

House Bill 2020

Sponsored by JOINT COMMITTEE ON CARBON REDUCTION

SUMMARY

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

Establishes Carbon Policy Office within Oregon Department of Administrative Services and directs Director of Carbon Policy Office to adopt Oregon Climate Action Program by rule.

Modifies statewide greenhouse gas emissions reduction goals.

Establishes Joint Committee on Climate Action.

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

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

Transfers duties, functions and powers of Environmental Quality Commission and Department of Environmental Quality related to greenhouse gas reporting to Carbon Policy Office. Amends greenhouse gas reporting statute.

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

Provides that provisions related to Carbon Policy Office, Oregon Climate Action Program, investment of certain moneys, Public Utility Commission, transfer of duties, and repeal of Energy Facility Siting Council carbon dioxide emissions standards become operative January 1, 2021.

Provides for expedited review of certain questions on Act to Supreme Court upon petition by adversely affected party.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to greenhouse gas emissions; creating new provisions; amending ORS 468A.205, 468A.280, 469.300, 469.310, 469.373, 469.405, 469.407, 469.501, 469.503, 469.504, 469.505 and 526.786; repealing ORS 469.409; and declaring an emergency.

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

STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTION GOALS

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

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

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

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

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

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

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

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

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

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

7
8 **JOINT COMMITTEE ON CLIMATE ACTION**

9
10 **SECTION 2. (1) There is established the Joint Committee on Climate Action.**

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

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

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

20 **(5) The term of a member shall expire upon the date of the convening of the odd-**
21 **numbered year regular session of the Legislative Assembly next following the commence-**
22 **ment of the member's term.**

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

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

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

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

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

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

38 **(8) The joint committee may not transact business unless a quorum is present. Except**
39 **as provided in subsection (6)(b)(B) of this section, a quorum consists of a majority of joint**
40 **committee members from the House of Representatives and a majority of joint committee**
41 **members from the Senate.**

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

45 **(10) The joint committee may adopt rules necessary for the operation of the joint com-**

1 mittee.

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

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

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

12 (a) Provide general legislative oversight of policy related to climate, including but not
13 limited to the Oregon Climate Action Program established under sections 8 to 26 of this 2019
14 Act;

15 (b) Examine and prioritize expenditures and investments of state proceeds from auctions
16 conducted under section 21 of this 2019 Act; and

17 (c) Make recommendations related to the expenditures and investments of state proceeds
18 from auctions conducted under section 21 of this 2019 Act to the Joint Committee on Ways
19 and Means.

20 (2) In developing recommendations under subsection (1)(c) of this section, the Joint
21 Committee on Climate Action shall consider the recommendations for the expenditures and
22 investments of state proceeds from auctions conducted under section 21 of this 2019 Act that
23 are contained in:

24 (a) The biennial expenditure reports and audit report required by sections 38 and 39 of
25 this 2019 Act;

26 (b) The biennial climate action investment plan required by section 40 of this 2019 Act;
27 and

28 (c) The recommendations of the Environmental Justice Task Force required by section
29 41 of this 2019 Act.

30
31 **CARBON POLICY OFFICE ESTABLISHED**

32
33 **SECTION 4. Carbon Policy Office.** (1) The Carbon Policy Office is established within the
34 Oregon Department of Administrative Services.

35 (2) The office shall:

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

39 (b) Carry out the duties, functions and powers committed to the office under sections 8
40 to 26 and 38 to 40 of this 2019 Act and ORS 468A.280 and other statutes, rules or policies that
41 commit functions to the Carbon Policy Office.

42 (3) The office may advise, consult and cooperate with other agencies of the state, political
43 subdivisions, other states or the federal government, with respect to any proceedings and
44 all matters pertaining to the reduction of greenhouse gas emissions levels in Oregon.

45 (4) The office may employ personnel, including specialists and consultants, purchase

1 materials and supplies and enter into contracts necessary to carry out the purposes set forth
2 in sections 8 to 26 and 38 to 40 of this 2019 Act and ORS 468A.280.

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

6 (2) The Governor shall appoint the Director of the Carbon Policy Office, subject to con-
7 firmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. The director
8 holds office at the pleasure of the Governor.

9 (3) The director may adopt rules in accordance with ORS chapter 183 to exercise and
10 carry out the duties, functions and powers committed to the Carbon Policy Office under
11 sections 8 to 26 and 38 to 40 of this 2019 Act and ORS 468A.280 and other statutes, rules or
12 policies that commit functions to the Carbon Policy Office.

13 (4) The director shall be paid a salary as provided by law or, if not so provided, as pre-
14 scribed by the Governor.

15 (5) Subject to the approval of the Governor, the director may organize and reorganize the
16 administrative structure of the office as the director considers appropriate to properly con-
17 duct the work of the office.

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

24 (7) Subject to any applicable provisions of ORS chapter 240, the director shall appoint all
25 subordinate officers and employees of the office, prescribe their duties and fix their com-
26 pensation.

27 **SECTION 6. Civil penalties.** (1) In addition to any other liability or penalty provided by
28 law, the Director of the Carbon Policy Office may impose a civil penalty not to exceed
29 \$_____ on a person for any of the following:

30 (a) A violation of any provision of sections 8 to 26 of this 2019 Act.

31 (b) A violation of any rule adopted by the director under sections 8 to 26 of this 2019 Act.

32 (2) Civil penalties under this section must be imposed in the manner provided by ORS
33 183.745.

34 (3) All civil penalties recovered under this section must be paid into the State Treasury
35 and credited to the Oregon Climate Action Program Operating Fund and may be used only
36 pursuant to section 26 (3) of this 2019 Act.

37
38 **OREGON CLIMATE ACTION PROGRAM**

39 (Statement of Purpose)

40
41 **SECTION 7.** (1) The Legislative Assembly finds and declares that the purposes of sections
42 7 to 41 of this 2019 Act are:

43 (a) To achieve a reduction in total levels of regulated emissions under sections 8 to 26
44 of this 2019 Act to at least 45 percent below 1990 emissions levels by 2035 and to achieve a
45 reduction in total regulated emissions levels to at least 80 percent below 1990 emissions levels

1 by 2050;

2 (b) To promote greenhouse gas emissions sequestration and mitigation;

3 (c) To promote adaptation and resilience by natural and working lands, fish and wildlife
4 resources, communities and the economy in the face of climate change and ocean
5 acidification; and

6 (d) To provide assistance to households, businesses and workers impacted by the transi-
7 tion in this state to an economic system that allows for the State of Oregon to achieve the
8 greenhouse gas reduction goals set forth in ORS 468A.205.

9 (2) Sections 7 to 41 of this 2019 Act and the rules adopted pursuant to sections 7 to 41
10 of this 2019 Act:

11 (a) May not be interpreted to limit the authority of any state agency to adopt and im-
12 plement measures to reduce greenhouse gas emissions; and

13 (b) Shall be interpreted in a manner consistent with federal law.

14
15 (Greenhouse Gas Cap and Market-Based Compliance Mechanism)

16
17 **SECTION 8. Definitions.** As used in sections 8 to 26 of this 2019 Act:

18 (1) "Aggregation" means an approach for qualifying and quantifying offset projects that
19 allows for the grouping together of two or more geographically or temporally separate ac-
20 tivities that result in reductions or removals of greenhouse gases in a similar manner.

21 (2) "Allowance" means a tradable authorization to emit one metric ton of carbon dioxide
22 equivalent.

23 (3) "Annual allowance budget" means the number of allowances available to be allocated
24 during one year of the Oregon Climate Action Program.

25 (4) "Carbon dioxide equivalent" means the amount of carbon dioxide by weight that would
26 produce the same global warming impact as a given weight of another greenhouse gas, based
27 on considerations including but not limited to the best available science, including informa-
28 tion from the Intergovernmental Panel on Climate Change.

29 (5) "Compliance instrument" means one allowance or one offset credit that may be used
30 to fulfill a compliance obligation.

31 (6) "Compliance obligation" means the quantity of regulated emissions for which a cov-
32 ered entity must submit compliance instruments to the Carbon Policy Office during a com-
33 pliance period.

34 (7) "Consumer-owned utility" has the meaning given that term in ORS 757.270.

35 (8) "Covered entity" means a person that is designated by the office as subject to the
36 Oregon Climate Action Program.

37 (9) "Direct environmental benefits in this state" means:

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

40 (b) A reduction in or avoidance of pollution of any of the waters of the state, as the
41 terms "pollution" and "the waters of the state" are defined in ORS 468B.005; or

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

43 (10) "Electric company" has the meaning given that term in ORS 757.600.

44 (11) "Electricity service supplier" has the meaning given that term in ORS 757.600.

45 (12) "Electric system manager" includes any entity that, as needed, operates or markets

1 electricity generating facilities, or purchases wholesale electricity to manage the load for
 2 wholesale or retail electricity customers within a balancing authority area that is at least
 3 partially located in Oregon, including but not limited to the following types of entities:

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

9 (13) “General market participant” means a person that:

- 10 (a) Is a registered entity;
- 11 (b) Is not a covered entity or an opt-in entity; and
- 12 (c) Intends to purchase, hold, sell or voluntarily surrender compliance instruments.

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

15 (15) “Impacted community” means a community most at risk of being disproportionately
 16 impacted by climate change as designated by the office under section 20 of this 2019 Act.

17 (16) “Indian trust lands” means lands within the State of Oregon held in trust by the
 18 United States for the benefit of an Indian tribe of individual Indians.

19 (17) “Natural and working lands” means:

20 (a) Land that is actively used by an agricultural owner or operator for an agricultural
 21 operation that includes, but need not be limited to, active engagement in farming or ranch-
 22 ing;

23 (b) Land producing forest products;

24 (c) Lands consisting of forests, grasslands, deserts, freshwater and riparian systems,
 25 wetlands, coastal and estuarine areas, watersheds, wildlands or wildlife habitat;

26 (d) Lands used for recreational purposes such as parks, urban and community forests,
 27 trails, greenbelts and other similar open space land; or

28 (e) Indian trust lands.

29 (18) “Natural gas utility” means a natural gas utility regulated by the Public Utility
 30 Commission under ORS chapter 757.

31 (19) “Offset credit” means a tradable credit generated through an offset project that re-
 32 presents a greenhouse gas emissions reduction or removal of one metric ton of carbon
 33 dioxide equivalent.

34 (20) “Offset project” means a project that reduces or removes greenhouse gas emissions
 35 that are not regulated emissions.

36 (21) “Opt-in entity” means a person that is not designated as a covered entity by the of-
 37 fice and that voluntarily chooses to participate in the Oregon Climate Action Program as if
 38 the entity were a covered entity.

39 (22) “Oregon Climate Action Program” means the program adopted by rule by the Di-
 40 rector of the Carbon Policy Office under section 9 (1) of this 2019 Act.

41 (23) “Person” includes individuals, corporations, associations, firms, partnerships, joint
 42 stock companies, public and municipal corporations, political subdivisions, the state and any
 43 agencies thereof and the federal government and any agencies thereof.

44 (24) “Registered entity” means a covered entity, opt-in entity or general market partic-
 45 ipant that has successfully registered to participate in the Oregon Climate Action Program.

1 (25) “Regulated emissions” means the verified greenhouse gas emissions reported by or
2 assigned to a covered entity or opt-in entity under ORS 468A.280 that the office determines
3 by rule are greenhouse gas emissions regulated under sections 8 to 26 of this 2019 Act.

4 (26) “Surrender” means to transfer a compliance instrument to the office:

5 (a) To satisfy a compliance obligation or an adjusted compliance obligation; or

6 (b) On a voluntary basis.

7 **SECTION 9. Adoption of program; general provisions.** (1)(a) The Director of the Carbon
8 Policy Office shall adopt an Oregon Climate Action Program by rule in accordance with the
9 provisions of sections 8 to 26 of this 2019 Act. The program shall:

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

12 (B) Provide a market-based mechanism for covered entities to demonstrate compliance
13 with the program.

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

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

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

24 (c) The office shall calculate baseline emissions to be equal to the three-year average of
25 the total, expressed in tons of carbon dioxide equivalent, anthropogenic greenhouse gas
26 emissions attributable to all persons that the office designates to be covered entities under
27 the program, using greenhouse gas emissions information from the three most recent years
28 prior to 2021 for which greenhouse gas emissions information is available and verified by the
29 office. The office may exclude from the calculation of baseline emissions those greenhouse
30 gas emissions during the three most recent years prior to 2021 that would not have been
31 regulated emissions if the Oregon Climate Action Program had been in effect during the time
32 that the greenhouse gas emissions occurred.

33 (2) Subject to section 10 of this 2019 Act, the office shall designate persons as covered
34 entities as follows:

35 (a) Except as provided in paragraph (b) of this subsection, the office shall designate a
36 person in control of one or more air contamination sources for which a permit is issued
37 pursuant to ORS 468.065, 468A.040 or 468A.155 as a covered entity if the annual regulated
38 emissions attributable to the air contamination sources meet or exceed 25,000 metric tons
39 of carbon dioxide equivalent.

40 (b) For the purpose of regulating anthropogenic emissions of greenhouse gasses attrib-
41 utable to the generation of electricity in this state, the office shall designate a person in
42 control of one or more air contamination sources for which a permit is issued pursuant to
43 ORS 468.065, 468A.040 or 468A.155 as a covered entity if the industry description and code
44 under the North American Industry Classification System that is listed in the permit for the
45 air contamination sources is fossil fuel electric power generation, regardless of whether the

1 annual regulated emissions attributable to the air contamination sources meet or exceed
2 25,000 metric tons of carbon dioxide equivalent.

3 (c) The office shall designate an electric system manager as a covered entity for the
4 purpose of addressing annual regulated emissions from outside this state that are attribut-
5 able to the generation of electricity that the electric system manager schedules for delivery
6 and consumption in this state, including wholesale market purchases for which the energy
7 source for the electricity is not known, and accounting for transmission and distribution line
8 losses.

9 (d) The office shall designate a natural gas marketer as a covered entity for the purpose
10 of addressing annual regulated emissions that are attributable to the combustion of natural
11 gas that is sold by the natural gas marketer for use in this state by persons that are not
12 designated as covered entities under paragraph (a) or (b) of this subsection.

13 (e) The office shall designate a natural gas utility as a covered entity for the purpose of
14 addressing annual regulated emissions that are attributable to the combustion of natural gas
15 that the natural gas utility imports, sells or distributes for use in this state and that are not
16 emissions accounted for through the regulation of air contamination sources under para-
17 graph (a) or (b) of this subsection or natural gas marketers under paragraph (d) of this
18 subsection.

19 (f) The office shall designate as covered entities persons not described in paragraphs (d)
20 and (e) of this subsection that produce in Oregon, or import into Oregon, fuel that is sold
21 or distributed for use in this state, as necessary to address regulated emissions that are at-
22 tributable to the combustion of the fuel.

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

25 (a) Criteria for the allocation of allowances pursuant to sections 14 to 18 of this 2019 Act;

26 (b) Standards, pursuant to section 19 of this 2019 Act, for offset projects and for covered
27 entities and opt-in entities to use offset credits;

28 (c) Rules for the administration of auctions of allowances pursuant to section 21 of this
29 2019 Act;

30 (d) Rules allowing for the trading of compliance instruments;

31 (e) Rules allowing registered entities to bank and carry forward allowances;

32 (f) Rules prohibiting the borrowing of allowances from future annual allowance budgets;

33 (g) Rules allowing opt-in entities and general market participants to participate in the
34 market-based compliance mechanism; and

35 (h) Compliance periods, standards for calculating compliance obligations and procedures
36 for covered entities to demonstrate compliance with their compliance obligations.

37 (4)(a) The office shall require a covered entity or opt-in entity to surrender to the office
38 a quantity of compliance instruments equal to the covered entity's or opt-in entity's com-
39 pliance obligation no later than the surrender date specified by the director by rule or order.

40 (b) For purposes of determining the compliance obligation for a covered entity that is an
41 electric system manager, electricity scheduled by the electric system manager that is gen-
42 erated from a renewable energy resource and acquired without acquiring the renewable en-
43 ergy certificate associated with the electricity shall be considered to have the emissions
44 attributes of the underlying renewable energy resource.

45 (c) In addition to any penalty provided by law, rules adopted by the director shall require

1 a covered entity or opt-in entity that fails to timely surrender to the office a sufficient
 2 quantity of compliance instruments to meet a compliance obligation to surrender to the of-
 3 fice a number of compliance instruments that is in addition to the entity's compliance obli-
 4 gation.

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

7 (b) The director shall adopt by rule registration requirements and any additional re-
 8 quirements necessary for registered entities to participate in auctions administered pursuant
 9 to section 21 of this 2019 Act.

10 SECTION 10. Exemptions and exclusions. (1) The Carbon Policy Office shall exempt from
 11 regulation as a covered entity under sections 8 to 26 of this 2019 Act:

12 (a) A land disposal site, if the land disposal site was closed before the effective date of
 13 this 2019 Act and is closed and maintained in compliance with ORS 459.268.

14 (b) A cogeneration facility, as defined in ORS 758.505, that is owned or operated by a
 15 public university listed in ORS 352.002 or by the Oregon Health and Science University es-
 16 tablished under ORS 353.020.

17 (2) The office shall exclude from regulated emissions under sections 8 to 26 of this 2019
 18 Act:

19 (a) Methane emissions from a landfill that are demonstrated to have been recaptured and
 20 used for the generation of renewable energy including but not limited to electricity, trans-
 21 portation fuels or heat.

22 (b) Greenhouse gas emissions from the direct combustion of municipal solid waste to
 23 generate renewable energy including but not limited to electricity, transportation fuels or
 24 heat.

25 (c) Greenhouse gas emissions attributable to an air contamination source described in
 26 section 9 (2)(b) of this 2019 Act that are attributable to the generation in this state of elec-
 27 tricity that is:

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

30 (B) For which the capital and fuel costs associated with the generation are included in
 31 the rates of a multistate jurisdictional electric company that are charged to the electricity
 32 customers in a state other than Oregon.

33 (d) Greenhouse gas emissions from the combustion of fuel that is demonstrated to have
 34 been used as aviation fuel or as fuel in watercraft or railroad locomotives.

35 (e) Greenhouse gas emissions attributable to a consumer-owned utility if the three-year
 36 average of the annual greenhouse gas emissions attributable to electricity that is scheduled,
 37 by the consumer-owned utility or by an electric generation and transmission cooperative, for
 38 the consumer-owned utility to deliver for consumption in this state is less than 25,000 metric
 39 tons of carbon dioxide equivalent.

40 (3) For purposes of section 9 (2)(f) of this 2019 Act, the office may exempt from desig-
 41 nation as a covered entity any person that imports in a calendar year less than a de minimis
 42 amount of gasoline and diesel fuel, in total, as determined by the office by rule. Gasoline and
 43 diesel fuel imported by persons that are related or share common ownership or control shall
 44 be aggregated in determining whether a person may be exempted under this subsection. The
 45 emissions attributable to a person that is exempt from designation as a covered entity under

1 this section shall be excluded from regulated emissions under sections 8 to 26 of this 2019
2 Act.

3 **SECTION 11. Temporary exclusion for certain emissions.** (1) Annual verified greenhouse
4 gas emissions reported or assigned under ORS 468A.280 that are emissions of
5 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, nitrogen trifluoride or other
6 fluorinated greenhouse gases generated during semiconductor and related device manufac-
7 turing are excluded from regulated emissions.

8 (2)(a) Nothing in this section may be interpreted to exclude from regulated emissions the
9 greenhouse gas emissions other than the emissions described in subsection (1) of this section
10 from covered entities engaged in processes identified by industry description and code in the
11 North American Industry Classification System as Semiconductor and Related Device Man-
12 ufacturing, code 334413.

13 (b) Nothing in this section may be interpreted to prevent a covered entity engaged in
14 processes identified by industry description and code in the North American Industry Clas-
15 sification System as Semiconductor and Related Device Manufacturing, code 334413, from
16 receiving allowances by direct distribution at no cost pursuant to sections 14 and 18 of this
17 2019 Act for the manufacture of goods through emissions-intensive, trade-exposed processes.

18 **SECTION 12. Repeal of temporary exclusion.** Section 11 of this 2019 Act is repealed on
19 January 2, 2026.

20 **SECTION 13. Report on temporary exclusion.** No later than September 15, 2024, the
21 Carbon Policy Office shall conduct research and submit a report, in the manner provided by
22 ORS 192.245, to the Joint Committee on Climate Action regarding the exclusion provided in
23 section 11 of this 2019 Act. The purpose of the report is to provide recommendations, which
24 may include recommendations for legislation, on the anticipated effects of the January 2,
25 2026, repeal of section 11 of this 2019 Act and on whether to modify the January 2, 2026, re-
26 peal date provided in section 12 of this 2019 Act. In carrying out the provisions of this sec-
27 tion, the office shall research and report on:

28 (1) Whether the semiconductor and related device manufacturing industry in Oregon is
29 reducing greenhouse gas emissions through the implementation of best practices based on
30 guidance for semiconductor perfluoro-compound emission reduction issued by the World
31 Semiconductor Council;

32 (2) The number of jurisdictions where large semiconductor manufacturers are located
33 that have adopted a carbon pricing mechanism and the number of those jurisdictions that
34 require semiconductor manufacturers to comply with the carbon pricing mechanism;

35 (3) The trade exposure of semiconductor manufacturers worldwide;

36 (4) The cost and economic impacts of repealing the exclusion provided under section 11
37 of this 2019 Act; and

38 (5) The environmental impacts of repealing the exclusion provided under section 11 of
39 this 2019 Act.

40 **SECTION 14. Allocation of allowances, generally.** (1) The Carbon Policy Office shall allo-
41 cate a percentage of allowances from each annual allowance budget to be distributed directly
42 into an allowance price containment reserve.

43 (2) The office may allocate a percentage of allowances from each annual allowance budget
44 to be distributed directly into a voluntary renewable electricity generation reserve. The Di-
45 rector of the Carbon Policy Office shall adopt rules for the distribution of allowances from

1 the reserve for voluntary renewable electricity generated by generating facilities that begin
2 operations on or after January 1, 2021.

3 (3) The office shall allocate allowances for direct distribution at no cost to covered enti-
4 ties that are electric companies subject to rules adopted under section 15 of this 2019 Act.

5 (4) The office shall allocate allowances for direct distribution at no cost to covered enti-
6 ties that are electric system managers pursuant to section 16 of this 2019 Act.

7 (5) The office shall allocate a percentage of allowances from each annual allowance
8 budget to be distributed directly into an electricity price containment reserve. Allowances
9 may be distributed from the electricity price containment reserve only when the distribution
10 is necessary to protect electricity ratepayers from cost increases associated with unexpected
11 increases in regulated emissions attributable to an electric system manager that are outside
12 of the control of the electric system manager, including but not limited to unexpected in-
13 creases in regulated emissions due to hydroelectric power generation variability. The direc-
14 tor shall adopt by rule a process for electric system managers to apply for direct distribution
15 at no cost of allowances from the electricity price containment reserve.

16 (6) The office shall allocate allowances for direct distribution at no cost to covered enti-
17 ties that are natural gas utilities subject to rules adopted under section 17 of this 2019 Act.

18 (7) In order to mitigate leakage and pursuant to section 18 of this 2019 Act, the office
19 shall allocate allowances for direct distribution at no cost to covered entities and opt-in en-
20 tities that are engaged in emissions-intensive, trade-exposed processes.

21 (8) The office shall allocate a percentage of allowances from each annual allowance
22 budget to be distributed directly into an emissions-intensive, trade-exposed process reserve
23 account. Allowances in the emissions-intensive, trade-exposed process reserve account may
24 be distributed only to covered entities and opt-in entities described in, and pursuant to rules
25 adopted by the director under, section 18 (6) and (7) of this 2019 Act.

26 (9) After making all allocations provided for in subsections (1) to (8) of this section, the
27 office shall:

28 (a) Allocate all remaining allowances in the annual allowance budget to be distributed to
29 an auction holding account for auction pursuant to section 21 of this 2019 Act; and

30 (b) Distribute the annual allowance budget pursuant to the allocations made under this
31 section.

32 **SECTION 15. Direct distribution of allowances for electric companies.** The Director of the
33 Carbon Policy Office shall adopt rules for allocating allowances for direct distribution at no
34 cost to covered entities that are electric companies. Rules adopted under this section must
35 allow for an electric company to use allowances directly distributed under this section to
36 meet compliance obligations associated with generation of electricity to serve the load of the
37 electric company's retail electricity consumers in Oregon, subject to the approval of the
38 Public Utility Commission. The rules must include provisions necessary to implement direct
39 distributions of allowances to electric companies as follows:

40 (1) For the purpose of aligning the effects of sections 8 to 26 of this 2019 Act with the
41 trajectory of emissions reductions by electric companies resulting from the requirements of
42 ORS 469A.005 to 469A.210 and 757.518, the direct distribution to an electric company during
43 calendar year 2021 and for each calendar year until and including 2030 must represent an
44 amount equal to 100 percent of the electric company's forecast emissions associated with the
45 generation of electricity to serve the load of the electric company's retail electricity con-

1 sumers in Oregon for the calendar year for which the allowances are directly distributed.
2 For purposes of this subsection, forecast emissions must be based on information contained
3 in the most recent integrated resource plan filed by the electric company and acknowledged
4 by order by the Public Utility Commission or in any updates to the integrated resource plan
5 filed by the electric company with the commission, as of January 1, 2021.

6 (2) Beginning in 2031 and for each following year until and including 2050, the direct dis-
7 tribution to an electric company under this section must decline from the amount of allow-
8 ances allocated to the electric company in 2030 by a constant amount proportionate to the
9 decline in the amount of allowances available in annual allowance budgets pursuant to sec-
10 tion 9 (1)(b) of this 2019 Act.

11 **SECTION 16. Direct distribution of allowances for certain electric system managers.** (1)
12 The Carbon Policy Office shall allocate allowances for direct distribution at no cost to cov-
13 ered entities that are electric system managers other than electric companies as follows:

14 (a) The direct distribution to an electric system manager under this subsection during
15 calendar year 2021 shall represent an amount equal to 100 percent of the covered emissions
16 that are:

17 (A) Forecast for 2021, based on representative years, to be attributable to electricity
18 scheduled by the electric system manager for final delivery by consumer-owned utilities for
19 consumption in this state; and

20 (B) Not exempt from regulation under section 10 (2)(e) of this 2019 Act.

21 (b) Beginning in 2022 and for each subsequent calendar year until and including 2050, the
22 direct distribution received by an electric system manager for emissions described in para-
23 graph (a) of this subsection shall decline annually by a constant amount proportionate to the
24 decline in the amount of allowances available in annual allowance budgets pursuant to sec-
25 tion 9 (1)(b) of this 2019 Act.

26 (2) Proceeds from the sale by a consumer-owned utility of allowances distributed at no
27 cost under this section must be used by the consumer-owned utility for the benefit of
28 ratepayers, consistent with the purposes stated in section 7 of this 2019 Act and as further
29 required by the governing body of the consumer-owned utility.

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

36 **SECTION 17. Direct distribution of allowances for natural gas utilities.** (1) The Director
37 of the Carbon Policy Office shall adopt rules for allocating allowances for direct distribution
38 at no cost to covered entities that are natural gas utilities. Rules adopted under this section
39 must allow for a natural gas utility to be directly distributed allowances at no cost in an
40 amount equal to the covered emissions attributable to the provision of natural gas service
41 to the natural gas utility's low-income residential customers. By January 1 of the first year
42 of each compliance period, the Carbon Policy Office shall determine, after consultation with
43 the Public Utility Commission, the quantity of allowances to allocate directly to a natural
44 utility over the course of the compliance period.

45 (2) Rules adopted under this section must allow for natural gas utilities to, subject to the

1 approval of the office, use allowances directly distributed under this section to minimize the
 2 impacts of sections 8 to 26 of this 2019 Act on low-income residential customers through
 3 actions that may include, but need not be limited to, meeting compliance obligations associ-
 4 ated with serving the load of the natural gas utility's retail customers in Oregon.

5 **SECTION 18. Direct distribution of allowances for covered entities and opt-in entities**
 6 **engaged in emissions-intensive, trade-exposed processes.** (1) The Carbon Policy Office shall
 7 allocate allowances for direct distribution at no cost to a covered entity or an opt-in entity,
 8 if the covered entity or opt-in entity is a person in control of one or more air contamination
 9 sources designated as a covered entity under section 9 of this 2019 Act and engaged in the
 10 manufacture of goods through one or more of the following emissions-intensive, trade-
 11 exposed processes, as identified by industry description and code in the North American In-
 12 dustry Classification System:

- 13 (a) Cement Manufacturing, code 327310.
- 14 (b) Other Crushed and Broken Stone Mining and Quarrying, code 212319.
- 15 (c) Frozen Fruit, Juice and Vegetable Manufacturing, code 311411.
- 16 (d) Frozen Specialty Food Manufacturing, code 311412.
- 17 (e) Dried and Dehydrated Food Manufacturing, code 311423.
- 18 (f) Iron and Steel Mills and Ferroalloy Manufacturing, code 331110.
- 19 (g) Other Basic Inorganic Chemical Manufacturing, code 325180.
- 20 (h) All Other Plastics Product Manufacturing, code 326199.
- 21 (i) Mineral Wool Manufacturing, code 327993.
- 22 (j) Polystyrene Foam Product Manufacturing, code 326140.
- 23 (k) Glass Container Manufacturing, code 327213.
- 24 (L) Ethyl Alcohol Manufacturing, code 325193.
- 25 (m) Reconstituted Wood Product Manufacturing, code 321219.
- 26 (n) Gypsum Product Manufacturing, code 327420.
- 27 (o) Pulp Mills, code 322110.
- 28 (p) Paper (Except Newsprint) Mills, code 322121.
- 29 (q) Paperboard Mills, code 322130.
- 30 (r) Semiconductor and Related Device Manufacturing, code 334413.

31 (2) A covered entity or opt-in entity that is a fossil fuel distribution and storage facility
 32 or infrastructure, or an electric generating unit, may not receive allowances at no cost un-
 33 der this section and section 14 of this 2019 Act.

34 (3) The annual allocation of allowances for direct distribution at no cost to a covered
 35 entity or opt-in entity described in subsection (1) of this section shall be a number of allow-
 36 ances equal to the sum total of the annual good-specific emissions calculations for the goods
 37 manufactured by the covered entity or opt-in entity, multiplied by:

38 (a) During calendar year 2021, 100 percent; and

39 (b) Beginning in 2022 and for each following year until and including 2050, a percentage
 40 that is adjusted annually, as set forth in a schedule adopted by the Director of the Carbon
 41 Policy Office by rule. The schedule required by this subsection shall result in the amount of
 42 annual allowance allocations that a covered entity or opt-in entity may receive under this
 43 section and section 14 of this 2019 Act in each year declining annually by a constant amount
 44 proportionate to the decline in the amount of allowances available in annual allowance
 45 budgets pursuant to section 9 (1)(b) of this 2019 Act.

1 **(4) The annual good-specific emissions calculation for a good manufactured by a covered**
 2 **entity or opt-in entity shall be the product of:**

3 **(a) The benchmark for the good, as calculated pursuant to subsection (5) of this section;**
 4 **and**

5 **(b) The covered entity’s or opt-in entity’s output of the good during the calendar year**
 6 **prior to the calendar year in which the annual allocation of allowances will be directly dis-**
 7 **tributed.**

8 **(5)(a) The office shall calculate either a sector benchmark or a facility benchmark, as**
 9 **applicable pursuant to this subsection, for each good manufactured in this state by a covered**
 10 **entity or opt-in entity through an emissions-intensive, trade-exposed process described in**
 11 **subsection (1) of this subsection in which the covered entity or opt-in entity was engaged on**
 12 **or before the operative date of sections 8 to 26 of this 2019 Act. In order to implement the**
 13 **requirements of this section, the director shall adopt by rule:**

14 **(A) A means for attributing a covered entity’s or opt-in entity’s greenhouse gas emis-**
 15 **sions to the manufacture of individual goods; and**

16 **(B) Requirements for covered entities and opt-in entities to provide any pertinent records**
 17 **necessary for the office to verify the output data used to calculate benchmarks pursuant to**
 18 **this paragraph.**

19 **(b) For a good manufactured in this state through an emissions-intensive, trade-exposed**
 20 **process by three or more covered entities and opt-in entities, the office shall calculate a**
 21 **sector benchmark for the good by:**

22 **(A) Calculating the sum total of the three-year averages of the totals, expressed in tons**
 23 **of carbon dioxide equivalent, of greenhouse gas emissions attributable to manufacture of the**
 24 **good in this state by each of the covered entities and opt-in entities in this state that man-**
 25 **ufactures the good, using greenhouse gas emissions information from the three most recent**
 26 **years prior to 2021 for which verified greenhouse gas emissions information is available for**
 27 **the covered entities and opt-in entities and verified by the office; and**

28 **(B) Dividing the number calculated under subparagraph (A) of this paragraph by the sum**
 29 **total of the three-year averages of the totals of the annual output of the good in this state**
 30 **by each covered entity or opt-in entity in this state that manufactures the good, using output**
 31 **data for the covered entities and opt-in entities from the three most recent years prior to**
 32 **2021.**

33 **(c) For a good manufactured in this state by one or two covered entities and opt-in en-**
 34 **tities, the office shall calculate a separate, facility benchmark for the good for each covered**
 35 **entity or opt-in entity that manufactures the good by:**

36 **(A) Calculating the three-year average of the total, expressed in tons of carbon dioxide**
 37 **equivalent, of greenhouse gas emissions attributable to manufacture of the good in this state**
 38 **each year by the covered entity or opt-in entity, using greenhouse gas emissions information**
 39 **from the three most recent years prior to 2021 for which verified greenhouse gas emissions**
 40 **information is available and verified by the office; and**

41 **(B) Dividing the number calculated under subparagraph (A) of this paragraph by the**
 42 **three-year average of the total annual output of the good in this state by the covered entity**
 43 **or opt-in entity, using output data from the three most recent years prior to 2021.**

44 **(6)(a) The director shall adopt by rule a process for covered entities and opt-in entities**
 45 **described in this section to apply to the office for an adjustment to the allocation of allow-**

1 **ances for direct distribution at no cost that the covered entity or opt-in entity may receive.**

2 **The office may grant an adjustment based only on either:**

3 **(A) A significant change in the greenhouse gas emissions attributable to the manufacture**
4 **of an individual good or goods in this state by a covered entity or opt-in entity based on a**
5 **finding by the office that an adjustment is necessary to accommodate for changes to the**
6 **manufacturing process that have a material impact on emissions; or**

7 **(B) Significant changes to a covered entity's or opt-in entity's external competitive en-**
8 **vironment that result in a significant increase in leakage risk.**

9 **(b) Rules adopted under this subsection:**

10 **(A) May provide for the director to contract with an external third-party expert to assist**
11 **the office in making individual adjustment determinations on applications received from**
12 **covered entities and opt-in entities; and**

13 **(B) May not allow for a covered entity or opt-in entity to apply for an adjustment based**
14 **on paragraph (a)(B) of this subsection until one year prior to the close of the second com-**
15 **pliance period for which the covered entity or opt-in entity must meet a compliance obli-**
16 **gation.**

17 **(c) The office may use only one of the following methods for adjusting the allocation of**
18 **allowances for direct distribution at no cost to a covered entity or opt-in entity under this**
19 **subsection:**

20 **(A) Temporarily continuing to apply in the calculation conducted for the covered entity**
21 **or opt-in entity under subsection (3) of this section, for a period of years to be determined**
22 **by the office, the scheduled percentage under subsection (3)(b) of this section that was ap-**
23 **licable during the year prior to the year in which the covered entity or opt-in entity applied**
24 **for the adjustment, such that the annual allowance allocation received by the covered entity**
25 **or opt-in entity does not decline during the adjustment period; or**

26 **(B) Temporarily modifying from the schedule required under subsection (3)(b) of this**
27 **section, in each year for a period of years to be determined by the office, the annual per-**
28 **centage to be applied in the calculation conducted for the covered entity or opt-in entity**
29 **under subsection (3) of this section, such that the annual allowance allocation received by**
30 **the covered entity or opt-in entity during the adjustment period annually declines at rate**
31 **that is less than the rate by which the allocation would have declined pursuant to the**
32 **schedule.**

33 **(7)(a) The director shall adopt by rule a process for determining whether allowances may**
34 **be allocated for direct distribution at no cost to mitigate leakage to a covered entity or opt-in**
35 **entity that:**

36 **(A) Begins manufacturing a good or goods in this state after the operative date of**
37 **sections 8 to 26 of this 2019 Act; and**

38 **(B) Manufactures the good or goods through an emissions-intensive, trade-exposed pro-**
39 **cess that is not listed in subsection (1) of this section.**

40 **(b) The director shall hire or contract with a third-party organization to assist the office**
41 **in gathering data and conducting analyses as necessary to make determinations under this**
42 **subsection.**

43 **(c) Rules adopted under this subsection:**

44 **(A) May allow for the office to assign a good manufactured by a covered entity or opt-in**
45 **entity described in this subsection a temporary benchmark and to adjust the temporary**

1 benchmark after the close of the first compliance period for which the covered entity or
 2 opt-in entity must meet a compliance obligation;

3 (B) Must be consistent with the process for calculating benchmarks under subsection (5)
 4 of this section; and

5 (C) May allow for a covered entity or opt-in entity that manufactures goods through a
 6 process that is not listed in subsection (1) of this section to receive an allocation of allow-
 7 ances for direct distribution at no cost to mitigate leakage, if the office finds that the pro-
 8 cess is an emissions-intensive, trade-exposed process.

9 (8) No later than November 1 of the year following the end of every second compliance
 10 period, the office shall provide a report to the Joint Committee on Climate Action, in the
 11 manner provided in ORS 192.245, on the benchmarks established pursuant to subsections (5)
 12 and (7) of this section. The report may include recommendations for legislation. The report
 13 shall assess:

14 (a) The emissions intensity and trade exposure of the industries listed in subsection (1)
 15 of this section and any other industries allocated allowances for direct distribution at no cost
 16 under subsection (7) of this section;

17 (b) The emissions reduction opportunities available to the industries described in para-
 18 graph (a) of this subsection; and

19 (c) Whether the conclusions of the assessments required under paragraphs (a) and (b)
 20 of this subsection warrant an adjustment to the benchmarks developed pursuant to sub-
 21 sections (5) and (7) of this section, and thus an adjustment to the allocation of allowances
 22 calculated using the benchmarks.

23 **SECTION 19. Offset projects.** (1) Offset projects:

24 (a) Must be located in the United States or in a jurisdiction with which the State of
 25 Oregon has entered into a linkage agreement pursuant to section 24 of this 2019 Act;

26 (b) Must not be otherwise required by law; and

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

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

29 (B) Are in addition to greenhouse gas emissions reductions or removals otherwise re-
 30 quired by law and any other greenhouse gas emissions reductions or removals that would
 31 otherwise occur.

32 (2)(a) A total of no more than eight percent of a covered entity's compliance obligation
 33 may be met by surrendering offset credits. A total of no more than four percent of a covered
 34 entity's compliance obligation may be met by surrendering offset credits that are sourced
 35 from offset projects that do not provide direct environmental benefits in this state.

36 (b) The Director of the Carbon Policy Office may by rule adopt additional restrictions on
 37 the number of offset credits that may be surrendered by a covered entity that is an air
 38 contamination source that is geographically located in an impacted community if:

39 (A) The geographic area within which the air contamination source is located is also a
 40 nonattainment area or an attainment area projected by the Department of Environmental
 41 Quality to exceed air quality standards within five years and the air contamination source
 42 substantially contributes to or causes the nonattainment or projected nonattainment of air
 43 quality standards; or

44 (B) The air contamination source is in violation of the terms or conditions of any permit
 45 required or authorized under ORS chapter 468A and issued by the Department of Environ-

1 mental Quality or a regional air quality control authority formed under ORS 468A.105.

2 (3) In adopting rules governing offset projects and covered entities' use of offset credits,
3 the director shall:

4 (a) Take into consideration standards, rules or protocols for offset projects and offset
5 credits established by other states, provinces and countries with programs comparable to the
6 Oregon Climate Action Program;

7 (b) Encourage opportunities for the development of offset projects in this state by
8 adopting offset protocols that may include, but need not be limited to:

9 (A) Protocols that make use of aggregation or other mechanisms to reduce transaction
10 costs related to the development of offset projects; and

11 (B) Protocols for the development of offset projects that result in the reduction of
12 methane emissions related to agricultural operations;

13 (c) Consult with and consider the recommendations of the State Department of Agricul-
14 ture, the State Board of Forestry, the Environmental Justice Task Force, the Oregon
15 Watershed Enhancement Board and other relevant state agencies;

16 (d) Adopt by rule a process for the Carbon Policy Office to investigate and invalidate is-
17 sued offset credits as necessary to uphold the environmental integrity of the Oregon Climate
18 Action Program; and

19 (e) Adopt by rule provisions for the office to withhold up to three percent of the offset
20 credits issued for each offset project and deposit the withheld offset credits in an offset in-
21 tegrity account. Offset credits deposited in the offset integrity account established by rule
22 under this paragraph may be used to replace offset credits that are invalidated pursuant to
23 rules adopted under paragraph (d) of this subsection.

24 (4) The director shall appoint a compliance offsets protocol advisory committee to aid and
25 advise the office in adopting and updating rules governing offset projects and covered
26 entities' use of offset credits. The advisory committee shall provide guidance to the office in
27 developing and updating offset protocols for the purposes of increasing offset projects with
28 direct environmental benefits in this state while prioritizing offset projects that benefit im-
29 pacted communities, Indian tribes and natural and working lands. The director shall appoint
30 at least one member to the advisory committee from each of the following groups:

31 (a) Scientists;

32 (b) Public health experts;

33 (c) Carbon market experts;

34 (d) Representatives of Indian tribes;

35 (e) Environmental justice advocates;

36 (f) Labor and workforce representatives;

37 (g) Forestry experts;

38 (h) Agriculture experts;

39 (i) Environmental advocates;

40 (j) Conservation advocates; and

41 (k) Dairy experts.

42 **SECTION 20. Methodology for designating impacted communities.** (1) The Director of the
43 Carbon Policy Office, by rule and in consultation with the Portland State University Popu-
44 lation Research Center, the Oregon Health Authority and other relevant state agencies and
45 local agencies and officials, shall designate impacted communities by census tract. The Car-

1 **bon Policy Office shall designate impacted communities based on a methodology that takes**
 2 **into consideration geographic, socioeconomic, historic disadvantage, public health and envi-**
 3 **ronmental hazard criteria. The office may designate as impacted communities areas that**
 4 **include, but are not limited to:**

5 (a) **Areas with above average concentrations of low-income households, historically dis-**
 6 **advantaged households, high unemployment, high linguistic isolation, low levels of**
 7 **homeownership, high rent burden, sensitive populations or residents with low levels of edu-**
 8 **cational attainment.**

9 (b) **Areas disproportionately affected by environmental pollution and other hazards that**
 10 **can lead to negative public health effects, exposure or environmental degradation.**

11 (2) **The methodology required by this section must give greater weight to those criteria**
 12 **that the office determines are the most accurate predictors of vulnerability to the impacts**
 13 **of climate change and ocean acidification.**

14 (3) **The office shall review and update the methodology required by this section and the**
 15 **designation of impacted communities a minimum of once every five years.**

16 **SECTION 21. Auctions. (1) Except as provided in subsection (7) of this section, auctions**
 17 **of allowances are open to registered entities.**

18 (2) **The Carbon Policy Office shall hold auctions at least annually.**

19 (3) **The office may engage:**

20 (a) **A qualified, independent auction administrator to administer auctions; or**

21 (b) **A qualified financial services administrator to conduct financial transactions related**
 22 **to the auction.**

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

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

25 (a) **Set an auction floor price for 2021 and a schedule for the floor price to increase by a**
 26 **fixed percentage over inflation each calendar year.**

27 (b) **Set an allowance price containment reserve floor price for 2021 and a schedule for the**
 28 **allowance price containment reserve floor price to increase by a fixed percentage over in-**
 29 **flation each calendar year.**

30 (c) **Set a hard price ceiling for 2021 and a schedule for the hard price ceiling to increase**
 31 **by a fixed percentage over inflation each calendar year, and adopt rules for making an un-**
 32 **limited amount of allowances available for auction upon exceedance of the hard price ceiling.**

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

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

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

40 (b) **Setting price requirements in a manner that enables the state to pursue linkage**
 41 **agreements pursuant to section 24 of this 2019 Act with other jurisdictions.**

42 (7) **Reserve auctions of allowances from the allowance price containment reserve shall**
 43 **be conducted separately from the auction of other allowances for the purpose of addressing**
 44 **high costs of compliance instruments. Allowances unsold at a reserve auction must be made**
 45 **available again at future reserve auctions. General market participants may not participate**

1 in reserve auctions.

2 (8) The proceeds of an auction shall be transferred to the State Treasurer to be deposited
3 in the Auction Proceeds Distribution Fund established under section 22 of this 2019 Act.

4 **SECTION 22. Auction Proceeds Distribution Fund.** (1) The Auction Proceeds Distribution
5 Fund is established in the State Treasury, separate and distinct from the General Fund.

6 (2) The Auction Proceeds Distribution Fund shall consist of moneys transferred to the
7 fund under section 21 of this 2019 Act. Interest earned by the fund shall be credited to the
8 fund.

9 (3) The Carbon Policy Office shall certify the amount of moneys available for distribution
10 in the Auction Proceeds Distribution Fund and distribute the moneys as follows:

11 (a) All moneys that constitute revenues described in Article IX, section 3a, of the Oregon
12 Constitution, must be transferred to the Transportation Decarbonization Investments Ac-
13 count established in section 32 of this 2019 Act;

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

16 (c) Moneys remaining after the transfers under paragraphs (a) and (b) of this subsection
17 shall be transferred to the Climate Investments Fund established in section 30 of this 2019
18 Act.

19 **SECTION 23. Market activity reports.** The Carbon Policy Office shall, no later than six
20 months after the close of each compliance period, submit a report in the manner provided
21 by ORS 192.245 to the Joint Committee on Climate Action detailing activity during the com-
22 pliance period under the market-based compliance mechanism adopted by the Director of the
23 Carbon Policy Office by rule under section 9 of this 2019 Act. A market activity report re-
24 quired by this section must include, but need not be limited to, aggregated information on
25 the following for the compliance period:

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

28 (2) The beginning and ending balances of all allowance reserves held by the office, in-
29 cluding but not limited to auction holding accounts and the allowance price containment re-
30 serve;

31 (3) The regulated emissions reductions achieved during the compliance period and
32 progress made toward achieving a reduction in total regulated emissions levels to at least
33 45 percent below 1990 levels by 2035 and a reduction in total regulated emissions levels to at
34 least 80 percent below 1990 emissions levels by 2050; and

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

37 **SECTION 24. Linkage with market-based compliance mechanisms in other jurisdictions.**

38 (1) In adopting and implementing rules under sections 8 to 26 of this 2019 Act, the Director
39 of the Carbon Policy Office shall:

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

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

43 (A) Avoids double counting of emissions or emissions reductions; and

44 (B) Enables the state to pursue linkage agreements pursuant to this section with other
45 jurisdictions.

1 (2) The State of Oregon may not link the market-based compliance mechanism estab-
 2 lished pursuant to sections 8 to 26 of this 2019 Act and rules adopted under sections 8 to 26
 3 of this 2019 Act with the market-based compliance mechanism of any other jurisdiction un-
 4 less the director notifies the Governor that the director intends to link the market-based
 5 compliance mechanism and the Governor makes the following findings:

6 (a) The jurisdiction with which the director proposes to enter an agreement to link has
 7 adopted program requirements for greenhouse gas reductions that are equivalent to or
 8 stricter than those required by sections 8 to 26 of this 2019 Act;

9 (b) Under the proposed linkage agreement, the State of Oregon is able to enforce sections
 10 8 to 26 of this 2019 Act against any person subject to regulation under sections 8 to 26 of this
 11 2019 Act and against any person located within the linking jurisdiction to the maximum ex-
 12 tent permitted under the United States and Oregon Constitutions;

13 (c) The proposed linkage agreement provides for enforcement of applicable laws by the
 14 Carbon Policy Office or by the linking jurisdiction of program requirements that are equiv-
 15 alent to or stricter than those required by sections 8 to 26 of this 2019 Act; and

16 (d) The proposed linkage agreement and any related engagement by the State of Oregon
 17 of an independent organization to provide administrative or technical services to support the
 18 implementation of sections 8 to 26 of this 2019 Act will not impose any significant liability
 19 on the state or any state agency for any failure associated with the linkage.

20 (3) The Governor shall issue findings pursuant to subsection (2) of this section within 45
 21 days of receiving a notice from the director that the director intends to link the market-
 22 based compliance mechanism and shall provide the findings to the Legislative Assembly. The
 23 Governor, in making the findings, shall consider the advice of the Attorney General. Findings
 24 issued pursuant to subsection (2) of this section are not subject to judicial review.

25 **SECTION 25. Rulemaking advisory committee.** The Governor shall appoint a nine-
 26 member advisory committee to advise the Director of the Carbon Policy Office in adopting
 27 rules under sections 8 to 26 of this 2019 Act. The advisory committee shall consist of persons
 28 impacted by or otherwise interested in the Oregon Climate Action Program.

29 **SECTION 26. Operating fund.** (1) The Oregon Climate Action Program Operating Fund is
 30 established in the State Treasury, separate and distinct from the General Fund. Moneys in
 31 the Oregon Climate Action Program Operating Fund are continuously appropriated to the
 32 Oregon Department of Administrative Services for use by the Carbon Policy Office in the
 33 performance of functions the office is statutorily required or authorized to perform under
 34 sections 8 to 26 and 38 to 40 of this 2019 Act and ORS 468A.280.

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

36 (a) Moneys appropriated or otherwise transferred to the fund by the Legislative Assem-
 37 bly; and

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

39 (3) Civil penalties deposited in the fund under section 6 of this 2019 Act shall be deposited
 40 in a separate subaccount created in the Oregon Climate Action Program Operating Fund and
 41 must be used only for:

42 (a) Administering the enforcement of sections 8 to 26 of this 2019 Act or rules adopted
 43 under sections 8 to 26 of this 2019 Act; or

44 (b) Providing technical assistance to covered entities and opt-in entities.

45

1 INVESTMENT OF STATE PROCEEDS FROM OREGON
2 CLIMATE ACTION PROGRAM AUCTIONS
3 (General Provisions)
4

5 **SECTION 27. Definitions.** As used in sections 27 to 41 of this 2019 Act:

6 (1) "Impacted community" has the meaning given that term in section 8 of this 2019 Act.

7 (2) "Metropolitan planning organization" has the meaning given that term in ORS 197.629.

8 (3) "Natural and working lands" has the meaning given that term in section 8 of this 2019
9 Act.

10 (4) "Regional transportation plan" has the meaning given that term in ORS 184.899.

11 **SECTION 28. Severability.** If an allocation of moneys for a particular purpose by the
12 Legislative Assembly under sections 27 to 41 of this 2019 Act is determined by a court to be
13 inconsistent with law, the allocation is hereby declared independent and severable and the
14 invalidity, if any, of any part or feature of the allocation shall not affect or render the re-
15 mainder of the allocations by the Legislative Assembly under sections 27 to 41 of this 2019
16 Act invalid or inoperative.

17
18 (Climate Investments Fund;
19 Transportation Decarbonization Investments Account)
20

21 **SECTION 29. Moneys deposited in Climate Investments Fund and Transportation**
22 **Decarbonization Investments Account; general directives.** (1) Moneys deposited in the Cli-
23 mate Investments Fund and moneys deposited in the Transportation Decarbonization In-
24 vestments Account shall be allocated in a manner consistent with:

25 (a) The purposes set forth in section 7 of this 2019 Act; and

26 (b) The requirements of the Oregon Constitution.

27 (2) In addition to meeting the requirements set forth in subsection (1) of this section,
28 allocations from the Climate Investments Fund and the Transportation Decarbonization In-
29 vestments Account shall, to the maximum extent feasible, cost-effective and consistent with
30 law:

31 (a) Prioritize projects that benefit impacted communities.

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

33 (c) Provide opportunities for Indian tribes, members of impacted communities and busi-
34 nesses owned by women or members of minority groups to participate in and benefit from
35 statewide efforts to reduce greenhouse gas emissions, including technical assistance for mi-
36 nority or women owned businesses, nonprofit organizations and other community insti-
37 tutions that serve or represent most impacted communities or low income households.

38 (d) Make use of domestically produced products.

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

41 (f) Provide assistance to help households, businesses and workers transition to an eco-
42 nomic system that allows for the State of Oregon to achieve the greenhouse gas emissions
43 reduction goals set forth in ORS 468A.205.

44 **SECTION 30. Climate Investments Fund.** (1) The Climate Investments Fund is established
45 in the State Treasury, separate and distinct from the General Fund. The Climate Invest-

1 ments Fund shall consist of moneys deposited in the fund under section 22 of this 2019 Act.
2 Interest earned by the fund shall be credited to the fund.

3 (2) Moneys in the Climate Investments Fund may be used only for projects, programs and
4 activities that further the purposes set forth in section 7 of this 2019 Act.

5 (3) The Legislative Assembly shall allocate the moneys deposited in the fund subject to
6 sections 29 and 31 of this 2019 Act. Of the moneys deposited in the fund each biennium:

7 (a) Ten percent shall be allocated for projects, programs or activities that benefit Indian
8 tribes;

9 (b) A percentage that may not exceed _____ percent shall be allocated for deposit
10 in the Oregon Climate Action Program Operating Fund established in section 26 of this 2019
11 Act; and

12 (c) No less than \$_____ shall be allocated for deposit in the Just Transition Fund
13 established in section 35 of this 2019 Act.

14 **SECTION 31. Uses of Climate Investments Fund.** Moneys may be allocated from the Cli-
15 mate Investments Fund for investments that may include, but need not be limited to, any
16 of the following:

17 (1) Funding to reduce greenhouse gas emissions or promote adaptation or resiliency
18 through energy efficiency and energy conservation in buildings, low-income weatherization
19 and support of affordable housing that is transit oriented or located near employment cen-
20 ters.

21 (2) Funding to reduce greenhouse gas emissions through electrical grid decarbonization
22 efforts, including but not limited to investments in energy generation from renewable re-
23 sources, distributed energy resources, transmission and storage projects for renewable en-
24 ergy, demand response, community solar projects and other community-scale renewable
25 energy projects.

26 (3) Funding to reduce greenhouse gas emissions associated with transportation, including
27 but not limited to investments in transportation electrification, transit, fuel and energy ef-
28 ficiency in vessels powered by marine engines and roadside landscape management efforts
29 that promote carbon sequestration.

30 (4) Funding to support planning or implementation of planning by local governments and
31 metropolitan planning organizations for reducing greenhouse gas emissions or promoting
32 carbon sequestration, adaptation or resilience.

33 (5) Funding to reduce greenhouse gas emissions, support greenhouse gas sequestration
34 or support adaptation or resiliency through investments in natural and working lands, in-
35 cluding but not limited to investments in agricultural or forestry practices, or the manu-
36 facture of forest products, that serve to reduce greenhouse gas emissions or promote carbon
37 sequestration, restoration of tidal marsh or intertidal areas of estuaries, irrigation efficiency
38 projects, riparian zone restoration projects, methane emissions reduction or recovery
39 projects and biomass pyrolysis projects.

40 (6) Funding to facilitate the development in Oregon of clean energy infrastructure or
41 technologies, low carbon infrastructure or technologies, carbon capture and storage or
42 carbon-free infrastructure and technologies.

43 (7) Funding for air contamination sources for which a permit is issued pursuant to ORS
44 468.065, 468A.040 or 468A.155 to reduce greenhouse gas emissions.

45 (8) Funding to assist Oregon businesses and industries in reducing greenhouse gas

1 emissions through the adoption of more emissions-efficient equipment and processes.

2 (9) Funding to strengthen the resilience of fish, wildlife and ecosystems in the face of
 3 climate change through investments in projects, including but not limited to projects in-
 4 volving instream flow acquisition and protection, fish barrier removal, habitat restoration
 5 and enhancement and protection of wildlife corridors, coldwater refugia areas and species
 6 strongholds.

7 **SECTION 32. Transportation Decarbonization Investments Account.** (1) The Transporta-
 8 tion Decarbonization Investments Account is established as a separate account within the
 9 State Highway Fund. Interest earned by the Transportation Decarbonization Investments
 10 Account shall be credited to the account. Moneys in the account must be distributed by the
 11 Department of Transportation as provided in this section.

12 (2) The account shall consist of moneys deposited in the account under section 22 of this
 13 2019 Act.

14 (3) Moneys deposited in the account may be used only:

15 (a) As authorized by Article IX, section 3a, of the Oregon Constitution; and

16 (b) For activities that further the purposes set forth in section 7 of this 2019 Act.

17 (4) The Legislative Assembly shall allocate the moneys deposited in the account subject
 18 to sections 29 and 33 of this 2019 Act.

19 **SECTION 33. Uses of Transportation Decarbonization Investments Account.** (1) In allo-
 20 cating moneys from the Transportation Decarbonization Investments Account, the Legisla-
 21 tive Assembly shall, to the extent feasible and consistent with law, seek to invest in:

22 (a) Programs, projects or activities by state agencies, local governments or metropolitan
 23 planning organizations that are consistent with, or that complement, investments described
 24 in section 31 of this 2019 Act;

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

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

32 (2) Improvements funded by moneys deposited in the Transportation Decarbonization
 33 Investments Account shall, to the greatest extent practicable, serve to conserve, restore,
 34 preserve and enhance natural resources adjacent to the improvements through the pro-
 35 curement and installation of Oregon and native nursery stock. The requirements of this
 36 subsection shall be implemented in a manner designed to minimize soil erosion, reduce storm
 37 water runoff volume and velocity, and to promote water conservation and natural ecosystem
 38 resiliency in the face of climate change.

39 (3) A project, program or activity that is eligible to be funded by moneys deposited in the
 40 Transportation Decarbonization Investments Account may also be eligible to receive funding
 41 through the allocation of moneys deposited in the Climate Investments Fund for those
 42 portions of the project, program or activity that may not be constitutionally funded by re-
 43 venues described in Article IX, section 3a (1), of the Oregon Constitution.

44 **SECTION 34. Construction projects funded by certain auction proceeds; requirements.** (1)
 45 If a construction project is funded in whole or in part by moneys allocated by the Legislative

1 Assembly from the Climate Investments Fund or the Transportation Decarbonization In-
2 vestments Account, the primary contractor participating in the construction project:

3 (a) Shall participate in an apprenticeship program registered with the State Apprentice-
4 ship and Training Council;

5 (b) May not be a contractor listed by the Commissioner of the Bureau of Labor and In-
6 dustries under ORS 279C.860 as ineligible to receive a contract or subcontract for public
7 works;

8 (c) Must demonstrate a history of compliance with the rules and other requirements of
9 the Construction Contractors Board and of the Workers' Compensation Division, the Build-
10 ing Codes Division and the Occupational Safety and Health Division of the Department of
11 Consumer and Business Services; and

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

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

18 (3)(a) The Oregon Department of Administrative Services shall adopt model rules that
19 specify labor, workforce and contracting procedures for all state agencies to use in admin-
20 istering funds for projects that are funded in whole or in part by moneys allocated by the
21 Legislative Assembly from the Climate Investments Fund or the Transportation
22 Decarbonization Investments Account. The department shall adopt the rules in accordance
23 with ORS chapter 183.

24 (b) Model rules adopted under this subsection shall require the use of a project labor
25 agreement for large construction projects funded as described in paragraph (a) of this sub-
26 section. For all other construction projects funded as described in paragraph (a) of this
27 subsection, the model rules shall establish measurable, enforceable goals for the training and
28 hiring of persons who are members of impacted communities and for contracting with busi-
29 nesses that are owned or operated by members of impacted communities.

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

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

35 (B) The requirement in subparagraph (A) of this paragraph shall not apply if the admin-
36 istering agency finds that:

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

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

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

44 (C) Notwithstanding a finding by the administering agency under paragraph (d)(B) of this
45 subsection, a contractor shall spend at least 75 percent of the total amount the contractor

1 spends in connection with the construction project on steel, iron, coatings for steel and iron
2 and manufactured products that become part of a permanent structure to purchase steel,
3 iron, coatings for steel and iron and manufactured products that are produced in the United
4 States.

5 (e) Before adopting or amending a rule under this subsection, the department shall con-
6 sult with representatives of labor and workforce equity and contractor equity, and other
7 knowledgeable persons.

8 (4) A state agency charged with administering funds for construction projects that are
9 funded in whole or in part by moneys deposited in the Climate Investments Fund or the
10 Transportation Decarbonization Investments Account may not adopt the administering
11 agency's own rules for labor, workforce and contracting procedures related to administering
12 funds allocated from the Climate Investments Fund or the Transportation Decarbonization
13 Investments Account.

14
15 (Just Transition)
16

17 SECTION 35. (1) The Just Transition Fund is established in the State Treasury, separate
18 and distinct from the General Fund. Interest earned by the Just Transition Fund shall be
19 credited to the fund. Moneys in the fund are continuously appropriated to the Higher Edu-
20 cation Coordinating Commission to be distributed pursuant to the Just Transition Program
21 established under section 36 of this 2019 Act.

22 (2) The Just Transition Fund shall consist of moneys deposited in the fund under section
23 30 of this 2019 Act.

24 (3)(a) Of the moneys deposited in the fund each biennium, the commission shall set aside
25 50 percent of the funds in a reserve account.

26 (b) The commission shall continue to credit the reserve account in the manner required
27 under this subsection until the balance in the reserve account is the lesser of:

28 (A) An amount that, in the commission's determination, is adequate for the purposes
29 specified in paragraph (c) of this subsection; or

30 (B) \$_____.

31 (c) The reserve account shall be maintained and used by the commission only to fund
32 programs or activities that provide financial support for workers dislocated or adversely af-
33 fected by climate change or climate change policies.

34 SECTION 36. (1) The Higher Education Coordinating Commission, in consultation with
35 the Employment Department and other interested state agencies, shall establish a Just
36 Transition Program for the purpose of distributing moneys deposited in the Just Transition
37 Fund.

38 (2) Moneys distributed through the Just Transition Program shall be distributed to:

39 (a) Support economic diversification, job creation, job training and other employment
40 services;

41 (b) Provide financial support for workers dislocated or adversely affected by climate
42 change or climate change policies;

43 (c) Provide mental health services for workers dislocated or adversely affected by climate
44 change or climate change policies; or

45 (d) Consistent with the purposes set forth in section 7 of this 2019 Act, provide other

1 related workforce support to communities in this state that are adversely affected by climate
2 change or climate change policies.

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

9 (4) The commission may adopt rules necessary for the administration of the Just Tran-
10 sition Program, including but not limited to rules that set standards for awarding grants.

11 (5) A grant program adopted under this section may:

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

14 (b) Allow a grant applicant to appeal to the commission for reevaluation of any determi-
15 nation of grant funding.

16 (6) The commission may perform activities necessary to ensure that recipients of moneys
17 distributed from the Just Transition Fund comply with applicable requirements. If the com-
18 mission determines that a recipient has not complied with applicable requirements, the
19 commission may order the recipient to refund all moneys distributed from the fund. Moneys
20 refunded pursuant to this subsection shall be credited to the fund.

21
22 (Common School Fund)

23
24 **SECTION 37.** Moneys deposited in the Common School Fund under section 22 of this 2019
25 Act are continuously appropriated to the Department of State Lands to be used in a manner
26 that:

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

28 (2) Carries out the purposes set forth in section 7 of this 2019 Act.

29
30 (Distribution of Auction Proceeds; Reporting; Recommendations)

31
32 **SECTION 38. Biennial expenditure reporting; audit.** (1) All agencies of the executive de-
33 partment as defined in ORS 174.112, counties, cities and all other public and private entities
34 receiving moneys allocated from the Climate Investments Fund shall annually report to the
35 Carbon Policy Office on the expenditure of the moneys received and the results of the
36 expenditures. No later than January 1 of each even-numbered year, the office shall deliver
37 a biennial report, in the manner provided in ORS 192.245, to the Governor and the Joint
38 Committee on Climate Action describing investments from the Climate Investments Fund
39 and the results of those investments in carrying out the purposes set forth in section 7 of
40 this 2019 Act.

41 (2) All agencies of the executive department, counties, cities and all other public and
42 private entities receiving moneys allocated from the Transportation Decarbonization Invest-
43 ments Account shall annually report to the Department of Transportation on expenditure
44 of the moneys received and the results of the expenditures. No later than January 1 of each
45 even-numbered year, the department shall deliver a biennial report, in the manner provided

1 in ORS 192.245, to the Governor and the Joint Committee on Climate Action describing in-
2 vestments from the Transportation Decarbonization Investments Account and the results
3 of those investments in carrying out the purposes set forth in section 7 of this 2019 Act.

4 **SECTION 39. Biennial expenditure audit.** (1) The Carbon Policy Office and the Depart-
5 ment of Transportation jointly shall select an independent third-party organization to pre-
6 pare a biennial audit of:

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

9 (b) All programs, projects or activities funded by moneys from the Transportation
10 Decarbonization Investments Account.

11 (2) The Carbon Policy Office and the Department of Transportation shall provide for the
12 audit report prepared by the third-party organization under this section to be transmitted,
13 together with the reports required under section 38 of this 2019 Act, to the Governor and to
14 the Joint Committee on Climate Action.

15 **SECTION 40. Biennial climate action investment plan; preparation.** (1) No later than June
16 1 of each even-numbered year and in the manner provided in ORS 192.245, the Carbon Policy
17 Office shall deliver a biennial climate action investment plan to the Environmental Justice
18 Task Force, the Governor and the Joint Committee on Climate Action. The purpose of the
19 plan is to present recommendations, including recommendations for legislation, on the best
20 opportunities available to the state during the next biennial budget period to make expen-
21 ditures and investments of state proceeds from auctions conducted under section 21 of this
22 2019 Act that:

23 (a) Are consistent with the requirements of the Oregon Constitution;

24 (b) Carry out the purposes set forth in section 7 of this 2019 Act; and

25 (c) Are consistent with the provisions of sections 29, 30, 31, 32 and 33 of this 2019 Act.

26 (2) The recommendations contained in the plan required by this section must be based
27 on consideration of the best scientific and economic information available at the time of the
28 preparation of the plan.

29 (3) In preparing the plan, the office shall consult with:

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

33 (b) Representatives of Indian tribes; and

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

35 (4) The Director of the Carbon Policy Office shall convene a citizens' advisory committee
36 to assist the office in developing the biennial climate action investment plan required by this
37 section. The members of the committee must reflect the geographic, socioeconomic, racial
38 and cultural diversity of the State of Oregon.

39 **SECTION 41. Environmental Justice Task Force review of biennial climate action in-**
40 **vestment plan; report.** The Environmental Justice Task Force shall review and develop rec-
41 ommendations in response to the biennial climate action investment plan required under
42 section 40 of this 2019 Act and shall, no later than August 1 of each even-numbered year and
43 in the manner provided in ORS 192.245, deliver a report on the task force's recommendations
44 to the Governor and the Joint Committee on Climate Action.

45

PROVISIONS RELATED TO THE PUBLIC UTILITY COMMISSION

SECTION 42. Sections 43 and 44 of this 2019 Act are added to and made a part of ORS chapter 757.

SECTION 43. (1) As used in this section:

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

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

(2) The Public Utility Commission shall require proceeds received by an electric company or natural gas utility from the sale of allowances directly distributed at no cost under sections 14, 15 and 17 of this 2019 Act:

(a) To be spent by the electric company or natural gas utility within the service territory of the electric company or natural gas utility; and

(b) To be used only for activities that serve to reduce greenhouse gas emissions or provide energy assistance to the electric company's or natural gas utility's retail customers, consistent with the purposes of sections 7 to 41 of this 2019 Act as set forth in section 7 of this 2019 Act.

(3) Subject to subsection (2) of this section, an electric company or natural gas utility shall prioritize the use of auction proceeds for energy assistance programs, including:

(a) Rate design based solutions;

(b) Bill assistance, weatherization, energy efficiency, transportation electrification measures and grid modernization; and

(c) Participation by low-income residential customers in conservation programs that further reduce the out-of-pocket costs for energy efficiency measures.

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

SECTION 44. The Public Utility Commission may, in such manner as the commission considers proper, allow a rate or rate schedule of a public utility to include differential rates or to reflect amounts for programs that enable the public utility to assist low-income residential customers. Rates or rate schedules allowed under this section must minimize the shifting of costs to ratepayers that do not qualify for low-income assistance.

BIENNIAL STATEWIDE ENERGY BURDEN REPORT

SECTION 45. No later than November 1 of every even-numbered year, the Housing and Community Services Department and the State Department of Energy shall jointly transmit to the Governor and the Legislative Assembly a biennial statewide energy burden report. The Housing and Community Services Department and the State Department of Energy shall jointly adopt rules for gathering data necessary to prepare the report. In adopting rules under this section, the Housing and Community Services Department and the State Department of Energy shall consult with consumer-owned utilities as defined in ORS 757.600.

GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING
(Transfer of Duties Related to Greenhouse Gas Reporting Program)

1 **SECTION 46. Transfer.** The duties, functions and powers of the Environmental Quality
2 Commission and the Department of Environmental Quality relating to ORS 468A.280 and
3 rules adopted pursuant to ORS 468A.280 are imposed upon, transferred to and vested in the
4 Carbon Policy Office.

5 **SECTION 47. Records, property, employees.** (1) The Director of the Department of Envi-
6 ronmental Quality shall:

7 (a) Deliver to the Carbon Policy Office all records and property within the jurisdiction
8 of the director that relate to the duties, functions and powers transferred by section 46 of
9 this 2019 Act; and

10 (b) Transfer to the Carbon Policy Office those employees engaged primarily in the exer-
11 cise of the duties, functions and powers transferred by section 46 of this 2019 Act.

12 (2) The Director of the Carbon Policy Office shall take possession of the records and
13 property, and shall take charge of the employees and employ them in the exercise of the
14 duties, functions and powers transferred by section 46 of this 2019 Act, without reduction
15 of compensation but subject to change or termination of employment or compensation as
16 provided by law.

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

20 **SECTION 48. Unexpended revenues.** (1) The unexpended balances of amounts authorized
21 to be expended by the Environmental Quality Commission or the Department of Environ-
22 mental Quality for the biennium beginning July 1, 2019, from revenues dedicated, contin-
23 uously appropriated, appropriated or otherwise made available for the purpose of
24 administering and enforcing the duties, functions and powers transferred by section 46 of
25 this 2019 Act are transferred to and are available for expenditure by the Carbon Policy Office
26 for the biennium beginning July 1, 2019, for the purpose of administering and enforcing the
27 duties, functions and powers transferred by section 46 of this 2019 Act.

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

31 **SECTION 49. Action, proceeding, prosecution.** The transfer of duties, functions and
32 powers to the Carbon Policy Office by section 46 of this 2019 Act does not affect any action,
33 proceeding or prosecution involving or with respect to the duties, functions and powers be-
34 gun before and pending at the time of the transfer, except that the Carbon Policy Office is
35 substituted for the Environmental Quality Commission or the Department of Environmental
36 Quality, as appropriate, in the action, proceeding or prosecution.

37 **SECTION 50. Liability, duty, obligation.** (1) Nothing in sections 46 to 52 of this 2019 Act
38 relieves a person of a liability, duty or obligation accruing under or with respect to the du-
39 ties, functions and powers transferred by section 46 of this 2019 Act. The Carbon Policy Of-
40 fice may undertake the collection or enforcement of any such liability, duty or obligation.

41 (2) The rights and obligations of the Environmental Quality Commission or the Depart-
42 ment of Environmental Quality legally incurred under contracts, leases and business trans-
43 actions executed, entered into or begun before the operative date of section 46 of this 2019
44 Act accruing under or with respect to the duties, functions and powers transferred by sec-
45 tion 46 of this 2019 Act are transferred to the Carbon Policy Office. For the purpose of suc-

1 cession to these rights and obligations, the Carbon Policy Office is a continuation of the
 2 Environmental Quality Commission or the Department of Environmental Quality, as appro-
 3 priate, and not a new authority.

4 **SECTION 51. Rules.** (1) Notwithstanding the transfer of duties, functions and powers by
 5 section 46 of this 2019 Act, the rules of the Environmental Quality Commission with respect
 6 to such duties, functions or powers that are in effect on the operative date of section 46 of
 7 this 2019 Act continue in effect until superseded or repealed by rules of the Carbon Policy
 8 Office. References in the rules of the Environmental Quality Commission to the Environ-
 9 mental Quality Commission are considered to be references to the Director of the Carbon
 10 Policy Office. References in the rules of the Environmental Quality Commission to the De-
 11 partment of Environmental Quality or an officer or employee of the Department of Envi-
 12 ronmental Quality are considered to be references to the Carbon Policy Office or an officer
 13 or employee of the Carbon Policy Office.

14 (2) Whenever, in any uncodified law or resolution of the Legislative Assembly or in any
 15 rule, document, record or proceeding authorized by the Legislative Assembly, in the context
 16 of the duties, functions and powers transferred by section 46 of this 2019 Act, reference is
 17 made to the Environmental Quality Commission, with relation to the duties, functions or
 18 powers transferred by section 46 of this 2019 Act, the reference is considered to be a refer-
 19 ence to the Director of the Carbon Policy Office for purposes of being charged by the terms
 20 of this 2019 Act with carrying out the duties, functions and powers.

21 (3) Whenever, in any uncodified law or resolution of the Legislative Assembly or in any
 22 rule, document, record or proceeding authorized by the Legislative Assembly, in the context
 23 of the duties, functions and powers transferred by section 46 of this 2019 Act, reference is
 24 made to the Department of Environmental Quality, or an officer or employee of the Depart-
 25 ment of Environmental Quality, whose duties, functions or powers are transferred by section
 26 46 of this 2019 Act, the reference is considered to be a reference to the Carbon Policy Office
 27 or an officer or employee of the Carbon Policy Office who by this 2019 Act is charged with
 28 carrying out the duties, functions and powers.

29
 30 (Housekeeping in ORS)

31
 32 **SECTION 52.** Notwithstanding any other provision of law, ORS 468A.280 shall not be
 33 considered to have been added to or made a part of ORS chapter 468A for the purpose of
 34 statutory compilation or for the application of definitions, penalties or administrative pro-
 35 visions applicable to statute sections in that series.

36
 37 (Amendments to Statutes)

38
 39 **SECTION 53.** ORS 468A.280 is amended to read:

40 468A.280. (1) *[In addition to any registration and reporting that may be required under ORS*
 41 *468A.050, the Environmental Quality Commission by rule may require registration and reporting by:]*

42 **As used in this section:**

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

44 (b) “Greenhouse gas” has the meaning given that term in section 8 of this 2019 Act.

45 (2) The Director of the Carbon Policy Office by rule may require registration and re-

1 **porting of information necessary to determine greenhouse gas emissions by:**

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

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

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

8 **(3) A person required to register and report under subsection (2) of this section shall**
 9 **register with the Carbon Policy Office and make reports containing information that the di-**
 10 **rector by rule may require that is relevant to determining and verifying greenhouse gas**
 11 **emissions. The director may by rule require the person to provide an audit by an independent**
 12 **and disinterested party to verify that the greenhouse gas emissions information reported by**
 13 **the person is true and accurate.**

14 [(2)] (4) Rules adopted by the [commission] **director** under this section for electricity that is
 15 imported, sold, allocated or distributed for use in this state may require reporting of information
 16 necessary to determine greenhouse gas emissions from generating facilities used to produce the
 17 electricity and related electricity transmission line losses.

18 [(3)(a)] (5)(a) The [commission] **director** shall allow consumer-owned utilities, as defined in ORS
 19 757.270, to comply with reporting requirements imposed under this section by the submission of a
 20 report prepared by a third party. A report submitted under this paragraph may include information
 21 for more than one consumer-owned utility, but must include all information required by the [com-
 22 mission] **director** for each individual utility.

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

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

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

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

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

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

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

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

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

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

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

- 1 (i) Electricity purchases made by a particular seller to the electric company;
- 2 (ii) Electricity purchases from an unknown origin or from a seller who is unable to identify the
- 3 original generating facility fuel type or types;
- 4 (iii) Electricity purchases for which a renewable energy certificate under ORS 469A.130 has
- 5 been issued but subsequently transferred or sold to a person other than the electric company;
- 6 (iv) Electricity transmitted for others by the electric company; and
- 7 (v) Total energy losses from electricity transmission and distribution equipment owned or oper-
- 8 ated by the electric company.

9 (b) Pursuant to paragraph (a) of this subsection, a multijurisdictional electric company may rely
 10 upon a cost allocation methodology approved by the Public Utility Commission for reporting emis-
 11 sions allocated in this state.

12 [(5)] (7) Rules adopted by the [commission] **director** under this section for [fossil] fuel that is
 13 imported, sold or distributed for use in this state may require reporting of the type and quantity of
 14 the fuel and any additional information necessary to determine the [carbon content] **greenhouse gas**
 15 **emissions associated with the use or combustion** of the fuel. *[For the purpose of determining*
 16 *greenhouse gas emissions related to liquefied petroleum gas, the commission shall allow reporting using*
 17 *publications or submission of data by the American Petroleum Institute but may require reporting of*
 18 *such other information necessary to achieve the purposes of the rules adopted by the commission under*
 19 *this section.]*

20 [(6)] (8) To an extent that is consistent with the purposes of the rules adopted by the [commis-
 21 sion] **director** under this section, the [commission] **director** shall minimize the burden of the re-
 22 porting required under this section by:

- 23 (a) Allowing concurrent reporting of information that is also reported to another state agency;
- 24 (b) Allowing electronic reporting;
- 25 (c) Allowing use of good engineering practice calculations in reports, or of emission factors
- 26 published by the United States Environmental Protection Agency;
- 27 (d) Establishing thresholds for the amount of specific greenhouse gases that may be emitted or
- 28 generated without reporting;
- 29 (e) Requiring reporting by the fewest number of persons in a fuel distribution system that will
- 30 allow the [commission] **director** to acquire the information needed by the [commission] **director**; or
- 31 (f) Other appropriate means and procedures determined by the [commission] **director**.

32 [(7) As used in this section, "greenhouse gas" has the meaning given that term in ORS
 33 468A.210.]

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

38 (10) **If a person required to register and report under subsection (2) of this section fails**
 39 **to submit a report under this section, the office may develop an assigned emissions level for**
 40 **the person if necessary for the purpose of regulating persons under sections 8 to 26 of this**
 41 **2019 Act.**

42 (11)(a) **By rule the director may establish a schedule of fees for registration and reporting**
 43 **under this section. Before establishing fees pursuant to this subsection, the director shall**
 44 **consider the total fees for each person subject to registration and reporting under this sec-**
 45 **tion.**

1 **(b) The director shall limit the fees established under this subsection to the anticipated**
 2 **cost of developing, implementing and analyzing data collected under greenhouse gas emis-**
 3 **sions registration and reporting programs.**

4
 5 **ENERGY FACILITY CARBON DIOXIDE EMISSIONS STANDARDS**
 6 **(Repeal of Carbon Dioxide Emissions Standards)**

7
 8 **SECTION 54.** ORS 469.503 is amended to read:

9 469.503. In order to issue a site certificate, the Energy Facility Siting Council shall determine
 10 that the preponderance of the evidence on the record supports the following conclusions:

11 (1) The facility complies with the applicable standards adopted by the council pursuant to ORS
 12 469.501 or the overall public benefits of the facility outweigh any adverse effects on a resource or
 13 interest protected by the applicable standards the facility does not meet.

14 *[(2) If the energy facility is a fossil-fueled power plant, the energy facility complies with any ap-*
 15 *licable carbon dioxide emissions standard adopted by the council or enacted by statute. Base load*
 16 *gas plants shall comply with the standard set forth in subsection (2)(a) of this section. Other fossil-*
 17 *fueled power plants shall comply with any applicable standard adopted by the council by rule pursuant*
 18 *to subsection (2)(b) of this section. Subsections (2)(c) and (d) of this section prescribe the means by*
 19 *which an applicant may comply with the applicable standard.]*

20 *[(a) The net carbon dioxide emissions rate of the proposed base load gas plant shall not exceed 0.70*
 21 *pounds of carbon dioxide emissions per kilowatt hour of net electric power output, with carbon dioxide*
 22 *emissions and net electric power output measured on a new and clean basis. Notwithstanding the*
 23 *foregoing, the council may by rule modify the carbon dioxide emissions standard for base load gas*
 24 *plants if the council finds that the most efficient stand-alone combined cycle, combustion turbine, na-*
 25 *tural gas-fired energy facility that is commercially demonstrated and operating in the United States has*
 26 *a net heat rate of less than 7,200 Btu per kilowatt hour higher heating value adjusted to ISO condi-*
 27 *tions. In modifying the carbon dioxide emission standard, the council shall determine the rate of carbon*
 28 *dioxide emissions per kilowatt hour of net electric output of such energy facility, adjusted to ISO con-*
 29 *ditions, and reset the carbon dioxide emissions standard at 17 percent below this rate.]*

30 *[(b) The council shall adopt carbon dioxide emissions standards for other types of fossil-fueled*
 31 *power plants. Such carbon dioxide emissions standards shall be promulgated by rule. In adopting or*
 32 *amending such carbon dioxide emissions standards, the council shall consider and balance at least the*
 33 *following principles, the findings on which shall be contained in the rulemaking record:]*

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

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

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

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

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

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

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

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

44 *[(I) Be attainable and economically achievable for various types of power plants;]*

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

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

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

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

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

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

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

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

39 *[(ii) The ability of the council to determine the actual quantity of greenhouse gas emissions re-*
40 *duction resulting from the offset, taking into consideration any proposed measurement, monitoring and*
41 *evaluation of mitigation measure performance; and]*

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

44 *[(C) The applicant or a third party agrees to provide funds in an amount deemed sufficient to*
45 *produce the reduction in greenhouse gas emissions necessary to meet the applicable carbon dioxide*

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

12 [(D) Any other means that the council adopts by rule for demonstrating compliance with any ap-
13 plicable carbon dioxide emissions standard.]

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

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

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

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

45 [(iii) Notwithstanding any provision to the contrary, a site certificate holder subject to this sub-

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

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

30 [(C) Every qualified organization that has received funds under this paragraph shall, at five-year
31 intervals beginning on the date of receipt of such funds, provide the council with the information the
32 council requests about the qualified organization's performance. The council shall evaluate the infor-
33 mation requested and, based on such information, shall make any recommendations to the Legislative
34 Assembly that the council deems appropriate.]

35 [(e) As used in this subsection:]

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

39 [(B) "Base load gas plant" means a generating facility that is fueled by natural gas, except for
40 periods during which an alternative fuel may be used and when such alternative fuel use shall not
41 exceed 10 percent of expected fuel use in Btu, higher heating value, on an average annual basis, and
42 where the applicant requests and the council adopts no condition in the site certificate for the generat-
43 ing facility that would limit hours of operation other than restrictions on the use of alternative fuel.
44 The council shall assume a 100 percent capacity factor for such plants and a 30-year life for the plants
45 for purposes of determining gross carbon dioxide emissions.]

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

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

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

7 [(F) “Global warming potential” means the determination of the atmospheric warming resulting
8 from the release of a unit mass of a particular greenhouse gas in relation to the warming resulting from
9 the release of the equivalent mass of carbon dioxide.]

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

11 [(H) “Gross carbon dioxide emissions” means the predicted carbon dioxide emissions of the pro-
12 posed energy facility measured on a new and clean basis.]

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

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

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

27 [(L) “Offset” means an action that will be implemented by the applicant, a third party or through
28 the qualified organization to avoid, sequester or displace emissions.]

29 [(M) “Offset funds” means the amount of funds determined by the council to satisfy the applicable
30 carbon dioxide emissions standard pursuant to paragraph (c)(C) of this subsection.]

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

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

34 [(ii) Either is incorporated in the State of Oregon or is a foreign corporation authorized to do
35 business in the State of Oregon;]

36 [(iii) Has in effect articles of incorporation that require that offset funds received pursuant to this
37 section are used for offsets that require that decisions on the use of the offset funds are made by a
38 decision-making body composed of seven voting members of which three are appointed by the council,
39 three are Oregon residents appointed by the Bullitt Foundation or an alternative environmental
40 nonprofit organization named by the body, and one is appointed by the applicants for site certificates
41 that are subject to paragraph (d) of this subsection and the holders of such site certificates, and that
42 require nonvoting membership on the body for holders of site certificates that have provided funds not
43 yet disbursed under paragraph (d)(A) of this subsection;]

44 [(iv) Has made available on an annual basis, beginning after the first year of operation, a signed
45 opinion of an independent certified public accountant stating that the qualified organization’s use of

1 *funds pursuant to this statute conforms with generally accepted accounting procedures except that the*
 2 *qualified organization shall have one year to conform with generally accepted accounting principles in*
 3 *the event of a nonconforming audit;]*

4 *[(v) Has to the extent applicable, except for good cause, entered into contracts obligating at least*
 5 *60 percent of the offset funds to implement offsets within two years after the commencement of con-*
 6 *struction of the facility; and]*

7 *[(vi) Has to the extent applicable, except for good cause, complied with paragraph (d)(A)(i) of this*
 8 *subsection.]*

9 [(3)] (2) Except as provided in ORS 469.504 for land use compliance and except for those statutes
 10 and rules for which the decision on compliance has been delegated by the federal government to a
 11 state agency other than the council, the facility complies with all other Oregon statutes and ad-
 12 ministrative rules identified in the project order, as amended, as applicable to the issuance of a site
 13 certificate for the proposed facility. If compliance with applicable Oregon statutes and administra-
 14 tive rules, other than those involving federally delegated programs, would result in conflicting con-
 15 ditions in the site certificate, the council may resolve the conflict consistent with the public interest.
 16 A resolution may not result in the waiver of any applicable state statute.

17 [(4)] (3) The facility complies with the statewide planning goals adopted by the Land Conserva-
 18 tion and Development Commission.

19 **SECTION 55.** ORS 469.501 is amended to read:

20 469.501. (1) The Energy Facility Siting Council shall adopt standards for the siting, construction,
 21 operation and retirement of facilities. The standards may address but need not be limited to the
 22 following subjects:

23 (a) The organizational, managerial and technical expertise of the applicant to construct and
 24 operate the proposed facility.

25 (b) Seismic hazards.

26 (c) Areas designated for protection by the state or federal government, including but not limited
 27 to monuments, wilderness areas, wildlife refuges, scenic waterways and similar areas.

28 (d) The financial ability and qualifications of the applicant.

29 (e) Effects of the facility, taking into account mitigation, on fish and wildlife, including threat-
 30 ened and endangered fish, wildlife or plant species.

31 (f) Impacts of the facility on historic, cultural or archaeological resources listed on, or deter-
 32 mined by the State Historic Preservation Officer to be eligible for listing on, the National Register
 33 of Historic Places or the Oregon State Register of Historic Properties.

34 (g) Protection of public health and safety, including necessary safety devices and procedures.

35 (h) The accumulation, storage, disposal and transportation of nuclear waste.

36 (i) Impacts of the facility on recreation, scenic and aesthetic values.

37 (j) Reduction of solid waste and wastewater generation to the extent reasonably practicable.

38 (k) Ability of the communities in the affected area to provide sewers and sewage treatment,
 39 water, storm water drainage, solid waste management, housing, traffic safety, police and fire pro-
 40 tection, health care and schools.

41 (L) The need for proposed nongenerating facilities [*as defined in ORS 469.503*], consistent with
 42 the state energy policy set forth in ORS 469.010 and 469.310. The council may consider least-cost
 43 plans when adopting a need standard or in determining whether an applicable need standard has
 44 been met. The council shall not adopt a standard requiring a showing of need or cost-effectiveness
 45 for generating facilities [*as defined in ORS 469.503*].

1 (m) Compliance with the statewide planning goals adopted by the Land Conservation and De-
2 velopment Commission as specified by ORS 469.503.

3 (n) Soil protection.

4 *[(o) For energy facilities that emit carbon dioxide, the impacts of those emissions on climate change.*
5 *For fossil-fueled power plants, as defined in ORS 469.503, the council shall apply a standard as pro-*
6 *vided for by ORS 469.503 (2).]*

7 (2) The council may adopt exemptions from any need standard adopted under subsection (1)(L)
8 of this section if the exemption is consistent with the state's energy policy set forth in ORS 469.010
9 and 469.310.

10 (3)(a) The council may issue a site certificate for a facility that does not meet one or more of
11 the applicable standards adopted under subsection (1) of this section if the council determines that
12 the overall public benefits of the facility outweigh any adverse effects on a resource or interest
13 protected by the applicable standards the facility does not meet.

14 (b) The council by rule shall specify the criteria by which the council makes the determination
15 described in paragraph (a) of this subsection.

16 (4) Notwithstanding subsection (1) of this section, the council may not impose any standard de-
17 veloped under subsection (1)(b), (f), (j) or (k) of this section to approve or deny an application for
18 an energy facility producing power from wind, solar or geothermal energy. However, the council
19 may, to the extent it determines appropriate, apply any standards adopted under subsection (1)(b),
20 (f), (j) or (k) of this section to impose conditions on any site certificate issued for any energy facility.

21
22 (Transitional Provisions)

23
24 **SECTION 56. (1) Notwithstanding ORS 469.401 (2), any conditions in a site certificate or**
25 **amended site certificate issued before January 1, 2021, that are conditions related to any**
26 **carbon dioxide emissions standard applicable pursuant to ORS 469.501 (o) (2017 Edition) or**
27 **469.503 (2017 Edition) or to rules adopted by the Energy Facility Siting Council pursuant to**
28 **ORS 469.501 (o) (2017 Edition) or 469.503 (2017 Edition) cease to be enforceable on January 1,**
29 **2021.**

30 **(2) Any provision in a site certificate or amended site certificate for a generating facility**
31 **issued before January 1, 2021, requiring the holder to demonstrate the need for the facility**
32 **shall cease to be enforceable on January 1, 2021.**

33 **(3) Any site certificate amendment approved by the council on or after January 1, 2021,**
34 **shall remove from the site certificate being amended all conditions and provisions rendered**
35 **unenforceable by subsections (1) and (2) of this section. Notwithstanding ORS 469.405 or any**
36 **council rule, the contested case hearing on a site certificate amendment subject to this**
37 **subsection may not include hearing on amendments necessary to comply with this sub-**
38 **section. The provisions of the council's order relevant to compliance with this subsection**
39 **is not subject to judicial review.**

40 **SECTION 57. The Energy Facility Siting Council shall, no later than January 1, 2022,**
41 **complete rulemaking to amend or repeal any rules adopted by the council relating to the**
42 **application of a carbon dioxide emissions standard to generating facilities or nongenerating**
43 **facilities as necessary to bring the rules of the council into compliance with the amendments**
44 **to ORS 469.501 (o) and 469.503 by sections 54 and 55 of this 2019 Act and the provisions of**
45 **section 56 of this 2019 Act.**

1 divided by one of the following factors:

- 2 (a) For wind facilities, 3.00;
- 3 (b) For geothermal energy facilities, 1.11; or
- 4 (c) For all other energy facilities, 1.00.

5 (5) “Combustion turbine power plant” means a thermal power plant consisting of one or more
6 fuel-fired combustion turbines and any associated waste heat combined cycle generators.

7 (6) “Construction” means work performed on a site, excluding surveying, exploration or other
8 activities to define or characterize the site, the cost of which exceeds \$250,000.

9 (7) “Council” means the Energy Facility Siting Council established under ORS 469.450.

10 (8) “Department” means the State Department of Energy created under ORS 469.030.

11 (9) “Director” means the Director of the State Department of Energy appointed under ORS
12 469.040.

13 (10) “Electric utility” means persons, regulated electrical companies, people’s utility districts,
14 joint operating agencies, electric cooperatives, municipalities or any combination thereof, engaged
15 in or authorized to engage in the business of generating, supplying, transmitting or distributing
16 electric energy.

17 (11)(a) “Energy facility” means any of the following:

18 (A) An electric power generating plant with a nominal electric generating capacity of 25 mega-
19 watts or more, including but not limited to:

- 20 (i) Thermal power;
- 21 (ii) Combustion turbine power plant; or
- 22 (iii) Solar thermal power plant.

23 (B) A nuclear installation as defined in this section.

24 (C) A high voltage transmission line of more than 10 miles in length with a capacity of 230,000
25 volts or more to be constructed in more than one city or county in this state, but excluding:

26 (i) Lines proposed for construction entirely within 500 feet of an existing corridor occupied by
27 high voltage transmission lines with a capacity of 230,000 volts or more; and

28 (ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000 volts along the same
29 right of way.

30 (D) A solar photovoltaic power generation facility using more than:

- 31 (i) 100 acres located on high-value farmland as defined in ORS 195.300;
- 32 (ii) 100 acres located on land that is predominantly cultivated or that, if not cultivated, is pre-
33 dominantly composed of soils that are in capability classes I to IV, as specified by the National
34 Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United
35 States Department of Agriculture; or

36 (iii) 320 acres located on any other land.

37 (E) A pipeline that is:

38 (i) At least six inches in diameter, and five or more miles in length, used for the transportation
39 of crude petroleum or a derivative thereof, liquefied natural gas, a geothermal energy form in a
40 liquid state or other fossil energy resource, excluding a pipeline conveying natural or synthetic gas;

41 (ii) At least 16 inches in diameter, and five or more miles in length, used for the transportation
42 of natural or synthetic gas, but excluding:

43 (I) A pipeline proposed for construction of which less than five miles of the pipeline is more than
44 50 feet from a public road, as defined in ORS 368.001; or

45 (II) A parallel or upgraded pipeline up to 24 inches in diameter that is constructed within the

1 same right of way as an existing 16-inch or larger pipeline that has a site certificate, if all studies
2 and necessary mitigation conducted for the existing site certificate meet or are updated to meet
3 current site certificate standards; or

4 (iii) At least 16 inches in diameter and five or more miles in length used to carry a geothermal
5 energy form in a gaseous state but excluding a pipeline used to distribute heat within a geothermal
6 heating district established under ORS chapter 523.

7 (F) A synthetic fuel plant which converts a natural resource including, but not limited to, coal
8 or oil to a gas, liquid or solid product intended to be used as a fuel and capable of being burned to
9 produce the equivalent of two billion Btu of heat a day.

10 (G) A plant which converts biomass to a gas, liquid or solid product, or combination of such
11 products, intended to be used as a fuel and if any one of such products is capable of being burned
12 to produce the equivalent of six billion Btu of heat a day.

13 (H) A storage facility for liquefied natural gas constructed after September 29, 1991, that is de-
14 signed to hold at least 70,000 gallons.

15 (I) A surface facility related to an underground gas storage reservoir that, at design injection
16 or withdrawal rates, will receive or deliver more than 50 million cubic feet of natural or synthetic
17 gas per day, or require more than 4,000 horsepower of natural gas compression to operate, but ex-
18 cluding:

19 (i) The underground storage reservoir;

20 (ii) The injection, withdrawal or monitoring wells and individual wellhead equipment; and

21 (iii) An underground gas storage reservoir into which gas is injected solely for testing or res-
22 ervoir maintenance purposes or to facilitate the secondary recovery of oil or other hydrocarbons.

23 (J) An electric power generating plant with an average electric generating capacity of 35
24 megawatts or more if the power is produced from geothermal or wind energy at a single energy fa-
25 cility or within a single energy generation area.

26 (b) "Energy facility" does not include a hydroelectric facility or an energy facility under para-
27 graph (a)(A)(iii) or (D) of this subsection that is established on the site of a decommissioned United
28 States Air Force facility that has adequate transmission capacity to serve the energy facility.

29 (12) "Energy generation area" means an area within which the effects of two or more small
30 generating plants may accumulate so the small generating plants have effects of a magnitude similar
31 to a single generating plant of 35 megawatts average electric generating capacity or more. An "en-
32 ergy generation area" for facilities using a geothermal resource and covered by a unit agreement,
33 as provided in ORS 522.405 to 522.545 or by federal law, shall be defined in that unit agreement. If
34 no such unit agreement exists, an energy generation area for facilities using a geothermal resource
35 shall be the area that is within two miles, measured from the electrical generating equipment of the
36 facility, of an existing or proposed geothermal electric power generating plant, not including the site
37 of any other such plant not owned or controlled by the same person.

38 (13) "Extraordinary nuclear occurrence" means any event causing a discharge or dispersal of
39 source material, special nuclear material or by-product material as those terms are defined in ORS
40 453.605, from its intended place of confinement off-site, or causing radiation levels off-site, that the
41 United States Nuclear Regulatory Commission or its successor determines to be substantial and to
42 have resulted in or to be likely to result in substantial damages to persons or property off-site.

43 (14) "Facility" means an energy facility together with any related or supporting facilities.

44 (15) **"Generating facility" means those energy facilities that are defined in subsection**
45 **(11)(a)(A), (B) and (D) of this section.**

1 [(15)] **(16)** “Geothermal reservoir” means an aquifer or aquifers containing a common geothermal
2 fluid.

3 [(16)] **(17)** “Local government” means a city or county.

4 [(17)] **(18)** “Nominal electric generating capacity” means the maximum net electric power output
5 of an energy facility based on the average temperature, barometric pressure and relative humidity
6 at the site during the times of the year when the facility is intended to operate.

7 **(19) “Nongenerating facility” means those energy facilities that are defined in subsection**
8 **(11)(a)(C) and (E) to (I) of this section.**

9 [(18)] **(20)** “Nuclear incident” means any occurrence, including an extraordinary nuclear occur-
10 rence, that results in bodily injury, sickness, disease, death, loss of or damage to property or loss
11 of use of property due to the radioactive, toxic, explosive or other hazardous properties of source
12 material, special nuclear material or by-product material as those terms are defined in ORS 453.605.

13 [(19)] **(21)** “Nuclear installation” means any power reactor, nuclear fuel fabrication plant, nu-
14 clear fuel reprocessing plant, waste disposal facility for radioactive waste, and any facility handling
15 that quantity of fissionable materials sufficient to form a critical mass. “Nuclear installation” does
16 not include any such facilities that are part of a thermal power plant.

17 [(20)] **(22)** “Nuclear power plant” means an electrical or any other facility using nuclear energy
18 with a nominal electric generating capacity of 25 megawatts or more, for generation and distribution
19 of electricity, and associated transmission lines.

20 [(21)] **(23)** “Person” means an individual, partnership, joint venture, private or public corpo-
21 ration, association, firm, public service company, political subdivision, municipal corporation, gov-
22 ernment agency, people’s utility district, or any other entity, public or private, however organized.

23 [(22)] **(24)** “Project order” means the order, including any amendments, issued by the State De-
24 partment of Energy under ORS 469.330.

25 [(23)(a)] **(25)(a)** “Radioactive waste” means all material which is discarded, unwanted or has no
26 present lawful economic use, and contains mined or refined naturally occurring isotopes, accelerator
27 produced isotopes and by-product material, source material or special nuclear material as those
28 terms are defined in ORS 453.605. The term does not include those radioactive materials identified
29 in OAR 345-50-020, 345-50-025 and 345-50-035, adopted by the council on December 12, 1978, and re-
30 vised periodically for the purpose of adding additional isotopes which are not referred to in OAR
31 345-50 as presenting no significant danger to the public health and safety.

32 (b) Notwithstanding paragraph (a) of this subsection, “radioactive waste” does not include ura-
33 nium mine overburden or uranium mill tailings, mill wastes or mill by-product materials as those
34 terms are defined in Title 42, United States Code, section 2014, on June 25, 1979.

35 [(24)] **(26)** “Related or supporting facilities” means any structure, proposed by the applicant, to
36 be constructed or substantially modified in connection with the construction of an energy facility,
37 including associated transmission lines, reservoirs, storage facilities, intake structures, road and rail
38 access, pipelines, barge basins, office or public buildings, and commercial and industrial structures.
39 “Related or supporting facilities” does not include geothermal or underground gas storage reser-
40 voirs, production, injection or monitoring wells or wellhead equipment or pumps.

41 [(25)] **(27)** “Site” means any proposed location of an energy facility and related or supporting
42 facilities.

43 [(26)] **(28)** “Site certificate” means the binding agreement between the State of Oregon and the
44 applicant, authorizing the applicant to construct and operate a facility on an approved site, incor-
45 porating all conditions imposed by the council on the applicant.

1 [(27)] (29) “Thermal power plant” means an electrical facility using any source of thermal en-
 2 ergy with a nominal electric generating capacity of 25 megawatts or more, for generation and dis-
 3 tribution of electricity, and associated transmission lines, including but not limited to a
 4 nuclear-fueled, geothermal-fueled or fossil-fueled power plant, but not including a portable power
 5 plant the principal use of which is to supply power in emergencies. “Thermal power plant” includes
 6 a nuclear-fueled thermal power plant that has ceased to operate.

7 [(28)] (30) “Transportation” means the transport within the borders of the State of Oregon of
 8 radioactive material destined for or derived from any location.

9 [(29)] (31) “Underground gas storage reservoir” means any subsurface sand, strata, formation,
 10 aquifer, cavern or void, whether natural or artificially created, suitable for the injection, storage
 11 and withdrawal of natural gas or other gaseous substances. “Underground gas storage reservoir”
 12 includes a pool as defined in ORS 520.005.

13 [(30)] (32) “Utility” includes:

14 (a) A person, a regulated electrical company, a people’s utility district, a joint operating agency,
 15 an electric cooperative, municipality or any combination thereof, engaged in or authorized to engage
 16 in the business of generating, transmitting or distributing electric energy;

17 (b) A person or public agency generating electric energy from an energy facility for its own
 18 consumption; and

19 (c) A person engaged in this state in the transmission or distribution of natural or synthetic gas.

20 [(31)] (33) “Waste disposal facility” means a geographical site in or upon which radioactive
 21 waste is held or placed but does not include a site at which radioactive waste used or generated
 22 pursuant to a license granted under ORS 453.635 is stored temporarily, a site of a thermal power
 23 plant used for the temporary storage of radioactive waste from that plant for which a site certificate
 24 has been issued pursuant to this chapter or a site used for temporary storage of radioactive waste
 25 from a reactor operated by a college, university or graduate center for research purposes and not
 26 connected to the Northwest Power Grid. As used in this subsection, “temporary storage” includes
 27 storage of radioactive waste on the site of a nuclear-fueled thermal power plant for which a site
 28 certificate has been issued until a permanent storage site is available by the federal government.

29 **SECTION 62.** ORS 469.310 is amended to read:

30 469.310. In the interests of the public health and the welfare of the people of this state, it is the
 31 declared public policy of this state that the siting, construction and operation of energy facilities
 32 shall be accomplished in a manner consistent with protection of the public health and safety and in
 33 compliance with the energy policy and air, water, solid waste, land use and other environmental
 34 protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.563, 469.590 to
 35 469.619, 469.930 and 469.992 to exercise the jurisdiction of the State of Oregon to the maximum ex-
 36 tent permitted by the United States Constitution and to establish in cooperation with the federal
 37 government a comprehensive system for the siting, monitoring and regulating of the location, con-
 38 struction and operation of all energy facilities in this state. It is furthermore the policy of this state,
 39 notwithstanding ORS 469.010 (2)(f) and the definition of cost-effective in ORS 469.020, that the need
 40 for new generating facilities[, *as defined in ORS 469.503,*] is sufficiently addressed by reliance on
 41 competition in the market rather than by consideration of cost-effectiveness and shall not be a
 42 matter requiring determination by the Energy Facility Siting Council in the siting of a generating
 43 facility[, *as defined in ORS 469.503*].

44 **SECTION 63.** ORS 469.373 is amended to read:

45 469.373. (1) Notwithstanding the expedited review process established pursuant to ORS 469.370,

1 an applicant may apply under the provisions of this section for expedited review of an application
 2 for a site certificate for an energy facility if the energy facility:

3 (a) Is a combustion turbine energy facility fueled by natural gas or is a reciprocating engine
 4 fueled by natural gas, including an energy facility that uses petroleum distillate fuels for backup
 5 power generation;

6 (b) Is a permitted or conditional use allowed under an applicable local acknowledged compre-
 7 hensive plan, land use regulation or federal land use plan, and is located:

8 (A) At or adjacent to an existing energy facility; or

9 (B)(i) At, adjacent to or in close proximity to an existing industrial use; and

10 (ii) In an area currently zoned or designated for industrial use;

11 (c)(A) Requires no more than three miles of associated transmission lines or three miles of new
 12 natural gas pipelines outside of existing rights of way for transmission lines or natural gas pipelines;

13 or

14 (B) Imposes, in the determination of the Energy Facility Siting Council, no significant impact in
 15 the locating of associated transmission lines or new natural gas pipelines outside of existing rights
 16 of way;

17 (d) Requires no new water right or water right transfer; **and**

18 *[(e) Provides funds to a qualified organization in an amount determined by the council to be suf-*
 19 *ficient to produce any required reduction in emissions as specified in ORS 469.503 (2)(c)(C) and in rules*
 20 *adopted under ORS 469.503 for the total carbon dioxide emissions produced by the energy facility for*
 21 *the life of the energy facility; and]*

22 *[(f)(A)]* (e)(A) Discharges process wastewater to a wastewater treatment facility that has an
 23 existing National Pollutant Discharge Elimination System permit, can obtain an industrial pretreat-
 24 ment permit, if needed, within the expedited review process time frame and has written confirmation
 25 from the wastewater facility permit holder that the additional wastewater load will be accommo-
 26 dated by the facility without resulting in a significant thermal increase in the facility effluent or
 27 without requiring any changes to the wastewater facility National Pollutant Discharge Elimination
 28 System permit;

29 (B) Plans to discharge process wastewater to a wastewater treatment facility owned by a mu-
 30 nicipal corporation that will accommodate the wastewater from the energy facility and supplies ev-
 31 idence from the municipal corporation that:

32 (i) The municipal corporation has included, or intends to include, the process wastewater load
 33 from the energy facility in an application for a National Pollutant Discharge Elimination System
 34 permit; and

35 (ii) All conditions required of the energy facility to allow the discharge of process wastewater
 36 from the energy facility will be satisfied; or

37 (C) Obtains a National Pollutant Discharge Elimination System or water pollution control fa-
 38 cility permit for process wastewater disposal, supplies evidence to support a finding that the dis-
 39 charge can likely be permitted within the expedited review process time frame and that the
 40 discharge will not require:

41 (i) A new National Pollutant Discharge Elimination System permit, except for a storm water
 42 general permit for construction activities; or

43 (ii) A change in any effluent limit or discharge location under an existing National Pollutant
 44 Discharge Elimination System or water pollution control facility permit.

45 (2) An applicant seeking expedited review under this section shall submit documentation to the

1 State Department of Energy, prior to the submission of an application for a site certificate, that
2 demonstrates that the energy facility meets the qualifications set forth in subsection (1) of this
3 section. The department shall determine, within 14 days of receipt of the documentation, on a pre-
4 liminary, nonbinding basis, whether the energy facility qualifies for expedited review.

5 (3) If the department determines that the energy facility preliminarily qualifies for expedited
6 review, the applicant may submit an application for expedited review. Within 30 days after the date
7 that the application for expedited review is submitted, the department shall determine whether the
8 application is complete. If the department determines that the application is complete, the applica-
9 tion shall be deemed filed on the date that the department sends the applicant notice of its deter-
10 mination. If the department determines that the application is not complete, the department shall
11 notify the applicant of the deficiencies in the application and shall deem the application filed on the
12 date that the department determines that the application is complete. The department or the
13 council may request additional information from the applicant at any time.

14 (4) The State Department of Energy shall send a copy of a filed application to the Department
15 of Environmental Quality, the Water Resources Department, the State Department of Fish and
16 Wildlife, the State Department of Geology and Mineral Industries, the State Department of Agri-
17 culture, the Department of Land Conservation and Development, the Public Utility Commission and
18 any other state agency, city, county or political subdivision of the state that has regulatory or ad-
19 visory responsibility with respect to the proposed energy facility. The State Department of Energy
20 shall send with the copy of the filed application a notice specifying that:

21 (a) In the event the council issues a site certificate for the energy facility, the site certificate
22 will bind the state and all counties, cities and political subdivisions in the state as to the approval
23 of the site, the construction of the energy facility and the operation of the energy facility, and that
24 after the issuance of a site certificate, all permits, licenses and certificates addressed in the site
25 certificate must be issued as required by ORS 469.401 (3); and

26 (b) The comments and recommendations of state agencies, counties, cities and political subdivi-
27 sions concerning whether the proposed energy facility complies with any statute, rule or local
28 ordinance that the state agency, county, city or political subdivision would normally administer in
29 determining whether a permit, license or certificate required for the construction or operation of the
30 energy facility should be approved will be considered only if the comments and recommendations
31 are received by the department within a reasonable time after the date the application and notice
32 of the application are sent by the department.

33 (5) Within 90 days after the date that the application was filed, the department shall issue a
34 draft proposed order setting forth:

35 (a) A description of the proposed energy facility;

36 (b) A list of the permits, licenses and certificates that are addressed in the application and that
37 are required for the construction or operation of the proposed energy facility;

38 (c) A list of the statutes, rules and local ordinances that are the standards and criteria for ap-
39 proval of any permit, license or certificate addressed in the application and that are required for the
40 construction or operation of the proposed energy facility; and

41 (d) Proposed findings specifying how the proposed energy facility complies with the applicable
42 standards and criteria for approval of a site certificate.

43 (6) The council shall review the application for site certification in the manner set forth in
44 subsections (7) to (10) of this section and shall issue a site certificate for the facility if the council
45 determines that the facility, with any required conditions to the site certificate, will comply with:

- 1 (a) The requirements for expedited review as specified in this section;
- 2 (b) The standards adopted by the council pursuant to ORS 469.501 (1)(a), (c) to (e), (g), (h) and
- 3 (L) to [(o)] (n);
- 4 (c) The requirements of ORS 469.503 [(3)] (2); and
- 5 (d) The requirements of ORS 469.504 (1)(b).
- 6 (7) Following submission of an application for a site certificate, the council shall hold a public
- 7 informational meeting on the application. Following the issuance of the proposed order, the council
- 8 shall hold at least one public hearing on the application. The public hearing shall be held in the area
- 9 affected by the energy facility. The council shall mail notice of the hearing at least 20 days prior
- 10 to the hearing. The notice shall comply with the notice requirements of ORS 197.763 (2) and shall
- 11 include, but need not be limited to, the following:
- 12 (a) A description of the energy facility and the general location of the energy facility;
- 13 (b) The name of a department representative to contact and the telephone number at which
- 14 people may obtain additional information;
- 15 (c) A statement that copies of the application and proposed order are available for inspection
- 16 at no cost and will be provided at reasonable cost; and
- 17 (d) A statement that the record for public comment on the application will close at the conclu-
- 18 sion of the hearing and that failure to raise an issue in person or in writing prior to the close of
- 19 the record, with sufficient specificity to afford the decision maker an opportunity to respond to the
- 20 issue, will preclude consideration of the issue, by the council or by a court on judicial review of the
- 21 council's decision.
- 22 (8) Prior to the conclusion of the hearing, the applicant may request an opportunity to present
- 23 additional written evidence, arguments or testimony regarding the application. In the alternative,
- 24 prior to the conclusion of the hearing, the applicant may request a contested case hearing on the
- 25 application. If the applicant requests an opportunity to present written evidence, arguments or tes-
- 26 timony, the council shall leave the record open for that purpose only for a period not to exceed 14
- 27 days after the date of the hearing. Following the close of the record, the department shall prepare
- 28 a draft final order for the council. If the applicant requests a contested case hearing, the council
- 29 may grant the request if the applicant has shown good cause for a contested case hearing. If a re-
- 30 quest for a contested case hearing is granted, subsections (9) to (11) of this section do not apply,
- 31 and the application shall be considered under the same contested case procedures used for a non-
- 32 expedited application for a site certificate.
- 33 (9) The council shall make its decision based on the record and the draft final order prepared
- 34 by the department. The council shall, within six months of the date that the application is deemed
- 35 filed:
- 36 (a) Grant the application;
- 37 (b) Grant the application with conditions;
- 38 (c) Deny the application; or
- 39 (d) Return the application to the site certification process required by ORS 469.320.
- 40 (10) If the application is granted, the council shall issue a site certificate pursuant to ORS
- 41 469.401 and 469.402. Notwithstanding subsection (6) of this section, the council may impose condi-
- 42 tions based on standards adopted under ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an
- 43 application based on those standards.
- 44 (11) Judicial review of the approval or rejection of a site certificate by the council under this
- 45 section shall be as provided in ORS 469.403.

1 **SECTION 64.** ORS 469.405 is amended to read:

2 469.405. (1) A site certificate may be amended with the approval of the Energy Facility Siting
3 Council. The council may establish by rule the type of amendment that must be considered in a
4 contested case proceeding. Judicial review of an amendment to a site certificate shall be as provided
5 in ORS 469.403.

6 (2) Notwithstanding ORS 34.020 or 197.825, or any other provision of law, the land use approval
7 by an affected local government of a proposed amendment to a facility and the recommendation of
8 the special advisory group of applicable substantive criteria shall be subject to judicial review only
9 as provided in ORS 469.403. If the applicant elects to show compliance with the statewide planning
10 goals by demonstrating that the facility has received local land use approval, the provisions of this
11 section shall apply only to proposed projects for which the land use approval by the local govern-
12 ment occurs after the date an application for amendment is submitted to the State Department of
13 Energy.

14 (3) An amendment to a site certificate is not required for a pipeline less than 16 inches in di-
15 ameter and less than five miles in length that is proposed to be constructed to test or maintain an
16 underground gas storage reservoir. If the proposed pipeline will connect to a council certified sur-
17 face facility related to an underground gas storage reservoir or to a council certified gas pipeline,
18 whether the proposed pipeline is to be located inside or outside the site of a council certified facil-
19 ity, the certificate holder must obtain, prior to construction, the approval of the department for the
20 construction, operation and retirement of the proposed pipeline. The department shall approve such
21 a proposed pipeline if the pipeline meets applicable council substantive standards. Notwithstanding
22 ORS 469.503 [(3)] (2), the department may not review the proposed pipeline for compliance with
23 other state standards. Notwithstanding ORS 469.503 [(4)] (3), or any council rule addressing com-
24 pliance with land use standards, the department shall not review such a proposed pipeline for com-
25 pliance with land use requirements. Notwithstanding ORS 469.401 (3), the approval by the
26 department of such pipeline shall not bind any state or local agency. The council may adopt appro-
27 priate procedural rules for the department review. The department shall issue an order approving
28 or rejecting the proposed pipeline. Judicial review of a department order under this section shall
29 be as provided in ORS 469.403.

30 **SECTION 65.** ORS 469.407 is amended to read:

31 469.407. (1) A recipient may by amendment of its application for a site certificate or by amend-
32 ment of its site certificate increase the capacity of the facility if the Energy Facility Siting Council
33 finds that:

34 (a) The facility will satisfy the conditions of the 500-megawatt exemption, unless modified by the
35 council;

36 (b) The enlarged facility does not exceed 500 megawatts and meets the applicable carbon dioxide
37 standard provided for in ORS 469.503 (2) (2017 Edition) for any increase in capacity beyond the
38 capacity of the 500-megawatt exemption; and

39 (c) The enlarged facility meets all other applicable council standards.

40 (2) A recipient is deemed to meet any applicable need standard and carbon dioxide emissions
41 standard for the nominal generating capacity of the 500-megawatt exemption provided that the re-
42 cipient satisfies the conditions of the 500-megawatt exemption, unless the council modifies the con-
43 ditions.

44 (3) As used in this section:

45 (a) "Recipient" means any base load gas plant, as defined in ORS 469.503 (2017 Edition), de-

1 terminated by the council to have the lowest net monetized air emissions among the applicants par-
2 ticipating in a contested case proceeding.

3 (b) "500-megawatt exemption" means the council order in which a recipient was determined to
4 have the lowest net monetized air emissions.

5 **SECTION 66.** ORS 469.504 is amended to read:

6 469.504. (1) A proposed facility shall be found in compliance with the statewide planning goals
7 under ORS 469.503 [(4)] (3) if:

8 (a) The facility has received local land use approval under the acknowledged comprehensive
9 plan and land use regulations of the affected local government; or

10 (b) The Energy Facility Siting Council determines that:

11 (A) The facility complies with applicable substantive criteria from the affected local
12 government's acknowledged comprehensive plan and land use regulations that are required by the
13 statewide planning goals and in effect on the date the application is submitted, and with any Land
14 Conservation and Development Commission administrative rules and goals and any land use statutes
15 that apply directly to the facility under ORS 197.646;

16 (B) For an energy facility or a related or supporting facility that must be evaluated against the
17 applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility
18 does not comply with one or more of the applicable substantive criteria but does otherwise comply
19 with the applicable statewide planning goals, or that an exception to any applicable statewide
20 planning goal is justified under subsection (2) of this section; or

21 (C) For a facility that the council elects to evaluate against the statewide planning goals pur-
22 suant to subsection (5) of this section, that the proposed facility complies with the applicable state-
23 wide planning goals or that an exception to any applicable statewide planning goal is justified under
24 subsection (2) of this section.

25 (2) The council may find goal compliance for a facility that does not otherwise comply with one
26 or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding
27 the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process
28 or any rules of the Land Conservation and Development Commission pertaining to an exception
29 process goal, the council may take an exception to a goal if the council finds:

30 (a) The land subject to the exception is physically developed to the extent that the land is no
31 longer available for uses allowed by the applicable goal;

32 (b) The land subject to the exception is irrevocably committed as described by the rules of the
33 Land Conservation and Development Commission to uses not allowed by the applicable goal because
34 existing adjacent uses and other relevant factors make uses allowed by the applicable goal imprac-
35 ticable; or

36 (c) The following standards are met:

37 (A) Reasons justify why the state policy embodied in the applicable goal should not apply;

38 (B) The significant environmental, economic, social and energy consequences anticipated as a
39 result of the proposed facility have been identified and adverse impacts will be mitigated in ac-
40 cordance with rules of the council applicable to the siting of the proposed facility; and

41 (C) The proposed facility is compatible with other adjacent uses or will be made compatible
42 through measures designed to reduce adverse impacts.

43 (3) If compliance with applicable substantive local criteria and applicable statutes and state
44 administrative rules would result in conflicting conditions in the site certificate or amended site
45 certificate, the council shall resolve the conflict consistent with the public interest. A resolution

1 may not result in a waiver of any applicable state statute.

2 (4) An applicant for a site certificate shall elect whether to demonstrate compliance with the
3 statewide planning goals under subsection (1)(a) or (b) of this section. The applicant shall make the
4 election on or before the date specified by the council by rule.

5 (5) Upon request by the State Department of Energy, the special advisory group established
6 under ORS 469.480 shall recommend to the council, within the time stated in the request, the ap-
7 plicable substantive criteria under subsection (1)(b)(A) of this section. If the special advisory group
8 does not recommend applicable substantive criteria within the time established in the department's
9 request, the council may either determine and apply the applicable substantive criteria under sub-
10 section (1)(b) of this section or determine compliance with the statewide planning goals under sub-
11 section (1)(b)(B) or (C) of this section. If the special advisory group recommends applicable
12 substantive criteria for an energy facility described in ORS 469.300 or a related or supporting fa-
13 cility that does not pass through more than one local government jurisdiction or more than three
14 zones in any one jurisdiction, the council shall apply the criteria recommended by the special advi-
15 sory group. If the special advisory group recommends applicable substantive criteria for an energy
16 facility as defined in ORS 469.300 (11)(a)(C) to (E) or a related or supporting facility that passes
17 through more than one jurisdiction or more than three zones in any one jurisdiction, the council
18 shall review the recommended criteria and determine whether to evaluate the proposed facility
19 against the applicable substantive criteria recommended by the special advisory group, against the
20 statewide planning goals or against a combination of the applicable substantive criteria and state-
21 wide planning goals. In making its determination, the council shall consult with the special advisory
22 group and shall consider:

23 (a) The number of jurisdictions and zones in question;

24 (b) The degree to which the applicable substantive criteria reflect local government consider-
25 ation of energy facilities in the planning process; and

26 (c) The level of consistency of the applicable substantive criteria from the various zones and
27 jurisdictions.

28 (6) The council is not subject to ORS 197.180 and a state agency may not require an applicant
29 for a site certificate to comply with any rules or programs adopted under ORS 197.180.

30 (7) On or before its next periodic review, each affected local government shall amend its com-
31 prehensive plan and land use regulations as necessary to reflect the decision of the council per-
32 taining to a site certificate or amended site certificate.

33 (8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law, the affected local
34 government's land use approval of a proposed facility under subsection (1)(a) of this section and the
35 special advisory group's recommendation of applicable substantive criteria under subsection (5) of
36 this section shall be subject to judicial review only as provided in ORS 469.403. If the applicant
37 elects to comply with subsection (1)(a) of this section, the provisions of this subsection shall apply
38 only to proposed projects for which the land use approval of the local government occurs after the
39 date a notice of intent or an application for expedited processing is submitted to the State Depart-
40 ment of Energy.

41 (9) The State Department of Energy, in cooperation with other state agencies, shall provide, to
42 the extent possible, technical assistance and information about the siting process to local govern-
43 ments that request such assistance or that anticipate having a facility proposed in their jurisdiction.

44 **SECTION 67.** ORS 469.505 is amended to read:

45 469.505. (1) In making a determination regarding compliance with statutes, rules and ordinances

1 administered by another agency or compliance with requirements of ORS 469.300 to 469.563 and
2 469.590 to 469.619 where another agency has special expertise, consultation with the other agency
3 shall occur during the notice of intent and site certificate application process. Any permit applica-
4 tion for which the permitting decision has been delegated by the federal government to a state
5 agency other than the Energy Facility Siting Council shall be reviewed, whenever feasible, simul-
6 taneously with the council's review of the site certificate application. Any hearings required on such
7 permit applications shall be consolidated, whenever feasible, with hearings under ORS 469.300 to
8 469.563 and 469.590 to 469.619.

9 (2) Before resolving any conflicting conditions in site certificates or amended site certificates
10 under ORS 469.503 [(3)] (2) and 469.504, the council shall notify and consult with the agencies and
11 local governments responsible for administering the statutes, administrative rules or substantive lo-
12 cal criteria that result in the conflicting conditions regarding potential conflict resolution.

13 **SECTION 68.** ORS 526.786 is amended to read:

14 526.786. (1) The State Board of Forestry may develop administrative rules that define principles
15 and standards relating to the creation, measurement, accounting, marketing, verifying, registering,
16 transferring and selling of forestry carbon offsets from nonfederal forestlands.

17 (2) Rules adopted by the board under this section shall set standards to ensure that in order to
18 be marketed, registered, transferred or sold, a forestry carbon offset must be created as a result of
19 forest management activities that:

20 (a) Have the effect of increasing carbon storage on forestlands as measured by a forestry carbon
21 offset accounting system;

22 (b) Would not otherwise occur but for the carbon storage objective; and

23 (c) Provide environmental, social and economic benefits for Oregon and its citizens, including
24 but not limited to, protection or enhancement of long term timber supplies, native fish and wildlife
25 habitat and water quality.

26 (3) Rules adopted by the board under this section shall establish principles to ensure that the
27 forestry carbon offset accounting system shall:

28 (a) Account for relevant sources of carbon dioxide emission debits and credits for carbon storage
29 or sequestration;

30 (b) Account for the duration and permanence of the carbon dioxide storage or emission re-
31 ductions;

32 (c) Include provisions for establishing the appropriate baseline for projects, practices, rotation
33 ages, harvest schedules and ownership from which measured carbon dioxide emission debits, and
34 credits for carbon storage or sequestration are made;

35 (d) Account for other relevant and measurable greenhouse gas consequences, specifically credits
36 and debits expressed as a carbon dioxide emissions equivalent, when establishing baselines or oth-
37 erwise as appropriate;

38 (e) Account for the specific forest management practices used on-site and include provisions for
39 monitoring carbon dioxide emission debits and credits for carbon storage or sequestration, from the
40 implementation of specific practices;

41 (f) Account for continuing carbon dioxide emission debits, and credits for carbon storage or
42 sequestration, based on the end product use of harvested biomass;

43 (g) Account for environmental, social and economic benefits of forestry carbon offsets and en-
44 sure that practices with unsustainable, long term consequences are not used to create forestry car-
45 bon offsets;

- 1 (h) Allow for public access to information in monitoring reports; and
- 2 (i) Encourage third-party verification of forestry carbon offsets.
- 3 (4) Rules adopted by the board under this section may address qualifications for persons and
- 4 agencies that provide third-party verification and registration of forestry carbon offsets.
- 5 (5) Rules adopted by the board under this section shall be developed with the assistance of an
- 6 advisory committee appointed by the board. The advisory committee shall consist of at least nine
- 7 persons and shall contain:
 - 8 (a) Persons from businesses, governmental agencies and nongovernmental organizations with
 - 9 knowledge and experience in the accounting of greenhouse gas emissions, sequestration and storage;
 - 10 (b) At least one person from a nongovernmental forestry conservation organization;
 - 11 (c) At least one nonindustrial private forest landowner or a representative of an organization
 - 12 that represents nonindustrial private forest landowners;
 - 13 (d) One representative of the State Department of Energy;
 - 14 (e) One representative of the State Department of Fish and Wildlife, or a designee of the State
 - 15 Department of Fish and Wildlife;
 - 16 (f) One representative of the Department of Environmental Quality, or a designee of the De-
 - 17 partment of Environmental Quality;
 - 18 (g) At least one representative from [*a qualified organization, as defined in ORS 469.503*] a
 - 19 **nonprofit organization that sells voluntary and compliance offsets from greenhouse gas re-**
 - 20 **duction projects;** and
 - 21 (h) At least one representative from the State Forestry Department who shall serve as the sec-
 - 22 retary to the advisory committee.

23
24 **EXPEDITED JUDICIAL REVIEW TO SUPREME COURT;**
25 **EXPIRATION**
26

- 27 **SECTION 69.** (1) **It is the intent of the Legislative Assembly that the provisions of this**
- 28 **2019 Act relating to the receipt of moneys by the state through the sale of allowances by**
- 29 **auction under section 21 of this 2019 Act do not render this 2019 Act a bill for raising revenue**
- 30 **subject to the provisions of Article IV, sections 18 and 25 (2), of the Oregon Constitution.**
- 31 (2) **Original jurisdiction is conferred on the Supreme Court to determine whether this**
- 32 **2019 Act is a bill for raising revenue subject to the provisions of Article IV, sections 18 and**
- 33 **25 (2), of the Oregon Constitution.**
- 34 (3) **Any person adversely affected or aggrieved by the provisions of section 21 this 2019**
- 35 **Act may institute a proceeding for review by filing with the Supreme Court a petition that**
- 36 **meets the following requirements:**
 - 37 (a) **The petition must be filed on or before January 1, 2020.**
 - 38 (b) **The petition must include the following:**
 - 39 (A) **A statement of the basis of the challenge; and**
 - 40 (B) **A statement and supporting affidavit showing how the petitioner is or will be ad-**
 - 41 **versely affected or aggrieved.**
 - 42 (4) **The petitioner shall serve a copy of the petition by registered or certified mail upon**
 - 43 **the Oregon Department of Administrative Services, the Oregon Director of the Carbon Policy**
 - 44 **Office, the Attorney General and the Governor.**
 - 45 (5) **Proceedings for review under this section shall be given priority over all other mat-**

OPERATIVE DATE

SECTION 73. (1) Sections 4 to 52 and 56 to 59 of this 2019 Act, the amendments to statutes by sections 53, 54, 55 and 61 to 68 of this 2019 Act and the repeal of ORS 469.409 by section 60 of this 2019 Act become operative on January 1, 2021.

(2) The Director of the Carbon Policy Office, the Carbon Policy Office, the Public Utility Commission, the Housing and Community Services Department, the State Department of Energy, the Oregon Department of Administrative Services, the Environmental Quality Commission, the Department of Environmental Quality and the Governor may adopt rules or take any actions before the operative date specified in subsection (1) of this section that are necessary to enable the Director of the Carbon Policy Office, the Carbon Policy Office, the Public Utility Commission, the Housing and Community Services Department, the State Department of Energy, the Oregon Department of Administrative Services, the Environmental Quality Commission, the Department of Environmental Quality and the Governor, on and after the operative date specified in subsection (1) of this section, to carry out the provisions of sections 4 to 52 and 56 to 59 of this 2019 Act, the amendments to statutes by sections 53, 54, 55 and 61 to 68 of this 2019 Act and the repeal of ORS 469.409 by section 60 of this 2019 Act.

REPORTS AND REVIEWS

SECTION 74. On or before September 15, 2020, the Oregon Department of Administrative Services shall report on the actions being taken to prepare for implementation of sections 8 to 26 of this 2019 Act to the Joint Committee on Climate Action.

SECTION 75. On or before September 15, 2031, the Carbon Policy Office shall conduct a review and provide a report to the Joint Committee on Climate Action in the manner provided by ORS 192.245 on the implementation of section 19 of this 2019 Act and rules adopted under section 19 of this 2019 Act. The report may include recommendations for legislation. The review and report must:

- (1) Assess the implementation of laws, policies and protocols for offset projects and the use of offset credits by covered entities; and
- (2) Make determinations and recommendations regarding whether changes to laws, policies or protocols are necessary or advisable to address any negative impacts or to best align the laws, policies or protocols with the purposes set forth in section 7 of this 2019 Act.

CAPTIONS

SECTION 76. The unit and section captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

EMERGENCY CLAUSE

SECTION 77. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect

1 **on its passage.**

2
