

House Bill 4167

Sponsored by COMMITTEE ON RULES (at the request of Representative Tina Kotek)

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 Greenhouse Gas Initiative and related provisions, operative January 1, 2022.
- Authorizes Public Utility Commission to allow rate or rate schedule to include differential rates or to reflect amounts for programs that enable public utilities to assist low-income residential customers.
- Amends greenhouse gas reporting statute.
- Repeals Energy Facility Siting Council carbon dioxide emissions standards.
- Requires Environmental Quality Commission to adopt by rule standards and requirements for reducing methane emissions from landfills.
- Repeals authority for State Forester to establish forestry carbon offset program.
- Provides that energy facility subject to site certificate or amended site certificate shall comply with Oregon Greenhouse Gas Initiative if energy facility would otherwise be subject to initiative.
- Abolishes Oregon Global Warming Commission, operative December 31, 2020.
- Modifies requirements for ethanol content in gasoline.
- Prohibits sale or offer for sale of general service lamps that do not meet certain efficiency standards. Authorizes State Department of Energy to modify prohibition by rule to align with laws of adjacent states.
- Provides for direct, expedited judicial review by Oregon Supreme Court of certain constitutional questions related to Oregon Greenhouse Gas Initiative.
- Requires certain reports and reviews related to Oregon Greenhouse Gas Initiative.
- Establishes, within Department of Environmental Quality, Oregon Greenhouse Gas Reduction Board, Administrator of the Office of Greenhouse Gas Regulation and Office of Greenhouse Gas Regulation and sets forth duties of board, administrator and office.
- Declares emergency, effective on passage.

A BILL FOR AN ACT

1
 2 Relating to greenhouse gas emissions; creating new provisions; amending ORS 244.050, 352.823,
 3 468.015, 468.953, 468A.205, 468A.265, 468A.279, 468A.280, 469.300, 469.310, 469.373, 469.405,
 4 469.407, 469.501, 469.503, 469.504, 469.505, 530.050, 530.500, 646.913, 757.259 and 757.528 and
 5 sections 75 and 76, chapter 750, Oregon Laws 2017; repealing ORS 468A.200, 468A.210, 468A.215,
 6 468A.220, 468A.225, 468A.230, 468A.235, 468A.240, 468A.245, 468A.250, 468A.255, 468A.260,
 7 469.409, 526.780, 526.783, 526.786 and 526.789; and declaring an emergency.

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

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

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

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

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

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 *greenhouse gas emissions.]*

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

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

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

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

6 (2) The Legislative Assembly declares that it is the policy of this state for state and local gov-
7 ernments, businesses, nonprofit organizations and individual residents to prepare for the effects of
8 *[global warming]* **climate change** and by doing so, prevent and reduce the social, economic and
9 environmental effects of *[global warming]* **climate change**.

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

12
13 **OREGON GREENHOUSE GAS INITIATIVE**
14 **(Statement of Purpose)**
15

16 **SECTION 2. (1) The Legislative Assembly finds and declares that the purposes of sections**
17 **2, 4 to 32, 33 to 37, 38 to 40, 41, 42, 43, 45 to 53, 96 and 96a of this 2020 Act are:**

18 **(a) To achieve a reduction in total levels of regulated emissions under sections 4 to 32**
19 **of this 2020 Act to at least 45 percent below 1990 emissions levels by 2035 and to achieve a**
20 **reduction in total regulated emissions levels to at least 80 percent below 1990 emissions levels**
21 **by 2050;**

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

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

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

28 (2) Sections 2, 4 to 32, 33 to 37, 38 to 40, 41, 42, 43, 45 to 53, 96 and 96a of this 2020 Act
29 and the rules adopted pursuant to sections 2, 4 to 32, 33 to 37, 38 to 40, 41, 42, 43, 45 to 53,
30 96 and 96a of this 2020 Act may not be interpreted to limit the authority of any state agency
31 to adopt and implement measures to reduce greenhouse gas emissions.

32
33 **(Chapter Placement)**
34

35 **SECTION 3. Sections 97 to 100, 102 to 105, 107 and 107a of this 2020 Act are added to and**
36 **made a part of ORS chapter 468.**

37
38 **(General Regulatory Provisions)**
39

40 **SECTION 4. Definitions. As used in sections 2 and 4 to 32 of this 2020 Act:**

41 **(1) "Aggregation" means an approach for qualifying and quantifying offset projects, for**
42 **the purposes of reducing costs and increasing the development of offset projects, that allows**
43 **for the grouping together of two or more geographically separate activities:**

44 **(a) Undertaken by one or more parties; and**

45 **(b) That result in reductions or removals of greenhouse gases in a similar manner.**

1 (2) “Allowance” means a fungible authorization to emit one metric ton of carbon dioxide
2 equivalent.

3 (3) “Annual allowance budget” means the number of allowances available to be allocated
4 during one year of the Oregon Greenhouse Gas Initiative.

5 (4) “Anthropogenic greenhouse gas emissions” means greenhouse gas emissions that are
6 not biogenic emissions.

7 (5) “Best available science” means science that is reliable and unbiased and that involves
8 the use of supporting studies conducted in accordance with sound and objective science
9 practices, including, when available, peer-reviewed science and supporting studies and data
10 collected by accepted methods or best available methods.

11 (6) “Biogenic emissions” means carbon dioxide emissions generated from the combustion
12 of biomass-derived fuels.

13 (7) “Biomass-derived fuels” includes:

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

16 (b) Products, by-products, residues or waste from agriculture, forestry or related indus-
17 tries; and

18 (c) The nonfossilized and biodegradable organic fractions of industrial and municipal
19 wastes, including gases and liquids recovered from:

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

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

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

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

28 (B) Accounting practices for the business operation that maintain the finances for the
29 business operation as distinct from the finances of other business operations located at the
30 facility; and

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

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

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

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

40 (11) “Compliance obligation” means the quantity of regulated emissions that are attrib-
41 utable to a covered entity, and for which compliance instruments must be retired, for a
42 compliance period.

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

44 (13) “Covered entity” means a person that is designated by the Office of Greenhouse Gas
45 Regulation as subject to the Oregon Greenhouse Gas Initiative.

- 1 **(14) “Direct environmental benefits in this state” means:**
 2 **(a) A reduction in or avoidance of emissions of any air contaminant in this state other**
 3 **than a greenhouse gas;**
 4 **(b) A reduction in or avoidance of pollution of any of the waters of the state, as the**
 5 **terms “pollution” and “the waters of the state” are defined in ORS 468B.005; or**
 6 **(c) An improvement in the health of natural and working lands in this state.**
 7 **(15) “EITE entity” means a covered entity that is engaged in the manufacture of goods**
 8 **through one or more emissions-intensive, trade-exposed processes, as further designated by**
 9 **the office pursuant to section 19 of this 2020 Act.**
 10 **(16) “Electric company” has the meaning given that term in ORS 757.600.**
 11 **(17) “Electricity service supplier” has the meaning given that term in ORS 757.600.**
 12 **(18) “Electric system manager” includes any entity that, as needed, operates or markets**
 13 **electricity generating facilities, or purchases wholesale electricity, to manage the load for**
 14 **wholesale or retail electricity customers within a balancing authority area that is at least**
 15 **partially located in Oregon, including but not limited to the following types of entities:**
 16 **(a) Electric companies.**
 17 **(b) Electricity service suppliers.**
 18 **(c) Consumer-owned utilities.**
 19 **(d) The Bonneville Power Administration.**
 20 **(e) Electric generation and transmission cooperatives.**
 21 **(19) “Eligible Indian tribe” means each of the Burns Paiute Tribe, the Confederated**
 22 **Tribes of Coos, Lower Umpqua and Siuslaw Indians, the Confederated Tribes of the Grand**
 23 **Ronde Community of Oregon, the Confederated Tribes of Siletz Indians of Oregon, the Con-**
 24 **federated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm**
 25 **Springs Reservation of Oregon, the Coquille Indian Tribe, the Cow Creek Band of Umpqua**
 26 **Tribe of Indians and the Klamath Tribes.**
 27 **(20) “General market participant” means a person that is not a covered entity and that**
 28 **intends to purchase, hold, sell or voluntarily surrender compliance instruments.**
 29 **(21) “Greenhouse gas” includes, but is not limited to, carbon dioxide, methane, nitrous**
 30 **oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitrogen trifluoride.**
 31 **(22) “Impacted community” means a community at risk of being disproportionately im-**
 32 **pacted by climate change as designated by the Oregon Greenhouse Gas Reduction Board**
 33 **under section 103 of this 2020 Act.**
 34 **(23) “Indian trust lands” means lands within this state held in trust by the United States**
 35 **for the benefit of an eligible Indian tribe or individual members of an eligible Indian tribe.**
 36 **(24) “Multistate jurisdictional electric company” means an electric company that serves**
 37 **electricity customers in both Oregon and one or more other states.**
 38 **(25) “Natural and working lands” means:**
 39 **(a) Lands and waters:**
 40 **(A) Actively used by an agricultural owner or operator for an agricultural operation that**
 41 **includes, but need not be limited to, active engagement in farming or ranching;**
 42 **(B) Producing forest products;**
 43 **(C) Consisting of forests, woodlands, grasslands, sagebrush steppes, deserts, freshwater**
 44 **and riparian systems, wetlands, coastal and estuarine areas, the submerged and submersible**
 45 **lands within Oregon’s territorial sea, watersheds, wildlands or wildlife habitats; or**

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

3 (b) Lands and waters described in paragraph (a) of this subsection that are Indian trust
4 lands, lands within the boundaries of the reservation of an eligible Indian tribe or lands
5 otherwise owned by an eligible Indian tribe.

6 (26) “Natural gas supplier” means any entity that is not a natural gas utility and that:

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

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

9 (27) “Natural gas utility” means a natural gas utility regulated by the Public Utility
10 Commission under ORS chapter 757.

11 (28) “Offset credit” means a fungible credit generated by an offset project that represents
12 a greenhouse gas emissions reduction or removal of one metric ton of carbon dioxide equiv-
13 alent.

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

16 (30) “Oregon Greenhouse Gas Initiative” means the program adopted by rule by the
17 Oregon Greenhouse Gas Reduction Board under section 5 of this 2020 Act and in accordance
18 with the provisions of sections 4 to 32 of this 2020 Act.

19 (31) “Permitted air contamination source” means an air contamination source as defined
20 in ORS 468A.005 for which a permit is issued by the Department of Environmental Quality
21 pursuant to ORS 468.065, 468A.040 or 468A.155.

22 (32) “Person” has the meaning given that term in ORS 468.005.

23 (33) “Registered entity” means a covered entity or general market participant that has
24 successfully registered to participate in the Oregon Greenhouse Gas Initiative.

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

28 (35) “Surrender” means to transfer a compliance instrument to the office to fulfill a
29 compliance obligation or on a voluntary basis.

30 (36) “Trade-exposed natural gas user” means a person that is engaged in processes for
31 which the indirect costs of compliance with the Oregon Greenhouse Gas Initiative may cre-
32 ate a substantial risk of leakage, as further designated by the office pursuant to section 18
33 of this 2020 Act.

34 **SECTION 5. General provisions; designation of covered entities.** (1)(a) The Oregon
35 Greenhouse Gas Reduction Board shall, in accordance with ORS chapter 183, adopt rules
36 necessary for the Office of Greenhouse Gas Regulation to implement the Oregon Greenhouse
37 Gas Initiative established under sections 4 to 32 of this 2020 Act. The rules shall:

38 (A) Place a limit on the total anthropogenic greenhouse gas emissions that are regulated
39 emissions by setting annual allowance budgets for 2022 to 2050; and

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

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

44 (B) In 2023 and each following calendar year before 2036, the number of allowances
45 available in each annual allowance budget shall decline by a constant amount necessary to

1 accomplish a reduction in total regulated emissions levels to at least 45 percent below 1990
2 emissions levels by 2035.

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

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

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

20 (a) The office shall designate an electric system manager as a covered entity for the
21 purpose of addressing annual regulated emissions from outside this state that are attribut-
22 able to the generation of electricity that the electric system manager schedules for delivery
23 and consumption in this state, including wholesale market purchases for which the energy
24 source for the electricity is not known, and accounting for transmission and distribution line
25 losses. For the purposes of this paragraph, the board may adopt rules necessary to address
26 electricity scheduled for delivery and consumption in this state through an energy imbalance
27 market or other centralized market administered by a market operator.

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

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

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

33 (C) Directly consumed or resold for use in this state by the customer of the natural gas
34 supplier.

35 (c) The office shall designate a natural gas utility as a covered entity for the purpose of
36 addressing annual regulated emissions that are attributable to the combustion of natural gas
37 that the natural gas utility sells for use in this state and that are not emissions accounted
38 for through the regulation of natural gas suppliers under paragraph (b) of this subsection.

39 (d) The office shall designate as covered entities persons that produce in Oregon, or im-
40 port into Oregon, liquid or gaseous fuel other than natural gas that is sold or distributed for
41 use in this state, as necessary to address annual regulated emissions that are attributable
42 to the combustion of the fuel.

43 (e) Except as provided in paragraph (f) of this subsection, the office shall designate a
44 permitted air contamination source as a covered entity if the annual regulated emissions
45 attributable to the permitted air contamination source meet or exceed 25,000 metric tons of

1 carbon dioxide equivalent. For purposes of this paragraph, the annual regulated emissions
 2 attributable to the permitted air contamination source may not include anthropogenic
 3 greenhouse gas emissions accounted for through the regulation of a person described in
 4 paragraph (b), (c) or (d) of this subsection, unless the permitted air contamination source
 5 has an applicable code of 221112 under the 2017 North American Industry Classification Sys-
 6 tem.

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

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

- 20 (a) Rules allowing for the purchase, sale and exchange of compliance instruments;
- 21 (b) Rules allowing registered entities to bank and carry forward allowances;
- 22 (c) Rules prohibiting the borrowing of allowances from future compliance periods;
- 23 (d) Rules allowing general market participants to participate in the Oregon Greenhouse
 24 Gas Initiative; and
- 25 (e) Compliance periods, standards for calculating compliance obligations and procedures
 26 for covered entities to fulfill their compliance obligations.

27 (4) The office shall require a covered entity to surrender to the office the quantity of
 28 compliance instruments necessary to fulfill the covered entity's compliance obligation no
 29 later than the surrender date specified by the board by rule or order.

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

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

- 36 (a) Shall require a covered entity that fails to fulfill a compliance obligation to surrender
 37 to the office a number of compliance instruments that is in addition to the entity's compli-
 38 ance obligation; and
- 39 (b) May establish a process for placing restrictions on the holding account of a registered
 40 entity determined to have engaged in a violation of a provision of sections 4 to 32 of this 2020
 41 Act or rules adopted under sections 4 to 32 of this 2020 Act.

42 (7)(a) All covered entities and general market participants must register as registered
 43 entities to participate in the Oregon Greenhouse Gas Initiative.

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

1 section 28 of this 2020 Act.

2 (8) In adopting rules pursuant to this section or any other rulemaking authority provided
 3 under sections 4 to 32 of this 2020 Act, the board shall:

4 (a) Endeavor to develop the rules in a manner that does not preclude participation by the
 5 State of Oregon in regional greenhouse gas emissions reduction programs; and

6 (b) Avoid rules under which greenhouse gas emissions or greenhouse gas emissions re-
 7 ductions are counted more than once.

8 **SECTION 6. Exclusions.** (1) The Office of Greenhouse Gas Regulation shall exclude from
 9 regulated emissions under sections 4 to 32 of this 2020 Act:

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

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

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

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

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

23 (2) The office shall allocate for retirement a number of the allowances as necessary to
 24 meet statutory requirements for retirement of allowances under the Oregon Greenhouse Gas
 25 Initiative.

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

29 (4) The office shall allocate a number of the allowances for direct distribution at no cost
 30 to covered entities that are electric system managers other than electric companies pursu-
 31 ant to section 15 of this 2020 Act.

32 (5) The office shall allocate a number of the allowances for deposit in an electricity price
 33 containment reserve. Allowances may be directly distributed to covered entities that are
 34 electric system managers at no cost from the electricity price containment reserve only
 35 when the distribution is necessary to protect retail customers from cost increases associated
 36 with unexpected increases in regulated emissions attributable to an electric system manager
 37 that are outside of the control of the electric system manager, including but not limited to
 38 unexpected increases in regulated emissions due to hydroelectric power generation variabil-
 39 ity. The Oregon Greenhouse Gas Reduction Board shall adopt rules for electric system
 40 managers to apply for direct distribution at no cost of allowances from the electricity price
 41 containment reserve. The rules shall prioritize distribution of allowances from the electric-
 42 ity price containment reserve to electric system managers that experience unexpected in-
 43 creases in regulated emissions attributable to variation in hydroelectric power generation to
 44 serve the load of retail customers in Oregon.

45 (6) The office shall allocate a number of the allowances for direct distribution at no cost

1 to covered entities that are natural gas utilities pursuant to section 17 of this 2020 Act.

2 (7) In order to mitigate leakage and pursuant to sections 19 and 20 of this 2020 Act, the
3 office shall allocate a number of the allowances for direct distribution at no cost to covered
4 entities that are EITE entities.

5 (8) The office shall allocate a number of the allowances for deposit in an emissions-
6 intensive, trade-exposed process reserve. Allowances in the emissions-intensive, trade-
7 exposed process reserve may be directly distributed at no cost only to:

8 (a) EITE entities pursuant to rules adopted under section 20 (9) of this 2020 Act; or

9 (b) An EITE entity designated as such pursuant to section 19 (2) of this 2020 Act.

10 (9) The office may allocate a number of the allowances for deposit in any other reserves
11 or accounts, including but not limited to a voluntary renewable electricity generation re-
12 serve, that the board establishes by rule and as the office determines is necessary.

13 (10) The office shall allocate the allowances that are not otherwise allocated pursuant to
14 subsections (1) to (9) of this section for deposit in an auction holding account for auction
15 pursuant to section 28 of this 2020 Act. If allowances deposited in the auction holding account
16 under this subsection remain unsold after two or more consecutive auctions held pursuant
17 to section 28 of this 2020 Act, the office may redistribute the unsold allowances to the al-
18 lowance price containment reserve described in subsection (1) of this section.

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

28 (2) Allowances directly retired by the office on behalf of a covered entity under this sec-
29 tion shall count toward fulfilling the covered entity's compliance obligation for the compli-
30 ance period during which the allowances are directly retired.

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

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

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

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

36 (2) In 2022 and in each following calendar year before 2026, the Office of Greenhouse Gas
37 Regulation shall retire from the annual allowance budget, on behalf of a covered entity that
38 is an electricity service supplier, a number of allowances equal to the regulated emissions
39 attributable to the electricity service supplier for electricity services provided:

40 (a) To a person that was a direct access retail electricity consumer prior to January 31,
41 2020; and

42 (b) Pursuant to a contract that became effective on or before January 31, 2020.

43 (3) An electricity service supplier may not include in the rate or bill charged to a retail
44 electricity consumer the costs associated with compliance by the electricity service supplier
45 with the Oregon Greenhouse Gas Initiative that are attributable to the regulated emissions

1 for which allowances are retired under subsection (2) of this section.

2 (4) The office may annually request from retail electricity consumers the information
 3 that is necessary to administer this section. If a retail electricity consumer does not comply
 4 with a request under this subsection, the office may not retire under this section any al-
 5 lowances for regulated emissions attributable to electricity services provided to that retail
 6 electricity consumer.

7 (5) Allowances directly retired by the office on behalf of a covered entity under this sec-
 8 tion shall count toward fulfilling the covered entity’s compliance obligation for the compli-
 9 ance period during which the allowances are directly retired.

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

11 SECTION 11. Retirement of allowances for covered entities that are natural gas powered
 12 electric power generation facilities. (1) In 2022 and each following calendar year before 2027,
 13 the Office of Greenhouse Gas Regulation shall retire from the annual allowance budget, on
 14 behalf of a covered entity described in section 5 (2)(e) of this 2020 Act, if the covered entity
 15 is a natural gas powered electric power generation facility with an applicable code of 221112
 16 under the 2017 North American Industry Classification System, a number of allowances equal
 17 to the regulated emissions that are attributable to the generation in this state by the cov-
 18 ered entity of electricity:

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

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

24 (2) Allowances directly retired by the office on behalf of a covered entity under this sec-
 25 tion shall count toward fulfilling the covered entity’s compliance obligation for the compli-
 26 ance period during which the allowances are directly retired.

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

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

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

31 (b) “Motor vehicle” means a vehicle that is self-propelled or designed for self-propulsion.

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

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

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

37 (B) A permanently established truck scale; and

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

40 (i) Dedicated to fueling trucks; and

41 (ii) Equipped with both a pump designed for the high-speed dispensing of diesel motor
 42 vehicle fuel and a satellite diesel motor vehicle fuel pump.

43 (2) In 2022 and each following calendar year before 2025, the Office of Greenhouse Gas
 44 Regulation shall retire from the annual allowance budget, on behalf of a covered entity de-
 45 scribed in section 5 (2)(d) of this 2020 Act, a number of allowances equal to 100 percent of

1 regulated emissions attributable to the combustion of motor vehicle fuel that is:

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

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

4 (A) A delivery point with a zip code that is located outside the boundary of the metro-
5 politan planning area that includes Portland; or

6 (B) A truck stop that is geographically located 1.5 miles or less from the border between
7 the State of Oregon and a state that has not adopted a program for regulating greenhouse
8 gas emissions from motor vehicle fuel.

9 (3) In 2025 and each following calendar year before 2028, and subject to subsection (6) of
10 this section, the office shall retire from the annual allowance budget, on behalf of a covered
11 entity described in section 5 (2)(d) of this 2020 Act, a number of allowances equal to 100
12 percent of regulated emissions attributable to the combustion of motor vehicle fuel that is:

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

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

15 (A) A delivery point with a zip code that is located outside the boundaries of Benton,
16 Clackamas, Clatsop, Columbia, Douglas, Hood River, Jackson, Josephine, Lane, Lincoln, Linn,
17 Marion, Multnomah, Polk, Tillamook, Washington and Yamhill Counties; or

18 (B) A truck stop that is geographically located 1.5 miles or less from the border between
19 the State of Oregon and a state that has not adopted a program for regulating greenhouse
20 gas emissions from motor vehicle fuel.

21 (4) In 2028 and each following calendar year before 2051, and subject to subsection (6) of
22 this section, the office shall retire from the annual allowance budget, on behalf of a covered
23 entity described in section 5 (2)(d) of this 2020 Act, a number of allowances equal to 100
24 percent of regulated emissions attributable to the combustion of motor vehicle fuel that is:

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

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

27 (A) A delivery point with a zip code that is located outside the boundaries of:

28 (i) Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Hood River, Jackson,
29 Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and
30 Yamhill Counties; and

31 (ii) The City of Bend and the City of Klamath Falls; or

32 (B) A truck stop that is geographically located 1.5 miles or less from the border between
33 the State of Oregon and a state that has not adopted a program for regulating greenhouse
34 gas emissions from motor vehicle fuel.

35 (5) The electors or the governing body of a county or city may, by ordinance or resolu-
36 tion, exercise the option for the cost of the Oregon Greenhouse Gas Initiative to apply to
37 motor vehicle fuel delivered into the fuel tanks for propelling motor vehicles at delivery
38 points located within the boundary of the county or city. Not later than 10 days after passage
39 of an ordinance or resolution approving exercise of the option described in this subsection,
40 the governing body of the county or city shall provide by certified mail to the office a certi-
41 fied copy of the adopted ordinance or resolution.

42 (6) The office shall cease to retire allowances from the annual allowance budget under
43 this section on January 1 of the year following the year in which the total number of coun-
44 ties in this state that have exercised the option described in subsection (5) of this section
45 first meets or exceeds 23 counties.

1 (7) Allowances directly retired by the office on behalf of a covered entity under this sec-
 2 tion shall count toward fulfilling the covered entity's compliance obligation for the compli-
 3 ance period during which the allowances are directly retired. A covered entity may not
 4 include in the rate or bill charged for motor vehicle fuel delivered at a delivery point for
 5 which allowances are directly retired under this section any costs associated with compliance
 6 by the covered entity with the Oregon Greenhouse Gas Initiative.

7 **SECTION 14. Direct distribution of allowances for electric companies.** The Oregon
 8 Greenhouse Gas Reduction Board shall, in consultation with the Public Utility Commission,
 9 adopt rules for allocating allowances for direct distribution at no cost to covered entities
 10 that are electric companies. Direct distributions under this section must be for the exclusive
 11 benefit of retail customers that are supplied electricity by the electric company. Rules
 12 adopted under this section must allow for an electric company to use allowances directly
 13 distributed under this section to fulfill the compliance obligation associated with electricity
 14 supplied by the electric company to serve the load of the electric company's retail customers
 15 in Oregon, subject to the oversight of the commission. The rules must include provisions
 16 necessary to implement direct distributions of allowances to electric companies as follows:

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

20 (A) The annual direct distributions to an electric company in 2022 and in each following
 21 calendar year before 2030 must be a number of allowances such that the electric company
 22 receives a total direct distribution of allowances over that time period equal to 100 percent
 23 of the electric company's forecast regulated emissions for 2022 and for each following year
 24 until and including 2029 associated with the electricity supplied to serve the load of the
 25 electric company's retail customers in Oregon; and

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

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

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

34 (B) Any updates to the integrated resource plan filed by the electric company with the
 35 commission; or

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

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

45 **SECTION 15. Direct distribution of allowances for certain electric system managers.** (1)

1 **The Office of Greenhouse Gas Regulation shall allocate allowances for direct distribution at**
 2 **no cost to covered entities that are electric system managers other than electric companies**
 3 **as follows:**

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

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

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

12 (b) **In 2023 and in each following calendar year before 2051, the direct distribution re-**
 13 **ceived by an electric system manager for emissions described in paragraph (a) of this sub-**
 14 **section shall decline annually by a constant amount proportionate to the decline in the**
 15 **number of allowances available in annual allowance budgets pursuant to section 5 (1)(b) of**
 16 **this 2020 Act.**

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

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

24 (3) **The governing body of a consumer-owned utility that receives or sells directly dis-**
 25 **tributed allowances under this section shall, no later than September 15 of each even-**
 26 **numbered year, submit a report to the Legislative Assembly on the use by the**
 27 **consumer-owned utility of the directly distributed allowances. The report must include, but**
 28 **not be limited to, a description of the uses by the consumer-owned utility of proceeds from**
 29 **the sale of allowances distributed to the consumer-owned utility under this section.**

30 **SECTION 16. 2022 emissions baseline for electric system managers. In determining the**
 31 **baseline of anthropogenic greenhouse gas emissions for 2022 for an electric system manager**
 32 **as required by section 15 (1)(a)(A) of this 2020 Act, the Office of Greenhouse Gas Regulation**
 33 **shall consider:**

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

36 (2) **Hydroelectric power generation variability;**

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

40 (4) **Any other indicators of changes in load requirements on or before January 1, 2025,**
 41 **that are relevant to determining an electric system manager’s 2022 baseline anthropogenic**
 42 **greenhouse gas emissions.**

43 **SECTION 17. Direct distribution of allowances for natural gas utilities. (1) Subject to**
 44 **subsections (2) and (3) of this section, the Office of Greenhouse Gas Regulation shall annually**
 45 **allocate allowances for direct distribution at no cost to covered entities that are natural gas**

1 utilities, such that the number of allowances directly distributed is equal to the total of:

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

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

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

13 (d) The regulated emissions addressed by designation of a person as a covered entity
 14 under section 5 (2)(b) or (c) of this 2020 Act attributable to natural gas use or combustion
 15 by trade-exposed natural gas users that receive natural gas on the natural gas utility's dis-
 16 tribution system, as determined by the office after consultation with the commission.

17 (2) In 2023 and in each following calendar year before 2051, the direct distributions re-
 18 ceived by a natural gas utility under subsection (1) (b) and (c) of this section shall each de-
 19 cline annually by a constant amount proportionate to the decline in the number of
 20 allowances available in annual allowance budgets pursuant to section 5 (1)(b) of this 2020 Act.

21 (3) Allowances distributed under subsection (1)(a) of this section must be used by the
 22 natural gas utility only to fulfill a compliance obligation, with the benefit of the use accruing
 23 to the natural gas utility's low-income residential sales customers in a manner authorized
 24 by the commission pursuant to section 56 of this 2020 Act.

25 (4) The office shall require a natural gas utility to consign all allowances directly dis-
 26 tributed under subsection (1)(b) to (d) of this section to the office to be auctioned pursuant
 27 to section 28 of this 2020 Act. Proceeds from the sale of allowances directly distributed under
 28 subsection (1)(b) to (d) of this section may be used only in the manner authorized by the
 29 commission under section 48 of this 2020 Act.

30 **SECTION 18. Designation of trade-exposed natural gas users.** (1) The Office of
 31 Greenhouse Gas Regulation shall designate a person as a trade-exposed natural gas user if,
 32 as of the operative date of this section and as may be verified by the office, the person re-
 33 ceives natural gas through a natural gas utility's distribution system and uses the natural
 34 gas to engage in one or more of the following trade-exposed processes, as identified by in-
 35 dustry group and code in the 2017 North American Industry Classification System:

- 36 (a) Aerospace Product and Parts Manufacturing, code 3364.
- 37 (b) Bakeries and Tortilla Manufacturing, code 3118.
- 38 (c) Basic Chemical Manufacturing, code 3251.
- 39 (d) Cement and Concrete Product Manufacturing, code 3273.
- 40 (e) Converted Paper Product Manufacturing, code 3222.
- 41 (f) Dairy Product Manufacturing, code 3115.
- 42 (g) Forest Nurseries and Gathering of Forest Products, code 1132.
- 43 (h) Foundries, code 3315.
- 44 (i) Fruit and Tree Nut Farming, code 1113.
- 45 (j) Fruit and Vegetable Preserving and Specialty Food Manufacturing, code 3114.

- 1 (k) Glass and Glass Product Manufacturing, code 3272.
- 2 (L) Grain and Oilseed Milling, code 3112.
- 3 (m) Greenhouse, Nursery, and Floriculture Production, code 1114.
- 4 (n) Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.
- 5 (o) Lime and Gypsum Product Manufacturing, code 3274.
- 6 (p) Miscellaneous Durable Goods Merchant Wholesalers, code 4239.
- 7 (q) Motor Vehicle Manufacturing, code 3361.
- 8 (r) Nonferrous Metal (except Aluminum) Production and Processing, code 3314.
- 9 (s) Nonmetallic Mineral Mining and Quarrying, code 2123.
- 10 (t) Other Crop Farming, code 1119.
- 11 (u) Other Nonmetallic Mineral Product Manufacturing, code 3279.
- 12 (v) Other Wood Product Manufacturing, code 3219.
- 13 (w) Plastics Product Manufacturing, code 3261.
- 14 (x) Pulp, Paper, and Paperboard Mills, code 3221.
- 15 (y) Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufac-
- 16 turing, code 3252.
- 17 (z) Railroad Rolling Stock Manufacturing, code 3365.
- 18 (aa) Sawmills and Wood Preservation, code 3211.
- 19 (bb) Seafood Product Preparation and Packaging, code 3117.
- 20 (cc) Semiconductor and Other Electronic Component Manufacturing, code 3344.
- 21 (dd) Ship and Boat Building, code 3366.
- 22 (ee) Vegetable and Melon Farming, code 1112.
- 23 (ff) Veneer, Plywood, and Engineered Wood Product Manufacturing, code 3212.
- 24 (2) The Oregon Greenhouse Gas Reduction Board shall adopt by rule a procedure for
- 25 designating as a trade-exposed natural gas user a person not described in subsection (1) of
- 26 this section that faces a significant risk of leakage due to the indirect impacts of the Oregon
- 27 Greenhouse Gas Initiative on natural gas costs. Designation of a person as a trade-exposed
- 28 natural gas user under the procedure must be consistent with the purpose set forth in sec-
- 29 tion 2 (1)(a) of this 2020 Act.
- 30 (3) A person that is a fossil fuel distribution and storage facility or infrastructure or an
- 31 electric generating unit may not be designated as a trade-exposed natural gas user under
- 32 subsection (2) of this section.
- 33 **SECTION 19. Designation of covered entities engaged in emissions-intensive, trade-**
- 34 **exposed processes as EITE entities.** (1) The Office of Greenhouse Gas Regulation shall des-
- 35 ignate a covered entity as an EITE entity if the covered entity is a permitted air
- 36 contamination source and is primarily engaged, as of the operative date of this section and
- 37 as may be verified by the office, in the manufacture of goods through one or more of the
- 38 following emissions-intensive, trade-exposed processes, as identified by industry group and
- 39 code in the 2017 North American Industry Classification System:
- 40 (a) Aerospace Product and Parts Manufacturing, code 3364.
- 41 (b) Basic Chemical Manufacturing, code 3251.
- 42 (c) Cement and Concrete Product Manufacturing, code 3273.
- 43 (d) Converted Paper Product Manufacturing, code 3222.
- 44 (e) Foundries, code 3315.
- 45 (f) Fruit and Vegetable Preserving and Specialty Food Manufacturing, code 3114.

- 1 (g) Glass and Glass Product Manufacturing, code 3272.
- 2 (h) Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.
- 3 (i) Lime and Gypsum Product Manufacturing, code 3274.
- 4 (j) Miscellaneous Durable Goods Merchant Wholesalers, code 4239.
- 5 (k) Motor Vehicle Manufacturing, code 3361.
- 6 (L) Nonferrous Metal (except Aluminum) Production and Processing, code 3314.
- 7 (m) Nonmetallic Mineral Mining and Quarrying, code 2123.
- 8 (n) Other Nonmetallic Mineral Product Manufacturing, code 3279.
- 9 (o) Other Wood Product Manufacturing, code 3219.
- 10 (p) Plastics Product Manufacturing, code 3261.
- 11 (q) Pulp, Paper, and Paperboard Mills, code 3221.
- 12 (r) Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufac-
- 13 turing, code 3252.
- 14 (s) Railroad Rolling Stock Manufacturing, code 3365.
- 15 (t) Sawmills and Wood Preservation, code 3211.
- 16 (u) Semiconductor and Other Electronic Component Manufacturing, code 3344.
- 17 (v) Ship and Boat Building, code 3366.
- 18 (w) Veneer, Plywood, and Engineered Wood Product Manufacturing, code 3212.
- 19 (2)(a) The Oregon Greenhouse Gas Reduction Board shall adopt by rule a procedure for
- 20 designating as an EITE entity a covered entity that:
- 21 (A) Begins manufacturing a good or goods in this state after the operative date of this
- 22 section through an emissions-intensive, trade-exposed process listed in subsection (1) of this
- 23 section; or
- 24 (B) Manufactures a good or goods through a process not listed in subsection (1) of this
- 25 section that the board, by rule, identifies as an emissions-intensive, trade-exposed process.
- 26 (b) Designation of a person as an EITE entity under the procedure adopted pursuant to
- 27 this subsection must be consistent with the purpose set forth in section 2 (1)(a) of this 2020
- 28 Act.
- 29 (3) Rules adopted under subsection (2) of this section may allow the office to assign a
- 30 good manufactured by a covered entity designated as an EITE entity pursuant to this section
- 31 a temporary benchmark, consistent with the processes for calculating benchmarks under
- 32 section 20 of this 2020 Act, and to adjust the temporary benchmark after the close of the
- 33 first compliance period for which the EITE entity must fulfill a compliance obligation.
- 34 (4) A covered entity that is a fossil fuel distribution and storage facility or infrastructure
- 35 or an electric generating unit may not be designated as an EITE entity under subsection (2)
- 36 of this section and may not receive allowances at no cost under section 20 of this 2020 Act.
- 37 **SECTION 20. Direct distribution of allowances for EITE entities.** (1) As used in this sec-
- 38 tion, 'annual benchmarked emissions calculation' means the product of an emissions effi-
- 39 ciency benchmark for a good or group of goods multiplied by the EITE entity's output,
- 40 during the calendar year for which allowances will be allocated for direct distribution at no
- 41 cost to the EITE entity, of the good or group of goods to which the emissions efficiency
- 42 benchmark applies.
- 43 (2) The annual allocation of allowances for direct distribution at no cost to an EITE en-
- 44 tity shall be a number of allowances equal to the sum total of the annual benchmarked
- 45 emissions calculations for the goods manufactured by the EITE entity.

1 (3) The Office of Greenhouse Gas Regulation shall establish, by order, the emissions ef-
2 ficiency benchmarks for goods manufactured in this state by EITE entities.

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

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

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

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

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

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

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

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

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

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

29 (B) Except as provided in subsection (6) of this section, shall exclude from the data de-
30 scribed in subparagraph (A) of this paragraph the anthropogenic greenhouse gas emissions
31 attributable to combustion by an EITE entity described in section 24 of this 2020 Act of na-
32 tural gas purchased as described in section 24 (1) of this 2020 Act.

33 (6) At the request of an EITE entity described in section 24 of this 2020 Act, the office
34 shall include in the calculation required by subsection (5)(a) of this section the emissions
35 described in subsection (5)(b)(B) of this section. An EITE entity described in section 24 of
36 this 2020 Act that requests inclusion of the emissions described in subsection (5)(b)(B) of this
37 section in the calculation required by subsection (5)(a) of this section is exempt from the
38 requirements of section 24 of this 2020 Act and may not be allocated allowances for direct
39 distribution at no cost under section 24 of this 2020 Act.

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

45 (8) In order to implement this section, the Oregon Greenhouse Gas Reduction Board shall

1 adopt by rule:

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

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

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

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

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

21 (2)(a) Subject to paragraph (b) of this subsection, the Office of Greenhouse Gas Regu-
 22 lation shall first establish, by order, emissions efficiency benchmarks based on best available
 23 technology for EITE entities under the amendments to section 20 of this 2020 Act by section
 24 22 of this 2020 Act no later than January 1, 2025.

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

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

32 (3) The Oregon Greenhouse Gas Reduction Board may adopt or amend rules and the of-
 33 fice may issue orders or take any actions before the operative date specified in subsection
 34 (1) of this section that are necessary to enable the board or the office, on and after the op-
 35 erative date specified in subsection (1) of this section, to carry out subsection (2) of this
 36 section and the amendments to section 20 by section 22 of this 2020 Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 *[(5)(a) The office shall establish emissions efficiency benchmarks based on recent years' efficiency*
 18 *as provided in this subsection. An emissions efficiency benchmark established based on recent years'*
 19 *efficiency shall be applicable for the period beginning January 1, 2022, and ending December 31, 2025.*
 20 *To determine each emissions efficiency benchmark, the office shall:]*

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

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

28 *[(b) In conducting the calculation required by paragraph (a) of this subsection, the office:]*

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

32 *[(B) Except as provided in subsection (6) of this section, shall exclude from the data described in*
 33 *subparagraph (A) of this paragraph the anthropogenic greenhouse gas emissions attributable to com-*
 34 *bustion by an EITE entity described in section 24 of this 2020 Act of natural gas purchased as de-*
 35 *scribed in section 24 (1) of this 2020 Act.]*

36 *[(6) At the request of an EITE entity described in section 24 of this 2020 Act, the office shall in-*
 37 *clude in the calculation required by subsection (5)(a) of this section the emissions described in sub-*
 38 *section (5)(b)(B) of this section. An EITE entity described in section 24 of this 2020 Act that requests*
 39 *inclusion of the emissions described in subsection (5)(b)(B) of this section in the calculation required*
 40 *by subsection (5)(a) of this section is exempt from the requirements of section 24 of this 2020 Act and*
 41 *may not be allocated allowances for direct distribution at no cost under section 24 of this 2020 Act.]*

42 **(5)(a) The office shall establish emissions efficiency benchmarks based on best available**
 43 **technology as provided in this subsection. The office shall update each emissions efficiency**
 44 **benchmark once every nine years. Each emissions efficiency benchmark must represent the**
 45 **anthropogenic greenhouse gas emissions that would be the resulting regulated emissions at-**

1 **tributable to an EITE entity for the manufacture of a good or group of goods in this state,**
2 **if the EITE entity were to use the best available technology, as of the date that the emis-**
3 **sions efficiency benchmark was last updated, that materially contributes to the regulated**
4 **emissions of the EITE entity.**

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

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

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

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

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

14 **(E) Exclude from any calculation the anthropogenic greenhouse gas emissions attribut-**
15 **able to natural gas combustion by an EITE entity described in section 24 of this 2020 Act.**

16 **(c) An EITE entity may submit to the office, for consideration in adopting emissions ef-**
17 **iciency benchmarks, an anthropogenic greenhouse gas emissions intensity audit report**
18 **produced by a qualified, independent third-party organization. The audit report must:**

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

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

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

32 **(6) At the request of an EITE entity described in section 24 of this 2020 Act, the office**
33 **shall include in the determination of an emissions efficiency benchmark the emissions de-**
34 **scribed in subsection (5)(b)(E) of this section. An EITE entity described in section 24 of this**
35 **2020 Act that requests inclusion of the emissions described in subsection (5)(b)(E) of this**
36 **section in the determination of an emissions efficiency benchmark is exempt from the re-**
37 **quirements of section 24 of this 2020 Act and may not be allocated allowances for direct**
38 **distribution at no cost under section 24 of this 2020 Act.**

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

44 **(8) In order to implement this section, the Oregon Greenhouse Gas Reduction Board shall adopt**
45 **by rule:**

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

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

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

7 (9) The board shall adopt by rule a process for EITE entities to apply to the office for an ad-
 8 justment to the allocation of allowances for direct distribution at no cost that the EITE entity may
 9 receive. The office may grant an adjustment under this subsection only for a significant unantic-
 10 ipated change in the anthropogenic greenhouse gas emissions attributable to the manufacture of a
 11 good or group of goods in this state by the EITE entity, based on a finding by the office that the
 12 adjustment is necessary to accommodate changes to the manufacturing process that have a material
 13 impact on anthropogenic greenhouse gas emissions. Rules adopted under this subsection may pro-
 14 vide for the office to contract with an external third-party expert to assist the office in making in-
 15 dividual determinations on applications for adjustments.

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

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

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

25 (3) **Whether the conclusions of the assessments required under subsections (1) and (2)**
 26 **of this section warrant an adjustment to the methods of calculating the emissions efficiency**
 27 **benchmarks established pursuant to section 20 of this 2020 Act.**

28 **SECTION 24. (1) If an EITE entity purchases natural gas from a person that is not a**
 29 **covered entity described in section 5 (2)(b) or (c) of this 2020 Act, in addition to the annual**
 30 **allocation of allowances received under section 20 of this 2020 Act, the Office of Greenhouse**
 31 **Gas Regulation shall annually allocate for direct distribution at no cost to the EITE entity**
 32 **a number of allowances as follows:**

33 (a) **In 2022 and each following calendar year before 2025, the direct distribution received**
 34 **by the EITE entity shall be a number of allowances equal to the total of the regulated**
 35 **emissions by the EITE entity attributable to the combustion of natural gas purchased as**
 36 **described in this subsection.**

37 (b)(A) **In 2025 and each following calendar year before 2051, and except as provided in**
 38 **subparagraph (B) of this paragraph, the direct distribution received by the EITE entity shall**
 39 **decline annually by a constant amount proportionate to the decline in the number of allow-**
 40 **ances available in annual allowance budgets pursuant to section 5 (1)(b) of this 2020 Act.**

41 (B) **If the EITE entity is in compliance with an approved energy management system**
 42 **audit and implementation plan subject to subsection (2) of this section, the direct distribution**
 43 **received by the EITE entity during the following years shall be as follows:**

44 (i) **In 2025 and each year before 2030, the direct distribution shall be a number of allow-**
 45 **ances equal to the total of the regulated emissions by the EITE entity attributable to the**

1 combustion of natural gas purchased as described in this subsection; and

2 (ii) In 2030 and each year before 2051, the direct distribution shall be a number of allow-
 3 ances equal to 97 percent of the total of the regulated emissions by the EITE entity attrib-
 4 utable to the combustion of natural gas purchased as described in this subsection.

5 (2)(a) An EITE entity described in subsection (1) of this section may, no later than De-
 6 cember 31, 2024, and once every five years thereafter, submit to the office a completed en-
 7 ergy management system audit and implementation plan for approval.

8 (b) The office shall approve an energy management system audit and implementation
 9 plan if:

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

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

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

15 (ii) A reasonable extension date not to exceed four years after the date of the audit, if
 16 the office determines that additional time is reasonable and necessary for the EITE entity
 17 to complete the efficiency improvements.

18 (c) In determining the payback period for an efficiency improvement identified in an audit
 19 report, the office shall consider any grants or loans for completing the efficiency improve-
 20 ment received by the EITE entity from the Traded Sector Greenhouse Gas Reduction Re-
 21 volving Loan Fund established under section 51 of this 2020 Act.

22 (d) An approved energy management system audit and implementation plan shall be valid
 23 for five years.

24 (3) The office may contract with an independent third party entity to review and approve
 25 energy management system audits and implementation plans under this section.

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

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

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

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

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

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

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

38 (2)(a) A total of no more than eight percent of a covered entity's compliance obligation
 39 may be fulfilled by surrendering offset credits. A total of no more than four percent of a
 40 covered entity's compliance obligation may be fulfilled by surrendering offset credits gener-
 41 ated by offset projects that do not provide direct environmental benefits in this state.

42 (b) The Oregon Greenhouse Gas Reduction Board may by rule adopt additional re-
 43 strictions on the number of offset credits that may be surrendered by a covered entity that
 44 is a permitted air contamination source and that is geographically located in an impacted
 45 community if:

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

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

8 (3) The board shall adopt rules governing offset projects and the generation, issuance and
 9 use of offset credits. The rules must:

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

11 (A) Offset projects and the generation, issuance and use of offset credits established by
 12 other states, provinces and countries with programs comparable to the Oregon Greenhouse
 13 Gas Initiative; and

14 (B) Voluntary offset projects and the generation, issuance and use of offset credits es-
 15 tablished by organizations that operate offset credit registries;

16 (b) Allow for the broadest possible participation by landowners in developing and operat-
 17 ing offset projects across the broadest possible variety of types and sizes of lands;

18 (c) Encourage opportunities for developing offset projects that provide direct environ-
 19 mental benefits in this state;

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

22 (e) Address qualifications for persons and agencies that provide third-party verification
 23 and registration of offset projects and offset credits.

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

28 (a) Designation of offset protocols under which an offset project may qualify for early
 29 action offset credits;

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

32 (c) Requirements for offset credits issued by qualified third-party organizations that op-
 33 erate offset credit registries to be converted to offset credits issued through or acceptable
 34 under the Oregon Greenhouse Gas Initiative.

35 (5) The board shall adopt by rule a process to investigate and invalidate issued offset
 36 credits as necessary to uphold the environmental integrity of the Oregon Greenhouse Gas
 37 Initiative. Reasons for invalidating issued offset credits may include, but are not limited to:

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

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

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

1 (6) The board shall establish by rule one or more offset integrity accounts. The office
2 shall withhold a percentage of the offset credits issued by the office for each offset project
3 and deposit the withheld offset credits in an offset integrity account. Uses of offset credits
4 deposited in offset integrity accounts may include, but need not be limited to, using the off-
5 set credits to replace offset credits that are invalidated pursuant to rules adopted under
6 subsection (5) of this section.

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

10 (a) Must be straightforward to implement and administer, for both offset project opera-
11 tors and persons purchasing offset credits;

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (b) In developing offset protocols related to forestry, the Oregon Greenhouse Gas Re-
44 duction Board, the office and the department shall include a method by which, upon an af-
45 firmative recommendation under section 27 (2)(c) of this 2020 Act, offset protocols for offset

1 projects are adjusted to avoid permanent or temporary net cumulative reductions, attribut-
2 able to offset projects, in the regional supply of wood fiber harvested from nonfederal
3 forestlands in Oregon that is available to wood products manufacturing facilities in this
4 state. This paragraph does not apply to offset projects located on Indian trust lands or Indian
5 fee lands.

6 (c) The board and the department shall jointly convene a technical advisory committee
7 to advise the board, the office and the department in developing and monitoring offset pro-
8 tocols related to forestry. The technical advisory committee must include members with
9 expertise in offset protocols related to forestry.

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

15 (a) Consider developing offset protocols for:

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

17 (B) Avoided grassland conversion; and

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

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

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

25 (5) The office shall regularly review and recommend to the board updates to offset pro-
26 tocols developed pursuant to rules adopted under section 25 of this 2020 Act. The reviews and
27 updates of offset protocols shall include any updates, as necessary, to the methods or tech-
28 nologies used for measuring and monitoring the greenhouse gas emissions reductions or re-
29 movals attributable to the offset projects addressed by the offset protocols.

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

32 **SECTION 27. Offset protocol consultation and reporting.** (1) In developing and updating
33 rules and offset protocols pursuant to sections 25 and 26 of this 2020 Act, the Oregon
34 Greenhouse Gas Reduction Board:

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

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

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

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

44 (2)(a) No later than September 15 of each year, the State Forestry Department, in col-
45 laboration with the Office of Greenhouse Gas Regulation, shall submit a report to the Leg-

1 islative Assembly that provides an analysis of the implementation in Oregon of offset
2 protocols related to forestry. The report shall:

3 (A) Describe the location and scope of offset projects in Oregon registered under offset
4 protocols related to forestry developed pursuant to sections 25 and 26 of this 2020 Act for
5 which offset credits have been issued under the Oregon Greenhouse Gas Initiative, to date,
6 and the number of offset credits issued;

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

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

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

16 (b) The information and analysis required under paragraph (a)(D) of this subsection shall
17 include and consider significant effects attributable to the forestry offset projects and
18 forestry carbon offsets on the supply of wood fiber that are applicable to specific geographic
19 areas of this state, relative to the changes in demand for wood fiber by wood products
20 manufacturing facilities located in those specific geographic areas.

21 (c) The report required by this subsection may include recommendations by the State
22 Forestry Department on whether a temporary suspension of acceptance of new offset project
23 applications under offset protocols related to forestry developed pursuant to sections 25 and
24 26 of this 2020 Act, or a temporary adjustment of the offset protocols, is necessary. The
25 purpose of a temporary suspension or adjustment must be to address any negative effects
26 attributable to forestry offset projects on the supply of wood fiber harvested from nonfederal
27 forestlands that is available to wood products manufacturing facilities in one or more specific
28 geographic areas of this state, relative to the changes in demand for wood fiber in the spe-
29 cific geographic areas. If the department recommends a temporary suspension or adjust-
30 ment, the recommendation must also include recommendations for measures to minimize
31 adverse effects on landowners developing offset projects.

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

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

35 (3) The office may engage:

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

37 (b) A qualified financial services administrator to conduct financial transactions related
38 to the auction.

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

40 (5) The office shall:

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

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

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

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

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

8 (7) The proceeds of an auction shall be paid to the office and deposited with the State
9 Treasurer to be credited as follows:

10 (a) Auction proceeds from the sale of allowances consigned to the office for auction by
11 a natural gas utility pursuant to section 17 of this 2020 Act shall be credited to the appro-
12 priate trust account established by the Public Utility Commission pursuant to section 48 of
13 this 2020 Act; and

14 (b) Auction proceeds payable to the state shall be credited to the Auction Proceeds Dis-
15 tribution Fund established under section 29 of this 2020 Act.

16 (8) Sales of allowances from the allowance price containment reserve shall be conducted
17 separately from the auction of other allowances for the purpose of addressing high costs of
18 compliance instruments. Allowances unsold from the reserve sale must be made available
19 again at future reserve sales. General market participants may not purchase allowances at
20 reserve sales. The proceeds from any sale of allowances pursuant to this subsection shall be
21 credited to the Auction Proceeds Distribution Fund established under section 29 of this 2020
22 Act.

23 (9)(a) If the hard price ceiling for an auction is reached, the office shall offer for sale,
24 at the hard price ceiling, allowances from any reserve described in or established by rule
25 under section 7 of this 2020 Act, as necessary to meet demand from covered entities. If the
26 supplies of all allowances from all reserves are exhausted and additional sales of allowances
27 are necessary for one or more covered entities to fulfill a compliance obligation, the office
28 may sell, at the hard price ceiling, price ceiling allowances in addition to the allowances
29 available in the annual allowance budget.

30 (b) The proceeds from any sales of allowances at the hard price ceiling shall be paid to
31 the office and deposited with the State Treasurer to be credited as follows:

32 (A) All moneys that constitute revenues described in Article IX, section 3a, of the Oregon
33 Constitution, shall be credited to the Transportation Decarbonization Investments Account
34 established in section 34 of this 2020 Act;

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

37 (C) Moneys remaining after meeting the requirements of subparagraphs (A) and (B) of
38 this paragraph shall be credited to the Oregon Greenhouse Gas Initiative Operating Fund
39 established under section 31 of this 2020 Act, to be used only as described in section 31 (4)
40 of this 2020 Act.

41 (10) The Oregon Greenhouse Gas Reduction Board:

42 (a) Shall adopt rules for making an unlimited number of allowances available for auction
43 upon exceedance of the hard price ceiling set by the office under subsection (5) of this sec-
44 tion; and

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

1 **SECTION 29. Auction Proceeds Distribution Fund.** (1) The Auction Proceeds Distribution
 2 Fund is established in the State Treasury, separate and distinct from the General Fund.
 3 Moneys in the Auction Proceeds Distribution Fund is continuously appropriated to the Office
 4 of Greenhouse Gas Regulation for distribution as required by this section.

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

7 (3) The office shall certify the amount of moneys deposited in the fund available for dis-
 8 tribution and shall cause the moneys to be distributed as follows:

9 (a) All moneys that constitute revenues described in Article IX, section 3a, of the Oregon
 10 Constitution, shall be transferred to the Transportation Decarbonization Investments Ac-
 11 count established in section 34 of this 2020 Act;

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

14 (c) An amount necessary for administration, other than administration paid for by mon-
 15 eys described in paragraphs (a) and (b) of this subsection, of sections 2, 4 to 32, 38 to 40, 41,
 16 42, 43 and 45 to 53 of this 2020 Act and rules adopted pursuant to sections 2, 4 to 32, 38 to
 17 40, 41, 42, 43 and 45 to 53 of this 2020 Act shall be transferred to the Oregon Greenhouse Gas
 18 Initiative Operating Fund established under section 31 of this 2020 Act; and

19 (d) Moneys remaining after the transfers under paragraphs (a) to (c) of this subsection
 20 shall be transferred to the Climate Investments Fund established under section 39 of this
 21 2020 Act.

22 **SECTION 30. Progress report.** (1) The Office of Greenhouse Gas Regulation shall, no later
 23 than one year after the close of each compliance period, submit a report in the manner
 24 provided by ORS 192.245 to the Legislative Assembly. The report shall:

25 (a) Detail activity during the most-recently closed compliance period under the Oregon
 26 Greenhouse Gas Initiative;

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

29 (A) The number of allowances bought and sold at each auction held and all auction prices,
 30 including the floor and ceiling prices, for the allowances bought and sold at each auction;

31 (B) The beginning and ending balances of all auction holding accounts and reserves held
 32 by the office; and

33 (C) The anthropogenic greenhouse gas emissions reductions achieved during the compli-
 34 ance period;

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

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

40 (e) Evaluate the public health and other cobenefits of greenhouse gas emissions re-
 41 ductions, with a particular emphasis on the cobenefits for impacted communities.

42 (2) In addition to the information required by subsection (1) of this section, every second
 43 report required by this section shall evaluate the efficacy of the Oregon Greenhouse Gas
 44 Initiative and investments of the proceeds from auctions under section 28 of this 2020 Act
 45 in carrying out the purposes set forth in section 2 of this 2020 Act.

1 **SECTION 31. Operating fund.** (1) The Oregon Greenhouse Gas Initiative Operating Fund
 2 is established in the State Treasury, separate and distinct from the General Fund. Interest
 3 earned by the Oregon Greenhouse Gas Initiative Operating Fund shall be credited to the
 4 fund. Moneys in the fund are continuously appropriated to the Department of Environmental
 5 Quality for use by the Office of Greenhouse Gas Regulation:

6 (a) In the performance of the duties, functions and powers vested in the office by law;
 7 and

8 (b) To provide, at the request of another state agency, for the reimbursement or advance
 9 payment of reasonable expenses incurred by the state agency to administer duties required
 10 of the state agency by sections 2, 4 to 32, 38 to 40, 41, 42, 43 and 45 to 53 of this 2020 Act and
 11 rules adopted pursuant to sections 2, 4 to 32, 38 to 40, 41, 42, 43 and 45 to 53 of this 2020 Act,
 12 if the expenses of the state agency cannot otherwise reasonably be paid from moneys avail-
 13 able to the state agency for payment of the administrative expenses.

14 (2) The fund shall consist of:

15 (a) Moneys deposited in the fund pursuant to sections 28, 29 and 107a of this 2020 Act;

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

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

19 (3) Civil penalties deposited in the fund under section 107a of this 2020 Act shall be de-
 20 posited in a separate subaccount created in the fund and must be used only for providing
 21 technical assistance to covered entities.

22 (4) The proceeds from sales of allowances at the hard price ceiling pursuant to section
 23 28 (9) of this 2020 Act shall be deposited in a separate subaccount created in the fund and
 24 must be used by the office only for the purchase and retirement of offset credits.

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

32 (2) The following public records are exempt from disclosure under ORS 192.311 to 192.478
 33 and may not be disclosed to any person or entity except as provided in subsection (3) or (4)
 34 of this section, unless the party seeking disclosure demonstrates by clear and convincing
 35 evidence that, as related to the particular covered entity identifiable in the records requested
 36 to be disclosed, the public interest in disclosure outweighs other interests in nondisclosure:

37 (a) Individually identifiable information related to a registered entity's bid activity and
 38 auction results for auctions held under section 28 of this 2020 Act.

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

42 (c) Any individually identifiable information on the manufacturing output of goods, other
 43 than emissions data reported under ORS 468A.280, obtained by the Office of Greenhouse Gas
 44 Regulation as necessary to administer and implement sections 18, 19, 20, 23 and 24 of this
 45 2020 Act.

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

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

5 (4) This section does not prohibit the disclosure of information between the office and
6 other agencies of the executive department, as defined in ORS 174.112, or to persons engaged
7 by the State of Oregon to provide administrative or technical services to support implemen-
8 tation of sections 4 to 32 or 45 to 53 of this 2020 Act, if the disclosure is necessary for pur-
9 poses of the administration and implementation of sections 4 to 32 or 45 to 53 of this 2020
10 Act.

11 (5) Any person to whom information described in subsection (2) of this section is dis-
12 closed under subsection (4) of this section shall treat the information as exempt from dis-
13 closure under ORS 192.311 to 192.478. Redislosure of individually identifiable information
14 outside the office remains subject to the provisions of this section.

15
16 INVESTMENT OF STATE PROCEEDS FROM OREGON
17 GREENHOUSE GAS INITIATIVE AUCTIONS
18 (Transportation Decarbonization Investments Account)
19

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

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

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

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

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

27 (5) “Local government” means a metropolitan service district, a metropolitan planning
28 organization, a county or a city.

29 (6) “Metropolitan climate plan” means a plan that implements:

30 (a) A land use and transportation scenario adopted by a metropolitan service district as
31 required under section 37, chapter 865, Oregon Laws 2009, and that has been approved by the
32 Land Conservation and Development Commission;

33 (b) A land use and transportation scenario adopted by a metropolitan planning organiza-
34 tion in accordance with the guidelines established by the Department of Transportation and
35 the Department of Land Conservation and Development under ORS 184.893, and that has
36 been approved by the Land Conservation and Development Commission; or

37 (c) A transportation greenhouse gas emissions reduction and climate adaptation plan
38 adopted by a county or city and that has been approved by the Oregon Greenhouse Gas Re-
39 duction Board.

40 (7) “Metropolitan planning organization” has the meaning given that term in ORS 197.629,
41 except that “metropolitan planning organization” does not mean an organization that coor-
42 dinates transportation planning for an urbanized area that is also subject to the jurisdiction
43 of a metropolitan service district.

44 (8) “Metropolitan service district” means a metropolitan service district organized under
45 ORS chapter 268.

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

2 (10) "Oregon Greenhouse Gas Initiative" has the meaning given that term in section 4
3 of this 2020 Act.

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

5 (12) "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 Greenhouse Gas Initiative, as determined by the board by rule; or

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

13 SECTION 34. Transportation Decarbonization Investments Account; rules. (1) The
14 Transportation Decarbonization Investments Account is established as a separate account
15 within the State Highway Fund. The account consists of moneys deposited in the account
16 under sections 28 and 29 of this 2020 Act. Interest earned by the account shall be credited
17 to the account.

18 (2) Moneys in the account are continuously appropriated to the Department of Trans-
19 portation:

20 (a) For any necessary administration by the department of sections 2, 4 to 32, 33 to 37,
21 41 and 43 of this 2020 Act; and

22 (b) To be distributed for transportation projects pursuant to sections 33 to 37 of this 2020
23 Act.

24 (3) A transportation project may not be funded with moneys distributed from the account
25 unless:

26 (a) The transportation project furthers one or more of the purposes set forth in section
27 2 of this 2020 Act; and

28 (b) The transportation project may be constitutionally funded by revenues described in
29 Article IX, section 3a, of the Oregon Constitution.

30 (4) Of the moneys available in the account for distribution each biennium:

31 (a) 10 percent shall be used by the department for transportation projects selected by the
32 Oregon Transportation Commission pursuant to section 35 of this 2020 Act; and

33 (b) 90 percent shall be distributed by the commission to local governments under section
34 36 of this 2020 Act for implementation, including planning for implementation, of metropol-
35 itan climate plans.

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

39 (6) Examples of uses of moneys deposited in the account may include, but are not limited
40 to, uses related to:

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

45 (b) Increasing the resilience of transportation infrastructure and evacuation routes

1 against the effects of climate change, extreme precipitation, sea level rise and extreme
 2 temperatures and wildfires.

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

6 (8) The commission may adopt rules as necessary for the administration and implemen-
 7 tation of sections 33 to 37 of this 2020 Act.

8 **SECTION 35. Selection of transportation projects by Oregon Transportation Commission.**

9 (1) The Oregon Transportation Commission shall select the transportation projects to be
 10 funded with moneys in the Transportation Decarbonization Investments Account pursuant
 11 to section 34 (4)(a) of this 2020 Act.

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

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

15 (a) Consider whether a proposed transportation project will further the objectives of the
 16 statewide transportation strategy on greenhouse gas emissions adopted by the commission
 17 pursuant to ORS 184.617; and

18 (b) Give priority to proposed transportation projects that will facilitate the planning or
 19 development of metropolitan climate plans by local governments that, as of the date of the
 20 selection, have not adopted metropolitan climate plans.

21 **SECTION 36. Distribution of moneys to local governments.** (1) A local government shall
 22 be allocated a share of the moneys described in section 34 (4)(b) of this 2020 Act if, as of the
 23 date of the allocation:

24 (a) The local government has adopted a metropolitan climate plan; and

25 (b) The local government has jurisdiction over an area for which a covered entity de-
 26 scribed in section 5 (2)(d) of this 2020 Act is not the beneficiary of allowances retired under
 27 section 13 of this 2020 Act.

28 (2) The proportionate share allocated for distribution to each eligible local government
 29 shall be determined by the Oregon Transportation Commission based on a formula that:

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

31 (b) May incorporate any other factors relevant to the proportionate amount of
 32 greenhouse gas emissions attributable to transportation within the jurisdiction of each local
 33 government.

34 (3) Of the moneys allocated for a metropolitan service district or a metropolitan planning
 35 organization under subsection (1) of this section, the commission shall distribute half the
 36 moneys to the metropolitan service district or metropolitan planning organization and half
 37 the moneys to the counties and cities within the metropolitan service district or metropol-
 38 itan planning organization. The proportionate share allocated for distribution to each county
 39 and city within the metropolitan service district or metropolitan planning organization shall
 40 be determined based on the formula provided in subsection (2) of this section.

41 (4) Moneys received by a local government under this section must be expended on a
 42 climate adaptation project or in a manner that, to the extent practicable, will yield the
 43 greatest reductions in greenhouse gas emissions per dollar spent. In allocating the moneys
 44 to specific expenditures:

45 (a) A metropolitan service district shall consult with a joint policy advisory committee

1 on transportation;

2 (b) A county or city within a metropolitan service district shall consult with the metro-
3 politan service district;

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

6 (d) A local government shall consult with affected eligible Indian tribes and with repre-
7 sentatives of impacted communities.

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

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

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

26 (4) If a transportation project selected by the Oregon Transportation Commission under
27 section 35 of this 2020 Act involves the use of roadside vegetation, the Department of
28 Transportation shall purchase the roadside vegetation from nursery stock that is grown and
29 propagated entirely within this state. The commission may specify by rule grades, standards,
30 considerations and processes for roadside vegetation expenditures conducted pursuant to this
31 subsection.

32 (5) This section does not apply to emergency work, minor alterations, ordinary repairs
33 or maintenance work for public improvements or to other construction contracts described
34 in ORS 279C.320 (1).

35
36 (Climate Investments Fund)

37
38 **SECTION 38. Definitions.** As used in sections 38 to 40 of this 2020 Act:

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

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

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

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

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

1 Act.

2 (6) "Oregon Greenhouse Gas Initiative" 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 Greenhouse Gas Initiative, as determined by the Oregon Greenhouse Gas Reduction Board
10 by rule; 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 39. Climate Investments Fund.** (1) The Climate Investments Fund is established
15 in the State Treasury, separate and distinct from the General Fund. The Climate Invest-
16 ments Fund shall consist of moneys deposited in the fund under sections 28 and 29 of this
17 2020 Act. Interest earned by the fund shall be credited to the fund. The Office of Greenhouse
18 Gas Regulation shall administer the fund.

19 (2) Moneys in the fund are continuously appropriated to the office to be distributed by
20 the office as provided in this section. The office shall keep a record of moneys deposited in
21 and distributed out of the fund.

22 (3)(a) Moneys distributed pursuant to this section must be used only for programs,
23 projects and activities that further one or more of the purposes set forth in section 2 of this
24 2020 Act.

25 (b) A majority of the moneys distributed pursuant to this section must be used in a
26 manner that benefits impacted communities.

27 (c) In allocating moneys received under subsection (5)(b) of this section to specific
28 expenditures, a local government shall consult with affected eligible Indian tribes and rep-
29 resentatives of impacted communities.

30 (d) Moneys distributed to the State Forestry Department under subsection (5)(e) of this
31 section may not be used for fire suppression efforts.

32 (4) Of the moneys deposited in the fund each biennium, the office shall first transfer 10
33 percent or \$10 million, whichever is less, to the Just Transition Fund established under sec-
34 tion 96 of this 2020 Act.

35 (5) After transferring moneys as required by subsection (4) of this section, the office
36 shall distribute the remaining moneys deposited in the Climate Investments Fund each
37 biennium as follows:

38 (a) 10 percent shall be distributed pursuant to allocations made by the Legislative As-
39 sembly for uses that directly benefit eligible Indian tribes;

40 (b) 20 percent shall be distributed pursuant to allocations made by the Legislative As-
41 sembly to local governments, as that term is defined in ORS 174.116, for use in a manner that
42 prioritizes greenhouse gas reductions;

43 (c) 20 percent shall be distributed pursuant to allocations made by the Legislative As-
44 sembly to agencies of state government for use in a manner that prioritizes greenhouse gas
45 reductions;

1 (d) 25 percent shall be distributed to the Oregon Watershed Enhancement Board for uses
2 that benefit natural and working lands; and

3 (e) 25 percent shall be distributed to the State Forestry Department for wildfire miti-
4 gation efforts, including but not limited to projects under the Good Neighbor Authority
5 Agreement, as that term is defined in ORS 526.275, and as informed by the recommendations
6 of any council formed by the Governor to address wildfire response.

7 (6) Distributions from the fund shall, to the maximum extent feasible and consistent with
8 law, be in addition to and not in replacement of any existing allocations or appropriations for
9 programs, projects and activities.

10 **SECTION 39a. Biennial climate action investment plan.** (1) No later than June 1 of each
11 even-numbered year and in the manner provided in ORS 192.245, the Oregon Greenhouse Gas
12 Reduction Board shall deliver a biennial climate action investment plan to the Legislative
13 Assembly and the Governor. The climate action investment plan shall identify the short-term
14 and long-term opportunities for uses of moneys allocated by the Legislative Assembly from
15 the Climate Investments Fund established under section 39 of this 2020 Act.

16 (2) The biennial climate action investment plan must include an analysis of how the
17 programs, projects and activities that may be funded by the moneys allocated by the Legis-
18 lative Assembly from the Climate Investments Fund established under section 39 of this 2020
19 Act would serve to effectively further the purposes set forth in section 2 of this 2020 Act.

20 (3) In preparing the biennial climate action investment plan, the board shall consult with:

- 21 (a) Representatives of eligible Indian tribes;
- 22 (b) Local governments, as that term is defined in ORS 174.116;
- 23 (c) Interested agencies of state government; and
- 24 (d) Representatives of impacted communities.

25 **SECTION 39b.** The Oregon Greenhouse Gas Reduction Board shall deliver the first
26 biennial climate action investment plan as required by section 39a of this 2020 Act no later
27 than June 1, 2022.

28 **SECTION 39c. Use of biennial climate action investment plan in budget process.** In pre-
29 paring the Governor's budget as required under ORS 291.202, the Governor shall consider the
30 recommendations contained in the biennial climate action investment plan prepared by the
31 Oregon Greenhouse Gas Reduction Board under section 39a of this 2020 Act.

32 **SECTION 40. Procurement preferences.** (1) Notwithstanding provisions of law requiring
33 a contracting agency to award a contract to the lowest responsible bidder or best proposer
34 or provider of a quotation, and except as provided in subsection (3) of this section or as
35 prohibited by federal law, a state contracting agency, when using funds from the Climate
36 Investments Fund established under section 39 of this 2020 Act, shall give a preference of
37 not more than 10 percent to building materials procured from manufacturers subject to a
38 carbon pricing program.

39 (2) Notwithstanding provisions of law requiring a contracting agency to award a contract
40 to the lowest responsible bidder or best proposer or provider of a quotation, and except as
41 provided in subsection (3) of this section or as prohibited by federal law, a contracting agency
42 other than a state contracting agency, when using funds from the Climate Investments
43 Fund, may give a preference of not more than 10 percent to building materials procured from
44 manufacturers subject to a carbon pricing program.

45 (3) If the contracting agency finds in a written determination that the building material

1 is not available in the quantity, quality, type or time frame required for the procurement,
 2 or if the building material cost is greater than 10 percent more than the building material
 3 costs from manufacturers not subject to a carbon pricing program, the contracting agency
 4 may decline to give the building material preference.

5
 6 (Labor and Contracting Provisions)
 7

8 **SECTION 41.** (1) If a construction project or a transportation project receives more than
 9 \$50,000 in funding from moneys in the Climate Investments Fund established under section
 10 39 of this 2020 Act or the Transportation Decarbonization Investments Account established
 11 under section 34 of this 2020 Act, the primary contractor participating in the project:

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

14 (b) Shall offer health care and retirement benefits to the employees performing the labor
 15 on the construction project or transportation project;

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

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

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

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

26 (2) A farm labor contractor, as defined in ORS 658.405, may not receive moneys distrib-
 27 uted from the Climate Investments Fund or the Transportation Decarbonization Investments
 28 Account unless the farm labor contractor is in compliance with all licensing and any other
 29 requirements or regulations imposed upon farm labor contractors pursuant to ORS 658.405
 30 to 658.511.

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

37 (b) Model rules adopted under this subsection shall require the use of a project labor
 38 agreement for construction projects or transportation projects that receive more than
 39 \$200,000 in funding from moneys in the Climate Investments Fund or the Transportation
 40 Decarbonization Investments Account. For all other construction projects or transportation
 41 projects funded as described in paragraph (a) of this subsection, the model rules shall:

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

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

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

4 (d)(A) The model rules shall require that, in each contract awarded by a state agency for
5 a construction project or transportation project funded as described in paragraph (a) of this
6 subsection, building materials as defined in section 38 of this 2020 Act that the contractor
7 purchases for the project and that become part of a permanent structure must be produced
8 in the United States.

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

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

12 (ii) Building materials required for the project are not produced in the United States in
13 sufficient and reasonably available quantities and with satisfactory quality; or

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

17 (C) Notwithstanding a finding by the administering agency under subparagraph (B) of this
18 paragraph, a contractor shall spend at least 75 percent of the total amount the contractor
19 spends in connection with the construction project or transportation project on building
20 materials that become part of a permanent structure on purchasing building materials that
21 are produced in the United States.

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

24 (4) Except as provided in subsection (5) of this section, a state agency charged with ad-
25 ministering funds for construction projects or transportation projects that receive more
26 than \$50,000 in funding from moneys in the Climate Investments Fund or the Transportation
27 Decarbonization Investments Account may not adopt the administering agency's own rules
28 for labor and workforce procedures related to administering funds allocated from the Climate
29 Investments Fund or the Transportation Decarbonization Investments Account and shall be
30 subject to the model rules adopted by the Oregon Department of Administrative Services
31 under subsection (3) of this section.

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

37
38 (Common School Fund)

39
40 **SECTION 42.** Moneys deposited in the Common School Fund under sections 28 and 29 of
41 this 2020 Act are continuously appropriated to the Department of State Lands to be used in
42 a manner that:

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

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

45

(Biennial Expenditure Reporting and Auditing)

SECTION 43. (1) All agencies of the executive department as defined in ORS 174.112, counties, cities and all other public and private entities receiving moneys from the Climate Investments Fund shall annually report to the Office of Greenhouse Gas Regulation on the expenditure of the moneys received and the results of the expenditures. No later than January 1 of each even-numbered year, the office shall deliver a biennial report, in the manner provided in ORS 192.245, to the Oregon Transportation Commission, the Governor and the Legislative Assembly describing:

- (a) The investments from the Climate Investments Fund;
- (b) Whether the investments met the requirements of section 39 of this 2020 Act; and
- (c) The effectiveness of those investments in furthering the purposes set forth in section 2 of this 2020 Act.

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

- (a) The transportation projects funded by moneys from the Transportation Decarbonization Investments Account;
- (b) How the transportation projects met the requirements of section 34 of this 2020 Act; and
- (c) The effectiveness of the transportation projects in furthering the purposes set forth in section 2 of this 2020 Act.

(3) Notwithstanding sections 33 to 37 and 39 of this 2020 Act, any agency of the executive department, metropolitan service district, metropolitan planning organization, county, city or other public or private entity failing to file a report under this section may not receive any payments from the Climate Investments Fund or the Transportation Decarbonization Investments Account until the report is filed.

(4)(a) The office and the department jointly shall select an independent third-party organization to, beginning in 2025, prepare a performance audit once every five years of:

- (A) All programs, projects or activities funded by moneys from the Climate Investments Fund; and
- (B) All transportation projects funded by moneys from the Transportation Decarbonization Investments Account.

(b) The office and the department shall provide for the audit report prepared by the independent third-party organization under this subsection to be transmitted to the Oregon Transportation Commission, the Governor and the Legislative Assembly.

PROVISIONS RELATED TO THE PUBLIC UTILITY COMMISSION

SECTION 44. Sections 45 to 53 of this 2020 Act are added to and made a part of ORS chapter 757.

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

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

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

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

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

8 (5) “Trade-exposed natural gas user” has the meaning given that term in section 4 of this
9 2020 Act.

10 **SECTION 46. Use of certain allowance sale proceeds by electric companies.** (1) If, rather
11 than surrendering the allowances to fulfill its compliance obligation under the Oregon
12 Greenhouse Gas Initiative, an electric company sells allowances that were directly distrib-
13 uted at no cost to the electric company under section 14 of this 2020 Act, the Public Utility
14 Commission shall require the proceeds received by the electric company through the sale:

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

17 (b) To be used only for activities that serve to reduce greenhouse gas emissions or pro-
18 vide assistance to the electric company’s retail customers, in furtherance of the purposes
19 set forth in section 2 of this 2020 Act.

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

23 (a) Providing weatherization, energy efficiency improvements, bill assistance or rate as-
24 sistance to the electric company’s low-income residential customers;

25 (b) Accelerated transportation electrification;

26 (c) Investments and activities that serve to reduce greenhouse gas emissions through
27 actions such as energy efficiency improvements, voltage optimization, portfolio optimization
28 and renewable energy procurement; and

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

32 (3) An electric company that receives allowances directly distributed at no cost under
33 section 14 of this 2020 Act shall develop a plan for the use of the allowances and file the plan
34 with the commission. The plan must be revised and updated on a schedule established by the
35 commission by rule. At a minimum, a plan must contain:

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

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

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

43 **SECTION 47.** An electric company shall develop and file with the Public Utility Commis-
44 sion an initial plan under section 46 of this 2020 Act no later than December 31, 2022.

45 **SECTION 48. Trust accounts.** (1)(a) The Public Utility Commission, as trustee, shall es-

1 **establish a separate trust account with the State Treasurer for the benefit of each natural gas**
 2 **utility regulated under the Oregon Greenhouse Gas Initiative. Moneys in each trust account**
 3 **shall consist of proceeds due to the natural gas utility from the sale at auction of allowances**
 4 **consigned to the Office of Greenhouse Gas Regulation under section 17 of this 2020 Act. The**
 5 **State Treasurer may invest moneys deposited in the trust accounts as provided in ORS**
 6 **293.701 to 293.857. Interest earned by a trust account must be credited to the account.**

7 **(b) Upon request by a natural gas utility, the commission shall require the State Treas-**
 8 **urer to transfer from the natural gas utility’s trust account to the natural gas utility**
 9 **amounts necessary to pay for programs or activities found to be consistent with the plan**
 10 **required under subsection (2) of this section.**

11 **(c) Upon making the determinations required by subsections (3) and (4) of this section,**
 12 **the commission shall direct the State Treasurer to transfer amounts from a natural gas**
 13 **utility’s trust account to the natural gas utility or a designee of the natural gas utility nec-**
 14 **essary for use consistent with subsections (3) and (4) of this section.**

15 **(2) A natural gas utility shall develop a plan for use of moneys in the trust account for**
 16 **the benefit of the natural gas utility’s sales customers. The natural gas utility shall file the**
 17 **plan for acknowledgment with the commission as part of each of the natural gas utility’s**
 18 **integrated resource plan filings, as further specified by the commission by rule. A plan must:**

19 **(a) Identify a portfolio of approaches in furtherance of the purposes set forth in section**
 20 **2 of this 2020 Act;**

21 **(b) Provide that no less than 25 percent of the proceeds from the sale of allowances di-**
 22 **rectly distributed to the natural gas utilities pursuant to section 17 (1)(b) of this 2020 Act**
 23 **be used for nonvolumetric bill credits or other rate relief for residential, commercial and**
 24 **industrial sales customers; and**

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

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

32 **(B) Developing 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) Providing renewable thermal resources for sales customers;**

36 **(D) Providing renewable natural gas or hydrogen to vehicles and the necessary related**
 37 **infrastructure in the utility’s service territory;**

38 **(E) Implementing pilot projects or research, development and demonstration activities**
 39 **to determine the cost and viability of activities described in subparagraphs (A) to (D) of this**
 40 **paragraph; or**

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

43 **(3)(a) Subject to paragraph (b) of this subsection, the commission shall determine the**
 44 **amounts of the proceeds from the sale of allowances directly distributed to natural gas util-**
 45 **ities pursuant to section 17 (1)(c) of this 2020 Act to be used for each of the following pur-**

1 poses:

2 (A) Providing nonvolumetric bill credits or other rate relief for natural gas transporta-
3 tion customers of the natural gas utility;

4 (B) Implementing programs, activities or technologies, which may include cost-effective
5 projects for switching to the use of lower-carbon-emitting fuels, designed to reduce
6 greenhouse gas emissions attributable to commercial and industrial natural gas transporta-
7 tion customers; and

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

11 (b) No less than 25 percent of the proceeds described in this subsection must be used for
12 rate relief as described in paragraph (a)(A) of this subsection. The commission shall set the
13 level of rate relief as part of the tariff between the transportation customer and the natural
14 gas utility. In setting the level of rate relief, the commission shall consider:

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

18 (B) Competitive considerations related to natural gas service options.

19 (4) The commission shall determine the amounts of the proceeds from the sale of allow-
20 ances directly distributed to natural gas utilities pursuant to section 17 (1)(d) of this 2020
21 Act to be used for the benefit of trade-exposed natural gas users consistent with section 50
22 of this 2020 Act.

23 (5)(a) The proceeds described in subsections (2) and (3) of this section may not be used
24 for the benefit of natural gas customers that are also trade-exposed natural gas users.

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

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

31 SECTION 49. A natural gas utility shall develop and file with the Public Utility Commis-
32 sion an initial plan under section 48 (2) of this 2020 Act no later than June 30, 2022.

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

37 (2)(a) In 2025 and each following calendar year before 2051, and except as provided in
38 paragraph (b) of this subsection, the amount of rate relief received by a trade-exposed na-
39 tural gas user shall decline annually by a constant amount proportionate to the decline in
40 the number of allowances available in annual allowance budgets pursuant to section 5 (1)(b)
41 of this 2020 Act.

42 (b) If a trade-exposed natural gas user is in compliance with an approved energy man-
43 agement system audit and implementation plan subject to subsection (3) of this section, the
44 trade-exposed natural gas user shall receive a nonvolumetric bill credit pursuant to a for-
45 mula developed by the Public Utility Commission by rule. The formula developed by the

1 commission must be designed to recognize early action, encourage ongoing efficiency im-
 2 provements, accommodate growth of operations or output, and mitigate to the greatest ex-
 3 tent practicable any impacts by the Oregon Greenhouse Gas Initiative on the rates for
 4 natural gas paid by trade-exposed natural gas users. During the following years, the com-
 5 mission shall use the following amounts for the benefit of trade-exposed natural gas users
 6 pursuant to the formula developed under this section:

7 (A) In 2025 and each year before 2030, an amount equal to the amount of revenue gen-
 8 erated by the sale at auction of the allowances allocated to the natural gas utility on behalf
 9 of the users under section 17 (1)(d) of this 2020 Act for that year; and

10 (B) In 2030 and each year before 2051, an amount equal to 97 percent of the amount of
 11 revenue generated by the sale at auction of the allowances allocated to the natural gas utility
 12 on behalf of the users under section 17 (1)(d) of this 2020 Act for that year.

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

16 (b) The commission shall approve an energy management system audit and implementa-
 17 tion plan if:

18 (A) The audit meets the requirements of subsection (4) of this section; and

19 (B) The implementation plan identifies how the trade-exposed natural gas user will com-
 20 plete all efficiency improvements identified in the audit report that are related to natural
 21 gas use and that have a payback period of five years or less by:

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

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

26 (c) In determining the payback period for an efficiency improvement identified in an audit
 27 report, the commission shall consider any loans for completing the efficiency improvement
 28 available to the trade-exposed natural gas user from the Traded Sector Greenhouse Gas Re-
 29 duction Revolving Loan Fund established under section 51 of this 2020 Act.

30 (d) An approved energy management system audit and implementation plan shall be valid
 31 for five years.

32 (4) An energy management system audit must adhere to established federal or interna-
 33 tional standards for developing plans identifying energy efficiency opportunities and related
 34 best practices for commercial, industrial and institutional facilities, as the commission may
 35 further identify by rule, in consultation with the Office of Greenhouse Gas Regulation. The
 36 elements of an audit shall include but need not be limited to:

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

39 (b) An evaluation of the operating characteristics of the emission sources, operation and
 40 maintenance procedures at the facility and unusual operating constraints;

41 (c) An inventory of the major onsite energy use systems at the facility;

42 (d) A review of the architectural and engineering plans for the facility, the facility's op-
 43 eration and maintenance procedures and logs, and the fuel usage of the facility;

44 (e) A review of the facility's energy management program and recommendations for im-
 45 provements to the program;

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

3 (g) A list of energy conservation measures that are within the facility's control to im-
4 plement;

5 (h) An evaluation of the energy savings potential of implementing the energy conserva-
6 tion measures listed under paragraph (g) of this subsection; and

7 (i) A comprehensive audit report detailing ways to improve the efficiency of the facility,
8 the cost of any specific improvements identified in the report, the benefits of the identified
9 improvements and the time frame for recouping the investments in the identified improve-
10 ments.

11 (5) Beginning in 2030, the commission shall annually direct any proceeds described in
12 section 48 (4) of this 2020 Act that are not used for rate relief under subsection (2) of this
13 section to be deposited in the Traded Sector Greenhouse Gas Reduction Revolving Loan
14 Fund.

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

17 **SECTION 51.** (1) The Traded Sector Greenhouse Gas Reduction Revolving Loan Fund is
18 established in the State Treasury, separate and distinct from the General Fund. Interest
19 earned by the Traded Sector Greenhouse Gas Reduction Revolving Loan Fund shall be cred-
20 ited to the fund. Moneys in the fund are continuously appropriated to the Oregon Business
21 Development Department to issue loans under and to administer the program adopted under
22 subsection (3) of this section.

23 (2) The fund shall consist of:

- 24 (a) Moneys appropriated or transferred to the fund by the Legislative Assembly;
- 25 (b) Repayment of moneys loaned from the fund;
- 26 (c) Application fees required under subsection (3) of this section;
- 27 (d) Interest and other earnings on the moneys in the fund; and
- 28 (e) Gifts, grants or donations received from any source.

29 (3) The department shall adopt by rule a revolving loan program for issuing low- or
30 zero-interest loans to finance projects or upgrades that will result in reductions in
31 greenhouse gas emissions. Projects financed by loans under the program may include cost-
32 effective projects for switching to the use of lower-carbon-emitting fuels. Rules adopted un-
33 der this section shall include, but need not be limited to, rules:

- 34 (a) Establishing lending guidelines for loans from the fund;
- 35 (b) Establishing interest rates to be charged for loans;
- 36 (c) Establishing loan application procedures; and
- 37 (d) Establishing loan application and administrative fees.

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

40 **SECTION 51a.** Section 51 of this 2020 Act is amended to read:

41 **Sec. 51.** (1) The Traded Sector Greenhouse Gas Reduction Revolving Loan Fund is established
42 in the State Treasury, separate and distinct from the General Fund. Interest earned by the Traded
43 Sector Greenhouse Gas Reduction Revolving Loan Fund shall be credited to the fund. Moneys in the
44 fund are continuously appropriated to the Oregon Business Development Department to issue loans
45 under and to administer the program adopted under subsection (3) of this section.

(2) The fund shall consist of:

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

[(a)] (b) Moneys appropriated or transferred to the fund by the Legislative Assembly;

[(b)] (c) Repayment of moneys loaned from the fund;

[(c)] (d) Application fees required under subsection (3) of this section;

[(d)] (e) Interest and other earnings on the moneys in the fund; and

[(e)] (f) Gifts, grants or donations received from any source.

(3) The department shall adopt by rule a revolving loan program for issuing low- or zero-interest loans to finance projects or upgrades that will result in reductions in greenhouse gas emissions. Projects financed by loans under the program may include cost-effective projects for switching to the use of lower-carbon-emitting fuels. **To apply for a loan under the program, a person must be a trade-exposed natural gas user or an EITE entity described in section 24 of this 2020 Act.** Rules adopted under this section shall include, but need not be limited to, rules:

(a) Establishing lending guidelines for loans from the fund;

(b) Establishing interest rates to be charged for loans;

(c) Establishing loan application procedures; and

(d) Establishing loan application and administrative fees.

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

(5) Section 41 of this 2020 Act does not apply to moneys transferred by the Legislative Assembly to the Traded Sector Greenhouse Gas Reduction Revolving Loan Fund from the Climate Investments Fund established under section 39 of this 2020 Act.

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

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

(2) **How natural gas utilities and any designees of the natural gas utilities have expended proceeds from the sale of allowances consigned to the office for auction by the natural gas utilities pursuant to section 17 of this 2020 Act.**

SECTION 53. The Public Utility Commission shall establish processes and mechanisms to ensure timely cost recovery for prudent and reasonable costs incurred by public utilities associated with compliance with the Oregon Greenhouse Gas Initiative. The processes and mechanisms shall be established to address situations in which compliance with the Oregon Greenhouse Gas Initiative results in public utilities incurring costs for which cost recovery mechanisms otherwise authorized by law are not adequate.

SECTION 54. ORS 757.259 is amended to read:

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

(a) May reflect:

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

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

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

1 quests.

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

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

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

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

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

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

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

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

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

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

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

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

1 utility's costs and revenues during the deferral period for the purpose of reviewing the earnings of
 2 the electric utility under the provisions of subsection (5) of this section.

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

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

9 (a) The deferral was directly related to extraordinary power supply expenses incurred during
 10 2001;

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

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

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

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

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

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

22 **SECTION 55. Section 56 of this 2020 Act is added to and made a part of ORS chapter 757.**

23 **SECTION 56. The Public Utility Commission may, in such manner as the commission**
 24 **considers proper, allow a rate or rate schedule of a public utility to include differential rates**
 25 **or to reflect amounts for programs that enable the public utility to assist low-income resi-**
 26 **dential customers. Rates or rate schedules allowed under this section must minimize shifting**
 27 **costs to ratepayers that do not qualify for low-income assistance.**

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

30
 31 **SECTION 57. 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, "greenhouse gas" includes, but is not limited to, carbon**
 35 **dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride**
 36 **and nitrogen trifluoride.**

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 **32 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 under this subsection, the commission**
40 **shall consider the total fees for each person subject to registration and reporting under this**
41 **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 ORS 192.311 to
 2 192.478.

3
 4 **ENERGY FACILITY CARBON DIOXIDE EMISSIONS STANDARDS**
 5 **(Repeal of Carbon Dioxide Emissions Standards)**
 6

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

8 469.503. In order to issue a site certificate, the Energy Facility Siting Council shall determine
 9 that the preponderance of the evidence on the record supports the following conclusions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 *[(C) The applicant or a third party agrees to provide funds in an amount deemed sufficient to*
44 *produce the reduction in greenhouse gas emissions necessary to meet the applicable carbon dioxide*
45 *emissions standard, in which case the funds shall be used as specified in paragraph (d) of this sub-*

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

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

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

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

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

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

44 [(iii) Notwithstanding any provision to the contrary, a site certificate holder subject to this sub-
45 paragraph shall have no obligation with regard to offsets, the offset funds or the funds required by

1 *sub-subparagraph (ii) of this subparagraph other than to make available to the qualified organization*
2 *the total amount required under paragraph (c) of this subsection and sub-subparagraph (ii) of this*
3 *subparagraph, nor shall any nonperformance, negligence or misconduct on the part of the qualified*
4 *organization be a basis for revocation of the site certificate or any other enforcement action by the*
5 *council with respect to the site certificate holder.]*

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

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

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

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

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

45 *[(C) "Carbon dioxide equivalent" means the global warming potential of a greenhouse gas reflected*

1 *in units of carbon dioxide.]*

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

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

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

9 [(G) "Greenhouse gas" means carbon dioxide, methane and nitrous oxide.]

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

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

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

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

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

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

30 [(N) "Qualified organization" means an entity that:]

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

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

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

43 [(iv) Has made available on an annual basis, beginning after the first year of operation, a signed
44 opinion of an independent certified public accountant stating that the qualified organization's use of
45 funds pursuant to this statute conforms with generally accepted accounting procedures except that the

1 *qualified organization shall have one year to conform with generally accepted accounting principles in*
 2 *the event of a nonconforming audit;]*

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

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

8 *[(3)]* (2) Except as provided in ORS 469.504 for land use compliance and except for those statutes
 9 and rules for which the decision on compliance has been delegated by the federal government to a
 10 state agency other than the council, the facility complies with all other Oregon statutes and ad-
 11 ministrative rules identified in the project order, as amended, as applicable to the issuance of a site
 12 certificate for the proposed facility. If compliance with applicable Oregon statutes and administra-
 13 tive rules, other than those involving federally delegated programs, would result in conflicting con-
 14 ditions in the site certificate, the council may resolve the conflict consistent with the public interest.
 15 A resolution may not result in the waiver of any applicable state statute.

16 *[(4)]* (3) The facility complies with the statewide planning goals adopted by the Land Conserva-
 17 tion and Development Commission.

18 **SECTION 59.** ORS 469.501 is amended to read:

19 469.501. (1) The Energy Facility Siting Council shall adopt standards for the siting, construction,
 20 operation and retirement of facilities. The standards may address but need not be limited to the
 21 following subjects:

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

24 (b) Seismic hazards.

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

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

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

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

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

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

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

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

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

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

45 (m) Compliance with the statewide planning goals adopted by the Land Conservation and De-

1 velopment Commission as specified by ORS 469.503.

2 (n) Soil protection.

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

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

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

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

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

20
 21 **(Transitional Provisions)**

22
 23 **SECTION 60. (1) Notwithstanding ORS 469.401 (2), any conditions in a site certificate or**
 24 **amended site certificate issued before January 1, 2022, that are conditions related to any**
 25 **carbon dioxide emissions standard applicable pursuant to ORS 469.501 (1)(o) (2019 Edition) or**
 26 **469.503 (2019 Edition) or to rules adopted by the Energy Facility Siting Council pursuant to**
 27 **ORS 469.501 (1)(o) (2019 Edition) or 469.503 (2019 Edition) cease to be enforceable on January**
 28 **1, 2022.**

29 **(2) Any provision in a site certificate or amended site certificate for a generating facility,**
 30 **as defined in ORS 469.300, issued before January 1, 2022, requiring the holder to demonstrate**
 31 **the need for the facility shall cease to be enforceable on January 1, 2022.**

32 **(3) Any site certificate amendment approved by the council on or after January 1, 2022,**
 33 **shall remove from the site certificate being amended all conditions and provisions rendered**
 34 **unenforceable by subsections (1) or (2) of this section or section 61 of this 2020 Act.**
 35 **Notwithstanding ORS 469.405 or any council rule, the contested case hearing on a site cer-**
 36 **tificate amendment subject to this subsection may not include a hearing on amendments**
 37 **necessary to comply with this subsection. The provisions of the council’s order relevant to**
 38 **compliance with this subsection are not subject to judicial review.**

39 **SECTION 61. Any provision in a site certificate or amended site certificate that requires**
 40 **the offset of estimated future excess carbon dioxide emissions emitted on or after the ef-**
 41 **fective date of this 2020 Act based on a report of actual plant operations shall cease to be**
 42 **enforceable on January 1, 2021.**

43 **SECTION 62. The Energy Facility Siting Council shall, no later than January 1, 2023,**
 44 **complete rulemaking to amend or repeal any rules adopted by the council relating to the**
 45 **application of a carbon dioxide emissions standard to generating facilities or nongenerating**

1 facilities, as those terms are defined in ORS 469.300, necessary to bring the rules of the
 2 council into compliance with the amendments to ORS 469.501 and 469.503 by sections 58 and
 3 59 of this 2020 Act and the provisions of sections 60 and 61 of this 2020 Act.

4 **SECTION 63.** (1) As used in this section and section 64 of this 2020 Act, “qualified or-
 5 ganization” has the meaning given that term in ORS 469.503 (2)(e)(N) (2019 Edition).

6 (2) On or after the operative date of this section and the amendments to ORS 469.503 by
 7 section 58 of this 2020 Act and in accordance with the provisions of ORS 469.503 (2)(d) (2019
 8 Edition), a qualified organization that, before the operative date of this section and the
 9 amendments to ORS 469.503 by section 58 of this 2020 Act, received payment of offset funds
 10 pursuant to ORS 469.503 (2)(c)(C) (2019 Edition):

11 (a) Shall use at least 80 percent of the offset funds for contracts to implement offsets
 12 and assess offsets for their potential to qualify in, generate credits in or reduce obligations
 13 in other regulatory settings;

14 (b) May use up to 20 percent of the offset funds for monitoring, evaluating, administering
 15 and enforcing contracts to implement offsets; and

16 (c) Shall, at five-year intervals beginning on the date of the receipt of the offset funds
 17 and ending the year after the year that the qualified organization in no longer involved in
 18 the investment of offset funds received pursuant to ORS 469.503 (2)(c)(C) (2019 Edition),
 19 provide the Energy Facility Siting Council with the information the council requests about
 20 the qualified organization’s performance. The council shall evaluate the information re-
 21 quested and, based on the information, shall make any recommendations to the Legislative
 22 Assembly that the council deems appropriate.

23 **SECTION 64.** Section 63 of this 2020 Act is repealed on the date that the Legislative
 24 Counsel receives written notice from the Energy Facility Siting Council that the council has
 25 confirmed that all qualified organizations that received payment of offset funds pursuant to
 26 ORS 469.503 (2)(c)(C) (2019 Edition) have ceased to be involved in the investment of the offset
 27 funds.

28
 29 (Repeal)

30
 31 **SECTION 65.** ORS 469.409 is repealed.

32
 33 (Conforming Amendments)

34
 35 **SECTION 66.** ORS 469.300 is amended to read:

36 469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992, unless the
 37 context requires otherwise:

38 (1) “Applicant” means any person who makes application for a site certificate in the manner
 39 provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

40 (2) “Application” means a request for approval of a particular site or sites for the construction
 41 and operation of an energy facility or the construction and operation of an additional energy facility
 42 upon a site for which a certificate has already been issued, filed in accordance with the procedures
 43 established pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

44 (3) “Associated transmission lines” means new transmission lines constructed to connect an en-
 45 ergy facility to the first point of junction of such transmission line or lines with either a power

1 distribution system or an interconnected primary transmission system or both or to the Northwest
2 Power Grid.

3 (4) “Average electric generating capacity” means the peak generating capacity of the facility
4 divided by one of the following factors:

5 (a) For wind facilities, 3.00;

6 (b) For geothermal energy facilities, 1.11; or

7 (c) For all other energy facilities, 1.00.

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

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

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

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

14 (9) “Director” means the Director of the State Department of Energy appointed under ORS
15 469.040.

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

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

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

23 (i) Thermal power;

24 (ii) Combustion turbine power plant; or

25 (iii) Solar thermal power plant.

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

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

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

31 (ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000 volts along the same
32 right of way; and

33 (iii) Associated transmission lines.

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

35 (i) 160 acres located on high-value farmland as defined in ORS 195.300;

36 (ii) 1,280 acres located on land that is predominantly cultivated or that, if not cultivated, is
37 predominantly composed of soils that are in capability classes I to IV, as specified by the National
38 Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United
39 States Department of Agriculture; or

40 (iii) 1,920 acres located on any other land.

41 (E) A pipeline that is:

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

45 (ii) At least 16 inches in diameter, and five or more miles in length, used for the transportation

1 of natural or synthetic gas, but excluding:

2 (I) A pipeline proposed for construction of which less than five miles of the pipeline is more than
3 50 feet from a public road, as defined in ORS 368.001; or

4 (II) A parallel or upgraded pipeline up to 24 inches in diameter that is constructed within the
5 same right of way as an existing 16-inch or larger pipeline that has a site certificate, if all studies
6 and necessary mitigation conducted for the existing site certificate meet or are updated to meet
7 current site certificate standards; or

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

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

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

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

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

23 (i) The underground storage reservoir;

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

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

27 (J) An electric power generating plant with an average electric generating capacity of 50
28 megawatts or more if the power is produced from geothermal or wind energy at a single energy fa-
29 cility or within a single energy generation area.

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

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

42 (13) "Extraordinary nuclear occurrence" means any event causing a discharge or dispersal of
43 source material, special nuclear material or by-product material as those terms are defined in ORS
44 453.605, from its intended place of confinement off-site, or causing radiation levels off-site, that the
45 United States Nuclear Regulatory Commission or its successor determines to be substantial and to

1 have resulted in or to be likely to result in substantial damages to persons or property off-site.

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

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

5 [(15)] (16) "Geothermal reservoir" means an aquifer or aquifers containing a common geothermal
 6 fluid.

7 [(16)] (17) "Local government" means a city or county.

8 [(17)] (18) "Nominal electric generating capacity" means the maximum net electric power output
 9 of an energy facility based on the average temperature, barometric pressure and relative humidity
 10 at the site during the times of the year when the facility is intended to operate.

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

13 [(18)] (20) "Nuclear incident" means any occurrence, including an extraordinary nuclear occur-
 14 rence, that results in bodily injury, sickness, disease, death, loss of or damage to property or loss
 15 of use of property due to the radioactive, toxic, explosive or other hazardous properties of source
 16 material, special nuclear material or by-product material as those terms are defined in ORS 453.605.

17 [(19)] (21) "Nuclear installation" means any power reactor, nuclear fuel fabrication plant, nu-
 18 clear fuel reprocessing plant, waste disposal facility for radioactive waste, and any facility handling
 19 that quantity of fissionable materials sufficient to form a critical mass. "Nuclear installation" does
 20 not include any such facilities that are part of a thermal power plant.

21 [(20)] (22) "Nuclear power plant" means an electrical or any other facility using nuclear energy
 22 with a nominal electric generating capacity of 25 megawatts or more, for generation and distribution
 23 of electricity, and associated transmission lines.

24 [(21)] (23) "Person" means an individual, partnership, joint venture, private or public corpo-
 25 ration, association, firm, public service company, political subdivision, municipal corporation, gov-
 26 ernment agency, people's utility district, or any other entity, public or private, however organized.

27 [(22)] (24) "Project order" means the order, including any amendments, issued by the State De-
 28 partment of Energy under ORS 469.330.

29 [(23)(a)] (25)(a) "Radioactive waste" means all material which is discarded, unwanted or has no
 30 present lawful economic use, and contains mined or refined naturally occurring isotopes, accelerator
 31 produced isotopes and by-product material, source material or special nuclear material as those
 32 terms are defined in ORS 453.605. The term does not include those radioactive materials identified
 33 in OAR 345-50-020, 345-50-025 and 345-50-035, adopted by the council on December 12, 1978, and re-
 34 vised periodically for the purpose of adding additional isotopes which are not referred to in OAR
 35 345-50 as presenting no significant danger to the public health and safety.

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

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

45 [(25)] (27) "Site" means any proposed location of an energy facility and related or supporting

1 facilities.

2 [(26)] (28) "Site certificate" means the binding agreement between the State of Oregon and the
 3 applicant, authorizing the applicant to construct and operate a facility on an approved site, incor-
 4 porating all conditions imposed by the council on the applicant.

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

11 [(28)] (30) "Transportation" means the transport within the borders of the State of Oregon of
 12 radioactive material destined for or derived from any location.

13 [(29)] (31) "Underground gas storage reservoir" means any subsurface sand, strata, formation,
 14 aquifer, cavern or void, whether natural or artificially created, suitable for the injection, storage
 15 and withdrawal of natural gas or other gaseous substances. "Underground gas storage reservoir"
 16 includes a pool as defined in ORS 520.005.

17 [(30)] (32) "Utility" includes:

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

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

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

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

33 **SECTION 67.** ORS 469.310 is amended to read:

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

1 matter requiring determination by the Energy Facility Siting Council in the siting of a generating
 2 facility[, *as defined in ORS 469.503*].

3 **SECTION 68.** ORS 469.373 is amended to read:

4 469.373. (1) Notwithstanding the expedited review process established pursuant to ORS 469.370,
 5 an applicant may apply under the provisions of this section for expedited review of an application
 6 for a site certificate for an energy facility if the energy facility:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (i) A new National Pollutant Discharge Elimination System permit, except for a storm water

1 general permit for construction activities; or

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

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

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

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

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

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

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

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

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

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

45 (d) Proposed findings specifying how the proposed energy facility complies with the applicable

1 standards and criteria for approval of a site certificate.

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

5 (a) The requirements for expedited review as specified in this section;

6 (b) The standards adopted by the council pursuant to ORS 469.501 (1)(a), (c) to (e), (g), (h) and
7 (L) to [(o)] (n);

8 (c) The requirements of ORS 469.503 [(3)] (2); and

9 (d) The requirements of ORS 469.504 (1)(b).

10 (7) Following submission of an application for a site certificate, the council shall hold a public
11 informational meeting on the application. Following the issuance of the proposed order, the council
12 shall hold at least one public hearing on the application. The public hearing shall be held in the area
13 affected by the energy facility. The council shall mail notice of the hearing at least 20 days prior
14 to the hearing. The notice shall comply with the notice requirements of ORS 197.763 (2) and shall
15 include, but need not be limited to, the following:

16 (a) A description of the energy facility and the general location of the energy facility;

17 (b) The name of a department representative to contact and the telephone number at which
18 people may obtain additional information;

19 (c) A statement that copies of the application and proposed order are available for inspection
20 at no cost and will be provided at reasonable cost; and

21 (d) A statement that the record for public comment on the application will close at the conclu-
22 sion of the hearing and that failure to raise an issue in person or in writing prior to the close of
23 the record, with sufficient specificity to afford the decision maker an opportunity to respond to the
24 issue, will preclude consideration of the issue, by the council or by a court on judicial review of the
25 council's decision.

26 (8) Prior to the conclusion of the hearing, the applicant may request an opportunity to present
27 additional written evidence, arguments or testimony regarding the application. In the alternative,
28 prior to the conclusion of the hearing, the applicant may request a contested case hearing on the
29 application. If the applicant requests an opportunity to present written evidence, arguments or tes-
30 timony, the council shall leave the record open for that purpose only for a period not to exceed 14
31 days after the date of the hearing. Following the close of the record, the department shall prepare
32 a draft final order for the council. If the applicant requests a contested case hearing, the council
33 may grant the request if the applicant has shown good cause for a contested case hearing. If a re-
34 quest for a contested case hearing is granted, subsections (9) to (11) of this section do not apply,
35 and the application shall be considered under the same contested case procedures used for a non-
36 expedited application for a site certificate.

37 (9) The council shall make its decision based on the record and the draft final order prepared
38 by the department. The council shall, within six months of the date that the application is deemed
39 filed:

40 (a) Grant the application;

41 (b) Grant the application with conditions;

42 (c) Deny the application; or

43 (d) Return the application to the site certification process required by ORS 469.320.

44 (10) If the application is granted, the council shall issue a site certificate pursuant to ORS
45 469.401 and 469.402. Notwithstanding subsection (6) of this section, the council may impose condi-

1 tions based on standards adopted under ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an
2 application based on those standards.

3 (11) Judicial review of the approval or rejection of a site certificate by the council under this
4 section shall be as provided in ORS 469.403.

5 **SECTION 69.** ORS 469.405 is amended to read:

6 469.405. (1) A site certificate may be amended with the approval of the Energy Facility Siting
7 Council. The council may establish by rule the type of amendment that must be considered in a
8 contested case proceeding. Judicial review of an amendment to a site certificate shall be as provided
9 in ORS 469.403.

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

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

34 **SECTION 70.** ORS 469.407 is amended to read:

35 469.407. (1) A recipient may by amendment of its application for a site certificate or by amend-
36 ment of its site certificate increase the capacity of the facility if the Energy Facility Siting Council
37 finds that:

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

40 (b) The enlarged facility does not exceed 500 megawatts and meets the applicable carbon dioxide
41 standard provided for in ORS 469.503 (2) (2019 Edition) for any increase in capacity beyond the
42 capacity of the 500-megawatt exemption; and

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

44 (2) A recipient is deemed to meet any applicable need standard and carbon dioxide emissions
45 standard for the nominal generating capacity of the 500-megawatt exemption provided that the re-

1 recipient satisfies the conditions of the 500-megawatt exemption, unless the council modifies the con-
 2 ditions.

3 (3) As used in this section:

4 (a) "Recipient" means any base load gas plant, as defined in ORS 469.503 (2019 Edition), de-
 5 termined by the council to have the lowest net monetized air emissions among the applicants par-
 6 ticipating in a contested case proceeding.

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

9 **SECTION 71.** ORS 469.504 is amended to read:

10 469.504. (1) A proposed facility shall be found in compliance with the statewide planning goals
 11 under ORS 469.503 [(4)] (3) if:

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

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

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

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

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

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

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

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

40 (c) The following standards are met:

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

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

45 (C) The proposed facility is compatible with other adjacent uses or will be made compatible

1 through measures designed to reduce adverse impacts.

2 (3) If compliance with applicable substantive local criteria and applicable statutes and state
 3 administrative rules would result in conflicting conditions in the site certificate or amended site
 4 certificate, the council shall resolve the conflict consistent with the public interest. A resolution
 5 may not result in a waiver of any applicable state statute.

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

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

- 27 (a) The number of jurisdictions and zones in question;
- 28 (b) The degree to which the applicable substantive criteria reflect local government consider-
 29 ation of energy facilities in the planning process; and
- 30 (c) The level of consistency of the applicable substantive criteria from the various zones and
 31 jurisdictions.

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

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

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

45 (9) The State Department of Energy, in cooperation with other state agencies, shall provide, to

1 the extent possible, technical assistance and information about the siting process to local govern-
 2 ments that request such assistance or that anticipate having a facility proposed in their jurisdiction.

3 **SECTION 72.** ORS 469.505 is amended to read:

4 469.505. (1) In making a determination regarding compliance with statutes, rules and ordinances
 5 administered by another agency or compliance with requirements of ORS 469.300 to 469.563 and
 6 469.590 to 469.619 where another agency has special expertise, consultation with the other agency
 7 shall occur during the notice of intent and site certificate application process. Any permit applica-
 8 tion for which the permitting decision has been delegated by the federal government to a state
 9 agency other than the Energy Facility Siting Council shall be reviewed, whenever feasible, simul-
 10 taneously with the council's review of the site certificate application. Any hearings required on such
 11 permit applications shall be consolidated, whenever feasible, with hearings under ORS 469.300 to
 12 469.563 and 469.590 to 469.619.

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

17
 18 **REGULATION OF LANDFILL METHANE EMISSIONS**

19
 20 **SECTION 73.** Section 74 of this 2020 Act is added to and made a part of ORS chapter
 21 468A.

22 **SECTION 74.** (1) As used in this section:

23 (a) "Anthropogenic greenhouse gas emissions" means greenhouse gas emissions that are
 24 not biogenic emissions.

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

29 (c) "Hazardous waste" has the meaning given that term in ORS 466.005.

30 (d) "Land disposal site" has the meaning given that term in ORS 459.005.

31 (e) "Landfill" has the meaning given that term in ORS 459.005.

32 (f) "Solid waste" has the meaning given that term in ORS 459.005.

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

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

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

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

43 (b) Landfills that receive only hazardous waste.

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

45 (d) Land disposal sites that are closed as of the effective date of this 2020 Act and are

1 **no longer receiving solid waste, are maintained in compliance with ORS 459.268 and have less**
2 **than 450,000 metric tons of waste in place.**

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

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

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

8 **(c) Standards and requirements for methane surface emissions, monitoring and correc-**
9 **tive actions.**

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

12 **(e) Standards and requirements for records retention, landfill closure notification,**
13 **methane gas collection and control device removal or modification and annual operating re-**
14 **ports.**

15 **SECTION 75. The Environmental Quality Commission shall adopt rules under section 74**
16 **of this 2020 Act in time for the rules to become operative no later than July 1, 2022.**

17
18 **REPEAL OF FORESTRY OFFSET PROVISIONS**

19
20 **SECTION 76. ORS 526.780, 526.783, 526.786 and 526.789 are repealed.**

21 **SECTION 77. ORS 530.050 is amended to read:**

22 530.050. Under the authority and direction of the State Board of Forestry except as otherwise
23 provided for the sale of forest products, the State Forester shall manage the lands acquired pursuant
24 to ORS 530.010 to 530.040 so as to secure the greatest permanent value of those lands to the state,
25 and to that end may:

26 (1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with
27 persons owning lands within the state in the protection of the lands and enter into all agreements
28 necessary or convenient for the protection of the lands.

29 (2) Sell forest products from the lands, and execute mining leases and contracts as provided for
30 in ORS 273.551.

31 (3) Enter into and administer contracts for the sale of timber from lands owned or managed by
32 the State Board of Forestry and the State Forestry Department.

33 (4) Enter into and administer contracts for activities necessary or convenient for the sale of
34 timber under subsection (3) of this section, either separately from or in conjunction with contracts
35 for the sale of timber, including but not limited to activities such as timber harvesting and sorting,
36 transporting, gravel pit development or operation, and road construction, maintenance or improve-
37 ment.

38 (5) Permit the use of the lands for other purposes, including but not limited to forage and browse
39 for domestic livestock, fish and wildlife environment, landscape effect, protection against floods and
40 erosion, recreation, and protection of water supplies when, in the opinion of the board, the use is
41 not detrimental to the best interest of the state.

42 (6) Grant easements, permits and licenses over, through and across the lands. The State Forester
43 may require and collect reasonable fees or charges relating to the location and establishment of
44 easements, permits and licenses granted by the state over the lands. The fees and charges collected
45 shall be used exclusively for the expenses of locating and establishing the easements, permits and

1 licenses under this subsection and shall be placed in the State Forestry Department Account.

2 (7) Require and collect fees or charges for the use of state forest roads. The fees or charges
3 collected shall be used exclusively for purposes of maintenance and improvements of the roads and
4 shall be placed in the State Forestry Department Account.

5 (8) Reforest the lands and cooperate with the counties, and with persons owning timberlands
6 within the state, in the reforestation, and make all agreements necessary or convenient for the
7 reforestation.

8 (9) Require such undertakings as in the opinion of the board are necessary or convenient to
9 secure performance of any contract entered into under the terms of this section or ORS 273.551.

10 (10) Sell rock, sand, gravel, pumice and other such materials from the lands. The sale may be
11 negotiated without bidding, provided the appraised value of the materials does not exceed \$2,500.

12 (11) Enter into agreements, each for not more than 10 years duration, for the production of mi-
13 nor forest products.

14 (12) *[Establish a forestry carbon offset program to]* Market, register, transfer or sell forestry
15 carbon offsets. *[In establishing the program, the forester may:]*

16 *[(a) Execute any contracts or agreements necessary to create opportunities for the creation of*
17 *forestry carbon offsets; and]*

18 *[(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of*
19 *forestry carbon offsets.]*

20 (13) Do all things and make all rules, not inconsistent with law, necessary or convenient for the
21 management, protection, utilization and conservation of the lands.

22 **SECTION 78.** ORS 530.500 is amended to read:

23 530.500. In order to accomplish the purposes of ORS 530.490, the State Forester may:

24 (1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with
25 persons owning lands within the state in the protection of the lands and enter into all agreements
26 necessary or convenient for the protection of the lands.

27 (2) Enter into and administer contracts for the sale of timber from lands owned or managed by
28 the State Board of Forestry and the State Forestry Department.

29 (3) Enter into and administer contracts for activities necessary or convenient for the sale of
30 timber under subsection (2) of this section, either separately from or in conjunction with contracts
31 for the sale of timber, including but not limited to activities such as timber harvesting and sorting,
32 transporting, gravel pit development or operation, and road construction, maintenance or improve-
33 ment.

34 (4) Permit the use of the lands for other purposes, including but not limited to fish and wildlife
35 environment, landscape effect, protection against flood and erosion, recreation and production and
36 protection of water supplies when the use is not detrimental to the purpose for which the lands are
37 dedicated.

38 (5) Contract with other governmental bodies for the protection of water supplies to facilitate the
39 multiple use of publicly owned water supplies for recreational purposes as well as a source of water
40 for domestic and industrial use.

41 (6) Grant permits and licenses on, over and across the lands.

42 (7) Reforest the lands and cooperate with persons owning timberlands within the state in the
43 reforestation, and make all agreements necessary or convenient for the reforestation.

44 (8) *[Establish a forestry carbon offset program to]* Market, register, transfer or sell forestry car-
45 bon offsets. *[In establishing the program, the forester may:]*

1 *[(a) Execute any contracts or agreements necessary to create opportunities for the creation of*
2 *forestry carbon offsets; and]*

3 *[(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of*
4 *forestry carbon offsets.]*

5 (9) Do all things and make all rules and regulations, not inconsistent with law, necessary or
6 convenient for the management, protection, utilization and conservation of the lands.

7 (10) Require such undertakings as in the opinion of the State Forester are necessary or con-
8 venient to secure performance of any agreement authorized in ORS 530.450 to 530.520.

9
10 **APPLICABILITY OF OREGON GREENHOUSE GAS INITIATIVE**
11 **TO ENERGY FACILITIES WITH SITE CERTIFICATES**

12
13 **SECTION 79. Section 79a of this 2020 Act is added to and made a part of ORS 469.300 to**
14 **469.563.**

15 **SECTION 79a. (1) The Legislative Assembly finds and declares that greenhouse gas**
16 **emissions from energy facilities subject to site certificates or amended site certificates are**
17 **a significant threat to the public health, safety or the environment.**

18 **(2) Notwithstanding ORS 469.401 (2), a facility with a site certificate or amended site**
19 **certificate in effect on or after the effective date of this 2020 Act shall comply with sections**
20 **4 to 32 of this 2020 Act to the extent that compliance by the facility is required under**
21 **sections 4 to 32 of this 2020 Act.**

22
23 **OREGON GLOBAL WARMING COMMISSION ABOLISHED**

24
25 **SECTION 80. (1) The Oregon Global Warming Commission is abolished. On the operative**
26 **date of this section, the tenure of office of the members of the Oregon Global Warming**
27 **Commission ceases.**

28 **(2) ORS 468A.200, 468A.210, 468A.215, 468A.220, 468A.225, 468A.230, 468A.235, 468A.240,**
29 **468A.245, 468A.250, 468A.255 and 468A.260 are repealed.**

30
31 **(Amendments to Statutes)**

32
33 **SECTION 81. ORS 352.823 is amended to read:**

34 352.823. (1) The Oregon Climate Change Research Institute is established at Oregon State Uni-
35 versity. In administering the institute, Oregon State University may seek the cooperation of other
36 public universities listed in ORS 352.002.

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

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

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

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

42 *[(d) Support the Oregon Global Warming Commission in developing strategies to prepare for and*
43 *to mitigate the effects of climate change on natural and human systems; and]*

44 *[(e)]* **(d)** Provide technical assistance to local governments to assist them in developing climate
45 change policies, practices and programs.

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

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

8 **SECTION 82.** ORS 468A.265 is amended to read:

9 468A.265. As used in ORS 468A.265 to 468A.277:

10 (1) "Biodiesel" means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty
11 acids derived from vegetable oils, animal fats or other nonpetroleum resources, not including palm
12 oil.

13 (2) "Clean fuels program" means the program adopted by rule by the Environmental Quality
14 Commission under ORS 468A.266 (1)(b).

15 (3) "Compliance period" means the calendar year during which a regulated party must demon-
16 strate compliance with the low carbon fuel standards through participation in the clean fuels pro-
17 gram.

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

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

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

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

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

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

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

37 (11) "Motor vehicle" has the meaning given that term in ORS 801.360.

38 (12) "Regulated party" means a person responsible for complying with the low carbon fuel
39 standards.

40 (13) "Small deficit" means a net deficit balance at the end of a compliance period, after retire-
41 ment of all credits held by a regulated party, that does not exceed a percentage set by the com-
42 mission by rule of the total number of deficits that the regulated party generated for a compliance
43 period and that may not be greater than 10 percent of the total number of deficits that the regulated
44 party generated for a compliance period.

45 **SECTION 83.** ORS 468A.279 is amended to read:

- 1 468A.279. (1) As used in this section:
- 2 (a) “Greenhouse gas” has the meaning given that term in ORS [468A.210] **468A.265**.
- 3 (b) “Motor vehicle” has the meaning given that term in ORS 801.360.
- 4 (2) The Environmental Quality Commission may adopt by rule standards and requirements de-
- 5 scribed in this section to reduce greenhouse gas emissions.
- 6 (3)(a) The commission may adopt requirements to prevent the tampering, alteration and modifi-
- 7 cation of the original design or performance of motor vehicle pollution control systems.
- 8 (b) Before adopting requirements under this section, the commission shall consider the anti-
- 9 tampering requirements and exemptions of the State of California.
- 10 (4) The commission may adopt requirements for motor vehicle service providers to check and
- 11 inflate tire pressure according to the tire manufacturer’s or motor vehicle manufacturer’s recom-
- 12 mended specifications, provided that the requirements:
- 13 (a) Do not apply when the primary purpose of the motor vehicle service is fueling vehicles; and
- 14 (b) Do not require motor vehicle service providers to purchase equipment to check and inflate
- 15 tire pressure.
- 16 (5) The commission may adopt restrictions on engine use by commercial ships while at port, and
- 17 requirements that ports provide alternatives to engine use such as electric power, provided that:
- 18 (a) Engine use shall be allowed when necessary to power mechanical or electrical operations if
- 19 alternatives are not reasonably available;
- 20 (b) Engine use shall be allowed when necessary for reasonable periods due to emergencies and
- 21 other considerations as determined by the commission; and
- 22 (c) The requirements must be developed in consultation with representatives of Oregon ports
- 23 and take into account operational considerations, operational agreements, international protocols
- 24 and limitations, the ability to fund the purchase and use of electric power equipment and the po-
- 25 tential effect of the requirements on competition with other ports.
- 26 (6) In adopting rules under this section, the commission shall evaluate:
- 27 (a) Safety, feasibility, net reduction of greenhouse gas emissions and cost-effectiveness;
- 28 (b) Potential adverse impacts to public health and the environment, including but not limited to
- 29 air quality, water quality and the generation and disposal of waste in this state;
- 30 (c) Flexible implementation approaches to minimize compliance costs; and
- 31 (d) Technical and economic studies of comparable greenhouse gas emissions reduction measures
- 32 implemented in other states and any other studies as determined by the commission.
- 33 (7) The provisions of this section do not apply to:
- 34 (a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.
- 35 (b) Farm tractors, as defined in ORS 801.265.
- 36 (c) Implements of husbandry, as defined in ORS 801.310.
- 37 (d) Motor trucks, as defined in ORS 801.355, used primarily to transport logs.
- 38 **SECTION 84.** ORS 757.528 is amended to read:
- 39 757.528. (1) Unless modified by rule by the State Department of Energy as provided in this sec-
- 40 tion, the greenhouse gas emissions standard that applies to consumer-owned utilities is 1,100 pounds
- 41 of greenhouse gases per megawatt-hour for a generating facility.
- 42 (2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions
- 43 standard includes only carbon dioxide emissions.
- 44 (3) For purposes of applying the emissions standard to cogeneration facilities, the department
- 45 shall establish an output-based methodology to ensure that the calculation of emissions of

1 greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process
 2 and includes all greenhouse gases emitted by the facility in the production of both electrical and
 3 thermal energy.

4 (4) The department shall review the greenhouse gas emissions standard established under this
 5 section no more than once every three years. After public notice and hearing, and consultation with
 6 the Public Utility Commission, the department may:

7 (a) Modify the emissions standard to include other greenhouse gases as defined in ORS
 8 [468A.210] **468A.265**, with the other greenhouse gases expressed as their carbon dioxide equivalent;
 9 and

10 (b) Modify the emissions standard based upon current information on the rate of greenhouse gas
 11 emissions from a commercially available combined-cycle natural gas generating facility that:

12 (A) Employs a combination of one or more gas turbines and one or more steam turbines and
 13 produces electricity in the steam turbines from waste heat produced by the gas turbines;

14 (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordi-
 15 nating Council; and

16 (C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

17 (5) In modifying the greenhouse gas emissions standard, the department shall:

18 (a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions
 19 through cogeneration recognizes the total usable energy output of the process and includes all
 20 greenhouse gases emitted by the generating facility in the production of both electrical and thermal
 21 energy; and

22 (b) Consider the effects of the emissions standard on system reliability and overall costs to
 23 electricity consumers.

24 (6) If upon a review conducted pursuant to subsection (4) of this section, the department deter-
 25 mines that a mandatory greenhouse gas emissions limit has been established pursuant to state or
 26 federal law, the department shall issue a report to the appropriate legislative committees of the
 27 Legislative Assembly stating which portions, if any, of the greenhouse gas emissions standard are
 28 no longer necessary as a matter of state law.

29
 30 **REQUIREMENTS FOR ETHANOL CONTENT IN GASOLINE**

31
 32 **SECTION 85.** ORS 646.913 is amended to read:

33 646.913. (1) Except as provided in subsection (4) of this section, a wholesale dealer, retail dealer
 34 or nonretail dealer may not sell gasoline or offer gasoline for sale unless the gasoline contains **at**
 35 **least** 10 percent denatured fuel ethanol by volume. Gasoline that contains anhydrous ethanol in
 36 concentrations [*between 9.2 percent and 10 percent*] **of at least 9.2 percent** by volume complies with
 37 the requirement set forth in this subsection.

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

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

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

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

45 (d) Is not blended with casinghead gasoline, absorption gasoline, drip gasoline or natural gaso-

1 line after the gasoline has been sold, transferred or otherwise removed from a refinery or terminal;
 2 and

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

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

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

12 (a) An aircraft:

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

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

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

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

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

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

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

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

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

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

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

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

31 (L) A watercraft.

32
 33 **LIGHT BULB ENERGY EFFICIENCY STANDARDS**

34
 35 **SECTION 86. (1) As used in this section:**

36 (a) **“General service lamp” includes general service incandescent lamps, compact flu-**
 37 **orescent lamps, general service light-emitting diode lamps, organic light-emitting diode**
 38 **lamps and any other lamps that are used to satisfy lighting applications traditionally served**
 39 **by general service incandescent lamps.**

40 (b) **“High CRI fluorescent lamp” means a fluorescent lamp with a color rendering index**
 41 **of 87 or greater and that is not a compact fluorescent lamp.**

42 (2) **A person may not sell or offer for sale in this state a new general service lamp**
 43 **manufactured on or after January 1, 2020, unless the efficiency of the new general service**
 44 **lamp meets or exceeds 45 lumens per watt, when tested in accordance with the applicable**
 45 **federal test procedures for general service lamps prescribed in 10 C.F.R. 430.23 in effect as**

1 of January 3, 2017.

2 (3)(a) Subject to paragraph (b) of this subsection, a person may not sell or offer for sale
 3 a new high CRI fluorescent lamp unless the efficiency of the new high CRI fluorescent lamp
 4 meets or exceeds the efficiency standards set forth in 10 C.F.R. 430.32(n)(4) in effect as of
 5 January 3, 2017, as measured in accordance with the test methods prescribed in appendix R
 6 of 10 C.F.R. part 430, subpart B, in effect as of January 3, 2017.

7 (b) Paragraph (a) of this subsection applies to high CRI fluorescent lamps manufactured
 8 on or after January 1, 2023, or an earlier applicability date, not to precede January 1, 2022,
 9 as established by the State Department of Energy by rule. The department may not adopt
 10 by rule an earlier applicability date unless an adjoining state adopts an efficiency standard
 11 for high CRI fluorescent lamps that is comparable to the standard described in paragraph (a)
 12 of this subsection and that becomes applicable before January 1, 2023.

13 (4) The department may by rule adjust the definition of “general service lamp” or “high
 14 CRI fluorescent lamp” or may by rule adjust the minimum efficiency standards described in
 15 subsections (2) and (3) of this section if the department determines that the adjustments are
 16 necessary to coordinate to the greatest extent practicable with the efficiency standards for
 17 general service lamps and high CRI fluorescent lamps of adjoining states that have adopted
 18 comparable efficiency standards.

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 28 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 to determine whether this 2020 Act is a bill for raising revenue
 28 subject to the provisions of Article IV, sections 18 and 25 (2), of the Oregon Constitution, is
 29 conferred on the Supreme Court.

30 (3)(a) Any person interested in or affected or aggrieved by, or who will be affected or
 31 aggrieved by, section 28 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 or will be interested, af-
 34 fected or 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 Administrator of the Office of Greenhouse
 37 Gas Regulation, 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 is conferred on the Supreme Court to determine:

44 (a) Whether the proceeds received from the auction or sale of an allowance conducted
 45 under section 28 of this 2020 Act are tax revenues subject to Article IX, section 3a, Oregon

1 Constitution, when the allowance is purchased by or on behalf of a covered entity described
 2 in section 5 (2)(d) of this 2020 Act that produces in Oregon, or imports into Oregon, motor
 3 vehicle fuel; and

4 (b) Whether Article IX, section 3a, Oregon Constitution, applies to the surrender of a
 5 compliance instrument under section 5 (4) of this 2020 Act to fulfill a compliance obligation
 6 attributable to the combustion of motor vehicle fuel.

7 (2)(a) Any person interested in or affected or aggrieved by, or who will be affected or
 8 aggrieved by, sections 5 (4) or 28 of this 2020 Act may petition for judicial review under this
 9 section. A petition for review must be filed within 60 days after the effective date of this
 10 2020 Act. The petition shall be captioned “In the Matter of the Disposition of Carbon Allow-
 11 ance Auction Proceeds” and the Supreme Court shall consolidate all petitions filed under this
 12 subsection in a single proceeding with that caption. All petitioners shall be deemed parties
 13 to the consolidated proceeding. The state shall be deemed a respondent to all petitions filed
 14 under this subsection.

15 (b) Each petition must state facts showing how the petitioner is or will be interested,
 16 affected or aggrieved and the grounds upon which the petition is based.

17 (3) Each petitioner shall serve a copy of the petition by registered or certified mail upon
 18 the Department of Environmental Quality, the Administrator of the Office of Greenhouse
 19 Gas Regulation, the Attorney General and the Governor.

20 (4) Proceedings for review under this section shall be given priority over all other mat-
 21 ters before the Supreme Court.

22 (5) In the event that the Supreme Court determines that there are factual issues in the
 23 petition, the Supreme Court may appoint a special master to hear evidence and to prepare
 24 recommended findings of fact.

25 **SECTION 89.** If section 28 of this 2020 Act is judicially declared by the Supreme Court
 26 to not impose a tax from which the revenues are subject to the provisions of Article IX,
 27 section 3a, of the Oregon Constitution, then it is the intent of the Legislative Assembly that,
 28 after the date of the judicial declaration, the Legislative Assembly will:

29 (1) Identify specific opportunities for using state proceeds from auctions conducted under
 30 section 28 of this 2020 Act each biennium to reduce greenhouse gas emissions associated with
 31 transportation through investments in transportation electrification, compressed natural gas
 32 and hydrogen fuel cell vehicles and infrastructure, and low-emission and zero-emission
 33 transit vehicles;

34 (2) Identify specific opportunities for using state proceeds from auctions conducted under
 35 section 28 of this 2020 Act each biennium to reduce greenhouse gas emissions through the
 36 replacement of medium-duty trucks and heavy-duty trucks powered by diesel engines or the
 37 repower or retrofit of diesel engines that power medium-duty trucks and heavy-duty trucks;

38 (3) Identify specific opportunities for using state proceeds from auctions conducted under
 39 section 28 of this 2020 Act each biennium to reduce greenhouse gas emissions related to ag-
 40 riculture, with priority given to the replacement, repower or retrofit of nonroad equipment
 41 to reduce emissions that present serious risks to farmworker health; and

42 (4) Modify the distributions of state proceeds from auctions as provided in sections 28,
 43 29, 33 to 37 and 38 to 40 of this 2020 Act, and repeal or amend any other statutes or session
 44 laws, as deemed necessary to:

45 (a) Address the judicial declaration by the Supreme Court that section 28 of this 2020 Act

1 does not impose a tax that is subject to the provisions of Article IX, section 3a, of the
 2 Oregon Constitution; and

3 (b) Implement the opportunities identified pursuant to subsections (1) to (3) of this sec-
 4 tion.

5 **SECTION 90.** Section 89 of this 2020 Act becomes operative on January 2 of the year
 6 following the date on which section 28 of this 2020 Act is judicially declared by the Supreme
 7 Court to not impose a tax from which the revenues are subject to the provisions of Article
 8 IX, section 3a, of the Oregon Constitution.

9 **SECTION 91.** Sections 89 and 90 of this 2020 Act are repealed on the earlier of:

10 (1) The date on which section 28 of this 2020 Act is judicially declared by the Supreme
 11 Court to impose a tax from which the revenues are subject to the provisions of Article IX,
 12 section 3a, of the Oregon Constitution; or

13 (2) January 2, 2028.

14 **SECTION 92.** (1) Original jurisdiction to determine whether auctions conducted under
 15 section 28 of this 2020 Act impose a tax or excise from which the proceeds are subject to the
 16 provisions of Article VIII, section 2 (1)(g), of the Oregon Constitution, is conferred on the
 17 Supreme Court.

18 (2)(a) Any person interested in or affected or aggrieved by, or who will be affected or
 19 aggrieved by, section 28 of this 2020 Act may petition for judicial review under this section.
 20 A petition for review must be filed within 60 days after the effective date of this 2020 Act.

21 (b) The petition must state facts showing how the petitioner is or will be interested, af-
 22 fected or aggrieved and the grounds upon which the petition is based.

23 (3) The petitioner shall serve a copy of the petition by registered or certified mail upon
 24 the Department of Environmental Quality, the Administrator of the Office of Greenhouse
 25 Gas Regulation, the Attorney General and the Governor.

26 (4) Proceedings for review under this section shall be given priority over all other mat-
 27 ters before the Supreme Court.

28 (5) In the event that the Supreme Court determines that there are factual issues in the
 29 petition, the Supreme Court may appoint a special master to hear evidence and to prepare
 30 recommended findings of fact.

31
 32 **REPORTS AND REVIEWS**

33
 34 **SECTION 93.** (1) The Legislative Revenue Officer, in consultation with the Department
 35 of Transportation and any other appropriate state agencies, shall conduct the following eco-
 36 nomic modeling and analyses related to the impacts of regulating anthropogenic greenhouse
 37 gas emissions attributable to the combustion of motor vehicle fuel used to propel motor ve-
 38 hicles in this state:

39 (a) Economic modeling of the impacts on fuel prices to operate light vehicles and heavy
 40 vehicles in this state, in 2024 and each following calendar year before 2036, due to regulation
 41 of motor vehicle fuel producers and importers under both the Oregon Greenhouse Gas Ini-
 42 tiative established under sections 4 to 32 of this 2020 Act and the clean fuels program adopted
 43 by rule under ORS 468A.266.

44 (b) Economic modeling of the impacts on costs to procure and build public infrastructure
 45 including streets, roads, bridges and highways due to regulation of motor vehicle fuel pro-

1 **ducers and importers under both the Oregon Greenhouse Gas Initiative established under**
 2 **sections 4 to 32 of this 2020 Act and the clean fuels program adopted by rule under ORS**
 3 **468A.266.**

4 (c) **An analysis of the pace of the following changes within the Oregon transportation**
 5 **sector that would be necessary to allow for the State of Oregon to achieve the greenhouse**
 6 **gas emissions reduction goals set forth in ORS 468A.205, and an analysis of the costs and**
 7 **benefits to consumers associated with accomplishing those changes:**

8 (A) **Transportation electrification;**

9 (B) **Adoption of alternative fuel and high efficiency vehicles; and**

10 (C) **Reductions in vehicle miles traveled.**

11 (d) **An analysis of the permissible uses of moneys deposited in the Transportation**
 12 **Decarbonization Investments Account established in section 34 of this 2020 Act.**

13 (e) **An analysis of alternatives to the current system of taxing highway use through**
 14 **motor vehicle fuel taxes.**

15 (f) **An analysis of the potential for the geographic implementation of a carbon price for**
 16 **motor vehicle fuels, as provided in section 13 of this 2020 Act, to influence:**

17 (A) **Choices by the sellers of motor vehicle fuel at retail regarding where to locate retail**
 18 **facilities in response to the Oregon Greenhouse Gas Initiative; or**

19 (B) **Choices by retail motor vehicle fuel customers in response to the Oregon Greenhouse**
 20 **Gas Initiative regarding where to purchase motor vehicle fuel.**

21 (2) **On or before September 15, 2022, and in the manner provided by ORS 192.245, the**
 22 **Legislative Revenue Officer shall provide a report detailing the results of the economic**
 23 **modeling and analyses required by this section to a committee of the Legislative Assembly**
 24 **related to the environment and to the Joint Committee on Transportation.**

25 **SECTION 94.** Section 75, chapter 750, Oregon Laws 2017, is amended to read:

26 **Sec. 75.** (1) The Oregon Transportation Commission shall conduct a **biennial** study.

27 (2)(a) The purpose of the study is to determine:

28 [(a)] (A) The proportionate share that users of vehicles that are powered by different means
 29 should pay for the costs of maintenance, operation and improvement of the highways in this state;
 30 and

31 [(b)] (B) Whether users of vehicles that are powered by different means are paying that share.

32 [(2)] (b) If the commission determines that users are not paying a proportionate share, then the
 33 commission may include in the report recommendations for legislation.

34 [(3)] (c) This [section] **subsection** applies to users paying the vehicle registration fee under ORS
 35 803.420 (6)(a).

36 (3) **In addition to addressing the purpose set forth in subsection (2) of this section, the**
 37 **study shall examine the effects of the Oregon Greenhouse Gas Initiative established under**
 38 **sections 4 to 32 of this 2020 Act on accelerating the transition in this state to high efficiency**
 39 **vehicles and engines and alternative fuels, and the impacts of those changes on the long-**
 40 **term funding sources for paying the costs of maintenance, operation and improvement of the**
 41 **highways in this state.**

42 (4) The commission shall report the results of the study to **the Road User Fee Task Force**
 43 **established under ORS 184.843, the Joint Committee on Transportation established under [section**
 44 **26 of this 2017 Act] ORS 171.858 and a committee of the Legislative Assembly related to the**
 45 **environment, in the manner provided by ORS 192.245, no later than September 15[, 2023] of each**

1 **odd-numbered year, beginning in 2025.**

2 **SECTION 95.** Section 76, chapter 750, Oregon Laws 2017, is amended to read:

3 **Sec. 76.** Section 75, chapter 750, Oregon Laws 2017, [of this 2017 Act] is repealed on January
4 2, [2024] 2030.

5 **SECTION 95a.** (1) The Office of Greenhouse Gas Regulation shall conduct a study on
6 whether amendments to section 13 of this 2020 Act are necessary or recommended to further
7 the purposes set forth in section 2 of this 2020 Act.

8 (2) The office shall submit a report on the study, which may include recommendations
9 for legislation, in the manner provided under ORS 192.245 to an appropriate interim com-
10 mittee of the Legislative Assembly no later than September 15, 2022.

11 **SECTION 95b. Residential home heating assistance program proposal.** (1) The Housing
12 and Community Services Department, in consultation with the Office of Greenhouse Gas
13 Regulation, the Oregon Housing Stability Council and interested stakeholders, shall develop
14 a proposal for assisting households that for residential home heating use fuels that are not
15 natural gas. The proposal shall give priority to assisting low and moderate income house-
16 holds or impacted communities, as designated by the Oregon Greenhouse Gas Reduction
17 Board under section 103 of this 2020 Act, through:

18 (a) Bill assistance;

19 (b) Weatherization; and

20 (c) Options for upgrading to more efficient home heating equipment or to home heating
21 systems powered by less greenhouse gas emissions-intensive power sources.

22 (2) The department shall develop the proposal in a manner intended to achieve the fol-
23 lowing goals:

24 (a) Reducing greenhouse gas emissions;

25 (b) Saving energy;

26 (c) Reducing the energy burden experienced by households; and

27 (d) Reducing residential home heating service disparities in historically underserved
28 populations.

29 (3) The proposal required by this section may be for any combination of:

30 (a) The development of a single new program;

31 (b) The development of multiple new programs or activities to achieve different goals as
32 outlined in subsection (2) of this section; or

33 (c) Utilization of existing programs or partnerships to deliver assistance to households.

34 (4) Options included in the proposal under subsection (1)(c) of this section must take into
35 consideration the carbon intensities of fuels for the home heating equipment or systems, as
36 those carbon intensities are assigned under the clean fuels program adopted by rule by the
37 Environmental Quality Commission under ORS 468A.266 (1)(b) or based on another appro-
38 priate methodology.

39 (5) On or before September 15, 2021, and in the manner provided by ORS 192.245, the
40 Housing and Community Services Department shall provide a report detailing the proposal
41 and steps, which may include recommendations for legislation, necessary to implement the
42 proposal, to the Oregon Greenhouse Gas Reduction Board and the Legislative Assembly.

43 **SECTION 95c.** (1) As used in this section:

44 (a) "Local government" has the meaning given that term in ORS 174.116.

45 (b) "Special government body" has the meaning given that term ORS 174.117.

1 (c) “Zero-emission vehicle” has the meaning given that term in ORS 283.398.

2 (2) The Oregon Department of Administrative Services shall adopt by rule a model pro-
 3 gram for local governments and special government bodies to follow in planning to procure
 4 and procuring zero-emission vehicles. The model program shall provide for a rate of pro-
 5 curement of zero-emission vehicles consistent with the findings and goals set forth in ORS
 6 283.398 and the provisions of ORS 283.327.

7 (3) The model program may provide for the department to participate in, sponsor, con-
 8 duct or administer cooperative procurements in accordance with ORS 279A.200 to 279A.225
 9 under which local governments and special government bodies may procure zero-emission
 10 vehicles.

11 SECTION 95d. The Oregon Department of Administrative Services shall study options
 12 for, when awarding state procurement contracts, accounting for the greenhouse gas emis-
 13 sions implications of transporting goods and services to Oregon. The department shall, in the
 14 manner provided by ORS 192.245, provide a report detailing the options to the Legislative
 15 Assembly no later than September 15, 2021. The report may include recommendations for
 16 legislation.

17 SECTION 95e. (1) The Oregon Business Development Department, in consultation with
 18 the Legislative Revenue Officer and the Department of Revenue, shall identify and examine
 19 policy options for addressing barriers to capital investment by businesses in Oregon to re-
 20 duce greenhouse gas emissions through:

- 21 (a) Vehicle fleet conversion; and
- 22 (b) Vehicle technology and facility upgrades.

23 (2) The policy options examined under this section shall include modifications to depre-
 24 ciation and subtractions for Oregon tax purposes. The Oregon Business Development De-
 25 partment shall, in the manner provided by ORS 192.245, provide a report detailing the
 26 identified policy options to the Legislative Assembly no later than September 15, 2021. The
 27 report may include recommendations for legislation.

28 SECTION 95f. (1) The Department of Environmental Quality shall study opportunities for
 29 further reducing greenhouse gas emissions through waste reduction and recycling. The study
 30 shall include but need not be limited to:

- 31 (a) Opportunities for reducing the amount of putrescible wastes going to landfills;
- 32 (b) An analysis of the greenhouse gas emissions implications of local versus distant re-
 33 cycling; and
- 34 (c) Opportunities to develop grant programs to improve recycling and compost
 35 infrastructure in Oregon.

36 (2) The department shall, in the manner provided by ORS 192.245, provide a report on the
 37 study to the Legislative Assembly no later than September 15, 2021. The report may include
 38 recommendations for legislation.

39 SECTION 95g. (1) The State Parks and Recreation Department shall develop a proposal
 40 for a program to include and engage all Oregonians in an annual, one-day tree planting event
 41 on public lands. The proposal shall identify how the program will:

- 42 (a) Provide opportunities for the program to be implemented in partnership with all local
 43 governments as defined in ORS 174.116 and special government bodies as defined in ORS
 44 174.117; and
- 45 (b) Include a comprehensive educational component, available to all participants and to

1 the general public, on the lifecycle of trees, forest science, and the benefits of timber harvest
 2 and use to Oregon's economy and to a sustainable environment, including but not limited to
 3 the carbon sequestration benefits of timber and forest products.

4 (2) On or before September 15, 2021, and in the manner provided by ORS 192.245, the de-
 5 partment shall provide a report, which may include recommendations for legislation, detail-
 6 ing the proposal and steps necessary to implement the proposal, to the Legislative Assembly.

7
 8 **JUST TRANSITION**

9
 10 **SECTION 96.** (1) The Just Transition Fund is established in the State Treasury, separate
 11 and distinct from the General Fund. Interest earned by the Just Transition Fund shall be
 12 credited to the fund. Moneys in the fund are continuously appropriated to the Oregon
 13 Greenhouse Gas Reduction Board to be used to carry out the purposes described in section
 14 96a of this 2020 Act.

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

16 (3) The fund shall include a reserve account, which shall consist of moneys allocated or
 17 appropriated to the fund by the Legislative Assembly for deposit in the reserve account. The
 18 reserve account shall be maintained and used by the board only for the purposes described
 19 in section 96a (2)(b) of this 2020 Act.

20 **SECTION 96a.** (1) The Oregon Greenhouse Gas Reduction Board, in consultation with the
 21 Higher Education Coordinating Commission, the State Workforce and Talent Development
 22 Board, the Employment Department and other interested state agencies, shall:

23 (a) Establish a Just Transition Program for the purpose of distributing moneys, other
 24 than moneys deposited in the reserve account of the Just Transition Fund, that are deposited
 25 in the Just Transition Fund established under section 96 of this 2020 Act; and

26 (b) Establish a Just Transition Plan for:

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

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

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

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

34 (3) Each even-numbered year, the Oregon Greenhouse Gas Reduction Board shall deliver
 35 a report, in the manner provided in ORS 192.245, to the Governor and the Legislative As-
 36 sembly on the Just Transition Plan. The report shall include:

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

38 (b) Recommendations regarding the level of funding necessary to carry out the Just
 39 Transition Program; and

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

42 (A) The funding necessary to maintain the reserve account at a level necessary to carry
 43 out the programs and activities described in subsection (2)(b) of this section, based on an
 44 evaluation of the impacts of climate change or climate change policies on workers; and

45 (B) The use of moneys deposited in the reserve account for the replacement of wages or

1 benefits for workers displaced or adversely affected by climate change or climate change
 2 policies.

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

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

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

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

14 (b) Allow a grant applicant to appeal to the board for reevaluation of any determination
 15 of grant funding.

16 (7) The board may perform activities necessary to ensure that recipients of moneys dis-
 17 tributed from the Just Transition Fund comply with applicable requirements. If the board
 18 determines that a recipient has not complied with applicable requirements, the board may
 19 order the recipient to refund all moneys distributed to the recipient from the fund. Moneys
 20 refunded pursuant to this subsection shall be paid to the board and deposited in the Just
 21 Transition Fund.

22 (8) The board shall appoint a just transition advisory committee. The committee shall be
 23 composed of representatives from communities and workplaces that have the potential to
 24 be displaced adversely affected by climate change or climate change policies and shall include
 25 members representing labor and management. The committee shall:

26 (a) Advise the board in developing rules under this section;

27 (b) Provide recommendations for grant awards and other expenditures from the Just
 28 Transition Fund, including expenditures from the reserve account of the Just Transition
 29 Fund; and

30 (c) Provide other recommendations related to the Just Transition Plan and the Just
 31 Transition Program.

32
 33 **OREGON GREENHOUSE GAS REDUCTION BOARD,**
 34 **OFFICE OF GREENHOUSE GAS REGULATION ESTABLISHED**
 35 **(Oregon Greenhouse Gas Reduction Board)**
 36

37 **SECTION 97.** (1) The Oregon Greenhouse Gas Reduction Board is established within the
 38 Department of Environmental Quality.

39 (2) The following shall serve as nonvoting members of the board:

40 (a) One member jointly appointed by the President of the Senate and the Speaker of the
 41 House of Representatives who is a member of either the Senate or the House of Represen-
 42 tatives and who is also a member of the Republican party and serves as a member of a
 43 committee of the Legislative Assembly related to climate.

44 (b) One member jointly appointed by the President of the Senate and the Speaker of the
 45 House of Representatives who is a member of either the Senate or the House of Represen-

1 tatives and who is also a member of the Democratic party and serves as a member of a
2 committee of the Legislative Assembly related to climate.

3 (c) The chairperson of the Environmental Justice Task Force.

4 (d)(A) A representative from an eligible Indian tribe appointed by the Governor after
5 consultation with the Commission on Indian Services.

6 (B) As used in this section, “eligible Indian tribe” means each of the Burns Paiute Tribe,
7 the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, the Confederated
8 Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of Siletz Indians
9 of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated
10 Tribes of the Warm Springs Reservation of Oregon, the Coquille Indian Tribe, the Cow Creek
11 Band of Umpqua Tribe of Indians and the Klamath Tribes.

12 (e) One member appointed by the Governor who represents the Oregon Climate Change
13 Research Institute.

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) One member appointed by the Governor who is a representative of urban communities
18 at risk of being disproportionately impacted by climate change.

19 (j) One member appointed by the Governor who is a representative of rural communities
20 at risk of being disproportionately impacted by climate change.

21 (3) The Governor shall appoint seven voting members to the board, subject to confirma-
22 tion by the Senate as provided in ORS 171.562 and 171.565. Voting members of the board ap-
23 pointed under this subsection must be residents of this state well informed on energy and
24 climate issues. At least one voting member must represent communities at risk of being
25 disproportionately impacted by climate change.

26 (4) The Administrator of the Office of Greenhouse Gas Regulation and the Office of
27 Greenhouse Gas Regulation shall provide clerical, technical and management personnel to
28 serve the board. Other agencies shall provide support as requested by the office or the board.

29 **SECTION 98.** (1) The term of office of each voting member appointed to the Oregon
30 Greenhouse Gas Reduction Board is four years, but the members of the board may be re-
31 moved by the Governor. Before the expiration of the term of a voting member, the Governor
32 shall appoint a successor to assume the duties of the voting member on July 1 of the next
33 following year.

34 (2) A voting member is eligible for reappointment, but no voting member appointed by
35 the Governor under section 97 of this 2020 Act may serve more than two consecutive terms.
36 In case of a vacancy for any cause, the Governor shall make an appointment to become im-
37 mediately effective for the unexpired term.

38 (3) The Governor shall select one of the voting members as chairperson, for a term and
39 with duties and powers necessary for the performance of the functions of the chairperson
40 as the board determines.

41 (4) A majority of the voting members of the board constitutes a quorum for the trans-
42 action of business.

43 (5) The board shall meet at least once during each calendar quarter at a time and place
44 determined by the chairperson. The board shall endeavor to hold meetings at various lo-
45 cations throughout this state. The board may hold additional meetings at times and places

1 determined by the chairperson, or as requested by a majority of the voting members.

2 (6)(a) Members of the board who are not members of the Legislative Assembly are not
 3 entitled to compensation but may be reimbursed from funds available to the board for actual
 4 and necessary travel and other expenses the members incur in the performance of the
 5 members' official duties in the manner and amount provided in ORS 292.495.

6 (b) Members of the board who are members of the Legislative Assembly shall be entitled
 7 to payment of per diem and expense reimbursement under ORS 171.072, payable from funds
 8 appropriated to the Legislative Assembly.

9 **SECTION 99.** Notwithstanding the term of office specified by section 98 of this 2020 Act,
 10 of the voting members first appointed by the Governor to the Oregon Greenhouse Gas Re-
 11 duction Board:

12 (1) Two shall serve for terms ending July 1, 2021.

13 (2) Two shall serve for terms ending July 1, 2022.

14 (3) Two shall serve for terms ending July 1, 2023.

15 (4) One shall serve for a term ending July 1, 2024.

16 **SECTION 100.** (1) A person may not be eligible to be a voting member of the Oregon
 17 Greenhouse Gas Reduction Board if:

18 (a) The person holds any office or position under any political committee or party; or

19 (b) A business with which the person is associated, as that term is defined in ORS
 20 244.020, is an entity directly regulated by the board.

21 (2) If the Governor determines that any board member is in violation of subsection (1)
 22 of this section, the Governor shall remove the board member pursuant to section 98 of this
 23 2020 Act.

24 **SECTION 101.** ORS 468.015 is amended to read:

25 468.015. (1) Except as provided in subsection (2) of this section, it is the function of the
 26 Environmental Quality Commission to establish the policies for the operation of the Department of
 27 Environmental Quality in a manner consistent with the policies and purposes of ORS 448.305,
 28 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468,
 29 468A and 468B. In addition, the commission shall perform any other duty vested in it by law.

30 (2) It is the function of the Oregon Greenhouse Gas Reduction Board to establish the
 31 policies for the operation of the Office of Greenhouse Gas Regulation established under sec-
 32 tion 104 of this 2020 Act in a manner consistent with the policies and purposes of sections
 33 2, 4 to 32, 38 to 40, 43, 96, 96a, 97 to 100, 102 to 105, 107 and 107a of this 2020 Act. Where a
 34 conflict between rules adopted by the commission and rules adopted by the board exists, the
 35 conflict shall be resolved in favor of the public interest, as determined by the commission in
 36 consultation with the board.

37 **SECTION 102.** (1) The Oregon Greenhouse Gas Reduction Board shall:

38 (a) In accordance with the applicable provisions of ORS chapter 183, adopt standards and
 39 rules to perform the functions vested by law in the board including but not limited to the
 40 adoption of standards and rules for implementation of the Oregon Greenhouse Gas Initiative
 41 under sections 4 to 32 of this 2020 Act;

42 (b) Provide oversight to and advise the Office of Greenhouse Gas Regulation in imple-
 43 menting, administering and enforcing the programs and activities of the office;

44 (c) Identify the highest and best opportunities for investments of state proceeds from the
 45 sale of allowances under section 28 of this 2020 Act in actions that carry out the purposes

1 of the Oregon Greenhouse Gas Initiative as set forth in section 2 of this 2020 Act;

2 (d) Identify and provide recommendations to the Governor and the Legislative Assembly
3 on ways to coordinate state and local efforts to reduce greenhouse gas emissions in Oregon
4 consistent with the greenhouse gas emissions reduction goals established by ORS 468A.205
5 and the purposes of the Oregon Greenhouse Gas Initiative as set forth in section 2 of this
6 2020 Act and recommend efforts to help Oregon prepare for the effects of climate change;

7 (e) Work with state and local governments, the State Department of Energy, the De-
8 partment of Education, the Higher Education Coordinating Commission, businesses and rep-
9 resentatives of impacted communities to develop and implement an outreach strategy to
10 educate Oregonians about the scientific aspects and economic impacts of climate change and
11 to inform Oregonians of ways to reduce greenhouse gas emissions and ways to prepare for
12 the effects of climate change; and

13 (f) Carry out any other duties, functions and powers vested in the board by law.

14 (2) In conducting the duties set forth in subsection (1) of this section, the board shall
15 take into consideration best available science.

16 (3)(a) In furtherance of the greenhouse gas emissions reduction goals established by ORS
17 468A.205, the board may:

18 (A) Recommend statutory and administrative changes, policy measures and other rec-
19 ommendations to be carried out by state and local governments, businesses, nonprofit or-
20 ganizations or residents; or

21 (B) Recommend to the Governor the formation of citizen advisory groups to explore
22 particular areas of concern with regard to the reduction of greenhouse gas emissions and the
23 effects of climate change.

24 (b) In developing recommendations under this subsection, the board shall consider eco-
25 nomic, environmental, health and social costs, and the risks and benefits of alternative
26 strategies, including least-cost options. The board shall solicit and consider public comment
27 relating to statutory, administrative or policy recommendations. Recommendations devel-
28 oped under this subsection may include, but need not be limited to recommendations for
29 addressing greenhouse gas emissions from the use of propane in this state.

30 (4) The board may at any time convene advisory committees to assist the board in car-
31 rying out the duties set forth in this section. If the board convenes an advisory committee,
32 it shall be composed of members appointed by the chairperson of the board. In appointing
33 members, the chairperson shall include at least one member who represents impacted com-
34 munities and shall take into consideration the geographic and demographic diversity of this
35 state.

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

38 **SECTION 103. Methodology for designating impacted communities.** (1) The Oregon
39 Greenhouse Gas Reduction Board, by rule and in consultation with the Portland State Uni-
40 versity Population Research Center, the Oregon Health Authority, other relevant state
41 agencies, local agencies and officials and community representatives, shall designate as im-
42 pacted communities those communities in Oregon at risk of being disproportionately im-
43 pacted by climate change. In carrying out this section, the board shall identify impacted
44 communities based on a methodology that takes into consideration geographic,
45 socioeconomic, historic disadvantage, public health and environmental hazard criteria. Im-

1 impacted communities may include, but are not limited to:

2 (a) Rural communities.

3 (b) Coastal communities.

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

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

10 (2) The methodology required by this section must give greater weight to those criteria
11 that the board determines are the most accurate measurements of vulnerability to the im-
12 pacts of climate change and ocean acidification.

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

15
16 (Office of Greenhouse Gas Regulation)

17
18 **SECTION 104. Office of Greenhouse Gas Regulation.** (1) There is established within the
19 Department of Environmental Quality and under the Oregon Greenhouse Gas Reduction
20 Board the Office of Greenhouse Gas Regulation.

21 (2) The office shall:

22 (a) Administer the Oregon Greenhouse Gas Initiative established under sections 4 to 32
23 of this 2020 Act; and

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

25 (3) The office may advise, consult and cooperate with other agencies of the state, political
26 subdivisions, other states or the federal government, and shall make a reasonable effort to
27 cooperate with affected eligible Indian tribes as defined in section 97 of this 2020 Act, with
28 respect to any proceedings and all matters pertaining to the reduction of greenhouse gas
29 emissions levels in Oregon.

30
31 (Administrator of the Office of Greenhouse Gas Regulation)

32
33 **SECTION 105. Administrator.** (1) The Office of Greenhouse Gas Regulation is under the
34 supervision and control of an administrator who, subject to the direction of the Oregon
35 Greenhouse Gas Reduction Board, is responsible for the performance of the duties, functions
36 and powers of the office.

37 (2) The Governor shall appoint the Administrator of the Office of Greenhouse Gas Reg-
38 ulation, subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and
39 171.565. The administrator holds office at the pleasure of the Governor.

40 (3) The administrator shall be paid a salary as provided by law or, if not so provided, as
41 prescribed by the Governor.

42 (4) Subject to the approval of the Governor, the administrator may organize and reor-
43 ganize the administrative structure of the office as the administrator considers appropriate
44 to properly conduct the work of the office.

45 (5) Subject to any applicable provisions of ORS chapter 240, the administrator shall ap-

1 **point all subordinate officers and employees of the office, including specialists and consult-**
 2 **ants, prescribe their duties and fix their compensation. The office may purchase materials**
 3 **and supplies and enter into contracts necessary to exercise and carry out the duties, func-**
 4 **tions and powers of the office.**

5 **SECTION 106.** ORS 244.050 is amended to read:

6 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
 7 Government Ethics Commission a verified statement of economic interest as required under this
 8 chapter:

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

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

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

14 (d) The Deputy Attorney General.

15 (e) The Deputy Secretary of State.

16 (f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
 17 Legislative Policy and Research Director, the Secretary of the Senate, the Chief Clerk of the House
 18 of Representatives and the Legislative Equity Officer.

19 (g) The president and vice presidents, or their administrative equivalents, in each public uni-
 20 versity listed in ORS 352.002.

21 (h) The following state officers:

22 (A) Adjutant General.

23 (B) Director of Agriculture.

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

25 (D) Water Resources Director.

26 (E) Director of Department of Environmental Quality.

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

28 (G) State Fish and Wildlife Director.

29 (H) State Forester.

30 (I) State Geologist.

31 (J) Director of Human Services.

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

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

34 (M) State Librarian.

35 (N) Administrator of Oregon Liquor Control Commission.

36 (O) Superintendent of State Police.

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

38 (Q) Director of Department of Revenue.

39 (R) Director of Transportation.

40 (S) Public Utility Commissioner.

41 (T) Director of Veterans' Affairs.

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

43 (V) Director of the State Department of Energy.

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

45 (X) Director of the Department of Corrections.

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

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

1 appointed public officials as of April 15 and to persons who are candidates on April 15.

2 (6) If a statement required to be filed under this section has not been received by the commis-
 3 sion within five days after the date the statement is due, the commission shall notify the public of-
 4 ficial or candidate and give the public official or candidate not less than 15 days to comply with the
 5 requirements of this section. If the public official or candidate fails to comply by the date set by the
 6 commission, the commission may impose a civil penalty as provided in ORS 244.350.

7
 8 **(Enforcement)**
 9

10 **SECTION 107. Enforcement procedures; status of procedures.** (1) Whenever the Oregon
 11 Greenhouse Gas Reduction Board has good cause to believe that any person is engaged in
 12 or is about to engage in any acts or practices that constitute a violation of a provision of
 13 sections 4 to 32 of this 2020 Act, or any rule, standard or order adopted or entered pursuant
 14 to sections 4 to 32 of this 2020 Act, the board may institute actions or proceedings for legal
 15 or equitable remedies to enforce compliance or to restrain further violations.

16 (2) The actions or proceedings authorized by subsection (1) of this section may be insti-
 17 tuted without the necessity of prior agency notice, hearing and order, or may be instituted
 18 during an agency hearing if the hearing has been initially commenced by the board.

19 (3) The provisions of this section are in addition to and not in lieu of any other civil or
 20 criminal enforcement provisions available to the board.

21 **SECTION 107a. Civil penalties.** (1) In addition to any other liability or penalty provided
 22 by law, the Oregon Greenhouse Gas Reduction Board may impose a civil penalty on a person
 23 for any of the following:

24 (a) A violation of a provision of sections 4 to 32 of this 2020 Act or rules adopted under
 25 sections 4 to 32 of this 2020 Act.

26 (b) Submitting any record, information or report required by sections 4 to 32 of this 2020
 27 Act or rules adopted under sections 4 to 32 of this 2020 Act that falsifies or conceals a ma-
 28 terial fact or makes any false or fraudulent representation.

29 (2) Each day of violation under subsection (1) of this section constitutes a separate of-
 30 fense.

31 (3)(a) The board shall adopt by rule a schedule of civil penalties that may be imposed for
 32 violations described in subsection (1) of this section. Except as provided in paragraph (b) of
 33 this subsection, a civil penalty may not exceed \$25,000 per offense.

34 (b) In addition to any other civil penalty provided by law, the civil penalty for a violation
 35 described in subsection (1) of this section may include an amount equal to an estimate of the
 36 economic benefit received as a result of the violation.

37 (4) In imposing a civil penalty pursuant to this section, the board shall consider the fol-
 38 lowing factors:

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

41 (b) Any actions taken by the person to mitigate the violation.

42 (c) Any prior act committed by the person that resulted in a violation described in sub-
 43 section (1) of this section.

44 (d) The economic and financial conditions of the person.

45 (e) The gravity and magnitude of the violation.

1 (f) Whether the violation was repeated or continuous.

2 (g) Whether the cause of the violation was an unavoidable accident, negligence or an in-
3 tentional act.

4 (h) The person's cooperativeness and efforts to correct the violation.

5 (i) Whether the person gained an economic benefit as a result of the violation.

6 (5) Civil penalties under this section must be imposed in the manner provided by ORS
7 183.745. All civil penalties recovered under this section shall be paid to the Department of
8 Environmental Quality for deposit in the Oregon Greenhouse Gas Initiative Operating Fund
9 established under section 31 of this 2020 Act and may be used only pursuant to section 31 (3)
10 of this 2020 Act.

11 **SECTION 107b.** ORS 468.953 is amended to read:

12 468.953. (1) A person commits the crime of supplying false information to any agency if the
13 person:

14 (a) Makes any false material statement, representation or certification knowing it to be false,
15 in any application, notice, plan, record, report or other document required by any provision of ORS
16 chapter 465, 466, 468, 468A or 468B or sections 4 to 32 of this 2020 Act or any rule adopted pur-
17 suant to ORS chapter 465, 466, 468, 468A or 468B or sections 4 to 32 of this 2020 Act;

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

20 (c) Alters, conceals or fails to file or maintain any document described in paragraph (a) of this
21 subsection in knowing violation of any provision of ORS chapter 465, 466, 468, 468A or 468B or
22 sections 4 to 32 of this 2020 Act or any rule adopted pursuant to ORS chapter 465, 466, 468, 468A
23 or 468B or sections 4 to 32 of this 2020 Act.

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

25
26 **FISCAL PROVISIONS**

27
28 **SECTION 108.** In addition to and not in lieu of any other appropriation, there is appro-
29 priated to the Oregon Business Development Department, for the biennium ending June 30,
30 2021, out of the General Fund, the amount of \$10,000,000 for deposit in the Traded Sector
31 Greenhouse Gas Reduction Revolving Loan Fund established under section 51 of this 2020
32 Act.

33 **SECTION 108a.** Notwithstanding any other law limiting expenditures, the amount of \$1
34 is established for the biennium ending June 30, 2021, as the maximum limit for payment of
35 expenses by the Oregon Business Development Department from the Traded Sector
36 Greenhouse Gas Reduction Revolving Loan Fund established under section 51 of this 2020
37 Act.

38
39 **OPERATIVE DATE**

40
41 **SECTION 109.** (1) The amendments to statutes by sections 81 to 84 of this 2020 Act and
42 the repeal of statutes by section 80 of this 2020 Act become operative on December 31, 2020.

43 (2)(a) Sections 2 to 21, 23 to 50, 52, 53, 60, 62 to 64, 79, 79a, 96, 96a, 107 and 107a of this
44 2020 Act, the amendments to statutes and session law by sections 51a, 58, 59, 66 to 72, 94 and
45 107b of this 2020 Act and the repeal of ORS 469.409 by section 65 of this 2020 Act become

1 operative on January 1, 2022.

2 (b) The Oregon Greenhouse Gas Reduction Board, the Office of Greenhouse Gas Regu-
 3 lation, the Public Utility Commission, the Department of Transportation, the Energy Facility
 4 Siting Council and the Governor may adopt rules, issue orders or take any actions before the
 5 operative date specified in paragraph (a) of this subsection that are necessary to enable the
 6 board, the office, the commission, the department, the council and the Governor, on and af-
 7 ter the operative date specified in paragraph (a) of this subsection, to carry out the pro-
 8 visions of sections 2 to 21, 23 to 50, 52, 53, 60, 62 to 64, 79, 79a, 96, 96a, 107 and 107a of this
 9 2020 Act, the amendments to statutes and session law by sections 51a, 58, 59, 66 to 72, 94 and
 10 107b of this 2020 Act and the repeal of ORS 469.409 by section 65 of this 2020 Act.

11 (c)(A) If, in adopting rules, issuing orders or taking any actions before the operative date
 12 specified in paragraph (a) of this subsection as authorized by paragraph (b) of this sub-
 13 section, public records are created that are information described in section 32 (2) of this
 14 2020 Act, the public records are exempt from disclosure under ORS 192.311 to 192.478 and
 15 may not be disclosed to any person or entity except as provided in subparagraph (B) or (C)
 16 of this paragraph, unless the party seeking disclosure demonstrates by clear and convincing
 17 evidence that, as related to the particular covered entity identifiable in the records requested
 18 to be disclosed, the public interest in disclosure outweighs the other interests in
 19 nondisclosure.

20 (B) Information described in this paragraph may be used and disclosed in aggregated
 21 form.

22 (C) This paragraph does not prohibit the disclosure of information between agencies of
 23 the executive department, as defined in ORS 174.112, or to persons engaged by the State of
 24 Oregon to provide administrative or technical services to support the implementation of
 25 sections 4 to 32 or 45 to 53 of this 2020 Act if the disclosure is necessary for purposes of
 26 adopting rules, issuing orders or taking any actions before the operative date specified in
 27 paragraph (a) of this subsection to carry out the provisions of sections 2 to 21, 23 to 50, 52,
 28 53, 60, 62 to 64, 79, 79a, 96, 96a, 107 and 107a of this 2020 Act, the amendments to statutes
 29 and session law by sections 51a, 58, 59, 66 to 72, 94 and 107b of this 2020 Act and the repeal
 30 of ORS 469.409 by section 65 of this 2020 Act.

31
 32 **CAPTIONS**

33
 34 **SECTION 110.** The unit and section captions used in this 2020 Act are provided only for
 35 the convenience of the reader and do not become part of the statutory law of this state or
 36 express any legislative intent in the enactment of this 2020 Act.

37
 38 **EMERGENCY CLAUSE**

39
 40 **SECTION 111.** This 2020 Act being necessary for the immediate preservation of the public
 41 peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect
 42 on its passage.