

## HOUSE AMENDMENTS TO HOUSE BILL 2020

By JOINT COMMITTEE ON CARBON REDUCTION

May 21

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

7       “Whereas climate change and ocean acidification caused by greenhouse gas emissions are hav-  
8 ing significant detrimental effects on public health and on Oregon’s economic vitality, natural re-  
9 sources and environment; and

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

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

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

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

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

31       “Whereas by joining together with other leadership jurisdictions similarly resolved to address  
32 climate change and ocean acidification, Oregon will help encourage other states, the federal gov-  
33 ernment and the international community to act; and

34       “Whereas by exercising a leadership role in addressing climate change and ocean acidification,  
35 Oregon will position its economy, technology centers, financial institutions and businesses to benefit

1 from the national and international efforts that must occur to reduce greenhouse gas emissions; and

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

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

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

13 “Whereas Oregon’s emissions reduction policies must be designed to protect climate impacted  
14 communities and promote the resiliency of these communities through providing opportunities for  
15 job creation and training, investments in both natural and built infrastructure and economic devel-  
16 opment and increased utilization of clean energy technologies; and

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

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

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

26 “Whereas the carbon pricing program must respect the rights and ability of Indian tribes to  
27 exercise their stewardship and sovereign authority over their sovereign trust lands and resources,  
28 and the state must make reasonable efforts to cooperate with tribes in the development and imple-  
29 mentation of programs that affect Indian tribes; and

30 “Whereas a key strategy in promoting net reductions of atmospheric carbon dioxide and adapt-  
31 ing to climate change is preserving and maintaining the resilient, healthy function of this state’s  
32 forests and other natural and working lands; and

33 “Whereas resilient, healthy forests produce many added benefits, including clean water and good  
34 jobs; and

35 “Whereas it is the intent of the Legislative Assembly to obtain reductions in greenhouse gas  
36 emissions through a comprehensive suite of existing and future measures that include a legally  
37 binding, market-based carbon pricing mechanism, and that must lay out a predictable pathway to  
38 success, be flexible and adaptable to changing circumstances, be based on best available science,  
39 recognize the benefit of Oregon’s natural and working lands in reducing carbon, and be designed to  
40 reduce emissions and to successfully transition to a clean energy economy with benefits available  
41 to all Oregonians; and

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

45 “Whereas any resources generated by the carbon pricing program must be invested to maximize

1 multiple cobenefits aligned with the program’s goals in an efficient and cost-effective manner over-  
2 seen by the Legislative Assembly and inclusive of communities throughout Oregon to ensure state-  
3 wide benefits; and

4 “Whereas the benefits and effectiveness of any investments must be evaluated through regular  
5 and rigorous third-party auditing; and

6 “Whereas the Legislative Assembly must maintain transparent oversight of program design, im-  
7 plementation, evaluation and subsequent decision-making; now, therefore,”.

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

9  
10 **“STATEWIDE GREENHOUSE GAS EMISSIONS**  
11 **REDUCTION GOALS**

12  
13 **“SECTION 1.** ORS 468A.205 is amended to read:

14 “468A.205. (1) The Legislative Assembly declares that it is the [*policy*] **goal** of this state to  
15 **achieve a reduction in anthropogenic greenhouse gas emissions levels in Oregon:** [*reduce*  
16 *greenhouse gas emissions in Oregon pursuant to the following greenhouse gas emissions reduction*  
17 *goals:*]

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

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

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

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

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

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

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

30  
31 **“JOINT COMMITTEE ON CLIMATE ACTION**

32  
33 **“SECTION 2.** (1) **There is established the Joint Committee on Climate Action.**

34 **“(2) The joint committee consists of members of the Senate appointed by the President**  
35 **of the Senate and members of the House of Representatives appointed by the Speaker of the**  
36 **House of Representatives.**

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

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

43 **“(5) The term of a member shall expire upon the date of the convening of the odd-**  
44 **numbered year regular session of the Legislative Assembly next following the commence-**  
45 **ment of the member’s term.**

1       “(6)(a) If there is a vacancy for any cause, the appointing authority shall make an ap-  
2       pointment to become immediately effective.

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

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

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

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

12      “(b) Notwithstanding paragraph (a) of this subsection, when engaged in out-of-state  
13      travel, members shall be entitled to receive their actual and necessary expenses in lieu of  
14      the amount authorized by this subsection. Payment shall be made from funds appropriated  
15      to the Legislative Assembly.

16      “(8) The joint committee may not transact business unless a quorum is present. Except  
17      as provided in subsection (6)(b)(B) of this section, a quorum consists of a majority of joint  
18      committee members from the House of Representatives and a majority of joint committee  
19      members from the Senate.

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

23      “(10) The joint committee may adopt rules necessary for the operation of the joint com-  
24      mittee.

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

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

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

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

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

40      “(c) Make recommendations related to the uses of state proceeds from auctions con-  
41      ducted under section 34 of this 2019 Act to the Joint Committee on Ways and Means.

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

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

- 1       “(b) The biennial climate action investment plan required by section 57 of this 2019 Act;  
2       “(c) The recommendations of the Environmental Justice Task Force required by section  
3       61 of this 2019 Act; and  
4       “(d) The Just Transition Plan required by section 52 of this 2019 Act.

5  
6                                   **“CLIMATE POLICY OFFICE ESTABLISHED**  
7                                   **“(Establishment; Duties)**

8  
9       **“SECTION 4. Climate Policy Office.** (1) The Climate Policy Office is established within the  
10       Oregon Department of Administrative Services.

11       “(2) The office shall:

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

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

16       “(3) The office may advise, consult and cooperate with other agencies of the state, poli-  
17       tical subdivisions, other states, eligible Indian tribes as defined in section 15 of this 2019 Act  
18       or the federal government, with respect to any proceedings and all matters pertaining to the  
19       reduction of greenhouse gas emissions levels in Oregon.

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

24  
25                                   **“(Director of the Climate Policy Office)**

26  
27       **“SECTION 5. Director.** (1) The Climate Policy Office is under the supervision and control  
28       of a director, who is responsible for the performance of the duties, functions and powers of  
29       the office.

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

33       “(3) The director shall be paid a salary as provided by law or, if not so provided, as pre-  
34       scribed by the Governor.

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

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

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

1           “**SECTION 6.** ORS 244.050 is amended to read:  
2           “244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon  
3 Government Ethics Commission a verified statement of economic interest as required under this  
4 chapter:  
5           “(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the  
6 Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.  
7           “(b) Any judicial officer, including justices of the peace and municipal judges, except any pro  
8 tem judicial officer who does not otherwise serve as a judicial officer.  
9           “(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.  
10           “(d) The Deputy Attorney General.  
11           “(e) The Deputy Secretary of State.  
12           “(f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the  
13 Legislative Policy and Research Director, the Secretary of the Senate and the Chief Clerk of the  
14 House of Representatives.  
15           “(g) The president and vice presidents, or their administrative equivalents, in each public uni-  
16 versity listed in ORS 352.002.  
17           “(h) The following state officers:  
18           “(A) Adjutant General.  
19           “(B) Director of Agriculture.  
20           “(C) Manager of State Accident Insurance Fund Corporation.  
21           “(D) Water Resources Director.  
22           “(E) Director of Department of Environmental Quality.  
23           “(F) Director of Oregon Department of Administrative Services.  
24           “(G) State Fish and Wildlife Director.  
25           “(H) State Forester.  
26           “(I) State Geologist.  
27           “(J) Director of Human Services.  
28           “(K) Director of the Department of Consumer and Business Services.  
29           “(L) Director of the Department of State Lands.  
30           “(M) State Librarian.  
31           “(N) Administrator of Oregon Liquor Control Commission.  
32           “(O) Superintendent of State Police.  
33           “(P) Director of the Public Employees Retirement System.  
34           “(Q) Director of Department of Revenue.  
35           “(R) Director of Transportation.  
36           “(S) Public Utility Commissioner.  
37           “(T) Director of Veterans’ Affairs.  
38           “(U) Executive director of Oregon Government Ethics Commission.  
39           “(V) Director of the State Department of Energy.  
40           “(W) Director and each assistant director of the Oregon State Lottery.  
41           “(X) Director of the Department of Corrections.  
42           “(Y) Director of the Oregon Department of Aviation.  
43           “(Z) Executive director of the Oregon Criminal Justice Commission.  
44           “(AA) Director of the Oregon Business Development Department.  
45           “(BB) Director of the Office of Emergency Management.

- 1 “(CC) Director of the Employment Department.
- 2 “(DD) Chief of staff for the Governor.
- 3 “(EE) Director of the Housing and Community Services Department.
- 4 “(FF) State Court Administrator.
- 5 “(GG) Director of the Department of Land Conservation and Development.
- 6 “(HH) Board chairperson of the Land Use Board of Appeals.
- 7 “(II) State Marine Director.
- 8 “(JJ) Executive director of the Oregon Racing Commission.
- 9 “(KK) State Parks and Recreation Director.
- 10 “(LL) Public defense services executive director.
- 11 “(MM) Chairperson of the Public Employees’ Benefit Board.
- 12 “(NN) Director of the Department of Public Safety Standards and Training.
- 13 “(OO) Executive director of the Higher Education Coordinating Commission.
- 14 “(PP) Executive director of the Oregon Watershed Enhancement Board.
- 15 “(QQ) Director of the Oregon Youth Authority.
- 16 “(RR) Director of the Oregon Health Authority.
- 17 “(SS) Deputy Superintendent of Public Instruction.
- 18 “**(TT) Director of the Climate Policy Office.**
- 19 “(i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
- 20 the Governor’s office.
- 21 “(j) Every elected city or county official.
- 22 “(k) Every member of a city or county planning, zoning or development commission.
- 23 “(L) The chief executive officer of a city or county who performs the duties of manager or
- 24 principal administrator of the city or county.
- 25 “(m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 26 “(n) Every member of a governing body of a metropolitan service district and the auditor and
- 27 executive officer thereof.
- 28 “(o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 29 “(p) The chief administrative officer and the financial officer of each common and union high
- 30 school district, education service district and community college district.
- 31 “(q) Every member of the following state boards and commissions:
- 32 “(A) Governing board of the State Department of Geology and Mineral Industries.
- 33 “(B) Oregon Business Development Commission.
- 34 “(C) State Board of Education.
- 35 “(D) Environmental Quality Commission.
- 36 “(E) Fish and Wildlife Commission of the State of Oregon.
- 37 “(F) State Board of Forestry.
- 38 “(G) Oregon Government Ethics Commission.
- 39 “(H) Oregon Health Policy Board.
- 40 “(I) Oregon Investment Council.
- 41 “(J) Land Conservation and Development Commission.
- 42 “(K) Oregon Liquor Control Commission.
- 43 “(L) Oregon Short Term Fund Board.
- 44 “(M) State Marine Board.
- 45 “(N) Mass transit district boards.

1 “(O) Energy Facility Siting Council.  
2 “(P) Board of Commissioners of the Port of Portland.  
3 “(Q) Employment Relations Board.  
4 “(R) Public Employees Retirement Board.  
5 “(S) Oregon Racing Commission.  
6 “(T) Oregon Transportation Commission.  
7 “(U) Water Resources Commission.  
8 “(V) Workers’ Compensation Board.  
9 “(W) Oregon Facilities Authority.  
10 “(X) Oregon State Lottery Commission.  
11 “(Y) Pacific Northwest Electric Power and Conservation Planning Council.  
12 “(Z) Columbia River Gorge Commission.  
13 “(AA) Oregon Health and Science University Board of Directors.  
14 “(BB) Capitol Planning Commission.  
15 “(CC) Higher Education Coordinating Commission.  
16 “(DD) Oregon Growth Board.  
17 “(EE) Early Learning Council.  
18 “(r) The following officers of the State Treasurer:  
19 “(A) Deputy State Treasurer.  
20 “(B) Chief of staff for the office of the State Treasurer.  
21 “(C) Director of the Investment Division.  
22 “(s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725  
23 or 777.915 to 777.953.  
24 “(t) Every member of the board of directors of an authority created under ORS 441.525 to  
25 441.595.  
26 “(u) Every member of a governing board of a public university listed in ORS 352.002.  
27 “(v) Every member of the board of directors of an authority created under ORS 465.600 to  
28 465.621.  
29 “(2) By April 15 next after the date an appointment takes effect, every appointed public official  
30 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-  
31 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070  
32 and 244.090.  
33 “(3) By April 15 next after the filing deadline for the primary election, each candidate described  
34 in subsection (1) of this section shall file with the commission a statement of economic interest as  
35 required under ORS 244.060, 244.070 and 244.090.  
36 “(4) Not later than the 40th day before the date of the statewide general election, each candi-  
37 date described in subsection (1) of this section who will appear on the statewide general election  
38 ballot and who was not required to file a statement of economic interest under subsections (1) to (3)  
39 of this section shall file with the commission a statement of economic interest as required under  
40 ORS 244.060, 244.070 and 244.090.  
41 “(5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or  
42 appointed public officials as of April 15 and to persons who are candidates on April 15.  
43 “(6) If a statement required to be filed under this section has not been received by the com-  
44 mission within five days after the date the statement is due, the commission shall notify the public  
45 official or candidate and give the public official or candidate not less than 15 days to comply with



1 the requirements of this section. If the public official or candidate fails to comply by the date set  
2 by the commission, the commission may impose a civil penalty as provided in ORS 244.350.

3  
4 **“(Oregon Climate Board)”**

5  
6 **“SECTION 7. (1) In order to ensure close correspondence among the Climate Policy Of-**  
7 **fice, the public interest and state climate policies, there is created the Oregon Climate**  
8 **Board.**

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

10 **“(a) One member jointly appointed by the President of the Senate and the Speaker of the**  
11 **House of Representatives who is a member of either the Senate or the House of Represen-**  
12 **tatives and who is also a member of the Republican party and serves as a member of a**  
13 **committee of the Legislative Assembly related to climate;**

14 **“(b) One member jointly appointed by the President of the Senate and the Speaker of the**  
15 **House of Representatives who is a member of either the Senate or the House of Represen-**  
16 **tatives and who is also a member of the Democratic party and serves as a member of a**  
17 **committee of the Legislative Assembly related to climate;**

18 **“(c) One member who represents the Oregon Climate Change Research Institute;**

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

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

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

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

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

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

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

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

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

28 **“(m) The State Forester.**

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

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

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

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

36 **“(d) One member who is an economist or who has experience and expertise in conserva-**  
37 **tion finance;**

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

39 **“(f) One member with expertise in sustainable transportation issues; and**

40 **“(g) Two at-large members.**

41 **“SECTION 8. (1) The term of office of each voting member appointed to the Oregon Cli-**  
42 **mate Board is four years, but the members of the board may be removed by the Governor.**  
43 **Before the expiration of the term of a voting member, the Governor shall appoint a succes-**  
44 **sor to assume the duties of the voting member on July 1 of the next following year.**

45 **“(2) A voting member is eligible for reappointment, but no voting member may serve**

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

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

6 “(4) A majority of the voting members of the board constitutes a quorum for the trans-  
7 action of business.

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

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

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

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

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

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

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

25 “(4) Three shall serve for terms ending July 1, 2023.

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

27 “(a) Advise the Climate Policy Office regarding:

28 “(A) The implementation, administration and enforcement of the programs and activities  
29 of the Climate Policy Office; and

30 “(B) The development of the rules and policies of the office under sections 15 to 40 and  
31 54 to 59 of this 2019 Act; and

32 “(b) Carry out any other duties, functions and powers vested in the office by law.

33 “(2) In advising the office pursuant to subsection (1)(a) of this section, the board shall  
34 take into consideration best available science. As used in this subsection, ‘best available  
35 science’ means science that:

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

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

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

40 “(3) The board shall hold public hearings and provide an opportunity for public comment  
41 in carrying out the board’s activities under this section.

42 “(4) The office shall provide clerical, technical and management personnel to serve the  
43 board. Other agencies shall provide support as requested by the office or the board.

44 “(5) The board may adopt by rule such standards and procedures as the board considers  
45 necessary for the operation of the board.

1 “(Enforcement)  
2

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

9 **“(2) The proceedings authorized by subsection (1) of this section may be instituted with-**  
10 **out the necessity of prior agency notice, hearing and order, or during an agency hearing if**  
11 **the hearing has been initially commenced by the office.**

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

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

15 **“(a) ‘Intentional’ means conduct by a person with a conscious objective to cause the re-**  
16 **sult of the conduct.**

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

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

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

25 **“(b) Submitting any record, information or report required by sections 15 to 40 of this**  
26 **2019 Act or rules adopted under sections 15 to 40 of this 2019 Act that falsifies or conceals**  
27 **a material fact or makes any false or fraudulent representation.**

28 **“(3) Each day of violation under subsection (2) of this section constitutes a separate of-**  
29 **fense.**

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

33 **“(b) Except as provided in paragraph (c) of this subsection, the civil penalty for a vio-**  
34 **lation described in subsection (2) of this section arising from an intentional, reckless or**  
35 **negligent act may not exceed \$25,000 per offense.**

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

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

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

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

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

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

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

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

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

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

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

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

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

14       “468.953. (1) A person commits the crime of supplying false information to any agency if the  
15 person:

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

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

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

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

27  
28                               **“OREGON CLIMATE ACTION PROGRAM**  
29                               **“(Statement of Purpose)**  
30

31       “SECTION 14. (1) **The Legislative Assembly finds and declares that the purposes of**  
32 **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**  
33 **are:**

34       “(a) **To achieve a reduction in total levels of regulated emissions under sections 15 to 40**  
35 **of this 2019 Act to at least 45 percent below 1990 emissions levels by 2035 and to achieve a**  
36 **reduction in total regulated emissions levels to at least 80 percent below 1990 emissions levels**  
37 **by 2050;**

38       “(b) **To promote greenhouse gas emissions sequestration and mitigation;**

39       “(c) **To promote the adaptation and resilience of natural and working lands, fish and**  
40 **wildlife resources, communities, the economy and this state’s infrastructure in the face of**  
41 **climate change and ocean acidification; and**

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

45       “(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**

1 2019 Act and the rules adopted pursuant to sections 14, 15 to 40, 41 to 45, 46, 47, 48, 49, 50,  
2 51, 52, 53, 54 to 59, 60 and 61 of this 2019 Act may not be interpreted to limit the authority  
3 of any state agency to adopt and implement measures to reduce greenhouse gas emissions.  
4

5 “(Greenhouse Gas Cap and Market-Based Compliance Mechanism)  
6

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

8 **“(1) ‘Aggregation’ means an approach for qualifying and quantifying offset projects, for**  
9 **the purposes of reducing costs and increasing the development of offset projects, that allows**  
10 **for the grouping together of two or more geographically separate activities undertaken by**  
11 **one or more parties that result in reductions or removals of greenhouse gases in a similar**  
12 **manner.**

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

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

17 **“(4) ‘Anthropogenic greenhouse gas emissions’ means greenhouse gas emissions that are**  
18 **not biogenic emissions.**

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

20 **“(a) Maximizes the quality, objectivity and integrity of information, including statistical**  
21 **information;**

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

23 **“(c) Clearly documents and communicates risks and uncertainties in scientific citations.**

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

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

27 **“(a) Nonfossilized and biodegradable organic material originating from plants, animals**  
28 **or microorganisms;**

29 **“(b) Products, by-products, residues or waste from agriculture, forestry or related in-**  
30 **dustries; and**

31 **“(c) The nonfossilized and biodegradable organic fractions of industrial and municipal**  
32 **wastes, including gases and liquids recovered from:**

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

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

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

39 **“(A) The short title and six-digit code in the North American Industry Classification**  
40 **System applicable to the business operation;**

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

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

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

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

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

8       “(11) ‘Compliance obligation’ means the quantity of regulated emissions that are attrib-  
9 utable to a covered entity, and for which compliance instruments must be retired, for a  
10 compliance period.

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

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

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

15       “(a) A reduction in or avoidance of emissions of any air contaminant in this state other  
16 than a greenhouse gas;

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

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

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

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

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

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

29       “(a) Electric companies.

30       “(b) Electricity service suppliers.

31       “(c) Consumer-owned utilities.

32       “(d) The Bonneville Power Administration.

33       “(e) Electric generation and transmission cooperatives.

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

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

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

45       “(22) ‘Impacted community’ means a community at risk of being disproportionately im-

1 pacted by climate change as designated by the office under section 33 of this 2019 Act.

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

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

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

7 “(a) Lands and waters:

8 “(A) Actively used by an agricultural owner or operator for an agricultural operation  
9 that includes, but need not be limited to, active engagement in farming or ranching;

10 “(B) Producing forest products;

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

14 “(D) Used for recreational purposes such as parks, urban and community forests, trails,  
15 greenbelts and other similar open space land; and

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

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

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

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

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

23 “(28) ‘Offset credit’ means a tradable credit generated by an offset project that repres-  
24 ents a greenhouse gas emissions reduction or removal of one metric ton of carbon dioxide  
25 equivalent.

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

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

31 “(31) ‘Oregon Climate Action Program’ means the program adopted by rule by the office  
32 under section 16 (1) of this 2019 Act and in accordance with the provisions of sections 15 to  
33 40 of this 2019 Act.

34 “(32) ‘Permitted air contamination source’ means an air contamination source as defined  
35 in ORS 468A.005 for which a permit is issued by the Department of Environmental Quality  
36 pursuant to ORS 468.065, 468A.040 or 468A.155.

37 “(33) ‘Person’ includes individuals, corporations, associations, firms, partnerships, joint  
38 stock companies, public and municipal corporations, political subdivisions, the state and any  
39 agencies thereof and the federal government and any agencies thereof.

40 “(34) ‘Registered entity’ means a covered entity, opt-in entity or general market partic-  
41 ipant that has successfully registered to participate in the Oregon Climate Action Program.

42 “(35) ‘Regulated emissions’ means the verified anthropogenic greenhouse gas emissions  
43 reported by or assigned to a covered entity or opt-in entity under ORS 468A.280 that the of-  
44 fice determines by rule are anthropogenic greenhouse gas emissions regulated under sections  
45 15 to 40 of this 2019 Act.

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

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

6       “(A) Place a cap on the total anthropogenic greenhouse gas emissions that are regulated  
7 emissions through setting annual allowance budgets for 2021 to 2050; and

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

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

12       “(B) Beginning in 2022 and for each following year until and including 2035, the number  
13 of allowances available in each annual allowance budget shall decline by a constant amount  
14 as necessary to accomplish a reduction in total regulated emissions levels to at least 45  
15 percent below 1990 emissions levels by 2035.

16       “(C) Beginning in 2036 and for each following year until and including 2050, the number  
17 of allowances available in each annual allowance budget shall decline by a constant amount  
18 as necessary to accomplish a reduction in total regulated emissions levels to at least 80  
19 percent below 1990 emissions levels by 2050.

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

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

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

36       “(b) For the purpose of regulating anthropogenic greenhouse gas emissions attributable  
37 to the generation of electricity in this state, the office shall designate a permitted air con-  
38 tamination source as a covered entity if the applicable code to the permitted air contam-  
39 ination source under the North American Industry Classification System is 221112 and the  
40 permitted air contamination source is a natural gas powered electric power generation fa-  
41 cility, regardless of whether the annual regulated emissions attributable to the permitted air  
42 contamination source meet or exceed 25,000 metric tons of carbon dioxide equivalent.

43       “(c) If a permitted air contamination source is a facility composed of two or more busi-  
44 ness units colocated with a cogeneration facility that generates energy utilized by the per-  
45 mitted air contamination source, the office shall designate the permitted air contamination



1 source as a covered entity for each individual business unit with annual regulated emissions  
2 attributable to the business unit that meet or exceed 25,000 metric tons of carbon dioxide  
3 equivalent. A person designated as a covered entity under this paragraph shall be a covered  
4 entity only for addressing the annual regulated emissions attributable to the business units  
5 for which the person is designated as a covered entity. For the purposes of this paragraph,  
6 the office shall attribute to a business unit the annual regulated emissions from the  
7 cogeneration facility colocated with the business unit that are proportionate to the annual  
8 energy usage of the business unit.

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

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

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

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

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

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

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

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

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

39 “(e) Compliance periods, standards for calculating compliance obligations and procedures  
40 for covered entities and opt-in entities to fulfill their compliance obligations.

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

45 “(5) For purposes of determining the compliance obligation for a covered entity that is

1 an electric system manager, electricity scheduled by the electric system manager that is  
2 generated from a renewable energy resource, regardless of the disposition of the renewable  
3 energy certificate associated with the electricity, shall be considered to have the emissions  
4 attributes of the underlying renewable energy resource.

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

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

10 “(a) Shall require a covered entity or opt-in entity that fails to timely surrender to the  
11 office a sufficient quantity of compliance instruments to fulfill a compliance obligation to  
12 surrender to the office a number of compliance instruments that is in addition to the entity’s  
13 compliance obligation; and

14 “(b) May establish a process for placing restrictions on the holding account of a regis-  
15 tered entity determined to have engaged in a violation described in section 12 of this 2019  
16 Act.

17 “(8) A compliance instrument issued by the office does not constitute property or a  
18 property right.

19 “(9)(a) All covered entities, opt-in entities and general market participants must register  
20 as registered entities to participate in the Oregon Climate Action Program.

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

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

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

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

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

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

38 “SECTION 18. Allocation of allowances, generally. (1) The Climate Policy Office shall al-  
39 locate the allowances available in each annual allowance budget as follows:

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

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

1 **January 1, 2021.**

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

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

7 **“(e) The office shall allocate a number of the allowances for direct distribution at no cost**  
8 **to covered entities that are electric system managers other than electric companies pursu-**  
9 **ant to section 21 of this 2019 Act.**

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

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

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

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

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

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

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

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

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

43 **“SECTION 19. Retirement of allowances. (1) Beginning in 2021 and for each following year**  
44 **until and including 2026, the Climate Policy Office shall retire from the annual allowance**  
45 **budget, on behalf of a covered entity described in section 16 (2)(b) of this 2019 Act, a number**

1 of allowances equal to the regulated emissions that are attributable to the generation in this  
2 state by the covered entity of electricity that is:

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

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

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

16 “(3) Allowances directly retired by the office on behalf of a covered entity under this  
17 section shall count toward fulfilling the covered entity’s compliance obligation for the com-  
18 pliance period during which the allowances are directly retired.

19 “SECTION 20. Direct distribution of allowances for electric companies. The Climate Pol-  
20 icy Office shall, in consultation with the Public Utility Commission, adopt rules for allocating  
21 allowances for direct distribution at no cost to covered entities that are electric companies.  
22 Direct distributions under this section must be for the exclusive benefit of retail customers  
23 that are supplied electricity by the electric company. Rules adopted under this section must  
24 allow for an electric company to use allowances directly distributed under this section to  
25 fulfill compliance obligations associated with electricity supplied by the electric company to  
26 serve the load of the electric company’s retail customers in Oregon, subject to the oversight  
27 of the commission. The rules must include provisions necessary to implement direct dis-  
28 tributions of allowances to electric companies as follows:

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

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

38 “(B) The direct distribution to an electric company during 2030 must be in a number of  
39 allowances equal to 100 percent of the electric company’s forecast regulated emissions asso-  
40 ciated with the electricity supplied to serve the load of the electric company’s retail elec-  
41 tricity customers in Oregon for the calendar year 2030.

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

44 “(A) The most recent integrated resource plan filed by the electric company and ac-  
45 knowledged by order by the commission;

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

3       “(C) In the case of a multistate jurisdictional electric company, other information devel-  
4 oped consistent with a methodology approved by the commission.

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

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

15       “(a) The direct distribution to an electric system manager under this subsection during  
16 2021 shall be in a number of allowances equal to 100 percent of the anthropogenic greenhouse  
17 gas emissions that are:

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

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

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

28       “(c) Notwithstanding paragraph (b) of this subsection, the direct distribution to an elec-  
29 tric system manager in any year may not be in a number of allowances that is less than 20  
30 percent of the number of allowances directly distributed to the electric system manager in  
31 2021.

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

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

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

45       “(1) Anthropogenic greenhouse gas emissions information available for the electric sys-

1 tem manager for representative years prior to 2021, as reported under ORS 468A.280;

2 “(2) Hydroelectric power generation variability;

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

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

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

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

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

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

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

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

40 “(5) The office shall require a natural gas utility to consign all allowances directly dis-  
41 tributed under subsection (3) of this section to the state to be auctioned pursuant to section  
42 34 of this 2019 Act.

43 “SECTION 24. Designation of covered entities and opt-in entities engaged in emissions-  
44 intensive, trade-exposed processes as EITE entities. (1) The Climate Policy Office shall des-  
45 ignate a covered entity or opt-in entity as an EITE entity, if the covered entity or opt-in

1 entity is a permitted air contamination source and is engaged, as of the operative date of this  
2 section and as may be verified by the office, in the manufacture of goods through one or  
3 more of the following emissions-intensive, trade-exposed processes, as identified by industry  
4 group and code in the North American Industry Classification System:

5 “(a) Basic Chemical Manufacturing, code 3251.

6 “(b) Cement and Concrete Product Manufacturing, code 3273.

7 “(c) Foundries, code 3315.

8 “(d) Fruit and Vegetable Preserving and Specialty Food Manufacturing, code 3114.

9 “(e) Glass and Glass Product Manufacturing, code 3272.

10 “(f) Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.

11 “(g) Lime and Gypsum Product Manufacturing, code 3274.

12 “(h) Nonmetallic Mineral Mining and Quarrying, code 2123.

13 “(i) Other Nonmetallic Mineral Product Manufacturing, code 3279.

14 “(j) Plastics Product Manufacturing, code 3261.

15 “(k) Pulp, Paper, and Paperboard Mills, code 3221.

16 “(L) Sawmills and Wood Preservation, code 3211.

17 “(m) Semiconductor and Other Electronic Component Manufacturing, code 3344.

18 “(n) Veneer, Plywood, and Engineered Wood Product Manufacturing, code 3212.

19 “(2)(a) The office shall adopt by rule a procedure for designating as an EITE entity a  
20 covered entity or opt-in entity that:

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

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

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

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

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

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

45 “(2) The purpose of the study shall be to evaluate the emissions intensiveness and trade

1 exposure of the permitted air contamination sources described in subsection (1) of this sec-  
2 tion and to aid the office in implementing the process for designation of EITE entities  
3 adopted by rule under section 24 (2) of this 2019 Act.

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

6 **“SECTION 26. Direct distribution of allowances for EITE entities.** (1) As used in this  
7 section, ‘annual benchmarked emissions calculation’ means the product of an emissions ef-  
8 ficiency benchmark for a good or group of goods, multiplied by the EITE entity’s output,  
9 during the calendar year prior to the calendar year in which allowances will be allocated for  
10 direct distribution at no cost to the EITE entity, of the good or group of goods to which the  
11 emissions efficiency benchmark applies.

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

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

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

19 “(a) Establish an emissions efficiency benchmark separately for each individual good  
20 manufactured in this state by an EITE entity; or

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

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

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

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

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

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

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

44 “(6) An EITE entity may file with the office a written request for a contested case  
45 hearing to challenge an order establishing the emissions efficiency benchmarks for goods



1 produced by the EITE entity. The request shall be filed within 30 days after the date the  
2 order was entered. If an EITE entity requests a hearing, the hearing shall be conducted in  
3 accordance with the provisions applicable to contested case proceedings under ORS chapter  
4 183.

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

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

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

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

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

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

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

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

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

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

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

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

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

44 “(B) That are associated with the manufacture by an EITE entity of a good, without  
45 changing the characteristics of the good being manufactured, that is technically feasible,

1 **commercially available, economically viable and compliant with all applicable laws.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1       “(D) Barriers that would prevent adoption of best available technology by the EITE en-  
2       tity.

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

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

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

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

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

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

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

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

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

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

40       “**SECTION 29. Benchmark report. No later than September 15, 2030, the Climate Policy**  
41       **Office shall provide a report to the Joint Committee on Climate Action, in the manner pro-**  
42       **vided in ORS 192.245, on the emissions efficiency benchmarks established pursuant to section**  
43       **26 of this 2019 Act. The report may include recommendations for legislation. The report shall**  
44       **assess:**

45       “(1) The anthropogenic greenhouse gas emissions intensity and trade exposure of covered

1 entities and opt-in entities that have been designated as EITE entities pursuant to section  
2 24 of this 2019 Act;

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

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

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

9 “(a) Must be located in the United States or approved by a jurisdiction with which the  
10 State of Oregon has entered into a linkage agreement pursuant to section 38 of this 2019 Act;

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

12 “(c) Must result in greenhouse gas emissions reductions or removals that:

13 “(A) Are real, permanent, quantifiable, verifiable and enforceable; and

14 “(B) Are in addition to greenhouse gas emissions reductions or removals otherwise re-  
15 quired by law or legally enforceable mandate and that exceed any other greenhouse gas  
16 emissions reductions or removals that would otherwise occur in a conservative business-as-  
17 usual scenario.

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

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

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

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

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

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

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

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

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

44 “(c) Allow for the broadest possible participation by landowners in developing and oper-  
45 ating offset projects across the broadest possible variety of types and sizes of lands;

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

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

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

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

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

13       “(b) Requirements for offset projects to be registered with qualified third-party organ-  
14 izations that operate offset credit registries to receive early action offset credits; and

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

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

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

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

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

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

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

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

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

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

45       “(d) May make use of aggregation or other mechanisms, including cost-effective inven-

1 tory and monitoring provisions, to increase the development of offset projects by landowners  
2 across the broadest possible variety of types and sizes of lands.

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

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

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

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

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

16 “(b) In developing offset protocols related to forestry, the office and the department shall  
17 consider ways to avoid significant net cumulative reductions, attributable to offset projects,  
18 in the regional supply of wood fiber available to wood products manufacturing facilities in  
19 this state.

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

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

29 “(a) Consider developing offset protocols for:

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

31 “(B) Avoided grassland conversion; and

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

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

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

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

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

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

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

4       **“(A) The State Department of Agriculture, the State Forestry Department, the Envi-**  
5 **ronmental Justice Task Force, the Oregon Watershed Enhancement Board, other relevant**  
6 **state agencies and eligible Indian tribes; and**

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

9       **“(b) May contract with one or more persons or agencies that provide third-party verifi-**  
10 **cation and registration of offset projects and offset credits to assist in the development of**  
11 **offset protocols.**

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

20       **“(a) Scientists;**

21       **“(b) Public health experts;**

22       **“(c) Carbon market experts;**

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

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

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

26       **“(g) Forestry experts;**

27       **“(h) Agriculture experts;**

28       **“(i) Environmental advocates;**

29       **“(j) Conservation advocates; and**

30       **“(k) Dairy experts.**

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

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

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

41       **“(C) Include information and analysis of any cobenefits attributable to the forestry offset**  
42 **projects and forestry carbon offsets described under subparagraphs (A) and (B) of this par-**  
43 **agraph; and**

44       **“(D) Identify and address any significant effects attributable to the forestry offset**  
45 **projects and forestry carbon offsets described in subparagraphs (A) and (B) of this paragraph**

1 on the supply of wood fiber available from nonfederal forestlands to wood products manu-  
2 facturing facilities in this state.

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

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

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

10 “(c) The report required by this subsection may include recommendations by the State  
11 Forestry Department on whether a temporary suspension of acceptance of new offset project  
12 applications under offset protocols related to forestry developed pursuant to sections 30 and  
13 31 of this 2019 Act is necessary to address any significant effects attributable to forestry  
14 offset projects on the supply of wood fiber available from nonfederal forestlands to wood  
15 products manufacturing facilities in this state. If the department recommends a temporary  
16 suspension, the recommendation must also include recommendations for measures to mini-  
17 mize adverse effects on landowners developing offset projects.

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

25 “(a) Rural communities.

26 “(b) Coastal communities.

27 “(c) Areas with above-average concentrations of low-income households, historically dis-  
28 advantaged households, high unemployment, high linguistic isolation, low levels of  
29 homeownership, high rent burden, sensitive populations or residents with low levels of edu-  
30 cational attainment.

31 “(d) Areas disproportionately affected by environmental pollution and other hazards that  
32 can lead to negative public health effects, exposure or environmental degradation.

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

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

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

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

41 “(3) The office may engage:

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

43 “(b) A qualified financial services administrator to conduct financial transactions related  
44 to the auction.

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



1           **“(5) The office shall:**  
2           **“(a) Set an auction floor price for 2021 and a schedule for the floor price to increase by**  
3 **a fixed percentage over inflation each calendar year.**  
4           **“(b) Set an allowance price containment reserve floor price for 2021 and a schedule for**  
5 **the allowance price containment reserve floor price to increase by a fixed percentage over**  
6 **inflation each calendar year.**  
7           **“(c) Set a hard price ceiling for 2021 and a schedule for the hard price ceiling to increase**  
8 **by a fixed percentage over inflation each calendar year, and adopt rules for making an un-**  
9 **limited number of allowances available for auction upon exceedance of the hard price ceiling.**  
10          **“(d) Take actions to minimize the potential for market manipulation and to guard against**  
11 **bidder collusion, including but not limited to specifying as holding limits the maximum**  
12 **number of allowances that may be held for use or trade by a registered entity at any time.**  
13          **“(6) In setting the auction floor price, allowance price containment reserve floor price**  
14 **and hard price ceiling and adopting rules as required by subsection (5) of this section, the**  
15 **office shall consider:**  
16          **“(a) Prevailing prices for carbon in other jurisdictions; and**  
17          **“(b) Setting price requirements in a manner that enables the state to pursue linkage**  
18 **agreements pursuant to section 38 of this 2019 Act with other jurisdictions.**  
19          **“(7) Sales of allowances from the allowance price containment reserve shall be conducted**  
20 **separately from the auction of other allowances for the purpose of addressing high costs of**  
21 **compliance instruments. Allowances unsold from the reserve sale must be made available**  
22 **again at future reserve sales. General market participants may not purchase allowances at**  
23 **reserve sales.**  
24          **“(8)(a) If the hard price ceiling for an auction is reached, the office shall offer for sale,**  
25 **at the hard price ceiling, allowances from any reserve described in section 18 of this 2019**  
26 **Act or established by rule pursuant to section 18 of this 2019 Act, as necessary to meet de-**  
27 **mand from covered entities and opt-in entities. If the supplies of all allowances from all re-**  
28 **serves are exhausted and additional sales of allowances are necessary for one or more**  
29 **covered entities or opt-in entities to fulfill a compliance obligation, the office may sell price**  
30 **ceiling allowances in addition to the allowances available in the annual allowance budget at**  
31 **the hard price ceiling.**  
32          **“(b) The proceeds from any sales of allowances pursuant to this subsection shall be paid**  
33 **to the Oregon Department of Administrative Services and deposited with the State Treasurer**  
34 **to be credited as follows:**  
35          **“(A) All moneys that constitute revenues described in Article IX, section 3a, of the**  
36 **Oregon Constitution, shall be credited to the Transportation Decarbonization Investments**  
37 **Account established in section 42 of this 2019 Act;**  
38          **“(B) All moneys that constitute revenues described in Article VIII, section 2 (1)(g), of the**  
39 **Oregon Constitution, shall be credited to the Common School Fund; and**  
40          **“(C) Moneys remaining after meeting the requirements of subparagraphs (A) and (B) of**  
41 **this paragraph shall be credited to the Oregon Climate Action Program Operating Fund es-**  
42 **tablished under section 39 of this 2019 Act, to be used only as described in section 39 (4) of**  
43 **this 2019 Act.**  
44          **“(9) The proceeds of an auction shall be paid to the Oregon Department of Administrative**  
45 **Services and deposited with the State Treasurer to be credited as follows:**

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

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

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

8       “SECTION 35. Auction Proceeds Distribution Fund. (1) The Auction Proceeds Distrib-  
9 ution Fund is established in the State Treasury, separate and distinct from the General  
10 Fund.

11       “(2) The Auction Proceeds Distribution Fund shall consist of moneys transferred to the  
12 fund under section 34 of this 2019 Act. Interest earned by the fund shall be credited to the  
13 fund.

14       “(3) The Climate Policy Office shall certify the amount of moneys deposited in the Auc-  
15 tion Proceeds Distribution Fund available for distribution and shall cause the moneys to be  
16 distributed as follows:

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

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

22       “(c) An amount necessary for administration of sections 7, 8, 9, 10, 11, 12, 14, 15 to 40 and  
23 54 to 59 of this 2019 Act and rules adopted pursuant to sections 7, 8, 9, 10, 11, 12, 14, 15 to  
24 40 and 54 to 59 of this 2019 Act shall be transferred to the Oregon Climate Action Program  
25 Operating Fund established under section 39 of this 2019 Act; and

26       “(d) Moneys remaining after the transfers under paragraphs (a) to (c) of this subsection  
27 shall be transferred to the Climate Investments Fund established under section 46 of this  
28 2019 Act.

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

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

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

40       “(3) The anthropogenic greenhouse gas emissions reductions achieved during the com-  
41 pliance period and progress made toward achieving a reduction in total anthropogenic  
42 greenhouse gas emissions levels to at least 45 percent below 1990 levels by 2035 and a re-  
43 duction in total anthropogenic greenhouse gas emissions levels to at least 80 percent below  
44 1990 emissions levels by 2050; and

45       “(4) The estimated impacts of the Oregon Climate Action Program on fuel prices, and on

1 electricity and natural gas bills, in Oregon.

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

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

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

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

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

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

25 “(A) Avoids double counting of greenhouse gas emissions or emissions reductions; and

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

28 “(2) The State of Oregon may not link the market-based compliance mechanism estab-  
29 lished pursuant to sections 15 to 40 of this 2019 Act and rules adopted under sections 15 to  
30 40 of this 2019 Act with the market-based compliance mechanism of any other jurisdiction  
31 unless the office notifies the Governor that the office intends to link the market-based  
32 compliance mechanism and the Governor approves the proposed linkage agreement by mak-  
33 ing the following findings, as applicable to the proposed linkage agreement:

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

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

43 “(c) The proposed linkage agreement provides for enforcement of applicable laws by the  
44 Climate Policy Office or by the linking jurisdiction of program requirements that are con-  
45 sistent with those required by sections 15 to 40 of this 2019 Act; and

1       “(d) The proposed linkage agreement and any related engagement by the State of Oregon  
2 of an independent third-party organization to provide administrative or technical services to  
3 support the implementation of sections 15 to 40 of this 2019 Act will not impose any signif-  
4 icant liability on the state or any state agency for any failure associated with the linkage.

5       “(3) The Governor shall issue findings pursuant to subsection (2) of this section within  
6 45 days of receiving a notice from the office that the office intends to link the market-based  
7 compliance mechanism and shall provide the findings to the Legislative Assembly. The Gov-  
8 ernor, in making the findings, shall consider the advice of the Attorney General.

9       “(4) The State of Oregon may not enter a finalized linkage agreement unless the office  
10 has first provided a report on the proposed linkage agreement to the Joint Committee on  
11 Climate Action. The report shall include:

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

13       “(b) An analysis by the office of the proposed linkage agreement; and

14       “(c) The findings issued by the Governor pursuant to subsections (2) and (3) of this sec-  
15 tion.

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

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

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

24       “(b) Moneys appropriated or otherwise transferred to the fund by the Legislative As-  
25 sembly; and

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

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

30       “(4) The proceeds from sales of allowances at the hard price ceiling pursuant to section  
31 34 (8) of this 2019 Act shall be deposited in a separate subaccount created in the fund and  
32 must be used by the office only for the purchase and retirement of offset credits.

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

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

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

4       “(b) Other individually identifiable information not described in paragraph (a) of this  
5 subsection related to the holding, transfer or surrender of compliance instruments by reg-  
6 istered entities.

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

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

12       “(4) This section does not prohibit the disclosure of information between the Climate  
13 Policy Office and other agencies of the executive department, as defined in ORS 174.112, ju-  
14 risdictions with which the State of Oregon has entered into a linkage agreement under sec-  
15 tion 38 of this 2019 Act or persons engaged by the State of Oregon to provide administrative  
16 or technical services to support implementation of sections 15 to 40 of this 2019 Act if the  
17 disclosure is necessary for purposes of the administration and implementation of sections  
18 15 to 40 of this 2019 Act.

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

24  
25                                   **“INVESTMENT OF STATE PROCEEDS FROM OREGON**  
26                                   **CLIMATE ACTION PROGRAM AUCTIONS**  
27                                   **“(Transportation Decarbonization Investments Account)**

28  
29       **“SECTION 41. Definitions.** As used in sections 41 to 45 of this 2019 Act:

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

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

33       “(3) ‘Metropolitan planning organization’ has the meaning given that term in ORS  
34 197.629.

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

39       “(2) Moneys in the Transportation Decarbonization Investments Account are contin-  
40 uously appropriated to the Department of Transportation for the purposes described in sub-  
41 sections (4) and (5) of this section and sections 43 and 44 of this 2019 Act.

42       “(3) The Transportation Decarbonization Investments Account consists of moneys de-  
43 posited in the account under sections 34 and 35 of this 2019 Act.

44       “(4) Of the moneys deposited in the Transportation Decarbonization Investments Ac-  
45 count each biennium:

1       “(a) 50 percent shall be used by the Department of Transportation for transportation  
2 projects selected by the Oregon Transportation Commission pursuant to section 44 of this  
3 2019 Act; and

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

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

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

13       “(7) Examples of uses of moneys deposited in the Transportation Decarbonization In-  
14 vestments Account may include, but are not limited to, uses related to:

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

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

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

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

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

31       “SECTION 44. Selection of transportation projects. (1) The Oregon Transportation Com-  
32 mission shall select the transportation projects to be funded with moneys in the Transpor-  
33 tation Decarbonization Investments Account established under section 42 of this 2019 Act.

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

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

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

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

45       “(b) Will further the objectives of the biennial climate action investment plan delivered

1 by the Climate Policy Office under section 57 of this 2019 Act; and

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

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

6 “(a) Benefit impacted communities.

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

8 “(c) Provide opportunities for businesses that are owned by members of impacted com-  
9 munities and eligible Indian tribes to participate in and benefit from statewide efforts to re-  
10 duce greenhouse gas emissions.

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

13 “(e) Will facilitate:

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

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

21 “(f) Will, to the greatest extent practicable, serve to conserve, restore, preserve and  
22 enhance adjacent natural resources through the use of roadside vegetation in a manner de-  
23 signed to:

24 “(A) Minimize soil erosion;

25 “(B) Improve or maintain slope stability;

26 “(C) Reduce storm water runoff volume and velocity;

27 “(D) Promote water conservation and plant survivability; and

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

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

31 “(a) Strive to provide for a balanced distribution over time of moneys in the Transpor-  
32 tation Decarbonization Investments Account:

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

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

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

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

1 3a, of the Oregon Constitution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

4  
5   “(Climate Investments Fund)  
6

7           “SECTION 46. Climate Investments Fund. (1) The Climate Investments Fund is estab-  
8 lished in the State Treasury, separate and distinct from the General Fund. The Climate In-  
9 vestments Fund shall consist of moneys deposited in the fund under sections 34 and 35 of this  
10 2019 Act. Interest earned by the fund shall be credited to the fund. The Oregon Department  
11 of Administrative Services shall administer the fund.

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

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

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

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

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

23           “(c) 20 percent shall be allocated for uses that benefit natural and working lands, as de-  
24 fined in section 15 of this 2019 Act;

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

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

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

34           “(a) Programs, projects or activities that achieve energy efficiency or emissions re-  
35 ductions in the agricultural sector such as through fertilizer management, soil management,  
36 bioenergy or biofuels;

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

39           “(c) Improving forest and natural and working lands health and resilience to climate  
40 change impacts through actions including thinning, prescribed fire and wildland fire pre-  
41 vention;

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

44           “(e) Reducing the risk of flooding by restoring natural floodplain ecological functions,  
45 protecting against damage caused by floods and protecting or restoring naturally functioning

1 areas where floods occur;

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

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

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

7 “(6) Allocations from the Climate Investments Fund shall, to the maximum extent fea-  
8 sible and consistent with law, be in addition to and not in replacement of any existing allo-  
9 cations or appropriations for programs, projects and activities.

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

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

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

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

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

23 “(4) Of the moneys deposited in the fund each biennium[.],

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

26 “[b] 40 percent shall be allocated for uses that benefit impacted communities, as defined in section  
27 15 of this 2019 Act[.];

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

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

32 “[e] \$10 million shall be allocated for deposit in the Just Transition Fund established in section  
33 51 of this 2019 Act to be used to establish a Just Transition Program and develop a Just Transition  
34 Plan pursuant to section 52 of this 2019 Act.]

35 “[5] Moneys allocated for investments and expenditures that benefit natural and working lands  
36 pursuant to subsection (4)(c) of this section shall be allocated to promote adaptation and resilience in  
37 the face of climate change and ocean acidification through actions that may include, but need not be  
38 limited to:]

39 “[a] Programs, projects or activities that achieve energy efficiency or emissions reductions in the  
40 agricultural sector such as through fertilizer management, soil management, bioenergy or biofuels;]

41 “[b] Programs, projects or activities that result in sequestration of carbon in forests, agricultural  
42 soils, and other terrestrial and aquatic areas;]

43 “[c] Improving forest and natural and working lands health and resilience to climate change im-  
44 pacts through actions including thinning, prescribed fire and wildland fire prevention;]

45 “[d] Project-specific planning, design and construction projects that reduce the storm water impacts

1 of existing infrastructure and development;]

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

5 “[*(f) Improving the availability and reliability of water supplies for instream uses and out-of-stream*  
6 *uses;*]

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

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

10 “[**(6)**] **(5)** Allocations from the Climate Investments Fund shall, to the maximum extent feasible  
11 and consistent with law, be in addition to and not in replacement of any existing allocations or ap-  
12 propriations for programs, projects and activities.

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

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

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

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

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

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

23 **“(A) Is subject to a tax or governmental regulatory program that has the effect of plac-**  
24 **ing a price on greenhouse gas emissions and that is at least as stringent as the Oregon Cli-**  
25 **mate Action Program, as determined by the Climate Policy Office by rule; or**

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

29 **“(2) Notwithstanding provisions of law requiring a contracting agency to award a con-**  
30 **tract to the lowest responsible bidder or best proposer or provider of a quotation, and except**  
31 **as provided in subsection (3) of this section or as prohibited by federal law, a state con-**  
32 **tracting agency, when using funds from the Climate Investments Fund, shall give a prefer-**  
33 **ence of not more than 10 percent to building materials procured from manufacturers subject**  
34 **to a carbon pricing program.**

35 **“(3) Notwithstanding provisions of law requiring a contracting agency to award a con-**  
36 **tract to the lowest responsible bidder or best proposer or provider of a quotation, and except**  
37 **as provided in subsection (4) of this section or as prohibited by federal law, a contracting**  
38 **agency other than a state contracting agency, when using funds from the Climate Invest-**  
39 **ments Fund, may give a preference of not more than 10 percent to building materials pro-**  
40 **cured from manufacturers subject to a carbon pricing program.**

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

1 “(Labor and Contracting Provisions)

2  
3 **“SECTION 50. Construction projects funded by certain auction proceeds; requirements.**

4 **(1) If a construction project receives more than \$50,000 in funding from moneys in the Cli-**  
5 **mate Investments Fund established under section 46 of this 2019 Act or the Transportation**  
6 **Decarbonization Investments Account established under section 42 of this 2019 Act, the pri-**  
7 **mary contractor participating in the construction project:**

8 **“(a) Shall pay the prevailing rate of wage for an hour’s work in the same trade or occu-**  
9 **pation in the locality where the labor is performed;**

10 **“(b) Shall offer health care and retirement benefits to the employees performing the la-**  
11 **bor on the construction project;**

12 **“(c) Shall participate in an apprenticeship program registered with the State Appren-**  
13 **ticeship and Training Council;**

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

17 **“(e) Must demonstrate a history of material compliance with the rules and other re-**  
18 **quirements of the Construction Contractors Board and of the Workers’ Compensation Divi-**  
19 **sion, the Building Codes Division and the Occupational Safety and Health Division of the**  
20 **Department of Consumer and Business Services; and**

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

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

27 **“(3)(a) The Oregon Department of Administrative Services, in consultation with the At-**  
28 **torney General, shall adopt model rules that specify labor, workforce and contracting pro-**  
29 **cedures for state agencies to use in administering funds for construction projects that**  
30 **receive more than \$50,000 in funding from moneys in the Climate Investments Fund or the**  
31 **Transportation Decarbonization Investments Account. The department shall adopt the rules**  
32 **in accordance with ORS chapter 183.**

33 **“(b) Model rules adopted under this subsection shall require the use of a project labor**  
34 **agreement for construction projects that receive more than \$200,000 in funding from moneys**  
35 **in the Climate Investments Fund or the Transportation Decarbonization Investments Ac-**  
36 **count. For all other construction projects funded as described in paragraph (a) of this sub-**  
37 **section, the model rules shall:**

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

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

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

45 **“(d)(A) The model rules shall require that, in each contract awarded by a state agency**

1 for a construction project funded as described in paragraph (a) of this subsection, cement,  
2 concrete, steel, iron, coatings for steel and iron and manufactured products that the con-  
3 tractor purchases for the project and that become part of a permanent structure be  
4 produced in the United States.

5 “(B) The requirement in subparagraph (A) of this paragraph shall not apply if the ad-  
6 ministering agency finds that:

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

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

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

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

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

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

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

34  
35 “(Just Transition)  
36

37 “SECTION 51. (1) The Just Transition Fund is established in the State Treasury, separate  
38 and distinct from the General Fund. Interest earned by the Just Transition Fund shall be  
39 credited to the fund. Moneys in the fund are continuously appropriated to the Higher Edu-  
40 cation Coordinating Commission to be used to carry out the purposes described in section  
41 52 of this 2019 Act.

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

43 “(3) The fund shall include a reserve account, which shall consist of moneys allocated or  
44 appropriated to the fund by the Legislative Assembly for deposit in the reserve account. The  
45 reserve account shall be maintained and used by the commission only for the purposes de-

1 scribed in section 52 (2)(b) of this 2019 Act.

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

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

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

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

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

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

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

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

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

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

22 **“(c)** Recommendations regarding the maintenance and use of the reserve account of the  
23 Just Transition Fund, including but not limited to recommendations regarding:

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

27 **“(B)** The use of moneys deposited in the reserve account for the replacement of wages  
28 or benefits for workers dislocated or adversely affected by climate change or climate change  
29 policies.

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

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

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

39 **“(a)** Encourage, but not require, a grant applicant to provide matching funds for com-  
40 pletion of the project, program or activity for which a grant is awarded; and

41 **“(b)** Allow a grant applicant to appeal to the commission for reevaluation of any deter-  
42 mination of grant funding.

43 **“(7)** The commission may perform activities necessary to ensure that recipients of mon-  
44 eys distributed from the Just Transition Fund comply with applicable requirements. If the  
45 commission determines that a recipient has not complied with applicable requirements, the

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

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

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

9 “(b) Provide recommendations for grant awards and other expenditures from the Just  
10 Transition Fund, including expenditures from the reserve account of the Just Transition  
11 Fund; and

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

14  
15 “(Common School Fund)

16  
17 “SECTION 53. Moneys deposited in the Common School Fund under sections 34 and 35  
18 of this 2019 Act are continuously appropriated to the Department of State Lands to be used  
19 in a manner that:

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

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

22  
23 “(Distribution of Auction Proceeds; Expenditure Reporting)

24  
25 “SECTION 54. Biennial expenditure reporting. (1) All agencies of the executive depart-  
26 ment as defined in ORS 174.112, counties, cities and all other public and private entities re-  
27 ceiving moneys allocated from the Climate Investments Fund shall annually report to the  
28 Climate Policy Office on the expenditure of the moneys received and the results of the  
29 expenditures. No later than January 1 of each even-numbered year, the office shall deliver  
30 a biennial report, in the manner provided in ORS 192.245, to the Governor and the Joint  
31 Committee on Climate Action describing:

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

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

35 “(c) The effectiveness of those investments in furthering the purposes set forth in sec-  
36 tion 14 of this 2019 Act.

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

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

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

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

5 “SECTION 55. Biennial expenditure audit. (1) The Climate Policy Office and the Depart-  
6 ment of Transportation jointly shall select an independent third-party organization to pre-  
7 pare a biennial audit of:

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

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

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

17  
18 “(Biennial Climate Action Investments Plan)  
19

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

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

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

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

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

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

36 “(a) Be based on consideration of the best available science, and the best economic in-  
37 formation available, as of the time of the preparation of the plan; and

38 “(b) Include an analysis of how the programs, projects and activities that may be funded  
39 by the investment or expenditure of state proceeds from auctions conducted under section  
40 34 of this 2019 Act would serve to effectively further the purposes set forth in section 14 of  
41 this 2019 Act.

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

44 “(a) The Department of Transportation, the Public Utility Commission, the Environ-  
45 mental Justice Task Force and any other relevant agencies of the executive department as



1 defined in ORS 174.112;

2 “(b) Representatives of eligible Indian tribes; and

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

4 “(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:

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

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

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

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

12 “(e) One member to represent fisheries.

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

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

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

16 “(i) One member to represent labor.

17 “(j) One member to represent environmental or conservation interests.

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

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

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

22 “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.

24 “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:

28 “(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;

30 “(b) Benefit impacted communities;

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

32 “(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;

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

40 “(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.

42 “(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:

44 “(a) An amount of moneys that is approximately equal to half of the amount of moneys

1 deposited in the Climate Investments Fund as proceeds received through the purchase at  
2 auction of allowances by EITE entities to be used to assist the EITE entities in using best  
3 available technology; and

4 “(b) An amount of moneys that is approximately equal to half of the amount of moneys  
5 deposited in the Climate Investments Fund as proceeds received through the purchase of  
6 allowances related to greenhouse gas emissions attributable to the direct combustion of  
7 municipal solid waste to generate renewable energy to be used for programs for reducing  
8 plastics-related greenhouse gas emissions.

9 “(3) In addition to and not exclusive of the considerations required by subsections (1) and  
10 (2) of this section, the analysis for use of moneys deposited in the Climate Investments Fund  
11 shall prioritize funding to:

12 “(a) Reduce greenhouse gas emissions or promote adaptation or resiliency through en-  
13 ergy efficiency and energy conservation in buildings, low-income weatherization and activ-  
14 ities to address energy burden in this state.

15 “(b) Reduce greenhouse gas emissions through electrical grid decarbonization efforts,  
16 including but not limited to investments in energy generation from renewable resources,  
17 distributed energy resources, transmission and storage projects for renewable energy, de-  
18 mand response, community solar projects and other community-scale renewable energy  
19 projects.

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

25 “(d) Support planning or the implementation of planning by local governments and met-  
26 ropolitan planning organizations for reducing greenhouse gas emissions or promoting carbon  
27 sequestration, adaptation or resilience.

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

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

38 “(g) Assist air contamination sources for which a permit is issued pursuant to ORS  
39 468.065, 468A.040 or 468A.155 in reducing greenhouse gas emissions.

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

43 “(i) Strengthen the resilience of fish, wildlife and ecosystems in the face of climate  
44 change through investments that include but are not limited to projects involving instream  
45 flow acquisition and protection, fish barrier removal, habitat restoration and enhancement

1 and protection of wildlife corridors, cold water refugia areas and species strongholds.

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

3 “(k) Promote research by nonprofit organizations or public universities listed in ORS  
4 352.002 into methods for reducing greenhouse gas emissions, sequestering carbon or adapting  
5 to climate change, including but not limited to research investigating feedstocks to reduce  
6 emissions from dairy cows and cattle, research investigating crops and agricultural practices  
7 that reduce greenhouse gas emissions or promote resilience to climate change, and research  
8 to promote resilience to ocean acidification.

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

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

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

22  
23 “PROVISIONS RELATED TO THE PUBLIC UTILITY COMMISSION

24  
25 “SECTION 62. Sections 63 to 68, 70 and 71 of this 2019 Act are added to and made a part  
26 of ORS chapter 757.

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

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

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

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

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

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

37 “(a) To be spent by the electric company for the exclusive benefit of retail customers  
38 that are supplied electricity by the electric company; and

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

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

45 “(a) Providing weatherization, energy efficiency improvements, bill assistance or rate

1 assistance to the electric company's low-income residential customers;

2       “(b) Accelerated transportation electrification;

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

6       “(d) Facilitating integration and utilization of variable energy resources through invest-  
7 ments in programs and technologies such as demand response, smart grid communication  
8 and control systems, grid connected end uses and energy storage.

9       “(3) An electric company that receives allowances directly distributed at no cost under  
10 sections 18 and 20 of this 2019 Act shall develop a plan for the use of the allowances and file  
11 the plan with the commission. The plan must be revised and updated on a schedule estab-  
12 lished by the commission by rule. At a minimum, a plan must contain:

13       “(a) A strategy for the use of proceeds received by the electric company from the sale  
14 of the allowances in compliance with this section; and

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

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

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

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

34       “(3) A plan must:

35       “(a) Identify a portfolio of approaches in furtherance of the purposes set forth in section  
36 14 of this 2019 Act;

37       “(b) Provide that no less than 25 percent of the proceeds from the sale of allowances  
38 consigned to the state for auction by the natural gas utilities pursuant to section 23 of this  
39 2019 Act be used for nonvolumetric bill credits or other rate relief for residential, commer-  
40 cial and industrial sales customers; and

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

45       “(A) Implementation of programs, activities or technologies designed to reduce

1 greenhouse gas emissions through weatherization and more efficient residential, commercial  
2 and industrial use of natural gas by sales customers, including programs for low and mod-  
3 erate income residential customers;

4 “(B) Development of renewable natural gas or renewable hydrogen infrastructure and the  
5 provision of renewable natural gas or renewable hydrogen to the natural gas utility’s sales  
6 customers;

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

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

11 “(E) Implementation of pilot projects or research, development and demonstration ac-  
12 tivities to determine the cost and viability of activities described in subparagraphs (A) to (D)  
13 of this paragraph.

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

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

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

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

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

26 “(2) How natural gas utilities have expended proceeds from the sale of allowances con-  
27 signed to the state for auction by the natural gas utilities pursuant to section 23 of this 2019  
28 Act.

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

35 “SECTION 69. ORS 757.259 is amended to read:

36 “757.259. (1) In addition to powers otherwise vested in the Public Utility Commission, and sub-  
37 ject to the limitations contained in this section, under amortization schedules set by the commission,  
38 a rate or rate schedule:

39 “(a) May reflect:

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

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

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

44 “(2) Upon application of a utility or ratepayer or upon the commission’s own motion and after  
45 public notice, opportunity for comment and a hearing if any party requests a hearing, the commis-

1 sion by order may authorize deferral of the following amounts for later incorporation in rates:

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

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

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

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

11 “(e) Identifiable utility [*expenses*] **costs** or revenues, **including the cost of capital**, the recovery  
12 or refund of which the commission finds should be deferred in order to minimize the frequency of  
13 rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and  
14 benefits received by ratepayers.

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

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

24 “(5) Unless subject to an automatic adjustment clause under ORS 757.210 (1), amounts described  
25 in this section shall be allowed in rates only to the extent authorized by the commission in a pro-  
26 ceeding under ORS 757.210 to change rates and upon review of the utility’s earnings at the time of  
27 application to amortize the deferral. The commission may require that amortization of deferred  
28 amounts be subject to refund. The commission’s final determination on the amount of deferrals al-  
29 lowable in the rates of the utility is subject to a finding by the commission that the amount was  
30 prudently incurred by the utility.

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

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

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

45 “(9) The commission may impose requirements similar to those described in subsection (8) of this

1 section for the amortization of other deferrals under this section, but may not impose such require-  
2 ments for deferrals under subsection (2)(c) or (d) or (3) of this section.

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

6 “(a) The deferral was directly related to extraordinary power supply expenses incurred during  
7 2001;

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

10 “(c) The commission determines that the higher rate impact is reasonable under the circum-  
11 stances.

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

16 “(a) The customer’s share of the deferred amount is calculated; and

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

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

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

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

25 **“(a) ‘Electric company’ has the meaning given that term in ORS 757.600.**

26 **“(b) ‘Natural gas utility’ means a natural gas utility regulated by the Public Utility**  
27 **Commission under this chapter.**

28 **“(2) The Public Utility Commission may allow a rate or rate schedule of an electric**  
29 **company or natural gas utility to reflect amounts for investments in infrastructure meas-**  
30 **ures that support the adoption of alternative forms of transportation vehicles if the invest-**  
31 **ments are consistent with and meet the requirements of subsection (3) of this section.**

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

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

36 **“(b) The investment can be reasonably anticipated to:**

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

39 **“(B) Benefit the electric company’s or natural gas utility’s customers. Benefits may in-**  
40 **clude, but need not be limited to:**

41 **“(i) Distribution or transmission management benefits;**

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

44 **“(iii) Increased ratepayer choice by providing greater deployment of a variety of fueling**  
45 **technologies to increase availability and access to publicly available fueling stations for al-**

1 **ternative forms of transportation vehicles.**

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

3 **“Sec. 12.** Section 9 [of this 2009 Act], chapter 751, Oregon Laws 2009, is repealed on [January  
4 2, 2020] the effective date of this 2019 Act.

5  
6 **“BIENNIAL STATEWIDE ENERGY BURDEN REPORT**

7  
8 **“SECTION 73.** (1) No later than November 1 of each even-numbered year, the Housing  
9 and Community Services Department and the State Department of Energy shall jointly  
10 transmit to the Governor and the Legislative Assembly a biennial statewide energy burden  
11 report. The Housing and Community Services Department and the State Department of En-  
12 ergy shall jointly adopt rules for gathering data necessary to prepare the report. In adopting  
13 rules under this section, the Housing and Community Services Department and the State  
14 Department of Energy shall consult with consumer-owned utilities as defined in ORS 757.600  
15 regarding the availability and collection of data necessary to develop the report.

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

17 **“(a)** Establish a baseline for assessing the energy burden experienced by the residents  
18 of this state on a statewide level, by county and by utility service territory, and for assessing  
19 the differences in regional or demographic data that may impact the energy burden experi-  
20 enced;

21 **“(b)** Develop and maintain an inventory of all programs in Oregon that contribute to re-  
22 ducing energy burden that are funded through state, federal or utility programs and include  
23 in the inventory a description of the annual funding necessary for each program and the  
24 sources for funding received;

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

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

30 **“(e)** Develop and provide recommendations for improving the delivery of services for re-  
31 ducing energy burden by improving data gathering and knowledge sharing between state  
32 agencies, utilities, community action agencies and other organizations that implement en-  
33 ergy assistance programs.

34 **“(3)** The Housing and Community Services Department, in consultation with the State  
35 Department of Energy, shall convene an Energy Burden and Poverty Working Group to  
36 provide guidance and assistance to the departments in developing the biennial statewide en-  
37 ergy burden report. The working group shall include representatives of low-income and en-  
38 vironmental justice communities, consumer-owned utilities, investor-owned utilities, at least  
39 one community action agency and organizations that implement energy assistance on a  
40 statewide level. The Housing and Community Services Department shall provide staff support  
41 to the working group. The working group shall meet regularly, as is necessary for the  
42 working group to review the statewide progress in addressing energy burden since issuance  
43 of the previous biennial statewide energy burden report and to assist in developing the up-  
44 coming biennial statewide energy burden report.



1                   **“GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**

2                   **“(Amendments to Statutes, Operative on Effective Date of Act)**

3  
4           **“SECTION 74.** ORS 468A.280 is amended to read:

5           **“468A.280. [(1) In addition to any registration and reporting that may be required under ORS**  
6 **468A.050, the Environmental Quality Commission by rule may require registration and reporting by:]**

7           **“(1) As used in this section:**

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

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

10           **“(2) The Environmental Quality Commission by rule may require registration and re-**  
11 **porting of information necessary to determine greenhouse gas emissions by:**

12           **“(a) A person in control of an air contamination source of any class for which registra-**  
13 **tion and reporting is required under ORS 468A.050.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14       “[(iii) *Electricity purchases for which a renewable energy certificate under ORS 469A.130 has been*  
15 *issued but subsequently transferred or sold to a person other than the electric company;*]

16       “[(iv)] (iii) Electricity transmitted for others by the electric company; and

17       “[(v)] (iv) Total energy losses from electricity transmission and distribution equipment owned  
18 or operated by the electric company.

19       “(b) Pursuant to paragraph (a) of this subsection, a [*multijurisdictional*] **multistate jurisdic-**  
20 **tional** electric company may rely upon a cost allocation methodology approved by the Public Utility  
21 Commission for reporting emissions allocated in this state.

22       “[(5)] (7) Rules adopted by the commission under this section for [*fossil*] fuel that is imported,  
23 sold or distributed for use in this state may require reporting of the type and quantity of the fuel  
24 and any additional information necessary to determine the [*carbon content*] **greenhouse gas emis-**  
25 **sions associated with the use or combustion** of the fuel. [*For the purpose of determining*  
26 *greenhouse gas emissions related to liquefied petroleum gas, the commission shall allow reporting using*  
27 *publications or submission of data by the American Petroleum Institute but may require reporting of*  
28 *such other information necessary to achieve the purposes of the rules adopted by the commission under*  
29 *this section.*]

30       “[(6)] (8) To an extent that is consistent with the purposes of the rules adopted by the commis-  
31 sion under this section, the commission shall minimize the burden of the reporting required under  
32 this section by:

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

34       “(b) Allowing electronic reporting;

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

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

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

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

42       “[(7) *As used in this section, ‘greenhouse gas’ has the meaning given that term in ORS*  
43 *468A.210.*]

44       “(9) The commission may adjust by rule the registration and reporting requirements  
45 under subsection (2) of this section if necessary to accommodate participation in an energy

1 imbalance market by persons that import, sell, allocate or distribute electricity, or as nec-  
2 essary to otherwise address developments in electricity markets.

3 “(10) The department may require a person for which registration and reporting is re-  
4 quired under subsection (2) of this section to provide any pertinent records related to ver-  
5 ification of greenhouse gas emissions in order to determine compliance with and to enforce  
6 this section and rules adopted pursuant to this section.

7 “(11) If a person required to register and report under subsection (2) of this section fails  
8 to submit a report under this section, the department may develop an assigned emissions  
9 level for the person if necessary for the purpose of regulating persons under sections 15 to  
10 40 of this 2019 Act.

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

15 “(b) The commission shall limit the fees established under this subsection to the antic-  
16 ipated cost of developing, implementing and analyzing data collected under greenhouse gas  
17 emissions registration and reporting programs.

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

21  
22 “(Transfer from Department of Environmental Quality to Climate  
23 Policy Office, Operative January 1, 2022)  
24

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

29 “SECTION 76. Records, property, employees. (1) The Director of the Department of En-  
30 vironmental Quality shall:

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

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

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

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

44 “SECTION 77. Unexpended revenues. (1) The unexpended balances of amounts authorized  
45 to be expended by the Environmental Quality Commission or the Department of Environ-

1 mental Quality for the biennium beginning July 1, 2021, from revenues dedicated, contin-  
2 uously appropriated, appropriated or otherwise made available for the purpose of  
3 administering and enforcing the duties, functions and powers transferred by section 75 of  
4 this 2019 Act are transferred to and are available for expenditure by the Climate Policy Office  
5 for the biennium beginning July 1, 2021, for the purpose of administering and enforcing the  
6 duties, functions and powers transferred by section 75 of this 2019 Act.

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

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

16 “SECTION 79. Liability, duty, obligation. (1) Nothing in sections 75 to 81 of this 2019 Act  
17 relieves a person of a liability, duty or obligation accruing under or with respect to the du-  
18 ties, functions and powers transferred by section 75 of this 2019 Act. The Climate Policy Of-  
19 fice may undertake the collection or enforcement of any such liability, duty or obligation.

20 “(2) The rights and obligations of the Environmental Quality Commission or the Depart-  
21 ment of Environmental Quality legally incurred under contracts, leases and business trans-  
22 actions executed, entered into or begun before the operative date of section 75 of this 2019  
23 Act accruing under or with respect to the duties, functions and powers transferred by sec-  
24 tion 75 of this 2019 Act are transferred to the Climate Policy Office. For the purpose of  
25 succession to these rights and obligations, the Climate Policy Office is a continuation of the  
26 Environmental Quality Commission or the Department of Environmental Quality, as appro-  
27 priate, and not a new authority.

28 “SECTION 80. Rules. (1) Notwithstanding the transfer of duties, functions and powers  
29 by section 75 of this 2019 Act, the rules of the Environmental Quality Commission with re-  
30 spect to such duties, functions or powers that are in effect on the operative date of section  
31 75 of this 2019 Act continue in effect until superseded or repealed by rules of the Climate  
32 Policy Office. References in the rules of the Environmental Quality Commission to the En-  
33 vironmental Quality Commission are considered to be references to the Director of the Cli-  
34 mate Policy Office. References in the rules of the Environmental Quality Commission to the  
35 Department of Environmental Quality or an officer or employee of the Department of Envi-  
36 ronmental Quality are considered to be references to the Climate Policy Office or an officer  
37 or employee of the Climate Policy Office.

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

45 “(3) Whenever, in any uncodified law or resolution of the Legislative Assembly or in any

1 rule, document, record or proceeding authorized by the Legislative Assembly, in the context  
2 of the duties, functions and powers transferred by section 75 of this 2019 Act, reference is  
3 made to the Department of Environmental Quality, or an officer or employee of the De-  
4 partment of Environmental Quality, whose duties, functions or powers are transferred by  
5 section 75 of this 2019 Act, the reference is considered to be a reference to the Climate Policy  
6 Office or an officer or employee of the Climate Policy Office who by this 2019 Act is charged  
7 with carrying out the duties, functions and powers.

8  
9 “(Housekeeping in ORS)

10  
11 “SECTION 81. Notwithstanding any other provision of law, ORS 468A.280 shall not be  
12 considered to have been added to or made a part of ORS chapter 468A for the purpose of  
13 statutory compilation or for the application of definitions, penalties or administrative pro-  
14 visions applicable to statute sections in that series.

15  
16 “(Conforming Amendments)

17  
18 “SECTION 82. ORS 468A.280, as amended by section 74 of this 2019 Act, is amended to read:

19 “468A.280. (1) As used in this section:

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

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

22 “(2) The [*Environmental Quality Commission*] **Climate Policy Office** by rule may require regis-  
23 tration and reporting of information necessary to determine greenhouse gas emissions by:

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

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

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

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

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

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

44 “(b) For the purpose of determining greenhouse gas emissions related to electricity purchased  
45 from the Bonneville Power Administration by a consumer-owned utility, as defined in ORS 757.270,

1 the [commission] **office** may require only that the utility report:

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

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

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

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

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

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

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

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

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

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

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

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

24 “(iii) Electricity transmitted for others by the electric company; and

25 “(iv) Total energy losses from electricity transmission and distribution equipment owned or op-  
26 erated by the electric company.

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

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

34 “(8) To an extent that is consistent with the purposes of the rules adopted by the [commission]  
35 **office** under this section, the [commission] **office** shall minimize the burden of the reporting required  
36 under this section by:

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

38 “(b) Allowing electronic reporting;

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

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

43 “(e) Requiring reporting by the fewest number of persons in a fuel distribution system that will  
44 allow the [commission] **office** to acquire the information needed by the [commission] **office**; or

45 “(f) Other appropriate means and procedures determined by the [commission] **office**.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 “(5) **Moneys deposited in the fund from the collection of fees under ORS 468A.280 may**  
45 **only be used to develop, and to implement and analyze data collected under, greenhouse gas**

1 **emissions registration and reporting programs pursuant to ORS 468A.280.**

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

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

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

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

13 **“SECTION 85.** Section 12 of this 2019 Act is amended to read:

14 **“Sec. 12.** (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

41 “(a) The history of the person incurring the civil penalty in taking all feasible steps or proce-  
42 dures necessary or appropriate to correct any violation.

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

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

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



1 “(e) The gravity and magnitude of the violation.  
2 “(f) Whether the violation was repeated or continuous.

3 “(g) Whether the cause of the violation was an unavoidable accident, negligence or an inten-  
4 tional act.

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

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

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

13 “**SECTION 86.** ORS 468.953, as amended by section 13 of this 2019 Act, is amended to read:

14 “468.953. (1) A person commits the crime of supplying false information to any agency if the  
15 person:

16 “(a) Makes any false material statement, representation or certification knowing it to be false,  
17 in any application, notice, plan, record, report or other document required by any provision of **ORS**  
18 **468.280 or** ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act or any rule  
19 adopted pursuant to **ORS 468A.280 or** ORS chapter 465, 466, 468, 468A or 468B or sections 15 to  
20 40 of this 2019 Act;

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

23 “(c) Alters, conceals or fails to file or maintain any document described in paragraph (a) of this  
24 subsection in knowing violation of any provision of **ORS 468A.280 or** ORS chapter 465, 466, 468,  
25 468A or 468B or sections 15 to 40 of this 2019 Act or any rule adopted pursuant to **ORS 468A.280**  
26 **or** ORS chapter 465, 466, 468, 468A or 468B or sections 15 to 40 of this 2019 Act.

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

28

29 “**ENERGY FACILITY CARBON DIOXIDE EMISSIONS STANDARDS**

30 “**(Repeal of Carbon Dioxide Emissions Standards)**

31

32 “**SECTION 87.** ORS 469.503 is amended to read:

33 “469.503. In order to issue a site certificate, the Energy Facility Siting Council shall determine  
34 that the preponderance of the evidence on the record supports the following conclusions:

35 “(1) The facility complies with the applicable standards adopted by the council pursuant to ORS  
36 469.501 or the overall public benefits of the facility outweigh any adverse effects on a resource or  
37 interest protected by the applicable standards the facility does not meet.

38 “[*(2) If the energy facility is a fossil-fueled power plant, the energy facility complies with any ap-  
39 plicable carbon dioxide emissions standard adopted by the council or enacted by statute. Base load  
40 gas plants shall comply with the standard set forth in subsection (2)(a) of this section. Other fossil-  
41 fueled power plants shall comply with any applicable standard adopted by the council by rule pursuant  
42 to subsection (2)(b) of this section. Subsections (2)(c) and (d) of this section prescribe the means by  
43 which an applicant may comply with the applicable standard.*]

44 “[*(a) The net carbon dioxide emissions rate of the proposed base load gas plant shall not exceed  
45 0.70 pounds of carbon dioxide emissions per kilowatt hour of net electric power output, with carbon*

1 *dioxide emissions and net electric power output measured on a new and clean basis. Notwithstanding*  
2 *the foregoing, the council may by rule modify the carbon dioxide emissions standard for base load gas*  
3 *plants if the council finds that the most efficient stand-alone combined cycle, combustion turbine, na-*  
4 *tural gas-fired energy facility that is commercially demonstrated and operating in the United States has*  
5 *a net heat rate of less than 7,200 Btu per kilowatt hour higher heating value adjusted to ISO condi-*  
6 *tions. In modifying the carbon dioxide emission standard, the council shall determine the rate of carbon*  
7 *dioxide emissions per kilowatt hour of net electric output of such energy facility, adjusted to ISO con-*  
8 *ditions, and reset the carbon dioxide emissions standard at 17 percent below this rate.]*

9 *“(b) The council shall adopt carbon dioxide emissions standards for other types of fossil-fueled*  
10 *power plants. Such carbon dioxide emissions standards shall be promulgated by rule. In adopting or*  
11 *amending such carbon dioxide emissions standards, the council shall consider and balance at least the*  
12 *following principles, the findings on which shall be contained in the rulemaking record:]*

13 *“(A) Promote facility fuel efficiency;]*

14 *“(B) Promote efficiency in the resource mix;]*

15 *“(C) Reduce net carbon dioxide emissions;]*

16 *“(D) Promote cogeneration that reduces net carbon dioxide emissions;]*

17 *“(E) Promote innovative technologies and creative approaches to mitigating, reducing or avoiding*  
18 *carbon dioxide emissions;]*

19 *“(F) Minimize transaction costs;]*

20 *“(G) Include an alternative process that separates decisions on the form and implementation of*  
21 *offsets from the final decision on granting a site certificate;]*

22 *“(H) Allow either the applicant or third parties to implement offsets;]*

23 *“(I) Be attainable and economically achievable for various types of power plants;]*

24 *“(J) Promote public participation in the selection and review of offsets;]*

25 *“(K) Promote prompt implementation of offset projects;]*

26 *“(L) Provide for monitoring and evaluation of the performance of offsets; and]*

27 *“(M) Promote reliability of the regional electric system.]*

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

1 based on such agreement.]

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

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

16 “[(i) The degree of certainty that the predicted quantity of greenhouse gas emissions reduction will  
17 be achieved by the offset;]

18 “[(ii) The ability of the council to determine the actual quantity of greenhouse gas emissions re-  
19 duction resulting from the offset, taking into consideration any proposed measurement, monitoring and  
20 evaluation of mitigation measure performance; and]

21 “[(iii) The extent to which the reduction of greenhouse gas emissions would occur in the absence  
22 of the offsets.]

23 “[(C) The applicant or a third party agrees to provide funds in an amount deemed sufficient to  
24 produce the reduction in greenhouse gas emissions necessary to meet the applicable carbon dioxide  
25 emissions standard, in which case the funds shall be used as specified in paragraph (d) of this sub-  
26 section. Unless modified by the council as provided below, the payment of 57 cents shall be deemed to  
27 result in a reduction of one ton of carbon dioxide emissions. The council shall determine the offset  
28 funds using the monetary offset rate and the level of emissions reduction required to meet the applicable  
29 standard. If a site certificate is approved based on this subparagraph, the council may not adjust the  
30 amount of such offset funds based on the actual performance of offsets. After three years from June  
31 26, 1997, the council may by rule increase or decrease the monetary offset rate of 57 cents per ton of  
32 carbon dioxide emissions. Any change to the monetary offset rate shall be based on empirical evidence  
33 of the cost of offsets and the council’s finding that the standard will be economically achievable with  
34 the modified rate for natural gas-fired power plants. Following the initial three-year period, the council  
35 may increase or decrease the monetary offset rate no more than 50 percent in any two-year period.]

36 “[(D) Any other means that the council adopts by rule for demonstrating compliance with any ap-  
37 plicable carbon dioxide emissions standard.]

38 “[(d) If the applicant elects to meet the applicable carbon dioxide emissions standard in whole or  
39 in part under paragraph (c)(C) of this subsection, the applicant shall identify the qualified organization.  
40 The applicant may identify an organization that has applied for, but has not received, an exemption  
41 from federal income taxation, but the council may not find that the organization is a qualified organ-  
42 ization unless the organization is exempt from federal taxation under section 501(c)(3) of the Internal  
43 Revenue Code as amended and in effect on December 31, 1996. The site certificate holder shall provide  
44 a bond or comparable security in a form reasonably acceptable to the council to ensure the payment  
45 of the offset funds and the amount required under subparagraph (A)(ii) of this paragraph. Such secu-

1 rity shall be provided by the date specified in the site certificate, which shall be no later than the  
2 commencement of construction of the facility. The site certificate shall require that the offset funds be  
3 disbursed as specified in subparagraph (A) of this paragraph, unless the council finds that no qualified  
4 organization exists, in which case the site certificate shall require that the offset funds be disbursed  
5 as specified in subparagraph (B) of this paragraph.]

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

8 “[(i) When the site certificate holder receives written notice from the qualified organization certify-  
9 ing that the qualified organization is contractually obligated to pay any funds to implement offsets us-  
10 ing the offset funds, the site certificate holder shall make the requested amount available to the  
11 qualified organization unless the total of the amount requested and any amounts previously requested  
12 exceeds the offset funds, in which case only the remaining amount of the offset funds shall be made  
13 available. The qualified organization shall use at least 80 percent of the offset funds for contracts to  
14 implement offsets. The qualified organization shall assess offsets for their potential to qualify in, gen-  
15 erate credits in or reduce obligations in other regulatory settings. The qualified organization may use  
16 up to 20 percent of the offset funds for monitoring, evaluation, administration and enforcement of con-  
17 tracts to implement offsets.]

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

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

31 “[(B) If the council finds there is no qualified organization, the site certificate holder shall select  
32 one or more offsets to be implemented pursuant to criteria established by the council. The site certificate  
33 holder shall give written notice of its selections to the council and to any person requesting notice.  
34 On petition by the State Department of Energy, or by any person adversely affected or aggrieved by the  
35 site certificate holder’s selection of offsets, or on the council’s own motion, the council may review such  
36 selection. The petition must be received by the council within 30 days of the date the notice of selection  
37 is placed in the United States mail, with first-class postage prepaid. The council shall approve the site  
38 certificate holder’s selection unless it finds that the selection is not consistent with criteria established  
39 by the council. The site certificate holder shall contract to implement the selected offsets within 18  
40 months after commencing construction of the facility unless good cause is shown requiring additional  
41 time. The contracts shall obligate the expenditure of at least 85 percent of the offset funds for the im-  
42 plementation of offsets. No more than 15 percent of the offset funds may be spent on monitoring, eval-  
43 uation and enforcement of the contract to implement the selected offsets. The council’s criteria for  
44 selection of offsets shall be based on the criteria set forth in paragraphs (b)(C) and (c)(B) of this sub-  
45 section and may also consider the costs of particular types of offsets in relation to the expected benefits

1 of such offsets. The council's criteria shall not require the site certificate holder to select particular  
2 offsets, and shall allow the site certificate holder a reasonable range of choices in selecting offsets. In  
3 addition, notwithstanding any other provision of this section, the site certificate holder's financial li-  
4 ability for implementation, monitoring, evaluation and enforcement of offsets pursuant to this subsection  
5 shall be limited to the amount of any offset funds not already contractually obligated. Nonperformance,  
6 negligence or misconduct by the entity or entities implementing, monitoring or evaluating the selected  
7 offset shall not be a basis for revocation of the site certificate or any other enforcement action by the  
8 council with respect to the site certificate holder.]

9 “[C] Every qualified organization that has received funds under this paragraph shall, at five-year  
10 intervals beginning on the date of receipt of such funds, provide the council with the information the  
11 council requests about the qualified organization's performance. The council shall evaluate the infor-  
12 mation requested and, based on such information, shall make any recommendations to the Legislative  
13 Assembly that the council deems appropriate.]

14 “[e] As used in this subsection:]

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

18 “[B] ‘Base load gas plant’ means a generating facility that is fueled by natural gas, except for  
19 periods during which an alternative fuel may be used and when such alternative fuel use shall not  
20 exceed 10 percent of expected fuel use in Btu, higher heating value, on an average annual basis, and  
21 where the applicant requests and the council adopts no condition in the site certificate for the generat-  
22 ing facility that would limit hours of operation other than restrictions on the use of alternative fuel.  
23 The council shall assume a 100 percent capacity factor for such plants and a 30-year life for the plants  
24 for purposes of determining gross carbon dioxide emissions.]

25 “[C] ‘Carbon dioxide equivalent’ means the global warming potential of a greenhouse gas reflected  
26 in units of carbon dioxide.]

27 “[D] ‘Fossil-fueled power plant’ means a generating facility that produces electric power from na-  
28 tural gas, petroleum, coal or any form of solid, liquid or gaseous fuel derived from such material.]

29 “[E] ‘Generating facility’ means those energy facilities that are defined in ORS 469.300 (11)(a)(A),  
30 (B) and (D).]

31 “[F] ‘Global warming potential’ means the determination of the atmospheric warming resulting  
32 from the release of a unit mass of a particular greenhouse gas in relation to the warming resulting from  
33 the release of the equivalent mass of carbon dioxide.]

34 “[G] ‘Greenhouse gas’ means carbon dioxide, methane and nitrous oxide.]

35 “[H] ‘Gross carbon dioxide emissions’ means the predicted carbon dioxide emissions of the pro-  
36 posed energy facility measured on a new and clean basis.]

37 “[I] ‘Net carbon dioxide emissions’ means gross carbon dioxide emissions of the proposed energy  
38 facility, less carbon dioxide or other greenhouse gas emissions avoided, displaced or sequestered by any  
39 combination of cogeneration or offsets.]

40 “[J] ‘New and clean basis’ means the average carbon dioxide emissions rate per hour and net  
41 electric power output of the energy facility, without degradation, as determined by a 100-hour test at  
42 full power completed during the first 12 months of commercial operation of the energy facility, with the  
43 results adjusted for the average annual site condition for temperature, barometric pressure and relative  
44 humidity and use of alternative fuels, and using a rate of 117 pounds of carbon dioxide per million  
45 Btu of natural gas fuel and a rate of 161 pounds of carbon dioxide per million Btu of distillate fuel,

1 if such fuel use is proposed by the applicant. The council may by rule adjust the rate of pounds of  
2 carbon dioxide per million Btu for natural gas or distillate fuel. The council may by rule set carbon  
3 dioxide emissions rates for other fuels.]

4 “[K] ‘Nongenerating facility’ means those energy facilities that are defined in ORS 469.300  
5 (11)(a)(C) and (E) to (I).]

6 “[L] ‘Offset’ means an action that will be implemented by the applicant, a third party or through  
7 the qualified organization to avoid, sequester or displace emissions.]

8 “[M] ‘Offset funds’ means the amount of funds determined by the council to satisfy the applicable  
9 carbon dioxide emissions standard pursuant to paragraph (c)(C) of this subsection.]

10 “[N] ‘Qualified organization’ means an entity that:]

11 “[i] Is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code as  
12 amended and in effect on December 31, 1996;]

13 “[ii] Either is incorporated in the State of Oregon or is a foreign corporation authorized to do  
14 business in the State of Oregon;]

15 “[iii] Has in effect articles of incorporation that require that offset funds received pursuant to this  
16 section are used for offsets that require that decisions on the use of the offset funds are made by a  
17 decision-making body composed of seven voting members of which three are appointed by the council,  
18 three are Oregon residents appointed by the Bullitt Foundation or an alternative environmental  
19 nonprofit organization named by the body, and one is appointed by the applicants for site certificates  
20 that are subject to paragraph (d) of this subsection and the holders of such site certificates, and that  
21 require nonvoting membership on the body for holders of site certificates that have provided funds not  
22 yet disbursed under paragraph (d)(A) of this subsection;]

23 “[iv] Has made available on an annual basis, beginning after the first year of operation, a signed  
24 opinion of an independent certified public accountant stating that the qualified organization’s use of  
25 funds pursuant to this statute conforms with generally accepted accounting procedures except that the  
26 qualified organization shall have one year to conform with generally accepted accounting principles in  
27 the event of a nonconforming audit;]

28 “[v] Has to the extent applicable, except for good cause, entered into contracts obligating at least  
29 60 percent of the offset funds to implement offsets within two years after the commencement of con-  
30 struction of the facility; and]

31 “[vi] Has to the extent applicable, except for good cause, complied with paragraph (d)(A)(i) of this  
32 subsection.]

33 “[3] (2) Except as provided in ORS 469.504 for land use compliance and except for those stat-  
34 utes and rules for which the decision on compliance has been delegated by the federal government  
35 to a state agency other than the council, the facility complies with all other Oregon statutes and  
36 administrative rules identified in the project order, as amended, as applicable to the issuance of a  
37 site certificate for the proposed facility. If compliance with applicable Oregon statutes and admin-  
38 istrative rules, other than those involving federally delegated programs, would result in conflicting  
39 conditions in the site certificate, the council may resolve the conflict consistent with the public in-  
40 terest. A resolution may not result in the waiver of any applicable state statute.

41 “[4] (3) The facility complies with the statewide planning goals adopted by the Land Conser-  
42 vation and Development Commission.

43 “**SECTION 88.** ORS 469.501 is amended to read:

44 “469.501. (1) The Energy Facility Siting Council shall adopt standards for the siting, con-  
45 struction, operation and retirement of facilities. The standards may address but need not be limited

1 to the following subjects:

2 “(a) The organizational, managerial and technical expertise of the applicant to construct and  
3 operate the proposed facility.

4 “(b) Seismic hazards.

5 “(c) Areas designated for protection by the state or federal government, including but not lim-  
6 ited to monuments, wilderness areas, wildlife refuges, scenic waterways and similar areas.

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

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

10 “(f) Impacts of the facility on historic, cultural or archaeological resources listed on, or deter-  
11 mined by the State Historic Preservation Officer to be eligible for listing on, the National Register  
12 of Historic Places or the Oregon State Register of Historic Properties.

13 “(g) Protection of public health and safety, including necessary safety devices and procedures.

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

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

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

17 “(k) Ability of the communities in the affected area to provide sewers and sewage treatment,  
18 water, storm water drainage, solid waste management, housing, traffic safety, police and fire pro-  
19 tection, health care and schools.

20 “(L) The need for proposed nongenerating facilities [*as defined in ORS 469.503*], consistent with  
21 the state energy policy set forth in ORS 469.010 and 469.310. The council may consider least-cost  
22 plans when adopting a need standard or in determining whether an applicable need standard has  
23 been met. The council shall not adopt a standard requiring a showing of need or cost-effectiveness  
24 for generating facilities [*as defined in ORS 469.503*].

25 “(m) Compliance with the statewide planning goals adopted by the Land Conservation and De-  
26 velopment Commission as specified by ORS 469.503.

27 “(n) Soil protection.

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

31 “(2) The council may adopt exemptions from any need standard adopted under subsection (1)(L)  
32 of this section if the exemption is consistent with the state’s energy policy set forth in ORS 469.010  
33 and 469.310.

34 “(3)(a) The council may issue a site certificate for a facility that does not meet one or more of  
35 the applicable standards adopted under subsection (1) of this section if the council determines that  
36 the overall public benefits of the facility outweigh any adverse effects on a resource or interest  
37 protected by the applicable standards the facility does not meet.

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

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

“(Transitional Provisions)

1  
2  
3       **“SECTION 89. (1) Notwithstanding ORS 469.401 (2), any conditions in a site certificate or**  
4 **amended site certificate issued before January 1, 2021, that are conditions related to any**  
5 **carbon dioxide emissions standard applicable pursuant to ORS 469.501 (1)(o) (2017 Edition) or**  
6 **469.503 (2017 Edition) or to rules adopted by the Energy Facility Siting Council pursuant to**  
7 **ORS 469.501 (1)(o) (2017 Edition) or 469.503 (2017 Edition) cease to be enforceable on January**  
8 **1, 2021.**

9       **“(2) Any provision in a site certificate or amended site certificate for a generating facility**  
10 **issued before January 1, 2021, requiring the holder to demonstrate the need for the facility**  
11 **shall cease to be enforceable on January 1, 2021.**

12       **“(3) Any site certificate amendment approved by the council on or after January 1, 2021,**  
13 **shall remove from the site certificate being amended all conditions and provisions rendered**  
14 **unenforceable by subsections (1) and (2) of this section. Notwithstanding ORS 469.405 or any**  
15 **council rule, the contested case hearing on a site certificate amendment subject to this**  
16 **subsection may not include hearing on amendments necessary to comply with this sub-**  
17 **section. The provisions of the council’s order relevant to compliance with this subsection are**  
18 **not subject to judicial review.**

19       **“SECTION 90. The Energy Facility Siting Council shall, no later than January 1, 2022,**  
20 **complete rulemaking to amend or repeal any rules adopted by the council relating to the**  
21 **application of a carbon dioxide emissions standard to generating facilities or nongenerating**  
22 **facilities as necessary to bring the rules of the council into compliance with the amendments**  
23 **to ORS 469.501 and 469.503 by sections 87 and 88 of this 2019 Act and the provisions of section**  
24 **89 of this 2019 Act.**

25       **“SECTION 91. (1) As used in this section and section 92 of this 2019 Act, ‘qualified or-**  
26 **ganization’ has the meaning given that term in ORS 469.503 (2)(e)(N) (2017 Edition).**

27       **“(2) On or after the operative date of this section and the amendments to ORS 469.503**  
28 **by section 87 of this 2019 Act and in accordance with the provisions of ORS 469.503 (2)(d)**  
29 **(2017 Edition), a qualified organization that, before the operative date of this section and the**  
30 **amendments to ORS 469.503 by section 87 of this 2019 Act, received payment of offset funds**  
31 **pursuant to ORS 469.503 (2)(c)(C) (2017 Edition):**

32       **“(a) Shall use at least 80 percent of the offset funds for contracts to implement offsets**  
33 **and assess offsets for their potential to qualify in, generate credits in or reduce obligations**  
34 **in other regulatory settings;**

35       **“(b) May use up to 20 percent of the offset funds for monitoring, evaluating, adminis-**  
36 **tering and enforcing contracts to implement offsets; and**

37       **“(c) Shall, at five-year intervals beginning on the date of the receipt of the offset funds**  
38 **and ending the year after the year that the qualified organization in no longer involved in**  
39 **the investment of offset funds received pursuant to ORS 469.503 (2)(c)(C) (2017 Edition),**  
40 **provide the Energy Facility Siting Council with the information the council requests about**  
41 **the qualified organization’s performance. The council shall evaluate the information re-**  
42 **quested and, based on the information, shall make any recommendations to the Legislative**  
43 **Assembly that the council deems appropriate.**

44       **“SECTION 92. Section 91 of this 2019 Act is repealed on the date that the Legislative**  
45 **Counsel receives written notice from the Energy Facility Siting Council that the council has**



1 confirmed that all qualified organizations that received payment of offset funds pursuant to  
2 ORS 469.503 (2)(c)(C) (2017 Edition) have ceased to be involved in the investment of the offset  
3 funds.

4  
5 “(Repeal)

6  
7 “SECTION 93. ORS 469.409 is repealed.

8  
9 “(Conforming Amendments)

10  
11 “SECTION 94. ORS 469.300 is amended to read:

12 “469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992, unless the  
13 context requires otherwise:

14 “(1) ‘Applicant’ means any person who makes application for a site certificate in the manner  
15 provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

16 “(2) ‘Application’ means a request for approval of a particular site or sites for the construction  
17 and operation of an energy facility or the construction and operation of an additional energy facility  
18 upon a site for which a certificate has already been issued, filed in accordance with the procedures  
19 established pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

20 “(3) ‘Associated transmission lines’ means new transmission lines constructed to connect an en-  
21 ergy facility to the first point of junction of such transmission line or lines with either a power  
22 distribution system or an interconnected primary transmission system or both or to the Northwest  
23 Power Grid.

24 “(4) ‘Average electric generating capacity’ means the peak generating capacity of the facility  
25 divided by one of the following factors:

26 “(a) For wind facilities, 3.00;

27 “(b) For geothermal energy facilities, 1.11; or

28 “(c) For all other energy facilities, 1.00.

29 “(5) ‘Combustion turbine power plant’ means a thermal power plant consisting of one or more  
30 fuel-fired combustion turbines and any associated waste heat combined cycle generators.

31 “(6) ‘Construction’ means work performed on a site, excluding surveying, exploration or other  
32 activities to define or characterize the site, the cost of which exceeds \$250,000.

33 “(7) ‘Council’ means the Energy Facility Siting Council established under ORS 469.450.

34 “(8) ‘Department’ means the State Department of Energy created under ORS 469.030.

35 “(9) ‘Director’ means the Director of the State Department of Energy appointed under ORS  
36 469.040.

37 “(10) ‘Electric utility’ means persons, regulated electrical companies, people’s utility districts,  
38 joint operating agencies, electric cooperatives, municipalities or any combination thereof, engaged  
39 in or authorized to engage in the business of generating, supplying, transmitting or distributing  
40 electric energy.

41 “(11)(a) ‘Energy facility’ means any of the following:

42 “(A) An electric power generating plant with a nominal electric generating capacity of 25  
43 megawatts or more, including but not limited to:

44 “(i) Thermal power;

45 “(ii) Combustion turbine power plant; or

1           “(iii) Solar thermal power plant.

2           “(B) A nuclear installation as defined in this section.

3           “(C) A high voltage transmission line of more than 10 miles in length with a capacity of 230,000

4 volts or more to be constructed in more than one city or county in this state, but excluding:

5           “(i) Lines proposed for construction entirely within 500 feet of an existing corridor occupied by

6 high voltage transmission lines with a capacity of 230,000 volts or more; and

7           “(ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000 volts along the same

8 right of way.

9           “(D) A solar photovoltaic power generation facility using more than:

10          “(i) 100 acres located on high-value farmland as defined in ORS 195.300;

11          “(ii) 100 acres located on land that is predominantly cultivated or that, if not cultivated, is

12 predominantly composed of soils that are in capability classes I to IV, as specified by the National

13 Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United

14 States Department of Agriculture; or

15          “(iii) 320 acres located on any other land.

16          “(E) A pipeline that is:

17          “(i) At least six inches in diameter, and five or more miles in length, used for the transportation

18 of crude petroleum or a derivative thereof, liquefied natural gas, a geothermal energy form in a

19 liquid state or other fossil energy resource, excluding a pipeline conveying natural or synthetic gas;

20          “(ii) At least 16 inches in diameter, and five or more miles in length, used for the transportation

21 of natural or synthetic gas, but excluding:

22          “(I) A pipeline proposed for construction of which less than five miles of the pipeline is more

23 than 50 feet from a public road, as defined in ORS 368.001; or

24          “(II) A parallel or upgraded pipeline up to 24 inches in diameter that is constructed within the

25 same right of way as an existing 16-inch or larger pipeline that has a site certificate, if all studies

26 and necessary mitigation conducted for the existing site certificate meet or are updated to meet

27 current site certificate standards; or

28          “(iii) At least 16 inches in diameter and five or more miles in length used to carry a geothermal

29 energy form in a gaseous state but excluding a pipeline used to distribute heat within a geothermal

30 heating district established under ORS chapter 523.

31          “(F) A synthetic fuel plant which converts a natural resource including, but not limited to, coal

32 or oil to a gas, liquid or solid product intended to be used as a fuel and capable of being burned to

33 produce the equivalent of two billion Btu of heat a day.

34          “(G) A plant which converts biomass to a gas, liquid or solid product, or combination of such

35 products, intended to be used as a fuel and if any one of such products is capable of being burned

36 to produce the equivalent of six billion Btu of heat a day.

37          “(H) A storage facility for liquefied natural gas constructed after September 29, 1991, that is

38 designed to hold at least 70,000 gallons.

39          “(I) A surface facility related to an underground gas storage reservoir that, at design injection

40 or withdrawal rates, will receive or deliver more than 50 million cubic feet of natural or synthetic

41 gas per day, or require more than 4,000 horsepower of natural gas compression to operate, but ex-

42 cluding:

43          “(i) The underground storage reservoir;

44          “(ii) The injection, withdrawal or monitoring wells and individual wellhead equipment; and

45          “(iii) An underground gas storage reservoir into which gas is injected solely for testing or res-

1 ervoir maintenance purposes or to facilitate the secondary recovery of oil or other hydrocarbons.

2 “(J) An electric power generating plant with an average electric generating capacity of 35  
3 megawatts or more if the power is produced from geothermal or wind energy at a single energy fa-  
4 cility or within a single energy generation area.

5 “(b) ‘Energy facility’ does not include a hydroelectric facility or an energy facility under para-  
6 graph (a)(A)(iii) or (D) of this subsection that is established on the site of a decommissioned United  
7 States Air Force facility that has adequate transmission capacity to serve the energy facility.

8 “(12) ‘Energy generation area’ means an area within which the effects of two or more small  
9 generating plants may accumulate so the small generating plants have effects of a magnitude similar  
10 to a single generating plant of 35 megawatts average electric generating capacity or more. An ‘en-  
11 ergy generation area’ for facilities using a geothermal resource and covered by a unit agreement,  
12 as provided in ORS 522.405 to 522.545 or by federal law, shall be defined in that unit agreement. If  
13 no such unit agreement exists, an energy generation area for facilities using a geothermal resource  
14 shall be the area that is within two miles, measured from the electrical generating equipment of the  
15 facility, of an existing or proposed geothermal electric power generating plant, not including the site  
16 of any other such plant not owned or controlled by the same person.

17 “(13) ‘Extraordinary nuclear occurrence’ means any event causing a discharge or dispersal of  
18 source material, special nuclear material or by-product material as those terms are defined in ORS  
19 453.605, from its intended place of confinement off-site, or causing radiation levels off-site, that the  
20 United States Nuclear Regulatory Commission or its successor determines to be substantial and to  
21 have resulted in or to be likely to result in substantial damages to persons or property off-site.

22 “(14) ‘Facility’ means an energy facility together with any related or supporting facilities.

23 “(15) **‘Generating facility’ means those energy facilities that are defined in subsection**  
24 **(11)(a)(A), (B) and (D) of this section.**

25 “[15] (16) ‘Geothermal reservoir’ means an aquifer or aquifers containing a common geothermal  
26 fluid.

27 “[16] (17) ‘Local government’ means a city or county.

28 “[17] (18) ‘Nominal electric generating capacity’ means the maximum net electric power output  
29 of an energy facility based on the average temperature, barometric pressure and relative humidity  
30 at the site during the times of the year when the facility is intended to operate.

31 “(19) **‘Nongenerating facility’ means those energy facilities that are defined in subsection**  
32 **(11)(a)(C) and (E) to (I) of this section.**

33 “[18] (20) ‘Nuclear incident’ means any occurrence, including an extraordinary nuclear occur-  
34 rence, that results in bodily injury, sickness, disease, death, loss of or damage to property or loss  
35 of use of property due to the radioactive, toxic, explosive or other hazardous properties of source  
36 material, special nuclear material or by-product material as those terms are defined in ORS 453.605.

37 “[19] (21) ‘Nuclear installation’ means any power reactor, nuclear fuel fabrication plant, nu-  
38 clear fuel reprocessing plant, waste disposal facility for radioactive waste, and any facility handling  
39 that quantity of fissionable materials sufficient to form a critical mass. ‘Nuclear installation’ does  
40 not include any such facilities that are part of a thermal power plant.

41 “[20] (22) ‘Nuclear power plant’ means an electrical or any other facility using nuclear energy  
42 with a nominal electric generating capacity of 25 megawatts or more, for generation and distribution  
43 of electricity, and associated transmission lines.

44 “[21] (23) ‘Person’ means an individual, partnership, joint venture, private or public corpo-  
45 ration, association, firm, public service company, political subdivision, municipal corporation, gov-

1 ernment agency, people's utility district, or any other entity, public or private, however organized.

2 "[22] (24) 'Project order' means the order, including any amendments, issued by the State De-  
3 partment of Energy under ORS 469.330.

4 "[23)(a)] (25)(a) 'Radioactive waste' means all material which is discarded, unwanted or has no  
5 present lawful economic use, and contains mined or refined naturally occurring isotopes, accelerator  
6 produced isotopes and by-product material, source material or special nuclear material as those  
7 terms are defined in ORS 453.605. The term does not include those radioactive materials identified  
8 in OAR 345-50-020, 345-50-025 and 345-50-035, adopted by the council on December 12, 1978, and re-  
9 vised periodically for the purpose of adding additional isotopes which are not referred to in OAR  
10 345-50 as presenting no significant danger to the public health and safety.

11 "(b) Notwithstanding paragraph (a) of this subsection, 'radioactive waste' does not include ura-  
12 nium mine overburden or uranium mill tailings, mill wastes or mill by-product materials as those  
13 terms are defined in Title 42, United States Code, section 2014, on June 25, 1979.

14 "[24] (26) 'Related or supporting facilities' means any structure, proposed by the applicant, to  
15 be constructed or substantially modified in connection with the construction of an energy facility,  
16 including associated transmission lines, reservoirs, storage facilities, intake structures, road and rail  
17 access, pipelines, barge basins, office or public buildings, and commercial and industrial structures.  
18 'Related or supporting facilities' does not include geothermal or underground gas storage reservoirs,  
19 production, injection or monitoring wells or wellhead equipment or pumps.

20 "[25] (27) 'Site' means any proposed location of an energy facility and related or supporting  
21 facilities.

22 "[26] (28) 'Site certificate' means the binding agreement between the State of Oregon and the  
23 applicant, authorizing the applicant to construct and operate a facility on an approved site, incor-  
24 porating all conditions imposed by the council on the applicant.

25 "[27] (29) 'Thermal power plant' means an electrical facility using any source of thermal en-  
26 ergy with a nominal electric generating capacity of 25 megawatts or more, for generation and dis-  
27 tribution of electricity, and associated transmission lines, including but not limited to a  
28 nuclear-fueled, geothermal-fueled or fossil-fueled power plant, but not including a portable power  
29 plant the principal use of which is to supply power in emergencies. 'Thermal power plant' includes  
30 a nuclear-fueled thermal power plant that has ceased to operate.

31 "[28] (30) 'Transportation' means the transport within the borders of the State of Oregon of  
32 radioactive material destined for or derived from any location.

33 "[29] (31) 'Underground gas storage reservoir' means any subsurface sand, strata, formation,  
34 aquifer, cavern or void, whether natural or artificially created, suitable for the injection, storage  
35 and withdrawal of natural gas or other gaseous substances. 'Underground gas storage reservoir' in-  
36 cludes a pool as defined in ORS 520.005.

37 "[30] (32) 'Utility' includes:

38 "(a) A person, a regulated electrical company, a people's utility district, a joint operating  
39 agency, an electric cooperative, municipality or any combination thereof, engaged in or authorized  
40 to engage in the business of generating, transmitting or distributing electric energy;

41 "(b) A person or public agency generating electric energy from an energy facility for its own  
42 consumption; and

43 "(c) A person engaged in this state in the transmission or distribution of natural or synthetic  
44 gas.

45 "[31] (33) 'Waste disposal facility' means a geographical site in or upon which radioactive

1 waste is held or placed but does not include a site at which radioactive waste used or generated  
2 pursuant to a license granted under ORS 453.635 is stored temporarily, a site of a thermal power  
3 plant used for the temporary storage of radioactive waste from that plant for which a site certificate  
4 has been issued pursuant to this chapter or a site used for temporary storage of radioactive waste  
5 from a reactor operated by a college, university or graduate center for research purposes and not  
6 connected to the Northwest Power Grid. As used in this subsection, 'temporary storage' includes  
7 storage of radioactive waste on the site of a nuclear-fueled thermal power plant for which a site  
8 certificate has been issued until a permanent storage site is available by the federal government.

9 **"SECTION 95.** ORS 469.310 is amended to read:

10 "469.310. In the interests of the public health and the welfare of the people of this state, it is  
11 the declared public policy of this state that the siting, construction and operation of energy facilities  
12 shall be accomplished in a manner consistent with protection of the public health and safety and in  
13 compliance with the energy policy and air, water, solid waste, land use and other environmental  
14 protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.563, 469.590 to  
15 469.619, 469.930 and 469.992 to exercise the jurisdiction of the State of Oregon to the maximum ex-  
16 tent permitted by the United States Constitution and to establish in cooperation with the federal  
17 government a comprehensive system for the siting, monitoring and regulating of the location, con-  
18 struction and operation of all energy facilities in this state. It is furthermore the policy of this state,  
19 notwithstanding ORS 469.010 (2)(f) and the definition of cost-effective in ORS 469.020, that the need  
20 for new generating facilities[, *as defined in ORS 469.503,*] is sufficiently addressed by reliance on  
21 competition in the market rather than by consideration of cost-effectiveness and shall not be a  
22 matter requiring determination by the Energy Facility Siting Council in the siting of a generating  
23 facility[, *as defined in ORS 469.503*].

24 **"SECTION 96.** ORS 469.373 is amended to read:

25 "469.373. (1) Notwithstanding the expedited review process established pursuant to ORS 469.370,  
26 an applicant may apply under the provisions of this section for expedited review of an application  
27 for a site certificate for an energy facility if the energy facility:

28 "(a) Is a combustion turbine energy facility fueled by natural gas or is a reciprocating engine  
29 fueled by natural gas, including an energy facility that uses petroleum distillate fuels for backup  
30 power generation;

31 "(b) Is a permitted or conditional use allowed under an applicable local acknowledged compre-  
32 hensive plan, land use regulation or federal land use plan, and is located:

33 "(A) At or adjacent to an existing energy facility; or

34 "(B)(i) At, adjacent to or in close proximity to an existing industrial use; and

35 "(ii) In an area currently zoned or designated for industrial use;

36 "(c)(A) Requires no more than three miles of associated transmission lines or three miles of new  
37 natural gas pipelines outside of existing rights of way for transmission lines or natural gas pipelines;

38 or

39 "(B) Imposes, in the determination of the Energy Facility Siting Council, no significant impact  
40 in the locating of associated transmission lines or new natural gas pipelines outside of existing  
41 rights of way;

42 "(d) Requires no new water right or water right transfer; **and**

43 "[*e*] Provides funds to a qualified organization in an amount determined by the council to be suf-  
44 ficient to produce any required reduction in emissions as specified in ORS 469.503 (2)(c)(C) and in rules  
45 adopted under ORS 469.503 for the total carbon dioxide emissions produced by the energy facility for

1 *the life of the energy facility; and]*

2 “[(f)(A)] (e)(A) Discharges process wastewater to a wastewater treatment facility that has an  
3 existing National Pollutant Discharge Elimination System permit, can obtain an industrial pretreat-  
4 ment permit, if needed, within the expedited review process time frame and has written confirmation  
5 from the wastewater facility permit holder that the additional wastewater load will be accommo-  
6 dated by the facility without resulting in a significant thermal increase in the facility effluent or  
7 without requiring any changes to the wastewater facility National Pollutant Discharge Elimination  
8 System permit;

9 “(B) Plans to discharge process wastewater to a wastewater treatment facility owned by a mu-  
10 nicipal corporation that will accommodate the wastewater from the energy facility and supplies ev-  
11 idence from the municipal corporation that:

12 “(i) The municipal corporation has included, or intends to include, the process wastewater load  
13 from the energy facility in an application for a National Pollutant Discharge Elimination System  
14 permit; and

15 “(ii) All conditions required of the energy facility to allow the discharge of process wastewater  
16 from the energy facility will be satisfied; or

17 “(C) Obtains a National Pollutant Discharge Elimination System or water pollution control fa-  
18 cility permit for process wastewater disposal, supplies evidence to support a finding that the dis-  
19 charge can likely be permitted within the expedited review process time frame and that the  
20 discharge will not require:

21 “(i) A new National Pollutant Discharge Elimination System permit, except for a storm water  
22 general permit for construction activities; or

23 “(ii) A change in any effluent limit or discharge location under an existing National Pollutant  
24 Discharge Elimination System or water pollution control facility permit.

25 “(2) An applicant seeking expedited review under this section shall submit documentation to the  
26 State Department of Energy, prior to the submission of an application for a site certificate, that  
27 demonstrates that the energy facility meets the qualifications set forth in subsection (1) of this  
28 section. The department shall determine, within 14 days of receipt of the documentation, on a pre-  
29 liminary, nonbinding basis, whether the energy facility qualifies for expedited review.

30 “(3) If the department determines that the energy facility preliminarily qualifies for expedited  
31 review, the applicant may submit an application for expedited review. Within 30 days after the date  
32 that the application for expedited review is submitted, the department shall determine whether the  
33 application is complete. If the department determines that the application is complete, the applica-  
34 tion shall be deemed filed on the date that the department sends the applicant notice of its deter-  
35 mination. If the department determines that the application is not complete, the department shall  
36 notify the applicant of the deficiencies in the application and shall deem the application filed on the  
37 date that the department determines that the application is complete. The department or the  
38 council may request additional information from the applicant at any time.

39 “(4) The State Department of Energy shall send a copy of a filed application to the Department  
40 of Environmental Quality, the Water Resources Department, the State Department of Fish and  
41 Wildlife, the State Department of Geology and Mineral Industries, the State Department of Agri-  
42 culture, the Department of Land Conservation and Development, the Public Utility Commission and  
43 any other state agency, city, county or political subdivision of the state that has regulatory or ad-  
44 visory responsibility with respect to the proposed energy facility. The State Department of Energy  
45 shall send with the copy of the filed application a notice specifying that:

1       “(a) In the event the council issues a site certificate for the energy facility, the site certificate  
2 will bind the state and all counties, cities and political subdivisions in the state as to the approval  
3 of the site, the construction of the energy facility and the operation of the energy facility, and that  
4 after the issuance of a site certificate, all permits, licenses and certificates addressed in the site  
5 certificate must be issued as required by ORS 469.401 (3); and

6       “(b) The comments and recommendations of state agencies, counties, cities and political subdi-  
7 visions concerning whether the proposed energy facility complies with any statute, rule or local  
8 ordinance that the state agency, county, city or political subdivision would normally administer in  
9 determining whether a permit, license or certificate required for the construction or operation of the  
10 energy facility should be approved will be considered only if the comments and recommendations  
11 are received by the department within a reasonable time after the date the application and notice  
12 of the application are sent by the department.

13       “(5) Within 90 days after the date that the application was filed, the department shall issue a  
14 draft proposed order setting forth:

15       “(a) A description of the proposed energy facility;

16       “(b) A list of the permits, licenses and certificates that are addressed in the application and that  
17 are required for the construction or operation of the proposed energy facility;

18       “(c) A list of the statutes, rules and local ordinances that are the standards and criteria for  
19 approval of any permit, license or certificate addressed in the application and that are required for  
20 the construction or operation of the proposed energy facility; and

21       “(d) Proposed findings specifying how the proposed energy facility complies with the applicable  
22 standards and criteria for approval of a site certificate.

23       “(6) The council shall review the application for site certification in the manner set forth in  
24 subsections (7) to (10) of this section and shall issue a site certificate for the facility if the council  
25 determines that the facility, with any required conditions to the site certificate, will comply with:

26       “(a) The requirements for expedited review as specified in this section;

27       “(b) The standards adopted by the council pursuant to ORS 469.501 (1)(a), (c) to (e), (g), (h) and  
28 (L) to [(o)] **(n)**;

29       “(c) The requirements of ORS 469.503 [(3)] **(2)**; and

30       “(d) The requirements of ORS 469.504 (1)(b).

31       “(7) Following submission of an application for a site certificate, the council shall hold a public  
32 informational meeting on the application. Following the issuance of the proposed order, the council  
33 shall hold at least one public hearing on the application. The public hearing shall be held in the area  
34 affected by the energy facility. The council shall mail notice of the hearing at least 20 days prior  
35 to the hearing. The notice shall comply with the notice requirements of ORS 197.763 (2) and shall  
36 include, but need not be limited to, the following:

37       “(a) A description of the energy facility and the general location of the energy facility;

38       “(b) The name of a department representative to contact and the telephone number at which  
39 people may obtain additional information;

40       “(c) A statement that copies of the application and proposed order are available for inspection  
41 at no cost and will be provided at reasonable cost; and

42       “(d) A statement that the record for public comment on the application will close at the con-  
43 clusion of the hearing and that failure to raise an issue in person or in writing prior to the close  
44 of the record, with sufficient specificity to afford the decision maker an opportunity to respond to  
45 the issue, will preclude consideration of the issue, by the council or by a court on judicial review

1 of the council's decision.

2 “(8) Prior to the conclusion of the hearing, the applicant may request an opportunity to present  
3 additional written evidence, arguments or testimony regarding the application. In the alternative,  
4 prior to the conclusion of the hearing, the applicant may request a contested case hearing on the  
5 application. If the applicant requests an opportunity to present written evidence, arguments or tes-  
6 timony, the council shall leave the record open for that purpose only for a period not to exceed 14  
7 days after the date of the hearing. Following the close of the record, the department shall prepare  
8 a draft final order for the council. If the applicant requests a contested case hearing, the council  
9 may grant the request if the applicant has shown good cause for a contested case hearing. If a re-  
10 quest for a contested case hearing is granted, subsections (9) to (11) of this section do not apply,  
11 and the application shall be considered under the same contested case procedures used for a non-  
12 expedited application for a site certificate.

13 “(9) The council shall make its decision based on the record and the draft final order prepared  
14 by the department. The council shall, within six months of the date that the application is deemed  
15 filed:

16 “(a) Grant the application;

17 “(b) Grant the application with conditions;

18 “(c) Deny the application; or

19 “(d) Return the application to the site certification process required by ORS 469.320.

20 “(10) If the application is granted, the council shall issue a site certificate pursuant to ORS  
21 469.401 and 469.402. Notwithstanding subsection (6) of this section, the council may impose condi-  
22 tions based on standards adopted under ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an  
23 application based on those standards.

24 “(11) Judicial review of the approval or rejection of a site certificate by the council under this  
25 section shall be as provided in ORS 469.403.

26 “**SECTION 97.** ORS 469.405 is amended to read:

27 “469.405. (1) A site certificate may be amended with the approval of the Energy Facility Siting  
28 Council. The council may establish by rule the type of amendment that must be considered in a  
29 contested case proceeding. Judicial review of an amendment to a site certificate shall be as provided  
30 in ORS 469.403.

31 “(2) Notwithstanding ORS 34.020 or 197.825, or any other provision of law, the land use approval  
32 by an affected local government of a proposed amendment to a facility and the recommendation of  
33 the special advisory group of applicable substantive criteria shall be subject to judicial review only  
34 as provided in ORS 469.403. If the applicant elects to show compliance with the statewide planning  
35 goals by demonstrating that the facility has received local land use approval, the provisions of this  
36 section shall apply only to proposed projects for which the land use approval by the local govern-  
37 ment occurs after the date an application for amendment is submitted to the State Department of  
38 Energy.

39 “(3) An amendment to a site certificate is not required for a pipeline less than 16 inches in di-  
40 ameter and less than five miles in length that is proposed to be constructed to test or maintain an  
41 underground gas storage reservoir. If the proposed pipeline will connect to a council certified sur-  
42 face facility related to an underground gas storage reservoir or to a council certified gas pipeline,  
43 whether the proposed pipeline is to be located inside or outside the site of a council certified facil-  
44 ity, the certificate holder must obtain, prior to construction, the approval of the department for the  
45 construction, operation and retirement of the proposed pipeline. The department shall approve such



1 a proposed pipeline if the pipeline meets applicable council substantive standards. Notwithstanding  
2 ORS 469.503 [(3)] (2), the department may not review the proposed pipeline for compliance with  
3 other state standards. Notwithstanding ORS 469.503 [(4)] (3), or any council rule addressing com-  
4 pliance with land use standards, the department shall not review such a proposed pipeline for com-  
5 pliance with land use requirements. Notwithstanding ORS 469.401 (3), the approval by the  
6 department of such pipeline shall not bind any state or local agency. The council may adopt appro-  
7 priate procedural rules for the department review. The department shall issue an order approving  
8 or rejecting the proposed pipeline. Judicial review of a department order under this section shall  
9 be as provided in ORS 469.403.

10 **SECTION 98.** ORS 469.407 is amended to read:

11 “469.407. (1) A recipient may by amendment of its application for a site certificate or by  
12 amendment of its site certificate increase the capacity of the facility if the Energy Facility Siting  
13 Council finds that:

14 “(a) The facility will satisfy the conditions of the 500-megawatt exemption, unless modified by  
15 the council;

16 “(b) The enlarged facility does not exceed 500 megawatts and meets the applicable carbon  
17 dioxide standard provided for in ORS 469.503 (2) (2017 Edition) for any increase in capacity beyond  
18 the capacity of the 500-megawatt exemption; and

19 “(c) The enlarged facility meets all other applicable council standards.

20 “(2) A recipient is deemed to meet any applicable need standard and carbon dioxide emissions  
21 standard for the nominal generating capacity of the 500-megawatt exemption provided that the re-  
22 cipient satisfies the conditions of the 500-megawatt exemption, unless the council modifies the con-  
23 ditions.

24 “(3) As used in this section:

25 “(a) ‘Recipient’ means any base load gas plant, as defined in ORS 469.503 (2017 Edition), de-  
26 termined by the council to have the lowest net monetized air emissions among the applicants par-  
27 ticipating in a contested case proceeding.

28 “(b) ‘500-megawatt exemption’ means the council order in which a recipient was determined to  
29 have the lowest net monetized air emissions.

30 **SECTION 99.** ORS 469.504 is amended to read:

31 “469.504. (1) A proposed facility shall be found in compliance with the statewide planning goals  
32 under ORS 469.503 [(4)] (3) if:

33 “(a) The facility has received local land use approval under the acknowledged comprehensive  
34 plan and land use regulations of the affected local government; or

35 “(b) The Energy Facility Siting Council determines that:

36 “(A) The facility complies with applicable substantive criteria from the affected local  
37 government’s acknowledged comprehensive plan and land use regulations that are required by the  
38 statewide planning goals and in effect on the date the application is submitted, and with any Land  
39 Conservation and Development Commission administrative rules and goals and any land use statutes  
40 that apply directly to the facility under ORS 197.646;

41 “(B) For an energy facility or a related or supporting facility that must be evaluated against the  
42 applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility  
43 does not comply with one or more of the applicable substantive criteria but does otherwise comply  
44 with the applicable statewide planning goals, or that an exception to any applicable statewide  
45 planning goal is justified under subsection (2) of this section; or

1 “(C) For a facility that the council elects to evaluate against the statewide planning goals pur-  
2 suant to subsection (5) of this section, that the proposed facility complies with the applicable state-  
3 wide planning goals or that an exception to any applicable statewide planning goal is justified under  
4 subsection (2) of this section.

5 “(2) The council may find goal compliance for a facility that does not otherwise comply with one  
6 or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding  
7 the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process  
8 or any rules of the Land Conservation and Development Commission pertaining to an exception  
9 process goal, the council may take an exception to a goal if the council finds:

10 “(a) The land subject to the exception is physically developed to the extent that the land is no  
11 longer available for uses allowed by the applicable goal;

12 “(b) The land subject to the exception is irrevocably committed as described by the rules of the  
13 Land Conservation and Development Commission to uses not allowed by the applicable goal because  
14 existing adjacent uses and other relevant factors make uses allowed by the applicable goal imprac-  
15 ticable; or

16 “(c) The following standards are met:

17 “(A) Reasons justify why the state policy embodied in the applicable goal should not apply;

18 “(B) The significant environmental, economic, social and energy consequences anticipated as a  
19 result of the proposed facility have been identified and adverse impacts will be mitigated in ac-  
20 cordance with rules of the council applicable to the siting of the proposed facility; and

21 “(C) The proposed facility is compatible with other adjacent uses or will be made compatible  
22 through measures designed to reduce adverse impacts.

23 “(3) If compliance with applicable substantive local criteria and applicable statutes and state  
24 administrative rules would result in conflicting conditions in the site certificate or amended site  
25 certificate, the council shall resolve the conflict consistent with the public interest. A resolution  
26 may not result in a waiver of any applicable state statute.

27 “(4) An applicant for a site certificate shall elect whether to demonstrate compliance with the  
28 statewide planning goals under subsection (1)(a) or (b) of this section. The applicant shall make the  
29 election on or before the date specified by the council by rule.

30 “(5) Upon request by the State Department of Energy, the special advisory group established  
31 under ORS 469.480 shall recommend to the council, within the time stated in the request, the ap-  
32 plicable substantive criteria under subsection (1)(b)(A) of this section. If the special advisory group  
33 does not recommend applicable substantive criteria within the time established in the department’s  
34 request, the council may either determine and apply the applicable substantive criteria under sub-  
35 section (1)(b) of this section or determine compliance with the statewide planning goals under sub-  
36 section (1)(b)(B) or (C) of this section. If the special advisory group recommends applicable  
37 substantive criteria for an energy facility described in ORS 469.300 or a related or supporting fa-  
38 cility that does not pass through more than one local government jurisdiction or more than three  
39 zones in any one jurisdiction, the council shall apply the criteria recommended by the special advi-  
40 sory group. If the special advisory group recommends applicable substantive criteria for an energy  
41 facility as defined in ORS 469.300 (11)(a)(C) to (E) or a related or supporting facility that passes  
42 through more than one jurisdiction or more than three zones in any one jurisdiction, the council  
43 shall review the recommended criteria and determine whether to evaluate the proposed facility  
44 against the applicable substantive criteria recommended by the special advisory group, against the  
45 statewide planning goals or against a combination of the applicable substantive criteria and state-

1 wide planning goals. In making its determination, the council shall consult with the special advisory  
2 group and shall consider:

3 “(a) The number of jurisdictions and zones in question;

4 “(b) The degree to which the applicable substantive criteria reflect local government consider-  
5 ation of energy facilities in the planning process; and

6 “(c) The level of consistency of the applicable substantive criteria from the various zones and  
7 jurisdictions.

8 “(6) The council is not subject to ORS 197.180 and a state agency may not require an applicant  
9 for a site certificate to comply with any rules or programs adopted under ORS 197.180.

10 “(7) On or before its next periodic review, each affected local government shall amend its com-  
11 prehensive plan and land use regulations as necessary to reflect the decision of the council per-  
12 taining to a site certificate or amended site certificate.

13 “(8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law, the affected local  
14 government’s land use approval of a proposed facility under subsection (1)(a) of this section and the  
15 special advisory group’s recommendation of applicable substantive criteria under subsection (5) of  
16 this section shall be subject to judicial review only as provided in ORS 469.403. If the applicant  
17 elects to comply with subsection (1)(a) of this section, the provisions of this subsection shall apply  
18 only to proposed projects for which the land use approval of the local government occurs after the  
19 date a notice of intent or an application for expedited processing is submitted to the State Depart-  
20 ment of Energy.

21 “(9) The State Department of Energy, in cooperation with other state agencies, shall provide,  
22 to the extent possible, technical assistance and information about the siting process to local gov-  
23 ernments that request such assistance or that anticipate having a facility proposed in their juris-  
24 diction.

25 “**SECTION 100.** ORS 469.505 is amended to read:

26 “469.505. (1) In making a determination regarding compliance with statutes, rules and ordinances  
27 administered by another agency or compliance with requirements of ORS 469.300 to 469.563 and  
28 469.590 to 469.619 where another agency has special expertise, consultation with the other agency  
29 shall occur during the notice of intent and site certificate application process. Any permit applica-  
30 tion for which the permitting decision has been delegated by the federal government to a state  
31 agency other than the Energy Facility Siting Council shall be reviewed, whenever feasible, simul-  
32 taneously with the council’s review of the site certificate application. Any hearings required on such  
33 permit applications shall be consolidated, whenever feasible, with hearings under ORS 469.300 to  
34 469.563 and 469.590 to 469.619.

35 “(2) Before resolving any conflicting conditions in site certificates or amended site certificates  
36 under ORS 469.503 [(3)] (2) and 469.504, the council shall notify and consult with the agencies and  
37 local governments responsible for administering the statutes, administrative rules or substantive lo-  
38 cal criteria that result in the conflicting conditions regarding potential conflict resolution.

39  
40 **“REPEAL OF FORESTRY CARBON OFFSET PROVISIONS**

41  
42 “**SECTION 101.** ORS 526.780, 526.783, 526.786 and 526.789 are repealed.

43 “**SECTION 102.** ORS 530.050 is amended to read:

44 “530.050. Under the authority and direction of the State Board of Forestry except as otherwise  
45 provided for the sale of forest products, the State Forester shall manage the lands acquired pursuant

1 to ORS 530.010 to 530.040 so as to secure the greatest permanent value of those lands to the state,  
2 and to that end may:

3 “(1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with  
4 persons owning lands within the state in the protection of the lands and enter into all agreements  
5 necessary or convenient for the protection of the lands.

6 “(2) Sell forest products from the lands, and execute mining leases and contracts as provided for  
7 in ORS 273.551.

8 “(3) Enter into and administer contracts for the sale of timber from lands owned or managed  
9 by the State Board of Forestry and the State Forestry Department.

10 “(4) Enter into and administer contracts for activities necessary or convenient for the sale of  
11 timber under subsection (3) of this section, either separately from or in conjunction with contracts  
12 for the sale of timber, including but not limited to activities such as timber harvesting and sorting,  
13 transporting, gravel pit development or operation, and road construction, maintenance or improve-  
14 ment.

15 “(5) Permit the use of the lands for other purposes, including but not limited to forage and  
16 browse for domestic livestock, fish and wildlife environment, landscape effect, protection against  
17 floods and erosion, recreation, and protection of water supplies when, in the opinion of the board,  
18 the use is not detrimental to the best interest of the state.

19 “(6) Grant easements, permits and licenses over, through and across the lands. The State  
20 Forester may require and collect reasonable fees or charges relating to the location and establish-  
21 ment of easements, permits and licenses granted by the state over the lands. The fees and charges  
22 collected shall be used exclusively for the expenses of locating and establishing the easements,  
23 permits and licenses under this subsection and shall be placed in the State Forestry Department  
24 Account.

25 “(7) Require and collect fees or charges for the use of state forest roads. The fees or charges  
26 collected shall be used exclusively for purposes of maintenance and improvements of the roads and  
27 shall be placed in the State Forestry Department Account.

28 “(8) Reforest the lands and cooperate with the counties, and with persons owning timberlands  
29 within the state, in the reforestation, and make all agreements necessary or convenient for the  
30 reforestation.

31 “(9) Require such undertakings as in the opinion of the board are necessary or convenient to  
32 secure performance of any contract entered into under the terms of this section or ORS 273.551.

33 “(10) Sell rock, sand, gravel, pumice and other such materials from the lands. The sale may be  
34 negotiated without bidding, provided the appraised value of the materials does not exceed \$2,500.

35 “(11) Enter into agreements, each for not more than 10 years duration, for the production of  
36 minor forest products.

37 “(12) [*Establish a forestry carbon offset program to*] Market, register, transfer or sell forestry  
38 carbon offsets. [*In establishing the program, the forester may:*]

39 “[*(a) Execute any contracts or agreements necessary to create opportunities for the creation of*  
40 *forestry carbon offsets; and*]

41 “[*(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of*  
42 *forestry carbon offsets.*]

43 “(13) Do all things and make all rules, not inconsistent with law, necessary or convenient for  
44 the management, protection, utilization and conservation of the lands.

45 “**SECTION 103.** ORS 530.500 is amended to read:

1 “530.500. In order to accomplish the purposes of ORS 530.490, the State Forester may:

2 “(1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with  
3 persons owning lands within the state in the protection of the lands and enter into all agreements  
4 necessary or convenient for the protection of the lands.

5 “(2) Enter into and administer contracts for the sale of timber from lands owned or managed  
6 by the State Board of Forestry and the State Forestry Department.

7 “(3) Enter into and administer contracts for activities necessary or convenient for the sale of  
8 timber under subsection (2) of this section, either separately from or in conjunction with contracts  
9 for the sale of timber, including but not limited to activities such as timber harvesting and sorting,  
10 transporting, gravel pit development or operation, and road construction, maintenance or improve-  
11 ment.

12 “(4) Permit the use of the lands for other purposes, including but not limited to fish and wildlife  
13 environment, landscape effect, protection against flood and erosion, recreation and production and  
14 protection of water supplies when the use is not detrimental to the purpose for which the lands are  
15 dedicated.

16 “(5) Contract with other governmental bodies for the protection of water supplies to facilitate  
17 the multiple use of publicly owned water supplies for recreational purposes as well as a source of  
18 water for domestic and industrial use.

19 “(6) Grant permits and licenses on, over and across the lands.

20 “(7) Reforest the lands and cooperate with persons owning timberlands within the state in the  
21 reforestation, and make all agreements necessary or convenient for the reforestation.

22 “(8) [*Establish a forestry carbon offset program to*] Market, register, transfer or sell forestry  
23 carbon offsets. [*In establishing the program, the forester may:*]

24 “[*(a) Execute any contracts or agreements necessary to create opportunities for the creation of*  
25 *forestry carbon offsets; and*]

26 “[*(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of*  
27 *forestry carbon offsets.*]

28 “(9) Do all things and make all rules and regulations, not inconsistent with law, necessary or  
29 convenient for the management, protection, utilization and conservation of the lands.

30 “(10) Require such undertakings as in the opinion of the State Forester are necessary or con-  
31 venient to secure performance of any agreement authorized in ORS 530.450 to 530.520.

32  
33 **“REGULATION OF LANDFILL METHANE EMISSIONS**

34  
35 **“SECTION 104. Section 105 of this 2019 Act is added to and made a part of ORS chapter**  
36 **468A.**

37 **“SECTION 105. (1) As used in this section:**

38 **“(a) ‘Anthropogenic greenhouse gas emissions’ has the meaning given that term in sec-**  
39 **tion 15 of this 2019 Act.**

40 **“(b) ‘Carbon dioxide equivalent’ has the meaning given that term in section 15 of this 2019**  
41 **Act.**

42 **“(c) ‘Hazardous waste’ has the meaning given that term in ORS 466.005.**

43 **“(d) ‘Land disposal site’ has the meaning given that term in ORS 459.005.**

44 **“(e) ‘Landfill’ has the meaning given that term in ORS 459.005.**

45 **“(f) ‘Solid waste’ has the meaning given that term in ORS 459.005.**

1       “(2) It is the intent of the Legislative Assembly that the standards and requirements  
2 adopted by rule under this section be at least as stringent as the most stringent standards  
3 and requirements for reducing methane gas emissions from landfills adopted among the  
4 states having a boundary with Oregon.

5       “(3) The Environmental Quality Commission shall adopt by rule standards and require-  
6 ments for reducing methane gas emissions from landfills.

7       “(4) The following landfills are exempt from standards and requirements adopted by rule  
8 under this section:

9       “(a) Landfills that emit less than 25,000 metric tons of carbon dioxide equivalent in  
10 anthropogenic greenhouse gas emissions annually, as reported under ORS 468A.280.

11       “(b) Landfills that receive only hazardous waste.

12       “(c) Landfills that receive only waste from building demolition or construction.

13       “(d) Land disposal sites that are closed as of the effective date of this 2019 Act and are  
14 no longer receiving solid waste, are maintained in compliance with ORS 459.268 and have less  
15 than 450,000 metric tons of waste in place.

16       “(5) Rules adopted under this section shall include but need not be limited to:

17       “(a) Reporting requirements related to waste in place, calculated landfill gas heat input  
18 capacity, and landfill surface emissions monitoring.

19       “(b) Methane gas collection and control system requirements for landfills with reported  
20 calculated landfill gas heat input capacity exceeding 3 million British thermal units per hour.

21       “(c) Standards and requirements for methane surface emissions, monitoring and correc-  
22 tive actions.

23       “(d) Alternative compliance measures and methods that may be applied for certain land-  
24 fills on a case-by-case basis.

25       “(e) Standards and requirements for records retention, landfill closure notification,  
26 methane gas collection and control device removal or modification and annual operating re-  
27 ports.

28       “SECTION 106. The Environmental Quality Commission shall adopt rules under section  
29 105 of this 2019 Act in time for the rules to become operative no later than July 1, 2021.

30  
31                                   “OREGON GLOBAL WARMING COMMISSION

32                   “(Abolish and Transfer of Duties to Oregon Climate Board)

33  
34       “SECTION 107. (1) The Oregon Global Warming Commission is abolished. On the opera-  
35 tive date of this section, the tenure of office of the members of the Oregon Global Warming  
36 Commission ceases.

37       “(2) All the duties, functions and powers of the Oregon Global Warming Commission are  
38 imposed upon, transferred to and vested in the Oregon Climate Board.

39       “SECTION 108. (1) The chairperson of the Oregon Global Warming Commission shall de-  
40 liver to the Oregon Climate Board all records and property within the jurisdiction of the  
41 chairperson that relate to the duties, functions and powers transferred by section 107 of this  
42 2019 Act.

43       “(2) The chairperson of the Oregon Climate Board shall take possession of the records  
44 and property.

45       “(3) The Governor shall resolve any dispute between the Oregon Global Warming Com-

1 mission and the Oregon Climate Board relating to transfers of records and property under  
2 this section, and the Governor’s decision is final.

3 **“SECTION 109. (1) The unexpended balances of amounts authorized to be expended by the  
4 Oregon Global Warming Commission for the biennium beginning July 1, 2019, from revenues  
5 dedicated, continuously appropriated, appropriated or otherwise made available for the pur-  
6 pose of administering and enforcing the duties, functions and powers transferred by section  
7 107 of this 2019 Act are transferred to and are available for expenditure by the Oregon Cli-  
8 mate Board for the biennium beginning July 1, 2019, for the purpose of administering and  
9 enforcing the duties, functions and powers transferred by section 107 of this 2019 Act.**

10 **“(2) The expenditure classifications, if any, established by Acts authorizing or limiting  
11 expenditures by the Oregon Global Warming Commission remain applicable to expenditures  
12 by the Oregon Climate Board under this section.**

13 **“SECTION 110. The transfer of duties, functions and powers to the Oregon Climate Board  
14 by section 107 of this 2019 Act does not affect any action, proceeding or prosecution involving  
15 or with respect to such duties, functions and powers begun before and pending at the time  
16 of the transfer, except that the Oregon Climate Board is substituted for the Oregon Global  
17 Warming Commission in the action, proceeding or prosecution.**

18 **“SECTION 111. (1) Nothing in sections 107 to 114 of this 2019 Act, the amendments to  
19 statutes by sections 116 to 121 of this 2019 Act or the repeal of statutes by section 115 of this  
20 2019 Act relieves a person of a liability, duty or obligation accruing under or with respect to  
21 the duties, functions and powers transferred by section 107 of this 2019 Act. The Oregon  
22 Climate Board may undertake the collection or enforcement of any such liability, duty or  
23 obligation.**

24 **“(2) The rights and obligations of the Oregon Global Warming Commission legally in-  
25 curred under contracts, leases and business transactions executed, entered into or begun  
26 before the operative date of section 107 of this 2019 Act are transferred to the Oregon Cli-  
27 mate Board. For the purpose of succession to these rights and obligations, the Oregon Cli-  
28 mate Board is a continuation of the Oregon Global Warming Commission and not a new  
29 authority.**

30 **“SECTION 112. Notwithstanding the transfer of duties, functions and powers by section  
31 107 of this 2019 Act, the rules of the Oregon Global Warming Commission in effect on the  
32 operative date of section 107 of this 2019 Act continue in effect until superseded or repealed  
33 by rules of the Oregon Climate Board. References in rules of the Oregon Global Warming  
34 Commission to the Oregon Global Warming Commission or an officer of the Oregon Global  
35 Warming Commission are considered to be references to the Oregon Climate Board or an  
36 officer of the Oregon Climate Board.**

37 **“SECTION 113. Whenever, in any statutory law or resolution of the Legislative Assembly  
38 or in any rule, document, record or proceeding authorized by the Legislative Assembly, ref-  
39 erence is made to the Oregon Global Warming Commission or an officer or employee of the  
40 Oregon Global Warming Commission, the reference is considered to be a reference to the  
41 Oregon Climate Board or an officer of the Oregon Climate Board.**

42 **“SECTION 114. For the purpose of harmonizing and clarifying statutory law, the Legis-  
43 lative Counsel may substitute for words designating the ‘Oregon Global Warming Commis-  
44 sion’ or its officers, wherever they occur in statutory law, words designating the ‘Oregon  
45 Climate Board’ or its officers.**

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“(Repeals)

“**SECTION 115. ORS 468A.200, 468A.210, 468A.215, 468A.220, 468A.225, 468A.230 and 468A.250 are repealed.**

“(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



1 report to the Legislative Assembly, in the manner provided by ORS 192.245, by March 31 of each  
2 odd-numbered year that describes Oregon’s progress toward achievement of the greenhouse gas  
3 emissions reduction goals established by ORS 468A.205. The report may include relevant issues and  
4 trends of significance, including trends of greenhouse gas emissions, emerging public policy and  
5 technological advances. The report also may discuss measures the state may adopt to mitigate the  
6 impacts of [*global warming*] **climate change** on the environment, the economy and the residents of  
7 Oregon and to prepare for those impacts.

8 “**SECTION 121.** ORS 352.823 is amended to read:

9 “352.823. (1) The Oregon Climate Change Research Institute is established at Oregon State  
10 University. In administering the institute, Oregon State University may seek the cooperation of  
11 other public universities listed in ORS 352.002.

12 “(2) The purpose of the Oregon Climate Change Research Institute is to:

13 “(a) Facilitate research by faculty at public universities listed in ORS 352.002 on climate change  
14 and its effects on natural and human systems in Oregon;

15 “(b) Serve as a clearinghouse for climate change information;

16 “(c) Provide climate change information to the public in integrated and accessible formats;

17 “(d) Support the [*Oregon Global Warming Commission*] **Oregon Climate Board** in developing  
18 strategies to prepare for and to mitigate the effects of climate change on natural and human sys-  
19 tems; and

20 “(e) Provide technical assistance to local governments to assist them in developing climate  
21 change policies, practices and programs.

22 “(3) The Oregon Climate Change Research Institute shall assess, at least once each biennium,  
23 the state of climate change science, including biological, physical and social science, as it relates  
24 to Oregon and the likely effects of climate change on the state. The institute shall submit the as-  
25 sessment to the Legislative Assembly in the manner provided in ORS 192.245 and to the Governor.

26 “(4) State agencies may contract with the Oregon Climate Change Research Institute to fulfill  
27 agency needs regarding the collection, storage, integration, analysis, dissemination and monitoring  
28 of climate change information, research and training.

29 “**SECTION 121a.** ORS 468A.265 is amended to read:

30 “468A.265. As used in ORS 468A.265 to 468A.277:

31 “(1) ‘Biodiesel’ means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty  
32 acids derived from vegetable oils, animal fats or other nonpetroleum resources, not including palm  
33 oil.

34 “(2) ‘Clean fuels program’ means the program adopted by rule by the Environmental Quality  
35 Commission under ORS 468A.266 (1)(b).

36 “(3) ‘Compliance period’ means the calendar year during which a regulated party must demon-  
37 strate compliance with the low carbon fuel standards through participation in the clean fuels pro-  
38 gram.

39 “(4) ‘Credit’ means a unit of measure generated when a fuel with a carbon intensity that is less  
40 than the applicable low carbon fuel standard is produced, imported or dispensed for use in Oregon,  
41 such that one credit is equal to one metric ton of carbon dioxide equivalent.

42 “(5) ‘Credit aggregator’ means a person who voluntarily registers to participate in the clean  
43 fuels program to facilitate credit generation on behalf of a credit generator and to trade credits with  
44 regulated parties, credit generators and other credit aggregators.

45 “(6) ‘Credit generator’ means a person eligible to generate credits by providing fuels for use in

1 Oregon with carbon intensities less than the applicable low carbon fuel standard.

2 “(7) ‘Deferral’ means a delay or change in the applicability of a scheduled applicable low carbon  
3 fuel standard for a period of time, accomplished pursuant to an order issued under ORS 468A.273  
4 or 468A.274.

5 “(8) ‘Deficit’ means a unit of measure generated when a fuel with a carbon intensity that is more  
6 than the applicable low carbon fuel standard is produced, imported or dispensed for use in Oregon,  
7 such that one deficit is equal to one metric ton of carbon dioxide equivalent.

8 “(9) ‘Greenhouse gas’ [*has the meaning given that term in ORS 468A.210*] **includes, but is not**  
9 **limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,**  
10 **sulfur hexafluoride and nitrogen trifluoride.**

11 “(10) ‘Low carbon fuel standard’ means a standard adopted by the commission by rule under  
12 ORS 468A.266 for the reduction of greenhouse gas emissions, on average, per unit of fuel energy.

13 “(11) ‘Motor vehicle’ has the meaning given that term in ORS 801.360.

14 “(12) ‘Regulated party’ means a person responsible for complying with the low carbon fuel  
15 standards.

16 “(13) ‘Small deficit’ means a net deficit balance at the end of a compliance period, after retire-  
17 ment of all credits held by a regulated party, that does not exceed a percentage set by the com-  
18 mission by rule of the total number of deficits that the regulated party generated for a compliance  
19 period and that may not be greater than 10 percent of the total number of deficits that the regulated  
20 party generated for a compliance period.

21 “**SECTION 121b.** ORS 468A.279 is amended to read:

22 “468A.279. (1) As used in this section:

23 “(a) ‘Greenhouse gas’ has the meaning given that term in ORS [*468A.210*] **468A.265.**

24 “(b) ‘Motor vehicle’ has the meaning given that term in ORS 801.360.

25 “(2) The Environmental Quality Commission may adopt by rule standards and requirements de-  
26 scribed in this section to reduce greenhouse gas emissions.

27 “(3)(a) The commission may adopt requirements to prevent the tampering, alteration and mod-  
28 ification of the original design or performance of motor vehicle pollution control systems.

29 “(b) Before adopting requirements under this section, the commission shall consider the anti-  
30 tampering requirements and exemptions of the State of California.

31 “(4) The commission may adopt requirements for motor vehicle service providers to check and  
32 inflate tire pressure according to the tire manufacturer’s or motor vehicle manufacturer’s recom-  
33 mended specifications, provided that the requirements:

34 “(a) Do not apply when the primary purpose of the motor vehicle service is fueling vehicles; and

35 “(b) Do not require motor vehicle service providers to purchase equipment to check and inflate  
36 tire pressure.

37 “(5) The commission may adopt restrictions on engine use by commercial ships while at port,  
38 and requirements that ports provide alternatives to engine use such as electric power, provided that:

39 “(a) Engine use shall be allowed when necessary to power mechanical or electrical operations  
40 if alternatives are not reasonably available;

41 “(b) Engine use shall be allowed when necessary for reasonable periods due to emergencies and  
42 other considerations as determined by the commission; and

43 “(c) The requirements must be developed in consultation with representatives of Oregon ports  
44 and take into account operational considerations, operational agreements, international protocols  
45 and limitations, the ability to fund the purchase and use of electric power equipment and the po-

1 tential effect of the requirements on competition with other ports.

2 “(6) In adopting rules under this section, the commission shall evaluate:

3 “(a) Safety, feasibility, net reduction of greenhouse gas emissions and cost-effectiveness;

4 “(b) Potential adverse impacts to public health and the environment, including but not limited  
5 to air quality, water quality and the generation and disposal of waste in this state;

6 “(c) Flexible implementation approaches to minimize compliance costs; and

7 “(d) Technical and economic studies of comparable greenhouse gas emissions reduction measures  
8 implemented in other states and any other studies as determined by the commission.

9 “(7) The provisions of this section do not apply to:

10 “(a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.

11 “(b) Farm tractors, as defined in ORS 801.265.

12 “(c) Implements of husbandry, as defined in ORS 801.310.

13 “(d) Motor trucks, as defined in ORS 801.355, used primarily to transport logs.

14 “**SECTION 121c.** ORS 757.528 is amended to read:

15 “757.528. (1) Unless modified by rule by the State Department of Energy as provided in this  
16 section, the greenhouse gas emissions standard that applies to consumer-owned utilities is 1,100  
17 pounds of greenhouse gases per megawatt-hour for a generating facility.

18 “(2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions  
19 standard includes only carbon dioxide emissions.

20 “(3) For purposes of applying the emissions standard to cogeneration facilities, the department  
21 shall establish an output-based methodology to ensure that the calculation of emissions of  
22 greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process  
23 and includes all greenhouse gases emitted by the facility in the production of both electrical and  
24 thermal energy.

25 “(4) The department shall review the greenhouse gas emissions standard established under this  
26 section no more than once every three years. After public notice and hearing, and consultation with  
27 the Public Utility Commission, the department may:

28 “(a) Modify the emissions standard to include other greenhouse gases as defined in ORS  
29 [468A.210] **468A.265**, with the other greenhouse gases expressed as their carbon dioxide equivalent;  
30 and

31 “(b) Modify the emissions standard based upon current information on the rate of greenhouse  
32 gas emissions from a commercially available combined-cycle natural gas generating facility that:

33 “(A) Employs a combination of one or more gas turbines and one or more steam turbines and  
34 produces electricity in the steam turbines from waste heat produced by the gas turbines;

35 “(B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coor-  
36 dinating Council; and

37 “(C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

38 “(5) In modifying the greenhouse gas emissions standard, the department shall:

39 “(a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions  
40 through cogeneration recognizes the total usable energy output of the process and includes all  
41 greenhouse gases emitted by the generating facility in the production of both electrical and thermal  
42 energy; and

43 “(b) Consider the effects of the emissions standard on system reliability and overall costs to  
44 electricity consumers.

45 “(6) If upon a review conducted pursuant to subsection (4) of this section, the department de-

1 termines that a mandatory greenhouse gas emissions limit has been established pursuant to state  
2 or federal law, the department shall issue a report to the appropriate legislative committees of the  
3 Legislative Assembly stating which portions, if any, of the greenhouse gas emissions standard are  
4 no longer necessary as a matter of state law.

5  
6 **“EXPEDITED JUDICIAL REVIEW TO SUPREME COURT;  
7 EXPIRATION**  
8

9 **“SECTION 122. (1) It is the intent of the Legislative Assembly that the provisions of this  
10 2019 Act relating to the receipt of moneys by the state through the sale of allowances by  
11 auction under section 34 of this 2019 Act do not render this 2019 Act a bill for raising revenue  
12 subject to the provisions of Article IV, sections 18 and 25 (2), of the Oregon Constitution.**

13 **“(2) Original jurisdiction is conferred on the Supreme Court to determine whether this  
14 2019 Act is a bill for raising revenue subject to the provisions of Article IV, sections 18 and  
15 25 (2), of the Oregon Constitution.**

16 **“(3)(a) Any person interested in or affected or aggrieved by, or who will be affected or  
17 aggrieved by, section 34 of this 2019 Act may petition for judicial review under this section.  
18 A petition for review must be filed within 60 days after the effective date of this 2019 Act.**

19 **“(b) The petition must state facts showing how the petitioner is interested, affected or  
20 aggrieved and the grounds upon which the petition is based.**

21 **“(4) The petitioner shall serve a copy of the petition by registered or certified mail upon  
22 the Oregon Department of Administrative Services, the Director of the Climate Policy Office,  
23 the Attorney General and the Governor.**

24 **“(5) Proceedings for review under this section shall be given priority over all other mat-  
25 ters before the Supreme Court.**

26 **“(6) In the event that the Supreme Court determines that there are factual issues in the  
27 petition, the Supreme Court may appoint a special master to hear evidence and to prepare  
28 recommended findings of fact.**

29 **“SECTION 123. (1) Original jurisdiction to determine whether auctions conducted under  
30 section 34 of this 2019 Act impose a tax that is subject to the provisions of Article IX, section  
31 3a, of the Oregon Constitution, is conferred on the Supreme Court.**

32 **“(2)(a) Any person interested in or affected or aggrieved by, or who will be affected or  
33 aggrieved by, section 34 of this 2019 Act may petition for judicial review under this section.  
34 A petition for review must be filed within 60 days after the effective date of this 2019 Act.**

35 **“(b) The petition must state facts showing how the petitioner is interested, affected or  
36 aggrieved and the grounds upon which the petition is based.**

37 **“(3) The petitioner shall serve a copy of the petition by registered or certified mail upon  
38 the Oregon Department of Administrative Services, the Director of the Climate Policy Office,  
39 the Attorney General and the Governor.**

40 **“(4) Proceedings for review under this section shall be given priority over all other mat-  
41 ters before the Supreme Court.**

42 **“(5) In the event that the Supreme Court determines that there are factual issues in the  
43 petition, the Supreme Court may appoint a special master to hear evidence and to prepare  
44 recommended findings of fact.**  
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2  
3 **“REPORTS AND REVIEWS**

4 **“SECTION 124. Initial implementation report. On or before September 15, 2020, the**  
5 **Oregon Department of Administrative Services shall report on the actions being taken to**  
6 **prepare for the implementation of sections 15 to 40 of this 2019 Act to the Joint Committee**  
7 **on Climate Action.**

8 **“SECTION 125. Greenhouse gas emissions reporting program coordination report. On or**  
9 **before December 31, 2020, the Oregon Department of Administrative Services and the De-**  
10 **partment of Environmental Quality shall jointly report, in the manner provided by ORS**  
11 **192.245, on the coordination between the Oregon Department of Administrative Services and**  
12 **the Department of Environmental Quality for administration of ORS 468A.280 and rules**  
13 **adopted under ORS 468A.280, and for the sharing and administration of information collected**  
14 **under ORS 468A.280 and rules adopted under ORS 468A.280. The report shall include recom-**  
15 **mendations, which may include recommendations for legislation, on whether modification of**  
16 **the transfer of duties related to greenhouse gas reporting provided in sections 75 to 81 of this**  
17 **2019 Act should be made to ensure that the appropriate laws related to greenhouse gas re-**  
18 **porting are administered by the appropriate department.**

19 **“SECTION 126. Offset implementation report. On or before September 15, 2031, the Cli-**  
20 **mate Policy Office shall conduct a review and provide a report to the Joint Committee on**  
21 **Climate Action, in the manner provided by ORS 192.245, on the implementation of sections**  
22 **30 to 32 of this 2019 Act and rules adopted under section 30 of this 2019 Act. The report may**  
23 **include recommendations for legislation. The review and report must:**

24 **“(1) Assess the implementation of laws and policies for offset projects and the use of**  
25 **offset credits by covered entities;**

26 **“(2) Include a review of:**

27 **“(a) Offset project development costs and the time it takes for state agencies to review**  
28 **offset projects;**

29 **“(b) To date, the offset projects developed and the offset credits generated and issued**  
30 **under rules adopted and offset protocols developed pursuant to sections 30 to 32 of this 2019**  
31 **Act;**

32 **“(c) To date, the offset credits that have been invalidated pursuant to section 30 (5) of**  
33 **this 2019 Act;**

34 **“(d) Offset credit prices and offset credit market conditions; and**

35 **“(e) Advancements in the methods or technologies used for measuring and monitoring**  
36 **the greenhouse gas emissions reductions or removals attributable to offset projects;**

37 **“(3) Identify barriers to the adoption of offset protocols; and**

38 **“(4) Make determinations and recommendations regarding whether changes to laws and**  
39 **policies are necessary or advisable to address any negative impacts related to offset projects**  
40 **or offset credits or to best align the laws or policies for offset projects and the use of offset**  
41 **credits by covered entities with the purposes set forth in section 14 of this 2019 Act.**

42 **“SECTION 127. Report on certain exclusions from regulated emissions. (1) No later than**  
43 **January 1, 2025, the Climate Policy Office shall conduct research and submit a report, in the**  
44 **manner provided by ORS 192.245, to the Joint Committee on Climate Action regarding the**  
45 **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 loco-**

1 motives. The purpose of the report shall be to provide analysis of the anticipated effect of  
2 amending section 17 of this 2019 Act and any other statutes as necessary such that, begin-  
3 ning in the first compliance period that begins after January 1, 2027, the greenhouse gas  
4 emissions from the combustion of fuel described in section 17 (2)(a) of this 2019 Act would  
5 be included in regulated emissions.

6 “(2) In carrying out the provisions of this section, the office shall research and provide  
7 analysis on:

8 “(a) Whether the aviation, marine and railroad industries in Oregon are reducing  
9 greenhouse gas emissions consistent with the best available technologies and energy alter-  
10 natives;

11 “(b) Whether other jurisdictions that have adopted carbon pricing mechanisms require  
12 aviation fuels, marine fuels or railroad fuels to comply with those carbon pricing mech-  
13 anisms;

14 “(c) The costs and economic impacts of eliminating the exclusion provided under section  
15 17 (2)(a) of this 2019 Act, analyzed separately for each industry that would be impacted by  
16 the elimination of the exclusion; and

17 “(d) The environmental impacts of eliminating the exclusion provided under section 17  
18 (2)(a) of this 2019 Act, analyzed separately for each industry that would be impacted by the  
19 elimination of the exclusion.

20 “SECTION 128. Credit proposal. (1) The Department of Transportation, in consultation  
21 with the Department of Revenue, the Legislative Revenue Officer and any other relevant  
22 state agencies, shall develop a proposal for a program or process for issuing the following  
23 refunds or credits of moneys received by the state as proceeds from auctions of allowances  
24 conducted under section 34 of this 2019 Act, in order to offset estimated increases in motor  
25 vehicle fuel costs in Oregon attributable to the regulation of motor vehicle fuel producers  
26 and importers as covered entities under sections 15 to 40 of this 2019 Act:

27 “(a) A refund or credit available, in an amount up to 100 percent of the estimated in-  
28 crease in the cost of motor vehicle fuel used to propel motor vehicles on the highways of this  
29 state, to individuals with an adjusted gross income that does not exceed 250 percent of the  
30 federal poverty guidelines based on the individual’s household size and household members.

31 “(b) One or more refunds or credits available, in order to offset the estimated increase  
32 in the cost of motor vehicle fuel used to propel motor vehicles that are not operated on the  
33 highways of this state, for motor vehicle fuel that is used in farm vehicles, motor vehicles  
34 used in the forest products industry or motor vehicles otherwise used in the agricultural and  
35 natural resource sectors.

36 “(2) On or before September 15, 2019, and in the manner provided by ORS 192.245, the  
37 Department of Transportation shall provide a report detailing the proposal and steps, which  
38 may include recommendations for legislation, necessary to implement the proposal to the  
39 Joint Committee on Climate Action and the Joint Committee on Transportation.

40 “SECTION 129. Residential home heating assistance program proposal. (1) The Housing  
41 and Community Services Department, in consultation with the Climate Policy Office, the  
42 Oregon Housing Stability Council and interested stakeholders, shall develop a proposal for  
43 assisting households that for residential home heating use propane, fuel oil or other fossil  
44 fuels that are not natural gas. The proposal shall give priority to assisting low-income  
45 households or impacted communities, as defined in section 15 of this 2019 Act, through:

1       “(a) Bill assistance; and  
2       “(b) Weatherization, including options for upgrading to more efficient home heating  
3 equipment or to home heating systems powered by less greenhouse gas emissions-intensive  
4 power sources.  
5       “(2) The department shall develop the proposal in a manner intended to achieve the fol-  
6 lowing goals:  
7       “(a) Reducing greenhouse gas emissions;  
8       “(b) Saving energy;  
9       “(c) Reducing the energy burden experienced by households; and  
10       “(d) Reducing residential home heating service disparities in historically underserved  
11 populations.  
12       “(3) The proposal required by this section may be for any combination of:  
13       “(a) The development of a single new program;  
14       “(b) The development of multiple new programs or activities to achieve different goals  
15 as outlined in subsection (2) of this section; or  
16       “(c) Utilization of existing programs or partnerships to deliver assistance to households.  
17       “(4) On or before September 15, 2020, and in the manner provided by ORS 192.245, the  
18 Housing and Community Services Department shall provide a report detailing the proposal,  
19 and steps, which may include recommendations for legislation, necessary to implement the  
20 proposal, to the Joint Committee on Climate Action.  
21       “SECTION 130. Commercial and industrial natural gas and propane user emissions re-  
22 duction program proposal. (1) The Oregon Business Development Department shall:  
23       “(a) Conduct the analysis described in subsection (2) of this section; and  
24       “(b) Based on the analysis described in subsection (2) of this section, develop a proposal  
25 for a program to serve the needs identified in the analysis in a manner that furthers one or  
26 more of the purposes set forth in section 14 of this 2019 Act.  
27       “(2) The department shall analyze and determine the commercial needs in this state for  
28 loans or other financial assistance to commercial and industrial natural gas users or propane  
29 users for projects or activities to:  
30       “(a) Increase the energy efficiency of or reduce the greenhouse gas emissions from na-  
31 tural gas or propane-fueled equipment used in industrial or commercial facilities;  
32       “(b) Facilitate replacing existing equipment in order to reduce greenhouse gas emissions;  
33 and  
34       “(c) Reduce process emissions.  
35       “(3) In conducting the analysis and designing a proposal for a program as required by this  
36 section, the department may consult and contract for services as necessary with state or  
37 federal agencies or nongovernmental entities that have expertise in climate or energy policy  
38 or in industrial energy efficiency, or other relevant expertise.  
39       “(4) On or before September 15, 2020, and in the manner provided by ORS 192.245, the  
40 department shall provide a report to the Joint Committee on Climate Action detailing the  
41 analysis conducted and the proposal developed pursuant to this section and the steps, which  
42 may include recommendations for legislation, necessary to implement the proposal.  
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45

“APPROPRIATIONS





1 and (C) of this paragraph.

2 “(B) Information described in subparagraph (A) of this paragraph may be used and dis-  
3 closed in aggregated form.

4 “(C) This paragraph does not prohibit the disclosure of information between the Climate  
5 Policy Office and other agencies of the executive department, as defined in ORS 174.112, or  
6 persons engaged by the State of Oregon to provide administrative or technical services to  
7 support the implementation of sections 15 to 40 of this 2019 Act if the disclosure is necessary  
8 for purposes of adopting rules, issuing orders or taking any actions before the operative date  
9 specified in paragraph (a) of this subsection to carry out the provisions of sections 14 to 27,  
10 29 to 36, 38 to 47, 49 to 68 and 89 to 92 of this 2019 Act, the amendments to statutes by  
11 sections 69, 87, 94 to 100, 102 and 103 of this 2019 Act, and the repeal of statutes by sections  
12 93 and 101 of this 2019 Act.

13 “(3)(a) Sections 75 to 81 of this 2019 Act, the amendments to ORS 468.953 and 468A.280  
14 by sections 82 and 86 of this 2019 Act and the amendments to sections 11, 12 and 39 of this  
15 2019 Act by sections 83 to 85 of this 2019 Act become operative on January 1, 2022.

16 “(b) The Environmental Quality Commission, the Department of Environmental Quality,  
17 the Oregon Department of Administrative Services, the Director of the Climate Policy Office  
18 and the Climate Policy Office may adopt rules or take any actions before the operative date  
19 specified in paragraph (a) of this subsection that are necessary to enable the Environmental  
20 Quality Commission, the Department of Environmental Quality, the Oregon Department of  
21 Administrative Services, the Director of the Climate Policy Office and the Climate Policy  
22 Office, on and after the operative date specified in paragraph (a) of this subsection, to carry  
23 out the provisions of sections 75 to 81 of this 2019 Act, the amendments to ORS 468.953 and  
24 468A.280 by sections 82 and 86 of this 2019 Act and the amendments to sections 11, 12 and  
25 39 of this 2019 Act by sections 83 to 85 of this 2019 Act.

26  
27 “CAPTIONS

28  
29 “SECTION 134. The unit and section captions used in this 2019 Act are provided only for  
30 the convenience of the reader and do not become part of the statutory law of this state or  
31 express any legislative intent in the enactment of this 2019 Act.

32  
33 “EMERGENCY CLAUSE

34  
35 “SECTION 135. This 2019 Act being necessary for the immediate preservation of the  
36 public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes  
37 effect on its passage.”.  
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