

Requested by Senator COURTNEY

**PROPOSED AMENDMENTS TO
SENATE BILL 1530**

1 On page 1 of the printed bill, line 3, delete “468.135,” and insert
2 “468.953.”

3 In line 4, delete “526.786,” and insert “530.050, 530.500,” and delete “and
4 section 12.”

5 In line 5, delete “chapter 751, Oregon Laws 2009.”

6 In line 7, delete “and 469.409” and insert “, 469.409, 526.780, 526.783,
7 526.786 and 526.789”.

8 Delete lines 9 through 18 and delete pages 2 through 86 and insert:
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*]
15 **goal** of this state to **achieve a reduction in anthropogenic greenhouse**
16 **gas emissions levels in Oregon:** [*reduce greenhouse gas emissions in Oregon*
17 *pursuant to the following greenhouse gas emissions reduction goals:*]

18 “[*(a) By 2010, arrest the growth of Oregon’s greenhouse gas emissions and*
19 *begin to reduce greenhouse gas emissions.*]

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

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

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

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

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

10 “(3) This section does not create any additional regulatory authority for
11 an agency of the executive 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
17 the purposes of sections 2, 4 to 32, 33 to 37, 38 to 40, 41, 42, 43, 45 to 53,
18 96 and 96a of this 2020 Act are:

19 “(a) To achieve a reduction in total levels of regulated emissions
20 under sections 4 to 32 of this 2020 Act to at least 45 percent below 1990
21 emissions levels by 2035 and to achieve a reduction in total regulated
22 emissions levels to at least 80 percent below 1990 emissions levels by
23 2050;

24 “(b) To promote greenhouse gas emissions sequestration and miti-
25 gation;

26 “(c) To promote the adaptation and resilience of natural and work-
27 ing lands, fish and wildlife resources, communities, the economy and
28 this state’s infrastructure in the face of climate change and ocean
29 acidification; and

30 “(d) To provide assistance to households, businesses and workers

1 impacted by climate change or by climate change policies.

2 “(2) Sections 2, 4 to 32, 33 to 37, 38 to 40, 41, 42, 43, 45 to 53, 96 and
3 96a of this 2020 Act and the rules adopted pursuant to sections 2, 4 to
4 32, 33 to 37, 38 to 40, 41, 42, 43, 45 to 53, 96 and 96a of this 2020 Act may
5 not be interpreted to limit the authority of any state agency to adopt
6 and implement measures to reduce greenhouse gas emissions.

7
8 “(Chapter Placement)

9
10 “SECTION 3. Sections 97 to 100, 102 to 105, 107 and 107a of this 2020
11 Act are added to and made a part of ORS chapter 468.

12
13 “(General Regulatory Provisions)

14
15 “SECTION 4. Definitions. As used in sections 2 and 4 to 32 of this
16 2020 Act:

17 “(1) ‘Aggregation’ means an approach for qualifying and quantify-
18 ing offset projects, for the purposes of reducing costs and increasing
19 the development of offset projects, that allows for the grouping to-
20 gether of two or more geographically separate activities:

21 “(a) Undertaken by one or more parties; and

22 “(b) That result in reductions or removals of greenhouse gases in
23 a similar manner.

24 “(2) ‘Allowance’ means a fungible authorization to emit one metric
25 ton of carbon dioxide equivalent.

26 “(3) ‘Annual allowance budget’ means the number of allowances
27 available to be allocated during one year of the Oregon Greenhouse
28 Gas Initiative.

29 “(4) ‘Anthropogenic greenhouse gas emissions’ means greenhouse
30 gas emissions that are not biogenic emissions.

1 **“(5) ‘Best available science’ means science that is reliable and un-**
2 **biased and that involves the use of supporting studies conducted in**
3 **accordance with sound and objective science practices, including,**
4 **when available, peer-reviewed science and supporting studies and data**
5 **collected by accepted methods or best available methods.**

6 **“(6) ‘Biogenic emissions’ means carbon dioxide emissions generated**
7 **from the combustion of biomass-derived fuels.**

8 **“(7) ‘Biomass-derived fuels’ includes:**

9 **“(a) Nonfossilized and biodegradable organic material originating**
10 **from plants, animals or microorganisms;**

11 **“(b) Products, by-products, residues or waste from agriculture,**
12 **forestry or related industries; and**

13 **“(c) The nonfossilized and biodegradable organic fractions of in-**
14 **dustrial and municipal wastes, including gases and liquids recovered**
15 **from:**

16 **“(A) The decomposition of nonfossilized and biodegradable organic**
17 **material originating from plants, animals or microorganisms; or**

18 **“(B) Municipal solid waste disposed of in a landfill.**

19 **“(8)(a) ‘Business unit’ means a business operation that is located**
20 **at a facility permitted as a single air contamination source under ORS**
21 **468.065, 468A.040 or 468A.155, but that is distinguishable from one or**
22 **more other business operations located at the facility by:**

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

25 **“(B) Accounting practices for the business operation that maintain**
26 **the finances for the business operation as distinct from the finances**
27 **of other business operations located at the facility; and**

28 **“(C) The capability of the business operation to operate separately**
29 **and independently of other business operations at the facility if not**
30 **colocated with the other business operations.**

1 **“(b) ‘Business unit’ does not mean a cogeneration facility.**

2 **“(9) ‘Carbon dioxide equivalent’ means the amount of carbon**
3 **dioxide by weight that would produce the same global warming impact**
4 **as a given weight of another greenhouse gas, based on considerations**
5 **including but not limited to the best available science, including in-**
6 **formation from the Intergovernmental Panel on Climate Change.**

7 **“(10) ‘Compliance instrument’ means one allowance or one offset**
8 **credit that may be used to fulfill a compliance obligation.**

9 **“(11) ‘Compliance obligation’ means the quantity of regulated**
10 **emissions that are attributable to a covered entity, and for which**
11 **compliance instruments must be retired, for a compliance period.**

12 **“(12) ‘Consumer-owned utility’ has the meaning given that term in**
13 **ORS 757.270.**

14 **“(13) ‘Covered entity’ means a person that is designated by the Of-**
15 **fice of Greenhouse Gas Regulation as subject to the Oregon**
16 **Greenhouse Gas Initiative.**

17 **“(14) ‘Direct environmental benefits in this state’ means:**

18 **“(a) A reduction in or avoidance of emissions of any air contam-**
19 **inant in this state other than a greenhouse gas;**

20 **“(b) A reduction in or avoidance of pollution of any of the waters**
21 **of the state, as the terms ‘pollution’ and ‘the waters of the state’ are**
22 **defined in ORS 468B.005; or**

23 **“(c) An improvement in the health of natural and working lands in**
24 **this state.**

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

29 **“(16) ‘Electric company’ has the meaning given that term in ORS**
30 **757.600.**

1 “(17) ‘Electricity service supplier’ has the meaning given that term
2 in ORS 757.600.

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

9 “(a) Electric companies.

10 “(b) Electricity service suppliers.

11 “(c) Consumer-owned utilities.

12 “(d) The Bonneville Power Administration.

13 “(e) Electric generation and transmission cooperatives.

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

22 “(20) ‘General market participant’ means a person that is not a
23 covered entity and that intends to purchase, hold, sell or voluntarily
24 surrender compliance instruments.

25 “(21) ‘Greenhouse gas’ includes, but is not limited to, carbon
26 dioxide, methane, nitrous oxide, hydrofluorocarbons,
27 perfluorocarbons, sulfur hexafluoride and nitrogen trifluoride.

28 “(22) ‘Impacted community’ means a community at risk of being
29 disproportionately impacted by climate change as designated by the
30 Oregon Greenhouse Gas Reduction Board under section 103 of this 2020

1 **Act.**

2 **“(23) ‘Indian trust lands’ means lands within this state held in trust**
3 **by the United States for the benefit of an eligible Indian tribe or in-**
4 **dividual members of an eligible Indian tribe.**

5 **“(24) ‘Multistate jurisdictional electric company’ means an electric**
6 **company that serves electricity customers in both Oregon and one or**
7 **more other states.**

8 **“(25) ‘Natural and working lands’ means:**

9 **“(a) Lands and waters:**

10 **“(A) Actively used by an agricultural owner or operator for an ag-**
11 **ricultural operation that includes, but need not be limited to, active**
12 **engagement in farming or ranching;**

13 **“(B) Producing forest products;**

14 **“(C) Consisting of forests, woodlands, grasslands, sagebrush**
15 **steppes, deserts, freshwater and riparian systems, wetlands, coastal**
16 **and estuarine areas, the submerged and submersible lands within**
17 **Oregon’s territorial sea, watersheds, wildlands or wildlife habitats; or**

18 **“(D) Used for recreational purposes such as parks, urban and com-**
19 **munity forests, trails, greenbelts and other similar open space land;**
20 **and**

21 **“(b) Lands and waters described in paragraph (a) of this subsection**
22 **that are Indian trust lands, lands within the boundaries of the reser-**
23 **vation of an eligible Indian tribe or lands otherwise owned by an eli-**
24 **gible Indian tribe.**

25 **“(26) ‘Natural gas supplier’ means any entity that is not a natural**
26 **gas utility and that:**

27 **“(a) Procures natural gas for end use in this state; or**

28 **“(b) Owns natural gas as it is imported into this state for end use**
29 **in this state.**

30 **“(27) ‘Natural gas utility’ means a natural gas utility regulated by**

1 the Public Utility Commission under ORS chapter 757.

2 “(28) ‘Offset credit’ means a fungible credit generated by an offset
3 project that represents a greenhouse gas emissions reduction or re-
4 moval of one metric ton of carbon dioxide equivalent.

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

7 “(30) ‘Oregon Greenhouse Gas Initiative’ means the program
8 adopted by rule by the Oregon Greenhouse Gas Reduction Board under
9 section 5 of this 2020 Act and in accordance with the provisions of
10 sections 4 to 32 of this 2020 Act.

11 “(31) ‘Permitted air contamination source’ means an air contam-
12 ination source as defined in ORS 468A.005 for which a permit is issued
13 by the Department of Environmental Quality pursuant to ORS 468.065,
14 468A.040 or 468A.155.

15 “(32) ‘Person’ has the meaning given that term in ORS 468.005.

16 “(33) ‘Registered entity’ means a covered entity or general market
17 participant that has successfully registered to participate in the
18 Oregon Greenhouse Gas Initiative.

19 “(34) ‘Regulated emissions’ means the verified anthropogenic
20 greenhouse gas emissions reported by or assigned to a covered entity
21 under ORS 468A.280 that the office determines are anthropogenic
22 greenhouse gas emissions regulated under sections 4 to 32 of this 2020
23 Act.

24 “(35) ‘Surrender’ means to transfer a compliance instrument to the
25 office to fulfill a compliance obligation or on a voluntary basis.

26 “(36) ‘Trade-exposed natural gas user’ means a person that is en-
27 gaged in processes for which the indirect costs of compliance with the
28 Oregon Greenhouse Gas Initiative may create a substantial risk of
29 leakage, as further designated by the office pursuant to section 18 of
30 this 2020 Act.

1 **“SECTION 5. General provisions; designation of covered entities.**

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

7 **“(A) Place a limit on the total anthropogenic greenhouse gas emis-**
8 **sions that are regulated emissions by setting annual allowance budgets**
9 **for 2022 to 2050; and**

10 **“(B) Provide a system for covered entities to buy and sell allow-**
11 **ances and offset credits used to demonstrate compliance with the**
12 **covered entities’ compliance obligations.**

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

16 **“(B) In 2023 and each following calendar year before 2036, the**
17 **number of allowances available in each annual allowance budget shall**
18 **decline by a constant amount necessary to accomplish a reduction in**
19 **total regulated emissions levels to at least 45 percent below 1990**
20 **emissions levels by 2035.**

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

26 **“(c) The office shall calculate baseline emissions to be equal to a**
27 **forecast of regulated emissions for 2022, informed by the three-year**
28 **average of the total, expressed in metric tons of carbon dioxide**
29 **equivalent, of anthropogenic greenhouse gas emissions attributable to**
30 **all persons that the office designates to be covered entities under the**

1 **Oregon Greenhouse Gas Initiative. In calculating baseline emissions,**
2 **the office shall use greenhouse gas emissions information from the**
3 **three most recent years prior to 2022 for which greenhouse gas emis-**
4 **sions information is available and confirmed by the office. The office**
5 **shall exclude from the calculation of baseline emissions those**
6 **greenhouse gas emissions during the three most recent years prior to**
7 **2022 that would not have been regulated emissions if the Oregon**
8 **Greenhouse Gas Initiative had been in effect during the time that the**
9 **greenhouse gas emissions occurred.**

10 **“(2) Subject to section 6 of this 2020 Act, the office shall designate**
11 **persons as covered entities as follows:**

12 **“(a) The office shall designate an electric system manager as a**
13 **covered entity for the purpose of addressing annual regulated emis-**
14 **sions from outside this state that are attributable to the generation**
15 **of electricity that the electric system manager schedules for delivery**
16 **and consumption in this state, including wholesale market purchases**
17 **for which the energy source for the electricity is not known, and ac-**
18 **counting for transmission and distribution line losses. For the pur-**
19 **poses of this paragraph, the board may adopt rules necessary to**
20 **address electricity scheduled for delivery and consumption in this state**
21 **through an energy imbalance market or other centralized market ad-**
22 **ministered by a market operator.**

23 **“(b) The office shall designate a natural gas supplier as a covered**
24 **entity for the purpose of addressing annual regulated emissions that**
25 **are attributable to the combustion of natural gas that is:**

26 **“(A) Sold by the natural gas supplier for use in this state;**

27 **“(B) Distributed on a local distribution system operated by a na-**
28 **tural gas utility; and**

29 **“(C) Directly consumed or resold for use in this state by the cus-**
30 **tomer of the natural gas supplier.**

1 “(c) The office shall designate a natural gas utility as a covered
2 entity for the purpose of addressing annual regulated emissions that
3 are attributable to the combustion of natural gas that the natural gas
4 utility sells for use in this state and that are not emissions accounted
5 for through the regulation of natural gas suppliers under paragraph
6 (b) of this subsection.

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

12 “(e) Except as provided in paragraph (f) of this subsection, the of-
13 fice shall designate a permitted air contamination source as a covered
14 entity if the annual regulated emissions attributable to the permitted
15 air contamination source meet or exceed 25,000 metric tons of carbon
16 dioxide equivalent. For purposes of this paragraph, the annual regu-
17 lated emissions attributable to the permitted air contamination source
18 may not include anthropogenic greenhouse gas emissions accounted
19 for through the regulation of a person described in paragraph (b), (c)
20 or (d) of this subsection, unless the permitted air contamination
21 source has an applicable code of 221112 under the 2017 North American
22 Industry Classification System.

23 “(f) If a permitted air contamination source is a facility composed
24 of two or more business units colocated with a cogeneration facility
25 that generates energy utilized by the permitted air contamination
26 source, the office shall designate the permitted air contamination
27 source as a covered entity for each individual business unit with an-
28 nual regulated emissions attributable to the business unit that meet
29 or exceed 25,000 metric tons of carbon dioxide equivalent. A person
30 designated as a covered entity under this paragraph shall be a covered

1 entity only for addressing the annual regulated emissions attributable
2 to the business units for which the person is designated as a covered
3 entity. For the purposes of this paragraph, the office shall attribute
4 to a business unit the annual regulated emissions from the
5 cogeneration facility colocated with the business unit that are
6 proportionate to the annual energy usage of the business unit.

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

9 “(a) Rules allowing for the purchase, sale and exchange of compli-
10 ance instruments;

11 “(b) Rules allowing registered entities to bank and carry forward
12 allowances;

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

15 “(d) Rules allowing general market participants to participate in the
16 Oregon Greenhouse Gas Initiative; and

17 “(e) Compliance periods, standards for calculating compliance obli-
18 gations and procedures for covered entities to fulfill their compliance
19 obligations.

20 “(4) The office shall require a covered entity to surrender to the
21 office the quantity of compliance instruments necessary to fulfill the
22 covered entity’s compliance obligation no later than the surrender
23 date specified by the board by rule or order.

24 “(5) For purposes of determining the compliance obligation for a
25 covered entity that is an electric system manager, electricity sched-
26 uled by the electric system manager that is generated from a
27 renewable energy resource, regardless of the disposition of the
28 renewable energy certificate associated with the electricity, shall be
29 considered to have the emissions attributes of the underlying
30 renewable energy resource.

1 **“(6) In addition to any penalty provided by law, rules adopted by the**
2 **board:**

3 **“(a) Shall require a covered entity that fails to fulfill a compliance**
4 **obligation to surrender to the office a number of compliance instru-**
5 **ments that is in addition to the entity’s compliance obligation; and**

6 **“(b) May establish a process for placing restrictions on the holding**
7 **account of a registered entity determined to have engaged in a vio-**
8 **lation of a provision of sections 4 to 32 of this 2020 Act or rules adopted**
9 **under sections 4 to 32 of this 2020 Act.**

10 **“(7)(a) All covered entities and general market participants must**
11 **register as registered entities to participate in the Oregon Greenhouse**
12 **Gas Initiative.**

13 **“(b) The board shall adopt by rule registration requirements and**
14 **any additional requirements necessary for registered entities to par-**
15 **ticipate in auctions administered pursuant to section 28 of this 2020**
16 **Act.**

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

20 **“(a) Endeavor to develop the rules in a manner that does not pre-**
21 **clude participation by the State of Oregon in regional greenhouse gas**
22 **emissions reduction programs; and**

23 **“(b) Avoid rules under which greenhouse gas emissions or**
24 **greenhouse gas emissions reductions are counted more than once.**

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

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

1 “(b) The emissions attributable to a landfill, as defined in ORS
2 459.005.

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

10 “SECTION 7. Allocation of allowances, generally. The Office of
11 Greenhouse Gas Regulation shall allocate the allowances available in
12 each annual allowance budget as follows:

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

15 “(2) The office shall allocate for retirement a number of the allow-
16 ances as necessary to meet statutory requirements for retirement of
17 allowances under the Oregon Greenhouse Gas Initiative.

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

21 “(4) The office shall allocate a number of the allowances for direct
22 distribution at no cost to covered entities that are electric system
23 managers other than electric companies pursuant to section 15 of this
24 2020 Act.

25 “(5) The office shall allocate a number of the allowances for deposit
26 in an electricity price containment reserve. Allowances may be di-
27 rectly distributed to covered entities that are electric system managers
28 at no cost from the electricity price containment reserve only when
29 the distribution is necessary to protect retail customers from cost in-
30 creases associated with unexpected increases in regulated emissions

1 attributable to an electric system manager that are outside of the
2 control of the electric system manager, including but not limited to
3 unexpected increases in regulated emissions due to hydroelectric
4 power generation variability. The Oregon Greenhouse Gas Reduction
5 Board shall adopt rules for electric system managers to apply for di-
6 rect distribution at no cost of allowances from the electricity price
7 containment reserve. The rules shall prioritize distribution of allow-
8 ances from the electricity price containment reserve to electric system
9 managers that experience unexpected increases in regulated emissions
10 attributable to variation in hydroelectric power generation to serve the
11 load of retail customers in Oregon.

12 “(6) The office shall allocate a number of the allowances for direct
13 distribution at no cost to covered entities that are natural gas utilities
14 pursuant to section 17 of this 2020 Act.

15 “(7) In order to mitigate leakage and pursuant to sections 19 and
16 20 of this 2020 Act, the office shall allocate a number of the allowances
17 for direct distribution at no cost to covered entities that are EITE
18 entities.

19 “(8) The office shall allocate a number of the allowances for deposit
20 in an emissions-intensive, trade-exposed process reserve. Allowances
21 in the emissions-intensive, trade-exposed process reserve may be di-
22 rectly distributed at no cost only to:

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

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

27 “(9) The office may allocate a number of the allowances for deposit
28 in any other reserves or accounts, including but not limited to a vol-
29 untary renewable electricity generation reserve, that the board estab-
30 lishes by rule and as the office determines is necessary.

1 “(10) The office shall allocate the allowances that are not otherwise
2 allocated pursuant to subsections (1) to (9) of this section for deposit
3 in an auction holding account for auction pursuant to section 28 of
4 this 2020 Act. If allowances deposited in the auction holding account
5 under this subsection remain unsold after two or more consecutive
6 auctions held pursuant to section 28 of this 2020 Act, the office may
7 redistribute the unsold allowances to the allowance price containment
8 reserve described in subsection (1) of this section.

9 “SECTION 8. Retirement of allowances for certain electric system
10 managers. (1) In 2022 and each following calendar year before 2051, the
11 Office of Greenhouse Gas Regulation shall retire from the annual al-
12 lowance budget, on behalf of a covered entity that is an electric system
13 manager, a number of allowances equal to the regulated emissions
14 attributable to a consumer-owned utility, if the three-year average of
15 the annual anthropogenic greenhouse gas emissions attributable to
16 electricity that is scheduled, by the consumer-owned utility or by an
17 electric generation and transmissions cooperative, for final delivery
18 by the consumer-owned utility for consumption in this state is less
19 than 25,000 metric tons of carbon dioxide equivalent.

20 “(2) Allowances directly retired by the office on behalf of a covered
21 entity under this section shall count toward fulfilling the covered
22 entity’s compliance obligation for the compliance period during which
23 the allowances are directly retired.

24 “SECTION 9. Retirement of allowances for certain electricity ser-
25 vice suppliers. (1) As used in this section:

26 “(a) ‘Direct access’ has the meaning given that term in ORS 757.600.

27 “(b) ‘Electricity services’ has the meaning given that term in ORS
28 757.600.

29 “(c) ‘Retail electricity consumer’ has the meaning given that term
30 in ORS 757.600.

1 “(2) In 2022 and in each following calendar year before 2026, the
2 Office of Greenhouse Gas Regulation shall retire from the annual al-
3 lowance budget, on behalf of a covered entity that is an electricity
4 service supplier, a number of allowances equal to the regulated emis-
5 sions attributable to the electricity service supplier for electricity
6 services provided:

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

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

11 “(3) An electricity service supplier may not include in the rate or
12 bill charged to a retail electricity consumer the costs associated with
13 compliance by the electricity service supplier with the Oregon
14 Greenhouse Gas Initiative that are attributable to the regulated
15 emissions for which allowances are retired under subsection (2) of this
16 section.

17 “(4) The office may annually request from retail electricity con-
18 sumers the information that is necessary to administer this section.
19 If a retail electricity consumer does not comply with a request under
20 this subsection, the office may not retire under this section any al-
21 lowances for regulated emissions attributable to electricity services
22 provided to that retail electricity consumer.

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

27 “SECTION 10. Section 9 of this 2020 Act is repealed on January 2,
28 2026.

29 “SECTION 11. Retirement of allowances for covered entities that
30 are natural gas powered electric power generation facilities. (1) In 2022

1 and each following calendar year before 2027, the Office of Greenhouse
2 Gas Regulation shall retire from the annual allowance budget, on be-
3 half of a covered entity described in section 5 (2)(e) of this 2020 Act,
4 if the covered entity is a natural gas powered electric power generation
5 facility with an applicable code of 221112 under the 2017 North Ameri-
6 can Industry Classification System, a number of allowances equal to
7 the regulated emissions that are attributable to the generation in this
8 state by the covered entity of electricity:

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

11 “(b) For which the capital and fuel costs associated with the gen-
12 eration are included in the rates of a multistate jurisdictional electric
13 company that are charged to electricity customers in a state other
14 than Oregon.

15 “(2) Allowances directly retired by the office on behalf of a covered
16 entity under this section shall count toward fulfilling the covered
17 entity’s compliance obligation for the compliance period during which
18 the allowances are directly retired.

19 “SECTION 12. Section 11 of this 2020 Act is repealed on January 2,
20 2027.

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

23 “(a) ‘Metropolitan planning area’ has the meaning given that term
24 in 49 U.S.C. 5303(b).

25 “(b) ‘Motor vehicle’ means a vehicle that is self-propelled or de-
26 signed for self-propulsion.

27 “(c) ‘Motor vehicle fuel’ means any combustible gas, liquid or ma-
28 terial of a kind used as fuel for the generation of power to propel a
29 motor vehicle.

30 “(d) ‘Truck stop’ means a public facility for the fueling of motor

1 **vehicles that has, at the facility:**

2 **“(A) At least four showers available for public use;**

3 **“(B) A permanently established truck scale; and**

4 **“(C) One or more underground storage tanks that are dedicated to**
5 **supplying diesel motor vehicle fuel to at least four fueling islands that**
6 **are each:**

7 **“(i) Dedicated to fueling trucks; and**

8 **“(ii) Equipped with both a pump designed for the high-speed dis-**
9 **persing of diesel motor vehicle fuel and a satellite diesel motor vehicle**
10 **fuel pump.**

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

16 **“(a) Produced in Oregon or imported into Oregon by the covered**
17 **entity; and**

18 **“(b) Delivered into a fuel tank used for propelling a motor vehicle**
19 **at:**

20 **“(A) A delivery point with a zip code that is located outside the**
21 **boundary of the metropolitan planning area that includes Portland;**
22 **or**

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

27 **“(3) In 2025 and each following calendar year before 2028, and sub-**
28 **ject to subsection (6) of this section, the office shall retire from the**
29 **annual allowance budget, on behalf of a covered entity described in**
30 **section 5 (2)(d) of this 2020 Act, a number of allowances equal to 100**

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

3 “(a) Produced in Oregon or imported into Oregon by the covered
4 entity; and

5 “(b) Delivered into a fuel tank used for propelling a motor vehicle
6 at:

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

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

15 “(4) In 2028 and each following calendar year before 2051, and sub-
16 ject to subsection (6) of this section, the office shall retire from the
17 annual allowance budget, on behalf of a covered entity described in
18 section 5 (2)(d) of this 2020 Act, a number of allowances equal to 100
19 percent of regulated emissions attributable to the combustion of motor
20 vehicle fuel that is:

21 “(a) Produced in Oregon or imported into Oregon by the covered
22 entity; and

23 “(b) Delivered into a fuel tank used for propelling a motor vehicle
24 at:

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

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

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

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

5 “(5) The electors or the governing body of a county or city may, by
6 ordinance or resolution, exercise the option for the cost of the Oregon
7 Greenhouse Gas Initiative to apply to motor vehicle fuel delivered into
8 the fuel tanks for propelling motor vehicles at delivery points located
9 within the boundary of the county or city. Not later than 10 days after
10 passage of an ordinance or resolution approving exercise of the option
11 described in this subsection, the governing body of the county or city
12 shall provide by certified mail to the office a certified copy of the
13 adopted ordinance or resolution.

14 “(6) The office shall cease to retire allowances from the annual al-
15 lowance budget under this section on January 1 of the year following
16 the year in which the total number of counties in this state that have
17 exercised the option described in subsection (5) of this section first
18 meets or exceeds 23 counties.

19 “(7) Allowances directly retired by the office on behalf of a covered
20 entity under this section shall count toward fulfilling the covered
21 entity’s compliance obligation for the compliance period during which
22 the allowances are directly retired. A covered entity may not include
23 in the rate or bill charged for motor vehicle fuel delivered at a delivery
24 point for which allowances are directly retired under this section any
25 costs associated with compliance by the covered entity with the
26 Oregon Greenhouse Gas Initiative.

27 “SECTION 14. Direct distribution of allowances for electric compa-
28 nies. The Oregon Greenhouse Gas Reduction Board shall, in consulta-
29 tion with the Public Utility Commission, adopt rules for allocating
30 allowances for direct distribution at no cost to covered entities that

1 are electric companies. Direct distributions under this section must
2 be for the exclusive benefit of retail customers that are supplied elec-
3 tricity by the electric company. Rules adopted under this section must
4 allow for an electric company to use allowances directly distributed
5 under this section to fulfill the compliance obligation associated with
6 electricity supplied by the electric company to serve the load of the
7 electric company’s retail customers in Oregon, subject to the oversight
8 of the commission. The rules must include provisions necessary to
9 implement direct distributions of allowances to electric companies as
10 follows:

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

15 “(A) The annual direct distributions to an electric company in 2022
16 and in each following calendar year before 2030 must be a number of
17 allowances such that the electric company receives a total direct dis-
18 tribution of allowances over that time period equal to 100 percent of
19 the electric company’s forecast regulated emissions for 2022 and for
20 each following year until and including 2029 associated with the elec-
21 tricity supplied to serve the load of the electric company’s retail cus-
22 tomers in Oregon; and

23 “(B) The direct distribution to an electric company in 2030 must be
24 a number of allowances equal to 100 percent of the electric company’s
25 forecast regulated emissions associated with the electricity supplied
26 to serve the load of the electric company’s retail customers in Oregon
27 for the calendar year 2030.

28 “(b) For purposes of this subsection, forecast regulated emissions
29 for an electric company must be based on or contained in the follow-
30 ing, as of January 1, 2022:

1 “(A) The most recent integrated resource plan filed by the electric
2 company and acknowledged by order by the commission;

3 “(B) Any updates to the integrated resource plan filed by the elec-
4 tric company with the commission; or

5 “(C) In the case of a multistate jurisdictional electric company,
6 other information developed consistent with a methodology approved
7 by the commission.

8 “(2) In 2031 and in each following calendar year before 2051, the di-
9 rect distribution to an electric company under this section shall de-
10 cline annually from the number of allowances directly distributed to
11 the electric company in 2030 by the constant amount necessary to re-
12 duce the annual direct distributions such that the direct distribution
13 in 2050 is a number of allowances equal to 20 percent of the average
14 of the annual emissions of the electric company for the five most re-
15 cent years prior to the effective date of this 2020 Act, as reported under
16 ORS 468A.280.

17 “SECTION 15. Direct distribution of allowances for certain electric
18 system managers. (1) The Office of Greenhouse Gas Regulation shall
19 allocate allowances for direct distribution at no cost to covered enti-
20 ties that are electric system managers other than electric companies
21 as follows:

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

25 “(A) The electric system manager’s 2022 baseline emissions attrib-
26 utable to electricity scheduled by the electric system manager for final
27 delivery by consumer-owned utilities for consumption in this state;
28 and

29 “(B) Not regulated emissions for which the office has retired al-
30 lowances on behalf of the electric system manager.

1 **“(b) In 2023 and in each following calendar year before 2051, the di-**
2 **rect distribution received by an electric system manager for emissions**
3 **described in paragraph (a) of this subsection shall decline annually by**
4 **a constant amount proportionate to the decline in the number of al-**
5 **lowances available in annual allowance budgets pursuant to section 5**
6 **(1)(b) of this 2020 Act.**

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

11 **“(2) Proceeds from the sale by a consumer-owned utility of allow-**
12 **ances distributed at no cost under this section must be used by the**
13 **consumer-owned utility for the benefit of ratepayers, in furtherance**
14 **of the purposes set forth in section 2 of this 2020 Act and as further**
15 **required by the governing body of the consumer-owned utility.**

16 **“(3) The governing body of a consumer-owned utility that receives**
17 **or sells directly distributed allowances under this section shall, no**
18 **later than September 15 of each even-numbered year, submit a report**
19 **to the Legislative Assembly on the use by the consumer-owned utility**
20 **of the directly distributed allowances. The report must include, but**
21 **not be limited to, a description of the uses by the consumer-owned**
22 **utility of proceeds from the sale of allowances distributed to the**
23 **consumer-owned utility under this section.**

24 **“SECTION 16. 2022 emissions baseline for electric system managers.**
25 **In determining the baseline of anthropogenic greenhouse gas emis-**
26 **sions for 2022 for an electric system manager as required by section**
27 **15 (1)(a)(A) of this 2020 Act, the Office of Greenhouse Gas Regulation**
28 **shall consider:**

29 **“(1) Anthropogenic greenhouse gas emissions information available**
30 **for the electric system manager for representative years prior to 2022,**

1 as reported under ORS 468A.280;

2 “(2) Hydroelectric power generation variability;

3 “(3) Increases in load requirements anticipated to occur on or be-
4 fore January 1, 2025, due to acquisitions of large industrial customers
5 not previously served by the electric system manager; and

6 “(4) Any other indicators of changes in load requirements on or
7 before January 1, 2025, that are relevant to determining an electric
8 system manager’s 2022 baseline anthropogenic greenhouse gas emis-
9 sions.

10 **SECTION 17. Direct distribution of allowances for natural gas**
11 **utilities.** (1) Subject to subsections (2) and (3) of this section, the Office
12 of Greenhouse Gas Regulation shall annually allocate allowances for
13 direct distribution at no cost to covered entities that are natural gas
14 utilities, such that the number of allowances directly distributed is
15 equal to the total of:

16 “(a) The regulated emissions attributable to the provision of natural
17 gas service to the low-income residential sales customers of the na-
18 tural gas utility, as determined by the office after consultation with
19 the Public Utility Commission;

20 “(b) 60 percent of the weather-normalized anthropogenic
21 greenhouse gas emissions forecast for 2022 to be regulated emissions
22 attributable to natural gas use or combustion by the natural gas sales
23 customers of the natural gas utility that are not trade-exposed natural
24 gas users;

25 “(c) 60 percent of the weather-normalized anthropogenic greenhouse
26 gas emissions forecast for 2022 to be regulated emissions attributable
27 to natural gas use or combustion by the natural gas transportation
28 customers of the natural gas utility that are not trade-exposed natural
29 gas users; and

30 “(d) The regulated emissions addressed by designation of a person

1 as a covered entity under section 5 (2)(b) or (c) of this 2020 Act at-
2 tributable to natural gas use or combustion by trade-exposed natural
3 gas users that receive natural gas on the natural gas utility’s distrib-
4 ution system, as determined by the office after consultation with the
5 commission.

6 “(2) In 2023 and in each following calendar year before 2051, the di-
7 rect distributions received by a natural gas utility under subsection (1)
8 (b) and (c) of this section shall each decline annually by a constant
9 amount proportionate to the decline in the number of allowances
10 available in annual allowance budgets pursuant to section 5 (1)(b) of
11 this 2020 Act.

12 “(3) Allowances distributed under subsection (1)(a) of this section
13 must be used by the natural gas utility only to fulfill a compliance
14 obligation, with the benefit of the use accruing to the natural gas
15 utility’s low-income residential sales customers in a manner author-
16 ized by the commission pursuant to section 55 of this 2020 Act.

17 “(4) The office shall require a natural gas utility to consign all al-
18 lowances directly distributed under subsection (1)(b) to (d) of this
19 section to the office to be auctioned pursuant to section 28 of this 2020
20 Act. Proceeds from the sale of allowances directly distributed under
21 subsection (1)(b) to (d) of this section may be used only in the manner
22 authorized by the commission under section 48 of this 2020 Act.

23 **“SECTION 18. Designation of trade-exposed natural gas users. (1)**
24 **The Office of Greenhouse Gas Regulation shall designate a person as**
25 **a trade-exposed natural gas user if, as of the operative date of this**
26 **section and as may be verified by the office, the person receives na-**
27 **tural gas through a natural gas utility’s distribution system and uses**
28 **the natural gas to engage in one or more of the following trade-**
29 **exposed processes, as identified by industry group and code in the 2017**
30 **North American Industry Classification System:**

- 1 **“(a) Aerospace Product and Parts Manufacturing, code 3364.**
- 2 **“(b) Bakeries and Tortilla Manufacturing, code 3118.**
- 3 **“(c) Basic Chemical Manufacturing, code 3251.**
- 4 **“(d) Cement and Concrete Product Manufacturing, code 3273.**
- 5 **“(e) Converted Paper Product Manufacturing, code 3222.**
- 6 **“(f) Dairy Product Manufacturing, code 3115.**
- 7 **“(g) Forest Nurseries and Gathering of Forest Products, code 1132.**
- 8 **“(h) Foundries, code 3315.**
- 9 **“(i) Fruit and Tree Nut Farming, code 1113.**
- 10 **“(j) Fruit and Vegetable Preserving and Specialty Food Manufac-**
11 **turing, code 3114.**
- 12 **“(k) Glass and Glass Product Manufacturing, code 3272.**
- 13 **“(L) Grain and Oilseed Milling, code 3112.**
- 14 **“(m) Greenhouse, Nursery, and Floriculture Production, code 1114.**
- 15 **“(n) Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.**
- 16 **“(o) Lime and Gypsum Product Manufacturing, code 3274.**
- 17 **“(p) Miscellaneous Durable Goods Merchant Wholesalers, code 4239.**
- 18 **“(q) Motor Vehicle Manufacturing, code 3361.**
- 19 **“(r) Nonferrous Metal (except Aluminum) Production and Process-**
20 **ing, code 3314.**
- 21 **“(s) Nonmetallic Mineral Mining and Quarrying, code 2123.**
- 22 **“(t) Other Crop Farming, code 1119.**
- 23 **“(u) Other Nonmetallic Mineral Product Manufacturing, code 3279.**
- 24 **“(v) Other Wood Product Manufacturing, code 3219.**
- 25 **“(w) Plastics Product Manufacturing, code 3261.**
- 26 **“(x) Pulp, Paper, and Paperboard Mills, code 3221.**
- 27 **“(y) Resin, Synthetic Rubber, and Artificial and Synthetic Fibers**
28 **and Filaments Manufacturing, code 3252.**
- 29 **“(z) Railroad Rolling Stock Manufacturing, code 3365.**
- 30 **“(aa) Sawmills and Wood Preservation, code 3211.**

1 “(bb) Seafood Product Preparation and Packaging, code 3117.

2 “(cc) Semiconductor and Other Electronic Component Manufactur-
3 ing, code 3344.

4 “(dd) Ship and Boat Building, code 3366.

5 “(ee) Vegetable and Melon Farming, code 1112.

6 “(ff) Veneer, Plywood, and Engineered Wood Product Manufactur-
7 ing, code 3212.

8 “(2) The Oregon Greenhouse Gas Reduction Board shall adopt by
9 rule a procedure for designating as a trade-exposed natural gas user
10 a person not described in subsection (1) of this section that faces a
11 significant risk of leakage due to the indirect impacts of the Oregon
12 Greenhouse Gas Initiative on natural gas costs. Designation of a
13 person as a trade-exposed natural gas user under the procedure must
14 be consistent with the purpose set forth in section 2 (1)(a) of this 2020
15 Act.

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

20 “SECTION 19. Designation of covered entities engaged in
21 emissions-intensive, trade-exposed processes as EITE entities. (1) The
22 Office of Greenhouse Gas Regulation shall designate a covered entity
23 as an EITE entity if the covered entity is a permitted air contam-
24 ination source and is primarily engaged, as of the operative date of
25 this section and as may be verified by the office, in the manufacture
26 of goods through one or more of the following emissions-intensive,
27 trade-exposed processes, as identified by industry group and code in
28 the 2017 North American Industry Classification System:

29 “(a) Aerospace Product and Parts Manufacturing, code 3364.

30 “(b) Basic Chemical Manufacturing, code 3251.

- 1 “(c) Cement and Concrete Product Manufacturing, code 3273.
- 2 “(d) Converted Paper Product Manufacturing, code 3222.
- 3 “(e) Foundries, code 3315.
- 4 “(f) Fruit and Vegetable Preserving and Specialty Food Manufac-
- 5 turing, code 3114.
- 6 “(g) Glass and Glass Product Manufacturing, code 3272.
- 7 “(h) Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.
- 8 “(i) Lime and Gypsum Product Manufacturing, code 3274.
- 9 “(j) Miscellaneous Durable Goods Merchant Wholesalers, code 4239.
- 10 “(k) Motor Vehicle Manufacturing, code 3361.
- 11 “(L) Nonferrous Metal (except Aluminum) Production and Process-
- 12 ing, code 3314.
- 13 “(m) Nonmetallic Mineral Mining and Quarrying, code 2123.
- 14 “(n) Other Nonmetallic Mineral Product Manufacturing, code 3279.
- 15 “(o) Other Wood Product Manufacturing, code 3219.
- 16 “(p) Plastics Product Manufacturing, code 3261.
- 17 “(q) Pulp, Paper, and Paperboard Mills, code 3221.
- 18 “(r) Resin, Synthetic Rubber, and Artificial and Synthetic Fibers
- 19 and Filaments Manufacturing, code 3252.
- 20 “(s) Railroad Rolling Stock Manufacturing, code 3365.
- 21 “(t) Sawmills and Wood Preservation, code 3211.
- 22 “(u) Semiconductor and Other Electronic Component Manufactur-
- 23 ing, code 3344.
- 24 “(v) Ship and Boat Building, code 3366.
- 25 “(w) Veneer, Plywood, and Engineered Wood Product Manufactur-
- 26 ing, code 3212.
- 27 “(2)(a) The Oregon Greenhouse Gas Reduction Board shall adopt by
- 28 rule a procedure for designating as an EITE entity a covered entity
- 29 that:
- 30 “(A) Begins manufacturing a good or goods in this state after the

1 **operative date of this section through an emissions-intensive, trade-**
2 **exposed process listed in subsection (1) of this section; or**

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

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

9 **“(3) Rules adopted under subsection (2) of this section may allow**
10 **the office to assign a good manufactured by a covered entity desig-**
11 **nated as an EITE entity pursuant to this section a temporary**
12 **benchmark, consistent with the processes for calculating benchmarks**
13 **under section 20 of this 2020 Act, and to adjust the temporary**
14 **benchmark after the close of the first compliance period for which the**
15 **EITE entity must fulfill a compliance obligation.**

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

20 **“SECTION 20. Direct distribution of allowances for EITE entities.**

21 **(1) As used in this section, ‘annual benchmarked emissions**
22 **calculation’ means the product of an emissions efficiency benchmark**
23 **for a good or group of goods multiplied by the EITE entity’s output,**
24 **during the calendar year for which allowances will be allocated for**
25 **direct distribution at no cost to the EITE entity, of the good or group**
26 **of goods to which the emissions efficiency benchmark applies.**

27 **“(2) The annual allocation of allowances for direct distribution at**
28 **no cost to an EITE entity shall be a number of allowances equal to the**
29 **sum total of the annual benchmarked emissions calculations for the**
30 **goods manufactured by the EITE entity.**

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

4 **“(4) In establishing the emissions efficiency benchmarks, the office**
5 **may:**

6 **“(a) Establish an emissions efficiency benchmark separately for**
7 **each individual good manufactured in this state by an EITE entity;**
8 **or**

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

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

14 **“(B) Cannot be distinguished as emissions attributable to any one**
15 **of the goods in the group.**

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

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

29 **“(B) Divide the number calculated under subparagraph (A) of this**
30 **paragraph by the three-year average of the total annual output of the**

1 good or group of goods in this state by the EITE entity.

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

4 “(A) Shall use anthropogenic greenhouse gas emissions information
5 and output data from the three most recent years prior to 2022 for
6 which anthropogenic greenhouse gas emissions information is avail-
7 able and verified by the office; and

8 “(B) Except as provided in subsection (6) of this section, shall ex-
9 clude from the data described in subparagraph (A) of this paragraph
10 the anthropogenic greenhouse gas emissions attributable to com-
11 bustion by an EITE entity described in section 24 of this 2020 Act of
12 natural gas purchased as described in section 24 (1) of this 2020 Act.

13 “(6) At the request of an EITE entity described in section 24 of this
14 2020 Act, the office shall include in the calculation required by sub-
15 section (5)(a) of this section the emissions described in subsection
16 (5)(b)(B) of this section. An EITE entity described in section 24 of this
17 2020 Act that requests inclusion of the emissions described in sub-
18 section (5)(b)(B) of this section in the calculation required by sub-
19 section (5)(a) of this section is exempt from the requirements of
20 section 24 of this 2020 Act and may not be allocated allowances for
21 direct distribution at no cost under section 24 of this 2020 Act.

22 “(7) An EITE entity may file with the office a written request for
23 a contested case hearing to challenge an order establishing the emis-
24 sions efficiency benchmarks for goods produced by the EITE entity.
25 The request shall be filed within 30 days after the date the order was
26 entered. If an EITE entity requests a hearing, the hearing shall be
27 conducted in accordance with the provisions applicable to contested
28 case proceedings under ORS chapter 183.

29 “(8) In order to implement this section, the Oregon Greenhouse Gas
30 Reduction Board shall adopt by rule:

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

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

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

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

22 “SECTION 21. Operation of emissions efficiency benchmarks based
23 on best available technology. (1) The amendments to section 20 of this
24 2020 Act by section 22 of this 2020 Act become operative on January
25 1, 2026.

26 “(2)(a) Subject to paragraph (b) of this subsection, the Office of
27 Greenhouse Gas Regulation shall first establish, by order, emissions
28 efficiency benchmarks based on best available technology for EITE
29 entities under the amendments to section 20 of this 2020 Act by section
30 22 of this 2020 Act no later than January 1, 2025.

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

7 **“(c) An order issued under this subsection may not become effective**
8 **prior to January 1, 2026.**

9 **“(3) The Oregon Greenhouse Gas Reduction Board may adopt or**
10 **amend rules and the office may issue orders or take any actions before**
11 **the operative date specified in subsection (1) of this section that are**
12 **necessary to enable the board or the office, on and after the operative**
13 **date specified in subsection (1) of this section, to carry out subsection**
14 **(2) of this section and the amendments to section 20 by section 22 of**
15 **this 2020 Act.**

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

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

18 **“(a) ‘Annual benchmarked emissions calculation’ means the product of**
19 **an emissions efficiency benchmark for a good or group of goods multiplied**
20 **by the EITE entity’s output, during the calendar year for which allowances**
21 **will be allocated for direct distribution at no cost to the EITE entity, of the**
22 **good or group of goods to which the emissions efficiency benchmark applies.**

23 **“(b) ‘Best available technology’ means the fuels, processes, equip-**
24 **ment and technology that will most effectively reduce the regulated**
25 **emissions:**

26 **“(A) For which an EITE entity must meet a compliance obligation;**
27 **and**

28 **“(B) That are associated with the manufacture by an EITE entity**
29 **of a good, without changing the characteristics of the good being**
30 **manufactured, that is technically feasible, commercially available,**

1 **economically viable and compliant with all applicable laws.**

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

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

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

10 “(a) Establish an emissions efficiency benchmark separately for each in-
11 dividual good manufactured in this state by an EITE entity; or

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

16 “(A) Are not materially different in quantity; or

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

19 “[5(a) *The office shall establish emissions efficiency benchmarks based on*
20 *recent years’ efficiency as provided in this subsection. An emissions efficiency*
21 *benchmark established based on recent years’ efficiency shall be applicable for*
22 *the period beginning January 1, 2022, and ending December 31, 2025. To de-*
23 *termine each emissions efficiency benchmark, the office shall:]*

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

30 “[B] *Divide the number calculated under subparagraph (A) of this para-*

1 *graph by the three-year average of the total annual output of the good or group*
2 *of goods in this state by the EITE entity.]*

3 *“(b) In conducting the calculation required by paragraph (a) of this sub-*
4 *section, the office:]*

5 *“(A) Shall use anthropogenic greenhouse gas emissions information and*
6 *output data from the three most recent years prior to 2022 for which*
7 *anthropogenic greenhouse gas emissions information is available and verified*
8 *by the office; and]*

9 *“(B) Except as provided in subsection (6) of this section, shall exclude from*
10 *the data described in subparagraph (A) of this paragraph the anthropogenic*
11 *greenhouse gas emissions attributable to combustion by an EITE entity de-*
12 *scribed in section 24 of this 2020 Act of natural gas purchased as described*
13 *in section 24 (1) of this 2020 Act.]*

14 *“(6) At the request of an EITE entity described in section 24 of this 2020*
15 *Act, the office shall include in the calculation required by subsection (5)(a) of*
16 *this section the emissions described in subsection (5)(b)(B) of this section. An*
17 *EITE entity described in section 24 of this 2020 Act that requests inclusion*
18 *of the emissions described in subsection (5)(b)(B) of this section in the calcu-*
19 *lation required by subsection (5)(a) of this section is exempt from the require-*
20 *ments of section 24 of this 2020 Act and may not be allocated allowances for*
21 *direct distribution at no cost under section 24 of this 2020 Act.]*

22 **“(5)(a) The office shall establish emissions efficiency benchmarks**
23 **based on best available technology as provided in this subsection. The**
24 **office shall update each emissions efficiency benchmark once every**
25 **nine years. Each emissions efficiency benchmark must represent the**
26 **anthropogenic greenhouse gas emissions that would be the resulting**
27 **regulated emissions attributable to an EITE entity for the manufac-**
28 **ture of a good or group of goods in this state, if the EITE entity were**
29 **to use the best available technology, as of the date that the emissions**
30 **efficiency benchmark was last updated, that materially contributes to**

1 the regulated emissions of the EITE entity.

2 “(b) In determining an emissions efficiency benchmark, the office
3 shall:

4 “(A) Consider any anthropogenic greenhouse gas emissions inten-
5 sity audit reports specific to the EITE entity submitted under para-
6 graph (c) of this subsection;

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

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

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

15 “(E) Exclude from any calculation the anthropogenic greenhouse
16 gas emissions attributable to natural gas combustion by an EITE en-
17 tity described in section 24 of this 2020 Act.

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

22 “(A) Include an analysis of the current fuels, processes, equipment
23 and technology that materially contribute to the regulated emissions
24 of the EITE entity attributable to the manufacture of each good or
25 group of goods by the EITE entity and the resulting emissions inten-
26 sity per unit of output for each good or group of goods.

27 “(B) Include an analysis of the best available technology to produce
28 the goods manufactured by the EITE entity and the resulting
29 anthropogenic greenhouse gas emissions intensity per unit of output
30 for each good or group of goods if best available technology were used

1 by the EITE entity. The analysis required by this subparagraph must,
2 to the greatest extent practicable, consider the factors described in
3 paragraph (b)(C) and (D) of this subsection.

4 “(C) Based on the analyses required under subparagraphs (A) and
5 (B) of this paragraph, provide an estimate of the anthropogenic
6 greenhouse gas emissions intensity per unit of output to produce the
7 same goods or groups of goods at the same facility if the facility used
8 the best available technology.

9 “(6) At the request of an EITE entity described in section 24 of this
10 2020 Act, the office shall include in the determination of an emissions
11 efficiency benchmark the emissions described in subsection (5)(b)(E)
12 of this section. An EITE entity described in section 24 of this 2020 Act
13 that requests inclusion of the emissions described in subsection
14 (5)(b)(E) of this section in the determination of an emissions efficiency
15 benchmark is exempt from the requirements of section 24 of this 2020
16 Act and may not be allocated allowances for direct distribution at no
17 cost under section 24 of this 2020 Act.

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

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

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

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

1 “(c) A process for adjusting an allocation of allowances for direct dis-
2 tribution at no cost, if necessary, to reconcile for output variability or type
3 of good.

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

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

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

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

28 **“(3) Whether the conclusions of the assessments required under**
29 **subsections (1) and (2) of this section warrant an adjustment to the**
30 **methods of calculating the emissions efficiency benchmarks estab-**

1 lished pursuant to section 20 of this 2020 Act.

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

8 **“(a) In 2022 and each following calendar year before 2025, the direct**
9 **distribution received by the EITE entity shall be a number of allow-**
10 **ances equal to the total of the regulated emissions by the EITE entity**
11 **attributable to the combustion of natural gas purchased as described**
12 **in this subsection.**

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

19 **“(B) If the EITE entity is in compliance with an approved energy**
20 **management system audit and implementation plan subject to sub-**
21 **section (2) of this section, the direct distribution received by the EITE**
22 **entity during the following years shall be as follows:**

23 **“(i) In 2025 and each year before 2030, the direct distribution shall**
24 **be a number of allowances equal to the total of the regulated emis-**
25 **sions by the EITE entity attributable to the combustion of natural gas**
26 **purchased as described in this subsection; and**

27 **“(ii) In 2030 and each year before 2051, the direct distribution shall**
28 **be a number of allowances equal to 97 percent of the total of the reg-**
29 **ulated emissions by the EITE entity attributable to the combustion**
30 **of natural gas purchased as described in this subsection.**

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

5 “(b) The office shall approve an energy management system audit
6 and implementation plan if:

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

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

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

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

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

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

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

28 “(4) The Oregon Greenhouse Gas Reduction Board shall adopt rules
29 necessary to implement this section, including but not limited to a
30 process for an EITE entity to appeal the approval or disapproval of an

1 energy management system audit or implementation plan.

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

3 **“(a) Must be located in the United States;**

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

5 **“(c) Must result in greenhouse gas emissions reductions or re-**
6 **movals that:**

7 **“(A) Are real, permanent, quantifiable, verifiable and enforceable;**
8 **and**

9 **“(B) Are in addition to greenhouse gas emissions reductions or re-**
10 **movals otherwise required by law or legally enforceable mandate and**
11 **that exceed any other greenhouse gas emissions reductions or re-**
12 **movals that would otherwise occur in a conservative business-as-usual**
13 **scenario.**

14 **“(2)(a) A total of no more than eight percent of a covered entity’s**
15 **compliance obligation may be fulfilled by surrendering offset credits.**
16 **A total of no more than four percent of a covered entity’s compliance**
17 **obligation may be fulfilled by surrendering offset credits generated by**
18 **offset projects that do not provide direct environmental benefits in**
19 **this state.**

20 **“(b) The Oregon Greenhouse Gas Reduction Board may by rule**
21 **adopt additional restrictions on the number of offset credits that may**
22 **be surrendered by a covered entity that is a permitted air contam-**
23 **ination source and that is geographically located in an impacted com-**
24 **munity if:**

25 **“(A) The geographic area within which the permitted air contam-**
26 **ination source is located is also a nonattainment area and the per-**
27 **mitted air contamination source substantially contributes to or causes**
28 **the nonattainment of air quality standards; or**

29 **“(B) The permitted air contamination source is in violation of the**
30 **terms or conditions of any permit required or authorized under ORS**

1 468.065 or ORS chapter 468A and issued by the Department of Envi-
2 ronmental Quality or a regional air quality control authority formed
3 under ORS 468A.105.

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

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

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

10 “(B) Voluntary offset projects and the generation, issuance and use
11 of offset credits established by organizations that operate offset credit
12 registries;

13 “(b) Allow for the broadest possible participation by landowners in
14 developing and operating offset projects across the broadest possible
15 variety of types and sizes of lands;

16 “(c) Encourage opportunities for developing offset projects that
17 provide direct environmental benefits in this state;

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

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

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

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

30 “(b) Requirements for offset projects to be registered with qualified

1 **third-party organizations that operate offset credit registries to receive**
2 **early action offset credits; and**

3 **“(c) Requirements for offset credits issued by qualified third-party**
4 **organizations that operate offset credit registries to be converted to**
5 **offset credits issued through or acceptable under the Oregon**
6 **Greenhouse Gas Initiative.**

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

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

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

16 **“(c) A determination that offset credits are duplicative of other**
17 **offset credits issued for the same greenhouse gas emissions reductions**
18 **or removals by another offset credit issuing body and that the invali-**
19 **dation is necessary to remedy the duplication.**

20 **“(6) The board shall establish by rule one or more offset integrity**
21 **accounts. The office shall withhold a percentage of the offset credits**
22 **issued by the office for each offset project and deposit the withheld**
23 **offset credits in an offset integrity account. Uses of offset credits de-**
24 **posited in offset integrity accounts may include, but need not be lim-**
25 **ited to, using the offset credits to replace offset credits that are**
26 **invalidated pursuant to rules adopted under subsection (5) of this sec-**
27 **tion.**

28 **“SECTION 26. Offset protocols. (1) Offset protocols, and any**
29 **greenhouse gas emissions inventory and monitoring requirements re-**
30 **lated to the offset protocols, developed pursuant to rules adopted un-**

1 **der section 25 of this 2020 Act:**

2 **“(a) Must be straightforward to implement and administer, for both**
3 **offset project operators and persons purchasing offset credits;**

4 **“(b) Must provide flexibility for landowners in the development and**
5 **operation of offset projects;**

6 **“(c) Must establish, for each offset protocol, a predetermined cred-**
7 **iting period for which an offset project will remain eligible to receive**
8 **offset credits for greenhouse gas emissions reductions or removals;**
9 **and**

10 **“(d) May make use of aggregation or other mechanisms, including**
11 **cost-effective inventory and monitoring provisions, to increase the**
12 **development of offset projects by landowners across the broadest pos-**
13 **sible variety of types and sizes of lands.**

14 **“(2)(a) The Oregon Greenhouse Gas Reduction Board and the Office**
15 **of Greenhouse Gas Regulation shall collaborate and consult with the**
16 **State Forestry Department in developing and monitoring offset proto-**
17 **cols related to forestry. Offset protocols related to forestry that are**
18 **developed pursuant to this subsection:**

19 **“(A) Must prioritize reforestation, avoided forest conversion and**
20 **improved forest management.**

21 **“(B) Must, to the extent practicable, prioritize low-carbon-impact**
22 **building materials and urban forestry.**

23 **“(C) Must have the ability to be administered consistently with the**
24 **applicable state and local land use laws of Oregon.**

25 **“(D) May account for differences in forest management practices**
26 **between private owners of forestland and state or other owners of**
27 **nonfederal forestlands in establishing the baselines for the generation**
28 **of offset credits by offset projects on the private, state or other non-**
29 **federal forestlands.**

30 **“(E) May not authorize the generation or issuance of offset credits**

1 for greenhouse gas emissions reductions or removals that occur during
2 the period beginning on January 1, 2022, and ending on December 31,
3 2030, as the result of offset projects on state forestlands, unless as of
4 the effective date of this 2020 Act the state forestlands are:

5 “(i) Trust lands as defined in ORS 273.462;

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

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

8 “(iv) Any other lands placed under the jurisdiction of the State
9 Land Board consistent with Article VIII, section 5, Oregon Constitu-
10 tion.

11 “(b) In developing offset protocols related to forestry, the Oregon
12 Greenhouse Gas Reduction Board, the office and the department shall
13 include a method by which, upon an affirmative recommendation un-
14 der section 27 (2)(c) of this 2020 Act, offset protocols for offset projects
15 are adjusted to avoid permanent or temporary net cumulative re-
16 ductions, attributable to offset projects, in the regional supply of wood
17 fiber harvested from nonfederal forestlands in Oregon that is available
18 to wood products manufacturing facilities in this state. This paragraph
19 does not apply to offset projects located on Indian trust lands or In-
20 dian fee lands.

21 “(c) The board and the department shall jointly convene a technical
22 advisory committee to advise the board, the office and the department
23 in developing and monitoring offset protocols related to forestry. The
24 technical advisory committee must include members with expertise in
25 offset protocols related to forestry.

26 “(3) The board and the office shall collaborate and consult with all
27 relevant state agencies, including but not limited to the State De-
28 partment of Agriculture and the Oregon Watershed Enhancement
29 Board, in developing and monitoring offset protocols related to agri-
30 culture and conservation on natural and working lands. In developing

1 offset protocols pursuant to this subsection, the Oregon Greenhouse
2 Gas Reduction Board shall:

3 “(a) Consider developing offset protocols for:

4 “(A) Manure management that reduces methane emissions from
5 agricultural operations;

6 “(B) Avoided grassland conversion; and

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

10 “(b) Ensure that the offset protocols have the ability to be admin-
11 istered consistently with the applicable state and local land use laws
12 of Oregon.

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

17 “(5) The office shall regularly review and recommend to the board
18 updates to offset protocols developed pursuant to rules adopted under
19 section 25 of this 2020 Act. The reviews and updates of offset protocols
20 shall include any updates, as necessary, to the methods or technolo-
21 gies used for measuring and monitoring the greenhouse gas emissions
22 reductions or removals attributable to the offset projects addressed by
23 the offset protocols.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 **“(3) The office may engage:**

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

29 **“(b) A qualified financial services administrator to conduct finan-**
30 **cial transactions related to the auction.**

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

3 **“(5) The office shall:**

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

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

10 **“(c) Set a hard price ceiling for 2022 and a schedule for the hard**
11 **price ceiling to increase by a fixed percentage over inflation each cal-**
12 **endar year.**

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

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

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

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

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

30 **“(8) Sales of allowances from the allowance price containment re-**

1 serve shall be conducted separately from the auction of other allow-
2 ances for the purpose of addressing high costs of compliance
3 instruments. Allowances unsold from the reserve sale must be made
4 available again at future reserve sales. General market participants
5 may not purchase allowances at reserve sales. The proceeds from any
6 sale of allowances pursuant to this subsection shall be credited to the
7 Auction Proceeds Distribution Fund established under section 29 of
8 this 2020 Act.

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

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

21 “(A) All moneys that constitute revenues described in Article IX,
22 section 3a, of the Oregon Constitution, shall be credited to the Trans-
23 portation Decarbonization Investments Account established in section
24 34 of this 2020 Act;

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

28 “(C) Moneys remaining after meeting the requirements of subpara-
29 graphs (A) and (B) of this paragraph shall be credited to the Oregon
30 Greenhouse Gas Initiative Operating Fund established under section

1 31 of this 2020 Act, to be used only as described in section 31 (4) of this
2 2020 Act.

3 “(10) The Oregon Greenhouse Gas Reduction Board:

4 “(a) Shall adopt rules for making an unlimited number of allow-
5 ances available for auction upon exceedance of the hard price ceiling
6 set by the office under subsection (5) of this section; and

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

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

14 “(2) The fund shall consist of moneys credited to the fund under
15 section 28 of this 2020 Act. Interest earned by the fund shall be credited
16 to the fund.

17 “(3) The office shall certify the amount of moneys deposited in the
18 fund available for distribution and shall cause the moneys to be dis-
19 tributed as follows:

20 “(a) All moneys that constitute revenues described in Article IX,
21 section 3a, of the Oregon Constitution, shall be transferred to the
22 Transportation Decarbonization Investments Account established in
23 section 34 of this 2020 Act;

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

27 “(c) An amount necessary for administration, other than adminis-
28 tration paid for by moneys described in paragraphs (a) and (b) of this
29 subsection, of sections 2, 4 to 32, 38 to 40, 41, 42, 43 and 45 to 53 of this
30 2020 Act and rules adopted pursuant to sections 2, 4 to 32, 38 to 40, 41,

1 42, 43 and 45 to 53 of this 2020 Act shall be transferred to the Oregon
2 Greenhouse Gas Initiative Operating Fund established under section
3 31 of this 2020 Act; and

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

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

11 “(a) Detail activity during the most-recently closed compliance pe-
12 riod under the Oregon Greenhouse Gas Initiative;

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

15 “(A) The number of allowances bought and sold at each auction
16 held and all auction prices, including the floor and ceiling prices, for
17 the allowances bought and sold at each auction;

18 “(B) The beginning and ending balances of all auction holding ac-
19 counts and reserves held by the office; and

20 “(C) The anthropogenic greenhouse gas emissions reductions
21 achieved during the compliance period;

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

24 “(d) Analyze the state’s progress in reducing anthropogenic
25 greenhouse gas emissions consistent with ORS 468A.205 and examine
26 trends in anthropogenic greenhouse gas emissions by sector; and

27 “(e) Evaluate the public health and other cobenefits of greenhouse
28 gas emissions reductions, with a particular emphasis on the cobenefits
29 for impacted communities.

30 “(2) In addition to the information required by subsection (1) of this

1 section, every second report required by this section shall evaluate the
2 efficacy of the Oregon Greenhouse Gas Initiative and investments of
3 the proceeds from auctions under section 28 of this 2020 Act in carry-
4 ing out the purposes set forth in section 2 of this 2020 Act.

5 **“SECTION 31. Operating fund. (1) The Oregon Greenhouse Gas Ini-**
6 **tiative Operating Fund is established in the State Treasury, separate**
7 **and distinct from the General Fund. Interest earned by the Oregon**
8 **Greenhouse Gas Initiative Operating Fund shall be credited to the**
9 **fund. Moneys in the fund are continuously appropriated to the De-**
10 **partment of Environmental Quality for use by the Office of**
11 **Greenhouse Gas Regulation:**

12 **“(a) In the performance of the duties, functions and powers vested**
13 **in the office by law; and**

14 **“(b) To provide, at the request of another state agency, for the re-**
15 **imbursement or advance payment of reasonable expenses incurred by**
16 **the state agency to administer duties required of the state agency by**
17 **sections 2, 4 to 32, 38 to 40, 41, 42, 43 and 45 to 53 of this 2020 Act and**
18 **rules adopted pursuant to sections 2, 4 to 32, 38 to 40, 41, 42, 43 and 45**
19 **to 53 of this 2020 Act, if the expenses of the state agency cannot oth-**
20 **erwise reasonably be paid from moneys available to the state agency**
21 **for payment of the administrative expenses.**

22 **“(2) The fund shall consist of:**

23 **“(a) Moneys deposited in the fund pursuant to sections 28, 29 and**
24 **107a of this 2020 Act;**

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

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

28 **“(3) Civil penalties deposited in the fund under section 107a of this**
29 **2020 Act shall be deposited in a separate subaccount created in the**
30 **fund and must be used only for providing technical assistance to cov-**

1 ered entities.

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

6 **“SECTION 32. Public records law; application. (1) The Legislative**
7 **Assembly finds and declares that it is the policy of this state that the**
8 **Oregon Greenhouse Gas Initiative operate free of abuse and disruptive**
9 **activity. It is therefore the intent of the Legislative Assembly that the**
10 **provisions of sections 4 to 32 of this 2020 Act be implemented in a**
11 **manner necessary to prevent fraud, abuse or market manipulation to**
12 **the greatest extent possible while upholding the public interest in**
13 **transparency in public process and government by making certain**
14 **market activity information available in aggregated form.**

15 “(2) The following public records are exempt from disclosure under
16 ORS 192.311 to 192.478 and may not be disclosed to any person or entity
17 except as provided in subsection (3) or (4) of this section, unless the
18 party seeking disclosure demonstrates by clear and convincing evi-
19 dence that, as related to the particular covered entity identifiable in
20 the records requested to be disclosed, the public interest in disclosure
21 outweighs other interests in nondisclosure:

22 “(a) Individually identifiable information related to a registered
23 entity’s bid activity and auction results for auctions held under section
24 28 of this 2020 Act.

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

28 “(c) Any individually identifiable information on the manufacturing
29 output of goods, other than emissions data reported under ORS
30 468A.280, obtained by the Office of Greenhouse Gas Regulation as

1 necessary to administer and implement sections 18, 19, 20, 23 and 24
2 of this 2020 Act.

3 “(d) Individually identifiable information obtained by the office
4 from retail electricity consumers pursuant to a request under section
5 9 (4) of this 2020 Act.

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

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

15 “(5) Any person to whom information described in subsection (2)
16 of this section is disclosed under subsection (4) of this section shall
17 treat the information as exempt from disclosure under ORS 192.311 to
18 192.478. Redisclosure of individually identifiable information outside
19 the office remains subject to the provisions of this section.

20

21 “INVESTMENT OF STATE PROCEEDS FROM OREGON
22 GREENHOUSE GAS INITIATIVE AUCTIONS

23 “(Transportation Decarbonization Investments Account)

24

25 “SECTION 33. Definitions. As used in sections 33 to 37 of this 2020
26 Act:

27 “(1) ‘Building materials’ means asphalt, cement, concrete or any
28 other aggregate product, aluminum, steel, iron, coatings for steel and
29 iron, glass, manufactured wood products and copper.

30 “(2) ‘Contracting agency’ has the meaning given that term in ORS

1 **279A.010.**

2 **“(3) ‘Eligible Indian tribe’ has the meaning given that term in sec-**
3 **tion 4 of this 2020 Act.**

4 **“(4) ‘Impacted community’ has the meaning given that term in**
5 **section 4 of this 2020 Act.**

6 **“(5) ‘Local government’ means a metropolitan service district, a**
7 **metropolitan planning organization, a county or a city.**

8 **“(6) ‘Metropolitan climate plan’ means a plan that implements:**

9 **“(a) A land use and transportation scenario adopted by a metro-**
10 **politan service district as required under section 37, chapter 865,**
11 **Oregon Laws 2009, and that has been approved by the Land Conserva-**
12 **tion and Development Commission;**

13 **“(b) A land use and transportation scenario adopted by a metro-**
14 **politan planning organization in accordance with the guidelines es-**
15 **tablished by the Department of Transportation and the Department**
16 **of Land Conservation and Development under ORS 184.893, and that**
17 **has been approved by the Land Conservation and Development Com-**
18 **mission; or**

19 **“(c) A transportation greenhouse gas emissions reduction and cli-**
20 **mate adaptation plan adopted by a county or city and that has been**
21 **approved by the Oregon Greenhouse Gas Reduction Board.**

22 **“(7) ‘Metropolitan planning organization’ has the meaning given**
23 **that term in ORS 197.629, except that ‘metropolitan planning organ-**
24 **ization’ does not mean an organization that coordinates transportation**
25 **planning for an urbanized area that is also subject to the jurisdiction**
26 **of a metropolitan service district.**

27 **“(8) ‘Metropolitan service district’ means a metropolitan service**
28 **district organized under ORS chapter 268.**

29 **“(9) ‘Nursery stock’ has the meaning given that term in ORS**
30 **571.005.**

1 “(10) ‘Oregon Greenhouse Gas Initiative’ has the meaning given
2 that term in section 4 of this 2020 Act.

3 “(11) ‘State contracting agency’ has the meaning given that term
4 in ORS 279A.010.

5 “(12) ‘Subject to a carbon pricing program’ means a building mate-
6 rials manufacturer whose emissions from the manufacture of goods:

7 “(a) Are subject to a tax or governmental regulatory program that
8 has the effect of placing a price on greenhouse gas emissions and that
9 is at least as stringent as the Oregon Greenhouse Gas Initiative, as
10 determined by the board by rule; or

11 “(b) Are directly regulated by the jurisdiction where the manufac-
12 turing facility is located for the greenhouse gas emissions attributable
13 to the manufacturing of goods at the facility operated by the man-
14 ufacturer.

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

21 “(2) Moneys in the account are continuously appropriated to the
22 Department of Transportation:

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

25 “(b) To be distributed for transportation projects pursuant to
26 sections 33 to 37 of this 2020 Act.

27 “(3) A transportation project may not be funded with moneys dis-
28 tributed from the account unless:

29 “(a) The transportation project furthers one or more of the pur-
30 poses set forth in section 2 of this 2020 Act; and

1 “(b) The transportation project may be constitutionally funded by
2 revenues described in Article IX, section 3a, of the Oregon Constitu-
3 tion.

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

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

9 “(b) 90 percent shall be distributed by the commission to local gov-
10 ernments under section 36 of this 2020 Act for implementation, in-
11 cluding planning for implementation, of metropolitan climate plans.

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

16 “(6) Examples of uses of moneys deposited in the account may in-
17 clude, but are not limited to, uses related to:

18 “(a) Enhancing roadway drainage, improving slope stability, in-
19 vestment in the safe routes to schools program established under ORS
20 184.741, the repower, retrofit or replacement of certain diesel engines,
21 reducing vehicle miles traveled through bike, pedestrian or other
22 multimodal improvements and traffic signal optimization; and

23 “(b) Increasing the resilience of transportation infrastructure and
24 evacuation routes against the effects of climate change, extreme pre-
25 cipitation, sea level rise and extreme temperatures and wildfires.

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

29 “(8) The commission may adopt rules as necessary for the admin-
30 istration and implementation of sections 33 to 37 of this 2020 Act.

1 **SECTION 35. Selection of transportation projects by Oregon**
2 **Transportation Commission.** (1) The Oregon Transportation Commis-
3 sion shall select the transportation projects to be funded with moneys
4 in the Transportation Decarbonization Investments Account pursuant
5 to section 34 (4)(a) of this 2020 Act.

6 “(2) Prior to selecting transportation projects, the commission shall
7 seek input from the applicable area commission on transportation.

8 “(3) In selecting transportation projects, the Oregon Transportation
9 Commission shall:

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

13 “(b) Give priority to proposed transportation projects that will fa-
14 cilitate the planning or development of metropolitan climate plans by
15 local governments that, as of the date of the selection, have not
16 adopted metropolitan climate plans.

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

20 “(a) The local government has adopted a metropolitan climate plan;
21 and

22 “(b) The local government has jurisdiction over an area for which
23 a covered entity described in section 5 (2)(d) of this 2020 Act is not the
24 beneficiary of allowances retired under section 13 of this 2020 Act.

25 “(2) The proportionate share allocated for distribution to each eli-
26 gible local government shall be determined by the Oregon Transpor-
27 tation Commission based on a formula that:

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

29 “(b) May incorporate any other factors relevant to the propor-
30 tionate amount of greenhouse gas emissions attributable to transpor-

1 tation within the jurisdiction of each local government.

2 “(3) Of the moneys allocated for a metropolitan service district or
3 a metropolitan planning organization under subsection (1) of this sec-
4 tion, the commission shall distribute half the moneys to the metro-
5 politan service district or metropolitan planning organization and half
6 the moneys to the counties and cities within the metropolitan service
7 district or metropolitan planning organization. The proportionate
8 share allocated for distribution to each county and city within the
9 metropolitan service district or metropolitan planning organization
10 shall be determined based on the formula provided in subsection (2)
11 of this section.

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

17 “(a) A metropolitan service district shall consult with a joint policy
18 advisory committee on transportation;

19 “(b) A county or city within a metropolitan service district shall
20 consult with the metropolitan service district;

21 “(c) A metropolitan planning organization shall consult with the
22 governing bodies of the counties or cities within the boundaries of the
23 metropolitan planning organization; and

24 “(d) A local government shall consult with affected eligible Indian
25 tribes and with representatives of impacted communities.

26 **SECTION 37. Procurement provisions.** (1) Notwithstanding pro-
27 visions of law requiring a contracting agency to award a contract to
28 the lowest responsible bidder or best proposer or provider of a quota-
29 tion, and except as provided in subsection (3) of this section or as
30 prohibited by federal law, a state contracting agency, when using

1 funds from the Transportation Decarbonization Investments Account
2 established under section 34 of this 2020 Act, shall give a preference
3 of not more than 10 percent to building materials procured from
4 manufacturers subject to a carbon pricing program.

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

13 “(3) If the contracting agency finds in a written determination that
14 the building material is not available in the quantity, quality, type or
15 time frame required for the procurement, or if the cost of the building
16 material is greater than 10 percent more than the building material
17 costs from manufacturers not subject to a carbon pricing program, the
18 contracting agency may decline to give the building material prefer-
19 ence.

20 “(4) If a transportation project selected by the Oregon Transporta-
21 tion Commission under section 35 of this 2020 Act involves the use of
22 roadside vegetation, the Department of Transportation shall purchase
23 the roadside vegetation from nursery stock that is grown and propa-
24 gated entirely within this state. The commission may specify by rule
25 grades, standards, considerations and processes for roadside vegetation
26 expenditures conducted pursuant to this subsection.

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

30

1 “(Climate Investments Fund)

2
3 **“SECTION 38. Definitions. As used in sections 38 to 40 of this 2020**
4 **Act:**

5 **“(1) ‘Building materials’ means asphalt, cement, concrete or any**
6 **other aggregate product, aluminum, steel, iron, coatings for steel and**
7 **iron, glass, manufactured wood products and copper.**

8 **“(2) ‘Contracting agency’ has the meaning given that term in ORS**
9 **279A.010.**

10 **“(3) ‘Eligible Indian tribe’ has the meaning given that term in sec-**
11 **tion 4 of this 2020 Act.**

12 **“(4) ‘Impacted community’ has the meaning given that term in**
13 **section 4 of this 2020 Act.**

14 **“(5) ‘Natural and working lands’ has the meaning given that term**
15 **in section 4 of this 2020 Act.**

16 **“(6) ‘Oregon Greenhouse Gas Initiative’ has the meaning given that**
17 **term in section 4 of this 2020 Act.**

18 **“(7) ‘State contracting agency’ has the meaning given that term in**
19 **ORS 279A.010.**

20 **“(8) ‘Subject to a carbon pricing program’ means a building mate-**
21 **rials manufacturer whose emissions from the manufacture of goods:**

22 **“(a) Are subject to a tax or governmental regulatory program that**
23 **has the effect of placing a price on greenhouse gas emissions and that**
24 **is at least as stringent as the Oregon Greenhouse Gas Initiative, as**
25 **determined by the Oregon Greenhouse Gas Reduction Board by rule;**
26 **or**

27 **“(b) Are directly regulated by the jurisdiction where the manufac-**
28 **turing facility is located for the greenhouse gas emissions attributable**
29 **to the manufacturing of goods at the facility operated by the man-**
30 **ufacturer.**

1 **“SECTION 39. Climate Investments Fund. (1) The Climate Invest-**
2 **ments Fund is established in the State Treasury, separate and distinct**
3 **from the General Fund. The Climate Investments Fund shall consist**
4 **of moneys deposited in the fund under sections 28 and 29 of this 2020**
5 **Act. Interest earned by the fund shall be credited to the fund. The**
6 **Office of Greenhouse Gas Regulation shall administer the fund.**

7 **“(2) Moneys in the fund are continuously appropriated to the office**
8 **to be distributed by the office as provided in this section. The office**
9 **shall keep a record of moneys deposited in and distributed out of the**
10 **fund.**

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

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

16 **“(c) In allocating moneys received under subsection (5)(b) of this**
17 **section to specific expenditures, a local government shall consult with**
18 **affected eligible Indian tribes and representatives of impacted com-**
19 **munities.**

20 **“(d) Moneys distributed to the State Forestry Department under**
21 **subsection (5)(e) of this section may not be used for fire suppression**
22 **efforts.**

23 **“(4) Of the moneys deposited in the fund each biennium, the office**
24 **shall first transfer 10 percent or \$10 million, whichever is less, to the**
25 **Just Transition Fund established under section 96 of this 2020 Act.**

26 **“(5) After transferring moneys as required by subsection (4) of this**
27 **section, the office shall distribute the remaining moneys deposited in**
28 **the Climate Investments Fund each biennium as follows:**

29 **“(a) 10 percent shall be distributed pursuant to allocations made by**
30 **the Legislative Assembly for uses that directly benefit eligible Indian**

1 **tribes;**

2 **“(b) 20 percent shall be distributed pursuant to allocations made by**
3 **the Legislative Assembly to local governments, as that term is defined**
4 **in ORS 174.116, for use in a manner that prioritizes greenhouse gas**
5 **reductions;**

6 **“(c) 20 percent shall be distributed pursuant to allocations made by**
7 **the Legislative Assembly to agencies of state government for use in a**
8 **manner that prioritizes greenhouse gas reductions;**

9 **“(d) 25 percent shall be distributed to the Oregon Watershed En-**
10 **hancement Board for uses that benefit natural and working lands; and**

11 **“(e) 25 percent shall be distributed to the State Forestry Depart-**
12 **ment for wildfire mitigation efforts, including but not limited to**
13 **projects under the Good Neighbor Authority Agreement, as that term**
14 **is defined in ORS 526.275, and as informed by the recommendations of**
15 **any council formed by the Governor to address wildfire response.**

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

20 **“SECTION 39a. Biennial climate action investment plan. (1) No**
21 **later than June 1 of each even-numbered year and in the manner**
22 **provided in ORS 192.245, the Oregon Greenhouse Gas Reduction Board**
23 **shall deliver a biennial climate action investment plan to the Legisla-**
24 **tive Assembly and the Governor. The climate action investment plan**
25 **shall identify the short-term and long-term opportunities for uses of**
26 **moneys allocated by the Legislative Assembly from the Climate In-**
27 **vestments Fund established under section 39 of this 2020 Act.**

28 **“(2) The biennial climate action investment plan must include an**
29 **analysis of how the programs, projects and activities that may be**
30 **funded by the moneys allocated by the Legislative Assembly from the**

1 **Climate Investments Fund established under section 39 of this 2020 Act**
2 **would serve to effectively further the purposes set forth in section 2**
3 **of this 2020 Act.**

4 **“(3) In preparing the biennial climate action investment plan, the**
5 **board shall consult with:**

6 **“(a) Representatives of eligible Indian tribes;**

7 **“(b) Local governments, as that term is defined in ORS 174.116;**

8 **“(c) Interested agencies of state government; and**

9 **“(d) Representatives of impacted communities.**

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

13 **“SECTION 39c. Use of biennial climate action investment plan in**
14 **budget process. In preparing the Governor’s budget as required under**
15 **ORS 291.202, the Governor shall consider the recommendations con-**
16 **tained in the biennial climate action investment plan prepared by the**
17 **Oregon Greenhouse Gas Reduction Board under section 39a of this 2020**
18 **Act.**

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

28 **“(2) Notwithstanding provisions of law requiring a contracting**
29 **agency to award a contract to the lowest responsible bidder or best**
30 **proposer or provider of a quotation, and except as provided in sub-**

1 section (3) of this section or as prohibited by federal law, a contracting
2 agency other than a state contracting agency, when using funds from
3 the Climate Investments Fund, may give a preference of not more
4 than 10 percent to building materials procured from manufacturers
5 subject to a carbon pricing program.

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

13

14 “(Labor and Contracting Provisions)

15

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

22 “(a) Shall pay the prevailing rate of wage for an hour’s labor in the
23 same trade or occupation in the locality where the labor is performed;

24 “(b) Shall offer health care and retirement benefits to the employ-
25 ees performing the labor on the construction project or transportation
26 project;

27 “(c) Shall participate in an apprenticeship program registered with
28 the State Apprenticeship and Training Council;

29 “(d) May not be a contractor listed by the Commissioner of the
30 Bureau of Labor and Industries under ORS 279C.860 as ineligible to

1 receive a contract or subcontract for public works;

2 “(e) Must demonstrate a history of material compliance with the
3 rules and other requirements of the Construction Contractors Board
4 and of the Workers’ Compensation Division, the Building Codes Divi-
5 sion and the Occupational Safety and Health Division of the Depart-
6 ment of Consumer and Business Services; and

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

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

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

23 “(b) Model rules adopted under this subsection shall require the use
24 of a project labor agreement for construction projects or transporta-
25 tion projects that receive more than \$200,000 in funding from moneys
26 in the Climate Investments Fund or the Transportation
27 Decarbonization Investments Account. For all other construction
28 projects or transportation projects funded as described in paragraph
29 (a) of this subsection, the model rules shall:

30 “(A) Establish measurable, enforceable goals for the training and

1 hiring of persons who are members of impacted communities, as de-
2 fined in section 4 of this 2020 Act, and for contracting with businesses
3 that are owned or operated by members of impacted communities; and

4 “(B) Establish wage, benefit and labor relations standards consist-
5 ent with the provisions of this section.

6 “(c) The model rules shall promote best practices in procurement
7 and contracting.

8 “(d)(A) The model rules shall require that, in each contract awarded
9 by a state agency for a construction project or transportation project
10 funded as described in paragraph (a) of this subsection, building ma-
11 terials as defined in section 38 of this 2020 Act that the contractor
12 purchases for the project and that become part of a permanent struc-
13 ture must be produced in the United States.

14 “(B) The requirement in subparagraph (A) of this paragraph shall
15 not apply if the administering agency finds that:

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

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

20 “(iii) The requirement set forth in subparagraph (A) of this para-
21 graph will increase the costs of the project, exclusive of labor costs
22 involved in final assembly for manufactured products, by 25 percent
23 or more.

24 “(C) Notwithstanding a finding by the administering agency under
25 subparagraph (B) of this paragraph, a contractor shall spend at least
26 75 percent of the total amount the contractor spends in connection
27 with the construction project or transportation project on building
28 materials that become part of a permanent structure on purchasing
29 building materials that are produced in the United States.

30 “(e) Before adopting or amending a rule under this subsection, the

1 department shall consult with representatives of labor, contractors
2 and other knowledgeable persons.

3 “(4) Except as provided in subsection (5) of this section, a state
4 agency charged with administering funds for construction projects or
5 transportation projects that receive more than \$50,000 in funding from
6 moneys in the Climate Investments Fund or the Transportation
7 Decarbonization Investments Account may not adopt the administer-
8 ing agency’s own rules for labor and workforce procedures related to
9 administering funds allocated from the Climate Investments Fund or
10 the Transportation Decarbonization Investments Account and shall be
11 subject to the model rules adopted by the Oregon Department of Ad-
12 ministrative Services under subsection (3) of this section.

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

20

21 “(Common School Fund)

22

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

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

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

30

1 **“(Biennial Expenditure Reporting and Auditing)”**

2

3 **“SECTION 43. (1) All agencies of the executive department as de-**
4 **fin ed in ORS 174.112, counties, cities and all other public and private**
5 **entities receiving moneys from the Climate Investments Fund shall**
6 **annually report to the Office of Greenhouse Gas Regulation on the**
7 **expenditure of the moneys received and the results of the expendi-**
8 **tures. No later than January 1 of each even-numbered year, the office**
9 **shall deliver a biennial report, in the manner provided in ORS 192.245,**
10 **to the Oregon Transportation Commission, the Governor and the**
11 **Legislative Assembly describing:**

12 **“(a) The investments from the Climate Investments Fund;**

13 **“(b) Whether the investments met the requirements of section 39**
14 **of this 2020 Act; and**

15 **“(c) The effectiveness of those investments in furthering the pur-**
16 **poses set forth in section 2 of this 2020 Act.**

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

27 **“(a) The transportation projects funded by moneys from the**
28 **Transportation Decarbonization Investments Account;**

29 **“(b) How the transportation projects met the requirements of sec-**
30 **tion 34 of this 2020 Act; and**

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

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

9 “(4)(a) The office and the department jointly shall select an inde-
10 pendent third-party organization to, beginning in 2025, prepare a per-
11 formance audit once every five years of:

12 “(A) All programs, projects or activities funded by moneys from the
13 Climate Investments Fund; and

14 “(B) All transportation projects funded by moneys from the Trans-
15 portation Decarbonization Investments Account.

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

20
21 **“PROVISIONS RELATED TO THE PUBLIC UTILITY COMMISSION**

22
23 **“SECTION 44. Sections 45 to 53 of this 2020 Act are added to and**
24 **made a part of ORS chapter 757.**

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

27 “(1) ‘Allowance’ has the meaning given that term in section 4 of
28 this 2020 Act.

29 “(2) ‘Electric company’ has the meaning given that term in ORS
30 757.600.

1 **“(3) ‘Natural gas utility’ means a natural gas utility regulated by**
2 **the Public Utility Commission under ORS chapter 757.**

3 **“(4) ‘Oregon Greenhouse Gas Initiative’ has the meaning given that**
4 **term in section 4 of this 2020 Act.**

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

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

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

17 **“(b) To be used only for activities that serve to reduce greenhouse**
18 **gas emissions or provide assistance to the electric company’s retail**
19 **customers, in furtherance of the purposes set forth in section 2 of this**
20 **2020 Act.**

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

25 **“(a) Providing weatherization, energy efficiency improvements, bill**
26 **assistance or rate assistance to the electric company’s low-income**
27 **residential customers;**

28 **“(b) Accelerated transportation electrification;**

29 **“(c) Investments and activities that serve to reduce greenhouse gas**
30 **emissions through actions such as energy efficiency improvements,**

1 voltage optimization, portfolio optimization and renewable energy
2 procurement; and

3 “(d) Facilitating integration and utilization of variable energy re-
4 sources through investments in programs and technologies such as
5 demand response, smart grid communication and control systems,
6 grid-connected end uses and energy storage.

7 “(3) An electric company that receives allowances directly distrib-
8 uted at no cost under section 14 of this 2020 Act shall develop a plan
9 for the use of the allowances and file the plan with the commission.
10 The plan must be revised and updated on a schedule established by the
11 commission by rule. At a minimum, a plan must contain:

12 “(a) A strategy for the use of proceeds received by the electric
13 company from the sale of the allowances in compliance with this sec-
14 tion; and

15 “(b) A description of any previous uses of proceeds received by the
16 electric company from the sale of the allowances.

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

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

23 “SECTION 48. Trust accounts. (1)(a) The Public Utility Commission,
24 as trustee, shall establish a separate trust account with the State
25 Treasurer for the benefit of each natural gas utility regulated under
26 the Oregon Greenhouse Gas Initiative. Moneys in each trust account
27 shall consist of proceeds due to the natural gas utility from the sale
28 at auction of allowances consigned to the Office of Greenhouse Gas
29 Regulation under section 17 of this 2020 Act. The State Treasurer may
30 invest moneys deposited in the trust accounts as provided in ORS

1 293.701 to 293.857. Interest earned by a trust account must be credited
2 to the account.

3 “(b) Upon request by a natural gas utility, the commission shall
4 require the State Treasurer to transfer from the natural gas utility’s
5 trust account to the natural gas utility amounts necessary to pay for
6 programs or activities found to be consistent with the plan required
7 under subsection (2) of this section.

8 “(c) Upon making the determinations required by subsections (3)
9 and (4) of this section, the commission shall direct the State Treasurer
10 to transfer amounts from a natural gas utility’s trust account to the
11 natural gas utility or a designee of the natural gas utility necessary
12 for use consistent with subsections (3) and (4) of this section.

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

19 “(a) Identify a portfolio of approaches in furtherance of the pur-
20 poses set forth in section 2 of this 2020 Act;

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

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

1 **“(A) Implementing programs, activities or technologies designed to**
2 **reduce greenhouse gas emissions from sales customers, including**
3 **programs for low and moderate income residential sales customers;**

4 **“(B) Developing renewable natural gas or renewable hydrogen**
5 **infrastructure and the provision of renewable natural gas or renewable**
6 **hydrogen to the natural gas utility’s sales customers;**

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

8 **“(D) Providing renewable natural gas or hydrogen to vehicles and**
9 **the necessary related infrastructure in the utility’s service territory**
10 **as consistent with section 56 of this 2020 Act;**

11 **“(E) Implementing pilot projects or research, development and**
12 **demonstration activities to determine the cost and viability of activ-**
13 **ities described in subparagraphs (A) to (D) of this paragraph; or**

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

17 **“(3)(a) Subject to paragraph (b) of this subsection, the commission**
18 **shall determine the amounts of the proceeds from the sale of allow-**
19 **ances directly distributed to natural gas utilities pursuant to section**
20 **17 (1)(c) of this 2020 Act to be used for each of the following purposes:**

21 **“(A) Providing nonvolumetric bill credits or other rate relief for**
22 **natural gas transportation customers of the natural gas utility;**

23 **“(B) Implementing programs, activities or technologies, which may**
24 **include cost-effective projects for switching to the use of lower-**
25 **carbon-emitting fuels, designed to reduce greenhouse gas emissions**
26 **attributable to commercial and industrial natural gas transportation**
27 **customers; and**

28 **“(C) Contributing to a state grant or loan program for financing**
29 **projects or upgrades, which may include cost-effective projects for**
30 **switching to the use of lower-carbon-emitting fuels, to reduce**

1 **greenhouse gas emissions for natural gas transportation customers.**

2 **“(b) No less than 25 percent of the proceeds described in this sub-**
3 **section must be used for rate relief as described in paragraph (a)(A)**
4 **of this subsection. The commission shall set the level of rate relief as**
5 **part of the tariff between the transportation customer and the natural**
6 **gas utility. In setting the level of rate relief, the commission shall**
7 **consider:**

8 **“(A) The availability of reasonable opportunities for natural gas**
9 **transportation customers of the natural gas utility to reduce**
10 **greenhouse gas emissions, including but not limited to opportunities**
11 **for investments in energy efficiency; and**

12 **“(B) Competitive considerations related to natural gas service**
13 **options.**

14 **“(4) The commission shall determine the amounts of the proceeds**
15 **from the sale of allowances directly distributed to natural gas utilities**
16 **pursuant to section 17 (1)(d) of this 2020 Act to be used for the benefit**
17 **of trade-exposed natural gas users consistent with section 50 of this**
18 **2020 Act.**

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

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

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

30 **“SECTION 49. A natural gas utility shall develop and file with the**

1 Public Utility Commission an initial plan under section 48 (2) of this
2 2020 Act no later than June 30, 2022.

3 **“SECTION 50. (1) In 2022 and each following calendar year before**
4 **2025, a trade-exposed natural gas user shall receive rate relief in each**
5 **year equal to the amount of revenue generated by the sale at auction**
6 **of the allowances allocated to the natural gas utility on behalf of that**
7 **user under section 17 (1)(d) of this 2020 Act for that year.**

8 **“(2)(a) In 2025 and each following calendar year before 2051, and**
9 **except as provided in paragraph (b) of this subsection, the amount of**
10 **rate relief received by a trade-exposed natural gas user shall decline**
11 **annually by a constant amount proportionate to the decline in the**
12 **number of allowances available in annual allowance budgets pursuant**
13 **to section 5 (1)(b) of this 2020 Act.**

14 **“(b) If a trade-exposed natural gas user is in compliance with an**
15 **approved energy management system audit and implementation plan**
16 **subject to subsection (3) of this section, the trade-exposed natural gas**
17 **user shall receive a nonvolumetric bill credit pursuant to a formula**
18 **developed by the Public Utility Commission by rule. The formula de-**
19 **veloped by the commission must be designed to recognize early action,**
20 **encourage ongoing efficiency improvements, accommodate growth of**
21 **operations or output, and mitigate to the greatest extent practicable**
22 **any impacts by the Oregon Greenhouse Gas Initiative on the rates for**
23 **natural gas paid by trade-exposed natural gas users. During the fol-**
24 **lowing years, the commission shall use the following amounts for the**
25 **benefit of trade-exposed natural gas users pursuant to the formula**
26 **developed under this section:**

27 **“(A) In 2025 and each year before 2030, an amount equal to the**
28 **amount of revenue generated by the sale at auction of the allowances**
29 **allocated to the natural gas utility on behalf of the users under section**
30 **17 (1)(d) of this 2020 Act for that year; and**

1 “(B) In 2030 and each year before 2051, an amount equal to 97 per-
2 cent of the amount of revenue generated by the sale at auction of the
3 allowances allocated to the natural gas utility on behalf of the users
4 under section 17 (1)(d) of this 2020 Act for that year.

5 “(3)(a) A trade-exposed natural gas user may, no later than De-
6 cember 31, 2024, and once every five years thereafter, submit to the
7 Public Utility Commission a completed energy management system
8 audit and implementation plan for approval.

9 “(b) The commission shall approve an energy management system
10 audit and implementation plan if:

11 “(A) The audit meets the requirements of subsection (4) of this
12 section; and

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

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

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

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

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

30 “(4) An energy management system audit must adhere to estab-

1 lished federal or international standards for developing plans identify-
2 ing energy efficiency opportunities and related best practices for
3 commercial, industrial and institutional facilities, as the commission
4 may further identify by rule, in consultation with the Office of
5 Greenhouse Gas Regulation. The elements of an audit shall include but
6 need not be limited to:

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

9 “(b) An evaluation of the operating characteristics of the emission
10 sources, operation and maintenance procedures at the facility and
11 unusual operating constraints;

12 “(c) An inventory of the major onsite energy use systems at the
13 facility;

14 “(d) A review of the architectural and engineering plans for the
15 facility, the facility’s operation and maintenance procedures and logs,
16 and the fuel usage of the facility;

17 “(e) A review of the facility’s energy management program and
18 recommendations for improvements to the program;

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

21 “(g) A list of energy conservation measures that are within the
22 facility’s control to implement;

23 “(h) An evaluation of the energy savings potential of implementing
24 the energy conservation measures listed under paragraph (g) of this
25 subsection; and

26 “(i) A comprehensive audit report detailing ways to improve the
27 efficiency of the facility, the cost of any specific improvements iden-
28 tified in the report, the benefits of the identified improvements and
29 the time frame for recouping the investments in the identified im-
30 provements.

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

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

8 “SECTION 51. (1) The Traded Sector Greenhouse Gas Reduction
9 Revolving Loan Fund is established in the State Treasury, separate
10 and distinct from the General Fund. Interest earned by the Traded
11 Sector Greenhouse Gas Reduction Revolving Loan Fund shall be cred-
12 ited to the fund. Moneys in the fund are continuously appropriated to
13 the Oregon Business Development Department to issue loans under
14 and to administer the program adopted under subsection (3) of this
15 section.

16 “(2) The fund shall consist of:

17 “(a) Moneys appropriated or transferred to the fund by the Legis-
18 lative Assembly;

19 “(b) Repayment of moneys loaned from the fund;

20 “(c) Application fees required under subsection (3) of this section;

21 “(d) Interest and other earnings on the moneys in the fund; and

22 “(e) Gifts, grants or donations received from any source.

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

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

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

2 **“(c) Establishing loan application procedures; and**

3 **“(d) Establishing loan application and administrative fees.**

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

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

7 **“Sec. 51.** (1) The Traded Sector Greenhouse Gas Reduction Revolving
8 Loan Fund is established in the State Treasury, separate and distinct from
9 the General Fund. Interest earned by the Traded Sector Greenhouse Gas
10 Reduction Revolving Loan Fund shall be credited to the fund. Moneys in the
11 fund are continuously appropriated to the Oregon Business Development
12 Department to issue loans under and to administer the program adopted un-
13 der subsection (3) of this section.

14 “(2) The fund shall consist of:

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

17 **“[(a)] (b) Moneys appropriated or transferred to the fund by the Legisla-**
18 **tive Assembly;**

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

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

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

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

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

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

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

3 “(c) Establishing loan application procedures; and

4 “(d) Establishing loan application and administrative fees.

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

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

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

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

19 “(2) **How natural gas utilities and any designees of the natural gas**
20 **utilities have expended proceeds from the sale of allowances consigned**
21 **to the office for auction by the natural gas utilities pursuant to sec-**
22 **tion 17 of this 2020 Act.**

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

1 **“SECTION 54.** ORS 757.259 is amended to read:

2 “757.259. (1) In addition to powers otherwise vested in the Public Utility
3 Commission, and subject to the limitations contained in this section, under
4 amortization schedules set by the commission, a rate or rate schedule:

5 “(a) May reflect:

6 “(A) Amounts lawfully imposed retroactively by order of another govern-
7 mental agency; or

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

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

11 “(2) Upon application of a utility or ratepayer or upon the commission’s
12 own motion and after public notice, opportunity for comment and a hearing
13 if any party requests a hearing, the commission by order may authorize
14 deferral of the following amounts for later incorporation in rates:

15 “(a) Amounts incurred by a utility resulting from changes in the whole-
16 sale price of natural gas or electricity approved by the Federal Energy Reg-
17 ulatory Commission;

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

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

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

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

1 “(3) Upon request of the public utility, the commission by order shall al-
2 low deferral of amounts provided as financial assistance under an agreement
3 entered into under ORS 757.072 for later incorporation in rates.

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

12 “(5) Unless subject to an automatic adjustment clause under ORS 757.210
13 (1), amounts described in this section shall be allowed in rates only to the
14 extent authorized by the commission in a proceeding under ORS 757.210 to
15 change rates and upon review of the utility’s earnings at the time of appli-
16 cation to amortize the deferral. The commission may require that amorti-
17 zation of deferred amounts be subject to refund. The commission’s final
18 determination on the amount of deferrals allowable in the rates of the utility
19 is subject to a finding by the commission that the amount was prudently
20 incurred by the utility.

21 “(6) Except as provided in subsections (7), (8) and (10) of this section, the
22 overall average rate impact of the amortizations authorized under this sec-
23 tion in any one year may not exceed three percent of the utility’s gross
24 revenues for the preceding calendar year.

25 “(7) The commission may allow an overall average rate impact greater
26 than that specified in subsection (6) of this section for natural gas commod-
27 ity and pipeline transportation costs incurred by a natural gas utility if the
28 commission finds that allowing a higher amortization rate is reasonable un-
29 der the circumstances.

30 “(8) The commission may authorize amortizations for an electric utility

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

9 “(9) The commission may impose requirements similar to those described
10 in subsection (8) of this section for the amortization of other deferrals under
11 this section, but may not impose such requirements for deferrals under sub-
12 section (2)(c) or (d) or (3) of this section.

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

16 “(a) The deferral was directly related to extraordinary power supply ex-
17 penses incurred during 2001;

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

20 “(c) The commission determines that the higher rate impact is reasonable
21 under the circumstances.

22 “(11) If the commission authorizes amortization of a deferred amount un-
23 der subsection (10) of this section, an electric utility customer that uses more
24 than one average megawatt of electricity at any site in the immediately
25 preceding calendar year may prepay the customer's share of the deferred
26 amount. The commission shall adopt rules governing the manner in which:

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

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

30 “(12) The provisions of this section do not apply to a telecommunications

1 utility.

2 **“SECTION 54a. Sections 55 and 56 of this 2020 Act are added to and**
3 **made a part of ORS chapter 757.**

4 **“SECTION 55. The Public Utility Commission may, in such manner**
5 **as the commission considers proper, allow a rate or rate schedule of**
6 **a public utility to include differential rates or to reflect amounts for**
7 **programs that enable the public utility to assist low-income residential**
8 **customers. Rates or rate schedules allowed under this section must**
9 **minimize shifting costs to ratepayers that do not qualify for low-**
10 **income assistance.**

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

12 **“(a) ‘Electric company’ has the meaning given that term in ORS**
13 **757.600.**

14 **“(b) ‘Natural gas utility’ means a natural gas utility regulated by**
15 **the Public Utility Commission under ORS chapter 757.**

16 **“(c) ‘Retail electricity consumer’ has the meaning given that term**
17 **in ORS 757.600.**

18 **“(2) The Public Utility Commission may allow an electric company**
19 **to recover costs from all retail electricity consumers, or a natural gas**
20 **utility to recover costs from all retail customers, for prudent invest-**
21 **ments in or expenses for infrastructure measures that support the**
22 **adoption and service of alternative forms of transportation vehicles if**
23 **the investments are consistent with and meet the requirements of**
24 **subsection (3) of this section. An investment described in this section**
25 **by an electric company may involve investments behind the customer**
26 **meter.**

27 **“(3) An investment in infrastructure measures that support the**
28 **adoption of alternative forms of transportation vehicles is a utility**
29 **service and a benefit to retail electricity consumers and retail natural**
30 **gas utility customers if the investment can be reasonably anticipated**

1 to:

2 “(a) Support the adoption of alternative forms of transportation
3 vehicles that are powered by electricity, compressed natural gas,
4 renewable natural gas or hydrogen;

5 “(b) Support reductions of transportation sector greenhouse gas
6 emissions over time; and

7 “(c) Benefit the electric company’s retail electricity consumers or
8 the natural gas utility’s retail customers in ways that may include,
9 but need not be limited to:

10 “(A) Distribution or transmission management benefits;

11 “(B) System efficiencies or other economic values inuring to the
12 benefit of retail electricity consumers or natural gas utility retail
13 customers over the long term;

14 “(C) Revenues to electric companies from electric vehicle charging
15 to offset the electric company’s fixed costs that may otherwise be
16 charged to retail electricity consumers; or

17 “(D) Increased retail electricity consumer or natural gas utility re-
18 tail customer choice by providing greater deployment of a variety of
19 fueling technologies to increase availability and access to publicly
20 available fueling stations for alternative forms of transportation ve-
21 hicles.

22

23 “GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING

24

25 “**SECTION 57.** ORS 468A.280 is amended to read:

26 “468A.280. [(1) In addition to any registration and reporting that may be
27 required under ORS 468A.050, the Environmental Quality Commission by rule
28 may require registration and reporting by:]

29 “(1) As used in this section, ‘greenhouse gas’ includes, but is not
30 limited to, carbon dioxide, methane, nitrous oxide,

1 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitro-
2 gen trifluoride.

3 “(2) The Environmental Quality Commission by rule may require
4 registration and reporting of information necessary to determine
5 greenhouse gas emissions by:

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

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

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

13 “(3) A person required to register and report under subsection (2)
14 of this section shall register with the Department of Environmental
15 Quality and make reports containing information that the commission
16 by rule may require that is relevant to determining and verifying
17 greenhouse gas emissions. The commission may by rule require the
18 person to provide an audit by an independent and disinterested third
19 party to verify that the greenhouse gas emissions information reported
20 by the person is true and accurate.

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

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

1 commission for each individual utility.

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

6 “(A) The number of megawatt-hours of electricity purchased by the utility
7 from the Bonneville Power Administration, segregated by the types of con-
8 tracts entered into by the utility with the Bonneville Power Administration;
9 and

10 “(B) The percentage of each fuel or energy type used to produce electric-
11 ity purchased under each type of contract.

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

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

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

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

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

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

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

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

29 “(i) Electricity purchases made by a particular seller to the electric
30 company;

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

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

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

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

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

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

23 “[*6*] **(8)** To an extent that is consistent with the purposes of the rules
24 adopted by the commission under this section, the commission shall minimize
25 the burden of the reporting required under this section by:

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

28 “(b) Allowing electronic reporting;

29 “(c) Allowing use of good engineering practice calculations in reports, or
30 of emission factors published by the United States Environmental Protection

1 Agency;

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

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

7 “(f) Other appropriate means and procedures determined by the commis-
8 sion.

9 “[*(7) As used in this section, ‘greenhouse gas’ has the meaning given that*
10 *term in ORS 468A.210.*]

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

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

21 **“(11) If a person required to register and report under subsection**
22 **(2) of this section fails to submit a report under this section, the de-**
23 **partment may develop an assigned emissions level for the person if**
24 **necessary for the purpose of regulating persons under sections 4 to 32**
25 **of this 2020 Act.**

26 **“(12)(a) By rule, the commission may establish a schedule of fees**
27 **for registration and reporting under this section. Before establishing**
28 **fees under this subsection, the commission shall consider the total fees**
29 **for each person subject to registration and reporting under this sec-**
30 **tion.**

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

5 **“(13) Emissions data submitted to the department under this sec-**
6 **tion is public information and may not be designated as confidential**
7 **for purposes of disclosure under ORS 192.311 to 192.478.**

8
9 **“ENERGY FACILITY CARBON DIOXIDE EMISSIONS STANDARDS**
10 **“(Repeal of Carbon Dioxide Emissions Standards)**

11
12 **“SECTION 58.** ORS 469.503 is amended to read:

13 “469.503. In order to issue a site certificate, the Energy Facility Siting
14 Council shall determine that the preponderance of the evidence on the record
15 supports the following conclusions:

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

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

28 “[(a) *The net carbon dioxide emissions rate of the proposed base load gas*
29 *plant shall not exceed 0.70 pounds of carbon dioxide emissions per kilowatt*
30 *hour of net electric power output, with carbon dioxide emissions and net elec-*

1 *tric power output measured on a new and clean basis. Notwithstanding the*
2 *foregoing, the council may by rule modify the carbon dioxide emissions stand-*
3 *ard for base load gas plants if the council finds that the most efficient stand-*
4 *alone combined cycle, combustion turbine, natural gas-fired energy facility that*
5 *is commercially demonstrated and operating in the United States has a net*
6 *heat rate of less than 7,200 Btu per kilowatt hour higher heating value ad-*
7 *justed to ISO conditions. In modifying the carbon dioxide emission standard,*
8 *the council shall determine the rate of carbon dioxide emissions per kilowatt*
9 *hour of net electric output of such energy facility, adjusted to ISO conditions,*
10 *and reset the carbon dioxide emissions standard at 17 percent below this*
11 *rate.]*

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

18 *“(A) Promote facility fuel efficiency;]*

19 *“(B) Promote efficiency in the resource mix;]*

20 *“(C) Reduce net carbon dioxide emissions;]*

21 *“(D) Promote cogeneration that reduces net carbon dioxide emissions;]*

22 *“(E) Promote innovative technologies and creative approaches to mitigat-*
23 *ing, reducing or avoiding carbon dioxide emissions;]*

24 *“(F) Minimize transaction costs;]*

25 *“(G) Include an alternative process that separates decisions on the form*
26 *and implementation of offsets from the final decision on granting a site cer-*
27 *tificate;]*

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

29 *“(I) Be attainable and economically achievable for various types of power*
30 *plants;]*

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

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

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

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

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

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

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

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

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

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

1 *tificate shall require that the offset funds be disbursed as specified in sub-*
2 *paragraph (B) of this paragraph.]*

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

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

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

26 *“(iii) Notwithstanding any provision to the contrary, a site certificate*
27 *holder subject to this subparagraph shall have no obligation with regard to*
28 *offsets, the offset funds or the funds required by sub-subparagraph (ii) of this*
29 *subparagraph other than to make available to the qualified organization the*
30 *total amount required under paragraph (c) of this subsection and sub-*

1 *subparagraph (ii) of this subparagraph, nor shall any nonperformance,*
2 *negligence or misconduct on the part of the qualified organization be a basis*
3 *for revocation of the site certificate or any other enforcement action by the*
4 *council with respect to the site certificate holder.]*

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

1 *contractually obligated. Nonperformance, negligence or misconduct by the en-*
2 *tity or entities implementing, monitoring or evaluating the selected offset shall*
3 *not be a basis for revocation of the site certificate or any other enforcement*
4 *action by the council with respect to the site certificate holder.]*

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

11 *“(e) As used in this subsection:]*

12 *“(A) ‘Adjusted to ISO conditions’ means carbon dioxide emissions and net*
13 *electric power output as determined at 59 degrees Fahrenheit, 14.7 pounds per*
14 *square inch atmospheric pressure and 60 percent humidity.]*

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

24 *“(C) ‘Carbon dioxide equivalent’ means the global warming potential of a*
25 *greenhouse gas reflected in units of carbon dioxide.]*

26 *“(D) ‘Fossil-fueled power plant’ means a generating facility that produces*
27 *electric power from natural gas, petroleum, coal or any form of solid, liquid*
28 *or gaseous fuel derived from such material.]*

29 *“(E) ‘Generating facility’ means those energy facilities that are defined in*
30 *ORS 469.300 (11)(a)(A), (B) and (D).]*

1 “(F) ‘Global warming potential’ means the determination of the atmo-
2 spheric warming resulting from the release of a unit mass of a particular
3 greenhouse gas in relation to the warming resulting from the release of the
4 equivalent mass of carbon dioxide.]

5 “(G) ‘Greenhouse gas’ means carbon dioxide, methane and nitrous oxide.]

6 “(H) ‘Gross carbon dioxide emissions’ means the predicted carbon dioxide
7 emissions of the proposed energy facility measured on a new and clean
8 basis.]

9 “(I) ‘Net carbon dioxide emissions’ means gross carbon dioxide emissions
10 of the proposed energy facility, less carbon dioxide or other greenhouse gas
11 emissions avoided, displaced or sequestered by any combination of cogeneration
12 or offsets.]

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

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

26 “(L) ‘Offset’ means an action that will be implemented by the applicant, a
27 third party or through the qualified organization to avoid, sequester or dis-
28 place emissions.]

29 “(M) ‘Offset funds’ means the amount of funds determined by the council
30 to satisfy the applicable carbon dioxide emissions standard pursuant to para-

1 *graph (c)(C) of this subsection.]*

2 *“[(N) ‘Qualified organization’ means an entity that:]*

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

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

7 *“[(iii) Has in effect articles of incorporation that require that offset funds*
8 *received pursuant to this section are used for offsets that require that decisions*
9 *on the use of the offset funds are made by a decision-making body composed*
10 *of seven voting members of which three are appointed by the council, three are*
11 *Oregon residents appointed by the Bullitt Foundation or an alternative envi-*
12 *ronmental nonprofit organization named by the body, and one is appointed by*
13 *the applicants for site certificates that are subject to paragraph (d) of this*
14 *subsection and the holders of such site certificates, and that require nonvoting*
15 *membership on the body for holders of site certificates that have provided*
16 *funds not yet disbursed under paragraph (d)(A) of this subsection;]*

17 *“[(iv) Has made available on an annual basis, beginning after the first year*
18 *of operation, a signed opinion of an independent certified public accountant*
19 *stating that the qualified organization’s use of funds pursuant to this statute*
20 *conforms with generally accepted accounting procedures except that the quali-*
21 *fied organization shall have one year to conform with generally accepted ac-*
22 *counting principles in the event of a nonconforming audit;]*

23 *“[(v) Has to the extent applicable, except for good cause, entered into con-*
24 *tracts obligating at least 60 percent of the offset funds to implement offsets*
25 *within two years after the commencement of construction of the facility; and]*

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

28 **“(3) (2)** Except as provided in ORS 469.504 for land use compliance and
29 except for those statutes and rules for which the decision on compliance has
30 been delegated by the federal government to a state agency other than the

1 council, the facility complies with all other Oregon statutes and adminis-
2 trative rules identified in the project order, as amended, as applicable to the
3 issuance of a site certificate for the proposed facility. If compliance with
4 applicable Oregon statutes and administrative rules, other than those in-
5 volving federally delegated programs, would result in conflicting conditions
6 in the site certificate, the council may resolve the conflict consistent with
7 the public interest. A resolution may not result in the waiver of any appli-
8 cable state statute.

9 “[4] (3) The facility complies with the statewide planning goals adopted
10 by the Land Conservation and Development Commission.

11 **“SECTION 59.** ORS 469.501 is amended to read:

12 “469.501. (1) The Energy Facility Siting Council shall adopt standards for
13 the siting, construction, operation and retirement of facilities. The standards
14 may address but need not be limited to the following subjects:

15 “(a) The organizational, managerial and technical expertise of the appli-
16 cant to construct and operate the proposed facility.

17 “(b) Seismic hazards.

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

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

22 “(e) Effects of the facility, taking into account mitigation, on fish and
23 wildlife, including threatened and endangered fish, wildlife or plant species.

24 “(f) Impacts of the facility on historic, cultural or archaeological re-
25 sources listed on, or determined by the State Historic Preservation Officer
26 to be eligible for listing on, the National Register of Historic Places or the
27 Oregon State Register of Historic Properties.

28 “(g) Protection of public health and safety, including necessary safety
29 devices and procedures.

30 “(h) The accumulation, storage, disposal and transportation of nuclear

1 waste.

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

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

5 “(k) Ability of the communities in the affected area to provide sewers and
6 sewage treatment, water, storm water drainage, solid waste management,
7 housing, traffic safety, police and fire protection, health care and schools.

8 “(L) The need for proposed nongenerating facilities [*as defined in ORS*
9 *469.503*], consistent with the state energy policy set forth in ORS 469.010 and
10 469.310. The council may consider least-cost plans when adopting a need
11 standard or in determining whether an applicable need standard has been
12 met. The council shall not adopt a standard requiring a showing of need or
13 cost-effectiveness for generating facilities [*as defined in ORS 469.503*].

14 “(m) Compliance with the statewide planning goals adopted by the Land
15 Conservation and Development Commission as specified by ORS 469.503.

16 “(n) Soil protection.

17 “[*o For energy facilities that emit carbon dioxide, the impacts of those*
18 *emissions on climate change. For fossil-fueled power plants, as defined in ORS*
19 *469.503, the council shall apply a standard as provided for by ORS 469.503*
20 *(2).*]

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

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

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

1 “(4) Notwithstanding subsection (1) of this section, the council may not
2 impose any standard developed under subsection (1)(b), (f), (j) or (k) of this
3 section to approve or deny an application for an energy facility producing
4 power from wind, solar or geothermal energy. However, the council may, to
5 the extent it determines appropriate, apply any standards adopted under
6 subsection (1)(b), (f), (j) or (k) of this section to impose conditions on any site
7 certificate issued for any energy facility.

8
9 **“(Transitional Provisions)”**

10
11 **“SECTION 60. (1) Notwithstanding ORS 469.401 (2), any conditions**
12 **in a site certificate or amended site certificate issued before January**
13 **1, 2022, that are conditions related to any carbon dioxide emissions**
14 **standard applicable pursuant to ORS 469.501 (1)(o) (2019 Edition) or**
15 **469.503 (2019 Edition) or to rules adopted by the Energy Facility Siting**
16 **Council pursuant to ORS 469.501 (1)(o) (2019 Edition) or 469.503 (2019**
17 **Edition) cease to be enforceable on January 1, 2022.**

18 **“(2) Any provision in a site certificate or amended site certificate**
19 **for a generating facility, as defined in ORS 469.300, issued before Jan-**
20 **uary 1, 2022, requiring the holder to demonstrate the need for the fa-**
21 **cility shall cease to be enforceable on January 1, 2022.**

22 **“(3) Any site certificate amendment approved by the council on or**
23 **after January 1, 2022, shall remove from the site certificate being**
24 **amended all conditions and provisions rendered unenforceable by sub-**
25 **sections (1) or (2) of this section or section 61 of this 2020 Act. Not-**
26 **withstanding ORS 469.405 or any council rule, the contested case**
27 **hearing on a site certificate amendment subject to this subsection may**
28 **not include a hearing on amendments necessary to comply with this**
29 **subsection. The provisions of the council’s order relevant to compli-**
30 **ance with this subsection are not subject to judicial review.**

1 **“SECTION 61. Any provision in a site certificate or amended site**
2 **certificate that requires the offset of estimated future excess carbon**
3 **dioxide emissions emitted on or after the effective date of this 2020**
4 **Act based on a report of actual plant operations shall cease to be en-**
5 **forceable on January 1, 2021.**

6 **“SECTION 62. The Energy Facility Siting Council shall, no later**
7 **than January 1, 2023, complete rulemaking to amend or repeal any**
8 **rules adopted by the council relating to the application of a carbon**
9 **dioxide emissions standard to generating facilities or nongenerating**
10 **facilities, as those terms are defined in ORS 469.300, necessary to bring**
11 **the rules of the council into compliance with the amendments to ORS**
12 **469.501 and 469.503 by sections 58 and 59 of this 2020 Act and the pro-**
13 **visions of sections 60 and 61 of this 2020 Act.**

14 **“SECTION 63. (1) As used in this section and section 64 of this 2020**
15 **Act, ‘qualified organization’ has the meaning given that term in ORS**
16 **469.503 (2)(e)(N) (2019 Edition).**

17 **“(2) On or after the operative date of this section and the amend-**
18 **ments to ORS 469.503 by section 58 of this 2020 Act and in accordance**
19 **with the provisions of ORS 469.503 (2)(d) (2019 Edition), a qualified or-**
20 **ganization that, before the operative date of this section and the**
21 **amendments to ORS 469.503 by section 58 of this 2020 Act, received**
22 **payment of offset funds pursuant to ORS 469.503 (2)(c)(C) (2019 Edi-**
23 **tion):**

24 **“(a) Shall use at least 80 percent of the offset funds for contracts**
25 **to implement offsets and assess offsets for their potential to qualify**
26 **in, generate credits in or reduce obligations in other regulatory set-**
27 **tings;**

28 **“(b) May use up to 20 percent of the offset funds for monitoring,**
29 **evaluating, administering and enforcing contracts to implement off-**
30 **sets; and**

1 “(c) Shall, at five-year intervals beginning on the date of the receipt
2 of the offset funds and ending the year after the year that the qualified
3 organization in no longer involved in the investment of offset funds
4 received pursuant to ORS 469.503 (2)(c)(C) (2019 Edition), provide the
5 Energy Facility Siting Council with the information the council re-
6 quests about the qualified organization’s performance. The council
7 shall evaluate the information requested and, based on the informa-
8 tion, shall make any recommendations to the Legislative Assembly
9 that the council deems appropriate.

10 “SECTION 64. Section 63 of this 2020 Act is repealed on the date
11 that the Legislative Counsel receives written notice from the Energy
12 Facility Siting Council that the council has confirmed that all quali-
13 fied organizations that received payment of offset funds pursuant to
14 ORS 469.503 (2)(c)(C) (2019 Edition) have ceased to be involved in the
15 investment of the offset funds.

16
17 “(Repeal)
18

19 “SECTION 65. ORS 469.409 is repealed.
20

21 “(Conforming Amendments)
22

23 “SECTION 66. ORS 469.300 is amended to read:

24 “469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and
25 469.992, unless the context requires otherwise:

26 “(1) ‘Applicant’ means any person who makes application for a site cer-
27 tificate in the manner provided in ORS 469.300 to 469.563, 469.590 to 469.619,
28 469.930 and 469.992.

29 “(2) ‘Application’ means a request for approval of a particular site or sites
30 for the construction and operation of an energy facility or the construction

1 and operation of an additional energy facility upon a site for which a cer-
2 tificate has already been issued, filed in accordance with the procedures es-
3 tablished pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and
4 469.992.

5 “(3) ‘Associated transmission lines’ means new transmission lines con-
6 structed to connect an energy facility to the first point of junction of such
7 transmission line or lines with either a power distribution system or an
8 interconnected primary transmission system or both or to the Northwest
9 Power Grid.

10 “(4) ‘Average electric generating capacity’ means the peak generating ca-
11 pacity of the facility divided by one of the following factors:

12 “(a) For wind facilities, 3.00;

13 “(b) For geothermal energy facilities, 1.11; or

14 “(c) For all other energy facilities, 1.00.

15 “(5) ‘Combustion turbine power plant’ means a thermal power plant con-
16 sisting of one or more fuel-fired combustion turbines and any associated
17 waste heat combined cycle generators.

18 “(6) ‘Construction’ means work performed on a site, excluding surveying,
19 exploration or other activities to define or characterize the site, the cost of
20 which exceeds \$250,000.

21 “(7) ‘Council’ means the Energy Facility Siting Council established under
22 ORS 469.450.

23 “(8) ‘Department’ means the State Department of Energy created under
24 ORS 469.030.

25 “(9) ‘Director’ means the Director of the State Department of Energy ap-
26 pointed under ORS 469.040.

27 “(10) ‘Electric utility’ means persons, regulated electrical companies,
28 people’s utility districts, joint operating agencies, electric cooperatives,
29 municipalities or any combination thereof, engaged in or authorized to en-
30 gage in the business of generating, supplying, transmitting or distributing

1 electric energy.

2 “(11)(a) ‘Energy facility’ means any of the following:

3 “(A) An electric power generating plant with a nominal electric generat-
4 ing capacity of 25 megawatts or more, including but not limited to:

5 “(i) Thermal power;

6 “(ii) Combustion turbine power plant; or

7 “(iii) Solar thermal power plant.

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

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

12 “(i) Lines proposed for construction entirely within 500 feet of an existing
13 corridor occupied by high voltage transmission lines with a capacity of
14 230,000 volts or more;

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

17 “(iii) Associated transmission lines.

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

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

20 “(ii) 1,280 acres located on land that is predominantly cultivated or that,
21 if not cultivated, is predominantly composed of soils that are in capability
22 classes I to IV, as specified by the National Cooperative Soil Survey operated
23 by the Natural Resources Conservation Service of the United States De-
24 partment of Agriculture; or

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

26 “(E) A pipeline that is:

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

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

3 “(I) A pipeline proposed for construction of which less than five miles of
4 the pipeline is more than 50 feet from a public road, as defined in ORS
5 368.001; or

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

11 “(iii) At least 16 inches in diameter and five or more miles in length used
12 to carry a geothermal energy form in a gaseous state but excluding a pipeline
13 used to distribute heat within a geothermal heating district established un-
14 der ORS chapter 523.

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

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

23 “(H) A storage facility for liquefied natural gas constructed after Sep-
24 tember 29, 1991, that is designed to hold at least 70,000 gallons.

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

30 “(i) The underground storage reservoir;

1 “(ii) The injection, withdrawal or monitoring wells and individual
2 wellhead equipment; and

3 “(iii) An underground gas storage reservoir into which gas is injected
4 solely for testing or reservoir maintenance purposes or to facilitate the sec-
5 ondary recovery of oil or other hydrocarbons.

6 “(J) An electric power generating plant with an average electric gener-
7 ating capacity of 50 megawatts or more if the power is produced from
8 geothermal or wind energy at a single energy facility or within a single en-
9 ergy generation area.

10 “(b) ‘Energy facility’ does not include a hydroelectric facility or an energy
11 facility under paragraph (a)(A)(iii) or (D) of this subsection that is estab-
12 lished on the site of a decommissioned United States Air Force facility that
13 has adequate transmission capacity to serve the energy facility.

14 “(12) ‘Energy generation area’ means an area within which the effects of
15 two or more small generating plants may accumulate so the small generating
16 plants have effects of a magnitude similar to a single generating plant of 35
17 megawatts average electric generating capacity or more. An ‘energy gener-
18 ation area’ for facilities using a geothermal resource and covered by a unit
19 agreement, as provided in ORS 522.405 to 522.545 or by federal law, shall be
20 defined in that unit agreement. If no such unit agreement exists, an energy
21 generation area for facilities using a geothermal resource shall be the area
22 that is within two miles, measured from the electrical generating equipment
23 of the facility, of an existing or proposed geothermal electric power gener-
24 ating plant, not including the site of any other such plant not owned or
25 controlled by the same person.

26 “(13) ‘Extraordinary nuclear occurrence’ means any event causing a dis-
27 charge or dispersal of source material, special nuclear material or by-product
28 material as those terms are defined in ORS 453.605, from its intended place
29 of confinement off-site, or causing radiation levels off-site, that the United
30 States Nuclear Regulatory Commission or its successor determines to be

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

3 “(14) ‘Facility’ means an energy facility together with any related or
4 supporting facilities.

5 “(15) ‘Generating facility’ means those energy facilities that are
6 defined in subsection (11)(a)(A), (B) and (D) of this section.

7 “[15] (16) ‘Geothermal reservoir’ means an aquifer or aquifers containing
8 a common geothermal fluid.

9 “[16] (17) ‘Local government’ means a city or county.

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

14 “(19) ‘Nongenerating facility’ means those energy facilities that are
15 defined in subsection (11)(a)(C) and (E) to (I) of this section.

16 “[18] (20) ‘Nuclear incident’ means any occurrence, including an ex-
17 traordinary nuclear occurrence, that results in bodily injury, sickness, dis-
18 ease, death, loss of or damage to property or loss of use of property due to
19 the radioactive, toxic, explosive or other hazardous properties of source ma-
20 terial, special nuclear material or by-product material as those terms are
21 defined in ORS 453.605.

22 “[19] (21) ‘Nuclear installation’ means any power reactor, nuclear fuel
23 fabrication plant, nuclear fuel reprocessing plant, waste disposal facility for
24 radioactive waste, and any facility handling that quantity of fissionable ma-
25 terials sufficient to form a critical mass. ‘Nuclear installation’ does not in-
26 clude any such facilities that are part of a thermal power plant.

27 “[20] (22) ‘Nuclear power plant’ means an electrical or any other facility
28 using nuclear energy with a nominal electric generating capacity of 25
29 megawatts or more, for generation and distribution of electricity, and asso-
30 ciated transmission lines.

1 “[21] **(23)** ‘Person’ means an individual, partnership, joint venture, pri-
2 vate or public corporation, association, firm, public service company, poli-
3 tical subdivision, municipal corporation, government agency, people’s utility
4 district, or any other entity, public or private, however organized.

5 “[22] **(24)** ‘Project order’ means the order, including any amendments,
6 issued by the State Department of Energy under ORS 469.330.

7 “[23)(a)] **(25)(a)** ‘Radioactive waste’ means all material which is dis-
8 carded, unwanted or has no present lawful economic use, and contains mined
9 or refined naturally occurring isotopes, accelerator produced isotopes and
10 by-product material, source material or special nuclear material as those
11 terms are defined in ORS 453.605. The term does not include those radioac-
12 tive materials identified in OAR 345-50-020, 345-50-025 and 345-50-035, adopted
13 by the council on December 12, 1978, and revised periodically for the purpose
14 of adding additional isotopes which are not referred to in OAR 345-50 as
15 presenting no significant danger to the public health and safety.

16 “(b) Notwithstanding paragraph (a) of this subsection, ‘radioactive
17 waste’ does not include uranium mine overburden or uranium mill tailings,
18 mill wastes or mill by-product materials as those terms are defined in Title
19 42, United States Code, section 2014, on June 25, 1979.

20 “[24] **(26)** ‘Related or supporting facilities’ means any structure, pro-
21 posed by the applicant, to be constructed or substantially modified in con-
22 nection with the construction of an energy facility, including associated
23 transmission lines, reservoirs, storage facilities, intake structures, road and
24 rail access, pipelines, barge basins, office or public buildings, and commercial
25 and industrial structures. ‘Related or supporting facilities’ does not include
26 geothermal or underground gas storage reservoirs, production, injection or
27 monitoring wells or wellhead equipment or pumps.

28 “[25] **(27)** ‘Site’ means any proposed location of an energy facility and
29 related or supporting facilities.

30 “[26] **(28)** ‘Site certificate’ means the binding agreement between the

1 State of Oregon and the applicant, authorizing the applicant to construct and
2 operate a facility on an approved site, incorporating all conditions imposed
3 by the council on the applicant.

4 “[27] **(29)** ‘Thermal power plant’ means an electrical facility using any
5 source of thermal energy with a nominal electric generating capacity of 25
6 megawatts or more, for generation and distribution of electricity, and asso-
7 ciated transmission lines, including but not limited to a nuclear-fueled,
8 geothermal-fueled or fossil-fueled power plant, but not including a portable
9 power plant the principal use of which is to supply power in emergencies.
10 ‘Thermal power plant’ includes a nuclear-fueled thermal power plant that has
11 ceased to operate.

12 “[28] **(30)** ‘Transportation’ means the transport within the borders of the
13 State of Oregon of radioactive material destined for or derived from any lo-
14 cation.

15 “[29] **(31)** ‘Underground gas storage reservoir’ means any subsurface
16 sand, strata, formation, aquifer, cavern or void, whether natural or arti-
17 ficially created, suitable for the injection, storage and withdrawal of natural
18 gas or other gaseous substances. ‘Underground gas storage reservoir’ in-
19 cludes a pool as defined in ORS 520.005.

20 “[30] **(32)** ‘Utility’ includes:

21 “(a) A person, a regulated electrical company, a people’s utility district,
22 a joint operating agency, an electric cooperative, municipality or any com-
23 bination thereof, engaged in or authorized to engage in the business of gen-
24 erating, transmitting or distributing electric energy;

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

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

29 “[31] **(33)** ‘Waste disposal facility’ means a geographical site in or upon
30 which radioactive waste is held or placed but does not include a site at

1 which radioactive waste used or generated pursuant to a license granted
2 under ORS 453.635 is stored temporarily, a site of a thermal power plant used
3 for the temporary storage of radioactive waste from that plant for which a
4 site certificate has been issued pursuant to this chapter or a site used for
5 temporary storage of radioactive waste from a reactor operated by a college,
6 university or graduate center for research purposes and not connected to the
7 Northwest Power Grid. As used in this subsection, ‘temporary storage’ in-
8 cludes storage of radioactive waste on the site of a nuclear-fueled thermal
9 power plant for which a site certificate has been issued until a permanent
10 storage site is available by the federal government.

11 **“SECTION 67.** ORS 469.310 is amended to read:

12 “469.310. In the interests of the public health and the welfare of the peo-
13 ple of this state, it is the declared public policy of this state that the siting,
14 construction and operation of energy facilities shall be accomplished in a
15 manner consistent with protection of the public health and safety and in
16 compliance with the energy policy and air, water, solid waste, land use and
17 other environmental protection policies of this state. It is, therefore, the
18 purpose of ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 to
19 exercise the jurisdiction of the State of Oregon to the maximum extent per-
20 mitted by the United States Constitution and to establish in cooperation
21 with the federal government a comprehensive system for the siting, moni-
22 toring and regulating of the location, construction and operation of all en-
23 ergy facilities in this state. It is furthermore the policy of this state,
24 notwithstanding ORS 469.010 (2)(f) and the definition of cost-effective in ORS
25 469.020, that the need for new generating facilities[, *as defined in ORS*
26 *469.503,*] is sufficiently addressed by reliance on competition in the market
27 rather than by consideration of cost-effectiveness and shall not be a matter
28 requiring determination by the Energy Facility Siting Council in the siting
29 of a generating facility[, *as defined in ORS 469.503*].

30 **“SECTION 68.** ORS 469.373 is amended to read:

1 “469.373. (1) Notwithstanding the expedited review process established
2 pursuant to ORS 469.370, an applicant may apply under the provisions of this
3 section for expedited review of an application for a site certificate for an
4 energy facility if the energy facility:

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

8 “(b) Is a permitted or conditional use allowed under an applicable local
9 acknowledged comprehensive plan, land use regulation or federal land use
10 plan, and is located:

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

12 “(B)(i) At, adjacent to or in close proximity to an existing industrial use;
13 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
16 or three miles of new natural gas pipelines outside of existing rights of way
17 for transmission lines or natural gas pipelines; or

18 “(B) Imposes, in the determination of the Energy Facility Siting Council,
19 no significant impact in the locating of associated transmission lines or new
20 natural gas pipelines outside of existing rights 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
23 by the council to be sufficient to produce any required reduction in emissions
24 as specified in ORS 469.503 (2)(c)(C) and in rules adopted under ORS 469.503
25 for the total carbon dioxide emissions produced by the energy facility for the
26 life of the energy facility; and]

27 “[*f*](A)] **(e)(A)** Discharges process wastewater to a wastewater treatment
28 facility that has an existing National Pollutant Discharge Elimination Sys-
29 tem permit, can obtain an industrial pretreatment permit, if needed, within
30 the expedited review process time frame and has written confirmation from

1 the wastewater facility permit holder that the additional wastewater load
2 will be accommodated by the facility without resulting in a significant
3 thermal increase in the facility effluent or without requiring any changes to
4 the wastewater facility National Pollutant Discharge Elimination System
5 permit;

6 “(B) Plans to discharge process wastewater to a wastewater treatment
7 facility owned by a municipal corporation that will accommodate the
8 wastewater from the energy facility and supplies evidence from the municipal
9 corporation that:

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

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

15 “(C) Obtains a National Pollutant Discharge Elimination System or water
16 pollution control facility permit for process wastewater disposal, supplies
17 evidence to support a finding that the discharge can likely be permitted
18 within the expedited review process time frame and that the discharge will
19 not require:

20 “(i) A new National Pollutant Discharge Elimination System permit, ex-
21 cept for a storm water general permit for construction activities; or

22 “(ii) A change in any effluent limit or discharge location under an exist-
23 ing National Pollutant Discharge Elimination System or water pollution
24 control facility permit.

25 “(2) An applicant seeking expedited review under this section shall submit
26 documentation to the State Department of Energy, prior to the submission
27 of an application for a site certificate, that demonstrates that the energy
28 facility meets the qualifications set forth in subsection (1) of this section.
29 The department shall determine, within 14 days of receipt of the documen-
30 tation, on a preliminary, nonbinding basis, whether the energy facility qual-

1 ifies for expedited review.

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

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

23 “(a) In the event the council issues a site certificate for the energy fa-
24 cility, the site certificate will bind the state and all counties, cities and
25 political subdivisions in the state as to the approval of the site, the con-
26 struction of the energy facility and the operation of the energy facility, and
27 that after the issuance of a site certificate, all permits, licenses and certif-
28 icates addressed in the site certificate must be issued as required by ORS
29 469.401 (3); and

30 “(b) The comments and recommendations of state agencies, counties, cities

1 and political subdivisions concerning whether the proposed energy facility
2 complies with any statute, rule or local ordinance that the state agency,
3 county, city or political subdivision would normally administer in determin-
4 ing whether a permit, license or certificate required for the construction or
5 operation of the energy facility should be approved will be considered only
6 if the comments and recommendations are received by the department within
7 a reasonable time after the date the application and notice of the application
8 are sent by the department.

9 “(5) Within 90 days after the date that the application was filed, the de-
10 partment shall issue a draft proposed order setting forth:

11 “(a) A description of the proposed energy facility;

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

15 “(c) A list of the statutes, rules and local ordinances that are the stan-
16 dards and criteria for approval of any permit, license or certificate addressed
17 in the application and that are required for the construction or operation
18 of the proposed energy facility; and

19 “(d) Proposed findings specifying how the proposed energy facility com-
20 plies with the applicable standards and criteria for approval of a site certifi-
21 cate.

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

26 “(a) The requirements for expedited review as specified in this section;

27 “(b) The standards adopted by the council pursuant to ORS 469.501 (1)(a),
28 (c) to (e), (g), (h) and (L) to [(o)] **(n)**;

29 “(c) The requirements of ORS 469.503 [(3)] **(2)**; and

30 “(d) The requirements of ORS 469.504 (1)(b).

1 “(7) Following submission of an application for a site certificate, the
2 council shall hold a public informational meeting on the application. Fol-
3 lowing the issuance of the proposed order, the council shall hold at least one
4 public hearing on the application. The public hearing shall be held in the
5 area affected by the energy facility. The council shall mail notice of the
6 hearing at least 20 days prior to the hearing. The notice shall comply with
7 the notice requirements of ORS 197.763 (2) and shall include, but need not
8 be limited to, the following:

9 “(a) A description of the energy facility and the general location of the
10 energy facility;

11 “(b) The name of a department representative to contact and the tele-
12 phone number at which people may obtain additional information;

13 “(c) A statement that copies of the application and proposed order are
14 available for inspection at no cost and will be provided at reasonable cost;
15 and

16 “(d) A statement that the record for public comment on the application
17 will close at the conclusion of the hearing and that failure to raise an issue
18 in person or in writing prior to the close of the record, with sufficient
19 specificity to afford the decision maker an opportunity to respond to the is-
20 sue, will preclude consideration of the issue, by the council or by a court
21 on judicial review of the council’s decision.

22 “(8) Prior to the conclusion of the hearing, the applicant may request an
23 opportunity to present additional written evidence, arguments or testimony
24 regarding the application. In the alternative, prior to the conclusion of the
25 hearing, the applicant may request a contested case hearing on the applica-
26 tion. If the applicant requests an opportunity to present written evidence,
27 arguments or testimony, the council shall leave the record open for that
28 purpose only for a period not to exceed 14 days after the date of the hearing.
29 Following the close of the record, the department shall prepare a draft final
30 order for the council. If the applicant requests a contested case hearing, the

1 council may grant the request if the applicant has shown good cause for a
2 contested case hearing. If a request for a contested case hearing is granted,
3 subsections (9) to (11) of this section do not apply, and the application shall
4 be considered under the same contested case procedures used for a nonexpe-
5 dited application for a site certificate.

6 “(9) The council shall make its decision based on the record and the draft
7 final order prepared by the department. The council shall, within six months
8 of the date that the application is deemed filed:

9 “(a) Grant the application;

10 “(b) Grant the application with conditions;

11 “(c) Deny the application; or

12 “(d) Return the application to the site certification process required by
13 ORS 469.320.

14 “(10) If the application is granted, the council shall issue a site certificate
15 pursuant to ORS 469.401 and 469.402. Notwithstanding subsection (6) of this
16 section, the council may impose conditions based on standards adopted under
17 ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an application based
18 on those standards.

19 “(11) Judicial review of the approval or rejection of a site certificate by
20 the council under this section shall be as provided in ORS 469.403.

21 **“SECTION 69.** ORS 469.405 is amended to read:

22 “469.405. (1) A site certificate may be amended with the approval of the
23 Energy Facility Siting Council. The council may establish by rule the type
24 of amendment that must be considered in a contested case proceeding. Judi-
25 cial review of an amendment to a site certificate shall be as provided in ORS
26 469.403.

27 “(2) Notwithstanding ORS 34.020 or 197.825, or any other provision of law,
28 the land use approval by an affected local government of a proposed amend-
29 ment to a facility and the recommendation of the special advisory group of
30 applicable substantive criteria shall be subject to judicial review only as

1 provided in ORS 469.403. If the applicant elects to show compliance with the
2 statewide planning goals by demonstrating that the facility has received lo-
3 cal land use approval, the provisions of this section shall apply only to pro-
4 posed projects for which the land use approval by the local government
5 occurs after the date an application for amendment is submitted to the State
6 Department of Energy.

7 “(3) An amendment to a site certificate is not required for a pipeline less
8 than 16 inches in diameter and less than five miles in length that is proposed
9 to be constructed to test or maintain an underground gas storage reservoir.
10 If the proposed pipeline will connect to a council certified surface facility
11 related to an underground gas storage reservoir or to a council certified gas
12 pipeline, whether the proposed pipeline is to be located inside or outside the
13 site of a council certified facility, the certificate holder must obtain, prior
14 to construction, the approval of the department for the construction, opera-
15 tion and retirement of the proposed pipeline. The department shall approve
16 such a proposed pipeline if the pipeline meets applicable council substantive
17 standards. Notwithstanding ORS 469.503 [(3)] (2), the department may not
18 review the proposed pipeline for compliance with other state standards.
19 Notwithstanding ORS 469.503 [(4)] (3), or any council rule addressing com-
20 pliance with land use standards, the department shall not review such a
21 proposed pipeline for compliance with land use requirements. Notwithstand-
22 ing ORS 469.401 (3), the approval by the department of such pipeline shall
23 not bind any state or local agency. The council may adopt appropriate pro-
24 cedural rules for the department review. The department shall issue an order
25 approving or rejecting the proposed pipeline. Judicial review of a department
26 order under this section shall be as provided in ORS 469.403.

27 **“SECTION 70.** ORS 469.407 is amended to read:

28 “469.407. (1) A recipient may by amendment of its application for a site
29 certificate or by amendment of its site certificate increase the capacity of the
30 facility if the Energy Facility Siting Council finds that:

1 “(a) The facility will satisfy the conditions of the 500-megawatt ex-
2 emption, unless modified by the council;

3 “(b) The enlarged facility does not exceed 500 megawatts and meets the
4 applicable carbon dioxide standard provided for in ORS 469.503 (2) **(2019**
5 **Edition)** for any increase in capacity beyond the capacity of the
6 500-megawatt exemption; and

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

8 “(2) A recipient is deemed to meet any applicable need standard and car-
9 bon dioxide emissions standard for the nominal generating capacity of the
10 500-megawatt exemption provided that the recipient satisfies the conditions
11 of the 500-megawatt exemption, unless the council modifies the conditions.

12 “(3) As used in this section:

13 “(a) ‘Recipient’ means any base load gas plant, as defined in ORS 469.503
14 **(2019 Edition)**, determined by the council to have the lowest net monetized
15 air emissions among the applicants participating in a contested case pro-
16 ceeding.

17 “(b) ‘500-megawatt exemption’ means the council order in which a recipi-
18 ent was determined to have the lowest net monetized air emissions.

19 **“SECTION 71.** ORS 469.504 is amended to read:

20 “469.504. (1) A proposed facility shall be found in compliance with the
21 statewide planning goals under ORS 469.503 [(4)] **(3)** if:

22 “(a) The facility has received local land use approval under the acknowl-
23 edged comprehensive plan and land use regulations of the affected local
24 government; or

25 “(b) The Energy Facility Siting Council determines that:

26 “(A) The facility complies with applicable substantive criteria from the
27 affected local government’s acknowledged comprehensive plan and land use
28 regulations that are required by the statewide planning goals and in effect
29 on the date the application is submitted, and with any Land Conservation
30 and Development Commission administrative rules and goals and any land

1 use statutes that apply directly to the facility under ORS 197.646;

2 “(B) For an energy facility or a related or supporting facility that must
3 be evaluated against the applicable substantive criteria pursuant to sub-
4 section (5) of this section, that the proposed facility does not comply with
5 one or more of the applicable substantive criteria but does otherwise comply
6 with the applicable statewide planning goals, or that an exception to any
7 applicable statewide planning goal is justified under subsection (2) of this
8 section; or

9 “(C) For a facility that the council elects to evaluate against the state-
10 wide planning goals pursuant to subsection (5) of this section, that the pro-
11 posed facility complies with the applicable statewide planning goals or that
12 an exception to any applicable statewide planning goal is justified under
13 subsection (2) of this section.

14 “(2) The council may find goal compliance for a facility that does not
15 otherwise comply with one or more statewide planning goals by taking an
16 exception to the applicable goal. Notwithstanding the requirements of ORS
17 197.732, the statewide planning goal pertaining to the exception process or
18 any rules of the Land Conservation and Development Commission pertaining
19 to an exception process goal, the council may take an exception to a goal if
20 the council finds:

21 “(a) The land subject to the exception is physically developed to the ex-
22 tent that the land is no longer available for uses allowed by the applicable
23 goal;

24 “(b) The land subject to the exception is irrevocably committed as de-
25 scribed by the rules of the Land Conservation and Development Commission
26 to uses not allowed by the applicable goal because existing adjacent uses and
27 other relevant factors make uses allowed by the applicable goal impractica-
28 ble; or

29 “(c) The following standards are met:

30 “(A) Reasons justify why the state policy embodied in the applicable goal

1 should not apply;

2 “(B) The significant environmental, economic, social and energy conse-
3 quences anticipated as a result of the proposed facility have been identified
4 and adverse impacts will be mitigated in accordance with rules of the council
5 applicable to the siting of the proposed facility; and

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

8 “(3) If compliance with applicable substantive local criteria and applica-
9 ble statutes and state administrative rules would result in conflicting con-
10 ditions in the site certificate or amended site certificate, the council shall
11 resolve the conflict consistent with the public interest. A resolution may not
12 result in a waiver of any applicable state statute.

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

17 “(5) Upon request by the State Department of Energy, the special advisory
18 group established under ORS 469.480 shall recommend to the council, within
19 the time stated in the request, the applicable substantive criteria under
20 subsection (1)(b)(A) of this section. If the special advisory group does not
21 recommend applicable substantive criteria within the time established in the
22 department’s request, the council may either determine and apply the appli-
23 cable substantive criteria under subsection (1)(b) of this section or determine
24 compliance with the statewide planning goals under subsection (1)(b)(B) or
25 (C) of this section. If the special advisory group recommends applicable
26 substantive criteria for an energy facility described in ORS 469.300 or a re-
27 lated or supporting facility that does not pass through more than one local
28 government jurisdiction or more than three zones in any one jurisdiction, the
29 council shall apply the criteria recommended by the special advisory group.
30 If the special advisory group recommends applicable substantive criteria for

1 an energy facility as defined in ORS 469.300 (11)(a)(C) to (E) or a related or
2 supporting facility that passes through more than one jurisdiction or more
3 than three zones in any one jurisdiction, the council shall review the re-
4 commended criteria and determine whether to evaluate the proposed facility
5 against the applicable substantive criteria recommended by the special advi-
6 sory group, against the statewide planning goals or against a combination
7 of the applicable substantive criteria and statewide planning goals. In mak-
8 ing its determination, the council shall consult with the special advisory
9 group and shall consider:

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

11 “(b) The degree to which the applicable substantive criteria reflect local
12 government consideration of energy facilities in the planning process; and

13 “(c) The level of consistency of the applicable substantive criteria from
14 the various zones and jurisdictions.

15 “(6) The council is not subject to ORS 197.180 and a state agency may not
16 require an applicant for a site certificate to comply with any rules or pro-
17 grams adopted under ORS 197.180.

18 “(7) On or before its next periodic review, each affected local government
19 shall amend its comprehensive plan and land use regulations as necessary
20 to reflect the decision of the council pertaining to a site certificate or
21 amended site certificate.

22 “(8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law,
23 the affected local government’s land use approval of a proposed facility under
24 subsection (1)(a) of this section and the special advisory group’s recommen-
25 dation of applicable substantive criteria under subsection (5) of this section
26 shall be subject to judicial review only as provided in ORS 469.403. If the
27 applicant elects to comply with subsection (1)(a) of this section, the pro-
28 visions of this subsection shall apply only to proposed projects for which the
29 land use approval of the local government occurs after the date a notice of
30 intent or an application for expedited processing is submitted to the State

1 Department of Energy.

2 “(9) The State Department of Energy, in cooperation with other state
3 agencies, shall provide, to the extent possible, technical assistance and in-
4 formation about the siting process to local governments that request such
5 assistance or that anticipate having a facility proposed in their jurisdiction.

6 **“SECTION 72.** ORS 469.505 is amended to read:

7 “469.505. (1) In making a determination regarding compliance with stat-
8 utes, rules and ordinances administered by another agency or compliance
9 with requirements of ORS 469.300 to 469.563 and 469.590 to 469.619 where
10 another agency has special expertise, consultation with the other agency
11 shall occur during the notice of intent and site certificate application pro-
12 cess. Any permit application for which the permitting decision has been de-
13 legated by the federal government to a state agency other than the Energy
14 Facility Siting Council shall be reviewed, whenever feasible, simultaneously
15 with the council’s review of the site certificate application. Any hearings
16 required on such permit applications shall be consolidated, whenever feasi-
17 ble, with hearings under ORS 469.300 to 469.563 and 469.590 to 469.619.

18 “(2) Before resolving any conflicting conditions in site certificates or
19 amended site certificates under ORS 469.503 [(3)] (2) and 469.504, the council
20 shall notify and consult with the agencies and local governments responsible
21 for administering the statutes, administrative rules or substantive local cri-
22 teria that result in the conflicting conditions regarding potential conflict
23 resolution.

24

25 **“APPLICABILITY OF OREGON GREENHOUSE GAS INITIATIVE**
26 **TO ENERGY FACILITIES WITH SITE CERTIFICATES**

27

28 **“SECTION 72a.** Section 72b of this 2020 Act is added to and made a
29 **part of ORS 469.300 to 469.563.**

30 **“SECTION 72b.** (1) The Legislative Assembly finds and declares that

1 greenhouse gas emissions from energy facilities subject to site certifi-
2 cates or amended site certificates are a significant threat to the public
3 health, safety or the environment.

4 “(2) Notwithstanding ORS 469.401 (2), a facility with a site certifi-
5 cate or amended site certificate in effect on or after the effective date
6 of this 2020 Act shall comply with sections 4 to 32 of this 2020 Act to
7 the extent that compliance by the facility is required under sections 4
8 to 32 of this 2020 Act.

9
10 **“REGULATION OF LANDFILL METHANE EMISSIONS**

11
12 **“SECTION 73.** Section 74 of this 2020 Act is added to and made a
13 part of ORS chapter 468A.

14 **“SECTION 74.** (1) As used in this section:

15 **“(a) ‘Anthropogenic greenhouse gas emissions’ means greenhouse**
16 **gas emissions that are not biogenic emissions.**

17 **“(b) ‘Carbon dioxide equivalent’ means the amount of carbon**
18 **dioxide by weight that would produce the same global warming impact**
19 **as a given weight of another greenhouse gas, based on considerations**
20 **including but not limited to the best available science, including in-**
21 **formation from the Intergovernmental Panel on Climate Change.**

22 **“(c) ‘Hazardous waste’ has the meaning given that term in ORS**
23 **466.005.**

24 **“(d) ‘Land disposal site’ has the meaning given that term in ORS**
25 **459.005.**

26 **“(e) ‘Landfill’ has the meaning given that term in ORS 459.005.**

27 **“(f) ‘Solid waste’ has the meaning given that term in ORS 459.005.**

28 **“(2) It is the intent of the Legislative Assembly that the standards**
29 **and requirements adopted by rule under this section be at least as**
30 **stringent as the most stringent standards and requirements for re-**

1 **ducing methane gas emissions from landfills adopted among the states**
2 **having a boundary with Oregon.**

3 **“(3) The Environmental Quality Commission shall adopt by rule**
4 **standards and requirements for reducing methane gas emissions from**
5 **landfills.**

6 **“(4) The following landfills are exempt from standards and require-**
7 **ments adopted by rule under this section:**

8 **“(a) Landfills that emit less than 25,000 metric tons of carbon**
9 **dioxide equivalent in anthropogenic greenhouse gas emissions annu-**
10 **ally, as reported under ORS 468A.280.**

11 **“(b) Landfills that receive only hazardous waste.**

12 **“(c) Landfills that receive only waste from building demolition or**
13 **construction.**

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

18 **“(5) Rules adopted under this section shall include but need not be**
19 **limited to:**

20 **“(a) Reporting requirements related to waste in place, calculated**
21 **landfill gas heat input capacity, and landfill surface emissions moni-**
22 **toring.**

23 **“(b) Methane gas collection and control system requirements for**
24 **landfills with reported calculated landfill gas heat input capacity ex-**
25 **ceeding 3 million British thermal units per hour.**

26 **“(c) Standards and requirements for methane surface emissions,**
27 **monitoring and corrective actions.**

28 **“(d) Alternative compliance measures and methods that may be**
29 **applied for certain landfills on a case-by-case basis.**

30 **“(e) Standards and requirements for records retention, landfill clo-**

1 sure notification, methane gas collection and control device removal
2 or modification and annual operating reports.

3 **“SECTION 75. The Environmental Quality Commission shall adopt**
4 **rules under section 74 of this 2020 Act in time for the rules to become**
5 **operative no later than July 1, 2022.**

6
7 **“REGULATION OF HYDROFLUOROCARBONS**

8
9 **“SECTION 76. Section 77 of this 2020 Act is added to and made a**
10 **part of ORS chapter 468.**

11 **“SECTION 77. (1) As used in this section:**

12 **“(a) ‘Class I substance’ means a substance listed as a Class I sub-**
13 **stance in:**

14 **“(A) 42 U.S.C. 7671a(a), as that section read on November 15, 1990;**

15 **or**

16 **“(B) Appendix A of 40 C.F.R. part 82, subpart A, as that appendix**
17 **read on January 3, 2017.**

18 **“(b) ‘Class II substance’ means a substance listed as a Class II**
19 **substance in:**

20 **“(A) 42 U.S.C. 7671a(b), as that section read on November 15, 1990;**

21 **or**

22 **“(B) Appendix B of 40 C.F.R. part 82, subpart A, as that appendix**
23 **read on January 3, 2017.**

24 **“(c) ‘Greenhouse gas’ has the meaning given that term in ORS**
25 **468A.280.**

26 **“(d) ‘Hydrofluorocarbons’ means a class of greenhouse gases that**
27 **are saturated organic compounds containing hydrogen, fluorine and**
28 **carbon.**

29 **“(e) ‘Retrofit’ has the meaning given that term as defined in 40**
30 **C.F.R. 82.152, as that section read on January 3, 2017.**

1 “(f)(A) ‘Substitute’ includes a chemical, product substitute or al-
2 ternative manufacturing process, whether existing or new, that is used
3 to perform a function previously performed by a class I substance or
4 class II substance and any substitute subsequently adopted to perform
5 that function, including, but not limited to, hydrofluorocarbons.

6 “(B) ‘Substitute’ does not include 2-BTP or any compound as ap-
7 plied to its use in aerospace fire extinguishing systems.

8 “(2)(a) The Environmental Quality Commission shall adopt rules
9 prohibiting the sale, lease, rent, installation, or other actions causing
10 equipment or products to enter into commerce in Oregon if that
11 equipment or product consists of, uses, or will use a substitute, as set
12 forth in appendices U and V of 40 C.F.R. part 82, subpart G, as those
13 laws read on January 3, 2017, for the applications or end uses restricted
14 by appendix U or V of 40 C.F.R. part 82, subpart G, as those laws read
15 on January 3, 2017. Except where existing equipment is retrofit,
16 nothing in this section requires a person that acquired a restricted
17 product or equipment prior to the effective date of the restrictions in
18 rules adopted pursuant to this section to cease use of that product or
19 equipment.

20 “(b) The commission may adopt additional prohibitions of the sale,
21 lease, rent or installation of, or of other actions that cause equipment
22 or products to enter into commerce in Oregon that contain
23 hydrofluorocarbons or other substitutes if the commission determines
24 that the equipment or products pose a risk to human health or the
25 environment and that a substitute is currently or potentially available.

26 “(4) Rules adopted by the commission under this section:

27 “(a) May require regular reporting by manufacturers, importers and
28 distributors of equipment and products containing hydrofluorocarbons
29 or other substitutes.

30 “(b) May require the labeling and disclosure of equipment and pro-

1 ducts containing hydrofluorocarbons or other substitutes.

2 “(c) May include rules necessary for the administration, imple-
3 mentation, and enforcement of this section.

4 “(5) Where feasible and appropriate, the commission shall endeavor
5 to adopt rules under this section that are consistent with the regula-
6 tory standards, exemptions, reporting obligations, disclosure require-
7 ments and other compliance requirements of other states or the
8 federal government, if those jurisdictions have adopted restrictions on
9 the use of hydrofluorocarbons and other substitutes.

10 “SECTION 78. Section 79 of this 2020 Act is added to and made a
11 part of ORS chapter 455.

12 “SECTION 79. The Department of Consumer and Business Services
13 shall adopt rules to amend the state building code as necessary to
14 permit, in equipment or products, the use of hydrofluorocarbons or
15 other substitutes that are not prohibited by regulations adopted by
16 rule by the Environmental Quality Commission under section 77 of
17 this 2020 Act.

18

19 “OREGON GLOBAL WARMING COMMISSION ABOLISHED

20

21 “SECTION 80. (1) The Oregon Global Warming Commission is
22 abolished. On the operative date of this section, the tenure of office
23 of the members of the Oregon Global Warming Commission ceases.

24 “(2) ORS 468A.200, 468A.210, 468A.215, 468A.220, 468A.225, 468A.230,
25 468A.235, 468A.240, 468A.245, 468A.250, 468A.255 and 468A.260 are re-
26 pealed.

27

28 “(Amendments to Statutes)

29

30 “SECTION 81. ORS 352.823 is amended to read:

1 “352.823. (1) The Oregon Climate Change Research Institute is established
2 at Oregon State University. In administering the institute, Oregon State
3 University may seek the cooperation of other public universities listed in
4 ORS 352.002.

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

6 “(a) Facilitate research by faculty at public universities listed in ORS
7 352.002 on climate change and its effects on natural and human systems in
8 Oregon;

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

10 “(c) Provide climate change information to the public in integrated and
11 accessible formats; **and**

12 “[*d*] *Support the Oregon Global Warming Commission in developing*
13 *strategies to prepare for and to mitigate the effects of climate change on na-*
14 *tural and human systems; and*]

15 “[*e*] **(d)** Provide technical assistance to local governments to assist them
16 in developing climate change policies, practices and programs.

17 “(3) The Oregon Climate Change Research Institute shall assess, at least
18 once each biennium, the state of climate change science, including biological,
19 physical and social science, as it relates to Oregon and the likely effects of
20 climate change on the state. The institute shall submit the assessment to the
21 Legislative Assembly in the manner provided in ORS 192.245 and to the
22 Governor.

23 “(4) State agencies may contract with the Oregon Climate Change Re-
24 search Institute to fulfill agency needs regarding the collection, storage, in-
25 tegration, analysis, dissemination and monitoring of climate change
26 information, research and training.

27 **“SECTION 82.** ORS 468A.265 is amended to read:

28 “468A.265. As used in ORS 468A.265 to 468A.277:

29 “(1) ‘Biodiesel’ means a motor vehicle fuel consisting of mono-alkyl esters
30 of long chain fatty acids derived from vegetable oils, animal fats or other

1 nonpetroleum resources, not including palm oil.

2 “(2) ‘Clean fuels program’ means the program adopted by rule by the En-
3 vironmental Quality Commission under ORS 468A.266 (1)(b).

4 “(3) ‘Compliance period’ means the calendar year during which a regu-
5 lated party must demonstrate compliance with the low carbon fuel standards
6 through participation in the clean fuels program.

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

11 “(5) ‘Credit aggregator’ means a person who voluntarily registers to par-
12 ticipate in the clean fuels program to facilitate credit generation on behalf
13 of a credit generator and to trade credits with regulated parties, credit gen-
14 erators and other credit aggregators.

15 “(6) ‘Credit generator’ means a person eligible to generate credits by
16 providing fuels for use in Oregon with carbon intensities less than the ap-
17 plicable low carbon fuel standard.

18 “(7) ‘Deferral’ means a delay or change in the applicability of a scheduled
19 applicable low carbon fuel standard for a period of time, accomplished pur-
20 suant to an order issued under ORS 468A.273 or 468A.274.

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

25 “(9) ‘Greenhouse gas’ [*has the meaning given that term in ORS 468A.210*]
26 **includes, but is not limited to, carbon dioxide, methane, nitrous oxide,**
27 **hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitro-**
28 **gen trifluoride.**

29 “(10) ‘Low carbon fuel standard’ means a standard adopted by the com-
30 mission by rule under ORS 468A.266 for the reduction of greenhouse gas

1 emissions, on average, per unit of fuel energy.

2 “(11) ‘Motor vehicle’ has the meaning given that term in ORS 801.360.

3 “(12) ‘Regulated party’ means a person responsible for complying with the
4 low carbon fuel standards.

5 “(13) ‘Small deficit’ means a net deficit balance at the end of a compliance
6 period, after retirement of all credits held by a regulated party, that does
7 not exceed a percentage set by the commission by rule of the total number
8 of deficits that the regulated party generated for a compliance period and
9 that may not be greater than 10 percent of the total number of deficits that
10 the regulated party generated for a compliance period.

11 **“SECTION 83.** ORS 468A.279 is amended to read:

12 “468A.279. (1) As used in this section:

13 “(a) ‘Greenhouse gas’ has the meaning given that term in ORS
14 [468A.210] **468A.265.**

15 “(b) ‘Motor vehicle’ has the meaning given that term in ORS 801.360.

16 “(2) The Environmental Quality Commission may adopt by rule standards
17 and requirements described in this section to reduce greenhouse gas emis-
18 sions.

19 “(3)(a) The commission may adopt requirements to prevent the tampering,
20 alteration and modification of the original design or performance of motor
21 vehicle pollution control systems.

22 “(b) Before adopting requirements under this section, the commission
23 shall consider the antitampering requirements and exemptions of the State
24 of California.

25 “(4) The commission may adopt requirements for motor vehicle service
26 providers to check and inflate tire pressure according to the tire
27 manufacturer’s or motor vehicle manufacturer’s recommended specifications,
28 provided that the requirements:

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

1 “(b) Do not require motor vehicle service providers to purchase equipment
2 to check and inflate tire pressure.

3 “(5) The commission may adopt restrictions on engine use by commercial
4 ships while at port, and requirements that ports provide alternatives to en-
5 gine use such as electric power, provided that:

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

8 “(b) Engine use shall be allowed when necessary for reasonable periods
9 due to emergencies and other considerations as determined by the commis-
10 sion; and

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

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

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

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

22 “(c) Flexible implementation approaches to minimize compliance costs;
23 and

24 “(d) Technical and economic studies of comparable greenhouse gas emis-
25 sions reduction measures implemented in other states and any other studies
26 as determined by the commission.

27 “(7) The provisions of this section do not apply to:

28 “(a) Motor vehicles registered as farm vehicles under the provisions of
29 ORS 805.300.

30 “(b) Farm tractors, as defined in ORS 801.265.

1 “(c) Implements of husbandry, as defined in ORS 801.310.

2 “(d) Motor trucks, as defined in ORS 801.355, used primarily to transport
3 logs.

4 **“SECTION 84.** ORS 757.528 is amended to read:

5 “757.528. (1) Unless modified by rule by the State Department of Energy
6 as provided in this section, the greenhouse gas emissions standard that ap-
7 plies to consumer-owned utilities is 1,100 pounds of greenhouse gases per
8 megawatt-hour for a generating facility.

9 “(2) Unless modified pursuant to subsection (4) of this section, the
10 greenhouse gas emissions standard includes only carbon dioxide emissions.

11 “(3) For purposes of applying the emissions standard to cogeneration fa-
12 cilities, the department shall establish an output-based methodology to en-
13 sure that the calculation of emissions of greenhouse gases for cogeneration
14 facilities recognizes the total usable energy output of the process and in-
15 cludes all greenhouse gases emitted by the facility in the production of both
16 electrical and thermal energy.

17 “(4) The department shall review the greenhouse gas emissions standard
18 established under this section no more than once every three years. After
19 public notice and hearing, and consultation with the Public Utility Com-
20 mission, the department may:

21 “(a) Modify the emissions standard to include other greenhouse gases as
22 defined in ORS [~~468A.210~~] **468A.265**, with the other greenhouse gases ex-
23 pressed as their carbon dioxide equivalent; and

24 “(b) Modify the emissions standard based upon current information on the
25 rate of greenhouse gas emissions from a commercially available combined-
26 cycle natural gas generating facility that:

27 “(A) Employs a combination of one or more gas turbines and one or more
28 steam turbines and produces electricity in the steam turbines from waste
29 heat produced by the gas turbines;

30 “(B) Has a heat rate at high elevation within the boundaries of the

1 Western Electricity Coordinating Council; and

2 “(C) Has a heat rate at ambient temperatures when operating during the
3 hottest day of the year.

4 “(5) In modifying the greenhouse gas emissions standard, the department
5 shall:

6 “(a) Use an output-based methodology to ensure that the calculation of
7 greenhouse gas emissions through cogeneration recognizes the total usable
8 energy output of the process and includes all greenhouse gases emitted by
9 the generating facility in the production of both electrical and thermal en-
10 ergy; and

11 “(b) Consider the effects of the emissions standard on system reliability
12 and overall costs to electricity consumers.

13 “(6) If upon a review conducted pursuant to subsection (4) of this section,
14 the department determines that a mandatory greenhouse gas emissions limit
15 has been established pursuant to state or federal law, the department shall
16 issue a report to the appropriate legislative committees of the Legislative
17 Assembly stating which portions, if any, of the greenhouse gas emissions
18 standard are no longer necessary as a matter of state law.

19

20 **“REPEAL OF FORESTRY OFFSET PROVISIONS**

21

22 **“SECTION 84a. ORS 526.780, 526.783, 526.786 and 526.789 are repealed.**

23 **“SECTION 84b. ORS 530.050 is amended to read:**

24 “530.050. Under the authority and direction of the State Board of Forestry
25 except as otherwise provided for the sale of forest products, the State
26 Forester shall manage the lands acquired pursuant to ORS 530.010 to 530.040
27 so as to secure the greatest permanent value of those lands to the state, and
28 to that end may:

29 “(1) Protect the lands from fire, disease and insect pests, cooperate with
30 the counties and with persons owning lands within the state in the pro-

1 tection of the lands and enter into all agreements necessary or convenient
2 for the protection of the lands.

3 “(2) Sell forest products from the lands, and execute mining leases and
4 contracts as provided for in ORS 273.551.

5 “(3) Enter into and administer contracts for the sale of timber from lands
6 owned or managed by the State Board of Forestry and the State Forestry
7 Department.

8 “(4) Enter into and administer contracts for activities necessary or con-
9 venient for the sale of timber under subsection (3) of this section, either
10 separately from or in conjunction with contracts for the sale of timber, in-
11 cluding but not limited to activities such as timber harvesting and sorting,
12 transporting, gravel pit development or operation, and road construction,
13 maintenance or improvement.

14 “(5) Permit the use of the lands for other purposes, including but not
15 limited to forage and browse for domestic livestock, fish and wildlife envi-
16 ronment, landscape effect, protection against floods and erosion, recreation,
17 and protection of water supplies when, in the opinion of the board, the use
18 is not detrimental to the best interest of the state.

19 “(6) Grant easements, permits and licenses over, through and across the
20 lands. The State Forester may require and collect reasonable fees or charges
21 relating to the location and establishment of easements, permits and licenses
22 granted by the state over the lands. The fees and charges collected shall be
23 used exclusively for the expenses of locating and establishing the easements,
24 permits and licenses under this subsection and shall be placed in the State
25 Forestry Department Account.

26 “(7) Require and collect fees or charges for the use of state forest roads.
27 The fees or charges collected shall be used exclusively for purposes of
28 maintenance and improvements of the roads and shall be placed in the State
29 Forestry Department Account.

30 “(8) Reforest the lands and cooperate with the counties, and with persons

1 owning timberlands within the state, in the reforestation, and make all
2 agreements necessary or convenient for the reforestation.

3 “(9) Require such undertakings as in the opinion of the board are neces-
4 sary or convenient to secure performance of any contract entered into under
5 the terms of this section or ORS 273.551.

6 “(10) Sell rock, sand, gravel, pumice and other such materials from the
7 lands. The sale may be negotiated without bidding, provided the appraised
8 value of the materials does not exceed \$2,500.

9 “(11) Enter into agreements, each for not more than 10 years duration, for
10 the production of minor forest products.

11 “(12) [*Establish a forestry carbon offset program to*] Market, register,
12 transfer or sell forestry carbon offsets. [*In establishing the program, the*
13 *forester may:*]

14 “[*(a) Execute any contracts or agreements necessary to create opportunities*
15 *for the creation of forestry carbon offsets; and*]

16 “[*(b) Negotiate prices that are at, or greater than, fair market value for the*
17 *transfer or sale of forestry carbon offsets.*]

18 “(13) Do all things and make all rules, not inconsistent with law, neces-
19 sary or convenient for the management, protection, utilization and conser-
20 vation of the lands.

21 **“SECTION 84c.** ORS 530.500 is amended to read:

22 “530.500. In order to accomplish the purposes of ORS 530.490, the State
23 Forester may:

24 “(1) Protect the lands from fire, disease and insect pests, cooperate with
25 the counties and with persons owning lands within the state in the pro-
26 tection of the lands and enter into all agreements necessary or convenient
27 for the protection of the lands.

28 “(2) Enter into and administer contracts for the sale of timber from lands
29 owned or managed by the State Board of Forestry and the State Forestry
30 Department.

1 “(3) Enter into and administer contracts for activities necessary or con-
2 venient for the sale of timber under subsection (2) of this section, either
3 separately from or in conjunction with contracts for the sale of timber, in-
4 cluding but not limited to activities such as timber harvesting and sorting,
5 transporting, gravel pit development or operation, and road construction,
6 maintenance or improvement.

7 “(4) Permit the use of the lands for other purposes, including but not
8 limited to fish and wildlife environment, landscape effect, protection against
9 flood and erosion, recreation and production and protection of water supplies
10 when the use is not detrimental to the purpose for which the lands are ded-
11 icated.

12 “(5) Contract with other governmental bodies for the protection of water
13 supplies to facilitate the multiple use of publicly owned water supplies for
14 recreational purposes as well as a source of water for domestic and indus-
15 trial use.

16 “(6) Grant permits and licenses on, over and across the lands.

17 “(7) Reforest the lands and cooperate with persons owning timberlands
18 within the state in the reforestation, and make all agreements necessary or
19 convenient for the reforestation.

20 “(8) *[Establish a forestry carbon offset program to]* Market, register,
21 transfer or sell forestry carbon offsets. *[In establishing the program, the*
22 *forester may:]*

23 “[*(a) Execute any contracts or agreements necessary to create opportunities*
24 *for the creation of forestry carbon offsets; and]*

25 “[*(b) Negotiate prices that are at, or greater than, fair market value for the*
26 *transfer or sale of forestry carbon offsets.]*

27 “(9) Do all things and make all rules and regulations, not inconsistent
28 with law, necessary or convenient for the management, protection, utiliza-
29 tion and conservation of the lands.

30 “(10) Require such undertakings as in the opinion of the State Forester

1 are necessary or convenient to secure performance of any agreement au-
2 thorized in ORS 530.450 to 530.520.

3

4 **“REQUIREMENTS FOR ETHANOL CONTENT IN GASOLINE**

5

6 **“SECTION 85.** ORS 646.913 is amended to read:

7 “646.913. (1) Except as provided in subsection (4) of this section, a
8 wholesale dealer, retail dealer or nonretail dealer may not sell gasoline or
9 offer gasoline for sale unless the gasoline contains **at least** 10 percent de-
10 natured fuel ethanol by volume. Gasoline that contains anhydrous ethanol
11 in concentrations [*between 9.2 percent and 10 percent*] **of at least 9.2 percent**
12 by volume complies with the requirement set forth in this subsection.

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

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

18 “(b) Complies with the volatility requirements specified in 40 C.F.R. part
19 80;

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

22 “(d) Is not blended with casinghead gasoline, absorption gasoline, drip
23 gasoline or natural gasoline after the gasoline has been sold, transferred or
24 otherwise removed from a refinery or terminal; and

25 “(e) Contains denatured fuel ethanol that complies with ASTM Interna-
26 tional specification D 4806, Standard Specification for Denatured Fuel
27 Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition
28 Engine Fuel.

29 “(3) The department may review specifications adopted by ASTM Inter-
30 national, or equivalent organizations, and federal regulations and revise the

1 standards adopted under this section as necessary.

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

6 “(a) An aircraft:

7 “(A) With a supplemental type certificate approved by the Federal Avi-
8 ation Administration that allows the aircraft to use gasoline that is intended
9 for use in motor vehicles; or

10 “(B) Issued a type certificate by an aircraft engine manufacturer that al-
11 lows the aircraft to use gasoline that is intended for use in motor vehicles;

12 “(b) An aircraft that has been issued an experimental certificate, as de-
13 scribed in 14 C.F.R. 21.191, by the Federal Aviation Administration and for
14 which the manufacturer’s specifications require the use of gasoline that is
15 intended for use in motor vehicles;

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

19 “(d) A vintage aircraft, as defined by the Oregon Department of Aviation
20 by rule, for which the manufacturer’s specifications require the use of gaso-
21 line that is intended for use in motor vehicles;

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

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

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

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

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

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

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

30 “(L) A watercraft.

1 **“LIGHT BULB ENERGY EFFICIENCY STANDARDS**

2
3 **“SECTION 86. (1) As used in this section:**

4 **“(a) ‘General service lamp’ includes general service incandescent**
5 **lamps, compact fluorescent lamps, general service light-emitting diode**
6 **lamps, organic light-emitting diode lamps and any other lamps that**
7 **are used to satisfy lighting applications traditionally served by general**
8 **service incandescent lamps.**

9 **“(b) ‘High CRI fluorescent lamp’ means a fluorescent lamp with a**
10 **color rendering index of 87 or greater and that is not a compact flu-**
11 **orescent lamp.**

12 **“(2) A person may not sell or offer for sale in this state a new**
13 **general service lamp manufactured on or after January 1, 2020, unless**
14 **the efficiency of the new general service lamp meets or exceeds 45**
15 **lumens per watt, when tested in accordance with the applicable federal**
16 **test procedures for general service lamps prescribed in 10 C.F.R. 430.23**
17 **in effect as of January 3, 2017.**

18 **“(3)(a) Subject to paragraph (b) of this subsection, a person may**
19 **not sell or offer for sale a new high CRI fluorescent lamp unless the**
20 **efficiency of the new high CRI fluorescent lamp meets or exceeds the**
21 **efficiency standards set forth in 10 C.F.R. 430.32(n)(4) in effect as of**
22 **January 3, 2017, as measured in accordance with the test methods**
23 **prescribed in appendix R of 10 C.F.R. part 430, subpart B, in effect as**
24 **of January 3, 2017.**

25 **“(b) Paragraph (a) of this subsection applies to high CRI fluorescent**
26 **lamps manufactured on or after January 1, 2023, or an earlier appli-**
27 **cability date, not to precede January 1, 2022, as established by the**
28 **State Department of Energy by rule. The department may not adopt**
29 **by rule an earlier applicability date unless an adjoining state adopts**
30 **an efficiency standard for high CRI fluorescent lamps that is compa-**

1 rable to the standard described in paragraph (a) of this subsection and
2 that becomes applicable before January 1, 2023.

3 “(4) The department may by rule adjust the definition of ‘general
4 service lamp’ or ‘high CRI fluorescent lamp’ or may by rule adjust the
5 minimum efficiency standards described in subsections (2) and (3) of
6 this section if the department determines that the adjustments are
7 necessary to coordinate to the greatest extent practicable with the
8 efficiency standards for general service lamps and high CRI fluores-
9 cent lamps of adjoining states that have adopted comparable efficiency
10 standards.

11
12 **“EXPEDITED JUDICIAL REVIEW TO SUPREME COURT;
13 EXPIRATION**

14
15 **“SECTION 87. (1) It is the intent of the Legislative Assembly that
16 the provisions of this 2020 Act relating to the receipt of moneys by the
17 state through the sale of allowances by auction under section 28 of this
18 2020 Act do not render this 2020 Act a bill for raising revenue subject
19 to the provisions of Article IV, sections 18 and 25 (2), of the Oregon
20 Constitution.**

21 **“(2) Original jurisdiction to determine whether this 2020 Act is a bill
22 for raising revenue subject to the provisions of Article IV, sections 18
23 and 25 (2), of the Oregon Constitution, is conferred on the Supreme
24 Court.**

25 **“(3)(a) Any person interested in or affected or aggrieved by, or who
26 will be affected or aggrieved by, section 28 of this 2020 Act may petition
27 for judicial review under this section. A petition for review must be
28 filed within 60 days after the effective date of this 2020 Act.**

29 **“(b) The petition must state facts showing how the petitioner is or
30 will be interested, affected or aggrieved and the grounds upon which**

1 the petition is based.

2 “(4) The petitioner shall serve a copy of the petition by registered
3 or certified mail upon the Department of Environmental Quality, the
4 Administrator of the Office of Greenhouse Gas Regulation, the Attor-
5 ney General and the Governor.

6 “(5) Proceedings for review under this section shall be given priority
7 over all other matters before the Supreme Court.

8 “(6) In the event that the Supreme Court determines that there are
9 factual issues in the petition, the Supreme Court may appoint a special
10 master to hear evidence and to prepare recommended findings of fact.

11 **“SECTION 88. (1) Original jurisdiction is conferred on the Supreme
12 Court to determine:**

13 **“(a) Whether the proceeds received from the auction or sale of an
14 allowance conducted under section 28 of this 2020 Act are tax revenues
15 subject to Article IX, section 3a, Oregon Constitution, when the al-
16 lowance is purchased by or on behalf of a covered entity described in
17 section 5 (2)(d) of this 2020 Act that produces in Oregon, or imports
18 into Oregon, motor vehicle fuel; and**

19 **“(b) Whether Article IX, section 3a, Oregon Constitution, applies
20 to the surrender of a compliance instrument under section 5 (4) of this
21 2020 Act to fulfill a compliance obligation attributable to the com-
22 bustion of motor vehicle fuel.**

23 **“(2)(a) Any person interested in or affected or aggrieved by, or who
24 will be affected or aggrieved by, sections 5 (4) or 28 of this 2020 Act
25 may petition for judicial review under this section. A petition for re-
26 view must be filed within 60 days after the effective date of this 2020
27 Act. The petition shall be captioned ‘In the Matter of the Disposition
28 of Carbon Allowance Auction Proceeds’ and the Supreme Court shall
29 consolidate all petitions filed under this subsection in a single pro-
30 ceeding with that caption. All petitioners shall be deemed parties to**

1 the consolidated proceeding. The state shall be deemed a respondent
2 to all petitions filed under this subsection.

3 “(b) Each petition must state facts showing how the petitioner is
4 or will be interested, affected or aggrieved and the grounds upon which
5 the petition is based.

6 “(3) Each petitioner shall serve a copy of the petition by registered
7 or certified mail upon the Department of Environmental Quality, the
8 Administrator of the Office of Greenhouse Gas Regulation, the Attor-
9 ney General and the Governor.

10 “(4) Proceedings for review under this section shall be given priority
11 over all other matters before the Supreme Court.

12 “(5) In the event that the Supreme Court determines that there are
13 factual issues in the petition, the Supreme Court may appoint a special
14 master to hear evidence and to prepare recommended findings of fact.

15 “SECTION 89. If section 28 of this 2020 Act is judicially declared by
16 the Supreme Court to not impose a tax from which the revenues are
17 subject to the provisions of Article IX, section 3a, of the Oregon Con-
18 stitution, then it is the intent of the Legislative Assembly that, after
19 the date of the judicial declaration, the Legislative Assembly will:

20 “(1) Identify specific opportunities for using state proceeds from
21 auctions conducted under section 28 of this 2020 Act each biennium to
22 reduce greenhouse gas emissions associated with transportation
23 through investments in transportation electrification, compressed na-
24 tural gas and hydrogen fuel cell vehicles and infrastructure, and low-
25 emission and zero-emission transit vehicles;

26 “(2) Identify specific opportunities for using state proceeds from
27 auctions conducted under section 28 of this 2020 Act each biennium to
28 reduce greenhouse gas emissions through the replacement of
29 medium-duty trucks and heavy-duty trucks powered by diesel engines
30 or the repower or retrofit of diesel engines that power medium-duty

1 trucks and heavy-duty trucks;

2 “(3) Identify specific opportunities for using state proceeds from
3 auctions conducted under section 28 of this 2020 Act each biennium to
4 reduce greenhouse gas emissions related to agriculture, with priority
5 given to the replacement, repower or retrofit of nonroad equipment
6 to reduce emissions that present serious risks to farmworker health;
7 and

8 “(4) Modify the distributions of state proceeds from auctions as
9 provided in sections 28, 29, 33 to 37 and 38 to 40 of this 2020 Act, and
10 repeal or amend any other statutes or session laws, as deemed neces-
11 sary to:

12 “(a) Address the judicial declaration by the Supreme Court that
13 section 28 of this 2020 Act does not impose a tax that is subject to the
14 provisions of Article IX, section 3a, of the Oregon Constitution; and

15 “(b) Implement the opportunities identified pursuant to subsections
16 (1) to (3) of this section.

17 “SECTION 90. Section 89 of this 2020 Act becomes operative on
18 January 2 of the year following the date on which section 28 of this
19 2020 Act is judicially declared by the Supreme Court to not impose a
20 tax from which the revenues are subject to the provisions of Article
21 IX, section 3a, of the Oregon Constitution.

22 “SECTION 91. Sections 89 and 90 of this 2020 Act are repealed on
23 the earlier of:

24 “(1) The date on which section 28 of this 2020 Act is judicially de-
25 clared by the Supreme Court to impose a tax from which the revenues
26 are subject to the provisions of Article IX, section 3a, of the Oregon
27 Constitution; or

28 “(2) January 2, 2028.

29 “SECTION 92. (1) Original jurisdiction to determine whether auc-
30 tions conducted under section 28 of this 2020 Act impose a tax or excise

1 from which the proceeds are subject to the provisions of Article VIII,
2 section 2 (1)(g), of the Oregon Constitution, is conferred on the Su-
3 preme Court.

4 “(2)(a) Any person interested in or affected or aggrieved by, or who
5 will be affected or aggrieved by, section 28 of this 2020 Act may petition
6 for judicial review under this section. A petition for review must be
7 filed within 60 days after the effective date of this 2020 Act.

8 “(b) The petition must state facts showing how the petitioner is or
9 will be interested, affected or aggrieved and the grounds upon which
10 the petition is based.

11 “(3) The petitioner shall serve a copy of the petition by registered
12 or certified mail upon the Department of Environmental Quality, the
13 Administrator of the Office of Greenhouse Gas Regulation, the Attor-
14 ney General and the Governor.

15 “(4) Proceedings for review under this section shall be given priority
16 over all other matters before the Supreme Court.

17 “(5) In the event that the Supreme Court determines that there are
18 factual issues in the petition, the Supreme Court may appoint a special
19 master to hear evidence and to prepare recommended findings of fact.

20

21 **“REPORTS AND REVIEWS**

22

23 **“SECTION 93. (1) The Legislative Revenue Officer, in consultation**
24 **with the Department of Transportation and any other appropriate**
25 **state agencies, shall conduct the following economic modeling and**
26 **analyses related to the impacts of regulating anthropogenic**
27 **greenhouse gas emissions attributable to the combustion of motor**
28 **vehicle fuel used to propel motor vehicles in this state:**

29 **“(a) Economic modeling of the impacts on fuel prices to operate**
30 **light vehicles and heavy vehicles in this state, in 2024 and each fol-**

1 **lowing calendar year before 2036, due to regulation of motor vehicle**
2 **fuel producers and importers under both the Oregon Greenhouse Gas**
3 **Initiative established under sections 4 to 32 of this 2020 Act and the**
4 **clean fuels program adopted by rule under ORS 468A.266.**

5 **“(b) Economic modeling of the impacts on costs to procure and**
6 **build public infrastructure including streets, roads, bridges and high-**
7 **ways due to regulation of motor vehicle fuel producers and importers**
8 **under both the Oregon Greenhouse Gas Initiative established under**
9 **sections 4 to 32 of this 2020 Act and the clean fuels program adopted**
10 **by rule under ORS 468A.266.**

11 **“(c) An analysis of the pace of the following changes within the**
12 **Oregon transportation sector that would be necessary to allow for the**
13 **State of Oregon to achieve the greenhouse gas emissions reduction**
14 **goals set forth in ORS 468A.205, and an analysis of the costs and ben-**
15 **efits to consumers associated with accomplishing those changes:**

16 **“(A) Transportation electrification;**

17 **“(B) Adoption of alternative fuel and high efficiency vehicles; and**

18 **“(C) Reductions in vehicle miles traveled.**

19 **“(d) An analysis of the permissible uses of moneys deposited in the**
20 **Transportation Decarbonization Investments Account established in**
21 **section 34 of this 2020 Act.**

22 **“(e) An analysis of alternatives to the current system of taxing**
23 **highway use through motor vehicle fuel taxes.**

24 **“(f) An analysis of the potential for the geographic implementation**
25 **of a carbon price for motor vehicle fuels, as provided in section 13 of**
26 **this 2020 Act, to influence:**

27 **“(A) Choices by the sellers of motor vehicle fuel at retail regarding**
28 **where to locate retail facilities in response to the Oregon Greenhouse**
29 **Gas Initiative; or**

30 **“(B) Choices by retail motor vehicle fuel customers in response to**

1 the Oregon Greenhouse Gas Initiative regarding where to purchase
2 motor vehicle fuel.

3 “(2) On or before September 15, 2022, and in the manner provided
4 by ORS 192.245, the Legislative Revenue Officer shall provide a report
5 detailing the results of the economic modeling and analyses required
6 by this section to a committee of the Legislative Assembly related to
7 the environment and to the Joint Committee on Transportation.

8 “SECTION 94. Section 75, chapter 750, Oregon Laws 2017, is amended to
9 read:

10 “**Sec. 75.** (1) The Oregon Transportation Commission shall conduct a
11 **biennial** study.

12 “(2)(a) The purpose of the study is to determine:

13 “[a] (A) The proportionate share that users of vehicles that are powered
14 by different means should pay for the costs of maintenance, operation and
15 improvement of the highways in this state; and

16 “[b] (B) Whether users of vehicles that are powered by different means
17 are paying that share.

18 “[2] (b) If the commission determines that users are not paying a
19 proportionate share, then the commission may include in the report recom-
20 mendations for legislation.

21 “[3] (c) This [section] **subsection** applies to users paying the vehicle
22 registration fee under ORS 803.420 (6)(a).

23 “(3) **In addition to addressing the purpose set forth in subsection (2)**
24 **of this section, the study shall examine the effects of the Oregon**
25 **Greenhouse Gas Initiative established under sections 4 to 32 of this**
26 **2020 Act on accelerating the transition in this state to high efficiency**
27 **vehicles and engines and alternative fuels, and the impacts of those**
28 **changes on the long-term funding sources for paying the costs of**
29 **maintenance, operation and improvement of the highways in this**
30 **state.**

1 “(4) The commission shall report the results of the study to **the Road**
2 **User Fee Task Force established under ORS 184.843**, the Joint Committee
3 on Transportation established under [section 26 of this 2017 Act] **ORS 171.858**
4 **and a committee of the Legislative Assembly related to the environ-**
5 **ment**, in the manner provided by ORS 192.245, no later than September 15[,
6 2023] **of each odd-numbered year, beginning in 2025.**

7 **“SECTION 95.** Section 76, chapter 750, Oregon Laws 2017, is amended to
8 read:

9 **“Sec. 76.** Section 75, chapter 750, Oregon Laws 2017, [of this 2017 Act]
10 is repealed on January 2, [2024] **2030.**

11 **“SECTION 95a. (1) The Office of Greenhouse Gas Regulation shall**
12 **conduct a study on whether amendments to section 13 of this 2020 Act**
13 **are necessary or recommended to further the purposes set forth in**
14 **section 2 of this 2020 Act.**

15 **“(2) The office shall submit a report on the study, which may in-**
16 **clude recommendations for legislation, in the manner provided under**
17 **ORS 192.245 to an appropriate interim committee of the Legislative**
18 **Assembly no later than September 15, 2022.**

19 **“SECTION 95b. Residential home heating assistance program pro-**
20 **posal. (1) The Housing and Community Services Department, in con-**
21 **sultation with the Office of Greenhouse Gas Regulation, the Oregon**
22 **Housing Stability Council and interested stakeholders, shall develop a**
23 **proposal for assisting households that for residential home heating use**
24 **fuels that are not natural gas. The proposal shall give priority to as-**
25 **sisting low and moderate income households or impacted communi-**
26 **ties, as designated by the Oregon Greenhouse Gas Reduction Board**
27 **under section 103 of this 2020 Act, through:**

28 **“(a) Bill assistance;**

29 **“(b) Weatherization; and**

30 **“(c) Options for upgrading to more efficient home heating equip-**

1 ment or to home heating systems powered by less greenhouse gas
2 emissions-intensive power sources.

3 “(2) The department shall develop the proposal in a manner in-
4 tended to achieve the following goals:

5 “(a) Reducing greenhouse gas emissions;

6 “(b) Saving energy;

7 “(c) Reducing the energy burden experienced by households; and

8 “(d) Reducing residential home heating service disparities in his-
9 torically underserved populations.

10 “(3) The proposal required by this section may be for any combina-
11 tion of:

12 “(a) The development of a single new program;

13 “(b) The development of multiple new programs or activities to
14 achieve different goals as outlined in subsection (2) of this section; or

15 “(c) Utilization of existing programs or partnerships to deliver as-
16 sistance to households.

17 “(4) Options included in the proposal under subsection (1)(c) of this
18 section must take into consideration the carbon intensities of fuels for
19 the home heating equipment or systems, as those carbon intensities
20 are assigned under the clean fuels program adopted by rule by the
21 Environmental Quality Commission under ORS 468A.266 (1)(b) or based
22 on another appropriate methodology.

23 “(5) On or before September 15, 2021, and in the manner provided
24 by ORS 192.245, the Housing and Community Services Department
25 shall provide a report detailing the proposal and steps, which may in-
26 clude recommendations for legislation, necessary to implement the
27 proposal, to the Oregon Greenhouse Gas Reduction Board and the
28 Legislative Assembly.

29 **“SECTION 95c. (1) As used in this section:**

30 **“(a) ‘Local government’ has the meaning given that term in ORS**

1 174.116.

2 “(b) ‘Special government body’ has the meaning given that term
3 ORS 174.117.

4 “(c) ‘Zero-emission vehicle’ has the meaning given that term in
5 ORS 283.398.

6 “(2) The Oregon Department of Administrative Services shall adopt
7 by rule a model program for local governments and special govern-
8 ment bodies to follow in planning to procure and procuring zero-
9 emission vehicles. The model program shall provide for a rate of
10 procurement of zero-emission vehicles consistent with the findings and
11 goals set forth in ORS 283.398 and the provisions of ORS 283.327.

12 “(3) The model program may provide for the department to partic-
13 ipate in, sponsor, conduct or administer cooperative procurements in
14 accordance with ORS 279A.200 to 279A.225 under which local govern-
15 ments and special government bodies may procure zero-emission ve-
16 hicles.

17 “SECTION 95d. The Oregon Department of Administrative Services
18 shall study options for, when awarding state procurement contracts,
19 accounting for the greenhouse gas emissions implications of trans-
20 porting goods and services to Oregon. The department shall, in the
21 manner provided by ORS 192.245, provide a report detailing the options
22 to the Legislative Assembly no later than September 15, 2021. The re-
23 port may include recommendations for legislation.

24 “SECTION 95e. (1) The Oregon Business Development Department,
25 in consultation with the Legislative Revenue Officer and the Depart-
26 ment of Revenue, shall identify and examine policy options for ad-
27 dressing barriers to capital investment by businesses in Oregon to
28 reduce greenhouse gas emissions through:

29 “(a) Vehicle fleet conversion; and

30 “(b) Vehicle technology and facility upgrades.

1 “(2) The policy options examined under this section shall include
2 modifications to depreciation and subtractions for Oregon tax pur-
3 poses. The Oregon Business Development Department shall, in the
4 manner provided by ORS 192.245, provide a report detailing the identi-
5 fied policy options to the Legislative Assembly no later than Septem-
6 ber 15, 2021. The report may include recommendations for legislation.

7 “SECTION 95f. (1) The Department of Environmental Quality shall
8 study opportunities for further reducing greenhouse gas emissions
9 through waste reduction and recycling. The study shall include but
10 need not be limited to:

11 “(a) Opportunities for reducing the amount of putrescible wastes
12 going to landfills;

13 “(b) An analysis of the greenhouse gas emissions implications of
14 local versus distant recycling; and

15 “(c) Opportunities to develop grant programs to improve recycling
16 and compost infrastructure in Oregon.

17 “(2) The department shall, in the manner provided by ORS 192.245,
18 provide a report on the study to the Legislative Assembly no later than
19 September 15, 2021. The report may include recommendations for leg-
20 islation.

21 “SECTION 95g. (1) The State Parks and Recreation Department
22 shall develop a proposal for a program to include and engage all
23 Oregonians in an annual, one-day tree planting event on public lands.
24 The proposal shall identify how the program will:

25 “(a) Provide opportunities for the program to be implemented in
26 partnership with all local governments as defined in ORS 174.116 and
27 special government bodies as defined in ORS 174.117; and

28 “(b) Include a comprehensive educational component, available to
29 all participants and to the general public, on the lifecycle of trees,
30 forest science, and the benefits of timber harvest and use to Oregon’s

1 economy and to a sustainable environment, including but not limited
2 to the carbon sequestration benefits of timber and forest products.

3 “(2) On or before September 15, 2021, and in the manner provided
4 by ORS 192.245, the department shall provide a report, which may in-
5 clude recommendations for legislation, detailing the proposal and steps
6 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**
11 **State Treasury, separate and distinct from the General Fund. Interest**
12 **earned by the Just Transition Fund shall be credited to the fund.**
13 **Moneys in the fund are continuously appropriated to the Oregon**
14 **Greenhouse Gas Reduction Board to be used to carry out the purposes**
15 **described in section 96a of this 2020 Act.**

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

18 “(3) The fund shall include a reserve account, which shall consist
19 of moneys allocated or appropriated to the fund by the Legislative
20 Assembly for deposit in the reserve account. The reserve account shall
21 be maintained and used by the board only for the purposes described
22 in section 96a (2)(b) of this 2020 Act.

23 **“SECTION 96a. (1) The Oregon Greenhouse Gas Reduction Board,**
24 **in consultation with the Higher Education Coordinating Commission,**
25 **the State Workforce and Talent Development Board, the Employment**
26 **Department and other interested state agencies, shall:**

27 “(a) Establish a Just Transition Program for the purpose of dis-
28 tributing moneys, other than moneys deposited in the reserve account
29 of the Just Transition Fund, that are deposited in the Just Transition
30 Fund established under section 96 of this 2020 Act; and

1 **“(b) Establish a Just Transition Plan for:**

2 **“(A) The implementation and administration of the Just Transition**
3 **Program; and**

4 **“(B) The use of moneys deposited in the reserve account of the Just**
5 **Transition Fund.**

6 **“(2)(a) Moneys distributed through the Just Transition Program**
7 **shall be distributed to support economic diversification, job creation,**
8 **job training and other employment services.**

9 **“(b) Moneys deposited in the reserve account of the Just Transition**
10 **Fund may be used only to fund programs and activities that provide**
11 **financial support for workers displaced or adversely affected by cli-**
12 **mate change or climate change policies.**

13 **“(3) Each even-numbered year, the Oregon Greenhouse Gas Re-**
14 **duction Board shall deliver a report, in the manner provided in ORS**
15 **192.245, to the Governor and the Legislative Assembly on the Just**
16 **Transition Plan. The report shall include:**

17 **“(a) Information on implementing the Just Transition Program;**

18 **“(b) Recommendations regarding the level of funding necessary to**
19 **carry out the Just Transition Program; and**

20 **“(c) Recommendations regarding the maintenance and use of the**
21 **reserve account of the Just Transition Fund, including but not limited**
22 **to recommendations regarding:**

23 **“(A) The funding necessary to maintain the reserve account at a**
24 **level necessary to carry out the programs and activities described in**
25 **subsection (2)(b) of this section, based on an evaluation of the impacts**
26 **of climate change or climate change policies on workers; and**

27 **“(B) The use of moneys deposited in the reserve account for the**
28 **replacement of wages or benefits for workers displaced or adversely**
29 **affected by climate change or climate change policies.**

30 **“(4) The board shall seek to develop and implement the Just Tran-**

1 sition Program in a manner that is consistent with and complemen-
2 tary to other local, state and federal programs, policies and incentives
3 that serve to carry out the activities described in subsection (2) of this
4 section, including but not limited to activities undertaken by the
5 Higher Education Coordinating Commission under ORS 660.318. The
6 Just Transition Program may include, but need not be limited to, a
7 competitive grant program.

8 “(5) The board may adopt rules as necessary to administer this
9 section, including but not limited to rules that set standards for
10 awarding grants.

11 “(6) A grant program adopted as part of the Just Transition Pro-
12 gram may:

13 “(a) Encourage, but not require, a grant applicant to provide
14 matching funds for completion of the project, program or activity for
15 which a grant is awarded; and

16 “(b) Allow a grant applicant to appeal to the board for reevaluation
17 of any determination of grant funding.

18 “(7) The board may perform activities necessary to ensure that re-
19 cipients of moneys distributed from the Just Transition Fund comply
20 with applicable requirements. If the board determines that a recipient
21 has not complied with applicable requirements, the board may order
22 the recipient to refund all moneys distributed to the recipient from the
23 fund. Moneys refunded pursuant to this subsection shall be paid to the
24 board and deposited in the Just Transition Fund.

25 “(8) The board shall appoint a just transition advisory committee.
26 The committee shall be composed of representatives from communities
27 and workplaces that have the potential to be displaced adversely af-
28 fected by climate change or climate change policies and shall include
29 members representing labor and management. The committee shall:

30 “(a) Advise the board in developing rules under this section;

1 **“(b) Provide recommendations for grant awards and other expendi-**
2 **tures from the Just Transition Fund, including expenditures from the**
3 **reserve account of the Just Transition Fund; and**

4 **“(c) Provide other recommendations related to the Just Transition**
5 **Plan and the Just Transition Program.**

6
7 **“OREGON GREENHOUSE GAS REDUCTION BOARD,**
8 **OFFICE OF GREENHOUSE GAS REGULATION ESTABLISHED**

9 **“(Oregon Greenhouse Gas Reduction Board)**

10
11 **“SECTION 97. (1) The Oregon Greenhouse Gas Reduction Board is**
12 **established within the Department of Environmental Quality.**

13 **“(2) The following shall serve as nonvoting members of the board:**

14 **“(a) One member jointly appointed by the President of the Senate**
15 **and the Speaker of the House of Representatives who is a member of**
16 **either the Senate or the House of Representatives and who is also a**
17 **member of the Republican party and serves as a member of a com-**
18 **mittee of the Legislative Assembly related to climate;**

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

24 **“(c) The chairperson of the Environmental Justice Task Force;**

25 **“(d)(A) A representative from an eligible Indian tribe appointed by**
26 **the Governor after consultation with the Commission on Indian Ser-**
27 **vices;**

28 **“(B) As used in this section, ‘eligible Indian tribe’ means each of**
29 **the Burns Paiute Tribe, the Confederated Tribes of Coos, Lower**
30 **Umpqua and Siuslaw Indians, the Confederated Tribes of the Grand**

1 **Ronde Community of Oregon, the Confederated Tribes of Siletz Indians**
2 **of Oregon, the Confederated Tribes of the Umatilla Indian Reservation,**
3 **the Confederated Tribes of the Warm Springs Reservation of Oregon,**
4 **the Coquille Indian Tribe, the Cow Creek Band of Umpqua Tribe of**
5 **Indians and the Klamath Tribes.**

6 **“(e) One member appointed by the Governor who represents the**
7 **Oregon Climate Change Research Institute;**

8 **“(f) The Director of the Department of Environmental Quality;**

9 **“(g) A member of the Public Utility Commission;**

10 **“(h) The Director of Transportation;**

11 **“(i) One member appointed by the Governor who is a representative**
12 **of urban communities at risk of being disproportionately impacted by**
13 **climate change; and**

14 **“(j) One member appointed by the Governor who is a representative**
15 **of rural communities at risk of being disproportionately impacted by**
16 **climate change.**

17 **“(3) The Governor shall appoint seven voting members to the board,**
18 **subject to confirmation by the Senate as provided in ORS 171.562 and**
19 **171.565. Voting members of the board appointed under this subsection**
20 **must be residents of this state well informed on energy and climate**
21 **issues. At least one voting member must represent communities at**
22 **risk of being disproportionately impacted by climate change.**

23 **“(4) The Administrator of the Office of Greenhouse Gas Regulation**
24 **and the Office of Greenhouse Gas Regulation shall provide clerical,**
25 **technical and management personnel to serve the board. Other agen-**
26 **cies shall provide support as requested by the office or the board.**

27 **“SECTION 98. (1) The term of office of each voting member ap-**
28 **pointed to the Oregon Greenhouse Gas Reduction Board is four years,**
29 **but the members of the board may be removed by the Governor. Be-**
30 **fore the expiration of the term of a voting member, the Governor shall**

1 appoint a successor to assume the duties of the voting member on July
2 1 of the next following year.

3 “(2) A voting member is eligible for reappointment, but no voting
4 member appointed by the Governor under section 97 of this 2020 Act
5 may serve more than two consecutive terms. In case of a vacancy for
6 any cause, the Governor shall make an appointment to become im-
7 mediately effective for the unexpired term.

8 “(3) The Governor shall select one of the voting members as chair-
9 person, for a term and with duties and powers necessary for the per-
10 formance of the functions of the chairperson as the board determines.

11 “(4) A majority of the voting members of the board constitutes a
12 quorum for the transaction of business.

13 “(5) The board shall meet at least once during each calendar quar-
14 ter at a time and place determined by the chairperson. The board shall
15 endeavor to hold meetings at various locations throughout this state.
16 The board may hold additional meetings at times and places deter-
17 mined by the chairperson, or as requested by a majority of the voting
18 members.

19 “(6)(a) Members of the board who are not members of the Legisla-
20 tive Assembly are not entitled to compensation but may be reimbursed
21 from funds available to the board for actual and necessary travel and
22 other expenses the members incur in the performance of the members’
23 official duties in the manner and amount provided in ORS 292.495.

24 “(b) Members of the board who are members of the Legislative As-
25 sembly shall be entitled to payment of per diem and expense re-
26 imbursement under ORS 171.072, payable from funds appropriated to
27 the Legislative Assembly.

28 “SECTION 99. Notwithstanding the term of office specified by sec-
29 tion 98 of this 2020 Act, of the voting members first appointed by the
30 Governor to the Oregon Greenhouse Gas Reduction Board:

1 **“(1) Two shall serve for terms ending July 1, 2021.**

2 **“(2) Two shall serve for terms ending July 1, 2022.**

3 **“(3) Two shall serve for terms ending July 1, 2023.**

4 **“(4) One shall serve for a term ending July 1, 2024.**

5 **“SECTION 100. (1) A person may not be eligible to be a voting**
6 **member of the Oregon Greenhouse Gas Reduction Board if:**

7 **“(a) The person holds any office or position under any political**
8 **committee or party; or**

9 **“(b) A business with which the person is associated, as that term**
10 **is defined in ORS 244.020, is an entity directly regulated by the board.**

11 **“(2) If the Governor determines that any board member is in vio-**
12 **lation of subsection (1) of this section, the Governor shall remove the**
13 **board member pursuant to section 98 of this 2020 Act.**

14 **“SECTION 101. ORS 468.015 is amended to read:**

15 **“468.015. (1) Except as provided in subsection (2) of this section, it**
16 **is the function of the Environmental Quality Commission to establish the**
17 **policies for the operation of the Department of Environmental Quality in a**
18 **manner consistent with the policies and purposes of ORS 448.305, 454.010 to**
19 **454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS**
20 **chapters 468, 468A and 468B. In addition, the commission shall perform any**
21 **other duty vested in it by law.**

22 **“(2) It is the function of the Oregon Greenhouse Gas Reduction**
23 **Board to establish the policies for the operation of the Office of**
24 **Greenhouse Gas Regulation established under section 104 of this 2020**
25 **Act in a manner consistent with the policies and purposes of sections**
26 **2, 4 to 32, 38 to 40, 43, 96, 96a, 97 to 100, 102 to 105, 107 and 107a of this**
27 **2020 Act. Where a conflict between rules adopted by the commission**
28 **and rules adopted by the board exists, the conflict shall be resolved in**
29 **favor of the public interest, as determined by the commission in con-**
30 **sultation with the board.**

1 **“SECTION 102. (1) The Oregon Greenhouse Gas Reduction Board**
2 **shall:**

3 **“(a) In accordance with the applicable provisions of ORS chapter**
4 **183, adopt standards and rules to perform the functions vested by law**
5 **in the board including but not limited to the adoption of standards and**
6 **rules for implementation of the Oregon Greenhouse Gas Initiative**
7 **under sections 4 to 32 of this 2020 Act;**

8 **“(b) Provide oversight to and advise the Office of Greenhouse Gas**
9 **Regulation in implementing, administering and enforcing the pro-**
10 **grams and activities of the office;**

11 **“(c) Identify the highest and best opportunities for investments of**
12 **state proceeds from the sale of allowances under section 28 of this 2020**
13 **Act in actions that carry out the purposes of the Oregon Greenhouse**
14 **Gas Initiative as set forth in section 2 of this 2020 Act;**

15 **“(d) Identify and provide recommendations to the Governor and the**
16 **Legislative Assembly on ways to coordinate state and local efforts to**
17 **reduce greenhouse gas emissions in Oregon consistent with the**
18 **greenhouse gas emissions reduction goals established by ORS 468A.205**
19 **and the purposes of the Oregon Greenhouse Gas Initiative as set forth**
20 **in section 2 of this 2020 Act and recommend efforts to help Oregon**
21 **prepare for the effects of climate change;**

22 **“(e) Work with state and local governments, the State Department**
23 **of Energy, the Department of Education, the Higher Education Coor-**
24 **minating Commission, businesses and representatives of impacted**
25 **communities to develop and implement an outreach strategy to edu-**
26 **cate Oregonians about the scientific aspects and economic impacts of**
27 **climate change and to inform Oregonians of ways to reduce**
28 **greenhouse gas emissions and ways to prepare for the effects of cli-**
29 **mate change; and**

30 **“(f) Carry out any other duties, functions and powers vested in the**

1 board by law.

2 “(2) In conducting the duties set forth in subsection (1) of this sec-
3 tion, the board shall take into consideration best available science.

4 “(3)(a) In furtherance of the greenhouse gas emissions reduction
5 goals established by ORS 468A.205, the board may:

6 “(A) Recommend statutory and administrative changes, policy
7 measures and other recommendations to be carried out by state and
8 local governments, businesses, nonprofit organizations or residents;
9 or

10 “(B) Recommend to the Governor the formation of citizen advisory
11 groups to explore particular areas of concern with regard to the re-
12 duction of greenhouse gas emissions and the effects of climate change.

13 “(b) In developing recommendations under this subsection, the
14 board shall consider economic, environmental, health and social costs,
15 and the risks and benefits of alternative strategies, including least-
16 cost options. The board shall solicit and consider public comment re-
17 lating to statutory, administrative or policy recommendations.
18 Recommendations developed under this subsection may include, but
19 need not be limited to recommendations for addressing greenhouse gas
20 emissions from the use of propane in this state.

21 “(4) The board may at any time convene advisory committees to
22 assist the board in carrying out the duties set forth in this section. If
23 the board convenes an advisory committee, it shall be composed of
24 members appointed by the chairperson of the board. In appointing
25 members, the chairperson shall include at least one member who re-
26 presents impacted communities and shall take into consideration the
27 geographic and demographic diversity of this state.

28 “(5) The board shall hold public hearings and provide an opportu-
29 nity for public comment in carrying out the board’s activities under
30 this section.

1 **“SECTION 103. Methodology for designating impacted communities.**

2 **(1) The Oregon Greenhouse Gas Reduction Board, by rule and in con-**
3 **sultation with the Portland State University Population Research**
4 **Center, the Oregon Health Authority, other relevant state agencies,**
5 **local agencies and officials and community representatives, shall des-**
6 **ignate as impacted communities those communities in Oregon at risk**
7 **of being disproportionately impacted by climate change. In carrying**
8 **out this section, the board shall identify impacted communities based**
9 **on a methodology that takes into consideration geographic,**
10 **socioeconomic, historic disadvantage, public health and environmental**
11 **hazard criteria. Impacted communities may include, but are not lim-**
12 **ited to:**

13 **“(a) Rural communities.**

14 **“(b) Coastal communities.**

15 **“(c) Areas with above-average concentrations of low-income**
16 **households, historically disadvantaged households, high unemploy-**
17 **ment, high linguistic isolation, low levels of homeownership, high rent**
18 **burden, sensitive populations or residents with low levels of educa-**
19 **tional attainment.**

20 **“(d) Areas disproportionately affected by environmental pollution**
21 **and other hazards that can lead to negative public health effects, ex-**
22 **posure or environmental degradation.**

23 **“(2) The methodology required by this section must give greater**
24 **weight to those criteria that the board determines are the most accu-**
25 **rate measurements of vulnerability to the impacts of climate change**
26 **and ocean acidification.**

27 **“(3) The board shall review and update the methodology required**
28 **by this section and the designation of impacted communities at least**
29 **once every five years.**

30

1 “(Office of Greenhouse Gas Regulation)
2

3 **“SECTION 104. Office of Greenhouse Gas Regulation.** (1) There is
4 established within the Department of Environmental Quality and un-
5 der the Oregon Greenhouse Gas Reduction Board the Office of
6 Greenhouse Gas Regulation.

7 **“(2) The office shall:**

8 **“(a) Administer the Oregon Greenhouse Gas Initiative established**
9 **under sections 4 to 32 of this 2020 Act; and**

10 **“(b) Carry out the duties, functions and powers vested in the office**
11 **by law.**

12 **“(3) The office may advise, consult and cooperate with other agen-**
13 **cies of the state, political subdivisions, other states or the federal**
14 **government, and shall make a reasonable effort to cooperate with af-**
15 **ected eligible Indian tribes as defined in section 97 of this 2020 Act,**
16 **with respect to any proceedings and all matters pertaining to the re-**
17 **duction of greenhouse gas emissions levels in Oregon.**

18
19 **“(Administrator of the Office of Greenhouse Gas Regulation)**
20

21 **“SECTION 105. Administrator.** (1) The Office of Greenhouse Gas
22 **Regulation is under the supervision and control of an administrator**
23 **who, subject to the direction of the Oregon Greenhouse Gas Reduction**
24 **Board, is responsible for the performance of the duties, functions and**
25 **powers of the office.**

26 **“(2) The Governor shall appoint the Administrator of the Office of**
27 **Greenhouse Gas Regulation, subject to confirmation by the Senate in**
28 **the manner prescribed in ORS 171.562 and 171.565. The administrator**
29 **holds office at the pleasure of the Governor.**

30 **“(3) The administrator shall be paid a salary as provided by law or,**

1 **if not so provided, as prescribed by the Governor.**

2 **“(4) Subject to the approval of the Governor, the administrator may**
3 **organize and reorganize the administrative structure of the office as**
4 **the administrator considers appropriate to properly conduct the work**
5 **of the office.**

6 **“(5) Subject to any applicable provisions of ORS chapter 240, the**
7 **administrator shall appoint all subordinate officers and employees of**
8 **the office, including specialists and consultants, prescribe their duties**
9 **and fix their compensation. The office may purchase materials and**
10 **supplies and enter into contracts necessary to exercise and carry out**
11 **the duties, functions and powers of the office.**

12 **“SECTION 106.** ORS 244.050 is amended to read:

13 **“244.050. (1) On or before April 15 of each year the following persons shall**
14 **file with the Oregon Government Ethics Commission a verified statement of**
15 **economic interest as required under this chapter:**

16 **“(a) The Governor, Secretary of State, State Treasurer, Attorney General,**
17 **Commissioner of the Bureau of Labor and Industries, district attorneys and**
18 **members of the Legislative Assembly.**

19 **“(b) Any judicial officer, including justices of the peace and municipal**
20 **judges, except any pro tem judicial officer who does not otherwise serve as**
21 **a judicial officer.**

22 **“(c) Any candidate for a public office designated in paragraph (a) or (b)**
23 **of this subsection.**

24 **“(d) The Deputy Attorney General.**

25 **“(e) The Deputy Secretary of State.**

26 **“(f) The Legislative Administrator, the Legislative Counsel, the Legisla-**
27 **tive Fiscal Officer, the Legislative Policy and Research Director, the Secre-**
28 **tary of the Senate, the Chief Clerk of the House of Representatives and the**
29 **Legislative Equity Officer.**

30 **“(g) The president and vice presidents, or their administrative equiv-**

1 alents, in each public university listed in ORS 352.002.

2 “(h) The following state officers:

3 “(A) Adjutant General.

4 “(B) Director of Agriculture.

5 “(C) Manager of State Accident Insurance Fund Corporation.

6 “(D) Water Resources Director.

7 “(E) Director of Department of Environmental Quality.

8 “(F) Director of Oregon Department of Administrative Services.

9 “(G) State Fish and Wildlife Director.

10 “(H) State Forester.

11 “(I) State Geologist.

12 “(J) Director of Human Services.

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

14 “(L) Director of the Department of State Lands.

15 “(M) State Librarian.

16 “(N) Administrator of Oregon Liquor Control Commission.

17 “(O) Superintendent of State Police.

18 “(P) Director of the Public Employees Retirement System.

19 “(Q) Director of Department of Revenue.

20 “(R) Director of Transportation.

21 “(S) Public Utility Commissioner.

22 “(T) Director of Veterans’ Affairs.

23 “(U) Executive director of Oregon Government Ethics Commission.

24 “(V) Director of the State Department of Energy.

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

26 “(X) Director of the Department of Corrections.

27 “(Y) Director of the Oregon Department of Aviation.

28 “(Z) Executive director of the Oregon Criminal Justice Commission.

29 “(AA) Director of the Oregon Business Development Department.

30 “(BB) Director of the Office of Emergency Management.

- 1 “(CC) Director of the Employment Department.
- 2 “(DD) Chief of staff for the Governor.
- 3 “(EE) Director of the Housing and Community Services Department.
- 4 “(FF) State Court Administrator.
- 5 “(GG) Director of the Department of Land Conservation and Development.
- 6 “(HH) Board chairperson of the Land Use Board of Appeals.
- 7 “(II) State Marine Director.
- 8 “(JJ) Executive director of the Oregon Racing Commission.
- 9 “(KK) State Parks and Recreation Director.
- 10 “(LL) Public defense services executive director.
- 11 “(MM) Chairperson of the Public Employees’ Benefit Board.
- 12 “(NN) Director of the Department of Public Safety Standards and Train-
13 ing.
- 14 “(OO) Executive director of the Higher Education Coordinating Commis-
15 sion.
- 16 “(PP) Executive director of the Oregon Watershed Enhancement Board.
- 17 “(QQ) Director of the Oregon Youth Authority.
- 18 “(RR) Director of the Oregon Health Authority.
- 19 “(SS) Deputy Superintendent of Public Instruction.
- 20 “**(TT) Administrator of the Office of Greenhouse Gas Regulation.**
- 21 “(i) The First Partner, the legal counsel, the deputy legal counsel and all
22 policy advisors within the Governor’s office.
- 23 “(j) Every elected city or county official.
- 24 “(k) Every member of a city or county planning, zoning or development
25 commission.
- 26 “(L) The chief executive officer of a city or county who performs the du-
27 ties of manager or principal administrator of the city or county.
- 28 “(m) Members of local government boundary commissions formed under
29 ORS 199.410 to 199.519.
- 30 “(n) Every member of a governing body of a metropolitan service district

1 and the auditor and executive officer thereof.

2 “(o) Each member of the board of directors of the State Accident Insur-
3 ance Fund Corporation.

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

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

8 “(A) Governing board of the State Department of Geology and Mineral
9 Industries.

10 “(B) Oregon Business Development Commission.

11 “(C) State Board of Education.

12 “(D) Environmental Quality Commission.

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

14 “(F) State Board of Forestry.

15 “(G) Oregon Government Ethics Commission.

16 “(H) Oregon Health Policy Board.

17 “(I) Oregon Investment Council.

18 “(J) Land Conservation and Development Commission.

19 “(K) Oregon Liquor Control Commission.

20 “(L) Oregon Short Term Fund Board.

21 “(M) State Marine Board.

22 “(N) Mass transit district boards.

23 “(O) Energy Facility Siting Council.

24 “(P) Board of Commissioners of the Port of Portland.

25 “(Q) Employment Relations Board.

26 “(R) Public Employees Retirement Board.

27 “(S) Oregon Racing Commission.

28 “(T) Oregon Transportation Commission.

29 “(U) Water Resources Commission.

30 “(V) Workers’ Compensation Board.

1 “(W) Oregon Facilities Authority.
2 “(X) Oregon State Lottery Commission.
3 “(Y) Pacific Northwest Electric Power and Conservation Planning Coun-
4 cil.
5 “(Z) Columbia River Gorge Commission.
6 “(AA) Oregon Health and Science University Board of Directors.
7 “(BB) Capitol Planning Commission.
8 “(CC) Higher Education Coordinating Commission.
9 “(DD) Oregon Growth Board.
10 “(EE) Early Learning Council.
11 **“(FF) Oregon Greenhouse Gas Reduction Board.**
12 “(r) The following officers of the State Treasurer:
13 “(A) Deputy State Treasurer.
14 “(B) Chief of staff for the office of the State Treasurer.
15 “(C) Director of the Investment Division.
16 “(s) Every member of the board of commissioners of a port governed by
17 ORS 777.005 to 777.725 or 777.915 to 777.953.
18 “(t) Every member of the board of directors of an authority created under
19 ORS 441.525 to 441.595.
20 “(u) Every member of a governing board of a public university listed in
21 ORS 352.002.
22 “(v) Every member of the board of directors of an authority created under
23 ORS 465.600 to 465.621.
24 “(2) By April 15 next after the date an appointment takes effect, every
25 appointed public official on a board or commission listed in subsection (1)
26 of this section shall file with the Oregon Government Ethics Commission a
27 statement of economic interest as required under ORS 244.060, 244.070 and
28 244.090.
29 “(3) By April 15 next after the filing deadline for the primary election,
30 each candidate described in subsection (1) of this section shall file with the

1 commission a statement of economic interest as required under ORS 244.060,
2 244.070 and 244.090.

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

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

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

19

20

“(Enforcement)”

21

22 **“SECTION 107. Enforcement procedures; status of procedures. (1)**
23 **Whenever the Oregon Greenhouse Gas Reduction Board has good**
24 **cause to believe that any person is engaged in or is about to engage**
25 **in any acts or practices that constitute a violation of a provision of**
26 **sections 4 to 32 of this 2020 Act, or any rule, standard or order adopted**
27 **or entered pursuant to sections 4 to 32 of this 2020 Act, the board may**
28 **institute actions or proceedings for legal or equitable remedies to en-**
29 **force compliance or to restrain further violations.**

30 “(2) The actions or proceedings authorized by subsection (1) of this

1 section may be instituted without the necessity of prior agency notice,
2 hearing and order, or may be instituted during an agency hearing if
3 the hearing has been initially commenced by the board.

4 “(3) The provisions of this section are in addition to and not in lieu
5 of any other civil or criminal enforcement provisions available to the
6 board.

7 **“SECTION 107a. Civil penalties. (1) In addition to any other liability**
8 **or penalty provided by law, the Oregon Greenhouse Gas Reduction**
9 **Board may impose a civil penalty on a person for any of the following:**

10 “(a) A violation of a provision of sections 4 to 32 of this 2020 Act
11 or rules adopted under sections 4 to 32 of this 2020 Act.

12 “(b) Submitting any record, information or report required by
13 sections 4 to 32 of this 2020 Act or rules adopted under sections 4 to
14 32 of this 2020 Act that falsifies or conceals a material fact or makes
15 any false or fraudulent representation.

16 “(2) Each day of violation under subsection (1) of this section con-
17 stitutes a separate offense.

18 “(3)(a) The board shall adopt by rule a schedule of civil penalties
19 that may be imposed for violations described in subsection (1) of this
20 section. Except as provided in paragraph (b) of this subsection, a civil
21 penalty may not exceed \$25,000 per offense.

22 “(b) In addition to any other civil penalty provided by law, the civil
23 penalty for a violation described in subsection (1) of this section may
24 include an amount equal to an estimate of the economic benefit re-
25 ceived as a result of the violation.

26 “(4) In imposing a civil penalty pursuant to this section, the board
27 shall consider the following factors:

28 “(a) The history of the person incurring the civil penalty in taking
29 all feasible steps or procedures necessary or appropriate to correct any
30 violation.

1 **“(b) Any actions taken by the person to mitigate the violation.**
2 **“(c) Any prior act committed by the person that resulted in a vio-**
3 **lation described in subsection (1) of this section.**
4 **“(d) The economic and financial conditions of the person.**
5 **“(e) The gravity and magnitude of the violation.**
6 **“(f) Whether the violation was repeated or continuous.**
7 **“(g) Whether the cause of the violation was an unavoidable acci-**
8 **dent, negligence or an intentional act.**
9 **“(h) The person’s cooperativeness and efforts to correct the vio-**
10 **lation.**
11 **“(i) Whether the person gained an economic benefit as a result of**
12 **the violation.**
13 **“(5) Civil penalties under this section must be imposed in the**
14 **manner provided by ORS 183.745. All civil penalties recovered under**
15 **this section shall be paid to the Department of Environmental Quality**
16 **for deposit in the Oregon Greenhouse Gas Initiative Operating Fund**
17 **established under section 31 of this 2020 Act and may be used only**
18 **pursuant to section 31 (3) of this 2020 Act.**
19 **“SECTION 107b.** ORS 468.953 is amended to read:
20 “468.953. (1) A person commits the crime of supplying false information
21 to any agency if the person:
22 “(a) Makes any false material statement, representation or certification
23 knowing it to be false, in any application, notice, plan, record, report or
24 other document required by any provision of ORS chapter 465, 466, 468, 468A
25 or 468B **or sections 4 to 32 of this 2020 Act** or any rule adopted pursuant
26 to ORS chapter 465, 466, 468, 468A or 468B **or sections 4 to 32 of this 2020**
27 **Act;**
28 “(b) Omits any material or required information, knowing it to be re-
29 quired, from any document described in paragraph (a) of this subsection; or
30 “(c) Alters, conceals or fails to file or maintain any document described

1 in paragraph (a) of this subsection in knowing violation of any provision of
2 ORS chapter 465, 466, 468, 468A or 468B or sections 4 to 32 of this 2020
3 Act or any rule adopted pursuant to ORS chapter 465, 466, 468, 468A or 468B
4 or sections 4 to 32 of this 2020 Act.

5 “(2) Supplying false information is a Class C felony.
6

7 **“FISCAL PROVISIONS**
8

9 **“SECTION 108. In addition to and not in lieu of any other appro-**
10 **priation, there is appropriated to the Oregon Business Development**
11 **Department, for the biennium ending June 30, 2021, out of the General**
12 **Fund, the amount of \$10 million for deposit in the Traded Sector**
13 **Greenhouse Gas Reduction Revolving Loan Fund established under**
14 **section 51 of this 2020 Act.**

15 **“SECTION 108a. Notwithstanding any other law limiting expendi-**
16 **tures, the amount of \$1 is established for the biennium ending June**
17 **30, 2021, as the maximum limit for payment of expenses by the Oregon**
18 **Business Development Department from the Traded Sector**
19 **Greenhouse Gas Reduction Revolving Loan Fund established under**
20 **section 51 of this 2020 Act.**

21
22 **“OPERATIVE DATE**
23

24 **“SECTION 109. (1) The amendments to statutes by sections 81 to 84**
25 **of this 2020 Act and the repeal of statutes by section 80 of this 2020**
26 **Act become operative on December 31, 2020.**

27 **“(2)(a) Sections 2 to 50, 52, 53, 60, 62 to 64, 72a, 72b, 96, 96a, 107 and**
28 **107a of this 2020 Act, the amendments to statutes and session law by**
29 **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 become operative on**

1 **January 1, 2022.**

2 **“(b) The Oregon Greenhouse Gas Reduction Board, the Office of**
3 **Greenhouse Gas Regulation, the Public Utility Commission, the De-**
4 **partment of Transportation, the Energy Facility Siting Council and**
5 **the Governor may adopt rules, issue orders or take any actions before**
6 **the operative date specified in paragraph (a) of this subsection that**
7 **are necessary to enable the board, the office, the commission, the de-**
8 **partment, the council and the Governor, on and after the operative**
9 **date specified in paragraph (a) of this subsection, to carry out the**
10 **provisions of sections 2 to 50, 52, 53, 60, 62 to 64, 72a, 72b, 96, 96a, 107**
11 **and 107a of this 2020 Act, the amendments to statutes and session law**
12 **by sections 51a, 58, 59, 66 to 72, 94 and 107b of this 2020 Act and the**
13 **repeal of ORS 469.409 by section 65 of this 2020 Act.**

14 **“(c)(A) If, in adopting rules, issuing orders or taking any actions**
15 **before the operative date specified in paragraph (a) of this subsection**
16 **as authorized by paragraph (b) of this subsection, public records are**
17 **created that are information described in section 32 (2) of this 2020 Act,**
18 **the public records are exempt from disclosure under ORS 192.311 to**
19 **192.478 and may not be disclosed to any person or entity except as**
20 **provided in subparagraph (B) or (C) of this paragraph, unless the party**
21 **seeking disclosure demonstrates by clear and convincing evidence**
22 **that, as related to the particular covered entity identifiable in the re-**
23 **ords requested to be disclosed, the public interest in disclosure out-**
24 **weighs the other interests in nondisclosure.**

25 **“(B) Information described in this paragraph may be used and dis-**
26 **closed in aggregated form.**

27 **“(C) This paragraph does not prohibit the disclosure of information**
28 **between agencies of the executive department, as defined in ORS**
29 **174.112, or to persons engaged by the State of Oregon to provide ad-**
30 **ministrative or technical services to support the implementation of**

1 sections 4 to 32 or 45 to 53 of this 2020 Act if the disclosure is necessary
2 for purposes of adopting rules, issuing orders or taking any actions
3 before the operative date specified in paragraph (a) of this subsection
4 to carry out the provisions of sections 2 to 50, 52, 53, 60, 62 to 64, 72a,
5 72b, 96, 96a, 107 and 107a of this 2020 Act, the amendments to statutes
6 and session law by sections 51a, 58, 59, 66 to 72, 94 and 107b of this 2020
7 Act and the repeal of ORS 469.409 by section 65 of this 2020 Act.

8

9

“CAPTIONS

10

11 **“SECTION 110. The unit and section captions used in this 2020 Act**
12 **are provided only for the convenience of the reader and do not become**
13 **part of the statutory law of this state or express any legislative intent**
14 **in the enactment of this 2020 Act.**

15

16

“EMERGENCY CLAUSE

17

18 **“SECTION 111. This 2020 Act being necessary for the immediate**
19 **preservation of the public peace, health and safety, an emergency is**
20 **declared to exist, and this 2020 Act takes effect on its passage.”.**

21
