

D R A F T

SUMMARY

Establishes Oregon Climate Authority. Establishes Oregon Climate Board. Transfers greenhouse gas reporting program from Department of Environmental Quality to Oregon Climate Authority.

Abolishes State Department of Energy. Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Transfers remaining duties, functions and powers of State Department of Energy to Oregon Climate Authority. Modifies permissible uses of energy supplier assessment.

Abolishes Sustainability Board and Oregon Global Warming Commission. Establishes Energy Program Review Task Force.

Becomes operative January 1, 2020.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Oregon Climate Authority; creating new provisions; amend-
3 ing ORS 176.809, 176.820, 183.457, 183.530, 192.355, 215.044, 223.680, 227.190,
4 240.855, 244.050, 261.151, 261.161, 261.225, 261.470, 262.025, 262.065, 267.030,
5 267.517, 276.910, 276.915, 279A.065, 279C.527, 279C.528, 283.337, 285C.559,
6 286A.630, 286A.710, 286A.712, 286A.716, 286A.718, 286A.810, 291.055, 315.141,
7 315.144, 315.326, 315.329, 315.331, 315.336, 315.341, 315.354, 315.356, 315.357,
8 316.116, 317.112, 352.823, 401.054, 453.347, 455.492, 455.511, 466.380, 466.615,
9 468A.280, 468B.500, 469.020, 469.050, 469.055, 469.059, 469.080, 469.085,
10 469.097, 469.110, 469.120, 469.135, 469.137, 469.150, 469.155, 469.255, 469.261,
11 469.300, 469.320, 469.330, 469.350, 469.370, 469.373, 469.375, 469.402, 469.405,
12 469.410, 469.421, 469.424, 469.426, 469.430, 469.441, 469.442, 469.450, 469.503,
13 469.504, 469.507, 469.520, 469.530, 469.533, 469.534, 469.535, 469.536, 469.540,

1 469.550, 469.559, 469.560, 469.561, 469.571, 469.594, 469.605, 469.606, 469.609,
2 469.611, 469.613, 469.615, 469.617, 469.619, 469.651, 469.659, 469.700, 469.703,
3 469.717, 469.720, 469.745, 469.754, 469.756, 469.840, 469.880, 469.885, 469.890,
4 469.895, 469.900, 469.992, 469A.020, 469A.025, 469A.027, 469A.029, 469A.130,
5 469A.132, 469B.100, 469B.103, 469B.106, 469B.112, 469B.115, 469B.118,
6 469B.130, 469B.136, 469B.139, 469B.142, 469B.145, 469B.148, 469B.154,
7 469B.157, 469B.161, 469B.164, 469B.167, 469B.169, 469B.253, 469B.256,
8 469B.259, 469B.262, 469B.265, 469B.273, 469B.276, 469B.279, 469B.282,
9 469B.285, 469B.288, 469B.291, 469B.294, 469B.297, 469B.298, 469B.300,
10 469B.303, 469B.306, 469B.320, 469B.323, 469B.326, 469B.329, 469B.332,
11 469B.335, 469B.338, 469B.341, 469B.344, 469B.347, 469B.400, 469B.407,
12 469B.991, 470.050, 470.060, 470.080, 470.090, 470.100, 470.110, 470.120, 470.130,
13 470.135, 470.140, 470.145, 470.150, 470.160, 470.170, 470.180, 470.190, 470.200,
14 470.210, 470.230, 470.270, 470.300, 470.310, 470.800, 470.805, 470.810, 470.815,
15 498.502, 522.125, 526.274, 526.280, 526.786, 701.527, 701.532, 757.247, 757.528,
16 757.533, 757.538, 757.600, 757.612, 757.617, 757.687, 757.720 and 758.552 and
17 section 25, chapter 301, Oregon Laws 2007, section 8a, chapter 739, Oregon
18 Laws 2007, section 2, chapter 312, Oregon Laws 2015, and section 1,
19 chapter 63, Oregon Laws 2016; repealing ORS 184.425, 184.427, 184.429,
20 184.431, 184.433, 184.435, 468A.215, 468A.220, 468A.225, 468A.230, 468A.235,
21 468A.240, 468A.245, 468A.250, 468A.255, 468A.260, 469.030, 469.040, 470.070,
22 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530, 470.535, 470.540,
23 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585,
24 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630, 470.635,
25 470.640, 470.645, 470.650, 470.655, 470.660, 470.665, 470.670, 470.675, 470.680,
26 470.685, 470.690, 470.695, 470.700, 470.710, 470.715, 470.720, 701.108 and
27 701.119; and declaring an emergency.

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

29
30 **OREGON CLIMATE AUTHORITY**

(Policy)

SECTION 1. Sections 2 to 6 and 8 of this 2019 Act are added to and made a part of ORS chapter 469.

SECTION 2. The Legislative Assembly finds and declares that:

(1) Climate change resulting from greenhouse gas emissions is negatively impacting public health and Oregon's economic vitality, natural resources and environment.

(2) It is the goal of Oregon to reduce greenhouse gas emissions, to sequester and store greenhouse gas emissions on natural and working lands and to help communities and industries adapt to climate change.

(3) It is the goal of Oregon to promote the efficient use of energy resources, to develop low-carbon technologies and clean energy resources and to assist Oregon industries and households with the transition to an energy system and a mix of energy resources that can achieve the state's greenhouse gas emissions reduction goals affordably and reliably.

(4) The need exists for comprehensive state leadership on climate change, greenhouse gas mitigation and the transition to low-carbon, clean energy resources. It is therefore the policy of Oregon:

(a) That through example and policy, state government will promote greenhouse gas emissions reductions, energy conservation and the adoption of low-carbon, clean energy resources and technologies.

(b) That Oregon's energy policy and programs should be consistent and aligned with the state's greenhouse gas emissions reduction goals and climate change policies.

(c) That the state promote the development of a resilient, safe and affordable system of diverse energy resources and related infrastructure.

(d) That state government assist every citizen and industry in adjusting to changes in the energy system and mix of energy resources

1 to achieve the state's greenhouse gas emissions reduction goals.

2 (e) That the state encourage low-carbon and energy-efficient modes
3 of transportation for people and for freight.

4 (f) That the state pursue opportunities to conserve energy and re-
5 duce emissions associated with the built environment.

6 (g) That the state identify and pursue opportunities to sequester
7 and store carbon on natural and working landscapes.

8 (h) That the state's climate change policies, goals and strategies
9 will be informed by the best available science and economics.

10 (i) That, to the greatest degree possible, the Oregon Climate Au-
11 thority will pursue policies and programs that harness market incen-
12 tives.

13 (j) That state agency decision-making relating to climate policy,
14 energy sources, facilities or conservation shall consider cost-
15 effectiveness, alongside climate and environmental policy objectives.

16 (k) That the authority shall be transparent and accountable to
17 regulated entities and stakeholders.

18 (L) That state government shall provide a source of impartial and
19 objective information in order that this energy and climate policy may
20 be enhanced.

21
22 (Oregon Climate Authority; Duties)

23
24 **SECTION 3.** (1) The Oregon Climate Authority is established.

25 (2) The Oregon Climate Authority shall:

26 (a) Be the central repository within the state government for the
27 collection and analysis of data on climate change risks and impacts,
28 greenhouse gas emissions, climate change mitigation and adaptation,
29 energy resources and energy markets.

30 (b) Coordinate state agency actions toward achieving reductions in
31 greenhouse gas emissions in accordance with ORS 468A.205 and other

1 statutes, rules and policies that govern state agency actions to reduce
2 greenhouse gas emissions.

3 (c) Coordinate state agency actions toward achieving state goals
4 related to clean energy, energy conservation and energy safety and
5 resilience.

6 (d) Advise, consult and cooperate with other state agencies, poli-
7 tical subdivisions, other states or the federal government in respect
8 to any proceedings and all matters pertaining to the reduction of
9 greenhouse gas emissions levels in Oregon and the pursuit of goals
10 related to climate change and clean energy.

11 (e) Advise the Governor on climate change and energy-related
12 matters.

13 (f) Endeavor to utilize all public and private sources to inform and
14 educate the public about climate change and energy problems and
15 solutions, and about the ways in which the public can conserve energy
16 resources, mitigate greenhouse gas emissions and adapt to climate
17 change.

18 (g) Engage in research but, whenever possible, contract with ap-
19 propriate public or private agencies and dispense funds for research
20 projects and other services related to climate change and energy, ex-
21 cept that the Oregon Climate Authority shall endeavor to avoid du-
22 plication of research whether completed or in progress.

23 (h) Qualify for, accept and disburse or utilize any private or federal
24 moneys or services available for the administration of ORS 176.820,
25 192.338, 192.345, 192.355, 469.010 to 469.155, 469.300 to 469.563, 469.990,
26 757.710 and 757.720.

27 (i) Administer federal and state energy allocation and conservation
28 programs and energy research and development programs and apply
29 for and receive available funds for the programs.

30 (j) Be a clearinghouse for climate change and clean energy research
31 to which all agencies shall send information on all climate change and

1 **clean energy related research.**

2 **(k) Prepare contingent energy programs to include all forms of en-**
3 **ergy not otherwise provided pursuant to ORS 757.710 and 757.720.**

4 **(L) Maintain an inventory of energy and climate change research**
5 **projects in Oregon and the results of the projects.**

6 **(m) Collect, compile and analyze climate change and energy statis-**
7 **tics, data and information.**

8 **(n) Contract with public and private agencies for climate change**
9 **and clean energy activities consistent with ORS 469.010 and this sec-**
10 **tion.**

11 **(o) Upon request of the governing body of any affected jurisdiction,**
12 **coordinate a public review of a proposed transmission line according**
13 **to the provisions of ORS 469.442.**

14

15 **(Director of the Oregon Climate Authority)**

16

17 **SECTION 4. (1) The Oregon Climate Authority shall be under the**
18 **supervision of the Director of the Oregon Climate Authority, who**
19 **shall:**

20 **(a) Supervise the day-to-day functions of the Oregon Climate Au-**
21 **thority;**

22 **(b) Supervise and facilitate the work and research on energy facility**
23 **siting applications at the direction of the Energy Facility Siting**
24 **Council;**

25 **(c) Hire, assign, reassign and coordinate personnel of the Oregon**
26 **Climate Authority, prescribe their duties and fix their compensation,**
27 **subject to the State Personnel Relations Law; and**

28 **(d) Adopt rules and issue orders to carry out the duties of the di-**
29 **rector and the authority in accordance with ORS chapter 183 and the**
30 **policy stated in section 2 of this 2019 Act.**

31 **(2) The director may delegate to any officer or employee the exer-**

1 **cise and discharge in the director's name of any power, duty or func-**
2 **tion of whatever character vested in the director by law. The official**
3 **act of any person acting in the director's name and by the director's**
4 **authority shall be considered an official act of the director.**

5 **(3) The director shall be appointed by the Governor, subject to**
6 **confirmation by the Senate in the manner provided by ORS 171.562 and**
7 **171.565.**

8
9 **(Oregon Climate Board)**

10
11 **SECTION 5. (1) In order to ensure close correspondence among**
12 **Oregon Climate Authority policies and programs, the public interest**
13 **and state climate policies, there is created the Oregon Climate Board.**

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

16 **(a) The Director of the Oregon Climate Authority;**

17 **(b) One member jointly appointed by the President of the Senate**
18 **and the Speaker of the House of Representatives who is a member of**
19 **either the Senate or the House of Representatives and who is also a**
20 **member of the Republican Party and serves as a member of a com-**
21 **mittee of the Legislative Assembly related to climate;**

22 **(c) One member jointly appointed by the President of the Senate**
23 **and the Speaker of the House of Representatives who is a member of**
24 **either the Senate or the House of Representatives and who is also a**
25 **member of the Democratic Party and serves as a member of a com-**
26 **mittee of the Legislative Assembly related to climate;**

27 **(d) One member who is a member of the office of the Governor and**
28 **who serves as a policy advisor to the Governor on issues related to**
29 **climate;**

30 **(e) One member who represents the Oregon Climate Change Re-**
31 **search Institute; and**

1 (f) The chairperson of the Environmental Justice Task Force.

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

7 (a) One member who is a tribal representative;

8 (b) Two members who are representatives of the energy sector;

9 (c) One member who represents environmental interests;

10 (d) One member who is an economist or who has experience and
11 expertise in state finance;

12 (e) One member who represents industrial energy users;

13 (f) One member with expertise in transportation issues; and

14 (g) Two at-large members.

15 **SECTION 6.** (1) The term of office of each member appointed to the
16 Oregon Climate Board is four years, but the members of the board
17 may be removed by the Governor. Before the expiration of the term
18 of a member, the Governor shall appoint a successor to assume the
19 duties of the member on July 1 of the next following year.

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

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

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

30 (5) The board shall meet once during each calendar quarter at a
31 time and place determined by the chairperson. The board shall en-

1 deavor to hold meetings at various locations throughout the state. The
2 board may hold additional meetings at times and places determined
3 by the chairperson or the Director of the Oregon Climate Authority,
4 or as requested by a majority of the voting members.

5 (6) A member of the board is not entitled to compensation but may
6 be reimbursed from funds available to the board for actual and nec-
7 essary travel and other expenses incurred by the member in the per-
8 formance of the member's official duties in the manner and amount
9 provided in ORS 292.495.

10 SECTION 7. Notwithstanding the term of office specified by section
11 6 of this 2019 Act, of the members first appointed by the Governor to
12 the Oregon Energy and Climate Board:

13 (1) Two shall serve for a term ending July 1, 2021.

14 (2) Two shall serve for a term ending July 1, 2022.

15 (3) Two shall serve for a term ending July 1, 2023.

16 (4) Three shall serve for terms ending July 1, 2024.

17 SECTION 8. (1) The Oregon Climate Board shall advise the Director
18 of the Oregon Climate Authority regarding:

19 (a) The implementation, administration and enforcement of the
20 programs and activities of the Oregon Climate Authority;

21 (b) The development of the policies of the authority in accordance
22 with the policy stated in section 2 of this 2019 Act and state climate,
23 energy and environmental policies; and

24 (c) The preparation for submission to the Governor of budget forms
25 under ORS 291.208 for purposes related to the compilation and prepa-
26 ration of the Governor's budget under ORS 291.216.

27 (2) By arrangement with the chairperson of the Oregon Climate
28 Board, the Director of the Oregon Climate Authority shall review with
29 the board the activities of the authority and, subject to policy direc-
30 tion by the board, outline the methods, policies and program of work
31 for the authority.

1 (3) The board shall receive regular reports from the Energy Facility
2 Siting Council and the Oregon Hanford Cleanup Board.

3 (4) The Oregon Climate Board shall provide a biennial report to the
4 Legislative Assembly in the manner provided in ORS 192.245 on the
5 progress of the state in meeting the state's climate and clean energy
6 and energy conservation goals.

7 (5) The board shall hold public hearings and provide an opportunity
8 for public comment in carrying out the board's activities under this
9 section.

10
11 **GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**

12
13 (Transfer from Department of Environmental Quality to
14 Oregon Climate Authority)

15
16 **SECTION 9. Transfer.** The duties, functions and powers of the En-
17 vironmental Quality Commission and the Department of Environ-
18 mental Quality relating to ORS 468A.280 and rules adopted pursuant
19 to ORS 468A.280 are imposed upon, transferred to and vested in the
20 Oregon Climate Authority.

21 **SECTION 10. Records, property, employees.** (1) The Director of the
22 Department of Environmental Quality shall:

23 (a) Deliver to the Oregon Climate Authority all records and prop-
24 erty within the jurisdiction of the director that relate to the duties,
25 functions and powers transferred by section 9 of this 2019 Act; and

26 (b) Transfer to the Oregon Climate Authority those employees en-
27 gaged primarily in the exercise of the duties, functions and powers
28 transferred by section 9 of this 2019 Act.

29 (2) The Director of the Oregon Climate Authority shall take pos-
30 session of the records and property, and shall take charge of the em-
31 ployees and employ them in the exercise of the duties, functions and

1 powers transferred by section 9 of this 2019 Act, without reduction of
2 compensation but subject to change or termination of employment or
3 compensation as provided by law.

4 (3) The Governor shall resolve any dispute between the Department
5 of Environmental Quality and the Oregon Climate Authority relating
6 to transfers of records, property and employees under this section, and
7 the Governor's decision is final.

8 SECTION 11. Unexpended revenues. (1) The unexpended balances
9 of amounts authorized to be expended by the Environmental Quality
10 Commission or the Department of Environmental Quality for the
11 biennium beginning July 1, 2019, from revenues dedicated, contin-
12 uously appropriated, appropriated or otherwise made available for the
13 purpose of administering and enforcing the duties, functions and
14 powers transferred by section 9 of this 2019 Act are transferred to and
15 are available for expenditure by the Oregon Climate Authority for the
16 biennium beginning July 1, 2019, for the purpose of administering and
17 enforcing the duties, functions and powers transferred by section 9 of
18 this 2019 Act.

19 (2) The expenditure classifications, if any, established by Acts au-
20 thorizing or limiting expenditures by the Department of Environ-
21 mental Quality remain applicable to expenditures by the Oregon
22 Climate Authority under this section.

23 SECTION 12. Action, proceeding, prosecution. The transfer of du-
24 ties, functions and powers to the Oregon Climate Authority by section
25 9 of this 2019 Act does not affect any action, proceeding or prosecution
26 involving or with respect to the duties, functions and powers begun
27 before and pending at the time of the transfer, except that the Oregon
28 Climate Authority is substituted for the Environmental Quality Com-
29 mission or the Department of Environmental Quality, as appropriate,
30 in the action, proceeding or prosecution.

31 SECTION 13. Liability, duty, obligation. (1) Nothing in sections 9

1 to 14 of this 2019 Act relieves a person of a liability, duty or obligation
2 accruing under or with respect to the duties, functions and powers
3 transferred by section 9 of this 2019 Act. The Oregon Climate Author-
4 ity may undertake the collection or enforcement of any such liability,
5 duty or obligation.

6 (2) The rights and obligations of the Environmental Quality Com-
7 mission or the Department of Environmental Quality legally incurred
8 under contracts, leases and business transactions executed, entered
9 into or begun before the operative date of section 9 of this 2019 Act
10 accruing under or with respect to the duties, functions and powers
11 transferred by section 9 of this 2019 Act are transferred to the Oregon
12 Climate Authority. For the purpose of succession to these rights and
13 obligations, the Oregon Climate Authority is a continuation of the
14 Environmental Quality Commission or the Department of Environ-
15 mental Quality, as appropriate, and not a new authority.

16 SECTION 14. Rules. (1) Notwithstanding the transfer of duties,
17 functions and powers by section 9 of this 2019 Act, the rules of the
18 Environmental Quality Commission with respect to such duties, func-
19 tions or powers that are in effect on the operative date of section 9
20 of this 2019 Act continue in effect until superseded or repealed by rules
21 of the Oregon Climate Authority. References in the rules of the En-
22 vironmental Quality Commission to the Environmental Quality Com-
23 mission are considered to be references to the Director of the Oregon
24 Climate Authority. References in the rules of the Environmental
25 Quality Commission to the Department of Environmental Quality or
26 an officer or employee of the Department of Environmental Quality
27 are considered to be references to the Oregon Climate Authority or
28 an officer or employee of the Oregon Climate Authority.

29 (2) Whenever, in any uncodified law or resolution of the Legislative
30 Assembly or in any rule, document, record or proceeding authorized
31 by the Legislative Assembly, in the context of the duties, functions

1 and powers transferred by section 9 of this 2019 Act, reference is made
2 to the Environmental Quality Commission, with relation to the duties,
3 functions or powers transferred by section 9 of this 2019 Act, the ref-
4 erence is considered to be a reference to the Director of the Oregon
5 Climate Authority for purposes of being charged by the terms of this
6 2019 Act with carrying out the duties, functions and powers.

7 (3) Whenever, in any uncodified law or resolution of the Legislative
8 Assembly or in any rule, document, record or proceeding authorized
9 by the Legislative Assembly, in the context of the duties, functions
10 and powers transferred by section 9 of this 2019 Act, reference is made
11 to the Department of Environmental Quality, or an officer or employee
12 of the Department of Environmental Quality whose duties, functions
13 or powers are transferred by section 9 of this 2019 Act, the reference
14 is considered to be a reference to the Oregon Climate Authority or an
15 officer or employee of the Oregon Climate Authority who by this 2019
16 Act is charged with carrying out the duties, functions and powers.

17

18 (Amendments to statutes)

19

20 **SECTION 15.** ORS 468A.280 is added to and made a part of ORS
21 chapter 469.

22 **SECTION 16.** ORS 468A.280 is amended to read:

23 468A.280. (1) *[In addition to any registration and reporting that may be*
24 *required under ORS 468A.050, the Environmental Quality Commission by rule*
25 *may require registration and reporting by:]* **As used in this section:**

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

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

31 (2) **The Director of the Oregon Climate Authority by rule may re-**

1 **quire registration and reporting of information necessary to determine**
2 **greenhouse gas emissions by:**

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

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

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

10 **(3) A person required to register and report under subsection (2) of**
11 **this section shall register with the Oregon Climate Authority and**
12 **make reports containing information that the director by rule may**
13 **require that is relevant to determining and verifying greenhouse gas**
14 **emissions. The director may by rule require the person to provide an**
15 **audit by an independent and disinterested party to verify that the**
16 **greenhouse gas emissions information reported by the person is true**
17 **and accurate.**

18 *[(2)] (4) Rules adopted by the [commission] director* under this section for
19 *electricity that is imported, sold, allocated or distributed for use in this state*
20 *may require reporting of information necessary to determine greenhouse gas*
21 *emissions from generating facilities used to produce the electricity and re-*
22 *lated electricity transmission line losses.*

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

29 **(b) For the purpose of determining greenhouse gas emissions related to**
30 **electricity purchased from the Bonneville Power Administration by a**
31 **consumer-owned utility, as defined in ORS 757.270, the [commission] director**

1 may require only that the utility report:

2 (A) The number of megawatt-hours of electricity purchased by the utility
3 from the Bonneville Power Administration, segregated by the types of con-
4 tracts entered into by the utility with the Bonneville Power Administration;
5 and

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

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

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

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

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

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

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

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

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

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

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

29 (iii) Electricity purchases for which a renewable energy certificate under
30 ORS 469A.130 has been issued but subsequently transferred or sold to a per-
31 son other than the electric company;

- 1 (iv) Electricity transmitted for others by the electric company; and
- 2 (v) Total energy losses from electricity transmission and distribution
- 3 equipment owned or operated by the electric company.

4 (b) Pursuant to paragraph (a) of this subsection, a multijurisdictional

5 electric company may rely upon a cost allocation methodology approved by

6 the Public Utility Commission for reporting emissions allocated in this state.

7 [(5)] (7) Rules adopted by the [commission] **director** under this section for

8 [fossil] fuel that is imported, sold or distributed for use in this state may

9 require reporting of the type and quantity of the fuel and any additional

10 information necessary to determine the [carbon content] **greenhouse gas**

11 **emissions associated with the use or combustion** of the fuel. [*For the*

12 *purpose of determining greenhouse gas emissions related to liquefied petroleum*

13 *gas, the commission shall allow reporting using publications or submission of*

14 *data by the American Petroleum Institute but may require reporting of such*

15 *other information necessary to achieve the purposes of the rules adopted by the*

16 *commission under this section.*]

17 [(6)] (8) To an extent that is consistent with the purposes of the rules

18 adopted by the [commission] **director** under this section, the [commission]

19 **director** shall minimize the burden of the reporting required under this

20 section by:

21 (a) Allowing concurrent reporting of information that is also reported to

22 another state agency;

23 (b) Allowing electronic reporting;

24 (c) Allowing use of good engineering practice calculations in reports, or

25 of emission factors published by the United States Environmental Protection

26 Agency;

27 (d) Establishing thresholds for the amount of specific greenhouse gases

28 that may be emitted or generated without reporting;

29 (e) Requiring reporting by the fewest number of persons in a fuel dis-

30 tribution system that will allow the [commission] **director** to acquire the

31 information needed by the [commission] **director**; or

1 (f) Other appropriate means and procedures determined by the [*commis-*
2 *sion*] **director**.

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

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

10 **(10) If a person required to register and report under subsection (2)**
11 **of this section fails to submit a report under this section, the author-**
12 **ity may develop an assigned emissions level for the person if necessary**
13 **for the purpose of regulating persons under any program for the reg-**
14 **ulation of greenhouse gas emissions adopted by the Legislative As-**
15 **sembly and administered by the authority.**

16 **(11)(a) By rule the authority may establish a schedule of fees for**
17 **registration and reporting under this section. Before establishing fees**
18 **pursuant to this subsection, the authority shall consider the total fees**
19 **for each person subject to registration and reporting under this sec-**
20 **tion.**

21 **(b) The authority shall limit the fees established under this sub-**
22 **section to the anticipated cost of developing, implementing and ana-**
23 **lyzing data collected under greenhouse gas emissions registration and**
24 **reporting programs.**

25

26

STATE DEPARTMENT OF ENERGY

27

28

(Abolishment and transfer of duties)

29

30

31

SECTION 17. Abolish and transfer. (1) The State Department of Energy is abolished. On the operative date of this section, the tenure

1 of office of the Director of the State Department of Energy ceases.

2 (2) All the duties, functions and powers of the State Department
3 of Energy relating to the administration of ORS 176.809, 176.820,
4 183.457, 183.530, 192.355, 244.050, 261.151, 261.161, 261.225, 261.470, 262.025,
5 262.065, 276.900 to 276.915, 279A.065, 279C.527, 279C.528, 285C.559, 286A.630,
6 286A.710 to 286A.720, 286A.810, 291.055, 291.445, 315.141, 315.144, 315.326,
7 315.329, 315.331, 315.336, 315.354, 315.356, 315.357, 316.116, 401.054, 453.347,
8 455.146, 455.492, 455.496, 466.380, 466.615, 469.010 to 469.155, 469.229 to
9 469.261, 469.300 to 469.563, 469.590 to 469.619, 469.631 to 469.645, 469.649 to
10 469.659, 469.700, 469.703, 469.710 to 469.720, 469.745, 469.752 to 469.756,
11 469.802 to 469.845, 469.860 to 469.900, 469.930, 469.950, 469.990, 469.992,
12 469A.005 to 469A.210, 469B.100 to 469B.118, 469B.130 to 469B.169, 469B.171,
13 469B.250 to 469B.265, 469B.270 to 469B.306, 469B.320 to 469B.347, 469B.400,
14 469B.403, 469B.407, 469B.991, 470.800, 470.805, 470.810, 470.815, 522.125,
15 526.274, 526.280, 526.786, 701.527, 757.522 to 757.536, 757.538, 757.600,
16 757.612, 757.687 and 757.720 and section 25, chapter 301, Oregon Laws
17 2007, sections 8a and 8b (2), chapter 739, Oregon Laws 2007, section 2,
18 chapter 312, Oregon Laws 2015, and sections 1 to 3, chapter 63, Oregon
19 Laws 2016, are imposed upon, transferred to and vested in the Oregon
20 Climate Authority.

21 (3) All the duties, functions and powers of the State Department
22 of Energy relating to the administration of ORS 223.680, 470.050,
23 470.060, 470.080, 470.090, 470.100, 470.110, 470.120, 470.130, 470.135, 470.140,
24 470.145, 470.150, 470.160, 470.170, 470.180, 470.190, 470.200, 470.210, 470.230,
25 470.270, 470.300 and 470.310 are imposed upon, transferred to and vested
26 in the Oregon Business Development Department.

27 **SECTION 18. Records, Property, Employees.** (1)(a) The Director of
28 the State Department of Energy shall:

29 (A) Deliver to the Oregon Climate Authority all records and prop-
30 erty within the jurisdiction of the director that relate to the duties,
31 functions and powers transferred by section 17 (2) of this 2019 Act; and

1 **(B) Transfer to the Oregon Climate Authority those employees en-**
2 **gaged primarily in the exercise of the duties, functions and powers**
3 **transferred by section 17 (2) of this 2019 Act.**

4 **(b) The Oregon Climate Authority shall take possession of the re-**
5 **ords and property, and shall take charge of the employees and employ**
6 **them in the exercise of the duties, functions and powers transferred**
7 **by section 17 (2) of this 2019 Act, without reduction of compensation**
8 **but subject to change or termination of employment or compensation**
9 **as provided by law.**

10 **(2)(a) The Director of the State Department of Energy shall:**

11 **(A) Deliver to the Director of the Oregon Business Development**
12 **Department all records and property within the jurisdiction of the**
13 **Director of the State Department of Energy that relate to the duties,**
14 **functions and powers transferred by section 17 (3) of this 2019 Act; and**

15 **(B) Transfer to the Director of the Oregon Business Development**
16 **Department those employees engaged primarily in the exercise of the**
17 **duties, functions and powers transferred by section 17 (3) of this 2019**
18 **Act.**

19 **(b) The Director of the Oregon Business Development Department**
20 **shall take possession of the records and property, and shall take**
21 **charge of the employees and employ them in the exercise of the duties,**
22 **functions and powers transferred by section 17 (3) of this 2019 Act,**
23 **without reduction of compensation but subject to change or termi-**
24 **nation of employment or compensation as provided by law.**

25 **(3) The Governor shall resolve any dispute between the State De-**
26 **partment of Energy and the Oregon Climate Authority or the Oregon**
27 **Business Development Department relating to transfers of records,**
28 **property and employees under this section, and the Governor's deci-**
29 **sion is final.**

30 **SECTION 19. Unexpended revenues.** (1) **The unexpended balances**
31 **of amounts authorized to be expended by the State Department of**

1 Energy for the biennium beginning July 1, 2019, from revenues dedi-
2 cated, continuously appropriated, appropriated or otherwise made
3 available for the purpose of administering and enforcing the duties,
4 functions and powers transferred by section 17 (2) of this 2019 Act are
5 transferred to and are available for expenditure by the Oregon Climate
6 Authority for the biennium beginning July 1, 2019, for the purpose of
7 administering and enforcing the duties, functions and powers trans-
8 ferred by section 17 (2) of this 2019 Act.

9 (2) The unexpended balances of amounts authorized to be expended
10 by the State Department of Energy for the biennium beginning July
11 1, 2019, from revenues dedicated, continuously appropriated, appropri-
12 ated or otherwise made available for the purpose of administering and
13 enforcing the duties, functions and powers transferred by section 17
14 (3) of this 2019 Act are transferred to and are available for expenditure
15 by the Oregon Business Development Department for the biennium
16 beginning July 1, 2019, for the purpose of administering and enforcing
17 the duties, functions and powers transferred by section 17 (3) of this
18 2019 Act.

19 SECTION 20. Action, proceeding, prosecution. The transfer of du-
20 ties, functions and powers to the Oregon Climate Authority or the
21 Oregon Business Development Department by section 17 of this 2019
22 Act does not affect any action, proceeding or prosecution involving or
23 with respect to such duties, functions and powers begun before and
24 pending at the time of the transfer, except that:

25 (1) The Oregon Climate Authority is substituted for the State De-
26 partment of Energy in an action, proceeding or prosecution held pur-
27 suant to the laws specified in section 17 (2) of this 2019 Act; and

28 (2) The Oregon Business Development Department is substituted for
29 the State Department of Energy in an action, proceeding or prose-
30 cution held pursuant to the laws specified in section 17 (3) of this 2019
31 Act.

1 **SECTION 21. Liability, duty, obligation.** (1) Nothing in sections 17
2 to 25 and 255 to 259 of this 2019 Act, the amendments to statutes and
3 session law by sections 26 to 28 and 31 to 254 of this 2019 Act or the
4 repeal of statutes by section 260 of this 2019 Act relieves a person of
5 a liability, duty or obligation accruing under or with respect to the
6 duties, functions and powers transferred by section 17 of this 2019 Act.

7 (2)(a) The Oregon Climate Authority may undertake the collection
8 or enforcement of any liability, duty or obligation relating to the ad-
9 ministration of the laws specified in section 17 (2) of this 2019 Act.

10 (b) The rights and obligations of the State Department of Energy
11 relating to the administration of the laws specified in section 17 (2) of
12 this 2019 Act that are legally incurred under contracts, leases and
13 business transactions executed, entered into or begun before the op-
14 erative date of section 17 of this 2019 Act are transferred to the Oregon
15 Climate Authority. For the purpose of succession to these rights and
16 obligations, the Oregon Climate Authority is a continuation of the
17 State Department of Energy and not a new authority.

18 (3)(a) The Oregon Business Development Department may under-
19 take the collection or enforcement of any liability, duty or obligation
20 relating to the administration of the laws specified in section 17 (3) of
21 this 2019 Act.

22 (b) The rights and obligations of the State Department of Energy
23 relating to the administration of the laws specified in section 17 (3) of
24 this 2019 Act that are legally incurred under contracts, leases and
25 business transactions executed, entered into or begun before the op-
26 erative date of section 17 of this 2019 Act are transferred to the Oregon
27 Business Development Department. For the purpose of succession to
28 these rights and obligations, the Oregon Business Development De-
29 partment is a continuation of the State Department of Energy and not
30 a new authority.

31 **SECTION 22. Rules.** Notwithstanding the transfer of duties, func-

1 tions and powers by section 17 of this 2019 Act, the rules of the State
2 Department of Energy in effect on the operative date of section 17 of
3 this 2019 Act continue in effect until superseded or repealed by rules
4 of the Oregon Climate Authority or the Oregon Business Development
5 Department. References in rules of the State Department of Energy
6 to the State Department of Energy or an officer or employee of the
7 State Department of Energy are considered to be references to:

8 (1) The Oregon Climate Authority or an officer or employee of the
9 authority for rules relating to the administration of the laws specified
10 in section 17 (2) of this 2019 Act; and

11 (2) The Oregon Business Development Department or an officer or
12 employee of the Oregon Business Development Department for rules
13 relating to the administration of the laws specified in section 17 (3) of
14 this 2019 Act.

15 SECTION 23. Whenever, in any statutory law or resolution of the
16 Legislative Assembly or in any rule, document, record or proceeding
17 authorized by the Legislative Assembly, reference is made to the State
18 Department of Energy or an officer or employee of the State Depart-
19 ment of Energy, the reference is considered to be a reference to:

20 (1) The Oregon Climate Authority or an officer or employee of the
21 authority for references relating to the administration of the laws
22 specified in section 17 (2) of this 2019 Act; and

23 (2) The Oregon Business Development Department or an officer or
24 employee of the Oregon Business Development Department for refer-
25 ences relating to the administration of the laws specified in section 17
26 (3) of this 2019 Act.

27 SECTION 24. Agency name change. (1) For the purpose of
28 harmonizing and clarifying statutory law, the Legislative Counsel may
29 substitute for words designating the “State Department of Energy” or
30 its officers, wherever they occur in the laws of this state that relate
31 to the duties, functions and powers imposed upon, transferred to and

1 vested in the Oregon Climate Authority under section 17 (2) of this 2019
2 Act, other words designating the “Oregon Climate Authority” or its
3 officers.

4 (2) For the purpose of harmonizing and clarifying statutory law, the
5 Legislative Counsel may substitute for words designating the “State
6 Department of Energy” or its officers, wherever they occur in the laws
7 of this state that relate to the duties, functions and powers imposed
8 upon, transferred to and vested in the Oregon Business Development
9 Department under section 17 (3) of this 2019 Act, other words designating
10 the “Oregon Business Development Department” or its officers.

11 SECTION 25. Account name change. For the purpose of
12 harmonizing and clarifying statutory law, the Legislative Counsel may
13 substitute for words designating the “State Department of Energy
14 Account,” wherever they occur in statutory law, words designating the
15 “Oregon Climate Authority Account.”

16

17 (Provisions related to the energy supplier assessment)

18

19 SECTION 26. ORS 469.120 is amended to read:

20 469.120. (1) The [*State Department of Energy*] **Oregon Climate Authority**
21 Account is established.

22 (2) The account shall consist of all funds received by the [*State Department of Energy*]
23 **Oregon Climate Authority** pursuant to law. All moneys in
24 the account are continuously appropriated to the [*State Department of Energy*]
25 **Oregon Climate Authority** for payment of expenses of the [*department*]
26 **authority** and of the Energy Facility Siting Council.

27 (3) Moneys collected under ORS 469.421 (8) may be expended only for the
28 purposes [*of programs and activities that the council and the department are*
29 *charged with administering and authorized to conduct under the laws of this*
30 *state, including those enumerated in ORS 469.030.*] **specified in ORS 469.421**
31 **(8)(a).**

1 (4) The Director of the [*State Department of Energy*] **Oregon Climate**
2 **Authority** shall keep a record of all moneys deposited in the account. The
3 record shall indicate by special cumulative accounts the source from which
4 moneys are derived and the individual activity or program, including any
5 activities described in ORS 469.424, against which each withdrawal is
6 charged. On or after October 1 of each year, the director shall make avail-
7 able, upon request, the record for the prior fiscal year to any energy resource
8 supplier that has paid the assessment imposed under ORS 469.421 (8). The
9 director shall make the record available within 30 days of receiving the re-
10 quest.

11 **SECTION 27.** ORS 469.421 is amended to read:

12 469.421. (1) Subject to the provisions of ORS 469.441, any person submit-
13 ting a notice of intent, a request for exemption under ORS 469.320, a request
14 for an expedited review under ORS 469.370, a request for an expedited review
15 under ORS 469.373, a request for the [*State Department of Energy*] **Oregon**
16 **Climate Authority** to approve a pipeline under ORS 469.405 (3), an appli-
17 cation for a site certificate or a request to amend a site certificate shall pay
18 all expenses incurred by the Energy Facility Siting Council and the [*de-*
19 *partment*] **authority** related to the review and decision of the council. Ex-
20 penses under this subsection may include:

- 21 (a) Legal expenses;
- 22 (b) Expenses incurred in processing and evaluating the application;
- 23 (c) Expenses incurred in issuing a final order or site certificate;
- 24 (d) Expenses incurred in commissioning an independent study under ORS
25 469.360;
- 26 (e) Compensation paid to a state agency, a tribe or a local government
27 pursuant to a written contract or agreement relating to compensation as
28 provided for in ORS 469.360; or
- 29 (f) Expenses incurred by the council in making rule changes that are
30 specifically required and related to the particular site certificate.

31 (2) Every person submitting a notice of intent to file for a site certificate,

1 a request for exemption or a request for expedited review shall pay the fee
2 required under the fee schedule established under ORS 469.441 to the [*de-*
3 *partment*] **authority** prior to submitting the notice or request to the council.
4 To the extent possible, the full cost of the evaluation shall be paid from the
5 fee paid under this subsection. However, if costs of the evaluation exceed the
6 fee, the person submitting the notice or request shall pay any excess costs
7 shown in an itemized statement prepared by the council. In no event shall
8 the council incur evaluation expenses in excess of 110 percent of the fee in-
9 itially paid unless the council provides prior notification to the applicant
10 and a detailed projected budget the council believes necessary to complete
11 the project. If costs are less than the fee paid, the excess shall be refunded
12 to the person submitting the notice or request.

13 (3) Before submitting a site certificate application, the applicant shall
14 request from the [*department*] **authority** an estimate of the costs expected
15 to be incurred in processing the application. The [*department*] **authority**
16 shall inform the applicant of that amount and require the applicant to make
17 periodic payments of the costs pursuant to a cost reimbursement agreement.
18 The cost reimbursement agreement shall provide for payment of 25 percent
19 of the estimated costs when the applicant submits the application. If costs
20 of the evaluation exceed the estimate, the applicant shall pay any excess
21 costs shown in an itemized statement prepared by the council. In no event
22 shall the council incur evaluation expenses in excess of 110 percent of the
23 fee initially estimated unless the council provided prior notification to the
24 applicant and a detailed projected budget the council believes is necessary
25 to complete the project. If costs are less than the fee paid, the council shall
26 refund the excess to the applicant.

27 (4) Any person who is delinquent in the payment of fees under subsections
28 (1) to (3) of this section shall be subject to the provisions of subsection (11)
29 of this section.

30 (5) Subject to the provisions of ORS 469.441, each holder of a certificate
31 shall pay an annual fee, due every July 1 following issuance of a site cer-

1 tificate. For each fiscal year, upon approval of the [*department's*]
2 **authority's** budget authorization by an odd-numbered year regular session
3 of the Legislative Assembly or as revised by the Emergency Board meeting
4 in an interim period or by the Legislative Assembly meeting in special ses-
5 sion or in an even-numbered year regular session, the Director of the [*State*
6 *Department of Energy*] **Oregon Climate Authority** promptly shall enter an
7 order establishing an annual fee based on the amount of revenues that the
8 director estimates is needed to fund the cost of ensuring that the facility is
9 being operated consistently with the terms and conditions of the site certif-
10 icate, any order issued by the [*department*] **authority** under ORS 469.405 (3)
11 and any applicable health or safety standards. In determining this cost, the
12 director shall include both the actual direct cost to be incurred by the
13 council and the [*department*] **authority** to ensure that the facility is being
14 operated consistently with the terms and conditions of the site certificate,
15 any order issued by the [*department*] **authority** under ORS 469.405 (3) and
16 any applicable health or safety standards, and the general costs to be in-
17 curred by the council and the [*department*] **authority** to ensure that all
18 certificated facilities are being operated consistently with the terms and
19 conditions of the site certificates, any orders issued by the [*department*] **au-**
20 **thority** under ORS 469.405 (3) and any applicable health or safety standards
21 that cannot be allocated to an individual, licensed facility. Not more than
22 35 percent of the annual fee charged each facility shall be for the recovery
23 of these general costs. The fees for direct costs shall reflect the size and
24 complexity of the facility, the anticipated costs of ensuring compliance with
25 site certificate conditions, the anticipated costs of conducting site in-
26 spections and compliance reviews as described in ORS 469.430, and the an-
27 ticipated costs of compensating state agencies and local governments for
28 participating in site inspection and compliance enforcement activities at the
29 request of the council.

30 (6) Each holder of a site certificate executed after July 1 of any fiscal
31 year shall pay a fee for the remaining portion of the year. The amount of the

1 fee shall be set at the cost of regulating the facility during the remaining
2 portion of the year determined in the same manner as the annual fee.

3 (7) When the actual costs of regulation incurred by the council and the
4 [department] **authority** for the year, including that portion of the general
5 regulation costs that have been allocated to a particular facility, are less
6 than the annual fees for that facility, the unexpended balance shall be re-
7 funded to the site certificate holder. When the actual regulation costs in-
8 curred by the council and the [department] **authority** for the year, including
9 that portion of the general regulation costs that have been allocated to a
10 particular facility, are projected to exceed the annual fee for that facility,
11 the director may issue an order revising the annual fee.

12 (8)(a) In addition to any other fees required by law, each energy resource
13 supplier shall pay to the [department] **authority** annually its share of an
14 assessment to fund:

15 (A) The programs and activities of the council [*and the department.*];

16 (B) **The energy services programs of the authority; and**

17 (C) **The administrative overhead and shared services costs of the**
18 **authority that are attributable to the programs and activities de-**
19 **scribed in subparagraphs (A) and (B) of this paragraph.**

20 (b) Prior to filing an agency request budget under ORS 291.208 for pur-
21 poses related to the compilation and preparation of the Governor's budget
22 under ORS 291.216, the director shall determine the projected aggregate
23 amount of revenue to be collected from energy resource suppliers under this
24 subsection that will be necessary to fund the programs and activities of the
25 council and the [department] **authority described in paragraph (a) of this**
26 **subsection** for each fiscal year of the upcoming biennium. After making
27 that determination, the director shall convene a public meeting with repre-
28 sentatives of energy resource suppliers and other interested parties for the
29 purpose of providing energy resource suppliers with a full accounting of:

30 (A) The projected revenue needed to fund each [*department program or*
31 *activity*] **energy services program of the authority; and**

1 (B) The projected allocation of moneys derived from the assessment im-
2 posed under this subsection to each *[department program or activity]* **energy**
3 **services program of the authority.**

4 (c) Upon approval of the budget authorization of the council and the
5 *[department]* **authority** by an odd-numbered year regular session of the
6 Legislative Assembly, the director shall promptly enter an order establishing
7 the amount of revenues required to be derived from an assessment pursuant
8 to this subsection in order to fund programs and activities **described in**
9 **paragraph (a) of this subsection** that the council and the *[department]*
10 **authority** are charged with administering and authorized to conduct under
11 the laws of this state[, *including those enumerated in ORS 469.030,*] for the
12 first fiscal year of the forthcoming biennium. On or before June 1 of each
13 even-numbered year, the director shall enter an order establishing the
14 amount of revenues required to be derived from an assessment pursuant to
15 this subsection in order to fund the programs and activities **described in**
16 **paragraph (a) of this subsection** that the council and the *[department]*
17 **authority** are charged with administering and authorized to conduct under
18 the laws of this state[, *including those enumerated in ORS 469.030,*] for the
19 second fiscal year of the biennium. The order shall take into account any
20 revisions to the biennial budget of the council and the *[department]* **au-**
21 **thority** made by the Emergency Board meeting in an interim period or by
22 the Legislative Assembly meeting in special session or in an even-numbered
23 year regular session.

24 (d) Each order issued by the director pursuant to paragraph (c) of this
25 subsection shall allocate the aggregate assessment set forth in the order to
26 energy resource suppliers in accordance with paragraph (e) of this sub-
27 section.

28 (e) The amount assessed to an energy resource supplier shall be based on
29 the ratio which that supplier's annual gross operating revenue derived
30 within this state in the preceding calendar year bears to the total gross op-
31 erating revenue derived within this state during that year by all energy re-

1 source suppliers. The assessment against an energy resource supplier shall
2 not exceed 0.375 percent of the supplier's gross operating revenue derived
3 within this state in the preceding calendar year. The director shall exempt
4 from payment of an assessment any individual energy resource supplier
5 whose calculated share of the annual assessment is less than \$250.

6 (f) The director shall send each energy resource supplier subject to as-
7 sessment pursuant to this subsection a copy of each order issued by regis-
8 tered or certified mail or through use of an electronic medium with
9 electronic receipt verification. The amount assessed to the energy resource
10 supplier pursuant to the order shall be considered to the extent otherwise
11 permitted by law a government-imposed cost and recoverable by the energy
12 resource supplier as a cost included within the price of the service or prod-
13 uct supplied.

14 (g) The amounts assessed to individual energy resource suppliers pursuant
15 to paragraph (e) of this subsection shall be paid to the *[department]* **au-**
16 **thority** as follows:

17 (A) Amounts assessed for the first fiscal year of a biennium shall be paid
18 not later than 90 days following adjournment sine die of the odd-numbered
19 year regular session of the Legislative Assembly; and

20 (B) Amounts assessed for the second fiscal year of a biennium shall be
21 paid not later than July 1 of each even-numbered year or 90 days following
22 adjournment sine die of the even-numbered year regular session of the Leg-
23 islative Assembly, whichever is later.

24 (h) An energy resource supplier shall provide the director, on or before
25 May 1 of each year, a verified statement showing its gross operating reve-
26 nues derived within the state for the calendar or fiscal year that was used
27 by the energy resource supplier for the purpose of reporting federal income
28 taxes for the preceding calendar or fiscal year. The statement must be in the
29 form prescribed by the director and is subject to audit by the director. The
30 statement must include an entry showing the total operating revenue derived
31 by petroleum suppliers from fuels sold that are subject to the requirements

1 of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with
2 reference to aircraft fuel and motor vehicle fuel, and ORS 319.530. The di-
3 rector may grant an extension of not more than 15 days for the requirements
4 of this subsection if:

5 (A) The energy supplier makes a showing of hardship caused by the
6 deadline;

7 (B) The energy supplier provides reasonable assurance that the energy
8 supplier can comply with the revised deadline; and

9 (C) The extension of time does not prevent the council or the
10 [*department*] **authority** from fulfilling its statutory responsibilities.

11 (i) As used in this section:

12 (A) “Energy resource supplier” means an electric utility, natural gas
13 utility or petroleum supplier supplying, generating, transmitting or distrib-
14 uting electricity, natural gas or petroleum products in Oregon.

15 **(B)(i) “Energy services program” means a program or activity**
16 **undertaken pursuant to the duties, functions and powers of the au-**
17 **thority that:**

18 **(I) Provides technical, research or policy support related to the**
19 **provision of energy to the state;**

20 **(II) Provides energy markets data and analysis; or**

21 **(III) Supports energy conservation, energy system resilience and**
22 **safety, energy storage, or the use or development of alternative energy**
23 **resources or fuels.**

24 **(ii) “Energy services program” does not mean the greenhouse gas**
25 **reporting program under ORS 468A.280 and rules adopted pursuant to**
26 **ORS 468A.280 or any program adopted by the Legislative Assembly and**
27 **administered by the authority to place a cap on anthropogenic**
28 **greenhouse gas emissions and to provide for a market-based mech-**
29 **anism for covered entities to demonstrate compliance with the pro-**
30 **gram.**

31 **[(B)] (C) “Gross operating revenue” means gross receipts from sales or**

1 service made or provided within this state during the regular course of the
2 energy supplier's business, but does not include either revenue derived from
3 interutility sales within the state or revenue received by a petroleum sup-
4 plier from the sale of fuels that are subject to the requirements of Article
5 IX, section 3a, of the Oregon Constitution, or ORS 319.020 or 319.530.

6 [(C)] (D) "Petroleum supplier" has the meaning given that term in ORS
7 469.020.

8 (j) In determining the amount of revenues that must be derived from any
9 class of energy resource suppliers by assessment pursuant to this subsection,
10 the director shall take into account all other known or readily ascertainable
11 sources of revenue to the council and [*department*] **authority**, including, but
12 not limited to, fees imposed under this section and federal funds, and may
13 take into account any funds previously assessed pursuant to ORS 469.420
14 (1979 Replacement Part) or section 7, chapter 792, Oregon Laws 1981.

15 (k) Orders issued by the director pursuant to this section shall be subject
16 to judicial review under ORS 183.484. The taking of judicial review shall not
17 operate to stay the obligation of an energy resource supplier to pay amounts
18 assessed to it on or before the statutory deadline.

19 (L) **No later than September 15 of each even-numbered year, the**
20 **Secretary of State shall conduct an audit to determine whether the**
21 **assessment and uses of the energy resource supplier assessment by the**
22 **authority during the previous biennium complied with the provisions**
23 **of this subsection. The secretary shall provide a copy of the audit re-**
24 **port issued for an audit under this section to the director and to the**
25 **Oregon Climate Board.**

26 (9)(a) In addition to any other fees required by law, each operator of a
27 nuclear fueled thermal power plant or nuclear installation within this state
28 shall pay to the [*department*] **authority** annually on July 1 an assessment
29 in an amount determined by the director to be necessary to fund the activ-
30 ities of the state and the counties associated with emergency preparedness
31 for a nuclear fueled thermal power plant or nuclear installation. The as-

1 assessment shall not exceed \$461,250 per year. Moneys collected as assessments
2 under this subsection are continuously appropriated to the [*department*] **au-**
3 **thority** for this purpose.

4 (b) The [*department*] **authority** shall maintain and cause other state
5 agencies and counties to maintain time and billing records for the expendi-
6 ture of any fees collected from an operator of a nuclear fueled thermal power
7 plant under paragraph (a) of this subsection.

8 (10) Reactors operated by a college, university or graduate center for re-
9 search purposes and electric utilities not connected to the Northwest Power
10 Grid are exempt from the fee requirements of subsections (5), (8) and (9) of
11 this section.

12 (11)(a) All fees assessed by the [*director*] **authority** against holders of site
13 certificates for facilities that have an installed capacity of 500 megawatts
14 or greater may be paid in several installments, the schedule for which shall
15 be negotiated between the [*director*] **authority** and the site certificate
16 holder.

17 (b) [*Energy resource suppliers or*] Applicants or holders of a site certifi-
18 cate who fail to pay a fee provided under subsections (1) to (9) of this sec-
19 tion after it is due and payable shall pay, in addition to that fee, a penalty
20 of two percent of the fee a month for the period that the fee is past due. Any
21 payment made according to the terms of a schedule negotiated under para-
22 graph (a) of this subsection shall not be considered past due. The director
23 may bring an action to collect an unpaid fee or penalty in the name of the
24 State of Oregon in a court of competent jurisdiction. The court may award
25 reasonable attorney fees to the director if the director prevails in an action
26 under this subsection. The court may award reasonable attorney fees to a
27 defendant who prevails in an action under this subsection if the court de-
28 termines that the director had no objectively reasonable basis for asserting
29 the claim or no reasonable basis for appealing an adverse decision of the
30 trial court.

31 **SECTION 28.** ORS 469.426 is amended to read:

1 469.426. (1) The Director of the [*State Department of Energy*] **Oregon**
2 **Climate Authority** shall convene an advisory work group composed of
3 stakeholders representing energy resource suppliers, the customers who ul-
4 timately pay for the energy supplier assessment imposed under ORS 469.421
5 (8) through their energy bills and other groups that have an interest in the
6 provision and regulation of energy in this state.

7 (2) The advisory work group shall review and make recommendations **to**
8 **the director** on [*the State Department of Energy's proposals related to*]:

9 [(a) *Planning, policy and technical analysis;*]

10 [(b) *Legislative concepts; and*]

11 [(c) *The department's requested budget.*]

12 (a) **Planning, policy and technical analysis as it pertains to the**
13 **provision of energy in this state;**

14 (b) **The programs of the Oregon Climate Authority that are energy**
15 **services programs, as that term is defined in ORS 469.421; and**

16 (c) **The portion of the authority's requested biennial budget that is**
17 **eligible for funding through the energy supplier assessment pursuant**
18 **to ORS 469.421 (8)(a).**

19 (3) The work group shall meet at least two times per year at the call of
20 the director.

21

22 **ENERGY PROGRAM REVIEW TASK FORCE**

23

24 **SECTION 29. (1) The Energy Program Review Task Force is estab-**
25 **lished.**

26 (2) **The task force consists of:**

27 (a) **Seven members appointed as follows:**

28 (A) **The President of the Senate shall appoint one member from**
29 **among the members of the Senate who also serves as a member of a**
30 **committee of the Legislative Assembly related to climate;**

31 (B) **The Speaker of the House of Representatives shall appoint one**

1 member from among the members of the House of Representatives
2 who also serves as a member of a committee of the Legislative As-
3 sembly related to climate; and

4 (C) The Director of the Oregon Climate Authority, subject to ap-
5 proval by the Oregon Climate Board, shall appoint five members who
6 represent the interests of key stakeholders of the Oregon Climate
7 Authority; and

8 (b) The following ex officio, voting members:

9 (A) The Director of the Oregon Department of Administrative Ser-
10 vices or a designee of the director;

11 (B) One member of the Public Utility Commission;

12 (C) The Director of the Department of Environmental Quality or a
13 designee of the director;

14 (D) The Director of the Department of Land Conservation and De-
15 velopment or a designee of the director; and

16 (E) A member of the office of the Governor and who serves as a
17 policy advisor to the Governor on issues related to climate.

18 (3) The task force shall:

19 (a) Review all the duties, functions and powers of the Oregon Cli-
20 mate Authority to assess whether the programs and activities carried
21 out pursuant to those duties, functions and powers properly align with
22 the policy stated in section 2 of this 2019 Act and the duties of the
23 authority provided for in section 3 of this 2019 Act; and

24 (b) Provide recommendations to the Governor and to the Legislative
25 Assembly, which may include recommendations for legislation, on
26 duties, functions and powers of the Oregon Climate Authority that
27 should be abolished, amended or transferred to other agencies of state
28 government in order to ensure that the programs and activities of the
29 Oregon Climate Authority properly align with the policy stated in
30 section 2 of this 2019 Act and the duties of the authority provided for
31 in section 3 of this 2019 Act.

1 (4) In conducting the duties provided for in subsection (3) of this
2 section, the task force shall take into consideration:

3 (a) Alignment of the duties, functions and powers of the Oregon
4 Climate Authority with the policy stated in section 2 of this 2019 Act
5 and the duties of the authority provided for in section 3 of this 2019
6 Act, and otherwise with the mission of the authority;

7 (b) The core staffing and expertise of the authority;

8 (c) The administrative capacities of the authority and other agen-
9 cies of state government relative to administering specific duties,
10 functions or powers of the authority; and

11 (d) The efficiencies that may be gained or lost by abolishing,
12 amending or transferring certain duties, functions or powers of the
13 authority.

14 (5) A majority of the voting members of the task force constitutes
15 a quorum for the transaction of business.

16 (6) Official action by the task force requires the approval of a ma-
17 jority of the voting members of the task force.

18 (7) The task force shall elect one of its members to serve as chair-
19 person.

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

22 (9) The task force shall meet at times and places specified by the
23 call of the chairperson or of a majority of the voting members of the
24 task force.

25 (10) The task force may adopt rules necessary for the operation of
26 the task force.

27 (11) The task force shall submit a report in the manner provided
28 by ORS 192.245, and may include recommendations for legislation, to
29 an interim committee of the Legislative Assembly related to climate
30 no later than September 15, 2021.

31 (12) The Oregon Climate Authority shall provide staff support to the

1 **task force.**

2 **(13) Members of the Legislative Assembly appointed to the task**
3 **force are nonvoting members of the task force and may act in an ad-**
4 **visory capacity only.**

5 **(14) Members of the task force who are not members of the Legis-**
6 **lative Assembly are not entitled to compensation or reimbursement**
7 **for expenses and serve as volunteers on the task force.**

8 **(15) All agencies of state government, as defined in ORS 174.111, are**
9 **directed to assist the task force in the performance of the duties of the**
10 **task force and, to the extent permitted by laws relating to**
11 **confidentiality, to furnish information and advice the members of the**
12 **task force consider necessary to perform their duties.**

13 **SECTION 30. Section 29 of this 2019 Act is repealed on December**
14 **31, 2021.**

15

16

(Housekeeping in ORS)

17

18 **SECTION 31. ORS 176.809 is amended to read:**

19 176.809. (1) The Governor, in consultation with the [*State Department of*
20 *Energy*] **Oregon Climate Authority** and the Oregon Business Development
21 Department, shall compile existing data and prepare an extensive statewide
22 contingency plan to maintain emergency services, continue productivity and
23 reduce hardship during an energy emergency.

24 (2) As used in this section, “energy emergency” means a severe fuel oil
25 shortage caused by international market conditions or hostilities, or any
26 other emergency threatening the availability of any energy resource neces-
27 sary to maintain essential services and transportation, the shortage of which
28 jeopardizes the health, safety and welfare of the people of the State of
29 Oregon.

30 **SECTION 32. ORS 176.820 is amended to read:**

31 176.820. There is continuously appropriated from the Motor Vehicle Divi-

1 sion Account to the [*State Department of Energy*] **Oregon Climate Au-**
2 **thority**, for deposit in the [*State Department of Energy*] **Oregon Climate**
3 **Authority** Account, sufficient moneys for the payment of expenses incurred
4 under chapter 606, Oregon Laws 1975, subject to limitations on payment of
5 expenses as approved under legislative authority.

6 **SECTION 33.** ORS 183.457 is amended to read:

7 183.457. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, and unless oth-
8 erwise authorized by another law, a person participating in a contested case
9 hearing conducted by an agency described in this subsection may be repres-
10 ented by an attorney or by an authorized representative subject to the pro-
11 visions of subsection (2) of this section. The Attorney General shall prepare
12 model rules for proceedings with lay representation that do not have the ef-
13 fect of precluding lay representation. No rule adopted by a state agency shall
14 have the effect of precluding lay representation. The agencies before which
15 an authorized representative may appear are:

16 (a) The State Landscape Contractors Board in the administration of the
17 Landscape Contractors Law.

18 (b) The [*State Department of Energy*] **Oregon Climate Authority** and the
19 Energy Facility Siting Council.

20 (c) The Environmental Quality Commission and the Department of Envi-
21 ronmental Quality.

22 (d) The Department of Consumer and Business Services for proceedings
23 in which an insured appears pursuant to ORS 737.505.

24 (e) The Department of Consumer and Business Services and any other
25 agency for the purpose of proceedings to enforce the state building code, as
26 defined by ORS 455.010.

27 (f) The State Fire Marshal in the Department of State Police.

28 (g) The Department of State Lands for proceedings regarding the issuance
29 or denial of fill or removal permits under ORS 196.800 to 196.825.

30 (h) The Public Utility Commission.

31 (i) The Water Resources Commission and the Water Resources Depart-

1 ment.

2 (j) The Land Conservation and Development Commission and the Depart-
3 ment of Land Conservation and Development.

4 (k) The State Department of Agriculture, for purposes of hearings under
5 ORS 215.705.

6 (L) The Bureau of Labor and Industries.

7 (2) A person participating in a contested case hearing as provided in
8 subsection (1) of this section may appear by an authorized representative if:

9 (a) The agency conducting the contested case hearing has determined that
10 appearance of such a person by an authorized representative will not hinder
11 the orderly and timely development of the record in the type of contested
12 case hearing being conducted;

13 (b) The agency conducting the contested case hearing allows, by rule,
14 authorized representatives to appear on behalf of such participants in the
15 type of contested case hearing being conducted; and

16 (c) The officer presiding at the contested case hearing may exercise dis-
17 cretion to limit an authorized representative's presentation of evidence, ex-
18 amination and cross-examination of witnesses, or presentation of factual
19 arguments to ensure the orderly and timely development of the hearing re-
20 cord, and shall not allow an authorized representative to present legal ar-
21 guments except to the extent authorized under subsection (3) of this section.

22 (3) The officer presiding at a contested case hearing in which an author-
23 ized representative appears under the provisions of this section may allow
24 the authorized representative to present evidence, examine and cross-examine
25 witnesses, and make arguments relating to the:

26 (a) Application of statutes and rules to the facts in the contested case;

27 (b) Actions taken by the agency in the past in similar situations;

28 (c) Literal meaning of the statutes or rules at issue in the contested case;

29 (d) Admissibility of evidence; and

30 (e) Proper procedures to be used in the contested case hearing.

31 (4) Upon judicial review, no limitation imposed by an agency presiding

1 officer on the participation of an authorized representative shall be the basis
2 for reversal or remand of agency action unless the limitation resulted in
3 substantial prejudice to a person entitled to judicial review of the agency
4 action.

5 (5) For the purposes of this section, “authorized representative” means a
6 member of a participating partnership, an authorized officer or regular em-
7 ployee of a participating corporation, association or organized group, or an
8 authorized officer or employee of a participating governmental authority
9 other than a state agency.

10 **SECTION 34.** ORS 183.530 is amended to read:

11 183.530. A housing cost impact statement shall be prepared upon the pro-
12 posal for adoption or repeal of any rule or any amendment to an existing rule
13 by:

14 (1) The Oregon Housing Stability Council;

15 (2) A building codes division of the Department of Consumer and Business
16 Services or any board associated with the department with regard to rules
17 adopted under ORS 455.610 to 455.630;

18 (3) The Land Conservation and Development Commission;

19 (4) The Environmental Quality Commission;

20 (5) The Construction Contractors Board;

21 (6) The Occupational Safety and Health Division of the Department of
22 Consumer and Business Services; or

23 (7) The [*State Department of Energy*] **Oregon Climate Authority.**

24 **SECTION 35.** ORS 192.355 is amended to read:

25 192.355. The following public records are exempt from disclosure under
26 ORS 192.311 to 192.478:

27 (1) Communications within a public body or between public bodies of an
28 advisory nature to the extent that they cover other than purely factual ma-
29 terials and are preliminary to any final agency determination of policy or
30 action. This exemption shall not apply unless the public body shows that in
31 the particular instance the public interest in encouraging frank communi-

1 cation between officials and employees of public bodies clearly outweighs the
2 public interest in disclosure.

3 (2)(a) Information of a personal nature such as but not limited to that
4 kept in a personal, medical or similar file, if public disclosure would consti-
5 tute an unreasonable invasion of privacy, unless the public interest by clear
6 and convincing evidence requires disclosure in the particular instance. The
7 party seeking disclosure shall have the burden of showing that public dis-
8 closure would not constitute an unreasonable invasion of privacy.

9 (b) Images of a dead body, or parts of a dead body, that are part of a law
10 enforcement agency investigation, if public disclosure would create an un-
11 reasonable invasion of privacy of the family of the deceased person, unless
12 the public interest by clear and convincing evidence requires disclosure in
13 the particular instance. The party seeking disclosure shall have the burden
14 of showing that public disclosure would not constitute an unreasonable in-
15 vasion of privacy.

16 (3) Upon compliance with ORS 192.363, public body employee or volunteer
17 residential addresses, residential telephone numbers, personal cellular tele-
18 phone numbers, personal electronic mail addresses, driver license numbers,
19 employer-issued identification card numbers, emergency contact information,
20 Social Security numbers, dates of birth and other telephone numbers con-
21 tained in personnel records maintained by the public body that is the em-
22 ployer or the recipient of volunteer services. This exemption:

23 (a) Does not apply to the addresses, dates of birth and telephone numbers
24 of employees or volunteers who are elected officials, except that a judge or
25 district attorney subject to election may seek to exempt the judge's or dis-
26 trict attorney's address or telephone number, or both, under the terms of
27 ORS 192.368;

28 (b) Does not apply to employees or volunteers to the extent that the party
29 seeking disclosure shows by clear and convincing evidence that the public
30 interest requires disclosure in a particular instance pursuant to ORS 192.363;

31 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when

1 requested by a professional education association of which the substitute
2 teacher may be a member; and

3 (d) Does not relieve a public employer of any duty under ORS 243.650 to
4 243.782.

5 (4) Information submitted to a public body in confidence and not other-
6 wise required by law to be submitted, where such information should rea-
7 sonably be considered confidential, the public body has obliged itself in good
8 faith not to disclose the information, and when the public interest would
9 suffer by the disclosure.

10 (5) Information or records of the Department of Corrections, including the
11 State Board of Parole and Post-Prison Supervision, to the extent that dis-
12 closure would interfere with the rehabilitation of a person in custody of the
13 department or substantially prejudice or prevent the carrying out of the
14 functions of the department, if the public interest in confidentiality clearly
15 outweighs the public interest in disclosure.

16 (6) Records, reports and other information received or compiled by the
17 Director of the Department of Consumer and Business Services in the ad-
18 ministration of ORS chapters 723 and 725 not otherwise required by law to
19 be made public, to the extent that the interests of lending institutions, their
20 officers, employees and customers in preserving the confidentiality of such
21 information outweighs the public interest in disclosure.

22 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

23 (8) Any public records or information the disclosure of which is prohib-
24 ited by federal law or regulations.

25 (9)(a) Public records or information the disclosure of which is prohibited
26 or restricted or otherwise made confidential or privileged under Oregon law.

27 (b) Subject to ORS 192.360, paragraph (a) of this subsection does not apply
28 to factual information compiled in a public record when:

29 (A) The basis for the claim of exemption is ORS 40.225;

30 (B) The factual information is not prohibited from disclosure under any
31 applicable state or federal law, regulation or court order and is not other-

1 wise exempt from disclosure under ORS 192.311 to 192.478;

2 (C) The factual information was compiled by or at the direction of an
3 attorney as part of an investigation on behalf of the public body in response
4 to information of possible wrongdoing by the public body;

5 (D) The factual information was not compiled in preparation for liti-
6 gation, arbitration or an administrative proceeding that was reasonably
7 likely to be initiated or that has been initiated by or against the public body;
8 and

9 (E) The holder of the privilege under ORS 40.225 has made or authorized
10 a public statement characterizing or partially disclosing the factual infor-
11 mation compiled by or at the attorney's direction.

12 (10) Public records or information described in this section, furnished by
13 the public body originally compiling, preparing or receiving them to any
14 other public officer or public body in connection with performance of the
15 duties of the recipient, if the considerations originally giving rise to the
16 confidential or exempt nature of the public records or information remain
17 applicable.

18 (11) Records of the Energy Facility Siting Council concerning the review
19 or approval of security programs pursuant to ORS 469.530.

20 (12) Employee and retiree address, telephone number and other nonfinan-
21 cial membership records and employee financial records maintained by the
22 Public Employees Retirement System pursuant to ORS chapters 238 and
23 238A.

24 (13) Records of or submitted to the State Treasurer, the Oregon Invest-
25 ment Council or the agents of the treasurer or the council relating to active
26 or proposed publicly traded investments under ORS chapter 293, including
27 but not limited to records regarding the acquisition, exchange or liquidation
28 of the investments. For the purposes of this subsection:

29 (a) The exemption does not apply to:

30 (A) Information in investment records solely related to the amount paid
31 directly into an investment by, or returned from the investment directly to,

1 the treasurer or council; or

2 (B) The identity of the entity to which the amount was paid directly or
3 from which the amount was received directly.

4 (b) An investment in a publicly traded investment is no longer active
5 when acquisition, exchange or liquidation of the investment has been con-
6 cluded.

7 (14)(a) Records of or submitted to the State Treasurer, the Oregon In-
8 vestment Council, the Oregon Growth Board or the agents of the treasurer,
9 council or board relating to actual or proposed investments under ORS
10 chapter 293 or 348 in a privately placed investment fund or a private asset
11 including but not limited to records regarding the solicitation, acquisition,
12 deployment, exchange or liquidation of the investments including but not
13 limited to:

14 (A) Due diligence materials that are proprietary to an investment fund,
15 to an asset ownership or to their respective investment vehicles.

16 (B) Financial statements of an investment fund, an asset ownership or
17 their respective investment vehicles.

18 (C) Meeting materials of an investment fund, an asset ownership or their
19 respective investment vehicles.

20 (D) Records containing information regarding the portfolio positions in
21 which an investment fund, an asset ownership or their respective investment
22 vehicles invest.

23 (E) Capital call and distribution notices of an investment fund, an asset
24 ownership or their respective investment vehicles.

25 (F) Investment agreements and related documents.

26 (b) The exemption under this subsection does not apply to:

27 (A) The name, address and vintage year of each privately placed invest-
28 ment fund.

29 (B) The dollar amount of the commitment made to each privately placed
30 investment fund since inception of the fund.

31 (C) The dollar amount of cash contributions made to each privately placed

1 investment fund since inception of the fund.

2 (D) The dollar amount, on a fiscal year-end basis, of cash distributions
3 received by the State Treasurer, the Oregon Investment Council, the Oregon
4 Growth Board or the agents of the treasurer, council or board from each
5 privately placed investment fund.

6 (E) The dollar amount, on a fiscal year-end basis, of the remaining value
7 of assets in a privately placed investment fund attributable to an investment
8 by the State Treasurer, the Oregon Investment Council, the Oregon Growth
9 Board or the agents of the treasurer, council or board.

10 (F) The net internal rate of return of each privately placed investment
11 fund since inception of the fund.

12 (G) The investment multiple of each privately placed investment fund
13 since inception of the fund.

14 (H) The dollar amount of the total management fees and costs paid on
15 an annual fiscal year-end basis to each privately placed investment fund.

16 (I) The dollar amount of cash profit received from each privately placed
17 investment fund on a fiscal year-end basis.

18 (15) The monthly reports prepared and submitted under ORS 293.761 and
19 293.766 concerning the Public Employees Retirement Fund and the Industrial
20 Accident Fund may be uniformly treated as exempt from disclosure for a
21 period of up to 90 days after the end of the calendar quarter.

22 (16) Reports of unclaimed property filed by the holders of such property
23 to the extent permitted by ORS 98.352.

24 (17)(a) The following records, communications and information submitted
25 to the Oregon Business Development Commission, the Oregon Business De-
26 velopment Department, the State Department of Agriculture, the Oregon
27 Growth Board, the Port of Portland or other ports as defined in ORS 777.005,
28 or a county or city governing body and any board, department, commission,
29 council or agency thereof, by applicants for investment funds, grants, loans,
30 services or economic development moneys, support or assistance including,
31 but not limited to, those described in ORS 285A.224:

1 (A) Personal financial statements.

2 (B) Financial statements of applicants.

3 (C) Customer lists.

4 (D) Information of an applicant pertaining to litigation to which the ap-
5 plicant is a party if the complaint has been filed, or if the complaint has not
6 been filed, if the applicant shows that such litigation is reasonably likely to
7 occur; this exemption does not apply to litigation which has been concluded,
8 and nothing in this subparagraph shall limit any right or opportunity
9 granted by discovery or deposition statutes to a party to litigation or po-
10 tential litigation.

11 (E) Production, sales and cost data.

12 (F) Marketing strategy information that relates to applicant's plan to
13 address specific markets and applicant's strategy regarding specific compet-
14 itors.

15 (b) The following records, communications and information submitted to
16 the [*State Department of Energy*] **Oregon Climate Authority** by applicants
17 for tax credits or for grants awarded under ORS 469B.256:

18 (A) Personal financial statements.

19 (B) Financial statements of applicants.

20 (C) Customer lists.

21 (D) Information of an applicant pertaining to litigation to which the ap-
22 plicant is a party if the complaint has been filed, or if the complaint has not
23 been filed, if the applicant shows that such litigation is reasonably likely to
24 occur; this exemption does not apply to litigation which has been concluded,
25 and nothing in this subparagraph shall limit any right or opportunity
26 granted by discovery or deposition statutes to a party to litigation or po-
27 tential litigation.

28 (E) Production, sales and cost data.

29 (F) Marketing strategy information that relates to applicant's plan to
30 address specific markets and applicant's strategy regarding specific compet-
31 itors.

1 (18) Records, reports or returns submitted by private concerns or enter-
2 prises required by law to be submitted to or inspected by a governmental
3 body to allow it to determine the amount of any transient lodging tax pay-
4 able and the amounts of such tax payable or paid, to the extent that such
5 information is in a form which would permit identification of the individual
6 concern or enterprise. Nothing in this subsection shall limit the use which
7 can be made of such information for regulatory purposes or its admissibility
8 in any enforcement proceedings. The public body shall notify the taxpayer
9 of the delinquency immediately by certified mail. However, in the event that
10 the payment or delivery of transient lodging taxes otherwise due to a public
11 body is delinquent by over 60 days, the public body shall disclose, upon the
12 request of any person, the following information:

13 (a) The identity of the individual concern or enterprise that is delinquent
14 over 60 days in the payment or delivery of the taxes.

15 (b) The period for which the taxes are delinquent.

16 (c) The actual, or estimated, amount of the delinquency.

17 (19) All information supplied by a person under ORS 151.485 for the pur-
18 pose of requesting appointed counsel, and all information supplied to the
19 court from whatever source for the purpose of verifying the financial eligi-
20 bility of a person pursuant to ORS 151.485.

21 (20) Workers' compensation claim records of the Department of Consumer
22 and Business Services, except in accordance with rules adopted by the Di-
23 rector of the Department of Consumer and Business Services, in any of the
24 following circumstances:

25 (a) When necessary for insurers, self-insured employers and third party
26 claim administrators to process workers' compensation claims.

27 (b) When necessary for the director, other governmental agencies of this
28 state or the United States to carry out their duties, functions or powers.

29 (c) When the disclosure is made in such a manner that the disclosed in-
30 formation cannot be used to identify any worker who is the subject of a
31 claim.

1 (d) When a worker or the worker's representative requests review of the
2 worker's claim record.

3 (21) Sensitive business records or financial or commercial information of
4 the Oregon Health and Science University that is not customarily provided
5 to business competitors.

6 (22) Records of Oregon Health and Science University regarding candi-
7 dates for the position of president of the university.

8 (23) The records of a library, including:

9 (a) Circulation records, showing use of specific library material by a
10 named person;

11 (b) The name of a library patron together with the address or telephone
12 number of the patron; and

13 (c) The electronic mail address of a patron.

14 (24) The following records, communications and information obtained by
15 the Housing and Community Services Department in connection with the
16 department's monitoring or administration of financial assistance or of
17 housing or other developments:

18 (a) Personal and corporate financial statements and information, includ-
19 ing tax returns.

20 (b) Credit reports.

21 (c) Project appraisals, excluding appraisals obtained in the course of
22 transactions involving an interest in real estate that is acquired, leased,
23 rented, exchanged, transferred or otherwise disposed of as part of the project,
24 but only after the transactions have closed and are concluded.

25 (d) Market studies and analyses.

26 (e) Articles of incorporation, partnership agreements and operating
27 agreements.

28 (f) Commitment letters.

29 (g) Project pro forma statements.

30 (h) Project cost certifications and cost data.

31 (i) Audits.

1 (j) Project tenant correspondence.

2 (k) Personal information about a tenant.

3 (L) Housing assistance payments.

4 (25) Raster geographic information system (GIS) digital databases, pro-
5 vided by private forestland owners or their representatives, voluntarily and
6 in confidence to the State Forestry Department, that is not otherwise re-
7 quired by law to be submitted.

8 (26) Sensitive business, commercial or financial information furnished to
9 or developed by a public body engaged in the business of providing electricity
10 or electricity services, if the information is directly related to a transaction
11 described in ORS 261.348, or if the information is directly related to a bid,
12 proposal or negotiations for the sale or purchase of electricity or electricity
13 services, and disclosure of the information would cause a competitive disad-
14 vantage for the public body or its retail electricity customers. This sub-
15 section does not apply to cost-of-service studies used in the development or
16 review of generally applicable rate schedules.

17 (27) Sensitive business, commercial or financial information furnished to
18 or developed by the City of Klamath Falls, acting solely in connection with
19 the ownership and operation of the Klamath Cogeneration Project, if the
20 information is directly related to a transaction described in ORS 225.085 and
21 disclosure of the information would cause a competitive disadvantage for the
22 Klamath Cogeneration Project. This subsection does not apply to cost-of-
23 service studies used in the development or review of generally applicable rate
24 schedules.

25 (28) Personally identifiable information about customers of a municipal
26 electric utility or a people's utility district or the names, dates of birth,
27 driver license numbers, telephone numbers, electronic mail addresses or So-
28 cial Security numbers of customers who receive water, sewer or storm drain
29 services from a public body as defined in ORS 174.109. The utility or district
30 may release personally identifiable information about a customer, and a
31 public body providing water, sewer or storm drain services may release the

1 name, date of birth, driver license number, telephone number, electronic mail
2 address or Social Security number of a customer, if the customer consents
3 in writing or electronically, if the disclosure is necessary for the utility,
4 district or other public body to render services to the customer, if the dis-
5 closure is required pursuant to a court order or if the disclosure is otherwise
6 required by federal or state law. The utility, district or other public body
7 may charge as appropriate for the costs of providing such information. The
8 utility, district or other public body may make customer records available
9 to third party credit agencies on a regular basis in connection with the es-
10 tablishment and management of customer accounts or in the event such ac-
11 counts are delinquent.

12 (29) A record of the street and number of an employee's address submitted
13 to a special district to obtain assistance in promoting an alternative to sin-
14 gle occupant motor vehicle transportation.

15 (30) Sensitive business records, capital development plans or financial or
16 commercial information of Oregon Corrections Enterprises that is not cus-
17 tomarily provided to business competitors.

18 (31) Documents, materials or other information submitted to the Director
19 of the Department of Consumer and Business Services in confidence by a
20 state, federal, foreign or international regulatory or law enforcement agency
21 or by the National Association of Insurance Commissioners, its affiliates or
22 subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to
23 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 723,
24 725 or 726, the Bank Act or the Insurance Code when:

25 (a) The document, material or other information is received upon notice
26 or with an understanding that it is confidential or privileged under the laws
27 of the jurisdiction that is the source of the document, material or other in-
28 formation; and

29 (b) The director has obligated the Department of Consumer and Business
30 Services not to disclose the document, material or other information.

31 (32) A county elections security plan developed and filed under ORS

1 254.074.

2 (33) Information about review or approval of programs relating to the
3 security of:

4 (a) Generation, storage or conveyance of:

5 (A) Electricity;

6 (B) Gas in liquefied or gaseous form;

7 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

8 (D) Petroleum products;

9 (E) Sewage; or

10 (F) Water.

11 (b) Telecommunication systems, including cellular, wireless or radio sys-
12 tems.

13 (c) Data transmissions by whatever means provided.

14 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the
15 Supreme Court designates the information as confidential by rule under ORS
16 1.002.

17 (35)(a) Employer account records of the State Accident Insurance Fund
18 Corporation.

19 (b) As used in this subsection, “employer account records” means all re-
20 cords maintained in any form that are specifically related to the account of
21 any employer insured, previously insured or under consideration to be in-
22 sured by the State Accident Insurance Fund Corporation and any informa-
23 tion obtained or developed by the corporation in connection with providing,
24 offering to provide or declining to provide insurance to a specific employer.
25 “Employer account records” includes, but is not limited to, an employer’s
26 payroll records, premium payment history, payroll classifications, employee
27 names and identification information, experience modification factors, loss
28 experience and dividend payment history.

29 (c) The exemption provided by this subsection may not serve as the basis
30 for opposition to the discovery documents in litigation pursuant to applicable
31 rules of civil procedure.

1 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

2 (b) As used in this subsection, “claimant files” includes, but is not limited
3 to, all records held by the corporation pertaining to a person who has made
4 a claim, as defined in ORS 656.005, and all records pertaining to such a
5 claim.

6 (c) The exemption provided by this subsection may not serve as the basis
7 for opposition to the discovery documents in litigation pursuant to applicable
8 rules of civil procedure.

9 (37) Except as authorized by ORS 408.425, records that certify or verify
10 an individual’s discharge or other separation from military service.

11 (38) Records of or submitted to a domestic violence service or resource
12 center that relate to the name or personal information of an individual who
13 visits a center for service, including the date of service, the type of service
14 received, referrals or contact information or personal information of a family
15 member of the individual. As used in this subsection, “domestic violence
16 service or resource center” means an entity, the primary purpose of which
17 is to assist persons affected by domestic or sexual violence by providing re-
18 ferrals, resource information or other assistance specifically of benefit to
19 domestic or sexual violence victims.

20 (39) Information reported to the Oregon Health Authority under ORS
21 431A.860, except as provided in ORS 431A.860 (2)(b) information disclosed by
22 the authority under ORS 431A.865 and any information related to disclosures
23 made by the authority under ORS 431A.865, including information identifying
24 the recipient of the information.

25 (40)(a) Electronic mail addresses in the possession or custody of an agency
26 or subdivision of the executive department, as defined in ORS 174.112, the
27 legislative department, as defined in ORS 174.114, a local government or lo-
28 cal service district, as defined in ORS 174.116, or a special government body,
29 as defined in ORS 174.117.

30 (b) This subsection does not apply to electronic mail addresses assigned
31 by a public body to public employees for use by the employees in the ordi-

1 nary course of their employment.

2 (c) This subsection and ORS 244.040 do not prohibit the campaign office
3 of the current officeholder or current candidates who have filed to run for
4 that elective office from receiving upon request the electronic mail addresses
5 used by the current officeholder's legislative office for newsletter distrib-
6 ution, except that a campaign office that receives electronic mail addresses
7 under this paragraph may not make a further disclosure of those electronic
8 mail addresses to any other person.

9 (41) Residential addresses, residential telephone numbers, personal cellu-
10 lar telephone numbers, personal electronic mail addresses, driver license
11 numbers, emergency contact information, Social Security numbers, dates of
12 birth and other telephone numbers of individuals currently or previously
13 certified or licensed by the Department of Public Safety Standards and
14 Training contained in the records maintained by the department.

15 (42) Personally identifiable information and contact information of veter-
16 ans as defined in ORS 408.225 and of persons serving on active duty or as
17 reserve members with the Armed Forces of the United States, National
18 Guard or other reserve component that was obtained by the Department of
19 Veterans' Affairs in the course of performing its duties and functions, in-
20 cluding but not limited to names, residential and employment addresses,
21 dates of birth, driver license numbers, telephone numbers, electronic mail
22 addresses, Social Security numbers, marital status, dependents, the character
23 of discharge from military service, military rating or rank, that the person
24 is a veteran or has provided military service, information relating to an ap-
25 plication for or receipt of federal or state benefits, information relating to
26 the basis for receipt or denial of federal or state benefits and information
27 relating to a home loan or grant application, including but not limited to
28 financial information provided in connection with the application.

29 **SECTION 36.** ORS 215.044 is amended to read:

30 215.044. (1) County governing bodies may adopt and implement solar ac-
31 cess ordinances. The ordinances shall provide and protect to the extent fea-

1 sible solar access to the south face of buildings during solar heating hours,
2 taking into account latitude, topography, microclimate, existing development,
3 existing vegetation and planned uses and densities. The county governing
4 body shall consider for inclusion in any solar access ordinance, but not be
5 limited to, standards for:

6 (a) The orientation of new streets, lots and parcels;

7 (b) The placement, height, bulk and orientation of new buildings;

8 (c) The type and placement of new trees on public street rights of way
9 and other public property; and

10 (d) Planned uses and densities to conserve energy, facilitate the use of
11 solar energy, or both.

12 [(2) *The State Department of Energy shall actively encourage and assist*
13 *county governing bodies' efforts to protect and provide for solar access.*]

14 [(3)] (2) As used in this section, "solar heating hours" means those hours
15 between three hours before and three hours after the sun is at its highest
16 point above the horizon on December 21.

17 **SECTION 37.** ORS 223.680 is amended to read:

18 223.680. (1) As used in this section:

19 (a) "Local government" means cities and counties.

20 (b) "Qualifying real property" means multifamily residential dwellings or
21 commercial or industrial buildings that the local government has determined
22 can be benefited by utilities improvements.

23 (c) "Utilities improvements" means improvements to qualifying real
24 property for any of the following purposes:

25 (A) Energy efficiency.

26 (B) Renewable energy.

27 (C) Energy storage.

28 (D) Smart electric vehicle charging stations.

29 (E) Water efficiency.

30 (2)(a) Subject to subsection (3) of this section, a local government may
31 establish a program to assist owners of record of qualifying real property in

1 financing cost-effective utilities improvements to the qualifying real prop-
2 erty.

3 (b) The utilities improvements must be authorized by:

4 (A) A local government implementing a program established under this
5 section; or

6 (B) The [*State Department of Energy*] **Oregon Infrastructure Finance**
7 **Authority Board** for a loan issued under subsection (10) of this section to
8 a local government that establishes a program in cooperation with a local
9 government described in subparagraph (A) of this paragraph.

10 (c) A program established pursuant to this subsection may provide for the
11 local government to:

12 (A) Make loans to owners financed with the net proceeds and interest
13 earnings of revenue bonds authorized by subsection (9) of this section;

14 (B) Facilitate private financing by the owners; or

15 (C) Make loans under subparagraph (A) of this paragraph and facilitate
16 private financing under subparagraph (B) of this paragraph.

17 (3) Before establishing a program under this section, the local government
18 shall provide notice to utilities that distribute electric energy, natural gas
19 or water within the areas in which the local government will operate the
20 program.

21 (4) A local government that establishes a program under this section may:

22 (a) Require performance of an energy or water audit on the qualifying
23 real property before the local government approves a loan for utilities im-
24 provements to the property;

25 (b) Impose requirements intended to ensure that the costs of the im-
26 provements financed under this section do not exceed the cumulative cost
27 savings of the improvements over the useful life of the improvements; and

28 (c) Impose requirements and conditions on loans or financing agreements
29 that are designed to ensure timely repayment.

30 (5)(a) If the owner of record of qualifying real property requests financing
31 pursuant to a program established under this section, subject to subsection

1 (6) of this section, the local government implementing the program may:

2 (A) Enter into a loan agreement with the owner, and any other person
3 benefited by the loan; or

4 (B) Facilitate a financing agreement for the owner, and any other person
5 benefited by the financing.

6 (b) A loan agreement or financing agreement entered into pursuant to
7 paragraph (a) of this subsection must be in a principal amount sufficient to
8 pay:

9 (A) The costs of utilities improvements the local government determines
10 will benefit the qualifying real property and the borrowers;

11 (B) The costs of the energy or water audit; and

12 (C) The costs and reserves of the program.

13 (c) A local government acting pursuant to paragraph (a) of this subsection
14 may:

15 (A) If the local government makes a loan, charge the borrower an interest
16 rate on the principal amount that is sufficient to pay the financing costs of
17 the loan program, including loan delinquencies; and

18 (B) Charge periodic fees to pay for program costs.

19 (6) A local government may not enter into a loan agreement, or facilitate
20 a financing agreement, under subsection (5) of this section unless the owner
21 has:

22 (a) Provided written notice to all mortgagees of the qualifying real prop-
23 erty that the owner intends to enter into a loan agreement or financing
24 agreement under this section; and

25 (b) Received written consent from the mortgagees stating that the loan
26 agreement or financing agreement entered into under this section does not
27 constitute an event of default or give rise to any remedies under the terms
28 of the mortgage loan agreements.

29 (7) The local government implementing a program established under this
30 section may:

31 (a) Secure a loan or financing with a lien on the benefited qualifying real

1 property with the same priority, as determined under ORS 223.230 (3), as a
2 lien for assessments for local improvements arising under ORS 223.393.

3 (b) Assess the benefited qualifying real property for the amounts due un-
4 der a loan agreement or financing agreement.

5 (c) Enforce a lien and collect an assessment authorized by this section
6 as provided in ORS 223.505 to 223.650.

7 (d) Secure a loan or financing in any other manner that the local gov-
8 ernment determines is reasonable.

9 (8)(a) In lieu of enforcing liens and collecting assessments as provided in
10 subsection (7)(c) of this section, a local government may certify the assess-
11 ment, in the manner provided in ORS 310.060, to the county assessor of each
12 county in which benefited qualifying real property is located.

13 (b) If the assessments are certified as provided in this subsection, the
14 county assessor shall:

15 (A) Enter the assessment upon the county assessment roll against the
16 property described in the certificate, in the manner that other local govern-
17 ment assessments are entered;

18 (B) Collect, account for and enforce the assessments in the manner that
19 local government property taxes are collected, accounted for and enforced;
20 and

21 (C) Transfer, as provided by law, the assessments collected to the local
22 government that imposed the assessment.

23 (9) A local government may issue revenue bonds pursuant to ORS
24 287A.150 to finance the costs of a program established under this section,
25 including the costs of making loans for utilities improvements.

26 (10) The [*State Department of Energy*] **Oregon Business Development**
27 **Department** may lend money under the provisions of ORS 470.060 to 470.080
28 and 470.090 to a local government that establishes a program under this
29 section in cooperation with a local government implementing a program un-
30 der this section.

31 **SECTION 38.** ORS 227.190 is amended to read:

1 227.190. (1) City councils may adopt and implement solar access ordi-
2 nances. The ordinances shall provide and protect to the extent feasible solar
3 access to the south face of buildings during solar heating hours, taking into
4 account latitude, topography, microclimate, existing development, existing
5 vegetation and planned uses and densities. The city council shall consider
6 for inclusion in any solar access ordinance, but not be limited to, standards
7 for:

8 (a) The orientation of new streets, lots and parcels;

9 (b) The placement, height, bulk and orientation of new buildings;

10 (c) The type and placement of new trees on public street rights of way
11 and other public property; and

12 (d) Planned uses and densities to conserve energy, facilitate the use of
13 solar energy, or both.

14 [(2) *The State Department of Energy shall actively encourage and assist city*
15 *councils' efforts to protect and provide for solar access.*]

16 [(3)] (2) As used in this section, "solar heating hours" means those hours
17 between three hours before and three hours after the sun is at its highest
18 point above the horizon on December 21.

19 **SECTION 39.** ORS 240.855 is amended to read:

20 240.855. (1) As used in this section:

21 (a) "State agency" means any state office, department, division, bureau,
22 board and commission, whether in the executive, legislative or judicial
23 branch.

24 (b) "Telecommute" means to work from the employee's home or from an
25 office near the employee's home, rather than from the principal place of
26 employment.

27 (2) It is the policy of the State of Oregon to encourage state agencies to
28 allow employees to telecommute when there are opportunities for improved
29 employee performance, reduced commuting miles or agency savings.

30 (3) Each state agency shall adopt a written policy that:

31 (a) Defines specific criteria and procedures for telecommuting;

1 (b) Is applied consistently throughout the agency; and

2 (c) Requires the agency, in exercising its discretion, to consider an em-
3 ployee request to telecommute in relation to the agency's operating and
4 customer needs.

5 (4) Each state agency that has an electronic bulletin board, home page
6 or similar means of communication shall post the policy adopted under sub-
7 section (3) of this section on the bulletin board, home page or similar site.

8 (5) The Oregon Department of Administrative Services[, *in consultation*
9 *with the State Department of Energy,*] shall provide a biennial report to the
10 Joint Committee on Technology, or a similar committee of the Legislative
11 Assembly, containing at least the following:

12 (a) The number of employees telecommuting;

13 (b) The number of trips, miles and hours of travel time saved annually;

14 (c) A summary of efforts made by the state agency to promote and en-
15 courage telecommuting;

16 (d) An evaluation of the effectiveness of efforts to encourage employees
17 to telecommute; and

18 (e) Such other matters as may be requested by the committee.

19 **SECTION 40.** ORS 244.050 is amended to read:

20 244.050. (1) On or before April 15 of each year the following persons shall
21 file with the Oregon Government Ethics Commission a verified statement of
22 economic interest as required under this chapter:

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

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

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

31 (d) The Deputy Attorney General.

1 (e) The Deputy Secretary of State.

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

5 (g) The president and vice presidents, or their administrative equivalents,
6 in each public university listed in ORS 352.002.

7 (h) The following state officers:

8 (A) Adjutant General.

9 (B) Director of Agriculture.

10 (C) Manager of State Accident Insurance Fund Corporation.

11 (D) Water Resources Director.

12 (E) Director of Department of Environmental Quality.

13 (F) Director of Oregon Department of Administrative Services.

14 (G) State Fish and Wildlife Director.

15 (H) State Forester.

16 (I) State Geologist.

17 (J) Director of Human Services.

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

19 (L) Director of the Department of State Lands.

20 (M) State Librarian.

21 (N) Administrator of Oregon Liquor Control Commission.

22 (O) Superintendent of State Police.

23 (P) Director of the Public Employees Retirement System.

24 (Q) Director of Department of Revenue.

25 (R) Director of Transportation.

26 (S) Public Utility Commissioner.

27 (T) Director of Veterans' Affairs.

28 (U) Executive director of Oregon Government Ethics Commission.

29 (V) Director of the [*State Department of Energy*] **Oregon Climate Au-**
30 **thority.**

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

- 1 (X) Director of the Department of Corrections.
- 2 (Y) Director of the Oregon Department of Aviation.
- 3 (Z) Executive director of the Oregon Criminal Justice Commission.
- 4 (AA) Director of the Oregon Business Development Department.
- 5 (BB) Director of the Office of Emergency Management.
- 6 (CC) Director of the Employment Department.
- 7 (DD) Chief of staff for the Governor.
- 8 (EE) Director of the Housing and Community Services Department.
- 9 (FF) State Court Administrator.
- 10 (GG) Director of the Department of Land Conservation and Development.
- 11 (HH) Board chairperson of the Land Use Board of Appeals.
- 12 (II) State Marine Director.
- 13 (JJ) Executive director of the Oregon Racing Commission.
- 14 (KK) State Parks and Recreation Director.
- 15 (LL) Public defense services executive director.
- 16 (MM) Chairperson of the Public Employees' Benefit Board.
- 17 (NN) Director of the Department of Public Safety Standards and Training.
- 18 (OO) Executive director of the Higher Education Coordinating Commis-
19 sion.
- 20 (PP) Executive director of the Oregon Watershed Enhancement Board.
- 21 (QQ) Director of the Oregon Youth Authority.
- 22 (RR) Director of the Oregon Health Authority.
- 23 (SS) Deputy Superintendent of Public Instruction.
- 24 (i) The First Partner, the legal counsel, the deputy legal counsel and all
25 policy advisors within the Governor's office.
- 26 (j) Every elected city or county official.
- 27 (k) Every member of a city or county planning, zoning or development
28 commission.
- 29 (L) The chief executive officer of a city or county who performs the duties
30 of manager or principal administrator of the city or county.
- 31 (m) Members of local government boundary commissions formed under

1 ORS 199.410 to 199.519.

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

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

6 (p) The chief administrative officer and the financial officer of each
7 common and union high school district, education service district and com-
8 munity college district.

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

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

12 (B) Oregon Business Development Commission.

13 (C) State Board of Education.

14 (D) Environmental Quality Commission.

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

16 (F) State Board of Forestry.

17 (G) Oregon Government Ethics Commission.

18 (H) Oregon Health Policy Board.

19 (I) Oregon Investment Council.

20 (J) Land Conservation and Development Commission.

21 (K) Oregon Liquor Control Commission.

22 (L) Oregon Short Term Fund Board.

23 (M) State Marine Board.

24 (N) Mass transit district boards.

25 (O) Energy Facility Siting Council.

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

27 (Q) Employment Relations Board.

28 (R) Public Employees Retirement Board.

29 (S) Oregon Racing Commission.

30 (T) Oregon Transportation Commission.

31 (U) Water Resources Commission.

- 1 (V) Workers' Compensation Board.
2 (W) Oregon Facilities Authority.
3 (X) Oregon State Lottery Commission.
4 (Y) Pacific Northwest Electric Power and Conservation Planning Council.
5 (Z) Columbia River Gorge Commission.
6 (AA) Oregon Health and Science University Board of Directors.
7 (BB) Capitol Planning Commission.
8 (CC) Higher Education Coordinating Commission.
9 (DD) Oregon Growth Board.
10 (EE) Early Learning Council.
11 (r) The following officers of the State Treasurer:
12 (A) Deputy State Treasurer.
13 (B) Chief of staff for the office of the State Treasurer.
14 (C) Director of the Investment Division.
15 (s) Every member of the board of commissioners of a port governed by
16 ORS 777.005 to 777.725 or 777.915 to 777.953.
17 (t) Every member of the board of directors of an authority created under
18 ORS 441.525 to 441.595.
19 (u) Every member of a governing board of a public university listed in
20 ORS 352.002.
21 (v) Every member of the board of directors of an authority created under
22 ORS 465.600 to 465.621.
23 (2) By April 15 next after the date an appointment takes effect, every
24 appointed public official on a board or commission listed in subsection (1)
25 of this section shall file with the Oregon Government Ethics Commission a
26 statement of economic interest as required under ORS 244.060, 244.070 and
27 244.090.
28 (3) By April 15 next after the filing deadline for the primary election,
29 each candidate described in subsection (1) of this section shall file with the
30 commission a statement of economic interest as required under ORS 244.060,
31 244.070 and 244.090.

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

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

10 (6) If a statement required to be filed under this section has not been re-
11 ceived by the commission within five days after the date the statement is
12 due, the commission shall notify the public official or candidate and give the
13 public official or candidate not less than 15 days to comply with the re-
14 quirements of this section. If the public official or candidate fails to comply
15 by the date set by the commission, the commission may impose a civil pen-
16 alty as provided in ORS 244.350.

17 **SECTION 41.** ORS 261.151 is amended to read:

18 261.151. Upon certification of a petition for formation or adoption of a
19 resolution by the county governing body for district formation, the county
20 clerk shall submit a copy of the resolution or petition, without signatures
21 attached, to the Director of the [*State Department of Energy*] **Oregon Cli-**
22 **mate Authority.** Not less than 30 days after receipt of the petition or re-
23 solution copy, the director shall hold a hearing within the proposed district
24 for the purpose of receiving public testimony on the proposed district for-
25 mation. Notice of the hearing, stating the time and place of the hearing, to-
26 gether with the electors' petition, when applicable, without the signatures
27 attached, shall be published at least two times prior to the date of the
28 meeting. The first publication shall not be more than 25 days nor less than
29 15 days preceding the hearing and the last publication shall not be more than
30 14 days nor less than eight days preceding the hearing. Within 60 days after
31 receipt of the petition or resolution copy, the director[, *with the advice and*

1 *assistance of the Public Utility Commission of Oregon,]* shall prepare and
2 publish a concise report showing the availability and cost of power re-
3 sources, potential tax consequences and any other information considered by
4 the director to be relevant to the proposed formation of the district. A copy
5 of the report shall be mailed, upon publication, by the director to the county
6 governing body.

7 **SECTION 42.** ORS 261.161 is amended to read:

8 261.161. (1) After certification of a petition, or passage of the resolution
9 when the formation, annexation or consolidation proposal is by resolution
10 of the county governing body, the county governing body shall, within 10
11 days, fix a date for a hearing on the boundaries described in the electors'
12 petition or resolution of the county governing body for inclusion in the
13 proposed or established district. The hearing shall be held by the county
14 governing body not less than 60 days nor more than 90 days after certifica-
15 tion of the petition or passage of the resolution. Notice of the hearing,
16 stating the time and place of the meeting, together with the electors' peti-
17 tion, when applicable, without the signatures attached, shall be published
18 at least two times prior to the date of the meeting. The first publication shall
19 not be more than 25 days nor less than 15 days preceding the hearing and
20 the last publication shall not be more than 14 days nor less than eight days
21 preceding the hearing. Notice of the hearing, and all other publications re-
22 quired by this chapter, shall be published in at least one newspaper of gen-
23 eral circulation in the proposed or established district. The hearing may be
24 adjourned from time to time, but shall not exceed four weeks in total length.
25 Public testimony shall be taken at the hearing.

26 (2) Based upon the record of the hearing prescribed in subsection (1) of
27 this section on the proposed boundaries and, if district formation is proposed,
28 the report of the Director of the [*State Department of Energy*] **Oregon Cli-**
29 **mate Authority** under ORS 261.151, the county governing body within 10
30 days of the last date of hearing shall determine the boundaries of the pro-
31 posed or established district.

1 (3) No lands shall be included in the boundaries fixed by the governing
2 body lying outside the boundaries described in the electors' petition unless
3 the owners of that land request inclusion in writing before the hearing under
4 subsection (1) of this section is completed.

5 (4) An electors' petition shall not be denied by a county governing body
6 because of any deficiency in the description of the boundaries of the proposed
7 district, but the county governing body shall correct those deficiencies.

8 **SECTION 43.** ORS 261.225 is amended to read:

9 261.225. (1) The [*State Department of Energy, the Public Utility Commis-*
10 *sion of Oregon*] **Oregon Climate Authority** and any privately owned utility
11 serving the affected territory shall cooperate in providing information and
12 data as requested by a people's utility district for construction or acquisition
13 of the initial utility system.

14 (2) As requested, the [*State Department of Energy and the Public Utility*
15 *Commission of Oregon*] **Oregon Climate Authority** shall provide copies of
16 records on file pertinent to the operation of a utility system.

17 (3) As requested, the privately owned utility serving the affected territory
18 shall provide data and records regarding the affected territory including:

19 (a) Peak load and monthly variations of load required to serve the terri-
20 tory;

21 (b) Load requirements of various classifications of users;

22 (c) Gross revenue;

23 (d) Distribution costs, including operation, maintenance and debt retire-
24 ment;

25 (e) Inventory of assets by type and value;

26 (f) List of customers with customer addresses;

27 (g) Amount of money loaned to each customer for conservation activity;
28 and

29 (h) Replacement value of an investor owned utility's unreimbursed in-
30 vestment in energy efficiency measures and installations within the territory.

31 **SECTION 44.** ORS 261.470 is amended to read:

1 261.470. (1) The board shall adopt the effective uniform system of accounts
2 prescribed by the Federal Energy Regulatory Commission and require that
3 accounting for receipts and disbursements for the district be accomplished
4 in accordance with said system of accounts.

5 (2) The board shall file with the Director of the [*State Department of*
6 *Energy*] **Oregon Climate Authority** and with the county clerk of each
7 county included within the boundaries of the district an annual report in the
8 form required by the Federal Energy Regulatory Commission.

9 (3) An annual audit shall be made in the manner provided in ORS 297.405
10 to 297.555. A copy of such audit shall be filed with each county clerk of the
11 county in which the district or any portion of the boundaries of the district
12 is located, and in the office of the Secretary of State and in the office of the
13 Director of the [*State Department of Energy*] **Oregon Climate Authority**,
14 where it shall remain a public record.

15 **SECTION 45.** ORS 262.025 is amended to read:

16 262.025. A joint operating agency shall be formed and come into existence
17 by order of the Director of the [*State Department of Energy*] **Oregon Climate**
18 **Authority** in accordance with the following procedures:

19 (1) The legislative body of each city and people's utility district desiring
20 to form and be a member of a joint operating agency shall adopt an ordi-
21 nance declaring their intention and authorizing formation and membership.
22 The ordinance shall be effective only if submitted to the electors of the city
23 or people's utility district voting on the ordinance at any general election
24 or at a special election called for that purpose. The ordinance shall include:

25 (a) A statement of the purpose or purposes for which the joint operating
26 agency is to be formed.

27 (b) A finding by the legislative body that the formation of a joint oper-
28 ating agency is necessary or desirable in order to plan for and provide an
29 adequate supply of electric energy to meet the needs of the customers of
30 publicly owned utilities in Oregon.

31 (c) A statement of the projected energy loads and resources relied upon

1 by the legislative body to support such finding.

2 (d) A general description of the means by which the joint operating
3 agency proposes to accomplish its purposes, including a description of any
4 specific utility properties then identified as a proposed activity of the joint
5 operating agency.

6 (e) A statement of the financial contribution, if any, to be made by the
7 city or district to the joint operating agency at the time of organization as
8 a condition of membership.

9 (2) Upon such approval of such an ordinance or ordinances, each such city
10 and district shall file with the director an application to form and be a
11 member of a joint operating agency. The application shall:

12 (a) State the proposed name of the operating agency, the proposed address
13 of its principal business office, and the purpose or purposes for which it is
14 to be formed;

15 (b) Contain a certified copy of the ordinance of each applicant city and
16 district as approved by the electors; and

17 (c) State generally how the joint operating agency proposes to accomplish
18 its purposes.

19 (3) The director shall cause notice of an application to be published
20 forthwith in the bulletin referred to in ORS 183.360. Such notice shall:

21 (a) Summarize fairly the contents of the application;

22 (b) Fix a date not less than 20 nor more than 30 days after the date of
23 publication prior to which interested parties may submit in writing any data,
24 views, or arguments with respect to the application; and

25 (c) Fix a date not less than 30 nor more than 60 days after the date of
26 publication for the entry of an order approving or disapproving an applica-
27 tion.

28 (4) In considering the application, the director shall give full and fair
29 consideration to all data, views and arguments submitted on behalf of the
30 applicants or any other interested person.

31 (5) On or before the date fixed in subsection (3)(c) of this section, the

1 director shall enter an order establishing the joint operating agency in ac-
2 cordance with the application if the director finds (a) that the statements set
3 forth in the application are substantially correct; (b) that formation of the
4 proposed joint operating agency is necessary or desirable to plan for or
5 provide an adequate supply of electric energy to meet the needs of the cus-
6 tomers of publicly owned utilities in Oregon; and (c) that adequate provision
7 has been or can be made for financing the activities of the joint operating
8 agency. The joint operating agency shall be established as of the date of such
9 order.

10 (6) If the director finds that the application is not in the required form
11 or that additional data is required to support the application, the director
12 shall enter an order so finding. Such an order shall not preclude the appli-
13 cants from filing a revised application based upon the same approved ordi-
14 nances.

15 (7) If the director does not enter an order as authorized under subsection
16 (5) or (6) of this section within 60 days after the date of publication, the
17 application shall be considered approved, and the joint operating agency
18 shall be established as of such 60th day.

19 (8) A joint operating agency, organized as provided by this section shall
20 have all of the powers and responsibilities contained in ORS 262.005 to
21 262.105.

22 (9) Any party who has joined in filing an application in accordance with
23 this section, or who has filed timely objections to such application, and who
24 feels aggrieved by any finding or order of the director shall have the right
25 of judicial review pursuant to ORS 183.480.

26 **SECTION 46.** ORS 262.065 is amended to read:

27 262.065. (1) Except as permitted in ORS 262.085, the treasurer shall be
28 custodian of all funds of the joint operating agency and shall pay them out
29 only by order of the board, except as provided in subsection (2) of this sec-
30 tion.

31 (2) The board may delegate to the treasurer standing authority to make

1 payments of routine expenses as defined by the board.

2 (3) Before the treasurer enters upon the treasurer's duties, the treasurer
3 shall give bond or an irrevocable letter of credit to the joint operating
4 agency in an amount which the board finds by resolution will protect the
5 agency against loss, conditioned for the faithful discharge of duties and fur-
6 ther conditioned that all funds which the treasurer receives as treasurer will
7 be faithfully kept and accounted for. Any letter of credit shall be issued by
8 an insured institution, as defined in ORS 706.008. The amount of the
9 treasurer's bond may be increased or decreased from time to time as the
10 board may by resolution direct. The surety on any such bond shall be a
11 corporate surety authorized to do business in this state. The premiums on
12 the bond or the fee for issuing the letter of credit of the treasurer shall be
13 paid by the joint operating agency.

14 (4) All moneys of the joint operating agency shall be deposited by the
15 treasurer in depositories designated by the board of directors, with such se-
16 curity as may be prescribed by the board. The treasurer shall establish a
17 general fund and such special funds as may be created by the board, to which
18 the treasurer shall credit all funds of the joint operating agency as the board
19 by motion or resolution may direct.

20 (5)(a) The board shall adopt the uniform system of accounts prescribed
21 from time to time by the Federal Energy Regulatory Commission and require
22 that accounting for receipts and disbursements for the joint operating agency
23 be accomplished in accordance with the uniform system of accounts.

24 (b) The board shall file with the Director of the [*State Department of*
25 *Energy*] **Oregon Climate Authority** an annual report in the form required
26 by the Federal Energy Regulatory Commission.

27 (c) An annual audit shall be made in the manner provided in ORS 297.405
28 to 297.555. A copy of such audit shall be filed in the office of the Secretary
29 of State and in the office of the Director of the [*State Department of*
30 *Energy*] **Oregon Climate Authority**.

31 (6)(a) The board of each joint operating agency may appoint a manager.

1 The manager shall be appointed for such term and receive such salary as the
2 board shall fix by resolution. Appointments and removals of the manager
3 shall be by resolutions adopted by a majority vote.

4 (b) In case of absence or temporary disability of the manager, the board
5 shall designate an acting manager.

6 (c) The manager shall be chief administrative officer of the joint operat-
7 ing agency, shall have control of the administrative functions of the joint
8 operating agency and shall be responsible to the board for efficient admin-
9 istration of all affairs of the joint operating agency placed in the manager's
10 charge. The manager may attend meetings of the board and its committees
11 and take part in discussion of any matters pertaining to the manager's du-
12 ties, but shall have no vote. The manager shall:

13 (A) Carry out orders of the board and see that all laws of this state per-
14 taining to matters within the functions of the joint operating agency are
15 duly enforced;

16 (B) Keep the board advised as to the financial condition and needs of the
17 joint operating agency;

18 (C) Prepare an annual estimate for the ensuing fiscal year of the probable
19 expenses of the joint operating agency, and recommend to the board what
20 development work should be undertaken, and any extensions and additions
21 which should be made during the ensuing fiscal year, with an estimate of the
22 costs of such development work, extensions and additions;

23 (D) Certify to the board all bills, allowances and payrolls, including
24 claims due contractors of public works;

25 (E) Recommend to the board appropriate salaries of the employees of the
26 office, and scale of salaries or wages to be paid for different classes of ser-
27 vice required by the joint operating agency;

28 (F) Hire and discharge clerks, laborers and other employees under the
29 manager's direction; and

30 (G) Perform such other duties as may be imposed by the board.

31 **SECTION 47.** ORS 267.030 is amended to read:

1 267.030. (1) To the maximum extent possible, motor vehicles subject to the
2 control of a district shall use alternative fuel for operation.

3 (2) To the extent that it is economically and technologically possible, all
4 motor vehicles purchased or leased by the board of the district shall be ca-
5 pable of using alternative fuel. However, this subsection does not apply if
6 the vehicle will be primarily used in an area that does not have and cannot
7 reasonably be expected to establish an alternative fuel refueling station or
8 if the district is unable to secure financing sufficient to cover additional
9 costs resulting from the requirement of this subsection.

10 (3) Prior to July 1 of each year, the board of the district shall submit an
11 annual report to the Department of Environmental Quality and the [*State*
12 *Department of Energy*] **Oregon Climate Authority**. The report shall contain
13 at a minimum:

14 (a) The number of purchases and leases of vehicles capable of using al-
15 ternative fuel;

16 (b) The number of conversions of vehicles from the use of gasoline or
17 diesel fuel to the use of alternative fuel;

18 (c) The quantity of each type of alternative fuel used; and

19 (d) Any other information required by the department [*of Environmental*
20 *Quality and the State Department of Energy*] **or the authority** to carry out
21 [*their*] **the department's or the authority's** functions under subsection (4)
22 of this section.

23 (4) If the department [*of Environmental Quality and State Department of*
24 *Energy determine*] **or the authority determines** that the use of alternative
25 fuel required by this section has been effective in reducing total annual
26 motor vehicle emissions in the district, the motor vehicles subject to the
27 control of the board of the district shall be capable of using alternative fuel,
28 to the maximum extent possible.

29 (5) The board of the district shall comply with all safety standards es-
30 tablished by the United States Department of Transportation in the conver-
31 sion, operation and maintenance of vehicles using alternative fuel.

1 (6) As used in this section, “alternative fuel” means any fuel determined
2 by the Department of Environmental Quality to be less polluting than con-
3 ventional gasoline, including but not necessarily limited to reformulated
4 gasoline, low sulfur diesel fuel, natural gas, liquefied petroleum gas,
5 methanol, ethanol, any fuel mixture containing at least 85 percent methanol
6 or ethanol and electricity.

7 **SECTION 48.** ORS 267.517 is amended to read:

8 267.517. (1) To the maximum extent possible, motor vehicles subject to the
9 control of a transportation district established under ORS 267.510 to 267.650
10 having a city within the district with a population exceeding 30,000 shall use
11 alternative fuel for operation.

12 (2) To the extent that it is economically and technologically possible, all
13 motor vehicles purchased or leased by the board of the district shall be ca-
14 pable of using alternative fuel. However, this subsection does not apply if
15 the vehicle will be primarily used in an area that does not have and cannot
16 reasonably be expected to establish an alternative fuel refueling station or
17 if the district is unable to secure financing sufficient to cover additional
18 costs resulting from the requirement of this subsection.

19 (3) Prior to July 1 of each year, the board of the district shall submit an
20 annual report to the Department of Environmental Quality and the [*State*
21 *Department of Energy*] **Oregon Climate Authority**. The report shall contain
22 at a minimum:

23 (a) The number of purchases and leases of vehicles capable of using al-
24 ternative fuel;

25 (b) The number of conversions of vehicles from the use of gasoline or
26 diesel fuel to the use of alternative fuel;

27 (c) The quantity of each type of alternative fuel used; and

28 (d) Any other information required by the department [*of Environmental*
29 *Quality and the State Department of Energy*] **or the authority** to carry out
30 their functions under subsection (4) of this section.

31 (4) If the department [*of Environmental Quality and State Department of*

1 *Energy determine]* **and the authority determine** that the use of alternative
 2 fuel required by this section has been effective in reducing total annual
 3 motor vehicle emissions in the district, the motor vehicles subject to the
 4 control of the board of the district shall be capable of using alternative fuel,
 5 to the maximum extent possible.

6 (5) The board of the district shall comply with all safety standards es-
 7 tablished by the United States Department of Transportation in the conver-
 8 sion, operation and maintenance of vehicles using alternative fuel.

9 (6) As used in this section, “alternative fuel” means any fuel determined
 10 by the Department of Environmental Quality to be less polluting than con-
 11 ventional gasoline, including but not necessarily limited to reformulated
 12 gasoline, low sulfur diesel fuel, natural gas, liquefied petroleum gas,
 13 methanol, ethanol, any fuel mixture containing at least 85 percent methanol
 14 or ethanol and electricity.

15 **SECTION 49.** ORS 276.910 is amended to read:

16 276.910. (1) Before constructing or renovating a major facility, an au-
 17 thorized state agency shall, after comparing various equipment options and
 18 to the greatest extent practicable, use fuel cell power systems for emergency
 19 backup power applications and for critical power applications in lieu of other
 20 equipment options.

21 (2)(a) The [*State Department of Energy*] **Oregon Climate Authority** shall,
 22 in consultation with the Oregon Department of Administrative Services,
 23 adopt rules establishing criteria for the comparison of fuel cell power sys-
 24 tems and other equipment options required by subsection (1) of this section.

25 (b) Criteria to be established under this subsection must address:

26 (A) The impact of emissions, including but not limited to nitrous oxide,
 27 sulfur oxide, carbon monoxide, carbon dioxide and particulates, from various
 28 equipment options, on the environment, regardless of whether the equipment
 29 is installed indoors or installed outdoors;

30 (B) Life cycle costs, including but not limited to acquisition costs, in-
 31 stallation and commissioning costs, siting and permitting costs, maintenance

1 costs and fueling and decommissioning costs; and

2 (C) The complexity of equipment options and any ancillary equipment.

3 **SECTION 50.** ORS 276.915 is amended to read:

4 276.915. (1) An authorized state agency may construct or renovate a fa-
5 cility only if the authorized state agency determines that the design incor-
6 porates all reasonable cost-effective energy conservation measures and
7 alternative energy systems. The determination by the authorized state agency
8 shall include consideration of indoor air quality issues and operation and
9 maintenance costs.

10 (2) Whenever an authorized state agency determines that a major facility
11 is to be constructed or renovated, the authorized state agency shall cause to
12 be included in the design phase of the construction or renovation a provision
13 that requires an energy consumption analysis to be prepared for the facility
14 under the direction of a professional engineer or registered architect or un-
15 der the direction of a person that is prequalified in accordance with this
16 section. The authorized state agency and the [*State Department of Energy*]
17 **Oregon Climate Authority** shall agree to the list of energy conservation
18 measures and alternative energy systems that the energy consumption anal-
19 ysis will include. The energy consumption analysis and facility design shall
20 be delivered to the [*State Department of Energy*] **Oregon Climate Authority**
21 during the design development phase of the facility design. The [*State De-*
22 *partment of Energy*] **Oregon Climate Authority** shall review the energy
23 consumption analysis and forward its findings to the authorized state agency
24 within 10 working days after receiving the energy consumption analysis, if
25 practicable.

26 (3) The [*State Department of Energy*] **Oregon Climate Authority**, in
27 consultation with authorized state agencies, shall adopt rules to carry out
28 the provisions of ORS 276.900 to 276.915. These rules shall:

29 (a) Include a simplified and usable method for determining which energy
30 conservation measures and alternative energy systems are cost-effective. The
31 method shall reflect the energy costs of the utility serving the facility.

1 (b) Prescribe procedures for determining if a facility design incorporates
2 all reasonable cost-effective energy conservation measures and alternative
3 energy systems.

4 (c) Establish fees through which an authorized state agency will reim-
5 burse the [*State Department of Energy*] **Oregon Climate Authority** for the
6 [*department's*] **authority's** review of energy consumption analyses and facil-
7 ity designs and the [*department's*] **authority's** reporting tasks. The fees im-
8 posed may not exceed 0.2 percent of the capital construction cost of the
9 facility and must be included in the energy consumption analysis required
10 in subsection (2) of this section. The [*State Department of Energy*] **Oregon**
11 **Climate Authority** may provide for a waiver of fees and reviews if the au-
12 thorized state agency demonstrates that the facility will be designed and
13 constructed in a manner that incorporates only cost-effective energy conser-
14 vation measures or in a manner that exceeds the energy conservation pro-
15 visions of the state building code by 20 percent or more.

16 (d) Periodically define highly efficient facilities. A facility constructed or
17 renovated after June 30, 2001, shall exceed the energy conservation pro-
18 visions of the state building code by 20 percent or more, unless otherwise
19 required by rules adopted under this section.

20 (e) Establish guidelines for implementing subsection (4) of this section.

21 (f) Establish guidelines for incorporating energy efficiency requirements
22 into lease agreements of 10 or more years to be phased in as current lease
23 agreements expire or as new lease agreements are entered into, allowing
24 reasonable time for the owner to implement the requirements of this section.

25 (g) Establish criteria by which the [*State Department of Energy*] **Oregon**
26 **Climate Authority** determines that a person is prequalified to perform work
27 in accordance with this section.

28 (4) Before June 30, 2015, an authorized state agency shall reduce the total
29 amount of energy the authorized state agency uses in the authorized state
30 agency's owned facilities by at least 20 percent from a baseline amount the
31 [*State Department of Energy*] **Oregon Climate Authority** determines by rule

1 based on usage in calendar year 2000.

2 (5) An authorized state agency shall report annually to the [*State De-*
 3 *partment of Energy*] **Oregon Climate Authority** concerning energy use in
 4 the authorized state agency's facilities. The [*State Department of Energy*]
 5 **Oregon Climate Authority** shall specify by rule the form and content of
 6 and deadlines for the reports.

7 (6) An authorized state agency that fails to achieve and maintain a 20
 8 percent reduction in energy use on and after June 30, 2015, shall submit
 9 biennial energy conservation plans to the [*State Department of Energy*]
 10 **Oregon Climate Authority**. The [*State Department of Energy*] **Ore-**
 11 **gion Climate Authority** shall specify by rule the form and content of and deadlines
 12 for the energy conservation plans.

13 (7) The [*State Department of Energy*] **Director of the Oregon Climate**
 14 **Authority** by rule may require mandatory prequalification as a condition for
 15 a person to submit a bid or proposal to perform the following work for an
 16 authorized state agency:

17 (a) Direct an energy consumption analysis for an authorized state agency
 18 under subsection (2) of this section, unless the person is a professional en-
 19 gineer or a registered architect;

20 (b) Enter into an energy savings performance contract; or

21 (c) Perform energy audits, building commissioning, monitoring and ver-
 22 ification services and other services related to the operation and manage-
 23 ment of a facility's energy systems, except for architectural, engineering,
 24 photogrammetric mapping, transportation planning or land surveying ser-
 25 vices as defined in ORS 279C.100.

26 (8) The [*State Department of Energy*] **Oregon Climate Authority** may
 27 recover from authorized state agencies the costs associated with administer-
 28 ing the provisions of this section, including costs associated with adopting
 29 rules, maintaining a state energy use database and prequalifying a person
 30 under this section.

31 (9) The [*State Department of Energy*] **Oregon Climate Authority** and the

1 Oregon Department of Administrative Services shall jointly prepare a
2 biennial report summarizing the progress toward achieving the goals of this
3 section. The biennial report shall be made available to the public.

4 **SECTION 51.** ORS 279A.065 is amended to read:

5 279A.065. (1) The Attorney General shall prepare and maintain model
6 rules that specify procedures for public contracting under the Public Con-
7 tracting Code and that are appropriate for all contracting agencies to use.
8 The Attorney General may devise and publish forms for use with the model
9 rules. The Attorney General shall adopt the model rules in accordance with
10 ORS chapter 183. Before adopting or amending a model rule, the Attorney
11 General shall consult with the Director of the Oregon Department of Ad-
12 ministrative Services, the Director of Transportation, representatives of
13 county governments, representatives of city governments, representatives of
14 school boards and other knowledgeable persons.

15 (2) The Attorney General shall adopt model rules that specify procedures
16 for all contracting agencies to use to enter into energy savings performance
17 contracts. Before adopting or amending a rule under this subsection, the
18 Attorney General shall consult with the Oregon Department of Administra-
19 tive Services, the [*State Department of Energy*] **Oregon Climate**
20 **Authority**, local contracting agencies and other knowledgeable persons. The
21 Attorney General may develop standard contract forms for use with energy
22 savings performance contracts.

23 (3)(a) The Attorney General shall adopt model rules that specify proce-
24 dures for all contracting agencies to use to procure construction
25 manager/general contractor services. Before adopting or amending a rule
26 under this subsection, the Attorney General shall consult with the Director
27 of the Oregon Department of Administrative Services, the Director of
28 Transportation, local contracting agencies, construction contractors, con-
29 struction subcontractors and other knowledgeable persons.

30 (b) Notwithstanding subsection (6) of this section, a contracting agency
31 may not adopt the contracting agency's own rules for procuring construction

1 manager/general contractor services.

2 (4) After each legislative session, the Attorney General shall review all
3 laws the Legislative Assembly passed that affect public contracting to de-
4 termine if the Attorney General should amend or repeal a model rule pre-
5 pared under this section or adopt a new rule. If the Attorney General
6 determines that a modification of the model rules is necessary, the Attorney
7 General shall prepare the modification within such time as to allow the
8 modification to take effect no later than 120 days after the effective date of
9 the legislation that caused the Attorney General to modify the rule. The
10 Attorney General may prepare a modification to take effect 121 or more days
11 after the effective date of the legislation if the Attorney General, in a notice
12 to the state agencies and persons listed in subsection (1) of this section,
13 specifies when the modification will take effect.

14 (5) A contracting agency that has not adopted the contracting agency's
15 own rules of procedure in accordance with subsection (6) of this section is
16 subject to the model rules the Attorney General adopts under this section,
17 including all modifications to the model rules that the Attorney General may
18 adopt.

19 (6)(a) A contracting agency may adopt the contracting agency's own rules
20 of procedure for public contracts that:

21 (A) Specifically state that the model rules the Attorney General adopts
22 under this section do not apply to the contracting agency; and

23 (B) Prescribe the rules of procedure that the contracting agency will use
24 for public contracts, which may include portions of the model rules the At-
25 torney General adopts.

26 (b) A contracting agency that adopts rules under this subsection shall
27 review the rules each time the Attorney General modifies the model rules
28 under this section to determine whether the contracting agency should
29 modify the contracting agency's rules to ensure compliance with statutory
30 changes.

31 **SECTION 52.** ORS 279C.527 is amended to read:

1 279C.527. (1) As used in this section and ORS 279C.528:

2 (a)(A) “Green energy technology” means a system that employs:

3 (i) Solar or geothermal energy directly for space or water heating or to
4 generate electricity; or

5 (ii) Building design that uses solar energy passively to reduce energy use
6 from other sources by at least 20 percent from a level required under ORS
7 276.900 to 276.915 or achieved in buildings constructed according to state
8 building code standards that the Department of Consumer and Business
9 Services approves under ORS 455.496.

10 (B) “Green energy technology” does not include a system that:

11 (i) Uses water, groundwater or the ground as a heat source at temper-
12 atures less than 140 degrees Fahrenheit, or less than 128 degrees Fahrenheit
13 if the system is used for a public school building; or

14 (ii) Incorporates solar energy indirectly into other methods for generating
15 energy, such as from the action of waves on water, from hydroelectric facil-
16 ities or from wind-powered turbines.

17 (b) “Public building” means a building that a public body, as defined in
18 ORS 174.109, owns or controls, and that is:

19 (A) Used or occupied by employees of the public body; or

20 (B) Used for conducting public business.

21 (c)(A) “Woody biomass energy technology” means a system that, for space
22 or water heating or as a combined heat and power system, uses a boiler with
23 a lower heating value combustion efficiency of at least 80 percent and that
24 uses as fuel material from trees and woody plants, such as limbs, tops, nee-
25 dles, leaves and other woody parts, that:

26 (i) Grows in a forest, a woodland, a farm, a rangeland or a wildland that
27 borders on an urban area; and

28 (ii) Is a by-product of forest management, agriculture, ecosystem restora-
29 tion or fire prevention or related activities.

30 (B) “Woody biomass energy technology” does not include a system that
31 uses for fuel:

1 (i) Wood pieces that have been treated with creosote, pentachlorophenol,
2 chromated copper arsenate or other chemical preservatives; or

3 (ii) Municipal solid waste.

4 (2)(a) Except as otherwise provided in this section, a contracting agency
5 that intends to enter into a public improvement contract for constructing a
6 public building or for reconstructing or performing a major renovation of a
7 public building, if the cost of the reconstruction or major renovation exceeds
8 50 percent of the value of the public building, shall first make a determi-
9 nation under subsection (3) of this section as to whether green energy tech-
10 nology is appropriate for the public building and, if the contracting agency
11 determines that green energy technology is appropriate, shall ensure that the
12 public improvement contract provides an amount equal to at least 1.5 percent
13 of the total contract price for the purpose of including appropriate green
14 energy technology as part of the construction, reconstruction or major ren-
15 ovation of the public building.

16 (b) A public improvement contract to construct, reconstruct or renovate
17 a public building may provide for constructing green energy technology at
18 a site that is located away from the site of the public building if:

19 (A) Constructing green energy technology away from the site of the public
20 building and using the energy from the green energy technology at the site
21 of the public building is more cost-effective, taking into account additional
22 costs associated with transmitting generated energy to the site of the public
23 building, than is constructing and using green energy technology at the site
24 of the public building;

25 (B) The green energy technology that is located away from the site of the
26 public building is located within this state and in the same county as, or in
27 a county adjacent to, the site of the public building; and

28 (C) The public improvement contract provides that all of the moneys for
29 constructing green energy technology away from the site of the public
30 building must fund new energy generating capacity that does not replace or
31 constitute a purchase and use of energy generated from green energy tech-

1 nology that:

2 (i) Employs solar energy and that existed on the date that the original
3 building permit for the public building was issued; or

4 (ii) Employs geothermal energy and for which construction was completed
5 before January 1, 2013.

6 (c) In evaluating whether a contracting agency can construct green en-
7 ergy technology at a site away from the site of the public building in ac-
8 cordance with paragraph (b)(A) of this subsection, the contracting agency
9 shall compare the costs of constructing green energy technology that em-
10 ploys a particular fuel source or method of energy generation at the site of
11 the public building only with the corresponding costs of green energy tech-
12 nology that employs the same fuel source or method of energy generation at
13 a location away from the site of the public building.

14 (d)(A) As an alternative to including appropriate green energy technology
15 as part of the construction, reconstruction or major renovation of a public
16 building, a contracting agency may include woody biomass energy technology
17 as part of constructing, reconstructing or performing a major renovation on
18 the public building if the woody biomass energy technology creates new en-
19 ergy generation capacity that did not exist on the date on which the original
20 building permit for the public building was issued, the contracting agency
21 has considered the potential costs of the woody biomass energy technology
22 and:

23 (i) The facility that uses woody biomass energy technology is located in
24 an area of the state that complies with standards that the Department of
25 Environmental Quality has adopted for emissions of particulate matter; or

26 (ii) The contracting agency demonstrates to the Department of Environ-
27 mental Quality, if the facility that uses woody biomass energy technology is
28 located in an area that does not comply with standards the department has
29 adopted for emissions of particulate matter, that one of the following two
30 conditions applies:

31 (I) The fuel that the woody biomass energy technology uses is pelletized;

1 or

2 (II) The woody biomass energy technology produces particulate matter
3 emissions at the same level as, or a lower level than, a functionally equiv-
4 alent system that is capable of producing the same energy output and that
5 uses fuel that is pelletized.

6 (B) Notwithstanding a contracting agency's demonstrations in accordance
7 with subparagraph (A)(ii) of this paragraph, the Department of Environ-
8 mental Quality may require additional emissions control technologies or
9 specifications before the contracting agency may include woody biomass en-
10 ergy technology in the construction, reconstruction or major renovation of
11 a public building.

12 (3) In making a determination as to whether green energy technology is
13 appropriate, or whether woody biomass energy technology is a suitable al-
14 ternative to green energy technology, in constructing, reconstructing or
15 performing a major renovation of a public building, a contracting agency
16 shall list in the determination the total contract price and specify the
17 amount the agency intends to expend on including green energy technology
18 or woody biomass energy technology as part of the construction, recon-
19 struction or major renovation. The [*State Department of Energy*] **Oregon**
20 **Climate Authority** shall develop a form that a contracting agency may use
21 to prepare the written determination described in this subsection.

22 (4)(a) If the contracting agency determines that green energy technology
23 is not appropriate for the public building, subsection (2) of this section does
24 not apply to the public improvement contract, except that if the contracting
25 agency determines that woody biomass energy technology is a suitable al-
26 ternative, the contracting agency will make the determination specified in
27 subsection (3) of this section for the woody biomass energy technology. A
28 contracting agency's determination under this paragraph must consider
29 whether constructing green energy technology or woody biomass energy
30 technology at the site of the public building is appropriate and whether
31 constructing green energy technology or woody biomass energy technology

1 away from the site of the public building and in accordance with subsection
2 (2)(b) and (c) of this section, or with subsection (2)(d) of this section, as ap-
3 plicable, is appropriate.

4 (b) If subsection (2) of this section does not apply to the public improve-
5 ment contract:

6 (A) The contracting agency shall spend an amount equal to at least 1.5
7 percent of the total contract price to include appropriate green energy tech-
8 nology or woody biomass energy technology as part of a future public
9 building project; and

10 (B) The amount the contracting agency spends on the future public
11 building project in accordance with subparagraph (A) of this paragraph is in
12 addition to any amount required under subsection (2) of this section for in-
13 cluding appropriate green energy technology or woody biomass energy tech-
14 nology as part of the future public building project.

15 (5)(a) A contracting agency need not set aside the amount described in
16 subsection (4)(b) of this section in an account or otherwise reserve moneys
17 for a future public building at the time the contracting agency makes the
18 determination described in subsection (3) of this section, but the contracting
19 agency shall report the amount described in subsection (4)(b) of this section
20 to the [*State Department of Energy*] **Oregon Climate Authority** as provided
21 in ORS 279C.528 (2).

22 (b) Subsection (4)(b) of this section does not apply to a public improve-
23 ment contract for which state funds are not directly or indirectly used.

24 (6)(a) This section does not exempt an authorized state agency, as defined
25 in ORS 276.905, from complying with ORS 276.900 to 276.915, except that an
26 authorized state agency, without complying with ORS 276.900 to 276.915, may
27 determine that green energy technology or woody biomass energy technology
28 is appropriate to include as part of constructing, reconstructing or perform-
29 ing a major renovation of a public building.

30 (b) A contracting agency may not use an amount described in subsection
31 (4)(b) of this section to comply with requirements set forth in ORS 276.900

1 to 276.915 or with a state building code standard that the Department of
2 Consumer and Business Services approves under ORS 455.496.

3 (7) Notwithstanding the provisions of ORS 174.108 (3), this section applies
4 to intergovernmental entities described in ORS 174.108 (3).

5 **SECTION 53.** ORS 279C.528 is amended to read:

6 279C.528. (1) Each contracting agency, in soliciting, awarding and ad-
7 ministering public improvement contracts that are subject to ORS 279C.527,
8 is subject to rules the [*State Department of Energy*] **Director of the Oregon**
9 **Climate Authority** adopts that include, but are not limited to, requirements
10 and specifications for:

- 11 (a) Using particular green energy technologies in public improvements;
- 12 (b) Determining the cost-effectiveness of green energy technologies;
- 13 (c) Submitting documents required under ORS 279C.527 to the
14 [*department*] **Oregon Climate Authority** for review; and
- 15 (d) Determining whether a structure is a public building subject to the
16 requirements of ORS 279C.527.

17 (2)(a) Each contracting agency shall collect and maintain information
18 concerning the contracting agency's compliance with ORS 279C.527, which
19 must include, at a minimum:

20 (A) Records that show how the contracting agency spent moneys the
21 contracting agency used in including appropriate green energy technology
22 or woody biomass energy technology as part of constructing, reconstructing
23 or performing a major renovation of a public building;

24 (B) An identification of each public improvement contract for which the
25 contracting agency spent moneys to include appropriate green energy tech-
26 nology or woody biomass energy technology as part of constructing, recon-
27 structing or performing a major renovation of a public building;

28 (C) An identification of each public improvement contract for which the
29 contracting agency determined that including green energy technology or
30 woody biomass energy technology as part of constructing, reconstructing or
31 performing a major renovation of a public building was not appropriate;

1 (D) The total amount the contracting agency would have spent on each
2 public improvement contract identified in subparagraph (C) of this paragraph
3 and the total aggregated amount that the contracting agency must spend to
4 include green energy technology or woody biomass energy technology as part
5 of constructing, reconstructing or performing a major renovation of a future
6 public building; and

7 (E) An identification of each public improvement contract that uses
8 moneys the contracting agency did not spend in a previous public improve-
9 ment contract for including appropriate green energy technology or woody
10 biomass energy technology as part of constructing, reconstructing or per-
11 forming a major renovation of a public building.

12 (b) Each contracting agency shall compile the information the contracting
13 agency collected under paragraph (a) of this subsection and report the in-
14 formation to the [*department*] **authority** at times, in a manner and on forms
15 that the [*department*] **director** specifies by rule.

16 (c) The [*department*] **authority** shall:

17 (A) Compile and summarize the information the [*department*] **authority**
18 receives under paragraph (b) of this subsection and, in the [*department's*]
19 **authority's** compilation and summary, specifically:

20 (i) Identify contracting agencies that have not complied with the re-
21 quirements of ORS 279C.527 or the reporting requirements set forth in para-
22 graph (b) of this subsection;

23 (ii) Identify public improvement contracts for which contracting agencies
24 have determined that including green energy technology or woody biomass
25 energy technology as part of constructing, reconstructing or performing a
26 major renovation of a public building was not appropriate; and

27 (iii) Identify public improvement contracts that use moneys a contracting
28 agency did not spend in a previous public improvement contract on including
29 appropriate green energy technology or woody biomass energy technology as
30 part of constructing, reconstructing or performing a major renovation of a
31 public building.

1 (B) Deliver annually to the Legislative Assembly, on or before the date
2 on which each regular session of the Legislative Assembly begins, a report
3 concerning contracting agency compliance with this section and ORS
4 279C.527 that includes the compilation and summary the [*department*] **au-**
5 **thority** prepared under subparagraph (A) of this paragraph.

6 **SECTION 54.** ORS 283.337 is amended to read:

7 283.337. Prior to December 31 of each year, each agency owning motor
8 vehicles shall submit an annual report to the Department of Environmental
9 Quality and the [*State Department of Energy*] **Oregon Climate Authority**.
10 The report shall contain at a minimum:

11 (1) The number of vehicles acquired that are capable of using alternative
12 fuel;

13 (2) The number of vehicles converted from the use of gasoline to the use
14 of alternative fuel;

15 (3) The quantity of each type of alternative fuel used; and

16 (4) Any other information required by the Department of Environmental
17 Quality and the [*State Department of Energy*] **Oregon Climate Authority**.

18 **SECTION 55.** Section 1, chapter 63, Oregon Laws 2016, is amended to
19 read:

20 **Sec. 1.** (1) As used in this section:

21 (a) “Investor-owned utility” means an investor-owned utility, as defined
22 in ORS 469.631, that distributes electricity.

23 (b) “Nameplate capacity” means the maximum rated output of a genera-
24 tor, inverter or other electric power production equipment measured in al-
25 ternating current under specific conditions designated by the manufacturer
26 of the equipment.

27 (c) “Publicly owned utility” has the meaning given that term in ORS
28 469.649.

29 (d) “Solar photovoltaic energy system” means equipment and devices that
30 have the primary purpose of collecting solar energy and generating electric-
31 ity by photovoltaic effect.

1 (2) The Oregon Business Development Department shall establish a pro-
2 gram to incentivize the generation of electricity derived from solar energy.
3 In establishing the program, the department shall:

4 (a) Prescribe the form and manner by which the owner or operator of a
5 solar photovoltaic energy system may apply to participate in the program;

6 (b) Require an owner or operator of a solar photovoltaic energy system
7 applying to participate in the program to submit a plan to complete con-
8 struction of the solar photovoltaic energy system and begin to generate
9 electricity within one year after being enrolled in the program;

10 (c) Enroll in the program applicants that own or operate solar
11 photovoltaic energy systems qualified to be included in the program;

12 (d) Limit the cumulative nameplate capacity of solar photovoltaic energy
13 systems included in the program that are owned or operated by a single
14 program enrollee, and any business affiliated with the program enrollee, to
15 35 megawatts; and

16 (e) Close the program to new applicants on the earlier of the following
17 dates:

18 (A) The date on which all solar photovoltaic energy systems included in
19 the program have a cumulative nameplate capacity of 150 megawatts; or

20 (B) January 2, 2017.

21 (3)(a) To participate in the program, an owner or operator of a solar
22 photovoltaic energy system must demonstrate to the satisfaction of the de-
23 partment that the solar photovoltaic energy system is qualified to be in-
24 cluded in the program. A solar photovoltaic energy system is qualified to be
25 included in the program if the solar photovoltaic energy system:

26 (A) Is located in this state;

27 (B) Has a nameplate capacity of at least two megawatts;

28 (C) Has a nameplate capacity of no more than 10 megawatts;

29 (D) Has a commercial operations date, as specified in a power purchase
30 agreement, of January 1, 2016, or later;

31 (E) Is either directly connected to the electrical system of an investor-

1 owned utility or publicly owned utility, or is indirectly connected to the
2 electrical system of an investor-owned utility or publicly owned utility in a
3 manner that the department determines is acceptable for program enrollees;

4 (F) Has a meter or other device that monitors and measures the quantity
5 of energy generated by the solar photovoltaic energy system; and

6 (G) Meets any other siting, design, interconnection, installation and
7 electric output standards required by the laws of this state.

8 (b) An investor-owned utility or a publicly owned utility that owns a
9 qualified solar photovoltaic energy system is eligible to participate in the
10 program.

11 (4)(a) Subject to paragraphs (b) and (c) of this subsection, for the purpose
12 of incentivizing the generation of electricity derived from solar energy, the
13 department shall make a monthly payment to a program enrollee for a solar
14 photovoltaic energy system that generates electricity for an amount that
15 equals one-half cent per kilowatt hour of electricity generated by the solar
16 photovoltaic energy system during the preceding month. Payments shall
17 continue for five years after the date on which the department makes the
18 initial payment to the program enrollee for energy generated by the solar
19 photovoltaic energy system.

20 (b) Beginning one year after a program enrollee is enrolled in the pro-
21 gram, for each month that the program enrollee's solar photovoltaic energy
22 system does not generate electricity, the department shall reduce by one
23 month the number of monthly payments otherwise required to be paid to the
24 program enrollee under paragraph (a) of this subsection for that solar
25 photovoltaic energy system.

26 (c) If by two years after a program enrollee is enrolled in the program the
27 program enrollee's solar photovoltaic energy system has not generated elec-
28 tricity, the department shall remove the solar photovoltaic energy system
29 from the program established under this section and the program enrollee
30 may not receive any payments otherwise required to be paid to the program
31 enrollee under paragraph (a) of this subsection for that solar photovoltaic

1 energy system.

2 (5) Before enrolling an applicant as described in subsection (2)(c) of this
3 section, the Oregon Business Development Department shall:

4 (a) Consult with the [*State Department of Energy*] **Oregon Climate Au-**
5 **thority** to ensure that:

6 (A) A proposed solar photovoltaic energy system is qualified as described
7 in subsection (3) of this section; and

8 (B) The solar photovoltaic energy system, if not generating electricity on
9 the date of application, is likely to begin generating electricity no later than
10 one year after the date on which the owner or operator of the solar
11 photovoltaic energy system applies to be included in the program; and

12 (b) If applicable, consult with the Public Utility Commission to ensure
13 that the costs associated with a solar photovoltaic energy system will be
14 recoverable pursuant to a schedule submitted to and approved by the com-
15 mission in accordance with ORS 757.205 and 757.210 or pursuant to other
16 applicable provisions of law providing for the recovery of costs borne by
17 investor-owned utilities.

18 (6) The owner of a solar photovoltaic energy system included in the pro-
19 gram established under this section:

20 (a) Also owns all renewable energy certificates established under ORS
21 469A.130 that are associated with the generation of electricity by the solar
22 photovoltaic energy system; and

23 (b) Is not eligible to receive funds under ORS 757.612 (3)(b)(B) unless the
24 funds are received pursuant to an agreement entered into before [*the effective*
25 *date of this 2016 Act*] **March 16, 2016**.

26 (7) The Oregon Business Development Department may adopt rules to
27 implement this section.

28 (8) The department shall submit a report on implementing this section in
29 the manner provided by ORS 192.245 to an interim committee of the Legis-
30 lative Assembly related to energy no later than September 15 of each odd-
31 numbered year.

1 **SECTION 56.** ORS 285C.559 is amended to read:

2 285C.559. (1) Under the procedures for a contested case under ORS chap-
3 ter 183, the Director of the Oregon Business Development Department may
4 order the suspension or revocation of the certificate issued under ORS
5 285C.553 or 469B.161 if the director finds that:

- 6 (a) The certification was obtained by fraud or misrepresentation;
7 (b) The holder of the certificate or the operator of the facility has failed
8 to construct or operate the facility in compliance with the plans, specifica-
9 tions and procedures in the certificate or the performance agreement; or
10 (c) The facility is no longer in operation.

11 (2) As soon as the order of revocation under this section becomes final,
12 the director shall notify the Department of Revenue, the facility owner,
13 contract purchaser or lessee and any transferee under ORS 285C.549 of the
14 order of revocation. Upon notification, the Department of Revenue imme-
15 diately shall proceed to collect:

16 (a) In the case in which no portion of a certificate has been transferred
17 under ORS 285C.549, those taxes not paid by the certificate holder as a result
18 of the tax credits provided to the certificate holder under ORS 315.341, from
19 the certificate holder or a successor in interest to the business interests of
20 the certificate holder. All prior tax credits provided to the holder of the
21 certificate by virtue of the certificate shall be forfeited.

22 (b) In the case in which all or a portion of a certificate has been trans-
23 ferred under ORS 285C.549, the maximum theoretical amount of the tax
24 credits allowable under ORS 315.341, from the transferor.

25 (3)(a) The Department of Revenue shall have the benefit of all laws of this
26 state pertaining to the collection of income and excise taxes and may proceed
27 to collect the amounts described in subsection (2) of this section from the
28 person that obtained certification from the [*State Department of Energy*]
29 **Oregon Climate Authority** or from the Oregon Business Development De-
30 partment, or any successor in interest to the business interests of that per-
31 son. No assessment of tax shall be necessary and no statute of limitation

1 shall preclude the collection of taxes described in this subsection.

2 (b) For purposes of this subsection, a lender, bankruptcy trustee or other
3 person that acquires an interest through bankruptcy or through foreclosure
4 of a security interest is not considered to be a successor in interest to the
5 business interests of the person that obtained certification.

6 (4) Notwithstanding subsections (1) to (3) of this section, a certificate or
7 portion of a certificate held by a transferee under ORS 285C.549 may not be
8 considered revoked for purposes of the transferee, the tax credit allowable
9 to the transferee under ORS 315.341 may not be reduced and a transferee is
10 not liable under subsections (2) and (3) of this section.

11 **SECTION 57.** ORS 286A.630 is amended to read:

12 286A.630. (1) The Legislative Assembly finds that the American Recovery
13 and Reinvestment Act of 2009 (P.L. 111-5) provides that the State of Oregon
14 may receive, allocate and reallocate the authority to issue certain kinds of
15 state and local government bonds that qualify for tax credits, federal subsi-
16 dies or exclusion of bond interest from gross income under the United States
17 Internal Revenue Code of 1986, as amended.

18 (2) As described in subsections (3) to (6) of this section, state agencies and
19 the Private Activity Bond Committee may allocate and reallocate or take
20 any additional actions that are desirable to maximize the benefits of bonding
21 programs created or expanded by the American Recovery and Reinvestment
22 Act of 2009 (P.L. 111-5).

23 (3) The Department of Education, with the approval of the Governor, may
24 allocate, reallocate and otherwise manage this state's qualified school con-
25 struction bonding authority.

26 (4) The Oregon Business Development Department may allocate, reallo-
27 cate and otherwise manage this state's recovery zone economic development
28 bonding authority and this state's recovery zone facility bonding authority.

29 (5) The [*State Department of Energy*] **Oregon Climate Authority** may
30 allocate, reallocate and otherwise manage this state's qualified energy con-
31 servation bonding authority.

1 (6) The Private Activity Bond Committee may allocate, reallocate and
2 otherwise manage any bonding authority that is created or expanded by the
3 American Recovery and Reinvestment Act of 2009 (P.L. 111-5) if that re-
4 sponsibility is not assigned to a state agency by this section, or if an agency
5 that is assigned that responsibility requests the Private Activity Bond Com-
6 mittee to allocate that authority on behalf of that agency.

7 (7) The Department of Education, the Oregon Business Development De-
8 partment, the [*State Department of Energy*] **Director of the Oregon Climate**
9 **Authority** and the Private Activity Bond Committee may adopt rules to
10 implement the provisions of this section including, but not limited to, rules
11 prescribing:

12 (a) Application processes and requirements to receive a subsequent allo-
13 cation or reallocation;

14 (b) Standards upon which an allocation or reallocation may be based; and

15 (c) Any conditions that must be met to receive an allocation or reallo-
16 cation of the bonding authority or to receive the benefits of such bonding
17 authority.

18 **SECTION 58.** ORS 286A.710 is amended to read:

19 286A.710. As used in ORS 286A.710 to 286A.720:

20 (1) “Article XI-D bonds” means general obligation bonds issued under the
21 authority of Article XI-D of the Oregon Constitution.

22 (2) “Bond-related costs” means:

23 (a) The costs of paying the principal of, the interest on and the premium,
24 if any, on Article XI-D bonds;

25 (b) The costs and expenses of issuing, administering and maintaining Ar-
26 ticle XI-D bonds including, but not limited to, redeeming Article XI-D bonds
27 and paying amounts due in connection with credit enhancements or the ad-
28 ministrative costs and expenses of the State Treasurer, the [*State Department*
29 *of Energy*] **Oregon Climate Authority** and the Oregon Department of Ad-
30 ministrative Services, including costs of consultants or advisers retained by
31 the State Treasurer, the [*State Department of Energy*] **Oregon Climate Au-**

1 **thority** or the Oregon Department of Administrative Services for the purpose
2 of issuing, administering or maintaining Article XI-D bonds;

3 (c) Capitalized interest on Article XI-D bonds;

4 (d) Costs of funding reserves for Article XI-D bonds, including costs of
5 surety bonds and similar instruments;

6 (e) Rebates or penalties due the United States Government in connection
7 with Article XI-D bonds; and

8 (f) Other costs or expenses that the Director of the Oregon Department
9 of Administrative Services determines are necessary or desirable in con-
10 nection with issuing, administering or maintaining Article XI-D bonds.

11 **SECTION 59.** ORS 286A.712 is amended to read:

12 286A.712. (1) Article XI-D bonds are a general obligation of the State of
13 Oregon and must contain a direct promise on behalf of the State of Oregon
14 to pay the principal of, the interest on and the premium, if any, on the Ar-
15 ticle XI-D bonds. The State of Oregon shall pledge its full faith and credit
16 and taxing power to pay Article XI-D bonds, except that the ad valorem
17 taxing power of the State of Oregon may not be pledged to pay Article XI-D
18 bonds.

19 (2) In accordance with the applicable provisions of this chapter, the State
20 Treasurer, with the concurrence of the Director of the [*State Department of*
21 *Energy*] **Oregon Climate Authority**, may issue Article XI-D bonds:

22 (a) At the request of the Director of the Oregon Department of Adminis-
23 trative Services for any of the purposes specified in Article XI-D of the
24 Oregon Constitution, plus an amount determined by the State Treasurer to
25 pay estimated bond-related costs; and

26 (b) Subject to the limit on bond issuance established for the particular
27 biennium in ORS 286A.035.

28 (3) The State Treasurer may issue Article XI-D bonds for the purpose of
29 financing the refund of Article XI-D bonds.

30 (4) The State Treasurer shall transfer the net proceeds of Article XI-D
31 bonds issued for the purpose described in subsection (2)(a) of this section to

1 the [*State Department of Energy*] **Oregon Climate Authority** for deposit in
2 the Renewable Energy Fund established under ORS 286A.718.

3 **SECTION 60.** ORS 286A.716 is amended to read:

4 286A.716. (1) The Article XI-D Bond Administration Fund is established
5 in the State Treasury, separate and distinct from the General Fund. Amounts
6 in the bond administration fund may be invested as provided in ORS 293.701
7 to 293.857, and interest earned on the bond administration fund must be
8 credited to the bond administration fund. Amounts credited to the bond ad-
9 ministration fund are continuously appropriated to the Oregon Department
10 of Administrative Services for payment of bond-related costs. The department
11 shall credit to the bond administration fund:

12 (a) Proceeds of Article XI-D bonds that were issued to pay bond-related
13 costs;

14 (b) Amounts appropriated or otherwise provided by the Legislative As-
15 sembly for deposit in the bond administration fund; and

16 (c) Amounts transferred from the Renewable Energy Fund by the [*State*
17 *Department of Energy*] **Oregon Climate Authority** as provided in ORS
18 286A.718.

19 (2) The department may create separate accounts in the bond adminis-
20 tration fund.

21 **SECTION 61.** ORS 286A.718 is amended to read:

22 286A.718. (1) The Renewable Energy Fund is established in the State
23 Treasury, separate and distinct from the General Fund. Amounts in the fund
24 may be invested as provided in ORS 293.701 to 293.857, and interest earned
25 on the fund must be credited to the fund. Amounts credited to the fund are
26 continuously appropriated to the [*State Department of Energy*] **Oregon Cli-**
27 **mate Authority** for the purpose described in ORS 286A.712 (2)(a) and for the
28 purpose of paying bond-related costs. The [*department*] **authority** shall de-
29 posit in the fund:

30 (a) The net proceeds of Article XI-D bonds transferred pursuant to ORS
31 286A.712 (4);

1 (b) Amounts appropriated or otherwise provided by the Legislative As-
2 sembly for deposit in the fund; and

3 (c) Gifts, grants or contributions received by the *[department]* **authority**
4 for the purpose described in ORS 286A.712 (2)(a).

5 (2) The *[State Department of Energy]* **Oregon Climate Authority** may
6 create separate accounts in the Renewable Energy Fund as appropriate for
7 the management of moneys in the fund.

8 (3) The *[State Department of Energy]* **Oregon Climate Authority** and any
9 other state agency or other entity receiving or holding net proceeds of Ar-
10 ticle XI-D bonds shall, at the direction of the Oregon Department of Admin-
11 istrative Services, take action necessary to maintain the excludability of
12 interest on Article XI-D bonds from gross income under the Internal Revenue
13 Code.

14 (4) If at any time the Oregon Department of Administrative Services or
15 the *[State Department of Energy]* **Oregon Climate Authority** determines
16 that there are moneys in the Renewable Energy Fund in excess of the
17 amounts necessary for the purpose described in ORS 286A.712 (2)(a), the
18 Oregon Department of Administrative Services or the *[State Department of*
19 *Energy]* **Oregon Climate Authority** may transfer the excess amounts to the
20 Article XI-D Bond Fund or to the Article XI-D Bond Administration Fund.

21 (5) The *[State Department of Energy]* **Director of the Oregon Climate**
22 **Authority** may adopt rules to carry out this section, including procedures
23 for distributing and monitoring the use of moneys from the Renewable En-
24 ergy Fund.

25 **SECTION 62.** ORS 286A.810 is amended to read:

26 286A.810. (1) As used in this section:

27 (a) “Green Globes program” means a building guidance and assessment
28 program to advance overall environmental performance and sustainability
29 of commercial buildings established by the Green Building Initiative.

30 (b) “LEED” means the Leadership in Energy and Environmental Design
31 rating system for certification of energy efficient and environmentally

1 sustainable buildings established by the United States Green Building
2 Council.

3 (c) "LEED Silver" means the second of four tiers of standards for certi-
4 fication in the LEED rating system.

5 (d) "Two globes" means the second of four tiers of ratings for certification
6 in the Green Globes program rating system.

7 (2) If general obligation bonds are issued under Article XI-P of the Oregon
8 Constitution, and proceeds from the bonds are used for the construction,
9 improvement, remodel, equipment, maintenance or repair of a building of a
10 school district, the building of the school district that is constructed, im-
11 proved, remodeled, equipped, maintained or repaired must qualify for, at a
12 minimum:

13 (a) LEED Silver certification;

14 (b) A two globes rating from the Green Globes program; or

15 (c) An equivalent numeric rating from a nationally recognized, accepted
16 and appropriate sustainable development rating system as determined by the
17 [*State Department of Energy*] **Oregon Climate Authority**.

18 **SECTION 63.** ORS 291.055 is amended to read:

19 291.055. (1) Notwithstanding any other law that grants to a state agency
20 the authority to establish fees, all new state agency fees or fee increases
21 adopted during the period beginning on the date of adjournment sine die of
22 a regular session of the Legislative Assembly and ending on the date of
23 adjournment sine die of the next regular session of the Legislative Assembly:

24 (a) Are not effective for agencies in the executive department of govern-
25 ment unless approved in writing by the Director of the Oregon Department
26 of Administrative Services;

27 (b) Are not effective for agencies in the judicial department of govern-
28 ment unless approved in writing by the Chief Justice of the Supreme Court;

29 (c) Are not effective for agencies in the legislative department of gov-
30 ernment unless approved in writing by the President of the Senate and the
31 Speaker of the House of Representatives;

1 (d) Shall be reported by the state agency to the Oregon Department of
2 Administrative Services within 10 days of their adoption; and

3 (e) Are rescinded on adjournment sine die of the next regular session of
4 the Legislative Assembly as described in this subsection, unless otherwise
5 authorized by enabling legislation setting forth the approved fees.

6 (2) This section does not apply to:

7 (a) Any tuition or fees charged by a public university listed in ORS
8 352.002.

9 (b) Taxes or other payments made or collected from employers for unem-
10 ployment insurance required by ORS chapter 657 or premium assessments
11 required by ORS 656.612 and 656.614 or contributions and assessments cal-
12 culated by cents per hour for workers' compensation coverage required by
13 ORS 656.506.

14 (c) Fees or payments required for:

15 (A) Health care services provided by the Oregon Health and Science
16 University, by the Oregon Veterans' Homes and by other state agencies and
17 institutions pursuant to ORS 179.610 to 179.770.

18 (B) Copayments and premiums paid to the Oregon medical assistance
19 program.

20 (C) Assessments paid to the Department of Consumer and Business Ser-
21 vices under sections 3 and 5, chapter 538, Oregon Laws 2017.

22 (d) Fees created or authorized by statute that have no established rate
23 or amount but are calculated for each separate instance for each fee payer
24 and are based on actual cost of services provided.

25 (e) State agency charges on employees for benefits and services.

26 (f) Any intergovernmental charges.

27 (g) Forest protection district assessment rates established by ORS 477.210
28 to 477.265 and the Oregon Forest Land Protection Fund fees established by
29 ORS 477.760.

30 (h) [*State Department of Energy*] **Oregon Climate Authority** assessments
31 required by ORS 456.595 and 469.421 (8).

1 (i) Assessments on premiums charged by the Director of the Department
2 of Consumer and Business Services pursuant to ORS 731.804 or fees charged
3 by the director to banks, trusts and credit unions pursuant to ORS 706.530
4 and 723.114.

5 (j) Public Utility Commission operating assessments required by ORS
6 756.310 or charges paid to the Residential Service Protection Fund required
7 by chapter 290, Oregon Laws 1987.

8 (k) Fees charged by the Housing and Community Services Department for
9 intellectual property pursuant to ORS 456.562.

10 (L) New or increased fees that are anticipated in the legislative budgeting
11 process for an agency, revenues from which are included, explicitly or im-
12 plicitly, in the legislatively adopted budget or the legislatively approved
13 budget for the agency.

14 (m) Tolls approved by the Oregon Transportation Commission pursuant
15 to ORS 383.004.

16 (n) Portal provider fees as defined in ORS 276A.270 and established by the
17 State Chief Information Officer under ORS 276A.276 (3) and recommended
18 by the Electronic Government Portal Advisory Board.

19 (o) Fees set by the State Parks and Recreation Director and approved by
20 the State Parks and Recreation Commission under ORS 390.124 (2)(b).

21 (3)(a) Fees temporarily decreased for competitive or promotional reasons
22 or because of unexpected and temporary revenue surpluses may be increased
23 to not more than their prior level without compliance with subsection (1)
24 of this section if, at the time the fee is decreased, the state agency specifies
25 the following:

26 (A) The reason for the fee decrease; and

27 (B) The conditions under which the fee will be increased to not more than
28 its prior level.

29 (b) Fees that are decreased for reasons other than those described in
30 paragraph (a) of this subsection may not be subsequently increased except
31 as allowed by ORS 291.050 to 291.060 and 294.160.

1 **SECTION 64.** ORS 315.141 is amended to read:

2 315.141. (1) As used in this section:

3 (a) “Agricultural producer” means a person that produces biomass in
4 Oregon that is used, in Oregon, as biofuel or to produce biofuel.

5 (b) “Biofuel” means liquid, gaseous or solid fuels, derived from biomass,
6 that have been converted into a processed fuel ready for use as energy by a
7 biofuel producer’s customers or for direct biomass energy use at the biofuel
8 producer’s site.

9 (c) “Biofuel producer” means a person that through activities in Oregon:

10 (A) Alters the physical makeup of biomass to convert it into biofuel;

11 (B) Changes one biofuel into another type of biofuel; or

12 (C) Uses biomass in Oregon to produce energy.

13 (d) “Biomass” means organic matter that is available on a renewable or
14 recurring basis and that is derived from:

15 (A) Forest or rangeland woody debris from harvesting or thinning con-
16 ducted to improve forest or rangeland ecological health and reduce unchar-
17 acteristic stand replacing wildfire risk;

18 (B) Wood material from hardwood timber described in ORS 321.267 (3);

19 (C) Agricultural residues;

20 (D) Offal and tallow from animal rendering;

21 (E) Food wastes collected as provided under ORS chapter 459 or 459A;

22 (F) Wood debris collected as provided under ORS chapter 459 or 459A;

23 (G) Wastewater solids; or

24 (H) Crops grown solely to be used for energy.

25 (e) “Biomass” does not mean wood that has been treated with creosote,
26 pentachlorophenol, inorganic arsenic or other inorganic chemical compounds
27 or waste, other than matter described in paragraph (d) of this subsection.

28 (f) “Biomass collector” means a person that collects biomass in Oregon
29 to be used, in Oregon, as biofuel or to produce biofuel.

30 (g) “Canola” means plants of the genus Brassica:

31 (A) In which seeds having a high oil content are the primary economically

1 valuable product; and

2 (B) That have a high erucic acid content suitable for industrial uses or
3 a low erucic acid content suitable for edible oils.

4 (h) "Oilseed processor" means a person that receives agricultural oilseeds
5 and separates them into meal and oil by mechanical or chemical means.

6 (i) "Willamette Valley" means Clackamas, Linn, Marion, Multnomah,
7 Polk, Washington and Yamhill Counties and the portion of Benton and Lane
8 Counties lying east of the summit of the Coast Range.

9 (2) The Director of the [*State Department of Energy*] **Oregon Climate**
10 **Authority** may adopt rules to define criteria, only as the criteria apply to
11 organic biomass, to determine additional characteristics of biomass for pur-
12 poses of this section.

13 (3)(a) An agricultural producer or biomass collector shall be allowed a
14 credit against the taxes that would otherwise be due under ORS chapter 316
15 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for:

16 (A) The production of biomass in Oregon that is used, in Oregon, as
17 biofuel or to produce biofuel; or

18 (B) The collection of biomass in Oregon that is used, in Oregon, as biofuel
19 or to produce biofuel.

20 (b) A credit under this section may be claimed in the tax year in which
21 the credit is certified under subsection (5) of this section.

22 (c) A taxpayer may be allowed a credit under this section for more than
23 one of the roles defined in subsection (1) of this section, but a biofuel pro-
24 ducer that is not also an agricultural producer or a biomass collector may
25 not claim a credit under this section.

26 (d) A credit under this section may be claimed only once for each unit
27 of biomass.

28 (e) Notwithstanding paragraph (a) of this subsection, a tax credit:

29 (A) Is not allowed for canola grown, collected or produced in the
30 Willamette Valley; and

31 (B) Is not allowed for grain corn, but a tax credit shall be allowed for

1 other corn material.

2 (4) The amount of the credit shall equal the amount certified under sub-
3 section (5) of this section.

4 (5)(a) The [*State Department of Energy*] **Director of the Oregon Climate**
5 **Authority** may establish by rule procedures and criteria for determining the
6 amount of the tax credit to be certified under this section, consistent with
7 ORS 469B.403. The [*department*] **Oregon Climate Authority** shall provide
8 written certification to taxpayers that are eligible to claim the credit under
9 this section.

10 (b) The [*State Department of Energy*] **Oregon Climate Authority** may
11 charge and collect a fee from taxpayers for certification of credits under this
12 section. The fee may not exceed the cost to the [*department*] **authority** of
13 determining the amount of certified cost.

14 (c) The [*State Department of Energy*] **Oregon Climate Authority** shall
15 provide to the Department of Revenue a list, by tax year, of taxpayers for
16 which a credit is certified under this section, upon request of the Department
17 of Revenue.

18 (6) The amount of the credit claimed under this section for any tax year
19 may not exceed the tax liability of the taxpayer.

20 (7) Each agricultural producer or biomass collector shall maintain the
21 written documentation of the amount certified for tax credit under this sec-
22 tion in its records for a period of at least five years after the tax year in
23 which the credit is claimed and provide the written documentation to the
24 Department of Revenue upon request.

25 (8) The credit shall be claimed on a form prescribed by the Department
26 of Revenue that contains the information required by the department.

27 (9) Any tax credit otherwise allowable under this section that is not used
28 by the taxpayer in a particular tax year may be carried forward and offset
29 against the taxpayer's tax liability for the next succeeding tax year. Any
30 credit remaining unused in the next succeeding tax year may be carried
31 forward and used in the second succeeding tax year, and likewise any credit

1 not used in that second succeeding tax year may be carried forward and used
2 in the third succeeding tax year, and any credit not used in that third suc-
3 ceeding tax year may be carried forward and used in the fourth succeeding
4 tax year, but may not be carried forward for any tax year thereafter.

5 (10) In the case of a credit allowed under this section:

6 (a) A nonresident shall be allowed the credit under this section in the
7 proportion provided in ORS 316.117.

8 (b) If a change in the status of the taxpayer from resident to nonresident
9 or from nonresident to resident occurs, the credit allowed by this section
10 shall be determined in a manner consistent with ORS 316.117.

11 (c) If a change in the taxable year of the taxpayer occurs as described in
12 ORS 314.085, or if the department terminates the taxpayer's taxable year
13 under ORS 314.440, the credit allowed under this section shall be prorated
14 or computed in a manner consistent with ORS 314.085.

15 **SECTION 65.** ORS 315.144 is amended to read:

16 315.144. (1) A person that has obtained a tax credit under ORS 315.141
17 may transfer the credit to a taxpayer subject to tax under ORS chapter 316,
18 317 or 318.

19 (2) A tax credit allowed under ORS 315.141 may be transferred on or be-
20 fore the date on which the return is due for the tax year in which the credit
21 may first be claimed. After that date, no portion of a credit allowed under
22 ORS 315.141 may be transferred.

23 (3) To transfer the tax credit, the taxpayer earning the credit and the
24 taxpayer that will claim the credit shall, on or before the date prescribed in
25 subsection (2) of this section, jointly file a notice of tax credit transfer with
26 the Department of Revenue. The notice shall be given on a form prescribed
27 by the department that contains all of the following:

28 (a) The name and address of the transferor and transferee;

29 (b) The amount of the tax credit that is being transferred;

30 (c) The amount of the tax credit that is being retained by the transferor;

31 and

1 (d) Any other information required by the department.

2 (4) The [*State Department of Energy*] **Director of the Oregon Climate**
3 **Authority** may establish by rule a minimum discounted value of a tax credit
4 under this section.

5 (5) The Department of Revenue, in consultation with the [*State Depart-*
6 *ment of Energy*] **Oregon Climate Authority**, may by rule establish proce-
7 dures for the transfer of tax credits provided by this section.

8 **SECTION 66.** ORS 315.326 is amended to read:

9 315.326. (1) A credit against the taxes that are otherwise due under ORS
10 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
11 318, is allowed to a taxpayer for certified renewable energy development
12 contributions made by the taxpayer during the tax year to the Renewable
13 Energy Development Subaccount, established in ORS 470.805, of the Clean
14 Energy Deployment Fund established in ORS 470.800.

15 (2)(a) The Department of Revenue shall, in cooperation with the [*State*
16 *Department of Energy*] **Oregon Climate Authority**, conduct an auction of
17 tax credits under this section. The auction may be conducted no later than
18 April 15 following December 31 of any tax year for which the credit is al-
19 lowed. The Department **of Revenue** may conduct the auction in the manner
20 that it determines is best suited to maximize the return to the state on the
21 sale of tax credit certifications and shall announce a reserve bid prior to
22 conducting the auction. The reserve amount shall be at least 95 percent of
23 the total amount of the tax credit. Moneys necessary to reimburse the De-
24 partment of Revenue for the actual costs incurred by the department in ad-
25 ministering an auction, not to exceed 0.25 percent of auction proceeds, are
26 continuously appropriated to the department. The Department of Revenue
27 shall deposit net receipts from the auction required under this section in the
28 Renewable Energy Development Subaccount, established in ORS 470.805, of
29 the Clean Energy Deployment Fund established in ORS 470.800. Net receipts
30 from the auction required under this section shall be used only for purposes
31 related to renewable energy development.

1 (b) The [*State Department of Energy*] **Director of the Oregon Climate**
2 **Authority** shall adopt rules in order to achieve the following goals:

3 (A) Subject to paragraph (a) of this subsection, generate contributions for
4 which tax credits of \$1.5 million are certified for each fiscal year;

5 (B) Maximize income and excise tax revenues that are retained by the
6 State of Oregon for state operations; and

7 (C) Provide the necessary financial incentives for taxpayers to make
8 contributions, taking into consideration the impact of granting a credit upon
9 a taxpayer's federal income tax liability.

10 (3) Contributions made under this section shall be deposited in the
11 Renewable Energy Development Subaccount, established in ORS 470.805, of
12 the Clean Energy Deployment Fund established in ORS 470.800.

13 (4)(a) Upon receipt of a contribution, the [*State Department of Energy*]
14 **Oregon Climate Authority** shall, except as provided in ORS 315.329, issue
15 to the taxpayer written certification of the amount certified for tax credit
16 under this section to the extent the amount certified for tax credit, when
17 added to all amounts previously certified for tax credit under this section,
18 does not exceed \$1.5 million for the fiscal year in which certification is made.

19 (b) The [*State Department of Energy*] **Oregon Climate Authority** and the
20 Department of Revenue are not liable, and a refund of a contributed amount
21 need not be made, if a taxpayer who has received tax credit certification is
22 unable to use all or a portion of the tax credit to offset the tax liability of
23 the taxpayer.

24 (5) The tax credit allowed under this section for any one tax year may
25 not exceed the tax liability of the taxpayer.

26 (6) Any tax credit otherwise allowable under this section that is not used
27 by the taxpayer in a particular tax year may be carried forward and offset
28 against the taxpayer's tax liability for the next succeeding tax year. Any
29 credit remaining unused in the next succeeding tax year may be carried
30 forward and used in the second succeeding tax year, and likewise, any credit
31 not used in that second succeeding tax year may be carried forward and used

1 in the third succeeding tax year but may not be carried forward for any tax
2 year thereafter.

3 (7) If a tax credit is claimed under this section by a nonresident or part-
4 year resident taxpayer, the amount shall be allowed without proration under
5 ORS 316.117.

6 (8) If the amount of contribution for which a tax credit certification is
7 made is allowed as a deduction for federal tax purposes, the amount of the
8 contribution shall be added to federal taxable income for Oregon tax pur-
9 poses.

10 **SECTION 67.** ORS 315.329 is amended to read:

11 315.329. (1) In any fiscal year, the amount of tax credits allowed under
12 ORS 315.326 may be reduced or eliminated, and the Legislative Assembly
13 may, no later than 30 days prior to the end of each fiscal year, in lieu of the
14 issuance of certifications for tax credit under ORS 315.326 by the [*State De-*
15 *partment of Energy*] **Oregon Climate Authority**, make an appropriation to
16 the [*State Department of Energy*] **Oregon Climate Authority** for deposit
17 into the Renewable Energy Development Subaccount, established in ORS
18 470.805, of the Clean Energy Deployment Fund established in ORS 470.800.
19 Moneys deposited under this section are to be used only for purposes related
20 to renewable energy development.

21 (2) After a tax credit certificate has been sold as provided in ORS 315.326,
22 the [*State Department of Energy*] **Oregon Climate Authority** may not re-
23 voke the certificate.

24 **SECTION 68.** ORS 315.331 is amended to read:

25 315.331. (1) A credit is allowed against the taxes otherwise due under ORS
26 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
27 318, for an energy conservation project that is certified under ORS 469B.270
28 to 469B.306. The credit is allowed as follows:

29 (a) Except as provided in ORS 469B.298 and in paragraph (b) of this sub-
30 section, the credit allowed in each of the first two tax years in which the
31 credit is claimed shall be 10 percent of the certified cost of the facility, but

1 may not exceed the tax liability of the taxpayer. The credit allowed in each
2 of the succeeding three years shall be five percent of the certified cost, but
3 may not exceed the tax liability of the taxpayer.

4 (b) If the certified cost of the facility does not exceed \$20,000, the total
5 amount of the credit allowable under subsection (3) of this section may be
6 claimed in the first tax year for which the credit may be claimed, but may
7 not exceed the tax liability of the taxpayer.

8 (2) In order for a tax credit to be allowable under this section:

9 (a) The project must be located in Oregon.

10 (b) The project must have received final certification from the Director
11 of the [*State Department of Energy*] **Oregon Climate Authority** under ORS
12 469B.270 to 469B.306.

13 (c) If the project is a research and development project, it must receive,
14 prior to certification under ORS 469B.288, a recommendation from a qualified
15 third party selected by the director.

16 (d) If the project is new construction or a total building retrofit, then the
17 project must achieve, at a minimum, the energy efficiency standards required
18 for:

19 (A) LEED Platinum certification;

20 (B) A four globes rating from the Green Globes program;

21 (C) A nationally or regionally recognized and appropriate sustainable
22 building program whose performance standards are equivalent to the stan-
23 dards required for LEED Platinum certification or a four globes rating from
24 the Green Globes program, as determined by the [*department*] **Oregon Cli-
25 mate Authority**; or

26 (D) Verification that the construction conformed to the standards of the
27 Reach Code adopted pursuant to ORS 455.500.

28 (3) The total amount of credit allowable to an eligible taxpayer under this
29 section may not exceed 35 percent of the certified cost of the project.

30 (4)(a) Upon any sale, termination of the lease or contract, exchange or
31 other disposition of the project, notice thereof shall be given to the director,

1 who shall revoke the certificate covering the project as of the date of such
2 disposition.

3 (b) A new owner, or, upon re-leasing of the project, a new lessee, may
4 apply for a new certificate under ORS 469B.291. The new lessee or owner
5 must meet the requirements of ORS 469B.270 to 469B.306 and may claim a
6 tax credit under this section only if all moneys owed by the new owner or
7 lessee to the State of Oregon have been paid, if the project continues to op-
8 erate and if all conditions in the final certification are met. The tax credit
9 available to the new owner shall be limited to the amount of credit not
10 claimed by the former owner or, for a new lessee, the amount of credit not
11 claimed by the lessee under all previous leases. The [*State Department of*
12 *Energy*] **Oregon Climate Authority** may waive the requirement that a new
13 owner or lessee apply for a new certificate under ORS 469B.291 if the re-
14 maining credit is less than \$20,000.

15 (c) The [*department*] **authority** may not revoke the certificate covering
16 a project under paragraph (a) of this subsection if the tax credit associated
17 with the project has been transferred to a taxpayer who is an eligible ap-
18 plicant under ORS 469B.285.

19 (5) The tax credit allowed under this section for any one tax year may
20 not exceed the tax liability of the taxpayer.

21 (6) Any tax credit otherwise allowable under this section that is not used
22 by the taxpayer in a particular year may be carried forward and offset
23 against the taxpayer's tax liability for the next succeeding tax year. Any
24 credit remaining unused in that next succeeding tax year may be carried
25 forward and used in the second succeeding tax year, and likewise, any credit
26 not used in that second succeeding tax year may be carried forward and used
27 in the third succeeding tax year, and likewise, any credit not used in that
28 third succeeding tax year may be carried forward and used in the fourth
29 succeeding tax year, and likewise, any credit not used in that fourth suc-
30 ceeding tax year may be carried forward and used in the fifth succeeding tax
31 year, but may not be carried forward for any tax year thereafter. Credits

1 may be carried forward to and used in a tax year beyond the years specified
2 in subsection (1) of this section only as provided in this subsection.

3 (7) The credit allowed under this section is not in lieu of any depreciation
4 or amortization deduction for the project to which the taxpayer otherwise
5 may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

6 (8) The taxpayer's adjusted basis for determining gain or loss may not be
7 decreased by any tax credits allowed under this section.

8 (9) The definitions in ORS 469B.270 apply to this section.

9 **SECTION 69.** ORS 315.336 is amended to read:

10 315.336. (1) A credit is allowed against the taxes otherwise due under ORS
11 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
12 318, for a transportation project, based upon the certified cost of the project
13 during the period for which the project is certified under ORS 469B.320 to
14 469B.347.

15 (2) The credit allowed for a project other than an alternative fuel vehicle
16 project shall be as follows:

17 (a) For tax years beginning on or after January 1, 2011, and before Jan-
18 uary 1, 2012, the maximum allowed credit shall be:

19 (A) 35 percent of certified cost, if a preliminary certification is issued
20 under ORS 469B.329 prior to July 1, 2011; or

21 (B) 25 percent of certified cost, if a preliminary certification is issued
22 under ORS 469B.329 on or after July 1, 2011, and before January 1, 2012.

23 (b) For tax years beginning on or after January 1, 2012, and before Jan-
24 uary 1, 2013, the maximum allowed credit shall be 25 percent of certified
25 cost.

26 (c) For tax years beginning on or after January 1, 2013, and before Jan-
27 uary 1, 2014, the maximum allowed credit shall be 20 percent of certified
28 cost.

29 (d) For tax years beginning on or after January 1, 2014, and before Jan-
30 uary 1, 2015, the maximum allowed credit shall be 15 percent of certified
31 cost.

1 (e) For tax years beginning on or after January 1, 2015, and before Jan-
2 uary 1, 2016, the maximum allowed credit shall be 10 percent of certified
3 cost.

4 (3) The total amount of the credit allowable for an alternative fuel vehicle
5 project under this section may not exceed 35 percent of the certified cost of
6 the project.

7 (4)(a) Except as provided in paragraph (b) of this subsection, the credit
8 allowed in each of the first two tax years in which the credit is claimed shall
9 be 10 percent of the certified cost of the project, but may not exceed the tax
10 liability of the taxpayer. The credit allowed in each of the succeeding three
11 years shall be five percent of the certified cost, but may not exceed the tax
12 liability of the taxpayer.

13 (b) If the amount of the credit allowed under this section is less than 35
14 percent of the certified cost of the project, the credit allowed in any tax year
15 may not exceed five percent of the certified cost of the project, and may not
16 exceed the tax liability of the taxpayer.

17 (5) In order for a tax credit to be allowable under this section:

18 (a) The project must be located in Oregon.

19 (b) The project must have received final certification from the Director
20 of the [*State Department of Energy*] **Oregon Climate Authority** under ORS
21 469B.320 to 469B.347.

22 (6) Any tax credit otherwise allowable under this section that is not used
23 by the taxpayer in a particular year may be carried forward and offset
24 against the taxpayer's tax liability for the next succeeding tax year. Any
25 credit remaining unused in that next succeeding tax year may be carried
26 forward and used in the second succeeding tax year, and likewise, any credit
27 not used in that second succeeding tax year may be carried forward and used
28 in the third succeeding tax year, and likewise, any credit not used in that
29 third succeeding tax year may be carried forward and used in the fourth
30 succeeding tax year, and likewise, any credit not used in that fourth suc-
31 ceeding tax year may be carried forward and used in the fifth succeeding tax

1 year, but may not be carried forward for any tax year thereafter. Credits
2 may be carried forward to and used in a tax year beyond the years specified
3 in subsection (2) of this section only as provided in this subsection.

4 (7) The credit allowed under this section is not in lieu of any depreciation
5 or amortization deduction for the transportation project to which the tax-
6 payer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318
7 for such year.

8 (8) The taxpayer's adjusted basis for determining gain or loss may not be
9 decreased by any tax credits allowed under this section.

10 (9) The definitions in ORS 469B.320 apply to this section.

11 **SECTION 70.** ORS 315.341 is amended to read:

12 315.341. (1) A credit is allowed against the taxes otherwise due under ORS
13 chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or
14 318), based upon the certified cost of a renewable energy resource equipment
15 manufacturing facility during the period for which the facility is certified
16 under ORS 285C.540 to 285C.559. The credit allowed under this section in
17 each of five succeeding tax years shall be 10 percent of the certified cost of
18 the facility, but may not exceed the tax liability of the taxpayer.

19 (2) In order for a tax credit to be allowable under this section:

20 (a) The facility must be located in Oregon;

21 (b) The facility must have received:

22 (A) Final certification from the Director of the Oregon Business Devel-
23 opment Department under ORS 285C.540 to 285C.559; or

24 (B) Final certification from the Director of the State Department of En-
25 ergy under ORS 469B.130 to 469B.169 (**2017 Edition**), prior to January 1,
26 2012; and

27 (c) The taxpayer must be an eligible applicant under ORS 285C.547 (1)(b).

28 (3) The total amount of credit allowable to an eligible taxpayer under this
29 section may not exceed 50 percent of the certified cost of a facility.

30 (4)(a) Upon any sale, termination of the lease or contract, exchange or
31 other disposition of the facility, notice thereof shall be given to the Director

1 of the Oregon Business Development Department, who shall revoke the cer-
2 tificate covering the facility as of the date of such disposition.

3 (b) The new owner, or upon re-leasing of the facility, the new lessor, may
4 apply for a new certificate under ORS 285C.553. The new lessor or owner
5 must meet the requirements of ORS 285C.540 to 285C.559 and may claim a
6 tax credit under this section only if all moneys owed to the State of Oregon
7 have been paid, the facility continues to operate, unless continued operation
8 is waived by the Oregon Business Development Department, and all condi-
9 tions in the final certification are met. The tax credit available to the new
10 owner shall be limited to the amount of credit not claimed by the former
11 owner or, for a new lessor, the amount of credit not claimed by the lessor
12 under all previous leases.

13 (5) Any tax credit otherwise allowable under this section that is not used
14 by the taxpayer in a particular year may be carried forward and offset
15 against the taxpayer's tax liability for the next succeeding tax year. Any
16 credit remaining unused in that next succeeding tax year may be carried
17 forward and used in the second succeeding tax year, and likewise, any credit
18 not used in that second succeeding tax year may be carried forward and used
19 in the third succeeding tax year, and likewise, any credit not used in that
20 third succeeding tax year may be carried forward and used in the fourth
21 succeeding tax year, and likewise, any credit not used in that fourth suc-
22 ceeding tax year may be carried forward and used in the fifth succeeding tax
23 year, and likewise, any credit not used in that fifth succeeding tax year may
24 be carried forward and used in the sixth succeeding tax year, and likewise,
25 any credit not used in that sixth succeeding tax year may be carried forward
26 and used in the seventh succeeding tax year, and likewise, any credit not
27 used in that seventh succeeding tax year may be carried forward and used
28 in the eighth succeeding tax year, but may not be carried forward for any
29 tax year thereafter. Credits may be carried forward to and used in a tax year
30 beyond the years specified in subsection (1) of this section only as provided
31 in this subsection.

1 (6) The credit allowed under this section is not in lieu of any depreciation
2 or amortization deduction for the facility to which the taxpayer otherwise
3 may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

4 (7) The taxpayer's adjusted basis for determining gain or loss may not be
5 decreased by any tax credits allowed under this section.

6 (8) The definitions in ORS 285C.540 apply to this section.

7 **SECTION 71.** ORS 315.354 is amended to read:

8 315.354. (1) A credit is allowed against the taxes otherwise due under ORS
9 chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or
10 318), based upon the certified cost of the facility during the period for which
11 that facility is certified under ORS 469B.130 to 469B.169. The credit is al-
12 lowed as follows:

13 (a) Except as provided in paragraph (b) or (c) of this subsection, the credit
14 allowed in each of the first two tax years in which the credit is claimed shall
15 be 10 percent of the certified cost of the facility, but may not exceed the tax
16 liability of the taxpayer. The credit allowed in each of the succeeding three
17 years shall be five percent of the certified cost, but may not exceed the tax
18 liability of the taxpayer.

19 (b) If the certified cost of the facility does not exceed \$20,000, the total
20 amount of the credit allowable under subsection (4) of this section may be
21 claimed in the first tax year for which the credit may be claimed, but may
22 not exceed the tax liability of the taxpayer.

23 (c) If the facility uses or produces renewable energy resources, the credit
24 allowed in each of five succeeding tax years shall be 10 percent of the cer-
25 tified cost of the facility, but may not exceed the tax liability of the tax-
26 payer.

27 (2) Notwithstanding subsection (1) of this section:

28 (a) If the facility is one or more renewable energy resource systems in-
29 stalled in a single-family dwelling, the amount of the credit for each system
30 shall be determined as if the facility was considered a residential alternative
31 energy device under ORS 316.116, but subject to the maximum credit amount

1 under subsection (4)(b) of this section;

2 (b) If the facility is a high-performance home, the amount of the credit
3 shall equal the amount determined under paragraph (a) of this subsection
4 plus \$3,000; and

5 (c) If the facility is a high-performance home or a homebuilder-installed
6 renewable energy system, the total amount of the credit may be claimed in
7 the first tax year for which the credit is claimed, but may not exceed the tax
8 liability of the taxpayer.

9 (3) In order for a tax credit to be allowable under this section:

10 (a) The facility must be located in Oregon;

11 (b) The facility must have received final certification from the Director
12 of the [*State Department of Energy*] **Oregon Climate Authority** under ORS
13 469B.130 to 469B.169;

14 (c) The taxpayer must be an eligible applicant under ORS 469B.145 (1)(c);
15 and

16 (d) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not
17 designed for electric plug-in charging, it must be purchased before January
18 1, 2010.

19 (4) The total amount of credit allowable to an eligible taxpayer under this
20 section may not exceed:

21 (a) 50 percent of the certified cost of a renewable energy resources facility
22 or a high-efficiency combined heat and power facility;

23 (b) \$9,000 per single-family dwelling for homebuilder-installed renewable
24 energy systems;

25 (c) \$12,000 per single-family dwelling for homebuilder-installed renewable
26 energy systems, if the dwelling also constitutes a high-performance home; or

27 (d) 35 percent of the certified cost of any other facility.

28 (5)(a) Upon any sale, termination of the lease or contract, exchange or
29 other disposition of the facility, notice thereof shall be given to the Director
30 of the [*State Department of Energy*] **Oregon Climate Authority**, who shall
31 revoke the certificate covering the facility as of the date of such disposition.

1 (b) The new owner, or upon re-leasing of the facility, the new lessor, may
2 apply for a new certificate under ORS 469B.161. The new lessor or owner
3 must meet the requirements of ORS 469B.130 to 469B.169 and may claim a
4 tax credit under this section only if all moneys owed to the State of Oregon
5 have been paid, the facility continues to operate, unless continued operation
6 is waived by the [*State Department of Energy*] **Oregon Climate Authority**,
7 and all conditions in the final certification are met. The tax credit available
8 to the new owner shall be limited to the amount of credit not claimed by the
9 former owner or, for a new lessor, the amount of credit not claimed by the
10 lessor under all previous leases.

11 (c) The [*State Department of Energy*] **Oregon Climate Authority** may
12 not revoke the certificate covering a facility under paragraph (a) of this
13 subsection if the tax credit associated with the facility has been transferred
14 to a taxpayer who is an eligible applicant under ORS 469B.145 (1)(c)(A).

15 (6) Any tax credit otherwise allowable under this section that is not used
16 by the taxpayer in a particular year may be carried forward and offset
17 against the taxpayer's tax liability for the next succeeding tax year. Any
18 credit remaining unused in that next succeeding tax year may be carried
19 forward and used in the second succeeding tax year, and likewise, any credit
20 not used in that second succeeding tax year may be carried forward and used
21 in the third succeeding tax year, and likewise, any credit not used in that
22 third succeeding tax year may be carried forward and used in the fourth
23 succeeding tax year, and likewise, any credit not used in that fourth suc-
24 ceeding tax year may be carried forward and used in the fifth succeeding tax
25 year, and likewise, any credit not used in that fifth succeeding tax year may
26 be carried forward and used in the sixth succeeding tax year, and likewise,
27 any credit not used in that sixth succeeding tax year may be carried forward
28 and used in the seventh succeeding tax year, and likewise, any credit not
29 used in that seventh succeeding tax year may be carried forward and used
30 in the eighth succeeding tax year, but may not be carried forward for any
31 tax year thereafter. Credits may be carried forward to and used in a tax year

1 beyond the years specified in subsection (1) of this section only as provided
2 in this subsection.

3 (7) The credit provided by this section is not in lieu of any depreciation
4 or amortization deduction for the facility to which the taxpayer otherwise
5 may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

6 (8) The taxpayer's adjusted basis for determining gain or loss may not be
7 decreased by any tax credits allowed under this section.

8 (9) If a homebuilder claims a credit under this section with respect to a
9 homebuilder-installed renewable energy system or a high-performance home:

10 (a) The homebuilder may not claim credits for both a homebuilder-
11 installed renewable energy system and a high-performance home with respect
12 to the same dwelling;

13 (b) The homebuilder must inform the buyer of the dwelling that the
14 homebuilder is claiming a tax credit under this section with respect to the
15 dwelling; and

16 (c) The buyer of the dwelling may not claim a credit under this section
17 that is based on any facility for which the homebuilder has already claimed
18 a credit.

19 (10) The definitions in ORS 469B.130 apply to this section.

20 **SECTION 72.** ORS 315.356 is amended to read:

21 315.356. (1) If a taxpayer obtains a grant from the federal government in
22 connection with a facility that has been certified by the Director of the
23 [*State Department of Energy*] **Oregon Climate Authority**, the total cost of
24 the facility shall be reduced on a dollar for dollar basis. Any income or ex-
25 cise tax credits that the taxpayer would be entitled to under ORS 285C.540
26 to 285C.559, 315.341, 315.354 and 469B.130 to 469B.169 after any reduction
27 described in this subsection may not be reduced by the federal grant. A
28 taxpayer applying for a federal grant shall notify the Department of Revenue
29 by certified mail within 30 days after each application, and after the receipt
30 of any grant.

31 (2) A taxpayer, or an applicant who is otherwise eligible, is eligible to

1 participate in both this tax credit program and low interest, government-
2 sponsored loans.

3 (3) A taxpayer who receives a tax credit or property tax relief on a pol-
4 lution control facility or an alternative energy device under ORS 307.405,
5 315.304 or 316.116 is not eligible for a tax credit on the same facility or de-
6 vice under ORS 285C.540 to 285C.559, 315.341, 315.354 and 469B.130 to
7 469B.169.

8 **SECTION 73.** ORS 315.357 is amended to read:

9 315.357. (1) For a facility other than a renewable energy resource equip-
10 ment manufacturing facility, a taxpayer may not be allowed a credit under
11 ORS 315.354 unless the taxpayer:

12 (a) Files an application for preliminary certification under ORS 469B.145
13 on or before April 15, 2011;

14 (b) Receives preliminary certification under ORS 469B.157 before July 1,
15 2011; and

16 (c) Receives final certification under ORS 469B.161 before January 1, 2013,
17 or has demonstrated, to the [*State Department of Energy*] **Oregon Climate**
18 **Authority**, evidence of beginning construction before April 15, 2011.

19 (2) Any preliminary certification issued for a facility, other than a
20 renewable energy resource equipment manufacturing facility, under ORS
21 469B.157 that remains outstanding as of July 1, 2011, shall expire on July 1,
22 2014.

23 **SECTION 74.** ORS 316.116 is amended to read:

24 316.116. (1)(a) A resident individual shall be allowed a credit against the
25 taxes otherwise due under this chapter for costs paid or incurred for con-
26 struction or installation of each of one or more alternative energy devices
27 in or at a dwelling.

28 (b) A credit against the taxes otherwise due under this chapter is not al-
29 lowed for an alternative energy device that does not meet or exceed all ap-
30 plicable federal, state and local requirements for energy efficiency, including
31 equipment codes, state and federal appliance standards, the state building

1 code, specialty codes and any other standards.

2 (2)(a) For each category one alternative energy device other than an al-
3 ternative fuel device or an alternative energy device that uses solar radiation
4 for domestic water heating or swimming pool heating, the credit allowed
5 under this section may not exceed the lesser of 50 percent of the cost of the
6 alternative energy device or \$1,500, and shall be computed as follows:

7 (A) For a category one alternative energy device that is not an alterna-
8 tive fuel device, the credit shall be based upon the first year energy yield
9 of the alternative energy device that qualifies under ORS 469B.100 to
10 469B.118. The amount of the credit shall be the same whether for collective
11 or noncollective investment.

12 (B) For each category one alternative energy device for a dwelling, the
13 credit shall be based upon the first year energy yield in kilowatt hours per
14 year multiplied by 60 cents per dwelling utilizing the alternative energy de-
15 vice used for space heating, cooling, electrical energy or domestic water
16 heating.

17 (C) Except as provided in paragraph (c) of this subsection, for each cate-
18 gory one alternative energy device used for swimming pool, spa or hot tub
19 heating, the credit shall be based upon the first year energy yield in kilowatt
20 hours per year multiplied by 15 cents.

21 (b) For each alternative fuel device, the credit allowed under this section
22 may not exceed the lesser of 50 percent of the cost of the alternative fuel
23 device or \$750.

24 (c) For each category one alternative energy device that uses solar radi-
25 ation for:

26 (A) Domestic water heating, the credit allowed under this section shall
27 be based upon 50 percent of the cost of the device or the first year energy
28 yield in kilowatt hours per year multiplied by \$2, whichever is lower, up to
29 \$6,000.

30 (B) Swimming pool heating, the credit allowed under this section shall
31 be based upon 50 percent of the cost of the device or the first year energy

1 yield in kilowatt hours per year multiplied by 20 cents, whichever is lower,
2 up to \$2,500.

3 (d)(A) For each category two alternative energy device that is a solar
4 electric system or fuel cell system, the credit allowed under this section may
5 not exceed the lesser of \$3 per watt of installed output or \$6,000.

6 (B) For each category two alternative energy device that is a wind elec-
7 tric system, the credit allowed under this section may not exceed the lesser
8 of \$6,000 or the first year energy yield in kilowatt hours per year multiplied
9 by \$2.

10 (3)(a) Notwithstanding subsection (2)(a), (c) or (d) of this section, the total
11 amount of the credits allowed in any one tax year may not exceed the tax
12 liability of the taxpayer or \$1,500 for each alternative energy device, which-
13 ever is less. Unused credit amounts may be carried forward as provided in
14 subsection (8) of this section, but may not be carried forward to a tax year
15 that is more than five tax years following the first tax year for which any
16 credit was allowed with respect to the category two alternative energy device
17 that is the basis for the credit.

18 (b) Notwithstanding subsection (2)(d) of this section, the total amount of
19 the credit for each device allowed under subsection (2)(d) of this section may
20 not exceed 50 percent of the total installed cost of the category two alter-
21 native energy device.

22 (4) The [*State Department of Energy*] **Director of the Oregon Climate**
23 **Authority** may by rule provide for a lesser amount of incentive for each type
24 of alternative energy device as market conditions warrant.

25 (5) To qualify for a credit under this section, all of the following are re-
26 quired:

27 (a) The alternative energy device must be purchased, constructed, in-
28 stalled and operated in accordance with ORS 469B.100 to 469B.118 and a
29 certificate issued thereunder.

30 (b) The taxpayer who is allowed the credit must be the owner or contract
31 purchaser of the dwelling or dwellings served by the alternative energy de-

1 vice or the tenant of the owner or of the contract purchaser and must:

2 (A) Use the dwelling or dwellings served by the alternative energy device
3 as a principal or secondary residence; or

4 (B) Rent or lease, under a residential rental agreement, the dwelling or
5 dwellings to a tenant who uses the dwelling or dwellings as a principal or
6 secondary residence.

7 (c) The credit must be claimed for the tax year in which the alternative
8 energy device was purchased if the device is operational by April 1 of the
9 next following tax year.

10 (6) The credit provided by this section does not affect the computation
11 of basis under this chapter.

12 (7) The total credits allowed under this section in any one year may not
13 exceed the tax liability of the taxpayer.

14 (8) Any tax credit otherwise allowable under this section that is not used
15 by the taxpayer in a particular year may be carried forward and offset
16 against the taxpayer's tax liability for the next succeeding tax year. Any
17 credit remaining unused in the next succeeding tax year may be carried
18 forward and used in the second succeeding tax year, and likewise any credit
19 not used in that second succeeding tax year may be carried forward and used
20 in the third succeeding tax year, and any credit not used in that third suc-
21 ceeding tax year may be carried forward and used in the fourth succeeding
22 tax year, and any credit not used in that fourth succeeding tax year may be
23 carried forward and used in the fifth succeeding tax year, but may not be
24 carried forward for any tax year thereafter.

25 (9) A nonresident shall be allowed the credit under this section in the
26 proportion provided in ORS 316.117.

27 (10) If a change in the taxable year of a taxpayer occurs as described in
28 ORS 314.085, or if the Department of Revenue terminates the taxpayer's
29 taxable year under ORS 314.440, the credit allowed by this section shall be
30 prorated or computed in a manner consistent with ORS 314.085.

31 (11) If a change in the status of a taxpayer from resident to nonresident

1 or from nonresident to resident occurs, the credit allowed by this section
2 shall be determined in a manner consistent with ORS 316.117.

3 (12) Spouses in a marriage who file separate returns for a taxable year
4 may each claim a share of the tax credit that would have been allowed on
5 a joint return in proportion to the contribution of each. However, a spouse
6 living in a separate principal residence may claim the tax credit in the same
7 amount as permitted a single person.

8 (13) As used in this section, unless the context requires otherwise:

9 (a) "Collective investment" means an investment by two or more taxpay-
10 ers for the acquisition, construction and installation of an alternative energy
11 device for one or more dwellings.

12 (b) "Noncollective investment" means an investment by an individual
13 taxpayer for the acquisition, construction and installation of an alternative
14 energy device for one or more dwellings.

15 (c) "Taxpayer" includes a transferee of a verification form under ORS
16 469B.106 (8).

17 (14) Notwithstanding any provision of subsections (1) to (4) of this sec-
18 tion, the sum of the credit allowed under subsection (1) of this section plus
19 any similar credit allowed for federal income tax purposes may not exceed
20 the cost for the acquisition, construction and installation of the alternative
21 energy device.

22 **SECTION 75.** ORS 317.112 is amended to read:

23 317.112. (1) A credit against taxes otherwise due under this chapter for
24 the taxable year shall be allowed to a commercial lending institution in an
25 amount equal to the difference between:

26 (a) The amount of finance charge charged during the taxable year in-
27 cluding interest on the loan and interest on any loan fee financed at an an-
28 nual rate of six and one-half percent, by the lending institution to a dwelling
29 owner who is or who rents to a residential fuel oil customer, or who is or
30 who rents to a wood heating resident for the purpose of financing energy
31 conservation measures; and

1 (b) The amount of finance charge that would have been charged during
2 the taxable year, including interest on the loan and interest on any loan fee
3 financed by the lending institution for the loan for energy conservation
4 measures at an annual rate that is the lesser of the following:

5 (A) The annual rate charged by the commercial lending institution for
6 nonsubsidized loans made under like terms and conditions at the time the
7 loan for energy conservation measures is made; or

8 (B) An upper limit established by rule by the Director of the **former** State
9 Department of Energy **on or before the effective date of this 2019 Act.**

10 (2) Any tax credit otherwise allowable under this section that is not used
11 by the taxpayer in a particular year may be carried forward and offset
12 against the taxpayer's tax liability for the next succeeding tax year. Any
13 credit remaining unused in the next succeeding tax year may be carried
14 forward and used in the second succeeding tax year, and likewise until the
15 15th succeeding tax year. The credit may not be carried forward beyond the
16 15th succeeding tax year.

17 (3) In order to be eligible for the tax credit allowed under subsection (1)
18 of this section, the loan shall:

19 (a) Be made only to an owner of an oil-heated or wood-heated dwelling
20 who presents the results of an energy audit pursuant to ORS 469.631 to
21 469.645, 469.649 to 469.659 or 469.685 that is conducted by an investor-owned
22 utility or publicly owned utility or through the **former** State Department
23 of Energy, regardless of whether that utility provides the dwelling's space
24 heating energy.

25 (b) Be subject to an annual rate not to exceed six and one-half percent
26 and have a term not exceeding 10 years.

27 (c) Not finance any materials installed in the construction of a new
28 dwelling, additions to existing structures or remodeling that adds living
29 space.

30 (d) Finance only those energy conservation measures that are recom-
31 mended as cost-effective in the energy audit, and any loan fee that is in-

1 cluded in the body of the loan.

2 (4) The credit allowed under this section may not be allowed to the extent
3 that the loan exceeds \$5,000 for a single dwelling unit, or, if the dwelling
4 owner is a corporation described in ORS 307.375, to the extent that the loan
5 exceeds \$2,000 for a single dwelling unit.

6 (5) A commercial lending institution may charge, finance and collect a
7 nonrefundable front-end loan fee, and such a fee does not affect the eligibil-
8 ity of the loan for a tax credit under this section. The fee, if any, may not
9 exceed that charged by the lending institution for nonsubsidized loans made
10 under like terms and conditions at the time the loan for energy conservation
11 measures is made.

12 (6) Nothing in this section or in rules adopted under this section shall
13 be construed to cause a loan to violate the usury laws of this state.

14 (7) As used in this section, “annual rate,” “commercial lending institu-
15 tion,” “cost-effective,” “dwelling,” “dwelling owner,” “energy audit,” “energy
16 conservation measures,” “finance charge,” “fuel oil dealer,” “residential fuel
17 oil customer,” “space heating” and “wood heating resident” have the mean-
18 ing given those terms in ORS 469.710.

19 **SECTION 76.** ORS 352.823 is amended to read:

20 352.823. (1) The Oregon Climate Change Research Institute is established
21 at Oregon State University. In administering the institute, Oregon State
22 University may seek the cooperation of other public universities listed in
23 ORS 352.002.

24 (2) The purpose of the Oregon Climate Change Research Institute is to:

25 (a) Facilitate research by faculty at public universities listed in ORS
26 352.002 on climate change and its effects on natural and human systems in
27 Oregon;

28 (b) Serve as a clearinghouse for climate change information;

29 (c) Provide climate change information to the public in integrated and
30 accessible formats;

31 (d) Support the [*Oregon Global Warming Commission*] **Oregon Climate**

1 **Authority** in developing strategies to prepare for and to mitigate the effects
2 of climate change on natural and human systems; and

3 (e) Provide technical assistance to local governments to assist them in
4 developing climate change policies, practices and programs.

5 (3) The Oregon Climate Change Research Institute shall assess, at least
6 once each biennium, the state of climate change science, including biological,
7 physical and social science, as it relates to Oregon and the likely effects of
8 climate change on the state. The institute shall submit the assessment to the
9 Legislative Assembly in the manner provided in ORS 192.245 and to the
10 Governor.

11 (4) State agencies may contract with the Oregon Climate Change Re-
12 search Institute to fulfill agency needs regarding the collection, storage, in-
13 tegration, analysis, dissemination and monitoring of climate change
14 information, research and training.

15 **SECTION 77.** ORS 401.054 is amended to read:

16 401.054. (1) Each of the following agencies, entities and officials shall
17 designate an individual to act as a liaison with the Office of Emergency
18 Management:

- 19 (a) The Department of Consumer and Business Services;
- 20 (b) The Department of Corrections;
- 21 (c) The Department of Education;
- 22 (d) The Department of Environmental Quality;
- 23 (e) The Department of Human Services;
- 24 (f) The Department of Justice;
- 25 (g) The Department of Land Conservation and Development;
- 26 (h) The Department of Public Safety Standards and Training;
- 27 (i) The Department of State Lands;
- 28 (j) The Department of State Police;
- 29 (k) The Department of Transportation;
- 30 (L) The Department of Veterans' Affairs;
- 31 (m) The Employment Department;

- 1 (n) The Housing and Community Services Department;
- 2 (o) The Judicial Department;
- 3 (p) The Oregon Business Development Department;
- 4 **(q) The Oregon Climate Authority;**
- 5 [(q)] (r) The Oregon Department of Administrative Services;
- 6 [(r)] (s) The Oregon Department of Aviation;
- 7 [(s)] (t) The Oregon Health Authority;
- 8 [(t)] (u) The Oregon Military Department;
- 9 [(u)] (v) The Oregon Tourism Commission;
- 10 [(v)] (w) The Public Utility Commission of Oregon;
- 11 [(w)] (x) The Secretary of State;
- 12 [(x)] (y) The State Department of Agriculture;
- 13 [(y) *The State Department of Energy;*]
- 14 (z) The State Department of Fish and Wildlife;
- 15 (aa) The State Department of Geology and Mineral Industries;
- 16 (bb) The State Fire Marshal;
- 17 (cc) The State Forestry Department;
- 18 (dd) The State Marine Board;
- 19 (ee) The State Parks and Recreation Department;
- 20 (ff) The Travel Information Council; and
- 21 (gg) The Water Resources Department.

22 (2) Each agency, entity and official required to designate a liaison under
23 this section shall designate an individual who has authority during an
24 emergency to allocate resources and assets of the agency, entity or official.

25 (3) Each individual designated as a liaison under subsection (1) of this
26 section shall assist in the coordination of the functions of the agency, entity
27 or official that designated the individual that relate to emergency
28 preparedness and response with similar functions of the Office of Emergency
29 Management.

30 **SECTION 78.** ORS 453.347 is amended to read:

31 453.347. (1) The State Fire Marshal shall assist with emergency response

1 planning by appropriate agencies of government at the local, state and na-
2 tional levels to assure that the response to a hazardous substance fixed site
3 or transportation accident is swift and appropriate to minimize damage to
4 any person, property or wildlife. This planning shall include assisting in and
5 training for the preparation of localized plans setting forth agency respon-
6 sibilities for on-scene response.

7 (2) The State Fire Marshal may apply for funds as available to train,
8 equip and maintain an appropriate response capability at the state and local
9 level.

10 (3) The State Fire Marshal shall issue certificates to local agency per-
11 sonnel who have completed the training.

12 (4) To the extent practicable, the emergency preparedness and response
13 program for hazardous substances as provided in this section shall be con-
14 sistent with the program for radioactive material, wastes and substances
15 developed by the [*State Department of Energy*] **Oregon Climate Authority**
16 and the Oregon Health Authority under ORS chapters 453 and 469.

17 **SECTION 79.** ORS 455.492 is amended to read:

18 455.492. (1) There is established a Construction Industry Energy Board,
19 consisting of 11 members. The membership shall consist of the following:

20 (a) Two members selected by the Electrical and Elevator Board from the
21 members of the Electrical and Elevator Board who have practical experience
22 in the electric industry.

23 (b) Two members selected by the Residential and Manufactured Structures
24 Board from the members of the Residential and Manufactured Structures
25 Board who have practical experience in the residential structure industry
26 or manufactured structure industry.

27 (c) Two members selected by the Building Codes Structures Board from
28 the members of the Building Codes Structures Board who have practical ex-
29 perience in construction.

30 (d) Two members selected by the State Plumbing Board from the members
31 of the State Plumbing Board who have practical experience in construction.

1 (e) Two members selected by the Mechanical Board from the members of
2 the Mechanical Board who have practical experience in construction.

3 (f) One member who is an employee or officer of the [*State Department*
4 *of Energy*] **Oregon Climate Authority** appointed by the Director of the
5 [*State Department of Energy*] **Oregon Climate Authority**.

6 (2) The Construction Industry Energy Board shall select one of its mem-
7 bers as chairperson and another as vice chairperson, for such terms and with
8 duties and powers necessary for the performance of the functions of those
9 positions as the board determines.

10 (3) Except as provided in ORS 455.496 (2), a majority of the members of
11 the board constitutes a quorum for the transaction of business.

12 (4) A member of the board is not entitled to compensation, but at the
13 discretion of the director may be reimbursed from funds available to the
14 Department of Consumer and Business Services for actual and necessary
15 travel and other expenses incurred by the member in the performance of the
16 member's official duties in the manner and amount provided in ORS 292.495.

17 **SECTION 80.** ORS 455.511 is amended to read:

18 455.511. (1) As used in this section, "energy efficiency" means the use of
19 construction and design standards, construction methods, products, equip-
20 ment and devices to increase efficient use of, and reduce consumption of,
21 electricity, natural gas and fossil fuels in buildings undergoing new con-
22 struction, reconstruction, alteration or repair.

23 (2) The Director of the Department of Consumer and Business Services,
24 after consultation with the [*State Department of Energy*] **Oregon Climate**
25 **Authority** and subject to the approval of the appropriate advisory boards,
26 shall adopt amendments to the state building code under ORS 455.030 to in-
27 crease energy efficiency in buildings that are newly constructed, recon-
28 structed, altered or repaired. In adopting the amendments, the director shall
29 consider generally accepted model codes, products and product standards, the
30 Reach Code adopted under ORS 455.500 and other available data to evaluate
31 codes and standards that promote energy efficiency in buildings.

1 (3) The director, in consultation with the appropriate advisory boards,
2 shall develop a schedule for the periodic review of energy efficiency stan-
3 dards and shall establish goals for increasing the level of energy conserva-
4 tion achieved by the use of energy efficiency standards contained in the state
5 building code and the Reach Code. In establishing goals and the schedule for
6 periodic review of standards under this section, the director shall consider
7 the publication schedule of generally accepted construction codes and stan-
8 dards. If the director determines that the adopted review schedule or energy
9 efficiency goals are not practicable for economic or technical reasons, the
10 director may amend the schedule or goals as the director considers appro-
11 priate.

12 **SECTION 81.** ORS 466.380 is amended to read:

13 466.380. The Department of Environmental Quality and the [*State De-*
14 *partment of Energy*] **Oregon Climate Authority** shall enter into an intera-
15 gency agreement providing for the implementation of the provisions of ORS
16 466.360 to 466.385 relating to radioactive waste disposal sites.

17 **SECTION 82.** ORS 466.615 is amended to read:

18 466.615. Nothing in ORS 466.605 to 466.680, 466.990 (3) and (4) and 466.995
19 (2) is intended to grant the Environmental Quality Commission or the De-
20 partment of Environmental Quality authority over any radioactive substance
21 regulated by the Oregon Health Authority under ORS chapter 453, or any
22 radioactive material or waste regulated by the [*State Department of Energy*]
23 **Oregon Climate Authority** or Energy Facility Siting Council under ORS
24 chapter 469.

25 **SECTION 83.** ORS 468B.500 is amended to read:

26 468B.500. The plan developed under ORS 468B.495 shall include at a min-
27 imum:

28 (1) A compilation of maps and information about the waters of the state
29 including shorelines, access points, critical habitats, shoreline sensitivity,
30 disposal sites, ownership and jurisdictional control over each area. [*This*
31 *portion of the plan shall use and expand the computer mapping system cur-*

1 *rently being developed by the State Department of Energy.]*

2 (2) An index of federal, state and local agency personnel, private con-
3 tractors, volunteers, labor employment centers, wildlife rehabilitation centers
4 and other sources of persons and equipment available to respond in the event
5 of an oil or hazardous material spill. The index shall include information
6 necessary to contact the organizations and persons in the index in the event
7 of an oil or hazardous material spill.

8 (3) A spill response strategy. This strategy shall include methods for dis-
9 covery of the spill, notification of agencies, organizations and individuals in
10 the index, evaluation and initiation of response, containment and counter-
11 measures and cleanup. The spill response strategy shall also include pro-
12 visions for documenting the response measures taken and procedures for cost
13 recovery.

14 (4) Provisions for coordinating Oregon's oil or hazardous material spill
15 response procedures for coastal and interstate waters with the states of
16 Washington and California. To the maximum extent practicable, interstate
17 cooperation shall include but need not be limited to coordination of:

18 (a) Development of coastal and ocean information systems with those of
19 adjacent states; and

20 (b) Oregon's oil or hazardous material spill response, damage assessment
21 and cost recovery procedures for coastal or interstate waters with those de-
22 veloped by adjacent states.

23 **SECTION 84.** ORS 469.020 is amended to read:

24 469.020. As used in ORS 176.820, 469.010 to 469.155, 469.860 (3), 469.880 to
25 469.895, 469.900 (3), 469.990, 469.992, 757.710 and 757.720, unless the context
26 requires otherwise:

27 (1) "Agency" includes a department or other agency of state government,
28 city, county, municipal corporation, political subdivision, port, people's util-
29 ity district, joint operating agency and electric cooperative.

30 (2) "Coal supplier" means any person engaged in the wholesale distrib-
31 ution in this state of coal intended for use in this state for an energy facility.

1 (3) “Cost-effective” means that an energy resource, facility or conserva-
2 tion measure during its life cycle results in delivered power costs to the ul-
3 timate consumer no greater than the comparable incremental cost of the
4 least cost alternative new energy resource, facility or conservation measure.

5 Cost comparison under this definition shall include but not be limited to:

- 6 (a) Cost escalations and future availability of fuels;
- 7 (b) Waste disposal and decommissioning costs;
- 8 (c) Transmission and distribution costs;
- 9 (d) Geographic, climatic and other differences in the state; and
- 10 (e) Environmental impact.

11 (4) “Council” means the Energy Facility Siting Council established under
12 ORS 469.450.

13 [(5) “Department” means the State Department of Energy created under
14 ORS 469.030.]

15 [(6) “Director” means the Director of the State Department of Energy ap-
16 pointed under ORS 469.040.]

17 [(7)] (5) “Energy facility” has the meaning given in ORS 469.300.

18 [(8)] (6) “Energy generation area” means an area within which the effects
19 of two or more small generating plants may accumulate so the small gener-
20 ating plants have effects of a magnitude similar to a single generating plant
21 of 25 megawatts or more. An energy generation area for facilities using a
22 geothermal resource and covered by a unit agreement, as provided in ORS
23 522.405 to 522.545 or by federal law, shall be defined in that unit agreement.
24 If no such unit agreement exists, an energy generation area for facilities
25 using a geothermal resource shall be the area that is within two miles,
26 measured from the electrical generating equipment of the facility, of an ex-
27 isting or proposed geothermal electric power generating plant, not including
28 the site of any other such plant not owned or controlled by the same person.

29 [(9)] (7) “Geothermal reservoir” means an aquifer or aquifers containing
30 a common geothermal fluid.

31 [(10)] (8) “Nominal electric generating capacity” has the meaning given

1 in ORS 469.300.

2 [(11)] (9) “Person” means an individual, partnership, joint venture, private
3 or public corporation, association, firm, public service company, political
4 subdivision, municipal corporation, government agency, people’s utility dis-
5 trict, or any other entity, public or private, however organized.

6 [(12)] (10) “Petroleum supplier” means a petroleum refiner in this state,
7 or any person engaged in the wholesale distribution of crude petroleum or
8 derivative thereof or of propane in this state.

9 [(13)] (11) “Related or supporting facilities” means any structure, pro-
10 posed by the applicant, to be constructed or substantially modified in con-
11 nection with the construction of an energy facility, including associated
12 transmission lines, reservoirs, storage facilities, intake structure, road and
13 rail access, pipelines, barge basins, office or public buildings, and commercial
14 and industrial structures. “Related or supporting facilities” does not include
15 geothermal or underground gas storage reservoirs, production, injection or
16 monitoring wells or wellhead equipment or pumps.

17 [(14)] (12) “Site” means a proposed location of an energy facility, and its
18 related or supporting facilities.

19 [(15)] (13) “Thermal power plant” has the meaning given that term by
20 ORS 469.300.

21 [(16)] (14) “Utility” includes:

22 (a) An individual, a regulated electrical company, a people’s utility dis-
23 trict, a joint operating agency, an electric cooperative, municipality or any
24 combination thereof, engaged in or authorized to engage in the business of
25 generating, transmitting or distributing electric energy;

26 (b) A person or public agency generating electric energy from an energy
27 facility for its own consumption; and

28 (c) A person engaged in this state in the transmission or distribution of
29 natural or synthetic gas.

30 **SECTION 85.** ORS 469.050 is amended to read:

31 469.050. (1) A person who has been the Director of the [*State Department*

1 *of Energy]* **Oregon Climate Authority** shall not, within two years after the
2 person ceases to be the director, be an employee of:

- 3 (a) An owner or operator of an energy facility;
- 4 (b) An applicant for a site certificate; or
- 5 (c) Any person who engages in the sale or manufacture of any energy
6 resource or of any major component of an energy facility in Oregon.

7 (2) Employment of any individual in violation of subsection (1)(a) or (b)
8 of this section shall be grounds for the revocation of any license issued by
9 this state or any agency thereof and held by the person that employs such
10 individual.

11 **SECTION 86.** ORS 469.055 is amended to read:

12 469.055. For the purpose of requesting a state or nationwide criminal re-
13 cords check under ORS 181A.195, the [*State Department of Energy*] **Oregon**
14 **Climate Authority** may require the fingerprints of a person who:

15 (1)(a) Is employed or applying for employment by the [*department*] **au-**
16 **thority**; or

17 (b) Provides services or seeks to provide services to the [*department*] **au-**
18 **thority** as a contractor or volunteer; and

19 (2) Is, or will be, working or providing services in a position:

20 (a) In the Hanford nuclear safety program;

21 (b) In which the person conducts energy audits in schools, colleges, uni-
22 versities or medical facilities;

23 (c) In the budget and finance section of the [*department*] **authority**;

24 (d) That has personnel or human resources functions as one of the
25 position's primary responsibilities;

26 (e) In which the person is providing information technology services and
27 has control over, or access to, information technology systems that would
28 allow the person to harm the information technology systems or the infor-
29 mation contained in the systems;

30 (f) In which the person has access to personal information about employ-
31 ees or members of the public including Social Security numbers, dates of

1 birth, driver license numbers or criminal background information; or

2 (g) In which the person has access to tax or financial information about
3 individuals or business entities or processes tax credits.

4 **SECTION 87.** ORS 469.059 is amended to read:

5 469.059. (1) No later than November 1 of every even-numbered year, the
6 [*State Department of Energy*] **Oregon Climate Authority** shall transmit to
7 the Governor and the Legislative Assembly a comprehensive report on energy
8 resources, policies, trends and forecasts in Oregon. The purposes of the re-
9 port shall be to inform local, state, regional and federal energy policy de-
10 velopment, energy planning and energy investments, and to identify
11 opportunities to further the energy policies stated in ORS 469.010 and
12 469.310.

13 (2) Consistent with the legislatively approved budget, the report shall in-
14 clude, but need not be limited to, data and information on:

15 (a) The consumption, generation, transmission and production of energy,
16 including fuel energy;

17 (b) Energy costs;

18 (c) Energy sectors, markets, technologies, resources and facilities;

19 (d) Energy efficiency and conservation;

20 (e) The effects of energy use, including effects related to greenhouse gas
21 emissions;

22 (f) Local, state, regional and federal regulations, policies and planning
23 activities related to energy; and

24 (g) Emerging energy opportunities, challenges and impacts.

25 (3) The report may include, but need not be limited to:

26 (a) Recommendations for the development and maximum use of cost-
27 effective conservation methods and renewable resources, consistent with the
28 energy policies stated in ORS 469.010 and 469.310 and, where appropriate, the
29 energy plan and fish and wildlife program adopted by the Pacific Northwest
30 Electric Power and Conservation Planning Council pursuant to P.L. 96-501;
31 and

1 (b) Recommendations for proposed research, development and demon-
2 stration projects and programs necessary to further the energy policies
3 stated in ORS 469.010 and 469.310.

4 (4) The report shall be compiled by collecting, organizing and refining
5 data and information acquired by the [*department*] **authority** in the per-
6 formance of its existing duties and under its existing authority.

7 (5)(a) This section is not intended to allow disclosure of records exempt
8 from disclosure under ORS 192.311 to 192.478.

9 (b) The [*department*] **authority** shall establish procedures for the devel-
10 opment and compilation of the report that:

11 (A) Allow for a person to request the exclusion from the report of specific
12 data or information submitted by the person to the [*department*] **authority**
13 and to provide, in the request, reasoning as to why the data or information
14 is exempt from disclosure under ORS 192.311 to 192.478; and

15 (B) Protect data and information that the [*department*] **authority** deter-
16 mines to be exempt from disclosure in accordance with ORS 192.338.

17 (c) The [*department*] **authority** may utilize data and information that is
18 exempt from disclosure under ORS 192.311 to 192.478 in compilation or
19 analysis that is included in the report, provided that the exempt data and
20 information is not disclosed in a manner that is individually identifiable.

21 (6) Upon request from the [*department*] **authority**, other agencies shall
22 assist the [*department*] **authority** in the performance of its duties under this
23 section.

24 (7) The [*department*] **authority** shall seek public input and provide op-
25 portunities for public comment during the development of the report.

26 **SECTION 88.** ORS 469.080 is amended to read:

27 469.080. (1) The Director of the [*State Department of Energy*] **Oregon**
28 **Climate Authority** may obtain all necessary information from producers,
29 suppliers and consumers of energy resources within Oregon, and from poli-
30 tical subdivisions in this state, as necessary to carry out ORS 176.820,
31 192.338, 192.345, 192.355, [192.690,] 469.010 to 469.155, 469.300 to 469.563,

1 469.990, 469.992, 757.710 and 757.720. Such information may include, but not
2 be limited to:

- 3 (a) Sales volume;
- 4 (b) Forecasts of energy resource requirements;
- 5 (c) Inventory of energy resources; and
- 6 (d) Local distribution patterns of information under paragraphs (a) to (c)
7 of this subsection.

8 (2) In obtaining information under subsection (1) of this section, the di-
9 rector, with the written consent of the Governor, may subpoena witnesses,
10 material and relevant books, papers, accounts, records and memoranda, ad-
11 minister oaths, and may cause the depositions of persons residing within or
12 without Oregon to be taken in the manner prescribed for depositions in civil
13 actions in circuit courts, to obtain information relevant to energy resources.

14 (3) In obtaining information under this section, the director:

15 (a) Shall avoid eliciting information already furnished by a person or
16 political subdivision in this state to a federal, state or local regulatory au-
17 thority that is available to the director for such study; and

18 (b) Shall cause reporting procedures, including forms, to conform to ex-
19 isting requirements of federal, state and local regulatory authorities.

20 (4) Any person who is served with a subpoena to give testimony orally
21 or in writing or to produce books, papers, correspondence, memoranda,
22 agreements or the documents or records as provided in ORS 176.820, 192.338,
23 192.345, 192.355, [192.690,] 469.010 to 469.155, 469.300 to 469.563, 469.990,
24 469.992, 757.710 and 757.720, may apply to any circuit court in Oregon for
25 protection against abuse or hardship in the manner provided in ORCP 36
26 C.

27 **SECTION 89.** ORS 469.085 is amended to read:

28 469.085. (1) Except as otherwise provided in this section, civil penalties
29 under ORS 469.992 shall be imposed as provided in ORS 183.745.

30 (2) Notwithstanding ORS 183.745 (2), the notice to the person against
31 whom a civil penalty is to be imposed shall reflect a complete statement of

1 the consideration given to the factors listed in subsection (7) of this section.
2 The notice may be served by either the Director of the [*State Department of*
3 *Energy*] **Oregon Climate Authority** or the Energy Facility Siting Council.

4 (3) Notwithstanding ORS 183.745, if a hearing is not requested or if the
5 person requesting a hearing fails to appear, a final order shall be entered
6 upon a prima facie case made on the record of the agency.

7 (4) The provisions of this section are in addition to and not in lieu of any
8 other penalty or sanction provided by law. An action taken by the director
9 or the council under this section may be joined by the director or the council
10 with any other action against the same person under this chapter.

11 (5) Any civil penalty recovered under this section shall be paid into the
12 General Fund.

13 (6) The director or the council shall adopt by rule a schedule of the
14 amount of civil penalty that may be imposed for a particular violation.

15 (7) In imposing a penalty under ORS 469.992, the director or the council
16 shall consider:

17 (a) The past history of the person incurring a penalty in taking all fea-
18 sible steps or procedures necessary or appropriate to correct or prevent any
19 violation;

20 (b) Any prior violations of ORS chapter 469 or rules, orders or permits
21 relating to the alleged violation;

22 (c) The impact of the violation on public health and safety or public in-
23 terests in fishery, navigation and recreation;

24 (d) Any other factors determined by the director or the council to be
25 relevant; and

26 (e) The alleged violator's cooperativeness and effort to correct the vio-
27 lation.

28 (8) The penalty imposed under ORS 469.992 may be remitted or mitigated
29 upon such terms and conditions as the director or council determines to be
30 proper. Upon the request of the person incurring the penalty, the director
31 or council shall consider evidence of the economic and financial condition

1 of the person in determining whether a penalty shall be remitted or miti-
2 gated.

3 **SECTION 90.** ORS 469.097 is amended to read:

4 469.097. The [*State Department of Energy*] **Oregon Climate Authority**
5 shall to the extent permitted by its resources monitor industry progress in
6 achieving energy conservation.

7 **SECTION 91.** ORS 469.110 is amended to read:

8 469.110. (1) At the direction of the Director of the [*State Department of*
9 *Energy*] **Oregon Climate Authority**, the [*State Department of Energy*]
10 **Oregon Climate Authority** may represent the state's energy-related inter-
11 ests in any matter involving the federal government, its departments or
12 agencies, which is within the scope of the power and duties of the [*State*
13 *Department of Energy*] **Oregon Climate Authority**, and may, upon request,
14 represent the interest of a county, city, state agency, federally recognized
15 Native American or American Indian tribe, special district or owner or op-
16 erator of an energy facility.

17 (2) At the direction of the director, the [*department*] **authority** may in-
18 tervene in any proceeding undertaken by an agency for the purpose of ex-
19 pressing its views as to the effect of an agency action, upon state energy
20 resources and state energy policy.

21 **SECTION 92.** ORS 469.135 is amended to read:

22 469.135. The [*State Department of Energy*] **Oregon Climate Authority**
23 shall expand the Energy Conservation Clearinghouse for Commerce and In-
24 dustry so that it provides:

25 (1) Current information to business and industry on:

26 (a) State and federal financing mechanisms;

27 (b) Tax advantages of energy conservation investments; and

28 (c) General economic advantages of energy conservation investments.

29 (2) Teaching on conservation techniques and management of energy by
30 corporations.

31 **SECTION 93.** ORS 469.137 is amended to read:

1 469.137. (1) As used in this section:

2 (a) “Biogas” means gas that is generated from organic waste or other
3 organic materials through anaerobic digestion, gasification, pyrolysis or
4 other technology that converts organic waste to gas.

5 (b) “Renewable natural gas” is biogas that has been processed to be
6 interchangeable with conventional natural gas for the purpose of meeting
7 pipeline quality standards or transportation fuel grade requirements.

8 (2) The [*State Department of Energy*] **Oregon Climate Authority** shall
9 develop, maintain and periodically update an inventory of biogas and
10 renewable natural gas resources available to this state. The inventory must
11 include, but need not be limited to:

12 (a) A list of the potential biogas and renewable natural gas sources in
13 this state and the estimated potential production quantities available at each
14 source;

15 (b) An estimate of the energy content of listed potential biogas and
16 renewable natural gas sources;

17 (c) An estimate of the range of technologies available to this state for
18 renewable natural gas production by conversion technologies such as
19 anaerobic digestion and thermal gasification; and

20 (d) A list of the existing biogas production sites in this state that in-
21 cludes:

22 (A) The location of each site; and

23 (B) An assessment of the supply-chain infrastructure associated with the
24 site.

25 (3) The [*department*] **authority** shall utilize the inventory required by this
26 section, and any other relevant information as considered necessary by the
27 [*department*] **authority**, to develop and periodically revise an estimate of:

28 (a) The potential quantity of renewable natural gas that could be
29 produced in this state and delivered for use:

30 (A) As a transportation fuel in the form of compressed natural gas or
31 liquefied natural gas; and

- 1 (B) By residential, commercial and industrial consumers of natural gas;
2 (b) The potential for the use of renewable natural gas in this state to
3 reduce greenhouse gas emissions;
4 (c) The potential for renewable natural gas in this state to improve air
5 quality; and
6 (d) The technical, market, policy and regulatory barriers to developing
7 and utilizing renewable natural gas in this state.

8 (4) The [*department*] **authority** shall appoint an advisory committee to
9 assist in developing, maintaining and periodically updating the inventory
10 required by this section. The committee must include but not be limited to
11 persons familiar with the renewable natural gas industry. The committee
12 shall make recommendations to the [*department*] **authority**:

- 13 (a) Regarding the identification and removal of barriers to producing and
14 utilizing biogas and renewable natural gas in this state as a means toward
15 providing the greatest feasible reductions in greenhouse gas emissions and
16 improvements in air quality;
17 (b) On establishing policies to promote renewable natural gas; and
18 (c) On any other matters related to this section, as requested by the [*de-*
19 *partment*] **authority**.

20 **SECTION 94.** ORS 469.150 is amended to read:

21 469.150. (1) As used in this section “energy conservation services” means
22 services provided by energy suppliers to educate and inform customers and
23 the public about energy conservation. Such services include but are not
24 limited to providing answers to questions concerning energy saving devices
25 and providing inspections and making suggestions concerning the con-
26 struction and siting of buildings and residences.

27 (2) Energy suppliers other than public utilities as defined in ORS 757.005,
28 that produce, transmit, deliver or furnish heat, light or power shall establish
29 energy conservation services and shall provide energy conservation informa-
30 tion to customers and to the public. The services shall be performed in ac-
31 cordance with such guidelines as the Director of the [*State Department of*

1 *Energy]* **Oregon Climate Authority** may by rule prescribe.

2 (3) As used in this section “energy supplier” means a publicly owned
3 utility or fuel oil dealer which supplies electricity or fuel oil for the space
4 heating of dwellings.

5 **SECTION 95.** ORS 469.155 is amended to read:

6 469.155. (1) As used in this section:

7 (a) “Dwelling” means real or personal property inhabited as the principal
8 residence of an owner or renter. “Dwelling” includes a manufactured dwell-
9 ing as defined in ORS 446.003, a floating home as defined in ORS 830.700 and
10 multiple unit residential housing. “Dwelling” does not include a recreational
11 vehicle as defined in ORS 446.003.

12 (b) “Energy conservation standards” means standards for the efficient use
13 of energy for space and water heating in a dwelling.

14 (2) The Director of the [*State Department of Energy*] **Oregon Climate**
15 **Authority** shall establish advisory energy conservation standards for exist-
16 ing dwellings. The standards shall be adopted by rule in accordance with
17 ORS 183.310 to 183.410. The standards:

18 (a) Shall take cost-effectiveness into account; and

19 (b) Shall be compatible with and further the state’s incentive programs
20 for residential energy conservation.

21 (3) The director shall publicize the energy conservation standards and
22 encourage home owners to voluntarily comply with the standards.

23 **SECTION 96.** ORS 469.255 is amended to read:

24 469.255. (1) A manufacturer of a product specified in ORS 469.238 that is
25 sold or offered for sale, or installed or offered for installation, in this state
26 shall test samples of the manufacturer’s products in accordance with the test
27 methods specified in ORS 469.233 or, if more stringent, those specified in the
28 state building code.

29 (2) If the test methods for products required to be tested under this sec-
30 tion are not provided for in ORS 469.233 or in the state building code, the
31 [*State Department of Energy*] **Director of the Oregon Climate Authority**

1 shall adopt test methods for these products. The [*department*] **Oregon Cli-**
2 **mate Authority** shall use test methods approved by the United States De-
3 partment of Energy or, in the absence of federal test methods, other
4 appropriate nationally recognized test methods for guidance in adopting test
5 methods. The [*State Department of Energy*] **director** may periodically review
6 and revise [*its*] **the authority's** test methods.

7 (3) A manufacturer of a product regulated pursuant to ORS 469.229 to
8 469.261, except for manufacturers of single-voltage external AC to DC power
9 supplies, walk-in refrigerators and walk-in freezers, shall certify to the [*State*
10 *Department of Energy*] **Oregon Climate Authority** that the products are in
11 compliance with the minimum energy efficiency standards specified in ORS
12 469.233. The [*department*] **authority** shall establish rules governing the cer-
13 tification of these products and may coordinate with the certification and
14 testing programs of other states and federal agencies with similar standards.

15 (4)(a) The [*department*] **director** shall establish rules governing the iden-
16 tification of the products that comply with the minimum energy efficiency
17 standards specified in ORS 469.233. The rules shall be coordinated to the
18 greatest extent practicable with the labeling programs of other states and
19 federal agencies with equivalent efficiency standards.

20 (b) Identification required under paragraph (a) of this subsection shall be
21 by means of a mark, label or tag on the product and packaging at the time
22 of sale or installation.

23 (c) The [*department*] **authority** shall waive marking, labeling or tagging
24 requirements for products marked, labeled or tagged in compliance with
25 federal requirements or for products certified pursuant to subsection (3) of
26 this section, unless the [*department*] **authority** determines that state mark-
27 ing, labeling or tagging is required to provide adequate energy efficiency
28 information to the consumer.

29 **SECTION 97.** ORS 469.261 is amended to read:

30 469.261. (1)(a) Notwithstanding ORS 469.233, the [*State Department of En-*
31 *ergy*] **Director of the Oregon Climate Authority** shall periodically review

1 the minimum energy efficiency standards specified in ORS 469.233.

2 (b) After the review pursuant to paragraph (a) of this subsection, the di-
3 rector [*of the State Department of Energy*] may adopt rules to update the
4 minimum energy efficiency standards specified in ORS 469.233 if the director
5 determines that the standards need to be updated:

6 (A) To promote energy conservation in the state;

7 (B) To achieve cost-effectiveness for consumers; or

8 (C) Due to federal action or to the outcome of collaborative consultations
9 with manufacturers and the energy departments of other states.

10 (c)(A) In addition to the rules adopted under paragraph (b) of this sub-
11 section, the director may postpone by rule the operative date of any of the
12 minimum energy efficiency standards specified in ORS 469.233 if the director
13 determines that:

14 (i) Adjoining states with similar minimum energy efficiency standards
15 have postponed the operative date of their corresponding minimum energy
16 efficiency standards; or

17 (ii) Failure to modify the operative date of any of the minimum energy
18 efficiency standards would impose a substantial hardship on manufacturers,
19 retailers or the public.

20 (B)(i) The director may not postpone the operative date of a minimum
21 energy efficiency standard under subparagraph (A) of this paragraph for
22 more than one year.

23 (ii) If at the end of the first postponement period the director determines
24 that adjoining states have further postponed the operative date of minimum
25 energy efficiency standards and the requirements of subparagraph (A) of this
26 paragraph continue to be met, the director may postpone the operative date
27 for not more than one additional year.

28 (d) After the review pursuant to paragraph (a) of this subsection, the di-
29 rector may adopt rules to establish new minimum energy efficiency standards
30 if the director determines that new standards are needed:

31 (A) To promote energy conservation in the state;

1 (B) To achieve cost-effectiveness for consumers; or

2 (C) Due to federal action or to the outcome of collaborative consultations
3 with manufacturers and the energy departments of other states.

4 (e) If the director adopts rules under paragraph (b) of this subsection to
5 update the minimum energy efficiency standards specified in ORS 469.233 or
6 under paragraph (d) of this subsection to establish new minimum energy ef-
7 ficiency standards:

8 (A) The rules may not take effect until one year following their adoption
9 by the director; and

10 (B) The Governor shall cause to be introduced at the next Legislative
11 Assembly a bill to conform the statutory minimum energy efficiency stan-
12 dards to the minimum energy efficiency standards adopted by the director
13 by rule.

14 (2) If the director determines that implementation of a state minimum
15 energy efficiency standard requires a waiver of federal preemption, the di-
16 rector shall apply for a waiver of federal preemption pursuant to 42 U.S.C.
17 6297(d).

18 **SECTION 98.** ORS 469.300 is amended to read:

19 469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and
20 469.992, unless the context requires otherwise:

21 (1) “Applicant” means any person who makes application for a site cer-
22 tificate in the manner provided in ORS 469.300 to 469.563, 469.590 to 469.619,
23 469.930 and 469.992.

24 (2) “Application” means a request for approval of a particular site or sites
25 for the construction and operation of an energy facility or the construction
26 and operation of an additional energy facility upon a site for which a cer-
27 tificate has already been issued, filed in accordance with the procedures es-
28 tablished pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and
29 469.992.

30 (3) “Associated transmission lines” means new transmission lines con-
31 structed to connect an energy facility to the first point of junction of such

1 transmission line or lines with either a power distribution system or an
2 interconnected primary transmission system or both or to the Northwest
3 Power Grid.

4 (4) “Average electric generating capacity” means the peak generating ca-
5 pacity of the facility divided by one of the following factors:

6 (a) For wind facilities, 3.00;

7 (b) For geothermal energy facilities, 1.11; or

8 (c) For all other energy facilities, 1.00.

9 (5) “Combustion turbine power plant” means a thermal power plant con-
10 sisting of one or more fuel-fired combustion turbines and any associated
11 waste heat combined cycle generators.

12 (6) “Construction” means work performed on a site, excluding surveying,
13 exploration or other activities to define or characterize the site, the cost of
14 which exceeds \$250,000.

15 (7) “Council” means the Energy Facility Siting Council established under
16 ORS 469.450.

17 [(8) “Department” means the State Department of Energy created under
18 ORS 469.030.]

19 [(9) “Director” means the Director of the State Department of Energy ap-
20 pointed under ORS 469.040.]

21 [(10)] (8) “Electric utility” means persons, regulated electrical companies,
22 people’s utility districts, joint operating agencies, electric cooperatives,
23 municipalities or any combination thereof, engaged in or authorized to en-
24 gage in the business of generating, supplying, transmitting or distributing
25 electric energy.

26 [(11)(a)] (9)(a) “Energy facility” means any of the following:

27 (A) An electric power generating plant with a nominal electric generating
28 capacity of 25 megawatts or more, including but not limited to:

29 (i) Thermal power;

30 (ii) Combustion turbine power plant; or

31 (iii) Solar thermal power plant.

1 (B) A nuclear installation as defined in this section.

2 (C) A high voltage transmission line of more than 10 miles in length with
3 a capacity of 230,000 volts or more to be constructed in more than one city
4 or county in this state, but excluding:

5 (i) Lines proposed for construction entirely within 500 feet of an existing
6 corridor occupied by high voltage transmission lines with a capacity of
7 230,000 volts or more; and

8 (ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000
9 volts along the same right of way.

10 (D) A solar photovoltaic power generation facility using more than:

11 (i) 100 acres located on high-value farmland as defined in ORS 195.300;

12 (ii) 100 acres located on land that is predominantly cultivated or that, if
13 not cultivated, is predominantly composed of soils that are in capability
14 classes I to IV, as specified by the National Cooperative Soil Survey operated
15 by the Natural Resources Conservation Service of the United States De-
16 partment of Agriculture; or

17 (iii) 320 acres located on any other land.

18 (E) A pipeline that is:

19 (i) At least six inches in diameter, and five or more miles in length, used
20 for the transportation of crude petroleum or a derivative thereof, liquefied
21 natural gas, a geothermal energy form in a liquid state or other fossil energy
22 resource, excluding a pipeline conveying natural or synthetic gas;

23 (ii) At least 16 inches in diameter, and five or more miles in length, used
24 for the transportation of natural or synthetic gas, but excluding:

25 (I) A pipeline proposed for construction of which less than five miles of
26 the pipeline is more than 50 feet from a public road, as defined in ORS
27 368.001; or

28 (II) A parallel or upgraded pipeline up to 24 inches in diameter that is
29 constructed within the same right of way as an existing 16-inch or larger
30 pipeline that has a site certificate, if all studies and necessary mitigation
31 conducted for the existing site certificate meet or are updated to meet cur-

1 rent site certificate standards; or

2 (iii) At least 16 inches in diameter and five or more miles in length used
3 to carry a geothermal energy form in a gaseous state but excluding a pipeline
4 used to distribute heat within a geothermal heating district established un-
5 der ORS chapter 523.

6 (F) A synthetic fuel plant which converts a natural resource including,
7 but not limited to, coal or oil to a gas, liquid or solid product intended to
8 be used as a fuel and capable of being burned to produce the equivalent of
9 two billion Btu of heat a day.

10 (G) A plant which converts biomass to a gas, liquid or solid product, or
11 combination of such products, intended to be used as a fuel and if any one
12 of such products is capable of being burned to produce the equivalent of six
13 billion Btu of heat a day.

14 (H) A storage facility for liquefied natural gas constructed after Septem-
15 ber 29, 1991, that is designed to hold at least 70,000 gallons.

16 (I) A surface facility related to an underground gas storage reservoir that,
17 at design injection or withdrawal rates, will receive or deliver more than 50
18 million cubic feet of natural or synthetic gas per day, or require more than
19 4,000 horsepower of natural gas compression to operate, but excluding:

20 (i) The underground storage reservoir;

21 (ii) The injection, withdrawal or monitoring wells and individual wellhead
22 equipment; and

23 (iii) An underground gas storage reservoir into which gas is injected
24 solely for testing or reservoir maintenance purposes or to facilitate the sec-
25 ondary recovery of oil or other hydrocarbons.

26 (J) An electric power generating plant with an average electric generat-
27 ing capacity of 35 megawatts or more if the power is produced from
28 geothermal or wind energy at a single energy facility or within a single en-
29 ergy generation area.

30 (b) "Energy facility" does not include a hydroelectric facility or an energy
31 facility under paragraph (a)(A)(iii) or (D) of this subsection that is estab-

1 lished on the site of a decommissioned United States Air Force facility that
2 has adequate transmission capacity to serve the energy facility.

3 [(12)] (10) “Energy generation area” means an area within which the ef-
4 fects of two or more small generating plants may accumulate so the small
5 generating plants have effects of a magnitude similar to a single generating
6 plant of 35 megawatts average electric generating capacity or more. An
7 “energy generation area” for facilities using a geothermal resource and cov-
8 ered by a unit agreement, as provided in ORS 522.405 to 522.545 or by federal
9 law, shall be defined in that unit agreement. If no such unit agreement ex-
10 ists, an energy generation area for facilities using a geothermal resource
11 shall be the area that is within two miles, measured from the electrical
12 generating equipment of the facility, of an existing or proposed geothermal
13 electric power generating plant, not including the site of any other such
14 plant not owned or controlled by the same person.

15 [(13)] (11) “Extraordinary nuclear occurrence” means any event causing
16 a discharge or dispersal of source material, special nuclear material or by-
17 product material as those terms are defined in ORS 453.605, from its intended
18 place of confinement off-site, or causing radiation levels off-site, that the
19 United States Nuclear Regulatory Commission or its successor determines
20 to be substantial and to have resulted in or to be likely to result in sub-
21 stantial damages to persons or property off-site.

22 [(14)] (12) “Facility” means an energy facility together with any related
23 or supporting facilities.

24 [(15)] (13) “Geothermal reservoir” means an aquifer or aquifers containing
25 a common geothermal fluid.

26 [(16)] (14) “Local government” means a city or county.

27 [(17)] (15) “Nominal electric generating capacity” means the maximum net
28 electric power output of an energy facility based on the average temperature,
29 barometric pressure and relative humidity at the site during the times of the
30 year when the facility is intended to operate.

31 [(18)] (16) “Nuclear incident” means any occurrence, including an ex-

1 traordinary nuclear occurrence, that results in bodily injury, sickness, dis-
2 ease, death, loss of or damage to property or loss of use of property due to
3 the radioactive, toxic, explosive or other hazardous properties of source ma-
4 terial, special nuclear material or by-product material as those terms are
5 defined in ORS 453.605.

6 [(19)] (17) “Nuclear installation” means any power reactor, nuclear fuel
7 fabrication plant, nuclear fuel reprocessing plant, waste disposal facility for
8 radioactive waste, and any facility handling that quantity of fissionable ma-
9 terials sufficient to form a critical mass. “Nuclear installation” does not in-
10 clude any such facilities that are part of a thermal power plant.

11 [(20)] (18) “Nuclear power plant” means an electrical or any other facility
12 using nuclear energy with a nominal electric generating capacity of 25
13 megawatts or more, for generation and distribution of electricity, and asso-
14 ciated transmission lines.

15 [(21)] (19) “Person” means an individual, partnership, joint venture, pri-
16 vate or public corporation, association, firm, public service company, poli-
17 tical subdivision, municipal corporation, government agency, people’s utility
18 district, or any other entity, public or private, however organized.

19 [(22)] (20) “Project order” means the order, including any amendments,
20 issued by the [*State Department of Energy*] **Oregon Climate Authority** un-
21 der ORS 469.330.

22 [(23)(a)] (21)(a) “Radioactive waste” means all material which is dis-
23 carded, unwanted or has no present lawful economic use, and contains mined
24 or refined naturally occurring isotopes, accelerator produced isotopes and
25 by-product material, source material or special nuclear material as those
26 terms are defined in ORS 453.605. The term does not include those radioac-
27 tive materials identified in OAR 345-50-020, 345-50-025 and 345-50-035, adopted
28 by the council on December 12, 1978, and revised periodically for the purpose
29 of adding additional isotopes which are not referred to in OAR 345-50 as
30 presenting no significant danger to the public health and safety.

31 (b) Notwithstanding paragraph (a) of this subsection, “radioactive

1 waste” does not include uranium mine overburden or uranium mill tailings,
2 mill wastes or mill by-product materials as those terms are defined in Title
3 42, United States Code, section 2014, on June 25, 1979.

4 [(24)] **(22)** “Related or supporting facilities” means any structure, pro-
5 posed by the applicant, to be constructed or substantially modified in con-
6 nection with the construction of an energy facility, including associated
7 transmission lines, reservoirs, storage facilities, intake structures, road and
8 rail access, pipelines, barge basins, office or public buildings, and commercial
9 and industrial structures. “Related or supporting facilities” does not include
10 geothermal or underground gas storage reservoirs, production, injection or
11 monitoring wells or wellhead equipment or pumps.

12 [(25)] **(23)** “Site” means any proposed location of an energy facility and
13 related or supporting facilities.

14 [(26)] **(24)** “Site certificate” means the binding agreement between the
15 State of Oregon and the applicant, authorizing the applicant to construct and
16 operate a facility on an approved site, incorporating all conditions imposed
17 by the council on the applicant.

18 [(27)] **(25)** “Thermal power plant” means an electrical facility using any
19 source of thermal energy with a nominal electric generating capacity of 25
20 megawatts or more, for generation and distribution of electricity, and asso-
21 ciated transmission lines, including but not limited to a nuclear-fueled,
22 geothermal-fueled or fossil-fueled power plant, but not including a portable
23 power plant the principal use of which is to supply power in emergencies.
24 “Thermal power plant” includes a nuclear-fueled thermal power plant that
25 has ceased to operate.

26 [(28)] **(26)** “Transportation” means the transport within the borders of the
27 State of Oregon of radioactive material destined for or derived from any lo-
28 cation.

29 [(29)] **(27)** “Underground gas storage reservoir” means any subsurface
30 sand, strata, formation, aquifer, cavern or void, whether natural or arti-
31 ficially created, suitable for the injection, storage and withdrawal of natural

1 gas or other gaseous substances. “Underground gas storage reservoir” in-
2 cludes a pool as defined in ORS 520.005.

3 [(30)] (28) “Utility” includes:

4 (a) A person, a regulated electrical company, a people’s utility district, a
5 joint operating agency, an electric cooperative, municipality or any combi-
6 nation thereof, engaged in or authorized to engage in the business of gener-
7 ating, transmitting or distributing electric energy;

8 (b) A person or public agency generating electric energy from an energy
9 facility for its own consumption; and

10 (c) A person engaged in this state in the transmission or distribution of
11 natural or synthetic gas.

12 [(31)] (29) “Waste disposal facility” means a geographical site in or upon
13 which radioactive waste is held or placed but does not include a site at
14 which radioactive waste used or generated pursuant to a license granted
15 under ORS 453.635 is stored temporarily, a site of a thermal power plant used
16 for the temporary storage of radioactive waste from that plant for which a
17 site certificate has been issued pursuant to this chapter or a site used for
18 temporary storage of radioactive waste from a reactor operated by a college,
19 university or graduate center for research purposes and not connected to the
20 Northwest Power Grid. As used in this subsection, “temporary storage” in-
21 cludes storage of radioactive waste on the site of a nuclear-fueled thermal
22 power plant for which a site certificate has been issued until a permanent
23 storage site is available by the federal government.

24 **SECTION 99.** ORS 469.320 is amended to read:

25 469.320. (1) Except as provided in subsections (2) and (5) of this section,
26 no facility shall be constructed or expanded unless a site certificate has been
27 issued for the site thereof in the manner provided in ORS 469.300 to 469.563,
28 469.590 to 469.619, 469.930 and 469.992. No facility shall be constructed or
29 operated except in conformity with the requirements of ORS 469.300 to
30 469.563, 469.590 to 469.619, 469.930 and 469.992.

31 (2) A site certificate is not required for:

1 (a) An energy facility for which no site certificate has been issued that,
2 on August 2, 1993, had operable electric generating equipment for a modifi-
3 cation that uses the same fuel type and increases electric generating capac-
4 ity, if:

5 (A) The site is not enlarged; and

6 (B) The ability of the energy facility to use fuel for electricity production
7 under peak steady state operating conditions is not more than 200 million
8 Btu per hour greater than it was on August 2, 1993, or the energy facility
9 expansion is called for in the short-term plan of action of an energy resource
10 plan that has been acknowledged by the Public Utility Commission of
11 Oregon.

12 (b) Construction or expansion of any interstate natural gas pipeline or
13 associated underground natural gas storage facility authorized by and sub-
14 ject to the continuing regulation of the Federal Energy Regulatory Com-
15 mission or successor agency.

16 (c) An energy facility, except coal and nuclear power plants, if the energy
17 facility:

18 (A) Sequentially produces electrical energy and useful thermal energy
19 from the same fuel source; and

20 (B) Under average annual operating conditions, has a nominal electric
21 generating capacity:

22 (i) Of less than 50 megawatts and the fuel chargeable to power heat rate
23 value is not greater than 6,000 Btu per kilowatt hour;

24 (ii) Of 50 megawatts or more and the fuel chargeable to power heat rate
25 value is not greater than 5,500 Btu per kilowatt hour; or

26 (iii) Specified by the Energy Facility Siting Council by rule based on the
27 council's determination relating to emissions of the energy facility.

28 (d) Temporary storage, at the site of a nuclear-fueled thermal power plant
29 for which a site certificate has been issued by the State of Oregon, of ra-
30 dioactive waste from the plant.

31 (e) An energy facility as defined in ORS 469.300 [(11)(a)(G)] **(9)(a)(G)**, if

1 the plant also produces a secondary fuel used on site for the production of
2 heat or electricity, if the output of the primary fuel is less than six billion
3 Btu of heat a day.

4 (f) An energy facility as defined in ORS 469.300 [(11)(a)(G)] **(9)(a)(G)**, if
5 the facility:

6 (A) Exclusively uses biomass, including but not limited to grain, whey,
7 potatoes, oilseeds, waste vegetable oil or cellulosic biomass, as the source
8 of material for conversion to a liquid fuel;

9 (B) Has received local land use approval under the applicable acknowl-
10 edged comprehensive plan and land use regulations of the affected local
11 government and the facility complies with any statewide planning goals or
12 rules of the Land Conservation and Development Commission that are di-
13 rectly applicable to the facility;

14 (C) Requires no new electric transmission lines or gas or petroleum
15 product pipelines that would require a site certificate under subsection (1)
16 of this section;

17 (D) Produces synthetic fuel, at least 90 percent of which is used in an
18 industrial or refueling facility located within one mile of the facility or is
19 transported from the facility by rail or barge; and

20 (E) Emits less than 118 pounds of carbon dioxide per million Btu from
21 fossil fuel used for conversion energy.

22 (g) A standby generation facility, if the facility complies with all of the
23 following:

24 (A) The facility has received local land use approval under the applicable
25 acknowledged comprehensive plan and land use regulations of the affected
26 local government and the facility complies with all statewide planning goals
27 and applicable rules of the Land Conservation and Development Commission;

28 (B) The standby generators have been approved by the Department of
29 Environmental Quality as having complied with all applicable air and water
30 quality requirements. For an applicant that proposes to provide the physical
31 facilities for the installation of standby generators, the requirement of this

1 subparagraph may be met by agreeing to require such a term in the lease
2 contract for the facility; and

3 (C) The standby generators are electrically incapable of being intercon-
4 nected to the transmission grid. For an applicant that proposes to provide
5 the physical facilities for the installation of standby generators, the re-
6 quirement of this subparagraph may be met by agreeing to require such a
7 term in the lease contract for the facility.

8 (3) The Energy Facility Siting Council may review and, if necessary, re-
9 vise the fuel chargeable to power heat rate value set forth in subsection
10 (2)(c)(B) of this section. In making its determination, the council shall ensure
11 that the fuel chargeable to power heat rate value for facilities set forth in
12 subsection (2)(c)(B) of this section remains significantly lower than the fuel
13 chargeable to power heat rate value for the best available, commercially vi-
14 able thermal power plant technology at the time of the revision.

15 (4) Any person who proposes to construct or enlarge an energy facility
16 and who claims an exemption under subsection (2)(a), (c), (f) or (g) of this
17 section from the requirement to obtain a site certificate shall request the
18 Energy Facility Siting Council to determine whether the proposed facility
19 qualifies for the claimed exemption. The council shall make its determination
20 within 60 days after the request for exemption is filed. An appeal from the
21 council's determination on a request for exemption shall be made under ORS
22 469.403, except that the scope of review by the Supreme Court shall be the
23 same as a review by a circuit court under ORS 183.484. The record on review
24 by the Supreme Court shall be the record established in the council pro-
25 ceeding on the exemption.

26 (5) Notwithstanding subsection (1) of this section, a separate site certif-
27 icate shall not be required for:

28 (a) Transmission lines, storage facilities, pipelines or similar related or
29 supporting facilities, if such related or supporting facilities are addressed in
30 and are subject to a site certificate for another energy facility;

31 (b) Expansion within the site or within the energy generation area of a

1 facility for which a site certificate has been issued, if the existing site cer-
2 tificate has been amended to authorize expansion; or

3 (c) Expansion, either within the site or outside the site, of an existing
4 council certified surface facility related to an underground gas storage res-
5 ervoir, if the existing site certificate is amended to authorize expansion.

6 (6) If the substantial loss of the steam host causes a facility exempt under
7 subsection (2)(c) of this section to substantially fail to meet the exemption
8 requirements under subsection (2)(c) of this section, the electric generating
9 facility shall cease to operate one year after the substantial loss of the steam
10 host unless an application for a site certificate has been filed in accordance
11 with the provisions of ORS 469.300 to 469.563.

12 (7) As used in this section:

13 (a) “Standby generation facility” means an electric power generating fa-
14 cility, including standby generators and the physical structures necessary to
15 install and connect standby generators, that provides temporary electric
16 power in the event of a power outage and that is electrically incapable of
17 being interconnected with the transmission grid.

18 (b) “Total energy output” means the sum of useful thermal energy output
19 and useful electrical energy output.

20 (c) “Useful thermal energy” means the verifiable thermal energy used in
21 any viable industrial or commercial process, heating or cooling application.

22 (8) Notwithstanding the definition of “energy facility” in ORS 469.300
23 [(11)(a)(J)] **(9)(a)(J)**, an electric power generating plant with an average
24 electric generating capacity of less than 35 megawatts produced from wind
25 energy at a single energy facility or within a single energy generation area
26 may elect to obtain a site certificate in the manner provided in ORS 469.300
27 to 469.563, 469.590 to 469.619, 469.930 and 469.992. An election to obtain a site
28 certificate under this subsection shall be final upon submission of an appli-
29 cation for a site certificate.

30 **SECTION 100.** ORS 469.330 is amended to read:

31 469.330. (1) Each applicant for a site certificate shall submit to the Energy

1 Facility Siting Council a notice of intent to file an application for a site
2 certificate. The notice of intent must provide information about the proposed
3 site and the characteristics of the facility sufficient for the preparation of
4 the [*State Department of Energy's*] **Oregon Climate Authority's** project or-
5 der.

6 (2) The council shall cause public notice to be given upon receipt of a
7 notice of intent by the council. The public notice shall provide a description
8 of the proposed site and facility in sufficient detail to inform the public of
9 the location and proposed use of the site.

10 (3) Following review of the notice of intent and any public comments re-
11 ceived in response to the notice of intent, the [*department*] **authority** may
12 hold a preapplication conference with state agencies and local governments
13 that have regulatory or advisory responsibility with respect to the facility.
14 After the preapplication conference, the [*department*] **authority** shall issue
15 a project order establishing the statutes, administrative rules, council stan-
16 dards, local ordinances, application requirements and study requirements for
17 the site certificate application. A project order is not a final order.

18 (4) A project order issued under subsection (3) of this section may be
19 amended at any time by either the [*department*] **authority** or the council.

20 **SECTION 101.** ORS 469.350 is amended to read:

21 469.350. (1) Applications for site certificates shall be made to the Energy
22 Facility Siting Council in a form prescribed by the council and accompanied
23 by the fee required by ORS 469.421.

24 (2) Copies of the notice of intent and of the application shall be sent for
25 comment and recommendation within specified deadlines established by the
26 council to the Department of Environmental Quality, the Water Resources
27 Commission, the State Fish and Wildlife Commission, the Water Resources
28 Director, the State Geologist, the State Forestry Department, the Public
29 Utility Commission of Oregon, the State Department of Agriculture, the De-
30 partment of Land Conservation and Development, the Oregon Department
31 of Aviation, any other state agency that has regulatory or advisory respon-

1 sibility with respect to the facility and any city or county affected by the
2 application.

3 (3) Any state agency, city or county that is requested by the council to
4 comment and make recommendations under this section shall respond to the
5 council by the specified deadline. If a state agency, city or county determines
6 that it cannot respond to the council by the specified deadline because the
7 state agency, city or county lacks sufficient resources to review and comment
8 on the application, the state agency, city or county shall contract with an-
9 other entity to assist in preparing a response. A state agency, city or county
10 that enters into a contract to assist in preparing a response may request
11 funding to pay for that contract from the council pursuant to ORS 469.360.

12 (4) The [*State Department of Energy*] **Oregon Climate Authority** shall
13 notify the applicant whether the application is complete. When the [*de-*
14 *partment*] **authority** determines an application is complete, the [*department*]
15 **authority** shall notify the applicant and provide notice to the public.

16 **SECTION 102.** ORS 469.370 is amended to read:

17 469.370. (1) Based on its review of the application and the comments and
18 recommendations on the application from state agencies and local govern-
19 ments, the [*State Department of Energy*] **Oregon Climate Authority** shall
20 prepare and issue a draft proposed order on the application.

21 (2) Following issuance of the draft proposed order, the Energy Facility
22 Siting Council shall hold one or more public hearings on the application for
23 a site certificate in the affected area and elsewhere, as the council considers
24 necessary. Notice of the hearing shall be mailed at least 20 days before the
25 hearing. The notice shall, at a minimum:

26 (a) Comply with the requirements of ORS 197.763 (2), with respect to the
27 persons notified;

28 (b) Include a description of the facility and the facility's general location;

29 (c) Include the name of an agency representative to contact and the tele-
30 phone number where additional information may be obtained;

31 (d) State that copies of the application and draft proposed order are

1 available for inspection at no cost and will be provided at a reasonable cost;
2 and

3 (e) State that failure to raise an issue in person or in writing prior to the
4 close of the record of the public hearing with sufficient specificity to afford
5 the decision maker an opportunity to respond to the issue precludes consid-
6 eration of the issue in a contested case.

7 (3) Any issue that may be the basis for a contested case shall be raised
8 not later than the close of the record at or following the final public hearing
9 prior to issuance of the [*department's*] **authority's** proposed order. Such is-
10 sues shall be raised with sufficient specificity to afford the council, the [*de-*
11 *partment*] **authority** and the applicant an adequate opportunity to respond
12 to each issue. A statement of this requirement shall be made at the com-
13 mencement of any public hearing on the application.

14 (4) After reviewing the application, the draft proposed order and any
15 testimony given at the public hearing and after consulting with other agen-
16 cies, the [*department*] **authority** shall issue a proposed order recommending
17 approval or rejection of the application. The [*department*] **authority** shall
18 issue public notice of the proposed order, that shall include notice of a con-
19 tested case hearing specifying a deadline for requests to participate as a
20 party or limited party and a date for the prehearing conference.

21 (5) Following receipt of the proposed order from the [*department*] **au-**
22 **thority**, the council shall conduct a contested case hearing on the applica-
23 tion for a site certificate in accordance with the applicable provisions of
24 ORS chapter 183 and any procedures adopted by the council. The applicant
25 shall be a party to the contested case. The council may permit any other
26 person to become a party to the contested case in support of or in opposition
27 to the application only if the person appeared in person or in writing at the
28 public hearing on the site certificate application. Issues that may be the
29 basis for a contested case shall be limited to those raised on the record of
30 the public hearing under subsection (3) of this section, unless:

31 (a) The [*department*] **authority** failed to follow the requirements of sub-

1 section (2) or (3) of this section; or

2 (b) The action recommended in the proposed order, including any recom-
3 mended conditions of the approval, differs materially from that described in
4 the draft proposed order, in which case only new issues related to such dif-
5 ferences may be raised.

6 (6) If no person requests party status to challenge the [*department's*]
7 **authority's** proposed order, the proposed order shall be forwarded to the
8 council and the contested case hearing shall be concluded.

9 (7) At the conclusion of the contested case, the council shall issue a final
10 order, either approving or rejecting the application based upon the standards
11 adopted under ORS 469.501 and any additional statutes, rules or local ordi-
12 nances determined to be applicable to the facility by the project order, as
13 amended. The council shall make its decision by the affirmative vote of at
14 least four members approving or rejecting any application for a site certif-
15 icate. The council may amend or reject the proposed order, so long as the
16 council provides public notice of its hearing to adopt a final order, and
17 provides an opportunity for the applicant and any party to the contested case
18 to comment on material changes to the proposed order, including material
19 changes to conditions of approval resulting from the council's review. The
20 council's order shall be considered a final order for purposes of appeal.

21 (8) Rejection or approval of an application, together with any conditions
22 that may be attached to the certificate, shall be subject to judicial review
23 as provided in ORS 469.403.

24 (9) The council shall either approve or reject an application for a site
25 certificate:

26 (a) Within 24 months after filing an application for a nuclear installation,
27 or for a thermal power plant, other than that described in paragraph (b) of
28 this subsection, with a nameplate rating of more than 200,000 kilowatts;

29 (b) Within nine months after filing of an application for a site certificate
30 for a combustion turbine power plant, a geothermal-fueled power plant or an
31 underground storage facility for natural gas;

1 (c) Within six months after filing an application for a site certificate for
2 an energy facility, if the application is:

3 (A) To expand an existing industrial facility to include an energy facility;

4 (B) To expand an existing energy facility to achieve a nominal electric
5 generating capacity of between 25 and 50 megawatts; or

6 (C) To add injection or withdrawal capacity to an existing underground
7 gas storage facility; or

8 (d) Within 12 months after filing an application for a site certificate for
9 any other energy facility.

10 (10) At the request of the applicant, the council shall allow expedited
11 processing of an application for a site certificate for an energy facility with
12 an average electric generating capacity of less than 100 megawatts. No no-
13 tice of intent shall be required. Following approval of a request for expe-
14 dited review, the [*department*] **authority** shall issue a project order, which
15 may be amended at any time. The council shall either approve or reject an
16 application for a site certificate within six months after filing the site cer-
17 tificate application if there are no intervenors in the contested case con-
18 ducted under subsection (5) of this section. If there are intervenors in the
19 contested case, the council shall either approve or reject an application
20 within nine months after filing the site certificate application. For purposes
21 of this subsection, the generating capacity of a thermal power plant is the
22 nameplate rating of the electrical generator proposed to be installed in the
23 plant.

24 (11) Failure of the council to comply with the deadlines set forth in sub-
25 section (9) or (10) of this section shall not result in the automatic issuance
26 or denial of a site certificate.

27 (12) The council shall specify in the site certificate a date by which con-
28 struction of the facility must begin.

29 (13) For a facility that is subject to and has been or will be reviewed by
30 a federal agency under the National Environmental Policy Act, 42 U.S.C.
31 Section 4321, et seq., the council shall conduct its site certificate review, to

1 the maximum extent feasible, in a manner that is consistent with and does
2 not duplicate the federal agency review. Such coordination shall include, but
3 need not be limited to:

4 (a) Elimination of duplicative application, study and reporting require-
5 ments;

6 (b) Council use of information generated and documents prepared for the
7 federal agency review;

8 (c) Development with the federal agency and reliance on a joint record
9 to address applicable council standards;

10 (d) Whenever feasible, joint hearings and issuance of a site certificate
11 decision in a time frame consistent with the federal agency review; and

12 (e) To the extent consistent with applicable state standards, establishment
13 of conditions in any site certificate that are consistent with the conditions
14 established by the federal agency.

15 **SECTION 103.** ORS 469.373 is amended to read:

16 469.373. (1) Notwithstanding the expedited review process established
17 pursuant to ORS 469.370, an applicant may apply under the provisions of this
18 section for expedited review of an application for a site certificate for an
19 energy facility if the energy facility:

20 (a) Is a combustion turbine energy facility fueled by natural gas or is a
21 reciprocating engine fueled by natural gas, including an energy facility that
22 uses petroleum distillate fuels for backup power generation;

23 (b) Is a permitted or conditional use allowed under an applicable local
24 acknowledged comprehensive plan, land use regulation or federal land use
25 plan, and is located:

26 (A) At or adjacent to an existing energy facility; or

27 (B)(i) At, adjacent to or in close proximity to an existing industrial use;
28 and

29 (ii) In an area currently zoned or designated for industrial use;

30 (c)(A) Requires no more than three miles of associated transmission lines
31 or three miles of new natural gas pipelines outside of existing rights of way

1 for transmission lines or natural gas pipelines; or

2 (B) Imposes, in the determination of the Energy Facility Siting Council,
3 no significant impact in the locating of associated transmission lines or new
4 natural gas pipelines outside of existing rights of way;

5 (d) Requires no new water right or water right transfer;

6 (e) Provides funds to a qualified organization in an amount determined
7 by the council to be sufficient to produce any required reduction in emissions
8 as specified in ORS 469.503 (2)(c)(C) and in rules adopted under ORS 469.503
9 for the total carbon dioxide emissions produced by the energy facility for the
10 life of the energy facility; and

11 (f)(A) Discharges process wastewater to a wastewater treatment facility
12 that has an existing National Pollutant Discharge Elimination System per-
13 mit, can obtain an industrial pretreatment permit, if needed, within the ex-
14 pedited review process time frame and has written confirmation from the
15 wastewater facility permit holder that the additional wastewater load will
16 be accommodated by the facility without resulting in a significant thermal
17 increase in the facility effluent or without requiring any changes to the
18 wastewater facility National Pollutant Discharge Elimination System permit;

19 (B) Plans to discharge process wastewater to a wastewater treatment fa-
20 cility owned by a municipal corporation that will accommodate the
21 wastewater from the energy facility and supplies evidence from the municipal
22 corporation that:

23 (i) The municipal corporation has included, or intends to include, the
24 process wastewater load from the energy facility in an application for a
25 National Pollutant Discharge Elimination System permit; and

26 (ii) All conditions required of the energy facility to allow the discharge
27 of process wastewater from the energy facility will be satisfied; or

28 (C) Obtains a National Pollutant Discharge Elimination System or water
29 pollution control facility permit for process wastewater disposal, supplies
30 evidence to support a finding that the discharge can likely be permitted
31 within the expedited review process time frame and that the discharge will

1 not require:

2 (i) A new National Pollutant Discharge Elimination System permit, ex-
3 cept for a storm water general permit for construction activities; or

4 (ii) A change in any effluent limit or discharge location under an existing
5 National Pollutant Discharge Elimination System or water pollution control
6 facility permit.

7 (2) An applicant seeking expedited review under this section shall submit
8 documentation to the [*State Department of Energy*] **Oregon Climate Au-**
9 **thority**, prior to the submission of an application for a site certificate, that
10 demonstrates that the energy facility meets the qualifications set forth in
11 subsection (1) of this section. The [*department*] **authority** shall determine,
12 within 14 days of receipt of the documentation, on a preliminary, nonbinding
13 basis, whether the energy facility qualifies for expedited review.

14 (3) If the [*department*] **authority** determines that the energy facility
15 preliminarily qualifies for expedited review, the applicant may submit an
16 application for expedited review. Within 30 days after the date that the ap-
17 plication for expedited review is submitted, the [*department*] **authority** shall
18 determine whether the application is complete. If the [*department*] **authority**
19 determines that the application is complete, the application shall be deemed
20 filed on the date that the [*department*] **authority** sends the applicant notice
21 of its determination. If the [*department*] **authority** determines that the ap-
22 plication is not complete, the [*department*] **authority** shall notify the appli-
23 cant of the deficiencies in the application and shall deem the application
24 filed on the date that the [*department*] **authority** determines that the appli-
25 cation is complete. The [*department*] **authority** or the council may request
26 additional information from the applicant at any time.

27 (4) The [*State Department of Energy*] **Oregon Climate Authority** shall
28 send a copy of a filed application to the Department of Environmental
29 Quality, the Water Resources Department, the State Department of Fish and
30 Wildlife, the State Department of Geology and Mineral Industries, the State
31 Department of Agriculture, the Department of Land Conservation and De-

1 velopment, the Public Utility Commission and any other state agency, city,
2 county or political subdivision of the state that has regulatory or advisory
3 responsibility with respect to the proposed energy facility. The [*State De-*
4 *partment of Energy*] **Oregon Climate Authority** shall send with the copy
5 of the filed application a notice specifying that:

6 (a) In the event the council issues a site certificate for the energy facility,
7 the site certificate will bind the state and all counties, cities and political
8 subdivisions in the state as to the approval of the site, the construction of
9 the energy facility and the operation of the energy facility, and that after
10 the issuance of a site certificate, all permits, licenses and certificates ad-
11 dressed in the site certificate must be issued as required by ORS 469.401 (3);
12 and

13 (b) The comments and recommendations of state agencies, counties, cities
14 and political subdivisions concerning whether the proposed energy facility
15 complies with any statute, rule or local ordinance that the state agency,
16 county, city or political subdivision would normally administer in determin-
17 ing whether a permit, license or certificate required for the construction or
18 operation of the energy facility should be approved will be considered only
19 if the comments and recommendations are received by the [*department*] **au-**
20 **thority** within a reasonable time after the date the application and notice
21 of the application are sent by the [*department*] **authority**.

22 (5) Within 90 days after the date that the application was filed, the [*de-*
23 *partment*] **authority** shall issue a draft proposed order setting forth:

24 (a) A description of the proposed energy facility;

25 (b) A list of the permits, licenses and certificates that are addressed in
26 the application and that are required for the construction or operation of the
27 proposed energy facility;

28 (c) A list of the statutes, rules and local ordinances that are the standards
29 and criteria for approval of any permit, license or certificate addressed in
30 the application and that are required for the construction or operation of the
31 proposed energy facility; and

1 (d) Proposed findings specifying how the proposed energy facility complies
2 with the applicable standards and criteria for approval of a site certificate.

3 (6) The council shall review the application for site certification in the
4 manner set forth in subsections (7) to (10) of this section and shall issue a
5 site certificate for the facility if the council determines that the facility,
6 with any required conditions to the site certificate, will comply with:

7 (a) The requirements for expedited review as specified in this section;

8 (b) The standards adopted by the council pursuant to ORS 469.501 (1)(a),
9 (c) to (e), (g), (h) and (L) to (o);

10 (c) The requirements of ORS 469.503 (3); and

11 (d) The requirements of ORS 469.504 (1)(b).

12 (7) Following submission of an application for a site certificate, the
13 council shall hold a public informational meeting on the application. Fol-
14 lowing the issuance of the proposed order, the council shall hold at least one
15 public hearing on the application. The public hearing shall be held in the
16 area affected by the energy facility. The council shall mail notice of the
17 hearing at least 20 days prior to the hearing. The notice shall comply with
18 the notice requirements of ORS 197.763 (2) and shall include, but need not
19 be limited to, the following:

20 (a) A description of the energy facility and the general location of the
21 energy facility;

22 (b) The name of [*a department*] **an authority** representative to contact
23 and the telephone number at which people may obtain additional informa-
24 tion;

25 (c) A statement that copies of the application and proposed order are
26 available for inspection at no cost and will be provided at reasonable cost;
27 and

28 (d) A statement that the record for public comment on the application
29 will close at the conclusion of the hearing and that failure to raise an issue
30 in person or in writing prior to the close of the record, with sufficient
31 specificity to afford the decision maker an opportunity to respond to the is-

1 sue, will preclude consideration of the issue, by the council or by a court
2 on judicial review of the council's decision.

3 (8) Prior to the conclusion of the hearing, the applicant may request an
4 opportunity to present additional written evidence, arguments or testimony
5 regarding the application. In the alternative, prior to the conclusion of the
6 hearing, the applicant may request a contested case hearing on the applica-
7 tion. If the applicant requests an opportunity to present written evidence,
8 arguments or testimony, the council shall leave the record open for that
9 purpose only for a period not to exceed 14 days after the date of the hearing.
10 Following the close of the record, the [*department*] **authority** shall prepare
11 a draft final order for the council. If the applicant requests a contested case
12 hearing, the council may grant the request if the applicant has shown good
13 cause for a contested case hearing. If a request for a contested case hearing
14 is granted, subsections (9) to (11) of this section do not apply, and the ap-
15 plication shall be considered under the same contested case procedures used
16 for a nonexpedited application for a site certificate.

17 (9) The council shall make its decision based on the record and the draft
18 final order prepared by the [*department*] **authority**. The council shall,
19 within six months of the date that the application is deemed filed:

- 20 (a) Grant the application;
- 21 (b) Grant the application with conditions;
- 22 (c) Deny the application; or
- 23 (d) Return the application to the site certification process required by
24 ORS 469.320.

25 (10) If the application is granted, the council shall issue a site certificate
26 pursuant to ORS 469.401 and 469.402. Notwithstanding subsection (6) of this
27 section, the council may impose conditions based on standards adopted under
28 ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an application based
29 on those standards.

30 (11) Judicial review of the approval or rejection of a site certificate by
31 the council under this section shall be as provided in ORS 469.403.

1 **SECTION 104.** ORS 469.375 is amended to read:

2 469.375. The Energy Facility Siting Council shall not issue a site certifi-
3 cate for a waste disposal facility for uranium mine overburden or uranium
4 mill tailings, mill wastes or mill by-product or for radioactive waste or
5 radioactively contaminated containers or receptacles used in the transporta-
6 tion, storage, use or application of radioactive material, unless, accompany-
7 ing its decision it finds:

8 (1) The site is:

9 (a) Suitable for disposal of such wastes, and the amount of the wastes,
10 intended for disposal at the site;

11 (b) Not located in or adjacent to:

12 (A) An area determined to be potentially subject to river or creek erosion
13 within the lifetime of the facility;

14 (B) Within the 500-year floodplain of a river, taking into consideration
15 the area determined to be potentially subject to river or creek erosion within
16 the lifetime of the facility;

17 (C) An active fault or an active fault zone;

18 (D) An area of ancient, recent or active mass movement including land
19 sliding, flow or creep;

20 (E) An area subject to ocean erosion; or

21 (F) An area having experienced volcanic activity within the last two
22 million years.

23 (2) There is no available disposal technology and no available alternative
24 site for disposal of such wastes that would better protect the health, safety
25 and welfare of the public and the environment;

26 (3) The disposal of such wastes and the amount of the wastes, at the site
27 will be compatible with the regulatory programs of federal government for
28 disposal of such wastes;

29 (4) The disposal of such wastes, and the amount of the wastes, at the site
30 will be coordinated with the regulatory programs of adjacent states for dis-
31 posal of such wastes;

1 (5) That following closure of the site, there will be no release of radio-
2 active materials or radiation from the waste;

3 (6) That suitable deed restrictions have been placed on the site recogniz-
4 ing the hazard of the material; and

5 (7) That, where federal funding for remedial actions is not available, a
6 surety bond in the name of the state has been provided in an amount deter-
7 mined by the [*State Department of Energy*] **Oregon Climate Authority** to
8 be sufficient to cover any costs of closing the site and monitoring it or pro-
9 viding for its security after closure and to secure performance of any site
10 certificate conditions. The bond may be withdrawn when the council finds
11 that:

12 (a) The radioactive waste has been disposed of at a waste disposal facility
13 for which a site certificate has been issued; and

14 (b) A fee has been paid to the State of Oregon sufficient for monitoring
15 the site after closure.

16 (8) If any section, portion, clause or phrase of this section is for any
17 reason held to be invalid or unconstitutional the remaining sections,
18 portions, clauses and phrases shall not be affected but shall remain in full
19 force or effect, and to this end the provisions of this section are severable.

20 **SECTION 105.** ORS 469.402 is amended to read:

21 469.402. If the Energy Facility Siting Council elects to impose conditions
22 on a site certificate or an amended site certificate, that require subsequent
23 review and approval of a future action, the council may delegate the future
24 review and approval to the [*State Department of Energy*] **Oregon Climate**
25 **Authority** if, in the council's discretion, the delegation is warranted under
26 the circumstances of the case.

27 **SECTION 106.** ORS 469.405 is amended to read:

28 469.405. (1) A site certificate may be amended with the approval of the
29 Energy Facility Siting Council. The council may establish by rule the type
30 of amendment that must be considered in a contested case proceeding. Judi-
31 cial review of an amendment to a site certificate shall be as provided in ORS

1 469.403.

2 (2) Notwithstanding ORS 34.020 or 197.825, or any other provision of law,
3 the land use approval by an affected local government of a proposed amend-
4 ment to a facility and the recommendation of the special advisory group of
5 applicable substantive criteria shall be subject to judicial review only as
6 provided in ORS 469.403. If the applicant elects to show compliance with the
7 statewide planning goals by demonstrating that the facility has received lo-
8 cal land use approval, the provisions of this section shall apply only to pro-
9 posed projects for which the land use approval by the local government
10 occurs after the date an application for amendment is submitted to the [*State*
11 *Department of Energy*] **Oregon Climate Authority**.

12 (3) An amendment to a site certificate is not required for a pipeline less
13 than 16 inches in diameter and less than five miles in length that is proposed
14 to be constructed to test or maintain an underground gas storage reservoir.
15 If the proposed pipeline will connect to a council certified surface facility
16 related to an underground gas storage reservoir or to a council certified gas
17 pipeline, whether the proposed pipeline is to be located inside or outside the
18 site of a council certified facility, the certificate holder must obtain, prior
19 to construction, the approval of the [*department*] **authority** for the con-
20 struction, operation and retirement of the proposed pipeline. The
21 [*department*] **authority** shall approve such a proposed pipeline if the pipeline
22 meets applicable council substantive standards. Notwithstanding ORS 469.503
23 (3), the [*department*] **authority** may not review the proposed pipeline for
24 compliance with other state standards. Notwithstanding ORS 469.503 (4), or
25 any council rule addressing compliance with land use standards, the [*de-*
26 *partment*] **authority** shall not review such a proposed pipeline for compli-
27 ance with land use requirements. Notwithstanding ORS 469.401 (3), the
28 approval by the [*department*] **authority** of such pipeline shall not bind any
29 state or local agency. The council may adopt appropriate procedural rules
30 for the [*department*] **authority** review. The [*department*] **authority** shall is-
31 sue an order approving or rejecting the proposed pipeline. Judicial review

1 of [a department] **an authority** order under this section shall be as provided
2 in ORS 469.403.

3 **SECTION 107.** ORS 469.410 is amended to read:

4 469.410. (1) Any applicant for a site certificate for an energy facility shall
5 be deemed to have met all the requirements of ORS [176.820, 192.338, 192.345,
6 192.355, 192.690,] 469.010 to 469.155, 469.300 to 469.563, 469.990, 757.710 and
7 757.720 relating to eligibility for a site certificate and a site certificate shall
8 be issued by the Energy Facility Siting Council for:

9 (a) Any transmission lines for which application has been filed with the
10 federal government and the Public Utility Commission of Oregon prior to
11 July 2, 1975; and

12 (b) Any energy facility under construction on July 2, 1975.

13 (2) Each applicant for a site certificate under this section shall pay the
14 fees required by ORS 469.421 (2) to (9), if applicable, and shall execute a site
15 certificate in which the applicant agrees:

16 (a) To abide by the conditions of all licenses, permits and certificates re-
17 quired by the State of Oregon or any subdivision in the state to operate the
18 energy facility and issued prior to July 2, 1975; and

19 (b) On and after July 2, 1975, to abide by the rules of the Director of the
20 [State Department of Energy] **Oregon Climate Authority** adopted pursuant
21 to [ORS 469.040 (1)(d)] **section 4 of this 2019 Act** and rules of the council
22 adopted pursuant to ORS 469.300 to 469.563, 469.590 to 469.619 and 469.930.

23 (3) The council has continuing authority over the site for which the site
24 certificate is issued and may inspect, or direct the [State Department of En-
25 ergy] **Oregon Climate Authority** to inspect, or request another state agency
26 or local government to inspect, the site at any time in order to ensure that
27 the facility is being operated consistently with the terms and conditions of
28 the site certificate and any applicable health or safety standards.

29 (4) The council shall establish programs for monitoring the environmental
30 and ecological effects of the operation and the decommissioning of energy
31 facilities subject to site certificates issued prior to July 2, 1975, to ensure

1 continued compliance with the terms and conditions of the site certificate
2 and any applicable health or safety standards.

3 (5) Site certificates executed by the Governor under ORS 469.400 (1991
4 Edition) prior to July 2, 1975, shall bind successor agencies created here-
5 under in accordance with the terms of such site certificates. Any holder of
6 a site certificate issued prior to July 2, 1975, shall abide by the rules of the
7 director adopted pursuant to [ORS 469.040 (1)(d)] **section 4 of this 2019 Act**
8 and rules of the council adopted pursuant to ORS 469.300 to 469.563, 469.590
9 to 469.619, 469.930 and 469.992.

10 **SECTION 108.** ORS 469.424 is amended to read:

11 469.424. (1) As used in this section, “energy resource supplier” has the
12 meaning given that term in ORS 469.421.

13 (2)(a) If the [*State Department of Energy*] **Oregon Climate Authority**
14 submits comments or written or oral testimony in a rulemaking, contested
15 case, ratemaking or other proceeding conducted by another agency, as de-
16 fined in ORS 183.310, and if the comment or testimony is about a substantive
17 matter at issue in the proceeding, the [*department*] **authority** shall provide,
18 once for each proceeding, notice to energy resource suppliers as described in
19 this section.

20 (b) If the [*department*] **authority** submits written comments or intervenes
21 in a proceeding conducted by a federal agency, the [*department*] **authority**
22 shall provide, once for each proceeding, notice to energy resource suppliers
23 as described in this section.

24 (c) This section does not apply to:

25 (A) The [*department’s*] **authority’s** participation in a procedural matter
26 related to a proceeding described in paragraph (a) or (b) of this subsection;

27 (B) The [*department’s*] **authority’s** participation in a federal facility sit-
28 ing proceeding;

29 (C) The [*department’s*] **authority’s** work with the Energy Facility Siting
30 Council;

31 (D) The [*department’s*] **authority’s** work on nuclear safety and emergency

1 preparedness; or

2 (E) Federal judicial or legislative proceedings.

3 (3) The [*department*] **authority** shall create and maintain a list of energy
4 resource suppliers that request to receive notice described in subsection (2)
5 of this section. The [*department*] **authority** may create separate lists for the
6 different types of proceedings.

7 (4) Notice provided under this section may be provided by electronic mail
8 and must include a description of the [*department's*] **authority's** interest in
9 the proceeding.

10 (5) Except as provided in subsection (6) of this section, notice must be
11 provided under this section:

12 (a) No later than seven days before submitting initial comments on a
13 substantive matter at issue in a rulemaking proceeding described in sub-
14 section (2)(a) of this section or a proceeding involving the adoption of federal
15 regulations;

16 (b) No later than 15 days before submitting initial comments or written
17 or oral testimony on a substantive matter at issue in a contested case,
18 ratemaking or other proceeding described in subsection (2)(a) of this section;
19 or

20 (c) No later than 15 days before submitting initial written comments or
21 written testimony on a substantive matter at issue in a proceeding conducted
22 by a federal agency other than a proceeding involving the adoption of federal
23 regulations.

24 (6) If providing notice in accordance with subsection (5) of this section
25 is prejudicial to the [*department's*] **authority's** ability to participate in a
26 rulemaking, contested case, ratemaking or other proceeding described in
27 subsection (2) of this section, the [*department*] **authority** may provide notice
28 as soon as it is practicable to provide notice. If the [*department*] **authority**
29 provides notice as described in this subsection, the [*department*] **authority**
30 shall include in the notice an explanation of why providing notice in ac-
31 cordance with subsection (5) of this section is prejudicial to the

1 [department] **authority**.

2 (7) The [department] **Director of the Oregon Climate Authority** may
3 adopt rules as necessary to implement this section.

4 **SECTION 109.** ORS 469.430 is amended to read:

5 469.430. (1) The Energy Facility Siting Council has continuing authority
6 over the site for which the site certificate is issued, including but not limited
7 to the authority to:

8 (a) Inspect, or direct the [*State Department of Energy*] **Oregon Climate**
9 **Authority** to inspect, or request another state agency or local government
10 to inspect, the site at any time in order to ensure that the facility is being
11 operated consistently with the terms and conditions of the site certificate
12 or any order issued by the [department] **authority** under ORS 469.405 (3); and

13 (b) Periodically review documents, reports and other materials, or direct
14 the [*State Department of Energy*] **Oregon Climate Authority** or request
15 another state agency or local government to review documents, reports or
16 other materials, to ensure that the facility continues to comply with all
17 terms and conditions of the site certificate or any order issued by the [*de-*
18 *partment*] **authority** under ORS 469.405 (3).

19 (2) The council shall avoid duplication of effort with site inspections and
20 compliance reviews by other state and federal agencies and local govern-
21 ments that have issued permits or licenses for the facility.

22 (3) If the council requests that another state agency or local government
23 conduct a site inspection or compliance review under this section, the
24 council may compensate that state agency or local government for expenses
25 related to the site inspection or compliance review.

26 **SECTION 110.** ORS 469.441 is amended to read:

27 469.441. (1) All expenses incurred by the Energy Facility Siting Council
28 and the [*State Department of Energy*] **Oregon Climate Authority** under ORS
29 469.360 and 469.421 that are charged to or allocated to the fee paid by an
30 applicant or the holder of a site certificate shall be necessary, just and rea-
31 sonable. Upon request, the [department] **authority** or the council shall pro-

1 vide a detailed justification for all charges to the applicant or site certificate
2 holder. Not later than January 1 of each odd-numbered year, the council by
3 order shall establish a schedule of fees which those persons submitting a
4 notice of intent, a request for an exemption, a request for a pipeline de-
5 scribed in ORS 469.405 (3) or a request for an expedited review must submit
6 under ORS 469.421 prior to submitting the notice of intent, request for ex-
7 emption, request for pipeline or request for expedited review. The fee sched-
8 ule shall be designed to recover the council's actual costs of evaluating the
9 notice of intent, request for exemption, request for pipeline or request for
10 expedited review subject to any applicable expenditure limitation in the
11 council's budget. Fees shall be based upon actual, historical costs incurred
12 by the council and [*department*] **the authority** to the extent historical costs
13 are available. The fees established by the schedule shall reflect the size and
14 complexity of the project for which a notice of intent, request for exemption,
15 request for pipeline or request for expedited review is submitted, whether the
16 notice of intent, request for exemption, request for pipeline or request for
17 expedited review is for a new or existing facility and other appropriate var-
18 iables having an effect on the expense of evaluation.

19 (2) If a dispute arises regarding the necessity or reasonableness of ex-
20 penses charged to or allocated to the fee paid by an applicant or site certif-
21 icate holder, the applicant or holder may seek judicial review for the amount
22 of expenses charged or allocated in circuit court as provided in ORS 183.480,
23 183.484, 183.490 and 183.500. If the applicant or holder establishes that any
24 of the charges or allocations are unnecessary or unreasonable, the council
25 or the [*department*] **authority** shall refund the amount found to be unneces-
26 sary or unreasonable. The applicant or holder shall not waive the right to
27 judicial review by paying the portion of the fee or expense in dispute.

28 **SECTION 111.** ORS 469.442 is amended to read:

29 469.442. (1) Any person who proposes to construct a transmission line in
30 excess of 230,000 volts capacity that is not otherwise under the jurisdiction
31 of the Energy Facility Siting Council shall:

1 (a) Give public notice of the proposed action at least six months before
2 beginning any process to obtain local permits required for the proposed
3 transmission line. Notification shall be given:

4 (A) By publication once a week for four consecutive weeks in a newspaper
5 of general circulation in the county or counties in which the transmission
6 line is to be constructed; and

7 (B) To the governing bodies and planning directors of cities and counties
8 which are within or partially within the project study area.

9 (b) Provide an opportunity for public comment on the proposed trans-
10 mission line and conduct public meetings to review the proposal.

11 (c) Respond specifically and in writing to local concerns and recommen-
12 dations regarding the proposed transmission line.

13 (2) The Director of the [*State Department of Energy*] **Oregon Climate**
14 **Authority** shall establish a committee to include technical experts and
15 members of the public to coordinate public review of a proposed transmission
16 line under subsection (1) of this section when requested to do so by ordi-
17 nance or resolution of the affected governing body.

18 (3) At the conclusion of the public review, the committee shall make a
19 summary report to the affected governing body including public concerns and
20 recommendations concerning the proposed transmission line.

21 (4) The scope of work and cost of conducting the review shall be negoti-
22 ated between the [*State Department of Energy*] **Oregon Climate Authority**
23 and the project sponsor. The negotiated cost shall be paid by the project
24 sponsor.

25 (5) Subsections (1) to (4) of this section shall not apply to a person who
26 proposes to construct transmission lines entirely within 500 feet of an exist-
27 ing corridor occupied by transmission lines with a capacity in excess of
28 230,000 volts.

29 **SECTION 112.** ORS 469.450 is amended to read:

30 469.450. (1) There is established in the [*State Department of Energy*]
31 **Oregon Climate Authority** an Energy Facility Siting Council, consisting

1 of seven public members, who shall be appointed by the Governor, subject
2 to confirmation by the Senate in the manner prescribed in ORS 171.562 and
3 171.565.

4 (2) The term of office of each member is four years, but a member serves
5 at the pleasure of the Governor. Before the expiration of the term of a
6 member, the Governor shall appoint a successor whose term begins on July
7 1 next following. A member is eligible for reappointment, but no member
8 shall serve more than two full terms. If there is a vacancy for any cause, the
9 Governor shall make an appointment to become immediately effective for the
10 unexpired term.

11 (3) No member of the council shall be an employee, director or retired
12 employee or director of, or a consultant to, or have any pecuniary interest,
13 other than an incidental interest which is disclosed and made a matter of
14 public record at the time of the appointment to the council, in:

15 (a) Any corporation or utility operating or interested in establishing an
16 energy facility in this state; or

17 (b) Any manufacturer of equipment related to the operation or establish-
18 ment of an energy facility in this state.

19 (4) No member shall for two years after the expiration of the term of the
20 member accept employment with an owner or operator of an energy facility
21 that is subject to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and
22 469.992.

23 (5) Employment of a person in violation of this section shall be grounds
24 for revocation of any license issued by this state or an agency of this state
25 that is held by the owner or operator of the energy facility that employs the
26 person.

27 (6) The [*State Department of Energy*] **Oregon Climate Authority** shall
28 provide clerical and staff support to the council and fund the activities of
29 the council through fees collected under ORS 469.421.

30 **SECTION 113.** ORS 469.503 is amended to read:

31 469.503. In order to issue a site certificate, the Energy Facility Siting

1 Council shall determine that the preponderance of the evidence on the record
2 supports the following conclusions:

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

7 (2) If the energy facility is a fossil-fueled power plant, the energy facility
8 complies with any applicable carbon dioxide emissions standard adopted by
9 the council or enacted by statute. Base load gas plants shall comply with
10 the standard set forth in subsection (2)(a) of this section. Other fossil-fueled
11 power plants shall comply with any applicable standard adopted by the
12 council by rule pursuant to subsection (2)(b) of this section. Subsections
13 (2)(c) and (d) of this section prescribe the means by which an applicant may
14 comply with the applicable standard.

15 (a) The net carbon dioxide emissions rate of the proposed base load gas
16 plant shall not exceed 0.70 pounds of carbon dioxide emissions per kilowatt
17 hour of net electric power output, with carbon dioxide emissions and net
18 electric power output measured on a new and clean basis. Notwithstanding
19 the foregoing, the council may by rule modify the carbon dioxide emissions
20 standard for base load gas plants if the council finds that the most efficient
21 stand-alone combined cycle, combustion turbine, natural gas-fired energy fa-
22 cility that is commercially demonstrated and operating in the United States
23 has a net heat rate of less than 7,200 Btu per kilowatt hour higher heating
24 value adjusted to ISO conditions. In modifying the carbon dioxide emission
25 standard, the council shall determine the rate of carbon dioxide emissions
26 per kilowatt hour of net electric output of such energy facility, adjusted to
27 ISO conditions, and reset the carbon dioxide emissions standard at 17 percent
28 below this rate.

29 (b) The council shall adopt carbon dioxide emissions standards for other
30 types of fossil-fueled power plants. Such carbon dioxide emissions standards
31 shall be promulgated by rule. In adopting or amending such carbon dioxide

1 emissions standards, the council shall consider and balance at least the fol-
2 lowing principles, the findings on which shall be contained in the rulemaking
3 record:

4 (A) Promote facility fuel efficiency;

5 (B) Promote efficiency in the resource mix;

6 (C) Reduce net carbon dioxide emissions;

7 (D) Promote cogeneration that reduces net carbon dioxide emissions;

8 (E) Promote innovative technologies and creative approaches to mitigat-
9 ing, reducing or avoiding carbon dioxide emissions;

10 (F) Minimize transaction costs;

11 (G) Include an alternative process that separates decisions on the form
12 and implementation of offsets from the final decision on granting a site cer-
13 tificate;

14 (H) Allow either the applicant or third parties to implement offsets;

15 (I) Be attainable and economically achievable for various types of power
16 plants;

17 (J) Promote public participation in the selection and review of offsets;

18 (K) Promote prompt implementation of offset projects;

19 (L) Provide for monitoring and evaluation of the performance of offsets;

20 and

21 (M) Promote reliability of the regional electric system.

22 (c) The council shall determine whether the applicable carbon dioxide
23 emissions standard is met by first determining the gross carbon dioxide
24 emissions that are reasonably likely to result from the operation of the pro-
25 posed energy facility. Such determination shall be based on the proposed
26 design of the energy facility. The council shall adopt site certificate condi-
27 tions to ensure that the predicted carbon dioxide emissions are not exceeded
28 on a new and clean basis. For any remaining emissions reduction necessary
29 to meet the applicable standard, the applicant may elect to use any of sub-
30 paragraphs (A) to (D) of this paragraph, or any combination thereof. The
31 council shall determine the amount of carbon dioxide or other greenhouse

1 gas emissions reduction that is reasonably likely to result from the
2 applicant's offsets and whether the resulting net carbon dioxide emissions
3 meet the applicable carbon dioxide emissions standard. For purposes of de-
4 termining the net carbon dioxide emissions, the council shall by rule estab-
5 lish the global warming potential of each greenhouse gas based on a
6 generally accepted scientific method, and convert any greenhouse gas emis-
7 sions to a carbon dioxide equivalent. Unless otherwise provided by the
8 council by rule, the global warming potential of methane is 23 times that of
9 carbon dioxide, and the global warming potential of nitrous oxide is 296
10 times that of carbon dioxide. If the council or a court on judicial review
11 concludes that the applicant has not demonstrated compliance with the ap-
12 plicable carbon dioxide emissions standard under subparagraphs (A), (B) or
13 (D) of this paragraph, or any combination thereof, and the applicant has
14 agreed to meet the requirements of subparagraph (C) of this paragraph for
15 any deficiency, the council or a court shall find compliance based on such
16 agreement.

17 (A) The facility will sequentially produce electrical and thermal energy
18 from the same fuel source, and the thermal energy will be used to displace
19 another source of carbon dioxide emissions that would have otherwise con-
20 tinued to occur, in which case the council shall adopt site certificate condi-
21 tions ensuring that the carbon dioxide emissions reduction will be achieved.

22 (B) The applicant or a third party will implement particular offsets, in
23 which case the council may adopt site certificate conditions ensuring that
24 the proposed offsets are implemented but shall not require that predicted
25 levels of avoidance, displacement or sequestration of greenhouse gas emis-
26 sions be achieved. The council shall determine the quantity of greenhouse
27 gas emissions reduction that is reasonably likely to result from each of the
28 proposed offsets based on the criteria in sub-subparagraphs (i) to (iii) of this
29 subparagraph. In making this determination, the council shall not allow
30 credit for offsets that have already been allocated or awarded credit for
31 greenhouse gas emissions reduction in another regulatory setting. In addi-

1 tion, the fact that an applicant or other parties involved with an offset may
2 derive benefits from the offset other than the reduction of greenhouse gas
3 emissions is not, by itself, a basis for withholding credit for an offset.

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

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

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

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

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

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

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

21 (i) When the site certificate holder receives written notice from the
22 qualified organization certifying that the qualified organization is
23 contractually obligated to pay any funds to implement offsets using the offset
24 funds, the site certificate holder shall make the requested amount available
25 to the qualified organization unless the total of the amount requested and
26 any amounts previously requested exceeds the offset funds, in which case
27 only the remaining amount of the offset funds shall be made available. The
28 qualified organization shall use at least 80 percent of the offset funds for
29 contracts to implement offsets. The qualified organization shall assess off-
30 sets for their potential to qualify in, generate credits in or reduce obligations
31 in other regulatory settings. The qualified organization may use up to 20

1 percent of the offset funds for monitoring, evaluation, administration and
2 enforcement of contracts to implement offsets.

3 (ii) At the request of the qualified organization and in addition to the
4 offset funds, the site certificate holder shall pay the qualified organization
5 an amount equal to 10 percent of the first \$500,000 of the offset funds and
6 4.286 percent of any offset funds in excess of \$500,000. This amount shall not
7 be less than \$50,000 unless a lesser amount is specified in the site certificate.
8 This amount compensates the qualified organization for its costs of selecting
9 offsets and contracting for the implementation of offsets.

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

19 (B) If the council finds there is no qualified organization, the site certifi-
20 cate holder shall select one or more offsets to be implemented pursuant to
21 criteria established by the council. The site certificate holder shall give
22 written notice of its selections to the council and to any person requesting
23 notice. On petition by the [*State Department of Energy*] **Oregon Climate**
24 **Authority**, or by any person adversely affected or aggrieved by the site
25 certificate holder's selection of offsets, or on the council's own motion, the
26 council may review such selection. The petition must be received by the
27 council within 30 days of the date the notice of selection is placed in the
28 United States mail, with first-class postage prepaid. The council shall ap-
29 prove the site certificate holder's selection unless it finds that the selection
30 is not consistent with criteria established by the council. The site certificate
31 holder shall contract to implement the selected offsets within 18 months after

1 commencing construction of the facility unless good cause is shown requiring
2 additional time. The contracts shall obligate the expenditure of at least 85
3 percent of the offset funds for the implementation of offsets. No more than
4 15 percent of the offset funds may be spent on monitoring, evaluation and
5 enforcement of the contract to implement the selected offsets. The council's
6 criteria for selection of offsets shall be based on the criteria set forth in
7 paragraphs (b)(C) and (c)(B) of this subsection and may also consider the
8 costs of particular types of offsets in relation to the expected benefits of such
9 offsets. The council's criteria shall not require the site certificate holder to
10 select particular offsets, and shall allow the site certificate holder a reason-
11 able range of choices in selecting offsets. In addition, notwithstanding any
12 other provision of this section, the site certificate holder's financial liability
13 for implementation, monitoring, evaluation and enforcement of offsets pur-
14 suant to this subsection shall be limited to the amount of any offset funds
15 not already contractually obligated. Nonperformance, negligence or miscon-
16 duct by the entity or entities implementing, monitoring or evaluating the
17 selected offset shall not be a basis for revocation of the site certificate or
18 any other enforcement action by the council with respect to the site certif-
19 icate holder.

20 (C) Every qualified organization that has received funds under this para-
21 graph shall, at five-year intervals beginning on the date of receipt of such
22 funds, provide the council with the information the council requests about
23 the qualified organization's performance. The council shall evaluate the in-
24 formation requested and, based on such information, shall make any recom-
25 mendations to the Legislative Assembly that the council deems appropriate.

26 (e) As used in this subsection:

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

30 (B) "Base load gas plant" means a generating facility that is fueled by
31 natural gas, except for periods during which an alternative fuel may be used

1 and when such alternative fuel use shall not exceed 10 percent of expected
2 fuel use in Btu, higher heating value, on an average annual basis, and where
3 the applicant requests and the council adopts no condition in the site cer-
4 tificate for the generating facility that would limit hours of operation other
5 than restrictions on the use of alternative fuel. The council shall assume a
6 100 percent capacity factor for such plants and a 30-year life for the plants
7 for purposes of determining gross carbon dioxide emissions.

8 (C) “Carbon dioxide equivalent” means the global warming potential of
9 a greenhouse gas reflected in units of carbon dioxide.

10 (D) “Fossil-fueled power plant” means a generating facility that produces
11 electric power from natural gas, petroleum, coal or any form of solid, liquid
12 or gaseous fuel derived from such material.

13 (E) “Generating facility” means those energy facilities that are defined
14 in ORS 469.300 [(11)(a)(A)] **(9)(a)(A)**, (B) and (D).

15 (F) “Global warming potential” means the determination of the atmo-
16 spheric warming resulting from the release of a unit mass of a particular
17 greenhouse gas in relation to the warming resulting from the release of the
18 equivalent mass of carbon dioxide.

19 (G) “Greenhouse gas” means carbon dioxide, methane and nitrous oxide.

20 (H) “Gross carbon dioxide emissions” means the predicted carbon dioxide
21 emissions of the proposed energy facility measured on a new and clean basis.

22 (I) “Net carbon dioxide emissions” means gross carbon dioxide emissions
23 of the proposed energy facility, less carbon dioxide or other greenhouse gas
24 emissions avoided, displaced or sequestered by any combination of
25 cogeneration or offsets.

26 (J) “New and clean basis” means the average carbon dioxide emissions
27 rate per hour and net electric power output of the energy facility, without
28 degradation, as determined by a 100-hour test at full power completed during
29 the first 12 months of commercial operation of the energy facility, with the
30 results adjusted for the average annual site condition for temperature,
31 barometric pressure and relative humidity and use of alternative fuels, and

1 using a rate of 117 pounds of carbon dioxide per million Btu of natural gas
2 fuel and a rate of 161 pounds of carbon dioxide per million Btu of distillate
3 fuel, if such fuel use is proposed by the applicant. The council may by rule
4 adjust the rate of pounds of carbon dioxide per million Btu for natural gas
5 or distillate fuel. The council may by rule set carbon dioxide emissions rates
6 for other fuels.

7 (K) “Nongenerating facility” means those energy facilities that are de-
8 fined in ORS 469.300 [(11)(a)(C)] **(9)(a)(C)** and (E) to (I).

9 (L) “Offset” means an action that will be implemented by the applicant,
10 a third party or through the qualified organization to avoid, sequester or
11 displace emissions.

12 (M) “Offset funds” means the amount of funds determined by the council
13 to satisfy the applicable carbon dioxide emissions standard pursuant to par-
14 agraph (c)(C) of this subsection.

15 (N) “Qualified organization” means an entity that:

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

18 (ii) Either is incorporated in the State of Oregon or is a foreign corpo-
19 ration authorized to do business in the State of Oregon;

20 (iii) Has in effect articles of incorporation that require that offset funds
21 received pursuant to this section are used for offsets that require that deci-
22 sions on the use of the offset funds are made by a decision-making body
23 composed of seven voting members of which three are appointed by the
24 council, three are Oregon residents appointed by the Bullitt Foundation or
25 an alternative environmental nonprofit organization named by the body, and
26 one is appointed by the applicants for site certificates that are subject to
27 paragraph (d) of this subsection and the holders of such site certificates, and
28 that require nonvoting membership on the body for holders of site certifi-
29 cates that have provided funds not yet disbursed under paragraph (d)(A) of
30 this subsection;

31 (iv) Has made available on an annual basis, beginning after the first year

1 of operation, a signed opinion of an independent certified public accountant
2 stating that the qualified organization's use of funds pursuant to this statute
3 conforms with generally accepted accounting procedures except that the
4 qualified organization shall have one year to conform with generally ac-
5 cepted accounting principles in the event of a nonconforming audit;

6 (v) Has to the extent applicable, except for good cause, entered into con-
7 tracts obligating at least 60 percent of the offset funds to implement offsets
8 within two years after the commencement of construction of the facility; and

9 (vi) Has to the extent applicable, except for good cause, complied with
10 paragraph (d)(A)(i) of this subsection.

11 (3) Except as provided in ORS 469.504 for land use compliance and except
12 for those statutes and rules for which the decision on compliance has been
13 delegated by the federal government to a state agency other than the council,
14 the facility complies with all other Oregon statutes and administrative rules
15 identified in the project order, as amended, as applicable to the issuance of
16 a site certificate for the proposed facility. If compliance with applicable
17 Oregon statutes and administrative rules, other than those involving feder-
18 ally delegated programs, would result in conflicting conditions in the site
19 certificate, the council may resolve the conflict consistent with the public
20 interest. A resolution may not result in the waiver of any applicable state
21 statute.

22 (4) The facility complies with the statewide planning goals adopted by the
23 Land Conservation and Development Commission.

24 **SECTION 114.** ORS 469.504 is amended to read:

25 469.504. (1) A proposed facility shall be found in compliance with the
26 statewide planning goals under ORS 469.503 (4) if:

27 (a) The facility has received local land use approval under the acknowl-
28 edged comprehensive plan and land use regulations of the affected local
29 government; or

30 (b) The Energy Facility Siting Council determines that:

31 (A) The facility complies with applicable substantive criteria from the

1 affected local government's acknowledged comprehensive plan and land use
2 regulations that are required by the statewide planning goals and in effect
3 on the date the application is submitted, and with any Land Conservation
4 and Development Commission administrative rules and goals and any land
5 use statutes that apply directly to the facility under ORS 197.646;

6 (B) For an energy facility or a related or supporting facility that must
7 be evaluated against the applicable substantive criteria pursuant to sub-
8 section (5) of this section, that the proposed facility does not comply with
9 one or more of the applicable substantive criteria but does otherwise comply
10 with the applicable statewide planning goals, or that an exception to any
11 applicable statewide planning goal is justified under subsection (2) of this
12 section; or

13 (C) For a facility that the council elects to evaluate against the statewide
14 planning goals pursuant to subsection (5) of this section, that the proposed
15 facility complies with the applicable statewide planning goals or that an
16 exception to any applicable statewide planning goal is justified under sub-
17 section (2) of this section.

18 (2) The council may find goal compliance for a facility that does not
19 otherwise comply with one or more statewide planning goals by taking an
20 exception to the applicable goal. Notwithstanding the requirements of ORS
21 197.732, the statewide planning goal pertaining to the exception process or
22 any rules of the Land Conservation and Development Commission pertaining
23 to an exception process goal, the council may take an exception to a goal if
24 the council finds:

25 (a) The land subject to the exception is physically developed to the extent
26 that the land is no longer available for uses allowed by the applicable goal;

27 (b) The land subject to the exception is irrevocably committed as de-
28 scribed by the rules of the Land Conservation and Development Commission
29 to uses not allowed by the applicable goal because existing adjacent uses and
30 other relevant factors make uses allowed by the applicable goal impractica-
31 ble; or

1 (c) The following standards are met:

2 (A) Reasons justify why the state policy embodied in the applicable goal
3 should not apply;

4 (B) The significant environmental, economic, social and energy conse-
5 quences anticipated as a result of the proposed facility have been identified
6 and adverse impacts will be mitigated in accordance with rules of the council
7 applicable to the siting of the proposed facility; and

8 (C) The proposed facility is compatible with other adjacent uses or will
9 be made compatible through measures designed to reduce adverse impacts.

10 (3) If compliance with applicable substantive local criteria and applicable
11 statutes and state administrative rules would result in conflicting conditions
12 in the site certificate or amended site certificate, the council shall resolve
13 the conflict consistent with the public interest. A resolution may not result
14 in a waiver of any applicable state statute.

15 (4) An applicant for a site certificate shall elect whether to demonstrate
16 compliance with the statewide planning goals under subsection (1)(a) or (b)
17 of this section. The applicant shall make the election on or before the date
18 specified by the council by rule.

19 (5) Upon request by the [*State Department of Energy*] **Oregon Climate**
20 **Authority**, the special advisory group established under ORS 469.480 shall
21 recommend to the council, within the time stated in the request, the appli-
22 cable substantive criteria under subsection (1)(b)(A) of this section. If the
23 special advisory group does not recommend applicable substantive criteria
24 within the time established in the [*department's*] **authority's** request, the
25 council may either determine and apply the applicable substantive criteria
26 under subsection (1)(b) of this section or determine compliance with the
27 statewide planning goals under subsection (1)(b)(B) or (C) of this section. If
28 the special advisory group recommends applicable substantive criteria for an
29 energy facility described in ORS 469.300 or a related or supporting facility
30 that does not pass through more than one local government jurisdiction or
31 more than three zones in any one jurisdiction, the council shall apply the

1 criteria recommended by the special advisory group. If the special advisory
2 group recommends applicable substantive criteria for an energy facility as
3 defined in ORS 469.300 [(11)(a)(C)] **(9)(a)(C)** to (E) or a related or supporting
4 facility that passes through more than one jurisdiction or more than three
5 zones in any one jurisdiction, the council shall review the recommended
6 criteria and determine whether to evaluate the proposed facility against the
7 applicable substantive criteria recommended by the special advisory group,
8 against the statewide planning goals or against a combination of the appli-
9 cable substantive criteria and statewide planning goals. In making its de-
10 termination, the council shall consult with the special advisory group and
11 shall consider:

12 (a) The number of jurisdictions and zones in question;

13 (b) The degree to which the applicable substantive criteria reflect local
14 government consideration of energy facilities in the planning process; and

15 (c) The level of consistency of the applicable substantive criteria from the
16 various zones and jurisdictions.

17 (6) The council is not subject to ORS 197.180 and a state agency may not
18 require an applicant for a site certificate to comply with any rules or pro-
19 grams adopted under ORS 197.180.

20 (7) On or before its next periodic review, each affected local government
21 shall amend its comprehensive plan and land use regulations as necessary
22 to reflect the decision of the council pertaining to a site certificate or
23 amended site certificate.

24 (8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law,
25 the affected local government's land use approval of a proposed facility under
26 subsection (1)(a) of this section and the special advisory group's recommen-
27 dation of applicable substantive criteria under subsection (5) of this section
28 shall be subject to judicial review only as provided in ORS 469.403. If the
29 applicant elects to comply with subsection (1)(a) of this section, the pro-
30 visions of this subsection shall apply only to proposed projects for which the
31 land use approval of the local government occurs after the date a notice of

1 intent or an application for expedited processing is submitted to the [*State*
2 *Department of Energy*] **Oregon Climate Authority**.

3 (9) The [*State Department of Energy*] **Oregon Climate Authority**, in co-
4 operation with other state agencies, shall provide, to the extent possible,
5 technical assistance and information about the siting process to local gov-
6 ernments that request such assistance or that anticipate having a facility
7 proposed in their jurisdiction.

8 **SECTION 115.** ORS 469.507 is amended to read:

9 469.507. (1) The site certificate holder shall establish programs for moni-
10 toring the environmental and ecological effects of the construction and op-
11 eration of facilities subject to site certificates to assure continued
12 compliance with the terms and conditions of the certificate. The programs
13 shall be subject to review and approval by the Energy Facility Siting Coun-
14 cil.

15 (2) The site certificate holder shall perform the testing and sampling
16 necessary for the monitoring program or require the operator of the plant
17 to perform the necessary testing or sampling pursuant to guidelines estab-
18 lished by the Energy Facility Siting Council or its designee. The council and
19 the Director of the [*State Department of Energy*] **Oregon Climate Authority**
20 shall have access to operating logs, records and reprints of the certificate
21 holder, including those required by federal agencies.

22 (3) The monitoring program may be conducted in cooperation with any
23 federally operated program if the information available from the federal
24 program is acceptable to the council, but no federal program shall be sub-
25 stituted totally for monitoring supervised by the council or its designee.

26 (4) The monitoring program shall include monitoring of the transportation
27 process for all radioactive material removed from any nuclear fueled thermal
28 power plant or nuclear installation.

29 **SECTION 116.** ORS 469.520 is amended to read:

30 469.520. (1) Each state agency and political subdivision in this state that
31 is concerned with energy facilities shall inform the [*State Department of*

1 *Energy,*] **Oregon Climate Authority** promptly of its activities and programs
2 relating to energy and radiation.

3 (2) Each state agency proposing to adopt, amend or rescind a rule relating
4 to energy facility development first shall file a copy of its proposal with the
5 **Energy Facility Siting** Council, which may order such changes as it con-
6 siders necessary to conform to state policy as stated in ORS 469.010 and
7 469.310.

8 (3) The effective date of a rule relating to energy facility development,
9 or an amendment or rescission thereof, shall not be sooner than 10 days
10 subsequent to the filing of a copy of such proposal with the council.

11 **SECTION 117.** ORS 469.530 is amended to read:

12 469.530. The Energy Facility Siting Council and the Director of the [*State*
13 *Department of Energy*] **Oregon Climate Authority** shall review and approve
14 all security programs attendant to a nuclear-fueled thermal power plant, a
15 nuclear installation and the transportation of radioactive material derived
16 from or destined for a nuclear-fueled thermal power plant or a nuclear in-
17 stallation. The council shall provide reasonable public notice of a meeting
18 of the council held for purposes of such review and approval.

19 **SECTION 118.** ORS 469.533 is amended to read:

20 469.533. Notwithstanding ORS chapter 401, the [*State Department of En-*
21 *ergy*] **Director of the Oregon Climate Authority** in cooperation with the
22 Oregon Health Authority and the Office of Emergency Management shall
23 establish rules for the protection of health and procedures for the evacuation
24 of people and communities who would be affected by radiation in the event
25 of an accident or a catastrophe in the operation of a nuclear power plant
26 or nuclear installation.

27 **SECTION 119.** ORS 469.534 is amended to read:

28 469.534. Each county in this state that has a nuclear-fueled thermal power
29 plant located within county boundaries and each county within this state
30 that has any portion of its area located within 50 miles of a site within this
31 state of a nuclear-fueled thermal power plant shall develop written proce-

1 dures that are compatible with the rules adopted by the [*State Department*
2 *of Energy*] **Director of the Oregon Climate Authority** under ORS 469.533.
3 The [*department*] **Oregon Climate Authority** shall review the county pro-
4 cedures to determine whether they are compatible with the rules of the [*de-*
5 *partment*] **authority**.

6 **SECTION 120.** ORS 469.535 is amended to read:

7 469.535. Notwithstanding ORS chapter 401, when an emergency exists be-
8 cause of an accident or catastrophe in the operation of a nuclear power plant
9 or nuclear installation or in the transportation of radioactive material, the
10 Governor, for the duration of the emergency, may:

11 (1) Assume complete control of all emergency operations in the area af-
12 fected by the accident or catastrophe, direct all rescue and salvage work and
13 do all things deemed advisable and necessary to alleviate the immediate
14 conditions.

15 (2) Assume control of all police and law enforcement activities in such
16 area, including the activities of all local police and peace officers.

17 (3) Close all roads and highways in such area to traffic or by order of the
18 Director of the [*State Department of Energy*] **Oregon Climate Authority**
19 limit the travel on such roads to such extent as the director deems necessary
20 and expedient.

21 (4) Designate persons to coordinate the work of public and private relief
22 agencies operating in such area and exclude from such area any person or
23 agency refusing to cooperate with other agencies engaged in emergency
24 work.

25 (5) Require the aid and assistance of any state or other public or quasi-
26 public agencies in the performance of duties and work attendant upon the
27 emergency conditions in such area.

28 **SECTION 121.** ORS 469.536 is amended to read:

29 469.536. A public utility which operates a nuclear power plant or nuclear
30 installation shall disseminate to the governing bodies of cities and counties
31 that may be affected information approved by the [*State Department of En-*

1 *ergy]* **Oregon Climate Authority** which explains rules or procedures
2 adopted under ORS 469.533.

3 **SECTION 122.** ORS 469.540 is amended to read:

4 469.540. (1) In instances where the Director of the [*State Department of*
5 *Energy]* **Oregon Climate Authority** determines either from the monitoring
6 or surveillance of the director that there is danger of violation of a safety
7 standard adopted under ORS 469.501 from the continued operation of a plant
8 or installation, the director may order temporary reductions or curtailment
9 of operations until such time as proper safety precautions can be taken.

10 (2) An order of reduction or curtailment shall be entered only after notice
11 to the thermal power plant or installation and only after a reasonable time,
12 considering the extent of the danger, has been allowed for repairs or other
13 alterations that would bring the plant or installation into conformity with
14 applicable safety standards.

15 (3) The director may order compliance or impose other safety conditions
16 on the transport or disposal of radioactive materials or wastes if the director
17 believes that ORS 469.300 to 469.619 and 469.930 or rules adopted pursuant
18 thereto are being violated or are in danger of being violated.

19 **SECTION 123.** ORS 469.550 is amended to read:

20 469.550. (1) Whenever in the judgment of the Director of the [*State De-*
21 *partment of Energy]* **Oregon Climate Authority** from the results of moni-
22 toring or surveillance of operation of any nuclear-fueled thermal power plant
23 or nuclear installation or based upon information from the Energy Facility
24 Siting Council there is cause to believe that there is clear and immediate
25 danger to the public health and safety from continued operation of the plant
26 or installation, the director shall, in cooperation with appropriate state and
27 federal agencies, without hearing or prior notice, order the operation of the
28 plant halted by service of the order on the plant superintendent or other
29 person charged with the operation thereof. Within 24 hours after such order,
30 the director must appear in the appropriate circuit court to petition for the
31 relief afforded under ORS 469.563 and may commence proceedings for revo-

1 cation of the site certificate if grounds therefor exist.

2 (2) Whenever, in the judgment of the director based upon monitoring or
3 surveillance by the director, or based upon information from the council,
4 there is cause to believe that there is clear and immediate danger to the
5 public health and safety from the accumulation or storage of radioactive
6 material located at a nuclear-fueled thermal power plant or a nuclear in-
7 stallation, the director shall in cooperation with appropriate state and fed-
8 eral agencies, without hearing or prior notice, order such accumulation,
9 storage, disposal or transportation halted or immediately impose safety pre-
10 cautions by service of the order on the officer responsible for the accumu-
11 lation, storage, disposal or transportation. Within 24 hours after such an
12 order, the director must appear in the appropriate circuit court to petition
13 for the relief afforded under ORS 469.563.

14 (3)(a) If the director believes there is a clear and immediate danger to
15 public health or safety, the director shall halt the transportation or disposal
16 of radioactive material or waste.

17 (b) The director shall serve an order to halt the transportation or disposal
18 of radioactive material on the person responsible for the transport or dis-
19 posal. The order may be served without prior hearing or notice.

20 (c) Within 24 hours after the director serves an order under paragraph (b)
21 of this subsection, the director shall petition the appropriate circuit court
22 for relief under ORS 469.563.

23 (4) The Governor, in the absence of the director, may issue orders and
24 petition for judicial relief as provided in this section.

25 **SECTION 124.** ORS 469.559 is amended to read:

26 469.559. (1) Notwithstanding the authority of the Oregon Health Author-
27 ity pursuant to ORS 453.605 to 453.800 to regulate radiation sources or the
28 requirements of ORS 469.525, the Energy Facility Siting Council may enter
29 into and carry out cooperative agreements with the Secretary of Energy
30 pursuant to Title I and the Nuclear Regulatory Commission pursuant to Title
31 II of the Uranium Mill Tailings Radiation Control Act of 1978, Public Law

1 95-604, and perform or cause to be performed any and all acts necessary to
2 be performed by the state, including the acquisition by condemnation or
3 otherwise, retention and disposition of land or interests therein, in order to
4 implement that Act and rules, standards and guidelines adopted pursuant
5 thereto. The Energy Facility Siting Council may adopt, amend or repeal rules
6 in accordance with ORS chapter 183 and may receive and disburse funds in
7 connection with the implementation and administration of this section.

8 (2) The Energy Facility Siting Council and the [*State Department of En-*
9 *ergy*] **Oregon Climate Authority** may enter into and carry out cooperative
10 agreements and arrangements with any agency of the federal government
11 implementing the Comprehensive Environmental Response, Compensation,
12 and Liability Act, as amended, 42 U.S.C. section 9601 et seq., to clean up
13 wastes and contaminated material, including overburden, created by uranium
14 mining before June 29, 1989. Any such project need not obtain a site certif-
15 icate from the council, but shall nevertheless comply with all applicable,
16 relevant or appropriate state standards including but not limited to those set
17 forth in ORS 469.375 and rules adopted by the council and other state agen-
18 cies to implement such standards.

19 (3) The Governor may do any and all things necessary to implement the
20 requirements of the federal Acts referred to in subsections (1) and (2) of this
21 section.

22 (4) Notwithstanding ORS 469.553, after June 25, 1979, no site certificate
23 is required for the cleanup and disposal of an inactive or abandoned uranium
24 mill tailings site as authorized under subsection (1) of this section and Title
25 I of the Uranium Mill Tailings Radiation Control Act of 1978, Public Law
26 95-604.

27 **SECTION 125.** ORS 469.560 is amended to read:

28 469.560. (1) Except as provided in subsection (2) of this section and ORS
29 192.338, 192.345 and 192.355, any information filed or submitted pursuant to
30 ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 shall be made
31 available for public inspection and copying during regular office hours of the

1 [State Department of Energy] **Oregon Climate Authority** at the expense of
2 any person requesting copies.

3 (2) Any information, other than that relating to the public safety, relating
4 to secret process, device, or method of manufacturing or production obtained
5 in the course of inspection, investigation or activities under ORS 469.300 to
6 469.563, 469.590 to 469.619, 469.930 and 469.992 shall be kept confidential and
7 shall not be made a part of public record of any hearing.

8 **SECTION 126.** ORS 469.561 is amended to read:

9 469.561. (1) A person owning and operating a nuclear power plant in this
10 state under a license issued by the United States Nuclear Regulatory Com-
11 mission or under a site certificate issued under ORS 469.300 to 469.563,
12 469.590 to 469.619, 469.930 and 469.992 shall obtain and maintain property
13 insurance in the maximum insurable amount available for each nuclear in-
14 cident occurring within this state, as required by this section. The insurance
15 shall cover property damage occurring within a nuclear plant and its related
16 or supporting facilities as a result of the nuclear incident.

17 (2) Insurance required under this section does not apply to:

18 (a) Any claim of an employee of a person obtaining insurance under this
19 section, if the claim is made under a state or federal workers' compensation
20 Act and if the employee is employed at the site of and in connection with
21 the nuclear power plant at which the nuclear incident occurred; or

22 (b) Any claim arising out of an act of war.

23 (3) A person obtaining insurance under this section shall maintain in-
24 surance for the term of the license issued to the nuclear power plant by the
25 United States Nuclear Regulatory Commission and for any extension of the
26 term, and until all radioactive material has been removed from the nuclear
27 power plant and transportation of the radioactive material from the nuclear
28 power plant has ended.

29 (4) A person obtaining insurance under this section shall file a copy of
30 the insurance policy, any amendment to the policy and any superseding in-
31 surance policy with the Director of the [State Department of Energy] **Oregon**

1 **Climate Authority.**

2 (5) Property insurance required under this section is in addition to and
3 not in lieu of insurance coverage provided under the Price-Anderson Act (42
4 U.S.C. 2210).

5 (6) Property insurance required by subsections (1) to (5) of this section
6 may include private insurance, self-insurance, utility industry association
7 self-assurance pooling programs, or a combination of all three.

8 (7) A person may fulfill the requirements for an insurance policy under
9 subsections (1) to (5) of this section by obtaining policies of one or more
10 insurance carriers if the policies together meet the requirements of sub-
11 sections (1) to (5) of this section.

12 **SECTION 127.** ORS 469.571 is amended to read:

13 469.571. There is created an Oregon Hanford Cleanup Board that shall
14 consist of the following members:

15 (1) The Director of the [*State Department of Energy*] **Oregon Climate**
16 **Authority** or designee;

17 (2) The Water Resources Director or designee;

18 (3) A representative of the Governor;

19 (4) One member representing the Confederated Tribes of the Umatilla In-
20 dian Reservation;

21 (5) Ten members of the public, appointed by the Governor, one of whom
22 shall be a representative of a local emergency response organization in
23 eastern Oregon and one of whom shall serve as chairperson; and

24 (6) Three members of the Senate, appointed by the President of the Sen-
25 ate, and three members of the House of Representatives, appointed by the
26 Speaker of the House of Representatives who shall serve as advisory mem-
27 bers without vote.

28 **SECTION 128.** ORS 469.594 is amended to read:

29 469.594. (1) Notwithstanding the definition of a “waste disposal facility”
30 under ORS 469.300, no high-level radioactive waste should be stored at the
31 site of a nuclear-fueled thermal power plant after the expiration of the op-

1 erating license issued to the nuclear power plant by the United States Nu-
2 clear Regulatory Commission.

3 (2) Notwithstanding subsection (1) of this section, a person operating a
4 nuclear power plant under a license issued by the United States Nuclear
5 Regulatory Commission shall remain responsible for proper temporary stor-
6 age of high-level radioactive materials at the site of the nuclear power plant
7 after termination of a license and until such materials are removed from the
8 site for permanent storage.

9 (3) The [*State Department of Energy*] **Oregon Climate Authority** and the
10 operators of nuclear-fueled thermal plants shall pursue agreements with the
11 United States Department of Energy and the United States Nuclear Regula-
12 tory Commission to fulfill the provisions of this section.

13 **SECTION 129.** ORS 469.605 is amended to read:

14 469.605. (1) No person shall ship or transport radioactive material identi-
15 fied by the Energy Facility Siting Council by rule as posing a significant
16 hazard to public health and safety or the environment if improperly trans-
17 ported into or within the State of Oregon without first obtaining a permit
18 from the [*State Department of Energy*] **Oregon Climate Authority**.

19 (2) Such permit shall be issued for a period not to exceed one year and
20 shall be valid for all shipments within that period of time unless specifically
21 limited by permit conditions.

22 (3) Application for a permit under this section shall be made in a form
23 and manner prescribed by the Director of the [*State Department of Energy*]
24 **Oregon Climate Authority** and may include:

25 (a) A description of the kind, quantity and radioactivity of the material
26 to be transported;

27 (b) A description of the route or routes proposed to be taken and the
28 transport schedule;

29 (c) A description of any mode of transportation; and

30 (d) Other information required by the director to evaluate the application.

31 (4) The director shall collect a fee from all applicants for permits under

1 this section in an amount reasonably calculated to provide for the costs to
2 the [*department*] **authority** of performing the duties of the [*department*] **au-**
3 **thority** under ORS 469.550 (3), 469.563, 469.603 to 469.619 and 469.992. Fees
4 collected under this subsection shall be deposited in the [*State Department*
5 *of Energy*] **Oregon Climate Authority** Account established under ORS
6 469.120.

7 (5) The director shall issue a permit only if the application demonstrates
8 that the proposed transportation will comply with all applicable rules
9 adopted under ORS 469.603 to 469.619 and if the proposed route complies with
10 federal law as provided in ORS 469.606.

11 (6) The director may delegate the authority to issue permits for the
12 transportation of radioactive material to the Department of Transportation.
13 In exercising such authority, the Department of Transportation shall comply
14 with the applicable provisions of ORS 469.603 to 469.619 and rules adopted
15 by the director or the Energy Facility Siting Council under ORS 469.603 to
16 469.619. Permits issued by the Department of Transportation under this sub-
17 section shall be enforced according to the provisions of ORS 825.258. The
18 director also may delegate other authority granted under ORS 469.605 to
19 469.619 to other state agencies if the delegation will maintain or enhance the
20 quality of the transportation safety program.

21 **SECTION 130.** ORS 469.606 is amended to read:

22 469.606. (1) Upon receipt of an application required under ORS 469.605 for
23 which radioactive material is proposed to be transported by highway, the
24 [*State Department of Energy*] **Oregon Climate Authority** shall confer with
25 the following persons to determine whether the proposed route is safe, and
26 complies with applicable routing requirements of the United States Depart-
27 ment of Transportation and the United States Nuclear Regulatory Commis-
28 sion:

29 (a) The Oregon Department of Transportation, or a designee of the
30 Oregon Department of Transportation;

31 (b) The Energy Facility Siting Council, or a designee of the Energy Fa-

1 cility Siting Council; and

2 (c) The Oregon Transportation Commission, or a designee of the Oregon
3 Transportation Commission.

4 (2) If, after consultation with the persons set forth in subsection (1) of
5 this section, a determination is made that the proposed route is not the best
6 and safest route for transporting the material, the Director of the [*State*
7 *Department of Energy*] **Oregon Climate Authority** shall deny the applica-
8 tion except as provided in subsection (3) of this section.

9 (3) If the applicant is prohibited by a statute, rule or other action of an
10 adjacent state or a political subdivision in an adjacent state from using the
11 route that complies with federal law, the director:

12 (a) Shall petition the United States Department of Transportation for an
13 administrative determination of preemption of the ban, pursuant to section
14 13 of the Hazardous Materials Transportation Uniform Safety Act of 1990,
15 P.L. 101-615.

16 (b) May issue a permit as provided under ORS 469.605 (5) with conditions
17 necessary to ensure safe transport over a route available to the applicant,
18 until the United States Department of Transportation determines whether
19 the prohibition by the other state or political subdivision is preempted.

20 **SECTION 131.** ORS 469.609 is amended to read:

21 469.609. Annually, the Director of the [*State Department of Energy*]
22 **Oregon Climate Authority** shall report to interested state agencies and all
23 local government agencies trained under ORS 469.611 on shipment of radio-
24 active material made during the preceding year. The director's report shall
25 include:

- 26 (1) The type and quantity of material transported;
27 (2) Any mode of transportation used;
28 (3) The route or routes taken; and
29 (4) Any other information at the discretion of the director.

30 **SECTION 132.** ORS 469.611 is amended to read:

31 469.611. Notwithstanding ORS chapter 401:

1 (1) The Director of the [*State Department of Energy*] **Oregon Climate**
2 **Authority** shall coordinate emergency preparedness and response with ap-
3 propriate agencies of government at the local, state and national levels to
4 ensure that the response to a radioactive material transportation accident
5 is swift and appropriate to minimize damage to any person, property or
6 wildlife. This program shall include the preparation of localized plans setting
7 forth agency responsibilities for on-scene response.

8 (2) The director shall:

9 (a) Apply for federal funds as available to train, equip and maintain an
10 appropriate response capability at the state and local level; and

11 (b) Request all available training and planning materials.

12 (3) The Oregon Health Authority shall maintain a trained and equipped
13 radiation emergency response team available at all times for dispatch to any
14 radiological emergency. Before arrival of the team at the scene of a
15 radiological accident, the director may designate other technical advisors to
16 work with the local response agencies.

17 (4) The **Oregon Health** Authority shall assist the director to ensure that
18 all emergency services organizations along major transport routes for radio-
19 active materials are offered training and retraining in the proper procedures
20 for identifying and dealing with a radiological accident pending the arrival
21 of persons with technical expertise. The **Oregon Health** Authority shall re-
22 port annually to the director on training of emergency response personnel.

23 **SECTION 133.** ORS 469.613 is amended to read:

24 469.613. (1) Any person obtaining a permit under ORS 469.605 shall es-
25 tablish and maintain any records, make any reports and provide any infor-
26 mation as the Energy Facility Siting Council may by rule or order require
27 to assure compliance with the conditions of the permit or other rules af-
28 fecting the transportation of radioactive materials and submit the reports
29 and make the records and information available at the request of the Direc-
30 tor of the [*State Department of Energy*] **Oregon Climate Authority**. Any
31 requirement imposed by the council under this subsection shall be consistent

1 with regulations of the United States Department of Transportation and the
2 United States Nuclear Regulatory Commission.

3 (2) The director may authorize any employee or agent of the director to
4 enter upon, inspect and examine, at reasonable times and in a reasonable
5 manner for the purpose of administration or enforcement of the provisions
6 of ORS 469.550, 469.563, 469.603 to 469.619 and 469.992 or rules adopted
7 thereunder, the records and property of persons within this state who have
8 applied for permits under ORS 469.605.

9 (3) The director shall provide for:

10 (a) The inspection of each highway route controlled shipment prior to or
11 upon entry of the shipment into this state or at the point of origin for the
12 transportation of highway route controlled shipments within the state; and

13 (b) Inspection of a representative sample of shipments containing material
14 required to bear a radioactive placard as specified by federal regulations.

15 **SECTION 134.** ORS 469.615 is amended to read:

16 469.615. (1) A person transporting radioactive materials in this state shall
17 indemnify the State of Oregon and its political subdivisions and agents for
18 any claims arising from the release of radioactive material during that
19 transportation and pay for the cost of response to an accident involving the
20 radioactive material.

21 (2) With respect to radioactive materials, the Director of the [*State De-*
22 *partment of Energy*] **Oregon Climate Authority** shall ascertain and certify
23 that insurance coverage required under 42 U.S.C. 2210 is in force and effect
24 at the time the permit is issued under ORS 469.605.

25 (3) A person who owns, designs or maintains facilities, structures, vehi-
26 cles or equipment used for handling, transportation, shipment, storage or
27 disposal of nuclear material shall reimburse the state for all expenses rea-
28 sonably incurred by the state or a political subdivision of the state, in pro-
29 tecting the public health and safety and the environment from a nuclear
30 incident or the imminent danger of a nuclear incident caused by the person's
31 acts or omissions. These expenses include but need not be limited to, costs

1 incurred for precautionary evacuations, emergency response measures and
2 decontamination or other cleanup measures. As used in this subsection “nu-
3 clear incident” has the meaning given that term in 42 U.S.C. 2014(q).

4 (4) Nothing in subsection (3) of this section shall affect any provision of
5 subsection (1) or (2) of this section.

6 **SECTION 135.** ORS 469.617 is amended to read:

7 469.617. The Director of the [*State Department of Energy*] **Oregon Cli-**
8 **mate Authority** shall prepare and submit to the Governor for transmittal
9 to the Legislative Assembly, on or before the beginning of each odd-numbered
10 year regular legislative session, a comprehensive report on the transporta-
11 tion of radioactive material in Oregon and provide an evaluation of the ad-
12 equacy of the state’s emergency response agencies. The report shall include,
13 but need not be limited to:

14 (1) A brief description and compilation of any accidents and casualties
15 involving the transportation of radioactive material in Oregon;

16 (2) An evaluation of the effectiveness of enforcement activities and the
17 degree of compliance with applicable rules;

18 (3) A summary of outstanding problems confronting the [*State Department*
19 *of Energy*] **Oregon Climate Authority** in administering ORS 469.550,
20 469.563, 469.603 to 469.619 and 469.992; and

21 (4) Such recommendations for additional legislation as the Energy Facil-
22 ity Siting Council considers necessary and appropriate.

23 **SECTION 136.** ORS 469.619 is amended to read:

24 469.619. The [*State Department of Energy*] **Oregon Climate Authority**
25 shall maintain and make available copies of all federal regulation and federal
26 code provisions referred to in ORS 469.300, 469.550, 469.563, 469.603 to 469.619
27 and 469.992.

28 **SECTION 137.** ORS 469.651 is amended to read:

29 469.651. Within 30 days after November 1, 1981, each publicly owned
30 utility shall submit to the Director of the [*State Department of Energy*]
31 **Oregon Climate Authority** a residential energy conservation program that:

1 (1) Makes available to all residential customers of the utility information
2 about:

3 (a) Energy conservation measures; and

4 (b) Energy conservation measure financing available to dwelling owners.

5 (2) Provides within 60 days of a request by a residential customer of the
6 publicly owned utility or a dwelling owner, assistance and technical advice
7 concerning various methods of saving energy in that customer's or dwelling
8 owner's dwelling including, but not limited to, an energy audit of the
9 customer's or dwelling owner's dwelling.

10 (3) Provides financing for cost-effective energy conservation measures at
11 the request of a dwelling owner who occupies the dwelling as a residential
12 customer or rents the dwelling to a tenant who is a residential customer.
13 The financing program shall give the dwelling owner a choice between a
14 cash payment and a loan. The dwelling owner may not receive both a cash
15 payment and a loan. Completion of an energy audit of the dwelling offered
16 under the program required by this section or described in ORS 469.685 shall
17 be a condition of eligibility for either a cash payment or a loan. The fi-
18 nancing program shall provide:

19 (a) The following minimum levels of assistance:

20 (A) A loan for a dwelling owner with approved credit upon the following
21 terms:

22 (i) A principal amount of up to \$4,000; or

23 (ii) An interest rate that does not exceed six and one-half percent
24 annually[;] and

25 [(iii)] a reasonable repayment period that does not exceed 10 years; and

26 (B) A cash payment to a dwelling owner eligible under ORS 469.657 for
27 the lesser of:

28 (i) Twenty-five percent of the cost of the energy conservation measures
29 provided in the dwelling; or

30 (ii) \$350;

31 (b) That an otherwise eligible dwelling owner may obtain up to \$4,000 in

1 loans or \$350 in cash payments for each dwelling;

2 (c) That there may be up to \$4,000 in loans or \$350 in cash payments for
3 each dwelling;

4 (d) That a change in ownership of a dwelling shall not prevent the new
5 dwelling owner from obtaining a loan or a cash payment for energy conser-
6 vation measures for the newly acquired dwelling under circumstances in-
7 cluding, but not necessarily limited to, when:

8 (A) The new dwelling owner chooses the same financing option chosen
9 by the previous dwelling owner who obtained financing under ORS 469.649
10 to 469.659; and

11 (B) The amount of the financing is within the limit for that dwelling
12 prescribed in paragraph (c) of this subsection;

13 (e) If the publicly owned utility so determines, that energy conservation
14 measures for any of the following building and improvement activities may
15 not be financed under the financing program:

16 (A) Construction of a new dwelling; or

17 (B) If the construction increases or otherwise changes the living space in
18 the dwelling:

19 (i) An addition or substantial alteration; or

20 (ii) Remodeling; and

21 (f) If the publicly owned utility so determines, that no cash payment shall
22 be allowed or paid for the cost of energy conservation measures provided
23 more than one year before the date of the application for payment.

24 (4) Provides for verification through a reasonable number of inspections
25 that energy conservation measures financed by the publicly owned utility are
26 installed. The verification provisions of the residential energy conservation
27 program shall further provide that:

28 (a) An installation shall be performed in such a workmanlike manner and
29 with such materials as to satisfy prevailing industry standards; and

30 (b) The publicly owned utility shall provide a post-installation inspection
31 upon the dwelling owner's request.

1 (5) Provides, upon the dwelling owner's request, information relevant to
2 the specific site of a dwelling with access to:

3 (a) Water resources that have hydroelectric potential;

4 (b) Wind, which means the natural movement of air at an annual average
5 speed of at least eight miles an hour; or

6 (c) A resource area known to have geothermal space-heating potential.

7 (6) Provides that the publicly owned utility will mail to a dwelling owner
8 an offer to provide energy conservation measures in accordance with ORS
9 469.649 to 469.659 when a tenant who is the residential customer:

10 (a) Requests that the offer be mailed to the dwelling owner; and

11 (b) Furnishes the dwelling owner's name and address with the request.

12 **SECTION 138.** ORS 469.659 is amended to read:

13 469.659. After the publicly owned utility has submitted to the Director of
14 the [*State Department of Energy*] **Oregon Climate Authority** the residential
15 energy conservation program required by ORS 469.651, the publicly owned
16 utility promptly shall implement that program.

17 **SECTION 139.** ORS 469.700 is amended to read:

18 469.700. (1) The Residential and Manufactured Structures Board or the
19 Construction Industry Energy Board, after public hearing and subject to the
20 approval of the Director of the Department of Consumer and Business Ser-
21 vices, shall adopt a recommended voluntary energy efficiency rating system
22 for single family residences and provide the [*State Department of Energy*]
23 **Oregon Climate Authority** with a copy thereof.

24 (2) The rating system shall provide a single numerical value or other
25 simple concise means to measure the energy efficiency of any single family
26 residence, taking into account factors including, but not limited to, the heat
27 loss characteristics of ceilings, walls, floors, windows, doors and heating
28 ducts.

29 (3) Upon adoption of the rating system under subsections (1) and (2) of
30 this section, the [*department*] **authority** shall publicize the availability of
31 the system, and encourage its voluntary use in real estate transactions.

1 (4) As used in subsections (1) to (3) of this section, “single family resi-
2 dence” means a structure designed as a residence for one family and sharing
3 no common wall with another residence of any type.

4 **SECTION 140.** ORS 469.703 is amended to read:

5 469.703. (1) As used in this section:

6 (a) “Home energy assessor” has the meaning given that term in ORS
7 701.527.

8 (b) “Home energy audit” means the evaluation or testing of components
9 or systems in a residential building for the purpose of identifying options for
10 increasing energy conservation and energy efficiency.

11 (c) “Home energy performance score” has the meaning given that term in
12 ORS 701.527.

13 (2) In consultation with the Public Utility Commission, the [*State De-*
14 *partment of Energy*] **Director of the Oregon Climate Authority** shall adopt
15 by rule a home energy performance score system by which a person may as-
16 sign a residential building a home energy performance score for the purpose
17 of evaluating the energy conservation and energy efficiency of the building.

18 (3) The [*department*] **director** shall designate by rule programs for the
19 training of home energy assessors. Programs designated by the [*department*]
20 **director** under this subsection must ensure competency in conducting home
21 energy audits and assigning home energy performance scores.

22 (4) Subject to subsection (5) of this section, the [*department*] **director** may
23 adopt by rule requirements under which home energy assessors who are
24 certified under ORS 701.532 must report to the [*department*] **Oregon Climate**
25 **Authority** the home energy performance scores assigned by the home energy
26 assessors. The [*department*] **authority** shall keep and maintain a database
27 of information reported to the [*department*] **authority** under this subsection.

28 (5) Rules adopted under subsection (4) of this section may not allow for
29 the reporting of individual addresses of residential structures or the names
30 of individual homeowners, but may allow for the reporting of information
31 regarding the jurisdiction in which a residential structure is located and the

1 utility services provided, any specific energy efficiency features of the resi-
 2 dential structure or other general information that allows the [*department*]
 3 **authority** to make any aggregated evaluations of savings attributable to
 4 energy efficiency.

5 **SECTION 141.** ORS 469.717 is amended to read:

6 469.717. (1) Installation of the energy conservation measures must be
 7 completed within 90 days after receipt of loan funds. The [*State Department*
 8 *of Energy*] **Oregon Climate Authority** may provide an inspection at the
 9 owner's request.

10 (2) Notwithstanding the provisions of subsection (1) of this section, the
 11 [*department*] **authority** may inspect installation of energy conservation
 12 measures to verify that all loan or other state subsidy funds have been used
 13 for energy conservation measures recommended in the audit, that installation
 14 has been performed in a workmanlike manner and that materials used satisfy
 15 prevailing industry standards. If requested to do so by the [*department*] **au-**
 16 **thority**, the dwelling owner shall provide the [*department*] **authority** with
 17 copies of receipts and any other documents verifying the cost of energy
 18 conservation measures.

19 **SECTION 142.** ORS 469.720 is amended to read:

20 469.720. (1) A dwelling owner who is or who rents to a residential fuel
 21 oil customer, or who is or who rents to a wood heating resident, may not
 22 apply for low-interest financing under ORS 469.710 to 469.720 unless:

23 (a) The dwelling owner, customer or resident has first requested and ob-
 24 tained an energy audit from [*a fuel oil dealer,*] a publicly owned utility or
 25 an investor-owned utility [*or from a person under contract with the State*
 26 *Department of Energy*] under ORS [*316.744, 317.111, 317.386, 456.594 to 456.599*
 27 *and*] 469.631 to 469.687;

28 (b) The dwelling owner first submits to the [*Department*] **Oregon Climate**
 29 **Authority** written permission to inspect the installations to verify that in-
 30 stallation of energy conservation measures has been made;

31 (c) The dwelling owner presents to the lending institution a copy of the

1 energy audit together with certification that the dwelling in question re-
2 ceives space heating from fuel oil or wood and a copy of the written per-
3 mission to inspect submitted to the [*department*] **authority** under paragraph
4 (b) of this subsection; and

5 (d) The dwelling owner does not receive any other state incentives for
6 that part of the cost of the energy conservation measures to be financed by
7 the loan.

8 (2) Any dwelling owner applying for low-interest financing under ORS
9 469.710 to 469.720 who is or who rents to a residential fuel oil customer, or
10 who is or who rents to a wood heating resident, may use without obtaining
11 a new energy audit any assistance and technical advice obtained from an
12 energy supplier before November 1, 1981, under chapter 887, Oregon Laws
13 1977, or from a public utility under chapter 889, Oregon Laws 1977, including
14 an estimate of cost for installation of weatherization materials.

15 **SECTION 143.** ORS 469.745 is amended to read:

16 469.745. To provide the public with a guide for energy conservation, the
17 Director of the [*State Department of Energy*] **Oregon Climate Authority**
18 shall adopt a program for voluntary compliance by the public with the
19 standard adopted by the Director of the Department of Consumer and Busi-
20 ness Services under ORS 469.740.

21 **SECTION 144.** ORS 469.754 is amended to read:

22 469.754. (1) State agencies are authorized to enter into such contractual
23 and other arrangements as may be necessary or convenient to design, de-
24 velop, operate and finance projects on-site at state owned or state rented
25 facilities. In developing such projects, state agencies shall offer a right of
26 first refusal of two months for conservation and direct use renewable re-
27 sources and three months for cogeneration and generating renewable re-
28 sources to each local utility providing utility service to the agency to jointly
29 develop, finance, operate and otherwise act together in the development and
30 operation of such projects. The [*State Department of Energy*] **Director of the**
31 **Oregon Climate Authority** shall adopt rules to establish the procedure by

1 which the right of first refusal shall be administered. In adopting the rules,
2 the [*department*] **director** shall insure that the local utility providing utility
3 service to the state agency is entitled to the first right to negotiate with the
4 state agency and that the utility is entitled to match any offer made by any
5 other entity to participate in the project. The [*department*] **director** also
6 shall adopt procedures that insure that the right to first negotiate and the
7 right to match any offer applies to the sale of electrical or steam output from
8 the project.

9 (2)(a) For as long as a project established under ORS 469.752 to 469.756
10 produces savings:

11 (A) A state agency's budget shall not be cut because of savings due to the
12 project; and

13 (B) A state agency shall retain 50 percent of the net savings to the state
14 agency after any project debt service.

15 (b) Savings from a project shall be deposited in a revolving fund admin-
16 istered by the state agency.

17 (3) A state agency shall spend the savings under subsection (2) of this
18 section to increase productivity through:

19 (a) Energy efficiency projects;

20 (b) High-tech improvements, such as the purchase or installation of new
21 desktop or laptop computers or the linkage of computers into systems or
22 networks; or

23 (c) Infrastructure improvements.

24 (4) The moneys credited to the revolving fund may be invested and rein-
25 vested as provided in ORS 293.701 to 293.790. Notwithstanding ORS 293.105
26 (3) or any other provision of law, interest or other earnings on moneys in
27 the revolving fund shall be credited to the revolving fund.

28 (5) The remaining 50 percent of net savings to the state agency after any
29 project debt service shall be deposited in the General Fund.

30 (6) Nothing in ORS 469.752 to 469.756 authorizes a state agency to sell
31 electricity to an entity other than an investor owned utility, a publicly

1 owned utility, an electric cooperative utility or the Bonneville Power Ad-
2 ministration.

3 (7) Nothing in ORS 469.752 to 469.756 limits the authority of a state
4 agency conferred by any other provision of law, or affects any authority,
5 including the authority of a municipality, to regulate utility service under
6 existing law.

7 **SECTION 145.** ORS 469.756 is amended to read:

8 469.756. The [*State Department of Energy*] **Director of the Oregon Cli-**
9 **mate Authority** in consultation with other state agencies and utilities shall
10 adopt rules, guidelines and procedures that are necessary to establish savings
11 for projects and to implement other provisions of ORS 469.752 to 469.756,
12 including, but not limited to, rules prescribing the procedures to be followed
13 by an agency in negotiating with local utilities to develop agreements suit-
14 able for the joint development of projects, and procedures to determine which
15 local utility, if any, shall be chosen to jointly develop the project. The [*de-*
16 *partment*] **Oregon Climate Authority** may enter into agreements under ORS
17 chapter 190 with state agencies to provide technical assistance in selecting
18 appropriate projects and to evaluate and determine energy and cost savings.

19 **SECTION 146.** ORS 469.840 is amended to read:

20 469.840. (1) There is established a Northwest Regional Power and Con-
21 servation Account. Moneys received pursuant to Public Law 96-501 shall be
22 placed in the account.

23 (2) The account created by subsection (1) of this section is continuously
24 appropriated for disbursement to state agencies, including but not limited to
25 the Public Utility Commission, the [*State Department of Energy*] **Oregon**
26 **Climate Authority**, the State Department of Fish and Wildlife and the
27 Water Resources Department to carry out the purposes of Public Law 96-501,
28 subject to legislative approval or limitation by law or Emergency Board
29 action.

30 **SECTION 147.** ORS 469.880 is amended to read:

31 469.880. Each publicly owned utility serving Oregon shall, either inde-

1 pendently or as part of an association, provide an energy audit program for
2 its commercial customers. The Director of the [*State Department of Energy*]
3 **Oregon Climate Authority** shall adopt rules governing the commercial en-
4 ergy audit program established under this section and may provide for coor-
5 dination among electric utilities and gas utilities that serve the same
6 commercial building.

7 **SECTION 148.** ORS 469.885 is amended to read:

8 469.885. (1) Within 180 days after the adoption of rules by the Director
9 of the [*State Department of Energy*] **Oregon Climate Authority** under ORS
10 469.880, each publicly owned utility shall present for the director's approval
11 a commercial energy audit program that shall, to the director's satisfaction:

12 (a) Make information about energy conservation available to any com-
13 mercial building customer of the publicly owned utility, upon request;

14 (b) Regularly notify all customers in commercial buildings of the avail-
15 ability of the services described in this section;

16 (c) Provide to any commercial building customer of the publicly owned
17 utility, upon request, an on-site energy audit of the customer's commercial
18 building, including, but not limited to, an estimate of the cost of the energy
19 conservation measures; and

20 (d) Set a reasonable time schedule for effective implementation of the
21 elements set forth in this section.

22 (2) The commercial energy audit program submitted under subsection (1)
23 of this section shall specify whether the publicly owned utility proposes to
24 charge the customer a fee for the energy audit and, if so, the fee amount.

25 **SECTION 149.** ORS 469.890 is amended to read:

26 469.890. (1) [*Within 365 days after November 1, 1981,*] The Director of the
27 [*State Department of Energy*] **Oregon Climate Authority** shall adopt rules
28 governing energy conservation programs prescribed by ORS 469.895 and
29 469.900 (3) and this section and may provide for coordination among electric
30 utilities and gas utilities that serve the same commercial building. Within
31 180 days of the adoption of rules by the director, each covered publicly

1 owned utility shall present for the director's approval a commercial energy
2 conservation services program that shall, to the director's satisfaction:

3 (a) Make information about energy conservation available to all com-
4 mercial building customers of the covered publicly owned utility, upon re-
5 quest;

6 (b) Regularly notify all customers in commercial buildings of the avail-
7 ability of the services described in this section; and

8 (c) Provide to any commercial building customer of the covered publicly
9 owned utility, upon request, an on-site energy audit of the customer's com-
10 mercial building, including, but not limited to, an estimate of the cost of
11 energy conservation measures.

12 (2) The programs submitted and approved under this section shall include
13 a reasonable time schedule for effective implementation of the elements set
14 forth in subsection (1) of this section in the service areas of the covered
15 publicly owned utility.

16 (3) The commercial energy conservation services program submitted under
17 subsections (1) and (2) of this section shall specify whether the covered
18 publicly owned utility proposes to charge the customer a fee for the energy
19 audit and, if so, the fee amount.

20 **SECTION 150.** ORS 469.895 is amended to read:

21 469.895. (1) ORS 469.890 and 469.900 (3) and this section apply in any
22 calendar year to a publicly owned utility only if during the second preceding
23 calendar year sales of electric energy by the publicly owned utility for pur-
24 poses other than resale exceeded 750 million kilowatt-hours. For the purpose
25 of ORS 469.890 and 469.900 (3) and this section, a publicly owned utility with
26 sales for nonresale purposes in excess of 750 million kilowatt-hours during
27 the second preceding calendar year shall be known as a "covered publicly
28 owned utility."

29 (2) ORS 469.890 and 469.900 (3) and this section shall not apply to a cov-
30 ered publicly owned utility if the Director of the [*State Department of*
31 *Energy*] **Oregon Climate Authority** determines that its existing commercial

1 energy conservation services program meets or exceeds the requirements of
2 those sections.

3 (3) Before the beginning of each calendar year, the director shall publish
4 a list identifying each covered publicly owned utility to which ORS 469.890
5 and 469.900 (3) and this section shall apply during that calendar year.

6 (4) Any covered publicly owned utility is exempt from the requirements
7 of ORS 469.880 and 469.885.

8 **SECTION 151.** ORS 469.900 is amended to read:

9 469.900. (1) The Public Utility Commission shall insure that each electric
10 utility's commercial energy conservation services program does not conflict
11 with federal statutes and regulations applicable to electric utilities and en-
12 ergy conservation in commercial buildings.

13 (2) The commission shall insure that each gas utility's commercial energy
14 conservation services program does not conflict with federal statutes and
15 regulations applicable to gas utilities and energy conservation in commercial
16 buildings.

17 (3) The Director of the [*State Department of Energy*] **Oregon Climate**
18 **Authority** shall insure that each covered publicly owned utility's commer-
19 cial energy conservation services program does not conflict with federal
20 statutes and regulations applicable to covered publicly owned utilities and
21 energy conservation in commercial buildings.

22 **SECTION 152.** ORS 469.992 is amended to read:

23 469.992. (1) The Director of the [*State Department of Energy*] **Oregon**
24 **Climate Authority** or the Energy Facility Siting Council may impose civil
25 penalties for violation of ORS 469.300 to 469.619 and 469.930, for violations
26 of rules adopted under ORS 469.300 to 469.619 and 469.930, for violation of
27 any site certificate or amended site certificate issued under ORS 469.300 to
28 469.601 or for violation of [*a State Department of Energy*] **an Oregon Cli-**
29 **mate Authority** order issued pursuant to ORS 469.405 (3). A civil penalty
30 in an amount of not more than \$25,000 per day for each day of violation may
31 be assessed.

1 (2) Subject to ORS 153.022, violation of an order entered pursuant to ORS
2 469.550 is punishable upon conviction by a fine of \$50,000. Each day of vio-
3 lation constitutes a separate offense.

4 (3) A civil penalty in an amount not less than \$100 per day nor more than
5 \$1,000 per day may be assessed by the director or the Energy Facility Siting
6 Council for a willful failure to comply with a subpoena served by the direc-
7 tor pursuant to ORS 469.080 (2).

8 (4) A civil penalty in an amount of not more than \$25,000 per day for each
9 day in violation of any provision of ORS 469.603 to 469.619 may be assessed
10 by the circuit court upon complaint of any person injured by the violation.

11 **SECTION 153.** ORS 469.992, as amended by section 17, chapter 653,
12 Oregon Laws 1991, section 14, chapter 385, Oregon Laws 1999, section 310,
13 chapter 1051, Oregon Laws 1999, and section 54, chapter 186, Oregon Laws
14 2003, is amended to read:

15 469.992. (1) The Director of the [*State Department of Energy*] **Oregon**
16 **Climate Authority** or the Energy Facility Siting Council may impose civil
17 penalties for violation of ORS 469.300 to 469.619 and 469.930, for violations
18 of rules adopted under ORS 469.300 to 469.619 and 469.930, for violation of
19 any site certificate or amended site certificate issued under ORS 469.300 to
20 469.601 or for violation of [*a State Department of Energy*] **an Oregon Cli-**
21 **mate Authority** order issued pursuant to ORS 469.405 (3). A civil penalty
22 in an amount of not more than \$25,000 per day for each day of violation may
23 be assessed.

24 (2) Subject to ORS 153.022, violation of an order entered pursuant to ORS
25 469.550 is punishable upon conviction by a fine of \$50,000. Each day of vio-
26 lation constitutes a separate offense.

27 (3) A civil penalty in an amount not less than \$100 per day nor more than
28 \$1,000 per day may be assessed by the director or the Energy Facility Siting
29 Council for a willful failure to comply with a subpoena served by the direc-
30 tor pursuant to ORS 469.080 (2).

31 (4) A civil penalty in an amount of not more than \$25,000 per day for each

1 day in violation of any provision of ORS 469.603 to 469.619 or section 14,
2 chapter 653, Oregon Laws 1991, may be assessed by the circuit court upon
3 complaint of any person injured by the violation.

4 **SECTION 154.** ORS 469A.020 is amended to read:

5 469A.020. (1) Except as provided in this section, electricity may be used
6 to comply with a renewable portfolio standard only if the electricity is gen-
7 erated by a facility that becomes operational on or after January 1, 1995.

8 (2) Electricity from a generating facility, other than a hydroelectric fa-
9 cility, that became operational before January 1, 1995, may be used to comply
10 with a renewable portfolio standard if the electricity is attributable to ca-
11 pacity or efficiency upgrades made on or after January 1, 1995.

12 (3) Electricity from a hydroelectric facility that became operational before
13 January 1, 1995, may be used to comply with a renewable portfolio standard
14 if the electricity is attributable to efficiency upgrades made on or after
15 January 1, 1995. If an efficiency upgrade is made to a Bonneville Power Ad-
16 ministration facility, only that portion of the electricity generation attrib-
17 utable to Oregon's share of the electricity may be used to comply with a
18 renewable portfolio standard.

19 (4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a
20 hydroelectric facility that became operational before January 1, 1995, may
21 be used to comply with a renewable portfolio standard if the facility is cer-
22 tified as a low-impact hydroelectric facility on or after January 1, 1995, by
23 a national certification organization recognized by the [*State Department of*
24 *Energy*] **Director of the Oregon Climate Authority** by rule, and if the fa-
25 cility is either:

26 (a) Owned by an electric utility; or

27 (b) Not owned by an electric utility and located in Oregon and licensed
28 by the Federal Energy Regulatory Commission under the Federal Power Act,
29 16 U.S.C. 791a et seq., or exempt from such license.

30 (5) Electricity from a generating facility located in this state that uses
31 biomass and that became operational before January 1, 1995, may be used to

1 comply with a renewable portfolio standard if the facility meets the re-
2 quirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L.
3 95-617) on March 4, 2010.

4 (6) A facility located in this state that generates electricity from direct
5 combustion of municipal solid waste and that became operational before
6 January 1, 1995, may be used to comply with a renewable portfolio standard
7 for up to 11 average megawatts of electricity generated per calendar year.

8 **SECTION 155.** ORS 469A.025 is amended to read:

9 469A.025. (1) Electricity generated utilizing the following types of energy
10 may be used to comply with a renewable portfolio standard:

11 (a) Wind energy.

12 (b) Solar photovoltaic and solar thermal energy.

13 (c) Wave, tidal and ocean thermal energy.

14 (d) Geothermal energy.

15 (2) Except as provided in subsection (3) of this section, electricity gener-
16 ated from biomass and biomass by-products may be used to comply with a
17 renewable portfolio standard, including but not limited to electricity gener-
18 ated from:

19 (a) Organic human or animal waste;

20 (b) Spent pulping liquor;

21 (c) Forest or rangeland woody debris from harvesting or thinning con-
22 ducted to improve forest or rangeland ecological health and to reduce un-
23 characteristic stand replacing wildfire risk;

24 (d) Wood material from hardwood timber grown on land described in ORS
25 321.267 (3);

26 (e) Agricultural residues;

27 (f) Dedicated energy crops; and

28 (g) Landfill gas or biogas produced from organic matter, wastewater,
29 anaerobic digesters or municipal solid waste.

30 (3) Electricity generated from the direct combustion of biomass may not
31 be used to comply with a renewable portfolio standard if any of the biomass

1 combusted to generate the electricity includes wood that has been treated
2 with chemical preservatives such as creosote, pentachlorophenol or
3 chromated copper arsenate.

4 (4) Electricity generated by a hydroelectric facility may be used to comply
5 with a renewable portfolio standard only if:

6 (a) The facility is located outside any protected area designated by the
7 Pacific Northwest Electric Power and Conservation Planning Council as of
8 July 23, 1999, or any area protected under the federal Wild and Scenic Rivers
9 Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805 to
10 390.925; or

11 (b) The electricity is attributable to efficiency upgrades made to the fa-
12 cility on or after January 1, 1995.

13 (5)(a) Up to 50 average megawatts of electricity per year generated by an
14 electric utility from certified low-impact hydroelectric facilities described in
15 ORS 469A.020 (4)(a) may be used to comply with a renewable portfolio
16 standard, without regard to the number of certified facilities operated by the
17 electric utility or the generating capacity of those facilities. A hydroelectric
18 facility described in this paragraph is not subject to the requirements of
19 subsection (4) of this section.

20 (b) Up to 40 average megawatts of electricity per year generated by cer-
21 tified low-impact hydroelectric facilities described in ORS 469A.020 (4)(b)
22 may be used to comply with a renewable portfolio standard, without regard
23 to the number of certified facilities or the generating capacity of those fa-
24 cilities. A hydroelectric facility described in this paragraph is not subject to
25 the requirements of subsection (4) of this section.

26 (6)(a) Direct combustion of municipal solid waste in a generating facility
27 located in this state may be used to comply with a renewable portfolio
28 standard. The qualification of a municipal solid waste facility for use in
29 compliance with a renewable portfolio standard has no effect on the quali-
30 fication of the facility for a tax credit under ORS 469B.130 to 469B.169.

31 (b) The total amount of electricity generated in this state by direct com-

1 bustion of municipal solid waste by generating facilities that became opera-
2 tional in this state on or after January 1, 1995, may not exceed nine average
3 megawatts per year for the purpose of complying with a renewable portfolio
4 standard.

5 (7) Electricity generated from hydrogen gas, including electricity gener-
6 ated by hydrogen power stations using anhydrous ammonia as a fuel source,
7 may be used to comply with a renewable portfolio standard if:

8 (a) The electricity is derived from:

9 (A) Any source of energy described in subsection (1) or (2) of this section;
10 or

11 (B) A hydroelectric facility that complies with subsection (4) of this sec-
12 tion and that is certified as a low-impact hydroelectric facility as described
13 in ORS 469A.020 (4); and

14 (b) The output of the original source of energy is not also used to comply
15 with a renewable portfolio standard.

16 (8) If electricity generation employs multiple energy sources, that portion
17 of the electricity generated that is attributable to energy sources described
18 in this section may be used to comply with a renewable portfolio standard.

19 (9) The [*State Department of Energy*] **Director of the Oregon Climate**
20 **Authority** by rule may approve energy sources other than those described
21 in this section that may be used to comply with a renewable portfolio
22 standard. The [*department*] **director** may not approve petroleum, natural gas,
23 coal or nuclear fission as an energy source that may be used to comply with
24 a renewable portfolio standard.

25 **SECTION 156.** ORS 469A.027 is amended to read:

26 469A.027. The [*State Department of Energy*] **Oregon Climate Authority**
27 may certify as eligible for renewable energy certificates a facility that qual-
28 ifies under ORS 469A.020 (5) and (6) and 469A.025 (6) and (7) only for elec-
29 tricity generated on or after January 1, 2011.

30 **SECTION 157.** ORS 469A.029 is amended to read:

31 469A.029. To be eligible for renewable energy certificates, the owner or

1 operator of a generating facility that qualifies under ORS 469A.020 (5) and
2 (6) and 469A.025 (6) and (7) must register the generating facility with the
3 Western Renewable Energy Generation Information System or other regional
4 system or trading program designated by the **former** State Department of
5 Energy before January 1, 2011.

6 **SECTION 158.** ORS 469A.130 is amended to read:

7 469A.130. (1) The [*State Department of Energy*] **Oregon Climate Au-**
8 **thority** shall establish a system of renewable energy certificates that can
9 be used by an electric utility or electricity service supplier to establish
10 compliance with the applicable renewable portfolio standard. The [*depart-*
11 *ment*] **authority** shall consult with the Public Utility Commission before
12 establishing a system of renewable energy certificates under this section. The
13 [*department*] **authority** may allow use of renewable energy certificates that
14 are issued, monitored, accounted for or transferred by or through a regional
15 system or trading program, including but not limited to the Western
16 Renewable Energy Generation Information System. The system established
17 by the [*department*] **authority** shall allow issuance, transfer and use of
18 renewable energy certificates in electronic form.

19 (2) The validity of a bundled renewable energy certificate for purposes of
20 compliance with the applicable renewable portfolio standard is not affected
21 by the substitution of any other electricity for the qualifying electricity at
22 any point after the time of generation.

23 **SECTION 159.** ORS 469A.132 is amended to read:

24 469A.132. If a facility that generates electricity using biomass also gen-
25 erates thermal energy for a secondary purpose, the [*State Department of En-*
26 *ergy*] **Oregon Climate Authority**, as part of the system established under
27 ORS 469A.130, shall provide that renewable energy certificates must be is-
28 sued for the generation of the thermal energy. For purposes of issuing
29 renewable energy certificates under this section, 3,412,000 British thermal
30 units are equivalent to one megawatt-hour.

31 **SECTION 160.** Section 25, chapter 301, Oregon Laws 2007, is amended to

1 read:

2 **Sec. 25.** [(1)] The [*State Department of Energy*] **Oregon Climate Au-**
3 **thority** shall periodically conduct a study to evaluate the impact of [*sections*
4 *1 to 24 of this 2007 Act*] **ORS 469A.005 to 469A.210** on jobs in this state. The
5 study shall assess the number of new jobs created in the renewable energy
6 sector in this state and the average wage rates and the provision of health
7 care and other benefits for those jobs. In addition, the study shall investigate
8 the extent to which workforce training opportunities are being provided to
9 employees to prepare the employees for jobs in the renewable energy sector.

10 [(2) *The department shall conduct the first study under this section not*
11 *later than two years after the effective date of this 2007 Act.*]

12 **SECTION 161.** ORS 469B.100 is amended to read:

13 469B.100. As used in ORS 316.116 and 469B.100 to 469B.118:

14 (1) “Alternative energy device” means a category one alternative energy
15 device or a category two alternative energy device.

16 (2) “Alternative fuel device” includes a facility for mixing, storing, com-
17 pressing or dispensing fuels for alternative fuel vehicles, and any other nec-
18 essary and reasonable equipment.

19 (3) “Category one alternative energy device” means:

20 (a) Any system, mechanism or series of mechanisms that uses solar radi-
21 ation for space heating or cooling for one or more dwellings;

22 (b) Any system that uses solar radiation for:

23 (A) Domestic water heating; or

24 (B) Swimming pool, spa or hot tub heating and that meets the require-
25 ments set forth in ORS 316.116;

26 (c) A ground source heat pump and ground loop system;

27 (d) Any wind powered device used to offset or supplement the use of
28 electricity by performing a specific task such as pumping water;

29 (e) Equipment used in the production of alternative fuels;

30 (f) A generator powered by alternative fuels and used to produce elec-
31 tricity;

1 (g) An energy efficient appliance;

2 (h) An alternative fuel device; or

3 (i) A premium efficiency biomass combustion device that includes a dedi-
4 cated outside combustion air source and that meets minimum performance
5 standards that are established by the [*State Department of Energy*] **Oregon**
6 **Climate Authority**.

7 (4) “Category two alternative energy device” means a fuel cell system,
8 solar electric system or wind electric system.

9 (5) “Coefficient of performance” means the ratio calculated by dividing
10 the usable output energy by the electrical input energy. Both energy values
11 must be expressed in equivalent units.

12 (6) “Contractor” means a person whose trade or business consists of of-
13 fering for sale an alternative energy device, construction service, installation
14 service or design service.

15 (7) “Cost” means the actual cost of the acquisition, construction and in-
16 stallation of the alternative energy device.

17 (8) “Domestic water heating” means the heating of water used in a
18 dwelling for bathing, clothes washing, dishwashing and other related func-
19 tions.

20 (9) “Dwelling” means real or personal property ordinarily inhabited as a
21 principal or secondary residence and located within this state. “Dwelling”
22 includes, but is not limited to, an individual unit within multiple unit resi-
23 dential housing.

24 (10) “Energy efficient appliance” includes emerging technologies that ex-
25 ceed state and federal appliance standards.

26 (11) “First year energy yield” of an alternative energy device is the usable
27 energy produced or energy saved under average environmental conditions in
28 one year.

29 (12) “Fuel cell system” means any system, mechanism or series of mech-
30 anisms that uses fuel cells or fuel cell technology to generate electrical en-
31 ergy for a dwelling.

1 (13) “Placed in service” means the date an alternative energy device is
2 ready and available to produce usable energy or save energy.

3 (14) “Solar electric system” means any system, mechanism or series of
4 mechanisms, including photovoltaic systems, that uses solar radiation to
5 generate electrical energy for a dwelling.

6 (15) “Third-party alternative energy device installation” means an alter-
7 native energy device that is installed in connection with residential property
8 and owned by a person other than the residential property owner in accord-
9 ance with an agreement in effect for at least 10 years between the residential
10 property owner and the alternative energy device owner. The agreement must
11 cover maintenance and either the use of or the power generated by the al-
12 ternative energy device.

13 (16) “Wind electric system” means any system, mechanism or series of
14 mechanisms that uses wind to generate electrical energy for a dwelling.

15 **SECTION 162.** ORS 469B.103 is amended to read:

16 469B.103. (1) For the purposes of carrying out ORS 469B.100 to 469B.118,
17 the [*State Department of Energy*] **Director of the Oregon Climate Au-**
18 **thority** may adopt rules prescribing minimum performance criteria for al-
19 ternative energy devices for dwellings. The [*department*] **director** may, in
20 prescribing criteria, rely on applicable federal, state and local requirements
21 for energy efficiency, including the state building code, state and federal
22 appliance standards and any specialty codes and any code adopted by the
23 Building Codes Division of the Department of Consumer and Business Ser-
24 vices.

25 (2) The [*department*] **director** shall take into consideration evolving
26 market conditions in prescribing minimum performance criteria for alterna-
27 tive energy devices and in determining credit amounts, consistent with ORS
28 316.116.

29 (3) The [*department*] **director**, in adopting rules under this section for
30 solar heating and cooling systems, shall take into consideration applicable
31 standards of federal performance criteria prescribed pursuant to the pro-

1 visions of the Solar Heating and Cooling Demonstration Act of 1974, 42
2 U.S.C. 5506.

3 (4) The director [*of the State Department of Energy*] shall adopt rules
4 governing the determination of eligibility, verification and certification of
5 an alternative fuel device for purposes of the tax credits granted under ORS
6 316.116, including but not limited to rules that further define an alternative
7 fuel device and that govern the computation of costs eligible for credit.

8 (5) The [*department*] **director** shall by rule establish policies and proce-
9 dures for the administration and enforcement of the provisions of ORS
10 316.116 and 469B.100 to 469B.118.

11 **SECTION 163.** ORS 469B.106 is amended to read:

12 469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon
13 Laws 2011, any person may claim a tax credit under ORS 316.116 if the per-
14 son:

15 (a) Meets the requirements of ORS 316.116;

16 (b) Meets the requirements of ORS 469B.100 to 469B.118; and

17 (c) Pays, subject to subsection (9) of this section, all or a portion of the
18 costs of an alternative energy device.

19 (2) In order to be eligible for a tax credit under ORS 316.116, a person
20 claiming a tax credit for construction or installation of an alternative energy
21 device shall have the device certified by the [*State Department of Energy*]
22 **Oregon Climate Authority** or constructed or installed by a contractor
23 certified by the [*department*] **authority** under subsection (4) of this section.

24 (3) Verification of the purchase, construction or installation of an alter-
25 native energy device shall be made in writing on a form provided by the
26 Department of Revenue and, if applicable, shall contain:

27 (a) The location of the alternative energy device;

28 (b) A description of the type of device;

29 (c) If the device was constructed or installed by a contractor, evidence
30 that the contractor has any license, bond, insurance and permit required to
31 sell and construct or install the alternative energy device;

1 (d) If the device was constructed or installed by a contractor, a statement
2 signed by the contractor that the applicant has received:

3 (A) A statement of the reasonably expected energy savings of the device;

4 (B) A copy of consumer information published by the [*State Department*
5 *of Energy*] **Oregon Climate Authority**;

6 (C) An operating manual for the alternative energy device; and

7 (D) A copy of the contractor's certification certificate or alternative en-
8 ergy device system certificate for the alternative energy device, as appropri-
9 ate;

10 (e) If the device was not constructed or installed by a contractor, evidence
11 that:

12 (A) The [*State Department of Energy*] **Oregon Climate Authority** has
13 issued an alternative energy device system certificate for the alternative
14 energy device; and

15 (B) The taxpayer has obtained all building permits required for con-
16 struction or installation of the device;

17 (f) A statement, signed by both the taxpayer claiming the credit and the
18 contractor if the device was constructed or installed by a contractor, that
19 the construction or installation meets all the requirements of ORS 469B.100
20 to 469B.118;

21 (g) The date the alternative energy device was purchased by the residen-
22 tial property owner, or, for a third-party alternative energy device installa-
23 tion, the date that the residential property owner and the alternative energy
24 device owner signed a contract;

25 (h) The date the alternative energy device was placed in service; and

26 (i) Any other information that the Director of the [*State Department of*
27 *Energy*] **Oregon Climate Authority** or the Department of Revenue deter-
28 mines is necessary.

29 (4)(a) When the [*State Department of Energy*] **Oregon Climate Authority**
30 finds that an alternative energy device can meet the standards adopted under
31 ORS 469B.103, the Director of the [*State Department of Energy*] **Oregon**

1 **Climate Authority** may issue a contractor system certification to the person
2 selling and constructing or installing the alternative energy device.

3 (b) Any person who sells or installs more than 12 alternative energy de-
4 vices in one year shall apply for a contractor system certification. An ap-
5 plication for a contractor system certification shall be made in writing on
6 a form provided by the [*State Department of Energy*] **authority** and shall
7 contain:

8 (A) A statement that the contractor has any license, bonding, insurance
9 and permit that is required for the sale and construction or installation of
10 the alternative energy device;

11 (B) A specific description of the alternative energy device, including, but
12 not limited to, the material, equipment and mechanism used in the device,
13 operating procedure, sizing and siting method and construction or installa-
14 tion procedure;

15 (C) The addresses of three installations of the device that are available
16 for inspection by the [*State Department of Energy*] **authority**;

17 (D) The range of installed costs to purchasers of the device;

18 (E) Any important construction, installation or operating instructions;
19 and

20 (F) Any other information that the [*State Department of Energy*] **au-**
21 **thority** determines is necessary.

22 (c) A new application for contractor system approval shall be filed when
23 there is a change in the information supplied under paragraph (b) of this
24 subsection.

25 (d) The [*State Department of Energy*] **authority** may issue contractor
26 system certificates to each contractor who on October 3, 1989, has a valid
27 dealer system certification, which shall authorize the sale and installation
28 of the same domestic water heating alternative energy devices authorized by
29 the dealer certification.

30 (e) If the [*State Department of Energy*] **authority** finds that an alternative
31 energy device can meet the standards adopted under ORS 469B.103, the di-

1 rector [*of the State Department of Energy*] may issue an alternative energy
2 device system certificate to the taxpayer constructing or installing or having
3 an alternative energy device constructed or installed.

4 (f) An application for an alternative energy device system certificate shall
5 be made in writing on a form provided by the [*State Department of Energy*]
6 **authority** and shall contain:

7 (A) A specific description of the alternative energy device, including, but
8 not limited to, the material, equipment and mechanism used in the device,
9 operating procedure, sizing, siting method and construction or installation
10 procedure;

11 (B) The constructed or installed cost of the device; and

12 (C) A statement that the taxpayer has all permits required for con-
13 struction or installation of the device.

14 (5) Prior to commencing installation of alternative energy devices, in-
15 stallers of third-party alternative energy device installations must apply to
16 the [*State Department of Energy*] **authority** to reserve credits on behalf of
17 owners of residential property. Installers may reserve credit for no more than
18 25 installations under this subsection in one application.

19 (6) To claim the tax credit, the verification form described in subsection
20 (3) of this section shall be submitted with the taxpayer's tax return for the
21 year the alternative energy device is placed in service or the immediately
22 succeeding tax year. A copy of the contractor's certification certificate or
23 alternative energy device system certificate also shall be submitted.

24 (7) The verification form and contractor's certificate or alternative energy
25 device system certificate described under this section shall be effective for
26 purposes of tax relief allowed under ORS 316.116.

27 (8) The verification form and contractor's certificate described under this
28 section may be transferred to the first purchaser of a dwelling who intends
29 to use the dwelling as a principal or secondary residence.

30 (9) Any person that pays the present value of the tax credit for an alter-
31 native energy device provided under ORS 316.116 and 469B.100 to 469B.118

1 to the person who constructs or installs the alternative energy device shall
2 be entitled to claim the credit in the manner and subject to rules adopted
3 by the Department of Revenue to carry out the purposes of this subsection.
4 The [*State Department of Energy*] **Director of the Oregon Climate Au-**
5 **thority** may establish by rule uniform discount rates to be used in calcu-
6 lating the present value of a tax credit under this subsection.

7 **SECTION 164.** ORS 469B.112 is amended to read:

8 469B.112. The following devices are not eligible for the tax credit under
9 ORS 316.116:

- 10 (1) Standard efficiency furnaces;
- 11 (2) Air conditioning systems;
- 12 (3) Boilers;
- 13 (4) Standard back-up heating systems;
- 14 (5) Woodstoves or wood furnaces, or any part of a heating system that
15 burns wood, unless the woodstove, furnace or system constitutes a premium
16 efficiency biomass combustion device described in ORS 469B.100 (3)(i);
- 17 (6) Heat pump water heaters that are part of a geothermal heat pump
18 space heating system;
- 19 (7) Structures that cover or enclose a swimming pool;
- 20 (8) Swimming pools, hot tubs or spas used to store heat;
- 21 (9) Above ground, uninsulated swimming pools, hot tubs or spas;
- 22 (10) Photovoltaic systems installed on recreational vehicles;
- 23 (11) Conversion of an existing alternative energy device to another type
24 of alternative energy device;
- 25 (12) Repair or replacement of an existing alternative energy device;
- 26 (13) A category two alternative energy device, if the equipment or other
27 property that comprises the category two alternative energy device is the
28 basis for an allowed credit for a category one alternative energy device un-
29 der ORS 316.116;
- 30 (14) A category one alternative energy device, if the equipment or other
31 property that comprises the category one alternative energy device is also

1 the basis for an allowed credit for a category two alternative energy device
2 under ORS 316.116; or

3 (15) Any other device identified by the [*State Department of Energy*]
4 **Oregon Climate Authority**. The [*department*] **Director of the Oregon**
5 **Climate Authority** may adopt rules defining standards for eligible and in-
6 eligible devices under this section.

7 **SECTION 165.** ORS 469B.115 is amended to read:

8 469B.115. (1) In order to carry out ORS 469B.100 to 469B.118, the [*State*
9 *Department of Energy*] **Director of the Oregon Climate Authority** shall
10 develop performance assumptions and prescriptive measures to determine the
11 eligibility and tax credit amount for alternative energy devices constructed
12 or installed in a dwelling.

13 (2) The [*department*] **director** shall use the performance assumptions and
14 prescriptive measures to develop information for the Department of Revenue
15 to use to allow taxpayers to determine their eligibility and tax credit
16 amount. The [*State Department of Energy*] **director** may review this infor-
17 mation on an annual basis to take into consideration new technology and
18 performance assumption accuracy.

19 (3) For the purpose of determining the first year energy yield of an al-
20 ternative energy device, the [*department*] **director** shall use the following
21 assumptions and test standards:

22 (a) Solar Rating and Certification Corporation standards SRCC 100, 300,
23 American Society of Heating, Refrigerating and Air-Conditioning Engineers
24 93-77, or the Air-Conditioning, Heating, and Refrigeration Institute under
25 ANSI/AHRI/ASHRAE/ISO Standard 13256-1 test at 50 degrees Fahrenheit
26 entering water temperature, as appropriate. The testing requirements under
27 this paragraph do not apply to an owner-built alternative energy device.

28 (b) For an alternative energy device used as a source for space heating
29 or cooling, the heating or cooling energy load as determined by a heat loss
30 or gain calculation performed in accordance with the methods established
31 by the American Society of Heating, Refrigerating and Air-Conditioning

1 Engineers. Except for an owner-built or site-built system, an alternative en-
2 ergy device used as a source for domestic hot water heating must meet the
3 SRCC OG 300 systems test or comply with comparable requirements as de-
4 termined by the [*department*] **director**.

5 (c) For an alternative energy device used as a source for electrical energy,
6 the first year energy yield shall be based upon the electrical energy load of
7 the dwelling as determined according to the procedure established by the
8 [*department*] **director**.

9 (d) For an alternative energy device used as a source for swimming pool,
10 spa or hot tub heating, the first year energy yield shall be based on the
11 heating load of the swimming pool, spa or hot tub as determined according
12 to the procedure established by the [*department*] **director**.

13 **SECTION 166.** ORS 469B.118 is amended to read:

14 469B.118. (1) Upon the Department of Revenue's own motion, or upon re-
15 quest of the [*State Department of Energy*] **Oregon Climate Authority**, the
16 Department of Revenue may initiate proceedings for the forfeiture of a tax
17 credit allowed under ORS 316.116 if:

18 (a) The verification was fraudulent because of a misrepresentation by the
19 taxpayer;

20 (b) The verification was fraudulent because of a misrepresentation by the
21 contractor;

22 (c) The alternative energy device has not been constructed, installed or
23 operated in substantial compliance with the requirements of ORS 469B.100
24 to 469B.118; or

25 (d) The taxpayer failed to consent to an inspection of the constructed or
26 installed alternative energy device by the [*State Department of Energy*]
27 **Oregon Climate Authority** after a reasonable, written request for such an
28 inspection by the [*State Department of Energy*] **authority**.

29 (2) Pursuant to the procedures for a contested case under ORS chapter
30 183, the Director of the [*State Department of Energy*] **Oregon Climate Au-**
31 **thority** may order the revocation of a contractor certificate issued under

1 ORS 469B.106 if the director finds that:

2 (a) The contractor certificate was obtained by fraud or misrepresentation
3 by the contractor certificate holder;

4 (b) The contractor's performance for the alternative energy device for
5 which the contractor is issued a certificate under ORS 469B.106 does not
6 meet industry standards; or

7 (c) The contractor has misrepresented to the customer either the tax
8 credit program or the nature or quality of the alternative energy device.

9 (3) If the tax credit allowed under ORS 316.116 for the purchase, con-
10 struction or installation of an alternative energy device is ordered forfeited
11 due to an action of the taxpayer under subsection (1)(a), (c) or (d) of this
12 section, all prior tax relief provided to the taxpayer shall be forfeited and
13 the Department of Revenue shall proceed to collect those taxes not paid by
14 the taxpayer as a result of the tax credit relief under ORS 316.116.

15 (4) If the tax credit for the construction or installation of an alternative
16 energy device is ordered forfeited due to an action of the contractor under
17 subsection (1)(b) of this section, the Department of Revenue shall proceed to
18 collect, from the contractor, an amount equivalent to those taxes not paid
19 by the taxpayer as a result of the tax credit relief under ORS 316.116. As
20 long as the forfeiture is due to an action of the contractor and not to an
21 action of the taxpayer, the assessment of such taxes shall be levied on the
22 contractor and not on the taxpayer. Notwithstanding ORS 314.835, the De-
23 partment of Revenue may disclose information from income tax returns or
24 reports to the extent such disclosure is necessary to collect amounts from
25 contractors under this subsection.

26 (5) In order to obtain information necessary to verify eligibility and
27 amount of the tax credit, the [*State Department of Energy*] **Oregon Climate**
28 **Authority** or its representative may inspect an alternative energy device
29 that has been purchased, constructed or installed. The inspection shall be
30 made only with the consent of the owner of the dwelling. Failure to consent
31 to the inspection is grounds for the forfeiture of any tax credit relief under

1 ORS 316.116. The Department of Revenue shall proceed to collect any taxes
2 due according to subsection (4) of this section. For electrical generating al-
3 ternative energy devices, the [*State Department of Energy*] **Oregon Climate**
4 **Authority** may obtain energy consumption records for the dwelling the de-
5 vice serves, for a 12-month period, in order to verify eligibility and amount
6 of the tax credit.

7 **SECTION 167.** ORS 469B.130 is amended to read:

8 469B.130. As used in ORS 469B.130 to 469B.169 and 469B.171:

9 (1) “Alternative fuel vehicle” means a vehicle as defined by the Director
10 of the [*State Department of Energy*] **Oregon Climate Authority** by rule that
11 is used primarily in connection with the conduct of a trade or business and
12 that is manufactured or modified to use an alternative fuel, including but
13 not limited to electricity, ethanol, methanol, gasohol and propane or natural
14 gas, regardless of energy consumption savings.

15 (2) “Car sharing facility” means the expenses of operating a car sharing
16 program, including but not limited to the fair market value of parking spaces
17 used to store the fleet of cars available for a car sharing program, but does
18 not include the costs of the fleet of cars.

19 (3) “Car sharing program” means a program in which drivers pay to be-
20 come members in order to have joint access to a fleet of cars from a common
21 parking area on an hourly basis. “Car sharing program” does not include
22 operations conducted by car rental agencies.

23 (4) “Cost” means the capital costs and expenses necessarily incurred in
24 the erection, construction, installation and acquisition of a facility, includ-
25 ing site development costs and expenses for a sustainable building practices
26 facility.

27 (5) “Energy facility” means any capital investment for which the first
28 year energy savings yields a simple payback period of greater than one year.
29 An energy facility includes:

30 (a) Any land, structure, building, installation, excavation, machinery,
31 equipment or device, or any addition to, reconstruction of or improvement

1 of, land or an existing structure, building, installation, excavation, machin-
2 ery, equipment or device necessarily erected, constructed, installed or ac-
3 quired by any person in connection with the conduct of a trade or business
4 and actually used in the processing or utilization of renewable energy re-
5 sources to:

6 (A) Replace a substantial part or all of an existing use of electricity, pe-
7 troleum or natural gas;

8 (B) Provide the initial use of energy where electricity, petroleum or na-
9 tural gas would have been used;

10 (C) Generate electricity to replace an existing source of electricity or to
11 provide a new source of electricity for sale by or use in the trade or business;

12 (D) Perform a process that obtains energy resources from material that
13 would otherwise be solid waste as defined in ORS 459.005; or

14 (E) Manufacture or distribute alternative fuels, including but not limited
15 to electricity, ethanol, methanol, gasohol or biodiesel.

16 (b) Any acquisition of, addition to, reconstruction of or improvement of
17 land or an existing structure, building, installation, excavation, machinery,
18 equipment or device necessarily erected, constructed, installed or acquired
19 by any person in connection with the conduct of a trade or business in order
20 to substantially reduce the consumption of purchased energy.

21 (c) A necessary feature of a new commercial building or multiple unit
22 dwelling, as dwelling is defined by ORS 469B.100, that causes that building
23 or dwelling to exceed an energy performance standard in the state building
24 code.

25 (d) The replacement of an electric motor with another electric motor that
26 substantially reduces the consumption of electricity.

27 (6) "Facility" means an energy facility, recycling facility, transportation
28 facility, car sharing facility, sustainable building practices facility, alterna-
29 tive fuel vehicle or facilities necessary to operate alternative fuel vehicles,
30 including but not limited to an alternative fuel vehicle refueling station, a
31 high-efficiency combined heat and power facility, a high-performance home

1 or a homebuilder-installed renewable energy system.

2 (7) “High-efficiency combined heat and power facility” means a device or
3 equipment that simultaneously produces heat and electricity from a single
4 source of fuel and that meets the criteria established for a high-efficiency
5 combined heat and power facility under ORS 469B.139.

6 (8) “High-performance home” means a new single-family dwelling that:

7 (a) Is designed and constructed to reduce net purchased energy through
8 use of both energy efficiency and on-site renewable energy resources; and

9 (b) Meets the criteria established for a high-performance home under ORS
10 469B.139.

11 (9) “Homebuilder-installed renewable energy system” means a renewable
12 energy resource system that:

13 (a) Meets the criteria established for a renewable energy resource system
14 under ORS 469B.139; and

15 (b) Is installed in a new single-family dwelling by, or at the direction of,
16 the homebuilder constructing the dwelling.

17 (10) “Qualified transit pass contract” means a purchase agreement entered
18 into between a transportation provider and a person, the terms of which
19 obligate the person to purchase transit passes on behalf or for the benefit
20 of employees, students, patients or other individuals over a specified period
21 of time.

22 (11) “Recycling facility” means equipment used by a trade or business
23 solely for recycling:

24 (a) Including:

25 (A) Equipment used solely for hauling and refining used oil;

26 (B) New vehicles or modifications to existing vehicles used solely to
27 transport used recyclable materials that cannot be used further in their
28 present form or location such as glass, metal, paper, aluminum, rubber and
29 plastic;

30 (C) Trailers, racks or bins that are used for hauling used recyclable ma-
31 terials and are added to or attached to existing waste collection vehicles; and

1 (D) Any equipment used solely for processing recyclable materials such
2 as balers, flatteners, crushers, separators and scales.

3 (b) But not including equipment used for transporting or processing scrap
4 materials that are recycled as a part of the normal operation of a trade or
5 business as defined by the director.

6 (12)(a) “Renewable energy resource” includes, but is not limited to:

7 (A) Straw, forest slash, wood waste or other wastes from farm or forest
8 land, nonpetroleum plant or animal based biomass, ocean wave energy, solar
9 energy, wind power, water power or geothermal energy;

10 (B) A hydroelectric generating facility that obtains all applicable permits
11 and complies with all state and federal statutory requirements for the pro-
12 tection of fish and wildlife and that:

13 (i) Does not exceed 10 megawatts of installed capacity; or

14 (ii) Qualifies as a research, development or demonstration facility; or

15 (C) A renewable energy storage device as defined by the director by rule.

16 (b) “Renewable energy resource” does not include a hydroelectric gener-
17 ating facility that is not described in paragraph (a) of this subsection.

18 (13) “Sustainable building practices facility” means a commercial building
19 in which building practices that reduce the amount of energy, water or other
20 resources needed for construction and operation of the building are used.
21 “Sustainable building practices facility” may be further defined by the [*State*
22 *Department of Energy*] **director** by rule, including rules that establish tra-
23 ditional building practice baselines in energy, water or other resource usage
24 for comparative purposes for use in determining whether a facility is a
25 sustainable building practices facility.

26 (14) “Transportation facility” means a transportation project that reduces
27 energy use during commuting to and from work or school, during work-
28 related travel, or during travel to obtain medical or other services, and may
29 be further defined by the [*department*] **director** by rule. “Transportation fa-
30 cility” includes, but is not limited to:

31 (a) A qualified transit pass contract or a transportation services contract;

1 or

2 (b) The purchase of efficient truck technology and related truck trailers,
3 as defined in ORS 801.580, for commercial motor vehicles, as defined in ORS
4 801.208, that are registered under ORS 803.420, or for commercial motor ve-
5 hicles that are proportionally registered under ORS 826.009 or 826.011.

6 (15) “Transportation provider” means a public, private or nonprofit entity
7 that provides transportation services to members of the public.

8 (16) “Transportation services contract” means a contract that is related
9 to a transportation facility, and may be further defined by the [*department*]
10 **director** by rule.

11 **SECTION 168.** ORS 469B.136 is amended to read:

12 469B.136. (1) In determining the eligibility of any facility for tax credits,
13 preference shall be given to those projects that:

14 (a) Provide energy savings for real or personal property within the state
15 inhabited as the principal residence of a tenant, including:

16 (A) Nonowner occupied single family dwellings; and

17 (B) Multiple unit residential housing; or

18 (b) Provide long-term energy savings from the use of renewable resources
19 or conservation of energy resources.

20 (2) The Director of the [*State Department of Energy*] **Oregon Climate**
21 **Authority** shall establish by rule a tiered priority system to be used in
22 evaluating applicants for certification of facilities using or producing
23 renewable energy resources. The tier system shall be based upon the
24 projected costs of facilities. In determining the eligibility for tax credits and
25 in allocating the available certified cost pursuant to section 2 (1), chapter
26 76, Oregon Laws 2010, among facilities, the director shall subject facilities
27 with higher projected costs to closer scrutiny, shall compare projects of
28 similar costs against each other and may certify less than the total cost of
29 any facility based on this evaluation. The director may employ criteria in-
30 cluding the following factors as defined by rule:

31 (a) Technology-specific energy production standards;

- 1 (b) Market sector;
- 2 (c) Delivery of energy into existing distribution and transmission net-
3 work;
- 4 (d) Investment payback period;
- 5 (e) Expected lifespan of the facility;
- 6 (f) Potential for long-term viability;
- 7 (g) Environmental standards established by the director;
- 8 (h) Potential to create and sustain new jobs;
- 9 (i) Projected siting in a location that is geographically or
10 socioeconomically advantageous;
- 11 (j) Demonstrated readiness to begin implementation;
- 12 (k) Amount and quality of energy generated;
- 13 (L) Strength of business plan;
- 14 (m) Provision of operations and maintenance data, with appropriate pro-
15 tections for trade secrets consistent with ORS chapter 192;
- 16 (n) Connection to existing infrastructure;
- 17 (o) Third-party review of the applicant's business plan; or
- 18 (p) Data related to projected return on investment.

19 **SECTION 169.** ORS 469B.139 is amended to read:

20 469B.139. The [*State Department of Energy*] **Director of the Oregon Cli-**
21 **mate Authority** shall by rule establish all of the following criteria:

22 (1) For a high-performance home, the minimum design and construction
23 standards that must be met or exceeded for a dwelling to be considered a
24 high-performance home, including but not limited to standards for the
25 building envelope, HVAC systems, lighting, appliances, water conservation
26 measures, use of sustainable building materials and on-site renewable energy
27 systems. The criteria must also establish the minimum reduction in estimated
28 net purchased energy that a dwelling must achieve to be considered a high-
29 performance home.

30 (2) For a homebuilder-installed renewable energy system, the minimum
31 performance and efficiency standards that a solar electric system, solar do-

1 mestic water heating system, passive solar space heating system, wind power
2 system, geothermal heating system, fuel cell system or other system utilizing
3 renewable resources must achieve to be considered a homebuilder-installed
4 renewable energy system.

5 (3) For a high-efficiency combined heat and power facility, the minimum
6 performance and efficiency standards that the facility must achieve to be
7 considered a high-efficiency combined heat and power facility.

8 (4) For a facility using or producing renewable energy resources, stan-
9 dards relating to criteria required under ORS 469B.136 (2).

10 (5) Standards, consistent with the definitions in ORS 469B.130, relating
11 to what constitutes a single facility.

12 **SECTION 170.** ORS 469B.142 is amended to read:

13 469B.142. (1) For a facility, the total cost that receives a preliminary
14 certification from the Director of the [*State Department of Energy*] **Oregon**
15 **Climate Authority** for tax credits in any calendar year may not exceed:

16 (a) \$20 million, in the case of a facility using or producing renewable
17 energy resources or a high-efficiency combined heat and power facility;

18 (b) Five percent of the total cost of the facility but no more than \$3
19 million, in the case of a facility that uses or produces renewable energy re-
20 sources and is a wind facility with an installed capacity of more than 10
21 megawatts; or

22 (c) \$10 million, in the case of any other facility.

23 (2) The director shall determine the dollar amount certified for any fa-
24 cility and the priority between applications for certification based upon the
25 criteria contained in ORS 469B.130 to 469B.169 and applicable rules and
26 standards adopted under ORS 469B.130 to 469B.169. The director may con-
27 sider the status of a facility as a research, development or demonstration
28 facility of new renewable resource generating and conservation technologies
29 or a qualified transit pass contract in the determination.

30 **SECTION 171.** ORS 469B.145 is amended to read:

31 469B.145. (1) Prior to erection, construction, installation or acquisition

1 of a proposed facility, any person may apply to the [*State Department of*
2 *Energy*] **Oregon Climate Authority** for preliminary certification under ORS
3 469B.157 if:

4 (a) The erection, construction, installation or acquisition of the facility
5 is to be commenced on or after October 3, 1979;

6 (b) The facility complies with the standards or rules adopted by the Di-
7 rector of the [*State Department of Energy*] **Oregon Climate Authority**; and

8 (c) The applicant meets one of the following criteria:

9 (A) The applicant is a person to whom a tax credit for the facility has
10 been transferred; or

11 (B) The applicant will be the owner, contract purchaser or lessee of the
12 facility at the time of erection, construction, installation or acquisition of
13 the proposed facility, and:

14 (i) The applicant is the owner, contract purchaser or lessee of a trade or
15 business that plans to utilize the facility in connection with Oregon prop-
16 erty; or

17 (ii) The applicant is the owner, contract purchaser or lessee of a trade
18 or business that plans to lease the facility to a person that will utilize the
19 facility in connection with Oregon property.

20 (2) An application for preliminary certification shall be made in writing
21 on a form prepared by the [*department*] **authority** and shall contain:

22 (a) A statement that the applicant or the lessee of the applicant's facility:

23 (A) Intends to convert from a purchased energy source to a renewable
24 energy resource;

25 (B) Plans to acquire, construct or install a facility that will use a
26 renewable energy resource or solid waste instead of electricity, petroleum
27 or natural gas;

28 (C) Plans to use a renewable energy resource in the generation of elec-
29 tricity for sale or to replace an existing or proposed use of an existing source
30 of electricity;

31 (D) Plans to acquire, construct or install a facility that substantially re-

1 duces the consumption of purchased energy;

2 (E) Plans to acquire, construct or install equipment for recycling as de-
3 scribed in ORS 469B.130 (11);

4 (F) Plans to acquire an alternative fuel vehicle or to convert an existing
5 vehicle to an alternative fuel vehicle;

6 (G) Plans to acquire, construct or install a facility necessary to operate
7 alternative fuel vehicles;

8 (H) Plans to acquire transit passes for use by individuals specified by the
9 applicant;

10 (I) Plans to acquire, construct or install a transportation facility;

11 (J) Plans to acquire a sustainable building practices facility;

12 (K) Plans to acquire a car sharing facility and operate a car sharing
13 program;

14 (L) Plans to construct a high-efficiency combined heat and power facility;

15 (M) Is a homebuilder and plans to construct a homebuilder-installed
16 renewable energy system; or

17 (N) Is a homebuilder and plans to construct a high-performance home.

18 (b) A detailed description of the proposed facility and its operation and
19 information showing that the facility will operate as represented in the ap-
20 plication and remain in operation for at least five years, unless the director
21 by rule specifies a shorter period of operation.

22 (c) Information on the amount by which consumption of electricity, pe-
23 troleum or natural gas by the applicant or the lessee of the applicant's fa-
24 cility will be reduced, and on the amount of energy that will be produced for
25 sale, as the result of using the facility or, if applicable, information about
26 the expected level of sustainable building practices facility performance.

27 (d) The projected cost of the facility.

28 (e) If applicable, a copy of the proposed qualified transit pass contract,
29 transportation services contract or contract for lease of parking spaces for
30 a car sharing facility.

31 (f) Information on the number and type of jobs that will be created, the

1 number of jobs sustained throughout the construction, installation and op-
2 eration of the facility and the benefits of the facility with regard to overall
3 economic activity in this state.

4 (g) Information demonstrating that the proposed facility will comply with
5 applicable state and local laws and regulations and obtain required licenses
6 and permits.

7 (h) Information relating to the criteria required under ORS 469B.136.

8 (i) Any other information the director considers necessary to determine
9 whether the proposed facility is in accordance with the provisions of ORS
10 469B.130 to 469B.169, and any applicable rules or standards adopted by the
11 director.

12 (3) An application for preliminary certification shall be accompanied by
13 a fee established under ORS 469B.164. The director may refund all or a por-
14 tion of the fee if the application for certification is rejected.

15 (4) The director may allow an applicant to file the preliminary application
16 or a reapplication under subsection (6) of this section after the start of
17 erection, construction, installation or acquisition of the facility if the direc-
18 tor finds:

19 (a) Filing the application before the start of erection, construction, in-
20 stallation or acquisition is inappropriate because special circumstances ren-
21 der filing earlier unreasonable; and

22 (b) The facility would otherwise qualify for tax credit certification pur-
23 suant to ORS 469B.130 to 469B.169.

24 (5) A preliminary certification of a sustainable building practices facility
25 shall be applied for and issued as prescribed by the [*department*] **director**
26 by rule.

27 (6) A preliminary certification shall remain valid for a period of three
28 calendar years after the date the preliminary certification is issued by the
29 director. The director may extend the three-year period for two additional
30 calendar years upon reapplication and submission of the fee required by this
31 section.

1 **SECTION 172.** ORS 469B.148 is amended to read:

2 469B.148. (1) The owner of a facility may transfer a tax credit for the fa-
3 cility in exchange for a cash payment equal to the present value of the po-
4 tential tax credit, as determined at the time of the application for
5 preliminary certification.

6 (2) The [*State Department of Energy*] **Director of the Oregon Climate**
7 **Authority** shall establish by rule a formula to be employed in the determi-
8 nation of prices of credits transferred under this section. In establishing the
9 formula the [*department*] **director** shall incorporate inflation projections and
10 market real rate of return.

11 (3) The [*department*] **Oregon Climate Authority** shall recalculate credit
12 transfer prices quarterly, employing the formula established under subsection
13 (2) of this section.

14 (4) Notwithstanding any other provision of law, a tax credit transferred
15 pursuant to this section does not decrease the amount of taxes required to
16 be reported by a public utility.

17 **SECTION 173.** ORS 469B.154 is amended to read:

18 469B.154. (1) The owner of a rental housing unit may transfer a tax credit
19 for energy conservation measures installed in rental housing units under
20 ORS 469B.151 in exchange for a cash payment equal to the present value of
21 the tax credit. To be eligible for a transfer, the energy conservation measures
22 must have been recommended in an energy audit as provided in ORS 469.633
23 or 469.651.

24 (2) The [*State Department of Energy*] **Director of the Oregon Climate**
25 **Authority** may establish by rule uniform discount rates to be used in cal-
26 culating the present value of a tax credit under this section.

27 **SECTION 174.** ORS 469B.157 is amended to read:

28 469B.157. (1) The Director of the [*State Department of Energy*] **Oregon**
29 **Climate Authority** may require the submission of plans, specifications and
30 contract terms, and after examination thereof, may request corrections and
31 revisions of the plans, specifications and terms.

1 (2) If the director determines that the proposed acquisition, erection,
2 construction or installation is technically feasible and should operate in ac-
3 cordance with the representations made by the applicant, and is in accord-
4 ance with the provisions of ORS 469B.130 to 469B.169 and any applicable
5 rules or standards adopted by the director, the director shall issue a pre-
6 liminary certificate approving the acquisition, erection, construction or in-
7 stallation of the facility. The certificate shall indicate the potential amount
8 of tax credit allowable and shall list any conditions for claiming the credit.

9 (3) The director may issue an order altering, conditioning, suspending or
10 denying preliminary certification if the director determines that:

11 (a) The acquisition, erection, construction or installation does not comply
12 with the provisions of ORS 469B.130 to 469B.169 and applicable rules and
13 standards;

14 (b) The applicant has previously received preliminary or final certifica-
15 tion for the same costs;

16 (c) The applicant is unable to demonstrate that the facility would be
17 economically viable without the allowance of additional credits under ORS
18 315.354;

19 (d) The applicant was directly involved in an act for which the director
20 has levied civil penalties or revoked, canceled or suspended any certification
21 under ORS 469B.130 to 469B.169; or

22 (e) The applicant or the principal, director, officer, owner, majority
23 shareholder or member of the applicant, or the manager of the applicant if
24 the applicant is a limited liability company, is in arrears for payments owed
25 to any government agency while in any capacity with direct or indirect
26 control over a business.

27 **SECTION 175.** ORS 469B.161 is amended to read:

28 469B.161. (1) A final certification may not be issued by the Director of the
29 [*State Department of Energy*] **Oregon Climate Authority** under this section
30 unless:

31 (a) The facility was acquired, erected, constructed or installed under a

1 preliminary certificate of approval issued under ORS 469B.157;

2 (b) The applicant demonstrates the ability to provide the information re-
3 quired by ORS 469B.145 (2) and does not violate any condition that may be
4 imposed as described in ORS 469B.157 (3); and

5 (c) The facility was acquired, erected, constructed or installed in accord-
6 ance with the applicable provisions of ORS 469B.130 to 469B.169 and any
7 applicable rules or standards adopted by the director.

8 (2) Any person may apply to the [*State Department of Energy*] **Oregon**
9 **Climate Authority** for final certification of a facility:

10 (a) If the [*department*] **authority** issued preliminary certification for the
11 facility under ORS 469B.157; and

12 (b)(A) After completion of erection, construction, installation or acqui-
13 sition of the proposed facility or, if the facility is a qualified transit pass
14 contract, after entering into the contract with a transportation provider; or

15 (B) After transfer of the facility, as provided in ORS 315.354 (5).

16 (3) An application for final certification shall be made in writing on a
17 form prepared by the [*department*] **authority** and shall contain:

18 (a) A statement that the conditions of the preliminary certification have
19 been complied with;

20 (b) The actual cost of the facility certified to by a certified public ac-
21 countant who is not an employee of the applicant or, if the actual cost of
22 the facility is less than \$50,000, copies of receipts for purchase and installa-
23 tion of the facility;

24 (c) The amount of the credit under ORS 315.354 that is to be claimed;

25 (d) The number and type of jobs created by the operation and maintenance
26 of the facility over the five-year period beginning with the year of prelimi-
27 nary certification under ORS 469B.157 and information on the benefits of the
28 facility with regard to overall economic activity in this state;

29 (e) Information sufficient to demonstrate that the facility will remain in
30 operation for at least five years, unless the director by rule specifies a
31 shorter period of operation;

1 (f) Information sufficient to demonstrate, in the case of a research, de-
2 velopment or demonstration facility that is not in operation, that the appli-
3 cant has made reasonable efforts to make the facility operable and meet the
4 requirements of the preliminary certificate;

5 (g) Documentation of compliance with applicable state and local laws and
6 regulations and licensing and permitting requirements as defined by the di-
7 rector; and

8 (h) Any other information determined by the director to be necessary
9 prior to issuance of a final certificate, including inspection of the facility
10 by the [*department*] **authority**.

11 (4) The director shall act on an application for certification before the
12 60th day after the filing of the application under this section. The director
13 may issue the certificate, or certificates for efficient truck technology within
14 a transportation facility, together with such conditions as the director de-
15 termines are appropriate to promote the purposes of ORS 315.354, 469B.130
16 to 469B.169 and 469B.171. If the applicant is an entity subject to regulation
17 by the Public Utility Commission, the director may consult with the com-
18 mission prior to issuance of the certificate. The action of the director shall
19 include certification of the actual cost of the facility. However, the director
20 may not certify an amount for tax credit purposes that is more than the
21 amount approved in the preliminary certificate issued for the facility.

22 (5) If the director rejects an application for final certification, or certifies
23 a lesser actual cost of the facility than was claimed in the application, the
24 director shall send to the applicant written notice of the action, together
25 with a statement of the findings and reasons therefor, by certified mail, be-
26 fore the 60th day after the filing of the application. Failure of the director
27 to act constitutes rejection of the application.

28 (6) Upon approval of an application for final certification of a facility, the
29 director shall certify the facility. Each certificate shall bear a separate serial
30 number for each device. Where one or more devices constitute an opera-
31 tional unit, the director may certify the operational unit under one certif-

1 icate.

2 (7) The director may establish by rule timelines and intermediate dead-
3 lines for submission of application materials.

4 **SECTION 176.** ORS 469B.164 is amended to read:

5 469B.164. By rule and after hearing, the Director of the [*State Department*
6 *of Energy*] **Oregon Climate Authority** may adopt a schedule of reasonable
7 fees which the [*State Department of Energy*] **Oregon Climate Authority**
8 may require of applicants for preliminary or final certification under ORS
9 469B.130 to 469B.169. Before the adoption or revision of the fees, the [*de-*
10 *partment*] **authority** shall estimate the total cost of the program to the [*de-*
11 *partment*] **authority**. The fees shall be used to recover the anticipated cost
12 of filing, investigating, granting and rejecting applications for certification
13 and shall be designed not to exceed the total cost estimated by the [*depart-*
14 *ment*] **authority**. Any excess fees shall be held by the [*department*] **authority**
15 and shall be used by the [*department*] **authority** to reduce any future fee
16 increases. The fee may vary according to the size and complexity of the fa-
17 cility. The fee shall not be considered as part of the cost of the facility to
18 be certified.

19 **SECTION 177.** ORS 469B.167 is amended to read:

20 469B.167. (1)(a) A certificate issued under ORS 469B.161 is required for
21 purposes of obtaining tax credits in accordance with ORS 315.354. Such cer-
22 tification shall be granted for a period not to exceed five years. The five-year
23 period shall begin with the tax year of the applicant during which the com-
24 pleted application for final certification of the facility under ORS 469B.161
25 is received by the [*State Department of Energy*] **Oregon Climate**
26 **Authority**.

27 (b) For a transferee holding a credit that has been transferred under ORS
28 469B.148 or 469B.154, the five-year period shall begin with the tax year in
29 which the transferee pays for the credit.

30 (2) Notwithstanding subsection (1) of this section, for a facility using or
31 producing renewable energy resources with a certified cost that exceeds \$10

1 million and that receives final certification under ORS 469B.161 after Janu-
2 ary 1, 2010:

3 (a) The five-year period prescribed in subsection (1)(a) of this section shall
4 begin with the tax year immediately following the tax year during which the
5 completed application for final certification of the facility under ORS
6 469B.161 is received by the [*department*] **authority**.

7 (b) If claimed by a transferee, the first of five tax years in which the
8 transferee may claim the credit is the tax year in which the transferee paid
9 for the credit or the tax year prescribed in paragraph (a) of this subsection,
10 whichever is later.

11 (c) An application shall be considered complete without the identification
12 of a transferee for purposes of ORS 469B.148 or 469B.154.

13 (3) If the original owner of the certificate uses any portion of the credit,
14 the certificate becomes nontransferable.

15 **SECTION 178.** ORS 469B.169 is amended to read:

16 469B.169. (1) Under the procedures for a contested case under ORS chap-
17 ter 183, the Director of the [*State Department of Energy*] **Oregon Climate**
18 **Authority** may order the suspension or revocation of the certificate issued
19 under ORS 469B.161 if the director finds that:

20 (a) The certification was obtained by fraud or misrepresentation;

21 (b) The holder of the certificate or the operator of the facility has failed
22 to construct or operate the facility in compliance with the plans, specifica-
23 tions and procedures in the certificate; or

24 (c) The facility is no longer in operation.

25 (2) As soon as the order of revocation under this section becomes final,
26 the director shall notify the Department of Revenue, the facility owner,
27 contract purchaser or lessee and any transferee under ORS 469B.148 of the
28 order of revocation.

29 (3) If the certificate is ordered revoked pursuant to subsection (1)(a) of
30 this section, all prior tax credits provided to the holder of the certificate by
31 virtue of the certificate shall be forfeited and upon notification under sub-

1 section (2) of this section the Department of Revenue immediately shall
2 proceed to collect those taxes not paid by the certificate holder as a result
3 of the tax credits provided to the holder under ORS 315.354.

4 (4)(a) The Department of Revenue shall have the benefit of all laws of this
5 state pertaining to the collection of income and excise taxes and may proceed
6 to collect the amounts described in subsection (3) of this section from the
7 person that obtained certification from the [*State Department of Energy*]
8 **Oregon Climate Authority** or any successor in interest to the business in-
9 terests of that person. No assessment of tax shall be necessary and no statute
10 of limitation shall preclude the collection of taxes described in this sub-
11 section.

12 (b) For purposes of this subsection, a lender, bankruptcy trustee or other
13 person that acquires an interest through bankruptcy or through foreclosure
14 of a security interest is not considered to be a successor in interest to the
15 business interests of the person that obtained certification from the [*State*
16 *Department of Energy*] **Oregon Climate Authority**.

17 (5) If the certificate is ordered revoked pursuant to subsection (1)(b) of
18 this section, the certificate holder shall be denied any further relief under
19 ORS 315.354 in connection with the facility from and after the date that the
20 order of revocation becomes final.

21 (6) Notwithstanding subsections (1) to (5) of this section, a certificate or
22 portion of a certificate held by a transferee under ORS 469B.148 may not be
23 considered revoked for purposes of the transferee, the tax credit allowable
24 to the transferee under ORS 315.354 may not be reduced and a transferee is
25 not liable under subsections (3) and (4) of this section.

26 **SECTION 179.** ORS 469B.253 is amended to read:

27 469B.253. (1) Prior to the installation or construction of a renewable en-
28 ergy production system, any person may apply to the [*State Department of*
29 *Energy*] **Oregon Climate Authority** for a grant under ORS 469B.256 if:

30 (a) The applicant will be the owner, contract purchaser or lessee of the
31 system at the time of installation or construction of the proposed system;

1 (b) The system does not exceed 35 megawatts of nameplate capacity;

2 (c) The system is located in Oregon; and

3 (d) The system complies with the standards or rules adopted by the Di-
4 rector of the [*State Department of Energy*] **Oregon Climate Authority**.

5 (2) An application for a grant under ORS 469B.256 shall be made in
6 writing on a form prepared by the [*department*] **authority** and shall contain:

7 (a) A detailed description of the system and its operation and information
8 showing that the system will operate as represented in the application and
9 remain in operation for at least five years, unless the director by rule spec-
10 ifies another period of operation.

11 (b) The anticipated total system cost.

12 (c) Information on the number and type of jobs, directly connected to the
13 awarding of the grant, that will be:

14 (A) Created by the system; and

15 (B) Sustained throughout the construction, installation and operation of
16 the system.

17 (d) Information demonstrating that the system will comply with applicable
18 state and local laws and regulations and obtain required licenses and per-
19 mits.

20 (e) Any other information the director considers necessary to determine
21 whether the system is in accordance with the provisions of ORS 469B.250 to
22 469B.265, and any applicable rules or standards adopted by the director.

23 (3) An application for a grant shall be accompanied by a fee established
24 under ORS 469B.259. The director may refund all or a portion of the fee if
25 the application for a grant is rejected.

26 (4) The director may allow an applicant to file the application for a grant
27 after the start of installation or construction of the system if the director
28 finds that:

29 (a) Filing the application before the start of installation or construction
30 is inappropriate because special circumstances render filing earlier unrea-
31 sonable; and

1 (b) The system would otherwise qualify for a grant under ORS 469B.250
2 to 469B.265.

3 **SECTION 180.** ORS 469B.256 is amended to read:

4 469B.256. (1) The Director of the [*State Department of Energy*] **Oregon**
5 **Climate Authority** may require an applicant for a grant under this section
6 for a renewable energy production system to submit plans, specifications and
7 contract terms, and after examination of the plans, specifications and terms
8 may request corrections and revisions.

9 (2) If the director determines that the system is technically feasible and
10 should operate in accordance with the representations made by the applicant,
11 and is in accordance with the provisions of ORS 469B.250 to 469B.265 and
12 any applicable rules or standards adopted by the director, the director may
13 enter into a performance agreement with the applicant and award a grant
14 under this section to the applicant. The grant provided for in the perform-
15 ance agreement may not exceed 35 percent of the cost of the project and may
16 not exceed \$250,000 per system. If construction does not begin within 12
17 months of an award under this section, the performance agreement shall be
18 void and the [*State Department of Energy*] **Oregon Climate Authority** shall
19 revoke the grant.

20 (3) The director may, in accordance with ORS chapter 183, deny a grant
21 under this section if the director determines that:

22 (a) The system does not comply with the provisions of ORS 469B.250 to
23 469B.265 and applicable rules and standards;

24 (b) The applicant was directly involved in an act for which the director
25 has levied civil penalties or revoked, canceled or suspended any certification
26 under ORS 315.326 or 469B.130 to 469B.169, or any grant under ORS 469B.250
27 to 469B.265; or

28 (c) The applicant or the principal, director, officer, owner, majority
29 shareholder or member of the applicant, or the manager of the applicant if
30 the applicant is a limited liability company, is in arrears for payments owed
31 to any government agency while in any capacity with direct or indirect

1 control over a business.

2 (4) The [*department*] **authority** shall reduce the amount of grant allow-
3 able to an applicant if, when combined with other government incentives or
4 grants available to the applicant, the amount calculated under subsection (2)
5 of this section exceeds 75 percent of the total system cost calculated under
6 this section.

7 (5) Upon determination by the director that the applicant has violated the
8 provisions of the performance agreement or ORS 469B.250 to 469B.265, the
9 applicant will be liable to the [*department*] **authority** for all grant moneys
10 disbursed to the applicant.

11 **SECTION 181.** ORS 469B.259 is amended to read:

12 469B.259. By rule and after hearing, the Director of the [*State Department*
13 *of Energy*] **Oregon Climate Authority** may adopt a schedule of reasonable
14 fees that the [*State Department of Energy*] **Oregon Climate Authority** may
15 require of applicants for a grant for a renewable energy production system
16 under ORS 469B.250 to 469B.265 or for tax credit certification under ORS
17 315.326. Before the adoption or revision of the fees, the [*department*] **au-**
18 **thority** shall estimate the total cost of the program to the [*department*] **au-**
19 **thority**. The fees shall be used to recover the anticipated cost of
20 administering and enforcing the provisions of ORS 469B.250 to 469B.265, in-
21 cluding filing, investigating, granting and rejecting applications for grant
22 or tax credit certification and ensuring compliance with ORS 315.326, 315.329
23 and 469B.250 to 469B.265 and shall be designed not to exceed the total cost
24 estimated by the [*department*] **authority**. Any excess fees shall be held by
25 the [*department*] **authority** and shall be used by the [*department*] **authority**
26 to reduce any future fee increases. The fee may vary according to the size
27 and complexity of the system. The fee is not considered part of the cost of
28 the system for which a grant is being sought.

29 **SECTION 182.** ORS 469B.262 is amended to read:

30 469B.262. (1) The total amount of potential tax credits for certified
31 renewable energy development contributions in this state may not, at the

1 time of certification under ORS 315.326, exceed:

2 (a) \$3 million for any biennium; or

3 (b) \$750,000 for the six months beginning July 1, 2017, and ending De-
4 cember 31, 2017.

5 (2) In the event that the Director of the [*State Department of Energy*]
6 **Oregon Climate Authority** receives applications for grants under ORS
7 469B.256 in excess of the contributions received pursuant to ORS 315.326, the
8 director shall allocate the issuance of grants according to standards and
9 criteria established by rule by the director.

10 **SECTION 183.** ORS 469B.265 is amended to read:

11 469B.265. The [*State Department of Energy*] **Director of the Oregon Cli-**
12 **mate Authority** shall by rule establish policies and procedures for the ad-
13 ministration and enforcement of the provisions of ORS 315.326, 315.329 and
14 469B.250 to 469B.265, including standards for what constitutes a single
15 renewable energy production system.

16 **SECTION 184.** ORS 469B.273 is amended to read:

17 469B.273. (1) In determining the priority of any energy conservation
18 project for tax credits, preference shall be given to those projects that have
19 the highest energy savings over the five-year credit allowance period per tax
20 credit dollar.

21 (2) In administering this section, the Director of the [*State Department*]
22 [*of Energy*] **Oregon Climate Authority** shall compare projects of similar
23 technology types against each other, take into account the amount of energy
24 saved over the life of the equipment, market or industry sector, expected
25 lifespan of the project compared to the simple payback period, whether the
26 energy savings of the project benefit a party other than the owner and any
27 other factors defined in [*State Department of Energy rule*] **the rules of the**
28 **director.** The [*department*] **Oregon Climate Authority** may certify less than
29 the total cost of any project based on this evaluation.

30 **SECTION 185.** ORS 469B.276 is amended to read:

31 469B.276. (1) The owner of a project may transfer a tax credit for the

1 project in exchange for a cash payment equal to the present value of the
2 potential tax credit, as determined at the time of the application for prelimi-
3 nary certification. If the tax credit is subject to recertification, only that
4 portion of the tax credit that has been recertified may be transferred.

5 (2) The [*State Department of Energy*] **Director of the Oregon Climate**
6 **Authority** shall establish by rule a formula to be employed in the determi-
7 nation of prices of credits transferred under this section. In establishing the
8 formula the [*department*] **director** shall incorporate inflation projections and
9 market real rate of return.

10 (3) The [*department*] **Oregon Climate Authority** shall recalculate credit
11 transfer prices quarterly, employing the formula established under subsection
12 (2) of this section.

13 **SECTION 186.** ORS 469B.279 is amended to read:

14 469B.279. The [*State Department of Energy*] **Director of the Oregon Cli-**
15 **mate Authority** shall by rule establish the following standards relating to
16 energy conservation projects:

17 (1) In consultation with the Department of Consumer and Business Ser-
18 vices Building Codes Division, standards relating to energy savings in new
19 construction.

20 (2) Standards relating to what constitutes a replacement of inefficient
21 equipment.

22 (3) Standards for the determination of total project cost.

23 (4) Standards for the application of third party review of research and
24 development projects by a qualified third party selected by the Director of
25 the [*State Department of Energy*] **Oregon Climate Authority**, as required
26 in ORS 469B.285.

27 **SECTION 187.** ORS 469B.282 is amended to read:

28 469B.282. For an energy conservation project, the total amount that re-
29 ceives a preliminary certification from the Director of the [*State Department*
30 *of Energy*] **Oregon Climate Authority** may not exceed \$10 million in certi-
31 fied cost.

1 **SECTION 188.** ORS 469B.285 is amended to read:

2 469B.285. (1) Prior to the installation or construction of an energy con-
3 servation project, any person may apply to the [*State Department of Energy*]
4 **Oregon Climate Authority** for preliminary certification under ORS
5 469B.288 if:

6 (a) The project complies with the standards adopted by the Director of the
7 [*State Department of Energy*] **Oregon Climate Authority**; and

8 (b) The applicant will be the owner, contract purchaser or lessee of the
9 project at the time of installation or construction of the project.

10 (2) An application for preliminary certification shall be made in writing
11 on a form prepared by the [*department*] **authority** and shall contain:

12 (a) A statement that the applicant plans to acquire, construct or install
13 a project that substantially reduces the consumption of purchased energy or
14 uses energy more efficiently.

15 (b) A detailed description of the project and its operation and information
16 showing that the project will operate as represented in the application and
17 remain in operation for at least five years, unless the director by rule spec-
18 ifies another period of operation.

19 (c) Information on the amount by which consumption of purchased energy
20 by the applicant will be reduced, and, if applicable, information about the
21 expected level of sustainable building practices project performance.

22 (d) The anticipated total project cost.

23 (e) Information on the number and type of jobs, directly connected to the
24 allowance of the credit, that will be:

25 (A) Created by the project; and

26 (B) Sustained throughout the construction, installation and operation of
27 the project.

28 (f) Information demonstrating that the project will comply with applicable
29 state and local laws and regulations and obtain required licenses and per-
30 mits.

31 (g) Information relating to the standards described in ORS 469B.279.

1 (h) A recommendation for a research and development project as
2 demonstrative of innovation that has been made by a qualified third party
3 selected by the director.

4 (i) Any other information the director considers necessary to determine
5 whether the project is in accordance with the provisions of ORS 469B.270 to
6 469B.306, and any applicable rules or standards adopted by the director.

7 (3) An application for preliminary certification shall be accompanied by
8 a fee established under ORS 469B.294. The director may refund all or a por-
9 tion of the fee if the application for certification is rejected.

10 (4) The director may allow an applicant to file the application for pre-
11 liminary certification after the start of installation or construction of the
12 project if the director finds that:

13 (a) Filing the application before the start of installation or construction
14 is inappropriate because special circumstances render filing earlier unrea-
15 sonable; and

16 (b) The project would otherwise qualify for certification under ORS
17 469B.270 to 469B.306.

18 (5) The director may, by rule, waive preliminary certification under ORS
19 469B.288, or may establish an informational filing system in place of pre-
20 liminary certification, for projects that:

21 (a) Have eligible costs of less than \$20,000;

22 (b) Consist of measures that the director determines to be eligible for
23 waiver of preliminary certification; and

24 (c) Comply with any other requirements established by the director.

25 (6) A preliminary certification shall remain valid for a period of three
26 calendar years after the date on which the preliminary certification is issued
27 by the director, after which the certification becomes invalid even if:

28 (a) The applicant is awaiting identification of a pass-through partner; or

29 (b) The preliminary certification has been amended.

30 **SECTION 189.** ORS 469B.288 is amended to read:

31 469B.288. (1) The Director of the [*State Department of Energy*] **Oregon**

1 **Climate Authority** may require an applicant for certification of an energy
2 conservation project to submit plans, specifications and contract terms, and
3 after examination of the plans, specifications and terms may request cor-
4 rections and revisions.

5 (2) If the director determines that the project is technically feasible and
6 should operate in accordance with the representations made by the applicant,
7 and is in accordance with the provisions of ORS 469B.270 to 469B.306 and
8 any applicable rules or standards adopted by the director, the director may
9 issue a preliminary certificate approving the installation or construction of
10 the project. The certificate shall indicate the potential amount of tax credit
11 allowable and shall list any conditions for claiming the credit.

12 (3) In accordance with ORS chapter 183, the director may issue an order
13 altering, conditioning, suspending or denying preliminary certification if the
14 director determines that:

15 (a) The project does not comply with the provisions of ORS 469B.270 to
16 469B.306 and applicable rules and standards;

17 (b) The applicant has previously received preliminary or final certifica-
18 tion for the project;

19 (c) The applicant was directly involved in an act for which the director
20 has levied civil penalties or revoked, canceled or suspended any certification
21 under ORS 469B.130 to 469B.169 or 469B.270 to 469B.306; or

22 (d) The applicant or the principal, director, officer, owner, majority
23 shareholder or member of the applicant, or the manager of the applicant if
24 the applicant is a limited liability company, is in arrears for payments owed
25 to any government agency while in any capacity with direct or indirect
26 control over a business.

27 **SECTION 190.** ORS 469B.291 is amended to read:

28 469B.291. (1) The Director of the [*State Department of Energy*] **Oregon**
29 **Climate Authority** may issue a final certification for an energy conserva-
30 tion project under this section only if:

31 (a) The project was installed or constructed under a preliminary certif-

1 icate of approval issued under ORS 469B.288, unless preliminary certification
2 is waived under ORS 469B.285 (5);

3 (b) The applicant demonstrates the ability to provide the information re-
4 quired by ORS 469B.285 (2) and does not violate any condition that may be
5 imposed as described in subsections (4) and (5) of this section; and

6 (c) The project was installed or constructed in accordance with the ap-
7 plicable provisions of ORS 469B.270 to 469B.306 and any applicable rules or
8 standards adopted by the director.

9 (2) Any person may apply to the [*State Department of Energy*] **Oregon**
10 **Climate Authority** for final certification of a project:

11 (a) If the person received preliminary certification for the project under
12 ORS 469B.288; and

13 (b) After completion of the installation or construction of the project.

14 (3) An application for final certification shall be made in writing on a
15 form prepared by the [*department*] **authority** and shall contain:

16 (a) A statement that the conditions of the preliminary certification have
17 been complied with;

18 (b) The actual cost of the project attested to by a certified public ac-
19 countant who is not an employee of the applicant or, if the actual cost of
20 the project is less than \$50,000, copies of receipts for purchase and installa-
21 tion of the project;

22 (c) The amount of the credit under ORS 315.331 that is to be claimed;

23 (d) The number and type of jobs, directly connected to the allowance of
24 the credit, that will be created by the operation and maintenance of the
25 project over the five-year period beginning with the year of preliminary
26 certification under ORS 469B.288;

27 (e) Information sufficient to demonstrate that the project will remain in
28 operation for at least five years, unless the director by rule specifies another
29 period of operation;

30 (f) Documentation of compliance with applicable state and local laws and
31 regulations and licensing and permitting requirements as defined by the di-

1 rector;

2 (g) Information, if applicable, pertaining to prior recommendation of the
3 project by a qualified third party selected by the director; and

4 (h) Any other information determined by the director to be necessary
5 prior to issuance of a final certificate, including inspection of the project by
6 the [*department*] **authority**.

7 (4) As part of the final certification process, the director may require the
8 applicant to enter into a performance agreement with the [*department*] **au-**
9 **thority**. The performance agreement may include a recertification require-
10 ment under ORS 469B.298 and any additional requirements that the director
11 determines are appropriate to promote the purposes of ORS 315.331 and
12 469B.270 to 469B.306.

13 (5) After the filing of the application under this section, the director may
14 issue the certificate together with any conditions, including conditions im-
15 posed by a performance agreement, that the director determines are appro-
16 priate to promote the purposes of ORS 315.331 and 469B.270 to 469B.306. If
17 the applicant is an entity subject to regulation by the Public Utility Com-
18 mission, the director may consult with the commission prior to issuance of
19 the certificate. The action of the director shall include certification of the
20 actual cost of the project. However, the director may not certify an amount
21 for tax credit purposes that is more than the amount approved in the pre-
22 liminary certificate issued for the project.

23 (6) Except as otherwise provided in ORS 469B.298, if the director rejects
24 an application for final certification, or certifies a lesser amount of credit
25 than was claimed in the application, the director shall send to the applicant
26 written notice of the action, together with a statement of the findings and
27 reasons for the action, by certified mail, before the 60th day after the filing
28 of the application. Failure of the director to act constitutes rejection of the
29 application.

30 (7) Upon approval of an application for final certification of a project, the
31 director shall certify the project. The final certification shall indicate the

1 amount of projected energy savings attributable to the project and the total
2 project cost.

3 (8) The director may establish by rule timelines and intermediate dead-
4 lines for submission of application materials.

5 **SECTION 191.** ORS 469B.294 is amended to read:

6 469B.294. By rule and after hearing, the Director of the [*State Department*
7 *of Energy*] **Oregon Climate Authority** may adopt a schedule of reasonable
8 fees that the [*State Department of Energy*] **Oregon Climate Authority** may
9 require of applicants for preliminary or final certification or recertification
10 of an energy conservation project under ORS 469B.270 to 469B.306. Before the
11 adoption or revision of the fees, the [*department*] **authority** shall estimate
12 the total cost of the program to the [*department*] **authority**. The fees shall
13 be used to recover the anticipated cost of administering and enforcing the
14 provisions of ORS 469B.270 to 469B.306, including filing, investigating,
15 granting and rejecting applications for certification or recertification and
16 ensuring compliance with ORS 469B.270 to 469B.306 and shall be designed
17 not to exceed the total cost estimated by the [*department*] **authority**. Any
18 excess fees shall be held by the [*department*] **authority** and shall be used by
19 the [*department*] **authority** to reduce any future fee increases. The fee may
20 vary according to the size and complexity of the project. The fee is not
21 considered part of the cost of the project to be certified.

22 **SECTION 192.** ORS 469B.297 is amended to read:

23 469B.297. (1) A certificate issued under ORS 469B.291 is required for pur-
24 poses of obtaining tax credits in accordance with ORS 315.331. Except as
25 otherwise provided in ORS 469B.298, such certification shall be granted for
26 a period not to exceed five years. The five-year period shall begin with the
27 tax year of the applicant during which the completed application for final
28 certification of the project under ORS 469B.291 is received by the [*State*
29 *Department of Energy*] **Oregon Climate Authority**. If required by the [*de-*
30 *partment*] **authority** in a performance agreement, the project owner shall
31 seek recertification during the five-year period, as provided in ORS 469B.298.

1 (2) If the original owner of the certificate uses any portion of the credit,
2 the certificate becomes nontransferable.

3 (3) For a transferee holding a credit that has been transferred under ORS
4 469B.276, the five-year period shall begin with the tax year in which the
5 transferee pays for the credit.

6 **SECTION 193.** ORS 469B.298 is amended to read:

7 469B.298. (1) An owner of an energy conservation project with a total
8 project cost certified under ORS 469B.291 of \$1 million or more that is sub-
9 ject to a recertification requirement in a performance agreement shall apply
10 under this section for recertification of eligibility for the tax credit allowed
11 under ORS 315.331.

12 (2) The applicant shall file an application for recertification with the
13 [*State Department of Energy*] **Oregon Climate Authority** at least 60 days
14 prior to the anniversary date of the issuance of the final certificate. The
15 Director of the [*State Department of Energy*] **Oregon Climate Authority**
16 may require recertification for the three years following the date of the is-
17 suance of the final certificate.

18 (3) The recertification application shall contain the following information:

19 (a) A description of the business operations conducted at the facility and
20 any changes in the business operations since the project was completed;

21 (b) Energy consumption for the project or facility as shown in the pre-
22 ceding 12 months of utility billing records;

23 (c) A statement signed by the applicant attesting that the project is in
24 compliance with all applicable laws related to the ownership and operation
25 of the project;

26 (d) A statement signed by the project owner attesting that the project
27 owner is current on all obligations to the state, including but not limited to
28 taxes and permitting fees;

29 (e) An inspection of the project by the [*department*] **authority**, if required
30 by the [*department*] **authority**; and

31 (f) Any other information required by the [*department*] **authority**.

1 (4) A recertification application filed under this section must be accom-
2 panied by the fee established under ORS 469B.294.

3 (5) The [*department*] **authority** shall review the recertification applica-
4 tion and approve the application if it meets the requirements of subsections
5 (3) and (4) of this section and the project is in compliance with all applicable
6 statutes and administrative rules and with the performance agreement.

7 (6) The [*department*] **authority** may consult with the city or county in
8 which the facility is located or with any state agency in determining whether
9 to approve a recertification application under this section.

10 (7) If the director approves a recertification application, the director shall
11 issue a recertification of eligibility for a tax credit under ORS 315.331 for
12 up to 10 percent of the total project cost certified under ORS 469B.291. The
13 director may deny the recertification or issue a recertification in an amount
14 of credit less than 10 percent of the total project cost certified under ORS
15 469B.291 if the director determines that the project is not in compliance with
16 all applicable statutes and administrative rules and with the performance
17 agreement.

18 (8) If the director does not approve a recertification application or re-
19 duces the amount of tax credit, the project owner may not claim, use or
20 transfer that portion of the tax credit for which the recertification was de-
21 nied.

22 (9) A person aggrieved by a decision of the director to deny or reduce the
23 amount of a recertification for a tax credit may request and be granted a
24 contested case hearing under ORS chapter 183.

25 **SECTION 194.** ORS 469B.300 is amended to read:

26 469B.300. (1) Under the procedures for a contested case under ORS chap-
27 ter 183, the Director of the [*State Department of Energy*] **Oregon Climate**
28 **Authority** may order the revocation of a certificate issued under ORS
29 469B.291 if the director finds that:

30 (a) The certification was obtained by fraud or misrepresentation;

31 (b) The holder of the certificate or the operator of the project has failed

1 to construct or operate the project in compliance with the plans, specifica-
2 tions and procedures in the certificate; or

3 (c) The project is no longer in operation.

4 (2) As soon as an order of revocation under this section becomes final,
5 the director shall notify the Department of Revenue and the project owner,
6 contract purchaser or lessee of the order of revocation. Upon notification,
7 the Department of Revenue immediately shall proceed to collect those taxes
8 not paid by the certificate holder as a result of the tax credits provided to
9 the certificate holder under ORS 315.331, from the certificate holder or a
10 successor in interest to the business interests of the certificate holder. All
11 prior tax credits provided to the holder of the certificate by virtue of the
12 certificate shall be forfeited.

13 (3)(a) The Department of Revenue shall have the benefit of all laws of this
14 state pertaining to the collection of income and excise taxes and may proceed
15 to collect the amounts described in subsection (2) of this section from the
16 person that obtained certification from the [*State Department of Energy*]
17 **Oregon Climate Authority**, or any successor in interest to the business
18 interests of that person. An assessment of tax is not necessary and a statute
19 of limitation does not preclude the collection of taxes described in this sub-
20 section.

21 (b) For purposes of this subsection, a lender, bankruptcy trustee or other
22 person that acquires an interest through bankruptcy or through foreclosure
23 of a security interest is not considered to be a successor in interest to the
24 business interests of the person that obtained certification.

25 (4) If the certificate is ordered revoked pursuant to subsection (1)(b) of
26 this section, the certificate holder shall be denied any further relief under
27 ORS 315.331 in connection with the project from and after the date that the
28 order of revocation becomes final.

29 (5) Notwithstanding subsections (1) to (4) of this section, a certificate or
30 portion of a certificate held by a transferee under ORS 469B.276 may not be
31 considered revoked for purposes of the transferee, the tax credit allowable

1 to the transferee under ORS 469B.276 may not be reduced, and a transferee
2 is not liable under subsections (2) to (4) of this section.

3 (6) If the project owner is subject to a performance agreement requiring
4 recertification under ORS 469B.298, the certificate shall be considered re-
5 voked as to any portion of the tax credit that has not previously received
6 approval under a recertification application that was required to have been
7 filed pursuant to ORS 469B.298.

8 **SECTION 195.** ORS 469B.303 is amended to read:

9 469B.303. (1) The total amount of potential tax credits for all energy
10 conservation projects in this state may not, at the time of preliminary cer-
11 tification under ORS 469B.288, exceed:

12 (a) \$28 million for any biennium; or

13 (b) \$7.5 million for the six months beginning July 1, 2017, and ending
14 December 31, 2017.

15 (2) In the event that the Director of the [*State Department of Energy*]
16 **Oregon Climate Authority** receives applications for preliminary certifica-
17 tion with a total amount of certified costs for potential tax credits in excess
18 of the limitations in subsection (1) of this section, the director shall allocate
19 the issuance of preliminary certifications according to standards and criteria
20 established by rule by the director.

21 **SECTION 196.** ORS 469B.306 is amended to read:

22 469B.306. The [*State Department of Energy*] **Director of the Oregon Cli-**
23 **mate Authority** shall by rule establish policies and procedures for the ad-
24 ministration and enforcement of the provisions of ORS 315.331 and 469B.270
25 to 469B.306 and section 36, chapter 730, Oregon Laws 2011, including stan-
26 dards for what constitutes a single energy conservation project.

27 **SECTION 197.** ORS 469B.320 is amended to read:

28 469B.320. As used in ORS 315.336 and 469B.320 to 469B.347:

29 (1) "Acquisition of an alternative fuel vehicle fleet" includes the replace-
30 ment of two or more vehicles that are not used primarily for personal, family
31 or household purposes, that are modified or acquired directly from the fac-

1 tory and that:

2 (a) Use an alternative fuel, including electricity, biofuel, gasohol with at
3 least 20 percent denatured alcohol content, hydrogen, Hythane, methane,
4 methanol, natural gas, propane or any other fuel approved by the Director
5 of the [*State Department of Energy*] **Oregon Climate Authority** as an al-
6 ternative fuel; and

7 (b) Produce lower exhaust emissions, or are more energy efficient, than
8 equivalent vehicles fueled by gasoline or diesel.

9 (2) "Alternative fuel vehicle infrastructure project" includes a facility for
10 mixing, storing, compressing or dispensing fuels for alternative fuel vehicles,
11 and any other necessary and reasonable equipment.

12 (3) "Alternative fuel vehicle project" means:

13 (a) The acquisition of an alternative fuel vehicle fleet; or

14 (b) An alternative fuel vehicle infrastructure project.

15 (4) "Cost" includes capital expenditures and core expenses such as vehicle
16 repair, fuel, personnel and administrative expenses.

17 (5) "Transportation project" means:

18 (a) Transit services provided to members of the public by a public or
19 nonprofit entity that receives state or federal funding for those services, or
20 is the direct recipient of funding from an entity that receives state or federal
21 funding for the services; or

22 (b) An alternative fuel vehicle project.

23 **SECTION 198.** ORS 469B.323 is amended to read:

24 469B.323. (1) The owner of a transportation project may transfer a tax
25 credit for the project in exchange for a cash payment equal to the present
26 value of the tax credit.

27 (2) The [*State Department of Energy*] **Director of the Oregon Climate**
28 **Authority** shall establish by rule a formula to be employed in the determi-
29 nation of prices of credits transferred under this section. In establishing the
30 formula the [*department*] **director** shall incorporate inflation projections and
31 market real rate of return.

1 (3) The [*department*] **Oregon Climate Authority** shall recalculate credit
2 transfer prices quarterly, employing the formula established under subsection
3 (2) of this section.

4 **SECTION 199.** ORS 469B.326 is amended to read:

5 469B.326. (1) Prior to the acquisition or performance of a transportation
6 project, a person may apply to the [*State Department of Energy*] **Oregon**
7 **Climate Authority** for preliminary certification for the project under ORS
8 469B.329 if:

9 (a) The project complies with the standards adopted by the Director of the
10 [*State Department of Energy*] **Oregon Climate Authority**; and

11 (b) The applicant will be the owner, contract purchaser or lessee of the
12 project at the time of acquisition or performance of the project.

13 (2) An application for preliminary certification shall be made in writing
14 on a form prepared by the [*department*] **authority** and shall contain:

15 (a) A statement that the applicant plans to acquire or perform a project
16 that substantially reduces the consumption of purchased petroleum energy.

17 (b) A detailed description of the project and its operation and information
18 showing that the project will operate as represented in the application and
19 remain in operation for at least five years, unless the director by rule spec-
20 ifies another period of operation.

21 (c) Information on the amount by which consumption of purchased pe-
22 troleum energy by the applicant will be reduced, and, if applicable, informa-
23 tion about the expected level of project performance.

24 (d) The anticipated total project cost.

25 (e) Information on the number and types of jobs, directly connected to the
26 allowance of the credit, that will be:

27 (A) Created by the project; and

28 (B) Sustained throughout the acquisition and performance of the project.

29 (f) Information demonstrating that the project will comply with applicable
30 state and local laws and regulations and obtain required licenses and per-
31 mits.

1 (g) Any other information the director considers necessary to determine
2 whether the project is in accordance with the provisions of ORS 469B.320 to
3 469B.347, and any applicable rules or standards adopted by the director.

4 (3) An application for preliminary certification shall be accompanied by
5 a fee established under ORS 469B.335. The director may refund all or a por-
6 tion of the fee if the application for certification is rejected.

7 (4) The director may allow an applicant to file the application for pre-
8 liminary certification after the start of acquisition or performance of the
9 project if the director finds that:

10 (a) Filing the application before the start of acquisition or performance
11 is inappropriate because special circumstances render filing earlier unrea-
12 sonable; and

13 (b) The project would otherwise qualify for certification under ORS
14 469B.320 to 469B.347.

15 (5) A preliminary certification shall remain valid for a period of three
16 calendar years after the date on which the preliminary certification is issued
17 by the director, after which the certification becomes invalid even if:

18 (a) The applicant is awaiting identification of a pass-through partner; or

19 (b) The preliminary certification has been amended.

20 **SECTION 200.** ORS 469B.329 is amended to read:

21 469B.329. (1) The Director of the [*State Department of Energy*] **Oregon**
22 **Climate Authority** may require an applicant for certification of a trans-
23 portation project to submit plans, specifications and contract terms, and af-
24 ter examination of the plans, specifications and terms may request
25 corrections and revisions.

26 (2) If the director determines that the project is technically feasible and
27 should operate in accordance with the representations made by the applicant,
28 and is in accordance with the provisions of ORS 469B.320 to 469B.347 and
29 any applicable rules or standards adopted by the director, the director may
30 issue a preliminary certificate approving the acquisition or performance of
31 the project. The certificate shall indicate the potential amount of tax credit

1 allowable and shall list any conditions for claiming the credit.

2 (3) In accordance with ORS chapter 183, the director may issue an order
3 altering, conditioning, suspending or denying preliminary certification if the
4 director determines that:

5 (a) The project does not comply with the provisions of ORS 469B.320 to
6 469B.347 and applicable rules and standards;

7 (b) The applicant has previously received preliminary or final certifica-
8 tion for the project;

9 (c) The applicant was directly involved in an act for which the director
10 has levied civil penalties or revoked, canceled or suspended any certification
11 under ORS 469B.130 to 469B.169 or 469B.320 to 469B.347; or

12 (d) The applicant or the principal, director, officer, owner, majority
13 shareholder or member of the applicant, or the manager of the applicant if
14 the applicant is a limited liability company, is in arrears for payments owed
15 to any government agency while in any capacity with direct or indirect
16 control over a business.

17 **SECTION 201.** ORS 469B.332 is amended to read:

18 469B.332. (1) A final certification for a transportation project may not be
19 issued by the Director of the [*State Department of Energy*] **Oregon Climate**
20 **Authority** under this section unless:

21 (a) The project was acquired or performed under a preliminary certificate
22 of approval issued under ORS 469B.329;

23 (b) The applicant demonstrates the ability to provide the information re-
24 quired by ORS 469B.326 (2) and does not violate any condition that may be
25 imposed as described in subsection (4) of this section; and

26 (c) The project was acquired or performed in accordance with the appli-
27 cable provisions of ORS 469B.320 to 469B.347 and any applicable rules or
28 standards adopted by the director.

29 (2) A person may apply to the [*State Department of Energy*] **Oregon Cli-**
30 **mate Authority** for final certification of a project:

31 (a) If the person received preliminary certification for the project under

1 ORS 469B.329; and

2 (b) After completion of the acquisition or performance of the project.

3 (3) An application for final certification shall be made in writing on a
4 form prepared by the [*department*] **authority** and shall contain:

5 (a) A statement that the conditions of the preliminary certification have
6 been complied with;

7 (b)(A) The actual cost of the project attested to by a certified public ac-
8 countant who is not an employee of the applicant or the applicant's com-
9 pleted audit in compliance with federal Office of Management and Budget
10 Circular A-133; or

11 (B) If the actual cost of the project is less than \$50,000, copies of receipts
12 for acquisition and performance of the project;

13 (c) The amount of the credit under ORS 315.336 that is to be claimed;

14 (d) The number and types of jobs, directly connected to the allowance of
15 the credit, created by the acquisition and performance of the project over the
16 five-year period beginning on the date of issuance of the preliminary certi-
17 fication under ORS 469B.329;

18 (e) Information sufficient to demonstrate that the project will remain in
19 operation for at least five years, unless the director by rule specifies another
20 period of operation;

21 (f) Documentation of compliance with applicable state and local laws and
22 regulations and licensing and permitting requirements as defined by the di-
23 rector; and

24 (g) Any other information determined by the director to be necessary
25 prior to issuance of a final certificate, including inspection of the project by
26 the [*department*] **authority**.

27 (4) After the filing of the application under this section, the director may
28 issue the certificate together with any conditions that the director deter-
29 mines are appropriate to promote the purposes of ORS 315.336 and 469B.320
30 to 469B.347. If the applicant is an entity subject to regulation by the Public
31 Utility Commission, the director may consult with the commission prior to

1 issuance of the certificate. The action of the director shall include certi-
2 fication of the actual cost of the project. However, the director may not
3 certify an amount for tax credit purposes that is more than the amount of
4 credit approved in the preliminary certificate issued for the project.

5 (5) If the director rejects an application for final certification, or certifies
6 a lesser amount of credit than was claimed in the application, the director
7 shall send to the applicant written notice of the action, together with a
8 statement of the findings and reasons for the action, by certified mail, before
9 the 60th day after the filing of the application. Failure of the director to act
10 constitutes rejection of the application.

11 (6) Upon approval of an application for final certification of a project, the
12 director shall certify the project. The final certification shall indicate the
13 amount of projected energy savings attributable to the project and the cer-
14 tified cost of the project.

15 (7) The director may establish by rule timelines and intermediate dead-
16 lines for submission of application materials.

17 **SECTION 202.** ORS 469B.335 is amended to read:

18 469B.335. By rule and after hearing, the Director of the [*State Department*
19 *of Energy*] **Oregon Climate Authority** may adopt a schedule of reasonable
20 fees that the [*State Department of Energy*] **Oregon Climate Authority** may
21 require of applicants for preliminary or final certification of a transportation
22 project under ORS 469B.320 to 469B.347. Before the adoption or revision of
23 the fees, the [*department*] **authority** shall estimate the total cost of the
24 program to the [*department*] **authority**. The fees shall be used to recover the
25 anticipated cost of administering and enforcing the provisions of ORS
26 469B.320 to 469B.347, including filing, investigating, granting and rejecting
27 applications for certification and ensuring compliance with ORS 469B.320 to
28 469B.347 and shall be designed not to exceed the total cost estimated by the
29 [*department*] **authority**. Any excess fees shall be held by the [*department*]
30 **authority** and shall be used by the [*department*] **authority** to reduce any
31 future fee increases. The fee may vary according to the size and complexity

1 of the project. The fee is not considered part of the cost of the project to be
2 certified.

3 **SECTION 203.** ORS 469B.338 is amended to read:

4 469B.338. (1) A certificate issued under ORS 469B.332 is required for pur-
5 poses of obtaining tax credits in accordance with ORS 315.336. Such certi-
6 fication shall be granted for a period not to exceed five years. The five-year
7 period shall begin with the tax year of the applicant during which the com-
8 pleted application for final certification of the transportation project under
9 ORS 469B.332 is received by the [*State Department of Energy*] **Oregon Cli-**
10 **mate Authority.**

11 (2) If the original owner of the certificate uses any portion of the credit,
12 the certificate becomes nontransferable.

13 (3) For a transferee holding a credit that has been transferred under ORS
14 469B.323, the five-year period shall begin with the tax year in which the
15 transferee pays for the credit.

16 **SECTION 204.** ORS 469B.341 is amended to read:

17 469B.341. (1) Under the procedures for a contested case under ORS chap-
18 ter 183, the Director of the [*State Department of Energy*] **Oregon Climate**
19 **Authority** may order the revocation of a certificate issued under ORS
20 469B.332 if the director finds that:

21 (a) The certification was obtained by fraud or misrepresentation;

22 (b) The holder of the certificate or the operator of the transportation
23 project has failed to acquire or perform the project in compliance with the
24 plans, specifications and contract terms in the certificate; or

25 (c) The project is no longer in operation.

26 (2) As soon as an order of revocation under this section becomes final,
27 the director shall notify the Department of Revenue and the project owner,
28 contract purchaser or lessee of the order of revocation. Upon notification,
29 the Department of Revenue immediately shall proceed to collect those taxes
30 not paid by the certificate holder as a result of the tax credits provided to
31 the certificate holder under ORS 315.336, from the certificate holder or a

1 successor in interest to the business interests of the certificate holder. All
2 prior tax credits provided to the holder of the certificate by virtue of the
3 certificate shall be forfeited.

4 (3)(a) The Department of Revenue shall have the benefit of all laws of this
5 state pertaining to the collection of income and excise taxes and may proceed
6 to collect the amounts described in subsection (2) of this section from the
7 person that obtained certification from the [*State Department of Energy*]
8 **Oregon Climate Authority**, or any successor in interest to the business
9 interests of that person. An assessment of tax is not necessary and a statute
10 of limitation does not preclude the collection of taxes described in subsection
11 (2) of this section.

12 (b) For purposes of this subsection, a lender, bankruptcy trustee or other
13 person that acquires an interest through bankruptcy or through foreclosure
14 of a security interest is not considered to be a successor in interest to the
15 business interests of the person that obtained certification.

16 (4) If the certificate is ordered revoked pursuant to subsection (1)(b) of
17 this section, the certificate holder shall be denied any further relief under
18 ORS 315.336 in connection with the project from and after the date that the
19 order of revocation becomes final.

20 (5) Notwithstanding subsections (1) to (4) of this section, a certificate or
21 portion of a certificate held by a transferee under ORS 469B.323 may not be
22 considered revoked for purposes of the transferee, the tax credit allowable
23 to the transferee under ORS 469B.323 may not be reduced, and a transferee
24 is not liable under subsections (2) to (4) of this section.

25 **SECTION 205.** ORS 469B.344 is amended to read:

26 469B.344. (1)(a) The total amount of potential tax credits for all trans-
27 portation projects in this state may not, at the time of preliminary certi-
28 fication under ORS 469B.329, exceed \$20 million for any biennium.

29 (b) For each tax year, the Director of the [*State Department of Energy*]
30 **Oregon Climate Authority** may allocate a percentage of the amount al-
31 lowed in paragraph (a) of this subsection to alternative fuel vehicle projects

1 and a percentage to transit services.

2 (2) Notwithstanding ORS 315.336, in the event that the director receives
3 applications for preliminary certification with a total amount of potential
4 tax credits in excess of the limits set by the director pursuant to subsection
5 (1)(b) of this section, the director shall allocate the issuance of preliminary
6 certifications among applicants as follows:

7 (a) If an excess of applications for credits for transit services is received,
8 the director shall allocate the issuance of preliminary certifications among
9 applicants for credits for transit services and proportionately reduce the
10 amount of allowed credit, with no applicant receiving more than 20 percent
11 of the amount established under subsection (1)(b) of this section for transit
12 services.

13 (b) The director may allocate the issuance of preliminary certifications
14 among applicants for credits for alternative fuel vehicle projects and may
15 award credits for less than the amount otherwise allowed applicants.

16 (c) If, after making any reductions required under paragraph (a) of this
17 subsection, an unallocated amount remains, the director shall allocate this
18 additional amount among applicants affected by the percentage restriction
19 in paragraph (a) of this subsection.

20 **SECTION 206.** ORS 469B.347 is amended to read:

21 469B.347. The [*State Department of Energy*] **Director of the Oregon Cli-**
22 **mate Authority** shall by rule establish policies and procedures for the ad-
23 ministration and enforcement of the provisions of ORS 315.336 and 469B.320
24 to 469B.347, including standards for what constitutes a single transportation
25 project.

26 **SECTION 207.** ORS 469B.400 is amended to read:

27 469B.400. The [*State Department of Energy*] **Director of the Oregon Cli-**
28 **mate Authority** shall by rule identify categories of fuel blend and solid
29 biofuel that qualify for the personal income tax credit allowed under ORS
30 315.465.

31 **SECTION 208.** Section 8a, chapter 739, Oregon Laws 2007, is amended to

1 read:

2 **Sec. 8a.** The [*State Department of Energy*] **Oregon Climate Authority**
3 shall periodically conduct an impact study of the biofuels program. The study
4 will include but is not limited to the following criteria with respect to the
5 biofuel sector in this state:

6 (1) Jobs created;

7 (2) Average wage rates for those jobs;

8 (3) The provision of health care and other benefits;

9 (4) The extent to which workforce training opportunities are being pro-
10 vided to employees;

11 (5) The number of acres of biofuel feedstock planted;

12 (6) The number of gallons of biofuel blended fuel produced and consumed
13 in the state;

14 (7) The cost of fuel with biofuel blends and how that compares with the
15 cost of petroleum fuel;

16 (8) Environmental impacts such as reductions in greenhouse gas emissions
17 and other toxic air pollution;

18 (9) The impact of biofuel feedstock production on the price of commodity
19 crops and the cost of food staples; and

20 (10) The extent to which Oregon producers import biofuel or biofuel
21 feedstock from outside the state.

22 **SECTION 209.** ORS 469B.407 is amended to read:

23 469B.407. (1) Under the procedures for a contested case under ORS chap-
24 ter 183, the Director of the [*State Department of Energy*] **Oregon Climate**
25 **Authority** may order the suspension or revocation of the certificate or por-
26 tion of the certificate issued under ORS 315.141 if the director finds that:

27 (a) The certification was obtained by fraud or misrepresentation; or

28 (b) The certification was obtained by mistake or miscalculation.

29 (2) As soon as the order of revocation under this section becomes final,
30 the director shall notify the Department of Revenue and the person that ob-
31 tained the tax credit certification from the [*State Department of Energy*]

1 **Oregon Climate Authority** of the order of revocation. Upon notification,
2 the Department of Revenue immediately shall proceed to collect:

3 (a) In the case in which no portion of a certificate has been transferred
4 under ORS 315.144, those taxes not paid by the certificate holder as a result
5 of the tax credits provided to the certificate holder under ORS 315.141 and
6 469B.403 pursuant to the revoked certification, from the certificate holder
7 or a successor in interest to the business interests of the certificate holder.
8 All tax credits provided to the holder of the certificate and attributable to
9 the fraudulently or mistakenly obtained certificate or portion of the certifi-
10 cate shall be forfeited.

11 (b) In the case in which all of a certificate has been transferred under
12 ORS 315.144, an amount equal to the amount of the tax credits allowable to
13 the transferee under ORS 315.141 and 469B.403 pursuant to the revoked cer-
14 tification, from the transferor.

15 (c) In the case in which a portion of a certificate has been transferred
16 under ORS 315.144, those taxes not paid by the transferor as a result of the
17 tax credits provided to the transferor under ORS 315.141 and 469B.403 pur-
18 suant to the revoked certification, from the transferor or a successor in in-
19 terest to the business interests of the transferor, and an amount equal to the
20 amount of the tax credits allowable to the transferee under ORS 315.141 and
21 469B.403 pursuant to the revoked certification, from the transferor. All tax
22 credits provided to the transferor and attributable to the fraudulently or
23 mistakenly obtained certificate or portion of the certificate shall be forfeited.

24 (3)(a) The Department of Revenue shall have the benefit of all laws of this
25 state pertaining to the collection of income and excise taxes and may proceed
26 to collect the amounts described in subsection (2) of this section from the
27 person that obtained certification from the [*State Department of Energy*]
28 **Oregon Climate Authority**, or a successor in interest to the business in-
29 terests of that person. No assessment of tax shall be necessary and no statute
30 of limitation shall preclude the collection of taxes described in this sub-
31 section.

1 (b) For purposes of this subsection, a lender, bankruptcy trustee or other
2 person that acquires an interest through bankruptcy or through foreclosure
3 of a security interest is not considered to be a successor in interest to the
4 business interests of the person that obtained certification.

5 (4) Notwithstanding subsections (1) to (3) of this section, a certificate or
6 portion of a certificate held by a transferee under ORS 315.144 may not be
7 considered revoked for purposes of the transferee, the tax credit allowable
8 to the transferee under ORS 315.144 may not be reduced and a transferee is
9 not liable under subsections (2) and (3) of this section.

10 **SECTION 210.** ORS 469B.991 is amended to read:

11 469B.991. (1) The Director of the [*State Department of Energy*] **Oregon**
12 **Climate Authority** may impose a civil penalty against a contractor if a
13 contractor certificate is revoked under ORS 469B.118. The amount of the
14 penalty shall be equal to the total amount of tax relief estimated to have
15 been provided under ORS 316.116 to the contractor or to purchasers of the
16 system for which a contractor's certificate has been revoked.

17 (2) The [*State Department of Energy*] **Oregon Climate Authority** may
18 not collect any of the amount of a civil penalty imposed under subsection (1)
19 of this section from a purchaser of the system for which the final certificate
20 has been revoked. However, the Department of Revenue shall proceed under
21 ORS 469B.118 (3) to collect taxes not paid by a taxpayer if the tax credit is
22 ordered forfeited because of that taxpayer's fraud or misrepresentation under
23 ORS 469B.118 (1)(a).

24 (3) Civil penalties under this section shall be imposed as provided in ORS
25 183.745.

26 (4) A penalty recovered under this section shall be paid into the State
27 Treasury and credited to the General Fund and is available for general gov-
28 ernmental expenses.

29 **SECTION 211.** ORS 470.050 is amended to read:

30 470.050. As used in this chapter, unless the context requires otherwise:

31 (1) "Alternative fuel project" means:

1 (a) Equipment, including vehicles that are not used primarily for per-
2 sonal, family or household purposes, that is modified or acquired directly
3 from a factory and that:

4 (A) Uses an alternative fuel, including **but not limited to** electricity,
5 biofuel, gasohol with at least 20 percent denatured alcohol content, hydro-
6 gen, hythane, methane, methanol, natural gas[,] **or** propane [*or any other fuel*
7 *approved by the Director of the State Department of Energy*]; and

8 (B) Produces lower exhaust emissions or is more energy efficient than
9 equivalent equipment fueled by gasoline or diesel; and

10 (b) A facility, including a fueling station, or equipment necessary to
11 produce alternative fuel or operate equipment that uses an alternative fuel.

12 (2) “Applicant” means an applicant for a loan to construct a small scale
13 local energy project.

14 [(3) “*Base efficiency package*” means the package of energy efficiency up-
15 grades or renewable energy projects for a property that, when energy savings,
16 project repayment costs, tax or other incentives, loan offset grants and other
17 relevant economic factors are considered, is estimated to not increase the utility
18 bill of the customer over the loan repayment term.]

19 [(4) “*Committee*” means the Small Scale Local Energy Project Advisory
20 Committee created under ORS 470.070.]

21 [(5)] (3) “Cooperative” means a cooperative corporation organized under
22 ORS chapter 62.

23 [(6) “*Director*” means the Director of the State Department of Energy ap-
24 pointed under ORS 469.040.]

25 [(7)] (4) “Eligible federal agency” means a federal agency or public cor-
26 poration created by the federal government that proposes to use a loan for
27 a small scale local energy project. “Eligible federal agency” does not include
28 a federal agency or public corporation created by the federal government
29 that proposes to use a loan for a small scale local energy project to generate
30 electricity for sale.

31 [(8)] (5) “Eligible state agency” means a state officer, board, commission,

1 department, institution, branch or agency of the state whose costs are paid
2 wholly or in part from funds held in the State Treasury.

3 [(9) *“Energy efficiency and sustainable technology loan” means a loan for*
4 *a small scale local energy project that is repayable by means of:]*

5 [(a) *A charge included with the participant’s utility customer account bill-*
6 *ing; or]*

7 [(b) *An alternative repayment method identified by the department and the*
8 *borrower and specified in the loan agreement.]*

9 [(10) *“Energy Project Bond Loan Fund” means the fund established under*
10 *ORS 470.580.]*

11 [(11) *“Energy Project Supplemental Fund” means the fund established un-*
12 *der ORS 470.570.]*

13 [(12) *“Energy Revenue Bond Repayment Fund” means the fund established*
14 *under ORS 470.585.]*

15 [(13) *“Energy savings projection” means an examination of the energy per-*
16 *formance and site characteristics of a property that, at a minimum,*
17 *identifies:]*

18 [(a) *A base efficiency package; and]*

19 [(b) *Any additional optional measures that a customer is able to repay and*
20 *that the sustainable energy project manager believes to be feasible for the*
21 *site.]*

22 [(14) *“Jobs, Energy and Schools Fund” means the fund established under*
23 *ORS 470.575.]*

24 [(15)] (6) *“Loan” includes the purchase or other acquisition of evidence*
25 *of indebtedness and money used for the purchase or other acquisition of ev-*
26 *idence of indebtedness.*

27 [(16)] (7) *“Loan contract” means the evidence of indebtedness and all in-*
28 *struments used in the purchase or acquisition of the evidence of indebt-*
29 *edness. For eligible federal or state agencies or municipal corporations that*
30 *are tax exempt entities, a loan contract may include a lease purchase*
31 *agreement with respect to personal property.*

1 [(17) “Loan offset grant” means moneys from the Jobs, Energy and Schools
2 Fund that are used to help offset the initial project costs or loan payments for
3 energy efficiency, renewable energy and energy conservation projects.]

4 [(18) “Loan repayment charge” means an amount charged to a utility cus-
5 tomer account through on-bill financing as a mechanism for the repayment of
6 an energy efficiency and sustainable technology loan.]

7 [(19)] (8) “Municipal corporation” has the meaning given in ORS 297.405
8 and also includes any Indian tribe or authorized Indian tribal organization
9 or any combination of two or more of these tribes or organizations acting
10 jointly in connection with a small scale local energy project.

11 [(20) “On-bill financing” means a mechanism for collecting the repayment
12 of an energy efficiency and sustainable technology loan through a utility cus-
13 tomer account billing system.]

14 [(21) “Optional package” means measures for promoting energy efficiency
15 or the use of renewable energy:]

16 [(a) That are in addition to the measures described in the customer’s base
17 efficiency package;]

18 [(b) For which a customer has the ability to repay; and]

19 [(c) That the sustainable energy project manager believes to be feasible for
20 the site.]

21 [(22)] (9) “Oregon business” means a sole proprietorship, partnership,
22 company, cooperative, corporation or other form of business entity that is
23 organized or authorized to do business under Oregon law for profit.

24 [(23) “Primary contractor” means a contractor that:]

25 [(a) Has entered into a contract with an owner of property for which a
26 proposed small scale local energy project will be located;]

27 [(b) Is responsible for the completion of the small scale local energy
28 project;]

29 [(c) Undertakes to complete the small scale local energy project; and]

30 [(d) Is responsible for any subcontractors performing work on the small
31 scale local energy project.]

1 [(24) *“Public Purpose Fund Administrator” means the entity designated by*
2 *the Public Utility Commission to administer moneys collected by a company*
3 *through the public purpose charge described under ORS 757.612.*]

4 [(25)] (10) “Recycling project” means a facility or equipment that converts
5 waste into a new and usable product.

6 [(26)] (11) “Small business” means:

7 (a) An Oregon business that is:

8 (A) A retail or service business employing 50 or fewer persons at the time
9 the loan is made; or

10 (B) An industrial or manufacturing business employing 200 or fewer per-
11 sons at the time the loan is made; or

12 (b) An Oregon subsidiary of a sole proprietorship, partnership, company,
13 cooperative, corporation or other form of business entity for which the total
14 number of employees for both the subsidiary and the parent sole
15 proprietorship, partnership, company, cooperative, corporation or other form
16 of business entity at the time the loan is made is:

17 (A) Fifty or fewer persons if the subsidiary is a retail or service business;
18 and

19 (B) Two hundred or fewer if the subsidiary is an industrial or manufac-
20 turing business.

21 [(27) *“Small scale local energy program loan” means a loan for a small*
22 *scale local energy project other than an energy efficiency and sustainable*
23 *technology loan.*]

24 [(28)] (12) “Small scale local energy project” means any of the following:

25 (a) A system, mechanism or series of mechanisms located primarily in
26 Oregon that directly or indirectly uses or enables the use of, by the applicant
27 or another person, renewable resources including, but not limited to, solar,
28 wind, geothermal, biomass, waste heat or water resources to produce energy,
29 including heat, electricity and substitute fuels, to meet a local community
30 or regional energy need in this state.

31 (b) A system, mechanism or series of mechanisms located primarily in

1 Oregon or providing substantial benefits to Oregon that directly or indirectly
2 conserves energy or enables the conservation of energy by the applicant or
3 another person, including energy used in transportation.

4 (c) A recycling project.

5 (d) An alternative fuel project.

6 (e) An improvement that increases the production or efficiency, or extends
7 the operating life, of a system, mechanism, series of mechanisms or project
8 otherwise described in this subsection, including but not limited to restarting
9 a dormant project.

10 (f) A system, mechanism or series of mechanisms installed in a facility
11 or portions of a facility that directly or indirectly reduces the amount of
12 energy needed for the construction and operation of the facility and that
13 meets [*the sustainable building practices standard established by the State*
14 *Department of Energy*] **any applicable sustainable building practices**
15 **standards identified by the Oregon Business Development Department**
16 by rule. For purposes of this paragraph, “system, mechanism or series of
17 mechanisms” includes related and integrated upgrades to attain compliance
18 with standards set in the State of Oregon Structural Specialty Code and Fire
19 and Life Safety Code, and seismic safety upgrades.

20 (g) A project described in paragraphs (a) to (f) of this subsection, whether
21 or not the existing project was originally financed under this chapter, to-
22 gether with any refinancing necessary to remove prior liens or encumbrances
23 against the existing project.

24 (h) A project described in paragraphs (a) to (g) of this subsection that
25 conserves energy or produces energy by generation or by processing or col-
26 lection of a renewable resource.

27 [(29)] (13) “Small Scale Local Energy Project Administration and Bond
28 Sinking Fund” means the fund created under ORS 470.300.

29 [(30)] (14) “Small Scale Local Energy Project Loan Fund” means the loan
30 fund created by Article XI-J of the Oregon Constitution and appropriated to
31 the [*State*] department [*of Energy*] under ORS 470.130.

1 [(31) “Sustainable energy project manager” means the organization respon-
2 sible for promoting the energy efficiency and sustainable technology loan pro-
3 gram or the clean energy deployment program and related incentives for energy
4 efficiency and renewable energy at the neighborhood and community level.]

5 [(32) “Utility service territory” means the allocated territory in which a
6 utility subject to this chapter provides a utility service. For the purposes of this
7 subsection, “allocated territory” and “utility service” have the meanings given
8 those terms in ORS 758.400.]

9 **SECTION 212.** ORS 470.060 is amended to read:

10 470.060. (1) The following may file with the [*State Department of Energy*]
11 **Oregon Business Development Department** an application to obtain
12 moneys for a small scale local energy project as provided in this chapter:

- 13 (a) An individual who is an Oregon resident;
- 14 (b) An Oregon business;
- 15 (c) A nonprofit or public cooperative;
- 16 (d) A nonprofit corporation;
- 17 (e) An eligible federal agency;
- 18 (f) An eligible state agency;
- 19 (g) A public corporation created by this state;
- 20 (h) An intergovernmental entity created pursuant to an intergovernmental
21 agreement under ORS 190.003 to 190.130;
- 22 (i) A special district;
- 23 (j) A local improvement district;
- 24 (k) A public university listed in ORS 352.002; or
- 25 (L) A municipal corporation.

26 (2) Applications to obtain financing for a small scale local energy project
27 shall be made in writing on a form prescribed by the [*State*] department [*of*
28 *Energy*]. Applications submitted to the [*State*] department [*of Energy*] shall:

29 (a) Describe the nature and purpose of the proposed small scale local en-
30 ergy project.

31 (b) State whether any purposes other than energy production, but con-

1 sistent with energy production, will be served by the proposed small scale
 2 local energy project, and the nature of the other purposes, if any.

3 (c) Include an evaluation of the potential of the small scale local energy
 4 project to meet local community energy needs.

5 (d) Include an evaluation of the potential environmental impacts of the
 6 small scale local energy project.

7 (e) State whether any moneys other than those in the loan fund are pro-
 8 posed to be used for the development of the proposed small scale local energy
 9 project, and whether any other moneys are available or have been sought for
 10 the project.

11 (f) Describe the source of moneys for repayment of the loan applied for.

12 (3) *[If the application is for a loan other than an energy efficiency and*
 13 *sustainable technology loan to an individual,]* A fee of **\$500 or** one-tenth of
 14 one percent of the amount of the loan applied for *[or]* **up to a fee of \$2,500,**
 15 whichever is *[less]* **more**, shall be submitted with each application. In addi-
 16 tion, the applicant may be required to pay for costs incurred in connection
 17 with the application that exceed the application fee and which the Director
 18 of the *[State Department of Energy]* **Oregon Business Development De-**
 19 **partment** determines are incurred solely in connection with processing the
 20 application. The applicant shall be advised of any additional costs the ap-
 21 plicant must pay before the costs are incurred.

22 **SECTION 213.** ORS 470.080 is amended to read:

23 470.080. (1) *[After consultation with the Small Scale Local Energy Project*
 24 *Advisory Committee, the Director of the State Department of Energy]* **As in-**
 25 **formed by the study conducted under section 257 of this 2019 Act, the**
 26 **Director of the Oregon Business Development Department** shall estab-
 27 lish by rule standards and criteria for small scale local energy projects to
 28 be funded under this chapter. *[other than projects funded through energy ef-*
 29 *iciency and sustainable technology loans. The standards and criteria shall*
 30 *operate to encourage diversity in projects funded, give preference to the maxi-*
 31 *imum extent practical to projects proposed by individuals and small businesses,*

1 *ensure acceptability of environmental impacts and shall require consideration*
2 *of the potential contribution of a project if developed at other suitable locations*
3 *to meeting the energy needs of this state. The standards and criteria shall give*
4 *the least preference to projects proposed by an eligible federal agency.] **Stan-***
5 **dards and criteria adopted by rule under this subsection must include,**
6 **but need not be limited to:**

7 (a) **Credit underwriting standards and criteria, including credit el-**
8 **igibility criteria for small scale local energy projects to be funded un-**
9 **der this chapter; and**

10 (b) **Energy and energy policy standards and criteria, including but**
11 **not limited to standards and criteria for ensuring that:**

12 (A) **Small scale local energy projects funded under this chapter are**
13 **consistent with the preservation and enhancement of environmental**
14 **quality;**

15 (B) **A dwelling constructed before January 1, 1979, that will be**
16 **served by a proposed space heating project is weatherized according**
17 **to the standards established under ORS 469.155; and**

18 (C) **Except for a proposed space heating project for a dwelling under**
19 **subparagraph (B) of this paragraph, a loan under this chapter does not**
20 **finance any project for which the projected economic value of the en-**
21 **ergy savings of the project during the first year of the project is im-**
22 **plemented is equal to or greater than the cost of the project.**

23 (2) **Except as provided in subsection (4)(b) of this section, all appli-**
24 **cations submitted under ORS 470.060 [shall] must be reviewed by the [State**
25 **Department of Energy] Oregon Business Development Department.** The
26 department may request that the applicant submit additional information or
27 revise the application. The department shall:

28 (a) **Determine whether the application meets the standards and criteria**
29 **adopted under subsection (1) of this section; and**

30 (b) **Based on the department's determination under paragraph (a)**
31 **of this subsection, develop a recommendation to the Oregon**

1 **Infrastructure Finance Authority Board, or a designee of the board,**
 2 **on the** [*recommend*] approval or denial of the loan application[, *and if ap-*
 3 *proval is recommended in what amount the loan should be made*].

4 (3) After concluding its review, [*unless the application meets the criteria*
 5 *established by the committee under subsection (4) of this section,*] the depart-
 6 ment shall refer the application and its findings and recommendation to the
 7 [*committee*] **board** for [*its*] review. The department shall notify the applicant
 8 of the date, time and place of any oral presentation to the [*committee*] **board**
 9 on the application. [*The committee shall review the application and the*
 10 *department's findings and recommendations and advise the director whether*
 11 *the proposed small scale local energy project meets the criteria established by*
 12 *the director under subsection (1) of this section, whether the project should be*
 13 *financed with moneys from the Small Scale Local Energy Project Loan Fund*
 14 *and in what amount the loan should be made if approved.*]

15 [(4) *The committee may provide for direct referral of an application by the*
 16 *department to the director if the application meets criteria established by the*
 17 *committee.*]

18 (4) **The department may:**

19 (a) **In adopting energy and energy policy standards and criteria**
 20 **under subsection (1)(b) of this section, consult as necessary with state**
 21 **or federal agencies or nongovernmental entities that have appropriate**
 22 **energy or energy policy expertise.**

23 (b) **Contract for the review of applications under this section to**
 24 **determine whether the applications meet the energy and energy policy**
 25 **standards and criteria adopted under subsection (1)(b) of this section.**

26 **SECTION 214.** ORS 470.090 is amended to read:

27 470.090. (1) After consideration of the recommendation of the [*Small Scale*
 28 *Local Energy Project Advisory Committee or the State Department of Energy*]
 29 **Oregon Business Development Department** as provided by ORS 470.080,
 30 the [*Director of the State Department of Energy*] **Oregon Infrastructure**
 31 **Finance Authority Board, or a designee of the board,** may approve or

1 reject the financing of a small scale local energy project described in an
2 application filed as provided in ORS 470.060, using moneys in the Small Scale
3 Local Energy Project Loan Fund. Approval of a loan by the [*director*] **board**
4 shall include a certification of the amount of the loan.

5 (2) The [*director's*] **board's** approval of a loan for a small scale local en-
6 ergy project shall be based on a finding that:

7 (a) The proposed small scale local energy project meets established stan-
8 dards and criteria under ORS 470.080;

9 (b) [*The proposed project is consistent with the preservation and enhance-*
10 *ment of environmental quality;*] **The proposed small scale local energy**
11 **project is secured by good and sufficient collateral;**

12 (c) The proposed **small scale local energy** project is feasible and a rea-
13 sonable risk from practical and economic standpoints;

14 (d) The plan for development of the **small scale local energy** project is
15 satisfactory;

16 (e) The applicant is qualified, creditworthy and responsible and is willing
17 and able to enter into a contract with the Director **of the Oregon Business**
18 **Development Department** for development and repayment as provided in
19 ORS 470.150 [*or 470.645*];

20 (f) There is a need for the proposed small scale local energy project and
21 the applicant's financial resources are adequate to provide the working cap-
22 ital to maintain the project after completion;

23 (g) Moneys in the loan fund are or will be available for the development
24 of the proposed small scale local energy project; **and**

25 [*(h) A dwelling constructed before January 1, 1979, that will be served by*
26 *a proposed space heating project is weatherized according to the standards*
27 *established under ORS 469.155;*]

28 [*(i) Except for a proposed space heating project for a dwelling under para-*
29 *graph (h) of this subsection, the loan does not finance any project for which*
30 *the projected economic value of the energy savings of the project during the*
31 *first year the project is implemented is equal to or greater than the cost of the*

1 *project; and]*

2 [(j)] (h) The loan will not preclude individuals and small businesses from
3 access to loan moneys.

4 (3) The [*director*] **Oregon Business Development Department** shall
5 notify the applicant [*and the presiding officer of the committee of the*
6 *director's*] **of the board's** action and of the reasons for that action. The
7 [*director*] **department** shall inform the applicant of the review procedure
8 established in ORS 470.100.

9 **SECTION 215.** ORS 470.100 is amended to read:

10 470.100. (1) If the [*Director of the State Department of Energy*] **Oregon**
11 **Infrastructure Finance Authority Board, or a designee of the board,**
12 rejects a loan application or approves a loan amount different than that re-
13 quested by the applicant, the applicant may request that the [*Small Scale*
14 *Local Energy Project Advisory Committee review the director's action*] **board**
15 **review the action.**

16 (2) [*The committee may review the director's action on its own motion or*
17 *at the request of the applicant. A majority of the members of the committee*
18 *may authorize the presiding officer of the committee to appeal the director's*
19 *action to the Governor.*] **At the request of the applicant, the board may**
20 **review the request and any new documentation that the applicant may**
21 **provide that may support reconsideration. If, upon further consider-**
22 **ation, a majority of the board determines that further action is nec-**
23 **essary, the board may amend the previous action, approve or reject**
24 **the loan or approve the loan for a different amount than previously**
25 **approved.**

26 (3) An appeal of the [*director's*] **board's** action may be initiated by the
27 [*presiding officer of the committee*] **applicant** no later than 45 days after the
28 date the applicant receives notice of the [*director's*] **board's** action under
29 ORS 470.090.

30 (4) The decision of the [*Governor*] **board** is final. If the [*Governor*] **board**
31 fails to act within 30 days after receiving the appeal, the appeal shall be

1 considered to be denied.

2 (5) Notwithstanding ORS chapter 183, a decision of the [*director or the*
3 *Governor*] **board** on an application for financing under ORS 470.090 or this
4 section is not subject to judicial review.

5 **SECTION 216.** ORS 470.110 is amended to read:

6 470.110. The Director of the [*State Department of Energy*] **Oregon Busi-**
7 **ness Development Department** may accept gifts of money or other prop-
8 erty from any source, given for the purposes of ORS 470.050 to 470.120,
9 470.140 (1) and 470.150 to 470.210. Money so received shall be paid into the
10 Small Scale Local Energy Project Loan Fund. Money or other property so
11 received shall be used for the purposes for which received.

12 **SECTION 217.** ORS 470.120 is amended to read:

13 470.120. If the applicant receives from any source other than the Small
14 Scale Local Energy Project Loan Fund[, *the Energy Project Supplemental*
15 *Fund or the Energy Project Bond Loan Fund*] any moneys to assist in the
16 development of the **small scale local energy** project, the amount of the loan
17 to the applicant from the Small Scale Local Energy Project Loan Fund[,
18 *Energy Project Supplemental Fund or Energy Project Bond Loan Fund*] shall
19 be limited to that amount necessary for the development of those portions
20 of the project not funded by other sources.

21 **SECTION 218.** ORS 470.130 is amended to read:

22 470.130. All moneys in the Small Scale Local Energy Project Loan Fund
23 created by Article XI-J of the Oregon Constitution are appropriated contin-
24 uously to the [*State Department of Energy*] **Oregon Business Development**
25 **Department** and shall be used for the purposes authorized under this chap-
26 ter.

27 **SECTION 219.** ORS 470.135 is amended to read:

28 470.135. The duties of the Director of the Oregon Department of Admin-
29 istrative Services to establish, maintain and keep accounts of, and make
30 disbursements or transfers out of, the funds and accounts established or
31 identified in the two bond indentures, as supplemented, dated June 1, 1981,

1 and September 1, 1985, that relate to the Small Scale Local Energy Project
2 Loan Program established by Article XI-J of the Oregon Constitution and
3 this chapter are transferred to the [*State Department of Energy*] **Oregon**
4 **Business Development Department**. Notwithstanding the transfer of these
5 fiscal functions to the [*State Department of Energy*] **Oregon Business De-**
6 **velopment Department**, in accordance with ORS 291.015 (2), the [*State*
7 *Department of Energy's*] **Oregon Business Development Department's**
8 performance of these fiscal functions shall remain subject to the control of
9 the Oregon Department of Administrative Services.

10 **SECTION 220.** ORS 470.140 is amended to read:

11 470.140. (1) In accordance with the applicable provisions of ORS chapter
12 183, the Director of the [*State Department of Energy*] **Oregon Business De-**
13 **velopment Department** may adopt rules considered necessary to carry out
14 the purposes of this chapter.

15 (2) The director shall submit to the Legislative Assembly and the Gover-
16 nor a biennial report of the transactions of the Small Scale Local Energy
17 Project Loan Fund and the Small Scale Local Energy Project Administration
18 and Bond Sinking Fund in such detail as will accurately indicate the condi-
19 tion of the funds.

20 **SECTION 221.** ORS 470.145 is amended to read:

21 470.145. The [*State Department of Energy*] **Oregon Business Develop-**
22 **ment Department** shall develop, implement and periodically update a mar-
23 keting plan to inform potential applicants of the availability of small scale
24 local energy project loans. The first priority of the marketing plan shall be
25 to inform individuals and small businesses that small scale local energy
26 project loans are available.

27 **SECTION 222.** ORS 470.150 is amended to read:

28 470.150. Except as provided in ORS 470.155 and 470.170, if the [*Director*
29 *of the State Department of Energy*] **Oregon Infrastructure Finance Au-**
30 **thority Board** approves the financing of a small scale local energy project,
31 the Director **of the Oregon Business Development Department**, on behalf

1 of the state, and the applicant may enter into a loan contract, secured by a
2 first lien or by other good and sufficient collateral in the manner provided
3 in ORS 470.155 to 470.210. For purposes of this section, the interest of the
4 [*State Department of Energy*] **Oregon Business Development Department**
5 under a lease purchase contract entered into with an eligible federal or state
6 agency or a municipal corporation may constitute good and sufficient
7 collateral. The contract:

8 (1) May provide that the [*director*] **board**, on behalf of the state, must
9 approve the arrangements made by the applicant for the development, oper-
10 ation and maintenance of the small scale local energy project, using moneys
11 in the Small Scale Local Energy Project Loan Fund for the project develop-
12 ment.

13 (2) Shall provide a plan for repayment by the applicant of moneys bor-
14 rowed from the loan fund used for the development of the small scale local
15 energy project and interest on those moneys used at a rate of interest the
16 [*director*] **board** determines is necessary to provide adequate funds to recover
17 the administrative expenses incurred in connection with the loan. The [*di-*
18 *rector*] **board** shall set the interest rate at an incremental rate above the
19 interest rate on the underlying bonds in an amount sufficient to recover all
20 program-related costs including, but not limited to, implementation, financ-
21 ing, administration, **losses** and promotional costs for the program. The in-
22 cremental rate for projects proposed by an eligible federal agency shall be
23 greater than the incremental rate charged to any other governmental bor-
24 rower. The repayment plan, among other matters:

25 (a) Shall provide for commencement of repayment by the applicant of
26 moneys used for project development and interest thereon not later than two
27 years after the date of the loan contract or at any other time as the
28 [*director*] **board** may provide. [*In addition to any other prepayment option*
29 *provided in a borrower's loan agreement, the department shall provide a bor-*
30 *rower the opportunity to prepay the borrower's loan, without any additional*
31 *premium, by defeasing such loan to the call date of the bond or bonds funding*

1 *the applicable loan, or any refunding bonds linked to the loan, but such*
2 *defeasance shall occur only if the director finds that after the defeasance, the*
3 *sinking fund will have sufficient funds to make payments required under ORS*
4 *470.300 (1).]*

5 (b) May provide for reasonable extension of the time for making any re-
6 payment in emergency or hardship circumstances, if approved by the
7 [director] **board**.

8 (c) Shall provide for evidence of debt assurance of and security for re-
9 payment by the applicant considered necessary or proper by the [director]
10 **board**.

11 (d) Shall set forth the period of loan, which may not exceed the usable
12 life of the completed project, or 30 years from the date of the loan contract,
13 whichever is less.

14 (e) [May] **Shall** set forth a procedure for formal declaration of default of
15 payment by the director, including formal notification of all relevant federal,
16 state and local agencies; and further, a procedure for notification of all rel-
17 evant federal, state and local agencies that declaration of default has been
18 rescinded when appropriate.

19 **(f) Shall require the loan to be paid in full in the event that:**

20 **(A) The director makes a formal declaration of default of payment**
21 **pursuant to paragraph (e) of this subsection; or**

22 **(B) The small scale local energy project fails to meet the standards**
23 **and criteria established under ORS 470.080.**

24 (3) May include provisions satisfactory to the [director] **board** for field
25 inspection, the [director] **board** to be the final judge of completion of the
26 project.

27 (4) May provide that the liability of the state under the contract is con-
28 tingent upon the availability of moneys in the loan fund for use in the
29 planning and development of the project.

30 (5) May include further provisions the director considers necessary to
31 ensure expenditure of the funds for the purposes set forth in the approved

1 application.

2 (6) May provide that the director may institute an appropriate action or
3 suit to prevent use of the project financed by the loan fund by any person
4 who is delinquent in the repayment of any moneys due the sinking fund.

5 *[(7) If the project is being financed by an energy efficiency and sustainable
6 technology loan or small scale local energy program loan, in addition to the
7 requirements of subsections (1) to (6) of this section, shall include:]*

8 *[(a) For an energy efficiency and sustainable technology loan that relies on
9 an on-bill financing system for the collection of a loan repayment charge, an
10 agreement by the applicant to notify a person acquiring ownership of, or an
11 interest in, the property from the applicant that the loan repayment charge will
12 be transferred to the utility customer account of the person acquiring the
13 ownership or interest unless the loan is discharged before or at the time the
14 ownership or interest transfers;]*

15 *[(b) A plainly worded acknowledgment by the applicant that failure to make
16 payments as required under the loan agreement may result in the foreclosure
17 of a property lien or other debt collection actions;]*

18 *[(c) A waiver stating that the applicant waives any jurisdictional or other
19 irregularities or defects in:]*

20 *[(A) The energy efficiency and sustainable technology loan program;]*

21 *[(B) A small scale local energy project;]*

22 *[(C) The small scale local energy program loan provisions;]*

23 *[(D) This chapter; or]*

24 *[(E) Department rules that relate in any way to the loan repayment charge,
25 real property lien provisions or any form or combination of loan security or to
26 the requirement to satisfy the loan obligation;]*

27 *[(d) If the applicant is not the owner of the property to be burdened by the
28 loan repayment charge, fixture filing or real property lien, provision for par-
29 ticipation by the property owner as a party to the contract or a notarized au-
30 thorization by the owner for the fixture filing and lien; and]*

31 *[(e) A description of any other conditions required by the department.]*

1 **SECTION 223.** ORS 470.160 is amended to read:

2 470.160. If the [*Director of the State Department of Energy*] **Oregon**
 3 **Infrastructure Finance Authority Board** approves a loan for a small scale
 4 local energy project, the State Treasurer shall pay moneys for such project
 5 from the Small Scale Local Energy Project Loan Fund [*or Energy Project*
 6 *Bond Loan Fund*] in accordance with the terms of the loan contract, as
 7 prescribed by the [*director*] **board and the Director of the Oregon Busi-**
 8 **ness Development Department under ORS 470.150.**

9 **SECTION 224.** ORS 470.170 is amended to read:

10 470.170. [(1)(a)] **(1)** [*Except as otherwise provided in this subsection,*] When
 11 a loan is made under this chapter to an applicant other than a municipal
 12 corporation, the loan shall be secured pursuant to a mortgage, trust deed,
 13 security agreement, pledge, assignment or similar instrument, by a security
 14 interest or lien on real or personal property in the full amount of the loan
 15 or as the [*Director of the State Department of Energy*] **Oregon**
 16 **Infrastructure Finance Authority Board** shall require for adequate secu-
 17 rity, including but not limited to long-term leasehold interests or equitable
 18 interests in real property or personal property. In lieu of, or in addition to,
 19 any of the collateral otherwise described in this [*paragraph*] **subsection**, the
 20 applicant may secure the loan by providing credit enhancement, including
 21 but not limited to a letter of credit or payment bond, or a guaranty accept-
 22 able to the [*director*] **board.**

23 [(b) *To the extent consistent with any declaration, pledge or agreement for*
 24 *bonds issued under ORS 470.220 to 470.290, an energy efficiency and*
 25 *sustainable technology loan shall be secured as provided in ORS 470.680 or*
 26 *470.685.*]

27 (2) When a loan is made to a municipal corporation for the development
 28 of a small scale local energy project under this chapter, the loan shall be
 29 secured as the [*director*] **board** shall require for adequate security. The se-
 30 curity may be in the form of a lien, mortgage, interest under a lease-purchase
 31 contract or other form of security acceptable to the [*director*] **board** and the

1 municipal corporation.

2 (3) When a loan made under this chapter is secured by a lien on the real
3 property of the applicant, the Director **of the Oregon Business Develop-**
4 **ment Department** shall perfect the lien by recording as provided by law.

5 (4) Upon payment of all amounts loaned to an applicant pursuant to this
6 chapter, the director shall file a satisfaction or release notice that indicates
7 repayment of the loan.

8 (5) The director may cause to be instituted appropriate proceedings to
9 foreclose liens for delinquent loan payments, and shall pay the proceeds of
10 any such foreclosure, less the director's expenses incurred in foreclosing,
11 into the Small Scale Local Energy Project Administration and Bond Sinking
12 Fund if the loan was issued from the Small Scale Local Energy Project Loan
13 Fund[, or into the *Energy Project Bond Loan Fund* if the loan was from the
14 *Energy Project Bond Loan Fund*]. In a foreclosure proceeding the [director]
15 **Oregon Business Development Department** may bid on property offered
16 for sale in the proceedings and may acquire title to the property on behalf
17 of the state.

18 (6) The director may take any action, make any disbursement, hold any
19 funds or institute any action or proceeding necessary to protect the state's
20 interest.

21 (7) The director may settle, compromise or release, for reasons other than
22 uncollectibility as provided in ORS 293.240, all or part of any loan obligation
23 so long as the director's action is consistent with the purposes of this chap-
24 ter and does not impair the ability to pay the administrative expenses of the
25 [State Department of Energy] **Oregon Business Development Department**
26 or the obligations of any bonds then outstanding.

27 **SECTION 225.** ORS 470.180 is amended to read:

28 470.180. In addition to any other remedy available to the [State Depart-
29 *ment of Energy,*] **Oregon Business Development Department**, if a munic-
30 ipal corporation entitled by law to share in the apportionment of any state
31 revenues or funds defaults on any payments due to the State of Oregon under

1 a loan contract entered into under ORS 470.150, the [*State Department of*
2 *Energy*] **Oregon Business Development Department** may certify that fact
3 to the Oregon Department of Administrative Services and the Oregon De-
4 partment of Administrative Services shall withhold payment of any revenues
5 or funds in the State Treasury to which the municipal corporation is enti-
6 tled, in an amount not to exceed the balance owing on the loan, until the
7 [*State Department of Energy*] **Oregon Business Development Department**
8 certifies that the default has been remedied.

9 **SECTION 226.** ORS 470.190 is amended to read:

10 470.190. If an applicant fails to comply with a contract entered into with
11 the Director of the [*State Department of Energy*] **Oregon Business Devel-**
12 **opment Department** for development and repayment as provided in ORS
13 470.150 [*or 470.645*], the director, in addition to remedies provided in ORS
14 470.170 and 470.180, may seek other appropriate legal remedies to secure the
15 loan and may contract as provided in ORS 470.150 with any other person for
16 continuance of development and for repayment of moneys from the Small
17 Scale Local Energy Project Loan Fund [*or from the Energy Project Bond*
18 *Loan Fund*] used therefor and interest thereon.

19 **SECTION 227.** ORS 470.200 is amended to read:

20 470.200. If any small scale local energy project is refinanced or an addi-
21 tional grant or loan intended to finance the project development is obtained
22 from other sources after the execution of the loan from the state, all such
23 funds shall be used to repay the state unless the [*Director of the State De-*
24 *partment of Energy*] **Oregon Infrastructure Finance Authority Board**
25 finds that repayment of the state from the additional grant or loan would
26 be contrary to public interest.

27 **SECTION 228.** ORS 470.210 is amended to read:

28 470.210. (1) Notwithstanding any other provision of law, a municipal cor-
29 poration may enter into a loan contract with the [*State Department of*
30 *Energy*] **Oregon Business Development Department** to finance a small
31 scale local energy project.

1 (2) In order to finance a small scale local energy project, the Director of
2 the [*State Department of Energy,*] **Oregon Business Development Depart-**
3 **ment**, on behalf of the state and in lieu of entering into a loan contract
4 under subsection (1) of this section, may purchase or otherwise acquire a
5 municipal corporation's general obligations or revenue obligations, including
6 but not limited to bonds, notes, certificates of participation, warrants or
7 lease purchase agreements.

8 **SECTION 229.** ORS 470.230 is amended to read:

9 470.230. Except as provided in ORS 470.270, all moneys obtained from the
10 sale of general obligation bonds under ORS 470.220 to 470.290 and Article
11 XI-J of the Oregon Constitution shall be credited by the State Treasurer to
12 the Small Scale Local Energy Project Loan Fund. Those moneys shall be
13 used only for the purposes stated in Article XI-J of the Oregon Constitution,
14 including payment of the costs of issuing the bonds and of obtaining credit
15 enhancement for the bonds, and making payments of interest on bonds issued
16 pursuant to the provisions of ORS 470.220 to 470.290 if there are insufficient
17 funds in the Small Scale Local Energy Project Administration and Bond
18 Sinking Fund to make the payments referred to in ORS 470.300 (1). Moneys
19 loaned to municipal corporations but withheld by the [*State Department of*
20 *Energy*] **Oregon Business Development Department** for security or to pay
21 for future project costs may remain in the loan fund. Pending the use of the
22 moneys in the loan fund for the proper purposes, the moneys may be invested
23 in the manner provided by law.

24 **SECTION 230.** ORS 470.270 is amended to read:

25 470.270. (1) After consultation with the State Treasurer, the Director of
26 the [*State Department of Energy*] **Oregon Business Development Depart-**
27 **ment** may issue general obligation refunding bonds for the purpose of re-
28 funding outstanding bonds issued under ORS 470.220 to 470.290 and Article
29 XI-J of the Oregon Constitution. The refunding bonds may be sold in the
30 same manner as other bonds are sold under ORS 470.220 to 470.290. All
31 moneys obtained from the sale of refunding bonds shall be credited by the

1 State Treasurer to the Small Scale Local Energy Project Administration and
2 Bond Sinking Fund. The refunding bonds may be issued to refund bonds
3 previously issued for refunding purposes. Pending the use of moneys ob-
4 tained from the sale of refunding bonds for proper purposes, such moneys
5 may be invested in the manner provided by law.

6 (2) Notwithstanding any provision of ORS 470.150, if the [*State Depart-*
7 *ment of Energy*] **Oregon Business Development Department** issues taxable
8 refunding bonds at a lower interest rate to refund outstanding general obli-
9 gation bonds, and is unable to allow loan recipients to receive a portion of
10 the interest savings, the director shall allow the loan recipient to prepay the
11 outstanding loan balance upon the request of the recipient. The director
12 shall respond to such a request within 30 days after receiving the request
13 by specifying the outstanding principal balance after applying reserves held
14 by the state for the borrower and the prepayment premium as listed in the
15 bond document, loan document or bond purchase agreement.

16 (3) The department shall pursue opportunities for refunding bonds to re-
17 duce interest sums payable by the department. When the department refunds
18 a bond with tax-exempt bonds, the department shall share, on an equitable
19 basis, the savings from any refunding with the borrowers whose loans were
20 made with the proceeds of the refunded bonds in an amount consistent with
21 a finding by the director that the sinking fund has, and will continue to
22 have, sufficient funds to make payments required under ORS 470.300 (1). The
23 department may not refund tax-exempt bonds with taxable bonds, unless the
24 department is able to share the savings associated with such a refunding
25 with the borrowers whose loans are linked to such bonds. At least 120 days
26 before the date on which the department intends to issue refunding bonds,
27 the director shall notify each borrower whose loan was made from the pro-
28 ceeds of the bonds being refunded and shall offer the borrower the opportu-
29 nity to prepay the borrower's loan. A borrower shall respond within 60 days
30 of the date of the notice described in this subsection if the borrower intends
31 to prepay the borrower's loan.

1 **SECTION 231.** ORS 470.300 is amended to read:

2 470.300. (1) There hereby is created the Small Scale Local Energy Project
3 Administration and Bond Sinking Fund, separate and distinct from the Gen-
4 eral Fund, to provide for payment of:

5 (a) Administrative expenses of the [*State Department of Energy and the*
6 *Director of the State Department of Energy*] **Oregon Business Development**
7 **Department and the Director of the Oregon Business Development**
8 **Department** in processing applications, investigating potential small scale
9 local energy projects and proposed loans and servicing and collecting out-
10 standing loans made from the Small Scale Local Energy Project Loan Fund,
11 if the expense is not paid directly by the applicant.

12 (b) Administrative expenses of the State Treasurer in carrying out the
13 duties, functions and powers imposed upon the State Treasurer by this
14 chapter.

15 (c) Principal, interest and redemption premium, if any, of all bonds issued
16 pursuant to the provisions of ORS 470.220 to 470.290 and Article XI-J of the
17 Oregon Constitution.

18 (d) Net investment earnings on any funds loaned to municipal corpo-
19 rations but withheld as provided in ORS 470.230.

20 (e) Costs of issuing the bonds and of obtaining credit enhancement for the
21 bonds.

22 (2) The fund created by subsection (1) of this section shall consist of:

23 (a) Application fees required by ORS 470.060, unless the department re-
24 quires the applicant to pay the fee directly for a cost incurred in connection
25 with the application.

26 (b) Repayment of moneys loaned to applicants from the Small Scale Local
27 Energy Project Loan Fund, including interest on such moneys.

28 (c) Such moneys as may be appropriated to the fund by the Legislative
29 Assembly.

30 (d) Moneys obtained from the sale of refunding bonds under ORS 470.220
31 to 470.290 and any accrued interest on such bonds.

1 (e) Moneys received from ad valorem taxes levied pursuant to Article XI-J
2 of the Oregon Constitution, and all moneys that the Legislative Assembly
3 may provide in lieu of such taxes.

4 (f) Interest earned on cash balances invested by the State Treasurer.

5 (g) Moneys transferred from the loan fund.

6 (h) Gifts, grants, donations or other moneys for promoting small scale
7 local energy [*program loan purposes and goals.*] **projects.**

8 (3) The director, with the approval of the State Treasurer, may transfer
9 moneys from the sinking fund to the loan fund if:

10 (a) A cash flow projection shows that, for the term of the bonds out-
11 standing at the time the director transfers the moneys, remaining moneys in
12 the sinking fund, together with expected loan contract payments and fund
13 earnings, will improve the financial basis of the program and will continue
14 to be adequate to pay bond principal, interest, redemption premiums, if any,
15 and administration costs; and

16 (b) The transfer will not create the need for issuance of any bonds.

17 (4) The director, with the approval of the State Treasurer, may establish
18 separate and distinct accounts within the sinking fund to accomplish the
19 purpose of this section.

20 **SECTION 232.** ORS 470.310 is amended to read:

21 470.310. (1) If there are insufficient funds in the Small Scale Local Energy
22 Project Administration and Bond Sinking Fund to make the payments re-
23 ferred to in ORS 470.300 (1), the Director of the [*State Department of*
24 *Energy*] **Oregon Business Development Department** may request the
25 funds necessary for such payments from the Legislative Assembly or the
26 Emergency Board.

27 (2) When the director determines that moneys in sufficient amount are
28 available in the sinking fund, the State Treasurer shall reimburse the Gen-
29 eral Fund without interest, in an amount equal to the amount allocated by
30 the Legislative Assembly or the Emergency Board pursuant to subsection (1)
31 of this section. The moneys used to reimburse the General Fund under this

1 subsection shall not be considered a budget item on which a limitation is
2 otherwise fixed by law, but shall be in addition to any specific appropriations
3 or amounts authorized to be expended from continually appropriated moneys.

4 **SECTION 233.** ORS 470.800 is amended to read:

5 470.800. (1) The Clean Energy Deployment Fund is established in the State
6 Treasury, separate and distinct from the General Fund. Interest earned by
7 the Clean Energy Deployment Fund shall be credited to the Clean Energy
8 Deployment Fund. Moneys in the fund are continuously appropriated to the
9 [State Department of Energy] **Oregon Climate Authority** for use as provided
10 in ORS 470.810.

11 (2) The [department] **authority** may accept grants, donations, contribu-
12 tions or gifts from any source for deposit in the Clean Energy Deployment
13 Fund.

14 **SECTION 234.** ORS 470.805 is amended to read:

15 470.805. (1) The Renewable Energy Development Subaccount is established
16 in the Clean Energy Deployment Fund established in ORS 470.800. Interest
17 earned by the Renewable Energy Development Subaccount shall be credited
18 to the subaccount. Moneys in the fund are continuously appropriated to the
19 [State Department of Energy] **Oregon Climate Authority** for purposes re-
20 lated to renewable energy development.

21 (2) The [department] **authority** may accept grants, donations, contribu-
22 tions or gifts from any source for deposit in the Renewable Energy Devel-
23 opment Subaccount.

24 **SECTION 235.** ORS 470.810 is amended to read:

25 470.810. (1) The [State Department of Energy] **Oregon Climate Authority**
26 shall establish the clean energy deployment program to provide grants and
27 loans to support energy efficiency or clean energy projects in this state. The
28 [department] **authority** shall establish criteria for qualifications of the
29 projects by rule.

30 (2)(a) The [department] **authority** may use funds from [the Jobs, Energy
31 and Schools Fund and] the Clean Energy Deployment Fund to provide loans

1 and grants to school districts that have projects to weatherize, upgrade and
2 retrofit kindergarten through grade 12 public schools in this state, in order
3 to improve energy efficiency.

4 (b) A school district that finances a project through the clean energy de-
5 ployment program may not self-perform work constituting more than five
6 percent of the total cost of the project being financed.

7 (c) All school projects financed pursuant to paragraph (a) of this sub-
8 section through the clean energy deployment program are deemed to be
9 public works projects and are subject to the prevailing wage requirements
10 of ORS 279C.800 to 279C.870.

11 (3) The [*department*] **authority** may contract for the implementation of
12 the clean energy deployment program [*in all or parts of this state with a*
13 *sustainable energy project manager as defined in ORS 470.050*].

14 **SECTION 236.** ORS 470.815 is amended to read:

15 470.815. (1) School districts that participate in the clean energy deploy-
16 ment program established in ORS 470.810 may finance projects to:

17 (a) Weatherize, upgrade and retrofit kindergarten through grade 12 public
18 schools;

19 (b) Retrofit school bus fleets to operate on compressed natural gas or
20 other alternative fuels such as propane or to operate with high-efficiency
21 types of engines such as hybrid electric engines; or

22 (c) Replace school bus fleets with school buses that operate on compressed
23 natural gas or other alternative fuels such as propane or that operate with
24 high-efficiency types of engines such as hybrid electric engines.

25 (2) The projects described in subsection (1) of this section shall be de-
26 signed to improve energy efficiency, decrease fuel costs, increase use of al-
27 ternative fuels and decrease emissions of air contaminants.

28 (3) School districts may finance the projects described in subsection (1)
29 of this section by:

30 (a) Paying directly for the projects;

31 (b) Receiving lower interest loans from the Clean Energy Deployment

- 1 Fund or the Small Scale Local Energy Project Loan Fund, supported by:
2 [(A) *Grant moneys from the Jobs, Energy and Schools Fund;*]
3 [(B)] (A) Public purpose charges directed to a school district in areas
4 served by investor-owned utilities under ORS 757.612;
5 [(C)] (B) Qualified Energy Conservation Bonds issued under the Energy
6 Improvement and Extension Act of 2008 or other federal loan programs; or
7 [(D)] (C) Revenues generated by the savings in energy costs resulting
8 from the energy efficiency improvements;
9 (c) Issuing general obligation bonds, subject to the bond election re-
10 quirements under ORS 328.210; or
11 (d) Using any other source of moneys.

12 **SECTION 237.** ORS 498.502 is amended to read:

13 498.502. (1) Subject to and consistent with the federal Endangered Species
14 Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.) and notwithstanding any
15 provision of ORS 496.171 to 496.182:

16 (a) If a person applies for a permit, license, authorization or other form
17 of permission required by law from a state agency for a proposed action that
18 may affect core area habitat of sage grouse, the person may file with the
19 State Department of Fish and Wildlife, at any time before or after the com-
20 mencement of the relevant permitting, licensing, authorization or other form
21 of permission process, a report that uses the best scientific and commercial
22 data available to provide a description of the proposed action and its possible
23 effects on the habitat.

24 (b) The report described in this section must describe the core area
25 habitat of sage grouse affected by the proposed action, specify whether the
26 habitat is essential and irreplaceable and provide proposals for off-site miti-
27 gation or a mitigation bank.

28 (c)(A) Within 60 days after the filing of the report described in this sec-
29 tion, the department shall evaluate whether the proposals specified in the
30 report result in a net loss of either the quality or quantity of sage grouse
31 habitat and provide a net benefit to the quality or quantity of sage grouse

1 habitat.

2 (B)(i) If the department concludes that the proposals specified in the re-
3 port do not result in a net loss of either the quality or quantity of sage
4 grouse habitat and do provide a net benefit to the quality or quantity of sage
5 grouse habitat, the department shall issue an order finding that the core area
6 habitat of sage grouse affected by the proposed action is not irreplaceable.
7 The department may not thereafter reverse or modify the order except pur-
8 suant to a judgment of a court.

9 (ii) If the department concludes that the proposals specified in the report
10 result in a net loss of either the quality or quantity of sage grouse habitat
11 and do not provide a net benefit to the quality or quantity of sage grouse
12 habitat, a person affected by the action may request a contested case hearing
13 before the State Fish and Wildlife Commission, to be conducted as provided
14 in ORS chapter 183.

15 (2) The provisions of this section apply to a site certificate for an energy
16 facility described in ORS 469.300 [(11)(a)(F)] **(9)(a)(F)**, but do not apply to
17 a site certificate for any other facility under the provisions of ORS 469.300
18 to 469.563.

19 (3) The commission may adopt rules to carry out the provisions of this
20 section.

21 **SECTION 238.** ORS 522.125 is amended to read:

22 522.125. (1) Upon receipt of a complete application for a permit to drill
23 or operate a geothermal well, the State Department of Geology and Mineral
24 Industries shall circulate copies of the application to the Water Resources
25 Department, the State Department of Fish and Wildlife, the Department of
26 Environmental Quality, the State Parks and Recreation Department, the
27 Department of Land Conservation and Development, the [*State Department*
28 *of Energy*] **Oregon Climate Authority**, the Department of State Lands and
29 the governing body of the county and the geothermal heating district in
30 which the well will be located. The State Department of Geology and Min-
31 eral Industries may circulate copies to other public agencies that have an

1 interest in the application.

2 (2) Any public agency receiving a copy of the application as provided in
3 subsection (1) of this section may suggest conditions under which a permit
4 should be granted. A public agency shall submit any suggested conditions to
5 the State Department of Geology and Mineral Industries within 45 days of
6 the public agency's receipt of the copy of the application. The department
7 shall consider any suggested conditions that a public agency submits to the
8 department within the 45-day period.

9 **SECTION 239.** ORS 526.274 is amended to read:

10 526.274. In furtherance of the policy established in ORS 526.271, the State
11 Board of Forestry, in consultation with the Governor, may:

12 (1) In conformance with federal law, including Public Law 108-7, direct
13 the State Forester to facilitate the development of stewardship contracts
14 utilizing private contractors and, when appropriate, to seek and enter into
15 a stewardship contract agreement with federal agencies to carry out forest
16 management activities on federal lands. The State Forester may, under the
17 stewardship contract agreements:

18 (a) Perform road and trail maintenance;

19 (b) Set prescribed fires to improve forest health, composition, structure
20 and condition;

21 (c) Manage vegetation;

22 (d) Perform watershed restoration and maintenance;

23 (e) Restore wildlife habitat;

24 (f) Control exotic weeds and species; and

25 (g) Perform other activities related to stewardship.

26 (2) Create a forum for interagency cooperation and collaborative public
27 involvement regarding federal forest management issues that may include,
28 at the discretion of the board, the appointment of advisory committees, the
29 use of existing advisory committees and procedures for holding public
30 hearings.

31 (3) Provide guidelines for the State Forestry Department and State

1 Forester to follow that contain directions regarding the management of fed-
2 eral lands and that specify the goals and objectives of the board regarding
3 the management of federal lands.

4 (4) Participate, to the extent allowed by federal law, in the development
5 of federal forest policies and the forest management planning processes of
6 federal agencies.

7 (5) Provide guidelines for the department to follow in implementing this
8 section.

9 (6) Coordinate with Oregon State University, the State Department of
10 Fish and Wildlife, the Oregon Forest Resources Institute, the Department
11 of Environmental Quality, the Oregon Business Development Department,
12 the [*State Department of Energy*] **Oregon Climate Authority** and other
13 agencies of the executive department, as defined in ORS 174.112, to assist the
14 State Forestry Department in carrying out the provisions of this section.

15 **SECTION 240.** ORS 526.280 is amended to read:

16 526.280. In furtherance of the policy established in ORS 526.277, the State
17 Forester shall:

18 (1) Establish a policy of active and inclusive communication with the
19 federal government, public bodies as defined in ORS 174.109, residents of
20 Oregon and interested parties regarding the utilization of woody biomass
21 produced through forest health restoration. The State Forester shall actively
22 utilize the statutory provisions of the National Forest Management Act of
23 1976, the Forest and Rangeland Renewable Resources Planning Act of 1974,
24 the National Environmental Policy Act of 1969, the Federal Land Policy and
25 Management Act of 1976 and the Healthy Forests Restoration Act of 2003
26 that allow the state to participate in federal policy development in a manner
27 that expresses the policy established in ORS 526.277.

28 (2) Promote public involvement in the identification of the areas of
29 interface between urban lands and forestlands that pose the highest potential
30 to threaten lives and private property.

31 (3) Solicit public comment on the location of biomass-based energy

1 projects and conversion facilities.

2 (4) Promote public understanding, through education and outreach, of
3 forest conditions, forest management options, the potential benefits and po-
4 tential consequences of woody biomass utilization, the quality and quantity
5 of woody biomass on federal lands and the potential for woody biomass
6 utilization to assist in reducing wildfire risk and in enhancing forest health,
7 diversity and resilience. The State Forestry Department may coordinate with
8 the [*State Department of Energy*] **Oregon Climate Authority**, the Oregon
9 Business Development Department, Oregon State University, the State De-
10 partment of Fish and Wildlife, the Department of Environmental Quality and
11 other entities in any education and outreach performed pursuant to this
12 subsection.

13 (5) Assess the types of woody biomass available and serve as an informa-
14 tion resource for persons seeking to utilize woody biomass for energy devel-
15 opment. Notwithstanding ORS 192.345, reports on any assessment of woody
16 biomass conducted by the State Forester shall be made available for public
17 inspection.

18 (6) Promote public understanding that woody biomass utilization may be
19 an effective tool for restoration of forest health and for economic develop-
20 ment in rural communities.

21 (7) Develop and apply, with advice from the forestry program at Oregon
22 State University, the State Department of Fish and Wildlife, the Department
23 of Environmental Quality and other sources, the best available scientific
24 knowledge and technologies pertaining to forest and wildlife habitat resto-
25 ration and woody biomass utilization when developing rules under ORS
26 527.630.

27 (8) Seek opportunities to provide a source of woody biomass from federal,
28 tribal, state and private forests.

29 (9) Periodically prepare a report utilizing, to the greatest extent practi-
30 cable, data collected from state and federal sources that specify the effect
31 of woody biomass collection and conversion on the plant and wildlife re-

1 sources and on the air and water quality of this state. The report shall
2 identify any changes that the State Forester determines are necessary to
3 encourage woody biomass collection and conversion and to avoid negative
4 effects on the environment from woody biomass collection and conversion.
5 The State Forester shall submit the report to the Governor and to an ap-
6 propriate legislative interim committee with jurisdiction over forestry issues.

7 **SECTION 241.** ORS 526.786 is amended to read:

8 526.786. (1) The State Board of Forestry may develop administrative rules
9 that define principles and standards relating to the creation, measurement,
10 accounting, marketing, verifying, registering, transferring and selling of
11 forestry carbon offsets from nonfederal forestlands.

12 (2) Rules adopted by the board under this section shall set standards to
13 ensure that in order to be marketed, registered, transferred or sold, a forestry
14 carbon offset must be created as a result of forest management activities
15 that:

16 (a) Have the effect of increasing carbon storage on forestlands as meas-
17 ured by a forestry carbon offset accounting system;

18 (b) Would not otherwise occur but for the carbon storage objective; and

19 (c) Provide environmental, social and economic benefits for Oregon and
20 its citizens, including but not limited to, protection or enhancement of long
21 term timber supplies, native fish and wildlife habitat and water quality.

22 (3) Rules adopted by the board under this section shall establish princi-
23 ples to ensure that the forestry carbon offset accounting system shall:

24 (a) Account for relevant sources of carbon dioxide emission debits and
25 credits for carbon storage or sequestration;

26 (b) Account for the duration and permanence of the carbon dioxide stor-
27 age or emission reductions;

28 (c) Include provisions for establishing the appropriate baseline for
29 projects, practices, rotation ages, harvest schedules and ownership from
30 which measured carbon dioxide emission debits, and credits for carbon stor-
31 age or sequestration are made;

1 (d) Account for other relevant and measurable greenhouse gas conse-
2 quences, specifically credits and debits expressed as a carbon dioxide emis-
3 sions equivalent, when establishing baselines or otherwise as appropriate;

4 (e) Account for the specific forest management practices used on-site and
5 include provisions for monitoring carbon dioxide emission debits and credits
6 for carbon storage or sequestration, from the implementation of specific
7 practices;

8 (f) Account for continuing carbon dioxide emission debits, and credits for
9 carbon storage or sequestration, based on the end product use of harvested
10 biomass;

11 (g) Account for environmental, social and economic benefits of forestry
12 carbon offsets and ensure that practices with unsustainable, long term con-
13 sequences are not used to create forestry carbon offsets;

14 (h) Allow for public access to information in monitoring reports; and

15 (i) Encourage third-party verification of forestry carbon offsets.

16 (4) Rules adopted by the board under this section may address qualifica-
17 tions for persons and agencies that provide third-party verification and reg-
18 istration of forestry carbon offsets.

19 (5) Rules adopted by the board under this section shall be developed with
20 the assistance of an advisory committee appointed by the board. The advisory
21 committee shall consist of at least nine persons and shall contain:

22 (a) Persons from businesses, governmental agencies and nongovernmental
23 organizations with knowledge and experience in the accounting of
24 greenhouse gas emissions, sequestration and storage;

25 (b) At least one person from a nongovernmental forestry conservation
26 organization;

27 (c) At least one nonindustrial private forest landowner or a representative
28 of an organization that represents nonindustrial private forest landowners;

29 (d) One representative of the [*State Department of Energy*] **Oregon Cli-**
30 **mate Authority**;

31 (e) One representative of the State Department of Fish and Wildlife, or

1 a designee of the State Department of Fish and Wildlife;

2 (f) One representative of the Department of Environmental Quality, or a
3 designee of the Department of Environmental Quality;

4 (g) At least one representative from a qualified organization, as defined
5 in ORS 469.503; and

6 (h) At least one representative from the State Forestry Department who
7 shall serve as the secretary to the advisory committee.

8 **SECTION 242.** ORS 701.527 is amended to read:

9 701.527. As used in ORS 701.527 to 701.536:

10 (1) “Home energy assessor” means a person who assigns residential
11 buildings a home energy performance score.

12 (2) “Home energy performance score” means a score assigned to a resi-
13 dential building using the home energy performance score system adopted
14 by the [*State Department of Energy*] **Oregon Climate Authority** under ORS
15 469.703.

16 **SECTION 243.** ORS 701.532 is amended to read:

17 701.532. (1) The Construction Contractors Board shall certify an individ-
18 ual as a home energy assessor if the individual meets the requirements of
19 this section and of any rule adopted by the board under this section. A home
20 energy assessor certificate must be renewed annually.

21 (2) The board shall require that an applicant for a home energy assessor
22 certificate present proof of passing a training program designated by the
23 [*State Department of Energy*] **Oregon Climate Authority** under ORS 469.703.

24 (3) The board may adopt rules to regulate the practice of assigning home
25 energy performance scores, including:

26 (a) Prescribing the form and manner of applying for a home energy
27 assessor certificate;

28 (b) Establishing procedures for the issuance, renewal or revocation of a
29 home energy assessor certificate; and

30 (c) Establishing fees necessary for the administration of ORS 701.527 to
31 701.536 that do not exceed the following amounts:

- 1 (A) \$100 for application for a home energy assessor certificate;
- 2 (B) \$100 for issuance of an initial one-year home energy assessor certifi-
- 3 cate; and
- 4 (C) \$100 for renewal of a one-year home energy assessor certificate.

5 **SECTION 244.** ORS 757.247 is amended to read:

6 757.247. (1) The Public Utility Commission may authorize a public utility,
7 upon application of the utility, to file and place into effect a tariff schedule
8 establishing rates or charges for the cost of energy resource measures pro-
9 vided to an individual property owner or customer pursuant to an agreement
10 entered into between the individual property owner or customer and the
11 public utility. Energy resource measures provided under this section may
12 include:

13 (a) The installation of renewable energy generation facilities on the
14 property of property owners or the premises of customers;

15 (b) The implementation of energy conservation measures, including
16 measures that are not cost-effective;

17 (c) The installation of equipment or devices or the implementation of
18 measures that enable demand reduction, peak load reduction, improved inte-
19 gration of renewable energy generation or more effective utilization of en-
20 ergy resources;

21 (d) Loans for the purposes described in paragraphs (a) to (c) of this sub-
22 section; and

23 (e) Direct payments to third parties for the purposes described in para-
24 graphs (a) to (c) of this subsection.

25 (2) Subject to the agreement entered into between the individual property
26 owner or customer and the public utility, a tariff schedule placed into effect
27 under this section may include provisions for:

28 (a) The payment of the rates or charges over a period of time;

29 (b) Except as provided in subsection (5) of this section, a reasonable rate
30 of return on any investment made by the public utility;

31 (c) The application of any payment obligation to successive owners of the

1 property to which the energy resource measure is attached or to successive
2 customers located at the premises to which the energy resource measure is
3 attached; and

4 (d) The application of the payment obligation to the current property
5 owner or customer alone, secured by methods agreed to by the property
6 owner or customer and the public utility.

7 (3) Application of a tariff schedule under this section is subject to ap-
8 proval by the commission.

9 (4) If a payment obligation applies to successive property owners or cus-
10 tomers as described in subsection (2)(c) of this section, a public utility shall
11 record a notice of the payment obligation in the records maintained by the
12 county clerk under ORS 205.130. The commission may prescribe by rule other
13 methods by which the public utility shall notify property owners or custom-
14 ers of such payment obligations.

15 (5) A public utility may use moneys obtained through a rate established
16 under ORS 757.603 (2)(a) to provide a renewable energy generation facility
17 to a property owner or customer under this section. A public utility may not
18 charge interest to a property owner or customer for a renewable energy
19 generation facility acquired with moneys obtained through a rate established
20 under ORS 757.603 (2)(a).

21 *[(6) Agreements entered into and tariff schedules placed into effect under*
22 *this section are not subject to ORS 470.500 to 470.710, 757.612 or 757.689.]*

23 **SECTION 245.** ORS 757.528 is amended to read:

24 757.528. (1) Unless modified by rule by the [*State Department of Energy*]
25 **Director of the Oregon Climate Authority** as provided in this section, the
26 greenhouse gas emissions standard that applies to consumer-owned utilities
27 is 1,100 pounds of greenhouse gases per megawatt-hour for a generating fa-
28 cility.

29 (2) Unless modified pursuant to subsection (4) of this section, the
30 greenhouse gas emissions standard includes only carbon dioxide emissions.

31 (3) For purposes of applying the emissions standard to cogeneration fa-

1 cilities, the [*department*] **director** shall establish an output-based methodol-
2 ogy to ensure that the calculation of emissions of greenhouse gases for
3 cogeneration facilities recognizes the total usable energy output of the pro-
4 cess and includes all greenhouse gases emitted by the facility in the pro-
5 duction of both electrical and thermal energy.

6 (4) The [*department*] **director** shall review the greenhouse gas emissions
7 standard established under this section no more than once every three years.
8 After public notice and hearing, [*and consultation with the Public Utility*
9 *Commission,*] the [*department*] **director** may:

10 (a) Modify the emissions standard to include other greenhouse gases as
11 defined in ORS 468A.210, with the other greenhouse gases expressed as their
12 carbon dioxide equivalent; and

13 (b) Modify the emissions standard based upon current information on the
14 rate of greenhouse gas emissions from a commercially available combined-
15 cycle natural gas generating facility that:

16 (A) Employs a combination of one or more gas turbines and one or more
17 steam turbines and produces electricity in the steam turbines from waste
18 heat produced by the gas turbines;

19 (B) Has a heat rate at high elevation within the boundaries of the West-
20 ern Electricity Coordinating Council; and

21 (C) Has a heat rate at ambient temperatures when operating during the
22 hottest day of the year.

23 (5) In modifying the greenhouse gas emissions standard, the [*department*]
24 **director** shall:

25 (a) Use an output-based methodology to ensure that the calculation of
26 greenhouse gas emissions through cogeneration recognizes the total usable
27 energy output of the process and includes all greenhouse gases emitted by
28 the generating facility in the production of both electrical and thermal en-
29 ergy; and

30 (b) Consider the effects of the emissions standard on system reliability
31 and overall costs to electricity consumers.

1 (6) If upon a review conducted pursuant to subsection (4) of this section,
2 the [*department*] **director** determines that a mandatory greenhouse gas
3 emissions limit has been established pursuant to state or federal law, the
4 [*department*] **Oregon Climate Authority** shall issue a report to the appro-
5 priate legislative committees of the Legislative Assembly stating which
6 portions, if any, of the greenhouse gas emissions standard are no longer
7 necessary as a matter of state law.

8 **SECTION 246.** ORS 757.533 is amended to read:

9 757.533. (1)(a) A governing board of a consumer-owned utility may not
10 enter into a long-term financial commitment unless the baseload electricity
11 acquired under the commitment is produced by a generating facility that
12 complies with a greenhouse gas emissions standard established under ORS
13 757.528.

14 (b) A generating facility complies with the greenhouse gas emissions
15 standard established under ORS 757.528 if the rate of emissions of the facility
16 does not exceed the emissions standard.

17 (c) In determining whether a generating facility complies with the emis-
18 sions standard, the total emissions associated with producing baseload elec-
19 tricity at the generating facility shall be included in determining the rate
20 of emissions of greenhouse gases. The total emissions associated with
21 producing electricity at the generating facility do not include emissions as-
22 sociated with transportation, fuel extraction or other life-cycle emissions
23 associated with obtaining the fuel for the facility.

24 (2) Notwithstanding subsection (1) of this section, the emissions standard
25 does not apply to greenhouse gas emissions produced by a generating facility
26 owned by a consumer-owned utility or contracted through a long-term fi-
27 nancial commitment if the emissions:

28 (a) Come from a facility powered exclusively by renewable energy sources
29 described in ORS 469A.025;

30 (b) Come from a cogeneration facility in this state that is fueled by na-
31 tural gas, synthetic gas, distillate fuels, waste gas or a combination of these

1 fuels, and that is producing energy, in service for tax purposes, commercially
2 operable, or in rates as of July 1, 2010, until the facility is subject to a new
3 long-term financial commitment; or

4 (c) Come from a generating facility that has in place a plan to be a low-
5 carbon emission resource, as determined by the [*State Department of*
6 *Energy*] **Oregon Climate Authority**, pursuant to sufficient technical doc-
7 umentation, within seven years of commencing plant operations.

8 (3) The governing board may provide an exemption for an individual
9 generating facility from the emissions performance standard to address:

10 (a) Unanticipated electricity system reliability needs;

11 (b) Catastrophic events or threat of significant financial harm that may
12 arise from unforeseen circumstances; or

13 (c) Long-term financial commitments between members of a joint operat-
14 ing entity recognized under federal law or the joint operating entity's pred-
15 ecessor organization, or with the joint operating entity for a baseload
16 resource that the consumer-owned utility had an ownership interest in prior
17 to July 1, 2010.

18 (4) A governing board shall report to the consumer-owned utility's cus-
19 tomers or members and to the [*State Department of Energy*] **Oregon Climate**
20 **Authority** information on any case-by-case exemption from the emissions
21 performance standard granted by the governing board.

22 (5) For purposes of ORS 757.522 to 757.536, a long-term financial commit-
23 ment for a consumer-owned utility does not include agreements to purchase
24 electricity from the Bonneville Power Administration.

25 (6) The [*department*] **Director of the Oregon Climate Authority** by rule
26 shall establish:

27 (a) Standards for identifying contracts for electricity for which the emis-
28 sions cannot readily be determined with any specificity; and

29 (b) Emissions to be attributed to such contracts for purposes of deter-
30 mining compliance with the emissions standard established under ORS
31 757.528.

1 **SECTION 247.** ORS 757.538 is amended to read:

2 757.538. The Public Utility Commission and the [*State Department of En-*
3 *ergy*] **Director of the Oregon Climate Authority** shall adopt rules as nec-
4 essary to implement ORS 757.522 to 757.536.

5 **SECTION 248.** Section 2, chapter 312, Oregon Laws 2015, is amended to
6 read:

7 **Sec. 2.** (1) If authorized under section 3 (3), **chapter 312, Oregon Laws**
8 **2015**, [*of this 2015 Act*,] an electric company shall procure, on or before
9 January 1, 2020, as part of a project described in section 3, **chapter 312,**
10 **Oregon Laws 2015**, [*of this 2015 Act*,] one or more qualifying energy storage
11 systems that have the capacity to store at least five megawatt hours of en-
12 ergy.

13 (2)(a) The total capacity of qualifying energy storage systems procured
14 under this section by any one electric company may not exceed one percent
15 of the electric company's peak load for the year 2014.

16 (b) The Public Utility Commission may waive the limit described in par-
17 agraph (a) of this subsection if the commission determines, in consultation
18 with the [*State Department of Energy*] **Oregon Climate Authority**, that a
19 qualifying energy storage system is of statewide significance and one or more
20 electric utilities, as defined in ORS 757.600, participates in procuring the
21 qualifying energy storage system and shares the costs and benefits associated
22 with procuring the qualifying energy storage system.

23 (3) An electric company may recover in the electric company's rates all
24 costs prudently incurred by the electric company in procuring one or more
25 qualifying energy storage systems under this section, including any above-
26 market costs associated with procurement.

27 **SECTION 249.** ORS 757.600 is amended to read:

28 757.600. As used in ORS 757.600 to 757.689, unless the context requires
29 otherwise:

30 (1) "Aggregate" means combining retail electricity consumers into a buy-
31 ing group for the purchase of electricity and related services.

1 (2) “Ancillary services” means services necessary or incidental to the
2 transmission and delivery of electricity from generating facilities to retail
3 electricity consumers, including but not limited to scheduling, load shaping,
4 reactive power, voltage control and energy balancing services.

5 (3) “Commission” means the Public Utility Commission.

6 (4) “Consumer-owned utility” means a municipal electric utility, a
7 people’s utility district or an electric cooperative.

8 (5) “Default supplier” means an electricity service supplier or electric
9 company that has a legal obligation to provide electricity services to a con-
10 sumer, as determined by the commission.

11 (6) “Direct access” means the ability of a retail electricity consumer to
12 purchase electricity and certain ancillary services, as determined by the
13 commission for an electric company or the governing body of a consumer-
14 owned utility, directly from an entity other than the distribution utility.

15 (7) “Direct service industrial consumer” means an end user of electricity
16 that obtains electricity directly from the transmission grid and not through
17 a distribution utility.

18 (8) “Distribution” means the delivery of electricity to retail electricity
19 consumers through a distribution system consisting of local area power
20 poles, transformers, conductors, meters, substations and other equipment.

21 (9) “Distribution utility” means an electric utility that owns and operates
22 a distribution system connecting the transmission grid to the retail elec-
23 tricity consumer.

24 (10) “Economic utility investment” means all electric company invest-
25 ments, including plants and equipment and contractual or other legal obli-
26 gations, properly dedicated to generation or conservation, that were prudent
27 at the time the obligations were assumed but the full benefits of which are
28 no longer available to consumers as a direct result of ORS 757.600 to 757.667,
29 absent transition credits. “Economic utility investment” does not include
30 costs or expenses disallowed by the commission in a prudence review or
31 other proceeding, to the extent of such disallowance, and does not include

1 fines or penalties authorized and imposed under state or federal law.

2 (11) “Electric company” means an entity engaged in the business of dis-
3 tributing electricity to retail electricity consumers in this state, but does not
4 include a consumer-owned utility.

5 (12) “Electric cooperative” means an electric cooperative corporation or-
6 ganized under ORS chapter 62 or under the laws of another state if the ser-
7 vice territory of the electric cooperative includes a portion of this state.

8 (13) “Electric utility” means an electric company or consumer-owned
9 utility that is engaged in the business of distributing electricity to retail
10 electricity consumers in this state.

11 (14) “Electricity” means electric energy, measured in kilowatt-hours, or
12 electric capacity, measured in kilowatts, or both.

13 (15) “Electricity services” means electricity distribution, transmission,
14 generation or generation-related services.

15 (16) “Electricity service supplier” means a person or entity that offers to
16 sell electricity services available pursuant to direct access to more than one
17 retail electricity consumer. “Electricity service supplier” does not include
18 an electric utility selling electricity to retail electricity consumers in its own
19 service territory.

20 (17) “Governing body” means the board of directors or the commissioners
21 of an electric cooperative or people’s utility district, or the council or board
22 of a city with respect to a municipal electric utility.

23 (18) “Load” means the amount of electricity delivered to or required by
24 a retail electricity consumer at a specific point of delivery.

25 (19) “Low-income weatherization” means repairs, weatherization and in-
26 stallation of energy efficient appliances and fixtures for low-income resi-
27 dences for the purpose of enhancing energy efficiency.

28 (20) “Municipal electric utility” means an electric distribution utility
29 owned and operated by or on behalf of a city.

30 (21) “New renewable energy resource” means a renewable energy resource
31 project, or a new addition to an existing renewable energy resource project,

1 or the electricity produced by the project, that is not in operation on July
2 23, 1999. “New renewable energy resource” does not include any portion of
3 a renewable energy resource project under contract to the Bonneville Power
4 Administration on or before July 23, 1999.

5 (22) “One average megawatt” means 8,760,000 kilowatt-hours of electricity
6 per year.

7 (23) “People’s utility district” has the meaning given that term in ORS
8 261.010.

9 (24) “Portfolio access” means the ability of a retail electricity consumer
10 to choose from a set of product and pricing options for electricity determined
11 by the governing board of a consumer-owned utility and may include product
12 and pricing options offered by the utility or by an electricity service sup-
13 plier.

14 (25) “Power generation company” means a company engaged in the pro-
15 duction and sale of electricity to wholesale customers, including but not
16 limited to independent power producers, affiliated generation companies,
17 municipal and state authorities, provided the company is not regulated by
18 the commission.

19 (26) “Qualifying expenditures” means those expenditures for energy con-
20 servation measures that have a simple payback period of not less than one
21 year and not more than 10 years, and expenditures for the above-market costs
22 of new renewable energy resources, provided that the [*State Department of*
23 *Energy*] **Director of the Oregon Climate Authority** by rule may establish
24 a limit on the maximum above-market cost for renewable energy that is al-
25 lowed as a credit.

26 (27) “Renewable energy resources” means:

27 (a) Electricity generation facilities fueled by wind, waste, solar or
28 geothermal power or by low-emission nontoxic biomass based on solid or-
29 ganic fuels from wood, forest and field residues.

30 (b) Dedicated energy crops available on a renewable basis.

31 (c) Landfill gas and digester gas.

1 (d) Hydroelectric facilities located outside protected areas as defined by
2 federal law in effect on July 23, 1999.

3 (28) “Residential electricity consumer” means an electricity consumer who
4 resides at a dwelling primarily used for residential purposes. “Residential
5 electricity consumer” does not include retail electricity consumers in a
6 dwelling typically used for residency periods of less than 30 days, including
7 hotels, motels, camps, lodges and clubs. As used in this subsection,
8 “dwelling” includes but is not limited to single family dwellings, separately
9 metered apartments, adult foster homes, manufactured dwellings, recre-
10 ational vehicles and floating homes.

11 (29) “Retail electricity consumer” means the end user of electricity for
12 specific purposes such as heating, lighting or operating equipment, and in-
13 cludes all end users of electricity served through the distribution system of
14 an electric utility on or after July 23, 1999, whether or not each end user
15 purchases the electricity from the electric utility.

16 (30) “Site” means a single contiguous area of land containing buildings
17 or other structures that are separated by not more than 1,000 feet, or
18 buildings and related structures that are interconnected by facilities owned
19 by a single retail electricity consumer and that are served through a single
20 electric meter.

21 (31) “Transition charge” means a charge or fee that recovers all or a
22 portion of an uneconomic utility investment.

23 (32) “Transition credit” means a credit that returns to consumers all or
24 a portion of the benefits from an economic utility investment.

25 (33) “Transmission facility” means the plant and equipment used to
26 transmit electricity in interstate commerce.

27 (34) “Undue market power” means the unfair or improper exercise of in-
28 fluence to increase or decrease the availability or price of a service or
29 product in a manner inconsistent with competitive markets.

30 (35) “Uneconomic utility investment” means all electric company invest-
31 ments, including plants and equipment and contractual or other legal obli-

1 gations, properly dedicated to generation, conservation and workforce
2 commitments, that were prudent at the time the obligations were assumed
3 but the full costs of which are no longer recoverable as a direct result of
4 ORS 757.600 to 757.667, absent transition charges. “Uneconomic utility in-
5 vestment” does not include costs or expenses disallowed by the commission
6 in a prudence review or other proceeding, to the extent of such disallowance,
7 and does not include fines or penalties as authorized by state or federal law.

8 **SECTION 250.** ORS 757.612 is amended to read:

9 757.612. (1) There is established an annual public purpose expenditure
10 standard for electric companies and Oregon Community Power to fund new
11 cost-effective energy conservation, new market transformation efforts, the
12 above-market costs of new renewable energy resources and new low-income
13 weatherization. The public purpose expenditure standard shall be funded by
14 the public purpose charge described in subsection (2) of this section.

15 (2)(a) Beginning on the date an electric company or Oregon Community
16 Power offers direct access to retail electricity consumers, except residential
17 electricity consumers, the electric company or Oregon Community Power
18 shall collect a public purpose charge from all of the retail electricity con-
19 sumers located within the electric company’s or Oregon Community Power’s
20 service area until January 1, 2026. Except as provided in paragraph (b) of
21 this subsection, the public purpose charge shall be equal to three percent of
22 the total revenues collected by the electric company, Oregon Community
23 Power or the electricity service supplier from retail electricity consumers for
24 electricity services, distribution services, ancillary services, metering and
25 billing, transition charges and other types of costs included in electric rates
26 on July 23, 1999.

27 (b) For an aluminum plant that averages more than 100 average mega-
28 watts of electricity use per year, the electric company or Oregon Community
29 Power, whichever serves territory that abuts the greatest percentage of the
30 site of the aluminum plant, shall collect from the aluminum company a
31 public purpose charge equal to one percent of the total revenue from the sale

1 of electricity services to the aluminum plant from any source.

2 (3)(a) The Public Utility Commission shall establish rules implementing
3 the provisions of this section relating to electric companies and Oregon
4 Community Power.

5 (b) Except as provided in paragraph (e) of this subsection, funds collected
6 through public purpose charges under subsection (2) of this section shall be
7 allocated as follows:

8 (A) Sixty-three percent for new cost-effective energy conservation and new
9 market transformation efforts.

10 (B) Nineteen percent for the above-market costs of constructing and op-
11 erating new renewable energy resources with a nominal electric generating
12 capacity, as defined in ORS 469.300, of 20 megawatts or less.

13 (C) Thirteen percent for new low-income weatherization.

14 (D) Five percent for deposit in the Housing and Community Services De-
15 partment Electricity Public Purpose Charge Fund established by ORS 456.587
16 (1) for the purpose of providing grants as described in ORS 458.625 (2).

17 (c) The costs of administering subsections (1) to (6) of this section for an
18 electric company or Oregon Community Power shall be paid out of the funds
19 collected through public purpose charges. The commission may require an
20 electric company or Oregon Community Power to direct funds collected
21 through public purpose charges to state agencies responsible for implement-
22 ing subsections (1) to (6) of this section in order to pay the costs of admin-
23 istering subsections (1) to (6) of this section.

24 (d) The commission shall direct the manner in which public purpose
25 charges are collected and spent by an electric company or Oregon Commu-
26 nity Power and may require an electric company or Oregon Community
27 Power to expend funds through competitive bids or other means designed to
28 encourage competition, except that funds dedicated for new low-income
29 weatherization shall be directed to the Housing and Community Services
30 Department for purposes related to new low-income weatherization. The
31 commission may also require funds collected through public purpose charges

1 to be paid to a nongovernmental entity for investment in public purposes
2 described in subsection (1) of this section. Notwithstanding any other pro-
3 vision of this subsection:

4 (A) If an electric company collected the funds, at least 80 percent of the
5 funds allocated for new cost-effective energy conservation shall be spent
6 within the service area of the electric company; or

7 (B) If Oregon Community Power collected the funds, at least 80 percent
8 of the funds allocated for new cost-effective energy conservation shall be
9 spent within the service area of Oregon Community Power.

10 (e)(A) The first 10 percent of funds collected each year by an electric
11 company or Oregon Community Power under subsection (2) of this section
12 shall be distributed to school districts that are located in the service terri-
13 tory of the electric company or Oregon Community Power. The funds shall
14 be distributed to individual school districts according to the weighted aver-
15 age daily membership (ADMw) of each school district for the prior fiscal
16 year as calculated under ORS 327.013. The commission shall establish by rule
17 a methodology for distributing a proportionate share of funds under this
18 paragraph to school districts that are only partially located in the service
19 territory of the electric company or Oregon Community Power.

20 (B) A school district that receives funds under this paragraph shall use
21 the funds first to pay for energy audits for schools located within the school
22 district. A school district may not expend additional funds received under
23 this paragraph on a school until an energy audit has been completed for that
24 school. To the extent practicable, a school district shall coordinate with the
25 [*State Department of Energy*] **Oregon Climate Authority** and incorporate
26 federal funding in complying with this paragraph. Following completion of
27 an energy audit for an individual school, the school district may expend
28 funds received under this paragraph to implement the energy audit. Once an
29 energy audit has been conducted and completely implemented for each school
30 within the school district, the school district may expend funds received
31 under this paragraph for any of the following purposes:

1 (i) Conducting additional energy audits. A school district shall conduct
2 an energy audit prior to expending funds on any other purpose authorized
3 under this paragraph unless the school district has performed an energy au-
4 dit within the three years immediately prior to receiving the funds.

5 (ii) Weatherizing school district facilities and upgrading the energy effi-
6 ciency of school district facilities.

7 (iii) Energy conservation education programs.

8 (iv) Purchasing electricity from environmentally focused sources.

9 (v) Investing in renewable energy resources.

10 (f) The commission may not establish a different public purpose charge
11 than the public purpose charge described in subsection (2) of this section.

12 (g) If the commission requires funds collected through public purpose
13 charges to be paid to a nongovernmental entity, the entity shall:

14 (A) Include on the entity's board of directors an ex officio member des-
15 ignated by the commission, who shall also serve on the entity's nominating
16 committee for filling board vacancies.

17 (B) Require the entity's officers and directors to provide an annual dis-
18 closure of economic interest to be filed with the commission on or prior to
19 April 15 of each calendar year for public review in a form similar to the
20 statement of economic interest required for public officials under ORS
21 244.060.

22 (C) Require the entity's officers and directors to declare actual and po-
23 tential conflicts of interest at regular meetings of the entity's governing body
24 when such conflicts arise, and require an officer or director to abstain from
25 participating in any discussion or voting on any item where that officer or
26 director has an actual conflict of interest. For the purposes of this subpara-
27 graph, "actual conflict of interest" and "potential conflict of interest" have
28 the meanings given those terms in ORS 244.020.

29 (D) Annually, arrange for an independent auditor to audit the entity's fi-
30 nancial statements, and direct the auditor to file an audit opinion with the
31 commission for public review.

1 (E) Annually file with the commission the entity's budget, action plan and
2 quarterly and annual reports for public review.

3 (F) At least once every five years, contract for an independent manage-
4 ment evaluation to review the entity's operations, efficiency and effective-
5 ness, and direct the independent reviewer to file a report with the
6 commission for public review.

7 (h) The commission may remove from the board of directors of a nongov-
8 ernmental entity an officer or director who fails to provide an annual dis-
9 closure of economic interest, or who fails to declare an actual or potential
10 conflict of interest, as described in paragraph (g)(B) and (C) of this sub-
11 section, if the failure is connected to the allocation or expenditure of funds
12 collected through public purpose charges and paid to the entity.

13 (4)(a) An electric company that satisfies its obligations under this section:

14 (A) Has no further obligation to invest in new cost-effective energy con-
15 servation, new market transformation or new low-income weatherization, or
16 to provide a commercial energy conservation services program; and

17 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

18 (b) Oregon Community Power, for any period during which Oregon Com-
19 munity Power collects a public purpose charge under subsection (2) of this
20 section:

21 (A) Has no further obligation to invest in new cost-effective energy con-
22 servation, new market transformation or new low-income weatherization, or
23 to provide a commercial energy conservation services program; and

24 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

25 (5)(a) A retail electricity consumer that uses more than one average
26 megawatt of electricity at any site in the prior year shall receive a credit
27 against public purpose charges billed by an electric company or Oregon
28 Community Power for that site. The amount of the credit shall be equal to
29 the total amount of qualifying expenditures for new cost-effective energy
30 conservation, not to exceed 68 percent of the annual public purpose charges,
31 and the above-market costs of new renewable energy resources incurred by

1 the retail electricity consumer, not to exceed 19 percent of the annual public
2 purpose charges, less administration costs incurred under this paragraph and
3 paragraphs (b) and (c) of this subsection. The credit may not exceed, on an
4 annual basis, the lesser of:

5 (A) The amount of the retail electricity consumer's qualifying expendi-
6 tures; or

7 (B) The portion of the public purpose charge billed to the retail electricity
8 consumer that is dedicated to new cost-effective energy conservation, new
9 market transformation or the above-market costs of new renewable energy
10 resources.

11 (b) To obtain a credit under paragraph (a) of this subsection, a retail
12 electricity consumer shall file with the [*State Department of Energy*] **Oregon**
13 **Climate Authority** a description of the proposed conservation project or
14 new renewable energy resource and a declaration that the retail electricity
15 consumer plans to incur the qualifying expenditure. The [*State Department*
16 *of Energy*] **Oregon Climate Authority** shall issue a notice of precertif-
17 ication within 30 days of receipt of the filing, if such filing is consistent with
18 paragraph (a) of this subsection. The credit may be taken after a retail
19 electricity consumer provides a letter from a certified public accountant to
20 the [*State Department of Energy*] **Oregon Climate Authority** verifying that
21 the precertified qualifying expenditure has been made.

22 (c) Credits earned by a retail electricity consumer as a result of qualify-
23 ing expenditures that are not used in one year may be carried forward for
24 use in subsequent years.

25 (d)(A) A retail electricity consumer that uses more than one average
26 megawatt of electricity at any site in the prior year may request that the
27 [*State Department of Energy*] **Oregon Climate Authority** hire an independ-
28 ent auditor to assess the potential for conservation investments at the site.
29 If the independent auditor determines there is no available conservation
30 measure at the site that would have a simple payback of one to 10 years, the
31 retail electricity consumer shall be relieved of 54 percent of its payment ob-

1 ligation for public purpose charges related to the site. If the independent
2 auditor determines that there are potential conservation measures available
3 at the site, the retail electricity consumer shall be entitled to a credit
4 against public purpose charges related to the site equal to 54 percent of the
5 public purpose charges less the estimated cost of available conservation
6 measures.

7 (B) A retail electricity consumer shall be entitled each year to the credit
8 described in this paragraph unless a subsequent independent audit deter-
9 mines that new conservation investment opportunities are available. The
10 [*State Department of Energy*] **Oregon Climate Authority** may require that
11 a new independent audit be performed on the site to determine whether new
12 conservation measures are available, provided that the independent audits
13 occur no more than once every two years.

14 (C) The retail electricity consumer shall pay the cost of the independent
15 audits described in this paragraph.

16 (6) Electric utilities and retail electricity consumers shall receive a fair
17 and reasonable credit for the public purpose expenditures of their energy
18 suppliers. The [*State Department of Energy*] **Director of the Oregon Cli-**
19 **mate Authority** shall adopt rules to determine eligible expenditures and the
20 method by which such credits are accounted for and used. The [*State De-*
21 *partment of Energy*] **director** also shall adopt methods to account for eligible
22 public purpose expenditures made through consortia or collaborative
23 projects.

24 (7)(a) In addition to the public purpose charge provided under subsection
25 (2) of this section, an electric company or Oregon Community Power shall
26 collect funds for low-income electric bill payment assistance in an amount
27 determined under paragraph (b) of this subsection.

28 (b) The commission shall establish the amount to be collected by each
29 electric company from retail electricity consumers, and the rates to be
30 charged by each electric company to retail electricity consumers, so that the
31 forecasted collection by all electric companies in calendar year 2018 is \$20

1 million. In subsequent calendar years, the commission may not decrease the
2 rates below those established for calendar year 2018. The commission may
3 temporarily adjust the rates if forecasted collections or actual collections are
4 less than \$20 million in any calendar year. A retail electricity consumer may
5 not be required to pay more than \$500 per month per site for low-income
6 electric bill payment assistance.

7 (c) Funds collected through the low-income electric bill payment assist-
8 ance charge shall be paid into the Housing and Community Services De-
9 partment Low-Income Electric Bill Payment Assistance Fund established by
10 ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
11 used by the Housing and Community Services Department solely for purposes
12 related to low-income electric bill payment assistance and for the Housing
13 and Community Services Department's cost of administering this subsection.
14 Funds collected by an electric company or Oregon Community Power under
15 this subsection shall be expended in the service area of the electric company
16 or Oregon Community Power from which the funds are collected.

17 (d)(A) The Housing and Community Services Department shall determine
18 the manner in which funds collected under this subsection will be allocated
19 by the Housing and Community Services Department to energy assistance
20 program providers for the purpose of providing low-income bill payment and
21 crisis assistance.

22 (B) The Housing and Community Services Department, in consultation
23 with electric companies, shall investigate and may implement alternative
24 delivery models to effectively reduce service disconnections and related costs
25 to retail electricity consumers and electric utilities.

26 (C) Priority assistance shall be directed to low-income electricity con-
27 sumers who are in danger of having their electricity service disconnected.

28 (D) The Housing and Community Services Department shall maintain re-
29 cords and provide those records upon request to an electric company, Oregon
30 Community Power and the Citizens' Utility Board established under ORS
31 chapter 774 on a quarterly basis. Records maintained must include the

1 numbers of low-income electricity consumers served, the average amounts
2 paid to low-income electricity consumers and the type of assistance provided
3 to low-income electricity consumers. Electric companies and Oregon Com-
4 munity Power shall, if requested, provide the Housing and Community Ser-
5 vices Department with aggregate data relating to low-income electricity
6 consumers served on a quarterly basis to support program development.

7 (e) Interest on moneys deposited in the Housing and Community Services
8 Department Low-Income Electric Bill Payment Assistance Fund established
9 by ORS 456.587 (2) may be used to provide bill payment and crisis assistance
10 to electricity consumers whose primary source of heat is not electricity.

11 (f) Notwithstanding ORS 757.310, the commission may allow an electric
12 company or Oregon Community Power to provide reduced rates or other bill
13 payment or crisis assistance or low-income program assistance to a low-
14 income household eligible for assistance under the federal Low Income Home
15 Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

16 (8) For purposes of this section, “retail electricity consumers” includes
17 any direct service industrial consumer that purchases electricity without
18 purchasing distribution services from the electric utility.

19 (9) For purposes of this section, funds collected by Oregon Community
20 Power through public purpose charges are not considered moneys received
21 from electric utility operations.

22 **SECTION 251.** ORS 757.617 is amended to read:

23 757.617. (1)(a) The Public Utility Commission [*and the State Department*
24 *of Energy jointly*] shall select an independent nongovernmental entity to
25 prepare a biennial report to the Legislative Assembly describing program
26 spending and results for public purpose requirements undertaken pursuant
27 to ORS 757.612. [*The first report shall be due on January 1, 2003.*]

28 [(b) *The commission and the department jointly shall select an independent*
29 *nongovernmental entity to prepare a report to the Legislative Assembly de-*
30 *scribing proposed modifications to public purpose requirements undertaken*
31 *pursuant to ORS 757.612. The report shall be due on January 1, 2007.*]

1 *[(c) The commission and the department jointly shall select an independent*
2 *nongovernmental entity to prepare a report to the Legislative Assembly recom-*
3 *mending whether the public purpose funding requirements under ORS 757.612*
4 *should be renewed. The report shall be due on January 1, 2011.]*

5 (2) The Housing and Community Services Department shall prepare a
6 biennial report to the Legislative Assembly describing program spending and
7 needs for low-income bill assistance. *[The first report shall be due on January*
8 *1, 2003.]*

9 **SECTION 252.** ORS 757.687 is amended to read:

10 757.687. (1) Beginning on the date a consumer-owned utility provides di-
11 rect access to any class of retail electric consumers, the consumer-owned
12 utility shall collect from that consumer class a nonbypassable public purpose
13 charge until January 1, 2026. Except as provided in subsection (8) of this
14 section, the amount of the public purpose charge shall be sufficient to
15 produce revenue of not less than three percent of the total revenue collected
16 by the consumer-owned utility from its retail electricity consumers for elec-
17 tricity services, distribution, ancillary services, metering and billing, transi-
18 tion charges and any other costs included in rates as of July 23, 1999, except
19 that the consumer-owned utility may exclude from the calculation of such
20 costs any cost related to the public purposes described in subsection (5) of
21 this section. If a consumer-owned utility has fewer than 17 consumers per
22 mile of distribution line, the amount of the public purpose charge shall be
23 sufficient to produce revenue not less than three percent of the total revenue
24 from the sale of electricity services in the utility's service area to the con-
25 sumer class that is provided direct access, or the utility's consumer class
26 percentage share of state total electricity sales multiplied by three percent
27 of total statewide retail electric revenue, whichever is less.

28 (2) Except as provided in subsection (9) of this section, the governing body
29 of a consumer-owned utility shall determine the manner of collecting and
30 expending funds for public purposes required by law to be assessed against
31 and paid by the retail electric consumers of the utility. A determination by

1 the governing body shall include:

2 (a) The manner for collecting public purpose charges;

3 (b) Public purpose programs upon which revenue from the charges may
4 be expended; and

5 (c) The allocation of expenditures for each program.

6 (3) Beginning on the same date two years after July 23, 1999, a
7 consumer-owned utility shall report annually to the [*State Department of*
8 *Energy created under ORS 469.030*] **Oregon Climate Authority** on the pub-
9 lic purpose charges paid to the utility by its retail electric consumers and
10 the public purposes on which the revenue was expended.

11 (4) A consumer-owned utility may comply with the public purpose re-
12 quirements of this section by participating in collaborative efforts with other
13 consumer-owned utilities located in this state.

14 (5) Funds assessed and paid by, and credits or other financial assistance
15 issued or extended to, retail electric consumers for purposes of this section
16 may, in the discretion of the governing body of the consumer-owned utility,
17 be expended to fund programs for energy conservation, renewable resources
18 or low-income energy services otherwise required by the laws of this state,
19 adopted by the governing body pursuant to the National Energy Conserva-
20 tion Policy Act (Public Law 95-619, as amended November 10, 1981), or con-
21 ducted by the utility pursuant to agreement with the Bonneville Power
22 Administration under the Pacific Northwest Electric Power Planning and
23 Conservation Act (Public Law 96-501). All such funds expended, credits is-
24 sued and incremental costs incurred in connection with the performance of
25 a consumer-owned utility's obligations under this section shall be credited
26 toward the utility's public purpose funding obligation under this section.

27 (6) A consumer-owned utility also may credit toward its funding obli-
28 gations under this section any incremental costs incurred by the utility for
29 capital expenditures made to reduce its distribution system energy losses,
30 existing biomass gas and waste to energy systems, existing hydroelectric
31 generation projects using fish attraction water, for new energy conservation

1 and renewable resource funding costs included in its wholesale power
2 supplier's charges and for electric power generated by renewable or
3 cogeneration resources pursuant to requirements of the Public Utilities
4 Regulatory Policy Act of 1978 (Public Law 95-617), to the extent that such
5 costs exceed the average cost of the utility's other electric power resources.

6 (7) A consumer-owned utility also may credit toward its public purpose
7 funding obligations under this section any costs incurred in complying with
8 ORS 469.649 to 469.659.

9 (8) Beginning on March 1, 2002, a consumer-owned utility whose territory
10 abuts the greatest percentage of the site of an aluminum plant that averages
11 more than 100 megawatts of electricity use per year shall collect from the
12 aluminum company a public purpose charge equal to one percent of the total
13 revenue from the sale of electricity services to the aluminum plant from any
14 source.

15 (9)(a) A retail electricity consumer that uses more than one average
16 megawatt of electricity at any site in the prior year shall receive a credit
17 against public purpose charges billed by a consumer-owned utility for that
18 site. The amount of the credit shall be equal to the total amount of qualify-
19 ing expenditures for new energy conservation, not to exceed 68 percent of the
20 annual public purpose charges, and the above-market costs of purchases of
21 new renewable energy resources incurred by the retail electricity consumer,
22 less administration costs incurred under this subsection. The credit shall not
23 exceed, on an annual basis, the lesser of:

24 (A) The amount of the retail electricity consumer's qualifying expendi-
25 tures; or

26 (B) The portion of the public purpose charge billed to the retail electricity
27 consumer that is dedicated to new energy conservation, new market trans-
28 formation or the above-market costs of new renewable resources.

29 (b) To obtain a credit under this subsection, a retail electricity consumer
30 shall file with the [department] **Oregon Climate Authority** a description
31 of the proposed conservation project, new market transformation or new

1 renewable energy resource and a declaration that the retail electricity con-
2 sumer plans to incur the qualifying expenditure. The *[department]* **authority**
3 shall issue a notice of precertification within 30 days of receipt of the filing,
4 if such filing is consistent with this subsection. Notice shall be issued to the
5 retail electricity consumer and the appropriate consumer-owned utility. The
6 credit may be taken after a retail electricity consumer provides a letter from
7 a certified public accountant to the *[department]* **authority** verifying that
8 the precertified qualifying expenditure has been made.

9 (c) Credits earned by a retail electricity consumer as a result of qualify-
10 ing expenditures that are not used in one year may be carried forward for
11 use in subsequent years.

12 (d)(A) A retail electricity consumer that uses more than one average
13 megawatt of electricity at any site in the prior year may request that the
14 *[department]* **authority** hire an independent auditor to assess the potential
15 for conservation measures at the site. If the independent auditor determines
16 there is no available conservation measure at the site that would have a
17 simple payback of one to 10 years, the retail electricity consumer shall be
18 relieved of 54 percent of its payment obligation for public purpose charges
19 related to the site. If the auditor determines that there are potential con-
20 servation measures available at the site, the retail electricity consumer shall
21 be entitled to a credit against public purpose charges related to the site
22 equal to 54 percent of the public purpose charges less the estimated cost of
23 available conservation measures.

24 (B) A retail electricity consumer shall be entitled each year to the credit
25 described in this paragraph unless a subsequent audit determines that new
26 conservation investment opportunities are available. The *[department]* **au-**
27 **thority** may require that a new audit be performed on the site to determine
28 whether new conservation measures are available, provided that the audits
29 occur no more than once every two years.

30 (C) The retail electricity consumer shall pay the cost of the audits de-
31 scribed in this subsection.

1 (10) A retail electricity consumer with a load greater than one average
2 megawatt shall not be required to pay a public purpose charge in excess of
3 three percent of the consumer's total cost of electricity services unless the
4 charge is established in an agreement between the consumer and the
5 consumer-owned utility.

6 (11) Beginning on March 1, 2002, a consumer-owned utility shall have in
7 operation a bill assistance program for households that qualify for federal
8 low-income energy assistance in the consumer-owned utility's service area.
9 A consumer-owned utility shall report annually to the Housing and Commu-
10 nity Services Department detailing the utility's program and program ex-
11 penditures.

12 (12) A consumer-owned utility may require an electricity service supplier
13 to provide information necessary to ensure compliance with this section. The
14 consumer-owned utility shall ensure the privacy and protection of any pro-
15 prietary information provided.

16 **SECTION 253.** ORS 757.720 is amended to read:

17 757.720. (1) Approval of utility plans for the curtailment of load shall be
18 based on the following factors:

19 (a) The consistency of the plan with the public health, safety and welfare;

20 (b) The technical feasibility of implementation of the plan;

21 (c) The effectiveness with which the plan minimizes the impact of any
22 curtailment; and

23 (d) Consistency with Oregon energy policies formulated under ORS
24 469.010 to 469.155, 469.300 to 469.563 and 757.710 and this section.

25 (2) In the event of an emergency threatening the health, safety and wel-
26 fare of the general public, the Public Utility Commission may on the
27 commission's own motion and without hearing establish a plan for the
28 curtailment of load by any person referred to in ORS 757.710. If an emer-
29 gency is not present, the commission shall prior to approval hold public
30 hearings with respect to any proposed plan and give reasonable notice of
31 such hearings.

1 (3) The commission shall consult with the Director of the [*State Depart-*
2 *ment of Energy*] **Oregon Climate Authority** before approving a plan.

3 **SECTION 254.** ORS 758.552 is amended to read:

4 758.552. (1) For contracts executed pursuant to the Public Utility Regu-
5 latory Policies Act of 1978 (16 U.S.C. 2601 et seq.) and in effect prior to
6 November 30, 2005, renewable energy certificates created pursuant to a sys-
7 tem established by the [*State Department of Energy*] **Oregon Climate Au-**
8 **thority** under ORS 469A.130, for generation during the term of such a
9 contract, are owned by the owner of a qualifying facility, unless the owner
10 has transferred a certificate in a contract between the owner and another
11 person.

12 (2) Subsection (1) of this section applies to qualifying facilities that:

13 (a) Are located in this state;

14 (b) Are certified as qualifying small power production facilities or quali-
15 fying cogeneration facilities under the Federal Power Act (16 U.S.C. 796) as
16 in effect on June 7, 2011; and

17 (c) Produce electricity that is priced under ORS 758.525.

18
19 **TRANSFER OF MONEYS**
20

21 **SECTION 255.** (1) **The following funds are abolished on the operative**
22 **date specified in section 261 of this 2019 Act:**

23 (a) **The Energy Project Supplemental Fund;**

24 (b) **The Jobs, Energy and Schools Fund;**

25 (c) **The Energy Project Bond Loan Fund;**

26 (d) **The Energy Revenue Bond Repayment Fund; and**

27 (e) **The Sustainability Board Fund.**

28 (2) **Any moneys remaining in the funds specified in subsection (1)(a)**
29 **to (c) of this section on the operative date specified in section 261 of**
30 **this 2019 Act that are unexpended, unobligated and not subject to any**
31 **conditions shall be transferred to the Small Scale Local Energy Project**

1 **Administration and Bond Sinking Fund created under ORS 470.300.**

2 **(3) Any moneys remaining in the fund specified in subsection (1)(d)**
3 **of this section on the operative date specified in section 261 of this 2019**
4 **Act that are unexpended, unobligated and not subject to any condi-**
5 **tions shall be transferred to the Clean Energy Deployment Fund es-**
6 **tablished under ORS 470.800.**

7 **(4) Any moneys remaining in the fund specified in subsection (1)(e)**
8 **of this section on the operative date specified in section 261 of this 2019**
9 **Act that are unexpended, unobligated and not subject to any condi-**
10 **tions shall be transferred to the General Fund.**

11
12 **SMALL SCALE LOCAL ENERGY PROJECTS NEEDS STUDY**
13

14 **SECTION 256. Section 257 of this 2019 Act is added to and made a**
15 **part of ORS chapter 470.**

16 **SECTION 257. (1) The Oregon Business Development Department**
17 **shall conduct a study to determine the commercial needs in this state**
18 **for loans for small scale local energy projects. The purposes of the**
19 **study must be to identify the highest and best uses of funds available**
20 **for the issuance of loans for small scale local energy projects.**

21 **(2) The Director of the Oregon Business Development Department**
22 **shall utilize the information developed through the study required by**
23 **this section in adopting rules under ORS 470.080.**

24 **(3) The department may periodically update the information devel-**
25 **oped through the study required by this section, as necessary, to ac-**
26 **count for changes in the commercial needs in this state for loans for**
27 **small scale local energy projects.**

28 **SECTION 258. The Oregon Business Development Department shall**
29 **initially complete the study required by section 257 of this 2019 Act,**
30 **and shall report the findings of the study to the Governor and to the**
31 **appropriate interim committees of the Legislative Assembly in the**

1 manner required under ORS 192.245, no later than September 15, 2020.

2 SECTION 259. Section 258 of this 2019 Act is repealed on December
3 31, 2020.

4
5 **REPEALS**

6
7 SECTION 260. ORS 184.425, 184.427, 184.429, 184.431, 184.433, 184.435,
8 468A.215, 468A.220, 468A.225, 468A.230, 468A.235, 468A.240, 468A.245,
9 468A.250, 468A.255, 468A.260, 469.030, 469.040, 470.070, 470.500, 470.505,
10 470.510, 470.515, 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550,
11 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585, 470.590, 470.595,
12 470.600, 470.605, 470.610, 470.615, 470.620, 470.630, 470.635, 470.640, 470.645,
13 470.650, 470.655, 470.660, 470.665, 470.670, 470.675, 470.680, 470.685, 470.690,
14 470.695, 470.700, 470.710, 470.715, 470.720, 701.108 and 701.119 are repealed.

15
16 **OPERATIVE DATE**

17
18 SECTION 261. (1) Sections 1 to 15, 17 to 25 and 255 to 259 of this 2019
19 Act, the amendments to statutes and session law by sections 16, 26 to
20 28 and 31 to 254 of this 2019 Act and the repeal of statutes by section
21 260 of this 2019 Act become operative on January 1, 2020.

22 (2) The Director of the Oregon Climate Authority and the members
23 of the Oregon Climate Board may be appointed before the operative
24 date specified in subsection (1) of this section and may adopt rules and
25 take any action before the operative date specified in subsection (1)
26 of this section that is necessary to enable the director and the board
27 to exercise, on and after the operative date specified in subsection (1)
28 of this section, the duties, functions and powers of the director and
29 the board pursuant to sections 1 to 15, 17 to 25 and 255 to 259 of this
30 2019 Act, the amendments to statutes and session law by sections 16,
31 26 to 28 and 31 to 254 of this 2019 Act and the repeal of statutes by

1 **section 260 of this 2019 Act.**

2 **(3) The Director of the State Department of Energy, the State De-**
3 **partment of Energy, the Director of the Oregon Business Development**
4 **Department, the Oregon Business Development Department and the**
5 **Governor may take any action before the operative date specified in**
6 **subsection (1) of this section that is necessary to enable the depart-**
7 **ments, the directors and the Governor, on and after the operative date**
8 **specified in subsection (1) of this section, to carry out the provisions**
9 **of sections 1 to 15, 17 to 25 and 255 to 259 of this 2019 Act, the amend-**
10 **ments to statutes and session law by sections 16, 26 to 28 and 31 to 254**
11 **of this 2019 Act and the repeal of statutes by section 260 of this 2019**
12 **Act.**

13 **(4) Any rules adopted by the Director of the Oregon Climate Au-**
14 **thority before the operative date specified in subsection (1) of this**
15 **section may not become operative before January 1, 2020.**

16

17

CAPTIONS

18

19 **SECTION 262. The unit and section captions used in this 2019 Act**
20 **are provided only for the convenience of the reader and do not become**
21 **part of the statutory law of this state or express any legislative intent**
22 **in the enactment of this 2019 Act.**

23

24

EMERGENCY CLAUSE

25

26 **SECTION 263. This 2019 Act being necessary for the immediate**
27 **preservation of the public peace, health and safety, an emergency is**
28 **declared to exist, and this 2019 Act takes effect on its passage.**

29
