

House Bill 4159

Sponsored by Representatives KOTEK, POWER, MARSH (Pre-session filed.)

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**.

Modifies statewide greenhouse gas emissions reduction goals.

Establishes Oregon Climate Action Program and related provisions administered by Department of Environmental Quality. Becomes operative January 1, 2022.

Authorizes Public Utilities Commission to allow rate or rate schedule to include differential rates or to reflect amounts for programs that enable public utilities to assist low-income residential customers. Authorizes commission to allow rate or rate schedule to reflect amounts for investments in infrastructure measures that support adoption of alternative forms of transportation vehicles.

Amends greenhouse gas reporting statute.

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

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

Provides for direct expedited review by Oregon Supreme Court of certain constitutional question related to Oregon Climate Action Program.

Requires and modifies certain reports and proposals.

Establishes Joint Committee on Climate Action.

Establishes Oregon Climate Board. Establishes within Oregon Department of Administrative Services, Climate Policy Office and Director of Climate Policy Office to advise on development of Oregon Climate Action Plan, on implementation of plan and on investments of state proceeds from program.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to greenhouse gas emissions; creating new provisions; amending ORS 244.050, 352.823,
3 468.135, 468A.205, 468A.235, 468A.240, 468A.245, 468A.255, 468A.260, 468A.265, 468A.279,
4 468A.280, 646.913, 757.259 and 757.528 and sections 75 and 76, chapter 750, Oregon Laws 2017;
5 repealing ORS 468A.200, 468A.210, 468A.215, 468A.220, 468A.225, 468A.230 and 468A.250; and
6 declaring an emergency.

7 Whereas increasing greenhouse gas emissions have warmed average temperatures in the Pacific
8 Northwest two degrees Fahrenheit since 1900 and projections indicate that Oregon will warm by
9 four to nine degrees Fahrenheit by 2100, creating unstable climate conditions that produce extreme
10 weather events, recurrent drought, unpredictable snowpack and prolonged fire seasons; and

11 Whereas Oregonians are experiencing the effects of climate change in the form of devastating
12 wildfires, extended smoke events, drinking and irrigation water shortages, ocean acidification, dam-
13 age to marine ecosystems and food sources, loss of fish and wildlife habitat, severe harm to our
14 agriculture, forestry and tourism industries, deterioration of natural and built infrastructure and an
15 increase in the incidences of infectious diseases, asthma and other human health-related problems;
16 and

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

20 Whereas climate change has a disproportionate effect on impacted communities, such as Indian
21 tribes, rural communities, coastal communities, workers, low-income households and people of color,

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 who typically have fewer resources for adapting to climate change and are therefore the most vul-
2 nerable to displacement, adverse health effects, job loss, property damage and other effects of cli-
3 mate change; and

4 Whereas increasing clean and renewable domestic energy resources and improving business and
5 household energy efficiency in Oregon will support critical community energy preparedness needs,
6 lower utility bills and support jobs that protect healthy, clean air; and

7 Whereas Oregon seeks to promote adaptation and resilience of the natural and built environ-
8 ment and to empower communities to identify and address climate change impacts; and

9 Whereas it is the intent of the Legislative Assembly to obtain reductions in greenhouse gas
10 emissions through a comprehensive, legally binding, market-based carbon pricing mechanism that
11 must lay out a predictable pathway to success, be flexible and adaptable to changing circumstances,
12 be based on best available science, recognize the benefit of Oregon's natural and working lands in
13 reducing greenhouse gas emissions, invest resources in adaptation and resilience and be designed
14 to reduce emissions and to successfully transition to a clean energy economy with benefits available
15 to all Oregonians; and

16 Whereas linkage with other jurisdictions will create efficiencies, spur innovation and create
17 simplicity for businesses and can be balanced with the ability to maintain Oregon's authority over
18 its greenhouse gas reduction, sequestration, mitigation, adaptation, resilience and transition activ-
19 ities; now, therefore,

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

21
22 **STATEWIDE GREENHOUSE GAS EMISSIONS**
23 **REDUCTION GOALS**
24

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

26 468A.205. (1) The Legislative Assembly declares that it is the *[policy]* **goal** of this state to
27 **achieve a reduction in anthropogenic greenhouse gas emissions levels in Oregon:** *[reduce*
28 *greenhouse gas emissions in Oregon pursuant to the following greenhouse gas emissions reduction*
29 *goals:]*

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

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

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

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

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

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

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

42
43 **OREGON CLIMATE ACTION PROGRAM**
44 **(Statement of Purpose)**
45

1 **SECTION 2.** (1) The Legislative Assembly finds and declares that the purposes of sections
2 2, 4 to 33, 35 to 38, 39, 41, 43, 44, 45, 46, 52 and 54 to 59 of this 2020 Act are:

3 (a) To achieve a reduction in total levels of regulated emissions under sections 4 to 33
4 of this 2020 Act to at least 45 percent below 1990 emissions levels by 2035 and to achieve a
5 reduction in total regulated emissions levels to at least 80 percent below 1990 emissions levels
6 by 2050;

7 (b) To promote achievement of net-zero carbon dioxide emissions by all sectors of the
8 Oregon economy by 2050;

9 (c) To promote greenhouse gas emissions sequestration and mitigation;

10 (d) To promote the adaptation and resilience of this state’s natural and built
11 infrastructure, including forests, water systems, transportation systems and natural and
12 working lands, in the face of climate change;

13 (e) To empower eligible Indian tribes and local communities to identify and address the
14 impacts of climate disruption;

15 (f) To facilitate the development and adoption of new and existing technologies that re-
16 duce or sequester greenhouse gases; and

17 (g) To spur the development of family wage jobs by providing assistance to households,
18 businesses and workers impacted by climate change.

19 (2) Sections 2, 4 to 33, 35 to 38, 39, 41, 43, 44, 45, 46, 52 and 54 to 59 of this 2020 Act and
20 the rules adopted pursuant to sections 2, 4 to 33, 35 to 38, 39, 41, 43, 44, 45, 46, 52 and 54 to
21 59 of this 2020 Act may not be interpreted to limit the authority of any state agency to adopt
22 and implement measures to reduce greenhouse gas emissions.

23
24 (Chapter Placement)

25
26 **SECTION 3.** Sections 2 and 4 to 33 of this 2020 Act are added to and made a part of ORS
27 chapter 468A.

28
29 (General Regulatory Provisions)

30
31 **SECTION 4. Definitions.** As used in sections 2 and 4 to 33 of this 2020 Act:

32 (1) “Aggregation” means an approach for qualifying and quantifying offset projects, for
33 the purposes of reducing costs and increasing the development of offset projects, that allows
34 for the grouping together of two or more geographically separate activities undertaken by
35 one or more parties that result in reductions or removals of greenhouse gases in a similar
36 manner.

37 (2) “Allowance” means a tradable authorization to emit one metric ton of carbon dioxide
38 equivalent.

39 (3) “Annual allowance budget” means the number of allowances available to be allocated
40 during one year of the Oregon Climate Action Program.

41 (4) “Anthropogenic greenhouse gas emissions” means greenhouse gas emissions that are
42 not biogenic emissions.

43 (5) “Best available science” means science that:

44 (a) Maximizes the quality, objectivity and integrity of information, including statistical
45 information;

- 1 **(b) Uses peer-reviewed and publicly available data; and**
2 **(c) Clearly documents and communicates risks and uncertainties in scientific citations.**
3 **(6) “Biogenic emissions” means carbon dioxide emissions generated from the combustion**
4 **of biomass-derived fuels.**
5 **(7) “Biomass-derived fuels” includes:**
6 **(a) Nonfossilized and biodegradable organic material originating from plants, animals or**
7 **microorganisms;**
8 **(b) Products, by-products, residues or waste from agriculture, forestry or related indus-**
9 **tries; and**
10 **(c) The nonfossilized and biodegradable organic fractions of industrial and municipal**
11 **wastes, including gases and liquids recovered from:**
12 **(A) The decomposition of nonfossilized and biodegradable organic material originating**
13 **from plants, animals or microorganisms; or**
14 **(B) Municipal solid waste disposed of in a landfill.**
15 **(8)(a) “Business unit” means a business operation that is located at a facility permitted**
16 **as a single air contamination source under ORS 468.065, 468A.040 or 468A.155, but that is**
17 **distinguishable from one or more other business operations located at the facility by:**
18 **(A) The short title and six-digit code in the North American Industry Classification Sys-**
19 **tem applicable to the business operation;**
20 **(B) Accounting practices for the business operation that maintain the finances for the**
21 **business operation as distinct from the finances of other business operations located at the**
22 **facility; and**
23 **(C) The capability of the business operation to operate separately and independently of**
24 **other business operations at the facility if not colocated with the other business operations.**
25 **(b) “Business unit” does not mean a cogeneration facility.**
26 **(9) “Carbon dioxide equivalent” means the amount of carbon dioxide by weight that would**
27 **produce the same global warming impact as a given weight of another greenhouse gas, based**
28 **on considerations including but not limited to the best available science, including informa-**
29 **tion from the Intergovernmental Panel on Climate Change.**
30 **(10) “Compliance instrument” means one allowance or one offset credit that may be used**
31 **to fulfill a compliance obligation.**
32 **(11) “Compliance obligation” means the quantity of regulated emissions that are attrib-**
33 **utable to a covered entity, and for which compliance instruments must be retired, for a**
34 **compliance period.**
35 **(12) “Consumer-owned utility” has the meaning given that term in ORS 757.270.**
36 **(13) “Covered entity” means a person that is designated by the Department of Environ-**
37 **mental Quality as subject to the Oregon Climate Action Program.**
38 **(14) “Direct environmental benefits in this state” means:**
39 **(a) A reduction in or avoidance of emissions of any air contaminant in this state other**
40 **than a greenhouse gas;**
41 **(b) A reduction in or avoidance of pollution of any of the waters of the state, as the**
42 **terms “pollution” and “the waters of the state” are defined in ORS 468B.005; or**
43 **(c) An improvement in the health of natural and working lands in this state.**
44 **(15) “EITE entity” means a covered entity or an opt-in entity that is engaged in the**
45 **manufacture of goods through one or more emissions-intensive, trade-exposed processes, as**

1 further designated by the department pursuant to section 17 of this 2020 Act.

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

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

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

8 (a) Electric companies.

9 (b) Electricity service suppliers.

10 (c) Consumer-owned utilities.

11 (d) The Bonneville Power Administration.

12 (e) Electric generation and transmission cooperatives.

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

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

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

24 (22) "Impacted community" means a community at risk of being disproportionately im-
25 pacted by climate change as designated by the department under section 26 of this 2020 Act.

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

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

30 (25) "Natural and working lands" means:

31 (a) Lands and waters:

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

34 (B) Producing forest products;

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

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

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

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

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

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

45 (27) "Natural gas utility" means a natural gas utility regulated by the Public Utility

1 Commission under ORS chapter 757.

2 (28) “Offset credit” means a tradable credit generated by an offset project that repres-
 3 ents a greenhouse gas emissions reduction or removal of one metric ton of carbon dioxide
 4 equivalent.

5 (29) “Offset project” means a project that reduces or removes greenhouse gas emissions
 6 that are not regulated emissions.

7 (30) “Opt-in entity” means a person that is not designated as a covered entity by the
 8 department and that voluntarily chooses to participate in the Oregon Climate Action Pro-
 9 gram as if the entity were a covered entity.

10 (31) “Oregon Climate Action Program” means the program adopted by rule by the Envi-
 11 ronmental Quality Commission under section 5 (1) of this 2020 Act and in accordance with
 12 the provisions of sections 4 to 33 of this 2020 Act.

13 (32) “Permitted air contamination source” means an air contamination source as defined
 14 in ORS 468A.005 for which a permit is issued by the department pursuant to ORS 468.065,
 15 468A.040 or 468A.155.

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

18 (34) “Regulated emissions” means the verified anthropogenic greenhouse gas emissions
 19 reported by or assigned to a covered entity or opt-in entity under ORS 468A.280 that the
 20 commission determines by rule are anthropogenic greenhouse gas emissions regulated under
 21 sections 4 to 33 of this 2020 Act.

22 (35) “Surrender” means to transfer a compliance instrument to the department to fulfill
 23 a compliance obligation or on a voluntary basis.

24 SECTION 5. Adoption of program; general provisions. (1)(a) The Environmental Quality
 25 Commission, in consultation with the Oregon Climate Board, shall adopt an Oregon Climate
 26 Action Program by rule in accordance with ORS chapter 183 and sections 4 to 33 of this 2020
 27 Act. The program shall:

28 (A) Place a cap on the total anthropogenic greenhouse gas emissions that are regulated
 29 emissions through setting annual allowance budgets for 2022 to 2050; and

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

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

34 (B) In 2023 and each following calendar year before 2036, the number of allowances
 35 available in each annual allowance budget shall decline by a constant amount as necessary
 36 to accomplish a reduction in total regulated emissions levels to at least 45 percent below 1990
 37 emissions levels by 2035.

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

42 (c) The Department of Environmental Quality shall calculate baseline emissions to be
 43 equal to a forecast of regulated emissions for 2022, informed by the three-year average of the
 44 total, expressed in metric tons of carbon dioxide equivalent, of anthropogenic greenhouse gas
 45 emissions attributable to all persons that the department designates to be covered entities

1 under the program. In calculating baseline emissions, the department shall use greenhouse
2 gas emissions information from the three most recent years prior to 2022 for which
3 greenhouse gas emissions information is available and confirmed by the department. The
4 department shall exclude from the calculation of baseline emissions those greenhouse gas
5 emissions during the three most recent years prior to 2022 that would not have been regu-
6 lated emissions if the Oregon Climate Action Program had been in effect during the time
7 that the greenhouse gas emissions occurred.

8 (2) Subject to section 6 of this 2020 Act, the department shall designate persons as cov-
9 ered entities as follows:

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

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

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

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

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

45 (f) The department shall designate a natural gas utility as a covered entity for the pur-

1 pose of addressing annual regulated emissions that are attributable to the combustion of
2 natural gas that the natural gas utility imports, sells or distributes for use in this state and
3 that are not emissions accounted for through the regulation of permitted air contamination
4 sources under paragraph (a), (b) or (c) of this subsection or natural gas suppliers under
5 paragraph (e) of this subsection.

6 (g) The department shall designate as covered entities persons not described in para-
7 graphs (e) and (f) of this subsection that produce in Oregon, or import into Oregon, fuel that
8 is sold or distributed for use in this state, as necessary to address annual regulated emis-
9 sions that are attributable to the combustion of the fuel.

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

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

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

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

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

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

19 (4) The department shall require a covered entity or opt-in entity to surrender to the
20 department the quantity of compliance instruments necessary to fulfill the covered entity's
21 or opt-in entity's compliance obligation no later than the surrender date specified by the
22 commission by rule or order.

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

28 (6) A natural gas utility or natural gas supplier that delivers natural gas to a customer
29 that is a covered entity or opt-in entity may not include in the rate or bill charged to the
30 customer any costs associated with compliance by the natural gas utility or natural gas
31 supplier with sections 4 to 33 of this 2020 Act.

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

33 (a) Shall require a covered entity or opt-in entity that fails to timely surrender to the
34 commission a sufficient quantity of compliance instruments to fulfill a compliance obligation
35 to surrender to the department a number of compliance instruments that is in addition to
36 the entity's compliance obligation; and

37 (b) May establish a process for placing restrictions on the holding account of a registered
38 entity determined to have engaged in a violation of a provision of sections 4 to 33 of this 2020
39 Act or rules adopted under sections 4 to 33 of this 2020 Act.

40 (8) A compliance instrument issued by the department does not constitute property or a
41 property right.

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

44 (b) The commission shall adopt by rule registration requirements and any additional re-
45 quirements necessary for registered entities to participate in auctions administered pursuant

1 to section 27 of this 2020 Act.

2 **SECTION 6. Exemptions and exclusions.** (1) The Environmental Quality Commission shall
 3 exempt from regulation as a covered entity under sections 4 to 33 of this 2020 Act a
 4 cogeneration facility, as defined in ORS 758.505, that is owned or operated by a public uni-
 5 versity listed in ORS 352.002 or by the Oregon Health and Science University established
 6 under ORS 353.020.

7 (2) The commission shall exclude from regulated emissions under sections 4 to 33 of this
 8 2020 Act:

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

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

12 (3) For purposes of section 5 (2)(g) of this 2020 Act, the commission may exempt from
 13 designation as a covered entity any person that imports in a calendar year less than a de
 14 minimis amount of gasoline and diesel fuel, in total, as determined by the commission by
 15 rule. Gasoline and diesel fuel imported by persons that are related or share common owner-
 16 ship or control shall be aggregated in determining whether a person may be exempted under
 17 this subsection.

18 **SECTION 7. Allocation of allowances, generally.** The Department of Environmental
 19 Quality shall allocate the allowances available in each annual allowance budget as follows:

20 (1) The department shall allocate a number of the allowances for deposit in an allowance
 21 price containment reserve.

22 (2) The department may allocate a number of the allowances for deposit in a voluntary
 23 renewable electricity generation reserve. The Environmental Quality Commission shall adopt
 24 rules for the distribution of allowances from the voluntary renewable electricity generation
 25 reserve for voluntary renewable electricity generated by generating facilities that begin op-
 26 erations on or after January 1, 2022.

27 (3) The department shall allocate a number of the allowances for retirement as necessary
 28 to meet statutory requirements for retirement of allowances under the Oregon Climate
 29 Action Program.

30 (4) The department shall allocate a number of the allowances for direct distribution at
 31 no cost to covered entities that are electric companies pursuant to rules adopted under
 32 section 13 of this 2020 Act.

33 (5) The department shall allocate a number of the allowances for direct distribution at
 34 no cost to covered entities that are electric system managers other than electric companies
 35 pursuant to section 14 of this 2020 Act.

36 (6) The department shall allocate a number of the allowances for deposit in an electricity
 37 price containment reserve. Allowances may be directly distributed at no cost from the
 38 electricity price containment reserve only when the distribution is necessary to protect
 39 electricity ratepayers from cost increases associated with unexpected increases in regulated
 40 emissions attributable to an electric system manager that are outside of the control of the
 41 electric system manager, including but not limited to unexpected increases in regulated
 42 emissions due to hydroelectric power generation variability. The commission shall adopt
 43 rules for electric system managers to apply for direct distribution at no cost of allowances
 44 from the electricity price containment reserve. The rules shall prioritize distribution of al-
 45 lowances from the electricity price containment reserve to electric system managers that

1 experience unexpected increases in regulated emissions attributable to variation in hydro-
 2 electric power generation to serve the load of electricity customers in Oregon.

3 (7) The department shall allocate a number of the allowances for direct distribution at
 4 no cost to covered entities that are natural gas utilities pursuant to rules adopted under
 5 section 16 of this 2020 Act.

6 (8) In order to mitigate leakage and pursuant to sections 17 and 19 of this 2020 Act, the
 7 department shall allocate a number of the allowances for direct distribution at no cost to
 8 covered entities and opt-in entities that are EITE entities.

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

- 12 (a) EITE entities pursuant to rules adopted under section 19 (8) of this 2020 Act; or
- 13 (b) An EITE entity designated as such pursuant to section 17 (2)(a) of this 2020 Act.

14 (10) The department may allocate a number of the allowances for deposit in any other
 15 reserves or accounts that the commission establishes by rule and as the department deter-
 16 mines is necessary.

17 (11) The department shall allocate the allowances that are not otherwise allocated pur-
 18 suant to subsections (1) to (10) of this section for deposit in an auction holding account for
 19 auction pursuant to section 27 of this 2020 Act. If allowances deposited in the auction holding
 20 account under this subsection remain unsold after two or more consecutive auctions held
 21 pursuant to section 27 of this 2020 Act, the department may redistribute the unsold allow-
 22 ances to the allowance price containment reserve described in subsection (1) of this section.

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

32 (2) Allowances directly retired by the department on behalf of a covered entity under this
 33 section shall count toward fulfilling the covered entity's compliance obligation for the com-
 34 pliance period during which the allowances are directly retired.

35 **SECTION 9. Retirement of allowances for covered entities that are natural gas powered**
 36 **electric power generation facilities.** (1) In 2022 and each following calendar year before 2027,
 37 the Department of Environmental Quality shall retire from the annual allowance budget, on
 38 behalf of a covered entity described in section 5 (2)(b) of this 2020 Act, a number of allow-
 39 ances equal to the regulated emissions that are attributable to the generation in this state
 40 by the covered entity of electricity that is:

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

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

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

4 SECTION 10. Section 9 of this 2020 Act is repealed on January 2, 2027.

5 SECTION 11. Retirement of allowances for certain motor vehicle fuel importers and
 6 suppliers. (1) As used in this section:

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

8 (b) “Motor vehicle fuel” means any combustible gas, liquid or material of a kind used as
 9 fuel for the generation of power to propel a motor vehicle.

10 (2) The Department of Environmental Quality, in consultation with the Department of
 11 Transportation, shall by rule divide the State of Oregon into a standard implementation ef-
 12 fect region and a delayed implementation effect region for purposes of phasing in the effect
 13 of the Oregon Greenhouse Gas Initiative on motor vehicle fuel prices for motor vehicle fuel
 14 delivered into the fuel tanks for propelling motor vehicles at delivery points located within
 15 the two regions. Rules adopted under this section must:

16 (a) Include in the standard implementation effect region, at a minimum, all areas within
 17 the boundary of the metropolitan planning area that includes Portland; and

18 (b) Take into account any factors relevant to the proportionate amount of greenhouse
 19 gas emissions attributable to transportation within the two regions.

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

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

25 (b) Delivered into a fuel tank used for propelling a motor vehicle at a delivery point with
 26 a zip code that is located within the boundary of the delayed implementation effect region
 27 established by rule under this section.

28 (4) Allowances directly retired by the department on behalf of a covered entity under this
 29 section shall count toward fulfilling the covered entity’s compliance obligation for the com-
 30 pliance period during which the allowances are directly retired. A covered entity may not
 31 include in the rate or bill charged for motor vehicle fuel delivered at a delivery point for
 32 which allowances are directly retired under this section any costs associated with compliance
 33 by the covered entity with the Oregon Climate Action Program.

34 SECTION 12. Section 11 of this 2020 Act is repealed on January 2, 2025.

35 SECTION 13. Direct distribution of allowances for electric companies. The Environmental
 36 Quality Commission shall, in consultation with the Public Utility Commission, adopt rules for
 37 allocating allowances for direct distribution at no cost to covered entities that are electric
 38 companies. Direct distributions under this section must be for the exclusive benefit of retail
 39 customers that are supplied electricity by the electric company. Rules adopted under this
 40 section must allow for an electric company to use allowances directly distributed under this
 41 section to fulfill the compliance obligation associated with electricity supplied by the electric
 42 company to serve the load of the electric company’s retail customers in Oregon, subject to
 43 the oversight of the Public Utility Commission. The rules must include provisions necessary
 44 to implement direct distributions of allowances to electric companies as follows:

45 (1)(a) For the purpose of aligning the effects of sections 4 to 33 of this 2020 Act with the

1 trajectory of emissions reductions by electric companies resulting from the requirements of
 2 ORS 469A.005 to 469A.210 and 757.518:

3 (A) The annual direct distributions to an electric company in 2022 and each following
 4 calendar year before 2030 must be in a number of allowances such that the electric company
 5 receives a total direct distribution of allowances over that time period equal to 100 percent
 6 of the electric company’s forecast regulated emissions for 2022 and each following calendar
 7 year before 2030 associated with the electricity supplied to serve the load of the electric
 8 company’s retail customers in Oregon; and

9 (B) The direct distribution to an electric company in 2030 must be in a number of allow-
 10 ances equal to 100 percent of the electric company’s forecast regulated emissions associated
 11 with the electricity supplied to serve the load of the electric company’s retail electricity
 12 customers in Oregon for the calendar year 2030.

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

15 (A) The most recent integrated resource plan filed by the electric company and ac-
 16 knowledged by order by the Public Utility Commission;

17 (B) Any updates to the integrated resource plan filed by the electric company with the
 18 Public Utility Commission; or

19 (C) In the case of a multistate jurisdictional electric company, other information devel-
 20 oped consistent with a methodology approved by the Public Utility Commission.

21 (2) In 2031 and each following calendar year before 2051, the direct distribution to an
 22 electric company under this section shall decline annually from the number of allowances
 23 directly distributed to the electric company in 2030 by a constant amount, as necessary to
 24 reduce the annual direct distributions such that the direct distribution in 2050 is a number
 25 of allowances equal to 20 percent of the average of the annual emissions of the electric
 26 company for the five most recent years prior to the effective date of this 2020 Act, as re-
 27 ported under ORS 468A.280.

28 **SECTION 14. Direct distribution of allowances for certain electric system managers.** (1)
 29 The Department of Environmental Quality shall allocate allowances for direct distribution
 30 at no cost to covered entities that are electric system managers other than electric compa-
 31 nies as follows:

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

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

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

40 (b) In 2023 and each following calendar year before 2051, the direct distribution received
 41 by an electric system manager for emissions described in paragraph (a) of this subsection
 42 shall decline annually by a constant amount proportionate to the decline in the number of
 43 allowances available in annual allowance budgets pursuant to section 5 (1)(b) of this 2020 Act.

44 (c) Notwithstanding paragraph (b) of this subsection, the direct distribution to an electric
 45 system manager in any year may not be in a number of allowances that is less than 20 per-

1 cent of the number of allowances directly distributed to the electric system manager in 2022.

2 (2) Proceeds from the sale by a consumer-owned utility of allowances distributed at no
3 cost under this section must be used by the consumer-owned utility for the benefit of
4 ratepayers, in furtherance of the purposes set forth in section 2 of this 2020 Act and as
5 further required by the governing body of the consumer-owned utility.

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

12 **SECTION 15. 2022 emissions baseline for electric system managers.** In determining the
13 baseline of anthropogenic greenhouse gas emissions for 2022 for an electric system manager
14 as required by section 14 (1)(a)(A) of this 2020 Act, the Department of Environmental Quality
15 shall consider:

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

18 (2) Hydroelectric power generation variability;

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

22 (4) Any other indicators of changes in load requirements on or before January 1, 2025,
23 that are relevant to determining an electric system manager's 2022 baseline anthropogenic
24 greenhouse gas emissions.

25 **SECTION 16. Direct distribution of allowances for natural gas utilities.** (1) The Environ-
26 mental Quality Commission shall, in consultation with the Public Utility Commission, adopt
27 rules for allocating allowances for direct distribution at no cost to covered entities that are
28 natural gas utilities.

29 (2) Rules adopted under this section must allow for a natural gas utility to receive, di-
30 rectly distributed at no cost, a number of allowances equal to the regulated emissions at-
31 tributable to the provision of natural gas service to the natural gas utility's low-income
32 residential sales customers. By January 1 of the first year of each compliance period, the
33 Environmental Quality Commission shall determine, after consultation with the Public Util-
34 ity Commission, the quantity of allowances to distribute directly at no cost to a natural gas
35 utility under this subsection. Allowances distributed to a natural gas utility under this sub-
36 section must be used by the natural gas utility only to fulfill a compliance obligation, with
37 the benefit of the use accruing to the natural gas utility's low-income residential sales cus-
38 tomers in a manner authorized by the Public Utility Commission pursuant to section 61 of
39 this 2020 Act.

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

43 (a) The annual direct distribution to a natural gas utility in 2022 must be a number of
44 allowances equal to 60 percent of the weather normalized anthropogenic greenhouse gas
45 emissions forecast, for 2022, to be regulated emissions attributable to the natural gas utility.

1 (b) In 2023 and each following calendar year before 2051, the direct distribution received
 2 by a natural gas utility for emissions described in paragraph (a) of this subsection shall de-
 3 cline annually by a constant amount proportionate to the decline in the number of allow-
 4 ances available in annual allowance budgets pursuant to section 5 (1)(b) of this 2020 Act.

5 (4) The total annual direct distribution of allowances to a natural gas utility under sub-
 6 sections (2) and (3) of this section may not exceed a number of allowances equal to 75 percent
 7 of the weather normalized anthropogenic greenhouse gas emissions attributable to the na-
 8 tural gas utility for the year that the allowances are to be directly distributed. The Depart-
 9 ment of Environmental Quality shall reduce the number of allowances directly distributed
 10 under subsection (3) of this section for a year if necessary to comply with this subsection.

11 (5) The department shall require a natural gas utility to consign all allowances directly
 12 distributed under subsection (3) of this section to the state to be auctioned pursuant to
 13 section 27 of this 2020 Act.

14 **SECTION 17. Designation of covered entities and opt-in entities engaged in emissions-**
 15 **intensive, trade-exposed processes as EITE entities.** (1) The Department of Environmental
 16 Quality shall designate a covered entity or opt-in entity as an EITE entity, if the covered
 17 entity or opt-in entity is a permitted air contamination source and is engaged, as of the op-
 18 erative date of this section and as may be verified by the department, in the manufacture
 19 of goods through one or more of the following emissions-intensive, trade-exposed processes,
 20 as identified by industry group and code in the North American Industry Classification Sys-
 21 tem:

- 22 (a) Aerospace Product and Parts Manufacturing, code 3364.
- 23 (b) Basic Chemical Manufacturing, code 3251.
- 24 (c) Cement and Concrete Product Manufacturing, code 3273.
- 25 (d) Foundries, code 3315.
- 26 (e) Fruit and Vegetable Preserving and Specialty Food Manufacturing, code 3114.
- 27 (f) Glass and Glass Product Manufacturing, code 3272.
- 28 (g) Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.
- 29 (h) Lime and Gypsum Product Manufacturing, code 3274.
- 30 (i) Nonmetallic Mineral Mining and Quarrying, code 2123.
- 31 (j) Other Nonmetallic Mineral Product Manufacturing, code 3279.
- 32 (k) Plastics Product Manufacturing, code 3261.
- 33 (L) Pulp, Paper, and Paperboard Mills, code 3221.
- 34 (m) Sawmills and Wood Preservation, code 3211.
- 35 (n) Semiconductor and Other Electronic Component Manufacturing, code 3344.
- 36 (o) Veneer, Plywood, and Engineered Wood Product Manufacturing, code 3212.

37 (2)(a) The Environmental Quality Commission shall adopt by rule a procedure for desig-
 38 nating as an EITE entity a covered entity or opt-in entity that:

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

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

45 (b) The commission may hire or contract with a third-party organization to assist the

1 commission in gathering data and conducting analyses as necessary to carry out the proce-
 2 dure required by this subsection.

3 (c) Rules adopted under this subsection may allow for the department to assign a good
 4 manufactured by a covered entity or opt-in entity designated as an EITE entity pursuant to
 5 this subsection a temporary benchmark, consistent with the processes for calculating
 6 benchmarks under section 19 of this 2020 Act, and to adjust the temporary benchmark after
 7 the close of the first compliance period for which the EITE entity must fulfill a compliance
 8 obligation.

9 (3) A covered entity or opt-in entity that is a fossil fuel distribution and storage facility
 10 or infrastructure, or an electric generating unit, may not be designated as an EITE entity
 11 and may not receive allowances at no cost under section 19 of this 2020 Act.

12 **SECTION 18. Leakage risk study.** (1) No later than September 15, 2021, the Department
 13 of Environmental Quality shall complete a study on the leakage risk of permitted air con-
 14 tamination sources in this state that report annual verified anthropogenic greenhouse gas
 15 emissions under ORS 468A.280 of between 10,000 and 25,000 metric tons of carbon dioxide
 16 equivalent. The department may hire or contract with a third-party organization to assist
 17 the department in gathering data and conducting analyses as necessary to assist the de-
 18 partment in carrying out the study required by this section.

19 (2) The purpose of the study shall be to evaluate the emissions intensiveness and trade
 20 exposure of the permitted air contamination sources described in subsection (1) of this sec-
 21 tion and to aid the department in implementing the process for designation of EITE entities
 22 adopted by rule under section 17 (2) of this 2020 Act.

23 (3) The department shall provide a report on the study to the Joint Committee on Cli-
 24 mate Action in the manner provided in ORS 192.245.

25 **SECTION 19. Direct distribution of allowances for EITE entities.** (1) As used in this sec-
 26 tion, “annual benchmarked emissions calculation” means the product of an emissions effi-
 27 ciency benchmark for a good or group of goods, multiplied by the EITE entity’s output,
 28 during the calendar year prior to the calendar year in which allowances will be allocated for
 29 direct distribution at no cost to the EITE entity, of the good or group of goods to which the
 30 emissions efficiency benchmark applies.

31 (2) The annual allocation of allowances for direct distribution at no cost to an EITE en-
 32 tity shall be a number of allowances equal to the sum total of the annual benchmarked
 33 emissions calculations for the goods manufactured by the EITE entity, multiplied by 95 per-
 34 cent.

35 (3) The Department of Environmental Quality shall establish, by order, the emissions
 36 efficiency benchmarks for goods manufactured in this state by EITE entities.

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

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

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

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

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

1 (5)(a) The department shall establish emissions efficiency benchmarks based on recent
 2 years' efficiency as provided in this subsection. An emissions efficiency benchmark estab-
 3 lished based on recent years' efficiency shall be applicable for the period beginning January
 4 1, 2022, and ending December 31, 2025. To determine each emissions efficiency benchmark,
 5 the department shall:

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

11 (B) Divide the number calculated under subparagraph (A) of this paragraph by the
 12 three-year average of the total annual output of the good or group of goods in this state by
 13 the EITE entity, using output data from the three most recent years prior to 2022.

14 (b) In conducting the calculation required by paragraph (a)(A) of this subsection, the
 15 department shall use anthropogenic greenhouse gas emissions information from the three
 16 most recent years prior to 2022 for which anthropogenic greenhouse gas emissions informa-
 17 tion is available and verified by the department.

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

24 (7) In order to implement this section, the Environmental Quality Commission shall
 25 adopt by rule:

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

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

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

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

42 **SECTION 20. Operation of emissions efficiency benchmarks based on best available**
 43 **technology.** (1) The amendments to section 19 of this 2020 Act by section 21 of this 2020 Act
 44 become operative on January 1, 2026.

45 (2) The Department of Environmental Quality shall first establish, by order, emissions

1 **efficiency benchmarks based on best available technology for EITE entities under the**
 2 **amendments to section 19 of this 2020 Act by section 21 of this 2020 Act no later than Jan-**
 3 **uary 1, 2025. An order issued under this subsection may not become effective prior to Jan-**
 4 **uary 1, 2026.**

5 **(3) The Environmental Quality Commission may adopt or amend rules, issue orders or**
 6 **take any actions before the operative date specified in subsection (1) of this section that are**
 7 **necessary to enable the commission and the department, on and after the operative date**
 8 **specified in subsection (1) of this section, to carry out subsection (2) of this section and the**
 9 **amendments to section 19 by section 21 of this 2020 Act.**

10 **SECTION 21.** Section 19 of this 2020 Act is amended to read:

11 **Sec. 19.** (1) As used in this section[,]:

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

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

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

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

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

26 (3) The Department of Environmental Quality shall establish, by order, the emissions efficiency
 27 benchmarks for goods manufactured in this state by EITE entities.

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

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

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

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

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

36 *[(5)(a) The department shall establish emissions efficiency benchmarks based on recent years’ effi-*
 37 *ciency as provided in this subsection. An emissions efficiency benchmark established based on recent*
 38 *years’ efficiency shall be applicable for the period beginning January 1, 2022, and ending December*
 39 *31, 2025. To determine each emissions efficiency benchmark, the department shall:]*

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

45 *[(B) Divide the number calculated under subparagraph (A) of this paragraph by the three-year*

1 *average of the total annual output of the good or group of goods in this state by the EITE entity, using*
2 *output data from the three most recent years prior to 2022.]*

3 *[(b) In conducting the calculation required by paragraph (a)(A) of this subsection, the department*
4 *shall use anthropogenic greenhouse gas emissions information from the three most recent years prior*
5 *to 2022 for which anthropogenic greenhouse gas emissions information is available and verified by the*
6 *department.]*

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

15 **(b) In determining an emissions efficiency benchmark, the department shall consider:**

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

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

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

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

24 **(c) An EITE entity may submit to the department, for consideration in adopting emis-**
25 **sions efficiency benchmarks, an anthropogenic greenhouse gas emissions intensity audit re-**
26 **port produced by a qualified, independent third-party organization. The audit report must:**

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

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

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

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

45 **(7) In order to implement this section, the Environmental Quality Commission shall adopt by**

1 rule:

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

4 (b) Requirements for EITE entities to provide any pertinent records necessary for the depart-
5 ment to verify output data; and

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

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

18 **SECTION 22. Benchmark report. No later than September 15, 2030, the Department of**
19 **Environmental Quality shall provide a report to the Joint Committee on Climate Action, in**
20 **the manner provided in ORS 192.245, on the emissions efficiency benchmarks established**
21 **pursuant to section 19 of this 2020 Act. The report may include recommendations for legis-**
22 **lation. The report shall assess:**

23 (1) **The anthropogenic greenhouse gas emissions intensity and trade exposure of covered**
24 **entities and opt-in entities that have been designated as EITE entities pursuant to section**
25 **17 of this 2020 Act;**

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

28 (3) **Whether the conclusions of the assessments required under subsections (1) and (2)**
29 **of this section warrant an adjustment to the methods of calculating the emissions efficiency**
30 **benchmarks developed pursuant to section 19 of this 2020 Act.**

31 **SECTION 23. Offsets generally; rules. (1) Offset projects:**

32 (a) **Must be located in the United States or approved by a jurisdiction with which the**
33 **State of Oregon has entered into a linkage agreement pursuant to section 31 of this 2020 Act;**

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

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

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

37 (B) **Are in addition to greenhouse gas emissions reductions or removals otherwise re-**
38 **quired by law or legally enforceable mandate and that exceed any other greenhouse gas**
39 **emissions reductions or removals that would otherwise occur in a conservative business-as-**
40 **usual scenario.**

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

1 **(b) The Environmental Quality Commission may by rule adopt additional restrictions on**
 2 **the number of offset credits that may be surrendered by a covered entity or opt-in entity**
 3 **that is a permitted air contamination source and that is geographically located in an im-**
 4 **acted community if:**

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

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

12 **(3) The commission shall adopt rules governing offset projects and the generation, issua-**
 13 **ance and use of offset credits. The rules must:**

14 **(a) Provide for the development of offset protocols in a manner that enables the state**
 15 **to pursue linkage agreements with other jurisdictions pursuant to section 31 of this 2020 Act;**

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

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

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

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

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

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

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

30 **(4) The commission shall adopt by rule a process for the Department of Environmental**
 31 **Quality to issue early action offset credits for greenhouse gas emissions reductions or re-**
 32 **movals that occur during the period beginning on January 1, 2020, and ending on January 1,**
 33 **2022. Rules adopted under this subsection may include:**

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

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

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

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

45 **(a) A misstatement, of more than five percent, of the amount of greenhouse gas emis-**

1 sions reductions or removals attributable to an offset project for which offset credits were
 2 issued;

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

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

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

14 **SECTION 24. Offset protocols.** (1) Offset protocols, and any greenhouse gas emission in-
 15 ventory and monitoring requirements related to the offset protocols, developed pursuant to
 16 rules adopted under section 23 of this 2020 Act:

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

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

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

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

27 (2)(a) The Environmental Quality Commission shall collaborate and consult with the
 28 State Forestry Department in developing and monitoring offset protocols related to forestry.
 29 Offset protocols related to forestry that are developed pursuant to this subsection:

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

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

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

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

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

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

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

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

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

4 (b) The commission and the department shall jointly convene a technical advisory com-
5 mittee to advise the commission and the department in developing and monitoring offset
6 protocols related to forestry. The technical advisory committee must include members with
7 expertise in offset protocols related to forestry.

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

13 (a) Consider developing offset protocols for:

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

15 (B) Avoided grassland conversion; and

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

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

20 (4) In developing any offset protocol related to a matter not addressed by subsections (2)
21 and (3) of this section, the commission shall convene a technical advisory committee com-
22 posed of persons with expertise relevant to the development of the offset protocol.

23 (5) The commission shall regularly review and update offset protocols developed pursuant
24 to rules adopted under section 23 of this 2020 Act. The reviews and updates of offset proto-
25 cols shall include any updates, as necessary, to the methods or technologies used for meas-
26 uring and monitoring the greenhouse gas emissions reductions or removals attributable to
27 the offset projects addressed by the offset protocols.

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

30 **SECTION 25. Offsets; consultation and reporting.** (1) In developing and updating rules
31 and offset protocols pursuant to sections 23 and 24 of this 2020 Act, the Environmental
32 Quality Commission:

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

34 (A) The State Department of Agriculture, the State Forestry Department, the Environ-
35 mental Justice Task Force, the Oregon Watershed Enhancement Board, other relevant state
36 agencies and eligible Indian tribes; and

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

39 (b) May contract with one or more persons or agencies that provide third-party verifi-
40 cation and registration of offset projects and offset credits to assist in the development of
41 offset protocols.

42 (2) The commission shall convene a compliance offsets program advisory committee to
43 advise the commission in developing and updating rules and offset protocols pursuant to
44 sections 23 and 24 of this 2020 Act. The compliance offsets program advisory committee shall
45 provide guidance to the commission in designing the rules and offset protocols to promote

1 offset projects that provide direct environmental benefits in this state and to prioritize offset
 2 projects that benefit impacted communities, members of eligible Indian tribes and natural
 3 and working lands. The commission shall appoint at least one member to the advisory
 4 committee from each of the following groups:

- 5 (a) Scientists;
- 6 (b) Public health experts;
- 7 (c) Carbon market experts;
- 8 (d) Representatives of eligible Indian tribes;
- 9 (e) Environmental justice advocates;
- 10 (f) Labor and workforce representatives;
- 11 (g) Forestry experts;
- 12 (h) Agriculture experts;
- 13 (i) Environmental advocates;
- 14 (j) Conservation advocates; and
- 15 (k) Dairy experts.

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

20 (A) Describe the location and scope of offset projects in Oregon registered under offset
 21 protocols related to forestry developed pursuant to sections 23 and 24 of this 2020 Act for
 22 which offset credits have been issued under the Oregon Climate Action Program, to date,
 23 and the number of offset credits issued;

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

26 (C) Include information and analysis of any cobenefits attributable to the forestry offset
 27 projects and forestry carbon offsets described under subparagraphs (A) and (B) of this par-
 28 agraph; and

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

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

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

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

40 (c) The report required by this subsection may include recommendations by the State
 41 Forestry Department on whether a temporary suspension of acceptance of new offset project
 42 applications under offset protocols related to forestry developed pursuant to sections 23 and
 43 24 of this 2020 Act is necessary to address any significant effects attributable to forestry
 44 offset projects on the supply of wood fiber available from nonfederal forestlands to wood
 45 products manufacturing facilities in this state. If the department recommends a temporary

1 suspension, the recommendation must also include recommendations for measures to mini-
2 mize adverse effects on landowners developing offset projects.

3 **SECTION 26. Methodology for designating impacted communities.** (1) The Environmental
4 Quality Commission, by rule and in consultation with the Portland State University Popu-
5 lation Research Center, the Oregon Health Authority and other relevant state agencies and
6 local agencies and officials, shall designate impacted communities. In carrying out this sec-
7 tion, the commission shall identify impacted communities based on a methodology that takes
8 into consideration geographic, socioeconomic, historic disadvantage, public health and envi-
9 ronmental hazard criteria. Impacted communities may include, but are not limited to:

10 (a) Rural communities.

11 (b) Coastal communities.

12 (c) Areas with above-average concentrations of low-income households, historically dis-
13 advantaged households, high unemployment, high linguistic isolation, low levels of
14 homeownership, high rent burden, sensitive populations or residents with low levels of edu-
15 cational attainment.

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

18 (2) The methodology required by this section must give greater weight to those criteria
19 that the commission determines are the most accurate measurements of vulnerability to the
20 impacts of climate change and ocean acidification.

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

23 **SECTION 27. Auctions.** (1) Except as provided in subsection (8) of this section, auctions
24 of allowances are open to registered entities.

25 (2) The Department of Environmental Quality shall hold auctions at least annually.

26 (3) The department may engage:

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

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

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

31 (5) The department shall:

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

34 (b) Set an allowance price containment reserve floor price for 2022 and a schedule for the
35 allowance price containment reserve floor price to increase by a fixed percentage over in-
36 flation each calendar year.

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

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

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

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

1 (b) Setting price requirements in a manner that enables the state to pursue linkage
2 agreements pursuant to section 31 of this 2020 Act with other jurisdictions.

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

5 (a) Auction proceeds from the sale of allowances consigned to the state for auction by a
6 natural gas utility pursuant to section 16 of this 2020 Act shall be credited to the appropriate
7 trust account established by the Public Utility Commission pursuant to section 56 of this 2020
8 Act; and

9 (b) Auction proceeds payable to the state shall be credited to the Auction Proceeds Dis-
10 tribution Fund established under section 28 of this 2020 Act.

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

16 (9)(a) If the hard price ceiling for an auction is reached, the department shall offer for
17 sale, at the hard price ceiling, allowances from any reserve described in section 7 of this 2020
18 Act or established by rule pursuant to section 7 of this 2020 Act, as necessary to meet de-
19 mand from covered entities and opt-in entities. If the supplies of all allowances from all re-
20 serves are exhausted and additional sales of allowances are necessary for one or more
21 covered entities or opt-in entities to fulfill a compliance obligation, the department may sell
22 price ceiling allowances in addition to the allowances available in the annual allowance
23 budget at the hard price ceiling.

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

27 (A) All moneys that constitute revenues described in Article IX, section 3a, of the Oregon
28 Constitution, shall be credited to the Transportation Decarbonization Investments Account
29 established in section 36 of this 2020 Act;

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

32 (C) Moneys remaining after meeting the requirements of subparagraphs (A) and (B) of
33 this paragraph shall be credited to the Oregon Climate Action Program Operating Fund es-
34 tablished under section 32 of this 2020 Act, to be used only as described in section 32 (4) of
35 this 2020 Act.

36 (10) The Environmental Quality Commission:

37 (a) Shall adopt rules for making an unlimited number of allowances available for auction
38 upon exceedance of the hard price ceiling set by the department under subsection (5) of this
39 section; and

40 (b) May adopt rules necessary to administer auctions.

41 **SECTION 28. Auction Proceeds Distribution Fund.** (1) The Auction Proceeds Distribution
42 Fund is established in the State Treasury, separate and distinct from the General Fund.

43 (2) The Auction Proceeds Distribution Fund shall consist of moneys transferred to the
44 fund under section 27 of this 2020 Act. Interest earned by the fund shall be credited to the
45 fund.

1 (3) The Environmental Quality Commission shall certify the amount of moneys deposited
 2 in the Auction Proceeds Distribution Fund available for distribution and shall cause the
 3 moneys to be distributed as follows:

4 (a) All moneys that constitute revenues described in Article IX, section 3a, of the Oregon
 5 Constitution, shall be transferred to the Transportation Decarbonization Investments Ac-
 6 count established in section 36 of this 2020 Act;

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

9 (c) An amount necessary for administration of sections 2, 4 to 33, 35 to 38, 39, 41, 43, 44,
 10 45, 46, 52 and 54 to 59 of this 2020 Act and rules adopted pursuant to sections 2, 4 to 33, 35
 11 to 38, 39, 41, 43, 44, 45, 46, 52 and 54 to 59 of this 2020 Act, other than administration paid for
 12 by moneys described in paragraphs (a) and (b) of this subsection, shall be transferred to the
 13 Oregon Climate Action Program Operating Fund established under section 32 of this 2020
 14 Act; and

15 (d) Moneys remaining after the transfers under paragraphs (a) to (c) of this subsection
 16 shall be transferred to the Climate Resilience and Innovation Fund established under section
 17 39 of this 2020 Act.

18 **SECTION 29. Annual Oregon Climate Action Program report.** The Environmental Quality
 19 Commission shall annually submit a report in the manner provided by ORS 192.245 to the
 20 Joint Committee on Climate Action detailing activity during the compliance period under the
 21 market-based compliance mechanism adopted by the commission by rule under section 5 of
 22 this 2020 Act. A report required by this section must include, but need not be limited to,
 23 aggregated information on the following for the compliance period:

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

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

28 (3) The anthropogenic greenhouse gas emissions reductions achieved during the compli-
 29 ance period and progress made toward achieving a reduction in total anthropogenic
 30 greenhouse gas emissions levels to at least 45 percent below 1990 levels by 2035 and a re-
 31 duction in total anthropogenic greenhouse gas emissions levels to at least 80 percent below
 32 1990 emissions levels by 2050; and

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

35 **SECTION 30. Participation in nonprofit corporation for administrative and technical**
 36 **support.** (1) It is the intent of the Legislative Assembly that the State of Oregon pursue
 37 membership on the board of directors of, participation in and the receipt of services from a
 38 nonprofit corporation established for the purpose of providing administrative and technical
 39 support to state and provincial greenhouse gas emissions trading programs, through which
 40 the nonprofit corporation provides for enhanced security, enhanced effectiveness of
 41 greenhouse gas emissions trading program infrastructure and lower administrative costs.

42 (2) The Governor may enter into agreements to secure membership for the State of
 43 Oregon on the board of directors of the nonprofit corporation described in subsection (1) of
 44 this section, and to access the benefits of the administrative and technical support provided
 45 by the nonprofit corporation, including but not limited to access to an auction platform, al-

1 lowance tracking systems, market monitoring services, financial services administration and
 2 other administrative services.

3 (3) An agreement authorized under this section to secure membership on the board of
 4 directors of the nonprofit corporation described in subsection (1) of this section or to receive
 5 the services provided by the nonprofit corporation does not constitute a linkage agreement
 6 pursuant to section 31 of this 2020 Act.

7 **SECTION 31. Linkage with market-based compliance mechanisms in other jurisdictions.**

8 (1) In adopting and implementing rules under sections 4 to 33 of this 2020 Act, the Environ-
 9 mental Quality Commission shall:

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

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

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

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

16 (2) The State of Oregon may not link the market-based compliance mechanism estab-
 17 lished pursuant to sections 4 to 33 of this 2020 Act and rules adopted under sections 4 to 33
 18 of this 2020 Act with the market-based compliance mechanism of any other jurisdiction un-
 19 less the commission notifies the Governor that the commission intends to link the market-
 20 based compliance mechanism and the Governor approves the proposed linkage agreement by
 21 making the following findings, as applicable to the proposed linkage agreement:

22 (a) The jurisdiction with which the commission proposes to enter an agreement to link
 23 has adopted program requirements for greenhouse gas emission reductions that are con-
 24 sistent with those required by sections 4 to 33 of this 2020 Act and will not have the effect
 25 of undermining the greenhouse gas emissions reductions or removals required or effectuated
 26 by the Oregon Climate Action Program;

27 (b) Under the proposed linkage agreement, the State of Oregon has sufficient authority
 28 to enforce sections 4 to 33 of this 2020 Act against any person subject to regulation under
 29 sections 4 to 33 of this 2020 Act, including any person located within the linking jurisdiction,
 30 to the maximum extent permitted by law;

31 (c) The proposed linkage agreement provides for enforcement of applicable laws by the
 32 commission or by the linking jurisdiction of program requirements that are consistent with
 33 those required by sections 4 to 33 of this 2020 Act; and

34 (d) The proposed linkage agreement and any related engagement by the State of Oregon
 35 of an independent third-party organization to provide administrative or technical services to
 36 support the implementation of sections 4 to 33 of this 2020 Act will not impose any significant
 37 liability on the state or any state agency for any failure associated with the linkage.

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

43 (4) The State of Oregon may not enter a finalized linkage agreement unless the com-
 44 mission has first provided a report on the proposed linkage agreement to the Joint Com-
 45 mittee on Climate Action. The report shall include:

- 1 (a) A description of the scope of the proposed linkage agreement;
- 2 (b) An analysis by the commission of the proposed linkage agreement; and
- 3 (c) The findings issued by the Governor pursuant to subsections (2) and (3) of this sec-
- 4 tion.

5 **SECTION 32. Operating fund.** (1)(a) The Oregon Climate Action Program Operating Fund
6 is established in the State Treasury, separate and distinct from the General Fund. Interest
7 earned by the Oregon Climate Action Program Operating Fund shall be credited to the fund.

8 (b) Moneys in the Oregon Climate Action Program Operating Fund are continuously ap-
9 propriated to the Department of Environmental Quality:

10 (A) For use by the Environmental Quality Commission and department in the perform-
11 ance of the duties, functions and powers vested in the commission and department by
12 sections 2, 4 to 33, 35 to 38, 39, 41, 43, 44, 45, 46, 52 and 54 to 59 of this 2020 Act; and

13 (B) To reimburse the Oregon Department of Administrative Services, the Public Utilities
14 Commission and any other agency of the executive department as defined in ORS 174.112, for
15 costs incurred by the agency in the performance of the duties, functions and powers vested
16 in the agency by sections 2, 4 to 33, 35 to 38, 39, 41, 43, 44, 45, 46, 52 and 54 to 59 of this 2020
17 Act.

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

19 (a) Moneys deposited in the fund pursuant to ORS 468.135 and sections 27 and 28 of this
20 2020 Act;

21 (b) Moneys appropriated or otherwise transferred to the fund by the Legislative Assem-
22 bly; and

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

24 (3) Civil penalties deposited in the fund under ORS 468.135 shall be deposited in a separate
25 subaccount created in the fund and must be used only for providing technical assistance to
26 covered entities and opt-in entities.

27 (4) The proceeds from sales of allowances at the hard price ceiling pursuant to section
28 27 (9) of this 2020 Act shall be deposited in a separate subaccount created in the fund and
29 must be used by the Department of Environmental Quality only for the purchase and re-
30 tirement of offset credits.

31 **SECTION 33. Public records law; application.** (1) The Legislative Assembly finds and de-
32 clares that it is the policy of this state that the market-based compliance mechanism of the
33 Oregon Climate Action Program operate free of abuse and disruptive activity. It is therefore
34 the intent of the Legislative Assembly that the provisions of this section and sections 5 (3),
35 27, 29, 30 and 31 of this 2020 Act be implemented in a manner necessary to prevent fraud,
36 abuse or market manipulation to the greatest extent possible while upholding the public in-
37 terest in transparency in public process and government through making certain market
38 activity information available in aggregated form.

39 (2) The following information obtained by the State of Oregon pursuant to sections 4 to
40 33 of this 2020 Act, or rules adopted pursuant to sections 4 to 33 of this 2020 Act, shall be
41 treated as confidential business information, is exempt from disclosure under the public re-
42 cords law, ORS 192.311 to 192.478, and may not be disclosed to any person or entity except
43 as provided in subsection (3) or (4) of this section:

44 (a) Individually identifiable information related to a registered entity's application to
45 participate, and participation, in auctions held under section 27 of this 2020 Act, including

1 but not limited to bid activity and auction results for the registered entity.

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

5 (c) Any individually identifiable information on the manufacturing output of goods, other
 6 than emissions data submitted under ORS 468A.280, obtained by the Environmental Quality
 7 Commission or Department of Environmental Quality as necessary to administer and imple-
 8 ment sections 17, 18, 19 and 22 of this 2020 Act.

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

11 (4) This section does not prohibit the disclosure of information between the Environ-
 12 mental Quality Commission or Department of Environmental Quality and other agencies of
 13 the executive department, as defined in ORS 174.112, jurisdictions with which the State of
 14 Oregon has entered into a linkage agreement under section 31 of this 2020 Act or persons
 15 engaged by the State of Oregon to provide administrative or technical services to support
 16 implementation of sections 4 to 33 of this 2020 Act if the disclosure is necessary for purposes
 17 of the administration and implementation of sections 4 to 33 of this 2020 Act.

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

23 **SECTION 34. Penalties.** ORS 468.135 is amended to read:

24 468.135. (1) Any civil penalty under ORS 468.140 shall be imposed in the manner provided in
 25 ORS 183.745.

26 (2) **Except as provided in subsection (3) of this section,** all penalties recovered under ORS
 27 468.140 shall be paid into the State Treasury and credited to the General Fund, or in the event the
 28 penalty is recovered by a regional air quality control authority, it shall be paid into the county
 29 treasury of the county in which the violation occurred.

30 (3) **Penalties recovered under ORS 468.140 for a violation of sections 4 to 33 of this 2020**
 31 **Act or rules adopted pursuant to sections 4 to 33 of this 2020 Act shall be deposited in the**
 32 **Oregon Climate Action Program Operating Fund established under section 32 of this 2020**
 33 **Act to be used only as provided for in section 32 (3) of this 2020 Act.**

34
 35 **INVESTMENT OF STATE PROCEEDS FROM OREGON**
 36 **CLIMATE ACTION PROGRAM AUCTIONS**
 37 **(Transportation Decarbonization Investments Account)**
 38

39 **SECTION 35. Definitions.** As used in sections 35 to 38 of this 2020 Act:

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

43 (2) **“Eligible Indian tribe”** has the meaning given that term in section 4 of this 2020 Act.

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

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

1 (5) "Nursery stock" has the meaning given that term in ORS 571.005.

2 (6) "Oregon Climate Action Program" has the meaning given that term in section 4 of
3 this 2020 Act.

4 (7) "State contracting agency" has the meaning given that term in ORS 279A.010.

5 (8) "Subject to a carbon pricing program" means a building materials manufacturer
6 whose emissions from the manufacture of goods:

7 (a) Are subject to a tax or governmental regulatory program that has the effect of
8 placing a price on greenhouse gas emissions and that is at least as stringent as the Oregon
9 Climate Action Program, as determined by the Environmental Quality Commission by rule;
10 or

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

14 **SECTION 36. Transportation Decarbonization Investments Account.** (1) The Transporta-
15 tion Decarbonization Investments Account is established as a separate account within the
16 State Highway Fund. The Transportation Decarbonization Investments Account consists of
17 moneys deposited in the account under sections 27 and 28 of this 2020 Act. Interest earned
18 by the Transportation Decarbonization Investments Account shall be credited to the ac-
19 count.

20 (2) Moneys in the Transportation Decarbonization Investments Account are continuously
21 appropriated to the Department of Transportation:

22 (a) For any necessary administration by the Department of Transportation of sections
23 2, 4 to 33, 35 to 38, 41 and 45 of this 2020 Act; and

24 (b) To be distributed for transportation projects pursuant to this section and section 37
25 of this 2020 Act.

26 (3) A transportation project may not be funded with moneys distributed from the
27 Transportation Decarbonization Investments Account unless:

28 (a) The transportation project furthers one or more of the purposes set forth in section
29 2 of this 2020 Act;

30 (b) The transportation project may constitutionally be funded by revenues described in
31 Article IX, section 3a, of the Oregon Constitution; and

32 (c) The transportation project is consistent with the applicable local transportation sys-
33 tem plan acknowledged under ORS chapter 197.

34 (4) The moneys deposited in the Transportation Decarbonization Investments Account
35 each biennium shall be allocated as follows:

36 (a) 20 percent to be used by the Department of Transportation for transportation projects
37 selected by the Oregon Transportation Commission pursuant to section 37 of this 2020 Act
38 and to provide technical assistance to cities and counties that receive moneys under para-
39 graphs (b) and (c) of this subsection;

40 (b) 40 percent to counties for distribution as provided in ORS 366.762; and

41 (c) 40 percent to cities for distribution as provided in ORS 366.800.

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

45 (6) A county or city within a metropolitan planning organization shall consult with the

1 **planning organization on the expenditure of moneys distributed to the county or city pursu-**
 2 **ant to subsection (4)(b) or (c) of this subsection.**

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

6 **SECTION 37. Selection of transportation projects. (1) The Oregon Transportation Com-**
 7 **mission shall select the transportation projects to be funded with moneys in the Transpor-**
 8 **tation Decarbonization Investments Account under section 36 (4)(a) of this 2020 Act.**

9 **(2) Prior to selecting transportation projects, the commission shall seek input from the**
 10 **applicable area commission on transportation.**

11 **(3) In selecting transportation projects, the Oregon Transportation Commission shall**
 12 **consider whether a proposed transportation project:**

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

15 **(b) Will further the objectives of the biennial climate action investment plan delivered**
 16 **by the Climate Policy Office under section 41 of this 2020 Act; and**

17 **(c) Is consistent with or complements investments that may be funded by moneys in the**
 18 **Climate Resilience and Innovation Fund established under section 39 of this 2020 Act.**

19 **(4) In selecting transportation projects, the commission shall give priority to projects**
 20 **that:**

21 **(a) Benefit impacted communities, with a specific emphasis on rural and coastal impacted**
 22 **communities.**

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

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

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

29 **(e) Will facilitate:**

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

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

37 **(f) Will, to the greatest extent practicable, serve to conserve, restore, preserve and en-**
 38 **hance adjacent natural resources through the use of roadside vegetation in a manner de-**
 39 **signed to:**

40 **(A) Minimize soil erosion;**

41 **(B) Improve or maintain slope stability;**

42 **(C) Reduce storm water runoff volume and velocity;**

43 **(D) Promote water conservation and plant survivability; and**

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

1 (5) In selecting transportation projects, the commission shall:

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

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

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

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

12 (6) If a transportation project is eligible only in part to be funded by moneys deposited
13 in the Transportation Decarbonization Investments Account, the transportation project may
14 also be eligible to receive funding through the allocation of moneys in the Climate Resilience
15 and Innovation Fund established in section 39 of this 2020 Act for those portions of the
16 transportation project that may not be constitutionally funded by revenues described in Ar-
17 ticle IX, section 3a, of the Oregon Constitution.

18 (7) Transportation projects selected by the commission under this section are subject to
19 the provisions of section 46 of this 2020 Act.

20 SECTION 38. Procurement provisions related to transportation projects. (1)
21 Notwithstanding provisions of law requiring a contracting agency to award a contract to the
22 lowest responsible bidder or best proposer or provider of a quotation, and except as provided
23 in subsection (2) of this section or as prohibited by federal law, a state contracting agency,
24 when using funds from the Transportation Decarbonization Investments Account, shall give
25 a preference of not more than 10 percent to building materials procured from manufacturers
26 subject to a carbon pricing program.

27 (2) If the state contracting agency finds in a written determination that the building
28 material is not available in the quantity, quality, type or time frame required for the pro-
29 curement, or if the cost of the building material is more than 10 percent more than the
30 building material costs from manufacturers not subject to a carbon pricing program, the
31 state contracting agency may decline to give the building material preference.

32 (3) If a transportation project described in section 36 (4)(a) of this 2020 Act that involves
33 the use of roadside vegetation is funded by moneys deposited in the Transportation
34 Decarbonization Investments Account, the Department of Transportation shall purchase the
35 roadside vegetation from nursery stock that is grown and propagated entirely within this
36 state. The Oregon Transportation Commission may specify by rule grades, standards, con-
37 siderations and processes for roadside vegetation expenditures conducted pursuant to this
38 subsection.

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

42
43 (Climate Resilience and Innovation Fund)

44
45 SECTION 39. Climate Resilience and Innovation Fund. (1) The Climate Resilience and

1 Innovation Fund is established in the State Treasury, separate and distinct from the General
2 Fund. The Climate Resilience and Innovation Fund shall consist of moneys deposited in the
3 fund under section 28 of this 2020 Act. Interest earned by the fund shall be credited to the
4 fund. The Oregon Department of Administrative Services shall administer the fund.

5 (2) Moneys in the fund are continuously appropriated to be used only for programs,
6 projects and activities that further one or more of the purposes set forth in section 2 of this
7 2020 Act.

8 (3) The Legislative Assembly shall allocate the moneys deposited in the fund as informed
9 by the biennial climate action investment plan delivered by the Climate Policy Office under
10 section 41 of this 2020 Act and the report on the climate investment plan delivered by the
11 Environmental Justice Task Force under section 43 of this 2020 Act.

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

13 (a) 10 percent shall be allocated for uses that directly benefit eligible Indian tribes, as
14 defined in section 4 of this 2020 Act; and

15 (b) \$10 million shall be allocated for deposit in the Just Transition Fund established in
16 section 47 of this 2020 Act to be used to establish a Just Transition Program and develop a
17 Just Transition Plan pursuant to section 48 of this 2020 Act.

18 (5) Allocations from the Climate Resilience and Innovation Fund shall, to the maximum
19 extent feasible and consistent with law, be in addition to and not in replacement of any ex-
20 isting allocations or appropriations for programs, projects and activities.

21 (6) Programs, projects and activities funded by moneys allocated from the Climate
22 Resilience and Innovation Fund are subject to the provisions of section 46 of this 2020 Act.

23 SECTION 40. Temporary provision for uses of Climate Resilience and Innovation Fund
24 moneys during 2021-2023 biennium. Notwithstanding section 39 (2) and (3) of this 2020 Act and
25 in addition to and not in lieu of the allocations described in section 39 (4) of this 2020 Act
26 and any other appropriation, for the biennium ending June 30, 2023, the following amounts
27 of moneys deposited in the Climate Resilience and Innovation Fund are appropriated to the
28 Oregon Department of Administrative Services to be transferred for deposit as follows:

29 (1) \$100 million for deposit in the Wildfire Response and Prevention Fund established
30 under section 49 of this 2020 Act;

31 (2) \$50 million for deposit in the Clean Water Protection Fund established under section
32 50 of this 2020 Act; and

33 (3) \$20 million for deposit in the Working Lands Fund established under section 51 of this
34 2020 Act.

35
36 (Investment Planning, Reporting and Audits)

37
38 SECTION 41. Biennial climate action investment plan. (1) As used in this section:

39 (a) “Best available science” has the meaning given that term in section 4 of this 2020 Act.

40 (b) “Eligible Indian tribe” has the meaning given that term in section 4 of this 2020 Act.

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

42 (2) No later than June 1 of each even-numbered year and in the manner provided in ORS
43 192.245, the Climate Policy Office shall deliver a biennial climate action investment plan to
44 the Environmental Justice Task Force, the Oregon Transportation Commission, the Govern-
45 nor, the Joint Committee on Climate Action and the Joint Committee on Transportation. The

1 climate action investment plan shall identify the short-term and long-term opportunities for
 2 uses of state proceeds from auctions conducted under section 27 of this 2020 Act that further
 3 the purposes set forth in section 2 of this 2020 Act and that are consistent with the re-
 4 quirements of the Oregon Constitution.

5 (3) The biennial climate action investment plan must:

6 (a) Be based on consideration of the best available science, and the best economic infor-
 7 mation available, as of the time of the preparation of the plan; and

8 (b) Include an analysis of how the programs, projects and activities that may be funded
 9 by the investment or expenditure of state proceeds from auctions conducted under section
 10 27 of this 2020 Act would serve to effectively further the purposes set forth in section 2 of
 11 this 2020 Act.

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

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

16 (b) Representatives of eligible Indian tribes.

17 **SECTION 42.** The Climate Policy Office shall deliver the first biennial climate action in-
 18 vestment plan as required by section 41 of this 2020 Act no later than June 1, 2022.

19 **SECTION 43. Environmental Justice Task Force review of biennial climate action in-**
 20 **vestment plan; report.** The Environmental Justice Task Force shall review and develop rec-
 21 ommendations in response to the biennial climate action investment plan required under
 22 section 41 of this 2020 Act and shall, no later than August 1 of each even-numbered year and
 23 in the manner provided in ORS 192.245, deliver a report on the task force’s recommendations
 24 to the Governor and the Joint Committee on Climate Action.

25 **SECTION 44. Use of biennial climate investments plan in budget process.** In preparing
 26 the Governor’s budget as required under ORS 291.202, the Governor shall consider the rec-
 27 ommendations contained in the biennial climate action investment plan prepared by the Cli-
 28 mate Policy Office under section 41 of this 2020 Act.

29 **SECTION 45. Biennial expenditure reporting and audits.** (1) All agencies of the executive
 30 department as defined in ORS 174.112, counties, cities and all other public and private entities
 31 receiving moneys distributed or allocated from the Transportation Decarbonization Invest-
 32 ments Account shall annually report to the Department of Transportation on the expendi-
 33 ture of the moneys received and the results of the expenditures. No later than January 1 of
 34 each even-numbered year, the department shall deliver a biennial report, in the manner
 35 provided in ORS 192.245, to the Oregon Transportation Commission, the Governor, the Joint
 36 Committee on Climate Action and the Joint Committee on Transportation describing:

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

39 (b) How the transportation projects met the requirements of section 36 of this 2020 Act;
 40 and

41 (c) The results of the transportation projects in furthering the purposes set forth in
 42 section 2 of this 2020 Act.

43 (2) All agencies of the executive department, counties, cities and all other public and
 44 private entities receiving moneys distributed or allocated from the Climate Resilience and
 45 Innovation Fund shall annually report to the Climate Policy Office on the expenditure of the

1 moneys received and the results of the expenditures. No later than January 1 of each even-
2 numbered year, the office shall deliver a biennial report, in the manner provided in ORS
3 192.245, to the Governor and the Joint Committee on Climate Action describing:

4 (a) The investments from the Climate Resilience and Innovation Fund;

5 (b) Whether the investments met the requirements for allocations under section 39 of
6 this 2020 Act; and

7 (c) The effectiveness of those investments in furthering the purposes set forth in section
8 2 of this 2020 Act.

9 (3)(a) The Climate Policy Office and the Department of Transportation jointly shall select
10 an independent third-party organization to prepare a biennial audit of:

11 (A) All transportation projects funded by moneys from the Transportation
12 Decarbonization Investments Account; and

13 (B) All programs, projects or activities funded by moneys from the Climate Resilience
14 and Innovation Fund.

15 (b) The office and the department shall provide for the audit report prepared by the in-
16 dependent third-party organization under this section to be transmitted, together with the
17 reports required under subsections (1) and (2) of this section, to the Oregon Transportation
18 Commission, the Governor, the Joint Committee on Climate Action and the Joint Committee
19 on Transportation.

20
21 (Labor and Contracting Requirements Applicable to
22 Investments of Certain State Proceeds from
23 Oregon Climate Action Program Auctions)
24

25 **SECTION 46. Construction projects funded by certain auction proceeds; requirements.** (1)

26 If a construction project receives more than \$50,000 in funding from moneys distributed from
27 the Transportation Decarbonization Investments Account established under section 36 of this
28 2020 Act or the Climate Resilience and Innovation Fund established under section 39 of this
29 2020 Act, the primary contractor participating in the construction project:

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

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

34 (c) Shall participate in an apprenticeship program registered with the State Apprentice-
35 ship and Training Council;

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

39 (e) Must demonstrate a history of material compliance with the rules and other re-
40 quirements of the Construction Contractors Board and of the Workers' Compensation Divi-
41 sion, the Building Codes Division and the Occupational Safety and Health Division of the
42 Department of Consumer and Business Services; and

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

44 (2) A farm labor contractor, as defined in ORS 658.405, may not receive moneys distrib-
45 uted from the Transportation Decarbonization Investments Account or the Climate

1 Resilience and Innovation Fund unless the farm labor contractor is in compliance with all
 2 licensing and any other requirements or regulations imposed upon farm labor contractors
 3 pursuant to ORS 658.405 to 658.511.

4 (3)(a) The Oregon Department of Administrative Services, in consultation with the At-
 5 torney General, shall adopt model rules that specify labor, workforce and contracting pro-
 6 cedures for state agencies to use in administering funds for construction projects that
 7 receive more than \$50,000 in funding from moneys distributed from the Transportation
 8 Decarbonization Investments Account or the Climate Resilience and Innovation Fund. The
 9 department shall adopt the rules in accordance with ORS chapter 183.

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

15 (A) Establish measurable, enforceable goals for the training and hiring of persons who
 16 are members of impacted communities, as defined in section 4 of this 2020 Act, and for con-
 17 tracting with businesses that are owned or operated by members of impacted communities;
 18 and

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

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

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

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

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

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

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

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

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

44 (4) Except as provided in subsection (5) of this section, a state agency charged with ad-
 45 ministering funds for construction projects that receive more than \$50,000 in funding from

1 moneys distributed from the Transportation Decarbonization Investments Account or the
 2 Climate Resilience and Innovation Fund may not adopt the administering agency's own rules
 3 for labor and workforce procedures related to administering funds allocated from the
 4 Transportation Decarbonization Investments Account or the Climate Resilience and Inno-
 5 vation Fund and shall be subject to the model rules adopted by the department under this
 6 section.

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

12
 13 (Funds and Activities Supported by Distributions
 14 from Climate Resilience and Innovation Fund)
 15

16 **SECTION 47. Just Transition Fund.** (1) The Just Transition Fund is established in the
 17 State Treasury, separate and distinct from the General Fund. Interest earned by the Just
 18 Transition Fund shall be credited to the fund. Moneys in the fund are continuously appro-
 19 priated to the Higher Education Coordinating Commission to be used to carry out the pur-
 20 poses described in section 48 of this 2020 Act.

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

22 (3) The fund shall include a reserve account, which shall consist of moneys allocated or
 23 appropriated to the fund by the Legislative Assembly for deposit in the reserve account. The
 24 reserve account shall be maintained and used by the commission only for the purposes de-
 25 scribed in section 48 (2)(b) of this 2020 Act.

26 **SECTION 48. Just Transition Program and Just Transition Plan.** (1) The Higher Educa-
 27 tion Coordinating Commission, in consultation with the State Workforce and Talent Devel-
 28 opment Board, the Employment Department and other interested state agencies, shall:

29 (a) Establish a Just Transition Program for the purpose of distributing moneys, other
 30 than moneys deposited in the reserve account, that are deposited in the Just Transition Fund
 31 established under section 47 of this 2020 Act; and

32 (b) Establish a Just Transition Plan for:

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

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

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

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

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

43 (a) Information on implementing the Just Transition Program;

44 (b) Recommendations regarding the level of funding necessary to carry out activities
 45 pursuant to the Just Transition Program; and

1 (c) Recommendations regarding the maintenance and use of the reserve account of the
 2 Just Transition Fund, including but not limited to recommendations regarding:

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

6 (B) The use of moneys deposited in the reserve account for the replacement of wages or
 7 benefits for workers dislocated or adversely affected by climate change or climate change
 8 policies.

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

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

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

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

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

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

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

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

33 (b) Provide recommendations for grant awards and other expenditures from the Just
 34 Transition Fund, including expenditures from the reserve account of the Just Transition
 35 Fund; and

36 (c) Provide other recommendations related to the Just Transition Plan and the Just
 37 Transition Program.

38 **SECTION 49. Wildfire Response and Prevention Fund.** (1) The Wildfire Response and
 39 Prevention Fund is established in the State Treasury, separate and distinct from the General
 40 Fund. The Wildfire Response and Prevention Fund shall consist of moneys deposited in the
 41 fund from any source.

42 (2) Moneys in the Wildfire Response and Protection Fund are continuously appropriated
 43 to the State Forestry Department for wildfire response efforts that further one or more of
 44 the purposes set forth in section 2 of this 2020 Act, as informed by the recommendations of
 45 any council formed by the Governor to address wildfire response.

1 (3) Wildfire response efforts that may be supported by moneys in the fund include but
2 are not limited to:

3 (a) Projects under the Good Neighbor Authority Agreement as that term is defined in
4 ORS 526.275;

5 (b) Forest restoration projects administered by or in coordination with the Oregon
6 Watershed Enhancement Board;

7 (c) Community projects in coordination with the State Fire Marshal for promoting or
8 creating defensible spaces to protect buildings from wildfire; and

9 (d) Distributed energy projects, in coordination with the State Department of Energy,
10 that serve to mitigate wildfire risk or promote wildfire resilience.

11 (4) Moneys deposited in the Wildfire Response and Prevention Fund may not be used to
12 support wildfire suppression activities.

13 (5) The State Department of Forestry may adopt any rules necessary for the adminis-
14 tration of this section.

15 **SECTION 50. Clean Water Protection Fund.** (1) The Clean Water Protection Fund is es-
16 tablished in the State Treasury, separate and distinct from the General Fund. The Clean
17 Water Protection Fund shall consist of moneys deposited in the fund from any source.

18 (2) Moneys in the Clean Water Protection Fund are continuously appropriated to the
19 Water Resources Department for programs, projects and activities further one or more of
20 the purposes set forth in section 2 of this 2020 Act and that serve to protect water resources
21 in the face of increased temperatures, sustained drought, or other impacts on the water re-
22 sources of this state by climate change.

23 (3) Programs, projects and activities that may be funded by moneys deposited in the fund
24 include, but are not limited to irrigation modernization projects and municipal water
25 projects.

26 (4) The Water Resources Department may adopt any rules necessary for the adminis-
27 tration of this section.

28 **SECTION 51. Working Lands Fund.** (1) The Working Lands Fund is established in the
29 State Treasury, separate and distinct from the General Fund. The Working Lands Fund shall
30 consist of moneys deposited in the fund from any source.

31 (2) Moneys in the Working Lands Fund are continuously appropriated to the Oregon
32 Watershed Enhancement Board to:

33 (a) In coordination with the Department of Transportation, provide grants for modern-
34 ization of farm equipment in a manner that will provide demonstrated benefits to
35 farmworkers in the form of decreased emissions exposures; and

36 (b) Transfer, in amounts determined appropriate by the board, to the Oregon Agricul-
37 tural Heritage Fund for providing grants under ORS 541.984 that meet the requirements of
38 this section and ORS 541.984.

39 (3) The Oregon Watershed Enhancement Board may adopt rules necessary for the ad-
40 ministration of this section.

41
42 (Common School Fund)

43
44 **SECTION 52.** Moneys deposited in the Common School Fund under sections 27 and 28 of
45 this 2020 Act are continuously appropriated to the Department of State Lands to be used in

1 a manner that:

- 2 (1) Is consistent with the requirements of the Oregon Constitution; and
- 3 (2) Furthers one or more of the purposes set forth in section 2 of this 2020 Act.

4
5 **PROVISIONS RELATED TO THE PUBLIC UTILITY COMMISSION**

6
7 **SECTION 53.** Sections 54 to 59, 61 and 62 of this 2020 Act are added to and made a part
8 of ORS chapter 757.

9 **SECTION 54.** As used in sections 54 to 59 of this 2020 Act:

- 10 (1) "Allowance" has the meaning given that term in section 4 of this 2020 Act.
- 11 (2) "Electric company" has the meaning given that term in ORS 757.600.
- 12 (3) "Natural gas utility" means a natural gas utility regulated by the Public Utility
13 Commission under ORS chapter 757.
- 14 (4) "Oregon Climate Action Program" has the meaning given that term in section 4 of
15 this 2020 Act.

16 **SECTION 55.** (1) If, rather than surrendering the allowances to fulfill its compliance ob-
17 ligation, an electric company sells allowances that were directly distributed at no cost to the
18 electric company under section 13 of this 2020 Act, the Public Utility Commission shall re-
19 quire the proceeds received by the electric company through the sale:

- 20 (a) To be spent by the electric company for the exclusive benefit of retail customers that
21 are supplied electricity by the electric company; and
- 22 (b) To be used only for activities that serve to reduce greenhouse gas emissions or pro-
23 vide assistance to the electric company's retail customers, in furtherance of the purposes
24 set forth in section 2 of this 2020 Act.

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

- 28 (a) Providing weatherization, energy efficiency improvements, bill assistance or rate as-
29 sistance to the electric company's low-income residential customers;
- 30 (b) Accelerated transportation electrification;
- 31 (c) Investments and activities that serve to reduce greenhouse gas emissions through
32 actions such as energy efficiency improvements, voltage optimization, portfolio optimization
33 and renewable energy procurement; and
- 34 (d) Facilitating integration and utilization of variable energy resources through invest-
35 ments in programs and technologies such as demand response, smart grid communication
36 and control systems, grid connected end uses and energy storage.

37 (3) An electric company that receives allowances directly distributed at no cost under
38 section 13 of this 2020 Act shall develop a plan for the use of the allowances and file the plan
39 with the commission. The plan must be revised and updated on a schedule established by the
40 commission by rule. At a minimum, a plan must contain:

- 41 (a) A strategy for the use of proceeds received by the electric company from the sale of
42 the allowances in compliance with this section; and
- 43 (b) A description of any previous uses of proceeds received by the electric company from
44 the sale of the allowances.
- 45 (4) The commission shall, pursuant to ORS 756.040 and after consultation with the

1 **Housing and Community Services Department, adopt rules for the implementation and**
 2 **enforcement of this section.**

3 **SECTION 56. (1) The Public Utility Commission, as trustee, shall establish a separate**
 4 **trust account for the benefit of each natural gas utility. Moneys in each trust account shall**
 5 **consist of proceeds from the sale of allowances consigned to the state for auction, pursuant**
 6 **to section 16 of this 2020 Act, by the natural gas utility for which the trust account is es-**
 7 **tablished. The commission shall establish the trust account with the State Treasurer for the**
 8 **natural gas utility. The State Treasurer may invest moneys deposited in the trust accounts**
 9 **as provided in ORS 293.701 to 293.857. Interest earned by a trust account must be credited**
 10 **to the account. Upon request by a natural gas utility, the commission shall require the State**
 11 **Treasurer to transfer from the natural gas utility’s trust account to the natural gas utility**
 12 **amounts necessary to pay for programs or activities found to be consistent with the plan**
 13 **required under subsection (2) of this section.**

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

17 **(3) A plan must:**

18 **(a) Identify a portfolio of approaches in furtherance of the purposes set forth in section**
 19 **2 of this 2020 Act;**

20 **(b) Provide that no less than 25 percent of the proceeds from the sale of allowances**
 21 **consigned to the state for auction by the natural gas utilities pursuant to section 16 of this**
 22 **2020 Act be used for nonvolumetric bill credits or other rate relief for residential, commer-**
 23 **cial and industrial sales customers; and**

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

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

32 **(B) Development of renewable natural gas or renewable hydrogen infrastructure and the**
 33 **provision of renewable natural gas or renewable hydrogen to the natural gas utility’s sales**
 34 **customers;**

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

36 **(D) Provision of natural gas or renewable natural gas to vehicles and the necessary re-**
 37 **lated infrastructure in the utility’s service territory as consistent with section 62 of this 2020**
 38 **Act; or**

39 **(E) Implementation of pilot projects or research, development and demonstration activ-**
 40 **ities to determine the cost and viability of activities described in subparagraphs (A) to (D)**
 41 **of this paragraph.**

42 **(4) The commission may adopt rules for the implementation and enforcement of this**
 43 **section.**

44 **SECTION 57. (1) An electric company shall develop and file with the Public Utility Com-**
 45 **mission an initial plan under section 55 of this 2020 Act no later than December 31, 2022.**

1 **(2) A natural gas utility shall develop and file with the Public Utility Commission an ini-**
 2 **tial plan under section 56 of this 2020 Act no later than June 30, 2022.**

3 **SECTION 58. No later than September 15 of each even-numbered year, the Public Utility**
 4 **Commission shall, in the manner provided by ORS 192.245, provide a report to the Joint**
 5 **Committee on Climate Action and to the Climate Policy Office on:**

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

9 **(2) How natural gas utilities have expended proceeds from the sale of allowances con-**
 10 **signed to the state for auction by the natural gas utilities pursuant to section 16 of this 2020**
 11 **Act.**

12 **SECTION 59. The Public Utility Commission shall establish processes and mechanisms**
 13 **to ensure timely cost recovery for prudent and reasonable costs incurred by public utilities**
 14 **associated with compliance with the Oregon Climate Action Program. The processes and**
 15 **mechanisms shall be established to address situations in which compliance with the Oregon**
 16 **Climate Action Program results in public utilities incurring costs for which cost recovery**
 17 **mechanisms otherwise authorized by law are not adequate.**

18 **SECTION 60. ORS 757.259 is amended to read:**

19 757.259. (1) In addition to powers otherwise vested in the Public Utility Commission, and subject
 20 to the limitations contained in this section, under amortization schedules set by the commission, a
 21 rate or rate schedule:

22 (a) May reflect:

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

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

25 (b) Shall reflect amounts deferred under subsection (3) of this section if the public utility so re-
 26 quests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (a) The deferral was directly related to extraordinary power supply expenses incurred during
35 2001;

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

38 (c) The commission determines that the higher rate impact is reasonable under the circum-
39 stances.

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

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

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

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

SECTION 61. The Public Utility Commission may, in such manner as the commission considers proper, allow a rate or rate schedule of a public utility to include differential rates or to reflect amounts for programs that enable the public utility to assist low-income residential customers. Rates or rate schedules allowed under this section must minimize the shifting of costs to ratepayers that do not qualify for low-income assistance.

SECTION 62. (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 ORS chapter 757.

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

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

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

(b) The investment can be reasonably anticipated to:

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

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

(i) Distribution or transmission management benefits;

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

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

REQUIREMENTS FOR ETHANOL CONTENT IN GASOLINE

SECTION 63. ORS 646.913 is amended to read:

646.913. (1) Except as provided in subsection (4) of this section, a wholesale dealer, retail dealer or nonretail dealer may not sell gasoline or offer gasoline for sale unless the gasoline contains **at least** 10 percent denatured fuel ethanol by volume. Gasoline that contains anhydrous ethanol in concentrations between 9.2 percent and 10 percent by volume complies with the requirement set forth in this subsection.

(2) The State Department of Agriculture shall adopt standards for gasoline blended with ethanol that is sold in this state. The standards that the department adopts shall require that the gasoline blended with ethanol:

(a) Contains ethanol that is derived from agricultural or woody waste or residue;

(b) Complies with the volatility requirements specified in 40 C.F.R. part 80;

(c) Complies with ASTM International specification D 4814, Standard Specification for Automotive Spark-Ignition Engine Fuel;

1 (d) Is not blended with casinghead gasoline, absorption gasoline, drip gasoline or natural gaso-
 2 line after the gasoline has been sold, transferred or otherwise removed from a refinery or terminal;
 3 and

4 (e) Contains denatured fuel ethanol that complies with ASTM International specification D 4806,
 5 Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automot-
 6 tive Spark-Ignition Engine Fuel.

7 (3) The department may review specifications adopted by ASTM International, or equivalent
 8 organizations, and federal regulations and revise the standards adopted under this section as nec-
 9 essary.

10 (4) A wholesale dealer, retail dealer or nonretail dealer may sell or offer for sale gasoline that
 11 is not blended with ethanol if the gasoline has an octane rating, as defined in ORS 646.945, of 91
 12 or above or if the gasoline is for use in:

13 (a) An aircraft:

14 (A) With a supplemental type certificate approved by the Federal Aviation Administration that
 15 allows the aircraft to use gasoline that is intended for use in motor vehicles; or

16 (B) Issued a type certificate by an aircraft engine manufacturer that allows the aircraft to use
 17 gasoline that is intended for use in motor vehicles;

18 (b) An aircraft that has been issued an experimental certificate, as described in 14 C.F.R. 21.191,
 19 by the Federal Aviation Administration and for which the manufacturer's specifications require the
 20 use of gasoline that is intended for use in motor vehicles;

21 (c) A light-sport aircraft, as defined in 14 C.F.R. 1.1, for which the manufacturer's specifications
 22 require the use of gasoline that is intended for use in motor vehicles;

23 (d) A vintage aircraft, as defined by the Oregon Department of Aviation by rule, for which the
 24 manufacturer's specifications require the use of gasoline that is intended for use in motor vehicles;

25 (e) An antique vehicle, as defined in ORS 801.125;

26 (f) A Class I all-terrain vehicle, as defined in ORS 801.190;

27 (g) A Class III all-terrain vehicle, as defined in ORS 801.194;

28 (h) A Class IV all-terrain vehicle, as defined in ORS 801.194 (2);

29 (i) A racing activity vehicle, as defined in ORS 801.404;

30 (j) A snowmobile, as defined in ORS 801.490;

31 (k) Tools, including but not limited to lawn mowers, leaf blowers and chain saws; or

32 (L) A watercraft.

33
 34 **BIENNIAL STATEWIDE ENERGY BURDEN REPORT**

35
 36 **SECTION 64. (1) No later than November 1 of each even-numbered year, the Housing and**
 37 **Community Services Department and the State Department of Energy shall jointly transmit**
 38 **to the Governor and the Legislative Assembly a biennial statewide energy burden report. The**
 39 **Housing and Community Services Department and the State Department of Energy shall**
 40 **jointly adopt rules for gathering data necessary to prepare the report. In adopting rules un-**
 41 **der this section, the Housing and Community Services Department and the State Department**
 42 **of Energy shall consult with consumer-owned utilities as defined in ORS 757.600 regarding**
 43 **the availability and collection of data necessary to develop the report.**

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

45 (a) Establish a baseline for assessing the energy burden experienced by the residents of

1 this state on a statewide level, by county and by utility service territory, and for assessing
 2 the differences in regional or demographic data that may impact the energy burden experi-
 3 enced;

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

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

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

13 (e) Develop and provide recommendations for improving the delivery of services for re-
 14 ducing energy burden by improving data gathering and knowledge sharing between state
 15 agencies, utilities, community action agencies and other organizations that implement en-
 16 ergy assistance programs.

17 (3) The Housing and Community Services Department, in consultation with the State
 18 Department of Energy, shall convene an Energy Burden and Poverty Working Group to
 19 provide guidance and assistance to the departments in developing the biennial statewide en-
 20 ergy burden report. The working group shall include representatives of low-income and en-
 21 vironmental justice communities, consumer-owned utilities, investor-owned utilities, at least
 22 one community action agency and organizations that implement energy assistance on a
 23 statewide level. The Housing and Community Services Department shall provide staff support
 24 to the working group. The working group shall meet regularly, as is necessary for the
 25 working group to review the statewide progress in addressing energy burden since issuance
 26 of the previous biennial statewide energy burden report and to assist in developing the up-
 27 coming biennial statewide energy burden report.

28
 29 **GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**

30
 31 **SECTION 65.** ORS 468A.280 is amended to read:

32 468A.280. *[(1) In addition to any registration and reporting that may be required under ORS*
 33 *468A.050, the Environmental Quality Commission by rule may require registration and reporting by:]*

34 (1) **As used in this section:**

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

36 (b) **“Greenhouse gas”** has the meaning given that term in section 4 of this 2020 Act.

37 (2) **The Environmental Quality Commission by rule may require registration and report-**
 38 **ing of information necessary to determine greenhouse gas emissions by:**

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

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

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

45 (3) **A person required to register and report under subsection (2) of this section shall**

1 **register with the Department of Environmental Quality and make reports containing infor-**
 2 **mation that the commission by rule may require that is relevant to determining and verify-**
 3 **ing greenhouse gas emissions. The commission may by rule require the person to provide an**
 4 **audit by an independent and disinterested third party to verify that the greenhouse gas**
 5 **emissions information reported by the person is true and accurate.**

6 [(2)] (4) Rules adopted by the commission under this section for electricity that is imported, sold,
 7 allocated or distributed for use in this state may require reporting of information necessary to de-
 8 termine greenhouse gas emissions from generating facilities used to produce the electricity and re-
 9 lated electricity transmission line losses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) Pursuant to paragraph (a) of this subsection, a [*multijurisdictional*] **multistate jurisdictional**
2 electric company may rely upon a cost allocation methodology approved by the Public Utility Com-
3 mission for reporting emissions allocated in this state.

4 [(5)] (7) Rules adopted by the commission under this section for [*fossil*] fuel that is imported, sold
5 or distributed for use in this state may require reporting of the type and quantity of the fuel and
6 any additional information necessary to determine the [*carbon content*] **greenhouse gas emissions**
7 **associated with the use or combustion** of the fuel. [*For the purpose of determining greenhouse gas*
8 *emissions related to liquefied petroleum gas, the commission shall allow reporting using publications*
9 *or submission of data by the American Petroleum Institute but may require reporting of such other*
10 *information necessary to achieve the purposes of the rules adopted by the commission under this sec-*
11 *tion.*]

12 [(6)] (8) To an extent that is consistent with the purposes of the rules adopted by the commission
13 under this section, the commission shall minimize the burden of the reporting required under this
14 section by:

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

16 (b) Allowing electronic reporting;

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

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

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

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

24 [(7) *As used in this section, "greenhouse gas" has the meaning given that term in ORS*
25 *468A.210.*]

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

30 (10) **The department may require a person for which registration and reporting is re-**
31 **quired under subsection (2) of this section to provide any pertinent records related to ver-**
32 **ification of greenhouse gas emissions in order to determine compliance with and to enforce**
33 **this section and rules adopted pursuant to this section.**

34 (11) **If a person required to register and report under subsection (2) of this section fails**
35 **to submit a report under this section, the department may develop an assigned emissions**
36 **level for the person if necessary for the purpose of regulating persons under sections 4 to**
37 **33 of this 2020 Act.**

38 (12)(a) **By rule, the commission may establish a schedule of fees for registration and re-**
39 **porting under this section. Before establishing fees pursuant to this subsection, the com-**
40 **mission shall consider the total fees for each person subject to registration and reporting**
41 **under this section.**

42 (b) **The commission shall limit the fees established under this subsection to the antic-**
43 **ipated cost of developing, implementing and analyzing data collected under greenhouse gas**
44 **emissions registration and reporting programs.**

45 (13) **Emissions data submitted to the department under this section is public information**

1 and may not be designated as confidential for purposes of disclosure under the public records
 2 law, ORS 192.311 to 192.478.

3
 4 **REGULATION OF LANDFILL METHANE EMISSIONS**

5
 6 **SECTION 66.** Section 67 of this 2020 Act is added to and made a part of ORS chapter
 7 468A.

8 **SECTION 67.** (1) As used in this section:

9 (a) “Anthropogenic greenhouse gas emissions” has the meaning given that term in sec-
 10 tion 4 of this 2020 Act.

11 (b) “Carbon dioxide equivalent” has the meaning given that term in section 4 of this 2020
 12 Act.

13 (c) “Hazardous waste” has the meaning given that term in ORS 466.005.

14 (d) “Land disposal site” has the meaning given that term in ORS 459.005.

15 (e) “Landfill” has the meaning given that term in ORS 459.005.

16 (f) “Solid waste” has the meaning given that term in ORS 459.005.

17 (2) It is the intent of the Legislative Assembly that the standards and requirements
 18 adopted by rule under this section be at least as stringent as the most stringent standards
 19 and requirements for reducing methane gas emissions from landfills adopted among the
 20 states having a boundary with Oregon.

21 (3) The Environmental Quality Commission shall adopt by rule standards and require-
 22 ments for reducing methane gas emissions from landfills.

23 (4) The following landfills are exempt from standards and requirements adopted by rule
 24 under this section:

25 (a) Landfills that emit less than 25,000 metric tons of carbon dioxide equivalent in
 26 anthropogenic greenhouse gas emissions annually, as reported under ORS 468A.280.

27 (b) Landfills that receive only hazardous waste.

28 (c) Landfills that receive only waste from building demolition or construction.

29 (d) Land disposal sites that are closed as of the effective date of this 2020 Act and are
 30 no longer receiving solid waste, are maintained in compliance with ORS 459.268 and have less
 31 than 450,000 metric tons of waste in place.

32 (5) Rules adopted under this section shall include but need not be limited to:

33 (a) Reporting requirements related to waste in place, calculated landfill gas heat input
 34 capacity, and landfill surface emissions monitoring.

35 (b) Methane gas collection and control system requirements for landfills with reported
 36 calculated landfill gas heat input capacity exceeding 3 million British thermal units per hour.

37 (c) Standards and requirements for methane surface emissions, monitoring and correc-
 38 tive actions.

39 (d) Alternative compliance measures and methods that may be applied for certain land-
 40 fills on a case-by-case basis.

41 (e) Standards and requirements for records retention, landfill closure notification,
 42 methane gas collection and control device removal or modification and annual operating re-
 43 ports.

44 **SECTION 68.** The Environmental Quality Commission shall adopt rules under section 67
 45 of this 2020 Act in time for the rules to become operative no later than July 1, 2022.

OREGON GLOBAL WARMING COMMISSION
(Abolish and Transfer of Duties to Oregon Climate Board)

1
2
3
4 **SECTION 69.** (1) The Oregon Global Warming Commission is abolished. On the operative
5 date of this section, the tenure of office of the members of the Oregon Global Warming
6 Commission ceases.

7 (2) All the duties, functions and powers of the Oregon Global Warming Commission are
8 imposed upon, transferred to and vested in the Oregon Climate Board.

9 **SECTION 70.** (1) The chairperson of the Oregon Global Warming Commission shall de-
10 liver to the Oregon Climate Board all records and property within the jurisdiction of the
11 chairperson that relate to the duties, functions and powers transferred by section 69 of this
12 2020 Act.

13 (2) The chairperson of the Oregon Climate Board shall take possession of the records and
14 property.

15 (3) The Governor shall resolve any dispute between the Oregon Global Warming Com-
16 mission and the Oregon Climate Board relating to transfers of records and property under
17 this section, and the Governor's decision is final.

18 **SECTION 71.** (1) The unexpended balances of amounts authorized to be expended by the
19 Oregon Global Warming Commission for the biennium beginning July 1, 2019, from revenues
20 dedicated, continuously appropriated, appropriated or otherwise made available for the pur-
21 pose of administering and enforcing the duties, functions and powers transferred by section
22 69 of this 2020 Act are transferred to and are available for expenditure by the Oregon Climate
23 Board for the biennium beginning July 1, 2019, for the purpose of administering and enforcing
24 the duties, functions and powers transferred by section 69 of this 2020 Act.

25 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
26 expenditures by the Oregon Global Warming Commission remain applicable to expenditures
27 by the Oregon Climate Board under this section.

28 **SECTION 72.** The transfer of duties, functions and powers to the Oregon Climate Board
29 by section 69 of this 2020 Act does not affect any action, proceeding or prosecution involving
30 or with respect to such duties, functions and powers begun before and pending at the time
31 of the transfer, except that the Oregon Climate Board is substituted for the Oregon Global
32 Warming Commission in the action, proceeding or prosecution.

33 **SECTION 73.** (1) Nothing in sections 69 to 76 of this 2020 Act, the amendments to stat-
34 utes by sections 78 to 83 of this 2020 Act or the repeal of statutes by section 77 of this 2020
35 Act relieves a person of a liability, duty or obligation accruing under or with respect to the
36 duties, functions and powers transferred by section 69 of this 2020 Act. The Oregon Climate
37 Board may undertake the collection or enforcement of any such liability, duty or obligation.

38 (2) The rights and obligations of the Oregon Global Warming Commission legally incurred
39 under contracts, leases and business transactions executed, entered into or begun before the
40 operative date of section 69 of this 2020 Act are transferred to the Oregon Climate Board.
41 For the purpose of succession to these rights and obligations, the Oregon Climate Board is
42 a continuation of the Oregon Global Warming Commission and not a new authority.

43 **SECTION 74.** Notwithstanding the transfer of duties, functions and powers by section 69
44 of this 2020 Act, the rules of the Oregon Global Warming Commission in effect on the oper-
45 ative date of section 69 of this 2020 Act continue in effect until superseded or repealed by

1 rules of the Oregon Climate Board. References in rules of the Oregon Global Warming
 2 Commission to the Oregon Global Warming Commission or an officer of the Oregon Global
 3 Warming Commission are considered to be references to the Oregon Climate Board or an
 4 officer of the Oregon Climate Board.

5 **SECTION 75.** Whenever, in any statutory law or resolution of the Legislative Assembly
 6 or in any rule, document, record or proceeding authorized by the Legislative Assembly, ref-
 7 erence is made to the Oregon Global Warming Commission or an officer or employee of the
 8 Oregon Global Warming Commission, the reference is considered to be a reference to the
 9 Oregon Climate Board or an officer of the Oregon Climate Board.

10 **SECTION 76.** For the purpose of harmonizing and clarifying statutory law, the Legislative
 11 Counsel may substitute for words designating the “Oregon Global Warming Commission” or
 12 its officers, wherever they occur in statutory law, words designating the “Oregon Climate
 13 Board” or its officers.

14
 15 (Repeals)

16
 17 **SECTION 77.** ORS 468A.200, 468A.210, 468A.215, 468A.220, 468A.225, 468A.230 and 468A.250
 18 are repealed.

19
 20 (Amendments to Statutes)

21
 22 **SECTION 78.** ORS 468A.235 is amended to read:

23 468A.235. The [*Oregon Global Warming Commission*] **Oregon Climate Board** shall recommend
 24 ways to coordinate state and local efforts to reduce greenhouse gas emissions in Oregon consistent
 25 with the greenhouse gas emissions reduction goals established by ORS 468A.205 and shall recom-
 26 mend efforts to help Oregon prepare for the effects of [*global warming*] **climate change**. The Office
 27 of the Governor and state agencies working on multistate and regional efforts to reduce greenhouse
 28 gas emissions shall inform the [*commission*] **board** about these efforts and shall consider input from
 29 the [*commission*] **board** for such efforts.

30 **SECTION 79.** ORS 468A.240 is amended to read:

31 468A.240. [(1)] In furtherance of the greenhouse gas emissions reduction goals established by
 32 ORS 468A.205, the [*Oregon Global Warming Commission*] **Oregon Climate Board** may recommend
 33 statutory and administrative changes, policy measures and other recommendations to be carried out
 34 by state and local governments, businesses, nonprofit organizations or residents. In developing its
 35 recommendations, the [*commission*] **board** shall consider economic, environmental, health and social
 36 costs, and the risks and benefits of alternative strategies, including least-cost options. The [*commis-*
 37 *sion*] **board** shall solicit and consider public comment relating to statutory, administrative or policy
 38 recommendations.

39 [(2) *The commission shall examine greenhouse gas cap-and-trade systems, including a statewide*
 40 *and multistate carbon cap-and-trade system and market-based mechanisms, as a means of achieving the*
 41 *greenhouse gas emissions reduction goals established by ORS 468A.205.]*

42 [(3) *The commission shall examine possible funding mechanisms to obtain low-cost greenhouse gas*
 43 *emissions reductions and energy efficiency enhancements, including but not limited to those in the na-*
 44 *tural gas industry.]*

45 **SECTION 80.** ORS 468A.245 is amended to read:

1 468A.245. The [*Oregon Global Warming Commission*] **Oregon Climate Board** shall develop an
2 outreach strategy to educate Oregonians about the scientific aspects and economic impacts of
3 [*global warming*] **climate change** and to inform Oregonians of ways to reduce greenhouse gas
4 emissions and ways to prepare for the effects of [*global warming*] **climate change**. The
5 [*commission*] **board**, at a minimum, shall work with state and local governments, **the Climate Policy**
6 **Office**, the State Department of Energy, the Department of Education, the Higher Education Coor-
7 dinating Commission and businesses to implement the outreach strategy.

8 **SECTION 81.** ORS 468A.255 is amended to read:

9 468A.255. The [*Oregon Global Warming Commission*] **Oregon Climate Board** may recommend
10 to the Governor the formation of citizen advisory groups to explore particular areas of concern with
11 regard to the reduction of greenhouse gas emissions and the effects of [*global warming*] **climate**
12 **change**.

13 **SECTION 82.** ORS 468A.260 is amended to read:

14 468A.260. The [*Oregon Global Warming Commission*] **Oregon Climate Board** shall submit a re-
15 port to the Legislative Assembly, in the manner provided by ORS 192.245, by March 31 of each
16 odd-numbered year that describes Oregon's progress toward achievement of the greenhouse gas
17 emissions reduction goals established by ORS 468A.205. The report may include relevant issues and
18 trends of significance, including trends of greenhouse gas emissions, emerging public policy and
19 technological advances. The report also may discuss measures the state may adopt to mitigate the
20 impacts of [*global warming*] **climate change** on the environment, the economy and the residents of
21 Oregon and to prepare for those impacts.

22 **SECTION 83.** ORS 352.823 is amended to read:

23 352.823. (1) The Oregon Climate Change Research Institute is established at Oregon State Uni-
24 versity. In administering the institute, Oregon State University may seek the cooperation of other
25 public universities listed in ORS 352.002.

26 (2) The purpose of the Oregon Climate Change Research Institute is to:

27 (a) Facilitate research by faculty at public universities listed in ORS 352.002 on climate change
28 and its effects on natural and human systems in Oregon;

29 (b) Serve as a clearinghouse for climate change information;

30 (c) Provide climate change information to the public in integrated and accessible formats;

31 (d) Support the [*Oregon Global Warming Commission*] **Oregon Climate Board** in developing
32 strategies to prepare for and to mitigate the effects of climate change on natural and human sys-
33 tems; and

34 (e) Provide technical assistance to local governments to assist them in developing climate
35 change policies, practices and programs.

36 (3) The Oregon Climate Change Research Institute shall assess, at least once each biennium, the
37 state of climate change science, including biological, physical and social science, as it relates to
38 Oregon and the likely effects of climate change on the state. The institute shall submit the assess-
39 ment to the Legislative Assembly in the manner provided in ORS 192.245 and to the Governor.

40 (4) State agencies may contract with the Oregon Climate Change Research Institute to fulfill
41 agency needs regarding the collection, storage, integration, analysis, dissemination and monitoring
42 of climate change information, research and training.

43 **SECTION 84.** ORS 468A.265 is amended to read:

44 468A.265. As used in ORS 468A.265 to 468A.277:

45 (1) "Biodiesel" means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty

1 acids derived from vegetable oils, animal fats or other nonpetroleum resources, not including palm
2 oil.

3 (2) “Clean fuels program” means the program adopted by rule by the Environmental Quality
4 Commission under ORS 468A.266 (1)(b).

5 (3) “Compliance period” means the calendar year during which a regulated party must demon-
6 strate compliance with the low carbon fuel standards through participation in the clean fuels pro-
7 gram.

8 (4) “Credit” means a unit of measure generated when a fuel with a carbon intensity that is less
9 than the applicable low carbon fuel standard is produced, imported or dispensed for use in Oregon,
10 such that one credit is equal to one metric ton of carbon dioxide equivalent.

11 (5) “Credit aggregator” means a person who voluntarily registers to participate in the clean
12 fuels program to facilitate credit generation on behalf of a credit generator and to trade credits with
13 regulated parties, credit generators and other credit aggregators.

14 (6) “Credit generator” means a person eligible to generate credits by providing fuels for use in
15 Oregon with carbon intensities less than the applicable low carbon fuel standard.

16 (7) “Deferral” means a delay or change in the applicability of a scheduled applicable low carbon
17 fuel standard for a period of time, accomplished pursuant to an order issued under ORS 468A.273
18 or 468A.274.

19 (8) “Deficit” means a unit of measure generated when a fuel with a carbon intensity that is more
20 than the applicable low carbon fuel standard is produced, imported or dispensed for use in Oregon,
21 such that one deficit is equal to one metric ton of carbon dioxide equivalent.

22 (9) “Greenhouse gas” [*has the meaning given that term in ORS 468A.210*] **includes, but is not**
23 **limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,**
24 **sulfur hexafluoride and nitrogen trifluoride.**

25 (10) “Low carbon fuel standard” means a standard adopted by the commission by rule under
26 ORS 468A.266 for the reduction of greenhouse gas emissions, on average, per unit of fuel energy.

27 (11) “Motor vehicle” has the meaning given that term in ORS 801.360.

28 (12) “Regulated party” means a person responsible for complying with the low carbon fuel
29 standards.

30 (13) “Small deficit” means a net deficit balance at the end of a compliance period, after retire-
31 ment of all credits held by a regulated party, that does not exceed a percentage set by the com-
32 mission by rule of the total number of deficits that the regulated party generated for a compliance
33 period and that may not be greater than 10 percent of the total number of deficits that the regulated
34 party generated for a compliance period.

35 **SECTION 85.** ORS 468A.279 is amended to read:

36 468A.279. (1) As used in this section:

37 (a) “Greenhouse gas” has the meaning given that term in ORS [*468A.210*] **468A.265.**

38 (b) “Motor vehicle” has the meaning given that term in ORS 801.360.

39 (2) The Environmental Quality Commission may adopt by rule standards and requirements de-
40 scribed in this section to reduce greenhouse gas emissions.

41 (3)(a) The commission may adopt requirements to prevent the tampering, alteration and modifi-
42 cation of the original design or performance of motor vehicle pollution control systems.

43 (b) Before adopting requirements under this section, the commission shall consider the anti-
44 tampering requirements and exemptions of the State of California.

45 (4) The commission may adopt requirements for motor vehicle service providers to check and

1 inflate tire pressure according to the tire manufacturer's or motor vehicle manufacturer's recom-
 2 mended specifications, provided that the requirements:

3 (a) Do not apply when the primary purpose of the motor vehicle service is fueling vehicles; and

4 (b) Do not require motor vehicle service providers to purchase equipment to check and inflate
 5 tire pressure.

6 (5) The commission may adopt restrictions on engine use by commercial ships while at port, and
 7 requirements that ports provide alternatives to engine use such as electric power, provided that:

8 (a) Engine use shall be allowed when necessary to power mechanical or electrical operations if
 9 alternatives are not reasonably available;

10 (b) Engine use shall be allowed when necessary for reasonable periods due to emergencies and
 11 other considerations as determined by the commission; and

12 (c) The requirements must be developed in consultation with representatives of Oregon ports
 13 and take into account operational considerations, operational agreements, international protocols
 14 and limitations, the ability to fund the purchase and use of electric power equipment and the po-
 15 tential effect of the requirements on competition with other ports.

16 (6) In adopting rules under this section, the commission shall evaluate:

17 (a) Safety, feasibility, net reduction of greenhouse gas emissions and cost-effectiveness;

18 (b) Potential adverse impacts to public health and the environment, including but not limited to
 19 air quality, water quality and the generation and disposal of waste in this state;

20 (c) Flexible implementation approaches to minimize compliance costs; and

21 (d) Technical and economic studies of comparable greenhouse gas emissions reduction measures
 22 implemented in other states and any other studies as determined by the commission.

23 (7) The provisions of this section do not apply to:

24 (a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.

25 (b) Farm tractors, as defined in ORS 801.265.

26 (c) Implements of husbandry, as defined in ORS 801.310.

27 (d) Motor trucks, as defined in ORS 801.355, used primarily to transport logs.

28 **SECTION 86.** ORS 757.528 is amended to read:

29 757.528. (1) Unless modified by rule by the State Department of Energy as provided in this sec-
 30 tion, the greenhouse gas emissions standard that applies to consumer-owned utilities is 1,100 pounds
 31 of greenhouse gases per megawatt-hour for a generating facility.

32 (2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions
 33 standard includes only carbon dioxide emissions.

34 (3) For purposes of applying the emissions standard to cogeneration facilities, the department
 35 shall establish an output-based methodology to ensure that the calculation of emissions of
 36 greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process
 37 and includes all greenhouse gases emitted by the facility in the production of both electrical and
 38 thermal energy.

39 (4) The department shall review the greenhouse gas emissions standard established under this
 40 section no more than once every three years. After public notice and hearing, and consultation with
 41 the Public Utility Commission, the department may:

42 (a) Modify the emissions standard to include other greenhouse gases as defined in ORS
 43 [468A.210] **468A.265**, with the other greenhouse gases expressed as their carbon dioxide equivalent;
 44 and

45 (b) Modify the emissions standard based upon current information on the rate of greenhouse gas

1 emissions from a commercially available combined-cycle natural gas generating facility that:

2 (A) Employs a combination of one or more gas turbines and one or more steam turbines and
 3 produces electricity in the steam turbines from waste heat produced by the gas turbines;

4 (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordi-
 5 nating Council; and

6 (C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

7 (5) In modifying the greenhouse gas emissions standard, the department shall:

8 (a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions
 9 through cogeneration recognizes the total usable energy output of the process and includes all
 10 greenhouse gases emitted by the generating facility in the production of both electrical and thermal
 11 energy; and

12 (b) Consider the effects of the emissions standard on system reliability and overall costs to
 13 electricity consumers.

14 (6) If upon a review conducted pursuant to subsection (4) of this section, the department deter-
 15 mines that a mandatory greenhouse gas emissions limit has been established pursuant to state or
 16 federal law, the department shall issue a report to the appropriate legislative committees of the
 17 Legislative Assembly stating which portions, if any, of the greenhouse gas emissions standard are
 18 no longer necessary as a matter of state law.

19
 20 **EXPEDITED JUDICIAL REVIEW TO SUPREME COURT;**
 21 **EXPIRATION**

22
 23 **SECTION 87. (1) It is the intent of the Legislative Assembly that the provisions of this**
 24 **2020 Act relating to the receipt of moneys by the state through the sale of allowances by**
 25 **auction under section 27 of this 2020 Act do not render this 2020 Act a bill for raising revenue**
 26 **subject to the provisions of Article IV, sections 18 and 25 (2), of the Oregon Constitution.**

27 **(2) Original jurisdiction is conferred on the Supreme Court to determine whether this**
 28 **2020 Act is a bill for raising revenue subject to the provisions of Article IV, sections 18 and**
 29 **25 (2), of the Oregon Constitution.**

30 **(3)(a) Any person interested in or affected or aggrieved by, or who will be affected or**
 31 **aggrieved by, section 27 of this 2020 Act may petition for judicial review under this section.**
 32 **A petition for review must be filed within 60 days after the effective date of this 2020 Act.**

33 **(b) The petition must state facts showing how the petitioner is interested, affected or**
 34 **aggrieved and the grounds upon which the petition is based.**

35 **(4) The petitioner shall serve a copy of the petition by registered or certified mail upon**
 36 **the Department of Environmental Quality, the Oregon Department of Administrative Ser-**
 37 **vices, the Director of the Climate Policy Office, the Attorney General and the Governor.**

38 **(5) Proceedings for review under this section shall be given priority over all other mat-**
 39 **ters before the Supreme Court.**

40 **(6) In the event that the Supreme Court determines that there are factual issues in the**
 41 **petition, the Supreme Court may appoint a special master to hear evidence and to prepare**
 42 **recommended findings of fact.**

43 **SECTION 88. (1) Original jurisdiction to determine whether auctions conducted under**
 44 **section 27 of this 2020 Act impose a tax that is subject to the provisions of Article IX, section**
 45 **3a, of the Oregon Constitution, is conferred on the Supreme Court.**

1 (2)(a) Any person interested in or affected or aggrieved by, or who will be affected or
 2 aggrieved by, section 27 of this 2020 Act may petition for judicial review under this section.
 3 A petition for review must be filed within 60 days after the effective date of this 2020 Act.

4 (b) The petition must state facts showing how the petitioner is interested, affected or
 5 aggrieved and the grounds upon which the petition is based.

6 (3) The petitioner shall serve a copy of the petition by registered or certified mail upon
 7 the Department of Environmental Quality, the Oregon Department of Administrative Ser-
 8 vices, the Director of the Climate Policy Office, the Attorney General and the Governor.

9 (4) Proceedings for review under this section shall be given priority over all other mat-
 10 ters before the Supreme Court.

11 (5) In the event that the Supreme Court determines that there are factual issues in the
 12 petition, the Supreme Court may appoint a special master to hear evidence and to prepare
 13 recommended findings of fact.

14 **SECTION 89.** If section 27 of this 2020 Act is judicially declared by the Supreme Court
 15 to not impose a tax subject to the provisions of Article IX, section 3a, of the Oregon Con-
 16 stitution, then the Climate Policy Office shall, as part of the next biennial climate action
 17 investment plan due pursuant to section 41 of this 2020 Act after the date of the judicial
 18 declaration:

19 (1) Identify specific opportunities for using state proceeds from auctions conducted under
 20 section 27 of this 2020 Act each biennium to reduce greenhouse gas emissions associated with
 21 transportation through investments in transportation electrification, compressed natural gas
 22 and hydrogen fuel vehicles and infrastructure, and low-emission and zero-emission transit;

23 (2) Identify specific opportunities for using state proceeds from auctions conducted under
 24 section 27 of this 2020 Act each biennium to reduce greenhouse gas emissions through the
 25 replacement of medium-duty trucks and heavy-duty trucks powered by diesel engines or the
 26 repower or retrofit of diesel engines that power medium-duty trucks and heavy-duty trucks;

27 (3) Identify specific opportunities for using state proceeds from auctions conducted under
 28 section 27 of this 2020 Act each biennium to reduce greenhouse gas emissions related to ag-
 29 riculture, with a priority given to the replacement, repowering or retrofitting of nonroad
 30 equipment to reduce emissions that present serious risks to farmworker health; and

31 (4) Make recommendations, including recommendations for legislation, for modifying the
 32 distributions of state proceeds from auctions as provided for in sections 27, 28, 35 to 38 and
 33 39 of this 2020 Act, and the repeal or amendment of any other statutes or session laws, as
 34 necessary to:

35 (a) Address the judicial declaration by the Supreme Court that section 27 of this 2020 Act
 36 does not impose a tax that is subject to the provisions of Article IX, section 3a, of the
 37 Oregon Constitution; and

38 (b) Implement the opportunities identified pursuant to subsections (1) to (3) of this sec-
 39 tion.

40 **SECTION 90.** Section 89 of this 2020 Act becomes operative on January 2 of the year
 41 following the date that section 27 of this 2020 Act is judicially declared by the Supreme Court
 42 to not impose a tax that is subject to the provisions of Article IX, section 3a, of the Oregon
 43 Constitution.

44 **SECTION 91.** Sections 89 and 90 of this 2020 Act are repealed on the earlier of:

45 (1) The date that section 27 of this 2020 Act is judicially declared by the Supreme Court

1 to impose a tax that is subject to the provisions of Article IX, section 3a, of the Oregon
 2 Constitution; or

3 (2) January 2, 2027.

4 **SECTION 92.** (1) Original jurisdiction to determine whether auctions conducted under
 5 section 27 of this 2020 Act impose a tax or excise that is subject to the provisions of Article
 6 VIII, section 2 (1)(g), of the Oregon Constitution, is conferred on the Supreme Court.

7 (2)(a) Any person interested in or affected or aggrieved by, or who will be affected or
 8 aggrieved by, section 27 of this 2020 Act may petition for judicial review under this section.
 9 A petition for review must be filed within 60 days after the effective date of this 2020 Act.

10 (b) The petition must state facts showing how the petitioner is interested, affected or
 11 aggrieved and the grounds upon which the petition is based.

12 (3) The petitioner shall serve a copy of the petition by registered or certified mail upon
 13 the Department of Environmental Quality, the Oregon Department of Administrative Ser-
 14 vices, the Director of the Climate Policy Office, the Attorney General and the Governor.

15 (4) Proceedings for review under this section shall be given priority over all other mat-
 16 ters before the Supreme Court.

17 (5) In the event that the Supreme Court determines that there are factual issues in the
 18 petition, the Supreme Court may appoint a special master to hear evidence and to prepare
 19 recommended findings of fact.

20
 21 **REPORTS AND REVIEWS**

22
 23 **SECTION 93. Initial implementation report.** On or before September 15, 2021, the De-
 24 partment of Environmental Quality and the Oregon Department of Administrative Services
 25 shall report on the actions being taken to prepare for the implementation of sections 4 to
 26 33 of this 2020 Act to the Joint Committee on Climate Action.

27 **SECTION 94. Offset implementation report.** On or before September 15, 2031, the De-
 28 partment of Environmental Quality shall conduct a review and provide a report to the Joint
 29 Committee on Climate Action, in the manner provided by ORS 192.245, on the implementation
 30 of sections 23 to 25 of this 2020 Act and rules adopted under section 23 of this 2020 Act. The
 31 report may include recommendations for legislation. The review and report must:

32 (1) Assess the implementation of laws and policies for offset projects and the use of offset
 33 credits by covered entities;

34 (2) Include a review of:

35 (a) Offset project development costs and the time it takes for state agencies to review
 36 offset projects;

37 (b) To date, the offset projects developed and the offset credits generated and issued
 38 under rules adopted and offset protocols developed pursuant to sections 23 to 25 of this 2020
 39 Act;

40 (c) To date, the offset credits that have been invalidated pursuant to section 23 (5) of this
 41 2020 Act;

42 (d) Offset credit prices and offset credit market conditions; and

43 (e) Advancements in the methods or technologies used for measuring and monitoring the
 44 greenhouse gas emissions reductions or removals attributable to offset projects;

45 (3) Identify barriers to the adoption of offset protocols; and

1 (4) Make determinations and recommendations regarding whether changes to laws and
2 policies are necessary or advisable to address any negative impacts related to offset projects
3 or offset credits or to best align the laws or policies for offset projects and the use of offset
4 credits by covered entities with the purposes set forth in section 14 of this 2020 Act.

5 **SECTION 95. Report on certain exclusions from regulated emissions.** (1) No later than
6 January 1, 2025, the Department of Environmental Quality shall conduct research and submit
7 a report, in the manner provided by ORS 192.245, to the Joint Committee on Climate Action
8 regarding the exclusion from regulated emissions, as provided in section 6 (2)(a) of this 2020
9 Act, of the greenhouse gas emissions from aviation fuel and fuel used in watercraft and
10 railroad locomotives. The purpose of the report shall be to provide analysis of the anticipated
11 effect of amending section 6 of this 2020 Act and any other statutes as necessary such that,
12 beginning in the first compliance period that begins after January 1, 2027, the greenhouse
13 gas emissions from the combustion of fuel described in section 6 (2)(a) of this 2020 Act would
14 be included in regulated emissions.

15 (2) In carrying out the provisions of this section, the department shall research and
16 provide analysis on:

17 (a) Whether the aviation, marine and railroad industries in Oregon are reducing
18 greenhouse gas emissions consistent with the best available technologies and energy alter-
19 natives;

20 (b) Whether other jurisdictions that have adopted carbon pricing mechanisms require
21 aviation fuels, marine fuels or railroad fuels to comply with those carbon pricing mech-
22 anisms;

23 (c) The costs and economic impacts of eliminating the exclusion provided under section
24 6 (2)(a) of this 2020 Act, analyzed separately for each industry that would be impacted by the
25 elimination of the exclusion; and

26 (d) The environmental impacts of eliminating the exclusion provided under section 6
27 (2)(a) of this 2020 Act, analyzed separately for each industry that would be impacted by the
28 elimination of the exclusion.

29 **SECTION 96. Credit proposal.** (1) The Department of Transportation, in consultation with
30 the Department of Revenue, the Legislative Revenue Officer and any other relevant state
31 agencies, shall develop a proposal for a program or process for issuing the following refunds
32 or credits of moneys received by the state as proceeds from auctions of allowances conducted
33 under section 27 of this 2020 Act, in order to offset estimated increases in motor vehicle fuel
34 costs in Oregon attributable to the regulation of motor vehicle fuel producers and importers
35 as covered entities under sections 4 to 33 of this 2020 Act:

36 (a) A refund or credit available, in an amount up to 100 percent of the estimated increase
37 in the cost of motor vehicle fuel used to propel motor vehicles on the highways of this state,
38 to individuals with an adjusted gross income that does not exceed 250 percent of the federal
39 poverty guidelines based on the individual's household size and household members.

40 (b) One or more refunds or credits available, in order to offset the estimated increase in
41 the cost of motor vehicle fuel used to propel motor vehicles that are not operated on the
42 highways of this state, for motor vehicle fuel that is used in farm vehicles, motor vehicles
43 used in the forest products industry or motor vehicles otherwise used in the agricultural and
44 natural resource sectors.

45 (2) On or before September 15, 2020, and in the manner provided by ORS 192.245, the

1 **Department of Transportation shall provide a report detailing the proposal and steps, which**
 2 **may include recommendations for legislation, necessary to implement the proposal to the**
 3 **Joint Committee on Climate Action and the Joint Committee on Transportation.**

4 **SECTION 97.** Section 75, chapter 750, Oregon Laws 2017, is amended to read:

5 **Sec. 75.** (1) The Oregon Transportation Commission shall conduct a **biennial** study. The purpose
 6 of the study is to determine:

7 (a) The proportionate share that users of vehicles that are powered by different means should
 8 pay for the costs of maintenance, operation and improvement of the highways in this state; and

9 (b) Whether users of vehicles that are powered by different means are paying that share.

10 (2) If the commission determines that users are not paying a proportionate share, then the
 11 commission may include in the report recommendations for legislation.

12 (3) This section applies to users paying the vehicle registration fee under ORS 803.420 (6)(a).

13 (4) The commission shall report the results of the study to **the Road User Fee Task Force**
 14 **established under ORS 184.843**, the Joint Committee on Transportation established under [*section*
 15 *26 of this 2017 Act*] **ORS 171.858 and the Joint Committee on Climate Action established under**
 16 **section 101 of this 2020 Act**, in the manner provided by ORS 192.245, no later than September 15,
 17 [*2023*] **of each odd-numbered year, beginning in 2021.**

18 **SECTION 98.** Section 76, chapter 750, Oregon Laws 2017, is amended to read:

19 **Sec. 76.** Section 75, **chapter 750, Oregon Laws 2017**, [*of this 2017 Act*] is repealed on January
 20 2, [*2024*] **2030.**

21 **SECTION 99. Residential home heating assistance program proposal.** (1) **The Housing and**
 22 **Community Services Department, in consultation with the Climate Policy Office, the Oregon**
 23 **Housing Stability Council and interested stakeholders, shall develop a proposal for assisting**
 24 **households that for residential home heating use propane, fuel oil or other fossil fuels that**
 25 **are not natural gas. The proposal shall give priority to assisting low-income households or**
 26 **impacted communities, as defined in section 4 of this 2020 Act, through:**

27 (a) **Bill assistance; and**

28 (b) **Weatherization, including options for upgrading to more efficient home heating**
 29 **equipment or to home heating systems powered by less greenhouse gas emissions-intensive**
 30 **power sources.**

31 (2) **The department shall develop the proposal in a manner intended to achieve the fol-**
 32 **lowing goals:**

33 (a) **Reducing greenhouse gas emissions;**

34 (b) **Saving energy;**

35 (c) **Reducing the energy burden experienced by households; and**

36 (d) **Reducing residential home heating service disparities in historically underserved**
 37 **populations.**

38 (3) **The proposal required by this section may be for any combination of:**

39 (a) **The development of a single new program;**

40 (b) **The development of multiple new programs or activities to achieve different goals as**
 41 **outlined in subsection (2) of this section; or**

42 (c) **Utilization of existing programs or partnerships to deliver assistance to households.**

43 (4) **On or before September 15, 2021, and in the manner provided by ORS 192.245, the**
 44 **Housing and Community Services Department shall provide a report detailing the proposal,**
 45 **and steps, which may include recommendations for legislation, necessary to implement the**

1 proposal, to the Joint Committee on Climate Action.

2 **SECTION 100. Commercial and industrial natural gas and propane user emissions re-**
3 **duction program proposal.** (1) The Oregon Business Development Department shall:

4 (a) Conduct the analysis described in subsection (2) of this section; and

5 (b) Based on the analysis described in subsection (2) of this section, develop a proposal
6 for a program to serve the needs identified in the analysis in a manner that furthers one or
7 more of the purposes set forth in section 2 of this 2020 Act.

8 (2) The department shall analyze and determine the commercial needs in this state for
9 loans or other financial assistance to commercial and industrial natural gas users or propane
10 users for projects or activities to:

11 (a) Increase the energy efficiency of or reduce the greenhouse gas emissions from na-
12 tural gas or propane-fueled equipment used in industrial or commercial facilities;

13 (b) Facilitate replacing existing equipment in order to reduce greenhouse gas emissions;
14 and

15 (c) Reduce process emissions.

16 (3) In conducting the analysis and designing a proposal for a program as required by this
17 section, the department may consult and contract for services as necessary with state or
18 federal agencies or nongovernmental entities that have expertise in climate or energy policy
19 or in industrial energy efficiency, or other relevant expertise.

20 (4) On or before September 15, 2021, and in the manner provided by ORS 192.245, the de-
21 partment shall provide a report to the Joint Committee on Climate Action detailing the
22 analysis conducted and the proposal developed pursuant to this section and the steps, which
23 may include recommendations for legislation, necessary to implement the proposal.

24
25 **JOINT COMMITTEE ON CLIMATE ACTION**

26
27 **SECTION 101.** (1) There is established the Joint Committee on Climate Action.

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

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

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

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

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

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

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

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

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

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

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

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

17 (10) The joint committee may adopt rules necessary for the operation of the joint com-
 18 mittee.

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

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

28 **SECTION 102. (1) The Joint Committee on Climate Action shall:**

29 (a) Provide general legislative oversight of policy related to climate, including but not
 30 limited to the Oregon Climate Action Program established under sections 4 to 33 of this 2020
 31 Act;

32 (b) Examine and prioritize the uses of state proceeds from auctions conducted under
 33 section 27 of this 2020 Act; and

34 (c) Make recommendations related to the uses of state proceeds from auctions conducted
 35 under section 27 of this 2020 Act to the Joint Committee on Ways and Means.

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

38 (a) The biennial expenditure reports and audit report required by section 45 of this 2020
 39 Act;

40 (b) The biennial climate action investment plan required by section 41 of this 2020 Act;

41 (c) The recommendations of the Environmental Justice Task Force required by section
 42 43 of this 2020 Act; and

43 (d) The Just Transition Plan required by section 48 of this 2020 Act.

44
 45 **CLIMATE POLICY OFFICE ESTABLISHED**

(Establishment; Duties)

SECTION 103. Climate Policy Office. (1) The Climate Policy Office is established within the Oregon Department of Administrative Services.

(2) The office shall:

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

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

(3) The office may advise, consult and cooperate with other agencies of the state, political subdivisions, other states, eligible Indian tribes as defined in section 4 of this 2020 Act or the federal government, with respect to any proceedings and all matters pertaining to the reduction of greenhouse gas emissions levels in Oregon.

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

(Director of the Climate Policy Office)

SECTION 104. Director. (1) The Climate Policy Office is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers of the office.

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

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

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

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

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

SECTION 105. ORS 244.050 is amended to read:

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

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

(b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem

- 1 judicial officer who does not otherwise serve as a judicial officer.
- 2 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.
- 3 (d) The Deputy Attorney General.
- 4 (e) The Deputy Secretary of State.
- 5 (f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
6 Legislative Policy and Research Director, the Secretary of the Senate, the Chief Clerk of the House
7 of Representatives and the Legislative Equity Officer.
- 8 (g) The president and vice presidents, or their administrative equivalents, in each public uni-
9 versity listed in ORS 352.002.
- 10 (h) The following state officers:
- 11 (A) Adjutant General.
- 12 (B) Director of Agriculture.
- 13 (C) Manager of State Accident Insurance Fund Corporation.
- 14 (D) Water Resources Director.
- 15 (E) Director of Department of Environmental Quality.
- 16 (F) Director of Oregon Department of Administrative Services.
- 17 (G) State Fish and Wildlife Director.
- 18 (H) State Forester.
- 19 (I) State Geologist.
- 20 (J) Director of Human Services.
- 21 (K) Director of the Department of Consumer and Business Services.
- 22 (L) Director of the Department of State Lands.
- 23 (M) State Librarian.
- 24 (N) Administrator of Oregon Liquor Control Commission.
- 25 (O) Superintendent of State Police.
- 26 (P) Director of the Public Employees Retirement System.
- 27 (Q) Director of Department of Revenue.
- 28 (R) Director of Transportation.
- 29 (S) Public Utility Commissioner.
- 30 (T) Director of Veterans' Affairs.
- 31 (U) Executive director of Oregon Government Ethics Commission.
- 32 (V) Director of the State Department of Energy.
- 33 (W) Director and each assistant director of the Oregon State Lottery.
- 34 (X) Director of the Department of Corrections.
- 35 (Y) Director of the Oregon Department of Aviation.
- 36 (Z) Executive director of the Oregon Criminal Justice Commission.
- 37 (AA) Director of the Oregon Business Development Department.
- 38 (BB) Director of the Office of Emergency Management.
- 39 (CC) Director of the Employment Department.
- 40 (DD) Chief of staff for the Governor.
- 41 (EE) Director of the Housing and Community Services Department.
- 42 (FF) State Court Administrator.
- 43 (GG) Director of the Department of Land Conservation and Development.
- 44 (HH) Board chairperson of the Land Use Board of Appeals.
- 45 (II) State Marine Director.

- 1 (JJ) Executive director of the Oregon Racing Commission.
- 2 (KK) State Parks and Recreation Director.
- 3 (LL) Public defense services executive director.
- 4 (MM) Chairperson of the Public Employees' Benefit Board.
- 5 (NN) Director of the Department of Public Safety Standards and Training.
- 6 (OO) Executive director of the Higher Education Coordinating Commission.
- 7 (PP) Executive director of the Oregon Watershed Enhancement Board.
- 8 (QQ) Director of the Oregon Youth Authority.
- 9 (RR) Director of the Oregon Health Authority.
- 10 (SS) Deputy Superintendent of Public Instruction.
- 11 **(TT) Director of the Climate Policy Office.**
- 12 (i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
- 13 the Governor's office.
- 14 (j) Every elected city or county official.
- 15 (k) Every member of a city or county planning, zoning or development commission.
- 16 (L) The chief executive officer of a city or county who performs the duties of manager or prin-
- 17 cipal administrator of the city or county.
- 18 (m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 19 (n) Every member of a governing body of a metropolitan service district and the auditor and
- 20 executive officer thereof.
- 21 (o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 22 (p) The chief administrative officer and the financial officer of each common and union high
- 23 school district, education service district and community college district.
- 24 (q) Every member of the following state boards and commissions:
- 25 (A) Governing board of the State Department of Geology and Mineral Industries.
- 26 (B) Oregon Business Development Commission.
- 27 (C) State Board of Education.
- 28 (D) Environmental Quality Commission.
- 29 (E) Fish and Wildlife Commission of the State of Oregon.
- 30 (F) State Board of Forestry.
- 31 (G) Oregon Government Ethics Commission.
- 32 (H) Oregon Health Policy Board.
- 33 (I) Oregon Investment Council.
- 34 (J) Land Conservation and Development Commission.
- 35 (K) Oregon Liquor Control Commission.
- 36 (L) Oregon Short Term Fund Board.
- 37 (M) State Marine Board.
- 38 (N) Mass transit district boards.
- 39 (O) Energy Facility Siting Council.
- 40 (P) Board of Commissioners of the Port of Portland.
- 41 (Q) Employment Relations Board.
- 42 (R) Public Employees Retirement Board.
- 43 (S) Oregon Racing Commission.
- 44 (T) Oregon Transportation Commission.
- 45 (U) Water Resources Commission.

- 1 (V) Workers' Compensation Board.
- 2 (W) Oregon Facilities Authority.
- 3 (X) Oregon State Lottery Commission.
- 4 (Y) Pacific Northwest Electric Power and Conservation Planning Council.
- 5 (Z) Columbia River Gorge Commission.
- 6 (AA) Oregon Health and Science University Board of Directors.
- 7 (BB) Capitol Planning Commission.
- 8 (CC) Higher Education Coordinating Commission.
- 9 (DD) Oregon Growth Board.
- 10 (EE) Early Learning Council.

11 **(FF) Oregon Climate Board.**

12 (r) The following officers of the State Treasurer:

- 13 (A) Deputy State Treasurer.
- 14 (B) Chief of staff for the office of the State Treasurer.
- 15 (C) Director of the Investment Division.

16 (s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
17 or 777.915 to 777.953.

18 (t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

19 (u) Every member of a governing board of a public university listed in ORS 352.002.

20 (v) Every member of the board of directors of an authority created under ORS 465.600 to
21 465.621.

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

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

29 (4) Not later than the 40th day before the date of the statewide general election, each candidate
30 described in subsection (1) of this section who will appear on the statewide general election ballot
31 and who was not required to file a statement of economic interest under subsections (1) to (3) of this
32 section shall file with the commission a statement of economic interest as required under ORS
33 244.060, 244.070 and 244.090.

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

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

41
42
43

(Oregon Climate Board)

44 **SECTION 106. (1) In order to ensure close correspondence among the Climate Policy Of-**
45 **ice, the Department of Environmental Quality, the public interest and state climate policies,**

1 there is created the Oregon Climate Board.

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

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

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

11 (c) One member who represents the Oregon Climate Change Research Institute;

12 (d) The chairperson of the Environmental Justice Task Force;

13 (e) The Director of Agriculture;

14 (f) The Director of the Department of Environmental Quality;

15 (g) A member of the Public Utility Commission;

16 (h) The Director of Transportation;

17 (i) The Director of the Housing and Community Services Department;

18 (j) The Water Resources Director;

19 (k) The Director of the State Department of Energy;

20 (L) The Director of the Oregon Health Authority; and

21 (m) The State Forester.

22 (3) The Governor shall appoint 11 voting members to the board, subject to confirmation
23 by the Senate as provided in ORS 171.562 and 171.565. Members of the board appointed under
24 this subsection must be residents of this state well informed in energy and climate issues
25 and shall include the following:

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

27 (b) Two members who have expertise in the energy sector;

28 (c) One member who represents environmental interests;

29 (d) One member who is an economist or who has experience and expertise in conserva-
30 tion finance;

31 (e) One member who has expertise in industrial energy use;

32 (f) One member with expertise in sustainable transportation issues;

33 (g) One member who has expertise in agriculture;

34 (h) One member who has expertise in forestry; and

35 (i) Two at-large members.

36 **SECTION 107.** (1) The term of office of each voting member appointed to the Oregon
37 Climate Board is four years, but the members of the board may be removed by the Governor.
38 Before the expiration of the term of a voting member, the Governor shall appoint a succes-
39 sor to assume the duties of the voting member on July 1 of the next following year.

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

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

1 (4) A majority of the voting members of the board constitutes a quorum for the trans-
 2 action of business.

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

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

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

15 **SECTION 108.** Notwithstanding the term of office specified by section 107 of this 2020 Act,
 16 of the voting members first appointed by the Governor to the Oregon Climate Board:

17 (1) Two shall serve for terms ending July 1, 2021.

18 (2) Two shall serve for terms ending July 1, 2022.

19 (3) Two shall serve for terms ending July 1, 2023.

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

21 **SECTION 109.** (1) The Oregon Climate Board shall:

22 (a) Advise the Environmental Quality Commission regarding the implementation, admin-
 23 istration and enforcement of the Oregon Climate Action Program established under sections
 24 4 to 33 of this 2020 Act;

25 (b) Advise the Climate Policy Office regarding the implementation, administration and
 26 enforcement of the programs and activities of the Climate Policy Office; and

27 (c) Carry out any other duties, functions and powers vested in the office by law.

28 (2) In advising the commission and the office pursuant to subsection (1)(a) and (b) of this
 29 section, the board shall take into consideration best available science. As used in this sub-
 30 section, "best available science" means science that:

31 (a) Maximizes the quality, objectivity and integrity of information, including statistical
 32 information;

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

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

35 (3) The board shall hold public hearings and provide an opportunity for public comment
 36 in carrying out the board's activities under this section.

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

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

41
 42 **APPROPRIATIONS**
 43

44 **SECTION 110.** In addition to and not in lieu of any other appropriation, there is appro-
 45 priated to the Department of Environmental Quality, for the biennium ending June 30, 2021,

1 out of the General Fund, the amount of _____ for carrying out the provisions of this
 2 2020 Act.

3
 4 **OPERATIVE DATE**

5
 6 **SECTION 111.** (1)(a) Sections 69 to 76 of this 2020 Act, the amendments to statutes by
 7 sections 78 to 86 of this 2020 Act and the repeal of statutes by section 77 of this 2020 Act
 8 become operative on January 1, 2021.

9 (b) The Oregon Global Warming Commission and the Climate Policy Office may adopt
 10 rules or take any actions before the operative date specified in paragraph (a) of this sub-
 11 section that are necessary to enable the commission and the office, on and after the opera-
 12 tive date specified in paragraph (a) of this subsection, to carry out the provisions of sections
 13 69 to 76 of this 2020 Act, the amendments to statutes by sections 78 to 86 of this 2020 Act
 14 and the repeal of statutes by section 77 of this 2020 Act.

15 (2)(a) Sections 2, 3, 4 to 33 and 35 to 59 of this 2020 Act and the amendments to statutes
 16 by sections 34 and 60 of this 2020 Act become operative on January 1, 2022.

17 (b) The Director of the Climate Policy Office, the Climate Policy Office, the Public Utility
 18 Commission, the Housing and Community Services Department, the State Department of
 19 Energy, the Oregon Department of Administrative Services, the Environmental Quality
 20 Commission, the Department of Environmental Quality, the Department of Transportation
 21 and the Governor may adopt rules, issue orders or take any actions before the operative date
 22 specified in paragraph (a) of this subsection that are necessary to enable the director, the
 23 office, the commissions, the departments and the Governor, on and after the operative date
 24 specified in paragraph (a) of this subsection, to carry out the provisions of sections 2, 3, 4
 25 to 33 and 35 to 59 of this 2020 Act and the amendments to statutes by sections 34 and 60 of
 26 this 2020 Act.

27 (c)(A) If, in adopting rules, issuing orders or taking any actions before the operative date
 28 specified in paragraph (a) of this subsection as authorized by paragraph (b) of this sub-
 29 section, information is obtained by the State of Oregon that is information described in sec-
 30 tion 33 (2)(a) to (c) of this 2020 Act, the information shall be treated as confidential business
 31 information, is exempt from disclosure under the public records law, ORS 192.311 to 192.478,
 32 and may not be disclosed to any person or entity except as provided in subparagraphs (B)
 33 and (C) of this paragraph.

34 (B) Information described in subparagraph (A) of this paragraph may be used and dis-
 35 closed in aggregated form.

36 (C) This paragraph does not prohibit the disclosure of information between the Climate
 37 Policy Office and other agencies of the executive department, as defined in ORS 174.112, or
 38 persons engaged by the State of Oregon to provide administrative or technical services to
 39 support the implementation of sections 4 to 33 of this 2020 Act if the disclosure is necessary
 40 for purposes of adopting rules, issuing orders or taking any actions before the operative date
 41 specified in paragraph (a) of this subsection to carry out the provisions of sections 2, 3, 4 to
 42 33 and 35 to 59 of this 2020 Act and the amendments to statutes by sections 34 and 60 of this
 43 2020 Act.

44
 45 **CAPTIONS**

