

Enrolled House Bill 3409

Sponsored by Representatives RAYFIELD, MARSH, PHAM K, Senators DEMBROW, LIEBER; Representatives ANDERSEN, BOWMAN, CHAICHI, DEXTER, GAMBA, GRAYBER, HARTMAN, HOLVEY, HUDSON, KROPP, LEVY E, MCLAIN, NELSON, NERON, NGUYEN H, NOSSE, REYNOLDS, SOSA, TRAN, WALTERS, Senators CAMPOS, MANNING JR, PATTERSON, SOLLMAN

CHAPTER

AN ACT

Relating to climate; creating new provisions; amending ORS 352.823, 468A.210, 468A.215, 468A.220, 468A.225, 468A.230, 468A.235, 468A.240, 468A.245, 468A.250, 468A.255, 468A.260, 469.754, 469.756 and 530.050 and sections 1 and 5, chapter 655, Oregon Laws 2019, and sections 2, 10, 14, 17, 21, 23, 24 and 29, chapter 86, Oregon Laws 2022; and declaring an emergency.

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

DESIGNATED STATE AGENCY PROGRAMS FOR ENERGY EFFICIENCY IN BUILDINGS

SECTION 1. (1) The Legislative Assembly finds that:

(a) Energy consumption in residential and commercial buildings accounted for 34 percent of annual greenhouse gas emissions in this state in 2021, according to the Department of Environmental Quality;

(b) Space and water heating account for 64 percent of an average residential building's energy use;

(c) Heat pumps provide both heating and cooling benefits that keep people safe during extreme weather events that are becoming more frequent and more intense as a consequence of climate change;

(d) Electric heat pumps can provide up to three times more heat energy than the electrical energy the heat pumps consume, which makes heat pumps the most energy efficient space heating option available in the market;

(e) Upgrading space and water heating appliances with contemporary heat pump technologies can help people to save money on household energy bills;

(f) Existing and forthcoming state and federal incentive programs will assist in energy efficiency improvements in homes and buildings, including adoption of energy efficient heating and cooling appliances;

(g) Many residents of this state suffer from disproportionately high energy burdens, and environmental justice communities face greater barriers to purchasing and installing heat pumps and other energy efficient appliances; and

(h) Additional support and innovative solutions are necessary to ensure that all households in this state benefit from energy efficient appliances and heating and cooling upgrades.

(2) The Legislative Assembly declares as goals for this state:

(a) That owners, operators or residents of residential or commercial buildings in this state install and use at least 500,000 new heat pumps by 2030;

(b) That the state provide programs and support for accelerating purchases and installations of heat pump technologies to help meet the state's greenhouse gas emissions reduction goals;

(c) That the programs and support described in paragraph (b) of this subsection should prioritize environmental justice communities and individuals who reside in houses and structures that do not have a functioning, adequate or affordable heating or cooling system;

(d) That the state evaluate the adoption and use of heat pump technologies regularly to determine whether the rate of adoption and use will enable the state to meet greenhouse gas emissions reduction goals; and

(e) That the agencies of the executive branch of state government lead by example by acquiring, installing and using heat pump technologies.

SECTION 2. (1) As used in this section and sections 3 and 4 of this 2023 Act:

(a) "Designated state agency program" means a program related to the promotion, implementation, incentivization or regulation of energy efficiency in buildings carried out by any of the following state agencies, as determined by the agency by rule or other action:

(A) The State Department of Energy;

(B) The Housing and Community Services Department;

(C) The Public Utility Commission;

(D) The Department of Environmental Quality;

(E) The Oregon Health Authority; and

(F) The Department of Consumer and Business Services.

(b) "Greenhouse gas emissions reduction goals" means policies and goals for reducing greenhouse gas emissions in this state to achieve, at a minimum, emissions reductions consistent with the greenhouse gas emissions reduction goals specified in ORS 468A.205.

(c) "Heat pump" means a device that provides indoor space heating and cooling by transferring thermal energy between the interior and exterior of a building.

(d) "Heat pump technology" means:

(A) A device that transfers thermal energy between the interior and exterior of a building for the purpose of space heating or cooling;

(B) A device that transfers thermal energy from the interior or exterior of a building to water for the purpose of heating the water; or

(C) A device that performs both of the functions described in subparagraphs (A) and (B) of this paragraph.

(2) In carrying out a designated state agency program, an agency described in subsection (1)(a) of this section shall consider actions to aid in achieving greenhouse gas emissions reduction goals that include, but are not limited to:

(a) Considering greenhouse gas emissions reduction goals in designated state agency program regulatory decisions.

(b) Aligning the creation or operation of new or existing designated state agency programs with greenhouse gas emissions reduction goals.

(c) Working in consultation and aligning efforts with other agencies to simplify and improve access for residents of this state to existing and new programs that relate to energy efficiency and resilience, and, where appropriate, to reduce or eliminate within programs financial or nonfinancial barriers to accessing energy efficiency measures or appliances that will result in the greatest available energy efficiency and reductions of greenhouse gas emissions.

(d) Consistent with applicable federal and state laws and program requirements, prioritizing actions that help environmental justice communities, as defined in ORS 469A.400:

(A) Adapt to impacts from climate change; and

(B) Overcome cost burdens and other barriers to using energy in a way that is efficient and in alignment with greenhouse gas emissions reduction goals.

(e) Consistent with applicable federal and state laws, consulting with the Oregon Global Warming Commission and the Environmental Justice Council and using, when appropriate, the environmental justice mapping tool developed under section 12, chapter 58, Oregon Laws 2022, when considering or evaluating for development or implementation the policies and actions described in this subsection.

SECTION 3. (1) The State Department of Energy shall submit to the Governor and an interim committee of the Legislative Assembly related to the environment not later than September 15 of each odd-numbered year, beginning in 2025, a report that evaluates the rate of adoption of heat pump technologies among residents of this state and progress the state is making in achieving the state's greenhouse gas emissions reduction goals. At a minimum, the report must:

(a) Review, using existing studies, market reports, polling data and other publicly available information, the nature and state of the market for heat pump technologies, including the size and dollar value of the market and the variety of available technologies, applications and appliances;

(b) Identify financial and nonfinancial barriers that prevent adoption of heat pump technologies by residents of this state;

(c) Assess the state's progress in achieving the goals specified in section 1 (2) of this 2023 Act; and

(d) Estimate the date by which the state will achieve the goals specified in section 1 (2) of this 2023 Act.

(2) The department shall collaborate with other state agencies described in section 2 (1)(a) of this 2023 Act in preparing the report described in subsection (1) of this section and may:

(a) Contract with a private entity to conduct research for, prepare or assist in preparing the report; and

(b) Incorporate the findings from this report into the biennial energy report or into other reports to the Legislative Assembly concerning home energy efficiency or heat pump technologies.

(3) In assessing the state's progress toward achieving the goal specified in section 1 (2)(a) of this 2023 Act, the department shall focus on heat pumps that are commercially available and shall, to the extent possible, use existing studies, data and analysis to evaluate:

(a) Whether reductions in greenhouse gas emissions attributable to new heat pumps installed in homes and buildings in this state contribute to the state's ability to meet greenhouse gas emissions reduction goals; and

(b) To the extent possible, whether sales figures, the percentage of newly installed space and water heating systems that are heat pumps and the rate at which residents of this state install new heat pumps indicate that the state will meet the goal specified in section 1 (2)(a) of this 2023 Act.

SECTION 4. (1) The State Department of Energy shall collaborate with other state agencies described in section 2 (1)(a) of this 2023 Act to reduce financial and nonfinancial barriers to home energy efficiency and resilience by:

(a) Providing initial and continuing technical assistance and training in order to build capacity in developers, builders, community-based organizations, homeowners and tenants to conduct renovations and installations of energy efficient technologies, including heat pumps; and

(b) Providing education and training to contractors, subcontractors, technicians, community-based organizations and other installers and other workers in industries related to construction and energy appliance installation concerning:

(A) The availability of moneys, programs, rebates and other incentives for acquiring and installing energy efficient appliances for heating and cooling;

(B) Methods, techniques, available incentives and funding available for upgrading electrical panels and wiring to accommodate energy efficient appliances for heating and cooling; and

(C) Planning for, installing and operating heat pumps.

(2) The program described in subsection (1) of this section must:

(a) Provide information and assistance that is understandable and usable by developers, builders, community-based organizations and other industry stakeholders with an interest in acquiring, maintaining and using energy efficient technologies for heating and cooling homes and commercial buildings, including heat pump technologies;

(b) Include information on delivering, installing and using high efficiency heating and cooling appliances in instances where variation exists in funding options for various minimum efficiency requirements;

(c) Work with locally connected and culturally connected organizations to provide the program's information, technical assistance, training and support; and

(d) Allow sufficient flexibility for designated state agencies to contract with private entities to provide needed information, assistance, training and support.

(3) The department may incorporate the work described in this section with other programs that serve to educate the public on energy efficiency.

SECTION 5. (1)(a) The Energy Efficient Technologies Information and Training Fund is established in the State Treasury, separate and distinct from the General Fund. Interest that the Energy Efficient Technologies Information and Training Fund earns must be credited to the fund.

(b) Moneys in the fund may be invested and reinvested as provided in ORS 293.701 to 293.857.

(2) Moneys in the fund consist of:

(a) Appropriations to the State Department of Energy for the purposes described in sections 1 to 5 of this 2023 Act;

(b) Moneys from federal sources and other moneys the department receives for the purposes specified in sections 1 to 5 of this 2023 Act;

(c) Interest and other earnings on moneys in the fund; and

(d) Other amounts the department receives from any source and deposits into the fund.

(3) Subject to subsection (4) of this section, moneys in the fund are continuously appropriated to the department for the purpose of funding the purposes described in sections 1 to 5 of this 2023 Act.

(4)(a) The department may not during any biennium expend more than 10 percent of the average quarterly balance of the fund to pay the cost of administering the fund or the administrative costs of carrying out the purposes described in sections 1 to 5 of this 2023 Act.

(b) As used in this subsection, "administrative cost" does not include grants or other funds provided to community-based organizations or other contracted entities.

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES:
ENERGY EFFICIENCY IN BUILDINGS**

SECTION 6. (1) The Department of Consumer and Business Services shall, after obtaining approval from the appropriate advisory board and as the department's responsibilities relate to efficiency or resiliency in buildings:

(a) Exercise any and all authority and discretion the department has available under applicable law to help to facilitate, at a minimum, emissions reductions consistent with the greenhouse gas emissions reduction goals specified in ORS 468A.205;

(b) In addition to the department's existing responsibilities, prioritize and take such actions as are necessary to accelerate reductions in greenhouse gas emissions, including but not limited to rulemaking processes; and

(c) Consider and integrate the prevention or reduction of impacts from climate change and the state's greenhouse gas emissions reduction goals into the department's planning, budgeting, investment and policy-making decisions, which must involve, at a minimum:

(A) Prioritizing actions that reduce greenhouse gas emissions in a cost-effective manner;

(B) Prioritizing actions that help vulnerable populations and environmental justice communities, as defined in ORS 469A.400, adapt to impacts from climate change; and

(C) Consulting with the Environmental Justice Council when evaluating priorities the department sets and actions the department takes to adapt to and mitigate the impacts from climate change.

(2)(a) In addition to the general directives specified in subsection (1) of this section, the department, after obtaining approval from the appropriate advisory board, shall contribute to the state's achievement of greenhouse gas emissions reduction goals and the mitigation of impacts from climate change by:

(A) Setting goals for improved energy efficiency in buildings for each code development cycle; and

(B) Investigating the potential benefits and the feasibility of updating building ventilation standards and of specifying standards for air cleaners present in building mechanical systems and in occupied indoor spaces.

(b) To carry out the directives specified in paragraph (a)(A) of this subsection, the Department of Consumer and Business Services shall:

(A) Obtain the approval of the department's advisory boards and committees and consult with the State Department of Energy to specify energy efficiency goals for new residential and commercial construction that aim to achieve by 2030, at each new residential or commercial building site, at least a 60 percent reduction in annual energy consumption from standards specified in the statewide building code and applicable specialty codes that were in effect in 2006, excluding consumption of electricity in transportation or in powering appliances or other loads that the statewide building code or specialty codes do not regulate;

(B) Consult with the State Department of Energy and seek approval of the appropriate advisory boards to identify metrics derived from best practices and academic research to inform updates to the statewide building code and applicable specialty codes specifying a baseline for, and achievable reductions in, energy consumption;

(C) Report not later than December 31 of every third year, beginning with December 31, 2023, to an interim committee of the Legislative Assembly related to the environment concerning:

(i) The Department of Consumer and Business Services' evaluation of progress toward achieving the goals the department specifies under subparagraph (A) of this paragraph; and

(ii) Options for achieving the goals over the course of the subsequent three updates to the statewide building code and applicable specialty codes;

(D) Outline and evaluate for feasibility in the report described in subparagraph (C) of this paragraph a range of available options for achieving steady progress toward the goals described in subparagraph (A) of this paragraph over the course of scheduled updates to the statewide building code and applicable specialty codes that occur up until 2030; and

(E) Update the Reach Code described in ORS 455.500 through rulemaking and after obtaining approval from the appropriate advisory boards to reflect incremental progress toward the goals specified in subparagraph (A) of this paragraph each time the Department of Con-

sumer and Business Services updates the statewide building code and applicable specialty codes.

(3) In carrying out the directives set forth in this section, the Department of Consumer and Business Services shall consider industry standards including, where appropriate, standards promulgated by the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

SECTION 7. The Department of Consumer and Business Services shall, no later than December 31, 2024, report to an interim committee of the Legislative Assembly related to the environment. The report under this section shall include the department's findings and recommendations on options for, and the feasibility of, reducing greenhouse gas emissions that result from materials used in building construction, based on the findings of the department and after consultation with the Department of Environmental Quality, including:

(1) Studying the use of lower carbon materials in the statewide building code or applicable specialty code; or

(2) Other means for reducing greenhouse gas emissions attributable to building materials that the Department of Consumer and Business Services identifies after consultation with the Department of Environmental Quality.

ENERGY PERFORMANCE STANDARDS FOR COVERED COMMERCIAL BUILDINGS

SECTION 8. As used in sections 8 to 17 of this 2023 Act:

(1)(a) "Agricultural building" means a structure that is used for:

(A) Storing, maintaining or repairing farm or forestry machinery and equipment;

(B) Raising, harvesting and selling crops or forest products;

(C) Feeding, breeding, managing and selling livestock, poultry, fur-bearing animals or honeybees or the produce of livestock, poultry, fur-bearing animals or honeybees;

(D) Dairying and selling dairy products; or

(E) Any other agricultural, forestry or horticultural use or animal husbandry, or any combination of agricultural, horticultural or animal husbandry uses, including preparing and storing produce raised on the farm for human use and animal use, preparing, processing and storing agricultural and forestry products and goods and disposing, by marketing or otherwise, of farm produce or forest products.

(b) "Agricultural building" does not include:

(A) A dwelling;

(B) A structure used for a purpose other than growing plants in which 10 or more persons are present at any one time;

(C) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;

(D) A structure used by the public; or

(E) A structure that is subject to the National Flood Insurance Act of 1968 (42 U.S.C 4001 to 4127), as amended, and regulations promulgated under that Act.

(2) "Conditional compliance" means a temporary method that a building owner can use to demonstrate that the building owner has implemented required energy use reduction strategies when the building owner cannot demonstrate full compliance with a required energy use intensity target.

(3) "Covered commercial building" means a tier 1 building or a tier 2 building.

(4) "Eligible building owner" means:

(a) An owner of a tier 1 building that must comply with the standard established in section 9 of this 2023 Act; or

(b) An owner of tier 2 building.

(5) "Energy" means:

(a) Electricity, including electricity that is delivered through the electric grid and electricity that is generated at a building site using solar or wind energy resources;

- (b) Natural gas;
 - (c) Steam, hot water or chilled water used for heating or cooling;
 - (d) Propane;
 - (e) Fuel oil;
 - (f) Wood;
 - (g) Coal; or
 - (h) Any other fuel that meets a covered commercial building's energy load.
- (6) "Energy use intensity" means a measurement that weather normalizes a building's site energy use relative to the building's size, calculated by dividing the total net energy the building consumes in one year by the building's gross floor area, excluding any parking garage, and that is reported in thousands of British thermal units per square foot per year.
- (7) "Energy use intensity target" means a net energy use intensity that complies with the standard set forth in section 9 of this 2023 Act.
- (8) "Greenhouse gas" has the meaning given that term in ORS 468A.210.
- (9)(a) "Gross floor area" means the total number of square feet of a building, measured from the exterior surfaces of a building's fixed enclosing walls, including all floor space used as offices, lobbies, restrooms, equipment storage areas, mechanical rooms, break rooms and elevator shafts.
- (b) "Gross floor area" does not include bays or docks outside the building.
- (10) "Net energy use" means the sum of metered and bulk fuel energy that enters a building, minus the sum of metered energy that leaves the building.
- (11) "Savings to investment ratio" means the ratio of the total present value of savings to the total present value of costs to implement an energy conservation measure or water conservation measure, in which the numerator of the ratio is the present value of net savings in energy or water or in maintenance costs not related to fuel use or water use that are attributable to the energy conservation measure or water conservation measure and the denominator of the ratio is the present value of the net increase in investment and replacement costs, less the salvage value, of the energy conservation or water conservation measure.
- (12) "Semiheated space" means an enclosed space within a covered commercial building that is heated by a heating system with an output the Department of Consumer and Business Services specifies in an applicable specialty code.
- (13) "Tier 1 building" means a building in which the sum of gross floor area for hotel, motel and nonresidential use equals or exceeds 35,000 square feet, excluding any parking garage.
- (14)(a) "Tier 2 building" means:
- (A) A building with gross floor area, excluding any parking garage, that equals or exceeds 35,000 square feet and that is used as a multifamily residential building, a hospital, a school, a dormitory or a university building; or
 - (B) A building in which the sum of gross floor area for hotel, motel and nonresidential use exceeds 20,000 square feet but does not exceed 35,000 square feet, excluding any parking garage.
- (b) "Tier 2 building" does not include a covered commercial building that is classified as a tier 1 building.
- (15) "Unconditioned space" means an enclosed space within a covered commercial building that is not:
- (a) Heated by a heating system or cooled by a cooling system with output capacities the Department of Consumer and Business Services specifies in an applicable specialty code; or
 - (b) Indirectly heated or cooled in accordance with standards the department specifies in an applicable specialty code.
- (16) "Weather normalized" means a method for modifying a building's energy use intensity in a specific year to account for deviations from the building's energy use intensity as

the energy use intensity ordinarily occurs during a year in which the weather does not fluctuate substantially or vary as a consequence of extreme weather events.

SECTION 9. (1)(a) Not later than December 31, 2024, the State Department of Energy, in consultation with the Department of Consumer and Business Services, shall adopt rules that use the American National Standards Institute's standards for Energy Efficiency in Existing Buildings (ANSI/ASHRAE/IES Standard 100) as an initial model for specifying an energy performance standard for covered commercial buildings. In rulemaking proceedings to adopt or update rules under this paragraph, the State Department of Energy shall disclose the sources of information, including the model described in this paragraph and any peer-reviewed science, that the department relies on in developing or updating the energy performance standard. The department shall update the energy performance standard not later than July 1, 2029, and by the same month and day in each successive period of five years.

(b) The energy performance standard described in paragraph (a) of this subsection must:

(A) Comply with the requirements of sections 8 to 10 of this 2023 Act;

(B) Seek to maximize reductions in greenhouse gas emissions from covered commercial buildings;

(C) Include energy use intensity targets that apply to specific types of buildings; and

(D) Provide for methods to achieve conditional compliance with an applicable energy use intensity target, which must, at a minimum, require:

(i) Preparing an energy management plan;

(ii) Developing a program for building operations and maintenance that aims at achieving the applicable energy use intensity target;

(iii) Making investments in energy use efficiency measures that aim at achieving the applicable energy use intensity target; and

(iv) Submitting to energy use audits, which may be based upon or linked to ASHRAE Standard 211 audits.

(c) Adoption of the energy performance standard described in paragraph (a) of this subsection does not change eligibility criteria for, or benefits or incentives available under, other programs for energy efficiency demand response.

(2)(a) In adopting the energy performance standard described in subsection (1) of this section, the department:

(A) Shall:

(i) Develop energy use intensity targets that are not more stringent than the average energy use intensity for each covered commercial building occupancy classification, adjusting as necessary for a covered commercial building's unique energy-using features;

(ii) Consider, for the purpose of establishing energy use intensity targets, regional and local data that identifies building energy use, such as existing benchmarking data from the Energy Star program established under 42 U.S.C. 6294a;

(iii) Consider, for the purpose of establishing the energy performance standard, federal and local programs that relate to energy efficiency standards, aligning where possible requirements under the energy performance standard to avoid duplicative work by regulators and eligible building owners;

(iv) Develop energy use intensity targets for two or more climate zones that represent energy use in a year with normal weather;

(v) Develop energy use intensity targets that exclude energy delivered through electric vehicle supply equipment; and

(vi) Adopt a conditional compliance method that:

(I) Requires eligible building owners of covered commercial buildings that do not meet an energy use intensity target to take action to reduce energy use; and

(II) Specifies investment criteria that meet the requirements set forth in paragraph (b) of this subsection and that ensure progress toward meeting the energy use intensity target; and

(B) May:

(i) Consider building occupancy classifications set forth in ANSI/ASHRAE/IES Standard 100 and the United States Environmental Protection Agency's Energy Star portfolio manager;

(ii) Base energy use intensity targets for recently constructed covered commercial buildings on statewide energy codes that were in effect at the time the covered commercial building was constructed; and

(iii) Require utilities, eligible building owners and other entities to aggregate data for covered commercial buildings that have multiple meters and to report or, as appropriate, provide the aggregated data for reports under section 10 of this 2023 Act.

(b)(A) Investment criteria the department specifies as part of a conditional compliance method under paragraph (a) of this subsection must:

(i) Ensure that an eligible building owner meets the covered commercial building's energy use intensity target by implementing energy efficiency measures identified in energy use audits; and

(ii) Except as provided in subparagraph (B) of this paragraph, require an eligible building owner to implement an optimized bundle of energy efficiency measures that provide maximum energy savings without resulting in a savings to investment ratio of less than 1.0 or require the eligible building owner to achieve the energy use intensity target by means of an implementation plan that:

(I) Is based on an energy use audit and life-cycle cost analysis from ANSI/ASHRAE/IES Standard 211 that accounts for the period during which a bundle of energy efficiency measures provide savings;

(II) Reflects the eligible building owner's net costs of implementing energy efficiency measures, excluding any costs that utility or government grants cover;

(III) Allows an exclusion of energy efficiency measures that do not pay back the cost of the energy efficiency measure over the useful life of the energy efficiency measure;

(IV) Allows an exclusion of energy efficiency measures that are excluded under subparagraph (B) of this paragraph; and

(V) Allows for phased implementation in which an eligible building owner need not replace a system or equipment before the useful life of the system or equipment ends.

(B) An eligible building owner need not meet an energy efficiency requirement that would compromise the historical integrity of a covered commercial building or part of a covered commercial building that:

(i) Is listed on a state or national register of historic places;

(ii) Is designated as an historic property under a state or local statute, ordinance, rule or other legislative act or a survey conducted under a statute, ordinance, rule or other legislative act;

(iii) Is certified as a contributing resource within a historic district that is listed on a national register or is locally designated as a historic district; or

(iv) A state historic preservation officer or the keeper of the national register of historic places has determined in an opinion or certification is eligible to be listed on the national or state register of historic places either as an individual building or as a building that contributes to a historic district.

(3) The department shall create a database of eligible building owners and covered commercial buildings that are subject to the requirements of sections 8 to 10 of this 2023 Act based on records the department obtains from each county assessor and on other information available to the department.

(4)(a) Not later than July 1, 2025, the department shall notify eligible building owners of the requirement to comply with the provisions set forth for tier 1 buildings in sections 8 to 10 of this 2023 Act.

(b) The department may approve an eligible building owner's use of a conditional compliance method in lieu of full compliance with an energy use intensity target if the department determines that the eligible building owner has the capacity to take the actions and make the investments required under the conditional compliance method and otherwise qualifies to use the conditional compliance method.

(5) A municipality, as defined in ORS 455.010, may by ordinance, rule or land use process, adopt an energy performance standard and greenhouse gas emission reduction standards that are more stringent, or that have broader application, than the energy performance standard that the department adopts under this section, provided:

(a) The standard does not exceed the energy efficiency requirements of the state building code for new buildings, except where permitted under ORS 455.040;

(b) The standard does not apply to buildings that are less than six years old, measured from the date of the building's certificate of occupancy; and

(c) The municipality cooperates with the department in aligning, where practicable, the energy performance standard the municipality adopts with the energy performance standard the department adopts under this section.

(6) Construction work performed to comply with the provisions of sections 8 to 10 of this 2023 Act must comply with all applicable provisions of the state building code and permitting procedures that apply to the construction work.

(7) Except as provided in subsection (5) of this section, this section does not affect or supersede the provisions of ORS 455.040.

SECTION 10. (1) An eligible building owner of a tier 1 building shall report to the State Department of Energy concerning the eligible building owner's compliance with the energy performance standard described in section 9 of this 2023 Act. The eligible building owner shall submit the report in accordance with the schedule specified in subsection (4) of this section and shall submit a new report at the end of every successive five-year period. Each report the eligible building owner submits must include documentation that demonstrates that:

(a) The tier 1 building's weather normalized energy use intensity during the previous calendar year is less than or equal to the applicable energy use intensity target;

(b) The eligible building owner is taking actions and making investments in accordance with a conditional compliance method the department approved; or

(c) The tier 1 building is exempt from an energy performance standard that otherwise would apply to the tier 1 building because:

(A) The tier 1 building did not have a certificate of occupancy or temporary certificate of occupancy during all of the 12 months that preceded the date on which the eligible building owner's report is due;

(B) The tier 1 building did not have an actual rate of occupancy that exceeded 50 percent of the tier 1 building's capacity during all of the 12 months that preceded the date on which the eligible building owner's report is due;

(C) The sum of the tier 1 building's gross floor area, minus unconditioned spaces and semiheated spaces, is less than 35,000 square feet;

(D) The primary use for the tier 1 building is manufacturing or another industrial use, as defined in accordance with the following use designations of the International Building Code:

(i) Factory group F; or

(ii) High hazard group H;

(E) The tier 1 building is an agricultural building; or

(F) The eligible building owner or the tier 1 building has undergone or is undergoing financial hardship, as measured in accordance with the following criteria:

(i) Within the 24 months that precede the date on which the eligible building owner's report is due, a city or county listed the tier 1 building on the city's or county's annual tax lien sale list because of arrears in property taxes or water or wastewater charges;

- (ii) A court appointed receiver controls the tier 1 building because of financial distress;
- (iii) A financial institution owns the tier 1 building because of a borrower's default;
- (iv) Within the 24 months that precede the date on which the eligible building owner's report is due, the eligible building owner acquired the tier 1 building by means of a deed in lieu of foreclosure;
- (v) The tier 1 building has a senior mortgage that is subject to a notice of default; or
- (vi) Other criteria that the department specifies by rule as indicative of financial hardship.

(2) The department shall develop methods and procedures for administering reports that eligible building owners of tier 1 buildings submit to the department under subsection (1) of this section.

(3)(a) The department shall provide a support program to eligible building owners of covered commercial buildings that includes, at a minimum, information and periodic training, technical assistance and telephone and electronic mail support that will assist eligible building owners in complying with the energy performance standard, applicable energy use intensity targets and reporting requirements under sections 8 to 10 of this 2023 Act.

(b) As part of the support program described in paragraph (a) of this subsection, the department may encourage eligible building owners to seek for maintenance staff accreditation from the U.S. Green Building Council's Green Janitors Education Program.

(4) An eligible building owner must comply with the energy performance standard adopted under section 9 of this 2023 Act by the following dates:

(a) If the eligible building owner's tier 1 building has a gross floor area of 200,000 square feet or more, not later than June 1, 2028;

(b) If the eligible building owner's tier 1 building has a gross floor area of 90,000 square feet or more but less than 200,000 square feet, not later than June 1, 2029; and

(c) If the eligible building owner's tier 1 building has a gross floor area of 35,000 square feet or more but less than 90,000 square feet, not later than June 1, 2030.

(5)(a) The department shall notify an eligible building owner of a tier 1 building of a failure to comply with sections 8 to 10 of this 2023 Act if the eligible building owner fails to:

(A) Submit the report described in subsection (1) of this section by the date required or in a form and manner the department requires;

(B) Meet the energy performance standard or an applicable energy use intensity target or, in lieu of meeting the standard or target, fails to obtain the department's approval to use a conditional compliance method;

(C) Provide accurate reporting that meets the requirements of sections 8 to 10 of this 2023 Act; or

(D) Demonstrate as provided in subsection (1)(c) of this section that the eligible building owner is exempt from an otherwise applicable energy performance standard.

(b) In the notice described in paragraph (a) of this subsection, the department may specify a date by which the eligible building owner of a tier 1 building must correct the failure the department identified in the notice. In addition, the department shall specify the date by which the eligible building owner's failure to comply or failure to correct a lack of compliance will subject the eligible building owner to a civil penalty under subsection (6) of this section.

(c) At an eligible building owner's request, the department shall cite the specific legal authority upon which the department relied as a basis for issuing a notice to the eligible building owner under paragraph (a) of this subsection.

(6)(a) The department may impose a civil penalty as provided in ORS 183.745 upon an eligible building owner of a tier 1 building to which the department issued a notice under subsection (5) of this section if the department determines that the eligible building owner:

(A) Has not complied with the requirement set forth in the notice or has not corrected a lack of compliance by the date for correction that the department specifies in the notice; or

(B) Otherwise violated a provision of sections 8 to 10 of this 2023 Act or a rule the department adopted under sections 8 to 10 of this 2023 Act.

(b) A civil penalty the department imposes under paragraph (a) of this subsection may not exceed \$5,000 plus an amount for the duration of a continuing violation, which may not exceed a daily amount that the department calculates by multiplying \$1 per year per square foot of gross floor area of the tier 1 building that is the subject of the department's notice.

(c) The department shall deposit the proceeds of any civil penalty the department imposes and collects under this subsection into the State Department of Energy Account established under ORS 469.120 and shall allocate the proceeds for the purpose of administering the department's energy efficiency programs.

SECTION 11. (1) In addition to the energy performance standard the State Department of Energy adopts in accordance with section 9 of this 2023 Act, the department shall adopt rules to implement sections 8 to 10 of this 2023 Act. The rules must:

(a) Ensure timely, accurate and complete reporting of compliance with the requirements of sections 8 to 10 of this 2023 Act from all tier 1 buildings;

(b) Enable the department to effectively enforce the energy performance standard and energy use intensity targets established under sections 8 to 10 of this 2023 Act;

(c) Provide means for affected eligible building owners of tier 1 buildings to appeal decisions and enforcement actions of the department that affect the eligible building owner; and

(d) Ensure that an eligible building owner of a tier 1 building is responsible for paying the costs of compliance with sections 8 to 10 of this 2023 Act.

(2) Before adopting rules under this section, the department shall establish and consult an advisory committee that includes representatives of eligible building owners, tenants of covered commercial buildings, public utilities, organizations with experience in designing or implementing energy efficiency programs, local governments, organizations that focus on environmental justice and other stakeholders the department identifies as needing representation. The department shall consult with the advisory committee before amending rules the department adopts under this section.

SECTION 12. At the request of the State Department of Energy, each county assessor in this state shall provide information from existing records data that the department requires to implement sections 8 to 10 of this 2023 Act, including information about covered commercial buildings within the county.

SECTION 13. The State Department of Energy shall report not later than January 15, 2025, and by the same date in each succeeding year until 2035, to the Governor and to committees of the Legislative Assembly that are related to the environment concerning the implementation of the energy performance standard established under section 9 of this 2023 Act. The report must include information about the department's adoption of the ANSI/ASHRAE/IES Standard 100 as the department's initial model for the energy performance standard, the financial impact the standard has had on eligible building owners of tier 1 buildings, the amount of any incentives the department provided for compliance and any other information that is relevant to the department's implementation of sections 8 to 10 of this 2023 Act.

SECTION 14. (1) Sections 8 to 10 of this 2023 Act do not require an eligible building owner to take action to comply with sections 8 to 10 of this 2023 Act:

(a) If the eligible building owner owns a tier 2 building; or

(b) Before the State Department of Energy adopts an energy performance standard under section 9 of this 2023 Act, if the eligible building owner owns a tier 1 building.

(2) The department may offer incentives for eligible building owners to voluntarily comply with, or for early compliance with, ANSI/ASHRAE/IES Standard 100 or the energy performance standard the department establishes under section 9 of this 2023 Act.

SECTION 15. (1)(a) Not later than December 31, 2024, the State Department of Energy by rule shall establish a requirement and standards under which eligible building owners of tier 2 buildings must provide to the department data that would enable the department to establish a benchmark for energy use in, and greenhouse gas emissions from, tier 2 buildings.

(b) The State Department of Energy shall cooperate with the Department of Education to establish a requirement to provide the data described in paragraph (a) of this subsection in a manner that minimizes costs to schools and avoids or minimizes duplication with the Department of Education's school facility assessments.

(2) Not later than July 1, 2025, the State Department of Energy shall notify all eligible building owners of tier 2 buildings of the requirement and standards the department adopts by rule under subsection (1) of this section.

(3) Not later than July 1, 2028, and by July 1 every five years thereafter, an eligible building owner of a tier 2 building shall provide the department with data the department requires in rules the department adopts under subsection (1) of this section.

(4) Not later than July 1, 2029, the department shall evaluate and use the data the department receives from eligible building owners of tier 2 buildings to calculate average energy use in, and average greenhouse gas emissions from, each of the categories of tier 2 buildings that exist in this state.

(5) Not later than July 1, 2025, the department shall establish and consult an advisory committee to identify and evaluate the financial and nonfinancial implications of establishing and implementing an energy performance standard for tier 2 buildings. The advisory committee must include, but is not limited to, representatives of renters, low-income tenants and environmental justice communities, as defined in ORS 469A.400.

(6) Not later than October 1, 2030, the department shall submit a report to the Governor and to an interim committee of the Legislative Assembly related to energy that:

(a) Recommends a cost-effective energy performance standard for tier 2 buildings; and

(b) Includes estimates of costs to eligible building owners, and challenges that eligible building owners would face, in implementing an energy performance standard for tier 2 buildings.

SECTION 16. (1) As used in this section, "person" means an individual, corporation, nonprofit corporation, professional corporation, limited liability company, partnership, limited partnership, limited liability partnership, cooperative, business trust, joint venture or other form of business entity, including Energy Trust of Oregon.

(2) The State Department of Energy may contract with another person to administer incentive payments to eligible building owners for early compliance with the energy performance standard described in section 9 of this 2023 Act.

(3) The person with which the department contracts under subsection (2) of this section shall administer incentive payments:

(a) In a manner that is consistent with rules the department adopts under, and for compliance that is consistent with, sections 8 to 10 of this 2023 Act; and

(b) To eligible building owners that the department certifies as qualifying for incentive payments under, and at rates established for the payments in, section 17 of this 2023 Act.

(4) A person that administers incentive payments on the department's behalf:

(a) Remains subject to any obligations the person has or will have to provide energy efficiency programs or incentives to the person's customers; and

(b) Is not liable for excess incentive payments the person makes in reliance on the department's certification or determination of the proper amount of the incentive payment,

if the person is not otherwise responsible for any inaccuracy in the amount of the incentive payment.

SECTION 17. (1) The State Department of Energy by rule shall establish a program to pay incentives to eligible building owners that implement ANSI/ASHRAE/IES Standard 100 or the energy performance standard described in section 9 of this 2023 Act for covered commercial buildings before adoption and implementation is mandatory. The program must provide for:

- (a) An application process;
- (b) Standards by which the department may qualify an eligible building owner to receive, or disqualify an eligible building owner from receiving, an incentive payment;
- (c) A method for verifying a covered commercial building's energy consumption with the eligible building owner and the electric utility, gas company or thermal energy company that supplies energy to the covered commercial building for the purpose of qualifying the eligible building owner to receive an incentive payment;
- (d) A process for calculating the amount of any incentive payment;
- (e) An administrative process by which an eligible building owner may appeal the department's decision to qualify or disqualify the eligible building owner or the department's determination of the amount of an incentive payment; and
- (f) A process for authorizing incentive payments and notifying eligible building owners and persons that administer incentive payments of the department's authorization.

(2) To qualify for an incentive payment, an eligible building owner must report to the department in accordance with section 10 of this 2023 Act by the deadlines and for a period of time the department specifies by rule. In addition:

- (a) The eligible building owner must own a tier 1 building that is or will become subject to the requirements of sections 8 to 10 of this 2023 Act or must own a tier 2 building that qualifies as provided in subsection (3) of this section;
- (b) If the covered commercial building is a tier 1 building, the tier 1 building must have a baseline energy use intensity that exceeds an applicable energy use intensity target by at least 15 energy use intensity units; and
- (c) The eligible building owner must comply with any other requirements the department specifies by rule.

(3) An eligible building owner of a tier 2 building may receive an incentive payment of 35 cents per square foot of gross floor area, excluding any parking garage, unconditioned space or semiheated space if the eligible building owner has submitted to the department, or has agreed to submit to the department in advance of an established deadline, the data described in section 15 of this 2023 Act.

(4)(a) Subject to paragraph (c) of this subsection, an eligible building owner that applies and qualifies for an incentive payment under subsection (2) or (3) of this section may receive for meeting the energy performance standard described in section 9 of this 2023 Act early or voluntarily an incentive payment of 85 cents per square foot of gross floor area of the eligible building owner's covered commercial building, excluding any parking garage, unconditioned space or semiheated space.

(b) The department may authorize additional incentive payments to an eligible building owner that owns a tier 2 multifamily residential building and that enters into a binding agreement not to displace tenants from the multifamily residential building.

(c) The department may authorize an incentive payment only if funds are available for the payment and contingent upon an eligible building owner's compliance with the requirements of this section and any rules the department adopts to govern incentive payments.

(5) Before qualifying an eligible building owner to receive an incentive payment under this section, the department shall review the eligible building owner's application and verify any report the eligible building owner must provide under section 10 of this 2023 Act and any energy consumption the department must measure for the purposes of the qualification. If

the department determines that an eligible building owner qualifies for an incentive payment, the department shall certify the qualification to the eligible building owner and to the person that administers incentive payments under section 16 of this 2023 Act.

(6) Not later than September 30, 2026, and by the same date every two years thereafter, the department shall report to interim committees of the Legislative Assembly related to energy concerning the operations and results of the incentive program the department establishes under this section. The report must include recommendations for aligning the incentive program with greenhouse gas emission reduction goals that meet or exceed the goals specified in ORS 468A.205.

STATE AGENCIES TO CONDUCT ASSESSMENT OF ENERGY USE

SECTION 18. (1) As used in this section, “state agency” has the meaning given that term in ORS 278.005.

(2)(a) The Oregon Department of Administrative Services, in cooperation with the State Department of Energy, shall develop a methodology and work plan for state agencies to implement a comprehensive assessment of energy use and greenhouse gas emissions of state-owned buildings. At a minimum, the assessments must:

(A) Examine and quantify each building’s greenhouse gas emissions, using where feasible existing data such as energy use reporting for existing state-owned buildings that state agencies submitted to the State Department of Energy and data from other existing programs and contracts;

(B) Identify equipment or usage that contributes to greenhouse gas emissions from each building; and

(C) Determine and quantify the useful life of equipment in each building that contributes to greenhouse gas emissions.

(b) The Oregon Department of Administrative Services may direct state agencies to conduct the assessments described in paragraph (a) of this subsection in phases or stages and may specify a minimum building size that is subject to an assessment.

(c) The Oregon Department of Administrative Services may procure and make available to state agencies services from a private contractor to conduct the assessments described in paragraph (a) of this subsection throughout the state.

(3) All agencies of state government shall cooperate with and assist the Oregon Department of Administrative Services, or the department’s contractor, in conducting the assessments and shall timely provide relevant information to the department, or the department’s contractor, in accordance with methodology the department specifies.

(4) The Oregon Department of Administrative Services, with support from the State Department of Energy, shall create a searchable and modifiable database with the data that the Oregon Department of Administrative Services, or the department’s contractor, collects from state agency assessments described in subsection (2) of this section. State agencies shall use baseline data from the database as a tool for planning energy use reduction and greenhouse gas emissions reduction targets in capital projects.

(5)(a) The Oregon Department of Administrative Services, in collaboration with the Department of Environmental Quality and the State Department of Energy, shall oversee all capital projects in which:

(A) A state agency constructs or performs a major renovation on a state building; and

(B) The estimated contract price for the capital project exceeds \$1 million.

(b) In performing the oversight described in paragraph (a) of this subsection, the Oregon Department of Administrative Services shall:

(A) Develop and implement guidelines for sustainable design that:

(i) Apply to all state agencies and all capital projects described in paragraph (a) of this subsection;

(ii) Take into account the building's life cycle and the life cycle of all of the building's systems, components, materials, operations and maintenance; and

(iii) Consider each building's size, cost or purpose;

(B) Provide guidance and technical expertise to each state agency with respect to construction methods, materials, energy conservation measures, greenhouse gas emissions reduction methods, green building construction and renovation and other techniques and technologies that will aid in achieving the state's green building, energy efficiency and greenhouse gas emissions reduction goals; and

(C) Use existing work the State Department of Energy performed in connection with the United States Department of Energy's Standard Energy Efficiency Data program, data from other existing programs and contracts and, where appropriate, data from the database described in subsection (4) of this section.

(c) Each state agency shall report regularly to the Oregon Department of Administrative Services concerning progress on a capital project described in paragraph (a) of this subsection, with an emphasis on progress toward meeting the goals described in paragraph (b)(B) of this subsection. A state agency may combine a report under this paragraph with a report from another state agency.

(6) The Oregon Department of Administrative Services and the State Department of Energy shall participate on behalf of the state in the National Building Performance Standards Coalition.

SECTION 19. ORS 469.754 is amended to read:

469.754. (1) State agencies *[are authorized to]* **may** enter into such contractual and other arrangements as *[may be]* **are** necessary or convenient to design, develop, operate and finance projects on-site at state owned or state rented facilities. *[In developing such projects, state agencies shall offer a right of first refusal of two months for conservation and direct use renewable resources and three months for cogeneration and generating renewable resources to each local utility providing utility service to the agency to jointly develop, finance, operate and otherwise act together in the development and operation of such projects. The State Department of Energy shall adopt rules to establish the procedure by which the right of first refusal shall be administered. In adopting the rules, the department shall insure that the local utility providing utility service to the state agency is entitled to the first right to negotiate with the state agency and that the utility is entitled to match any offer made by any other entity to participate in the project. The department also shall adopt procedures that insure that the right to first negotiate and the right to match any offer applies to the sale of electrical or steam output from the project.]*

(2)(a) For as long as a project established under ORS 469.752 to 469.756 produces savings:

(A) A state agency's budget *[shall]* **may** not be cut because of savings due to the project; and

(B) A state agency shall retain *[50]* **100** percent of the net savings to the state agency after any project debt service.

(b) Savings from a project *[shall]* **must** be deposited in a revolving fund administered by the state agency.

(3) A state agency shall spend the savings under subsection (2) of this section to increase productivity through:

(a) Energy efficiency projects;

(b) High-tech improvements, such as the purchase or installation of new desktop or laptop computers or the linkage of computers into systems or networks; or

(c) Infrastructure improvements.

(4) The moneys credited to the revolving fund may be invested and reinvested as provided in ORS 293.701 to 293.790. Notwithstanding ORS 293.105 (3) or any other provision of law, interest or other earnings on moneys in the revolving fund *[shall]* **must** be credited to the revolving fund.

[(5) The remaining 50 percent of net savings to the state agency after any project debt service shall be deposited in the General Fund.]

[(6)] (5) [Nothing in] ORS 469.752 to 469.756 [authorizes] **do not authorize** a state agency to sell electricity to an entity other than an investor owned utility, a publicly owned utility, an electric cooperative utility or the Bonneville Power Administration.

[(7)] (6) [Nothing in] ORS 469.752 to 469.756 [limits] **do not limit** the authority of a state agency conferred by any other provision of law, or [affects] **affect** any authority, including the authority of a municipality, to regulate utility service under existing law.

SECTION 20. ORS 469.756 is amended to read:

469.756. The State Department of Energy in consultation with other state agencies and utilities shall adopt rules, guidelines and procedures that are necessary to establish savings for projects and to implement other provisions of ORS 469.752 to 469.756[*including, but not limited to, rules prescribing the procedures to be followed by an agency in negotiating with local utilities to develop agreements suitable for the joint development of projects, and procedures to determine which local utility, if any, shall be chosen to jointly develop the project*]. The department may enter into agreements under ORS chapter 190 with state agencies to provide technical assistance in selecting appropriate projects and to evaluate and determine energy and cost savings.

SECTION 21. The amendments to ORS 469.754 and 469.756 by sections 19 and 20 of this 2023 Act apply to projects that a state agency commences, and to contracts for energy sales into which a state agency enters, on and after the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

COMMUNITY GREEN INFRASTRUCTURE GRANT PROGRAM

SECTION 22. The Legislative Assembly finds and declares that:

(1) The purpose of community green infrastructure projects and green infrastructure economic development projects is to provide direct social, environmental and economic benefits to communities across this state through green infrastructure.

(2) The social, environmental and economic benefits of green infrastructure to communities include, but are not limited to:

- (a) Climate change mitigation, adaptation and resilience;
- (b) Stormwater management;
- (c) Air temperature regulation;
- (d) Air quality benefits;
- (e) Noise abatement;
- (f) Energy savings;
- (g) Economic development opportunities;
- (h) Public or community health benefits;
- (i) Support for community food pathways through regenerative agriculture;
- (j) Water quality improvements, including temperature regulation;
- (k) Water conservation;
- (L) Erosion control;
- (m) Park and open space benefits;
- (n) Urban forest benefits;
- (o) Restoration of floodplain functions;
- (p) Restored or expanded wetlands and riparian areas;
- (q) Habitat improvements;
- (r) Aquifer recharge that does not include an extractive or consumptive use of the aquifer;
- (s) Stream flow augmentation;
- (t) Carbon sequestration;
- (u) Community livability;
- (v) Local jobs; and

(w) The use of plants and food in maintaining social and environmental identity and lifeways.

SECTION 23. As used in sections 22 to 26 of this 2023 Act:

(1) “Community green infrastructure project” means a green infrastructure project that provides social, environmental or economic benefits to a particular community and is developed through a collaborative process that helps to define those benefits.

(2) “Environmental justice community” has the meaning given that term in ORS 182.535.

(3) “Green communities nursery” means an Oregon nursery certified by the State Department of Agriculture under section 27 of this 2023 Act.

(4) “Green infrastructure” means:

(a) Green infrastructure as defined in ORS 550.160; or

(b) Infrastructure that:

(A) Mimics natural systems, or enables natural systems to be less stressed through water conservation, water protection or ecosystem restoration, at the neighborhood or site scale as part of an integrated approach in residential, municipal or industrial developments or water infrastructure; and

(B) Implements community-based concepts, principles and practices to conserve and manage resources for future generations, sequester carbon and provide environmental and social benefits.

(5) “Green infrastructure economic development project” means a community green infrastructure project that employs members of a community that benefits from the community green infrastructure project in the development, construction, planting or maintenance of the project.

(6) “Green infrastructure improvement zone” means an area designated by the State Forestry Department under section 28 of this 2023 Act.

(7) “Green infrastructure master plan” means a long-term plan developed by a public body or tribal government that involves the creation, protection or enhancement of green infrastructure, including but not limited to:

(a) An urban forestry plan;

(b) A storm water management plan; and

(c) A plan to establish parks or other public green spaces.

(8) “Indian tribe” means a federally recognized Indian tribe in Oregon.

(9) “Native plant nursery” means an Oregon nursery that specializes in plants native to Oregon.

(10) “Native seed bank” means a store of seeds from native plants that helps to:

(a) Preserve genetic diversity in those plant species to increase plant yield and health, including disease resistance and drought tolerance;

(b) Hold seeds and plants for the restorative health of a community; or

(c) Support the replanting of post-fire successional plants.

(11) “Oregon nursery” means:

(a) A person that holds a license required by ORS 571.055 issued by the State Department of Agriculture; or

(b) A nursery operated by an Indian tribe, an entity wholly owned by an Indian tribe or an enrolled member of an Indian tribe and operated on the tribe’s reservation or trust land.

(12) “Public body” has the meaning given that term in ORS 174.109.

SECTION 24. (1) The Community Green Infrastructure Grant Program is established as a program administered by the Department of Land Conservation and Development for the purpose of awarding grants for:

(a) Offsetting the cost of planning and developing community green infrastructure projects or green infrastructure economic development projects;

(b) Developing or supporting native seed banks or native plant nurseries; or

(c) Supporting and implementing green infrastructure master plans.

(2) The Department of Land Conservation and Development may enter into intergovernmental agreements under ORS chapter 190 with the Oregon Health Authority, the Oregon Business Development Department, the Bureau of Labor and Industries, the State Department of Agriculture, the Oregon Watershed Enhancement Board, the Department of Environmental Quality, the State Parks and Recreation Department or an Indian tribe for the purposes of assistance with:

(a) The design and implementation of the Community Green Infrastructure Grant Program;

(b) Readiness to acquire and administer federal funding related to green infrastructure projects; or

(c) Technical advice or feedback on the grant review process established under this section.

(3) The Department of Land Conservation and Development shall enter into an intergovernmental agreement under ORS chapter 190 with the State Forestry Department for the purposes of assistance with:

(a) The design and implementation of the Community Green Infrastructure Grant Program;

(b) Readiness to acquire and administer federal funding related to green infrastructure projects; and

(c) Technical advice or feedback on the grant review process established under this section.

(4) The Department of Land Conservation and Development shall enter into an intergovernmental agreement under ORS chapter 190 with the Department of Transportation for the purposes of assistance with:

(a) Technical advice regarding state transportation facilities and rights of way as they relate to the design and implementation of the Community Green Infrastructure Grant Program;

(b) Readiness to acquire and administer federal funding related to green infrastructure projects; and

(c) Technical advice or feedback on the grant review process established under this section.

(5)(a) A public body, a local workforce development board as defined in ORS 660.300, a manufactured dwelling park nonprofit cooperative as defined in ORS 62.803, an Indian tribe, a watershed council as defined in ORS 541.890, a nonprofit organization or a faith-based organization may apply for a grant under this section for the purpose of planning or developing a community green infrastructure project or a green infrastructure economic development project.

(b) An applicant for a grant for a community green infrastructure project or a green infrastructure economic development project may partner with a state agency, a private business with a business site in this state or an owner of rental property in this state.

(c) A grant for an approved application for a community green infrastructure project or a green infrastructure economic development project will be awarded and released only to an applicant described in paragraph (a) of this subsection.

(d)(A) An application for a community green infrastructure project or a green infrastructure economic development project must be drafted in consultation with the government of the city or county in which the project will be located and with the electric and water utilities in whose service territory the project will be located.

(B) An application must include documentation of the consultations described in this paragraph and demonstrate that feedback received as a result of consultation was incorporated into the application materials. If the application does not incorporate feedback from a consulted party into the application, the applicant must provide an explanation of why the

feedback was not incorporated or provide a statement that no feedback was received from that party.

(6)(a) An application for a grant under this section shall be in the form and manner prescribed by the Department of Land Conservation and Development.

(b) An application for a grant to plan or develop a community green infrastructure project or a green infrastructure economic development project must demonstrate that the project:

(A) Is located in this state;

(B) Provides social, environmental or economic benefits to an environmental justice community;

(C) Except for projects developed by an Indian tribe, has been or will be developed in coordination with an environmental justice community that will benefit from the completion of the project; and

(D) Has a plan for the maintenance of the project for at least three years or has requested technical assistance for maintenance planning.

(c) An application for a grant for a native seed bank or native plant nursery must demonstrate that the applicant qualifies as a native seed bank or a native plan nursery.

(d) An application for a grant for a green infrastructure master plan must demonstrate how the long-term plan of the public body or tribal government involves the creation, protection or enhancement of green infrastructure.

(7) Upon receipt of an application submitted under this section, the Department of Land Conservation and Development shall review the application and determine whether the applicant is eligible to receive a grant from the Community Green Infrastructure Grant Program. The department may award grants based on the prioritizations established under subsection (8) of this section. If the department denies a grant application, the department shall provide the reason for the denial in writing.

(8) In awarding grants under the Community Green Infrastructure Grant Program, the Department of Land Conservation and Development may give priority to projects:

(a) Involving large, low-maintenance, storm- and drought-resistant tree plantings;

(b) Involving plantings that include native plants or pollinator-friendly species;

(c) Involving tree plantings at or near school campuses, affordable housing, senior housing, manufactured dwelling parks, recreational vehicle parks or public rights of way;

(d) That strengthen communities and fight displacement;

(e) That develop innovative solutions for using urban woody biomass;

(f) That are carried out by a city that has adopted a plan to increase urban tree canopy cover and has entered into a long-term agreement with an Oregon nursery to supply trees needed to carry out the plan; or

(g) That utilize a community's cultural practices to educate, and conserve and manage resources for, future generations.

(9) To the maximum extent possible, community green infrastructure projects and green infrastructure economic development projects shall:

(a) Minimize the vehicle miles traveled associated with all plant and tree stocks utilized in the project;

(b) Include partnerships with green communities nurseries or nurseries defined in section 23 (11)(b) of this 2023 Act;

(c) Utilize native plant stock that is grown from native seed banks or native seed recovery and planting efforts; and

(d) Utilize climate-adaptive plant stock that is regionally native, drought and disease tolerant and noninvasive.

(10) To the maximum extent possible, community green infrastructure projects and green infrastructure economic development projects that occur on school campuses shall incorpo-

rate a curriculum or demonstration component to connect students to the project and provide education about:

- (a) Green infrastructure;
- (b) Careers in green infrastructure; and
- (c) Cultural practices to educate, and conserve and manage resources for, future generations.

SECTION 25. (1) The Community Green Infrastructure Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Community Green Infrastructure Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Land Conservation and Development for the purpose of carrying out section 24 of this 2023 Act, subject to the allocations described in subsection (2) of this section.

(2) Of the moneys in the fund:

- (a) 30 percent shall be allocated for grants to be awarded for planning or developing green infrastructure economic development projects;
- (b) 40 percent shall be allocated for grants to be awarded for entities or projects located in green infrastructure improvement zones; and
- (c) 30 percent shall be allocated for grants to be awarded to entities or projects in tribal, rural, remote or coastal communities.

SECTION 26. (1) The Department of Land Conservation and Development may appoint an Advisory Committee on Community Green Infrastructure Investment to provide consultation on the implementation of section 24 of this 2023 Act. A committee appointed under this section shall consist of at least one representative of each of the following interests:

- (a) City governments;
- (b) County governments;
- (c) Special districts, irrigation districts or transportation districts;
- (d) School districts;
- (e) Environmental justice communities;
- (f) The Oregon nursery industry;
- (g) Educational institutes that train professionals in horticulture, urban forestry or other green infrastructure professions;
- (h) State or local parks and recreation agencies;
- (i) Individuals with expertise in designing, constructing and maintaining green infrastructure;
- (j) Individuals with expertise in the public or community health benefits of green infrastructure;
- (k) Individuals with expertise in green workforce development or social enterprise models; and
- (L) Individuals with expertise in green infrastructure projects in tribal, rural, remote or coastal communities.

(2)(a) The department shall invite each of the federally recognized Indian tribes in Oregon to participate in the advisory committee.

(b) Invitation to participate in the advisory committee is not in lieu of other forms of tribal consultation, outreach or engagement that the department may engage in as necessary to fulfill the purposes of sections 22 to 26 of this 2023 Act.

(3) No later than September 15 of each even-numbered year, the advisory committee shall submit a report on the implementation of the Community Green Infrastructure Grant Program to the appropriate interim committees of the Legislative Assembly, in the manner provided by ORS 192.245.

GREEN COMMUNITIES NURSERIES

SECTION 27. (1) As used in this section, “Oregon nursery” has the meaning given that term in section 23 of this 2023 Act.

(2) The State Department of Agriculture shall certify an Oregon nursery as a green communities nursery if the nursery:

(a) Has practices in pest and disease management that satisfy standards established by the department;

(b) Materially demonstrates a history of compliance with the rules and other requirements of state and local agencies with oversight regarding workers’ compensation, building codes and occupational safety and health over a period of seven years or the life of the nursery, whichever is shorter;

(c) Materially demonstrates a history of compliance with federal and state wage and hour laws over a period of seven years or the life of the nursery, whichever is shorter; and

(d) Grows and maintains noninvasive nursery stock for the purposes of partnering with communities or public bodies on green infrastructure projects.

(3) An Oregon nursery may apply for certification under this section in the form and manner prescribed by the department.

URBAN TREE CANOPIES

SECTION 28. (1) The State Forestry Department shall acquire and maintain a statewide urban tree canopy assessment tool.

(2) The assessment tool must provide geospatial mapping that includes:

(a) A visualization of urban tree canopies, viewable at the census tract level;

(b) Community demographic, economic, social and health data;

(c) A comprehensive inventory of tree canopies on public lands;

(d) Rights of way and their associated jurisdictions;

(e) An urban green space assessment that includes an evaluation of vegetation health and a comparison of pervious surfaces to impervious surfaces within the green space; and

(f) An assessment of tree canopy and green space in the urban-rural gradient.

(3) The department may integrate the urban tree canopy assessment tool with data from other agency mapping tools, including the environmental justice mapping tool developed pursuant to section 12, chapter 58, Oregon Laws 2022.

(4) The department shall make the urban tree canopy assessment tool available on a website maintained by the department, along with guidance for using the tool to promote environmental, social and economic well-being.

(5) Using the urban tree canopy assessment tool, the department shall designate as green infrastructure improvement zones areas of this state that have a high level of poverty density and any of the following:

(a) Low levels of tree canopy cover;

(b) Poor vegetation health;

(c) High risk of pests, disease or other threats to plant life; or

(d) Other needs for revegetation or holistic native plant restoration.

SECTION 29. (1) The State Forestry Department shall develop and implement a program to provide technical and financial assistance to public bodies as defined in ORS 174.109, tribal governments, watershed councils as defined in ORS 541.890 and community-based organizations for planning for, responding to and recovering from damage to habitats and urban tree canopies due to pests, diseases or other natural or human-created conditions that lead to loss of tree canopy, including but not limited to:

(a) Emerald ash borer infestation;

(b) Japanese beetle infestation;

(c) Sudden Oak Death;

(d) Pine bark beetle infestation;

- (e) Climate change;
 - (f) Drought; or
 - (g) Wildfire.
- (2) The program may include, but need not be limited to, assistance for:
- (a) Vulnerability assessments;
 - (b) Tree inventories;
 - (c) Response and recovery plan development;
 - (d) Community engagement and community-led strategies; and
 - (e) Tree removal and replanting with species that are resistant to disease, pest and drought.
- (3) The department shall coordinate with the State Department of Agriculture to support program activities related to any pests or diseases subject to quarantine under the laws of this state or of the United States.

**COLLEGE OF FORESTRY, OREGON STATE UNIVERSITY:
LOW CARBON FUELS FROM WOODY BIOMASS RESIDUES**

SECTION 30. (1) The College of Forestry at Oregon State University, in collaboration with the Department of Environmental Quality and the State Forestry Department, shall conduct research to develop methodologies and data necessary to establish fuel pathways, consistent with the clean fuels program adopted under ORS 468A.265 to 468A.277, for low carbon fuels derived from woody biomass residues from forestry operations. In carrying out the research under this section, the College of Forestry shall:

(a) Coordinate with the Department of Environmental Quality to ensure that the methodologies and data are consistent with the methodologies and data used to determine lifecycle greenhouse gas emissions and carbon intensity under the clean fuels program.

(b) Research any methods to convert biomass feedstocks to low carbon fuels, with particular focus on wood slash piles that would otherwise be burned on lands managed by the State Forester or lands used by the College of Forestry to carry out research.

(2) No later than July 31, 2025, the College of Forestry shall submit its findings in a report, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to natural resources. The report must include, but need not be limited to:

(a) Progress in establishing fuel pathways and carbon intensity values for low carbon fuels derived from woody biomass residues from forestry operations; and

(b) The impact converting woody biomass residues to low carbon fuels has on:

(A) Greenhouse gas and black carbon emissions;

(B) Snowpack in the Cascade Mountains;

(C) Water quality and drought; and

(D) Wildfire.

(3) The College of Forestry may collaborate with the Department of Environmental Quality or any other relevant state agency to prepare the report described in subsection (2) of this section.

SECTION 31. ORS 530.050 is amended to read:

530.050. Under the authority and direction of the State Board of Forestry except as otherwise provided for the sale of forest products, the State Forester shall manage the lands acquired pursuant to ORS 530.010 to 530.040 so as to secure the greatest permanent value of those lands to the state, and to that end may:

(1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with persons owning lands within the state in the protection of the lands and enter into all agreements necessary or convenient for the protection of the lands.

(2) Sell forest products from the lands, and execute mining leases and contracts as provided for in ORS 273.551.

(3) Enter into and administer contracts for the sale of timber from lands owned or managed by the State Board of Forestry and the State Forestry Department.

(4) Enter into and administer contracts for activities necessary or convenient for the sale of timber under subsection (3) of this section, either separately from or in conjunction with contracts for the sale of timber, including but not limited to activities such as timber harvesting and sorting, transporting, gravel pit development or operation, and road construction, maintenance or improvement.

(5) Permit the use of the lands for other purposes, including but not limited to forage and browse for domestic livestock, fish and wildlife environment, landscape effect, protection against floods and erosion, recreation, and protection of water supplies when, in the opinion of the board, the use is not detrimental to the best interest of the state.

(6) Grant easements, permits and licenses over, through and across the lands. The State Forester may require and collect reasonable fees or charges relating to the location and establishment of easements, permits and licenses granted by the state over the lands. The fees and charges collected shall be used exclusively for the expenses of locating and establishing the easements, permits and licenses under this subsection and shall be placed in the State Forestry Department Account.

(7) Require and collect fees or charges for the use of state forest roads. The fees or charges collected shall be used exclusively for purposes of maintenance and improvements of the roads and shall be placed in the State Forestry Department Account.

(8) Reforest the lands and cooperate with the counties, and with persons owning timberlands within the state, in the reforestation, and make all agreements necessary or convenient for the reforestation.

(9) Require such undertakings as in the opinion of the board are necessary or convenient to secure performance of any contract entered into under the terms of this section or ORS 273.551.

(10) Sell rock, sand, gravel, pumice and other such materials from the lands. The sale may be negotiated without bidding, provided the appraised value of the materials does not exceed \$2,500.

(11) Enter into agreements, each for not more than 10 years duration, for the production of minor forest products.

(12) Establish a forestry carbon offset program to market, register, transfer or sell forestry carbon offsets. In establishing the program, the forester may:

(a) Execute any contracts or agreements necessary to create opportunities for the creation of forestry carbon offsets; and

(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of forestry carbon offsets.

(13) Establish a forestry renewable woody biomass conversion program to market, register, transfer or sell forestry woody biomass conversion offtakes. In establishing the program, the forester may:

(a) Execute any contracts or agreements necessary to create opportunities for the creation of forestry woody biomass conversion offtakes; and

(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of forestry woody biomass conversion offtakes.

[(13)] (14) Do all things and make all rules, not inconsistent with law, necessary or convenient for the management, protection, utilization and conservation of the lands.

REBATE PROGRAM FOR MEDIUM AND HEAVY DUTY ZERO-EMISSION VEHICLES

SECTION 32. Sections 33 and 34 of this 2023 Act are added to and made a part of ORS chapter 468.

SECTION 33. (1) As used in this section, “qualifying vehicle” means a motor vehicle, as defined in ORS 801.360, or a combination of vehicles operated as a unit, that:

(a) Has a gross vehicle weight rating of 8,501 pounds or greater;

(b) Has a drivetrain that produces zero exhaust emissions of any criteria pollutant or greenhouse gas; and

(c) Meets other criteria established by the Environmental Quality Commission by rule.

(2) The Department of Environmental Quality shall establish a program for providing rebates to persons that purchase or lease qualifying vehicles for use in this state. The Director of the Department of Environmental Quality may hire or contract with a third-party nonprofit organization to implement and serve as the administrator of the program required by this section.

(3) The department may:

(a) Specify design features for the program; and

(b) Establish procedures to:

(A) Prioritize available moneys for specific qualifying vehicles;

(B) Limit the number of rebates available for each type of qualifying vehicle; and

(C) Limit the number of rebates available per applicant.

(4) The purchaser or lessee of a qualifying vehicle may apply for a rebate or may choose to assign the rebate to a vehicle dealer.

(5) Rebates under the program shall be made from moneys credited to or deposited in the Zero-Emission Medium and Heavy Duty Vehicle Incentive Fund established under section 34 of this 2023 Act.

(6)(a) The department shall prescribe the rebate application procedure for purchasers and lessees.

(b) The department may establish a dealer application or individual application procedure.

(c) All rebate applications must include a declaration under penalty of perjury in the form required by ORCP 1 E.

(7)(a) Rebates for qualifying vehicles shall be set annually at amounts determined by the Environmental Quality Commission by rule.

(b) The commission may establish separate rebate amounts for different classes of vehicles.

(c) The commission may establish an additional rebate for the purchase or lease of qualifying vehicles that will be registered to an address, or frequently operated, in an area of this state that is disproportionately burdened by air pollution as determined by the commission.

(8) To be eligible for a rebate, a person requesting a rebate under the program shall:

(a) Purchase or lease a qualifying vehicle. A lease must have a minimum term of 36 months.

(b) Provide proof of an intent to operate the qualifying vehicle primarily in this state, which must be satisfied by providing proof of registration of the qualifying vehicle in Oregon, which may include proof of proportional registration under ORS 826.009 or 826.011 issued by the Department of Transportation.

(c) Submit an application for a rebate to the administrator of the program within three months after the date of purchase of the qualifying vehicle or three months after the date the lease of the qualifying vehicle begins.

(d) Retain registration of the qualifying vehicle for a minimum of 36 consecutive months after the date of purchase or the date the lease begins.

(9)(a) More than 50 percent of the operation of the qualifying vehicle must occur in Oregon.

(b) In each of the three years following receipt of a rebate, a rebate recipient shall:

(A) Maintain records of the miles driven or hours of use for the qualifying vehicle and whether the miles driven or hours used occurred in Oregon; and

(B) Provide an annual report to the department to demonstrate that more than 50 percent of the miles driven or hours of use of the qualifying vehicle occurred in Oregon.

(10) A rebate recipient may not make or allow any modifications to the qualifying vehicle's emissions control systems, hardware or software calibrations.

(11)(a) If a rebate recipient sells the qualifying vehicle or terminates the qualifying vehicle lease before the end of 36 months, the rebate recipient shall:

(A) Notify the administrator of the program of the sale; and

(B) Reimburse the administrator for the rebate in a prorated amount based on the number of months that the rebate recipient owned or leased the qualifying vehicle.

(b) The administrator may waive the reimbursement requirement under paragraph (a) of this subsection if the administrator determines that a waiver is appropriate given unforeseeable or unavoidable circumstances that gave rise to a need for the rebate recipient to sell the qualifying vehicle or terminate the qualifying vehicle lease before the end of 36 months.

(12) Rebate recipients are required to participate in ongoing research efforts, if requested to do so by the administrator.

(13) The administrator of the program shall work to ensure timely payment of rebates with a goal of paying rebates within 90 days after receiving an application for a rebate.

(14) A vehicle dealer may advertise the program on the premises owned or operated by the vehicle dealer. If no moneys are available from the program or the program otherwise changes, a vehicle dealer who advertises the program may not be held liable for advertising false or misleading information.

(15) The department may perform activities necessary to ensure that recipients of rebates under this section comply with applicable requirements. If the department determines that a recipient has not complied with applicable requirements, the department may order the recipient to refund all rebate moneys and may impose penalties pursuant to ORS 468.140.

(16) The commission may adopt any rules necessary to carry out the provisions of this section.

SECTION 34. (1) The Zero-Emission Medium and Heavy Duty Vehicle Incentive Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Zero-Emission Medium and Heavy Duty Vehicle Incentive Fund shall be credited to the fund.

(2) Moneys in the Zero-Emission Medium and Heavy Duty Vehicle Incentive Fund shall consist of:

(a) Amounts donated to the fund;

(b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

(c) Other amounts deposited in the fund from any public or private source; and

(d) Interest earned by the fund.

(3) Moneys in the Zero-Emission Medium and Heavy Duty Vehicle Incentive Fund are continuously appropriated to the Department of Environmental Quality to be used to carry out the provisions of section 33 of this 2023 Act.

(4) No more than 15 percent of the moneys deposited in the Zero-Emission Medium and Heavy Duty Vehicle Incentive Fund per biennium may be expended to pay administrative expenses incurred in the administration of section 33 of this 2023 Act by:

(a) The department; or

(b) Any third-party organization that the department hires or contracts with under section 33 of this 2023 Act.

(5)(a) The Environmental Quality Commission shall require by rule that at least 40 percent of the moneys deposited in the fund per biennium are allocated to fund the provision of rebates for vehicles located in communities disproportionately burdened by diesel pollution, as described in section 33 (7)(c) of this 2023 Act.

(b) Notwithstanding paragraph (a) of this subsection, if the department determines that the total amount of rebates provided to applicants eligible for the rebate described in section

33 (7)(c) of this 2023 Act is unlikely to exceed 40 percent of the total amount of moneys deposited in the fund during a biennium, the department may release moneys allocated under paragraph (a) of this subsection to be used for the provision of any rebate under section 33 of this 2023 Act.

**FINDING OPPORTUNITIES AND
REDUCING CONFLICT IN SITING PHOTOVOLTAIC
SOLAR POWER GENERATION FACILITIES**

SECTION 35. (1) On or before November 3, 2023, the Land Conservation and Development Commission shall adopt rules to allow a local government to consider a photovoltaic solar power generation facility a rural industrial use for purposes of justifying a reason for an exception under ORS 197.732 (2)(c)(A).

(2) On or before July 1, 2025, the commission shall adopt rules:

(a) Establishing criteria through which local governments may be permitted or required to allow the siting of a photovoltaic solar power generation facility, including criteria that consider:

(A) Potential conflicts with other resource lands; and

(B) Soliciting public feedback from neighboring landowners or residents; and

(b) Identifying the characteristics of lands in Eastern Oregon, as defined in ORS 321.700, best suited for counties to allow, encourage and incentivize photovoltaic solar power generation facilities, based on consideration of:

(A) The land's suitability for contributing to the state's clean energy goals;

(B) Site characteristics, resource potential, proximity to current and future transmission access and locations for potential interconnection; and

(C) The ability to readily avoid negative impacts on natural resources, forestry, habitat, agriculture, community needs and historic, cultural or archeological resources, or to readily minimize or mitigate those negative impacts.

SECTION 36. The Department of Land Conservation and Development may enter into intergovernmental agreements under ORS chapter 190 with other state agencies, tribal governments and counties, for the purposes of:

(1) Supporting the Land Conservation and Development Commission in adopting rules under section 35 of this 2023 Act;

(2) Furnishing information or technical assistance;

(3) Providing feedback on the membership and work of the Rules Advisory Committee for Siting Photovoltaic Solar Power Generation Facilities established under section 37 of this 2023 Act;

(4) Identifying opportunities to streamline permitting and review processes across and between state agencies; and

(5) With regard to tribal governments, consulting on how best to protect historic, cultural or archeological resources without revealing sensitive information.

SECTION 37. (1) The Rules Advisory Committee for Siting Photovoltaic Solar Power Generation Facilities is established to serve as an advisory committee, as described in ORS 183.333, to the Land Conservation and Development Commission in adopting administrative rules under section 35 (2) of this 2023 Act.

(2) The Department of Land Conservation and Development shall appoint the members of the rules advisory committee. In appointing members, the department shall solicit and consider recommendations for membership from:

(a) Public bodies;

(b) Tribal governments;

(c) Federal and state agencies;

(d) Energy, community and conservation advocates; and

(e) Individuals who have expertise in the energy or natural resources industries, including renewable energy developers, utilities and agricultural producer associations.

(3) The membership of the rules advisory committee shall consist of at least 17 members, including:

- (a) At least two members representing a tribal government or county;
- (b) At least one member who represents public bodies;
- (c) At least one member who represents small-scale renewable energy developers;
- (d) At least one member who represents large-scale renewable energy developers;
- (e) At least one member who has expertise in community renewable energy development;
- (f) At least one member who has expertise in renewable energy siting, policy or planning;
- (g) At least one member who has expertise in transmission siting;
- (h) At least one member who represents electric utilities, as defined in ORS 757.600;
- (i) At least one member who represents the labor interests of the clean energy or renewable energy workforce;
- (j) At least one member who represents environmental justice communities, as defined in ORS 469A.400;
- (k) At least one member who represents owners of irrigated or dryland farmland or rangeland;
- (l) At least one member who has expertise in habitat conservation, preservation and restoration;
- (m) At least one member who has expertise in land and water use;
- (n) At least one member who has expertise in rural economic development;
- (o) At least one member who has expertise in industrial forestland management; and
- (p) At least one member who has expertise in small woodland management.

(4) In addition to its duties under subsection (1) of this section, the rules advisory committee shall prepare a report that includes:

- (a) A summary of the rules adopted under section 35 of this 2023 Act;
- (b) Review of renewable energy siting assessment tools used by the State Department of Energy and recommendations regarding missing or outdated data sets;
- (c) Review of existing practices relating to mitigation of impacts of photovoltaic solar power generation facilities and transmission development and recommendations for:
 - (A) Mitigating impacts on farming practices on agricultural lands through best practices and land use regulations;
 - (B) Mitigating impacts on fish and wildlife habitat in accordance with the policies described under ORS 496.012 and 506.109;
 - (C) Supporting certainty for developers regarding mitigation requirements within the siting process; and
 - (D) Identifying characteristics and considerations of regional and local habitats that may require specific mitigation practices; and
- (d) Recommendations for technical assistance resources to support county siting processes and the engagement of public bodies, tribal governments and communities in the siting process for renewable energy and transmission development.

(5)(a) On or before September 15, 2025, the Department of Land Conservation and Development shall provide an interim copy of the report under subsection (4) of this section to an appropriate interim committee of the Legislative Assembly in the manner provided in ORS 192.245.

(b) On or before December 31, 2025, the department shall provide a copy of the final report under subsection (4) of this section to, and seek feedback from:

- (A) Regional energy planning entities;
- (B) The Energy Facility Siting Council;
- (C) The Environmental Justice Council;
- (D) The Land Conservation and Development Commission;

(E) The State Department of Fish and Wildlife;
(F) The State Department of Agriculture; and
(G) Relevant federal agencies, including the United States Department of Defense, the Bureau of Land Management, the United States Forest Service and the Bonneville Power Administration.

(6) A majority of the members of the rules advisory committee constitutes a quorum for the transaction of business.

(7) Official action by the rules advisory committee requires the approval of a majority of the members of the rules advisory committee.

(8) The rules advisory committee may adopt rules necessary for the operation of the rules advisory committee and form subcommittees.

(9) In addition to other scheduled meetings, the rules advisory committee shall also meet at least four times a year in different parts of this state where there is considered, planned or ongoing renewable energy and transmission development.

(10) In performing their duties under this section, the Department of Land Conservation and Development and the rules advisory committee shall coordinate with and support any efforts to establish a statewide energy strategy.

(11) The department shall contract with a third party or parties to provide support to the rules advisory committee, including support related to:

- (a) Facilitating and coordinating meetings; and
- (b) Furnishing data, maps and technical assistance.

(12) A member of the rules advisory committee is entitled to compensation and expenses as provided in ORS 292.495.

SECTION 37a. Sections 36 and 37 of this 2023 Act are repealed on January 2, 2026.

NOTE: Section 38 was deleted by amendment. Subsequent sections were not renumbered.

OREGON CLIMATE ACTION COMMISSION

SECTION 39. ORS 468A.210 is amended to read:

468A.210. As used in ORS [352.823 and] 468A.200 to 468A.260:

(1) “Global warming” means an increase in the average temperature of the earth’s atmosphere that is associated with the release of greenhouse gases.

(2) “Greenhouse gas” means any gas that contributes to anthropogenic global warming including, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

[3] “Greenhouse gas cap-and-trade system” means a system that:]

[a] Establishes a total cap on greenhouse gas emissions from an identified group of emitters;]

[b] Establishes a market for allowances that represent emissions; and]

[c] Allows trading of allowances among greenhouse gas emitters.]

SECTION 40. ORS 468A.215 is amended to read:

468A.215. (1) There is created the Oregon [Global Warming] **Climate Action** Commission. The commission shall consist of [25] **35** members, including [11] **13** voting members appointed by the Governor under this section and [14] **22** [ex officio] nonvoting members specified in ORS 468A.220.

(2) Members of the commission appointed under this section shall be appointed so as to be representative of the social, environmental, cultural and economic diversity of the state and to be representative of the policy, science, education and implementation elements of the efforts to reduce greenhouse gas emissions and to prepare Oregon for the effects of global warming. Of the members appointed by the Governor under this section:

- (a) One member shall have significant experience in manufacturing;
- (b) One member shall have significant experience in energy;
- (c) One member shall have significant experience in transportation;
- (d) One member shall have significant experience in forestry;

- (e) One member shall have significant experience in agriculture; *[and]*
- (f) One member shall have significant experience in environmental policy[.];
- (g) One member shall have significant experience in environmental justice;**
- (h) One member shall be appointed as a youth representative, who must be at least 16 but no more than 24 years of age when appointed; and**

- (i) One member shall have significant experience in the fishing industry.**

(3) The Governor shall select a chairperson and a vice chairperson from among the members appointed under this section.

(4) The term of office of a member appointed under this section is four years, **except that the term of office of the member appointed as a youth representative is two years.** Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 31 next following. A member appointed under this section is eligible for reappointment. In case of vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(5) The members of the commission appointed under this section must be residents of this state. Failure of a member to maintain compliance with the eligibility requirements related to the member's appointment shall result in disqualification from serving on the commission.

(6) Voting members of the commission appointed under this section are entitled to expenses as provided in ORS 292.495 (2).

SECTION 41. ORS 468A.220 is amended to read:

468A.220. (1) In addition to the members appointed under ORS 468A.215, the Oregon *[Global Warming]* **Climate Action** Commission includes the following *[ex officio]* nonvoting members:

- (a) The Director of the State Department of Energy;
- (b) The Director of Transportation;
- (c) The chairperson of the Public Utility Commission of Oregon;
- (d) The Director of the Department of Environmental Quality;
- (e) The Director of Agriculture;
- (f) The State Forester;
- (g) The Water Resources Director; *[and]*
- (h) The Director of the Department of Land Conservation and Development;**
- (i) The Director of the Oregon Health Authority;**
- (j) The Director of the Oregon Business Development Department;**
- (k) The Director of the Oregon Department of Administrative Services;**
- (L) The Director of the Department of Consumer and Business Services;**
- (m) The State Fish and Wildlife Director;**
- (n) The Director of the Housing and Community Services Department;**
- (o) The executive director of the Oregon Watershed Enhancement Board; and**

[(h)] (p) Three additional *[ex officio]* nonvoting members, each from a state agency or an academic institution.

(2) The following representatives of the Legislative Assembly also shall serve as *[ex officio]* nonvoting members:

- (a) Two members of the Senate, not from the same political party, appointed by the President of the Senate; and

- (b) Two members of the House of Representatives, not from the same political party, appointed by the Speaker of the House of Representatives.

(3) Each legislative member serves at the pleasure of the appointing authority and may serve so long as the member remains in the chamber of the Legislative Assembly from which the member was appointed.

(4) Notwithstanding ORS 171.072, members of the commission who are members of the Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volunteers on the commission.

SECTION 42. ORS 468A.225 is amended to read:

468A.225. (1) A majority of the **voting** members of the Oregon [*Global Warming*] **Climate Action** Commission constitutes a quorum for the transaction of business.

(2) The commission shall meet at times and places specified by a majority of the members of the commission.

(3) The State Department of Energy shall provide clerical, technical and management personnel to serve the commission. [*Other agencies shall provide support as requested by the department or the commission.*]

(4) In order to assist the commission in its duties, state agencies shall regularly report to the commission on the respective state agencies' efforts to make progress toward the greenhouse gas emissions reduction goals established by ORS 468A.205 and to prepare for the effects of global warming.

SECTION 43. ORS 468A.230 is amended to read:

468A.230. The Oregon [*Global Warming*] **Climate Action** Commission may adopt by rule such standards and procedures as it considers necessary for the operation of the commission.

SECTION 44. ORS 468A.235 is amended to read:

468A.235. The Oregon [*Global Warming*] **Climate Action** Commission shall recommend ways to coordinate state and local efforts to reduce greenhouse gas emissions in Oregon consistent with the greenhouse gas emissions reduction goals established by ORS 468A.205 and shall recommend efforts to help Oregon prepare for the effects of global warming. The Office of the Governor and state agencies working on multistate and regional efforts to reduce greenhouse gas emissions shall inform the commission about these efforts and shall consider input from the commission for such efforts.

SECTION 45. ORS 468A.240 is amended to read:

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

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

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

SECTION 46. ORS 468A.245 is amended to read:

468A.245. The Oregon [*Global Warming*] **Climate Action** Commission shall develop an outreach strategy to educate Oregonians about the scientific aspects and economic impacts of global warming and to inform Oregonians of ways to reduce greenhouse gas emissions and ways to prepare for the effects of global warming. The commission, at a minimum, shall work with state and local governments, the State Department of Energy, the Department of Education, the Higher Education Coordinating Commission and businesses to implement the outreach strategy.

SECTION 47. ORS 468A.250 is amended to read:

468A.250. (1) The Oregon [*Global Warming*] **Climate Action** Commission shall track and evaluate:

(a) Economic, environmental, health and social assessments of global warming impacts on Oregon and the Pacific Northwest;

(b) Existing greenhouse gas emissions reduction policies and measures;

(c) Economic, environmental, health and social costs, and the risks and benefits of alternative strategies, including least-cost options;

(d) The physical science of global warming;

(e) Progress toward the greenhouse gas emissions reduction goals established by ORS 468A.205;

(f) Greenhouse gases emitted by various sectors of the state economy, including but not limited to industrial, transportation and utility sectors;

(g) Technological progress on sources of energy the use of which generates no or low greenhouse gas emissions and methods for carbon sequestration;

(h) Efforts to identify the greenhouse gas emissions attributable to the residential and commercial building sectors;

(i) The carbon sequestration potential of Oregon's [*forests*] **natural and working lands**, alternative methods of [*forest*] **land** management that can increase carbon sequestration and reduce the loss of carbon sequestration to wildfire, changes in the mortality and distribution of tree and other plant species and the extent to which carbon is stored in tree-based building materials;

(j) The advancement of regional, national and international policies to reduce greenhouse gas emissions;

(k) Local and regional efforts to prepare for the effects of global warming; and

(L) Any other information, policies or analyses that the commission determines will aid in the achievement of the greenhouse gas emissions reduction goals established by ORS 468A.205.

(2) The commission shall:

(a) Work with the State Department of Energy and the Department of Environmental Quality to evaluate all gases with the potential to be greenhouse gases and to determine a carbon dioxide equivalency for those gases; [*and*]

(b) Use regional and national baseline studies of building performance to identify incremental targets for the reduction of greenhouse gas emissions attributable to residential and commercial building construction and operations[.];

(c) Prepare a detailed forecast of expected greenhouse gas emissions reductions; and

(d)(A) Periodically evaluate the greenhouse gas emissions reduction goals established by ORS 468A.205 and, as necessary, make recommendations to the Legislative Assembly for updating those goals based on the best available science.

(B) At a minimum, the commission shall complete an evaluation and provide any recommendations to the Legislative Assembly, in the manner provided in ORS 192.245, no later than 18 months after the date on which the United Nations Intergovernmental Panel on Climate Change publishes a synthesis report or the United States Global Change Research Program publishes a national climate assessment.

SECTION 48. ORS 468A.255 is amended to read:

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

SECTION 49. ORS 468A.260 is amended to read:

468A.260. The Oregon [*Global Warming*] **Climate Action** Commission shall submit a report to the Legislative Assembly, in the manner provided by ORS 192.245, by [*March 31*] **December 1** of each [*odd-numbered*] **even-numbered** year that describes Oregon's progress toward achievement of the greenhouse gas emissions reduction goals established by ORS 468A.205. The report may include relevant issues and trends of significance, including trends of greenhouse gas emissions, emerging public policy and technological advances. The report also may discuss measures the state may adopt to mitigate the impacts of global warming on the environment, the economy and the residents of Oregon and to prepare for those impacts.

SECTION 50. ORS 352.823 is amended to read:

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

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

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

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

- (c) Provide climate change information to the public in integrated and accessible formats;
- (d) Support the Oregon [*Global Warming*] **Climate Action** Commission in developing strategies to prepare for and to mitigate the effects of climate change on natural and human systems; and
- (e) Provide technical assistance to local governments to assist them in developing climate change policies, practices and programs.

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

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

SECTION 51. (1) **The amendments to ORS 352.823, 468A.215, 468A.220, 468A.225, 468A.230, 468A.235, 468A.240, 468A.245, 468A.250, 468A.255 and 468A.260 by sections 40 to 50 of this 2023 Act are intended to change the name of the “Oregon Global Warming Commission” to the “Oregon Climate Action Commission.”**

(2) **For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Oregon Global Warming Commission,” wherever they occur in statutory law, other words designating the “Oregon Climate Action Commission.”**

OPPORTUNITIES TO REDUCE OREGON’S CONSUMPTION-BASED GREENHOUSE GAS EMISSIONS

SECTION 52. (1) **The Department of Environmental Quality, in consultation with the Oregon Climate Action Commission, shall evaluate opportunities to reduce Oregon’s consumption-based greenhouse gas emissions. The department shall present its findings in a report submitted in the manner provided in ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to the environment, and the commission, no later than September 15, 2024.**

(2) **The report under this section must:**

- (a) **Update Oregon’s consumption-based greenhouse gas emissions inventory;**
- (b) **Identify opportunities to reduce consumption-based greenhouse gas emissions through materials management or other state programs or policies;**
- (c) **Include recommendations for regularly updating the consumption-based greenhouse gas emissions inventory; and**
- (d) **Evaluate the effects of consumption-based greenhouse gas emissions reductions, taking into account economic, social and environmental factors.**

STATE POLICY FOR NATURAL CLIMATE SOLUTIONS

SECTION 53. **As used in sections 53 to 63 of this 2023 Act:**

(1) **“Biological carbon sequestration” means the removal of carbon from the atmosphere by plants and microorganisms and storage of carbon dioxide in vegetation, such as grasslands, marshes or forests, or in soils and oceans.**

(2) **“Climate resilience” means the capability to anticipate, prepare for, respond to and recover from significant climate-related threats while minimizing damage to social well-being, the economy and ecosystem functions.**

(3) **“Environmental justice community” has the meaning given that term in ORS 182.535.**

(4) **“Natural and working lands” means:**

- (a) **Lands:**

(A) Actively used by an agricultural owner or operator for an agricultural operation, including but not limited to active engagement in farming or ranching;

(B) Producing forest products;

(C) Consisting of forests, woodlands, grasslands, sagebrush steppes, deserts, freshwater and riparian systems, wetlands, coastal and estuarine areas or the submerged and submersible lands within Oregon's territorial sea and marine habitats associated with those lands;

(D) That are privately owned and that are eligible for special assessment under ORS chapter 308A;

(E) Used for recreational purposes, including, but not limited to, parks, trails, greenbelts and other similar open space lands; or

(F) Consisting of trees, other vegetation and soils in urban and near-urban areas, including, but not limited to, urban watersheds, street trees, park trees, residential trees and riparian habitats; and

(b) Lands described in paragraph (a) of this subsection that are:

(A) Held in trust by the United States for the benefit of any of the nine federally recognized Indian tribes in this state;

(B) Held in trust by the United States for the benefit of individual members of any of the nine federally recognized Indian tribes in this state;

(C) Within the boundaries of the reservation of any of the nine federally recognized Indian tribes in this state; or

(D) Otherwise owned or controlled by any of the nine federally recognized Indian tribes in this state.

(5) "Natural climate solution" means an activity that enhances or protects net biological carbon sequestration on natural and working lands, while maintaining or increasing ecosystem resilience and human well-being.

SECTION 54. The Legislative Assembly declares that it is the policy of this state to:

(1) Implement strategies to advance natural climate solutions to mitigate the future impacts of climate change.

(2) Invest in research to improve our understanding of:

(a) The effects of natural climate solutions on natural and working lands;

(b) The climate, ecosystem and carbon benefits of products from natural and working lands;

(c) The contributions of natural climate solutions to reducing greenhouse gas emissions, increasing net carbon sequestration and storage and strengthening climate resilience; and

(d) The cobenefits that communities and Indian tribes derive from natural climate solutions.

(3) Incentivize and implement natural climate solutions by:

(a) Securing and leveraging federal and private investments in natural climate solutions on natural and working lands;

(b) Prioritizing the use of existing programs;

(c) Ensuring equitable benefits of climate mitigation for environmental justice communities, landowners and land managers; and

(d) Ensuring that a diversity of landowners and managers are able to voluntarily participate in incentive-based programs for natural climate solutions and climate resilience through activities that may include, but are not limited to:

(A) Removing barriers for Indian tribes, environmental justice communities, landowners and land managers to engage in natural climate solutions or access funding to support natural climate solutions;

(B) Identifying resources to provide incentives to land managers interested in voluntarily adopting practices that optimize natural climate solutions;

(C) Strengthening education, engagement and technical assistance efforts for land managers, Indian tribes and environmental justice communities;

(D) Providing financial assistance for Indian tribes, local governments or nongovernmental organizations for the purpose of entering into voluntary transactions with willing landowners to acquire natural and working lands to enhance the local benefits of natural climate solutions;

(E) Increasing and deploying natural climate solutions in and around our urban and built environment; and

(F) Optimizing the social, health, ecological, climate resilience and economic benefits of natural climate solutions, including:

(i) Reducing heat island effects;

(ii) Improving air quality;

(iii) Improving flood control;

(iv) Improving soil health and productivity;

(v) Improving wildfire resilience and community protection;

(vi) Improving drought resilience and response;

(vii) Improving stream health, wetland recovery and riparian functionality;

(viii) Protecting and recovering drinking watersheds for enhanced water quality and quantity;

(ix) Maintaining or increasing short-term, mid-term and long-term fiber supplies;

(x) Maintaining or increasing food supplies;

(xi) Increasing the climate resilience of fish, wildlife and their habitats;

(xii) Improving protection for coastal communities from the impacts of storm surge; and

(xiii) Improving public health.

SECTION 55. (1) The Natural and Working Lands Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Natural and Working Lands Fund shall be credited to the fund. Moneys in the Natural and Working Lands Fund are continuously appropriated to the Oregon Watershed Enhancement Board for the purpose of transferring moneys to the funds described in subsection (2) of this section as directed by the Oregon Global Warming Commission under section 56 of this 2023 Act.

(2) The board shall annually transfer moneys in the Natural and Working Lands Fund to the following funds in accordance with section 56 of this 2023 Act:

(a) The Agriculture Natural Climate Solutions Fund established under section 64 of this 2023 Act.

(b) The Forestry Natural Climate Solutions Fund established under section 65 of this 2023 Act.

(c) The Watershed Natural Climate Solutions Fund established under section 66 of this 2023 Act.

(d) The Fish and Wildlife Natural Climate Solutions Fund established under section 67 of this 2023 Act.

SECTION 56. (1)(a) The Oregon Global Warming Commission shall annually determine amounts to be allocated from the Natural and Working Lands Fund. The commission shall evaluate the following factors when determining amounts to allocate under this subsection:

(A) The expected ability of each agency to carry out programs or other activities under this section; and

(B) The degree to which moneys allocated to the agency may be used to secure federal funding or other sources of funding.

(b) Prior to determining the allocations under this subsection, the commission shall consult with the State Department of Agriculture, the State Forestry Department, the State Department of Fish and Wildlife and the Oregon Watershed Enhancement Board to determine each agency's proposed uses for moneys allocated from the Natural and Working Lands Fund.

(c) In accordance with the provisions of ORS chapter 183, the commission may adopt rules for determining the amount of allocations to agencies as provided in this subsection.

(2) The Oregon Watershed Enhancement Board shall transfer moneys under section 55 of this 2023 Act when directed to do so by the commission in the amounts determined by the commission.

(3) The State Department of Agriculture, the State Forestry Department and the Oregon Watershed Enhancement Board shall use moneys allocated from the Natural and Working Lands Fund to establish and implement programs to:

(a) Provide incentives to help landowners, Indian tribes, land managers and environmental justice communities adopt practices that support natural climate solutions; and

(b) Provide financial assistance for technical support for landowners, Indian tribes, land managers and environmental justice communities for the adoption of natural climate solutions.

(4) Of the moneys expended by each agency pursuant to subsection (3) of this section, priority shall be given to expenditures for:

(a) Technical assistance to environmental justice communities or Indian tribes; and

(b) Incentives for programs or activities supported by an environmental justice community or supported by a resolution of an Indian tribe, with priority given to those projects or activities administered or proposed by an environmental justice community or an Indian tribe.

(5) The State Department of Fish and Wildlife shall use moneys allocated from the Natural and Working Lands Fund to promote natural climate solutions and mitigate the future impacts of climate change by:

(a) Conducting research to understand:

(A) The effects of natural climate solutions on natural and working lands;

(B) The climate, ecosystem and carbon benefits of products from natural and working lands;

(C) The contributions of natural climate solutions to reducing greenhouse gas emissions, increasing net carbon sequestration and storage and strengthening climate resilience; and

(D) The cobenefits to communities and Indian tribes that derive from natural climate solutions.

(b)(A) Relying on existing programs where possible, securing federal matching funds or other sources of funding to support investments in natural climate solutions on natural and working lands.

(B) In carrying out this paragraph, the department shall ensure the benefits of natural climate solutions are equitably distributed among landowners, Indian tribes, land managers and environmental justice communities.

(6) The State Department of Agriculture, the State Forestry Department, the State Department of Fish and Wildlife and the Oregon Watershed Enhancement Board, in consultation with the Oregon Global Warming Commission, may adopt rules as necessary to carry out the programs described in this section. Rules adopted by agencies administering programs for financial assistance or incentives may include, but need not be limited to, rules establishing application procedures, eligibility criteria, maximum amounts for individual grant awards and reporting requirements for grant recipients.

(7) The Oregon Global Warming Commission, the State Department of Agriculture, the State Forestry Department, the State Department of Fish and Wildlife and the Oregon Watershed Enhancement Board shall jointly:

(a) Coordinate, to the maximum extent practicable, on the development and implementation of programs and activities related to natural climate solutions to reduce duplication and overlapping or redundant efforts;

(b) Review, at regular intervals, progress made in implementing natural climate solutions and barriers to future implementation;

- (c) Identify opportunities for cross-agency coordination on natural climate solutions; and
- (d) Identify opportunities for leveraging natural climate solution capacities across agencies.

(8) The Oregon Global Warming Commission shall provide a summary of the uses of the Natural and Working Lands Fund, and identify additional funding needs, in a report to the committees of the Legislative Assembly related to the environment, in the manner provided by ORS 192.245, no later than September 15 of each year.

(9) The State Department of Energy shall provide staff support to the commission for the purpose of carrying out the commission's responsibilities under this section. The department may contract with a third party to provide staff support services described in this subsection.

SECTION 57. (1) No later than December 1 of each even-numbered year, the Oregon Global Warming Commission, in consultation with the State Department of Energy, the State Department of Agriculture, the State Forestry Department, the State Department of Fish and Wildlife and the Oregon Watershed Enhancement Board, shall submit a report, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to the environment and the Governor. The report shall include:

(a) A list of projects funded by the Natural and Working Lands Fund during the previous 24 months and the amount expended for each project.

(b) A summary of state, federal and private sources of funding for natural climate solutions projects funded by the Natural and Working Lands Fund established under section 55 of this 2023 Act.

(c) An assessment of projects described in paragraphs (a) and (b) of this subsection in light of the baseline and metrics adopted under section 58 of this 2023 Act.

(d) A list of projects, grants or other activities that are planned for the upcoming calendar year.

(e) A list of projects deployed in environmental justice communities.

(2) Before finalizing the report under subsection (1) of this section, the commission shall solicit public comment on the report and include a summary of comments received in the final version of the report submitted to the Legislative Assembly and Governor.

(3) The State Department of Energy shall provide staff support to the commission for the purpose of preparing the report under this section. The department may contract with a third party to provide staff support services described in this subsection.

SECTION 58. (1) The State Department of Energy and the Oregon Global Warming Commission shall, in coordination with the State Forestry Department, the State Department of Agriculture, the State Department of Fish and Wildlife, the Oregon Watershed Enhancement Board the Department of State Lands, the State Parks and Recreation Department and the Department of Land Conservation and Development, and in consultation with relevant federal agencies, establish and maintain:

(a) A net biological carbon sequestration and storage baseline for natural and working lands;

(b) Activity-based metrics in accordance with subsection (3) of this section; and

(c) Community impact metrics in accordance with subsection (4) of this section.

(2) The net biological carbon sequestration and storage baseline may use 1990 as a baseline year if the department determines that there is adequate information to support setting the baseline at that year.

(3) Activity-based metrics shall be used to evaluate progress toward increasing net biological carbon sequestration and storage in natural and working lands, as measured against the net carbon sequestration and storage baseline. Activity-based metrics may include, but need not be limited to, acres of lands for which certain management practices have been adopted.

(4) Community impact metrics shall be used to evaluate the positive and negative effects, over time, of strategies for net biological carbon sequestration and storage in natural and working lands on landowners, land managers and communities. Community impact metrics may include, but need not be limited to:

(a) Metrics to measure the effects of net biological carbon sequestration and storage strategies on jobs, local economies, environmental integrity and public health; and

(b) Metrics to evaluate the accessibility of a diverse range of landowners to net biological carbon sequestration and storage programs.

(5) Before finalizing the net biological carbon sequestration and storage baseline, activity-based metrics and community impact metrics, the State Department of Energy and the commission shall make draft versions publicly available and receive comments from the public, state agencies and the advisory committee established under section 62 of this 2023 Act.

(6) The State Department of Energy and the Oregon Global Warming Commission, in consultation with the State Forestry Department, the State Department of Agriculture, the Oregon Watershed Enhancement Board, the State Department of Fish and Wildlife, shall, no later than January 1, 2025, establish nonbinding biological carbon sequestration and storage goals for Oregon's natural and working lands and update those goals as new information becomes available.

(7) The State Department of Energy may contract with a third party to assist the department in performing its duties under this section.

SECTION 59. (1) The State Department of Energy and the Oregon Global Warming Commission, in coordination with the State Forestry Department, the State Department of Agriculture, the Oregon Watershed Enhancement Board, the Department of State Lands, the Department of Land Conservation and Development and federal land management partners, shall develop a natural and working lands net biological carbon sequestration and storage inventory. The inventory must:

(a) Be based on the best available field-based and remote sensing data on biological carbon sequestration;

(b) To the greatest extent possible, be developed using methods consistent with methods used to assess greenhouse gas fluxes related to land use, land change and forestry for the United States Environmental Protection Agency's Inventory of U.S. Greenhouse Gas Emissions and Sinks; and

(c) Where feasible, utilize information from the environmental justice mapping tool developed under section 12, chapter 58, Oregon Laws 2022.

(2) Before finalizing the inventory, the State Department of Energy and the commission shall make a draft version publicly available and receive comments from the public, state agencies and the advisory committee established under section 62 of this 2023 Act.

(3) The State Department of Energy shall update the inventory and submit a report describing the inventory to the Oregon Global Warming Commission no later than December 1 of each even-numbered year.

(4) The State Department of Energy may contract with a third party to assist the department in performing its duties under this section.

SECTION 60. (1) The State Department of Energy, in coordination with the Oregon Global Warming Commission, shall study the workforce and training programs needed to support adoption of natural climate solutions on natural and working lands.

(2) The department shall provide the results of the study, and may include recommendations for legislation, in a report to the committees of the Legislative Assembly related to the environment, in the manner provided under ORS 192.245, no later than September 15, 2024.

(3) The department may contract with a third party to assist the department in performing its duties under this section.

SECTION 61. Section 60 of this 2023 Act is repealed on January 2, 2025.

SECTION 62. (1) The Oregon Global Warming Commission may appoint a natural and working lands advisory committee to advise the commission in the performance of the commission's duties under sections 53 to 63 of this 2023 Act. The commission shall seek recommendations for committee members from industry and advocacy associations where appropriate.

(2) The advisory committee shall consist of at least 15 members appointed as follows:

(a) One member with expertise in tribal culture, customs and government;

(b) One local government representative from a county whose primary economic activity is derived from the agriculture, forestry, fishing and hunting industries, as described by code 11 of the North American Industry Classification System;

(c) One member with expertise in urban forestry or parks management;

(d) Three members with experience in forestry or forest products, including one member who is a private forest landowner with less than 5,000 acres of forestland;

(e) Two members with expertise in agriculture, including one member who owns a small family farming operation;

(f) One member with expertise in livestock;

(g) One member with expertise in blue carbon;

(h) One member with expertise in environmental justice;

(i) Two members with expertise in conservation or environmental management; and

(j) Two members with expertise in landowner technical assistance.

(3) The commission may appoint additional members as needed to provide additional expertise or represent other interests.

(4) The State Department of Energy shall provide staff support for the advisory committee. The department may contract with a third party to provide staff support services under this subsection.

SECTION 63. The Oregon Global Warming Commission shall establish a process for consultation with representatives of federally recognized Indian tribes in this state to advise the commission on the performance of its duties under sections 53 to 63 of this 2023 Act, including the identification of opportunities to support indigenous practices and knowledge from tribal nations to sequester and store carbon on natural and working lands.

SECTION 64. (1) The Agriculture Natural Climate Solutions Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Agriculture Natural Climate Solutions Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to State Department of Agriculture to:

(a) Carry out the provisions of section 56 (3) of this 2023 Act; and

(b) For the administrative expenses of the department in implementing section 56 of this 2023 Act, except that no more than 10 percent of moneys may be used for administrative expenses.

(2) The Agriculture Natural Climate Solutions Fund consists of moneys transferred to the fund under section 55 of this 2023 Act.

SECTION 65. (1) The Forestry Natural Climate Solutions Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Forestry Natural Climate Solutions Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Forestry Department to:

(a) Carry out the provisions of section 56 (3) of this 2023 Act; and

(b) For the administrative expenses of the department in implementing section 56 of this 2023 Act, except that no more than 10 percent of moneys may be used for administrative expenses.

(2) The Forestry Natural Climate Solutions Fund consists of moneys transferred to the fund under section 55 of this 2023 Act.

SECTION 66. (1) The Watershed Natural Climate Solutions Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Watershed Natural Climate Solutions Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Watershed Enhancement Board to:

(a) Carry out the provisions of section 56 (3) of this 2023 Act; and

(b) For the administrative expenses of the board in implementing section 56 of this 2023 Act, except that no more than 10 percent of moneys may be used for administrative expenses.

(2) The Watershed Natural Climate Solutions Fund consists of moneys transferred to the fund under section 55 of this 2023 Act.

SECTION 67. (1) The Fish and Wildlife Natural Climate Solutions Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Fish and Wildlife Natural Climate Solutions Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife to:

(a) Carry out the provisions of section 56 (5) of this 2023 Act; and

(b) For the administrative expenses of the department in implementing section 56 of this 2023 Act, except that no more than 10 percent of moneys may be used for administrative expenses.

(2) The Fish and Wildlife Natural Climate Solutions Fund consists of moneys transferred to the fund under section 55 of this 2023 Act.

EXTENDS SUNSET FOR SOLAR AND STORAGE SYSTEM REBATE PROGRAM

SECTION 68. Section 5, chapter 655, Oregon Laws 2019, is amended to read:

Sec. 5. (1) Sections 1 to 4, **chapter 655, Oregon Laws 2019**, [of this 2019 Act] are repealed on January 2, [2024] **2029**.

(2) Any moneys remaining in the Rooftop Solar Incentive Fund on the date of the repeal specified in subsection (1) of this section that are unexpended, unobligated and not subject to any conditions shall be transferred to the General Fund.

SECTION 69. Section 1, chapter 655, Oregon Laws 2019, is amended to read:

Sec. 1. As used in sections 1 to 4, **chapter 655, Oregon Laws 2019** [of this 2019 Act]:

(1) “Contractor” means a person whose trade or business consists of offering for sale solar electric systems or paired solar and storage systems or of providing construction, installation or design services for solar electric systems or paired solar and storage systems.

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

(3) “Energy storage system” means commercially available technology that is capable of retaining energy, storing the energy for a period of time and transmitting the energy after storage.

(4) “Low-income service provider” means a nonresidential customer that provides health, dental, social, financial, energy conservation or other assistive services to low or moderate income persons or low or moderate income households, as further defined by the State Department of Energy by rule.

(5) “Net cost” means the actual cost of the purchase, construction and installation of a solar electric system or a paired solar and storage system, minus any incentive received for the system from the electric utility serving the customer for which the system is installed.

(6) “Paired solar and storage system” means a solar electric system and an energy storage system purchased **together**, constructed and installed [together] by the same contractor and paired such that the energy storage system provides storage capacity for electrical energy produced by the solar electric system.

(7) “Solar electric system” means any system, mechanism or series of mechanisms, including photovoltaic systems, that uses solar radiation to generate electrical energy.

RENEWABLE ENERGY PRODUCTION SYSTEM GRANT PROGRAM

SECTION 70. Notwithstanding ORS 469B.256:

(1) The State Department of Energy shall waive the requirement under ORS 469B.256 (2) that construction begin within 12 months of an award under ORS 469B.256 if the department finds that:

(a) Construction was delayed because of supply chain or workforce disruptions or shortages related to the COVID-19 pandemic; and

(b) Construction began between March 1, 2020, and March 31, 2022.

(2) A performance agreement is not void and the department may not revoke a grant if the department waives, pursuant to subsection (1) of this section, the requirement under ORS 469B.256 (2) that construction begin within 12 months of an award under ORS 469B.256.

**RESIDENTIAL HEAT PUMP PROGRAM;
AIR CONDITIONER AND AIR FILTER DEPLOYMENT PROGRAM**

SECTION 71. Section 2, chapter 86, Oregon Laws 2022, is amended to read:

Sec. 2. (1) As used in this section:

(a) “Extreme heat event” means a day on which [*National Weather Service of the National Oceanic and Atmospheric Administration has predicted or indicated that there exists a heat index of extreme caution for the county*] **the Housing and Community Services Department determines that a heat event has occurred based on a predicted or indicated excessive heat warning or heat advisory by the National Weather Service of the National Oceanic and Atmospheric Administration.**

(b) “Forecast zone” means a region for which the National Weather Service of the National Oceanic and Atmospheric Administration issues forecasts and some watches and warnings based on differences in weather.

~~[(b)]~~ (c) “Portable cooling device” includes air conditioners and evaporative coolers, including devices mounted in a window or that are designed to sit on the floor but not including devices whose installation or use requires alteration to the dwelling unit.

(2) A landlord may not prohibit or restrict a tenant from installing or using a portable cooling device of the tenant’s choosing, unless:

(a) The installation or use of the device would:

(A) Violate building codes or state or federal law;

(B) Violate the device manufacture’s written safety guidelines for the device;

(C) Damage the premises or render the premises uninhabitable; or

(D) Require amperage to power the device that cannot be accommodated by the power service to the building, dwelling unit or circuit;

(b) If the device would be installed in a window:

(A) The window is a necessary egress from the dwelling unit;

(B) The device would interfere with the tenant’s ability to lock a window that is accessible from outside;

(C) The device requires the use of brackets or other hardware that would damage or void the warranty of the window or frame, puncture the envelope of the building or otherwise cause significant damages;

(D) The restrictions require that the device be adequately drained to prevent damage to the dwelling unit or building; or

(E) The restrictions require that the device be installed in a manner that prevents risk of falling; or

(c) The restrictions require that the device be:

(A) Installed or removed by the landlord or landlord’s agent;

(B) Subject to inspection or servicing by the landlord or landlord’s agent; or

(C) Removed from October 1 through April 30.

(3) A landlord may not enforce a restriction on portable cooling devices against a tenant allowed under subsection (2) of this section unless the restrictions are in writing and delivered to the tenant. The written restrictions must include whether the landlord intends to operate, whenever there is an extreme heat event for the [county] **forecast zone** of the premises, one or more community cooling spaces available to the tenant that are located on or near the premises and that maintain a temperature of not higher than 80 degrees Fahrenheit.

(4) A landlord is immune from liability for any claim for damages, injury or death caused by a portable cooling device installed by the tenant.

(5) A landlord who must limit portable cooling devices for a building under subsection (2)(a)(D) of this section shall prioritize allowing the use of devices for individuals who require a device to accommodate a disability. A landlord is not responsible for any interruption in electrical service that is not caused by the landlord, including interruptions caused by an electrical supply's inability to accommodate use of a portable cooling device.

(6) If a landlord issues a termination notice under ORS 90.392 or 90.630 based on a violation of a restriction regulating a portable cooling device allowed under subsection (2) of this section:

(a) On each day that there is an extreme heat event for the [county] **forecast zone** of the premises, the notice period described in ORS 90.392 (3), (4), (5) or (6) or 90.630 (1), (3) or (6) does not run.

(b) The termination notice must state:

(A) The deadline of a cure period designated in the notice, if any;

(B) That the date of termination specified in the notice will be extended by one day for each day that there is an extreme heat event for the [county] **forecast zone** of the premises; and

(C) That information regarding days with an extreme heat event **for the forecast zone** can be found on the website for the Housing and Community Services Department.

SECTION 72. Section 10, chapter 86, Oregon Laws 2022, is amended to read:

Sec. 10. The Housing and Community Services Department shall make available on the department's website:

(1) A list of dates and counties in which there exists an extreme heat event **for a forecast zone in this state** as defined in section 2, **chapter 86, Oregon Laws 2022** [of this 2022 Act]. Dates published on the website must remain on the website for at least one year.

(2) Information regarding relevant programs and services available to landlords to provide adequate cooling under ORS 90.320 (1)(m) or 90.730 (3)(d), including:

(a) Programs administered by the department;

(b) Information provided by the Oregon Health Authority regarding programs administered by the authority, including the list of eligible distribution entities compiled under section 7 (5), **chapter 86, Oregon Laws 2022** [of this 2022 Act];

(c) Information provided by the State Department of Energy regarding programs administered by the department;

(d) Programs administered by the nongovernmental entity that administers public purpose charge moneys under ORS 757.612 (3)(d); and

(e) Federal programs, rebates or incentives, including those administered by the Bonneville Power Administration.

SECTION 73. Section 14, chapter 86, Oregon Laws 2022, is amended to read:

Sec. 14. (1) As used in this section:

(a) "Bulk fuel" means liquid petroleum, propane, coal, wood, wood-based products or other fuel delivered and stored until used on-site by the final consumer to produce energy.

(b) "Climate zone" means a heating or cooling climate zone assigned to a county by the Bonneville Power Administration.

(c) "Electric resistance heat" means heat produced by passing an electric current through a material that has high resistance, such as used in an electric baseboard, wall or space heater.

(d) "Electric utility" has the meaning given that term in ORS 757.600.

(e) "Eligible entity" means a:

- (A) Local government as defined in ORS 174.116;
 - (B) Local housing authority;
 - (C) Nonprofit organization;
 - (D) Federally recognized Indian tribe in Oregon;
 - (E) Coordinated care organization as defined in ORS 414.025;
 - (F) Community action agency as described in ORS 458.505;
 - (G) Manufactured dwelling park nonprofit cooperative as defined in ORS 62.803; or
 - (H) An electric utility.
 - (f) “Energy burden” means the percentage of gross household income spent on energy costs.
 - (g) “Environmental justice communities” has the meaning given that term in ORS 469A.400.
 - (h) “Heat pump” means an air-source or ground-source heat pump with an energy efficiency rating set by the State Department of Energy under subsection (5) of this section or a higher efficiency rating.
 - (i) “Region” means an economic development district in Oregon, designated by the Economic Development Administration of the United States Department of Commerce, for which a regional solutions center has been established under ORS 284.754.
- (2) The Heat Pump Deployment Program is established within the State Department of Energy. The purpose of the program is to award grants to one eligible entity for each region and federally recognized Indian tribe in Oregon to provide financial assistance, including loans, grants, rebates or incentives, for the purchase and installation of heat pumps and related upgrades to individuals who reside within that region or who are members of that tribe.
- (3)(a) To be eligible to receive a grant from the Heat Pump Deployment Program, an eligible entity must establish that it:
- (A) Serves or represents:
 - (i) An environmental justice community or communities within a region; or
 - (ii) Members of a federally recognized Indian tribe in Oregon; and
 - (B) Has the capacity to administer grant funds received under this section.
- (b) An eligible entity applying for a grant may partner with other eligible entities, but the entity that is awarded the grant shall take a lead role in administering grant funds and providing financial assistance.
- (c) An eligible entity that serves or represents a community that is located within more than one region may apply for a grant only for the region within which the greatest percentage of the individuals of that community reside.
- (d) An eligible entity that serves a specific geographical area may propose, in consultation with any electric utility that serves the area, that the department use alternative boundaries to define a region. The department may approve the use of alternative boundaries to define a region provided that a minimum percentage, as determined by the department, of the eligible entity’s specific geographical area is within the alternative boundaries of the region.
- (e) If an electric utility is awarded a grant from the Heat Pump Deployment Program:
- (A) The electric utility may provide financial assistance from grant funds only to individuals who reside within the electric utility’s service area and within the region for which the electric utility is awarded a grant.
 - (B) The electric utility shall partner with one or more other eligible entities to provide financial assistance from grant funds to individuals who reside outside the electric utility’s service area and within the region for which the electric utility is awarded a grant.
- (4) An eligible entity that is awarded a grant from the Heat Pump Deployment Program shall:
- (a) Use the grant funds to cover up to:
 - (A) One hundred percent of the purchase and installation costs of a heat pump.
 - (B) A percentage, as determined by the department, of the costs for related upgrades that support or enable the use of a heat pump, including:
 - (i) A new electrical panel or other upgrades to the electrical system of a home or building.
 - (ii) Weatherization or other structural repairs to reduce home or building heat and cooling loss.

- (iii) Upgrades to improve the airflow of a home or building.
- (b) Prioritize the provision of financial assistance to:
 - (A) Environmental justice communities.
 - (B) Individuals who rely on bulk fuels or electric resistance heating.
 - (C) Individuals who reside in a home or structure that does not have a functioning heating or cooling system.
- (c) Enter into a performance agreement with the department as described in subsection (8) of this section.
 - (5) The department shall:
 - (a) Award grants using available funds in the Heat Pump Deployment Fund established under section 16, **chapter 86, Oregon Laws 2022** [of this 2022 Act].
 - (b) In awarding grants, give preference to eligible entities with:
 - (A) Experience in administering state grant programs or programs similar to the Heat Pump Deployment Program.
 - (B) Experience with community program development within a region or with members of a tribe.
 - (C) Connections to communities within a region or with members of a tribe.
 - (c) Develop criteria for allocating the amount of each grant based on the energy burden of residences within the region or of members of the tribe and the climate zones that make up the counties of that region or of tribal lands.
 - (d) Permit a review of awarded grant funds by members of communities who may benefit from the Heat Pump Deployment Program.
 - (e) In consultation with electric utilities, the Bonneville Power Administration and the nongovernmental entity that administers public purpose charge moneys collected under ORS 757.612 (3)(d), set the minimum energy efficiency rating that a heat pump must have to be eligible for grant funds. The minimum energy efficiency rating for a heat pump set by the department must be equal to or greater than federal energy efficiency rating standards for heat pumps.
 - (6) The department may not use moneys collected through the energy resource supplier assessment required under ORS 469.421 (8) to fund grants awarded under the Heat Pump Deployment Program.
 - (7) The department may:
 - (a) Establish a maximum amount of grant funds payable toward the purchase and installation of a heat pump and related upgrades.
 - (b) Permit the use of loans, grants, rebates or incentives offered by an electric utility or other programs toward any costs of the purchase and installation of a heat pump and related upgrades not covered by the Heat Pump Deployment Program.
 - (c) Provide information to individuals receiving financial assistance from the Heat Pump Deployment Program about other loans, grants, rebates or incentives that may be offered by an electric utility or other programs.
 - (d) Develop criteria for how specific loans, grants, rebates or incentives offered by an electric utility or other programs may be used toward the costs of the purchase or installation of a heat pump and related upgrades.
 - (e) Establish incentives to encourage the purchase and installation of heat pumps and related upgrades that have higher efficiency ratings.
 - (f) Establish incentives for the purchase and installation of a heating or cooling device that has an efficiency rating similar to or higher than that of a heat pump and that provides additional benefits such as improving indoor air quality or lowering an individual's energy burden.
 - (g) Develop program procedures and practices that align with the reporting and other requirements of loans, grants, rebates or incentives offered by an electric utility or other programs.
 - (h) Require, by rule, that eligible entities notify electric utilities of a heat pump installation and whether grant funds may be used for necessary electric distribution system upgrades associated with the installation of the heat pump.

(8) Before receiving a grant under this section, an eligible entity shall enter into a performance agreement with the department that:

- (a) Indicates the purposes for which the grant funds may be used;
- (b) Prohibits the eligible entity from using more than 15 percent of awarded grant funds for administrative expenses and marketing costs;
- (c) Includes the repayment provisions set forth in subsection (9) of this section;
- (d) Permits the department to conduct audits and investigations of the eligible entity regarding the use of grant funds; and
- (e) Requires the eligible entity to provide reports as required by subsection (10) of this section.

(9) An eligible entity must repay to the department, in whole or in part, grant funds received under this section to the extent that:

(a) The eligible entity does not use the grant funds in accordance with the provisions of the performance agreement executed between the department and the eligible entity under subsection (8) of this section; or

(b) The Director of the State Department of Energy determines that the eligible entity must repay all or part of the grant funds on grounds of misappropriation, fraud or similar reasons after auditing or investigating the eligible entity's operations and conducting a contested case hearing under ORS 183.413 to 183.470.

(10) Each eligible entity that receives a grant under this section shall report to the department [by June 30 of] each year concerning the status and use of grant funds **for the period of July 1 to June 30. The report must be submitted on a schedule determined by the department.** The report may not disclose the personal information of the recipients of financial assistance under the program. The report must include:

- (a) A detailed description of the eligible entity's use of grant funds;
- (b) A list of each loan, grant or other financial assistance that the eligible entity has provided and, where applicable, a full accounting of the repayment status of the loans;
- (c) The nature and amounts of the administrative expenses and marketing costs the eligible entity has incurred in providing loans, grants and other financial assistance under the program; and
- (d) Any other information required by the department.

(11) The department shall adopt rules to carry out the provisions of this section. The rules shall be developed in consultation with:

- (a) The Bureau of Labor and Industries on issues related to the workforce.
- (b) The Building Codes Division of the Department of Consumer and Business Services on issues related to building codes and commissioning.
- (c) The Housing and Community Services Department to ensure the Heat Pump Deployment Program complements any existing programs or services.
- (d) The Department of Environmental Quality on issues of air quality related to bulk fuels and to ensure the Heat Pump Deployment Program complements any existing programs or services.
- (e) The Oregon Health Authority on any health impacts and health impact data related to the Heat Pump Deployment Program and to ensure the program complements any existing programs or services.
- (f) Electric utilities and utility program administrators on any impacts the Heat Pump Deployment Program may have on utility systems or services and to ensure the program complements any existing programs, incentives or services.
- (g) Nonprofit organizations, housing providers, heat pump technicians and other stakeholders as appropriate.

SECTION 74. Section 17, chapter 86, Oregon Laws 2022, is amended to read:

Sec. 17. The Director of the State Department of Energy shall submit the first biennial report required under section 16, **chapter 86, Oregon Laws 2022**, [of this 2022 Act] to the Legislative Assembly no later than [December 31,] **October 15, 2023**.

SECTION 75. Section 21, chapter 86, Oregon Laws 2022, is amended to read:

Sec. 21. (1) The Residential Heat Pump Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys in the Residential Heat Pump Fund consist of:

- (a) Amounts donated to the fund;
- (b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly; and
- (c) Other amounts deposited into the fund from any public or private source.

(2) Moneys in the fund are continuously appropriated to the State Department of Energy to be used to provide grants and rebates under sections 19 and 20, **chapter 86, Oregon Laws 2022**, [of this 2022 Act] and to pay the costs and expenses of the department related to the administration and implementation of sections 19 and 20, **chapter 86, Oregon Laws 2022** [of this 2022 Act].

(3) In each calendar year, of the moneys available for issuing grants and rebate from the fund:

- (a) 25 percent must be reserved for affordable housing providers; and
- (b) 25 percent must be reserved [for loans] for owners of units occupied by [households whose income is less than 80 percent of the area median income] **low or moderate income households**.

SECTION 76. Section 23, chapter 86, Oregon Laws 2022, is amended to read:

Sec. 23. (1) Sections 19 to 21, **chapter 86, Oregon Laws 2022**, [of this 2022 Act] are repealed on January 2, [2025] **2026**.

(2) On the date of the repeal of sections 19 to 21, **chapter 86, Oregon Laws 2022**, [of this 2022 Act] under subsection (1) of this section, any moneys in the Residential Heat Pump Fund that are unexpended, unobligated and not subject to any conditions or reservations under section 19 (3)(a), **chapter 86, Oregon Laws 2022**, [of this 2022 Act] are transferred to the General Fund.

SECTION 77. Section 24, chapter 86, Oregon Laws 2022, is amended to read:

Sec. 24. (1) The State Department of Energy shall provide a grant to the nongovernmental entity that administers public purpose charge moneys under ORS 757.612 (3)(d) to enable the nongovernmental entity to assist landlords in creating or operating, whenever there is an extreme heat event [as defined in section 2 of this 2022 Act for the county of the premises] **for the forecast zone of the premises as described in section 2, chapter 86, Oregon Laws 2022**, one or more private community cooling spaces available to the landlord's tenants during the extreme heat event that are on or near the premises and that maintain a temperature of not higher than 80 degrees Fahrenheit.

(2) Assistance provided under this section may include:

(a) Grants to landlords to create or operate community cooling spaces that will accommodate at least five individuals.

(b) Information to landlords regarding:

- (A) Lists of providers and installers of suitable cooling devices;
- (B) Private and government programs that may be used to create or operate community cooling spaces; and
- (C) Best practices and model technical specifications for installing and operating various temporary and permanent community cooling spaces.

(c) Promoting the services relating to community cooling spaces under this section that are provided by the nongovernmental entity.

(3) The nongovernmental entity receiving a grant under this section shall maintain separate accounting of the expenditures of the grant funds and shall report the accounting to the Public Utility Commission and the independent auditor described in ORS 757.746 (1)(d). The nongovernmental entity may not utilize moneys received under ORS 757.054 (4) or 757.612 (3)(d) for grant purposes under this section.

SECTION 78. Section 29, chapter 86, Oregon Laws 2022, is amended to read:

Sec. 29. No later than [September 15,] **December 31, 2023**, the State Department of Energy shall provide a report to an appropriate interim committee of the Legislative Assembly in the manner provided in ORS 192.245 on:

(1) The heat pump grants and rebates under sections 19 and 20, **chapter 86, Oregon Laws 2022** [of this 2022 Act];

(2) The community cooling spaces under section 24, **chapter 86, Oregon Laws 2022** [of this 2022 Act]; and

(3) The results of the cooling needs study under section 26, **chapter 86, Oregon Laws 2022** [*of this 2022 Act*].

COMMUNITY CLIMATE INVESTMENT ENTITIES

SECTION 79. Sections 80 and 81 of this 2023 Act are added to and made a part of ORS chapter 468A.

SECTION 80. (1) As used in this section and section 81 of this 2023 Act:

(a) “Climate protection program” means the program to reduce greenhouse gas emissions from certain air contamination sources in Oregon, first adopted by the Environmental Quality Commission by rule on December 16, 2021.

(b) “Community climate investment entity” means a nonprofit organization that has been approved by the Department of Environmental Quality and has entered into a written agreement with the department to implement projects supported by community climate investment funds.

(c) “Community climate investment funds” means moneys paid by a covered fuel supplier to a community climate investment entity to support implementation of community climate investment projects.

(d) “Covered fuel supplier” means a fuel supplier, in-state producer or local distribution company subject to the requirements of the climate protection program.

(2) The commission may establish by rule a fee to be paid by community climate investment entities. The fee established under this section:

(a) Must be reasonably calculated to cover the costs to the department of administering and overseeing those portions of the climate protection program related to community climate investments; and

(b) May not exceed five percent of the total community climate investment funds received by a community climate investment entity during the period for which the fee applies.

(3) Fees collected under this section shall be deposited into the Community Climate Investment Oversight Account established under section 81 of this 2023 Act.

SECTION 81. The Community Climate Investment Oversight Account is established, separate and distinct from the General Fund. The account consists of moneys deposited into the account under section 80 of this 2023 Act and moneys transferred or appropriated to the account by the Legislative Assembly. Interest earned by the account shall be credited to the account. All moneys in the account are continuously appropriated to the Department of Environmental Quality and may be used only to pay the costs of administering and overseeing those portions of the climate protection program related to community climate investments.

HARMFUL ALGAL BLOOMS

SECTION 82. Section 83 of this 2023 Act is added to and made a part of ORS 448.119 to 448.285.

SECTION 83. (1) The Legislative Assembly finds and declares harmful algal blooms to be a threat to safe drinking water supplies and a menace to public health and welfare.

(2) The Oregon Health Authority, in coordination with the Department of Environmental Quality as further provided for in section 85 of this 2023 Act, shall:

(a) Determine and identify drinking water sources that are susceptible to harmful algal blooms or that are downstream of or influenced by water bodies that are susceptible to harmful algal blooms.

(b) Develop a system for the regular monitoring and testing of drinking water sources determined to be susceptible to harmful algal blooms or that are downstream of or influenced by water bodies that are susceptible to harmful algal blooms.

(c) Prioritize monitoring of water bodies that are susceptible to harmful algal blooms and that are:

(A) Sources of domestic or municipal drinking water; or

(B) Bodies of water accessed by the public for recreational use.

(d) Develop a protocol for issuing hazard advisory alerts to the public in the occurrence of a harmful algal bloom.

SECTION 84. Section 85 of this 2023 Act is added to and made a part of ORS chapter 468B.

SECTION 85. (1) The Department of Environmental Quality, in coordination with the Oregon Health Authority, shall:

(a) Develop and maintain a coordinated state agency harmful algal bloom monitoring and response strategy.

(b) Develop a system for the regular monitoring and testing of water bodies determined to be susceptible to harmful algal blooms or that are downstream of or influenced by water bodies that are susceptible to harmful algal blooms.

(c) Produce timely and high-quality data that allow the authority to determine the level of risk of harm or injury to public health by the occurrence of harmful algal blooms.

(d) Maintain a publicly accessible clearinghouse or database of water quality samples collected to characterize freshwater harmful algal blooms.

(e) Identify sources of pollutants that contribute to the occurrences of harmful algal blooms.

(f) Develop and implement strategies for reducing pollutants that contribute to the occurrences of harmful algal blooms and the frequency and severity of harmful algal blooms.

(g) Monitor and evaluate the effectiveness of strategies implemented for reducing pollutants that contribute to the occurrences of harmful algal blooms.

(2)(a) As part of the state agency harmful algal bloom monitoring and response strategy developed by the department under subsection (1) of this section, the department shall make efforts to determine the causes of harmful algal blooms and to identify any point sources or nonpoint sources that contribute to the susceptibility of specific bodies of water to harmful algal blooms.

(b) The department shall work with persons to develop pollution reduction plans for point sources and nonpoint sources identified under paragraph (a) of this subsection.

RESILIENCE HUBS AND NETWORKS

SECTION 86. (1) As used in this section:

(a) “Resilience Hub” means a physical facility that is operated, managed or supported by one or more local residents, local governments, tribal governments, public schools, community-based organizations, faith-based organizations, nonprofit organizations or non-governmental organizations and that:

(A) Supports the needs of community members or tribal communities, facilitates gathering and communication, distributes resources and otherwise enhances quality of life within a community;

(B) Serves as a central point for gathering, information sharing, and coordination in response to a disruption in the community;

(C) Enhances the ability of a community to respond to and recover from a disruption in a community;

(D) Is positioned, operated and resourced on a day-to-day basis to provide community resources, including but not limited to food, water, information exchange, electronic charging stations, basic medical supplies and equipment proportionate to the size of the community’s population and needs;

(E) Supports community cache sites and other support for community members who shelter in place;

(F) Can provide child care, training, food distribution and other services that can help a community respond to unmet social needs to prepare for, respond to and recover from disasters;

(G) Can provide, or can be retrofitted to provide, heating, cooling, air filtration and weather protection; and

(H) Accommodates individuals with accessibility needs.

(b) “Resilience Network” means an association of facilities, organizations, resource providers or service providers outside of a physical Resilience Hub facility that collectively serve the purposes of a Resilience Hub.

(2) The Department of Human Services shall, in consultation with the State Department of Energy and the Oregon Health Authority, provide grants, support and technical assistance for Resilience Hubs and Networks in Oregon. The Department of Human Services shall award:

(a) Grants for expenses related to planning and organizing Resilience Hubs and Networks;

(b) Grants to support and expand development and operation of Resilience Hubs and Networks to ensure that physical facilities can provide protection from extreme weather, can maintain power and climate during power outages, have auxiliary communications capabilities and are resilient following earthquakes, fires, tornadoes, floods, other extreme weather events and other potential disasters, emergencies or incidents; and

(c) Grants for resources and services needed by communities to otherwise prepare for and respond to disasters.

(3) Individuals or organizations may apply for grants by submitting an application that must include:

(a) A description of the purposes for which grant moneys will be expended;

(b) A plan for implementing specific strategies to build resilience in a community;

(c) A description of additional resources available for purposes of the Resilience Hub or Network;

(d) A description of the project’s ability to serve vulnerable populations and communities traditionally underrepresented in the public process, including communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure, seniors, youth and persons with disabilities; and

(e) Any other information required by the department.

(4) The department shall execute grant agreements with grant recipients obligating recipients to use grant moneys for purposes specified in the grant agreements. The department, in consultation with the State Department of Energy and the Oregon Health Authority, shall determine the permissible purposes for a grant under this section based on the needs of the Resilience Hub or Network. The department shall determine the needs of the Resilience Hub or Network in consultation with the community, including populations described in subsection (3)(d) of this section, within the locality in which the Resilience Hub or Network operates.

(5) The Department of Human Services shall adopt rules necessary for the administration of this section, including specifying the form and contents of an application for a grant under this section.

APPROPRIATIONS

SECTION 87. In addition to and not in lieu of any other appropriation, there is appropriated to the State Department of Energy, for the biennium beginning July 1, 2023, out of

the General Fund, the amount of \$525,467 for the purpose of carrying out the provisions of sections 1 to 5 of this 2023 Act.

SECTION 88. In addition to and not in lieu of any other appropriation, there is appropriated to the State Department of Energy, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$2,000,000, for deposit into the Energy Efficient Technologies Information and Training Fund established by section 5 of this 2023 Act.

SECTION 89. Notwithstanding any other law limiting expenditures, the amount of \$2,000,000 is established for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from the Energy Efficient Technologies Information and Training Fund, established by section 5 of this 2023 Act, by the State Department of Energy for carrying out the provisions of sections 1 to 5 of this 2023 Act.

SECTION 90. In addition to and not in lieu of any other appropriation, there is appropriated to the State Department of Energy, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$775,835, for the purpose of carrying out the provisions of sections 41 to 50 of this 2023 Act.

SECTION 91. In addition to and not in lieu of any other appropriation, there is appropriated to the State Department of Energy, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$1,526,146 for the purpose of carrying out the provisions of sections 56 to 60 of this 2023 Act.

SECTION 92. Notwithstanding any other provision of law, the General Fund appropriation made to the State Department of Energy by section 1 (1), chapter __, Oregon Laws 2023 (Enrolled House Bill 5016), for the biennium beginning July 1, 2023, for energy development services, is increased by \$4,982,860 for the purpose of carrying out the provisions of sections 8 to 17 of this 2023 Act.

SECTION 93. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (6), chapter __, Oregon Laws 2023 (Enrolled House Bill 5010), for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Department of Consumer and Business Services, for the Building Codes Division, is increased by \$756,051 for the purpose of carrying out the provisions of section 7 of this 2023 Act.

SECTION 94. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (6), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5502), for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and federal funds received from charges, but excluding lottery funds and federal funds not described in section 2, chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5502), collected or received by the Oregon Department of Administrative Services, for Enterprise Asset Management, is increased by \$669,112 for the purpose of carrying out the provisions of section 18 of this 2023 Act.

SECTION 95. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Land Conservation and Development by section 1 (1), chapter __, Oregon Laws 2023 (Enrolled House Bill 5027), for the biennium beginning July 1, 2023, for the planning program, is increased by \$1,240,433 for the purpose of carrying out the provisions of sections 24, 25, 26, 35 and 36 of this 2023 Act.

SECTION 96. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$6,500,000, to provide grants for green infrastructure projects under section 24 of this 2023 Act.

SECTION 97. Notwithstanding any other provision of law, the General Fund appropriation made to the State Forestry Department by section 1 (2), chapter __, Oregon Laws 2023 (Enrolled House Bill 5020), for the biennium beginning July 1, 2023, for forest resources, is

increased by \$516,248 for the purpose of carrying out the provisions of section 24 of this 2023 Act.

SECTION 98. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (4), chapter __, Oregon Laws 2023 (Enrolled House Bill 5020), for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and including federal funds from the United States Forest Service for fire protection and for research projects, but excluding lottery funds and federal funds not described in section 2, chapter __, Oregon Laws 2023 (Enrolled House Bill 5020), collected or received by the State Forestry Department, for forest resources, is increased by \$90,000 for the purpose of carrying out the provisions of section 24 of this 2023 Act.

SECTION 99. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Environmental Quality, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$3,000,000, for deposit into the Zero-Emission Medium and Heavy Duty Vehicle Incentive Fund established under section 34 of this 2023 Act.

SECTION 100. Notwithstanding any other law limiting expenditures, the amount of \$3,000,000 is established for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from the Zero-Emission Medium and Heavy Duty Vehicle Incentive Fund, established by section 34 of this 2023 Act, by the Department of Environment Quality for carrying out the provisions of sections 33 and 34 of this 2023 Act.

SECTION 101. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Environmental Quality by section 1 (2), chapter __, Oregon Laws 2023 (Enrolled House Bill 5018), for the biennium beginning July 1, 2023, for water quality, is increased by \$376,770 for the purpose of carrying out the provisions of sections 83 and 85 of this 2023 Act.

SECTION 102. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Watershed Enhancement Board, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$10,000,000, for deposit into the Natural and Working Lands Fund established by section 55 of this 2023 Act.

SECTION 103. Notwithstanding any other law limiting expenditures, the amount of \$10,000,000 is established for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from the Natural and Working Lands Fund, established by section 55 of this 2023 Act, by the Oregon Watershed Enhancement Board.

SECTION 104. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$188,664, for the purpose of carrying out sections 83 and 85 of this 2023 Act.

SECTION 105. In addition to and not in lieu of any other appropriation, there is appropriated to the Higher Education Coordinating Commission, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$3,000,000, for distribution to the College of Forestry at Oregon State University to carry out section 30 of this 2023 Act.

SECTION 106. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$199,007, for the program created under section 7, chapter 86, Oregon Laws 2022.

SECTION 107. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Human Services, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$10,187,615, to provide grants under section 86 of this 2023 Act.

SECTION 108. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3 (1), chapter __, Oregon Laws 2023 (Enrolled House Bill 5026), for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses

from federal funds, excluding federal funds described in section 2, chapter __, Oregon Laws 2023 (Enrolled House Bill 5026), collected or received by the Department of Human Services, for central services, is increased by \$125,081 for the purpose of carrying out the provisions of section 86 of this 2023 Act.

OPERATIVE DATES

SECTION 109. Sections 1 to 5, 7, 18, 21, 30 and 53 to 67 of this 2023 Act and the amendments to ORS 469.754, 469.756 and 530.050 by sections 19, 20 and 31 of this 2023 Act become operative on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

SECTION 110. Sections 32 to 34, 51, 52, 70 and 79 to 86 of this 2023 Act and the amendments to ORS 352.823, 468A.210, 468A.215, 468A.220, 468A.225, 468A.230, 468A.235, 468A.240, 468A.245, 468A.250, 468A.255 and 468A.260 and sections 1 and 5, chapter 655, Oregon Laws 2019, by sections 39 to 50, 68 and 69 of this 2023 Act become operative on January 1, 2024.

SECTION 111. (1) Section 6 of this 2023 Act becomes operative on January 1, 2024.

(2) The Director of the Department of Consumer and Business Services, after obtaining approval from the appropriate advisory boards, as applicable may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the director, on and after the operative date specified in subsection (1) of this section, to undertake and exercise all of the duties, functions and powers conferred on the director by section 6 of this 2023 Act.

UNIT CAPTIONS

SECTION 112. The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

DECLARING EMERGENCY

SECTION 113. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by House June 21, 2023

Repassed by House June 24, 2023

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Dan Rayfield, Speaker of House

Passed by Senate June 24, 2023

.....
Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Secretary of State