action by the joint committee requires the affirmative vote of a majority of joint committee members from the House of Representatives and a majority of joint committee members from the Senate.

(10) The joint committee may adopt rules necessary for the operation of the joint committee.

(11) The Legislative Policy and Research Director may employ persons necessary for the performance of the functions of the joint committee. The director shall fix the duties and amounts of compensation of the employees. The joint committee shall use the services of continuing legislative staff, without employing additional persons, to the greatest extent practicable.

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

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

(a) Provide general legislative oversight of policy related to climate, including but not limited to the Oregon Climate Action Program established under sections 15 to 40 of this 2019 Act;

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

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

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

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

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

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

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

CLIMATE POLICY OFFICE ESTABLISHED

(Establishment; Duties)

SECTION 4. Climate Policy Office. (1) The Climate Policy Office is established within the Oregon Department of Administrative Services.

(2) The office shall:

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

(b) Carry out the duties, functions and powers vested in the office by law.
(3) The office may advise, consult and cooperate with other agencies of the state, political subdivisions, other states, eligible Indian tribes as defined in section 15 of this 2019 Act or the federal government, with respect to any proceedings and all matters pertaining to the reduction of greenhouse gas emissions levels in Oregon.

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

(Director of the Climate Policy Office)

SECTION 5. Director. (1) The Climate Policy Office is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers of the office.

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

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

(4) Subject to the approval of the Governor, the director may organize and reorganize the administrative structure of the office as the director considers appropriate to properly conduct the work of the office.

(5) The director may divide the functions of the office into administrative divisions. The director may appoint an individual to administer each division. The administrator of each division serves at the pleasure of the director and is not subject to the provisions of ORS chapter 240. Each individual appointed under this subsection must be well qualified by technical training and experience in the functions to be performed by the individual.

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

SECTION 6. ORS 244.050 is amended to read:

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

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

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

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

(d) The Deputy Attorney General.

(e) The Deputy Secretary of State.

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

(g) The president and vice presidents, or their administrative equivalents, in each public university listed in ORS 352.002.
(h) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

(H) State Forester.

(I) State Geologist.

(J) Director of Human Services.

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

(L) Director of the Department of State Lands.

(M) State Librarian.

(N) Administrator of Oregon Liquor Control Commission.

(O) Superintendent of State Police.

(P) Director of the Public Employees Retirement System.

(Q) Director of Department of Revenue.

(R) Director of Transportation.

(S) Public Utility Commissioner.

(T) Director of Veterans' Affairs.

(U) Executive director of Oregon Government Ethics Commission.

(V) Director of the State Department of Energy.

(W) Director and each assistant director of the Oregon State Lottery.

(X) Director of the Department of Corrections.

(Y) Director of the Oregon Department of Aviation.

(Z) Executive director of the Oregon Criminal Justice Commission.

(AA) Director of the Oregon Business Development Department.

(BB) Director of the Office of Emergency Management.

(CC) Director of the Employment Department.

(DD) Chief of staff for the Governor.

(EE) Director of the Housing and Community Services Department.

(FF) State Court Administrator.

(GG) Director of the Department of Land Conservation and Development.

(HH) Board chairperson of the Land Use Board of Appeals.

(II) State Marine Director.

(JJ) Executive director of the Oregon Racing Commission.

(KK) State Parks and Recreation Director.

(LL) Public defense services executive director.

(MM) Chairperson of the Public Employees’ Benefit Board.

(NN) Director of the Department of Public Safety Standards and Training.

(OO) Executive director of the Higher Education Coordinating Commission.

(PP) Executive director of the Oregon Watershed Enhancement Board.

(QQ) Director of the Oregon Youth Authority.

(RR) Director of the Oregon Health Authority.
(SS) Deputy Superintendent of Public Instruction.

(TT) Director of the Climate Policy Office.

(i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
the Governor’s office.

(j) Every elected city or county official.

(k) Every member of a city or county planning, zoning or development commission.

(L) The chief executive officer of a city or county who performs the duties of manager or prin-
cipal administrator of the city or county.

(m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.

(n) Every member of a governing body of a metropolitan service district and the auditor and
executive officer thereof.

(o) Each member of the board of directors of the State Accident Insurance Fund Corporation.

(p) The chief administrative officer and the financial officer of each common and union high
school district, education service district and community college district.

(q) Every member of the following state boards and commissions:

(A) Governing board of the State Department of Geology and Mineral Industries.

(B) Oregon Business Development Commission.

(C) State Board of Education.

(D) Environmental Quality Commission.

(E) Fish and Wildlife Commission of the State of Oregon.

(F) State Board of Forestry.

(G) Oregon Government Ethics Commission.

(H) Oregon Health Policy Board.

(I) Oregon Investment Council.


(K) Oregon Liquor Control Commission.

(L) Oregon Short Term Fund Board.

(M) State Marine Board.

(N) Mass transit district boards.

(O) Energy Facility Siting Council.

(P) Board of Commissioners of the Port of Portland.

(Q) Employment Relations Board.

(R) Public Employees Retirement Board.

(S) Oregon Racing Commission.

(T) Oregon Transportation Commission.

(U) Water Resources Commission.

(V) Workers’ Compensation Board.

(W) Oregon Facilities Authority.

(X) Oregon State Lottery Commission.


(Z) Columbia River Gorge Commission.

(AA) Oregon Health and Science University Board of Directors.

(BB) Capitol Planning Commission.

(CC) Higher Education Coordinating Commission.

(DD) Oregon Growth Board.
(EE) Early Learning Council.

(r) The following officers of the State Treasurer:
(A) Deputy State Treasurer.
(B) Chief of staff for the office of the State Treasurer.
(C) Director of the Investment Division.

(s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 or 777.915 to 777.953.
(t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.
(u) Every member of a governing board of a public university listed in ORS 352.002.
(v) Every member of the board of directors of an authority created under ORS 465.600 to 465.621.

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

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

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

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

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

(Oregon Climate Board)

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

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

(a) One member jointly appointed by the President of the Senate and the Speaker of the House of Representatives who is a member of either the Senate or the House of Representatives and who is also a member of the Republican party and serves as a member of a committee of the Legislative Assembly related to climate;

(b) One member jointly appointed by the President of the Senate and the Speaker of the House of Representatives who is a member of either the Senate or the House of Representatives and who is also a member of the Democratic party and serves as a member of a committee of the Legislative Assembly related to climate;

(c) One member who represents the Oregon Climate Change Research Institute;
(d) The chairperson of the Environmental Justice Task Force;
(e) The Director of Agriculture;
(f) The Director of the Department of Environmental Quality;
(g) A member of the Public Utility Commission;
(h) The Director of Transportation;
(i) The Director of the Housing and Community Services Department;
(j) The Water Resources Director;
(k) The Director of the State Department of Energy;
(L) The Director of the Oregon Health Authority; and
(m) The State Forester.

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

(a) One member who is a tribal representative;
(b) Two members who have expertise in the energy sector;
(c) One member who represents environmental interests;
(d) One member who is an economist or who has experience and expertise in conservation finance;
(e) One member who has expertise in industrial energy use;
(f) One member with expertise in sustainable transportation issues; and
(g) Two at-large members.

SECTION 8. (1) The term of office of each voting member appointed to the Oregon Climate Board is four years, but the members of the board may be removed by the Governor. Before the expiration of the term of a voting member, the Governor shall appoint a successor to assume the duties of the voting member on July 1 of the next following year.

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

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

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

(5) The board shall meet once during each calendar quarter at a time and place determined by the chairperson. The board shall endeavor to hold meetings at various locations throughout this state. The board may hold additional meetings at times and places determined by the chairperson or the Director of the Climate Policy Office, or as requested by a majority of the voting members.

(6)(a) Members of the board who are not members of the Legislative Assembly are not entitled to compensation but may be reimbursed from funds available to the board for actual and necessary travel and other expenses the members incur in the performance of the members' official duties in the manner and amount provided in ORS 292.495.

(b) Members of the committee who are members of the Legislative Assembly shall be entitled to payment of per diem and expense reimbursement under ORS 171.072, payable from
funds appropriated to the Legislative Assembly.

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

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

SECTION 10. (1) The Oregon Climate Board shall:

(a) Advise the Climate Policy Office regarding:
   (A) The implementation, administration and enforcement of the programs and activities of the Climate Policy Office; and
   (B) The development of the rules and policies of the office under sections 15 to 40 and 54 to 59 of this 2019 Act; and
(b) Carry out any other duties, functions and powers vested in the office by law.
   (2) In advising the office pursuant to subsection (1)(a) of this section, the board shall take into consideration best available science. As used in this subsection, “best available science” means science that:
   (a) Maximizes the quality, objectivity and integrity of information, including statistical information;
   (b) Uses peer-reviewed and publicly available data; and
   (c) Clearly documents and communicates risks and uncertainties in scientific citations.
   (3) The board shall hold public hearings and provide an opportunity for public comment in carrying out the board's activities under this section.
   (4) The office shall provide clerical, technical and management personnel to serve the board. Other agencies shall provide support as requested by the office or the board.
   (5) The board may adopt by rule such standards and procedures as the board considers necessary for the operation of the board.

(Enforcement)

SECTION 11. Enforcement procedures; status of procedures. (1) Whenever the Climate Policy Office has good cause to believe that any person is engaged in or is about to engage in any acts or practices that constitute a violation of sections 15 to 40 of this 2019 Act, or any rule, standard or order adopted or entered pursuant sections 15 to 40 of this 2019 Act, the office may institute actions or proceedings for legal or equitable remedies to enforce compliance or to restrain further violations.

(2) The proceedings authorized by subsection (1) of this section may be instituted without the necessity of prior agency notice, hearing and order, or during an agency hearing if the hearing has been initially commenced by the office.

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

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

(a) “Intentional” means conduct by a person with a conscious objective to cause the result of the conduct.

(b) “Reckless” means conduct by a person who is aware of and consciously disregards a
substantial and unjustifiable risk that the result will occur or that the circumstance exists.

The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care a reasonable person would observe in that situation.

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

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

(b) Submitting any record, information or report required by sections 15 to 40 of this 2019 Act or rules adopted under sections 15 to 40 of this 2019 Act that falsifies or conceals a material fact or makes any false or fraudulent representation.

(3) Each day of violation under subsection (2) of this section constitutes a separate offense.

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

(b) Except as provided in paragraph (c) of this subsection, the civil penalty for a violation described in subsection (2) of this section arising from an intentional, reckless or negligent act may not exceed $25,000 per offense.

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

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

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

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

(c) Any prior act that resulted in a violation described in subsection (2) of this section.

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

(e) The gravity and magnitude of the violation.

(f) Whether the violation was repeated or continuous.

(g) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.

(h) The person's cooperativeness and efforts to correct the violation.

(i) Whether the person incurring the civil penalty gained an economic benefit as a result of the violation.

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

SECTION 13. ORS 468.953 is amended to read:

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

(a) Makes any false material statement, representation or certification knowing it to be false, in any application, notice, plan, record, report or other document required by any provision of ORS
chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act or any rule adopted pursuant to ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act;
(b) Omits any material or required information, knowing it to be required, from any document described in paragraph (a) of this subsection; or
(c) Alters, conceals or fails to file or maintain any document described in paragraph (a) of this subsection in knowing violation of any provision of ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act or any rule adopted pursuant to ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act.
(2) Supplying false information is a Class C felony.

OREGON CLIMATE ACTION PROGRAM
(Statement of Purpose)

SECTION 14. (1) The Legislative Assembly finds and declares that the purposes of sections 14, 15 to 40, 41 to 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 to 59, 60 and 61 of this 2019 Act are:
(a) To achieve a reduction in total levels of regulated emissions under sections 15 to 40 of this 2019 Act to at least 45 percent below 1990 emissions levels by 2035 and to achieve a reduction in total regulated emissions levels to at least 80 percent below 1990 emissions levels by 2050;
(b) To promote greenhouse gas emissions sequestration and mitigation;
(c) To promote the adaptation and resilience of natural and working lands, fish and wildlife resources, communities, the economy and this state's infrastructure in the face of climate change and ocean acidification; and
(d) To provide assistance to households, businesses and workers impacted by climate change or climate change policies that allow for the State of Oregon to achieve the greenhouse gas reduction goals set forth in ORS 468A.205.
(2) Sections 14, 15 to 40, 41 to 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 to 59, 60 and 61 of this 2019 Act and the rules adopted pursuant to sections 14, 15 to 40, 41 to 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 to 59, 60 and 61 of this 2019 Act may not be interpreted to limit the authority of any state agency to adopt and implement measures to reduce greenhouse gas emissions.

(Greenhouse Gas Cap and Market-Based Compliance Mechanism)

SECTION 15. Definitions. As used in sections 14 and 15 to 40 of this 2019 Act:
(1) “Aggregation” means an approach for qualifying and quantifying offset projects, for the purposes of reducing costs and increasing the development of offset projects, that allows for the grouping together of two or more geographically separate activities undertaken by one or more parties that result in reductions or removals of greenhouse gases in a similar manner.
(2) “Allowance” means a tradable authorization to emit one metric ton of carbon dioxide equivalent.
(3) “Annual allowance budget” means the number of allowances available to be allocated during one year of the Oregon Climate Action Program.
(4) “Anthropogenic greenhouse gas emissions” means greenhouse gas emissions that are
not biogenic emissions.

(5) “Best available science” means science that:
(a) Maximizes the quality, objectivity and integrity of information, including statistical information;
(b) Uses peer-reviewed and publicly available data; and
(c) Clearly documents and communicates risks and uncertainties in scientific citations.

(6) “Biogenic emissions” means carbon dioxide emissions generated from the combustion of biomass-derived fuels.

(7) “Biomass-derived fuels” includes:
(a) Nonfossilized and biodegradable organic material originating from plants, animals or microorganisms;
(b) Products, by-products, residues or waste from agriculture, forestry or related industries; and
(c) The nonfossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from:
(A) The decomposition of nonfossilized and biodegradable organic material originating from plants, animals or microorganisms; or
(B) Municipal solid waste disposed of in a landfill.

(8)(a) “Business unit” means a business operation that is located at a facility permitted as a single air contamination source under ORS 468.065, 468A.040 or 468A.155, but that is distinguishable from one or more other business operations located at the facility by:
(A) The short title and six-digit code in the North American Industry Classification System applicable to the business operation;
(B) Accounting practices for the business operation that maintain the finances for the business operation as distinct from the finances of other business operations located at the facility; and
(C) The capability of the business operation to operate separately and independently of other business operations at the facility if not colocated with the other business operations.
(b) “Business unit” does not mean a cogeneration facility.

(9) “Carbon dioxide equivalent” means the amount of carbon dioxide by weight that would produce the same global warming impact as a given weight of another greenhouse gas, based on considerations including but not limited to the best available science, including information from the Intergovernmental Panel on Climate Change.

(10) “Compliance instrument” means one allowance or one offset credit that may be used to fulfill a compliance obligation.

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

(12) “Consumer-owned utility” has the meaning given that term in ORS 757.270.

(13) “Covered entity” means a person that is designated by the Climate Policy Office as subject to the Oregon Climate Action Program.

(14) “Direct environmental benefits in this state” means:
(a) A reduction in or avoidance of emissions of any air contaminant in this state other than a greenhouse gas;
(b) A reduction in or avoidance of pollution of any of the waters of the state, as the
terms “pollution” and “the waters of the state” are defined in ORS 468B.005; or

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

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

(16) “Electric company” has the meaning given that term in ORS 757.600.

(17) “Electricity service supplier” has the meaning given that term in ORS 757.600.

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

(a) Electric companies.
(b) Electricity service suppliers.
(c) Consumer-owned utilities.
(d) The Bonneville Power Administration.
(e) Electric generation and transmission cooperatives.

(19) “Eligible Indian tribe” means each of the Burns Paiute Tribe, the Confederated
Tribes of Coos, Lower Umpqua and Siuslaw Indians, the Confederated Tribes of the Grand
Ronde Community of Oregon, the Confederated Tribes of Siletz Indians of Oregon, the Con-
federated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm
Springs Reservation of Oregon, the Coquille Indian Tribe, the Cow Creek Band of Umpqua
Tribe of Indians and the Klamath Tribes.

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

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

(22) “Impacted community” means a community at risk of being disproportionately im-
pacted by climate change as designated by the office under section 33 of this 2019 Act.

(23) “Indian trust lands” means lands within this state held in trust by the United States
for the benefit of an eligible Indian tribe or individual members of an eligible Indian tribe.

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

(25) “Natural and working lands” means:

(a) Lands and waters:
(A) Actively used by an agricultural owner or operator for an agricultural operation that
includes, but need not be limited to, active engagement in farming or ranching;
(B) Producing forest products;
(C) Consisting of forests, woodlands, grasslands, sagebrush steppes, deserts, freshwater
and riparian systems, wetlands, coastal and estuarine areas, the submerged and submersible
lands within Oregon’s territorial sea, watersheds, wildlands or wildlife habitats; or
(D) Used for recreational purposes such as parks, urban and community forests, trails,
greenbelts and other similar open space land; and

(b) Lands and waters described in paragraph (a) of this subsection that are Indian trust
lands or lands within the boundaries of the reservation of an eligible Indian tribe.

[15]
(26) “Natural gas supplier” means any entity that is not a natural gas utility and:
(a) That procures natural gas for end use in this state; or
(b) That owns natural gas as it is imported into this state for end use in this state.
(27) “Natural gas utility” means a natural gas utility regulated by the Public Utility Commission under ORS chapter 757.
(28) “Offset credit” means a tradable credit generated by an offset project that represents a greenhouse gas emissions reduction or removal of one metric ton of carbon dioxide equivalent.
(29) “Offset project” means a project that reduces or removes greenhouse gas emissions that are not regulated emissions.
(30) “Opt-in entity” means a person that is not designated as a covered entity by the office and that voluntarily chooses to participate in the Oregon Climate Action Program as if the entity were a covered entity.
(31) “Oregon Climate Action Program” means the program adopted by rule by the office under section 16 (1) of this 2019 Act and in accordance with the provisions of sections 15 to 40 of this 2019 Act.
(32) “Permitted air contamination source” means an air contamination source as defined in ORS 468A.005 for which a permit is issued by the Department of Environmental Quality pursuant to ORS 468.065, 468A.040 or 468A.155.
(33) “Person” includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof and the federal government and any agencies thereof.
(34) “Registered entity” means a covered entity, opt-in entity or general market participant that has successfully registered to participate in the Oregon Climate Action Program.
(35) “Regulated emissions” means the verified anthropogenic greenhouse gas emissions reported by or assigned to a covered entity or opt-in entity under ORS 468A.280 that the office determines by rule are anthropogenic greenhouse gas emissions regulated under sections 15 to 40 of this 2019 Act.
(36) “Surrender” means to transfer a compliance instrument to the office to fulfill a compliance obligation or on a voluntary basis.

SECTION 16. Adoption of program; general provisions. (1)(a) The Climate Policy Office shall adopt an Oregon Climate Action Program by rule in accordance with ORS chapter 183 and sections 15 to 40 of this 2019 Act. The program shall:
(A) Place a cap on the total anthropogenic greenhouse gas emissions that are regulated emissions through setting annual allowance budgets for 2021 to 2050; and
(B) Provide a market-based mechanism for covered entities to demonstrate compliance with the program.
(b)(A) The annual allowance budget for 2021 shall be a number of allowances equal to baseline emissions as calculated under paragraph (c) of this subsection.
(B) Beginning in 2022 and for each following year until and including 2035, the number of allowances available in each annual allowance budget shall decline by a constant amount as necessary to accomplish a reduction in total regulated emissions levels to at least 45 percent below 1990 emissions levels by 2035.
(C) Beginning in 2036 and for each following year until and including 2050, the number of allowances available in each annual allowance budget shall decline by a constant amount
as necessary to accomplish a reduction in total regulated emissions levels to at least 80 percent below 1990 emissions levels by 2050.

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

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

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

(b) For the purpose of regulating anthropogenic greenhouse gas emissions attributable to the generation of electricity in this state, the office shall designate a permitted air contamination source as a covered entity if the applicable code to the permitted air contamination source under the North American Industry Classification System is 221112 and the permitted air contamination source is a natural gas powered electric power generation facility, regardless of whether the annual regulated emissions attributable to the permitted air contamination source meet or exceed 25,000 metric tons of carbon dioxide equivalent.

(c) If a permitted air contamination source is a facility composed of two or more business units colocated with a cogeneration facility that generates energy utilized by the permitted air contamination source, the office shall designate the permitted air contamination source as a covered entity for each individual business unit with annual regulated emissions attributable to the business unit that meet or exceed 25,000 metric tons of carbon dioxide equivalent. A person designated as a covered entity under this paragraph shall be a covered entity only for addressing the annual regulated emissions attributable to the business units for which the person is designated as a covered entity. For the purposes of this paragraph, the office shall attribute to a business unit the annual regulated emissions from the cogeneration facility colocated with the business unit that are proportionate to the annual energy usage of the business unit.

(d) The office shall designate an electric system manager as a covered entity for the purpose of addressing annual regulated emissions from outside this state that are attributable to the generation of electricity that the electric system manager schedules for delivery and consumption in this state, including wholesale market purchases for which the energy source for the electricity is not known, and accounting for transmission and distribution line losses. For the purposes of this paragraph, the office may adopt rules as necessary to address electricity scheduled for delivery and consumption in this state through an energy imbalance market or other centralized market administered by a market operator.

(e) The office shall designate a natural gas supplier as a covered entity for the purpose
of addressing annual regulated emissions that are attributable to the combustion of natural
gas that is sold by the natural gas supplier for use in this state and that is either directly
consumed by or resold to persons that are not designated as covered entities under para-
graph (a), (b) or (c) of this subsection.

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

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

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

(a) Rules allowing for the trading of compliance instruments;
(b) Rules allowing registered entities to bank and carry forward allowances;
(c) Rules prohibiting the borrowing of allowances from future compliance periods;
(d) Rules allowing opt-in entities and general market participants to participate in the
Oregon Climate Action Program; and
(e) Compliance periods, standards for calculating compliance obligations and procedures
for covered entities and opt-in entities to fulfill their compliance obligations.

(4) The office shall require a covered entity or opt-in entity to surrender to the office the
quantity of compliance instruments necessary to fulfill the covered entity’s or opt-in entity’s
compliance obligation no later than the surrender date specified by the office by rule or or-
der.

(5) For purposes of determining the compliance obligation for a covered entity that is an
electric system manager, electricity scheduled by the electric system manager that is gen-
erated from a renewable energy resource, regardless of the disposition of the renewable en-
ergy certificate associated with the electricity, shall be considered to have the emissions
attributes of the underlying renewable energy resource.

(6) A natural gas utility or natural gas supplier that delivers natural gas to a customer
that is a covered entity or opt-in entity may not include in the rate or bill charged to the
customer any costs associated with compliance by the natural gas utility or natural gas
supplier with sections 15 to 40 of this 2019 Act.

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

(a) Shall require a covered entity or opt-in entity that fails to timely surrender to the
office a sufficient quantity of compliance instruments to fulfill a compliance obligation to
surrender to the office a number of compliance instruments that is in addition to the entity’s
compliance obligation; and
(b) May establish a process for placing restrictions on the holding account of a registered
entity determined to have engaged in a violation described in section 12 of this 2019 Act.

(8) A compliance instrument issued by the office does not constitute property or a prop-
ergy right.
(9)(a) All covered entities, opt-in entities and general market participants must register as registered entities to participate in the Oregon Climate Action Program.

(b) The office shall adopt by rule registration requirements and any additional requirements necessary for registered entities to participate in auctions administered pursuant to section 34 of this 2019 Act.

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

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

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

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

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

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

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

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

(c) The office shall allocate a number of the allowances for retirement pursuant to section 19 of this 2019 Act.

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

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

(f) The office shall allocate a number of the allowances for deposit in an electricity price containment reserve. Allowances may be directly distributed at no cost from the electricity price containment reserve only when the distribution is necessary to protect electricity ratepayers from cost increases associated with unexpected increases in regulated emissions attributable to an electric system manager that are outside of the control of the electric system manager, including but not limited to unexpected increases in regulated emissions due to hydroelectric power generation variability. The office shall adopt rules for electric system managers to apply for direct distribution at no cost of allowances from the electricity price containment reserve. The rules shall prioritize distribution of allowances from the
electricity price containment reserve to electric system managers that experience unex-
pected increases in regulated emissions attributable to variation in hydroelectric power
generation to serve the load of electricity customers in Oregon.

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

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

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

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

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

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

(k) The office shall allocate the allowances that are not otherwise allocated pursuant to
paragraphs (a) to (j) of this subsection for deposit in an auction holding account for auction
pursuant to section 34 of this 2019 Act. If allowances deposited in the auction holding account
under this paragraph remain unsold after two or more consecutive auctions held pursuant
to section 34 of this 2019 Act, the office may redistribute the unsold allowances to the al-
lowance price containment reserve described in subsection (1)(a) of this section.

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

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

(a) Delivered to and consumed in another state, accounting for transmission and dis-
tribution line losses; and

(b) For which the capital and fuel costs associated with the generation are included in
the rates of a multistate jurisdictional electric company that are charged to electricity cus-
tomers in a state other than Oregon.

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

(3) Allowances directly retired by the office on behalf of a covered entity under this sec-
tion shall count toward fulfilling the covered entity’s compliance obligation for the compli-
ance period during which the allowances are directly retired.
SECTION 20. Direct distribution of allowances for electric companies. The Climate Policy Office shall, in consultation with the Public Utility Commission, adopt rules for allocating allowances for direct distribution at no cost to covered entities that are electric companies. Direct distributions under this section must be for the exclusive benefit of retail customers that are supplied electricity by the electric company. Rules adopted under this section must allow for an electric company to use allowances directly distributed under this section to fulfill the compliance obligation associated with electricity supplied by the electric company to serve the load of the electric company's retail customers in Oregon, subject to the oversight of the commission. The rules must include provisions necessary to implement direct distributions of allowances to electric companies as follows:

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

(A) The annual direct distributions to an electric company during 2021 and for each following year until and including 2029 must be in a number of allowances such that the electric company receives a total direct distribution of allowances over that time period equal to 100 percent of the electric company’s forecast regulated emissions for 2021 and for each following year until and including 2029 associated with the electricity supplied to serve the load of the electric company’s retail customers in Oregon; and

(B) The direct distribution to an electric company during 2030 must be in a number of allowances equal to 100 percent of the electric company’s forecast regulated emissions for 2021 and for each following year until and including 2029 associated with the electricity supplied to serve the load of the electric company’s retail customers in Oregon for the calendar year 2030.

(b) For purposes of this subsection, forecast regulated emissions for an electric company must be based on or contained in the following, as of January 1, 2021:

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

(B) Any updates to the integrated resource plan filed by the electric company with the commission; or

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

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

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

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

(A) The electric system manager's 2021 baseline emissions attributable to electricity
scheduled by the electric system manager for final delivery by consumer-owned utilities for consumption in this state; and

(B) Not regulated emissions for which the office has retired allowances pursuant to section 19 of this 2019 Act.

(b) Beginning in 2022 and for each following year until and including 2050, the direct distribution received by an electric system manager for emissions described in paragraph (a) of this subsection shall decline annually by a constant amount proportionate to the decline in the number of allowances available in annual allowance budgets pursuant to section 16 (1)(b) of this 2019 Act.

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

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

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

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

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

(2) Hydroelectric power generation variability;

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

(4) Any other indicators of changes in load requirements on or before January 1, 2025, that are relevant to determining an electric system manager’s 2021 baseline anthropogenic greenhouse gas emissions.

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

(2) Rules adopted under this section must allow for a natural gas utility to receive, directly distributed at no cost, a number of allowances equal to the regulated emissions attributable to the provision of natural gas service to the natural gas utility’s low-income residential sales customers. By January 1 of the first year of each compliance period, the office shall determine, after consultation with the commission, the quantity of allowances to distribute directly at no cost to a natural gas utility under this subsection. Allowances distributed to a natural gas utility under this subsection must be used by the natural gas utility...
only to fulfill a compliance obligation, with the benefit of the use accruing to the natural gas utility's low-income residential sales customers in a manner authorized by the commission pursuant to section 70 of this 2019 Act.

(3) Subject to subsection (4) of this section and in addition to the direct distribution provided under subsection (2) of this section, rules adopted under this section must allow for a natural gas utility to receive directly distributed allowances at no cost as follows:

(a) The annual direct distribution to a natural gas utility during 2021 must be a number of allowances equal to 60 percent of the weather normalized anthropogenic greenhouse gas emissions forecast, for 2021, to be regulated emissions attributable to the natural gas utility.

(b) Beginning in 2022 and for each following year until and including 2050, the direct distribution received by a natural gas utility for emissions described in paragraph (a) of this subsection shall decline annually by a constant amount proportionate to the decline in the number of allowances available in annual allowance budgets pursuant to section 16 (1)(b) of this 2019 Act.

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

(5) The office shall require a natural gas utility to consign all allowances directly distributed under subsection (3) of this section to the state to be auctioned pursuant to section 34 of this 2019 Act.

SECTION 24. Designation of covered entities and opt-in entities engaged in emissions-intensive, trade-exposed processes as EITE entities.

(1) The Climate Policy Office shall designate a covered entity or opt-in entity as an EITE entity, if the covered entity or opt-in entity is a permitted air contamination source and is engaged, as of the operative date of this section and as may be verified by the office, in the manufacture of goods through one or more of the following emissions-intensive, trade-exposed processes, as identified by industry group and code in the North American Industry Classification System:

(a) Aerospace Product and Parts Manufacturing, code 3364.

(b) Basic Chemical Manufacturing, code 3251.

(c) Cement and Concrete Product Manufacturing, code 3273.

(d) Foundries, code 3315.

(e) Fruit and Vegetable Preserving and Specialty Food Manufacturing, code 3114.

(f) Glass and Glass Product Manufacturing, code 3272.

(g) Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.

(h) Lime and Gypsum Product Manufacturing, code 3274.

(i) Nonmetallic Mineral Mining and Quarrying, code 2123.

(j) Other Nonmetallic Mineral Product Manufacturing, code 3279.

(k) Plastics Product Manufacturing, code 3261.

(L) Pulp, Paper, and Paperboard Mills, code 3221.

(m) Sawmills and Wood Preservation, code 3211.

(n) Semiconductor and Other Electronic Component Manufacturing, code 3344.

(o) Veneer, Plywood, and Engineered Wood Product Manufacturing, code 3212.
(2)(a) The office shall adopt by rule a procedure for designating as an EITE entity a covered entity or opt-in entity that:

(A) Begins manufacturing a good or goods in this state after the operative date of this section through an emissions-intensive, trade-exposed process listed in subsection (1) of this section; or

(B) Manufactures a good or goods through a process not listed in subsection (1) of this section that the office, by rule, identifies as an emissions-intensive, trade-exposed process.

(b) The office may hire or contract with a third-party organization to assist the office in gathering data and conducting analyses as necessary to carry out the procedure required by this subsection.

(c) Rules adopted under this subsection may allow for the office to assign a good manufactured by a covered entity or opt-in entity designated as an EITE entity pursuant to this subsection a temporary benchmark, consistent with the processes for calculating benchmarks under section 26 of this 2019 Act, and to adjust the temporary benchmark after the close of the first compliance period for which the EITE entity must fulfill a compliance obligation.

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

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

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

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

SECTION 26. Direct distribution of allowances for EITE entities. (1) As used in this section, “annual benchmarked emissions calculation” means the product of an emissions efficiency benchmark for a good or group of goods, multiplied by the EITE entity's output, during the calendar year prior to the calendar year in which allowances will be allocated for direct distribution at no cost to the EITE entity, of the good or group of goods to which the emissions efficiency benchmark applies.

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

(3) The Climate Policy Office shall establish, by order, the emissions efficiency benchmarks for goods manufactured in this state by EITE entities.

(4) In establishing the emissions efficiency benchmarks, the office may:
(a) Establish an emissions efficiency benchmark separately for each individual good manufactured in this state by an EITE entity; or

(b) Establish a single emissions efficiency benchmark for a group of goods manufactured in this state by an EITE entity, if the office determines that the anthropogenic greenhouse gas emissions attributable to the manufacture of each of the goods in the group:

(A) Are not materially different in quantity; or

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

(5)(a) The office shall establish emissions efficiency benchmarks based on recent years' efficiency as provided in this subsection. An emissions efficiency benchmark established based on recent years' efficiency shall be applicable for the period beginning January 1, 2021, and ending December 31, 2024. To determine each emissions efficiency benchmark, the office shall:

(A) Calculate the three-year average of the total, expressed in metric tons of carbon dioxide equivalent, of the anthropogenic greenhouse gas emissions attributable to the manufacture of the good or group of goods for which the EITE entity would have been the regulated covered entity if the Oregon Climate Action Program had been in effect during the time that the anthropogenic greenhouse gas emissions occurred; and

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

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

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

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

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

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

(c) A process for adjusting an allocation of allowances for direct distribution at no cost, if necessary, to reconcile for output variability or type of good.

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

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

(2) The Climate Policy Office shall first establish, by order, emissions efficiency
benchmarks based on best available technology for EITE entities under the amendments to
section 26 of this 2019 Act by section 28 of this 2019 Act no later than January 1, 2024. An
order issued under this subsection may not become effective prior to January 1, 2025.

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

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

Sec. 26. (1) As used in this section,

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

(b) “Best available technology” means the fuels, processes, equipment and technology
that will most effectively reduce the regulated emissions:

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

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

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

(3) The Climate Policy Office shall establish, by order, the emissions efficiency benchmarks for
goods manufactured in this state by EITE entities.

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

(a) Establish an emissions efficiency benchmark separately for each individual good manufac-
tured in this state by an EITE entity; or

(b) Establish a single emissions efficiency benchmark for a group of goods manufactured in this
state by an EITE entity, if the office determines that the anthropogenic greenhouse gas emissions
attributable to the manufacture of each of the goods in the group:

(A) Are not materially different in quantity; or

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

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

(A) Calculate the three-year average of the total, expressed in metric tons of carbon dioxide
equivalent, of the anthropogenic greenhouse gas emissions attributable to the manufacture of the good
or group of goods for which the EITE entity would have been the regulated covered entity if the Oregon Climate Action Program had been in effect during the time that the anthropogenic greenhouse gas emissions occurred; and

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

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

(5)(a) The office shall establish emissions efficiency benchmarks based on best available technology as provided in this subsection. The office shall update each emissions efficiency benchmark once every nine years. Each emissions efficiency benchmark must represent the anthropogenic greenhouse gas emissions that would be the resulting regulated emissions attributable to an EITE entity for the manufacture of a good or group of goods in this state, if the EITE entity were to use the best available technology, as of the date that the emissions intensity benchmark was last updated, that materially contributes to the regulated emissions of the EITE entity.

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

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

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

(C) The fuels, processes, equipment and technology used by facilities in this state or in other jurisdictions to produce goods of comparable type, quantity and quality; and

(D) Barriers that would prevent adoption of best available technology by the EITE entity.

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

(A) Include an analysis of the current fuels, processes, equipment and technology that materially contribute to the regulated emissions of the EITE entity attributable to the manufacture of each good or group of goods by the EITE entity and the resulting emissions intensity per unit of output for each good or group of goods.

(B) Include an analysis of the best available technology to produce the goods manufactured by the EITE entity and the resulting anthropogenic greenhouse gas emissions intensity per unit of output for each good or group of goods if best available technology were used by the EITE entity. The analysis required by this subparagraph must, to the greatest extent practical, consider the factors described in paragraph (b)(C) and (D) of this subsection.

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

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

(7) In order to implement this section, the office shall adopt by rule:
(a) A means for attributing an EITE entity’s anthropogenic greenhouse gas emissions to the manufacture of individual goods or groups of goods;
(b) Requirements for EITE entities to provide any pertinent records necessary for the office to verify output data; and
(c) A process for adjusting an allocation of allowances for direct distribution at no cost, if necessary, to reconcile for output variability or type of good.

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

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

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

(2) The anthropogenic greenhouse gas emissions reduction opportunities available to the covered entities and opt-in entities described in subsection (1) of this section; and

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

SECTION 30. Offsets generally; rules. (1) Offset projects:
(a) Must be located in the United States or approved by a jurisdiction with which the State of Oregon has entered into a linkage agreement pursuant to section 38 of this 2019 Act;
(b) May not be otherwise required by law; and
(c) Must result in greenhouse gas emissions reductions or removals that:
(A) Are real, permanent, quantifiable, verifiable and enforceable; and
(B) Are in addition to greenhouse gas emissions reductions or removals otherwise required by law or legally enforceable mandate and that exceed any other greenhouse gas emissions reductions or removals that would otherwise occur in a conservative business-as-usual scenario.

(2)(a) A total of no more than eight percent of a covered entity’s or opt-in entity’s compliance obligation may be fulfilled by surrendering offset credits. A total of no more than four percent of a covered entity’s or opt-in entity’s compliance obligation may be fulfilled by surrendering offset credits generated by offset projects that do not provide direct environ-
mental benefits in this state.

(b) The Climate Policy Office may by rule adopt additional restrictions on the number
of offset credits that may be surrendered by a covered entity or opt-in entity that is a per-
mitted air contamination source and that is geographically located in an impacted commu-
nity if:

(A) The geographic area within which the permitted air contamination source is located
is also a nonattainment area and the permitted air contamination source substantially con-
tributes to or causes the nonattainment of air quality standards; or

(B) The permitted air contamination source is in violation of the terms or conditions of
any permit required or authorized under ORS 468.065 or ORS chapter 468A and issued by the
Department of Environmental Quality or a regional air quality control authority formed un-
der ORS 468A.105.

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

(a) Provide for the development of offset protocols in a manner that enables the state
to pursue linkage agreements with other jurisdictions pursuant to section 38 of this 2019 Act;

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

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

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

(c) Allow for the broadest possible participation by landowners in developing and operat-
ing offset projects across the broadest possible variety of types and sizes of lands;

(d) Encourage opportunities for developing offset projects that provide direct environ-
mental benefits in this state;

(e) Prioritize offset projects that benefit impacted communities, members of eligible In-
dian tribes and natural and working lands; and

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

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

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

(b) Requirements for offset projects to be registered with qualified third-party organiza-
tions that operate offset credit registries to receive early action offset credits; and

(c) Requirements for offset credits issued by qualified third-party organizations that op-
erate offset credit registries to be converted to offset credits issued by or acceptable under
the Oregon Climate Action Program.

(5) The office shall adopt by rule a process to investigate and invalidate issued offset
credits as necessary to uphold the environmental integrity of the Oregon Climate Action
Program. Reasons for invalidating issued offset credits may include, but are not limited to:

(a) A misstatement, of more than five percent, of the amount of greenhouse gas emis-
sions reductions or removals attributable to an offset project for which offset credits were
issued;

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

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

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

SECTION 31. Offset protocols. (1) Offset protocols, and any greenhouse gas emission in-
ventory and monitoring requirements related to the offset protocols, developed pursuant to
rules adopted under section 30 of this 2019 Act:

(a) Must be straightforward and effective to implement and administer, for both offset
project operators and persons purchasing offset credits;

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

(c) Must establish, for each offset protocol, a predetermined crediting period for which
an offset project will remain eligible to receive offset credits for greenhouse gas emissions
reductions or removals; and

(d) May make use of aggregation or other mechanisms, including cost-effective inventory
and monitoring provisions, to increase the development of offset projects by landowners
across the broadest possible variety of types and sizes of lands.

(2)(a) The Climate Policy Office shall collaborate and consult with the State Forestry
Department in developing and monitoring offset protocols related to forestry. Offset proto-
cols related to forestry that are developed pursuant to this subsection:

(A) Must prioritize reforestation, avoided forest conversion and improved forest man-
agement.

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

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

(D) May account for differences in forest management practices between private owners
of forestland and state or other owners of nonfederal forestlands in establishing the baselines
for the generation of offset credits by offset projects on the private, state or other nonfed-
eral forestlands.

(E) May not authorize the generation or issuance of offset credits for greenhouse gas
emissions reductions or removals that occur during the period beginning on January 1, 2021,
and ending on December 31, 2026, as the result of offset projects on state forestlands, unless
as of the effective date of this 2019 Act the state forestlands are:

(i) Trust lands as defined in ORS 273.462;

(ii) Lands in the Elliott State Forest as described in ORS 530.450;
(iii) Common School Forest Lands as described in ORS 530.460; or
(iv) Any other lands placed under the jurisdiction of the State Land Board consistent with Article VIII, section 5, Oregon Constitution.

(b) In developing offset protocols related to forestry, the office and the department shall avoid permanent or temporary net cumulative reductions, attributable to offset projects, in the regional supply of wood fiber available to wood products manufacturing facilities in this state. This paragraph does not apply to offset projects located on Indian trust lands or Indian fee lands.

(c) The office and the department shall jointly convene a technical advisory committee to advise the office and the department in developing and monitoring offset protocols related to forestry. The technical advisory committee must include members with expertise in offset protocols related to forestry.

(3) The office shall collaborate and consult with all relevant state agencies, including but not limited to the State Department of Agriculture and the Oregon Watershed Enhancement Board, in developing and monitoring offset protocols related to agriculture and conservation on natural and working lands. In developing offset protocols pursuant to this subsection, the office shall:

(a) Consider developing offset protocols for:
   (A) Manure management that reduces methane emissions from agricultural operations;
   (B) Avoided grassland conversion; and
   (C) Other categories of offset projects that would otherwise result in the reduction of greenhouse gas emissions related to agricultural operations; and

(b) Ensure that the offset protocols have the ability to be administered consistently with the applicable state and local land use laws of Oregon.

(4) In developing any offset protocol related to a matter not addressed by subsections (2) and (3) of this section, the office shall convene a technical advisory committee composed of persons with expertise relevant to the development of the offset protocol.

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

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

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

(a) Shall consult with and consider the recommendations of:
   (A) The State Department of Agriculture, the State Forestry Department, the Environmental Justice Task Force, the Oregon Watershed Enhancement Board, other relevant state agencies and eligible Indian tribes; and
   (B) Persons and agencies that provide third-party verification and registration of offset projects and offset credits; and

(b) May contract with one or more persons or agencies that provide third-party verification and registration of offset projects and offset credits to assist in the development of offset protocols.
(2) The office shall convene a compliance offsets program advisory committee to advise the office in developing and updating rules and offset protocols pursuant to sections 30 and 31 of this 2019 Act. The compliance offsets program advisory committee shall provide guidance to the office in designing the rules and offset protocols to promote offset projects that provide direct environmental benefits in this state and to prioritize offset projects that benefit impacted communities, members of eligible Indian tribes and natural and working lands.

The office shall appoint at least one member to the advisory committee from each of the following groups:

(a) Scientists;
(b) Public health experts;
(c) Carbon market experts;
(d) Representatives of eligible Indian tribes;
(e) Environmental justice advocates;
(f) Labor and workforce representatives;
(g) Forestry experts;
(h) Agriculture experts;
(i) Environmental advocates;
(j) Conservation advocates; and
(k) Dairy experts.

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

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

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

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

(D) Identify and address any significant effects attributable to the forestry offset projects and forestry carbon offsets described in subparagraphs (A) and (B) of this paragraph on the supply of wood fiber available from nonfederal forestlands to wood products manufacturing facilities in this state.

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

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

(B) Significant effects attributable to the forestry offset projects and forestry carbon offsets on the supply of wood fiber that are applicable to specific geographic areas of this state.

(c) The report required by this subsection may include recommendations by the State Forestry Department on whether a temporary suspension of acceptance of new offset project
applications under offset protocols related to forestry developed pursuant to sections 30 and
31 of this 2019 Act is necessary to address any significant effects attributable to forestry
offset projects on the supply of wood fiber available from nonfederal forestlands to wood
products manufacturing facilities in this state. If the department recommends a temporary
suspension, the recommendation must also include recommendations for measures to mini-
mize adverse effects on landowners developing offset projects.

SECTION 33. Methodology for designating impacted communities. (1) The Climate Policy
Office, by rule and in consultation with the Portland State University Population Research
Center, the Oregon Health Authority and other relevant state agencies and local agencies
and officials, shall designate impacted communities. In carrying out this section, the office
shall identify impacted communities based on a methodology that takes into consideration
geographic, socioeconomic, historic disadvantage, public health and environmental hazard
criteria. Impacted communities may include, but are not limited to:

(a) Rural communities.
(b) Coastal communities.
(c) Areas with above-average concentrations of low-income households, historically dis-
advantaged households, high unemployment, high linguistic isolation, low levels of
homeownership, high rent burden, sensitive populations or residents with low levels of edu-
cational attainment.
(d) Areas disproportionately affected by environmental pollution and other hazards that
can lead to negative public health effects, exposure or environmental degradation.

(2) The methodology required by this section must give greater weight to those criteria
that the office determines are the most accurate measurements of vulnerability to the im-
pacts of climate change and ocean acidification.

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

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

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

(3) The office may engage:
(a) A qualified, independent auction administrator to administer auctions; or
(b) A qualified financial services administrator to conduct financial transactions related
to the auction.

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

(5) The office shall:
(a) Set an auction floor price for 2021 and a schedule for the floor price to increase by a
fixed percentage over inflation each calendar year.
(b) Set an allowance price containment reserve floor price for 2021 and a schedule for the
allowance price containment reserve floor price to increase by a fixed percentage over in-
flation each calendar year.
(c) Set a hard price ceiling for 2021 and a schedule for the hard price ceiling to increase
by a fixed percentage over inflation each calendar year, and adopt rules for making an un-
limited number of allowances available for auction upon exceedance of the hard price ceiling.
(d) Take actions to minimize the potential for market manipulation and to guard against
bidder collusion, including but not limited to specifying as holding limits the maximum
number of allowances that may be held for use or trade by a registered entity at any time.

(6) In setting the auction floor price, allowance price containment reserve floor price and
hard price ceiling and adopting rules as required by subsection (5) of this section, the office
shall consider:

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

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

(7) Sales of allowances from the allowance price containment reserve shall be conducted
separately from the auction of other allowances for the purpose of addressing high costs of
compliance instruments. Allowances unsold from the reserve sale must be made available
again at future reserve sales. General market participants may not purchase allowances at
reserve sales.

(8)(a) If the hard price ceiling for an auction is reached, the office shall offer for sale,
at the hard price ceiling, allowances from any reserve described in section 18 of this 2019
Act or established by rule pursuant to section 18 of this 2019 Act, as necessary to meet de-
mand from covered entities and opt-in entities. If the supplies of all allowances from all re-
serves are exhausted and additional sales of allowances are necessary for one or more
covered entities or opt-in entities to fulfill a compliance obligation, the office may sell price
ceiling allowances in addition to the allowances available in the annual allowance budget at
the hard price ceiling.

(b) The proceeds from any sales of allowances pursuant to this subsection shall be paid
to the Oregon Department of Administrative Services and deposited with the State Treasurer
to be credited as follows:

(A) All moneys that constitute revenues described in Article IX, section 3a, of the Oregon
Constitution, shall be credited to the Transportation Decarbonization Investments Account
established in section 42 of this 2019 Act;

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

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

(9) The proceeds of an auction shall be paid to the Oregon Department of Administrative
Services and deposited with the State Treasurer to be credited as follows:

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

(b) Auction proceeds payable to the state shall be credited to the Auction Proceeds Dis-
tribution Fund established under section 35 of this 2019 Act.

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

SECTION 35. Auction Proceeds Distribution Fund. (1) The Auction Proceeds Distribution
Fund is established in the State Treasury, separate and distinct from the General Fund.

(2) The Auction Proceeds Distribution Fund shall consist of moneys transferred to the
fund under section 34 of this 2019 Act. Interest earned by the fund shall be credited to the
(3) The Climate Policy Office shall certify the amount of moneys deposited in the Auction Proceeds Distribution Fund available for distribution and shall cause the moneys to be distributed as follows:

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

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

(c) An amount necessary for administration of sections 7, 8, 9, 10, 11, 12, 14, 15 to 40 and 54 to 59 of this 2019 Act and rules adopted pursuant to sections 7, 8, 9, 10, 11, 12, 14, 15 to 40 and 54 to 59 of this 2019 Act shall be transferred to the Oregon Climate Action Program Operating Fund established under section 39 of this 2019 Act; and

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

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

(1) The number of allowances bought and sold at each auction held and all auction prices, including the floor and ceiling prices, for the allowances bought and sold at each auction;

(2) The beginning and ending balances of all auction holding accounts and reserves held by the office;

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

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

SECTION 37. Participation in nonprofit corporation for administrative and technical support. (1) It is the intent of the Legislative Assembly that the State of Oregon pursue membership on the board of directors of, participation in and the receipt of services from a nonprofit corporation established for the purpose of providing administrative and technical support to state and provincial greenhouse gas emissions trading programs, through which the nonprofit corporation provides for enhanced security, enhanced effectiveness of greenhouse gas emissions trading program infrastructure and lower administrative costs.

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

(3) An agreement authorized under this section to secure membership on the board of directors of the nonprofit corporation described in subsection (1) of this section or to receive the services provided by the nonprofit corporation does not constitute a linkage agreement pursuant to section 38 of this 2019 Act.

SECTION 38. Linkage with market-based compliance mechanisms in other jurisdictions.

(1) In adopting and implementing rules under sections 15 to 40 of this 2019 Act, the Climate Policy Office shall:
   (a) Consider market-based compliance mechanisms designed to reduce greenhouse gas emissions in other jurisdictions; and
   (b) Provide for implementation of the Oregon Climate Action Program in a manner that:
      (A) Avoids double counting of greenhouse gas emissions or emissions reductions; and
      (B) Enables the state to pursue linkage agreements pursuant to this section with other jurisdictions.

(2) The State of Oregon may not link the market-based compliance mechanism established pursuant to sections 15 to 40 of this 2019 Act and rules adopted under sections 15 to 40 of this 2019 Act with the market-based compliance mechanism of any other jurisdiction unless the office notifies the Governor that the office intends to link the market-based compliance mechanism and the Governor approves the proposed linkage agreement by making the following findings, as applicable to the proposed linkage agreement:
   (a) The jurisdiction with which the office proposes to enter an agreement to link has adopted program requirements for greenhouse gas emission reductions that are consistent with those required by sections 15 to 40 of this 2019 Act and will not have the effect of undermining the greenhouse gas emissions reductions or removals required or effectuated by the Oregon Climate Action Program;
   (b) Under the proposed linkage agreement, the State of Oregon has sufficient authority to enforce sections 15 to 40 of this 2019 Act against any person subject to regulation under sections 15 to 40 of this 2019 Act, including any person located within the linking jurisdiction, to the maximum extent permitted by law;
   (c) The proposed linkage agreement provides for enforcement of applicable laws by the Climate Policy Office or by the linking jurisdiction of program requirements that are consistent with those required by sections 15 to 40 of this 2019 Act; and
   (d) The proposed linkage agreement and any related engagement by the State of Oregon of an independent third-party organization to provide administrative or technical services to support the implementation of sections 15 to 40 of this 2019 Act will not impose any significant liability on the state or any state agency for any failure associated with the linkage.

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

(4) The State of Oregon may not enter a finalized linkage agreement unless the office has first provided a report on the proposed linkage agreement to the Joint Committee on Climate Action. The report shall include:
   (a) A description of the scope of the proposed linkage agreement;
   (b) An analysis by the office of the proposed linkage agreement; and
(c) The findings issued by the Governor pursuant to subsections (2) and (3) of this section.

SECTION 39. Operating fund. (1) The Oregon Climate Action Program Operating Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Climate Action Program Operating Fund shall be credited to the fund. Moneys in the Oregon Climate Action Program Operating Fund are continuously appropriated to the Oregon Department of Administrative Services for use by the Climate Policy Office in the performance of the duties, functions and powers vested in the office by law.

(2) The Oregon Climate Action Program Operating Fund shall consist of:

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

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

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

(3) Civil penalties deposited in the fund under section 12 of this 2019 Act shall be deposited in a separate subaccount created in the fund and must be used only for providing technical assistance to covered entities and opt-in entities.

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

SECTION 40. Public records law; application. (1) The Legislative Assembly finds and declares that it is the policy of this state that the market-based compliance mechanism of the Oregon Climate Action Program operate free of abuse and disruptive activity. It is therefore the intent of the Legislative Assembly that the provisions of this section and sections 16 (3), 34, 36, 37 and 38 of this 2019 Act be implemented in a manner necessary to prevent fraud, abuse or market manipulation to the greatest extent possible while upholding the public interest in transparency in public process and government through making certain market activity information available in aggregated form.

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

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

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

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

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

(4) This section does not prohibit the disclosure of information between the Climate Policy Office and other agencies of the executive department, as defined in ORS 174.112, ju-
risdictions with which the State of Oregon has entered into a linkage agreement under sec-
section 38 of this 2019 Act or persons engaged by the State of Oregon to provide administrative
or technical services to support implementation of sections 15 to 40 of this 2019 Act if the
disclosure is necessary for purposes of the administration and implementation of sections
15 to 40 of this 2019 Act.

(5) Any person to whom information described in subsection (2) of this section is dis-
closed under subsection (4) of this section shall treat the information as confidential business
information, exempt from disclosure under the public records law, ORS 192.311 to 192.478.
Redisclosure of individually identifiable information outside the Climate Policy Office remains
subject to the provisions of this section.

INVESTMENT OF STATE PROCEEDS FROM OREGON
CLIMATE ACTION PROGRAM AUCTIONS
(Transportation Decarbonization Investments Account)

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

(1) “Eligible Indian tribe” has the meaning given that term in section 15 of this 2019 Act.

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

(3) “Metropolitan planning organization” has the meaning given that term in ORS 197.629.

SECTION 42. Transportation Decarbonization Investments Account. (1) The Transpor-
tation Decarbonization Investments Account is established as a separate account within the
State Highway Fund. Interest earned by the Transportation Decarbonization Investments
Account shall be credited to the account.

(2) Moneys in the Transportation Decarbonization Investments Account are continuously
appropriated to the Department of Transportation for the purposes described in subsections
(4) and (5) of this section and sections 43 and 44 of this 2019 Act.

(3) The Transportation Decarbonization Investments Account consists of moneys depos-
ited in the account under sections 34 and 35 of this 2019 Act.

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

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

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

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

(6) Expenditures from the Transportation Decarbonization Investments Account shall,
to the extent feasible and consistent with law, be in addition to and not in replacement of
any existing allocation or appropriation for transportation projects.

(7) Examples of uses of moneys deposited in the Transportation Decarbonization Invest-
ments Account may include, but are not limited to, uses related to:

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

(b) Increasing the resilience of transportation infrastructure and evacuation routes against the effects of climate change, extreme precipitation, sea level rise, and extreme temperatures and wildfires.

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

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

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

SECTION 44. Selection of transportation projects. (1) The Oregon Transportation Commission shall select the transportation projects to be funded with moneys in the Transportation Decarbonization Investments Account established under section 42 of this 2019 Act.

(2) A transportation project may not be funded with moneys in the Transportation Decarbonization Investments Account unless the commission determines that the transportation project furthers one or more of the purposes set forth in section 14 of this 2019 Act and that the project may constitutionally be funded by revenues described in Article IX, section 3a, of the Oregon Constitution.

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

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

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

(b) Will further the objectives of the biennial climate action investment plan delivered by the Climate Policy Office under section 57 of this 2019 Act; and

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

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

(a) Benefit impacted communities.

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

(c) Provide opportunities for businesses that are owned by members of impacted communities and eligible Indian tribes to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.

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

(e) Will facilitate:

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

(B) The planning, development or implementation of land use and transportation sce-
narios by local governments and metropolitan planning organizations in accordance with the
guidelines established by the Department of Transportation and the Department of Land
Conservation and Development under ORS 184.893.

(f) Will, to the greatest extent practicable, serve to conserve, restore, preserve and en-
ance adjacent natural resources through the use of roadside vegetation in a manner de-
dsigned to:

(A) Minimize soil erosion;

(B) Improve or maintain slope stability;

(C) Reduce storm water runoff volume and velocity;

(D) Promote water conservation and plant survivability; and

(E) Otherwise best address the full range of impacts associated with the use of the
roadside vegetation.

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

(a) Strive to provide for a balanced distribution over time of moneys in the Transporta-
tion Decarbonization Investments Account:

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

(B) To the extent practicable, in a manner that provides equal funding support between
transportation projects that result in greenhouse gas emissions reductions and transporta-
tion projects that support climate change adaptation; and

(b) To the extent practicable, provide for a distribution of moneys in the Transportation
Decarbonization Investments Account during each biennium that considers the requirements
of fairness and proportionality required by Article IX, section 3a (3), of the Oregon Consti-
tution.

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

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

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

(a) “Building materials” means asphalt, cement, concrete or any other aggregate prod-
uct, aluminum, steel, iron, coatings for steel and iron, glass, manufactured wood products
and copper.

(b) “Contracting agency” has the meaning given that term in ORS 279A.010.

(c) “Nursery stock” has the meaning given that term in ORS 571.005.

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

(e) “State contracting agency” has the meaning given that term in ORS 279A.010.

(f) “Subject to a carbon pricing program” means a building materials manufacturer
whose emissions from the manufacture of goods:

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

(B) Are directly regulated by the jurisdiction where the manufacturing facility is located for the greenhouse gas emissions attributable to the manufacturing of goods at the facility operated by the manufacturer.

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

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

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

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

(6) This section does not apply to emergency work, minor alterations, ordinary repairs or maintenance work for public improvements or to other construction contracts described in ORS 279C.320 (1).

(Climate Investments Fund)

SECTION 46. Climate Investments Fund. (1) The Climate Investments Fund is established in the State Treasury, separate and distinct from the General Fund. The Climate Investments Fund shall consist of moneys deposited in the fund under sections 34 and 35 of this 2019 Act. Interest earned by the fund shall be credited to the fund. The Oregon Department of Administrative Services shall administer the fund.

(2) Moneys in the fund are continuously appropriated to be used only for programs, projects and activities that further one or more of the purposes set forth in section 14 of this 2019 Act consistent with section 59 of this 2019 Act.
(3) The Legislative Assembly shall allocate the moneys deposited in the fund as informed by the biennial climate action investment plan delivered by the Climate Policy Office under section 57 of this 2019 Act.

(4) Of the moneys deposited in the fund each biennium:
(a) 10 percent shall be allocated for uses that directly benefit eligible Indian tribes, as defined in section 15 of this 2019 Act;
(b) 40 percent shall be allocated for uses that benefit impacted communities, as defined in section 15 of this 2019 Act;
(c) 20 percent shall be allocated for uses that benefit natural and working lands, as defined in section 15 of this 2019 Act;
(d) No more than one percent shall be allocated to provide technical assistance to applicants for or recipients of moneys described in paragraphs (a) to (c) of this subsection; and
(e) $10 million shall be allocated for deposit in the Just Transition Fund established in section 51 of this 2019 Act to be used to establish a Just Transition Program and develop a Just Transition Plan pursuant to section 52 of this 2019 Act.

(5) Moneys allocated for investments and expenditures that benefit natural and working lands pursuant to subsection (4)(c) of this section shall be allocated to promote adaptation and resilience in the face of climate change and ocean acidification through actions that may include, but need not be limited to:
(a) Programs, projects or activities that achieve energy efficiency or emissions reductions in the agricultural sector such as through fertilizer management, soil management, bioenergy or biofuels;
(b) Programs, projects or activities that result in sequestration of carbon in forests, agricultural soils, and other terrestrial and aquatic areas;
(c) Improving forest and natural and working lands health and resilience to climate change impacts through actions including thinning, prescribed fire and wildland fire prevention;
(d) Project-specific planning, design and construction projects that reduce the storm water impacts of existing infrastructure and development;
(e) Reducing the risk of flooding by restoring natural floodplain ecological functions, protecting against damage caused by floods and protecting or restoring naturally functioning areas where floods occur;
(f) Improving the availability and reliability of water supplies for instream uses and out-of-stream uses;
(g) Projects to prepare for sea level rise and to restore and protect estuaries, fisheries, marine shoreline and inland habitats; and
(h) Increasing the ability to adapt to and remediate the impacts of ocean acidification.

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

SECTION 47. Adjustment of certain funding percentage requirements. The amendments to section 46 of this 2019 Act by section 48 of this 2019 Act become operative on July 1, 2027.

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

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

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

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

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

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

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

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

(d) No more than one percent shall be allocated to provide technical assistance to applicants for
or recipients of moneys described in paragraphs (a) to (c) of this subsection; and

(e) $10 million shall be allocated for deposit in the Just Transition Fund established in section
51 of this 2019 Act to be used to establish a Just Transition Program and develop a Just Transition
Plan pursuant to section 52 of this 2019 Act.

(5) Moneys allocated for investments and expenditures that benefit natural and working lands
pursuant to subsection (4)(c) of this section shall be allocated to promote adaptation and resilience in
the face of climate change and ocean acidification through actions that may include, but need not be
limited to:

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

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

(c) Improving forest and natural and working lands health and resilience to climate change im-
pacts through actions including thinning, prescribed fire and wildland fire prevention;

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

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

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

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

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

(6) Allocations from the Climate Investments Fund shall, to the maximum extent feasible
and consistent with law, be in addition to and not in replacement of any existing allocations or ap-
propriations for programs, projects and activities.

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

(a) “Building materials” means asphalt, cement, concrete or any other aggregate prod-
uct, aluminum, steel, iron, coatings for steel and iron, glass, manufactured wood products and copper.

(b) “Contracting agency” has the meaning given that term in ORS 279A.010.

c) “Oregon Climate Action Program” has the meaning given that term in section 15 of this 2019 Act.

d) “State contracting agency” has the meaning given that term in ORS 279A.010.

e) “Subject to a carbon pricing program” means building materials manufactured by a manufacturing facility that:

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

(B) Is directly regulated by the jurisdiction where the manufacturing facility is located for the greenhouse gas emissions attributable to the manufacturing of goods at the facility operated by the manufacturer.

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

(3) Notwithstanding provisions of law requiring a contracting agency to award a contract to the lowest responsible bidder or best proposer or provider of a quotation, and except as provided in subsection (4) of this section or as prohibited by federal law, a contracting agency other than a state contracting agency, when using funds from the Climate Investments Fund, may give a preference of not more than 10 percent to building materials procured from manufacturers subject to a carbon pricing program.

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

(Labor and Contracting Provisions)

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

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

(b) Shall offer health care and retirement benefits to the employees performing the labor on the construction project;

(c) Shall participate in an apprenticeship program registered with the State Apprenticeship and Training Council;
(d) May not be a contractor listed by the Commissioner of the Bureau of Labor and Industries under ORS 279C.860 as ineligible to receive a contract or subcontract for public works;

(e) Must demonstrate a history of material compliance with the rules and other requirements of the Construction Contractors Board and of the Workers’ Compensation Division, the Building Codes Division and the Occupational Safety and Health Division of the Department of Consumer and Business Services; and

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

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

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

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

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

   (B) Establish wage, benefit and labor relations standards consistent with the provisions of this section.

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

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

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

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

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

   (iii) The requirement set forth in subparagraph (A) of this paragraph will increase the costs of the project, exclusive of labor costs involved in final assembly for manufactured products, by 25 percent or more.

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

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

(4) Except as provided in subsection (5) of this section, a state agency charged with administering funds for construction projects that receive more than $50,000 in funding from moneys in the Climate Investments Fund or the Transportation Decarbonization Investments Account may not adopt the administering agency’s own rules for labor and workforce procedures related to administering funds allocated from the Climate Investments Fund or the Transportation Decarbonization Investments Account and shall be subject to the model rules adopted by the department under this section.

(5) The Department of Transportation may adopt the department’s own rules specifying labor, workforce and contracting procedures for use in administering funds for transportation projects that receive more than $50,000 in funding from moneys in the Transportation Decarbonization Investments Account. Rules adopted by the department pursuant to this subsection must meet the requirements of subsection (3) of this section.

(Just Transition)

SECTION 51. (1) The Just Transition Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Just Transition Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Higher Education Coordinating Commission to be used to carry out the purposes described in section 52 of this 2019 Act.

(2) The fund shall consist of moneys deposited in the fund from any source.

(3) The fund shall include a reserve account, which shall consist of moneys allocated or appropriated to the fund by the Legislative Assembly for deposit in the reserve account. The reserve account shall be maintained and used by the commission only for the purposes described in section 52 (2)(b) of this 2019 Act.

SECTION 52. (1) The Higher Education Coordinating Commission, in consultation with the State Workforce and Talent Development Board, the Employment Department and other interested state agencies, shall:

(a) Establish a Just Transition Program for the purpose of distributing moneys, other than moneys deposited in the reserve account, that are deposited in the Just Transition Fund established under section 51 of this 2019 Act; and

(b) A Just Transition Plan for:

(A) The implementation and administration of the Just Transition Program; and

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

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

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

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

(a) Information on implementing the Just Transition Program;
(b) Recommendations regarding the level of funding necessary to carry out activities pursuant to the Just Transition Program; and
(c) Recommendations regarding the maintenance and use of the reserve account of the Just Transition Fund, including but not limited to recommendations regarding:
   (A) The funding necessary to maintain the reserve account at a level necessary to carry out the provisions of subsection (2)(b) of this section, based on an evaluation of the impacts of climate change or climate change policies on workers; and
   (B) The use of moneys deposited in the reserve account for the replacement of wages or benefits for workers dislocated or adversely affected by climate change or climate change policies.

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

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

(6) A grant program adopted as part of the Just Transition Program may:

(a) Encourage, but not require, a grant applicant to provide matching funds for completion of the project, program or activity for which a grant is awarded; and
(b) Allow a grant applicant to appeal to the commission for reevaluation of any determination of grant funding.

(7) The commission may perform activities necessary to ensure that recipients of moneys distributed from the Just Transition Fund comply with applicable requirements. If the commission determines that a recipient has not complied with applicable requirements, the commission may order the recipient to refund all moneys distributed from the fund. Moneys refunded pursuant to this subsection shall be paid to the commission and deposited with the State Treasurer for credit to the Just Transition Fund.

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

(a) Advise the commission in developing rules under this section;
(b) Provide recommendations for grant awards and other expenditures from the Just Transition Fund, including expenditures from the reserve account of the Just Transition Fund; and
(c) Provide other recommendations related to the Just Transition Plan and the Just Transition Program.
SECTION 53. Moneys deposited in the Common School Fund under sections 34 and 35 of this 2019 Act are continuously appropriated to the Department of State Lands to be used in a manner that:

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

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

(Distribution of Auction Proceeds; Expenditure Reporting)

SECTION 54. Biennial expenditure reporting. (1) All agencies of the executive department as defined in ORS 174.112, counties, cities and all other public and private entities receiving moneys allocated from the Climate Investments Fund shall annually report to the Climate Policy Office on the expenditure of the moneys received and the results of the expenditures. No later than January 1 of each even-numbered year, the office shall deliver a biennial report, in the manner provided in ORS 192.245, to the Governor and the Joint Committee on Climate Action describing:

(a) The investments from the Climate Investments Fund;

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

(c) The effectiveness of those investments in furthering the purposes set forth in section 14 of this 2019 Act.

(2) All agencies of the executive department, counties, cities and all other public and private entities receiving moneys allocated from the Transportation Decarbonization Investments Account shall annually report to the Department of Transportation on the expenditure of the moneys received and the results of the expenditures. No later than January 1 of each even-numbered year, the department shall deliver a biennial report, in the manner provided in ORS 192.245, to the Oregon Transportation Commission, the Governor, the Joint Committee on Climate Action and the Joint Committee on Transportation describing:

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

(b) How the transportation projects met the requirements of section 44 of this 2019 Act; and

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

SECTION 55. Biennial expenditure audit. (1) The Climate Policy Office and the Department of Transportation jointly shall select an independent third-party organization to prepare a biennial audit of:

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

(b) All transportation projects funded by moneys from the Transportation Decarbonization Investments Account.

(2) The office and the department shall provide for the audit report prepared by the independent third-party organization under this section to be transmitted, together with the reports required under section 54 of this 2019 Act, to the Oregon Transportation Commission,
the Governor, the Joint Committee on Climate Action and the Joint Committee on Trans- 
portation.

(Biennial Climate Action Investments Plan)

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

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

(2) “Eligible Indian tribe” has the meaning given that term in section 15 of this 2019 Act.

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

SECTION 57. Biennial climate action investment plan. (1) No later than June 1 of each 
even-numbered year and in the manner provided in ORS 192.245, the Climate Policy Office 
shall deliver a biennial climate action investment plan to the Environmental Justice Task 
Force, the Oregon Transportation Commission, the Governor, the Joint Committee on Cli- 
mate Action and the Joint Committee on Transportation. The climate action investment plan 
shall identify the short-term and long-term opportunities for uses of state proceeds from 
auctions conducted under section 34 of this 2019 Act that further the purposes set forth in 
section 14 of this 2019 Act and that are consistent with the requirements of the Oregon 
Constitution.

(2) The biennial climate action investment plan must:

(a) Be based on consideration of the best available science, and the best economic infor-

mation available, as of the time of the preparation of the plan; and

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

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

(a) The Department of Transportation, the Public Utility Commission, the Environmental 
Justice Task Force and any other relevant agencies of the executive department as defined 
in ORS 174.112;

(b) Representatives of eligible Indian tribes; and

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

(4) The Director of the Climate Policy Office shall convene a 13-member citizens’ advisory 
committee to advise the office in carrying out the requirements of this section. The members 
of the committee must reflect the geographic, socioeconomic, racial and cultural diversity 
of this state and shall be appointed by the director as follows:

(a) One member to represent the interests of urban environmental justice communities.

(b) One member to represent the interests of rural environmental justice communities.

(c) One member to represent eligible Indian tribes.

(d) One member to represent agriculture or forestry.

(e) One member to represent fisheries.

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

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

(h) One member to represent local governments.
(i) One member to represent labor.
(j) One member to represent environmental or conservation interests.
(k) One member who is a scientist at public university listed in ORS 352.002 or Oregon Health and Science University.
(L) One member to represent home weatherization interests.
(m) One member to represent public health equity.

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

SECTION 59. Priorities for investment of moneys from Climate Investments Fund. (1) In conducting the analysis required under section 57 (2) of this 2019 Act for potential uses of moneys deposited in the Climate Investments Fund, the Climate Policy Office shall give first priority to considering whether a potential use will:
(a) Further the state's objectives in meeting the requirements under section 46 of this 2019 Act for allocations of moneys deposited in the Climate Investments Fund;
(b) Benefit impacted communities;
(c) Complement efforts to achieve and maintain local air quality;
(d) Provide opportunities for eligible Indian tribes, members of impacted communities and businesses owned by women or members of minority groups to participate in and benefit from statewide efforts to reduce greenhouse gas emissions, including technical assistance for businesses owned by women or members of minority groups, nonprofit organizations and other community institutions that serve or represent impacted communities or low-income households;
(e) Promote low carbon economic development opportunities and the creation of jobs that sustain living wages; or
(f) Aid households, businesses and workers in the transition to the State of Oregon achieving the greenhouse gas emissions reduction goals set forth in ORS 468A.205.

(2) The analysis required by section 57 (2) of this 2019 Act shall address use of moneys deposited in the Climate Investments Fund each biennium in a manner that, in total, would result in:
(a) An amount of moneys that is approximately equal to half of the amount of moneys deposited in the Climate Investments Fund as proceeds received through the purchase at auction of allowances by EITE entities to be used to assist the EITE entities in using best available technology; and
(b) An amount of moneys that is approximately equal to half of the amount of moneys deposited in the Climate Investments Fund as proceeds received through the purchase of allowances related to greenhouse gas emissions attributable to the direct combustion of municipal solid waste to generate renewable energy to be used for programs for reducing plastics-related greenhouse gas emissions.

(3) In addition to and not exclusive of the considerations required by subsections (1) and (2) of this section, the analysis for use of moneys deposited in the Climate Investments Fund shall prioritize funding to:
(a) Reduce greenhouse gas emissions or promote adaptation or resiliency through energy efficiency and energy conservation in buildings, low-income weatherization and activities to address energy burden in this state.
(b) Reduce greenhouse gas emissions through electrical grid decarbonization efforts, in-
cluding but not limited to investments in energy generation from renewable resources, distributed energy resources, transmission and storage projects for renewable energy, demand response, community solar projects and other community-scale renewable energy projects.

(c) Reduce greenhouse gas emissions associated with transportation, including but not limited to investments in transportation electrification, compressed natural gas and hydrogen fuel vehicle infrastructure, transit, fuel and energy efficiency in vessels powered by marine engines and roadside landscape management efforts that promote carbon sequestration.

(d) Support planning or the implementation of planning by local governments and metropolitan planning organizations for reducing greenhouse gas emissions or promoting carbon sequestration, adaptation or resilience.

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

(f) Facilitate the development in Oregon of clean energy infrastructure or technologies, low carbon infrastructure or technologies, carbon capture and storage or carbon-free infrastructure and technologies.

(g) Assist air contamination sources for which a permit is issued pursuant to ORS 468.065, 468A.040 or 468A.155 in reducing greenhouse gas emissions.

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

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

(j) Protect sources of domestic drinking water.

(k) Promote research by nonprofit organizations or public universities listed in ORS 352.002 into methods for reducing greenhouse gas emissions, sequestering carbon or adapting to climate change, including but not limited to research investigating feedstocks to reduce emissions from dairy cows and cattle, research investigating crops and agricultural practices that reduce greenhouse gas emissions or promote resilience to climate change, and research to promote resilience to ocean acidification.

(L) Provide youth training for employment in, and youth educational opportunities for, careers in the natural resources sector, the clean technologies sector and other public or private sector jobs in activities that serve to reduce greenhouse gas emissions.

(m) Reduce greenhouse gas emissions related to agriculture, with a priority given to the replacement, repowering or retrofitting of nonroad equipment to reduce emissions that present serious risks to farmworker health.

SECTION 60. Use of biennial climate investments plan in budget process. In preparing the Governor's budget as required under ORS 291.202, the Governor shall consider the rec-
ommendations contained in the biennial climate action investment plan prepared by the Cli-
mate Policy Office under section 57 of this 2019 Act.

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

PROVISIONS RELATED TO THE PUBLIC UTILITY COMMISSION

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

SECTION 63. As used in sections 63 to 68 of this 2019 Act:
(1) “Allowance” has the meaning given that term in section 15 of this 2019 Act.
(2) “Electric company” has the meaning given that term in ORS 757.600.
(3) “Natural gas utility” has the meaning given that term in section 15 of this 2019 Act.
(4) “Oregon Climate Action Program” has the meaning given that term in section 15 of
this 2019 Act.

SECTION 64. (1) If, rather than surrendering the allowances to fulfill its compliance ob-
ligation, an electric company sells allowances that were directly distributed at no cost to the
electric company under sections 18 and 20 of this 2019 Act, the Public Utility Commission
shall require the proceeds received by the electric company through the sale:
(a) To be spent by the electric company for the exclusive benefit of retail customers that
are supplied electricity by the electric company; and
(b) To be used only for activities that serve to reduce greenhouse gas emissions or pro-
vide assistance to the electric company’s retail customers, in furtherance of the purposes
set forth in section 14 of this 2019 Act.

(2) Subject to subsection (1) of this section, an electric company shall prioritize the use
of proceeds received by the electric company from the sale of allowances that were directly
distributed at no cost to the electric company for:
(a) Providing weatherization, energy efficiency improvements, bill assistance or rate as-
stance to the electric company's low-income residential customers;
(b) Accelerated transportation electrification;
(c) Investments and activities that serve to reduce greenhouse gas emissions through
actions such as energy efficiency improvements, voltage optimization, portfolio optimization
and renewable energy procurement; and
(d) Facilitating integration and utilization of variable energy resources through invest-
ments in programs and technologies such as demand response, smart grid communication
and control systems, grid connected end uses and energy storage.

(3) An electric company that receives allowances directly distributed at no cost under
sections 18 and 20 of this 2019 Act shall develop a plan for the use of the allowances and file
the plan with the commission. The plan must be revised and updated on a schedule estab-
lished by the commission by rule. At a minimum, a plan must contain:
(a) A strategy for the use of proceeds received by the electric company from the sale of
the allowances in compliance with this section; and

(b) A description of any previous uses of proceeds received by the electric company from
the sale of the allowances.

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

SECTION 65. (1) The Public Utility Commission, as trustee, shall establish a separate
trust account for the benefit of each natural gas utility. Moneys in each trust account shall
consist of proceeds from the sale of allowances consigned to the state for auction, pursuant
to section 23 of this 2019 Act, by the natural gas utility for which the trust account is est-
ablished. The commission shall establish the trust account with the State Treasurer for the
natural gas utility. The State Treasurer may invest moneys deposited in the trust accounts
as provided in ORS 293.701 to 293.857. Interest earned by a trust account must be credited
to the account. Upon request by a natural gas utility, the commission shall require the State
Treasurer to transfer from the natural gas utility's trust account to the natural gas utility
amounts necessary to pay for programs or activities found to be consistent with the plan
required under subsection (2) of this section.

(2) A natural gas utility shall develop a plan for meeting the requirements of this section
and file the plan for acknowledgment with the commission as part of each of the natural gas
utility's integrated resource plan filings, as further specified by the commission by rule.

(3) A plan must:

(a) Identify a portfolio of approaches in furtherance of the purposes set forth in section
14 of this 2019 Act;

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

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

(A) Implementation of programs, activities or technologies designed to reduce
greenhouse gas emissions through weatherization and more efficient residential, commercial
and industrial use of natural gas by sales customers, including programs for low and mod-
erate income residential customers;

(B) Development of renewable natural gas or renewable hydrogen infrastructure and the
provision of renewable natural gas or renewable hydrogen to the natural gas utility's sales
customers;

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

(D) Provision of natural gas or renewable natural gas to vehicles and the necessary re-
lated infrastructure in the utility's service territory as consistent with section 71 of this 2019
Act; or

(E) Implementation of pilot projects or research, development and demonstration activ-
ities to determine the cost and viability of activities described in subparagraphs (A) to (D)
of this paragraph.
(4) The commission may adopt rules for the implementation and enforcement of this section.

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

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

SECTION 67. No later than September 15 of each even-numbered year, the Public Utility Commission shall, in the manner provided by ORS 192.245, provide a report to the Joint Committee on Climate Action and to the Climate Policy Office on:

(1) How electric companies have made use of allowances that were directly distributed at no cost to each electric company, including a description of how any proceeds received by the electric company from the sale of the allowances were used; and

(2) How natural gas utilities have expended proceeds from the sale of allowances consigned to the state for auction by the natural gas utilities pursuant to section 23 of this 2019 Act.

SECTION 68. The Public Utility Commission shall establish processes and mechanisms to ensure timely cost recovery for prudent and reasonable costs incurred by public utilities associated with compliance with the Oregon Climate Action Program. The processes and mechanisms shall be established to address situations in which compliance with the Oregon Climate Action Program results in public utilities incurring costs for which cost recovery mechanisms otherwise authorized by law are not adequate.

SECTION 69. ORS 757.259 is amended to read:

757.259. (1) In addition to powers otherwise vested in the Public Utility Commission, and subject to the limitations contained in this section, under amortization schedules set by the commission, a rate or rate schedule:

(a) May reflect:

(A) Amounts lawfully imposed retroactively by order of another governmental agency; or

(B) Amounts deferred under subsection (2) of this section.

(b) Shall reflect amounts deferred under subsection (3) of this section if the public utility so requests.

(2) Upon application of a utility or ratepayer or upon the commission’s own motion and after public notice, opportunity for comment and a hearing if any party requests a hearing, the commission by order may authorize deferral of the following amounts for later incorporation in rates:

(a) Amounts incurred by a utility resulting from changes in the wholesale price of natural gas or electricity approved by the Federal Energy Regulatory Commission;

(b) Balances resulting from the administration of Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act of 1980;

(c) Direct or indirect costs arising from any purchase made by a public utility from the Bonneville Power Administration pursuant to ORS 757.663, provided that such costs shall be recovered only from residential and small-farm retail electricity consumers;

(d) Amounts accruing under a plan for the protection of short-term earnings under ORS 757.262 (2); or

(e) Identifiable utility expenses or revenues, including the cost of capital, the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and

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benefits received by ratepayers.

(3) Upon request of the public utility, the commission by order shall allow deferral of amounts provided as financial assistance under an agreement entered into under ORS 757.072 for later incorporation in rates.

(4) The commission may authorize deferrals under subsection (2) of this section beginning with the date of application, together with interest established by the commission. A deferral may be authorized for a period not to exceed 12 months beginning on or after the date of application. However, amounts deferred under subsection (2)(c) and (d) or (3) of this section are not subject to subsection (5), (6), (7), (8) or (10) of this section, but are subject to such limitations and requirements that the commission may prescribe and that are consistent with the provisions of this section.

(5) Unless subject to an automatic adjustment clause under ORS 757.210 (1), amounts described in this section shall be allowed in rates only to the extent authorized by the commission in a proceeding under ORS 757.210 to change rates and upon review of the utility's earnings at the time of application to amortize the deferral. The commission may require that amortization of deferred amounts be subject to refund. The commission's final determination on the amount of deferrals allowable in the rates of the utility is subject to a finding by the commission that the amount was prudently incurred by the utility.

(6) Except as provided in subsections (7), (8) and (10) of this section, the overall average rate impact of the amortizations authorized under this section in any one year may not exceed three percent of the utility's gross revenues for the preceding calendar year.

(7) The commission may allow an overall average rate impact greater than that specified in subsection (6) of this section for natural gas commodity and pipeline transportation costs incurred by a natural gas utility if the commission finds that allowing a higher amortization rate is reasonable under the circumstances.

(8) The commission may authorize amortizations for an electric utility under this section with an overall average rate impact not to exceed six percent of the electric utility's gross revenues for the preceding calendar year. If the commission allows an overall average rate impact greater than that specified in subsection (6) of this section, the commission shall estimate the electric utility's cost of capital for the deferral period and may also consider estimated changes in the electric utility's costs and revenues during the deferral period for the purpose of reviewing the earnings of the electric utility under the provisions of subsection (5) of this section.

(9) The commission may impose requirements similar to those described in subsection (8) of this section for the amortization of other deferrals under this section, but may not impose such requirements for deferrals under subsection (2)(c) or (d) or (3) of this section.

(10) The commission may authorize amortization of a deferred amount for an electric utility under this section with an overall average rate impact greater than that allowed by subsections (6) and (8) of this section if:

(a) The deferral was directly related to extraordinary power supply expenses incurred during 2001;

(b) The amount to be deferred was greater than 40 percent of the revenue received by the electric utility in 2001 from Oregon customers; and

(c) The commission determines that the higher rate impact is reasonable under the circumstances.

(11) If the commission authorizes amortization of a deferred amount under subsection (10) of this section, an electric utility customer that uses more than one average megawatt of electricity at any
site in the immediately preceding calendar year may prepay the customer's share of the deferred amount. The commission shall adopt rules governing the manner in which:

(a) The customer's share of the deferred amount is calculated; and

(b) The customer's rates are to be adjusted to reflect the prepayment of the deferred amount.

(12) The provisions of this section do not apply to a telecommunications utility.

SECTION 70. The Public Utility Commission may, in such manner as the commission considers proper, allow a rate or rate schedule of a public utility to include differential rates or to reflect amounts for programs that enable the public utility to assist low-income residential customers. Rates or rate schedules allowed under this section must minimize the shifting of costs to ratepayers that do not qualify for low-income assistance.

SECTION 71. (1) As used in this section:

(a) “Electric company” has the meaning given that term in ORS 757.600.

(b) “Natural gas utility” means a natural gas utility regulated by the Public Utility Commission under this chapter.

(2) The Public Utility Commission may allow a rate or rate schedule of an electric company or natural gas utility to reflect amounts for investments in infrastructure measures that support the adoption of alternative forms of transportation vehicles if the investments are consistent with and meet the requirements of subsection (3) of this section.

(3) An investment in infrastructure measures that support the adoption of alternative forms of transportation vehicles is a utility service and a benefit to utility ratepayers if:

(a) The infrastructure measures will support the adoption of alternative vehicles that are powered by electricity, compressed natural gas or hydrogen; and

(b) The investment can be reasonably anticipated to:

(A) Cost-effectively reduce transportation sector greenhouse gas emissions over time; and

(B) Benefit the electric company's or natural gas utility's customers. Benefits may include, but need not be limited to:

(i) Distribution or transmission management benefits;

(ii) System efficiencies or other economic values inuring to the benefit of ratepayers over the long term; or

(iii) Increased ratepayer choice by providing greater deployment of a variety of fueling technologies to increase availability and access to publicly available fueling stations for alternative forms of transportation vehicles.

SECTION 72. Section 12, chapter 751, Oregon Laws 2009, is amended to read:

Sec. 12. Section 9 [of this 2009 Act], chapter 751, Oregon Laws 2009, is repealed on [January 2, 2020] the effective date of this 2019 Act.

BIENNIAL STATEWIDE ENERGY BURDEN REPORT

SECTION 73. (1) No later than November 1 of each even-numbered year, the Housing and Community Services Department and the State Department of Energy shall jointly transmit to the Governor and the Legislative Assembly a biennial statewide energy burden report. The Housing and Community Services Department and the State Department of Energy shall jointly adopt rules for gathering data necessary to prepare the report. In adopting rules under this section, the Housing and Community Services Department and the State Department
of Energy shall consult with consumer-owned utilities as defined in ORS 757.600 regarding the availability and collection of data necessary to develop the report.

(2) The purposes of the biennial statewide energy burden report are to:

(a) Establish a baseline for assessing the energy burden experienced by the residents of this state on a statewide level, by county and by utility service territory, and for assessing the differences in regional or demographic data that may impact the energy burden experienced;

(b) Develop and maintain an inventory of all programs in Oregon that contribute to reducing energy burden that are funded through state, federal or utility programs and include in the inventory a description of the annual funding necessary for each program and the sources for funding received;

(c) Explore new statewide mechanisms for reducing energy burden, with an emphasis on addressing the specific needs of renters, mobile home and manufactured dwelling park residents and residents of multifamily housing;

(d) Develop and provide recommendations for restructuring programs or for creating new programs to enhance efforts for addressing energy burden in this state; and

(e) Develop and provide recommendations for improving the delivery of services for reducing energy burden by improving data gathering and knowledge sharing between state agencies, utilities, community action agencies and other organizations that implement energy assistance programs.

(3) The Housing and Community Services Department, in consultation with the State Department of Energy, shall convene an Energy Burden and Poverty Working Group to provide guidance and assistance to the departments in developing the biennial statewide energy burden report. The working group shall include representatives of low-income and environmental justice communities, consumer-owned utilities, investor-owned utilities, at least one community action agency and organizations that implement energy assistance programs.

GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING
(Amendments to Statutes, Operative on Effective Date of Act)

SECTION 74. ORS 468A.280 is amended to read:

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

(1) As used in this section:

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

(b) “Greenhouse gas” has the meaning given that term in section 15 of this 2019 Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Electricity purchases from an unknown origin or from a seller who is unable to identify the original generating facility fuel type or types;
(iii) Electricity purchases for which a renewable energy certificate under ORS 469A.130 has been issued but subsequently transferred or sold to a person other than the electric company;

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

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

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

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

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

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

(b) Allowing electronic reporting;

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

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

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

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

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

(9) The commission may adjust by rule the registration and reporting requirements under subsection (2) of this section if necessary to accommodate participation in an energy imbalance market by persons that import, sell, allocate or distribute electricity, or as necessary to otherwise address developments in electricity markets.

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

(11) If a person required to register and report under subsection (2) of this section fails to submit a report under this section, the department may develop an assigned emissions level for the person if necessary for the purpose of regulating persons under sections 15 to 40 of this 2019 Act.

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

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

(13) Emissions data submitted to the department under this section is public information and may not be designated as confidential for purposes of disclosure under the public records law, ORS 192.311 to 192.478.

(Transfer from Department of Environmental Quality to Climate Policy Office, Operative January 1, 2022)

SECTION 75. Transfer. The duties, functions and powers of the Environmental Quality Commission and the Department of Environmental Quality relating to ORS 468A.280 and rules adopted pursuant to ORS 468A.280 are imposed upon, transferred to and vested in the Climate Policy Office.

SECTION 76. Records, property, employees. (1) The Director of the Department of Environmental Quality shall:

(a) Deliver to the Climate Policy Office all records and property within the jurisdiction of the director that relate to the duties, functions and powers transferred by section 75 of this 2019 Act; and

(b) Transfer to the Climate Policy Office those employees engaged primarily in the exercise of the duties, functions and powers transferred by section 75 of this 2019 Act.

(2) The Director of the Climate Policy Office shall take possession of the records and property, and shall take charge of the employees and employ them in the exercise of the duties, functions and powers transferred by section 75 of this 2019 Act, without reduction of compensation but subject to change or termination of employment or compensation as provided by law.

(3) The Governor shall resolve any dispute between the Department of Environmental Quality and the Climate Policy Office relating to transfers of records, property and employees under this section, and the Governor’s decision is final.

SECTION 77. Unexpended revenues. (1) The unexpended balances of amounts authorized to be expended by the Environmental Quality Commission or the Department of Environmental Quality for the biennium beginning July 1, 2021, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 75 of this 2019 Act are transferred to and are available for expenditure by the Climate Policy Office for the biennium beginning July 1, 2021, for the purpose of administering and enforcing the duties, functions and powers transferred by section 75 of this 2019 Act.

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

SECTION 78. Action, proceeding, prosecution. The transfer of duties, functions and powers to the Climate Policy Office by section 75 of this 2019 Act does not affect any action, proceeding or prosecution involving or with respect to the duties, functions and powers begun before and pending at the time of the transfer, except that the Climate Policy Office is
substituted for the Environmental Quality Commission or the Department of Environmental Quality, as appropriate, in the action, proceeding or prosecution.

SECTION 79. Liability, duty, obligation. (1) Nothing in sections 75 to 81 of this 2019 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 75 of this 2019 Act. The Climate Policy Office may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Environmental Quality Commission or the Department of Environmental Quality legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date of section 75 of this 2019 Act accruing under or with respect to the duties, functions and powers transferred by section 75 of this 2019 Act are transferred to the Climate Policy Office. For the purpose of succession to these rights and obligations, the Climate Policy Office is a continuation of the Environmental Quality Commission or the Department of Environmental Quality, as appropriate, and not a new authority.

SECTION 80. Rules. (1) Notwithstanding the transfer of duties, functions and powers by section 75 of this 2019 Act, the rules of the Environmental Quality Commission with respect to such duties, functions or powers that are in effect on the operative date of section 75 of this 2019 Act continue in effect until superseded or repealed by rules of the Climate Policy Office. References in the rules of the Environmental Quality Commission to the Environmental Quality Commission are considered to be references to the Director of the Climate Policy Office. References in the rules of the Environmental Quality Commission to the Department of Environmental Quality or an officer or employee of the Department of Environmental Quality are considered to be references to the Climate Policy Office or an officer or employee of the Climate Policy Office.

(2) Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred by section 75 of this 2019 Act, reference is made to the Environmental Quality Commission, with relation to the duties, functions or powers transferred by section 75 of this 2019 Act, the reference is considered to be a reference to the Director of the Climate Policy Office for purposes of being charged by the terms of this 2019 Act with carrying out the duties, functions and powers.

(3) Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred by section 75 of this 2019 Act, reference is made to the Department of Environmental Quality, or an officer or employee of the Department of Environmental Quality, whose duties, functions or powers are transferred by section 75 of this 2019 Act, the reference is considered to be a reference to the Climate Policy Office or an officer or employee of the Climate Policy Office who by this 2019 Act is charged with carrying out the duties, functions and powers.

(Housekeeping in ORS)

SECTION 81. Notwithstanding any other provision of law, ORS 468A.280 shall not be considered to have been added to or made a part of ORS chapter 468A for the purpose of statutory compilation or for the application of definitions, penalties or administrative pro-
visions applicable to statute sections in that series.

(Conforming Amendments)

SECTION 82. ORS 468A.280, as amended by section 74 of this 2019 Act, is amended to read:

468A.280. (1) As used in this section:
(a) “Air contamination source” has the meaning given that term in ORS 468A.005.
(b) “Greenhouse gas” has the meaning given that term in section 15 of this 2019 Act.
(2) The [Environmental Quality Commission] Climate Policy Office by rule may require registration and reporting of information necessary to determine greenhouse gas emissions by:
(a) A person in control of an air contamination source of any class for which registration and reporting is required under ORS 468A.050.
(b) A person who imports, sells, allocates or distributes electricity for use in this state.
(c) A person who imports, sells or distributes for use in this state fuel that generates greenhouse gases when combusted.
(3) A person required to register and report under subsection (2) of this section shall register with the [Department of Environmental Quality] office and make reports containing information that the [commission] office by rule may require that is relevant to determining and verifying greenhouse gas emissions. The [commission] office may by rule require the person to provide an audit by an independent and disinterested third party to verify that the greenhouse gas emissions information reported by the person is true and accurate.
(4) Rules adopted by the [commission] office under this section for electricity that is imported, sold, allocated or distributed for use in this state may require reporting of information necessary to determine greenhouse gas emissions from generating facilities used to produce the electricity and related electricity transmission line losses.
(5)(a) The [commission] office shall allow consumer-owned utilities, as defined in ORS 757.270, to comply with reporting requirements imposed under this section by the submission of a report prepared by a third party. A report submitted under this paragraph may include information for more than one consumer-owned utility, but must include all information required by the [commission] office for each individual utility.
(b) For the purpose of determining greenhouse gas emissions related to electricity purchased from the Bonneville Power Administration by a consumer-owned utility, as defined in ORS 757.270, the [commission] office may require only that the utility report:
(A) The number of megawatt-hours of electricity purchased by the utility from the Bonneville Power Administration, segregated by the types of contracts entered into by the utility with the Bonneville Power Administration; and
(B) The percentage of each fuel or energy type used to produce electricity purchased under each type of contract.
(6)(a) Rules adopted by the [commission] office pursuant to this section for electricity that is purchased, imported, sold, allocated or distributed for use in this state by an electric company, as defined in ORS 757.600, must be limited to the reporting of:
(A) The generating facility fuel type and greenhouse gas emissions emitted from generating facilities owned or operated by the electric company;
(B) The number of megawatt-hours of electricity generated by the electric company for use in this state;
(C) Greenhouse gas emissions emitted from transmission equipment owned or operated by the
electric company;

(D) The number of megawatt-hours of electricity purchased by the electric company for use in
this state, including information, if known, on:
   (i) The seller of the electricity to the electric company; and
   (ii) The original generating facility fuel type or types; and
(E) An estimate of the amount of greenhouse gas emissions attributable to:
   (i) Electricity purchases made by a particular seller to the electric company;
   (ii) Electricity purchases from an unknown origin or from a seller who is unable to identify the
original generating facility fuel type or types;
   (iii) Electricity transmitted for others by the electric company; and
   (iv) Total energy losses from electricity transmission and distribution equipment owned or op-
erated by the electric company.

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

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

(8) To an extent that is consistent with the purposes of the rules adopted by the [commission] office
under this section, the [commission] office shall minimize the burden of the reporting required
under this section by:
   (a) Allowing concurrent reporting of information that is also reported to another state agency;
   (b) Allowing electronic reporting;
   (c) Allowing use of good engineering practice calculations in reports, or of emission factors
published by the United States Environmental Protection Agency;
   (d) Establishing thresholds for the amount of specific greenhouse gases that may be emitted or
generated without reporting;
   (e) Requiring reporting by the fewest number of persons in a fuel distribution system that will
allow the [commission] office to acquire the information needed by the [commission] office; or
   (f) Other appropriate means and procedures determined by the [commission] office.

(9) The [commission] office may adjust by rule the registration and reporting requirements under
subsection (2) of this section if necessary to accommodate participation in an energy imbalance
market by persons that import, sell, allocate or distribute electricity, or as necessary to otherwise
address developments in electricity markets.

(10) The [department] office may require a person for which registration and reporting is re-
quired under subsection (2) of this section to provide any pertinent records related to verification
of greenhouse gas emissions in order to determine compliance with and to enforce this section and
rules adopted pursuant to this section.

(11) If a person required to register and report under subsection (2) of this section fails to sub-
mit a report under this section, the [department] office may develop an assigned emissions level for
the person if necessary for the purpose of regulating persons under sections 15 to 40 of this 2019
Act.

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

(b) The [commission] office shall limit the fees established under this subsection to the anticipated cost of developing, implementing and analyzing data collected under greenhouse gas emissions registration and reporting programs.

(c) All fees collected by the office under this section shall be deposited with the State Treasurer to the credit of the Oregon Climate Action Program Operating Fund established under section 39 of this 2019 Act.

(13) Emissions data submitted to the [department] office under this section is public information and may not be designated as confidential for purposes of disclosure under the public records law, ORS 192.311 to 192.478.

SECTION 83. Section 39 of this 2019 Act is amended to read:

Sec. 39. (1) The Oregon Climate Action Program Operating Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Climate Action Program Operating Fund shall be credited to the fund. Moneys in the Oregon Climate Action Program Operating Fund are continuously appropriated to the Oregon Department of Administrative Services for use by the Climate Policy Office in the performance of the duties, functions and powers vested in the office by law.

(2) The Oregon Climate Action Program Operating Fund shall consist of:

(a) Moneys deposited in the fund pursuant to sections 12, 34 and 35 of this 2019 Act and ORS 468A.280;

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

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

(3) Civil penalties deposited in the fund under section 12 of this 2019 Act shall be deposited in a separate subaccount created in the fund and must be used only for providing technical assistance to covered entities and opt-in entities.

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

(5) Moneys deposited in the fund from the collection of fees under ORS 468A.280 may only be used to develop, and to implement and analyze data collected under, greenhouse gas emissions registration and reporting programs pursuant to ORS 468A.280.

SECTION 84. Section 11 of this 2019 Act is amended to read:

Sec. 11. (1) Whenever the Climate Policy Office has good cause to believe that any person is engaged in or is about to engage in any acts or practices that constitute a violation of sections 15 to 40 of this 2019 Act or ORS 468A.280, or any rule, standard or order adopted or entered pursuant to sections 15 to 40 of this 2019 Act or ORS 468A.280, the office may institute actions or proceedings for legal or equitable remedies to enforce compliance or to restrain further violations.

(2) The proceedings authorized by subsection (1) of this section may be instituted without the necessity of prior agency notice, hearing and order, or during an agency hearing if the hearing has been initially commenced by the office.

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

SECTION 85. Section 12 of this 2019 Act is amended to read:
Sec. 12. (1) As used in this section:

(a) “Intentional” means conduct by a person with a conscious objective to cause the result of the conduct.

(b) “Reckless” means conduct by a person who is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care a reasonable person would observe in that situation.

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

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

(b) A violation of ORS 468A.280 or rules adopted under ORS 468A.280.

(c) Submitting any record, information or report required by sections 15 to 40 of this 2019 Act or ORS 468A.280 or rules adopted under sections 15 to 40 of this 2019 Act or ORS 468A.280 that falsifies or conceals a material fact or makes any false or fraudulent representation.

(3) Each day of violation under subsection (2) of this section constitutes a separate offense.

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

(b) Except as provided in paragraph (c) of this subsection, the civil penalty for a violation described in subsection (2) of this section arising from an intentional, reckless or negligent act may not exceed $25,000 per offense.

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

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

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

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

(c) Any prior act that resulted in a violation described in subsection (2) of this section.

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

(e) The gravity and magnitude of the violation.

(f) Whether the violation was repeated or continuous.

(g) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.

(h) The person’s cooperativeness and efforts to correct the violation.

(i) Whether the person incurring the civil penalty gained an economic benefit as a result of the violation.

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

SECTION 86. ORS 468.953, as amended by section 13 of this 2019 Act, is amended to read:
468.953. (1) A person commits the crime of supplying false information to any agency if the person:
(a) Makes any false material statement, representation or certification knowing it to be false, in any application, notice, plan, record, report or other document required by any provision of ORS 468.280 or ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act or any rule adopted pursuant to ORS 468A.280 or ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act;
(b) Omits any material or required information, knowing it to be required, from any document described in paragraph (a) of this subsection; or
(c) Alters, conceals or fails to file or maintain any document described in paragraph (a) of this subsection in knowing violation of any provision of ORS 468A.280 or ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act or any rule adopted pursuant to ORS 468A.280 or ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act.
(2) Supplying false information is a Class C felony.

ENERGY FACILITY CARBON DIOXIDE EMISSIONS STANDARDS

(REPEAL OF CARBON DIOXIDE EMISSIONS STANDARDS)

SECTION 87. ORS 469.503 is amended to read:

469.503. In order to issue a site certificate, the Energy Facility Siting Council shall determine that the preponderance of the evidence on the record supports the following conclusions:
(1) The facility complies with the applicable standards adopted by the council pursuant to ORS 469.501 or the overall public benefits of the facility outweigh any adverse effects on a resource or interest protected by the applicable standards the facility does not meet.
(2) If the energy facility is a fossil-fueled power plant, the energy facility complies with any applicable carbon dioxide emissions standard adopted by the council or enacted by statute. Base load gas plants shall comply with the standard set forth in subsection (2)(a) of this section. Other fossil-fueled power plants shall comply with any applicable standard adopted by the council by rule pursuant to subsection (2)(b) of this section. Subsections (2)(c) and (d) of this section prescribe the means by which an applicant may comply with the applicable standard.
(a) The net carbon dioxide emissions rate of the proposed base load gas plant shall not exceed 0.70 pounds of carbon dioxide emissions per kilowatt hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis. Notwithstanding the foregoing, the council may by rule modify the carbon dioxide emissions standard for base load gas plants if the council finds that the most efficient stand-alone combined cycle, combustion turbine, natural gas-fired energy facility that is commercially demonstrated and operating in the United States has a net heat rate of less than 7,200 Btu per kilowatt hour higher heating value adjusted to ISO conditions. In modifying the carbon dioxide emission standard, the council shall determine the rate of carbon dioxide emissions per kilowatt hour of net electric output of such energy facility, adjusted to ISO conditions, and reset the carbon dioxide emissions standard at 17 percent below this rate.
(b) The council shall adopt carbon dioxide emissions standards for other types of fossil-fueled power plants. Such carbon dioxide emissions standards shall be promulgated by rule. In adopting or amending such carbon dioxide emissions standards, the council shall consider and balance at least the following principles, the findings on which shall be contained in the rulemaking record:
(A) Promote facility fuel efficiency;
((B) Promote efficiency in the resource mix;)
((C) Reduce net carbon dioxide emissions;)
((D) Promote cogeneration that reduces net carbon dioxide emissions;)
((E) Promote innovative technologies and creative approaches to mitigating, reducing or avoiding carbon dioxide emissions;)
((F) Minimize transaction costs;)
((G) Include an alternative process that separates decisions on the form and implementation of offsets from the final decision on granting a site certificate;)
((H) Allow either the applicant or third parties to implement offsets;)
((I) Be attainable and economically achievable for various types of power plants;)
((J) Promote public participation in the selection and review of offsets;)
((K) Promote prompt implementation of offset projects;)
((L) Provide for monitoring and evaluation of the performance of offsets; and)
((M) Promote reliability of the regional electric system.)

(c) The council shall determine whether the applicable carbon dioxide emissions standard is met by first determining the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. Such determination shall be based on the proposed design of the energy facility. The council shall adopt site certificate conditions to ensure that the predicted carbon dioxide emissions are not exceeded on a new and clean basis. For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of subparagraphs (A) to (D) of this paragraph, or any combination thereof. The council shall determine the amount of carbon dioxide or other greenhouse gas emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard. For purposes of determining the net carbon dioxide emissions, the council shall by rule establish the global warming potential of each greenhouse gas based on a generally accepted scientific method, and convert any greenhouse gas emissions to a carbon dioxide equivalent. Unless otherwise provided by the council by rule, the global warming potential of methane is 23 times that of carbon dioxide, and the global warming potential of nitrous oxide is 296 times that of carbon dioxide. If the council or a court on judicial review concludes that the applicant has not demonstrated compliance with the applicable carbon dioxide emissions standard under subparagraphs (A), (B) or (D) of this paragraph, or any combination thereof, and the applicant has agreed to meet the requirements of subparagraph (C) of this paragraph for any deficiency, the council or a court shall find compliance based on such agreement.

((A) The facility will sequentially produce electrical and thermal energy from the same fuel source, and the thermal energy will be used to displace another source of carbon dioxide emissions that would have otherwise continued to occur, in which case the council shall adopt site certificate conditions ensuring that the carbon dioxide emissions reduction will be achieved.)

((B) The applicant or a third party will implement particular offsets, in which case the council may adopt site certificate conditions ensuring that the proposed offsets are implemented but shall not require that predicted levels of avoidance, displacement or sequestration of greenhouse gas emissions be achieved. The council shall determine the quantity of greenhouse gas emissions reduction that is reasonably likely to result from each of the proposed offsets based on the criteria in sub-subparagraphs (i) to (iii) of this subparagraph. In making this determination, the council shall not allow credit for offsets that have already been allocated or awarded credit for greenhouse gas emissions reduction in another regulatory setting. In addition, the fact that an applicant or other parties involved with an
offset may derive benefits from the offset other than the reduction of greenhouse gas emissions is not, by itself, a basis for withholding credit for an offset.)

(i) The degree of certainty that the predicted quantity of greenhouse gas emissions reduction will be achieved by the offset;}

(ii) The ability of the council to determine the actual quantity of greenhouse gas emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance; and

(iii) The extent to which the reduction of greenhouse gas emissions would occur in the absence of the offsets.

(C) The applicant or a third party agrees to provide funds in an amount deemed sufficient to produce the reduction in greenhouse gas emissions necessary to meet the applicable carbon dioxide emissions standard, in which case the funds shall be used as specified in paragraph (d) of this subsection. Unless modified by the council as provided below, the payment of 57 cents shall be deemed to result in a reduction of one ton of carbon dioxide emissions. The council shall determine the offset funds using the monetary offset rate and the level of emissions reduction required to meet the applicable standard. If a site certificate is approved based on this subparagraph, the council may not adjust the amount of such offset funds based on the actual performance of offsets. After three years from June 26, 1997, the council may by rule increase or decrease the monetary offset rate of 57 cents per ton of carbon dioxide emissions. Any change to the monetary offset rate shall be based on empirical evidence of the cost of offsets and the council’s finding that the standard will be economically achievable with the modified rate for natural gas-fired power plants. Following the initial three-year period, the council may increase or decrease the monetary offset rate no more than 50 percent in any two-year period.

(D) Any other means that the council adopts by rule for demonstrating compliance with any applicable carbon dioxide emissions standard.

(d) If the applicant elects to meet the applicable carbon dioxide emissions standard in whole or in part under paragraph (c)(C) of this subsection, the applicant shall identify the qualified organization. The applicant may identify an organization that has applied for, but has not received, an exemption from federal income taxation, but the council may not find that the organization is a qualified organization unless the organization is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 1996. The site certificate holder shall provide a bond or comparable security in a form reasonably acceptable to the council to ensure the payment of the offset funds and the amount required under subparagraph (A)(ii) of this paragraph. Such security shall be provided by the date specified in the site certificate, which shall be no later than the commencement of construction of the facility. The site certificate shall require that the offset funds be disbursed as specified in subparagraph (A) of this paragraph, unless the council finds that no qualified organization exists, in which case the site certificate shall require that the offset funds be disbursed as specified in subparagraph (B) of this paragraph.

(A) The site certificate holder shall disburse the offset funds and any other funds required by sub-subparagraph (ii) of this subparagraph to the qualified organization as follows:

(i) When the site certificate holder receives written notice from the qualified organization certifying that the qualified organization is contractually obligated to pay any funds to implement offsets using the offset funds, the site certificate holder shall make the requested amount available to the qualified organization unless the total of the amount requested and any amounts previously requested exceeds the offset funds, in which case only the remaining amount of the offset funds shall be made available. The qualified organization shall use at least 80 percent of the offset funds for contracts to implement
offsets. The qualified organization shall assess offsets for their potential to qualify in, generate credits in or reduce obligations in other regulatory settings. The qualified organization may use up to 20 percent of the offset funds for monitoring, evaluation, administration and enforcement of contracts to implement offsets.]

[(iii) At the request of the qualified organization and in addition to the offset funds, the site certificate holder shall pay the qualified organization an amount equal to 10 percent of the first $500,000 of the offset funds and 4.286 percent of any offset funds in excess of $500,000. This amount shall not be less than $50,000 unless a lesser amount is specified in the site certificate. This amount compensates the qualified organization for its costs of selecting offsets and contracting for the implementation of offsets.]

[(iii) Notwithstanding any provision to the contrary, a site certificate holder subject to this subparagraph shall have no obligation with regard to offsets, the offset funds or the funds required by sub-subparagraph (ii) of this subparagraph other than to make available to the qualified organization the total amount required under paragraph (c) of this subsection and sub-subparagraph (ii) of this subparagraph, nor shall any nonperformance, negligence or misconduct on the part of the qualified organization be a basis for revocation of the site certificate or any other enforcement action by the council with respect to the site certificate holder.]

[(B) If the council finds there is no qualified organization, the site certificate holder shall select one or more offsets to be implemented pursuant to criteria established by the council. The site certificate holder shall give written notice of its selections to the council and to any person requesting notice. On petition by the State Department of Energy, or by any person adversely affected or aggrieved by the site certificate holder’s selection of offsets, or on the council’s own motion, the council may review such selection. The petition must be received by the council within 30 days of the date the notice of selection is placed in the United States mail, with first-class postage prepaid. The council shall approve the site certificate holder’s selection unless it finds that the selection is not consistent with criteria established by the council. The site certificate holder shall contract to implement the selected offsets within 18 months after commencing construction of the facility unless good cause is shown requiring additional time. The contracts shall obligate the expenditure of at least 85 percent of the offset funds for the implementation of offsets. No more than 15 percent of the offset funds may be spent on monitoring, evaluation and enforcement of the contract to implement the selected offsets. The council’s criteria for selection of offsets shall be based on the criteria set forth in paragraphs (b)(C) and (c)(B) of this subsection and may also consider the costs of particular types of offsets in relation to the expected benefits of such offsets. The council’s criteria shall not require the site certificate holder to select particular offsets, and shall allow the site certificate holder a reasonable range of choices in selecting offsets. In addition, notwithstanding any other provision of this section, the site certificate holder’s financial liability for implementation, monitoring, evaluation and enforcement of offsets pursuant to this subsection shall be limited to the amount of any offset funds not already contractually obligated. Nonperformance, negligence or misconduct by the entity or entities implementing, monitoring or evaluating the selected offset shall not be a basis for revocation of the site certificate or any other enforcement action by the council with respect to the site certificate holder.]

[(C) Every qualified organization that has received funds under this paragraph shall, at five-year intervals beginning on the date of receipt of such funds, provide the council with the information the council requests about the qualified organization’s performance. The council shall evaluate the information requested and, based on such information, shall make any recommendations to the Legislative Assembly that the council deems appropriate.]
[(e) As used in this subsection:]

[(A) “Adjusted to ISO conditions” means carbon dioxide emissions and net electric power output as determined at 59 degrees Fahrenheit, 14.7 pounds per square inch atmospheric pressure and 60 percent humidity.]

[(B) “Base load gas plant” means a generating facility that is fueled by natural gas, except for periods during which an alternative fuel may be used and when such alternative fuel use shall not exceed 10 percent of expected fuel use in Btu, higher heating value, on an average annual basis, and where the applicant requests and the council adopts no condition in the site certificate for the generating facility that would limit hours of operation other than restrictions on the use of alternative fuel. The council shall assume a 100 percent capacity factor for such plants and a 30-year life for the plants for purposes of determining gross carbon dioxide emissions.]

[(C) “Carbon dioxide equivalent” means the global warming potential of a greenhouse gas reflected in units of carbon dioxide.]

[(D) “Fossil-fueled power plant” means a generating facility that produces electric power from natural gas, petroleum, coal or any form of solid, liquid or gaseous fuel derived from such material.]

[(E) “Generating facility” means those energy facilities that are defined in ORS 469.300 (11)(a)(A), (B) and (D).]

[(F) “Global warming potential” means the determination of the atmospheric warming resulting from the release of a unit mass of a particular greenhouse gas in relation to the warming resulting from the release of the equivalent mass of carbon dioxide.]

[(G) “Greenhouse gas” means carbon dioxide, methane and nitrous oxide.]

[(H) “Gross carbon dioxide emissions” means the predicted carbon dioxide emissions of the proposed energy facility measured on a new and clean basis.]

[(I) “Net carbon dioxide emissions” means gross carbon dioxide emissions of the proposed energy facility, less carbon dioxide or other greenhouse gas emissions avoided, displaced or sequestered by any combination of cogeneration or offsets.]

[(J) “New and clean basis” means the average carbon dioxide emissions rate per hour and net electric power output of the energy facility, without degradation, as determined by a 100-hour test at full power completed during the first 12 months of commercial operation of the energy facility, with the results adjusted for the average annual site condition for temperature, barometric pressure and relative humidity and use of alternative fuels, and using a rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel and a rate of 161 pounds of carbon dioxide per million Btu of distillate fuel, if such fuel use is proposed by the applicant. The council may by rule adjust the rate of pounds of carbon dioxide per million Btu for natural gas or distillate fuel. The council may by rule set carbon dioxide emissions rates for other fuels.]

[(K) “Nongenerating facility” means those energy facilities that are defined in ORS 469.300 (11)(a)(C) and (E) to (J).]

[(L) “Offset” means an action that will be implemented by the applicant, a third party or through the qualified organization to avoid, sequester or displace emissions.]

[(M) “Offset funds” means the amount of funds determined by the council to satisfy the applicable carbon dioxide emissions standard pursuant to paragraph (c)(C) of this subsection.]

[(N) “Qualified organization” means an entity that:]

[(i) Is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 1996;]

[(ii) Either is incorporated in the State of Oregon or is a foreign corporation authorized to do]
business in the State of Oregon;

(iii) Has in effect articles of incorporation that require that offset funds received pursuant to this section are used for offsets that require that decisions on the use of the offset funds are made by a decision-making body composed of seven voting members of which three are appointed by the council, three are Oregon residents appointed by the Bullitt Foundation or an alternative environmental nonprofit organization named by the body, and one is appointed by the applicants for site certificates that are subject to paragraph (d) of this subsection and the holders of such site certificates, and that require nonvoting membership on the body for holders of site certificates that have provided funds not yet disbursed under paragraph (d)(A) of this subsection;

(iv) Has made available on an annual basis, beginning after the first year of operation, a signed opinion of an independent certified public accountant stating that the qualified organization’s use of funds pursuant to this statute conforms with generally accepted accounting procedures except that the qualified organization shall have one year to conform with generally accepted accounting principles in the event of a nonconforming audit;

(v) Has to the extent applicable, except for good cause, entered into contracts obligating at least 60 percent of the offset funds to implement offsets within two years after the commencement of construction of the facility; and

(vi) Has to the extent applicable, except for good cause, complied with paragraph (d)(A)(i) of this subsection.

(3) Except as provided in ORS 469.504 for land use compliance and except for those statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the council, the facility complies with all other Oregon statutes and administrative rules identified in the project order, as amended, as applicable to the issuance of a site certificate for the proposed facility. If compliance with applicable Oregon statutes and administrative rules, other than those involving federally delegated programs, would result in conflicting conditions in the site certificate, the council may resolve the conflict consistent with the public interest. A resolution may not result in the waiver of any applicable state statute.

(4) The facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.

SECTION 88. ORS 469.501 is amended to read:

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

(a) The organizational, managerial and technical expertise of the applicant to construct and operate the proposed facility.

(b) Seismic hazards.

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

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

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

(f) Impacts of the facility on historic, cultural or archaeological resources listed on, or determined by the State Historic Preservation Officer to be eligible for listing on, the National Register of Historic Places or the Oregon State Register of Historic Properties.

(g) Protection of public health and safety, including necessary safety devices and procedures.
(h) The accumulation, storage, disposal and transportation of nuclear waste.

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

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

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

(L) The need for proposed nongenerating facilities [as defined in ORS 469.503], consistent with the state energy policy set forth in ORS 469.010 and 469.310. The council may consider least-cost plans when adopting a need standard or in determining whether an applicable need standard has been met. The council shall not adopt a standard requiring a showing of need or cost-effectiveness for generating facilities [as defined in ORS 469.503].

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

(n) Soil protection.

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

(2) The council may adopt exemptions from any need standard adopted under subsection (1)(L) of this section if the exemption is consistent with the state’s energy policy set forth in ORS 469.010 and 469.310.

(3)(a) The council may issue a site certificate for a facility that does not meet one or more of the applicable standards adopted under subsection (1) of this section if the council determines that the overall public benefits of the facility outweigh any adverse effects on a resource or interest protected by the applicable standards the facility does not meet.

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

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

(Transitional Provisions)


(2) Any provision in a site certificate or amended site certificate for a generating facility issued before January 1, 2021, requiring the holder to demonstrate the need for the facility shall cease to be enforceable on January 1, 2021.

(3) Any site certificate amendment approved by the council on or after January 1, 2021, shall remove from the site certificate being amended all conditions and provisions rendered
unenforceable by subsections (1) and (2) of this section. Notwithstanding ORS 469.405 or any
council rule, the contested case hearing on a site certificate amendment subject to this
subsection may not include hearing on amendments necessary to comply with this sub-
section. The provisions of the council’s order relevant to compliance with this subsection
are not subject to judicial review.

SECTION 90. The Energy Facility Siting Council shall, no later than January 1, 2022,
complete rulemaking to amend or repeal any rules adopted by the council relating to the
application of a carbon dioxide emissions standard to generating facilities or nongenerating
facilities as necessary to bring the rules of the council into compliance with the amendments
to ORS 469.501 and 469.503 by sections 87 and 88 of this 2019 Act and the provisions of section
89 of this 2019 Act.

SECTION 91. (1) As used in this section and section 92 of this 2019 Act, “qualified or-
ganization” has the meaning given that term in ORS 469.503 (2)(e)(N) (2017 Edition).

(2) On or after the operative date of this section and the amendments to ORS 469.503 by
section 87 of this 2019 Act and in accordance with the provisions of ORS 469.503 (2)(d) (2017
Edition), a qualified organization that, before the operative date of this section and the
amendments to ORS 469.503 by section 87 of this 2019 Act, received payment of offset funds
pursuant to ORS 469.503 (2)(c)(C) (2017 Edition):

(a) Shall use at least 80 percent of the offset funds for contracts to implement offsets
and assess offsets for their potential to qualify in, generate credits in or reduce obligations
in other regulatory settings;

(b) May use up to 20 percent of the offset funds for monitoring, evaluating, administering
and enforcing contracts to implement offsets; and

(c) Shall, at five-year intervals beginning on the date of the receipt of the offset funds
and ending the year after the year that the qualified organization in no longer involved in
the investment of offset funds received pursuant to ORS 469.503 (2)(c)(C) (2017 Edition),
provide the Energy Facility Siting Council with the information the council requests about
the qualified organization’s performance. The council shall evaluate the information re-
quested and, based on the information, shall make any recommendations to the Legislative
Assembly that the council deems appropriate.

SECTION 92. Section 91 of this 2019 Act is repealed on the date that the Legislative
Counsel receives written notice from the Energy Facility Siting Council that the council has
confirmed that all qualified organizations that received payment of offset funds pursuant to
ORS 469.503 (2)(c)(C) (2017 Edition) have ceased to be involved in the investment of the offset
funds.

(Repeal)

SECTION 93. ORS 469.409 is repealed.

(Conforming Amendments)

SECTION 94. ORS 469.300 is amended to read:

469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992, unless the
context requires otherwise:
(1) “Applicant” means any person who makes application for a site certificate in the manner provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

(2) “Application” means a request for approval of a particular site or sites for the construction and operation of an energy facility or the construction and operation of an additional energy facility upon a site for which a certificate has already been issued, filed in accordance with the procedures established pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

(3) “Associated transmission lines” means new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

(4) “Average electric generating capacity” means the peak generating capacity of the facility divided by one of the following factors:

(a) For wind facilities, 3.00;
(b) For geothermal energy facilities, 1.11; or
(c) For all other energy facilities, 1.00.

(5) “Combustion turbine power plant” means a thermal power plant consisting of one or more fuel-fired combustion turbines and any associated waste heat combined cycle generators.

(6) “Construction” means work performed on a site, excluding surveying, exploration or other activities to define or characterize the site, the cost of which exceeds $250,000.

(7) “Council” means the Energy Facility Siting Council established under ORS 469.450.

(8) “Department” means the State Department of Energy created under ORS 469.030.

(9) “Director” means the Director of the State Department of Energy appointed under ORS 469.040.

(10) “Electric utility” means persons, regulated electrical companies, people’s utility districts, joint operating agencies, electric cooperatives, municipalities or any combination thereof, engaged in or authorized to engage in the business of generating, supplying, transmitting or distributing electric energy.

(11)(a) “Energy facility” means any of the following:

(A) An electric power generating plant with a nominal electric generating capacity of 25 megawatts or more, including but not limited to:

(i) Thermal power;
(ii) Combustion turbine power plant; or
(iii) Solar thermal power plant.

(B) A nuclear installation as defined in this section.

(C) A high voltage transmission line of more than 10 miles in length with a capacity of 230,000 volts or more to be constructed in more than one city or county in this state, but excluding:

(i) Lines proposed for construction entirely within 500 feet of an existing corridor occupied by high voltage transmission lines with a capacity of 230,000 volts or more; and
(ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000 volts along the same right of way.

(D) A solar photovoltaic power generation facility using more than:

(i) 100 acres located on high-value farmland as defined in ORS 195.300; and
(ii) 100 acres located on land that is predominantly cultivated or that, if not cultivated, is predominantly composed of soils that are in capability classes I to IV, as specified by the National Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United States.
(iii) 320 acres located on any other land.

(E) A pipeline that is:

(i) At least six inches in diameter, and five or more miles in length, used for the transportation of crude petroleum or a derivative thereof, liquefied natural gas, a geothermal energy form in a liquid state or other fossil energy resource, excluding a pipeline conveying natural or synthetic gas;

(ii) At least 16 inches in diameter, and five or more miles in length, used for the transportation of natural or synthetic gas, but excluding:

(I) A pipeline proposed for construction of which less than five miles of the pipeline is more than 50 feet from a public road, as defined in ORS 368.001; or

(ii) A parallel or upgraded pipeline up to 24 inches in diameter that is constructed within the same right of way as an existing 16-inch or larger pipeline that has a site certificate, if all studies and necessary mitigation conducted for the existing site certificate meet or are updated to meet current site certificate standards; or

(iii) At least 16 inches in diameter and five or more miles in length used to carry a geothermal energy form in a gaseous state but excluding a pipeline used to distribute heat within a geothermal heating district established under ORS chapter 523.

(F) A synthetic fuel plant which converts a natural resource including, but not limited to, coal or oil to a gas, liquid or solid product intended to be used as a fuel and capable of being burned to produce the equivalent of two billion Btu of heat a day.

(G) A plant which converts biomass to a gas, liquid or solid product, or combination of such products, intended to be used as a fuel and if any one of such products is capable of being burned to produce the equivalent of six billion Btu of heat a day.

(H) A storage facility for liquefied natural gas constructed after September 29, 1991, that is designed to hold at least 70,000 gallons.

(I) A surface facility related to an underground gas storage reservoir that, at design injection or withdrawal rates, will receive or deliver more than 50 million cubic feet of natural or synthetic gas per day, or require more than 4,000 horsepower of natural gas compression to operate, but excluding:

(i) The underground storage reservoir;

(ii) The injection, withdrawal or monitoring wells and individual wellhead equipment; and

(iii) An underground gas storage reservoir into which gas is injected solely for testing or reservoir maintenance purposes or to facilitate the secondary recovery of oil or other hydrocarbons.

(J) An electric power generating plant with an average electric generating capacity of 35 megawatts or more if the power is produced from geothermal or wind energy at a single energy facility or within a single energy generation area.

(b) “Energy facility” does not include a hydroelectric facility or an energy facility under paragraph (a)(A)(iii) or (D) of this subsection that is established on the site of a decommissioned United States Air Force facility that has adequate transmission capacity to serve the energy facility.

(12) “Energy generation area” means an area within which the effects of two or more small generating plants may accumulate so the small generating plants have effects of a magnitude similar to a single generating plant of 35 megawatts average electric generating capacity or more. An “energy generation area” for facilities using a geothermal resource and covered by a unit agreement, as provided in ORS 522.405 to 522.545 or by federal law, shall be defined in that unit agreement. If no such unit agreement exists, an energy generation area for facilities using a geothermal resource
shall be the area that is within two miles, measured from the electrical generating equipment of the
facility, of an existing or proposed geothermal electric power generating plant, not including the site
of any other such plant not owned or controlled by the same person.

(13) “Extraordinary nuclear occurrence” means any event causing a discharge or dispersal of
source material, special nuclear material or by-product material as those terms are defined in ORS
453.605, from its intended place of confinement off-site, or causing radiation levels off-site, that the
United States Nuclear Regulatory Commission or its successor determines to be substantial and to
have resulted in or to be likely to result in substantial damages to persons or property off-site.

(14) “Facility” means an energy facility together with any related or supporting facilities.

(15) “Generating facility” means those energy facilities that are defined in subsection
(11)(a)(A), (B) and (D) of this section.

[(15) (16) “Geothermal reservoir” means an aquifer or aquifers containing a common geothermal
fluid.

[(16) (17) “Local government” means a city or county.

[(17) (18) “Nominal electric generating capacity” means the maximum net electric power output
of an energy facility based on the average temperature, barometric pressure and relative humidity
at the site during the times of the year when the facility is intended to operate.

(19) “Nongenerating facility” means those energy facilities that are defined in subsection
(11)(a)(C) and (E) to (I) of this section.

[(18) (20) “Nuclear incident” means any occurrence, including an extraordinary nuclear occur-
rence, that results in bodily injury, sickness, disease, death, loss of or damage to property or loss
of use of property due to the radioactive, toxic, explosive or other hazardous properties of source
material, special nuclear material or by-product material as those terms are defined in ORS 453.605.

[(19) (21) “Nuclear installation” means any power reactor, nuclear fuel fabrication plant, nu-
clear fuel reprocessing plant, waste disposal facility for radioactive waste, and any facility handling
that quantity of fissionable materials sufficient to form a critical mass. “Nuclear installation” does
not include any such facilities that are part of a thermal power plant.

[(20) (22) “Nuclear power plant” means an electrical or any other facility using nuclear energy
with a nominal electric generating capacity of 25 megawatts or more, for generation and distribution
of electricity, and associated transmission lines.

[(21) (23) “Person” means an individual, partnership, joint venture, private or public corpo-
ration, association, firm, public service company, political subdivision, municipal corporation, gov-
ernment agency, people’s utility district, or any other entity, public or private, however organized.

[(22) (24) “Project order” means the order, including any amendments, issued by the State De-
partment of Energy under ORS 469.330.

[(23)(a) (25)(a) “Radioactive waste” means all material which is discarded, unwanted or has no
present lawful economic use, and contains mined or refined naturally occurring isotopes, accelerator
produced isotopes and by-product material, source material or special nuclear material as those
terms are defined in ORS 453.605. The term does not include those radioactive materials identified
in OAR 345-50-020, 345-50-025 and 345-50-035, adopted by the council on December 12, 1978, and re-
vised periodically for the purpose of adding additional isotopes which are not referred to in OAR
345-50 as presenting no significant danger to the public health and safety.

(b) Notwithstanding paragraph (a) of this subsection, “radioactive waste” does not include ura-
nium mine overburden or uranium mill tailings, mill wastes or mill by-product materials as those
terms are defined in Title 42, United States Code, section 2014, on June 25, 1979.
“Related or supporting facilities” means any structure, proposed by the applicant, to be constructed or substantially modified in connection with the construction of an energy facility, including associated transmission lines, reservoirs, storage facilities, intake structures, road and rail access, pipelines, barge basins, office or public buildings, and commercial and industrial structures. “Related or supporting facilities” does not include geothermal or underground gas storage reservoirs, production, injection or monitoring wells or wellhead equipment or pumps.

“Site” means any proposed location of an energy facility and related or supporting facilities.

“Site certificate” means the binding agreement between the State of Oregon and the applicant, authorizing the applicant to construct and operate a facility on an approved site, incorporating all conditions imposed by the council on the applicant.

“Thermal power plant” means an electrical facility using any source of thermal energy with a nominal electric generating capacity of 25 megawatts or more, for generation and distribution of electricity, and associated transmission lines, including but not limited to a nuclear-fueled, geothermal-fueled or fossil-fueled power plant, but not including a portable power plant the principal use of which is to supply power in emergencies. “Thermal power plant” includes a nuclear-fueled thermal power plant that has ceased to operate.

“Transportation” means the transport within the borders of the State of Oregon of radioactive material destined for or derived from any location.

“Underground gas storage reservoir” means any subsurface sand, strata, formation, aquifer, cavern or void, whether natural or artificially created, suitable for the injection, storage and withdrawal of natural gas or other gaseous substances. “Underground gas storage reservoir” includes a pool as defined in ORS 520.005.

“Utility” includes:

(a) A person, a regulated electrical company, a people’s utility district, a joint operating agency, an electric cooperative, municipality or any combination thereof, engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy;

(b) A person or public agency generating electric energy from an energy facility for its own consumption; and

(c) A person engaged in this state in the transmission or distribution of natural or synthetic gas.

“Waste disposal facility” means a geographical site in or upon which radioactive waste is held or placed but does not include a site at which radioactive waste used or generated pursuant to a license granted under ORS 453.635 is stored temporarily, a site of a thermal power plant used for the temporary storage of radioactive waste from that plant for which a site certificate has been issued pursuant to this chapter or a site used for temporary storage of radioactive waste from a reactor operated by a college, university or graduate center for research purposes and not connected to the Northwest Power Grid. As used in this subsection, “temporary storage” includes storage of radioactive waste on the site of a nuclear-fueled thermal power plant for which a site certificate has been issued until a permanent storage site is available by the federal government.

SECTION 95. ORS 469.310 is amended to read:

469.310. In the interests of the public health and the welfare of the people of this state, it is the declared public policy of this state that the siting, construction and operation of energy facilities shall be accomplished in a manner consistent with protection of the public health and safety and in compliance with the energy policy and air, water, solid waste, land use and other environmental protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.563, 469.590 to
469.619, 469.930 and 469.992 to exercise the jurisdiction of the State of Oregon to the maximum extent permitted by the United States Constitution and to establish in cooperation with the federal government a comprehensive system for the siting, monitoring and regulating of the location, construction and operation of all energy facilities in this state. It is furthermore the policy of this state, notwithstanding ORS 469.010 (2)(f) and the definition of cost-effective in ORS 469.020, that the need for new generating facilities, as defined in ORS 469.503, is sufficiently addressed by reliance on competition in the market rather than by consideration of cost-effectiveness and shall not be a matter requiring determination by the Energy Facility Siting Council in the siting of a generating facility, as defined in ORS 469.503.

SECTION 96. ORS 469.373 is amended to read:

469.373. (1) Notwithstanding the expedited review process established pursuant to ORS 469.370, an applicant may apply under the provisions of this section for expedited review of an application for a site certificate for an energy facility if the energy facility:

(a) Is a combustion turbine energy facility fueled by natural gas or is a reciprocating engine fueled by natural gas, including an energy facility that uses petroleum distillate fuels for backup power generation;

(b) Is a permitted or conditional use allowed under an applicable local acknowledged comprehensive plan, land use regulation or federal land use plan, and is located:

(A) At or adjacent to an existing energy facility; or

(B)(i) At, adjacent to or in close proximity to an existing industrial use; and

(ii) In an area currently zoned or designated for industrial use;

(c) (A) Requires no more than three miles of associated transmission lines or three miles of new natural gas pipelines outside of existing rights of way for transmission lines or natural gas pipelines; or

(B) Imposes, in the determination of the Energy Facility Siting Council, no significant impact in the locating of associated transmission lines or new natural gas pipelines outside of existing rights of way;

(d) Requires no new water right or water right transfer; and

[(e) Provides funds to a qualified organization in an amount determined by the council to be sufficient to produce any required reduction in emissions as specified in ORS 469.503 (2)(c)(C) and in rules adopted under ORS 469.503 for the total carbon dioxide emissions produced by the energy facility for the life of the energy facility; and]

[(f)(A)] (e)(A) Discharges process wastewater to a wastewater treatment facility that has an existing National Pollutant Discharge Elimination System permit, can obtain an industrial pretreatment permit, if needed, within the expedited review process time frame and has written confirmation from the wastewater facility permit holder that the additional wastewater load will be accommodated by the facility without resulting in a significant thermal increase in the facility effluent or without requiring any changes to the wastewater facility National Pollutant Discharge Elimination System permit;

(B) Plans to discharge process wastewater to a wastewater treatment facility owned by a municipal corporation that will accommodate the wastewater from the energy facility and supplies evidence from the municipal corporation that:

(i) The municipal corporation has included, or intends to include, the process wastewater load from the energy facility in an application for a National Pollutant Discharge Elimination System permit; and
(ii) All conditions required of the energy facility to allow the discharge of process wastewater from the energy facility will be satisfied; or

(C) Obtains a National Pollutant Discharge Elimination System or water pollution control facility permit for process wastewater disposal, supplies evidence to support a finding that the discharge can likely be permitted within the expedited review process time frame and that the discharge will not require:

(i) A new National Pollutant Discharge Elimination System permit, except for a storm water general permit for construction activities; or

(ii) A change in any effluent limit or discharge location under an existing National Pollutant Discharge Elimination System or water pollution control facility permit.

(2) An applicant seeking expedited review under this section shall submit documentation to the State Department of Energy, prior to the submission of an application for a site certificate, that demonstrates that the energy facility meets the qualifications set forth in subsection (1) of this section. The department shall determine, within 14 days of receipt of the documentation, on a preliminary, nonbinding basis, whether the energy facility qualifies for expedited review.

(3) If the department determines that the energy facility preliminarily qualifies for expedited review, the applicant may submit an application for expedited review. Within 30 days after the date that the application for expedited review is submitted, the department shall determine whether the application is complete. If the department determines that the application is complete, the application shall be deemed filed on the date that the department sends the applicant notice of its determination. If the department determines that the application is not complete, the department shall notify the applicant of the deficiencies in the application and shall deem the application filed on the date that the department determines that the application is complete. The department or the council may request additional information from the applicant at any time.

(4) The State Department of Energy shall send a copy of a filed application to the Department of Environmental Quality, the Water Resources Department, the State Department of Fish and Wildlife, the State Department of Geology and Mineral Industries, the State Department of Agriculture, the Department of Land Conservation and Development, the Public Utility Commission and any other state agency, city, county or political subdivision of the state that has regulatory or advisory responsibility with respect to the proposed energy facility. The State Department of Energy shall send with the copy of the filed application a notice specifying that:

(a) In the event the council issues a site certificate for the energy facility, the site certificate will bind the state and all counties, cities and political subdivisions in the state as to the approval of the site, the construction of the energy facility and the operation of the energy facility, and that after the issuance of a site certificate, all permits, licenses and certificates addressed in the site certificate must be issued as required by ORS 469.401 (3); and

(b) The comments and recommendations of state agencies, counties, cities and political subdivisions concerning whether the proposed energy facility complies with any statute, rule or local ordinance that the state agency, county, city or political subdivision would normally administer in determining whether a permit, license or certificate required for the construction or operation of the energy facility should be approved will be considered only if the comments and recommendations are received by the department within a reasonable time after the date the application and notice of the application are sent by the department.

(5) Within 90 days after the date that the application was filed, the department shall issue a draft proposed order setting forth:
(a) A description of the proposed energy facility;

(b) A list of the permits, licenses and certificates that are addressed in the application and that are required for the construction or operation of the proposed energy facility;

(c) A list of the statutes, rules and local ordinances that are the standards and criteria for approval of any permit, license or certificate addressed in the application and that are required for the construction or operation of the proposed energy facility; and

(d) Proposed findings specifying how the proposed energy facility complies with the applicable standards and criteria for approval of a site certificate.

(6) The council shall review the application for site certification in the manner set forth in subsections (7) to (10) of this section and shall issue a site certificate for the facility if the council determines that the facility, with any required conditions to the site certificate, will comply with:

(a) The requirements for expedited review as specified in this section;

(b) The standards adopted by the council pursuant to ORS 469.501 (1)(a), (c) to (e), (g), (h) and (L) to [(o)] (n);

(c) The requirements of ORS 469.503 [(3)] (2); and

(d) The requirements of ORS 469.504 (1)(b).

(7) Following submission of an application for a site certificate, the council shall hold a public informational meeting on the application. Following the issuance of the proposed order, the council shall hold at least one public hearing on the application. The public hearing shall be held in the area affected by the energy facility. The council shall mail notice of the hearing at least 20 days prior to the hearing. The notice shall comply with the notice requirements of ORS 197.763 (2) and shall include, but need not be limited to, the following:

(a) A description of the energy facility and the general location of the energy facility;

(b) The name of a department representative to contact and the telephone number at which people may obtain additional information;

(c) A statement that copies of the application and proposed order are available for inspection at no cost and will be provided at reasonable cost; and

(d) A statement that the record for public comment on the application will close at the conclusion of the hearing and that failure to raise an issue in person or in writing prior to the close of the record, with sufficient specificity to afford the decision maker an opportunity to respond to the issue, will preclude consideration of the issue, by the council or by a court on judicial review of the council’s decision.

(8) Prior to the conclusion of the hearing, the applicant may request an opportunity to present additional written evidence, arguments or testimony regarding the application. In the alternative, prior to the conclusion of the hearing, the applicant may request a contested case hearing on the application. If the applicant requests an opportunity to present written evidence, arguments or testimony, the council shall leave the record open for that purpose only for a period not to exceed 14 days after the date of the hearing. Following the close of the record, the department shall prepare a draft final order for the council. If the applicant requests a contested case hearing, the council may grant the request if the applicant has shown good cause for a contested case hearing. If a request for a contested case hearing is granted, subsections (9) to (11) of this section do not apply, and the application shall be considered under the same contested case procedures used for a non-expedited application for a site certificate.

(9) The council shall make its decision based on the record and the draft final order prepared by the department. The council shall, within six months of the date that the application is deemed...
filed:

(a) Grant the application;
(b) Grant the application with conditions;
(c) Deny the application; or
(d) Return the application to the site certification process required by ORS 469.320.

(10) If the application is granted, the council shall issue a site certificate pursuant to ORS 469.401 and 469.402. Notwithstanding subsection (6) of this section, the council may impose conditions based on standards adopted under ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an application based on those standards.

(11) Judicial review of the approval or rejection of a site certificate by the council under this section shall be as provided in ORS 469.403.

SECTION 97. ORS 469.405 is amended to read:

469.405. (1) A site certificate may be amended with the approval of the Energy Facility Siting Council. The council may establish by rule the type of amendment that must be considered in a contested case proceeding. Judicial review of an amendment to a site certificate shall be as provided in ORS 469.403.

(2) Notwithstanding ORS 34.020 or 197.825, or any other provision of law, the land use approval by an affected local government of a proposed amendment to a facility and the recommendation of the special advisory group of applicable substantive criteria shall be subject to judicial review only as provided in ORS 469.403. If the applicant elects to show compliance with the statewide planning goals by demonstrating that the facility has received local land use approval, the provisions of this section shall apply only to proposed projects for which the land use approval by the local government occurs after the date an application for amendment is submitted to the State Department of Energy.

(3) An amendment to a site certificate is not required for a pipeline less than 16 inches in diameter and less than five miles in length that is proposed to be constructed to test or maintain an underground gas storage reservoir. If the proposed pipeline will connect to a council certified surface facility related to an underground gas storage reservoir or to a council certified gas pipeline, whether the proposed pipeline is to be located inside or outside the site of a council certified facility, the certificate holder must obtain, prior to construction, the approval of the department for the construction, operation and retirement of the proposed pipeline. The department shall approve such a proposed pipeline if the pipeline meets applicable council substantive standards. Notwithstanding ORS 469.503 [(3)] (2), the department may not review the proposed pipeline for compliance with other state standards. Notwithstanding ORS 469.503 [(4)] (3), or any council rule addressing compliance with land use standards, the department shall not review such a proposed pipeline for compliance with land use requirements. Notwithstanding ORS 469.401 (3), the approval by the department of such pipeline shall not bind any state or local agency. The council may adopt appropriate procedural rules for the department review. The department shall issue an order approving or rejecting the proposed pipeline. Judicial review of a department order under this section shall be as provided in ORS 469.403.

SECTION 98. ORS 469.407 is amended to read:

469.407. (1) A recipient may by amendment of its application for a site certificate or by amendment of its site certificate increase the capacity of the facility if the Energy Facility Siting Council finds that:

(a) The facility will satisfy the conditions of the 500-megawatt exemption, unless modified by the
(b) The enlarged facility does not exceed 500 megawatts and meets the applicable carbon dioxide standard provided for in ORS 469.503 (2017 Edition) for any increase in capacity beyond the capacity of the 500-megawatt exemption; and

(c) The enlarged facility meets all other applicable council standards.

(2) A recipient is deemed to meet any applicable need standard and carbon dioxide emissions standard for the nominal generating capacity of the 500-megawatt exemption provided that the recipient satisfies the conditions of the 500-megawatt exemption, unless the council modifies the conditions.

(3) As used in this section:

(a) “Recipient” means any base load gas plant, as defined in ORS 469.503 (2017 Edition), determined by the council to have the lowest net monetized air emissions among the applicants participating in a contested case proceeding.

(b) “500-megawatt exemption” means the council order in which a recipient was determined to have the lowest net monetized air emissions.

SECTION 99. ORS 469.504 is amended to read:

469.504. (1) A proposed facility shall be found in compliance with the statewide planning goals under ORS 469.503 (4) (3) if:

(a) The facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or

(b) The Energy Facility Siting Council determines that:

(A) The facility complies with applicable substantive criteria from the affected local government’s acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted, and with any Land Conservation and Development Commission administrative rules and goals and any land use statutes that apply directly to the facility under ORS 197.646;

(B) For an energy facility or a related or supporting facility that must be evaluated against the applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility does not comply with one or more of the applicable substantive criteria but does otherwise comply with the applicable statewide planning goals, or that an exception to any applicable statewide planning goal is justified under subsection (2) of this section; or

(C) For a facility that the council elects to evaluate against the statewide planning goals pursuant to subsection (5) of this section, that the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under subsection (2) of this section.

(2) The council may find goal compliance for a facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to an exception process goal, the council may take an exception to a goal if the council finds:

(a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal imprac-
(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goal should not apply;

(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the council applicable to the siting of the proposed facility; and

(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.

(3) If compliance with applicable substantive local criteria and applicable statutes and state administrative rules would result in conflicting conditions in the site certificate or amended site certificate, the council shall resolve the conflict consistent with the public interest. A resolution may not result in a waiver of any applicable state statute.

(4) An applicant for a site certificate shall elect whether to demonstrate compliance with the statewide planning goals under subsection (1)(a) or (b) of this section. The applicant shall make the election on or before the date specified by the council by rule.

(5) Upon request by the State Department of Energy, the special advisory group established under ORS 469.480 shall recommend to the council, within the time stated in the request, the applicable substantive criteria under subsection (1)(b)(A) of this section. If the special advisory group does not recommend applicable substantive criteria within the time established in the department’s request, the council may either determine and apply the applicable substantive criteria under subsection (1)(b) of this section or determine compliance with the statewide planning goals under subsection (1)(b)(B) or (C) of this section. If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300 or a related or supporting facility that does not pass through more than one local government jurisdiction or more than three zones in any one jurisdiction, the council shall apply the criteria recommended by the special advisory group. If the special advisory group recommends applicable substantive criteria for an energy facility as defined in ORS 469.300 (11)(a)(C) to (E) or a related or supporting facility that passes through more than one jurisdiction or more than three zones in any one jurisdiction, the council shall review the recommended criteria and determine whether to evaluate the proposed facility against the applicable substantive criteria recommended by the special advisory group, against the statewide planning goals or against a combination of the applicable substantive criteria and statewide planning goals. In making its determination, the council shall consult with the special advisory group and shall consider:

(a) The number of jurisdictions and zones in question;

(b) The degree to which the applicable substantive criteria reflect local government consideration of energy facilities in the planning process; and

(c) The level of consistency of the applicable substantive criteria from the various zones and jurisdictions.

(6) The council is not subject to ORS 197.180 and a state agency may not require an applicant for a site certificate to comply with any rules or programs adopted under ORS 197.180.

(7) On or before its next periodic review, each affected local government shall amend its comprehensive plan and land use regulations as necessary to reflect the decision of the council pertaining to a site certificate or amended site certificate.

(8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law, the affected local government’s land use approval of a proposed facility under subsection (1)(a) of this section and the
special advisory group’s recommendation of applicable substantive criteria under subsection (5) of
this section shall be subject to judicial review only as provided in ORS 469.403. If the applicant
elects to comply with subsection (1)(a) of this section, the provisions of this subsection shall apply
only to proposed projects for which the land use approval of the local government occurs after the
date a notice of intent or an application for expedited processing is submitted to the State Depart-
ment of Energy.

(9) The State Department of Energy, in cooperation with other state agencies, shall provide, to
the extent possible, technical assistance and information about the siting process to local govern-
ments that request such assistance or that anticipate having a facility proposed in their jurisdiction.

SECTION 100. ORS 469.505 is amended to read:

469.505. (1) In making a determination regarding compliance with statutes, rules and ordinances
administered by another agency or compliance with requirements of ORS 469.300 to 469.563 and
469.590 to 469.619 where another agency has special expertise, consultation with the other agency
shall occur during the notice of intent and site certificate application process. Any permit applica-
tion for which the permitting decision has been delegated by the federal government to a state
agency other than the Energy Facility Siting Council shall be reviewed, whenever feasible, simul-
taneously with the council’s review of the site certificate application. Any hearings required on such
permit applications shall be consolidated, whenever feasible, with hearings under ORS 469.300 to
469.563 and 469.590 to 469.619.

(2) Before resolving any conflicting conditions in site certificates or amended site certificates
under ORS 469.503 [(3)] (2) and 469.504, the council shall notify and consult with the agencies and
local governments responsible for administering the statutes, administrative rules or substantive lo-
cal criteria that result in the conflicting conditions regarding potential conflict resolution.

REPEAL OF FORESTRY CARBON OFFSET PROVISIONS

SECTION 101. ORS 526.780, 526.783, 526.786 and 526.789 are repealed.

SECTION 102. ORS 530.050 is amended to read:

530.050. Under the authority and direction of the State Board of Forestry except as otherwise
provided for the sale of forest products, the State Forester shall manage the lands acquired pursuant
to ORS 530.010 to 530.040 so as to secure the greatest permanent value of those lands to the state,
and to that end may:

(1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with
persons owning lands within the state in the protection of the lands and enter into all agreements
necessary or convenient for the protection of the lands.

(2) Sell forest products from the lands, and execute mining leases and contracts as provided for
in ORS 273.551.

(3) Enter into and administer contracts for the sale of timber from lands owned or managed by
the State Board of Forestry and the State Forestry Department.

(4) Enter into and administer contracts for activities necessary or convenient for the sale of
timber under subsection (3) of this section, either separately from or in conjunction with contracts
for the sale of timber, including but not limited to activities such as timber harvesting and sorting,
transporting, gravel pit development or operation, and road construction, maintenance or improve-
ment.

(5) Permit the use of the lands for other purposes, including but not limited to forage and browse
for domestic livestock, fish and wildlife environment, landscape effect, protection against floods and
erosion, recreation, and protection of water supplies when, in the opinion of the board, the use is
not detrimental to the best interest of the state.

(6) Grant easements, permits and licenses over, through and across the lands. The State Forester
may require and collect reasonable fees or charges relating to the location and establishment of
easements, permits and licenses granted by the state over the lands. The fees and charges collected
shall be used exclusively for the expenses of locating and establishing the easements, permits and
licenses under this subsection and shall be placed in the State Forestry Department Account.

(7) Require and collect fees or charges for the use of state forest roads. The fees or charges
collected shall be used exclusively for purposes of maintenance and improvements of the roads and
shall be placed in the State Forestry Department Account.

(8) Reforest the lands and cooperate with the counties, and with persons owning timberlands
within the state, in the reforestation, and make all agreements necessary or convenient for the
reforestation.

(9) Require such undertakings as in the opinion of the board are necessary or convenient to
secure performance of any contract entered into under the terms of this section or ORS 273.551.

(10) Sell rock, sand, gravel, pumice and other such materials from the lands. The sale may be
negotiated without bidding, provided the appraised value of the materials does not exceed $2,500.

(11) Enter into agreements, each for not more than 10 years duration, for the production of mi-
nor forest products.

(12) Establish a forestry carbon offset program to Market, register, transfer or sell forestry
carbon offsets. [In establishing the program, the forester may:]

[(a) Execute any contracts or agreements necessary to create opportunities for the creation of
forestry carbon offsets; and]

[(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of
forestry carbon offsets.]

(13) Do all things and make all rules, not inconsistent with law, necessary or convenient for the
management, protection, utilization and conservation of the lands.

SECTION 103. ORS 530.500 is amended to read:

530.500. In order to accomplish the purposes of ORS 530.490, the State Forester may:

(1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with
persons owning lands within the state in the protection of the lands and enter into all agreements
necessary or convenient for the protection of the lands.

(2) Enter into and administer contracts for the sale of timber from lands owned or managed by
the State Board of Forestry and the State Forestry Department.

(3) Enter into and administer contracts for activities necessary or convenient for the sale of
timber under subsection (2) of this section, either separately from or in conjunction with contracts
for the sale of timber, including but not limited to activities such as timber harvesting and sorting,
transporting, gravel pit development or operation, and road construction, maintenance or improve-
ment.

(4) Permit the use of the lands for other purposes, including but not limited to fish and wildlife
environment, landscape effect, protection against flood and erosion, recreation and production and
protection of water supplies when the use is not detrimental to the purpose for which the lands are
dedicated.

(5) Contract with other governmental bodies for the protection of water supplies to facilitate the
multiple use of publicly owned water supplies for recreational purposes as well as a source of water for domestic and industrial use.

(6) Grant permits and licenses on, over and across the lands.

(7) Reforest the lands and cooperate with persons owning timberlands within the state in the reforestation, and make all agreements necessary or convenient for the reforestation.

(8) [Establish a forestry carbon offset program to] Market, register, transfer or sell forestry carbon offsets. [In establishing the program, the forester may:]  
[(a) Execute any contracts or agreements necessary to create opportunities for the creation of forestry carbon offsets; and]

[(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of forestry carbon offsets.]

(9) Do all things and make all rules and regulations, not inconsistent with law, necessary or convenient for the management, protection, utilization and conservation of the lands.

(10) Require such undertakings as in the opinion of the State Forester are necessary or convenient to secure performance of any agreement authorized in ORS 530.450 to 530.520.

REGULATION OF LANDFILL METHANE EMISSIONS

SECTION 104. Section 105 of this 2019 Act is added to and made a part of ORS chapter 468A.

SECTION 105. (1) As used in this section:
(a) “Anthropogenic greenhouse gas emissions” has the meaning given that term in section 15 of this 2019 Act.
(b) “Carbon dioxide equivalent” has the meaning given that term in section 15 of this 2019 Act.
(c) “Hazardous waste” has the meaning given that term in ORS 466.005.
(d) “Land disposal site” has the meaning given that term in ORS 459.005.
(e) “Landfill” has the meaning given that term in ORS 459.005.
(f) “Solid waste” has the meaning given that term in ORS 459.005.

(2) It is the intent of the Legislative Assembly that the standards and requirements adopted by rule under this section be at least as stringent as the most stringent standards and requirements for reducing methane gas emissions from landfills adopted among the states having a boundary with Oregon.

(3) The Environmental Quality Commission shall adopt by rule standards and requirements for reducing methane gas emissions from landfills.

(4) The following landfills are exempt from standards and requirements adopted by rule under this section:
(a) Landfills that emit less than 25,000 metric tons of carbon dioxide equivalent in anthropogenic greenhouse gas emissions annually, as reported under ORS 468A.280.
(b) Landfills that receive only hazardous waste.
(c) Landfills that receive only waste from building demolition or construction.
(d) Land disposal sites that are closed as of the effective date of this 2019 Act and are no longer receiving solid waste, are maintained in compliance with ORS 459.268 and have less than 450,000 metric tons of waste in place.

(5) Rules adopted under this section shall include but need not be limited to:
(a) Reporting requirements related to waste in place, calculated landfill gas heat input capacity, and landfill surface emissions monitoring.

(b) Methane gas collection and control system requirements for landfills with reported calculated landfill gas heat input capacity exceeding 3 million British thermal units per hour.

(c) Standards and requirements for methane surface emissions, monitoring and corrective actions.

(d) Alternative compliance measures and methods that may be applied for certain landfills on a case-by-case basis.

(e) Standards and requirements for records retention, landfill closure notification, methane gas collection and control device removal or modification and annual operating reports.

SECTION 106. The Environmental Quality Commission shall adopt rules under section 105 of this 2019 Act in time for the rules to become operative no later than July 1, 2021.

OREGON GLOBAL WARMING COMMISSION
(Abolish and Transfer of Duties to Oregon Climate Board)

SECTION 107. (1) The Oregon Global Warming Commission is abolished. On the operative date of this section, the tenure of office of the members of the Oregon Global Warming Commission ceases.

(2) All the duties, functions and powers of the Oregon Global Warming Commission are imposed upon, transferred to and vested in the Oregon Climate Board.

SECTION 108. (1) The chairperson of the Oregon Global Warming Commission shall deliver to the Oregon Climate Board all records and property within the jurisdiction of the chairperson that relate to the duties, functions and powers transferred by section 107 of this 2019 Act.

(2) The chairperson of the Oregon Climate Board shall take possession of the records and property.

(3) The Governor shall resolve any dispute between the Oregon Global Warming Commission and the Oregon Climate Board relating to transfers of records and property under this section, and the Governor's decision is final.

SECTION 109. (1) The unexpended balances of amounts authorized to be expended by the Oregon Global Warming Commission for the biennium beginning July 1, 2019, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 107 of this 2019 Act are transferred to and are available for expenditure by the Oregon Climate Board for the biennium beginning July 1, 2019, for the purpose of administering and enforcing the duties, functions and powers transferred by section 107 of this 2019 Act.

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Oregon Global Warming Commission remain applicable to expenditures by the Oregon Climate Board under this section.

SECTION 110. The transfer of duties, functions and powers to the Oregon Climate Board by section 107 of this 2019 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Oregon Climate Board is substituted for the Oregon Global
SECTION 111. (1) Nothing in sections 107 to 114 of this 2019 Act, the amendments to statutes by sections 116 to 121 of this 2019 Act or the repeal of statutes by section 115 of this 2019 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 107 of this 2019 Act. The Oregon Climate Board may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Oregon Global Warming Commission legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date of section 107 of this 2019 Act are transferred to the Oregon Climate Board. For the purpose of succession to these rights and obligations, the Oregon Climate Board is a continuation of the Oregon Global Warming Commission and not a new authority.

SECTION 112. Notwithstanding the transfer of duties, functions and powers by section 107 of this 2019 Act, the rules of the Oregon Global Warming Commission in effect on the operative date of section 107 of this 2019 Act continue in effect until superseded or repealed by rules of the Oregon Climate Board. References in rules of the Oregon Global Warming Commission to the Oregon Global Warming Commission or an officer of the Oregon Global Warming Commission are considered to be references to the Oregon Climate Board or an officer of the Oregon Climate Board.

SECTION 113. Whenever, in any statutory law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, reference is made to the Oregon Global Warming Commission or an officer or employee of the Oregon Global Warming Commission, the reference is considered to be a reference to the Oregon Climate Board or an officer of the Oregon Climate Board.

SECTION 114. For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Oregon Global Warming Commission” or its officers, wherever they occur in statutory law, words designating the “Oregon Climate Board” or its officers.

(Repeals)


(Amendments to Statutes)

SECTION 116. ORS 468A.235 is amended to read:

468A.235. The [Oregon Global Warming Commission] Oregon Climate Board shall recommend ways to coordinate state and local efforts to reduce greenhouse gas emissions in Oregon consistent with the greenhouse gas emissions reduction goals established by ORS 468A.205 and shall recommend efforts to help Oregon prepare for the effects of [global warming] climate change. The Office of the Governor and state agencies working on multistate and regional efforts to reduce greenhouse gas emissions shall inform the [commission] board about these efforts and shall consider input from the [commission] board for such efforts.

SECTION 117. ORS 468A.240 is amended to read:
468A.240. [(1)] In furtherance of the greenhouse gas emissions reduction goals established by ORS 468A.205, the [Oregon Global Warming Commission] Oregon Climate Board may recommend statutory and administrative changes, policy measures and other recommendations to be carried out by state and local governments, businesses, nonprofit organizations or residents. In developing its recommendations, the [commission] board shall consider economic, environmental, health and social costs, and the risks and benefits of alternative strategies, including least-cost options. The [commission] board shall solicit and consider public comment relating to statutory, administrative or policy recommendations.

[(2) The commission shall examine greenhouse gas cap-and-trade systems, including a statewide and multistate carbon cap-and-trade system and market-based mechanisms, as a means of achieving the greenhouse gas emissions reduction goals established by ORS 468A.205.]

[(3) The commission shall examine possible funding mechanisms to obtain low-cost greenhouse gas emissions reductions and energy efficiency enhancements, including but not limited to those in the natural gas industry.]

SECTION 118. ORS 468A.245 is amended to read:

468A.245. The [Oregon Global Warming Commission] Oregon Climate Board shall develop an outreach strategy to educate Oregonians about the scientific aspects and economic impacts of [global warming] climate change and to inform Oregonians of ways to reduce greenhouse gas emissions and ways to prepare for the effects of [global warming] climate change. The [commission] board, at a minimum, shall work with state and local governments, the Climate Policy Office, the State Department of Energy, the Department of Education, the Higher Education Coordinating Commission and businesses to implement the outreach strategy.

SECTION 119. ORS 468A.255 is amended to read:

468A.255. The [Oregon Global Warming Commission] Oregon Climate Board may recommend to the Governor the formation of citizen advisory groups to explore particular areas of concern with regard to the reduction of greenhouse gas emissions and the effects of [global warming] climate change.

SECTION 120. ORS 468A.260 is amended to read:

468A.260. The [Oregon Global Warming Commission] Oregon Climate Board shall submit a report to the Legislative Assembly, in the manner provided by ORS 192.245, by March 31 of each odd-numbered year that describes Oregon’s progress toward achievement of the greenhouse gas emissions reduction goals established by ORS 468A.205. The report may include relevant issues and trends of significance, including trends of greenhouse gas emissions, emerging public policy and technological advances. The report also may discuss measures the state may adopt to mitigate the impacts of [global warming] climate change on the environment, the economy and the residents of Oregon and to prepare for those impacts.

SECTION 121. ORS 352.823 is amended to read:

352.823. (1) The Oregon Climate Change Research Institute is established at Oregon State University. In administering the institute, Oregon State University may seek the cooperation of other public universities listed in ORS 352.002.

(2) The purpose of the Oregon Climate Change Research Institute is to:

(a) Facilitate research by faculty at public universities listed in ORS 352.002 on climate change and its effects on natural and human systems in Oregon;

(b) Serve as a clearinghouse for climate change information;

(c) Provide climate change information to the public in integrated and accessible formats;
(d) Support the Oregon Climate Board in developing strategies to prepare for and to mitigate the effects of climate change on natural and human systems; and

(e) Provide technical assistance to local governments to assist them in developing climate change policies, practices and programs.

(3) The Oregon Climate Change Research Institute shall assess, at least once each biennium, the state of climate change science, including biological, physical and social science, as it relates to Oregon and the likely effects of climate change on the state. The institute shall submit the assessment to the Legislative Assembly in the manner provided in ORS 192.245 and to the Governor.

(4) State agencies may contract with the Oregon Climate Change Research Institute to fulfill agency needs regarding the collection, storage, integration, analysis, dissemination and monitoring of climate change information, research and training.

SECTION 121a. ORS 468A.265 is amended to read:

468A.265. As used in ORS 468A.265 to 468A.277:

(1) “Biodiesel” means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats or other nonpetroleum resources, not including palm oil.

(2) “Clean fuels program” means the program adopted by rule by the Environmental Quality Commission under ORS 468A.266 (1)(b).

(3) “Compliance period” means the calendar year during which a regulated party must demonstrate compliance with the low carbon fuel standards through participation in the clean fuels program.

(4) “Credit” means a unit of measure generated when a fuel with a carbon intensity that is less than the applicable low carbon fuel standard is produced, imported or dispensed for use in Oregon, such that one credit is equal to one metric ton of carbon dioxide equivalent.

(5) “Credit aggregator” means a person who voluntarily registers to participate in the clean fuels program to facilitate credit generation on behalf of a credit generator and to trade credits with regulated parties, credit generators and other credit aggregators.

(6) “Credit generator” means a person eligible to generate credits by providing fuels for use in Oregon with carbon intensities less than the applicable low carbon fuel standard.

(7) “Deferral” means a delay or change in the applicability of a scheduled applicable low carbon fuel standard for a period of time, accomplished pursuant to an order issued under ORS 468A.273 or 468A.274.

(8) “Deficit” means a unit of measure generated when a fuel with a carbon intensity that is more than the applicable low carbon fuel standard is produced, imported or dispensed for use in Oregon, such that one deficit is equal to one metric ton of carbon dioxide equivalent.

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

(10) “Low carbon fuel standard” means a standard adopted by the commission by rule under ORS 468A.266 for the reduction of greenhouse gas emissions, on average, per unit of fuel energy.

(11) “Motor vehicle” has the meaning given that term in ORS 801.360.

(12) “Regulated party” means a person responsible for complying with the low carbon fuel standards.

(13) “Small deficit” means a net deficit balance at the end of a compliance period, after retire-
ment of all credits held by a regulated party, that does not exceed a percentage set by the com-
mission by rule of the total number of deficits that the regulated party generated for a compliance
period and that may not be greater than 10 percent of the total number of deficits that the regulated
party generated for a compliance period.

SECTION 121b. ORS 468A.279 is amended to read:
468A.279. (1) As used in this section:
(a) “Greenhouse gas” has the meaning given that term in ORS 468A.210
(b) “Motor vehicle” has the meaning given that term in ORS 801.360.
(2) The Environmental Quality Commission may adopt by rule standards and requirements de-
scribed in this section to reduce greenhouse gas emissions.
(3)(a) The commission may adopt requirements to prevent the tampering, alteration and modifi-
cation of the original design or performance of motor vehicle pollution control systems.
(b) Before adopting requirements under this section, the commission shall consider the anti-
tampering requirements and exemptions of the State of California.
(4) The commission may adopt requirements for motor vehicle service providers to check and
inflate tire pressure according to the tire manufacturer’s or motor vehicle manufacturer’s recom-
manded specifications, provided that the requirements:
(a) Do not apply when the primary purpose of the motor vehicle service is fueling vehicles; and
(b) Do not require motor vehicle service providers to purchase equipment to check and inflate
tire pressure.
(5) The commission may adopt restrictions on engine use by commercial ships while at port, and
requirements that ports provide alternatives to engine use such as electric power, provided that:
(a) Engine use shall be allowed when necessary to power mechanical or electrical operations if
alternatives are not reasonably available;
(b) Engine use shall be allowed when necessary for reasonable periods due to emergencies and
other considerations as determined by the commission; and
(c) The requirements must be developed in consultation with representatives of Oregon ports
and take into account operational considerations, operational agreements, international protocols
and limitations, the ability to fund the purchase and use of electric power equipment and the poten-
tial effect of the requirements on competition with other ports.
(6) In adopting rules under this section, the commission shall evaluate:
(a) Safety, feasibility, net reduction of greenhouse gas emissions and cost-effectiveness;
(b) Potential adverse impacts to public health and the environment, including but not limited to
air quality, water quality and the generation and disposal of waste in this state;
(c) Flexible implementation approaches to minimize compliance costs; and
(d) Technical and economic studies of comparable greenhouse gas emissions reduction measures
implemented in other states and any other studies as determined by the commission.
(7) The provisions of this section do not apply to:
(a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.
(b) Farm tractors, as defined in ORS 801.265.
(c) Implements of husbandry, as defined in ORS 801.310.
(d) Motor trucks, as defined in ORS 801.355, used primarily to transport logs.

SECTION 121c. ORS 757.528 is amended to read:
757.528. (1) Unless modified by rule by the State Department of Energy as provided in this sec-
tion, the greenhouse gas emissions standard that applies to consumer-owned utilities is 1,100 pounds
of greenhouse gases per megawatt-hour for a generating facility.

(2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions standard includes only carbon dioxide emissions.

(3) For purposes of applying the emissions standard to cogeneration facilities, the department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy.

(4) The department shall review the greenhouse gas emissions standard established under this section no more than once every three years. After public notice and hearing, and consultation with the Public Utility Commission, the department may:

(a) Modify the emissions standard to include other greenhouse gases as defined in ORS 468A.210 – 468A.265, with the other greenhouse gases expressed as their carbon dioxide equivalent; and

(b) Modify the emissions standard based upon current information on the rate of greenhouse gas emissions from a commercially available combined-cycle natural gas generating facility that:

(A) Employs a combination of one or more gas turbines and one or more steam turbines and produces electricity in the steam turbines from waste heat produced by the gas turbines;

(B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordinating Council; and

(C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

(5) In modifying the greenhouse gas emissions standard, the department shall:

(a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions through cogeneration recognizes the total usable energy output of the process and includes all greenhouse gases emitted by the generating facility in the production of both electrical and thermal energy; and

(b) Consider the effects of the emissions standard on system reliability and overall costs to electricity consumers.

(6) If upon a review conducted pursuant to subsection (4) of this section, the department determines that a mandatory greenhouse gas emissions limit has been established pursuant to state or federal law, the department shall issue a report to the appropriate legislative committees of the Legislative Assembly stating which portions, if any, of the greenhouse gas emissions standard are no longer necessary as a matter of state law.

EXPEDITED JUDICIAL REVIEW TO SUPREME COURT; EXPIRATION

SECTION 122. (1) It is the intent of the Legislative Assembly that the provisions of this 2019 Act relating to the receipt of moneys by the state through the sale of allowances by auction under section 34 of this 2019 Act do not render this 2019 Act a bill for raising revenue subject to the provisions of Article IV, sections 18 and 25 (2), of the Oregon Constitution.

(2) Original jurisdiction is conferred on the Supreme Court to determine whether this 2019 Act is a bill for raising revenue subject to the provisions of Article IV, sections 18 and 25 (2), of the Oregon Constitution.

(a) Any person interested in or affected or aggrieved by, or who will be affected or
aggrieved by, section 34 of this 2019 Act may petition for judicial review under this section.  
A petition for review must be filed within 60 days after the effective date of this 2019 Act.  

(b) The petition must state facts showing how the petitioner is interested, affected or aggrieved and the grounds upon which the petition is based.  

(4) The petitioner shall serve a copy of the petition by registered or certified mail upon the Oregon Department of Administrative Services, the Director of the Climate Policy Office, the Attorney General and the Governor.  

(5) Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.  

(6) In the event that the Supreme Court determines that there are factual issues in the petition, the Supreme Court may appoint a special master to hear evidence and to prepare recommended findings of fact.  

SECTION 123. (1) Original jurisdiction to determine whether auctions conducted under section 34 of this 2019 Act impose a tax that is subject to the provisions of Article IX, section 3a, of the Oregon Constitution, is conferred on the Supreme Court.  

(2)(a) Any person interested in or affected or aggrieved by, or who will be affected or aggrieved by, section 34 of this 2019 Act may petition for judicial review under this section. A petition for review must be filed within 60 days after the effective date of this 2019 Act.  

(b) The petition must state facts showing how the petitioner is interested, affected or aggrieved and the grounds upon which the petition is based.  

(3) The petitioner shall serve a copy of the petition by registered or certified mail upon the Oregon Department of Administrative Services, the Director of the Climate Policy Office, the Attorney General and the Governor.  

(4) Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.  

(5) In the event that the Supreme Court determines that there are factual issues in the petition, the Supreme Court may appoint a special master to hear evidence and to prepare recommended findings of fact.  

SECTION 123a. If section 34 of this 2019 Act is judicially declared by the Supreme Court to not impose a tax subject to the provisions of Article IX, section 3a, of the Oregon Constitution, then the Climate Policy Office shall, as part of the next biennial climate action investment plan due pursuant to section 57 of this 2019 Act after the date of the judicial declaration:  

(1) Identify specific opportunities for using state proceeds from auctions conducted under section 34 of this 2019 Act each biennium to reduce greenhouse gas emissions associated with transportation through investments in transportation electrification, compressed natural gas and hydrogen fuel vehicles and infrastructure, and low-emission and zero-emission transit;  

(2) Identify specific opportunities for using state proceeds from auctions conducted under section 34 of this 2019 Act each biennium to reduce greenhouse gas emissions through the replacement of medium-duty trucks and heavy-duty trucks powered by diesel engines or the repower or retrofit of diesel engines that power medium-duty trucks and heavy-duty trucks;  

(3) Identify specific opportunities for using state proceeds from auctions conducted under section 34 of this 2019 Act each biennium to reduce greenhouse gas emissions related to agriculture, with a priority given to the replacement, repowering or retrofitting of nonroad equipment to reduce emissions that present serious risks to farmworker health; and

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(4) Make recommendations, including recommendations for legislation, for modifying the
distributions of state proceeds from auctions as provided for in sections 34, 35, 41 to 45 and
46 of this 2019 Act, and the repeal or amendment of any other statutes or session laws, as
necessary to:
   (a) Address the judicial declaration by the Supreme Court that section 34 of this 2019 Act
does not impose a tax that is subject to the provisions of Article IX, section 3a, of the
Oregon Constitution; and
   (b) Implement the opportunities identified pursuant to subsections (1) to (3) of this sec-
tion.

SECTION 123b. Section 123a of this 2019 Act becomes operative on January 2 of the year
following the date that section 34 of this 2019 Act is judicially declared by the Supreme Court
to not impose a tax that is subject to the provisions of Article IX, section 3a, of the Oregon
Constitution.

SECTION 123c. Sections 123a and 123b of this 2019 Act are repealed on the earlier of:
   (1) The date that section 34 of this 2019 Act is judicially declared by the Supreme Court
to impose a tax that is subject to the provisions of Article IX, section 3a, of the Oregon
Constitution; or
   (2) January 2, 2027.

SECTION 123d. (1) Original jurisdiction to determine whether auctions conducted under
section 34 of this 2019 Act impose a tax or excise that is subject to the provisions of Article
VIII, section 2 (1)(g), of the Oregon Constitution, is conferred on the Supreme Court.
   (2)(a) Any person interested in or affected or aggrieved by, or who will be affected or
aggrieved by, section 34 of this 2019 Act may petition for judicial review under this section.
   A petition for review must be filed within 60 days after the effective date of this 2019 Act.
   (b) The petition must state facts showing how the petitioner is interested, affected or
aggrieved and the grounds upon which the petition is based.
   (3) The petitioner shall serve a copy of the petition by registered or certified mail upon
the Oregon Department of Administrative Services, the Director of the Climate Policy Office,
the Attorney General and the Governor.
   (4) Proceedings for review under this section shall be given priority over all other mat-
ters before the Supreme Court.
   (5) In the event that the Supreme Court determines that there are factual issues in the
petition, the Supreme Court may appoint a special master to hear evidence and to prepare
recommended findings of fact.

REPORTS AND REVIEWS

SECTION 124. Initial implementation report. On or before September 15, 2020, the Oregon
Department of Administrative Services shall report on the actions being taken to prepare for
the implementation of sections 15 to 40 of this 2019 Act to the Joint Committee on Climate
Action.

SECTION 125. Greenhouse gas emissions reporting program coordination report. On or
before December 31, 2020, the Oregon Department of Administrative Services and the De-
partment of Environmental Quality shall jointly report, in the manner provided by ORS
192.245, on the coordination between the Oregon Department of Administrative Services and
the Department of Environmental Quality for administration of ORS 468A.280 and rules adopted under ORS 468A.280, and for the sharing and administration of information collected under ORS 468A.280 and rules adopted under ORS 468A.280. The report shall include recommendations, which may include recommendations for legislation, on whether modification of the transfer of duties related to greenhouse gas reporting provided in sections 75 to 81 of this 2019 Act should be made to ensure that the appropriate laws related to greenhouse gas reporting are administered by the appropriate department.

SECTION 126. Offset implementation report. On or before September 15, 2031, the Climate Policy Office shall conduct a review and provide a report to the Joint Committee on Climate Action, in the manner provided by ORS 192.245, on the implementation of sections 30 to 32 of this 2019 Act and rules adopted under section 30 of this 2019 Act. The report may include recommendations for legislation. The review and report must:

1. Assess the implementation of laws and policies for offset projects and the use of offset credits by covered entities;
2. Include a review of:
   a. Offset project development costs and the time it takes for state agencies to review offset projects;
   b. To date, the offset projects developed and the offset credits generated and issued under rules adopted and offset protocols developed pursuant to sections 30 to 32 of this 2019 Act;
   c. To date, the offset credits that have been invalidated pursuant to section 30 (5) of this 2019 Act;
   d. Offset credit prices and offset credit market conditions; and
   e. Advancements in the methods or technologies used for measuring and monitoring the greenhouse gas emissions reductions or removals attributable to offset projects;
3. Identify barriers to the adoption of offset protocols; and
4. Make determinations and recommendations regarding whether changes to laws and policies are necessary or advisable to address any negative impacts related to offset projects or offset credits or to best align the laws or policies for offset projects and the use of offset credits by covered entities with the purposes set forth in section 14 of this 2019 Act.

SECTION 127. Report on certain exclusions from regulated emissions. (1) No later than January 1, 2025, the Climate Policy Office shall conduct research and submit a report, in the manner provided by ORS 192.245, to the Joint Committee on Climate Action regarding the exclusion from regulated emissions, as provided in section 17 (2)(a) of this 2019 Act, of the greenhouse gas emissions from aviation fuel and fuel used in watercraft and railroad locomotives. The purpose of the report shall be to provide analysis of the anticipated effect of amending section 17 of this 2019 Act and any other statutes as necessary such that, beginning in the first compliance period that begins after January 1, 2027, the greenhouse gas emissions from the combustion of fuel described in section 17 (2)(a) of this 2019 Act would be included in regulated emissions.

2. In carrying out the provisions of this section, the office shall research and provide analysis on:
   a. Whether the aviation, marine and railroad industries in Oregon are reducing greenhouse gas emissions consistent with the best available technologies and energy alternatives;
(b) Whether other jurisdictions that have adopted carbon pricing mechanisms require aviation fuels, marine fuels or railroad fuels to comply with those carbon pricing mechanisms;

c) The costs and economic impacts of eliminating the exclusion provided under section 17 (2)(a) of this 2019 Act, analyzed separately for each industry that would be impacted by the elimination of the exclusion; and

d) The environmental impacts of eliminating the exclusion provided under section 17 (2)(a) of this 2019 Act, analyzed separately for each industry that would be impacted by the elimination of the exclusion.

SECTION 128. Credit proposal. (1) The Department of Transportation, in consultation with the Department of Revenue, the Legislative Revenue Officer and any other relevant state agencies, shall develop a proposal for a program or process for issuing the following refunds or credits of moneys received by the state as proceeds from auctions of allowances conducted under section 34 of this 2019 Act, in order to offset estimated increases in motor vehicle fuel costs in Oregon attributable to the regulation of motor vehicle fuel producers and importers as covered entities under sections 15 to 40 of this 2019 Act:

(a) A refund or credit available, in an amount up to 100 percent of the estimated increase in the cost of motor vehicle fuel used to propel motor vehicles on the highways of this state, to individuals with an adjusted gross income that does not exceed 250 percent of the federal poverty guidelines based on the individual's household size and household members.

(b) One or more refunds or credits available, in order to offset the estimated increase in the cost of motor vehicle fuel used to propel motor vehicles that are not operated on the highways of this state, for motor vehicle fuel that is used in farm vehicles, motor vehicles used in the forest products industry or motor vehicles otherwise used in the agricultural and natural resource sectors.

(2) On or before September 15, 2019, and in the manner provided by ORS 192.245, the Department of Transportation shall provide a report detailing the proposal and steps, which may include recommendations for legislation, necessary to implement the proposal to the Joint Committee on Climate Action and the Joint Committee on Transportation.

SECTION 128a. Section 75, chapter 750, Oregon Laws 2017, is amended to read:

Sec. 75. (1) The Oregon Transportation Commission shall conduct a biennial study. The purpose of the study is to determine:

(a) The proportionate share that users of vehicles that are powered by different means should pay for the costs of maintenance, operation and improvement of the highways in this state; and

(b) Whether users of vehicles that are powered by different means are paying that share.

(2) If the commission determines that users are not paying a proportionate share, then the commission may include in the report recommendations for legislation.

(3) This section applies to users paying the vehicle registration fee under ORS 803.420 (6)(a).

(4) The commission shall report the results of the study to the Road User Fee Task Force established under ORS 184.843, the Joint Committee on Transportation established under section 26 of this 2017 Act ORS 171.858 and the Joint Committee on Climate Action established under section 2 of this 2019 Act, in the manner provided by ORS 192.245, no later than September 15, 2023 of each odd-numbered year, beginning in 2021.

SECTION 128b. Section 76, chapter 750, Oregon Laws 2017, is amended to read:

Sec. 76. Section 75, chapter 750, Oregon Laws 2017, [of this 2017 Act] is repealed on January
SECTION 129. Residential home heating assistance program proposal. (1) The Housing and Community Services Department, in consultation with the Climate Policy Office, the Oregon Housing Stability Council and interested stakeholders, shall develop a proposal for assisting households that for residential home heating use propane, fuel oil or other fossil fuels that are not natural gas. The proposal shall give priority to assisting low-income households or impacted communities, as defined in section 15 of this 2019 Act, through:

(a) Bill assistance; and

(b) Weatherization, including options for upgrading to more efficient home heating equipment or to home heating systems powered by less greenhouse gas emissions-intensive power sources.

(2) The department shall develop the proposal in a manner intended to achieve the following goals:

(a) Reducing greenhouse gas emissions;

(b) Saving energy;

(c) Reducing the energy burden experienced by households; and

(d) Reducing residential home heating service disparities in historically underserved populations.

(3) The proposal required by this section may be for any combination of:

(a) The development of a single new program;

(b) The development of multiple new programs or activities to achieve different goals as outlined in subsection (2) of this section; or

(c) Utilization of existing programs or partnerships to deliver assistance to households.

(4) On or before September 15, 2020, and in the manner provided by ORS 192.245, the Housing and Community Services Department shall provide a report detailing the proposal, and steps, which may include recommendations for legislation, necessary to implement the proposal, to the Joint Committee on Climate Action.

SECTION 130. Commercial and industrial natural gas and propane user emissions reduction program proposal. (1) The Oregon Business Development Department shall:

(a) Conduct the analysis described in subsection (2) of this section; and

(b) Based on the analysis described in subsection (2) of this section, develop a proposal for a program to serve the needs identified in the analysis in a manner that furthers one or more of the purposes set forth in section 14 of this 2019 Act.

(2) The department shall analyze and determine the commercial needs in this state for loans or other financial assistance to commercial and industrial natural gas users or propane users for projects or activities to:

(a) Increase the energy efficiency of or reduce the greenhouse gas emissions from natural gas or propane-fueled equipment used in industrial or commercial facilities;

(b) Facilitate replacing existing equipment in order to reduce greenhouse gas emissions; and

(c) Reduce process emissions.

(3) In conducting the analysis and designing a proposal for a program as required by this section, the department may consult and contract for services as necessary with state or federal agencies or nongovernmental entities that have expertise in climate or energy policy or in industrial energy efficiency, or other relevant expertise.
(4) On or before September 15, 2020, and in the manner provided by ORS 192.245, the department shall provide a report to the Joint Committee on Climate Action detailing the analysis conducted and the proposal developed pursuant to this section and the steps, which may include recommendations for legislation, necessary to implement the proposal.

APPROPRIATIONS

SECTION 131. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Department of Administrative Services, for the biennium beginning July 1, 2019, out of the General Fund, the amount of $15,781,347, for carrying out the provisions of this 2019 Act.

(2) In addition to and not in lieu of any other appropriation, there is appropriated to the State Forestry Department, for the biennium beginning July 1, 2019, out of the General Fund, the amount of $333,310, for carrying out the provisions of this 2019 Act related to the State Forestry Department.

(3) In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium beginning July 1, 2019, out of the General Fund, the amount of $568,654, for carrying out the provisions of this 2019 Act related to the Housing and Community Services Department.

(4) Notwithstanding any other provision of law, the General Fund appropriation made to the Higher Education Coordinating Commission by section 1 (1), chapter 491, Oregon Laws 2019 (Enrolled House Bill 5024), for the biennium beginning July 1, 2019, is increased by $373,254, for carrying out the provisions of this 2019 Act related to the Higher Education Coordinating Commission.

(5) Notwithstanding any other law limiting expenditures, the amount of $250,000 is established for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from lottery moneys allocated from the Administrative Services Economic Development Fund to the Oregon Business Development Department to conduct the analysis and develop the program proposal required by section 130 of this 2019 Act.

(6) Notwithstanding any other law limited expenditures, the limitation on expenditures established by section 2 (1), chapter 307, Oregon Laws 2019 (Enrolled House Bill 5017), for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, the proceeds of bonds for the Orphan Site Account and federal funds from congestion mitigation and air quality grants, drinking water protection, beach bacteria monitoring, laboratory accreditation and woodstove grants and for smoke monitoring laboratory services, but excluding lottery funds and federal funds not described in section 2, chapter 441, Oregon Laws 2019 (Enrolled House Bill 5017), collected or received by the Department of Environmental Quality, for air quality, is increased by $1,039,640.

(7) Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (11), chapter 391, Oregon Laws 2019 (Enrolled House Bill 5039), for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and federal funds received as reimbursement from the United States Department of Transportation, but excluding lottery funds and federal funds not described in section 2, chapter 280, Oregon Laws 2019.
(Enrolled House Bill 5039), collected or received by the Department of Transportation, for transportation program development, is increased by $1,983,532.

(8) Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (15), chapter______, Oregon Laws 2019 (Enrolled House Bill 5039), for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and federal funds received as reimbursement from the United States Department of Transportation, but excluding lottery funds and federal funds not described in section 2, chapter______, Oregon Laws 2019 (Enrolled House Bill 5039), collected or received by the Department of Transportation, for central services, is increased by $1,207,439.

(9) Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (1), chapter 185, Oregon Laws 2019 (Enrolled Senate Bill 5534), for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Public Utility Commission, for the utility program, is increased by $2,132,573.

NOTE: Section 132 was deleted by amendment. Subsequent sections were not renumbered.

OPERATIVE DATE

SECTION 133. (1)(a) Sections 107 to 114 of this 2019 Act, the amendments to statutes by sections 116 to 121c of this 2019 Act and the repeal of statutes by section 115 of this 2019 Act become operative on January 1, 2020.

(b) The Oregon Global Warming Commission and the Climate Policy Office may adopt rules or take any actions before the operative date specified in paragraph (a) of this subsection that are necessary to enable the commission and the office, on and after the operative date specified in paragraph (a) of this subsection, to carry out the provisions of sections 107 to 114 of this 2019 Act, the amendments to statutes by sections 116 to 121c of this 2019 Act and the repeal of statutes by section 115 of this 2019 Act.

(2)(a) Sections 11, 12, 14 to 26, 29 to 36, 38 to 46, 49 to 68 and 89 to 92 of this 2019 Act, the amendments to statutes by sections 13, 69, 87, 88, 94 to 100, 102 and 103 of this 2019 Act, and the repeal of statutes by sections 93 and 101 of this 2019 Act become operative on January 1, 2021.

(b) The Director of the Climate Policy Office, the Climate Policy Office, the Public Utility Commission, the Housing and Community Services Department, the State Department of Energy, the Oregon Department of Administrative Services, the Environmental Quality Commission, the Department of Environmental Quality, the Department of Transportation and the Governor may adopt rules, issue orders or take any actions before the operative date specified in paragraph (a) of this subsection that are necessary to enable the director, the office, the commissions, the departments and the Governor, on and after the operative date specified in paragraph (a) of this subsection, to carry out the provisions of sections 11, 12, 14 to 26, 29 to 36, 38 to 46, 49 to 68 and 89 to 92 of this 2019 Act, the amendments to statutes by sections 13, 69, 87, 88, 94 to 100, 102 and 103 of this 2019 Act, and the repeal of statutes by sections 93 and 101 of this 2019 Act.

(c)(A) If, in adopting rules, issuing orders or taking any actions before the operative date
specified in paragraph (a) of this subsection as authorized by paragraph (b) of this subsection, information is obtained by the State of Oregon that is information described in section 40 (2)(a) to (c) of this 2019 Act, the information shall be treated as confidential business information, is exempt from disclosure under the public records law, ORS 192.311 to 192.478, and may not be disclosed to any person or entity except as provided in subparagraphs (B) and (C) of this paragraph.  

(B) Information described in subparagraph (A) of this paragraph may be used and disclosed in aggregated form.  

(C) This paragraph does not prohibit the disclosure of information between the Climate Policy Office and other agencies of the executive department, as defined in ORS 174.112, or persons engaged by the State of Oregon to provide administrative or technical services to support the implementation of sections 15 to 40 of this 2019 Act if the disclosure is necessary for purposes of adopting rules, issuing orders or taking any actions before the operative date specified in paragraph (a) of this subsection to carry out the provisions of sections 14 to 27, 29 to 36, 38 to 47, 49 to 68 and 89 to 92 of this 2019 Act, the amendments to statutes by sections 69, 87, 94 to 100, 102 and 103 of this 2019 Act, and the repeal of statutes by sections 93 and 101 of this 2019 Act.  

(3)(a) Sections 75 to 81 of this 2019 Act, the amendments to ORS 468.953 and 468A.280 by sections 82 and 86 of this 2019 Act and the amendments to sections 11, 12 and 39 of this 2019 Act by sections 83 to 85 of this 2019 Act become operative on January 1, 2022.  
(b) The Environmental Quality Commission, the Department of Environmental Quality, the Oregon Department of Administrative Services, the Director of the Climate Policy Office and the Climate Policy Office may adopt rules or take any actions before the operative date specified in paragraph (a) of this subsection that are necessary to enable the Environmental Quality Commission, the Department of Environmental Quality, the Oregon Department of Administrative Services, the Director of the Climate Policy Office and the Climate Policy Office, on and after the operative date specified in paragraph (a) of this subsection, to carry out the provisions of sections 75 to 81 of this 2019 Act, the amendments to ORS 468.953 and 468A.280 by sections 82 and 86 of this 2019 Act and the amendments to sections 11, 12 and 39 of this 2019 Act by sections 83 to 85 of this 2019 Act.

CAPTIONS

SECTION 134. The unit and section captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.  

EMERGENCY CLAUSE

SECTION 135. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.