

LC 19
2020 Regular Session
1/10/20 (MAM/ps)

D R A F T

SUMMARY

Modifies statewide greenhouse gas emissions reduction goals.

Establishes Oregon Greenhouse Gas Initiative and related provisions, operative January 1, 2022.

Authorizes Public Utility Commission to allow rate or rate schedule to include differential rates or to reflect amounts for programs that enable public utilities to assist low-income residential customers. Authorizes commission to allow electric companies and natural gas utilities to recover costs for prudent investments in or expenses for infrastructure measures that support adoption of alternative forms of transportation.

Amends greenhouse gas reporting statute.

Repeals Energy Facility Siting Council carbon dioxide emissions standards.

Requires Environmental Quality Commission to adopt by rule standards and requirements for reducing methane emissions from landfills.

Requires Environmental Quality Commission to regulate use of hydrofluorocarbons in certain products.

Abolishes Oregon Global Warming Commission.

Modifies requirements for ethanol content in gasoline.

Prohibits sale or offer for sale of general service lamps that do not meet certain efficiency standards. Authorizes State Department of Energy to modify prohibition by rule to align with laws of adjacent states.

Provides for direct, expedited judicial review by Oregon Supreme Court of certain constitutional questions related to Oregon Greenhouse Gas Initiative.

Requires certain reports and reviews related to Oregon Greenhouse Gas Initiative.

Establishes, within Department of Environmental Quality, Oregon Greenhouse Gas Reduction Board, Administrator of the Office of Greenhouse Gas Regulation and Office of Greenhouse Gas Regulation and sets forth duties of board, administrator and office.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to greenhouse gas emissions; creating new provisions; amending
3 ORS 244.050, 352.823, 468.015, 468.135, 468A.205, 468A.265, 468A.279,
4 468A.280, 469.300, 469.310, 469.373, 469.405, 469.407, 469.501, 469.503,
5 469.504, 469.505, 646.913, 757.259 and 757.528 and section 12, chapter 751,
6 Oregon Laws 2009, and sections 75 and 76, chapter 750, Oregon Laws 2017;
7 repealing ORS 468A.200, 468A.210, 468A.215, 468A.220, 468A.225, 468A.230,
8 468A.235, 468A.240, 468A.245, 468A.250, 468A.255, 468A.260 and 469.409; and
9 declaring an emergency.

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

11
12 **STATEWIDE GREENHOUSE GAS EMISSIONS**
13 **REDUCTION GOALS**

14
15 **SECTION 1.** ORS 468A.205 is amended to read:

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

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

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

24 [(c) *By 2050, achieve greenhouse gas levels that are at least 75 percent below*
25 *1990 levels.*]

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

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

28 (2) The Legislative Assembly declares that it is the policy of this state for
29 state and local governments, businesses, nonprofit organizations and indi-
30 vidual residents to prepare for the effects of [*global warming*] **climate**
31 **change** and by doing so, prevent and reduce the social, economic and envi-

1 ronmental effects of [*global warming*] **climate change**.

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

4

5 **OREGON GREENHOUSE GAS INITIATIVE**

6 **(Statement of Purpose)**

7

8 **SECTION 2. (1) The Legislative Assembly finds and declares that**
9 **the purposes of sections 2, 4 to 32, 33 to 37, 38 to 40, 41, 42, 43 and 45**
10 **to 53 of this 2020 Act are:**

11 **(a) To achieve a reduction in total levels of regulated emissions**
12 **under sections 4 to 32 of this 2020 Act to at least 45 percent below 1990**
13 **emissions levels by 2035 and to achieve a reduction in total regulated**
14 **emissions levels to at least 80 percent below 1990 emissions levels by**
15 **2050;**

16 **(b) To promote greenhouse gas emissions sequestration and miti-**
17 **gation;**

18 **(c) To promote the adaptation and resilience of natural and working**
19 **lands, fish and wildlife resources, communities, the economy and this**
20 **state's infrastructure in the face of climate change and ocean**
21 **acidification; and**

22 **(d) To provide assistance to households, businesses and workers**
23 **impacted by climate change or by climate change policies.**

24 **(2) Sections 2, 4 to 32, 33 to 37, 38 to 40, 41, 42, 43 and 45 to 53 of this**
25 **2020 Act and the rules adopted pursuant to sections 2, 4 to 32, 33 to 37,**
26 **38 to 40, 41, 42, 43 and 45 to 53 of this 2020 Act may not be interpreted**
27 **to limit the authority of any state agency to adopt and implement**
28 **measures to reduce greenhouse gas emissions.**

29

30 **(Chapter Placement)**

31

1 (a) Nonfossilized and biodegradable organic material originating
2 from plants, animals or microorganisms;

3 (b) Products, by-products, residues or waste from agriculture,
4 forestry or related industries; and

5 (c) The nonfossilized and biodegradable organic fractions of indus-
6 trial and municipal wastes, including gases and liquids recovered from:

7 (A) The decomposition of nonfossilized and biodegradable organic
8 material originating from plants, animals or microorganisms; or

9 (B) Municipal solid waste disposed of in a landfill.

10 (8)(a) “Business unit” means a business operation that is located
11 at a facility permitted as a single air contamination source under ORS
12 468.065, 468A.040 or 468A.155, but that is distinguishable from one or
13 more other business operations located at the facility by:

14 (A) The short title and six-digit code in the 2017 North American
15 Industry Classification System applicable to the business operation;

16 (B) Accounting practices for the business operation that maintain
17 the finances for the business operation as distinct from the finances
18 of other business operations located at the facility; and

19 (C) The capability of the business operation to operate separately
20 and independently of other business operations at the facility if not
21 colocated with the other business operations.

22 (b) “Business unit” does not mean a cogeneration facility.

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

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

30 (11) “Compliance obligation” means the quantity of regulated
31 emissions that are attributable to a covered entity, and for which

1 **compliance instruments must be retired, for a compliance period.**

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

4 **(13) “Covered entity” means a person that is designated by the Of-**
5 **fice of Greenhouse Gas Regulation as subject to the Oregon**
6 **Greenhouse Gas Initiative.**

7 **(14) “Direct environmental benefits in this state” means:**

8 **(a) A reduction in or avoidance of emissions of any air contaminant**
9 **in this state other than a greenhouse gas;**

10 **(b) A reduction in or avoidance of pollution of any of the waters**
11 **of the state, as the terms “pollution” and “the waters of the state” are**
12 **defined in ORS 468B.005; or**

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

15 **(15) “EITE entity” means a covered entity that is engaged in the**
16 **manufacture of goods through one or more emissions-intensive,**
17 **trade-exposed processes, as further designated by the office pursuant**
18 **to section 19 of this 2020 Act.**

19 **(16) “Electric company” has the meaning given that term in ORS**
20 **757.600.**

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

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

29 **(a) Electric companies.**

30 **(b) Electricity service suppliers.**

31 **(c) Consumer-owned utilities.**

1 (d) **The Bonneville Power Administration.**

2 (e) **Electric generation and transmission cooperatives.**

3 (19) **“Eligible Indian tribe” means each of the Burns Paiute Tribe,**
4 **the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians,**
5 **the Confederated Tribes of the Grand Ronde Community of Oregon,**
6 **the Confederated Tribes of Siletz Indians of Oregon, the Confederated**
7 **Tribes of the Umatilla Indian Reservation, the Confederated Tribes of**
8 **the Warm Springs Reservation of Oregon, the Coquille Indian Tribe,**
9 **the Cow Creek Band of Umpqua Tribe of Indians and the Klamath**
10 **Tribes.**

11 (20) **“General market participant” means a person that is not a**
12 **covered entity and that intends to purchase, hold, sell or voluntarily**
13 **surrender compliance instruments.**

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

17 (22) **“Impacted community” means a community at risk of being**
18 **disproportionately impacted by climate change as designated by the**
19 **Oregon Greenhouse Gas Reduction Board under section 103 of this 2020**
20 **Act.**

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

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

27 (25) **“Natural and working lands” means:**

28 (a) **Lands and waters:**

29 (A) **Actively used by an agricultural owner or operator for an agri-**
30 **cultural operation that includes, but need not be limited to, active**
31 **engagement in farming or ranching;**

1 (B) Producing forest products;

2 (C) Consisting of forests, woodlands, grasslands, sagebrush steppes,
3 deserts, freshwater and riparian systems, wetlands, coastal and
4 estuarine areas, the submerged and submersible lands within Oregon's
5 territorial sea, watersheds, wildlands or wildlife habitats; or

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

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

12 (26) "Natural gas supplier" means any entity that is not a natural
13 gas utility and that:

14 (a) Procures natural gas for end use in this state; or

15 (b) Owns natural gas as it is imported into this state for end use
16 in this state.

17 (27) "Natural gas utility" means a natural gas utility regulated by
18 the Public Utility Commission under ORS chapter 757.

19 (28) "Offset credit" means a fungible credit generated by an offset
20 project that represents a greenhouse gas emissions reduction or re-
21 moval of one metric ton of carbon dioxide equivalent.

22 (29) "Offset project" means a project that reduces or removes
23 greenhouse gas emissions that are not regulated emissions.

24 (30) "Oregon Greenhouse Gas Initiative" means the program
25 adopted by rule by the Oregon Greenhouse Gas Reduction Board under
26 section 5 of this 2020 Act and in accordance with the provisions of
27 sections 4 to 32 of this 2020 Act.

28 (31) "Permitted air contamination source" means an air contam-
29 ination source as defined in ORS 468A.005 for which a permit is issued
30 by the Department of Environmental Quality pursuant to ORS 468.065,
31 468A.040 or 468A.155.

1 (32) “Registered entity” means a covered entity or general market
2 participant that has successfully registered to participate in the
3 Oregon Greenhouse Gas Initiative.

4 (33) “Regulated emissions” means the verified anthropogenic
5 greenhouse gas emissions reported by or assigned to a covered entity
6 under ORS 468A.280 that the office determines are anthropogenic
7 greenhouse gas emissions regulated under sections 4 to 32 of this 2020
8 Act.

9 (34) “Surrender” means to transfer a compliance instrument to the
10 office to fulfill a compliance obligation or on a voluntary basis.

11 (35) “Trade-exposed natural gas user” means a person that is en-
12 gaged in processes for which the indirect costs of compliance with the
13 Oregon Greenhouse Gas Initiative may create a substantial risk of
14 leakage, as further designated by the office pursuant to section 18 of
15 this 2020 Act.

16 SECTION 5. General provisions; designation of covered entities.

17 (1)(a) The Oregon Greenhouse Gas Reduction Board shall, in accord-
18 ance with ORS chapter 183, adopt rules necessary for the Office of
19 Greenhouse Gas Regulation to implement the Oregon Greenhouse Gas
20 Initiative established under sections 4 to 32 of this 2020 Act. The rules
21 shall:

22 (A) Place a limit on the total anthropogenic greenhouse gas emis-
23 sions that are regulated emissions by setting annual allowance budgets
24 for 2022 to 2050; and

25 (B) Provide a system for covered entities to buy and sell allowances
26 and offset credits used to demonstrate compliance with the covered
27 entities’ compliance obligations.

28 (b)(A) The annual allowance budget for 2022 shall be a number of
29 allowances equal to baseline emissions as calculated under paragraph
30 (c) of this subsection.

31 (B) In 2023 and each following calendar year before 2036, the number

1 of allowances available in each annual allowance budget shall decline
2 by a constant amount necessary to accomplish a reduction in total
3 regulated emissions levels to at least 45 percent below 1990 emissions
4 levels by 2035.

5 (C) In 2036 and in each following calendar year before 2051, the
6 number of allowances available in each annual allowance budget shall
7 decline by a constant amount necessary to accomplish a reduction in
8 total regulated emissions levels to at least 80 percent below 1990
9 emissions levels by 2050.

10 (c) The office shall calculate baseline emissions to be equal to a
11 forecast of regulated emissions for 2022, informed by the three-year
12 average of the total, expressed in metric tons of carbon dioxide
13 equivalent, of anthropogenic greenhouse gas emissions attributable to
14 all persons that the office designates to be covered entities under the
15 Oregon Greenhouse Gas Initiative. In calculating baseline emissions,
16 the office shall use greenhouse gas emissions information from the
17 three most recent years prior to 2022 for which greenhouse gas emis-
18 sions information is available and confirmed by the office. The office
19 shall exclude from the calculation of baseline emissions those
20 greenhouse gas emissions during the three most recent years prior to
21 2022 that would not have been regulated emissions if the Oregon
22 Greenhouse Gas Initiative had been in effect during the time that the
23 greenhouse gas emissions occurred.

24 (2) Subject to section 6 of this 2020 Act, the office shall designate
25 persons as covered entities as follows:

26 (a) The office shall designate an electric system manager as a cov-
27 ered entity for the purpose of addressing annual regulated emissions
28 from outside this state that are attributable to the generation of
29 electricity that the electric system manager schedules for delivery and
30 consumption in this state, including wholesale market purchases for
31 which the energy source for the electricity is not known, and ac-

1 counting for transmission and distribution line losses. For the pur-
2 poses of this paragraph, the board may adopt rules necessary to
3 address electricity scheduled for delivery and consumption in this state
4 through an energy imbalance market or other centralized market ad-
5 ministered by a market operator.

6 (b) The office shall designate a natural gas supplier as a covered
7 entity for the purpose of addressing annual regulated emissions that
8 are attributable to the combustion of natural gas that is:

9 (A) Sold by the natural gas supplier for use in this state;

10 (B) Distributed on a local distribution system operated by a natural
11 gas utility; and

12 (C) Directly consumed or resold for use in this state by the cus-
13 tomer of the natural gas supplier.

14 (c) The office shall designate a natural gas utility as a covered en-
15 tity for the purpose of addressing annual regulated emissions that are
16 attributable to the combustion of natural gas that the natural gas
17 utility imports, sells or distributes for use in this state and that are
18 not emissions accounted for through the regulation of natural gas
19 suppliers under paragraph (b) of this subsection.

20 (d) The office shall designate as covered entities persons that
21 produce in Oregon, or import into Oregon, liquid or gaseous fuel other
22 than natural gas that is sold or distributed for use in this state, as
23 necessary to address annual regulated emissions that are attributable
24 to the combustion of the fuel.

25 (e) Except as provided in paragraph (f) of this subsection, the office
26 shall designate a permitted air contamination source as a covered en-
27 tity if the annual regulated emissions attributable to the air contam-
28 ination source meet or exceed 25,000 metric tons of carbon dioxide
29 equivalent. For purposes of this paragraph, the annual regulated
30 emissions attributable to the permitted air contamination source may
31 not include anthropogenic greenhouse gas emissions accounted for

1 through the regulation of a person described in paragraph (b), (c) or
2 (d) of this subsection.

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

17 (3) The board shall adopt rules for the system required by sub-
18 section (1) of this section that include, but need not be limited to:

19 (a) Rules allowing for the purchase, sale and exchange of compli-
20 ance instruments;

21 (b) Rules allowing registered entities to bank and carry forward al-
22 lowances;

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

25 (d) Rules allowing general market participants to participate in the
26 Oregon Greenhouse Gas Initiative; and

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

30 (4) The office shall require a covered entity to surrender to the of-
31 fice the quantity of compliance instruments necessary to fulfill the

1 covered entity's compliance obligation no later than the surrender
2 date specified by the board by rule or order.

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

10 (6) In addition to any penalty provided by law, rules adopted by the
11 board:

12 (a) Shall require a covered entity that fails to fulfill a compliance
13 obligation to surrender to the office a number of compliance instru-
14 ments that is in addition to the entity's compliance obligation; and

15 (b) May establish a process for placing restrictions on the holding
16 account of a registered entity determined to have engaged in a vio-
17 lation of a provision of sections 4 to 32 of this 2020 Act or rules adopted
18 under sections 4 to 32 of this 2020 Act.

19 (7) A compliance instrument issued by the office does not constitute
20 property or a property right for any purpose under state or local law,
21 including taxation.

22 (8)(a) All covered entities and general market participants must
23 register as registered entities to participate in the Oregon Greenhouse
24 Gas Initiative.

25 (b) The board shall adopt by rule registration requirements and any
26 additional requirements necessary for registered entities to participate
27 in auctions administered pursuant to section 28 of this 2020 Act.

28 (9) In adopting rules pursuant to this section or any other
29 rulemaking authority provided under sections 4 to 32 of this 2020 Act,
30 the board shall endeavor to develop the rules in a manner that does
31 not preclude participation by the State of Oregon in regional

1 **greenhouse gas emissions reduction programs.**

2 **SECTION 6. Exclusions. (1) The Office of Greenhouse Gas Regu-**
3 **lation shall exclude from regulated emissions under sections 4 to 32**
4 **of this 2020 Act:**

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

8 (b) **The emissions attributable to a landfill, as defined in ORS**
9 **459.005.**

10 (2) **For purposes of section 5 (2)(d) of this 2020 Act, the office may**
11 **exempt from designation as a covered entity any person that imports**
12 **in a calendar year less than a de minimis amount of gasoline or diesel**
13 **fuel, in total, as determined by the Oregon Greenhouse Gas Reduction**
14 **Board by rule. Gasoline and diesel fuel imported by persons that are**
15 **related or share common ownership or control shall be aggregated in**
16 **determining whether a person may be exempted under this subsection.**

17 **SECTION 7. Allocation of allowances, generally. (1) The Office of**
18 **Greenhouse Gas Regulation shall allocate the allowances available in**
19 **each annual allowance budget as follows:**

20 (a) **The office shall allocate a number of the allowances for deposit**
21 **in an allowance price containment reserve. Allowances may be sold**
22 **from the allowance price containment reserve under section 28 of this**
23 **2020 Act only to address any high costs of compliance instruments for**
24 **covered entities.**

25 (b) **The office shall allocate for retirement a number of the allow-**
26 **ances as necessary to meet statutory requirements for retirement of**
27 **allowances under the Oregon Greenhouse Gas Initiative.**

28 (c) **The office shall allocate a number of the allowances for direct**
29 **distribution at no cost to covered entities that are electric companies**
30 **pursuant to rules adopted under section 14 of this 2020 Act.**

31 (d) **The office shall allocate a number of the allowances for direct**

1 **distribution at no cost to covered entities that are electric system**
2 **managers other than electric companies pursuant to section 15 of this**
3 **2020 Act.**

4 (e) **The office shall allocate a number of the allowances for deposit**
5 **in an electricity price containment reserve. Allowances may be di-**
6 **rectly distributed to regulated entities that are electric system man-**
7 **agers at no cost from the electricity price containment reserve only**
8 **when the distribution is necessary to protect customers from cost in-**
9 **creases associated with unexpected increases in regulated emissions**
10 **attributable to an electric system manager that are outside of the**
11 **control of the electric system manager, including but not limited to**
12 **unexpected increases in regulated emissions due to hydroelectric**
13 **power generation variability. The Oregon Greenhouse Gas Reduction**
14 **Board shall adopt rules for electric system managers to apply for di-**
15 **rect distribution at no cost of allowances from the electricity price**
16 **containment reserve. The rules shall prioritize distribution of allow-**
17 **ances from the electricity price containment reserve to electric system**
18 **managers that experience unexpected increases in regulated emissions**
19 **attributable to variation in hydroelectric power generation to serve the**
20 **load of electricity customers in Oregon.**

21 (f) **The office shall allocate a number of the allowances for direct**
22 **distribution at no cost to covered entities that are natural gas utilities**
23 **pursuant to section 17 of this 2020 Act.**

24 (g) **In order to mitigate leakage and pursuant to sections 19 and 20**
25 **of this 2020 Act, the office shall allocate a number of the allowances**
26 **for direct distribution at no cost to covered entities that are EITE**
27 **entities.**

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

1 (A) EITE entities pursuant to rules adopted under section 20 (8) of
2 this 2020 Act; or

3 (B) An EITE entity designated as such pursuant to section 19 (2)
4 of this 2020 Act.

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

8 (j) The office shall allocate the allowances that are not otherwise
9 allocated pursuant to paragraphs (a) to (i) of this subsection for de-
10 posit in an auction holding account for auction pursuant to section
11 28 of this 2020 Act. If allowances deposited in the auction holding ac-
12 count under this paragraph remain unsold after two or more consec-
13 utive auctions held pursuant to section 28 of this 2020 Act, the office
14 may redistribute the unsold allowances to the allowance price con-
15 tainment reserve described in paragraph (a) of this subsection.

16 (2) The receipt by a covered entity of an allowance directly distrib-
17 uted by the office at no cost to the covered entity may not be subject
18 to any local tax, fee, assessment or other charge and is exempt from
19 taxation under ORS chapters 316, 317 and 318.

20 SECTION 8. Retirement of allowances for certain electric system
21 managers. (1) In 2022 and each following calendar year before 2051, the
22 Office of Greenhouse Gas Regulation shall retire from the annual al-
23 lowance budget, on behalf of a covered entity that is an electric system
24 manager, a number of allowances equal to the regulated emissions
25 attributable to a consumer-owned utility, if the three-year average of
26 the annual anthropogenic greenhouse gas emissions attributable to
27 electricity that is scheduled, by the consumer-owned utility or by an
28 electric generation and transmissions cooperative, for final delivery
29 by the consumer-owned utility for consumption in this state is less
30 than 25,000 metric tons of carbon dioxide equivalent.

31 (2) Allowances directly retired by the office on behalf of a covered

1 entity under this section shall count toward fulfilling the covered
2 entity's compliance obligation for the compliance period during which
3 the allowances are directly retired.

4 **SECTION 9. Retirement of allowances for certain electricity service**
5 **suppliers.** (1) As used in this section:

6 (a) "Direct access" has the meaning given that term in ORS 757.600.

7 (b) "Electricity services" has the meaning given that term in ORS
8 757.600.

9 (c) "Retail electricity consumer" has the meaning given that term
10 in ORS 757.600.

11 (2) In 2022 and in each following calendar year before 2026, the Of-
12 fice of Greenhouse Gas Regulation shall retire from the annual allow-
13 ance budget, on behalf of a covered entity that is an electricity service
14 supplier, a number of allowances equal to the regulated emissions at-
15 tributable to the electricity service supplier for electricity services
16 provided:

17 (a) To a person that was a direct access retail electricity consumer
18 prior to January 31, 2020; and

19 (b) Pursuant to a contract that became effective on or before Jan-
20 uary 31, 2020.

21 (3) An electricity service supplier may not include in the rate or bill
22 charged to a retail electricity consumer the costs associated with
23 compliance by the electricity service supplier with the Oregon
24 Greenhouse Gas Initiative that are attributable to the regulated
25 emissions for which allowances are retired under subsection (2) of this
26 section.

27 (4) The office may annually request from retail electricity consum-
28 ers the information that is necessary to administer this section. If a
29 retail electricity consumer does not comply with a request under this
30 subsection, the office may not retire under this section any allowances
31 for regulated emissions attributable to electricity services provided to

1 that retail electricity consumer.

2 (5) Allowances directly retired by the office on behalf of a covered
3 entity under this section shall count toward fulfilling the covered
4 entity's compliance obligation for the compliance period during which
5 the allowances are directly retired.

6 SECTION 10. Section 9 of this 2020 Act is repealed on January 2,
7 2026.

8 SECTION 11. Retirement of allowances for covered entities that are
9 natural gas powered electric power generation facilities. (1) In 2022 and
10 each following calendar year before 2027, the Office of Greenhouse Gas
11 Regulation shall retire from the annual allowance budget, on behalf
12 of a covered entity described in section 5 (2)(e) of this 2020 Act, if the
13 covered entity is a natural gas powered electric power generation fa-
14 cility with an applicable code of 22112 under the 2017 North American
15 Industry Classification System, a number of allowances equal to the
16 regulated emissions that are attributable to the generation in this
17 state by the covered entity of electricity:

18 (a) That is delivered to and consumed in another state, accounting
19 for transmission and distribution line losses; and

20 (b) For which the capital and fuel costs associated with the gener-
21 ation are included in the rates of a multistate jurisdictional electric
22 company that are charged to electricity customers in a state other
23 than Oregon.

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

28 SECTION 12. Section 11 of this 2020 Act is repealed on January 2,
29 2027.

30 SECTION 13. Retirement of allowances for certain motor vehicle
31 fuel importers and suppliers. (1) As used in this section:

1 (a) “Metropolitan planning area” has the meaning given that term
2 in 49 U.S.C. 5303(b).

3 (b) “Motor vehicle” means a vehicle that is self-propelled or de-
4 signed for self-propulsion.

5 (c) “Motor vehicle fuel” means any combustible gas, liquid or ma-
6 terial of a kind used as fuel for the generation of power to propel a
7 motor vehicle.

8 (d) “Truck stop” means a public facility for the fueling of motor
9 vehicles that has, at the facility:

10 (A) At least four showers available for public use;

11 (B) A permanently established truck scale; and

12 (C) One or more underground storage tanks that are dedicated to
13 supplying diesel motor vehicle fuel to at least four fueling islands that
14 are each:

15 (i) Dedicated to fueling trucks; and

16 (ii) Equipped with both a pump designed for the high-speed dis-
17 pensing of diesel motor vehicle fuel and a satellite diesel motor vehicle
18 fuel pump.

19 (2) In 2022 and each following calendar year before 2025, the Office
20 of Greenhouse Gas Regulation shall retire from the annual allowance
21 budget, on behalf of a covered entity described in section 5 (2)(d) of
22 this 2020 Act, a number of allowances equal to 100 percent of regulated
23 emissions attributable to the combustion of motor vehicle fuel that is:

24 (a) Produced in Oregon or imported into Oregon by the covered
25 entity; and

26 (b) Delivered into a fuel tank used for propelling a motor vehicle
27 at:

28 (A) A delivery point with a zip code that is located outside the
29 boundary of the metropolitan planning area that includes Portland;
30 or

31 (B) A truck stop that is geographically located 1.5 miles or less from

1 the border between the State of Oregon and a state that has not
2 adopted a program for regulating greenhouse gas emissions from mo-
3 tor vehicle fuel.

4 (3) In 2025 and each following calendar year before 2051, and subject
5 to subsection (5) of this section, the office shall retire from the annual
6 allowance budget, on behalf of a covered entity described in section 5
7 (2)(d) of this 2020 Act, a number of allowances equal to 100 percent of
8 regulated emissions attributable to the combustion of motor vehicle
9 fuel that is:

10 (a) Produced in Oregon or imported into Oregon by the covered
11 entity; and

12 (b) Delivered into a fuel tank used for propelling a motor vehicle
13 at:

14 (A) A delivery point with a zip code that is located outside:

15 (i) The boundary of a metropolitan planning area that includes
16 Portland;

17 (ii) The city limits of a city, if the total aggregated gallons of motor
18 vehicle fuel annually delivered at delivery points with zip codes inside
19 the city limits equals 10 million gallons or more; or

20 (iii) The boundary of a county or a city not described in sub-
21 subparagraph (ii) of this subparagraph for which the office has re-
22 ceived a certified copy of an adopted ordinance or resolution described
23 in subsection (4) of this section; or

24 (B) A truck stop that is geographically located 1.5 miles or less from
25 the border between the State of Oregon and a state that has not
26 adopted a program for regulating greenhouse gas emissions from mo-
27 tor vehicle fuel.

28 (4) A county or a city may, by ordinance or resolution, exercise the
29 option for the cost of the Oregon Greenhouse Gas Initiative to apply
30 to motor vehicle fuel delivered into the fuel tanks for propelling motor
31 vehicles at delivery points located within the boundary of the county

1 or city. Not later than 10 days after passage of an ordinance or resol-
2 ution approving exercise of the option described in this subsection, the
3 governing body of the county or city shall provide by certified mail to
4 the office a certified copy of the adopted ordinance or resolution.

5 (5) The office shall cease to retire allowances from the annual al-
6 lowance budget under subsection (3) of this section on January 1 of the
7 year following the year in which the total number of counties in this
8 state that have exercised the option described in subsection (4) of this
9 section first meets or exceed 19 counties.

10 (6) Allowances directly retired by the office on behalf of a covered
11 entity under this section shall count toward fulfilling the covered
12 entity's compliance obligation for the compliance period during which
13 the allowances are directly retired. A covered entity may not include
14 in the rate or bill charged for motor vehicle fuel delivered at a delivery
15 point for which allowances are directly retired under this section any
16 costs associated with compliance by the covered entity with the
17 Oregon Greenhouse Gas Initiative.

18 SECTION 14. Direct distribution of allowances for electric compa-
19 nies. The Oregon Greenhouse Gas Reduction Board shall, in consulta-
20 tion with the Public Utility Commission, adopt rules for allocating
21 allowances for direct distribution at no cost to covered entities that
22 are electric companies. Direct distributions under this section must
23 be for the exclusive benefit of retail customers that are supplied elec-
24 tricity by the electric company. Rules adopted under this section must
25 allow for an electric company to use allowances directly distributed
26 under this section to fulfill the compliance obligation associated with
27 electricity supplied by the electric company to serve the load of the
28 electric company's retail customers in Oregon, subject to the oversight
29 of the commission. The rules must include provisions necessary to
30 implement direct distributions of allowances to electric companies as
31 follows:

1 **(1)(a) For the purpose of aligning the effects of sections 4 to 32 of**
2 **this 2020 Act with the trajectory of emissions reductions by electric**
3 **companies resulting from the requirements of ORS 469A.005 to 469A.210**
4 **and 757.518:**

5 **(A) The annual direct distributions to an electric company in 2022**
6 **and in each following calendar year before 2030 must be a number of**
7 **allowances such that the electric company receives a total direct dis-**
8 **tribution of allowances over that time period equal to 100 percent of**
9 **the electric company's forecast regulated emissions for 2022 and for**
10 **each following year until and including 2029 associated with the elec-**
11 **tricity supplied to serve the load of the electric company's retail cus-**
12 **tomers in Oregon; and**

13 **(B) The direct distribution to an electric company in 2030 must be**
14 **a number of allowances equal to 100 percent of the electric company's**
15 **forecast regulated emissions associated with the electricity supplied**
16 **to serve the load of the electric company's retail electricity customers**
17 **in Oregon for the calendar year 2030.**

18 **(b) For purposes of this subsection, forecast regulated emissions for**
19 **an electric company must be based on or contained in the following,**
20 **as of January 1, 2022:**

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

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

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

28 **(2) In 2031 and in each following calendar year before 2051, the di-**
29 **rect distribution to an electric company under this section shall de-**
30 **cline annually from the number of allowances directly distributed to**
31 **the electric company in 2030 by the constant amount necessary to re-**

duce the annual direct distributions such that the direct distribution in 2050 is a number of allowances equal to 20 percent of the average of the annual emissions of the electric company for the five most recent years prior to the effective date of this 2020 Act, as reported under ORS 468A.280.

SECTION 15. Direct distribution of allowances for certain electric system managers. (1) The Office of Greenhouse Gas Regulation shall allocate allowances for direct distribution at no cost to covered entities that are electric system managers other than electric companies as follows:

(a) The direct distribution to an electric system manager under this subsection in 2022 shall be a number of allowances equal to 100 percent of the anthropogenic greenhouse gas emissions that are:

(A) The electric system manager’s 2022 baseline emissions attributable to electricity scheduled by the electric system manager for final delivery by consumer-owned utilities for consumption in this state; and

(B) Not regulated emissions for which the office has retired allowances on behalf of the electric system manager.

(b) In 2022 and in each following calendar year before 2051, the direct distribution received by an electric system manager for emissions described in paragraph (a) of this subsection shall decline annually by a constant amount proportionate to the decline in the number of allowances available in annual allowance budgets pursuant to section 5 (1)(b) of this 2020 Act.

(c) Notwithstanding paragraph (b) of this subsection, the direct distribution to an electric system manager in any year may not be a number of allowances that is less than 20 percent of the number of allowances directly distributed to the electric system manager in 2022.

(2) Proceeds from the sale by a consumer-owned utility of allowances distributed at no cost under this section must be used by the

1 consumer-owned utility for the benefit of ratepayers, in furtherance
2 of the purposes set forth in section 2 of this 2020 Act and as further
3 required by the governing body of the consumer-owned utility.

4 (3) The governing body of a consumer-owned utility that receives
5 or sells directly distributed allowances under this section shall, no
6 later than September 15 of each even-numbered year, submit a report
7 to the Legislative Assembly on the use by the consumer-owned utility
8 of the directly distributed allowances. The report must include, but
9 not be limited to, a description of the uses by the consumer-owned
10 utility of proceeds from the sale of allowances distributed to the
11 consumer-owned utility under this section.

12 SECTION 16. 2022 emissions baseline for electric system managers.
13 In determining the baseline of anthropogenic greenhouse gas emis-
14 sions for 2022 for an electric system manager as required by section
15 15 (1)(a)(A) of this 2020 Act, the Office of Greenhouse Gas Regulation
16 shall consider:

17 (1) Anthropogenic greenhouse gas emissions information available
18 for the electric system manager for representative years prior to 2022,
19 as reported under ORS 468A.280;

20 (2) Hydroelectric power generation variability;

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

24 (4) Any other indicators of changes in load requirements on or be-
25 fore January 1, 2025, that are relevant to determining an electric sys-
26 tem manager's 2022 baseline anthropogenic greenhouse gas emissions.

27 SECTION 17. Direct distribution of allowances for natural gas util-
28 ities. (1) Subject to subsections (2) and (3) of this section, the Office
29 of Greenhouse Gas Regulation shall annually allocate allowances for
30 direct distribution at no cost to covered entities that are natural gas
31 utilities, such that the number of allowances directly distributed is

1 equal to the total of:

2 (a) The regulated emissions attributable to the provision of natural
3 gas service to the low-income residential sales customers of the na-
4 tural gas utility, as determined by the office after consultation with
5 the Public Utility Commission;

6 (b) 60 percent of the weather-normalized anthropogenic greenhouse
7 gas emissions forecast for 2022 to be regulated emissions attributable
8 to natural gas use or combustion by the natural gas sales customers
9 of the natural gas utility that are not trade-exposed natural gas users;

10 (c) 60 percent of the weather-normalized anthropogenic greenhouse
11 gas emissions forecast for 2022 to be regulated emissions attributable
12 to natural gas use or combustion by the natural gas transportation
13 customers of the natural gas utility that are not trade-exposed natural
14 gas users; and

15 (d) The regulated emissions attributable to natural gas combustion
16 by trade-exposed natural gas users that receive natural gas on the
17 natural gas utility's distribution system, as determined by the office
18 after consultation with the commission.

19 (2) In 2023 and in each following calendar year before 2051, the di-
20 rect distributions received by a natural gas utility under subsection (1)
21 (b) and (c) of this section shall each decline annually by a constant
22 amount proportionate to the decline in the number of allowances
23 available in annual allowance budgets pursuant to section 5 (1)(b) of
24 this 2020 Act.

25 (3) Allowances distributed under subsection (1)(a) of this section
26 must be used by the natural gas utility only to fulfill a compliance
27 obligation, with the benefit of the use accruing to the natural gas
28 utility's low-income residential sales customers in a manner author-
29 ized by the commission pursuant to section 55 of this 2020 Act.

30 (4) The office shall require a natural gas utility to consign all al-
31 lowances directly distributed under subsection (1)(b) to (d) of this

1 section to the office to be auctioned pursuant to section 28 of this 2020
2 Act. Proceeds from the sale of allowances directly distributed under
3 subsection (1)(b) to (d) of this section may be used only in the manner
4 authorized by the commission under section 48 of this 2020 Act.

5 **SECTION 18. Designation of trade-exposed natural gas users.** (1)
6 The Office of Greenhouse Gas Regulation shall designate a person as
7 a trade-exposed natural gas user if, as of the operative date of this
8 section and as may be verified by the office, the person receives na-
9 tural gas through a natural gas utility's distribution system and uses
10 the natural gas to engage in one or more of the following trade-
11 exposed processes, as identified by industry group and code in the 2017
12 North American Industry Classification System:

- 13 (a) Aerospace Product and Parts Manufacturing, code 3364.
- 14 (b) Basic Chemical Manufacturing, code 3251.
- 15 (c) Cement and Concrete Product Manufacturing, code 3273.
- 16 (d) Converted Paper Product Manufacturing, code 3222.
- 17 (e) Dairy Product Manufacturing, code 3115.
- 18 (f) Forest Nurseries and Gathering of Forest Products, code 1132.
- 19 (g) Foundries, code 3315.
- 20 (h) Fruit and Tree Nut Farming, code 1113.
- 21 (i) Fruit and Vegetable Preserving and Specialty Food Manufactur-
22 ing, code 3114.
- 23 (j) Glass and Glass Product Manufacturing, code 3272.
- 24 (k) Grain and Oilseed Milling, code 3112.
- 25 (L) Greenhouse, Nursery, and Floriculture Production, code 1114.
- 26 (m) Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.
- 27 (n) Lime and Gypsum Product Manufacturing, code 3274.
- 28 (o) Miscellaneous Durable Goods Merchant Wholesalers, code 4239.
- 29 (p) Motor Vehicle Manufacturing, code 3361.
- 30 (q) Nonferrous Metal (except Aluminum) Production and Process-
31 ing, code 3314.

1 (r) Nonmetallic Mineral Mining and Quarrying, code 2123.

2 (s) Other Crop Farming, code 1119.

3 (t) Other Nonmetallic Mineral Product Manufacturing, code 3279.

4 (u) Other Wood Product Manufacturing, code 3219.

5 (v) Plastics Product Manufacturing, code 3261.

6 (w) Pulp, Paper, and Paperboard Mills, code 3221.

7 (x) Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and
8 Filaments Manufacturing, code 3252.

9 (y) Railroad Rolling Stock Manufacturing, code 3365.

10 (z) Sawmills and Wood Preservation, code 3211.

11 (aa) Seafood Product Preparation and Packaging, code 3117.

12 (bb) Semiconductor and Other Electronic Component Manufactur-
13 ing, code 3344.

14 (cc) Ship and Boat Building, code 3366.

15 (dd) Vegetable and Melon Farming, code 1112.

16 (ee) Veneer, Plywood, and Engineered Wood Product Manufactur-
17 ing, code 3212.

18 (2) The Oregon Greenhouse Gas Reduction Board shall adopt by rule
19 a procedure for designating as a trade-exposed natural gas user a
20 person not described in subsection (1) of this section that faces a sig-
21 nificant risk of leakage due to the indirect impacts of the Oregon
22 Greenhouse Gas Initiative on natural gas costs. Designation of a
23 person as a trade-exposed natural gas user under the procedure must
24 be consistent with the purpose set forth in section 2 (1)(a) of this 2020
25 Act.

26 (3) A person that is a fossil fuel distribution and storage facility or
27 infrastructure or an electric generating unit may not be designated
28 as a trade-exposed natural gas user under subsection (2) of this sec-
29 tion.

30 SECTION 19. Designation of covered entities engaged in emissions-
31 intensive, trade-exposed processes as EITE entities. (1) The Office of

1 **Greenhouse Gas Regulation shall designate a covered entity as an**
2 **EITE entity if the covered entity is a permitted air contamination**
3 **source and is primarily engaged, as of the operative date of this sec-**
4 **tion and as may be verified by the office, in the manufacture of goods**
5 **through one or more of the following emissions-intensive, trade-**
6 **exposed processes, as identified by industry group and code in the 2017**
7 **North American Industry Classification System:**

- 8 (a) **Aerospace Product and Parts Manufacturing, code 3364.**
- 9 (b) **Basic Chemical Manufacturing, code 3251.**
- 10 (c) **Cement and Concrete Product Manufacturing, code 3273.**
- 11 (d) **Converted Paper Product Manufacturing, code 3222.**
- 12 (e) **Foundries, code 3315.**
- 13 (f) **Fruit and Vegetable Preserving and Specialty Food Manufactur-**
14 **ing, code 3114.**
- 15 (g) **Glass and Glass Product Manufacturing, code 3272.**
- 16 (h) **Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.**
- 17 (i) **Lime and Gypsum Product Manufacturing, code 3274.**
- 18 (j) **Miscellaneous Durable Goods Merchant Wholesalers, code 4239.**
- 19 (k) **Motor Vehicle Manufacturing, code 3361.**
- 20 (L) **Nonferrous Metal (except Aluminum) Production and Process-**
21 **ing, code 3314.**
- 22 (m) **Nonmetallic Mineral Mining and Quarrying, code 2123.**
- 23 (n) **Other Nonmetallic Mineral Product Manufacturing, code 3279.**
- 24 (o) **Plastics Product Manufacturing, code 3261.**
- 25 (p) **Pulp, Paper, and Paperboard Mills, code 3221.**
- 26 (q) **Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and**
27 **Filaments Manufacturing, code 3252.**
- 28 (r) **Railroad Rolling Stock Manufacturing, code 3365.**
- 29 (s) **Sawmills and Wood Preservation, code 3211.**
- 30 (t) **Semiconductor and Other Electronic Component Manufacturing,**
31 **code 3344.**

1 (u) Ship and Boat Building, code 3366.

2 (v) Veneer, Plywood, and Engineered Wood Product Manufacturing,
3 code 3212.

4 (2)(a) The Oregon Greenhouse Gas Reduction Board shall adopt by
5 rule a procedure for designating as an EITE entity a covered entity
6 that:

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

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

13 (b) Designation of a person as an EITE entity under the procedure
14 adopted pursuant to this subsection must be consistent with the pur-
15 pose set forth in section 2 (1)(a) of this 2020 Act.

16 (3) Rules adopted under subsection (2) of this section may allow the
17 office to assign a good manufactured by a covered entity designated
18 as an EITE entity pursuant to this section a temporary benchmark,
19 consistent with the processes for calculating benchmarks under sec-
20 tion 20 of this 2020 Act, and to adjust the temporary benchmark after
21 the close of the first compliance period for which the EITE entity must
22 fulfill a compliance obligation.

23 (4) A covered entity that is a fossil fuel distribution and storage
24 facility or infrastructure or an electric generating unit may not be
25 designated as an EITE entity under subsection (2) of this section and
26 may not receive allowances at no cost under section 20 of this 2020 Act.

27 **SECTION 20. Direct distribution of allowances for EITE entities.** (1)
28 As used in this section, “annual benchmarked emissions calculation”
29 means the product of an emissions efficiency benchmark for a good
30 or group of goods multiplied by the EITE entity’s output, during the
31 calendar year for which allowances will be allocated for direct dis-

1 **tribution at no cost to the EITE entity, of the good or group of goods**
2 **to which the emissions efficiency benchmark applies.**

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

7 **(3) The Office of Greenhouse Gas Regulation shall establish, by or-**
8 **der, the emissions efficiency benchmarks for goods manufactured in**
9 **this state by EITE entities.**

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

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

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

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

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

21 **(5)(a) The office shall establish emissions efficiency benchmarks**
22 **based on recent years' efficiency as provided in this subsection. An**
23 **emissions efficiency benchmark established based on recent years' ef-**
24 **iciency shall be applicable for the period beginning January 1, 2022,**
25 **and ending December 31, 2025. To determine each emissions efficiency**
26 **benchmark, the office shall:**

27 **(A) Calculate the three-year average of the total, expressed in**
28 **metric tons of carbon dioxide equivalent, of the anthropogenic**
29 **greenhouse gas emissions attributable to the manufacture of the good**
30 **or group of goods for which the EITE entity would have been the**
31 **regulated covered entity if the Oregon Greenhouse Gas Initiative had**

1 **been in effect during the time that the anthropogenic greenhouse gas**
2 **emissions occurred; and**

3 **(B) Divide the number calculated under subparagraph (A) of this**
4 **paragraph by the three-year average of the total annual output of the**
5 **good or group of goods in this state by the EITE entity.**

6 **(b) In conducting the calculation required by paragraph (a) of this**
7 **subsection, the office:**

8 **(A) Shall use anthropogenic greenhouse gas emissions information**
9 **and output data from the three most recent years prior to 2022 for**
10 **which anthropogenic greenhouse gas emissions information is avail-**
11 **able and verified by the office; and**

12 **(B) Shall exclude from the data described in subparagraph (A) of**
13 **this paragraph the anthropogenic greenhouse gas emissions attribut-**
14 **able to natural gas combustion by an EITE entity described in section**
15 **24 of this 2020 Act.**

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

23 **(7) In order to implement this section, the Oregon Greenhouse Gas**
24 **Reduction Board shall adopt by rule:**

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

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

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

1 or type of good.

2 (8) The board shall adopt by rule a process for EITE entities to ap-
3 ply to the office for an adjustment to the allocation of allowances for
4 direct distribution at no cost that the EITE entity may receive. The
5 office may grant an adjustment under this subsection only for a sig-
6 nificant unanticipated change in the anthropogenic greenhouse gas
7 emissions attributable to the manufacture of a good or group of goods
8 in this state by the EITE entity, based on a finding by the office that
9 the adjustment is necessary to accommodate changes to the manu-
10 facturing process that have a material impact on anthropogenic
11 greenhouse gas emissions. Rules adopted under this subsection may
12 provide for the office to contract with an external third-party expert
13 to assist the office in making individual determinations on applica-
14 tions for adjustments.

15 SECTION 21. Operation of emissions efficiency benchmarks based
16 on best available technology. (1) The amendments to section 20 of this
17 2020 Act by section 22 of this 2020 Act become operative on January
18 1, 2026.

19 (2)(a) Subject to paragraph (b) of this subsection, the Office of
20 Greenhouse Gas Regulation shall first establish, by order, emissions
21 efficiency benchmarks based on best available technology for EITE
22 entities under the amendments to section 20 of this 2020 Act by section
23 22 of this 2020 Act no later than January 1, 2025.

24 (b) The office shall first establish emissions efficiency benchmarks
25 based on best available technology on a date prior to January 1, 2025,
26 as mutually agreed upon by the office and an EITE entity, if the office
27 receives a written request from the EITE entity that an early deter-
28 mination of best available technology is necessary to inform any sig-
29 nificant new investments in technology by the EITE entity.

30 (c) An order issued under this subsection may not become effective
31 prior to January 1, 2026.

1 **(3) The Oregon Greenhouse Gas Reduction Board or the office may**
2 **adopt or amend rules, issue orders or take any actions before the op-**
3 **erative date specified in subsection (1) of this section that are neces-**
4 **sary to enable the board or the office, on and after the operative date**
5 **specified in subsection (1) of this section, to carry out subsection (2)**
6 **of this section and the amendments to section 20 by section 22 of this**
7 **2020 Act.**

8 **SECTION 22.** Section 20 of this 2020 Act is amended to read:

9 **Sec. 20.** (1) As used in this section[,]:

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

15 **(b) “Best available technology” means the fuels, processes, equip-**
16 **ment and technology that will most effectively reduce the regulated**
17 **emissions:**

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

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

24 (2) The annual allocation of allowances for direct distribution at no cost
25 to an EITE entity shall be a number of allowances equal to the sum total
26 of the annual benchmarked emissions calculations for the goods manufac-
27 tured by the EITE entity.

28 (3) The Office of Greenhouse Gas Regulation shall establish, by order, the
29 emissions efficiency benchmarks for goods manufactured in this state by
30 EITE entities.

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

1 (a) Establish an emissions efficiency benchmark separately for each indi-
2 vidual good manufactured in this state by an EITE entity; or

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

7 (A) Are not materially different in quantity; or

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

10 *[(5)(a) The office shall establish emissions efficiency benchmarks based on*
11 *recent years' efficiency as provided in this subsection. An emissions efficiency*
12 *benchmark established based on recent years' efficiency shall be applicable for*
13 *the period beginning January 1, 2022, and ending December 31, 2025. To de-*
14 *termine each emissions efficiency benchmark, the office shall:]*

15 *[(A) Calculate the three-year average of the total, expressed in metric tons*
16 *of carbon dioxide equivalent, of the anthropogenic greenhouse gas emissions*
17 *attributable to the manufacture of the good or group of goods for which the*
18 *EITE entity would have been the regulated covered entity if the Oregon*
19 *Greenhouse Gas Initiative had been in effect during the time that the*
20 *anthropogenic greenhouse gas emissions occurred; and]*

21 *[(B) Divide the number calculated under subparagraph (A) of this para-*
22 *graph by the three-year average of the total annual output of the good or group*
23 *of goods in this state by the EITE entity.]*

24 *[(b) In conducting the calculation required by paragraph (a) of this sub-*
25 *section, the office:]*

26 *[(A) Shall use anthropogenic greenhouse gas emissions information and*
27 *output data from the three most recent years prior to 2022 for which*
28 *anthropogenic greenhouse gas emissions information is available and verified*
29 *by the office; and]*

30 *[(B) Shall exclude from the data described in subparagraph (A) of this*
31 *paragraph the anthropogenic greenhouse gas emissions attributable to natural*

1 *gas combustion by an EITE entity described in section 24 of this 2020 Act.]*

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

12 **(b) In determining an emissions efficiency benchmark, the office**
13 **shall:**

14 **(A) Consider any anthropogenic greenhouse gas emissions intensity**
15 **audit reports specific to the EITE entity submitted under paragraph**
16 **(c) of this subsection;**

17 **(B) Consider the technical feasibility, commercial availability and**
18 **economic viability of options to reduce anthropogenic greenhouse gas**
19 **emissions;**

20 **(C) Consider the fuels, processes, equipment and technology used**
21 **by facilities in this state or in other jurisdictions to produce goods of**
22 **comparable type, quantity and quality;**

23 **(D) Consider barriers that would prevent adoption of best available**
24 **technology by the EITE entity; and**

25 **(E) Exclude from any calculation the anthropogenic greenhouse gas**
26 **emissions attributable to natural gas combustion by an EITE entity**
27 **described in section 24 of this 2020 Act.**

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

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

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

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

18 (6) An EITE entity may file with the office a written request for a con-
19 tested case hearing to challenge an order establishing the emissions effi-
20 ciency benchmarks for goods produced by the EITE entity. The request shall
21 be filed within 30 days after the date the order was entered. If an EITE en-
22 tity requests a hearing, the hearing shall be conducted in accordance with
23 the provisions applicable to contested case proceedings under ORS chapter
24 183.

25 (7) In order to implement this section, the Oregon Greenhouse Gas Re-
26 duction Board shall adopt by rule:

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

29 (b) Requirements for EITE entities to provide any pertinent records nec-
30 essary for the office to verify output data; and

31 (c) A process for adjusting an allocation of allowances for direct distrib-

1 ution at no cost, if necessary, to reconcile for output variability or type of
2 good.

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

15 **SECTION 23. Benchmark report. No later than September 15, 2030,**
16 **the Office of Greenhouse Gas Regulation shall provide a report to the**
17 **Legislative Assembly, in the manner provided in ORS 192.245, on the**
18 **emissions efficiency benchmarks established pursuant to section 20 of**
19 **this 2020 Act. The report may include recommendations for legislation.**
20 **The report shall assess:**

21 (1) **The anthropogenic greenhouse gas emissions intensity and trade**
22 **exposure of covered entities that have been designated as EITE enti-**
23 **ties pursuant to section 19 of this 2020 Act;**

24 (2) **The anthropogenic greenhouse gas emissions reduction oppor-**
25 **tunities available to the covered entities described in subsection (1) of**
26 **this section; and**

27 (3) **Whether the conclusions of the assessments required under**
28 **subsections (1) and (2) of this section warrant an adjustment to the**
29 **methods of calculating the emissions efficiency benchmarks estab-**
30 **lished pursuant to section 20 of this 2020 Act.**

31 **SECTION 24. (1) If an EITE entity purchases natural gas delivered**

1 on infrastructure other than a natural gas utility's local distribution
2 system, in addition to the annual allocation of allowances received
3 under section 20 of this 2020 Act, the Office of Greenhouse Gas Regu-
4 lation shall annually allocate for direct distribution at no cost to the
5 EITE entity a number of allowances as follows:

6 (a) In 2022 and each following calendar year before 2025, the direct
7 distribution received by the EITE entity shall be a number of allow-
8 ances equal to the total of the regulated emissions by the EITE entity
9 attributable to natural gas combustion.

10 (b)(A) In 2025 and each following calendar year before 2051, and ex-
11 cept as provided in subparagraph (B) of this paragraph, the direct
12 distribution received by the EITE entity shall decline annually by a
13 constant amount proportionate to the decline in the number of allow-
14 ances available in annual allowance budgets pursuant to section 5
15 (1)(b) of this 2020 Act.

16 (B) If the EITE entity is in compliance with an approved energy
17 management system audit and implementation plan subject to sub-
18 section (3) of this section, the direct distribution received by the EITE
19 entity during the following years shall be as follows:

20 (i) In 2025 and each year before 2030, the direct distribution shall
21 be a number of allowances equal to the total of the regulated emis-
22 sions by the EITE entity attributable to natural gas combustion; and

23 (ii) In 2030 and each year before 2051, the direct distribution shall
24 be a number of allowances equal to 97 percent of the total of the reg-
25 ulated emissions by the EITE entity attributable to natural gas com-
26 bustion.

27 (2)(a) An EITE entity described in subsection (1) of this section
28 may, no later than December 31, 2024, and once every five years
29 thereafter, submit to the office a completed energy management sys-
30 tem audit and implementation plan for approval.

31 (b) The office shall approve an energy management system audit

1 and implementation plan if:

2 (A) The audit meets the requirements of section 50 (4) of this 2020
3 Act; and

4 (B) The implementation plan identifies how the EITE entity will
5 complete all efficiency improvements identified in the audit report
6 that are related to natural gas use and that have a payback period of
7 five years or less by:

8 (i) Two years after the date of the audit; or

9 (ii) A reasonable extension date not to exceed four years after the
10 date of the audit, if the office determines that additional time is rea-
11 sonable and necessary for the EITE entity to complete the efficiency
12 improvements.

13 (c) In determining the payback period for an efficiency improve-
14 ment identified in an audit report, the office shall consider any grants
15 or loans for completing the efficiency improvement received by the
16 EITE entity from the Traded Sector Greenhouse Gas Reduction Pro-
17 gram Fund established under section 51 of this 2020 Act.

18 (d) An approved energy management system audit and implemen-
19 tation plan shall be valid for five years.

20 (3) The office may contract with an independent third party entity
21 to review and approve energy management system audits and imple-
22 mentation plans under this section.

23 (4) The Oregon Greenhouse Gas Reduction Board shall adopt rules
24 necessary to implement this section, including but not limited to a
25 process for an EITE entity to appeal from the approval or disapproval
26 of an energy management system audit or implementation plan.

27 **SECTION 25. Offsets generally; rules.** (1) Offset projects:

28 (a) Must be located in the United States;

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

30 (c) Must result in greenhouse gas emissions reductions or removals
31 that:

1 (A) Are real, permanent, quantifiable, verifiable and enforceable;
2 and

3 (B) Are in addition to greenhouse gas emissions reductions or re-
4 movals otherwise required by law or legally enforceable mandate and
5 that exceed any other greenhouse gas emissions reductions or re-
6 movals that would otherwise occur in a conservative business-as-usual
7 scenario.

8 (2) A total of no more than eight percent of a covered entity's
9 compliance obligation may be fulfilled by surrendering offset credits.
10 A total of no more than four percent of a covered entity's compliance
11 obligation may be fulfilled by surrendering offset credits generated by
12 offset projects that do not provide direct environmental benefits in
13 this state.

14 (3) The Oregon Greenhouse Gas Reduction Board shall adopt rules
15 governing offset projects and the generation, issuance and use of offset
16 credits. The rules must:

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

18 (A) Offset projects and the generation, issuance and use of offset
19 credits established by other states, provinces and countries with pro-
20 grams comparable to the Oregon Greenhouse Gas Initiative; and

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

24 (b) Allow for the broadest possible participation by landowners in
25 developing and operating offset projects across the broadest possible
26 variety of types and sizes of lands;

27 (c) Encourage opportunities for developing offset projects that pro-
28 vide direct environmental benefits in this state;

29 (d) Encourage offset projects that benefit impacted communities,
30 members of eligible Indian tribes and natural and working lands; and

31 (e) Address qualifications for persons and agencies that provide

1 **third-party verification and registration of offset projects and offset**
2 **credits.**

3 **(4) The board shall adopt by rule a process for the Office of**
4 **Greenhouse Gas Regulation to issue early action offset credits for**
5 **greenhouse gas emissions reductions or removals that occur during**
6 **the period beginning on January 1, 2020, and ending on January 1, 2022.**
7 **Rules adopted under this subsection may include:**

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

10 **(b) Requirements for offset projects to be registered with qualified**
11 **third-party organizations that operate offset credit registries to receive**
12 **early action offset credits; and**

13 **(c) Requirements for offset credits issued by qualified third-party**
14 **organizations that operate offset credit registries to be converted to**
15 **offset credits issued through or acceptable under the Oregon**
16 **Greenhouse Gas Initiative.**

17 **(5) The board shall adopt by rule a process to investigate and in-**
18 **validate issued offset credits as necessary to uphold the environmental**
19 **integrity of the Oregon Greenhouse Gas Initiative. Reasons for in-**
20 **validating issued offset credits may include, but are not limited to:**

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

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

26 **(c) A determination that offset credits are duplicative of other off-**
27 **set credits issued for the same greenhouse gas emissions reductions**
28 **or removals by another offset credit issuing body and that the invali-**
29 **dation is necessary to remedy the duplication.**

30 **(6) The board shall establish by rule one or more offset integrity**
31 **accounts. The office shall withhold a percentage of the offset credits**

1 issued by the office for each offset project and deposit the withheld
2 offset credits in an offset integrity account. Uses of offset credits de-
3 posited in offset integrity accounts may include, but need not be lim-
4 ited to, using the offset credits to replace offset credits that are
5 invalidated pursuant to rules adopted under subsection (5) of this sec-
6 tion.

7 **SECTION 26. Offset protocols.** (1) Offset protocols, and any
8 greenhouse gas emissions inventory and monitoring requirements re-
9 lated to the offset protocols, developed pursuant to rules adopted un-
10 der section 25 of this 2020 Act:

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

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

15 (c) Must establish, for each offset protocol, a predetermined cred-
16 iting period for which an offset project will remain eligible to receive
17 offset credits for greenhouse gas emissions reductions or removals;
18 and

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

23 (2)(a) The Oregon Greenhouse Gas Reduction Board and the Office
24 of Greenhouse Gas Regulation shall collaborate and consult with the
25 State Forestry Department in developing and monitoring offset proto-
26 cols related to forestry. Offset protocols related to forestry that are
27 developed pursuant to this subsection:

28 (A) Must prioritize reforestation, avoided forest conversion and
29 improved forest management.

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

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

3 (D) May account for differences in forest management practices
4 between private owners of forestland and state or other owners of
5 nonfederal forestlands in establishing the baselines for the generation
6 of offset credits by offset projects on the private, state or other non-
7 federal forestlands.

8 (E) May not authorize the generation or issuance of offset credits
9 for greenhouse gas emissions reductions or removals that occur during
10 the period beginning on January 1, 2022, and ending on December 31,
11 2030, as the result of offset projects on state forestlands, unless as of
12 the effective date of this 2020 Act the state forestlands are:

13 (i) Trust lands as defined in ORS 273.462;

14 (ii) Lands in the Elliott State Forest as described in ORS 530.450;

15 (iii) Common School Forest Lands as described in ORS 530.460; or

16 (iv) Any other lands placed under the jurisdiction of the State Land
17 Board consistent with Article VIII, section 5, Oregon Constitution.

18 (b) In developing offset protocols related to forestry, the Oregon
19 Greenhouse Gas Reduction Board, the office and the department shall
20 avoid permanent or temporary net cumulative reductions, attributable
21 to offset projects, in the regional supply of wood fiber harvested from
22 nonfederal forestlands in Oregon that is available to wood products
23 manufacturing facilities in this state. This paragraph does not apply
24 to offset projects located on Indian trust lands or Indian fee lands.

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

30 (3) The board and the office shall collaborate and consult with all
31 relevant state agencies, including but not limited to the State De-

1 department of Agriculture and the Oregon Watershed Enhancement
2 Board, in developing and monitoring offset protocols related to agri-
3 culture and conservation on natural and working lands. In developing
4 offset protocols pursuant to this subsection, the Oregon Greenhouse
5 Gas Reduction Board shall:

6 (a) Consider developing offset protocols for:

7 (A) Manure management that reduces methane emissions from ag-
8 ricultural operations;

9 (B) Avoided grassland conversion; and

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

13 (b) Ensure that the offset protocols have the ability to be adminis-
14 tered consistently with the applicable state and local land use laws of
15 Oregon.

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

20 (5) The office shall regularly review and update offset protocols de-
21 veloped pursuant to rules adopted under section 25 of this 2020 Act.
22 The reviews and updates of offset protocols shall include any updates,
23 as necessary, to the methods or technologies used for measuring and
24 monitoring the greenhouse gas emissions reductions or removals at-
25 tributable to the offset projects addressed by the offset protocols.

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

28 **SECTION 27. Offset protocol consultation and reporting.** (1) In de-
29 veloping and updating rules and offset protocols pursuant to sections
30 25 and 26 of this 2020 Act, the Oregon Greenhouse Gas Reduction
31 Board:

1 (a) Shall consult with and consider the recommendations of:

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

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

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

11 (2)(a) No later than September 15 of each year, the State Forestry
12 Department, in collaboration with the Office of Greenhouse Gas Reg-
13 ulation, shall submit a report to the Legislative Assembly that pro-
14 vides an analysis of the implementation in Oregon of offset protocols
15 related to forestry. The report shall:

16 (A) Describe the location and scope of offset projects in Oregon
17 registered under offset protocols related to forestry developed pursu-
18 ant to sections 25 and 26 of this 2020 Act for which offset credits have
19 been issued under the Oregon Greenhouse Gas Initiative, to date, and
20 the number of offset credits issued;

21 (B) Describe forestry carbon offsets marketed, registered, trans-
22 ferred or sold, to date, by the State Forester under ORS 526.725, 526.780
23 to 526.789, 530.050 and 530.500;

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

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

1 (b) The information and analysis required under paragraph (a)(D)
2 of this subsection shall include and consider significant effects attrib-
3 utable to the forestry offset projects and forestry carbon offsets on the
4 supply of wood fiber that are applicable to specific geographic areas
5 of this state, relative to the changes in demand for wood fiber by wood
6 products manufacturing facilities located in those specific geographic
7 areas.

8 (c) The report required by this subsection may include recommen-
9 dations by the State Forestry Department on whether a temporary
10 suspension of acceptance of new offset project applications under off-
11 set protocols related to forestry developed pursuant to sections 25 and
12 26 of this 2020 Act is necessary. The purpose of a temporary suspension
13 must be to address any negative effects attributable to forestry offset
14 projects on the supply of wood fiber harvested from nonfederal
15 forestlands that is available to wood products manufacturing facilities
16 in one or more specific geographic areas of this state, relative to the
17 changes in demand for wood fiber in the specific geographic areas. If
18 the department recommends a temporary suspension, the recommen-
19 dation must also include recommendations for measures to minimize
20 adverse effects on landowners developing offset projects.

21 SECTION 28. Auctions. (1) Except as provided in subsection (8) of
22 this section, auctions of allowances are open to registered entities.

23 (2) The Office of Greenhouse Gas Regulation shall hold auctions at
24 least annually.

25 (3) The office may engage:

26 (a) A qualified, independent auction administrator to administer
27 auctions; or

28 (b) A qualified financial services administrator to conduct financial
29 transactions related to the auction.

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

1 **(5) The office shall:**

2 **(a) Set an auction floor price for 2022 and a schedule for the floor**
3 **price to increase by a fixed percentage over inflation each calendar**
4 **year.**

5 **(b) Set an allowance price containment reserve floor price for 2022**
6 **and a schedule for the allowance price containment reserve floor price**
7 **to increase by a fixed percentage over inflation each calendar year.**

8 **(c) Set a hard price ceiling for 2022 and a schedule for the hard price**
9 **ceiling to increase by a fixed percentage over inflation each calendar**
10 **year.**

11 **(d) Take actions to minimize the potential for market manipulation**
12 **and to guard against bidder collusion, including but not limited to**
13 **specifying as holding limits the maximum number of allowances that**
14 **may be held by a registered entity at any time.**

15 **(6) In setting the auction floor price, allowance price containment**
16 **reserve floor price and hard price ceiling, the office shall consider**
17 **prevailing prices for carbon in other jurisdictions.**

18 **(7) The proceeds of an auction shall be paid to the office and de-**
19 **posited with the State Treasurer to be credited as follows:**

20 **(a) Auction proceeds from the sale of allowances consigned to the**
21 **office for auction by a natural gas utility pursuant to section 17 of this**
22 **2020 Act shall be credited to the appropriate trust account established**
23 **by the Public Utility Commission pursuant to section 48 of this 2020**
24 **Act; and**

25 **(b) Auction proceeds payable to the state shall be credited to the**
26 **Auction Proceeds Distribution Fund established under section 29 of**
27 **this 2020 Act.**

28 **(8) Sales of allowances from the allowance price containment re-**
29 **serve shall be conducted separately from the auction of other allow-**
30 **ances for the purpose of addressing high costs of compliance**
31 **instruments. Allowances unsold from the reserve sale must be made**

1 available again at future reserve sales. General market participants
2 may not purchase allowances at reserve sales. The proceeds from any
3 sale of allowances pursuant to this subsection shall be credited to the
4 Auction Proceeds Distribution Fund established under section 29 of
5 this 2020 Act.

6 (9)(a) If the hard price ceiling for an auction is reached, the office
7 shall offer for sale, at the hard price ceiling, allowances from any re-
8 serve described in or established by rule under section 7 of this 2020
9 Act, as necessary to meet demand from covered entities. If the sup-
10 plies of all allowances from all reserves are exhausted and additional
11 sales of allowances are necessary for one or more covered entities to
12 fulfill a compliance obligation, the office may sell, at the hard price
13 ceiling, price ceiling allowances in addition to the allowances available
14 in the annual allowance budget.

15 (b) The proceeds from any sales of allowances at the hard price
16 ceiling shall be paid to the office and deposited with the State Treas-
17 urer to be credited as follows:

18 (A) All moneys that constitute revenues described in Article IX,
19 section 3a, of the Oregon Constitution, shall be credited to the Trans-
20 portation Decarbonization Investments Account established in section
21 34 of this 2020 Act;

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

25 (C) Moneys remaining after meeting the requirements of subpara-
26 graphs (A) and (B) of this paragraph shall be credited to the Oregon
27 Greenhouse Gas Initiative Operating Fund established under section
28 31 of this 2020 Act, to be used only as described in section 31 (4) of this
29 2020 Act.

30 (10) The Oregon Greenhouse Gas Reduction Board:

31 (a) Shall adopt rules for making an unlimited number of allowances

1 available for auction upon exceedance of the hard price ceiling set by
2 the office under subsection (5) of this section; and

3 (b) May adopt rules as necessary to administer auctions.

4 **SECTION 29. Auction Proceeds Distribution Fund.** (1) The Auction
5 Proceeds Distribution Fund is established in the State Treasury, sep-
6 arate and distinct from the General Fund. Moneys in the Auction
7 Proceeds Distribution Fund is continuously appropriated to the Office
8 of Greenhouse Gas Regulation for distribution as required by this
9 section.

10 (2) The fund shall consist of moneys credited to the fund under
11 section 28 of this 2020 Act. Interest earned by the fund shall be credited
12 to the fund.

13 (3) The office shall certify the amount of moneys deposited in the
14 fund available for distribution and shall cause the moneys to be dis-
15 tributed as follows:

16 (a) All moneys that constitute revenues described in Article IX,
17 section 3a, of the Oregon Constitution, shall be transferred to the
18 Transportation Decarbonization Investments Account established in
19 section 34 of this 2020 Act;

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

23 (c) An amount necessary for administration, other than adminis-
24 tration paid for by moneys described in paragraphs (a) and (b) of this
25 subsection, of sections 2, 4 to 32, 38 to 40, 41, 42, 43 and 45 to 53 of this
26 2020 Act and rules adopted pursuant to sections 2, 4 to 32, 38 to 40, 41,
27 42, 43 and 45 to 53 of this 2020 Act shall be transferred to the Oregon
28 Greenhouse Gas Initiative Operating Fund established under section
29 31 of this 2020 Act; and

30 (d) Moneys remaining after the transfers under paragraphs (a) to
31 (c) of this subsection shall be transferred to the Climate Investments

1 **Fund established under section 39 of this 2020 Act.**

2 **SECTION 30. Progress report. (1) The Office of Greenhouse Gas**
3 **Regulation shall, no later than one year after the close of each com-**
4 **pliance period, submit a report in the manner provided by ORS 192.245**
5 **to the Legislative Assembly. The report shall:**

6 **(a) Detail activity during the most-recently closed compliance pe-**
7 **riod under the Oregon Greenhouse Gas Initiative;**

8 **(b) Include, but need not be limited to, aggregated information on**
9 **the following for the compliance period:**

10 **(A) The number of allowances bought and sold at each auction held**
11 **and all auction prices, including the floor and ceiling prices, for the**
12 **allowances bought and sold at each auction;**

13 **(B) The beginning and ending balances of all auction holding ac-**
14 **counts and reserves held by the office; and**

15 **(C) The anthropogenic greenhouse gas emissions reductions**
16 **achieved during the compliance period;**

17 **(c) Estimate the impacts of the Oregon Greenhouse Gas Initiative**
18 **on fuel prices and on electricity and natural gas bills in Oregon;**

19 **(d) Analyze the state's progress in reducing anthropogenic**
20 **greenhouse gas emissions consistent with ORS 468A.205 and examine**
21 **trends in anthropogenic greenhouse gas emissions by sector; and**

22 **(e) Evaluate the public health and other cobenefits of greenhouse**
23 **gas emissions reductions, with a particular emphasis on the cobenefits**
24 **for impacted communities.**

25 **(2) In addition to the information required by subsection (1) of this**
26 **section, every second report required by this section shall evaluate the**
27 **efficacy of the Oregon Greenhouse Gas Initiative and investments of**
28 **the proceeds from auctions under section 28 of this 2020 Act in carry-**
29 **ing out the purposes set forth in section 2 of this 2020 Act.**

30 **SECTION 31. Operating fund. (1) The Oregon Greenhouse Gas Ini-**
31 **tiative Operating Fund is established in the State Treasury, separate**

1 and distinct from the General Fund. Interest earned by the Oregon
2 Greenhouse Gas Initiative Operating Fund shall be credited to the
3 fund. Moneys in the fund are continuously appropriated to the De-
4 partment of Environmental Quality for use by the Office of
5 Greenhouse Gas Regulation in the performance of the duties, func-
6 tions and powers vested in the office by law.

7 (2) The fund shall consist of:

8 (a) Moneys deposited in the fund pursuant to ORS 468.135 and
9 sections 28 and 29 of this 2020 Act;

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

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

13 (3) Civil penalties deposited in the fund under ORS 468.135 shall be
14 deposited in a separate subaccount created in the fund and must be
15 used only for providing technical assistance to covered entities.

16 (4) The proceeds from sales of allowances at the hard price ceiling
17 pursuant to section 28 (9) of this 2020 Act shall be deposited in a sep-
18 arate subaccount created in the fund and must be used by the office
19 only for the purchase and retirement of offset credits.

20 SECTION 32. Public records law; application. (1) The Legislative
21 Assembly finds and declares that it is the policy of this state that the
22 Oregon Greenhouse Gas Initiative operate free of abuse and disruptive
23 activity. It is therefore the intent of the Legislative Assembly that the
24 provisions of sections 4 to 32 of this 2020 Act be implemented in a
25 manner necessary to prevent fraud, abuse or market manipulation to
26 the greatest extent possible while upholding the public interest in
27 transparency in public process and government by making certain
28 market activity information available in aggregated form.

29 (2) The following information obtained by the State of Oregon under
30 sections 4 to 32 of this 2020 Act or rules adopted under sections 4 to
31 32 of this 2020 Act shall be treated as confidential business informa-

1 tion, is exempt from disclosure under ORS 192.311 to 192.478 and may
2 not be disclosed to any person or entity except as provided in sub-
3 section (3) or (4) of this section:

4 (a) Individually identifiable information related to a registered
5 entity's application to participate, and participation, in auctions held
6 under section 28 of this 2020 Act, including but not limited to bid ac-
7 tivity and auction results for the registered entity.

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

11 (c) Any individually identifiable information on the manufacturing
12 output of goods, other than emissions data reported under ORS
13 468A.280, obtained by the Office of Greenhouse Gas Regulation as
14 necessary to administer and implement sections 18, 19, 20, 23 and 24
15 of this 2020 Act.

16 (d) Individually identifiable information obtained by the office from
17 retail electricity consumers pursuant to a request under section 9 (4)
18 of this 2020 Act.

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

21 (4) This section does not prohibit the disclosure of information be-
22 tween the office and other agencies of the executive department, as
23 defined in ORS 174.112, or to persons engaged by the State of Oregon
24 to provide administrative or technical services to support implemen-
25 tation of sections 4 to 32 or 45 to 53 of this 2020 Act, if the disclosure
26 is necessary for purposes of the administration and implementation
27 of sections 4 to 32 or 45 to 53 of this 2020 Act.

28 (5) Any person to whom information described in subsection (2) of
29 this section is disclosed under subsection (4) of this section shall treat
30 the information as confidential business information, exempt from
31 disclosure under ORS 192.311 to 192.478. Redisclosure of individually

1 identifiable information outside the office remains subject to the pro-
2 visions of this section.

3

4 **INVESTMENT OF STATE PROCEEDS FROM OREGON**
5 **GREENHOUSE GAS INITIATIVE AUCTIONS**
6 **(Transportation Decarbonization Investments Account)**

7

8 **SECTION 33. Definitions.** As used in sections 33 to 37 of this 2020
9 **Act:**

10 (1) **“Building materials”** means asphalt, cement, concrete or any
11 other aggregate product, aluminum, steel, iron, coatings for steel and
12 iron, glass, manufactured wood products and copper.

13 (2) **“Contracting agency”** has the meaning given that term in ORS
14 279A.010.

15 (3) **“Local government”** means a metropolitan service district, a
16 metropolitan planning organization, a county or a city.

17 (4) **“Metropolitan climate plan”** means a plan that implements:

18 (a) A land use and transportation scenario adopted by a metropol-
19 itan service district as required under section 37, chapter 865, Oregon
20 Laws 2009, and that has been approved by the Land Conservation and
21 Development Commission;

22 (b) A land use and transportation scenario adopted by a metropol-
23 itan planning organization in accordance with the guidelines estab-
24 lished by the Department of Transportation and the Department of
25 Land Conservation and Development under ORS 184.893, and that has
26 been approved by the Land Conservation and Development Commis-
27 sion; or

28 (c) A transportation greenhouse gas emissions reduction plan
29 adopted by a county or city located outside an urbanized area covered
30 by a metropolitan service district or a metropolitan planning organ-
31 ization and that has been approved by the Department of Land Con-

1 **ervation and Development.**

2 **(5) “Metropolitan planning organization” has the meaning given**
3 **that term in ORS 197.629, except that “metropolitan planning organ-**
4 **ization” does not mean an organization that coordinates transporta-**
5 **tion planning for an urbanized area that is also subject to the**
6 **jurisdiction of a metropolitan service district.**

7 **(6) “Metropolitan service district” means a metropolitan service**
8 **district organized under ORS chapter 268.**

9 **(7) “Nursery stock” has the meaning given that term in ORS**
10 **571.005.**

11 **(8) “Oregon Greenhouse Gas Initiative” has the meaning given that**
12 **term in section 4 of this 2020 Act.**

13 **(9) “State contracting agency” has the meaning given that term in**
14 **ORS 279A.010.**

15 **(10) “Subject to a carbon pricing program” means a building mate-**
16 **rials manufacturer whose emissions from the manufacture of goods:**

17 **(a) Are subject to a tax or governmental regulatory program that**
18 **has the effect of placing a price on greenhouse gas emissions and that**
19 **is at least as stringent as the Oregon Greenhouse Gas Initiative, as**
20 **determined by the Oregon Greenhouse Gas Reduction Board by rule;**
21 **or**

22 **(b) Are directly regulated by the jurisdiction where the manufac-**
23 **turing facility is located for the greenhouse gas emissions attributable**
24 **to the manufacturing of goods at the facility operated by the man-**
25 **ufacturer.**

26 **SECTION 34. Transportation Decarbonization Investments Account;**
27 **rules. (1) The Transportation Decarbonization Investments Account is**

28 **established as a separate account within the State Highway Fund. The**
29 **account consists of moneys deposited in the account under sections**
30 **28 and 29 of this 2020 Act. Interest earned by the account shall be**
31 **credited to the account.**

1 **(2) Moneys in the account are continuously appropriated to the**
2 **Department of Transportation:**

3 **(a) For any necessary administration by the department of sections**
4 **2, 4 to 32, 33 to 37, 41 and 43 of this 2020 Act; and**

5 **(b) To be distributed for transportation projects pursuant to**
6 **sections 33 to 37 of this 2020 Act.**

7 **(3) A transportation project may not be funded with moneys dis-**
8 **tributed from the account unless:**

9 **(a) The transportation project furthers one or more of the purposes**
10 **set forth in section 2 of this 2020 Act; and**

11 **(b) The transportation project may be constitutionally funded by**
12 **revenues described in Article IX, section 3a, of the Oregon Constitu-**
13 **tion.**

14 **(4) Of the moneys available in the account for distribution each**
15 **biennium:**

16 **(a) 20 percent shall be used by the department for transportation**
17 **projects selected by the Oregon Transportation Commission pursuant**
18 **to section 35 of this 2020 Act; and**

19 **(b) 80 percent shall be distributed by the commission to local gov-**
20 **ernments under section 36 of this 2020 Act for implementation, in-**
21 **cluding planning for implementation, of metropolitan climate plans.**

22 **(5) The amount of moneys distributed to plan for implementation**
23 **of metropolitan climate plans under subsection (4)(b) of this section**
24 **may not exceed one percent of the amount of moneys deposited in the**
25 **account each biennium.**

26 **(6) Examples of uses of moneys deposited in the account may in-**
27 **clude, but are not limited to, uses related to:**

28 **(a) Enhancing roadway drainage, improving slope stability, invest-**
29 **ment in the safe routes to schools program established under ORS**
30 **184.741, the repower, retrofit or replacement of certain diesel engines,**
31 **reducing vehicle miles traveled through bike, pedestrian or other**

1 multimodal improvements and traffic signal optimization; and

2 (b) Increasing the resilience of transportation infrastructure and
3 evacuation routes against the effects of climate change, extreme pre-
4 cipitation, sea level rise and extreme temperatures and wildfires.

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

8 (8) The commission may adopt rules as necessary for the adminis-
9 tration and implementation of sections 33 to 37 of this 2020 Act.

10 SECTION 35. Selection of transportation projects by Oregon Trans-
11 portation Commission. (1) The Oregon Transportation Commission
12 shall select the transportation projects to be funded with moneys in
13 the Transportation Decarbonization Investments Account pursuant to
14 section 34 (4)(a) of this 2020 Act.

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

17 (3) In selecting transportation projects, the Oregon Transportation
18 Commission shall:

19 (a) Consider whether a proposed transportation project will further
20 the objectives of the statewide transportation strategy on greenhouse
21 gas emissions adopted by the commission pursuant to ORS 184.617;

22 (b) Expend 90 percent of the moneys available under section 34 (4)(a)
23 of this 2020 Act for transportation projects that serve areas for which
24 a covered entity described in section 5 (2)(d) of this 2020 Act is not the
25 beneficiary of allowances retired under section 13 of this 2020 Act; and

26 (c) Give priority to proposed transportation projects that will facil-
27 itate the planning or development of metropolitan climate plans by
28 local governments that, as of the date of the selection, have not
29 adopted metropolitan climate plans.

30 SECTION 36. Distribution of moneys to local governments. (1) A
31 local government that, as of the date of the allocation, has adopted a

1 metropolitan climate plan shall be allocated a share of the moneys
2 described in section 34 (4)(b) of this 2020 Act, to be used for imple-
3 mentation of the adopted plan.

4 (2) The proportionate share allocated for distribution to each eligi-
5 ble local government shall be determined by the Oregon Transporta-
6 tion Commission based on a formula that:

7 (a) Must account for population and vehicle miles traveled;

8 (b) Must result in 90 percent of the moneys available for distrib-
9 ution under section 34 (4)(b) of this 2020 Act being distributed for
10 transportation projects that serve areas for which a covered entity
11 described in section 5 (2)(d) of this 2020 Act is not the beneficiary of
12 allowances retired under section 13 of this 2020 Act; and

13 (c) May incorporate any other factors relevant to the proportionate
14 amount of greenhouse gas emissions attributable to transportation
15 within the jurisdiction of each local government.

16 (3) Of the moneys allocated for a metropolitan service district or a
17 metropolitan planning organization under subsection (1) of this sec-
18 tion, the commission shall distribute half the moneys to the metro-
19 politan service district or metropolitan planning organization and half
20 the moneys to the counties and cities within the metropolitan service
21 district or metropolitan planning organization. The proportionate
22 share allocated for distribution to each county and city within the
23 metropolitan service district or metropolitan planning organization
24 shall be determined based on the formula provided in subsection (2)
25 of this section.

26 (4) Moneys received by a local government under this section must
27 be expended in a manner that, to the extent practicable, will yield the
28 greatest reductions in greenhouse gas emissions per dollar spent. In
29 allocating the moneys to specific expenditures:

30 (a) A metropolitan service district shall consult with a joint policy
31 advisory committee on transportation;

1 (b) A county or city within a metropolitan service district shall
2 consult with the metropolitan service district; and

3 (c) A metropolitan planning organization shall consult with the
4 governing bodies of the counties or cities within the boundaries of the
5 metropolitan planning organization.

6 SECTION 37. Procurement provisions. (1) Notwithstanding pro-
7 visions of law requiring a contracting agency to award a contract to
8 the lowest responsible bidder or best proposer or provider of a quota-
9 tion, and except as provided in subsection (3) of this section or as
10 prohibited by federal law, a state contracting agency, when using
11 funds from the Transportation Decarbonization Investments Account
12 established under section 34 of this 2020 Act, shall give a preference
13 of not more than 10 percent to building materials procured from
14 manufacturers subject to a carbon pricing program.

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

23 (3) If the contracting agency finds in a written determination that
24 the building material is not available in the quantity, quality, type or
25 time frame required for the procurement, or if the cost of the building
26 material is greater than 10 percent more than the building material
27 costs from manufacturers not subject to a carbon pricing program, the
28 contracting agency may decline to give the building material prefer-
29 ence.

30 (4) If a transportation project selected by the Oregon Transporta-
31 tion Commission under section 35 of this 2020 Act involves the use of

1 roadside vegetation, the Department of Transportation shall purchase
2 the roadside vegetation from nursery stock that is grown and propa-
3 gated entirely within this state. The commission may specify by rule
4 grades, standards, considerations and processes for roadside vegetation
5 expenditures conducted pursuant to this subsection.

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

9
10 (Climate Investments Fund)

11
12 **SECTION 38. Definitions.** As used in sections 38 to 40 of this 2020
13 Act:

14 (1) “Building materials” means asphalt, cement, concrete or any
15 other aggregate product, aluminum, steel, iron, coatings for steel and
16 iron, glass, manufactured wood products and copper.

17 (2) “Contracting agency” has the meaning given that term in ORS
18 279A.010.

19 (3) “Eligible Indian Tribe” has the meaning given that term in sec-
20 tion 4 of this 2020 Act.

21 (4) “Impacted community” has the meaning given that term in
22 section 4 of this 2020 Act.

23 (5) “Natural and working lands” has the meaning given that term
24 in section 4 of this 2020 Act.

25 (6) “Oregon Greenhouse Gas Initiative” has the meaning given that
26 term in section 4 of this 2020 Act.

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

29 (8) “Subject to a carbon pricing program” means a building mate-
30 rials manufacturer whose emissions from the manufacture of goods:

31 (a) Are subject to a tax or governmental regulatory program that

1 has the effect of placing a price on greenhouse gas emissions and that
2 is at least as stringent as the Oregon Greenhouse Gas Initiative, as
3 determined by the Oregon Greenhouse Gas Reduction Board by rule;
4 or

5 (b) Are directly regulated by the jurisdiction where the manufac-
6 turing facility is located for the greenhouse gas emissions attributable
7 to the manufacturing of goods at the facility operated by the man-
8 ufacturer.

9 SECTION 39. Climate Investments Fund. (1) The Climate Invest-
10 ments Fund is established in the State Treasury, separate and distinct
11 from the General Fund. The Climate Investments Fund shall consist
12 of moneys deposited in the fund under sections 28 and 29 of this 2020
13 Act. Interest earned by the fund shall be credited to the fund.

14 (2) Moneys in the fund are continuously appropriated to the Office
15 of Greenhouse Gas Regulation to be distributed by the Oregon
16 Greenhouse Gas Reduction Board for use for programs, projects and
17 activities that further one or more of the purposes set forth in section
18 2 of this 2020 Act.

19 (3) Subject to subsection (2) of this section, the board shall distrib-
20 ute the moneys deposited in the fund each biennium as follows:

21 (a) 10 percent shall be distributed for uses that directly benefit eli-
22 gible Indian tribes;

23 (b) 25 percent shall be distributed to the Oregon Watershed En-
24 hancement Board for uses that benefit natural and working lands;

25 (c) 25 percent shall be distributed to the State Forestry Department
26 for wildfire mitigation efforts, including but not limited to projects
27 under the Good Neighbor Authority Agreement, as that term is de-
28 fined in ORS 526.275, and as informed by the recommendations of any
29 council formed by the Governor to address wildfire response;

30 (d) 20 percent shall be distributed to local governments, as that
31 term is defined in ORS 174.116, for programs, projects and activities

1 that further one or more of the purposes set forth in section 2 of this
2 2020 Act, with a priority given to programs, projects and activities that
3 reduce greenhouse gas emissions; and

4 (e) 20 percent shall be distributed to agencies of state government
5 for programs, projects and activities that further one or more of the
6 purposes set forth in section 2 of this 2020 Act, with a priority given
7 to programs, projects and activities that reduce greenhouse gas emis-
8 sions.

9 (4) In addition to and not in lieu of the requirements set forth in
10 subsection (3) of this section, the Oregon Greenhouse Gas Reduction
11 Board shall endeavor to distribute the majority of the moneys depos-
12 ited in the fund each biennium for uses that benefit impacted com-
13 munities.

14 (5) Distributions from the fund shall, to the maximum extent fea-
15 sible and consistent with law, be in addition to and not in replacement
16 of any existing allocations or appropriations for programs, projects
17 and activities.

18 SECTION 40. Procurement preferences. (1) Notwithstanding pro-
19 visions of law requiring a contracting agency to award a contract to
20 the lowest responsible bidder or best proposer or provider of a quota-
21 tion, and except as provided in subsection (3) of this section or as
22 prohibited by federal law, a state contracting agency, when using
23 funds from the Climate Investments Fund established under section
24 39 of this 2020 Act, shall give a preference of not more than 10 percent
25 to building materials procured from manufacturers subject to a carbon
26 pricing program.

27 (2) Notwithstanding provisions of law requiring a contracting
28 agency to award a contract to the lowest responsible bidder or best
29 proposer or provider of a quotation, and except as provided in sub-
30 section (3) of this section or as prohibited by federal law, a contracting
31 agency other than a state contracting agency, when using funds from

1 the Climate Investments Fund, may give a preference of not more
2 than 10 percent to building materials procured from manufacturers
3 subject to a carbon pricing program.

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

11

12

(Labor and Contracting Provisions)

13

14 SECTION 41. (1) If a construction project or a transportation
15 project receives more than \$50,000 in funding from moneys in the Cli-
16 mate Investments Fund established under section 39 of this 2020 Act
17 or the Transportation Decarbonization Investments Account estab-
18 lished under section 34 of this 2020 Act, the primary contractor par-
19 ticipating in the construction project:

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

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

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

26 (d) May not be a contractor listed by the Commissioner of the Bu-
27 reau of Labor and Industries under ORS 279C.860 as ineligible to re-
28 ceive a contract or subcontract for public works;

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

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

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

5 (2) A farm labor contractor, as defined in ORS 658.405, may not re-
6 ceive moneys distributed from the Climate Investments Fund or the
7 Transportation Decarbonization Investments Account unless the farm
8 labor contractor is in compliance with all licensing and any other re-
9 quirements or regulations imposed upon farm labor contractors pur-
10 suant to ORS 658.405 to 658.511.

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

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

25 (A) Establish measurable, enforceable goals for the training and
26 hiring of persons who are members of impacted communities, as de-
27 fined in section 4 of this 2020 Act, and for contracting with businesses
28 that are owned or operated by members of impacted communities; and

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

31 (c) The model rules shall promote best practices in procurement

1 **and contracting.**

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

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

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

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

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

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

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

30 **(4) Except as provided in subsection (5) of this section, a state**
31 **agency charged with administering funds for construction projects**

1 that receive more than \$50,000 in funding from moneys in the Climate
2 Investments Fund or the Transportation Decarbonization Investments
3 Account may not adopt the administering agency's own rules for labor
4 and workforce procedures related to administering funds allocated
5 from the Climate Investments Fund or the Transportation
6 Decarbonization Investments Account and shall be subject to the
7 model rules adopted by the Oregon Department of Administrative
8 Services under subsection (3) of this section.

9 (5) The Department of Transportation may adopt the department's
10 own rules specifying labor, workforce and contracting procedures for
11 use in administering funds for transportation projects that receive
12 more than \$50,000 in funding from moneys in the Transportation
13 Decarbonization Investments Account. Rules adopted by the depart-
14 ment pursuant to this subsection must meet the requirements of sub-
15 section (3) of this section.

16
17 (Common School Fund)
18

19 SECTION 42. Moneys deposited in the Common School Fund under
20 sections 28 and 29 of this 2020 Act are continuously appropriated to the
21 Department of State Lands to be used in a manner that:

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

24 (2) Furthers one or more of the purposes set forth in section 2 of
25 this 2020 Act.

26
27 (Biennial Expenditure Reporting and Auditing)
28

29 SECTION 43. (1) All agencies of the executive department as defined
30 in ORS 174.112, counties, cities and all other public and private entities
31 receiving moneys from the Climate Investments Fund shall annually

1 report to the Office of Greenhouse Gas Regulation on the expenditure
2 of the moneys received and the results of the expenditures. No later
3 than January 1 of each even-numbered year, the office shall deliver a
4 biennial report, in the manner provided in ORS 192.245, to the Gover-
5 nor and the Legislative Assembly describing:

6 (a) The investments from the Climate Investments Fund;

7 (b) Whether the investments met the requirements of section 39 of
8 this 2020 Act; and

9 (c) The effectiveness of those investments in furthering the pur-
10 poses set forth in section 2 of this 2020 Act.

11 (2) All agencies of the executive department, metropolitan service
12 districts, metropolitan planning organizations, counties, cities and all
13 other public entities receiving moneys from the Transportation
14 Decarbonization Investments Account shall annually report to the
15 Department of Transportation on the expenditure of the moneys re-
16 ceived and the results of the expenditures. No later than January 1
17 of each even-numbered year, the department shall deliver a biennial
18 report, in the manner provided in ORS 192.245, to the Oregon Trans-
19 portation Commission, the Governor and the Legislative Assembly
20 describing:

21 (a) The transportation projects funded by moneys from the Trans-
22 portation Decarbonization Investments Account;

23 (b) How the transportation projects met the requirements of section
24 34 of this 2020 Act; and

25 (c) The effectiveness of the transportation projects in furthering the
26 purposes set forth in section 2 of this 2020 Act.

27 (3) Notwithstanding sections 33 to 37 and 39 of this 2020 Act, any
28 agency of the executive department, metropolitan service district,
29 metropolitan planning organization, county, city or other public or
30 private entity failing to file a report under this section may not receive
31 any payments from the Climate Investments Fund or the Transporta-

1 **tion Decarbonization Investments Account until the report is filed.**

2 **(4)(a) The office and the department jointly shall select an inde-**
3 **pendent third-party organization to prepare a biennial compliance au-**
4 **dit of:**

5 **(A) All programs, projects or activities funded by moneys from the**
6 **Climate Investments Fund; and**

7 **(B) All transportation projects funded by moneys from the Trans-**
8 **portation Decarbonization Investments Account.**

9 **(b) The office and the department shall provide for the audit report**
10 **prepared by the independent third-party organization under this sub-**
11 **section to be transmitted, together with the reports required under**
12 **subsections (1) and (2) of this section, to the Oregon Transportation**
13 **Commission, the Governor and the Legislative Assembly.**

14
15 **PROVISIONS RELATED TO THE PUBLIC UTILITY COMMISSION**

16
17 **SECTION 44. Sections 45 to 53, 55 and 56 of this 2020 Act are added**
18 **to and made a part of ORS chapter 757.**

19 **SECTION 45. Definitions. As used in sections 45 to 53 of this 2020**
20 **Act:**

21 **(1) “Allowance” has the meaning given that term in section 4 of this**
22 **2020 Act.**

23 **(2) “Electric company” has the meaning given that term in ORS**
24 **757.600.**

25 **(3) “Natural gas utility” means a natural gas utility regulated by**
26 **the Public Utility Commission under ORS chapter 757.**

27 **(4) “Oregon Greenhouse Gas Initiative” has the meaning given that**
28 **term in section 4 of this 2020 Act.**

29 **(5) “Trade-exposed natural gas user” has the meaning given that**
30 **term in section 4 of this 2020 Act.**

31 **SECTION 46. Use of certain allowance sale proceeds by electric**

1 **companies.** (1) If, rather than surrendering the allowances to fulfill its
2 **compliance obligation under the Oregon Greenhouse Gas Initiative,**
3 **an electric company sells allowances that were directly distributed at**
4 **no cost to the electric company under section 14 of this 2020 Act, the**
5 **Public Utility Commission shall require the proceeds received by the**
6 **electric company through the sale:**

7 (a) To be spent by the electric company for the exclusive benefit
8 of retail customers that are supplied electricity by the electric com-
9 pany; and

10 (b) To be used only for activities that serve to reduce greenhouse
11 gas emissions or provide assistance to the electric company's retail
12 customers, in furtherance of the purposes set forth in section 2 of this
13 2020 Act.

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

18 (a) Providing weatherization, energy efficiency improvements, bill
19 assistance or rate assistance to the electric company's low-income
20 residential customers;

21 (b) Accelerated transportation electrification;

22 (c) Investments and activities that serve to reduce greenhouse gas
23 emissions through actions such as energy efficiency improvements,
24 voltage optimization, portfolio optimization and renewable energy
25 procurement; and

26 (d) Facilitating integration and utilization of variable energy re-
27 sources through investments in programs and technologies such as
28 demand response, smart grid communication and control systems,
29 grid-connected end uses and energy storage.

30 (3) An electric company that receives allowances directly distrib-
31 uted at no cost under section 14 of this 2020 Act shall develop a plan

1 for the use of the allowances and file the plan with the commission.
2 The plan must be revised and updated on a schedule established by the
3 commission by rule. At a minimum, a plan must contain:

4 (a) A strategy for the use of proceeds received by the electric com-
5 pany from the sale of the allowances in compliance with this section;
6 and

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

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

12 SECTION 47. An electric company shall develop and file with the
13 Public Utility Commission an initial plan under section 46 of this 2020
14 Act no later than December 31, 2022.

15 SECTION 48. Trust accounts. (1)(a) The Public Utility Commission,
16 as trustee, shall establish a separate trust account with the State
17 Treasurer for the benefit of each natural gas utility regulated under
18 the Oregon Greenhouse Gas Initiative. Moneys in each trust account
19 shall consist of proceeds due to the natural gas utility from the sale
20 at auction of allowances consigned to the state under section 17 of this
21 2020 Act. The State Treasurer may invest moneys deposited in the
22 trust accounts as provided in ORS 293.701 to 293.857. Interest earned
23 by a trust account must be credited to the account.

24 (b) Upon request by a natural gas utility, the commission shall re-
25 quire the State Treasurer to transfer from the natural gas utility's
26 trust account to the natural gas utility amounts necessary to pay for
27 programs or activities found to be consistent with the plan required
28 under subsection (2) of this section.

29 (c) Upon making the determinations required by subsections (3) and
30 (4) of this section, the commission shall direct the State Treasurer to
31 transfer amounts from a natural gas utility's trust account to the

1 **natural gas utility or a designee of the natural gas utility necessary**
2 **for use consistent with subsections (3) and (4) of this section.**

3 **(2) A natural gas utility shall develop a plan for use of moneys in**
4 **the trust account for the benefit of the natural gas utility's sales**
5 **customers. The natural gas utility shall file the plan for acknowledg-**
6 **ment with the commission as part of each of the natural gas utility's**
7 **integrated resource plan filings, as further specified by the commission**
8 **by rule. A plan must:**

9 **(a) Identify a portfolio of approaches in furtherance of the purposes**
10 **set forth in section 2 of this 2020 Act;**

11 **(b) Provide that no less than 25 percent of the proceeds from the**
12 **sale of allowances directly distributed to the natural gas utilities pur-**
13 **suant to section 17 (1)(b) of this 2020 Act be used for nonvolumetric**
14 **bill credits or other rate relief for residential, commercial and indus-**
15 **trial sales customers; and**

16 **(c) Address the impacts of the regulated emissions attributable to**
17 **the natural gas utility with due consideration of the risks associated**
18 **with climate change and the need for urgent action to address**
19 **greenhouse gas emissions reductions, through one or more of the fol-**
20 **lowing approaches:**

21 **(A) Implementing programs, activities or technologies designed to**
22 **reduce greenhouse gas emissions from sales customers, including**
23 **programs for low and moderate income residential sales customers;**

24 **(B) Developing renewable natural gas or renewable hydrogen**
25 **infrastructure and the provision of renewable natural gas or renewable**
26 **hydrogen to the natural gas utility's sales customers;**

27 **(C) Providing renewable thermal resources for sales customers;**

28 **(D) Providing natural gas or renewable natural gas to vehicles and**
29 **the necessary related infrastructure in the utility's service territory**
30 **as consistent with section 56 of this 2020 Act;**

31 **(E) Implementing pilot projects or research, development and dem-**

1 onstration activities to determine the cost and viability of activities
2 described in subparagraphs (A) to (D) of this paragraph; or

3 (F) Contributing to a state grant or loan program for financing
4 projects or upgrades to reduce greenhouse gas emissions for industrial
5 or commercial sales customers.

6 (3)(a) Subject to paragraph (b) of this subsection, the commission
7 shall determine the amounts of the proceeds from the sale of allow-
8 ances directly distributed to natural gas utilities pursuant to section
9 17 (1)(c) of this 2020 Act to be used for each of the following purposes:

10 (A) Providing nonvolumetric bill credits or other rate relief for na-
11 tural gas transportation customers of the natural gas utility;

12 (B) Implementing programs, activities or technologies, which may
13 include cost-effective projects for switching to the use of lower-
14 carbon-emitting fuels, designed to reduce greenhouse gas emissions
15 attributable to commercial and industrial natural gas transportation
16 customers; and

17 (C) Contributing to a state grant or loan program for financing
18 projects or upgrades, which may include cost-effective projects for
19 switching to the use of lower-carbon-emitting fuels, to reduce
20 greenhouse gas emissions for natural gas transportation customers.

21 (b) No less than 25 percent of the proceeds described in this sub-
22 section must be used for rate relief as described in paragraph (a)(A)
23 of this subsection. The commission shall set the level of rate relief as
24 part of the tariff between the transportation customer and the natural
25 gas utility. In setting the level of rate relief, the commission shall
26 consider:

27 (A) The availability of reasonable opportunities for natural gas
28 transportation customers of the natural gas utility to reduce
29 greenhouse gas emissions, including but not limited to opportunities
30 for investments in energy efficiency; and

31 (B) Competitive considerations related to natural gas service

1 options.

2 (4) The commission shall determine the amounts of the proceeds
3 from the sale of allowances directly distributed to natural gas utilities
4 pursuant to section 17 (1)(d) of this 2020 Act to be used for the benefit
5 of trade-exposed natural gas users consistent with section 50 of this
6 2020 Act.

7 (5)(a) The proceeds described in subsections (2) and (3) of this sec-
8 tion may not be used for the benefit of natural gas transportation
9 customers that are also trade-exposed natural gas users.

10 (b) A natural gas utility, upon approval by the commission, may
11 select one or more third parties to implement a program described in
12 subsection (2)(c)(A) or (3)(a)(B) of this section.

13 (6) The commission may adopt rules for the implementation and
14 enforcement of this section and section 50 of this 2020 Act, including
15 but not limited to a process for trade-exposed natural gas users to
16 appeal from the approval or disapproval of an energy management
17 system audit or implementation plan under section 50 of this 2020 Act.

18 **SECTION 49.** A natural gas utility shall develop and file with the
19 Public Utility Commission an initial plan under section 48 (2) of this
20 2020 Act no later than June 30, 2022.

21 **SECTION 50.** (1) In 2022 and each following calendar year before
22 2025, a trade-exposed natural gas user shall receive rate relief in each
23 year equal to the amount of revenue generated by the sale at auction
24 of the allowances allocated to the natural gas utility on behalf of that
25 user under section 17 (1)(d) of this 2020 Act for that year.

26 (2)(a) In 2025 and each following calendar year before 2051, and ex-
27 cept as provided in paragraph (b) of this subsection, the amount of
28 rate relief received by a trade-exposed natural gas user shall decline
29 annually by a constant amount proportionate to the decline in the
30 number of allowances available in annual allowance budgets pursuant
31 to section 5 (1)(b) of this 2020 Act.

1 (b) If a trade-exposed natural gas user is in compliance with an
2 approved energy management system audit and implementation plan
3 subject to subsection (3) of this section, the trade-exposed natural gas
4 user shall receive rate relief during the following years in the follow-
5 ing amounts:

6 (A) In 2025 and each year before 2030, the rate relief shall be equal
7 to the amount of revenue generated by the sale at auction of the al-
8 lowances allocated to the natural gas utility on behalf of that user
9 under section 17 (1)(d) of this 2020 Act for that year; and

10 (B) In 2030 and each year before 2051, the rate relief shall be equal
11 to 97 percent of the amount of revenue generated by the sale at auc-
12 tion of the allowances allocated to the natural gas utility on behalf
13 of that user under section 17 (1)(d) of this 2020 Act for that year.

14 (3)(a) A trade-exposed natural gas user may, no later than Decem-
15 ber 31, 2024, and once every five years thereafter, submit to the Public
16 Utility Commission a completed energy management system audit and
17 implementation plan for approval.

18 (b) The commission shall approve an energy management system
19 audit and implementation plan if:

20 (A) The audit meets the requirements of subsection (4) of this sec-
21 tion; and

22 (B) The implementation plan identifies how the trade-exposed na-
23 tural gas user will complete all efficiency improvements identified in
24 the audit report that are related to natural gas use and that have a
25 payback period of five years or less by:

26 (i) Two years after the date of the audit; or

27 (ii) A reasonable extension date not to exceed four years after the
28 date of the audit, if the commission determines that additional time
29 is reasonable and necessary for the trade-exposed natural gas user to
30 complete the efficiency improvements.

31 (c) In determining the payback period for an efficiency improve-

1 **ment identified in an audit report, the commission shall consider any**
2 **grants or loans for completing the efficiency improvement received by**
3 **the trade-exposed natural gas user from the Traded Sector Greenhouse**
4 **Gas Reduction Program Fund established under section 51 of this 2020**
5 **Act.**

6 **(d) An approved energy management system audit and implemen-**
7 **tation plan shall be valid for five years.**

8 **(4) An energy management system audit must adhere to established**
9 **federal or international standards for developing plans identifying en-**
10 **ergy efficiency opportunities and related best practices for commer-**
11 **cial, industrial and institutional facilities, as the commission may**
12 **further identify by rule, in consultation with the Office of Greenhouse**
13 **Gas Regulation. The elements of an audit shall include but need not**
14 **be limited to:**

15 **(a) A visual inspection of the relevant source or sources of**
16 **greenhouse gas emissions for the facility subject to the audit;**

17 **(b) An evaluation of the operating characteristics of the emission**
18 **sources, operation and maintenance procedures at the facility and**
19 **unusual operating constraints;**

20 **(c) An inventory of the major onsite energy use systems at the fa-**
21 **cility;**

22 **(d) A review of the architectural and engineering plans for the fa-**
23 **cility, the facility's operation and maintenance procedures and logs,**
24 **and the fuel usage of the facility;**

25 **(e) A review of the facility's energy management program and rec-**
26 **ommendations for improvements to the program;**

27 **(f) A review of opportunities for the facility to switch to the use of**
28 **fuels that are less greenhouse gas emissions intensive;**

29 **(g) A list of energy conservation measures that are within the**
30 **facility's control to implement;**

31 **(h) An evaluation of the energy savings potential of implementing**

1 **the energy conservation measures listed under paragraph (g) of this**
2 **subsection; and**

3 **(i) A comprehensive audit report detailing ways to improve the ef-**
4 **iciency of the facility, the cost of any specific improvements identified**
5 **in the report, the benefits of the identified improvements and the time**
6 **frame for recouping the investments in the identified improvements.**

7 **(5) Beginning in 2030, the commission shall annually direct any**
8 **proceeds described in section 48 (4) of this 2020 Act that are not used**
9 **for rate relief under subsection (2) of this section to be deposited in**
10 **the Traded Sector Greenhouse Gas Reduction Program Fund.**

11 **(6) The commission may contract with an independent third-party**
12 **entity to review and approve energy management system audits and**
13 **implementation plans under this section.**

14 **SECTION 51. (1) The Traded Sector Greenhouse Gas Reduction**
15 **Program Fund is established in the State Treasury, separate and dis-**
16 **tinguish from the General Fund. Interest earned by the Traded Sector**
17 **Greenhouse Gas Reduction Program Fund shall be credited to the**
18 **fund. Moneys in the fund are continuously appropriated to the Public**
19 **Utility Commission for the purpose of making grants and loans under**
20 **subsection (3) of this section.**

21 **(2) The fund shall consist of:**

22 **(a) Moneys deposited in the fund pursuant to section 50 of this 2020**
23 **Act;**

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

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

27 **(3) The commission shall adopt by rule a program for making**
28 **grants and loans from moneys deposited in the fund available to**
29 **trade-exposed natural gas users and EITE entities described in section**
30 **24 of this 2020 Act. Grants and loans made under the program may be**
31 **used for financing projects or upgrades, which may include cost-**

1 **effective projects for switching to the use of lower-carbon-emitting**
2 **fuels, that will result in reductions in greenhouse gas emissions.**

3 **(4) The commission may contract with an independent third-party**
4 **entity to administer the program adopted by rule under this section.**

5 **SECTION 52. No later than September 15 of each even-numbered**
6 **year, the Public Utility Commission shall, in the manner provided by**
7 **ORS 192.245, provide a report to the Legislative Assembly and to the**
8 **Office of Greenhouse Gas Regulation on:**

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

13 **(2) How natural gas utilities and any designees of the natural gas**
14 **utilities have expended proceeds from the sale of allowances consigned**
15 **to the office for auction by the natural gas utilities pursuant to sec-**
16 **tion 17 of this 2020 Act.**

17 **SECTION 53. The Public Utility Commission shall establish pro-**
18 **cesses and mechanisms to ensure timely cost recovery for prudent and**
19 **reasonable costs incurred by public utilities associated with compli-**
20 **ance with the Oregon Greenhouse Gas Initiative. The processes and**
21 **mechanisms shall be established to address situations in which com-**
22 **pliance with the Oregon Greenhouse Gas Initiative results in public**
23 **utilities incurring costs for which cost recovery mechanisms otherwise**
24 **authorized by law are not adequate.**

25 **SECTION 54. ORS 757.259 is amended to read:**

26 **757.259. (1) In addition to powers otherwise vested in the Public Utility**
27 **Commission, and subject to the limitations contained in this section, under**
28 **amortization schedules set by the commission, a rate or rate schedule:**

29 **(a) May reflect:**

30 **(A) Amounts lawfully imposed retroactively by order of another govern-**
31 **mental agency; or**

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

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

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

8 (a) Amounts incurred by a utility resulting from changes in the wholesale
9 price of natural gas or electricity approved by the Federal Energy Regula-
10 tory Commission;

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

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

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

19 (e) Identifiable utility [*expenses*] **costs** or revenues, **including the cost**
20 **of capital**, the recovery or refund of which the commission finds should be
21 deferred in order to minimize the frequency of rate changes or the fluctu-
22 ation of rate levels or to match appropriately the costs borne by and benefits
23 received by ratepayers.

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

27 (4) The commission may authorize deferrals under subsection (2) of this
28 section beginning with the date of application, together with interest estab-
29 lished by the commission. A deferral may be authorized for a period not to
30 exceed 12 months beginning on or after the date of application. However,
31 amounts deferred under subsection (2)(c) and (d) or (3) of this section are not

1 subject to subsection (5), (6), (7), (8) or (10) of this section, but are subject
2 to such limitations and requirements that the commission may prescribe and
3 that are consistent with the provisions of this section.

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

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

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

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

31 (9) The commission may impose requirements similar to those described

1 in subsection (8) of this section for the amortization of other deferrals under
2 this section, but may not impose such requirements for deferrals under sub-
3 section (2)(c) or (d) or (3) of this section.

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

7 (a) The deferral was directly related to extraordinary power supply ex-
8 penses incurred during 2001;

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

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

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

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

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

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

23 **SECTION 55. The Public Utility Commission may, in such manner**
24 **as the commission considers proper, allow a rate or rate schedule of**
25 **a public utility to include differential rates or to reflect amounts for**
26 **programs that enable the public utility to assist low-income residential**
27 **customers. Rates or rate schedules allowed under this section must**
28 **minimize shifting costs to ratepayers that do not qualify for low-**
29 **income assistance.**

30 **SECTION 56. (1) As used in this section:**

31 (a) "Electric company" has the meaning given that term in ORS

1 **757.600.**

2 (b) “Natural gas utility” means a natural gas utility regulated by
3 the Public Utility Commission under ORS chapter 757.

4 (2) The Public Utility Commission may allow an electric company
5 or natural gas utility to recover costs from all consumers for prudent
6 investments in or expenses for infrastructure measures that support
7 the adoption of alternative forms of transportation vehicles if the in-
8 vestments are consistent with and meet the requirements of sub-
9 section (3) of this section. An investment described in this section by
10 an electric company may involve investments behind the customer
11 meter.

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

15 (a) The infrastructure measures will support the adoption of alter-
16 native forms of transportation vehicles that are powered by electricity,
17 compressed natural gas or hydrogen; and

18 (b) The investment can be reasonably anticipated to:

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

21 (B) Benefit the electric company’s or natural gas utility’s custom-
22 ers in ways that may include, but need not be limited to:

23 (i) Distribution or transmission management benefits;

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

26 (iii) Revenues to electric companies from electric vehicle charging
27 to offset the electric company’s fixed costs that may otherwise be
28 charged to customers; or

29 (iv) Increased ratepayer choice by providing greater deployment of
30 a variety of fueling technologies to increase availability and access to
31 publicly available fueling stations for alternative forms of transporta-

1 **tion vehicles.**

2
3 **GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**

4
5 **SECTION 57.** ORS 468A.280 is amended to read:

6 468A.280. *[(1) In addition to any registration and reporting that may be*
7 *required under ORS 468A.050, the Environmental Quality Commission by rule*
8 *may require registration and reporting by:]*

9 **(1) As used in this section, “greenhouse gas” has the meaning given**
10 **that term in section 4 of this 2020 Act.**

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

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

16 *[(a)] (b) [Any] A person who imports, sells, allocates or distributes elec-*
17 **tricity** *for use in this state [electricity, the generation of which emits*
18 *greenhouse gases].*

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

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

29 *[(2)] (4) Rules adopted by the commission under this section for electricity*
30 *that is imported, sold, allocated or distributed for use in this state may re-*
31 *quire reporting of information necessary to determine greenhouse gas emis-*

1 sions from generating facilities used to produce the electricity and related
2 electricity transmission line losses.

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

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

13 (A) The number of megawatt-hours of electricity purchased by the utility
14 from the Bonneville Power Administration, segregated by the types of con-
15 tracts entered into by the utility with the Bonneville Power Administration;
16 and

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

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

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

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

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

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

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

1 (ii) The original generating facility fuel type or types; and
2 [(D)] (E) An estimate of the amount of greenhouse gas emissions[, *using*
3 *default greenhouse gas emissions factors established by the commission by*
4 *rule,*] attributable to:

5 (i) Electricity purchases made by a particular seller to the electric com-
6 pany;

7 (ii) Electricity purchases from an unknown origin or from a seller who
8 is unable to identify the original generating facility fuel type or types;

9 [(iii) *Electricity purchases for which a renewable energy certificate under*
10 *ORS 469A.130 has been issued but subsequently transferred or sold to a person*
11 *other than the electric company;*]

12 [(iv)] (iii) Electricity transmitted for others by the electric company; and

13 [(v)] (iv) Total energy losses from electricity transmission and distrib-
14 ution equipment owned or operated by the electric company.

15 (b) Pursuant to paragraph (a) of this subsection, a [*multijurisdictional*]
16 **multistate jurisdictional** electric company may rely upon a cost allocation
17 methodology approved by the Public Utility Commission for reporting emis-
18 sions allocated in this state.

19 [(5)] (7) Rules adopted by the commission under this section for [*fossil*]
20 fuel that is imported, sold or distributed for use in this state may require
21 reporting of the type and quantity of the fuel and any additional information
22 necessary to determine the [*carbon content*] **greenhouse gas emissions as-**
23 **sociated with the use or combustion** of the fuel. [*For the purpose of de-*
24 *termining greenhouse gas emissions related to liquefied petroleum gas, the*
25 *commission shall allow reporting using publications or submission of data by*
26 *the American Petroleum Institute but may require reporting of such other in-*
27 *formation necessary to achieve the purposes of the rules adopted by the com-*
28 *mission under this section.*]

29 [(6)] (8) To an extent that is consistent with the purposes of the rules
30 adopted by the commission under this section, the commission shall minimize
31 the burden of the reporting required under this section by:

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

3 (b) Allowing electronic reporting;

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

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

9 (e) Requiring reporting by the fewest number of persons in a fuel dis-
10 tribution system that will allow the commission to acquire the information
11 needed by the commission; or

12 (f) Other appropriate means and procedures determined by the commis-
13 sion.

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

16 **(9) The commission may adjust by rule the registration and re-**
17 **porting requirements under subsection (2) of this section if necessary**
18 **to accommodate participation in an energy imbalance market by per-**
19 **sons that import, sell, allocate or distribute electricity, or as necessary**
20 **to otherwise address developments in electricity markets.**

21 **(10) The department may require a person for which registration**
22 **and reporting is required under subsection (2) of this section to provide**
23 **any pertinent records related to verification of greenhouse gas emis-**
24 **sions in order to determine compliance with and to enforce this sec-**
25 **tion and rules adopted pursuant to this section.**

26 **(11) If a person required to register and report under subsection (2)**
27 **of this section fails to submit a report under this section, the depart-**
28 **ment may develop an assigned emissions level for the person if nec-**
29 **essary for the purpose of regulating persons under sections 4 to 32 of**
30 **this 2020 Act.**

31 **(12)(a) By rule, the commission may establish a schedule of fees for**

1 **registration and reporting under this section. Before establishing fees**
2 **under this subsection, the commission shall consider the total fees for**
3 **each person subject to registration and reporting under this section.**

4 **(b) The commission shall limit the fees established under this sub-**
5 **section to the anticipated cost of developing, implementing and ana-**
6 **lyzing data collected under greenhouse gas emissions registration and**
7 **reporting programs.**

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

11

12 **ENERGY FACILITY CARBON DIOXIDE EMISSIONS STANDARDS**

13 **(Repeal of Carbon Dioxide Emissions Standards)**

14

15 **SECTION 58.** ORS 469.503 is amended to read:

16 469.503. In order to issue a site certificate, the Energy Facility Siting
17 Council shall determine that the preponderance of the evidence on the record
18 supports the following conclusions:

19 (1) The facility complies with the applicable standards adopted by the
20 council pursuant to ORS 469.501 or the overall public benefits of the facility
21 outweigh any adverse effects on a resource or interest protected by the ap-
22 plicable standards the facility does not meet.

23 *[(2) If the energy facility is a fossil-fueled power plant, the energy facility*
24 *complies with any applicable carbon dioxide emissions standard adopted by the*
25 *council or enacted by statute. Base load gas plants shall comply with the*
26 *standard set forth in subsection (2)(a) of this section. Other fossil-fueled power*
27 *plants shall comply with any applicable standard adopted by the council by*
28 *rule pursuant to subsection (2)(b) of this section. Subsections (2)(c) and (d)*
29 *of this section prescribe the means by which an applicant may comply with the*
30 *applicable standard.]*

31 *[(a) The net carbon dioxide emissions rate of the proposed base load gas*

1 *plant shall not exceed 0.70 pounds of carbon dioxide emissions per kilowatt*
 2 *hour of net electric power output, with carbon dioxide emissions and net elec-*
 3 *tric power output measured on a new and clean basis. Notwithstanding the*
 4 *foregoing, the council may by rule modify the carbon dioxide emissions stand-*
 5 *ard for base load gas plants if the council finds that the most efficient stand-*
 6 *alone combined cycle, combustion turbine, natural gas-fired energy facility that*
 7 *is commercially demonstrated and operating in the United States has a net*
 8 *heat rate of less than 7,200 Btu per kilowatt hour higher heating value ad-*
 9 *justed to ISO conditions. In modifying the carbon dioxide emission standard,*
 10 *the council shall determine the rate of carbon dioxide emissions per kilowatt*
 11 *hour of net electric output of such energy facility, adjusted to ISO conditions,*
 12 *and reset the carbon dioxide emissions standard at 17 percent below this*
 13 *rate.]*

14 *[(b) The council shall adopt carbon dioxide emissions standards for other*
 15 *types of fossil-fueled power plants. Such carbon dioxide emissions standards*
 16 *shall be promulgated by rule. In adopting or amending such carbon dioxide*
 17 *emissions standards, the council shall consider and balance at least the fol-*
 18 *lowing principles, the findings on which shall be contained in the rulemaking*
 19 *record:]*

20 *[(A) Promote facility fuel efficiency;]*

21 *[(B) Promote efficiency in the resource mix;]*

22 *[(C) Reduce net carbon dioxide emissions;]*

23 *[(D) Promote cogeneration that reduces net carbon dioxide emissions;]*

24 *[(E) Promote innovative technologies and creative approaches to mitigating,*
 25 *reducing or avoiding carbon dioxide emissions;]*

26 *[(F) Minimize transaction costs;]*

27 *[(G) Include an alternative process that separates decisions on the form and*
 28 *implementation of offsets from the final decision on granting a site*
 29 *certificate;]*

30 *[(H) Allow either the applicant or third parties to implement offsets;]*

31 *[(I) Be attainable and economically achievable for various types of power*

1 *plants;]*

2 *[(J) Promote public participation in the selection and review of offsets;]*

3 *[(K) Promote prompt implementation of offset projects;]*

4 *[(L) Provide for monitoring and evaluation of the performance of offsets;*

5 *and]*

6 *[(M) Promote reliability of the regional electric system.]*

7 *[(c) The council shall determine whether the applicable carbon dioxide*
8 *emissions standard is met by first determining the gross carbon dioxide emis-*
9 *sions that are reasonably likely to result from the operation of the proposed*
10 *energy facility. Such determination shall be based on the proposed design of*
11 *the energy facility. The council shall adopt site certificate conditions to ensure*
12 *that the predicted carbon dioxide emissions are not exceeded on a new and*
13 *clean basis. For any remaining emissions reduction necessary to meet the ap-*
14 *plicable standard, the applicant may elect to use any of subparagraphs (A) to*
15 *(D) of this paragraph, or any combination thereof. The council shall determine*
16 *the amount of carbon dioxide or other greenhouse gas emissions reduction that*
17 *is reasonably likely to result from the applicant's offsets and whether the re-*
18 *sulting net carbon dioxide emissions meet the applicable carbon dioxide emis-*
19 *sions standard. For purposes of determining the net carbon dioxide emissions,*
20 *the council shall by rule establish the global warming potential of each*
21 *greenhouse gas based on a generally accepted scientific method, and convert*
22 *any greenhouse gas emissions to a carbon dioxide equivalent. Unless otherwise*
23 *provided by the council by rule, the global warming potential of methane is*
24 *23 times that of carbon dioxide, and the global warming potential of nitrous*
25 *oxide is 296 times that of carbon dioxide. If the council or a court on judicial*
26 *review concludes that the applicant has not demonstrated compliance with the*
27 *applicable carbon dioxide emissions standard under subparagraphs (A), (B)*
28 *or (D) of this paragraph, or any combination thereof, and the applicant has*
29 *agreed to meet the requirements of subparagraph (C) of this paragraph for any*
30 *deficiency, the council or a court shall find compliance based on such agree-*
31 *ment.]*

1 [(A) *The facility will sequentially produce electrical and thermal energy*
2 *from the same fuel source, and the thermal energy will be used to displace*
3 *another source of carbon dioxide emissions that would have otherwise contin-*
4 *ued to occur, in which case the council shall adopt site certificate conditions*
5 *ensuring that the carbon dioxide emissions reduction will be achieved.*]

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

19 [(i) *The degree of certainty that the predicted quantity of greenhouse gas*
20 *emissions reduction will be achieved by the offset;*]

21 [(ii) *The ability of the council to determine the actual quantity of*
22 *greenhouse gas emissions reduction resulting from the offset, taking into con-*
23 *sideration any proposed measurement, monitoring and evaluation of mitigation*
24 *measure performance; and*]

25 [(iii) *The extent to which the reduction of greenhouse gas emissions would*
26 *occur in the absence of the offsets.*]

27 [(C) *The applicant or a third party agrees to provide funds in an amount*
28 *deemed sufficient to produce the reduction in greenhouse gas emissions neces-*
29 *sary to meet the applicable carbon dioxide emissions standard, in which case*
30 *the funds shall be used as specified in paragraph (d) of this subsection. Unless*
31 *modified by the council as provided below, the payment of 57 cents shall be*

1 *deemed to result in a reduction of one ton of carbon dioxide emissions. The*
2 *council shall determine the offset funds using the monetary offset rate and the*
3 *level of emissions reduction required to meet the applicable standard. If a site*
4 *certificate is approved based on this subparagraph, the council may not adjust*
5 *the amount of such offset funds based on the actual performance of offsets.*
6 *After three years from June 26, 1997, the council may by rule increase or de-*
7 *crease the monetary offset rate of 57 cents per ton of carbon dioxide emissions.*
8 *Any change to the monetary offset rate shall be based on empirical evidence*
9 *of the cost of offsets and the council's finding that the standard will be eco-*
10 *nomically achievable with the modified rate for natural gas-fired power plants.*
11 *Following the initial three-year period, the council may increase or decrease*
12 *the monetary offset rate no more than 50 percent in any two-year period.]*

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

15 *[(d) If the applicant elects to meet the applicable carbon dioxide emissions*
16 *standard in whole or in part under paragraph (c)(C) of this subsection, the*
17 *applicant shall identify the qualified organization. The applicant may identify*
18 *an organization that has applied for, but has not received, an exemption from*
19 *federal income taxation, but the council may not find that the organization is*
20 *a qualified organization unless the organization is exempt from federal taxa-*
21 *tion under section 501(c)(3) of the Internal Revenue Code as amended and in*
22 *effect on December 31, 1996. The site certificate holder shall provide a bond*
23 *or comparable security in a form reasonably acceptable to the council to ensure*
24 *the payment of the offset funds and the amount required under subparagraph*
25 *(A)(ii) of this paragraph. Such security shall be provided by the date specified*
26 *in the site certificate, which shall be no later than the commencement of con-*
27 *struction of the facility. The site certificate shall require that the offset funds*
28 *be disbursed as specified in subparagraph (A) of this paragraph, unless the*
29 *council finds that no qualified organization exists, in which case the site cer-*
30 *tificate shall require that the offset funds be disbursed as specified in sub-*
31 *paragraph (B) of this paragraph.]*

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

4 [(i) *When the site certificate holder receives written notice from the quali-*
5 *fied organization certifying that the qualified organization is contractually*
6 *obligated to pay any funds to implement offsets using the offset funds, the site*
7 *certificate holder shall make the requested amount available to the qualified*
8 *organization unless the total of the amount requested and any amounts previ-*
9 *ously requested exceeds the offset funds, in which case only the remaining*
10 *amount of the offset funds shall be made available. The qualified organization*
11 *shall use at least 80 percent of the offset funds for contracts to implement off-*
12 *sets. The qualified organization shall assess offsets for their potential to*
13 *qualify in, generate credits in or reduce obligations in other regulatory set-*
14 *tings. The qualified organization may use up to 20 percent of the offset funds*
15 *for monitoring, evaluation, administration and enforcement of contracts to im-*
16 *plement offsets.*]

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

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

1 *to the site certificate holder.]*

2 *[(B) If the council finds there is no qualified organization, the site certifi-*
3 *cate holder shall select one or more offsets to be implemented pursuant to*
4 *criteria established by the council. The site certificate holder shall give written*
5 *notice of its selections to the council and to any person requesting notice. On*
6 *petition by the State Department of Energy, or by any person adversely affected*
7 *or aggrieved by the site certificate holder's selection of offsets, or on the*
8 *council's own motion, the council may review such selection. The petition must*
9 *be received by the council within 30 days of the date the notice of selection is*
10 *placed in the United States mail, with first-class postage prepaid. The council*
11 *shall approve the site certificate holder's selection unless it finds that the se-*
12 *lection is not consistent with criteria established by the council. The site cer-*
13 *tificate holder shall contract to implement the selected offsets within 18 months*
14 *after commencing construction of the facility unless good cause is shown re-*
15 *quiring additional time. The contracts shall obligate the expenditure of at least*
16 *85 percent of the offset funds for the implementation of offsets. No more than*
17 *15 percent of the offset funds may be spent on monitoring, evaluation and*
18 *enforcement of the contract to implement the selected offsets. The council's*
19 *criteria for selection of offsets shall be based on the criteria set forth in para-*
20 *graphs (b)(C) and (c)(B) of this subsection and may also consider the costs of*
21 *particular types of offsets in relation to the expected benefits of such offsets.*
22 *The council's criteria shall not require the site certificate holder to select*
23 *particular offsets, and shall allow the site certificate holder a reasonable range*
24 *of choices in selecting offsets. In addition, notwithstanding any other provision*
25 *of this section, the site certificate holder's financial liability for implementa-*
26 *tion, monitoring, evaluation and enforcement of offsets pursuant to this sub-*
27 *section shall be limited to the amount of any offset funds not already*
28 *contractually obligated. Nonperformance, negligence or misconduct by the en-*
29 *tity or entities implementing, monitoring or evaluating the selected offset shall*
30 *not be a basis for revocation of the site certificate or any other enforcement*
31 *action by the council with respect to the site certificate holder.]*

1 [(C) *Every qualified organization that has received funds under this para-*
2 *graph shall, at five-year intervals beginning on the date of receipt of such*
3 *funds, provide the council with the information the council requests about the*
4 *qualified organization’s performance. The council shall evaluate the informa-*
5 *tion requested and, based on such information, shall make any recommen-*
6 *dations to the Legislative Assembly that the council deems appropriate.*]

7 [(e) *As used in this subsection:*]

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

11 [(B) *“Base load gas plant” means a generating facility that is fueled by*
12 *natural gas, except for periods during which an alternative fuel may be used*
13 *and when such alternative fuel use shall not exceed 10 percent of expected fuel*
14 *use in Btu, higher heating value, on an average annual basis, and where the*
15 *applicant requests and the council adopts no condition in the site certificate*
16 *for the generating facility that would limit hours of operation other than re-*
17 *strictions on the use of alternative fuel. The council shall assume a 100 per-*
18 *cent capacity factor for such plants and a 30-year life for the plants for*
19 *purposes of determining gross carbon dioxide emissions.*]

20 [(C) *“Carbon dioxide equivalent” means the global warming potential of a*
21 *greenhouse gas reflected in units of carbon dioxide.*]

22 [(D) *“Fossil-fueled power plant” means a generating facility that produces*
23 *electric power from natural gas, petroleum, coal or any form of solid, liquid*
24 *or gaseous fuel derived from such material.*]

25 [(E) *“Generating facility” means those energy facilities that are defined in*
26 *ORS 469.300 (11)(a)(A), (B) and (D).*]

27 [(F) *“Global warming potential” means the determination of the atmo-*
28 *spheric warming resulting from the release of a unit mass of a particular*
29 *greenhouse gas in relation to the warming resulting from the release of the*
30 *equivalent mass of carbon dioxide.*]

31 [(G) *“Greenhouse gas” means carbon dioxide, methane and nitrous oxide.*]

1 [(H) “Gross carbon dioxide emissions” means the predicted carbon dioxide
2 emissions of the proposed energy facility measured on a new and clean
3 basis.]

4 [(I) “Net carbon dioxide emissions” means gross carbon dioxide emissions
5 of the proposed energy facility, less carbon dioxide or other greenhouse gas
6 emissions avoided, displaced or sequestered by any combination of cogeneration
7 or offsets.]

8 [(J) “New and clean basis” means the average carbon dioxide emissions rate
9 per hour and net electric power output of the energy facility, without degra-
10 dation, as determined by a 100-hour test at full power completed during the
11 first 12 months of commercial operation of the energy facility, with the results
12 adjusted for the average annual site condition for temperature, barometric
13 pressure and relative humidity and use of alternative fuels, and using a rate
14 of 117 pounds of carbon dioxide per million Btu of natural gas fuel and a rate
15 of 161 pounds of carbon dioxide per million Btu of distillate fuel, if such fuel
16 use is proposed by the applicant. The council may by rule adjust the rate of
17 pounds of carbon dioxide per million Btu for natural gas or distillate fuel.
18 The council may by rule set carbon dioxide emissions rates for other fuels.]

19 [(K) “Nongenerating facility” means those energy facilities that are defined
20 in ORS 469.300 (11)(a)(C) and (E) to (I).]

21 [(L) “Offset” means an action that will be implemented by the applicant, a
22 third party or through the qualified organization to avoid, sequester or dis-
23 place emissions.]

24 [(M) “Offset funds” means the amount of funds determined by the council
25 to satisfy the applicable carbon dioxide emissions standard pursuant to para-
26 graph (c)(C) of this subsection.]

27 [(N) “Qualified organization” means an entity that:]

28 [(i) Is exempt from federal taxation under section 501(c)(3) of the Internal
29 Revenue Code as amended and in effect on December 31, 1996;]

30 [(ii) Either is incorporated in the State of Oregon or is a foreign corpo-
31 ration authorized to do business in the State of Oregon;]

1 *[(iii) Has in effect articles of incorporation that require that offset funds*
 2 *received pursuant to this section are used for offsets that require that decisions*
 3 *on the use of the offset funds are made by a decision-making body composed*
 4 *of seven voting members of which three are appointed by the council, three are*
 5 *Oregon residents appointed by the Bullitt Foundation or an alternative envi-*
 6 *ronmental nonprofit organization named by the body, and one is appointed by*
 7 *the applicants for site certificates that are subject to paragraph (d) of this*
 8 *subsection and the holders of such site certificates, and that require nonvoting*
 9 *membership on the body for holders of site certificates that have provided*
 10 *funds not yet disbursed under paragraph (d)(A) of this subsection;]*

11 *[(iv) Has made available on an annual basis, beginning after the first year*
 12 *of operation, a signed opinion of an independent certified public accountant*
 13 *stating that the qualified organization's use of funds pursuant to this statute*
 14 *conforms with generally accepted accounting procedures except that the quali-*
 15 *fied organization shall have one year to conform with generally accepted ac-*
 16 *counting principles in the event of a nonconforming audit;]*

17 *[(v) Has to the extent applicable, except for good cause, entered into con-*
 18 *tracts obligating at least 60 percent of the offset funds to implement offsets*
 19 *within two years after the commencement of construction of the facility; and]*

20 *[(vi) Has to the extent applicable, except for good cause, complied with*
 21 *paragraph (d)(A)(i) of this subsection.]*

22 **[(3)] (2)** Except as provided in ORS 469.504 for land use compliance and
 23 except for those statutes and rules for which the decision on compliance has
 24 been delegated by the federal government to a state agency other than the
 25 council, the facility complies with all other Oregon statutes and adminis-
 26 trative rules identified in the project order, as amended, as applicable to the
 27 issuance of a site certificate for the proposed facility. If compliance with
 28 applicable Oregon statutes and administrative rules, other than those in-
 29 volving federally delegated programs, would result in conflicting conditions
 30 in the site certificate, the council may resolve the conflict consistent with
 31 the public interest. A resolution may not result in the waiver of any appli-

1 cable state statute.

2 [(4)] (3) The facility complies with the statewide planning goals adopted
3 by the Land Conservation and Development Commission.

4 **SECTION 59.** ORS 526.786 is amended to read:

5 526.786. (1) The State Board of Forestry may develop administrative rules
6 that define principles and standards relating to the creation, measurement,
7 accounting, marketing, verifying, registering, transferring and selling of
8 forestry carbon offsets from nonfederal forestlands.

9 (2) Rules adopted by the board under this section shall set standards to
10 ensure that in order to be marketed, registered, transferred or sold, a forestry
11 carbon offset must be created as a result of forest management activities
12 that:

13 (a) Have the effect of increasing carbon storage on forestlands as meas-
14 ured by a forestry carbon offset accounting system;

15 (b) Would not otherwise occur but for the carbon storage objective; and

16 (c) Provide environmental, social and economic benefits for Oregon and
17 its citizens, including but not limited to, protection or enhancement of long
18 term timber supplies, native fish and wildlife habitat and water quality.

19 (3) Rules adopted by the board under this section shall establish princi-
20 ples to ensure that the forestry carbon offset accounting system shall:

21 (a) Account for relevant sources of carbon dioxide emission debits and
22 credits for carbon storage or sequestration;

23 (b) Account for the duration and permanence of the carbon dioxide stor-
24 age or emission reductions;

25 (c) Include provisions for establishing the appropriate baseline for
26 projects, practices, rotation ages, harvest schedules and ownership from
27 which measured carbon dioxide emission debits, and credits for carbon stor-
28 age or sequestration are made;

29 (d) Account for other relevant and measurable greenhouse gas conse-
30 quences, specifically credits and debits expressed as a carbon dioxide emis-
31 sions equivalent, when establishing baselines or otherwise as appropriate;

1 (e) Account for the specific forest management practices used on-site and
2 include provisions for monitoring carbon dioxide emission debits and credits
3 for carbon storage or sequestration, from the implementation of specific
4 practices;

5 (f) Account for continuing carbon dioxide emission debits, and credits for
6 carbon storage or sequestration, based on the end product use of harvested
7 biomass;

8 (g) Account for environmental, social and economic benefits of forestry
9 carbon offsets and ensure that practices with unsustainable, long term con-
10 sequences are not used to create forestry carbon offsets;

11 (h) Allow for public access to information in monitoring reports; and

12 (i) Encourage third-party verification of forestry carbon offsets.

13 (4) Rules adopted by the board under this section may address qualifica-
14 tions for persons and agencies that provide third-party verification and reg-
15 istration of forestry carbon offsets.

16 (5) Rules adopted by the board under this section shall be developed with
17 the assistance of an advisory committee appointed by the board. The advisory
18 committee shall consist of at least nine persons and shall contain:

19 (a) Persons from businesses, governmental agencies and nongovernmental
20 organizations with knowledge and experience in the accounting of
21 greenhouse gas emissions, sequestration and storage;

22 (b) At least one person from a nongovernmental forestry conservation
23 organization;

24 (c) At least one nonindustrial private forest landowner or a representative
25 of an organization that represents nonindustrial private forest landowners;

26 (d) One representative of the State Department of Energy;

27 (e) One representative of the State Department of Fish and Wildlife, or
28 a designee of the State Department of Fish and Wildlife;

29 (f) One representative of the Department of Environmental Quality, or a
30 designee of the Department of Environmental Quality;

31 (g) At least one representative from a qualified organization, as defined

1 in ORS 469.503; and

2 (h) At least one representative from the State Forestry Department who
3 shall serve as the secretary to the advisory committee.

4 **SECTION 60.** ORS 469.501 is amended to read:

5 469.501. (1) The Energy Facility Siting Council shall adopt standards for
6 the siting, construction, operation and retirement of facilities. The standards
7 may address but need not be limited to the following subjects:

8 (a) The organizational, managerial and technical expertise of the appli-
9 cant to construct and operate the proposed facility.

10 (b) Seismic hazards.

11 (c) Areas designated for protection by the state or federal government,
12 including but not limited to monuments, wilderness areas, wildlife refuges,
13 scenic waterways and similar areas.

14 (d) The financial ability and qualifications of the applicant.

15 (e) Effects of the facility, taking into account mitigation, on fish and
16 wildlife, including threatened and endangered fish, wildlife or plant species.

17 (f) Impacts of the facility on historic, cultural or archaeological resources
18 listed on, or determined by the State Historic Preservation Officer to be el-
19 igible for listing on, the National Register of Historic Places or the Oregon
20 State Register of Historic Properties.

21 (g) Protection of public health and safety, including necessary safety de-
22 vices and procedures.

23 (h) The accumulation, storage, disposal and transportation of nuclear
24 waste.

25 (i) Impacts of the facility on recreation, scenic and aesthetic values.

26 (j) Reduction of solid waste and wastewater generation to the extent
27 reasonably practicable.

28 (k) Ability of the communities in the affected area to provide sewers and
29 sewage treatment, water, storm water drainage, solid waste management,
30 housing, traffic safety, police and fire protection, health care and schools.

31 (L) The need for proposed nongenerating facilities [*as defined in ORS*

1 469.503], consistent with the state energy policy set forth in ORS 469.010 and
2 469.310. The council may consider least-cost plans when adopting a need
3 standard or in determining whether an applicable need standard has been
4 met. The council shall not adopt a standard requiring a showing of need or
5 cost-effectiveness for generating facilities [*as defined in ORS 469.503*].

6 (m) Compliance with the statewide planning goals adopted by the Land
7 Conservation and Development Commission as specified by ORS 469.503.

8 (n) Soil protection.

9 [*(o) For energy facilities that emit carbon dioxide, the impacts of those*
10 *emissions on climate change. For fossil-fueled power plants, as defined in ORS*
11 *469.503, the council shall apply a standard as provided for by ORS 469.503*
12 *(2).*]

13 (2) The council may adopt exemptions from any need standard adopted
14 under subsection (1)(L) of this section if the exemption is consistent with the
15 state's energy policy set forth in ORS 469.010 and 469.310.

16 (3)(a) The council may issue a site certificate for a facility that does not
17 meet one or more of the applicable standards adopted under subsection (1)
18 of this section if the council determines that the overall public benefits of
19 the facility outweigh any adverse effects on a resource or interest protected
20 by the applicable standards the facility does not meet.

21 (b) The council by rule shall specify the criteria by which the council
22 makes the determination described in paragraph (a) of this subsection.

23 (4) Notwithstanding subsection (1) of this section, the council may not
24 impose any standard developed under subsection (1)(b), (f), (j) or (k) of this
25 section to approve or deny an application for an energy facility producing
26 power from wind, solar or geothermal energy. However, the council may, to
27 the extent it determines appropriate, apply any standards adopted under
28 subsection (1)(b), (f), (j) or (k) of this section to impose conditions on any site
29 certificate issued for any energy facility.

30

31

(Transitional Provisions)

1 **SECTION 61.** (1) Notwithstanding ORS 469.401 (2), any conditions in
2 a site certificate or amended site certificate issued before January 1,
3 2022, that are conditions related to any carbon dioxide emissions
4 standard applicable pursuant to ORS 469.501 (1)(o) (2019 Edition) or
5 469.503 (2019 Edition) or to rules adopted by the Energy Facility Siting
6 Council pursuant to ORS 469.501 (1)(o) (2019 Edition) or 469.503 (2019
7 Edition) cease to be enforceable on January 1, 2022.

8 (2) Any provision in a site certificate or amended site certificate for
9 a generating facility, as defined in ORS 469.300, issued before January
10 1, 2022, requiring the holder to demonstrate the need for the facility
11 shall cease to be enforceable on January 1, 2022.

12 (3) Any site certificate amendment approved by the council on or
13 after January 1, 2022, shall remove from the site certificate being
14 amended all conditions and provisions rendered unenforceable by sub-
15 sections (1) and (2) of this section. Notwithstanding ORS 469.405 or any
16 council rule, the contested case hearing on a site certificate amend-
17 ment subject to this subsection may not include a hearing on amend-
18 ments necessary to comply with this subsection. The provisions of the
19 council's order relevant to compliance with this subsection are not
20 subject to judicial review.

21 (4) Any provision in a site certificate or amended site certificate
22 that requires the offset of estimated future excess carbon dioxide
23 emissions emitted on or after the effective date of this 2020 Act based
24 on a report of actual plant operations shall cease to be enforceable
25 January 1, 2021.

26 **SECTION 62.** The Energy Facility Siting Council shall, no later than
27 January 1, 2023, complete rulemaking to amend or repeal any rules
28 adopted by the council relating to the application of a carbon dioxide
29 emissions standard to generating facilities or nongenerating facilities,
30 as those terms are defined in ORS 469.300, necessary to bring the rules
31 of the council into compliance with the amendments to ORS 469.501

1 and 469.503 by sections 59 and 60 of this 2020 Act and the provisions
2 of section 61 of this 2020 Act.

3 **SECTION 63.** (1) As used in this section and section 64 of this 2020
4 Act, “qualified organization” has the meaning given that term in ORS
5 469.503 (2)(e)(N) (2019 Edition).

6 (2) On or after the operative date of this section and the amend-
7 ments to ORS 469.503 by section 58 of this 2020 Act and in accordance
8 with the provisions of ORS 469.503 (2)(d) (2019 Edition), a qualified or-
9 ganization that, before the operative date of this section and the
10 amendments to ORS 469.503 by section 58 of this 2020 Act, received
11 payment of offset funds pursuant to ORS 469.503 (2)(c)(C) (2019 Edi-
12 tion):

13 (a) Shall use at least 80 percent of the offset funds for contracts to
14 implement offsets and assess offsets for their potential to qualify in,
15 generate credits in or reduce obligations in other regulatory settings;

16 (b) May use up to 20 percent of the offset funds for monitoring,
17 evaluating, administering and enforcing contracts to implement off-
18 sets; and

19 (c) Shall, at five-year intervals beginning on the date of the receipt
20 of the offset funds and ending the year after the year that the qualified
21 organization in no longer involved in the investment of offset funds
22 received pursuant to ORS 469.503 (2)(c)(C) (2019 Edition), provide the
23 Energy Facility Siting Council with the information the council re-
24 quests about the qualified organization’s performance. The council
25 shall evaluate the information requested and, based on the informa-
26 tion, shall make any recommendations to the Legislative Assembly
27 that the council deems appropriate.

28 **SECTION 64.** Section 63 of this 2020 Act is repealed on the date that
29 the Legislative Counsel receives written notice from the Energy Fa-
30 cility Siting Council that the council has confirmed that all qualified
31 organizations that received payment of offset funds pursuant to ORS

1 **469.503 (2)(c)(C) (2019 Edition) have ceased to be involved in the in-**
2 **vestment of the offset funds.**

3
4 **(Repeal)**

5
6 **SECTION 65. ORS 469.409 is repealed.**

7
8 **(Conforming Amendments)**

9
10 **SECTION 66. ORS 469.300 is amended to read:**

11 469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and
12 469.992, unless the context requires otherwise:

13 (1) “Applicant” means any person who makes application for a site cer-
14 tificate in the manner provided in ORS 469.300 to 469.563, 469.590 to 469.619,
15 469.930 and 469.992.

16 (2) “Application” means a request for approval of a particular site or sites
17 for the construction and operation of an energy facility or the construction
18 and operation of an additional energy facility upon a site for which a cer-
19 tificate has already been issued, filed in accordance with the procedures es-
20 tablished pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and
21 469.992.

22 (3) “Associated transmission lines” means new transmission lines con-
23 structed to connect an energy facility to the first point of junction of such
24 transmission line or lines with either a power distribution system or an
25 interconnected primary transmission system or both or to the Northwest
26 Power Grid.

27 (4) “Average electric generating capacity” means the peak generating ca-
28 pacity of the facility divided by one of the following factors:

- 29 (a) For wind facilities, 3.00;
30 (b) For geothermal energy facilities, 1.11; or
31 (c) For all other energy facilities, 1.00.

1 (5) “Combustion turbine power plant” means a thermal power plant con-
2 sisting of one or more fuel-fired combustion turbines and any associated
3 waste heat combined cycle generators.

4 (6) “Construction” means work performed on a site, excluding surveying,
5 exploration or other activities to define or characterize the site, the cost of
6 which exceeds \$250,000.

7 (7) “Council” means the Energy Facility Siting Council established under
8 ORS 469.450.

9 (8) “Department” means the State Department of Energy created under
10 ORS 469.030.

11 (9) “Director” means the Director of the State Department of Energy ap-
12 pointed under ORS 469.040.

13 (10) “Electric utility” means persons, regulated electrical companies,
14 people’s utility districts, joint operating agencies, electric cooperatives,
15 municipalities or any combination thereof, engaged in or authorized to en-
16 gage in the business of generating, supplying, transmitting or distributing
17 electric energy.

18 (11)(a) “Energy facility” means any of the following:

19 (A) An electric power generating plant with a nominal electric generating
20 capacity of 25 megawatts or more, including but not limited to:

- 21 (i) Thermal power;
- 22 (ii) Combustion turbine power plant; or
- 23 (iii) Solar thermal power plant.

24 (B) A nuclear installation as defined in this section.

25 (C) A high voltage transmission line of more than 10 miles in length with
26 a capacity of 230,000 volts or more to be constructed in more than one city
27 or county in this state, but excluding:

- 28 (i) Lines proposed for construction entirely within 500 feet of an existing
29 corridor occupied by high voltage transmission lines with a capacity of
30 230,000 volts or more;

- 31 (ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000

1 volts along the same right of way; and

2 (iii) Associated transmission lines.

3 (D) A solar photovoltaic power generation facility using more than:

4 (i) 160 acres located on high-value farmland as defined in ORS 195.300;

5 (ii) 1,280 acres located on land that is predominantly cultivated or that,
6 if not cultivated, is predominantly composed of soils that are in capability
7 classes I to IV, as specified by the National Cooperative Soil Survey operated
8 by the Natural Resources Conservation Service of the United States De-
9 partment of Agriculture; or

10 (iii) 1,920 acres located on any other land.

11 (E) A pipeline that is:

12 (i) At least six inches in diameter, and five or more miles in length, used
13 for the transportation of crude petroleum or a derivative thereof, liquefied
14 natural gas, a geothermal energy form in a liquid state or other fossil energy
15 resource, excluding a pipeline conveying natural or synthetic gas;

16 (ii) At least 16 inches in diameter, and five or more miles in length, used
17 for the transportation of natural or synthetic gas, but excluding:

18 (I) A pipeline proposed for construction of which less than five miles of
19 the pipeline is more than 50 feet from a public road, as defined in ORS
20 368.001; or

21 (II) A parallel or upgraded pipeline up to 24 inches in diameter that is
22 constructed within the same right of way as an existing 16-inch or larger
23 pipeline that has a site certificate, if all studies and necessary mitigation
24 conducted for the existing site certificate meet or are updated to meet cur-
25 rent site certificate standards; or

26 (iii) At least 16 inches in diameter and five or more miles in length used
27 to carry a geothermal energy form in a gaseous state but excluding a pipeline
28 used to distribute heat within a geothermal heating district established un-
29 der ORS chapter 523.

30 (F) A synthetic fuel plant which converts a natural resource including,
31 but not limited to, coal or oil to a gas, liquid or solid product intended to

1 be used as a fuel and capable of being burned to produce the equivalent of
2 two billion Btu of heat a day.

3 (G) A plant which converts biomass to a gas, liquid or solid product, or
4 combination of such products, intended to be used as a fuel and if any one
5 of such products is capable of being burned to produce the equivalent of six
6 billion Btu of heat a day.

7 (H) A storage facility for liquefied natural gas constructed after Septem-
8 ber 29, 1991, that is designed to hold at least 70,000 gallons.

9 (I) A surface facility related to an underground gas storage reservoir that,
10 at design injection or withdrawal rates, will receive or deliver more than 50
11 million cubic feet of natural or synthetic gas per day, or require more than
12 4,000 horsepower of natural gas compression to operate, but excluding:

13 (i) The underground storage reservoir;

14 (ii) The injection, withdrawal or monitoring wells and individual wellhead
15 equipment; and

16 (iii) An underground gas storage reservoir into which gas is injected
17 solely for testing or reservoir maintenance purposes or to facilitate the sec-
18 ondary recovery of oil or other hydrocarbons.

19 (J) An electric power generating plant with an average electric generat-
20 ing capacity of 50 megawatts or more if the power is produced from
21 geothermal or wind energy at a single energy facility or within a single en-
22 ergy generation area.

23 (b) "Energy facility" does not include a hydroelectric facility or an energy
24 facility under paragraph (a)(A)(iii) or (D) of this subsection that is estab-
25 lished on the site of a decommissioned United States Air Force facility that
26 has adequate transmission capacity to serve the energy facility.

27 (12) "Energy generation area" means an area within which the effects of
28 two or more small generating plants may accumulate so the small generating
29 plants have effects of a magnitude similar to a single generating plant of 35
30 megawatts average electric generating capacity or more. An "energy gener-
31 ation area" for facilities using a geothermal resource and covered by a unit

1 agreement, as provided in ORS 522.405 to 522.545 or by federal law, shall be
2 defined in that unit agreement. If no such unit agreement exists, an energy
3 generation area for facilities using a geothermal resource shall be the area
4 that is within two miles, measured from the electrical generating equipment
5 of the facility, of an existing or proposed geothermal electric power gener-
6 ating plant, not including the site of any other such plant not owned or
7 controlled by the same person.

8 (13) “Extraordinary nuclear occurrence” means any event causing a dis-
9 charge or dispersal of source material, special nuclear material or by-product
10 material as those terms are defined in ORS 453.605, from its intended place
11 of confinement off-site, or causing radiation levels off-site, that the United
12 States Nuclear Regulatory Commission or its successor determines to be
13 substantial and to have resulted in or to be likely to result in substantial
14 damages to persons or property off-site.

15 (14) “Facility” means an energy facility together with any related or
16 supporting facilities.

17 **(15) “Generating facility” means those energy facilities that are**
18 **defined in subsection (11)(a)(A), (B) and (D) of this section.**

19 [(15)] (16) “Geothermal reservoir” means an aquifer or aquifers containing
20 a common geothermal fluid.

21 [(16)] (17) “Local government” means a city or county.

22 [(17)] (18) “Nominal electric generating capacity” means the maximum net
23 electric power output of an energy facility based on the average temperature,
24 barometric pressure and relative humidity at the site during the times of the
25 year when the facility is intended to operate.

26 **(19) “Nongenerating facility” means those energy facilities that are**
27 **defined in subsection (11)(a)(C) and (E) to (I) of this section.**

28 [(18)] (20) “Nuclear incident” means any occurrence, including an ex-
29 traordinary nuclear occurrence, that results in bodily injury, sickness, dis-
30 ease, death, loss of or damage to property or loss of use of property due to
31 the radioactive, toxic, explosive or other hazardous properties of source ma-

1 terial, special nuclear material or by-product material as those terms are
2 defined in ORS 453.605.

3 [(19)] **(21)** “Nuclear installation” means any power reactor, nuclear fuel
4 fabrication plant, nuclear fuel reprocessing plant, waste disposal facility for
5 radioactive waste, and any facility handling that quantity of fissionable ma-
6 terials sufficient to form a critical mass. “Nuclear installation” does not in-
7 clude any such facilities that are part of a thermal power plant.

8 [(20)] **(22)** “Nuclear power plant” means an electrical or any other facility
9 using nuclear energy with a nominal electric generating capacity of 25
10 megawatts or more, for generation and distribution of electricity, and asso-
11 ciated transmission lines.

12 [(21)] **(23)** “Person” means an individual, partnership, joint venture, pri-
13 vate or public corporation, association, firm, public service company, poli-
14 tical subdivision, municipal corporation, government agency, people’s utility
15 district, or any other entity, public or private, however organized.

16 [(22)] **(24)** “Project order” means the order, including any amendments,
17 issued by the State Department of Energy under ORS 469.330.

18 [(23)(a)] **(25)(a)** “Radioactive waste” means all material which is dis-
19 carded, unwanted or has no present lawful economic use, and contains mined
20 or refined naturally occurring isotopes, accelerator produced isotopes and
21 by-product material, source material or special nuclear material as those
22 terms are defined in ORS 453.605. The term does not include those radioac-
23 tive materials identified in OAR 345-50-020, 345-50-025 and 345-50-035, adopted
24 by the council on December 12, 1978, and revised periodically for the purpose
25 of adding additional isotopes which are not referred to in OAR 345-50 as
26 presenting no significant danger to the public health and safety.

27 (b) Notwithstanding paragraph (a) of this subsection, “radioactive
28 waste” does not include uranium mine overburden or uranium mill tailings,
29 mill wastes or mill by-product materials as those terms are defined in Title
30 42, United States Code, section 2014, on June 25, 1979.

31 [(24)] **(26)** “Related or supporting facilities” means any structure, pro-

1 posed by the applicant, to be constructed or substantially modified in con-
2 nection with the construction of an energy facility, including associated
3 transmission lines, reservoirs, storage facilities, intake structures, road and
4 rail access, pipelines, barge basins, office or public buildings, and commercial
5 and industrial structures. “Related or supporting facilities” does not include
6 geothermal or underground gas storage reservoirs, production, injection or
7 monitoring wells or wellhead equipment or pumps.

8 [(25)] **(27)** “Site” means any proposed location of an energy facility and
9 related or supporting facilities.

10 [(26)] **(28)** “Site certificate” means the binding agreement between the
11 State of Oregon and the applicant, authorizing the applicant to construct and
12 operate a facility on an approved site, incorporating all conditions imposed
13 by the council on the applicant.

14 [(27)] **(29)** “Thermal power plant” means an electrical facility using any
15 source of thermal energy with a nominal electric generating capacity of 25
16 megawatts or more, for generation and distribution of electricity, and asso-
17 ciated transmission lines, including but not limited to a nuclear-fueled,
18 geothermal-fueled or fossil-fueled power plant, but not including a portable
19 power plant the principal use of which is to supply power in emergencies.
20 “Thermal power plant” includes a nuclear-fueled thermal power plant that
21 has ceased to operate.

22 [(28)] **(30)** “Transportation” means the transport within the borders of the
23 State of Oregon of radioactive material destined for or derived from any lo-
24 cation.

25 [(29)] **(31)** “Underground gas storage reservoir” means any subsurface
26 sand, strata, formation, aquifer, cavern or void, whether natural or arti-
27 ficially created, suitable for the injection, storage and withdrawal of natural
28 gas or other gaseous substances. “Underground gas storage reservoir” in-
29 cludes a pool as defined in ORS 520.005.

30 [(30)] **(32)** “Utility” includes:

31 (a) A person, a regulated electrical company, a people’s utility district, a

1 joint operating agency, an electric cooperative, municipality or any combi-
2 nation thereof, engaged in or authorized to engage in the business of gener-
3 ating, transmitting or distributing electric energy;

4 (b) A person or public agency generating electric energy from an energy
5 facility for its own consumption; and

6 (c) A person engaged in this state in the transmission or distribution of
7 natural or synthetic gas.

8 [(31)] (33) "Waste disposal facility" means a geographical site in or upon
9 which radioactive waste is held or placed but does not include a site at
10 which radioactive waste used or generated pursuant to a license granted
11 under ORS 453.635 is stored temporarily, a site of a thermal power plant used
12 for the temporary storage of radioactive waste from that plant for which a
13 site certificate has been issued pursuant to this chapter or a site used for
14 temporary storage of radioactive waste from a reactor operated by a college,
15 university or graduate center for research purposes and not connected to the
16 Northwest Power Grid. As used in this subsection, "temporary storage" in-
17 cludes storage of radioactive waste on the site of a nuclear-fueled thermal
18 power plant for which a site certificate has been issued until a permanent
19 storage site is available by the federal government.

20 **SECTION 67.** ORS 469.310 is amended to read:

21 469.310. In the interests of the public health and the welfare of the people
22 of this state, it is the declared public policy of this state that the siting,
23 construction and operation of energy facilities shall be accomplished in a
24 manner consistent with protection of the public health and safety and in
25 compliance with the energy policy and air, water, solid waste, land use and
26 other environmental protection policies of this state. It is, therefore, the
27 purpose of ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 to
28 exercise the jurisdiction of the State of Oregon to the maximum extent per-
29 mitted by the United States Constitution and to establish in cooperation
30 with the federal government a comprehensive system for the siting, moni-
31 toring and regulating of the location, construction and operation of all en-

1 ergy facilities in this state. It is furthermore the policy of this state,
2 notwithstanding ORS 469.010 (2)(f) and the definition of cost-effective in ORS
3 469.020, that the need for new generating facilities[, *as defined in ORS*
4 *469.503,*] is sufficiently addressed by reliance on competition in the market
5 rather than by consideration of cost-effectiveness and shall not be a matter
6 requiring determination by the Energy Facility Siting Council in the siting
7 of a generating facility[, *as defined in ORS 469.503*].

8 **SECTION 68.** ORS 469.373 is amended to read:

9 469.373. (1) Notwithstanding the expedited review process established
10 pursuant to ORS 469.370, an applicant may apply under the provisions of this
11 section for expedited review of an application for a site certificate for an
12 energy facility if the energy facility:

13 (a) Is a combustion turbine energy facility fueled by natural gas or is a
14 reciprocating engine fueled by natural gas, including an energy facility that
15 uses petroleum distillate fuels for backup power generation;

16 (b) Is a permitted or conditional use allowed under an applicable local
17 acknowledged comprehensive plan, land use regulation or federal land use
18 plan, and is located:

19 (A) At or adjacent to an existing energy facility; or

20 (B)(i) At, adjacent to or in close proximity to an existing industrial use;
21 and

22 (ii) In an area currently zoned or designated for industrial use;

23 (c)(A) Requires no more than three miles of associated transmission lines
24 or three miles of new natural gas pipelines outside of existing rights of way
25 for transmission lines or natural gas pipelines; or

26 (B) Imposes, in the determination of the Energy Facility Siting Council,
27 no significant impact in the locating of associated transmission lines or new
28 natural gas pipelines outside of existing rights of way;

29 (d) Requires no new water right or water right transfer; **and**

30 [(e) *Provides funds to a qualified organization in an amount determined*
31 *by the council to be sufficient to produce any required reduction in emissions*

1 *as specified in ORS 469.503 (2)(c)(C) and in rules adopted under ORS 469.503*
2 *for the total carbon dioxide emissions produced by the energy facility for the*
3 *life of the energy facility; and]*

4 [(f)(A)] **(e)(A)** Discharges process wastewater to a wastewater treatment
5 facility that has an existing National Pollutant Discharge Elimination Sys-
6 tem permit, can obtain an industrial pretreatment permit, if needed, within
7 the expedited review process time frame and has written confirmation from
8 the wastewater facility permit holder that the additional wastewater load
9 will be accommodated by the facility without resulting in a significant
10 thermal increase in the facility effluent or without requiring any changes to
11 the wastewater facility National Pollutant Discharge Elimination System
12 permit;

13 (B) Plans to discharge process wastewater to a wastewater treatment fa-
14 cility owned by a municipal corporation that will accommodate the
15 wastewater from the energy facility and supplies evidence from the municipal
16 corporation that:

17 (i) The municipal corporation has included, or intends to include, the
18 process wastewater load from the energy facility in an application for a
19 National Pollutant Discharge Elimination System permit; and

20 (ii) All conditions required of the energy facility to allow the discharge
21 of process wastewater from the energy facility will be satisfied; or

22 (C) Obtains a National Pollutant Discharge Elimination System or water
23 pollution control facility permit for process wastewater disposal, supplies
24 evidence to support a finding that the discharge can likely be permitted
25 within the expedited review process time frame and that the discharge will
26 not require:

27 (i) A new National Pollutant Discharge Elimination System permit, ex-
28 cept for a storm water general permit for construction activities; or

29 (ii) A change in any effluent limit or discharge location under an existing
30 National Pollutant Discharge Elimination System or water pollution control
31 facility permit.

1 (2) An applicant seeking expedited review under this section shall submit
2 documentation to the State Department of Energy, prior to the submission
3 of an application for a site certificate, that demonstrates that the energy
4 facility meets the qualifications set forth in subsection (1) of this section.
5 The department shall determine, within 14 days of receipt of the documen-
6 tation, on a preliminary, nonbinding basis, whether the energy facility qual-
7 ifies for expedited review.

8 (3) If the department determines that the energy facility preliminarily
9 qualifies for expedited review, the applicant may submit an application for
10 expedited review. Within 30 days after the date that the application for ex-
11 pedited review is submitted, the department shall determine whether the ap-
12 plication is complete. If the department determines that the application is
13 complete, the application shall be deemed filed on the date that the depart-
14 ment sends the applicant notice of its determination. If the department de-
15 termines that the application is not complete, the department shall notify the
16 applicant of the deficiencies in the application and shall deem the applica-
17 tion filed on the date that the department determines that the application
18 is complete. The department or the council may request additional infor-
19 mation from the applicant at any time.

20 (4) The State Department of Energy shall send a copy of a filed applica-
21 tion to the Department of Environmental Quality, the Water Resources De-
22 partment, the State Department of Fish and Wildlife, the State Department
23 of Geology and Mineral Industries, the State Department of Agriculture, the
24 Department of Land Conservation and Development, the Public Utility
25 Commission and any other state agency, city, county or political subdivision
26 of the state that has regulatory or advisory responsibility with respect to the
27 proposed energy facility. The State Department of Energy shall send with the
28 copy of the filed application a notice specifying that:

29 (a) In the event the council issues a site certificate for the energy facility,
30 the site certificate will bind the state and all counties, cities and political
31 subdivisions in the state as to the approval of the site, the construction of

1 the energy facility and the operation of the energy facility, and that after
2 the issuance of a site certificate, all permits, licenses and certificates ad-
3 dressed in the site certificate must be issued as required by ORS 469.401 (3);
4 and

5 (b) The comments and recommendations of state agencies, counties, cities
6 and political subdivisions concerning whether the proposed energy facility
7 complies with any statute, rule or local ordinance that the state agency,
8 county, city or political subdivision would normally administer in determin-
9 ing whether a permit, license or certificate required for the construction or
10 operation of the energy facility should be approved will be considered only
11 if the comments and recommendations are received by the department within
12 a reasonable time after the date the application and notice of the application
13 are sent by the department.

14 (5) Within 90 days after the date that the application was filed, the de-
15 partment shall issue a draft proposed order setting forth:

16 (a) A description of the proposed energy facility;

17 (b) A list of the permits, licenses and certificates that are addressed in
18 the application and that are required for the construction or operation of the
19 proposed energy facility;

20 (c) A list of the statutes, rules and local ordinances that are the standards
21 and criteria for approval of any permit, license or certificate addressed in
22 the application and that are required for the construction or operation of the
23 proposed energy facility; and

24 (d) Proposed findings specifying how the proposed energy facility complies
25 with the applicable standards and criteria for approval of a site certificate.

26 (6) The council shall review the application for site certification in the
27 manner set forth in subsections (7) to (10) of this section and shall issue a
28 site certificate for the facility if the council determines that the facility,
29 with any required conditions to the site certificate, will comply with:

30 (a) The requirements for expedited review as specified in this section;

31 (b) The standards adopted by the council pursuant to ORS 469.501 (1)(a),

1 (c) to (e), (g), (h) and (L) to [(o)] **(n)**;

2 (c) The requirements of ORS 469.503 [(3)] **(2)**; and

3 (d) The requirements of ORS 469.504 (1)(b).

4 (7) Following submission of an application for a site certificate, the
5 council shall hold a public informational meeting on the application. Fol-
6 lowing the issuance of the proposed order, the council shall hold at least one
7 public hearing on the application. The public hearing shall be held in the
8 area affected by the energy facility. The council shall mail notice of the
9 hearing at least 20 days prior to the hearing. The notice shall comply with
10 the notice requirements of ORS 197.763 (2) and shall include, but need not
11 be limited to, the following:

12 (a) A description of the energy facility and the general location of the
13 energy facility;

14 (b) The name of a department representative to contact and the telephone
15 number at which people may obtain additional information;

16 (c) A statement that copies of the application and proposed order are
17 available for inspection at no cost and will be provided at reasonable cost;
18 and

19 (d) A statement that the record for public comment on the application
20 will close at the conclusion of the hearing and that failure to raise an issue
21 in person or in writing prior to the close of the record, with sufficient
22 specificity to afford the decision maker an opportunity to respond to the is-
23 sue, will preclude consideration of the issue, by the council or by a court
24 on judicial review of the council's decision.

25 (8) Prior to the conclusion of the hearing, the applicant may request an
26 opportunity to present additional written evidence, arguments or testimony
27 regarding the application. In the alternative, prior to the conclusion of the
28 hearing, the applicant may request a contested case hearing on the applica-
29 tion. If the applicant requests an opportunity to present written evidence,
30 arguments or testimony, the council shall leave the record open for that
31 purpose only for a period not to exceed 14 days after the date of the hearing.

1 Following the close of the record, the department shall prepare a draft final
2 order for the council. If the applicant requests a contested case hearing, the
3 council may grant the request if the applicant has shown good cause for a
4 contested case hearing. If a request for a contested case hearing is granted,
5 subsections (9) to (11) of this section do not apply, and the application shall
6 be considered under the same contested case procedures used for a nonexpe-
7 dited application for a site certificate.

8 (9) The council shall make its decision based on the record and the draft
9 final order prepared by the department. The council shall, within six months
10 of the date that the application is deemed filed:

- 11 (a) Grant the application;
- 12 (b) Grant the application with conditions;
- 13 (c) Deny the application; or
- 14 (d) Return the application to the site certification process required by
15 ORS 469.320.

16 (10) If the application is granted, the council shall issue a site certificate
17 pursuant to ORS 469.401 and 469.402. Notwithstanding subsection (6) of this
18 section, the council may impose conditions based on standards adopted under
19 ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an application based
20 on those standards.

21 (11) Judicial review of the approval or rejection of a site certificate by
22 the council under this section shall be as provided in ORS 469.403.

23 **SECTION 69.** ORS 469.405 is amended to read:

24 469.405. (1) A site certificate may be amended with the approval of the
25 Energy Facility Siting Council. The council may establish by rule the type
26 of amendment that must be considered in a contested case proceeding. Judi-
27 cial review of an amendment to a site certificate shall be as provided in ORS
28 469.403.

29 (2) Notwithstanding ORS 34.020 or 197.825, or any other provision of law,
30 the land use approval by an affected local government of a proposed amend-
31 ment to a facility and the recommendation of the special advisory group of

1 applicable substantive criteria shall be subject to judicial review only as
2 provided in ORS 469.403. If the applicant elects to show compliance with the
3 statewide planning goals by demonstrating that the facility has received lo-
4 cal land use approval, the provisions of this section shall apply only to pro-
5 posed projects for which the land use approval by the local government
6 occurs after the date an application for amendment is submitted to the State
7 Department of Energy.

8 (3) An amendment to a site certificate is not required for a pipeline less
9 than 16 inches in diameter and less than five miles in length that is proposed
10 to be constructed to test or maintain an underground gas storage reservoir.
11 If the proposed pipeline will connect to a council certified surface facility
12 related to an underground gas storage reservoir or to a council certified gas
13 pipeline, whether the proposed pipeline is to be located inside or outside the
14 site of a council certified facility, the certificate holder must obtain, prior
15 to construction, the approval of the department for the construction, opera-
16 tion and retirement of the proposed pipeline. The department shall approve
17 such a proposed pipeline if the pipeline meets applicable council substantive
18 standards. Notwithstanding ORS 469.503 [(3)] (2), the department may not
19 review the proposed pipeline for compliance with other state standards.
20 Notwithstanding ORS 469.503 [(4)] (3), or any council rule addressing com-
21 pliance with land use standards, the department shall not review such a
22 proposed pipeline for compliance with land use requirements. Notwithstand-
23 ing ORS 469.401 (3), the approval by the department of such pipeline shall
24 not bind any state or local agency. The council may adopt appropriate pro-
25 cedural rules for the department review. The department shall issue an order
26 approving or rejecting the proposed pipeline. Judicial review of a depart-
27 ment order under this section shall be as provided in ORS 469.403.

28 **SECTION 70.** ORS 469.407 is amended to read:

29 469.407. (1) A recipient may by amendment of its application for a site
30 certificate or by amendment of its site certificate increase the capacity of the
31 facility if the Energy Facility Siting Council finds that:

1 (a) The facility will satisfy the conditions of the 500-megawatt exemption,
2 unless modified by the council;

3 (b) The enlarged facility does not exceed 500 megawatts and meets the
4 applicable carbon dioxide standard provided for in ORS 469.503 (2) **(2019**
5 **Edition)** for any increase in capacity beyond the capacity of the
6 500-megawatt exemption; and

7 (c) The enlarged facility meets all other applicable council standards.

8 (2) A recipient is deemed to meet any applicable need standard and carbon
9 dioxide emissions standard for the nominal generating capacity of the
10 500-megawatt exemption provided that the recipient satisfies the conditions
11 of the 500-megawatt exemption, unless the council modifies the conditions.

12 (3) As used in this section:

13 (a) “Recipient” means any base load gas plant, as defined in ORS 469.503
14 **(2019 Edition)**, determined by the council to have the lowest net monetized
15 air emissions among the applicants participating in a contested case pro-
16 ceeding.

17 (b) “500-megawatt exemption” means the council order in which a recipi-
18 ent was determined to have the lowest net monetized air emissions.

19 **SECTION 71.** ORS 469.504 is amended to read:

20 469.504. (1) A proposed facility shall be found in compliance with the
21 statewide planning goals under ORS 469.503 [(4)] **(3)** if:

22 (a) The facility has received local land use approval under the acknowl-
23 edged comprehensive plan and land use regulations of the affected local
24 government; or

25 (b) The Energy Facility Siting Council determines that:

26 (A) The facility complies with applicable substantive criteria from the
27 affected local government’s acknowledged comprehensive plan and land use
28 regulations that are required by the statewide planning goals and in effect
29 on the date the application is submitted, and with any Land Conservation
30 and Development Commission administrative rules and goals and any land
31 use statutes that apply directly to the facility under ORS 197.646;

1 (B) For an energy facility or a related or supporting facility that must
2 be evaluated against the applicable substantive criteria pursuant to sub-
3 section (5) of this section, that the proposed facility does not comply with
4 one or more of the applicable substantive criteria but does otherwise comply
5 with the applicable statewide planning goals, or that an exception to any
6 applicable statewide planning goal is justified under subsection (2) of this
7 section; or

8 (C) For a facility that the council elects to evaluate against the statewide
9 planning goals pursuant to subsection (5) of this section, that the proposed
10 facility complies with the applicable statewide planning goals or that an
11 exception to any applicable statewide planning goal is justified under sub-
12 section (2) of this section.

13 (2) The council may find goal compliance for a facility that does not
14 otherwise comply with one or more statewide planning goals by taking an
15 exception to the applicable goal. Notwithstanding the requirements of ORS
16 197.732, the statewide planning goal pertaining to the exception process or
17 any rules of the Land Conservation and Development Commission pertaining
18 to an exception process goal, the council may take an exception to a goal if
19 the council finds:

20 (a) The land subject to the exception is physically developed to the extent
21 that the land is no longer available for uses allowed by the applicable goal;

22 (b) The land subject to the exception is irrevocably committed as de-
23 scribed by the rules of the Land Conservation and Development Commission
24 to uses not allowed by the applicable goal because existing adjacent uses and
25 other relevant factors make uses allowed by the applicable goal impractica-
26 ble; or

27 (c) The following standards are met:

28 (A) Reasons justify why the state policy embodied in the applicable goal
29 should not apply;

30 (B) The significant environmental, economic, social and energy conse-
31 quences anticipated as a result of the proposed facility have been identified

1 and adverse impacts will be mitigated in accordance with rules of the council
2 applicable to the siting of the proposed facility; and

3 (C) The proposed facility is compatible with other adjacent uses or will
4 be made compatible through measures designed to reduce adverse impacts.

5 (3) If compliance with applicable substantive local criteria and applicable
6 statutes and state administrative rules would result in conflicting conditions
7 in the site certificate or amended site certificate, the council shall resolve
8 the conflict consistent with the public interest. A resolution may not result
9 in a waiver of any applicable state statute.

10 (4) An applicant for a site certificate shall elect whether to demonstrate
11 compliance with the statewide planning goals under subsection (1)(a) or (b)
12 of this section. The applicant shall make the election on or before the date
13 specified by the council by rule.

14 (5) Upon request by the State Department of Energy, the special advisory
15 group established under ORS 469.480 shall recommend to the council, within
16 the time stated in the request, the applicable substantive criteria under
17 subsection (1)(b)(A) of this section. If the special advisory group does not
18 recommend applicable substantive criteria within the time established in the
19 department's request, the council may either determine and apply the appli-
20 cable substantive criteria under subsection (1)(b) of this section or determine
21 compliance with the statewide planning goals under subsection (1)(b)(B) or
22 (C) of this section. If the special advisory group recommends applicable
23 substantive criteria for an energy facility described in ORS 469.300 or a re-
24 lated or supporting facility that does not pass through more than one local
25 government jurisdiction or more than three zones in any one jurisdiction, the
26 council shall apply the criteria recommended by the special advisory group.
27 If the special advisory group recommends applicable substantive criteria for
28 an energy facility as defined in ORS 469.300 (11)(a)(C) to (E) or a related or
29 supporting facility that passes through more than one jurisdiction or more
30 than three zones in any one jurisdiction, the council shall review the re-
31 commended criteria and determine whether to evaluate the proposed facility

1 against the applicable substantive criteria recommended by the special advisory group, against the statewide planning goals or against a combination
2 of the applicable substantive criteria and statewide planning goals. In making its determination, the council shall consult with the special advisory
3 group and shall consider:
4

5
6 (a) The number of jurisdictions and zones in question;

7 (b) The degree to which the applicable substantive criteria reflect local
8 government consideration of energy facilities in the planning process; and

9 (c) The level of consistency of the applicable substantive criteria from the
10 various zones and jurisdictions.

11 (6) The council is not subject to ORS 197.180 and a state agency may not
12 require an applicant for a site certificate to comply with any rules or programs adopted under ORS 197.180.

13
14 (7) On or before its next periodic review, each affected local government
15 shall amend its comprehensive plan and land use regulations as necessary
16 to reflect the decision of the council pertaining to a site certificate or
17 amended site certificate.

18 (8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law,
19 the affected local government's land use approval of a proposed facility under
20 subsection (1)(a) of this section and the special advisory group's recommendation of applicable substantive criteria under subsection (5) of this section
21 shall be subject to judicial review only as provided in ORS 469.403. If the
22 applicant elects to comply with subsection (1)(a) of this section, the provisions of this subsection shall apply only to proposed projects for which the
23 land use approval of the local government occurs after the date a notice of
24 intent or an application for expedited processing is submitted to the State
25 Department of Energy.
26

27
28 (9) The State Department of Energy, in cooperation with other state
29 agencies, shall provide, to the extent possible, technical assistance and information about the siting process to local governments that request such
30 assistance or that anticipate having a facility proposed in their jurisdiction.
31

1 **SECTION 72.** ORS 469.505 is amended to read:

2 469.505. (1) In making a determination regarding compliance with stat-
3 utes, rules and ordinances administered by another agency or compliance
4 with requirements of ORS 469.300 to 469.563 and 469.590 to 469.619 where
5 another agency has special expertise, consultation with the other agency
6 shall occur during the notice of intent and site certificate application pro-
7 cess. Any permit application for which the permitting decision has been de-
8 legated by the federal government to a state agency other than the Energy
9 Facility Siting Council shall be reviewed, whenever feasible, simultaneously
10 with the council's review of the site certificate application. Any hearings
11 required on such permit applications shall be consolidated, whenever feasi-
12 ble, with hearings under ORS 469.300 to 469.563 and 469.590 to 469.619.

13 (2) Before resolving any conflicting conditions in site certificates or
14 amended site certificates under ORS 469.503 [(3)] (2) and 469.504, the council
15 shall notify and consult with the agencies and local governments responsible
16 for administering the statutes, administrative rules or substantive local cri-
17 teria that result in the conflicting conditions regarding potential conflict
18 resolution.

19
20 **REGULATION OF LANDFILL METHANE EMISSIONS**

21
22 **SECTION 73.** Section 74 of this 2020 Act is added to and made a part
23 of ORS chapter 468A.

24 **SECTION 74.** (1) As used in this section:

25 (a) "Anthropogenic greenhouse gas emissions" has the meaning
26 given that term in section 4 of this 2020 Act.

27 (b) "Carbon dioxide equivalent" has the meaning given that term
28 in section 4 of this 2020 Act.

29 (c) "Hazardous waste" has the meaning given that term in ORS
30 466.005.

31 (d) "Land disposal site" has the meaning given that term in ORS

1 **459.005.**

2 (e) “Landfill” has the meaning given that term in ORS 459.005.

3 (f) “Solid waste” has the meaning given that term in ORS 459.005.

4 (2) It is the intent of the Legislative Assembly that the standards
5 and requirements adopted by rule under this section be at least as
6 stringent as the most stringent standards and requirements for re-
7 ducing methane gas emissions from landfills adopted among the states
8 having a boundary with Oregon.

9 (3) The Environmental Quality Commission shall adopt by rule
10 standards and requirements for reducing methane gas emissions from
11 landfills.

12 (4) The following landfills are exempt from standards and require-
13 ments adopted by rule under this section:

14 (a) Landfills that emit less than 25,000 metric tons of carbon dioxide
15 equivalent in anthropogenic greenhouse gas emissions annually, as
16 reported under ORS 468A.280.

17 (b) Landfills that receive only hazardous waste.

18 (c) Landfills that receive only waste from building demolition or
19 construction.

20 (d) Land disposal sites that are closed as of the effective date of this
21 2020 Act and are no longer receiving solid waste, are maintained in
22 compliance with ORS 459.268 and have less than 450,000 metric tons of
23 waste in place.

24 (5) Rules adopted under this section shall include but need not be
25 limited to:

26 (a) Reporting requirements related to waste in place, calculated
27 landfill gas heat input capacity, and landfill surface emissions moni-
28 toring.

29 (b) Methane gas collection and control system requirements for
30 landfills with reported calculated landfill gas heat input capacity ex-
31 ceeding 3 million British thermal units per hour.

1 (c) Standards and requirements for methane surface emissions,
2 monitoring and corrective actions.

3 (d) Alternative compliance measures and methods that may be ap-
4 plied for certain landfills on a case-by-case basis.

5 (e) Standards and requirements for records retention, landfill clo-
6 sure notification, methane gas collection and control device removal
7 or modification and annual operating reports.

8 **SECTION 75.** The Environmental Quality Commission shall adopt
9 rules under section 74 of this 2020 Act in time for the rules to become
10 operative no later than July 1, 2022.

11
12 **REGULATION OF HYDROFLUOROCARBONS**

13
14 **SECTION 76.** Section 77 of this 2020 Act is added to and made a part
15 of ORS chapter 468.

16 **SECTION 77.** (1) As used in this section:

17 (a) “Class I substance” means a substance listed as a Class I sub-
18 stance in:

19 (A) 42 U.S.C. 7671a(a), as that section read on November 15, 1990;

20 or

21 (B) Appendix A of 40 C.F.R. part 82, subpart A, as that appendix
22 read on January 3, 2017.

23 (b) “Class II substance” means a substance listed as a Class II
24 substance in:

25 (A) 42 U.S.C. 7671a(b), as that section read on November 15, 1990;

26 or

27 (B) Appendix B of 40 C.F.R. part 82, subpart A, as that appendix
28 read on January 3, 2017.

29 (c) “Greenhouse gas” has the meaning given that term in section 4
30 of this 2020 Act.

31 (d) “Hydrofluorocarbons” means a class of greenhouse gases that

1 are saturated organic compounds containing hydrogen, fluorine and
2 carbon.

3 (e) "Retrofit" has the meaning given that term as defined in 40
4 C.F.R. 82.154, as that section read on January 3, 2017.

5 (f)(A) "Substitute" includes a chemical, product substitute or al-
6 ternative manufacturing process, whether existing or new, that is used
7 to perform a function previously performed by a class I substance or
8 class II substance and any substitute subsequently adopted to perform
9 that function, including, but not limited to, hydrofluorocarbons.

10 (B) "Substitute" does not include 2-BTP or any compound as applied
11 to its use in aerospace fire extinguishing systems.

12 (2)(a) The Environmental Quality Commission shall adopt rules
13 prohibiting the sale, lease, rent, installation, or other actions causing
14 equipment or products to enter into commerce in Oregon if that
15 equipment or product consists of, uses, or will use a substitute, as set
16 forth in appendices U and V of 40 C.F.R. part 82, subpart G, as those
17 laws read on January 3, 2017, for the applications or end uses restricted
18 by appendix U or V of 40 C.F.R. part 82, subpart G, as those laws read
19 on January 3, 2017. Except where existing equipment is retrofit,
20 nothing in this section requires a person that acquired a restricted
21 product or equipment prior to the effective date of the restrictions in
22 rules adopted pursuant to this section to cease use of that product or
23 equipment.

24 (b) The commission may adopt additional prohibitions of the sale,
25 lease, rent or installation of, or of other actions that cause equipment
26 or products to enter into commerce in Oregon that contain
27 hydrofluorocarbons or other substitutes if the commission determines
28 that the equipment or products pose a risk to human health or the
29 environment and that a substitute is currently or potentially available.

30 (4) Rules adopted by the commission under this section:

31 (a) May require regular reporting by manufacturers, importers and

1 **distributors of equipment and products containing hydrofluorocarbons**
2 **or other substitutes.**

3 **(b) May require the labeling and disclosure of equipment and pro-**
4 **ducts containing hydrofluorocarbons or other substitutes.**

5 **(c) May include rules necessary for the administration, implemen-**
6 **tation, and enforcement of this section.**

7 **(5) Where feasible and appropriate, the commission shall endeavor**
8 **to adopt rules under this section that are consistent with the regula-**
9 **tory standards, exemptions, reporting obligations, disclosure require-**
10 **ments and other compliance requirements of other states or the**
11 **federal government, if those jurisdictions have adopted restrictions on**
12 **the use of hydrofluorocarbons and other substitutes.**

13 **SECTION 78. Section 79 of this 2020 Act is added to and made a part**
14 **of ORS chapter 455.**

15 **SECTION 79. The Department of Consumer and Business Services**
16 **shall adopt rules to amend the state building code as necessary to**
17 **align the requirements for the use of certain equipment or products**
18 **with the prohibitions and requirements for the use of**
19 **hydrofluorocarbons or other substitutes in those equipment or pro-**
20 **ducts as adopted by rule by the Environmental Quality Commission**
21 **under section 77 of this 2020 Act.**

22

23 **OREGON GLOBAL WARMING COMMISSION ABOLISHED**

24

25 **SECTION 80. (1) The Oregon Global Warming Commission is abol-**
26 **ished. On the operative date of this section, the tenure of office of the**
27 **members of the Oregon Global Warming Commission ceases.**

28 **(2) ORS 468A.200, 468A.210, 468A.215, 468A.220, 468A.225, 468A.230,**
29 **468A.235, 468A.240, 468A.245, 468A.250, 468A.255 and 468A.260 are re-**
30 **pealed.**

31

(Amendments to Statutes)

SECTION 81. ORS 352.823 is amended to read:

352.823. (1) The Oregon Climate Change Research Institute is established at Oregon State University. In administering the institute, Oregon State University may seek the cooperation of other public universities listed in ORS 352.002.

(2) The purpose of the Oregon Climate Change Research Institute is to:

(a) Facilitate research by faculty at public universities listed in ORS 352.002 on climate change and its effects on natural and human systems in Oregon;

(b) Serve as a clearinghouse for climate change information;

(c) Provide climate change information to the public in integrated and accessible formats; **and**

[(d) Support the Oregon Global Warming Commission in developing strategies to prepare for and to mitigate the effects of climate change on natural and human systems; and]

[(e)] **(d)** Provide technical assistance to local governments to assist them in developing climate change policies, practices and programs.

(3) The Oregon Climate Change Research Institute shall assess, at least once each biennium, the state of climate change science, including biological, physical and social science, as it relates to Oregon and the likely effects of climate change on the state. The institute shall submit the assessment to the Legislative Assembly in the manner provided in ORS 192.245 and to the Governor.

(4) State agencies may contract with the Oregon Climate Change Research Institute to fulfill agency needs regarding the collection, storage, integration, analysis, dissemination and monitoring of climate change information, research and training.

SECTION 82. ORS 468A.265 is amended to read:

468A.265. As used in ORS 468A.265 to 468A.277:

1 (1) “Biodiesel” means a motor vehicle fuel consisting of mono-alkyl esters
2 of long chain fatty acids derived from vegetable oils, animal fats or other
3 nonpetroleum resources, not including palm oil.

4 (2) “Clean fuels program” means the program adopted by rule by the En-
5 vironmental Quality Commission under ORS 468A.266 (1)(b).

6 (3) “Compliance period” means the calendar year during which a regu-
7 lated party must demonstrate compliance with the low carbon fuel standards
8 through participation in the clean fuels program.

9 (4) “Credit” means a unit of measure generated when a fuel with a carbon
10 intensity that is less than the applicable low carbon fuel standard is
11 produced, imported or dispensed for use in Oregon, such that one credit is
12 equal to one metric ton of carbon dioxide equivalent.

13 (5) “Credit aggregator” means a person who voluntarily registers to par-
14 ticipate in the clean fuels program to facilitate credit generation on behalf
15 of a credit generator and to trade credits with regulated parties, credit gen-
16 erators and other credit aggregators.

17 (6) “Credit generator” means a person eligible to generate credits by
18 providing fuels for use in Oregon with carbon intensities less than the ap-
19 plicable low carbon fuel standard.

20 (7) “Deferral” means a delay or change in the applicability of a scheduled
21 applicable low carbon fuel standard for a period of time, accomplished pur-
22 suant to an order issued under ORS 468A.273 or 468A.274.

23 (8) “Deficit” means a unit of measure generated when a fuel with a carbon
24 intensity that is more than the applicable low carbon fuel standard is
25 produced, imported or dispensed for use in Oregon, such that one deficit is
26 equal to one metric ton of carbon dioxide equivalent.

27 (9) “Greenhouse gas” [*has the meaning given that term in ORS 468A.210*]
28 **includes, but is not limited to, carbon dioxide, methane, nitrous oxide,**
29 **hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitro-**
30 **gen trifluoride.**

31 (10) “Low carbon fuel standard” means a standard adopted by the com-

1 mission by rule under ORS 468A.266 for the reduction of greenhouse gas
2 emissions, on average, per unit of fuel energy.

3 (11) “Motor vehicle” has the meaning given that term in ORS 801.360.

4 (12) “Regulated party” means a person responsible for complying with the
5 low carbon fuel standards.

6 (13) “Small deficit” means a net deficit balance at the end of a compliance
7 period, after retirement of all credits held by a regulated party, that does
8 not exceed a percentage set by the commission by rule of the total number
9 of deficits that the regulated party generated for a compliance period and
10 that may not be greater than 10 percent of the total number of deficits that
11 the regulated party generated for a compliance period.

12 **SECTION 83.** ORS 468A.279 is amended to read:

13 468A.279. (1) As used in this section:

14 (a) “Greenhouse gas” has the meaning given that term in ORS
15 [468A.210] **468A.265.**

16 (b) “Motor vehicle” has the meaning given that term in ORS 801.360.

17 (2) The Environmental Quality Commission may adopt by rule standards
18 and requirements described in this section to reduce greenhouse gas emis-
19 sions.

20 (3)(a) The commission may adopt requirements to prevent the tampering,
21 alteration and modification of the original design or performance of motor
22 vehicle pollution control systems.

23 (b) Before adopting requirements under this section, the commission shall
24 consider the antitampering requirements and exemptions of the State of
25 California.

26 (4) The commission may adopt requirements for motor vehicle service
27 providers to check and inflate tire pressure according to the tire
28 manufacturer’s or motor vehicle manufacturer’s recommended specifications,
29 provided that the requirements:

30 (a) Do not apply when the primary purpose of the motor vehicle service
31 is fueling vehicles; and

1 (b) Do not require motor vehicle service providers to purchase equipment
2 to check and inflate tire pressure.

3 (5) The commission may adopt restrictions on engine use by commercial
4 ships while at port, and requirements that ports provide alternatives to en-
5 gine use such as electric power, provided that:

6 (a) Engine use shall be allowed when necessary to power mechanical or
7 electrical operations if alternatives are not reasonably available;

8 (b) Engine use shall be allowed when necessary for reasonable periods due
9 to emergencies and other considerations as determined by the commission;
10 and

11 (c) The requirements must be developed in consultation with represen-
12 tatives of Oregon ports and take into account operational considerations,
13 operational agreements, international protocols and limitations, the ability
14 to fund the purchase and use of electric power equipment and the potential
15 effect of the requirements on competition with other ports.

16 (6) In adopting rules under this section, the commission shall evaluate:

17 (a) Safety, feasibility, net reduction of greenhouse gas emissions and
18 cost-effectiveness;

19 (b) Potential adverse impacts to public health and the environment, in-
20 cluding but not limited to air quality, water quality and the generation and
21 disposal of waste in this state;

22 (c) Flexible implementation approaches to minimize compliance costs; and

23 (d) Technical and economic studies of comparable greenhouse gas emis-
24 sions reduction measures implemented in other states and any other studies
25 as determined by the commission.

26 (7) The provisions of this section do not apply to:

27 (a) Motor vehicles registered as farm vehicles under the provisions of
28 ORS 805.300.

29 (b) Farm tractors, as defined in ORS 801.265.

30 (c) Implements of husbandry, as defined in ORS 801.310.

31 (d) Motor trucks, as defined in ORS 801.355, used primarily to transport

1 logs.

2 **SECTION 84.** ORS 757.528 is amended to read:

3 757.528. (1) Unless modified by rule by the State Department of Energy
4 as provided in this section, the greenhouse gas emissions standard that ap-
5 plies to consumer-owned utilities is 1,100 pounds of greenhouse gases per
6 megawatt-hour for a generating facility.

7 (2) Unless modified pursuant to subsection (4) of this section, the
8 greenhouse gas emissions standard includes only carbon dioxide emissions.

9 (3) For purposes of applying the emissions standard to cogeneration fa-
10 cilities, the department shall establish an output-based methodology to en-
11 sure that the calculation of emissions of greenhouse gases for cogeneration
12 facilities recognizes the total usable energy output of the process and in-
13 cludes all greenhouse gases emitted by the facility in the production of both
14 electrical and thermal energy.

15 (4) The department shall review the greenhouse gas emissions standard
16 established under this section no more than once every three years. After
17 public notice and hearing, and consultation with the Public Utility Com-
18 mission, the department may:

19 (a) Modify the emissions standard to include other greenhouse gases as
20 defined in ORS [~~468A.210~~] **468A.265**, with the other greenhouse gases ex-
21 pressed as their carbon dioxide equivalent; and

22 (b) Modify the emissions standard based upon current information on the
23 rate of greenhouse gas emissions from a commercially available combined-
24 cycle natural gas generating facility that:

25 (A) Employs a combination of one or more gas turbines and one or more
26 steam turbines and produces electricity in the steam turbines from waste
27 heat produced by the gas turbines;

28 (B) Has a heat rate at high elevation within the boundaries of the West-
29 ern Electricity Coordinating Council; and

30 (C) Has a heat rate at ambient temperatures when operating during the
31 hottest day of the year.

1 (5) In modifying the greenhouse gas emissions standard, the department
2 shall:

3 (a) Use an output-based methodology to ensure that the calculation of
4 greenhouse gas emissions through cogeneration recognizes the total usable
5 energy output of the process and includes all greenhouse gases emitted by
6 the generating facility in the production of both electrical and thermal en-
7 ergy; and

8 (b) Consider the effects of the emissions standard on system reliability
9 and overall costs to electricity consumers.

10 (6) If upon a review conducted pursuant to subsection (4) of this section,
11 the department determines that a mandatory greenhouse gas emissions limit
12 has been established pursuant to state or federal law, the department shall
13 issue a report to the appropriate legislative committees of the Legislative
14 Assembly stating which portions, if any, of the greenhouse gas emissions
15 standard are no longer necessary as a matter of state law.

16

17 **REQUIREMENTS FOR ETHANOL CONTENT IN GASOLINE**

18

19 **SECTION 85.** ORS 646.913 is amended to read:

20 646.913. (1) Except as provided in subsection (4) of this section, a whole-
21 sale dealer, retail dealer or nonretail dealer may not sell gasoline or offer
22 gasoline for sale unless the gasoline contains **at least** 10 percent denatured
23 fuel ethanol by volume. Gasoline that contains anhydrous ethanol in con-
24 centrations between 9.2 percent and 10 percent by volume complies with the
25 requirement set forth in this subsection.

26 (2) The State Department of Agriculture shall adopt standards for gaso-
27 line blended with ethanol that is sold in this state. The standards that the
28 department adopts shall require that the gasoline blended with ethanol:

29 (a) Contains ethanol that is derived from agricultural or woody waste or
30 residue;

31 (b) Complies with the volatility requirements specified in 40 C.F.R. part

1 80;

2 (c) Complies with ASTM International specification D 4814, Standard
3 Specification for Automotive Spark-Ignition Engine Fuel;

4 (d) Is not blended with casinghead gasoline, absorption gasoline, drip
5 gasoline or natural gasoline after the gasoline has been sold, transferred or
6 otherwise removed from a refinery or terminal; and

7 (e) Contains denatured fuel ethanol that complies with ASTM Interna-
8 tional specification D 4806, Standard Specification for Denatured Fuel
9 Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition
10 Engine Fuel.

11 (3) The department may review specifications adopted by ASTM Interna-
12 tional, or equivalent organizations, and federal regulations and revise the
13 standards adopted under this section as necessary.

14 (4) A wholesale dealer, retail dealer or nonretail dealer may sell or offer
15 for sale gasoline that is not blended with ethanol if the gasoline has an
16 octane rating, as defined in ORS 646.945, of 91 or above or if the gasoline is
17 for use in:

18 (a) An aircraft:

19 (A) With a supplemental type certificate approved by the Federal Aviation
20 Administration that allows the aircraft to use gasoline that is intended for
21 use in motor vehicles; or

22 (B) Issued a type certificate by an aircraft engine manufacturer that al-
23 lows the aircraft to use gasoline that is intended for use in motor vehicles;

24 (b) An aircraft that has been issued an experimental certificate, as de-
25 scribed in 14 C.F.R. 21.191, by the Federal Aviation Administration and for
26 which the manufacturer's specifications require the use of gasoline that is
27 intended for use in motor vehicles;

28 (c) A light-sport aircraft, as defined in 14 C.F.R. 1.1, for which the
29 manufacturer's specifications require the use of gasoline that is intended for
30 use in motor vehicles;

31 (d) A vintage aircraft, as defined by the Oregon Department of Aviation

1 by rule, for which the manufacturer's specifications require the use of gaso-
2 line that is intended for use in motor vehicles;

3 (e) An antique vehicle, as defined in ORS 801.125;

4 (f) A Class I all-terrain vehicle, as defined in ORS 801.190;

5 (g) A Class III all-terrain vehicle, as defined in ORS 801.194;

6 (h) A Class IV all-terrain vehicle, as defined in ORS 801.194 (2);

7 (i) A racing activity vehicle, as defined in ORS 801.404;

8 (j) A snowmobile, as defined in ORS 801.490;

9 (k) Tools, including but not limited to lawn mowers, leaf blowers and
10 chain saws; or

11 (L) A watercraft.

12

13 **LIGHT BULB ENERGY EFFICIENCY STANDARDS**

14

15 **SECTION 86. (1) As used in this section:**

16 (a) **“General service lamp” includes general service incandescent**
17 **lamps, compact fluorescent lamps, general service light-emitting diode**
18 **lamps, organic light-emitting diode lamps and any other lamps that**
19 **are used to satisfy lighting applications traditionally served by general**
20 **service incandescent lamps.**

21 (b) **“High CRI fluorescent lamp” means a fluorescent lamp with a**
22 **color rendering index of 87 or greater and that is not a compact flu-**
23 **orescent lamp.**

24 (2) **A person may not sell or offer for sale in this state a new gen-**
25 **eral service lamp manufactured on or after January 1, 2020, unless the**
26 **efficiency of the new general service lamp meets or exceeds 45 lumens**
27 **per watt, when tested in accordance with the applicable federal test**
28 **procedures for general service lamps prescribed in 10 C.F.R. 430.23 in**
29 **effect as of January 3, 2017.**

30 (3)(a) **Subject to paragraph (b) of this subsection, a person may not**
31 **sell or offer for sale a new high CRI fluorescent lamp unless the effi-**

1 **ciency of the new high CRI fluorescent lamp meets or exceeds the ef-**
2 **iciency standards set forth in 10 C.F.R. 430.32(n)(4) in effect as of**
3 **January 3, 2017, as measured in accordance with the test methods**
4 **prescribed in 10 C.F.R. 430.23 (appendix R to subpart B of part 430) in**
5 **effect as of January 3, 2017.**

6 **(b) Paragraph (a) of this subsection applies to high CRI fluorescent**
7 **lamps manufactured on or after January 1, 2023, or an earlier appli-**
8 **cability date, not to precede January 1, 2022, as established by the**
9 **State Department of Energy by rule. The department may not adopt**
10 **by rule an earlier applicability date unless an adjoining state adopts**
11 **an efficiency standard for high CRI fluorescent lamps that is compa-**
12 **rable to the standard described in paragraph (a) of this subsection and**
13 **that becomes applicable before January 1, 2023.**

14 **(4) The department may by rule adjust the definition of “general**
15 **service lamp” or “high CRI fluorescent lamp” or may by rule adjust**
16 **the minimum efficiency standards described in subsections (2) and (3)**
17 **of this section if the department determines that the adjustments are**
18 **necessary to coordinate to the greatest extent practicable with the**
19 **efficiency standards for general service lamps and high CRI fluores-**
20 **cent lamps of adjoining states that have adopted comparable efficiency**
21 **standards.**

22
23 **EXPEDITED JUDICIAL REVIEW TO SUPREME COURT;**
24 **EXPIRATION**

25
26 **SECTION 87. (1) It is the intent of the Legislative Assembly that**
27 **the provisions of this 2020 Act relating to the receipt of moneys by the**
28 **state through the sale of allowances by auction under section 28 of this**
29 **2020 Act do not render this 2020 Act a bill for raising revenue subject**
30 **to the provisions of Article IV, sections 18 and 25 (2), of the Oregon**
31 **Constitution.**

1 **(2) Original jurisdiction to determine whether this 2020 Act is a bill**
2 **for raising revenue subject to the provisions of Article IV, sections 18**
3 **and 25 (2), of the Oregon Constitution, is conferred on the Supreme**
4 **Court.**

5 **(3)(a) Any person interested in or affected or aggrieved by, or who**
6 **will be affected or aggrieved by, section 28 of this 2020 Act may petition**
7 **for judicial review under this section. A petition for review must be**
8 **filed within 60 days after the effective date of this 2020 Act.**

9 **(b) The petition must state facts showing how the petitioner is or**
10 **will be interested, affected or aggrieved and the grounds upon which**
11 **the petition is based.**

12 **(4) The petitioner shall serve a copy of the petition by registered**
13 **or certified mail upon the Department of Environmental Quality, the**
14 **Administrator of the Office of Greenhouse Gas Regulation, the Attor-**
15 **ney General and the Governor.**

16 **(5) Proceedings for review under this section shall be given priority**
17 **over all other matters before the Supreme Court.**

18 **(6) In the event that the Supreme Court determines that there are**
19 **factual issues in the petition, the Supreme Court may appoint a special**
20 **master to hear evidence and to prepare recommended findings of fact.**

21 **SECTION 88.** **(1) Original jurisdiction to determine whether auc-**
22 **tions conducted under section 28 of this 2020 Act impose a tax from**
23 **which the revenues are subject to the provisions of Article IX, section**
24 **3a, of the Oregon Constitution, is conferred on the Supreme Court.**

25 **(2)(a) Any person interested in or affected or aggrieved by, or who**
26 **will be affected or aggrieved by, section 28 of this 2020 Act may petition**
27 **for judicial review under this section. A petition for review must be**
28 **filed within 60 days after the effective date of this 2020 Act.**

29 **(b) The petition must state facts showing how the petitioner is or**
30 **will be interested, affected or aggrieved and the grounds upon which**
31 **the petition is based.**

1 **(3) The petitioner shall serve a copy of the petition by registered**
2 **or certified mail upon the Department of Environmental Quality, the**
3 **Administrator of the Office of Greenhouse Gas Regulation, the Attor-**
4 **ney General and the Governor.**

5 **(4) Proceedings for review under this section shall be given priority**
6 **over all other matters before the Supreme Court.**

7 **(5) In the event that the Supreme Court determines that there are**
8 **factual issues in the petition, the Supreme Court may appoint a special**
9 **master to hear evidence and to prepare recommended findings of fact.**

10 **SECTION 89. If section 28 of this 2020 Act is judicially declared by**
11 **the Supreme Court to not impose a tax from which the revenues are**
12 **subject to the provisions of Article IX, section 3a, of the Oregon Con-**
13 **stitution, then it is the intent of the Legislative Assembly that, after**
14 **the date of the judicial declaration, the Legislative Assembly will:**

15 **(1) Identify specific opportunities for using state proceeds from**
16 **auctions conducted under section 28 of this 2020 Act each biennium to**
17 **reduce greenhouse gas emissions associated with transportation**
18 **through investments in transportation electrification, compressed na-**
19 **tural gas and hydrogen fuel cell vehicles and infrastructure, and low-**
20 **emission and zero-emission transit vehicles;**

21 **(2) Identify specific opportunities for using state proceeds from**
22 **auctions conducted under section 28 of this 2020 Act each biennium to**
23 **reduce greenhouse gas emissions through the replacement of**
24 **medium-duty trucks and heavy-duty trucks powered by diesel engines**
25 **or the repower or retrofit of diesel engines that power medium-duty**
26 **trucks and heavy-duty trucks;**

27 **(3) Identify specific opportunities for using state proceeds from**
28 **auctions conducted under section 28 of this 2020 Act each biennium to**
29 **reduce greenhouse gas emissions related to agriculture, with priority**
30 **given to the replacement, repower or retrofit of nonroad equipment**
31 **to reduce emissions that present serious risks to farmworker health;**

1 and

2 (4) Modify the distributions of state proceeds from auctions as pro-
3 vided in sections 28, 29, 33 to 37 and 38 to 40 of this 2020 Act, and repeal
4 or amend any other statutes or session laws, as deemed necessary to:

5 (a) Address the judicial declaration by the Supreme Court that
6 section 28 of this 2020 Act does not impose a tax that is subject to the
7 provisions of Article IX, section 3a, of the Oregon Constitution; and

8 (b) Implement the opportunities identified pursuant to subsections
9 (1) to (3) of this section.

10 SECTION 90. Section 89 of this 2020 Act becomes operative on Jan-
11 uary 2 of the year following the date on which section 28 of this 2020
12 Act is judicially declared by the Supreme Court to not impose a tax
13 from which the revenues are subject to the provisions of Article IX,
14 section 3a, of the Oregon Constitution.

15 SECTION 91. Sections 89 and 90 of this 2020 Act are repealed on the
16 earlier of:

17 (1) The date on which section 28 of this 2020 Act is judicially de-
18 clared by the Supreme Court to impose a tax from which the revenues
19 are subject to the provisions of Article IX, section 3a, of the Oregon
20 Constitution; or

21 (2) January 2, 2028.

22 SECTION 92. (1) Original jurisdiction to determine whether auc-
23 tions conducted under section 28 of this 2020 Act impose a tax or excise
24 from which the proceeds are subject to the provisions of Article VIII,
25 section 2 (1)(g), of the Oregon Constitution, is conferred on the Su-
26 preme Court.

27 (2)(a) Any person interested in or affected or aggrieved by, or who
28 will be affected or aggrieved by, section 28 of this 2020 Act may petition
29 for judicial review under this section. A petition for review must be
30 filed within 60 days after the effective date of this 2020 Act.

31 (b) The petition must state facts showing how the petitioner is or

1 will be interested, affected or aggrieved and the grounds upon which
2 the petition is based.

3 (3) The petitioner shall serve a copy of the petition by registered
4 or certified mail upon the Department of Environmental Quality, the
5 Administrator of the Office of Greenhouse Gas Regulation, the Attor-
6 ney General and the Governor.

7 (4) Proceedings for review under this section shall be given priority
8 over all other matters before the Supreme Court.

9 (5) In the event that the Supreme Court determines that there are
10 factual issues in the petition, the Supreme Court may appoint a special
11 master to hear evidence and to prepare recommended findings of fact.

12

13

REPORTS AND REVIEWS

14

15 **SECTION 93.** (1) The Legislative Revenue Officer, in consultation
16 with the Department of Transportation and any other appropriate
17 state agencies, shall conduct the following economic modeling and
18 analyses related to the impacts of regulating anthropogenic
19 greenhouse gas emissions attributable to the combustion of motor
20 vehicle fuel used to propel motor vehicles in this state:

21 (a) Economic modeling of the increases in fuel prices to operate
22 light vehicles and heavy vehicles in this state, in 2024 and each fol-
23 lowing calendar year before 2036, due to regulation of motor vehicle
24 fuel producers and importers under both the Oregon Greenhouse Gas
25 Initiative established under sections 4 to 32 of this 2020 Act and the
26 clean fuels program adopted by rule under ORS 468A.266.

27 (b) Economic modeling of the increases in costs to procure and
28 build public infrastructure including streets, roads, bridges and high-
29 ways due to regulation of motor vehicle fuel producers and importers
30 under both the Oregon Greenhouse Gas Initiative established under
31 sections 4 to 32 of this 2020 Act and the clean fuels program adopted

1 by rule under ORS 468A.266.

2 (c) An analysis of the pace of the following changes within the
3 Oregon transportation sector that would be necessary to allow for the
4 State of Oregon to achieve the greenhouse gas emissions reduction
5 goals set forth in ORS 468A.205, and an analysis of the costs to con-
6 sumers in accomplishing those changes:

7 (A) Transportation electrification;

8 (B) Adoption of alternative fuel and high efficiency vehicles; and

9 (C) Reductions in vehicle miles traveled.

10 (d) An analysis of the permissible uses of moneys deposited in the
11 Transportation Decarbonization Investments Account established in
12 section 34 of this 2020 Act.

13 (e) An analysis of alternatives to the current system of taxing
14 highway use through motor vehicle fuel taxes.

15 (f) An analysis of the potential for the geographic implementation
16 of a carbon price for motor vehicle fuels, as provided in section 13 of
17 this 2020 Act, to influence:

18 (A) Choices by the sellers of motor vehicle fuel at retail regarding
19 where to locate retail facilities in response to the Oregon Greenhouse
20 Gas Initiative; or

21 (B) Choices by retail motor vehicle fuel customers in response to
22 the Oregon Greenhouse Gas Initiative regarding where to purchase
23 motor vehicle fuel.

24 (2) On or before September 15, 2022, and in the manner provided by
25 ORS 192.245, the Legislative Revenue Officer shall provide a report
26 detailing the results of the economic modeling and analyses required
27 by this section to a committee of the Legislative Assembly related to
28 the environment and to the Joint Committee on Transportation.

29 **SECTION 94.** Section 75, chapter 750, Oregon Laws 2017, is amended to
30 read:

31 **Sec. 75.** (1) The Oregon Transportation Commission shall conduct a

1 **biennial** study.

2 (2)(a) The purpose of the study is to determine:

3 [(a)] (A) The proportionate share that users of vehicles that are powered
4 by different means should pay for the costs of maintenance, operation and
5 improvement of the highways in this state; and

6 [(b)] (B) Whether users of vehicles that are powered by different means
7 are paying that share.

8 [(2)] (b) If the commission determines that users are not paying a
9 proportionate share, then the commission may include in the report recom-
10 mendations for legislation.

11 [(3)] (c) This [section] **subsection** applies to users paying the vehicle
12 registration fee under ORS 803.420 (6)(a).

13 (3) **In addition to addressing the purpose set forth in subsection (2)**
14 **of this section, the study shall examine the effects of the Oregon**
15 **Greenhouse Gas Initiative established under sections 4 to 32 of this**
16 **2020 Act on accelerating the transition in this state to high efficiency**
17 **vehicles and engines and alternative fuels, and the impacts of those**
18 **changes on the long-term funding sources for paying the costs of**
19 **maintenance, operation and improvement of the highways in this**
20 **state.**

21 (4) The commission shall report the results of the study to **the Road User**
22 **Fee Task Force established under ORS 184.843**, the Joint Committee on
23 Transportation established under [section 26 of this 2017 Act] **ORS 171.858**
24 **and a committee of the Legislative Assembly related to the environ-**
25 **ment**, in the manner provided by ORS 192.245, no later than September 15[,
26 2023] **of each odd-numbered year, beginning in 2025.**

27 **SECTION 95.** Section 76, chapter 750, Oregon Laws 2017, is amended to
28 read:

29 **Sec. 76.** Section 75, **chapter 750, Oregon Laws 2017**, [of this 2017 Act]
30 is repealed on January 2, [2024] **2030.**

31 **SECTION 96.** (1) **The Oregon Greenhouse Gas Reduction Board shall**

1 **develop a Just Transition Plan for providing assistance to households,**
2 **businesses and workers impacted by climate change or climate change**
3 **policies. The board shall develop the plan in consultation with the**
4 **Higher Education Coordinating Commission, the State Workforce and**
5 **Talent Development Board, the Employment Department and any**
6 **other state agencies. The plan shall set forth recommendations, which**
7 **may include recommendations for legislation, for distributing moneys**
8 **deposited in the Climate Investments Fund established in section 39**
9 **of this 2020 Act for the following purposes:**

10 (a) **To support economic diversification, job creation, job training**
11 **and other employment services; and**

12 (b) **To fund programs and activities that provide financial support**
13 **for workers dislocated or adversely affected by climate change or cli-**
14 **mate change policies.**

15 (2) **The plan shall include:**

16 (a) **Recommendations for implementing a Just Transition Program;**

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

19 (c) **Recommendations regarding the maintenance and use of any**
20 **funds dedicated to implementation of the Just Transition Program,**
21 **including but not limited to recommendations regarding the develop-**
22 **ment of reserves to be used for the replacement of wages or benefits**
23 **for workers dislocated or adversely affected by climate change or cli-**
24 **mate change policies.**

25 (3) **The Oregon Greenhouse Gas Reduction Board shall seek to de-**
26 **velop the plan in a manner that is consistent with and complementary**
27 **to other local, state and federal programs, policies and incentives that**
28 **serve to carry out the recommendations set forth in the plan, includ-**
29 **ing but not limited to activities undertaken by the Higher Education**
30 **Coordinating Commission under ORS 660.318. The plan may include,**
31 **but need not be limited to, a plan for a competitive grant program.**

1 (4) The board shall submit the plan, in the manner provided by ORS
2 192.245, to a committee of the Legislative Assembly related to the en-
3 vironment no later than September 15, 2025.

4
5 OREGON GREENHOUSE GAS REDUCTION BOARD,
6 OFFICE OF GREENHOUSE GAS REGULATION ESTABLISHED

7
8 (Oregon Greenhouse Gas Reduction Board)

9
10 SECTION 97. (1) The Oregon Greenhouse Gas Reduction Board is
11 established within the Department of Environmental Quality.

12 (2) The following shall serve as nonvoting members of the board:

13 (a) One member jointly appointed by the President of the Senate
14 and the Speaker of the House of Representatives who is a member of
15 either the Senate or the House of Representatives and who is also a
16 member of the Republican party and serves as a member of a com-
17 mittee of the Legislative Assembly related to climate;

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

23 (c) One member who represents the Oregon Climate Change Re-
24 search Institute;

25 (d) The chairperson of the Environmental Justice Task Force;

26 (e) The Director of Agriculture;

27 (f) The Director of the Department of Environmental Quality;

28 (g) A member of the Public Utility Commission;

29 (h) The Director of Transportation;

30 (i) The Director of the Department of Land Conservation and De-
31 velopment;

1 (j) The Water Resources Director;

2 (k) The Director of the State Department of Energy;

3 (L) The Director of the Oregon Health Authority;

4 (m) The State Forester;

5 (n) The Director of the Department of Consumer and Business
6 Services;

7 (o) A representative of eligible Indian tribes, as that term is defined
8 in section 4 of this 2020 Act; and

9 (p) The Administrator of the Office of Greenhouse Gas Regulation.

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

15 (a) Two members who have expertise in the energy sector, one of
16 whom has expertise in renewable energy;

17 (b) One member who has expertise in climate change mitigation;

18 (c) One member who is an economist or who has expertise in fi-
19 nance;

20 (d) One member who has expertise in industrial energy use and who
21 represents the interests of the business community;

22 (e) One member who has expertise in transportation; and

23 (f) One member who has expertise in offset projects on forestlands
24 or agricultural lands.

25 (4) The Administrator of the Office of Greenhouse Gas Regulation
26 and the Office of Greenhouse Gas Regulation shall provide clerical,
27 technical and management personnel to serve the board. Other agen-
28 cies shall provide support as requested by the office or the board.

29 **SECTION 98.** (1) The term of office of each voting member ap-
30 pointed to the Oregon Greenhouse Gas Reduction Board is four years,
31 but the members of the board may be removed by the Governor. Be-

1 fore the expiration of the term of a voting member, the Governor shall
2 appoint a successor to assume the duties of the voting member on July
3 1 of the next following year.

4 (2) A voting member is eligible for reappointment, but no voting
5 member appointed by the Governor under section 97 of this 2020 Act
6 may serve more than two consecutive terms. In case of a vacancy for
7 any cause, the Governor shall make an appointment to become im-
8 mediately effective for the unexpired term.

9 (3) The Governor shall select one of the voting members as chair-
10 person, for a term and with duties and powers necessary for the per-
11 formance of the functions of the chairperson as the board determines.

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

14 (5) The board shall meet at least once during each calendar quarter
15 at a time and place determined by the chairperson. The board shall
16 endeavor to hold meetings at various locations throughout this state.
17 The board may hold additional meetings at times and places deter-
18 mined by the chairperson, or as requested by a majority of the voting
19 members.

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

25 (b) Members of the board who are members of the Legislative As-
26 sembly shall be entitled to payment of per diem and expense re-
27 imbursement under ORS 171.072, payable from funds appropriated to
28 the Legislative Assembly.

29 **SECTION 99.** Notwithstanding the term of office specified by section
30 98 of this 2020 Act, of the voting members first appointed by the Gov-
31 ernor to the Oregon Greenhouse Gas Reduction Board:

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

2 (2) Two shall serve for terms ending July 1, 2022.

3 (3) Two shall serve for terms ending July 1, 2023.

4 (4) One shall serve for a term ending July 1, 2024.

5 **SECTION 100.** (1) No voting member of the Oregon Greenhouse Gas
6 Reduction Board shall:

7 (a) Hold any office or position under any political committee or
8 party;

9 (b) Hold any pecuniary interest in any business entity conducting
10 operations which if conducted in this state would be subject to the
11 board's regulatory jurisdiction; or

12 (c) Hold any pecuniary interest in, have any contract of employ-
13 ment with, or have any substantial voluntary transactions with any
14 business subject to the board's regulatory jurisdiction.

15 (2) The prohibitions of subsection (1)(b) and (c) of this section apply
16 to the spouse and minor children of each board member.

17 (3) If the Governor determines that any board member has engaged
18 in an activity prohibited by subsection (1) of this section, or that a
19 board member's spouse or a minor child has done any act prohibited
20 by subsection (2) of this section, the Governor shall remove the board
21 member pursuant to section 98 of this 2020 Act.

22 (4) Subsection (3) of this section does not apply to a board member
23 if the board member or the board member's spouse or a minor child
24 acquires any pecuniary interest prohibited by subsection (1) or (2) of
25 this section, advises the Governor of such acquisition and causes
26 divestiture of such interest within the time specified by the Governor.

27 **SECTION 101.** ORS 468.015 is amended to read:

28 468.015. (1) Except as provided in subsection (2) of this section, it is
29 the function of the Environmental Quality Commission to establish the pol-
30 icies for the operation of the Department of Environmental Quality in a
31 manner consistent with the policies and purposes of ORS 448.305, 454.010 to

1 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS
2 chapters 468, 468A and 468B. In addition, the commission shall perform any
3 other duty vested in it by law.

4 **(2) It is the function of the Oregon Greenhouse Gas Reduction**
5 **Board to establish the policies for the operation of the Office of**
6 **Greenhouse Gas Regulation established under section 104 of this 2020**
7 **Act in a manner consistent with the policies and purposes of sections**
8 **2 and 4 to 32, 38 to 40, 43, 97 to 100 and 102 to 105 of this 2020 Act.**
9 **Where a conflict between rules adopted by the commission and rules**
10 **adopted by the board exists, the conflict shall be resolved in favor of**
11 **the public interest, as determined by the commission in consultation**
12 **with the board.**

13 **SECTION 102. (1) The Oregon Greenhouse Gas Reduction Board**
14 **shall:**

15 **(a) In accordance with the applicable provisions of ORS chapter 183,**
16 **adopt standards and rules to perform the functions vested by law in**
17 **the board including but not limited to the adoption of standards and**
18 **rules for implementation of the Oregon Greenhouse Gas Initiative**
19 **under sections 4 to 32 of this 2020 Act;**

20 **(b) Provide oversight to and advise the Office of Greenhouse Gas**
21 **Regulation in implementing, administering and enforcing the pro-**
22 **grams and activities of the office;**

23 **(c) Identify the highest and best opportunities for investments of**
24 **state proceeds from the sale of allowances under section 28 of this 2020**
25 **Act in actions that carry out the purposes of the Oregon Greenhouse**
26 **Gas Initiative as set forth in section 2 of this 2020 Act;**

27 **(d) Identify and provide recommendations to the Governor and the**
28 **Legislative Assembly on ways to coordinate state and local efforts to**
29 **reduce greenhouse gas emissions in Oregon consistent with the**
30 **greenhouse gas emissions reduction goals established by ORS 468A.205**
31 **and the purposes of the Oregon Greenhouse Gas Initiative as set forth**

1 in section 2 of this 2020 Act and recommend efforts to help Oregon
2 prepare for the effects of climate change;

3 (e) Work with state and local governments, the State Department
4 of Energy, the Department of Education, the Higher Education Coor-
5 dinating Commission and businesses to develop and implement an
6 outreach strategy to educate Oregonians about the scientific aspects
7 and economic impacts of climate change and to inform Oregonians of
8 ways to reduce greenhouse gas emissions and ways to prepare for the
9 effects of climate change; and

10 (f) Carry out any other duties, functions and powers vested in the
11 board by law.

12 (2) In conducting the duties set forth in subsection (1) of this sec-
13 tion, the board shall take into consideration best available science.

14 (3)(a) In furtherance of the greenhouse gas emissions reduction
15 goals established by ORS 468A.205, the board may:

16 (A) Recommend statutory and administrative changes, policy
17 measures and other recommendations to be carried out by state and
18 local governments, businesses, nonprofit organizations or residents;
19 or

20 (B) Recommend to the Governor the formation of citizen advisory
21 groups to explore particular areas of concern with regard to the re-
22 duction of greenhouse gas emissions and the effects of climate change.

23 (b) In developing recommendations under this subsection, the board
24 shall consider economic, environmental, health and social costs, and
25 the risks and benefits of alternative strategies, including least-cost
26 options. The board shall solicit and consider public comment relating
27 to statutory, administrative or policy recommendations. Recommen-
28 dations developed under this subsection may include, but need not be
29 limited to:

30 (A) Recommendations regarding changes to the treatment of hy-
31 droelectric facilities under the renewable portfolio standards described

1 in ORS 469A.052; and

2 (B) Recommendations for addressing greenhouse gas emissions
3 from the use of propane in this state.

4 (4) The board shall hold public hearings and provide an opportunity
5 for public comment in carrying out the board's activities under this
6 section.

7 **SECTION 103. Methodology for designating impacted communities.**

8 (1) The Oregon Greenhouse Gas Reduction Board, by rule and in con-
9 sultation with the Portland State University Population Research
10 Center, the Oregon Health Authority and other relevant state agencies
11 and local agencies and officials, shall designate as impacted commu-
12 nities those communities in Oregon at risk of being disproportionately
13 impacted by climate change. In carrying out this section, the board
14 shall identify impacted communities based on a methodology that
15 takes into consideration geographic, socioeconomic, historic disad-
16 vantage, public health and environmental hazard criteria. Impacted
17 communities may include, but are not limited to:

18 (a) Rural communities.

19 (b) Coastal communities.

20 (c) Areas with above-average concentrations of low-income house-
21 holds, historically disadvantaged households, high unemployment,
22 high linguistic isolation, low levels of homeownership, high rent bur-
23 den, sensitive populations or residents with low levels of educational
24 attainment.

25 (d) Areas disproportionately affected by environmental pollution
26 and other hazards that can lead to negative public health effects, ex-
27 posure or environmental degradation.

28 (2) The methodology required by this section must give greater
29 weight to those criteria that the board determines are the most accu-
30 rate measurements of vulnerability to the impacts of climate change
31 and ocean acidification.

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

4
5 **(Office of Greenhouse Gas Regulation)**
6

7 **SECTION 104. Office of Greenhouse Gas Regulation.** (1) **There is**
8 **established within the Department of Environmental Quality and un-**
9 **der the Oregon Greenhouse Gas Reduction Board the Office of**
10 **Greenhouse Gas Regulation.**

11 **(2) The office shall:**

12 **(a) Administer the Oregon Greenhouse Gas Initiative established**
13 **under sections 4 to 32 of this 2020 Act; and**

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

16 **(3) The office may advise, consult and cooperate with other agencies**
17 **of the state, political subdivisions, other states, eligible Indian tribes**
18 **as defined in section 4 of this 2020 Act or the federal government, with**
19 **respect to any proceedings and all matters pertaining to the reduction**
20 **of greenhouse gas emissions levels in Oregon.**

21
22 **(Administrator of the Office of Greenhouse Gas Regulation)**
23

24 **SECTION 105. Administrator.** (1) **The Office of Greenhouse Gas**
25 **Regulation is under the supervision and control of an administrator**
26 **who, subject to the direction of the Oregon Greenhouse Gas Reduction**
27 **Board, is responsible for the performance of the duties, functions and**
28 **powers of the office.**

29 **(2) The Governor shall appoint the Administrator of the Office of**
30 **Greenhouse Gas Regulation, subject to confirmation by the Senate in**
31 **the manner prescribed in ORS 171.562 and 171.565. The administrator**

1 **holds office at the pleasure of the Governor.**

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

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

8 **(5) Subject to any applicable provisions of ORS chapter 240, the ad-**
9 **ministrator shall appoint all subordinate officers and employees of the**
10 **office, including specialists and consultants, prescribe their duties and**
11 **fix their compensation. The office may purchase materials and sup-**
12 **plies and enter into contracts necessary to exercise and carry out the**
13 **duties, functions and powers of the office.**

14 **SECTION 106.** ORS 244.050 is amended to read:

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

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

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

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

26 (d) The Deputy Attorney General.

27 (e) The Deputy Secretary of State.

28 (f) The Legislative Administrator, the Legislative Counsel, the Legislative
29 Fiscal Officer, the Legislative Policy and Research Director, the Secretary
30 of the Senate, the Chief Clerk of the House of Representatives and the Leg-
31 islative Equity Officer.

- 1 (g) The president and vice presidents, or their administrative equivalents,
2 in each public university listed in ORS 352.002.
- 3 (h) The following state officers:
- 4 (A) Adjutant General.
 - 5 (B) Director of Agriculture.
 - 6 (C) Manager of State Accident Insurance Fund Corporation.
 - 7 (D) Water Resources Director.
 - 8 (E) Director of Department of Environmental Quality.
 - 9 (F) Director of Oregon Department of Administrative Services.
 - 10 (G) State Fish and Wildlife Director.
 - 11 (H) State Forester.
 - 12 (I) State Geologist.
 - 13 (J) Director of Human Services.
 - 14 (K) Director of the Department of Consumer and Business Services.
 - 15 (L) Director of the Department of State Lands.
 - 16 (M) State Librarian.
 - 17 (N) Administrator of Oregon Liquor Control Commission.
 - 18 (O) Superintendent of State Police.
 - 19 (P) Director of the Public Employees Retirement System.
 - 20 (Q) Director of Department of Revenue.
 - 21 (R) Director of Transportation.
 - 22 (S) Public Utility Commissioner.
 - 23 (T) Director of Veterans' Affairs.
 - 24 (U) Executive director of Oregon Government Ethics Commission.
 - 25 (V) Director of the State Department of Energy.
 - 26 (W) Director and each assistant director of the Oregon State Lottery.
 - 27 (X) Director of the Department of Corrections.
 - 28 (Y) Director of the Oregon Department of Aviation.
 - 29 (Z) Executive director of the Oregon Criminal Justice Commission.
 - 30 (AA) Director of the Oregon Business Development Department.
 - 31 (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 Commis-
14 sion.
15 (PP) Executive director of the Oregon Watershed Enhancement Board.
16 (QQ) Director of the Oregon Youth Authority.
17 (RR) Director of the Oregon Health Authority.
18 (SS) Deputy Superintendent of Public Instruction.
19 **(TT) Administrator of the Office of Greenhouse Gas Regulation.**
20 (i) The First Partner, the legal counsel, the deputy legal counsel and all
21 policy advisors within the Governor's office.
22 (j) Every elected city or county official.
23 (k) Every member of a city or county planning, zoning or development
24 commission.
25 (L) The chief executive officer of a city or county who performs the duties
26 of manager or principal administrator of the city or county.
27 (m) Members of local government boundary commissions formed under
28 ORS 199.410 to 199.519.
29 (n) Every member of a governing body of a metropolitan service district
30 and the auditor and executive officer thereof.
31 (o) Each member of the board of directors of the State Accident Insurance

1 Fund Corporation.

2 (p) The chief administrative officer and the financial officer of each
3 common and union high school district, education service district and com-
4 munity college district.

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

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

8 (B) Oregon Business Development Commission.

9 (C) State Board of Education.

10 (D) Environmental Quality Commission.

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

12 (F) State Board of Forestry.

13 (G) Oregon Government Ethics Commission.

14 (H) Oregon Health Policy Board.

15 (I) Oregon Investment Council.

16 (J) Land Conservation and Development Commission.

17 (K) Oregon Liquor Control Commission.

18 (L) Oregon Short Term Fund Board.

19 (M) State Marine Board.

20 (N) Mass transit district boards.

21 (O) Energy Facility Siting Council.

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

23 (Q) Employment Relations Board.

24 (R) Public Employees Retirement Board.

25 (S) Oregon Racing Commission.

26 (T) Oregon Transportation Commission.

27 (U) Water Resources Commission.

28 (V) Workers' Compensation Board.

29 (W) Oregon Facilities Authority.

30 (X) Oregon State Lottery Commission.

31 (Y) Pacific Northwest Electric Power and Conservation Planning Council.

1 (Z) Columbia River Gorge Commission.

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

3 (BB) Capitol Planning Commission.

4 (CC) Higher Education Coordinating Commission.

5 (DD) Oregon Growth Board.

6 (EE) Early Learning Council.

7 **(FF) Oregon Greenhouse Gas Reduction Board.**

8 (r) The following officers of the State Treasurer:

9 (A) Deputy State Treasurer.

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

11 (C) Director of the Investment Division.

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

14 (t) Every member of the board of directors of an authority created under
15 ORS 441.525 to 441.595.

16 (u) Every member of a governing board of a public university listed in
17 ORS 352.002.

18 (v) Every member of the board of directors of an authority created under
19 ORS 465.600 to 465.621.

20 (2) By April 15 next after the date an appointment takes effect, every
21 appointed public official on a board or commission listed in subsection (1)
22 of this section shall file with the Oregon Government Ethics Commission a
23 statement of economic interest as required under ORS 244.060, 244.070 and
24 244.090.

25 (3) By April 15 next after the filing deadline for the primary election,
26 each candidate described in subsection (1) of this section shall file with the
27 commission a statement of economic interest as required under ORS 244.060,
28 244.070 and 244.090.

29 (4) Not later than the 40th day before the date of the statewide general
30 election, each candidate described in subsection (1) of this section who will
31 appear on the statewide general election ballot and who was not required to

1 file a statement of economic interest under subsections (1) to (3) of this
2 section shall file with the commission a statement of economic interest as
3 required under ORS 244.060, 244.070 and 244.090.

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

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

14 **SECTION 107.** ORS 468.135 is amended to read:

15 468.135. (1) Any civil penalty under ORS 468.140 shall be imposed in the
16 manner provided in ORS 183.745.

17 (2) **Except as provided in subsection (3) of this section,** all penalties
18 recovered under ORS 468.140 shall be paid into the State Treasury and
19 credited to the General Fund, or in the event the penalty is recovered by a
20 regional air quality control authority, it shall be paid into the county
21 treasury of the county in which the violation occurred.

22 (3) **Penalties recovered under ORS 468.140 for a violation of sections**
23 **4 to 32 of this 2020 Act or rules adopted pursuant to sections 4 to 32**
24 **of this 2020 Act shall be deposited in the Oregon Greenhouse Gas Ini-**
25 **tiative Operating Fund established under section 31 of this 2020 Act to**
26 **be used only as provided in section 31 (3) of this 2020 Act.**

27

28

APPROPRIATIONS

29

30 **SECTION 108.** (1) **In addition to and not in lieu of any other ap-**
31 **propriation, there is appropriated to the Department of Environmental**

1 **Quality, for the biennium ending June 30, 2021, out of the General**
2 **Fund, the amount of _____ for carrying out the provisions of this**
3 **2020 Act.**

4 **(2) In addition to and not in lieu of any other appropriation, there**
5 **is appropriated to the Public Utility Commission, for the biennium**
6 **ending June 30, 2021, out of the General Fund, the amount of \$50**
7 **million for deposit in the Traded Sector Greenhouse Gas Reduction**
8 **Program Fund established under section 51 of this 2020 Act.**

9

10

OPERATIVE DATE

11

12 **SECTION 109. (1) Sections 2, 3, 4 to 32, 33 to 37, 38 to 40, 41, 42, 43,**
13 **44 of this 2020 Act and the amendments to ORS 468.135 by section 107**
14 **of this 2020 Act become operative on January 1, 2022.**

15 **(2) The Oregon Greenhouse Gas Reduction Board, The Office of**
16 **Greenhouse Gas Regulation, the Public Utility Commission, the De-**
17 **partment of Transportation and the Governor may adopt rules, issue**
18 **orders or take any actions before the operative date specified in sub-**
19 **section (1) of this section that are necessary to enable the board, the**
20 **office, the commission, the department and the Governor, on and after**
21 **the operative date specified in subsection (1) of this section, to carry**
22 **out the provisions of sections 2, 3, 4 to 32, 33 to 37, 38 to 40, 41, 42, 43,**
23 **44 of this 2020 Act and the amendments to ORS 468.135 by section 107**
24 **of this 2020 Act.**

25 **(3)(a) If, in adopting rules, issuing orders or taking any actions be-**
26 **fore the operative date specified in subsection (1) of this section as**
27 **authorized by subsection (2) of this section, information is obtained**
28 **by the State of Oregon that is information described in section 32 (2)**
29 **of this 2020 Act, the information shall be treated as confidential busi-**
30 **ness information, is exempt from disclosure under ORS 192.311 to**
31 **192.478 and may not be disclosed to any person or entity except as**

1 provided in paragraphs (b) and (c) of this subsection.

2 (b) Information described in this subsection may be used and dis-
3 closed in aggregated form.

4 (c) This subsection does not prohibit the disclosure of information
5 between the Office of Greenhouse Gas Regulation and other agencies
6 of the executive department, as defined in ORS 174.112, or to persons
7 engaged by the State of Oregon to provide administrative or technical
8 services to support the implementation of sections 4 to 32 of this 2020
9 Act if the disclosure is necessary for purposes of adopting rules, issu-
10 ing orders or taking any actions before the operative date specified in
11 subsection (1) of this section to carry out the provisions of sections 2,
12 3, 4 to 32, 33 to 37, 38 to 40, 41, 42, 43, 44 of this 2020 Act and the
13 amendments to ORS 468.135 by section 107 of this 2020 Act.

14

15

CAPTIONS

16

17 SECTION 110. The unit and section captions used in this 2020 Act
18 are provided only for the convenience of the reader and do not become
19 part of the statutory law of this state or express any legislative intent
20 in the enactment of this 2020 Act.

21

22

EMERGENCY CLAUSE

23

24 SECTION 111. This 2020 Act being necessary for the immediate
25 preservation of the public peace, health and safety, an emergency is
26 declared to exist, and this 2020 Act takes effect on its passage.

27
