A-Engrossed

Senate Bill 1507

Ordered by the Senate February 16
Including Senate Amendments dated February 16

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SUMMARY

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

Requires Environmental Quality Commission to adopt by rule program that places cap on greenhouse gas emissions and that provides market-based mechanism for covered entities to demonstrate compliance. Establishes program advisory committee. Declares legislative purposes of program and related investments of moneys received as proceeds under market-based compliance mechanism.

Establishes certain statutory funds in State Treasury. Requires certain moneys received as proceeds under market-based compliance mechanism to be deposited in certain funds. Requires certain uses of moneys deposited in funds. Requires program advisory committee to submit biennial report to Governor, Oregon Transportation Commission and Legislative Assembly each even-numbered year.

Requires Oregon Transportation Commission to prepare and submit biennial transportation decarbonization investment proposal to Joint Legislative Committee on Climate and Oregon Department of Administrative Services. Requires Governor to consider investment and expenditures recommendations in biennial report during preparation of Governor’s budget.

Makes all provisions related to program adopted by commission and distribution of proceeds operative January 1, 2021. Authorizes commission and certain other agencies to adopt rules prior to operative date.

Repeals greenhouse gas emissions goals and requires commission to adopt by rule statewide greenhouse gas emissions goal for 2025 and limits for years 2035 and 2050.

Defines “greenhouse gas” for air pollution laws.

Establishes Joint Legislative Committee on Climate.

Modifies registration and greenhouse gas reporting requirements for certain persons.

Makes provisions related to Joint Legislative Committee on Climate, “greenhouse gas” definition, emissions limits and registration and reporting operative January 1, 2019.


Provides for expedited review of Act by Supreme Court upon petition by adversely affected party.

[Declares emergency, effective on passage.]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT


Whereas climate change and ocean acidification caused by greenhouse gas emissions threaten to have significant detrimental effects on public health and the economic vitality, natural resources and environment of this state; and

Whereas the diverse impacts of climate change and ocean acidification include the exacerbation of air quality problems, a reduction in the quantity and quality of water available to this state from

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

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mountain snowpack, a rise in sea levels resulting in the displacement of thousands of coastal busi-
nesses and residences, damage to marine ecosystems and food sources, the degradation of the na-
tural environment from increased severity of forest fires and pest infestations of stressed land-based
ecosystems, extreme weather events and an increase in the incidences of infectious diseases, asthma
and other human health-related problems; and

Whereas climate change has a disproportionate effect on fish and wildlife populations, many of
which require specific habitat conditions and are therefore particularly vulnerable to warmer tem-
peratures, modified precipitation patterns, diminished snowpack, ocean acidification and other ef-
fects of climate change; and

Whereas climate change and ocean acidification will have detrimental effects on some of this
state’s most important industries, including agriculture, forestry, commercial fishing, recreation and
tourism; and

Whereas this state’s forests and other natural and working lands are among the most productive
carbon sinks globally and provide many other important ecological, social and economic benefits
while the conversion of forests and other natural and working lands causes the emission of signif-
icant stored carbon dioxide and eliminates the potential for future sequestration; and

Whereas climate change will strain the electricity and domestic water supplies that are neces-
sary for economic stability and the most basic levels of human well-being and survival in this state;
and

Whereas national and international actions are necessary to fully address climate change and
ocean acidification; and

Whereas national actions in the United States are emerging too slowly to address the scope,
magnitude and urgency of climate change and ocean acidification; and

Whereas many greenhouse gases persist in the atmosphere for millennia, meaning that the costs
of early policy inaction will be severe; and

Whereas in the absence of effective national engagement, it is the responsibility of the individ-
ual states, deemed to be the laboratories of progress, to take immediate leadership actions to ad-
dress climate change and ocean acidification; and

Whereas by exercising a leadership role in addressing climate change and ocean acidification,
the State of Oregon will position its economy, technology centers, financial institutions and busi-
nesses to benefit from the national and international efforts that must occur to reduce greenhouse
gas emissions; and

Whereas by joining together with other leadership jurisdictions similarly resolved to address
climate change and ocean acidification, Oregon will help encourage more states, the federal gov-
ernment and the international community to act; and

Whereas global climate change has a disproportionate effect on impacted communities and In-
dian tribes, which typically have fewer resources for adapting to climate change and are therefore
the most vulnerable to displacement, adverse health effects, job loss, property damage and other
effects of climate change; and

Whereas climate change policies can be designed to protect impacted communities, Indian tribes,
rural communities and workers, including low-income households and people of color, from economic
costs and can provide cobenefits to and within these communities that include, but are not limited
to, opportunities for job creation and training, investments in infrastructure, affordable housing in-
vestment, economic development, air quality improvements, energy savings and conservation and
increased utilization of clean energy technologies; and

[2]
Whereas a key strategy in promoting net reductions of atmospheric carbon dioxide and adapting to climate change is preserving and maintaining the resilient, healthy function of this state's forests and other natural and working lands; and

Whereas any climate policy should address leakage to ensure a level playing field between in-state and out-of-state companies to prevent jobs from leaving this state; and

Whereas the climate crisis is pressing; and

Whereas it is the intent of the Legislative Assembly to obtain reductions in greenhouse gas emissions through legally binding market-based mechanisms; now, therefore,

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

“GREENHOUSE GAS” DEFINED FOR PURPOSES OF AIR QUALITY LAWS

SECTION 1. ORS 468A.005 is amended to read:

468A.005. As used in ORS chapters 468, 468A and 468B, unless the context requires otherwise:

(1) “Air-cleaning device” means any method, process or equipment which removes, reduces or renders less noxious air contaminants prior to their discharge in the atmosphere.

(2) “Air contaminant” means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

(3) “Air contamination” means the presence in the outdoor atmosphere of one or more air contaminants which contribute to a condition of air pollution.

(4) “Air contamination source” means any source at, from, or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes.

(5) “Air pollution” means the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby.

(6) “Area of the state” means any city or county or portion thereof or other geographical area of the state as may be designated by the Environmental Quality Commission.

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

STATEWIDE GREENHOUSE GAS EMISSION LIMITS

SECTION 2. ORS 468A.205 is repealed.

SECTION 3. Section 4 of this 2018 Act is added to and made a part of ORS chapter 468A.

SECTION 4. (1) As used in this section, “statewide greenhouse gas emissions” means:

(a) The total annual emissions of greenhouse gases in this state; and

(b) All emissions of greenhouse gases from outside this state that are attributable to the generation of electricity that is delivered to and consumed in this state, accounting for transmission and distribution line losses.
(2) The Environmental Quality Commission shall adopt by rule:
(a) A statewide greenhouse gas emissions reduction goal to, by the year 2025, achieve greenhouse gas levels that are at least 20 percent below 1990 levels;
(b) A statewide greenhouse gas emissions limit that, for the year 2035, requires greenhouse gas emissions to be reduced to levels that are at least 45 percent below 1990 levels; and
(c) A statewide greenhouse gas emissions limit that, for the year 2050, requires greenhouse gas emissions to be reduced to levels that are at least 80 percent below 1990 levels.
(3) This section does not create any additional regulatory authority for an agency of the executive department as defined in ORS 174.112.

JOINT LEGISLATIVE COMMITTEE ON CLIMATE

SECTION 5. (1) There is established the Joint Legislative Committee on Climate.
(2) The joint committee consists of members of the Senate appointed by the President of the Senate and members of the House of Representatives appointed by the Speaker of the House of Representatives.
(3) The President of the Senate and the Speaker of the House of Representatives shall each appoint one cochair for the joint committee with the duties and powers necessary for the performance of the functions of the offices as the President and the Speaker determine.
(4) The joint committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof and in the interim between sessions.
(5) The term of a member shall expire upon the date of the convening of the odd-numbered year regular session of the Legislative Assembly next following the commencement of the member’s term.
(6)(a) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.
(b) When a vacancy occurs in the membership of the joint committee in the interim between odd-numbered year regular sessions, until the vacancy is filled:  
(A) The membership of the joint committee shall be considered not to include the vacant position for the purpose of determining whether a quorum is present; and
(B) A majority of the remaining members constitutes a quorum.
(7)(a) Members of the joint committee shall receive an amount equal to that authorized under ORS 171.072 from funds appropriated to the Legislative Assembly for each day spent in the performance of their duties as members of the joint committee or any subcommittee of the joint committee in lieu of reimbursement for in-state travel expenses.
(b) Notwithstanding paragraph (a) of this subsection, when engaged in out-of-state travel, members shall be entitled to receive their actual and necessary expenses in lieu of the amount authorized by this subsection. Payment shall be made from funds appropriated to the Legislative Assembly.
(8) The joint committee may not transact business unless a quorum is present. Except as provided in subsection (6)(b)(B) of this section, a quorum consists of a majority of joint committee members from the House of Representatives and a majority of joint committee
members from the Senate.

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

(10) The joint committee may adopt rules necessary for the operation of the joint committee.

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

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

SECTION 6. (1) The Joint Legislative Committee on Climate shall:

(a) Provide general legislative oversight of policy related to climate, including but not limited to the program established under sections 12 to 19 of this 2018 Act;

(b) Examine expenditures and investments of state proceeds from auctions conducted under section 18 of this 2018 Act; and

(c) Make recommendations related to the expenditures and investments of state proceeds from auctions conducted under section 18 of this 2018 Act to the Joint Committee on Ways and Means.

(2) In developing recommendations under subsection (1)(c) of this section, the Joint Legislative Committee on Climate shall consider the recommendations of the program advisory committee established under section 8 of this 2018 Act and shall solicit and consider the recommendations of the Oregon Global Warming Commission, the Oregon Climate Change Research Institute and the Environmental Justice Task Force.

GREENHOUSE GAS CAP AND INVESTMENT PROGRAM

(Program Advisory Committee)

SECTION 7. Sections 8 to 20 of this 2018 Act and ORS 468A.200 to 468A.260 are added to and made a part of ORS chapter 468A.

SECTION 8. (1) There is established in the Department of Environmental Quality a program advisory committee consisting of 21 members appointed by the Governor as follows:

(a) Five members who are recommended to the Governor by the Environmental Justice Task Force;

(b) Two members who represent Indian tribes;

(c) Three members with expertise in the economic drivers in rural communities in this state, including one with expertise in agriculture, one with expertise in forestry and one with expertise in fisheries;

(d) Three members who represent the interests of business and industry, including one who represents covered entities, one who represents small businesses and one who represents business sectors affected by climate change;
(e) Two members who represent local governments, including one who represents the interests of cities and one who represents the interests of counties;
(f) Two members who represent labor unions;
(g) Two members who represent environmental organizations, including one with expertise in climate mitigation and one with expertise in climate resiliency;
(h) One member with expertise in climate science; and
(i) One member with expertise in public health equity.

(2) In making appointments to the committee, the Governor shall seek to:
(a) Reflect the geographic and demographic diversity of this state's population; and
(b) To the extent feasible, appoint individuals who have additional expertise or experience in program development, budgeting, management and oversight, or climate planning or other disciplines of particular value relevant to the duties of the committee.

(3)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor.
(b) Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following.
(c) A member is eligible for reappointment.
(d) If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(4) A majority of the members of the committee constitutes a quorum for the transaction of business.

(5) The Governor shall appoint one of the members of the committee to serve as chairperson.

(6) A member of the committee is entitled to actual and necessary travel and other expenses as provided in ORS 292.495.

(7) The department shall provide the committee with necessary staff support.

(8) All agencies of the executive department as defined in ORS 174.112 are directed to assist the committee in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the committee consider necessary to perform their duties.

SECTION 9. Notwithstanding the term of office specified by section 8 of this 2018 Act, of the members first appointed to the program advisory committee established under section 8 of this 2018 Act:

(1) Five shall serve for a term ending January 1, 2020.
(2) Five shall serve for a term ending January 1, 2021.
(3) Five shall serve for a term ending January 1, 2022.
(4) Six shall serve for a term ending January 1, 2023.

SECTION 10. (1) The program advisory committee established under section 8 of this 2018 Act shall advise the Governor, the Environmental Quality Commission, the Department of Environmental Quality, the Oregon Department of Administrative Services, the Oregon Transportation Commission, the Department of Transportation, the Public Utility Commission, the Higher Education Coordinating Commission and other relevant state agencies on:
(a) The development and implementation of rules under sections 12 to 19, 25, 30a and 32 of this 2018 Act;
(b) The implementation of sections 31 and 34 of this 2018 Act; and
(c) The expenditures and investments of state proceeds from auctions conducted under section 18 of this 2018 Act pursuant to sections 27 to 32, 33, 34 and 34a of this 2018 Act.

(2) The program advisory committee may conduct studies, request information and provide other advice related to the program established under sections 12 to 19 of this 2018 Act and the expenditures and investments of state proceeds from auctions conducted under section 18 of this 2018 Act as necessary to provide advice as described in subsection (1) of this section.

(3)(a) The program advisory committee shall prepare a biennial report in each even-numbered year that includes:

(A) The recommendations of the committee for the expenditures and investments of state proceeds from auctions conducted under section 18 of this 2018 Act that are deposited in the Climate Investments Fund established under section 28 of this 2018 Act and in the Transportation Decarbonization Investments Account established under section 29 of this 2018 Act; and

(B) The recommendations of the committee, which may include recommendations for legislation, regarding the effectiveness of implementation of sections 12 to 19, 27 to 32, 33, 34 and 34a of this 2018 Act.

(b) The committee shall submit the report required by this subsection to:

(A) The Oregon Transportation Commission for consideration in developing the transportation decarbonization investment proposal required under section 29a of this 2018 Act;

(B) The Governor; and

(C) The interim committees of the Legislative Assembly related to climate, in the manner provided by ORS 192.245.

(Statement of Purposes)

SECTION 11. (1) The Legislative Assembly finds and declares that the purposes of the program established under sections 12 to 19 of this 2018 Act and the investments provided for in sections 27 to 32, 33, 34 and 34a of this 2018 Act are to reduce greenhouse gas emissions consistent with the statewide greenhouse gas emissions limits established under section 4 of this 2018 Act and to promote carbon sequestration and adaptation and resilience by this state’s natural and working lands, fish and wildlife resources, communities and economy in the face of climate change and ocean acidification.

(2) Sections 12 to 19 of this 2018 Act and the rules adopted pursuant to sections 12 to 19 of this 2018 Act:

(a) May not be interpreted to limit the authority of any state agency to adopt and implement measures to reduce greenhouse gas emissions; and

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

(Greenhouse Gas Cap and Market-Based Compliance Mechanism)

SECTION 12. Definitions. As used in ORS 468A.200 to 468A.260 and sections 8 to 19 of this 2018 Act:

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

(2) “Allocation of electricity” has the meaning given that term in ORS 757.518.

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

(4) “Annual allowance budget” means the number of allowances available to be allocated during one year of the program established under sections 12 to 19 of this 2018 Act.

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

(6) “Coal-fired resource” has the meaning given that term in ORS 757.518.

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

(8) “Compliance obligation” means the quantity of regulated emissions for which a covered entity must submit compliance instruments to the Department of Environmental Quality during a compliance period.

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

(10) “Covered entity” means a person that is designated by the Environmental Quality Commission as subject to the program established under sections 12 to 19 of this 2018 Act.

(11) “Direct environmental benefits in this state” means:

(a) A reduction in or avoidance of emissions of any air contaminant in this state other than a greenhouse gas;
(b) A reduction in or avoidance of pollution of any of the waters of the state, as the terms “pollution” and “the waters of the state” are defined in ORS 468B.005; or
(c) An improvement in the health of natural and working lands in this state.

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

(13) “Electricity service supplier” has the meaning given that term in ORS 757.600.

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

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

(15) “Impacted communities” means communities most at risk of being disproportionately impacted by climate change as designated by the Environmental Quality Commission under section 20 of this 2018 Act.

(16) “Leakage” means a reduction in greenhouse gas emissions within this state that is counteracted by an increase in greenhouse gas emissions outside this state.

(17) “Natural and working lands” means:

(a) Land that is actively used by an agricultural owner or operator for an agricultural operation that includes, but need not be limited to, active engagement in farming or ranching;
(b) Land producing forest products;
(c) Lands consisting of forests, grasslands, deserts, freshwater and riparian systems, wetlands, coastal and estuarine areas, watersheds, wildlands or wildlife habitat; or
(d) Lands used for recreational purposes such as parks, urban and community forests, trails, greenbelts and other similar open space land.
(18) “Natural gas utility” means a natural gas utility regulated by the Public Utility Commission under ORS chapter 757.

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

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

(21) “Opt-in entity” means a person that is not designated as a covered entity by the Environmental Quality Commission and that voluntarily chooses to participate in the program established under sections 12 to 19 of this 2018 Act as if the entity were a covered entity.

(22) “Registered entity” means a covered entity, opt-in entity or general market participant that has successfully registered to participate in the program established under sections 12 to 19 of this 2018 Act.

(23) “Regulated emissions” means the verified greenhouse gas emissions reported by or assigned to a covered entity or opt-in entity under ORS 468A.280 that the commission determines by rule are greenhouse gas emissions regulated under sections 12 to 19 of this 2018 Act.

(24) “Surrender” means to transfer a compliance instrument to the Department of Environmental Quality:

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

(b) On a voluntary basis.

SECTION 13. Adoption of program; general provisions. (1) The Environmental Quality Commission shall, by rule, adopt a program that places a cap on the total anthropogenic greenhouse gas emissions by all covered entities through setting annual allowance budgets and that provides a market-based mechanism for covered entities to demonstrate compliance with the program. In adopting the program required by this section, the commission shall set an annual allowance budget for the calendar year 2021, and a schedule of annual allowance budgets that decline by a predetermined rate each calendar year until 2050. The schedule of annual allowance budgets must reflect the total anthropogenic greenhouse gas emissions from all covered entities as a proportionate share of anthropogenic statewide greenhouse gas emissions, as defined in section 4 of this 2018 Act, that must be reduced to prevent exceedance of the statewide greenhouse gas emissions limits established under section 4 of this 2018 Act.

(2) The commission shall designate persons as covered entities as follows:

(a) The commission shall designate a person in control of one or more air contamination sources for which a permit is issued pursuant to ORS 468.065, 468A.040 or 468A.155 as a covered entity if the annual regulated emissions attributable to the air contamination sources meet or exceed 25,000 metric tons of carbon dioxide equivalent. The commission shall exempt from regulation under sections 12 to 19 of this 2018 Act:

(A) The methane emissions from a landfill that are demonstrated to have been captured and used for the generation of renewable energy, including but not limited to electricity, transportation fuels or heat.

(B) A land disposal site if the land disposal site was closed before the effective date of this 2018 Act and is closed and maintained in compliance with ORS 459.268.
(C) A cogeneration facility, as defined in ORS 758.505, that is owned or operated by a public university listed in ORS 352.002 or by a hospital as defined in ORS 442.015. An owner or operator of a cogeneration facility exempted under this paragraph shall biennially submit a report to the Department of Environmental Quality and, in the manner provided by ORS 192.245, to the Joint Legislative Committee on Climate. The report must detail the actions taken by the owner or operator to achieve demonstrable greenhouse gas emissions reductions at the public university or hospital served by the cogeneration facility.

(b) For the purpose of regulating persons that import, sell, allocate or distribute for use in this state electricity generated outside this state, and unless the commission determines that a method exists for regulating persons described in this paragraph that is more accurate or efficient or that better enables the state to pursue linkage agreements under section 19 of this 2018 Act, the commission shall:

(A) Designate an electric company or a consumer-owned utility as a covered entity if the regulated emissions that are attributable to the generation of electricity for which the electric company or consumer-owned utility is the load serving entity meet or exceed 25,000 metric tons of carbon dioxide equivalent.

(B) Designate an electricity service supplier as a covered entity for the purpose of addressing regulated emissions attributable to the electricity service supplier.

(c) The commission shall, for the purpose of regulating persons that import, sell or distribute for use in this state fuel that emits greenhouse gases when combusted:

(A) Designate a natural gas marketer as a covered entity for the purpose of addressing annual regulated emissions that are attributable to the combustion of natural gas that is sold by the natural gas marketer for use in this state by air contamination sources that are not designated as covered entities under paragraph (a) of this subsection.

(B) Designate a natural gas utility as a covered entity for the purpose of addressing annual regulated emissions that are attributable to the combustion of natural gas that the natural gas utility imports, sells or distributes for use in this state and that are not emissions accounted for through the regulation of air contamination sources under paragraph (a) of this subsection or natural gas marketers under subparagraph (A) of this paragraph.

(C) Designate as covered entities persons not described in subparagraphs (A) and (B) of this paragraph as necessary to address regulated emissions that are attributable to the combustion of fuel that is imported, sold or distributed for use in this state. For purposes of this subparagraph, the commission:

(i) May exclude from designation as a covered entity any person that imports in a calendar year less than a de minimis amount of gasoline and diesel fuel, in total, as determined by the commission by rule. Gasoline and diesel fuel imported by persons that are related or share common ownership or control shall be aggregated in determining whether a person may be excluded under this sub-subparagraph.

(ii) Shall exclude from regulated emissions the greenhouse gas emissions from the combustion of fuel that is demonstrated to have been used as watercraft or aviation fuel.

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

(a) Criteria for the allocation of allowances pursuant to section 16 of this 2018 Act;

(b) Standards, pursuant to section 17 of this 2018 Act, for offset projects and for covered entities to use offset credits;
(c) Rules for the administration of auctions of allowances pursuant to section 18 of this 2018 Act;

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

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

(f) Compliance periods, standards for calculating compliance obligations and procedures for covered entities to demonstrate compliance with the compliance obligations.

(4) The commission shall require a covered entity or opt-in entity to surrender to the department a quantity of compliance instruments equal to the covered entity's or opt-in entity's compliance obligation no later than the surrender date specified by the commission by rule or order. In addition to any penalty provided by law, rules adopted by the commission shall require a covered entity or opt-in entity that fails to timely surrender to the department a sufficient quantity of compliance instruments to meet a compliance obligation to surrender to the department a number of compliance instruments that is in addition to the entity's compliance obligation.

(5)(a) All covered entities, opt-in entities and general market participants must register as registered entities to participate in the program established under sections 12 to 19 of this 2018 Act.

(b) The commission shall adopt by rule registration requirements and any additional requirements necessary for registered entities to participate in auctions administered pursuant to section 18 of this 2018 Act.

(c) The commission may adopt a schedule of fees for registration under this subsection. Fees must be reasonably calculated not to exceed the costs to the department in administering sections 8 to 20 of this 2018 Act.

SECTION 14. Temporary exemption for certain emissions. (1) Annual verified greenhouse gas emissions reported or assigned under ORS 468A.280 that are emissions of hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, nitrogen trifluoride or other fluorinated greenhouse gases generated during semiconductor and related device manufacturing are exempt from regulation under sections 12 to 19 of this 2018 Act and rules adopted under sections 12 to 19 of this 2018 Act.

(2) This section applies to annual verified greenhouse gas emissions reported or assigned under ORS 468A.280 for the period beginning January 1, 2021, and ending December 31, 2025.

SECTION 15. Section 14 of this 2018 Act is repealed on January 2, 2026.

SECTION 16. Allocation of allowances. (1) The Department of Environmental Quality shall allocate a percentage of allowances from each annual allowance budget to be distributed directly into an allowance price containment reserve designed to assist in containing compliance costs for covered entities.

(2) The Environmental Quality Commission shall, in consultation with the Public Utility Commission, adopt rules for distributing allowances to covered entities that are electric companies and natural gas utilities. Rules adopted under this subsection must:

(a) Require the department to allocate allowances for direct distribution at no cost to electric companies and, except as provided for in paragraph (b) of this subsection, require the electric companies to consign all directly distributed allowances to the state to be auctioned pursuant to section 18 of this 2018 Act;

(b) Taking into consideration the interaction of sections 12 to 19 of this 2018 Act with the
provisions of ORS 469A.005 to 469A.210 and 757.518, allow an electric company to surrender as compliance instruments a portion of the allowances directly distributed to the electric company under paragraph (a) of this subsection that reflects greenhouse gas emissions from coal-fired resources in the electric company's allocation of electricity;

(c) Require the department to allocate allowances for direct distribution at no cost to a natural gas utility and require the natural gas utility to consign the directly distributed allowances to the state to be auctioned pursuant to section 18 of this 2018 Act; and

(d) Include a methodology for determining the allocation for distribution directly to covered entities described in this subsection that, to the extent feasible, is based on the following principles:

(A) The direct distribution to a covered entity during the calendar year 2021 should represent an amount equal to 100 percent of the covered entity's proportionate share of regulated emissions during representative calendar years prior to 2018; and

(B) The direct distribution received by a covered entity under this subsection during calendar years subsequent to 2021 should decline annually at a rate equal to the predetermined rate of decline for annual allowance budgets adopted under section 13 of this 2018 Act.

(3)(a) The department shall allocate allowances for direct distribution at no cost to a covered entity that is a consumer-owned utility. The Environmental Quality Commission may adopt rules allowing for a consumer-owned utility to consign directly distributed allowances to the state to be auctioned pursuant to section 18 of this 2018 Act. Auction proceeds from the sale of allowances consigned to the state for auction under this subsection must be used by the consumer-owned utility for the benefit of ratepayers, consistent with the purposes stated in section 11 of this 2018 Act and as further required by the governing body of the consumer-owned utility.

(b) In determining the allocation for a consumer-owned utility, the department shall employ a methodology based on the principles set forth in subsection (2)(d) of this section.

(c) The governing body of a consumer-owned utility that receives directly distributed allowances under this subsection shall, no later than September 15 of each even-numbered year, submit a report to the Joint Legislative Committee on Climate on the uses by the consumer-owned utility of the directly distributed allowances. The report must include, but not be limited to, a description of the uses by the consumer-owned utility of auction proceeds from the sale of allowances consigned to the state for auction under this subsection.

(4)(a) In order to mitigate leakage, the commission shall adopt rules for allocating allowances for direct distribution at no cost to covered entities that are engaged in emissions-intensive, trade-exposed processes. The department shall hire or contract with a third-party organization to assist the commission and the department in gathering data and conducting analysis as necessary to implement the provisions of this subsection.

(b) Rules adopted under this subsection must utilize an output-based benchmarking methodology for determining the allocation for a covered entity. The methodology must:

(A) Apply, for each emissions-intensive, trade-exposed process, an emissions efficiency benchmark that equals up to 90 percent of the average regional emissions intensity per unit of output from that process, based on greenhouse gas emissions data from representative years prior to 2018; and

(B) Require the allocation to a covered entity to decline annually at a rate equal to the predetermined rate of decline for annual allowance budgets adopted under section 13 of this
A covered entity shall receive an allocation under this subsection if the covered entity is classified as being engaged in one or more of the processes described by the following industry descriptions and codes in the North American Industry Classification System:

(A) Cement Manufacturing, code 327310.
(B) Other Crushed and Broken Stone Mining and Quarrying, code 212319.
(C) Frozen Fruit, Juice and Vegetable Manufacturing, code 311411.
(D) Frozen Specialty Food Manufacturing, code 311412.
(E) Dried and Dehydrated Food Manufacturing, code 311423.
(F) Iron and Steel Mills and Ferroalloy Manufacturing, code 331110.
(G) Other Basic Inorganic Chemical Manufacturing, code 325180.
(H) All Other Plastics Product Manufacturing, code 326199.
(I) Mineral Wool Manufacturing, code 327993.
(J) Polystyrene Foam Product Manufacturing, code 326140.
(K) Glass Container Manufacturing, code 327213.
(L) Ethyl Alcohol Manufacturing, code 325193.
(M) Reconstituted Wood Product Manufacturing, code 321219.
(N) Gypsum Product Manufacturing, code 327420.
(O) Pulp Mills, code 322110.
(P) Paper (except Newsprint) Mills, code 322121.
(Q) Paperboard Mills, code 322130.

(d) The commission shall, by the year 2024 and once every three years thereafter, conduct a review of rules adopted under this subsection and any updated data and analysis to determine whether updates to the rules are necessary to:

(A) Mitigate leakage by covered entities engaged in emissions-intensive, trade-exposed processes;
(B) Prevent allocation to covered entities of allowances under this section that are in excess of the allocation necessary to mitigate leakage; or
(C) Notwithstanding paragraph (b)(A) of this subsection, update the applicable emissions efficiency benchmarks for any emissions-intensive, trade-exposed processes.

(e) In addition to and not in lieu of the review required by paragraph (d) of this subsection, the commission may update the list of processes in paragraph (c) of this subsection by rule if a covered entity makes a proposal to the commission that an update to the list is necessary to mitigate leakage.

(f) A covered entity that is a fossil fuel distribution and storage facility or infrastructure, or an electric generating unit, may not receive an allocation under this subsection.

(5) The department shall allocate a percentage of allowances from each annual allowance budget to be retired each year for eligible voluntary renewable electricity generated in the previous year.

(6) After making all allocations provided for in subsections (1) to (5) of this section, the department shall allocate all remaining allowances in the annual allowance budget to be distributed to an auction holding account for auction pursuant to section 18 of this 2018 Act.
(b) Must not be otherwise required by law; and
(c) Must result in greenhouse gas emissions reductions or removals that:
   (A) Are real, permanent, quantifiable, verifiable and enforceable; and
   (B) Are in addition to greenhouse gas emissions reductions or removals otherwise re-
   quired by law and any other greenhouse gas emissions reductions or removals that would
   otherwise occur.

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

(b) The commission may by rule adopt additional restrictions on the number of offset
credits that may be surrendered by a covered entity that is an air contamination source that
is geographically located in an impacted community if:
   (A) The geographic area within which the air contamination source is located is also a
nonattainment area or an attainment area projected by the Department of Environmental
Quality to exceed air quality standards within five years and the air contamination source
substantially contributes to or causes the nonattainment or projected nonattainment of air
quality standards; or
   (B) The air contamination source is in violation of the terms or conditions of any permit
required or authorized under ORS chapter 468A and issued by the department or a regional
air quality control authority.

(3) In adopting rules governing offset projects and covered entities’ use of offset credits,
the commission shall:
   (a) Take into consideration standards, rules or protocols for offset projects and offset
credits established by other states, provinces and countries with programs comparable to the
program established under sections 12 to 19 of this 2018 Act;
   (b) Encourage opportunities for the development of offset projects in this state by
adopting offset protocols that may include, but need not be limited to, protocols that make
use of aggregation or other mechanisms to reduce transaction costs related to the develop-
ment of offset projects;
   (c) Consult with and consider the recommendations of the advisory committee required
by subsection (4) of this section, the State Department of Agriculture, the State Board of
Forestry, the Environmental Justice Task Force and other relevant state agencies; and
   (d) Adopt by rule a process for the Department of Environmental Quality to investigate
and invalidate issued offset credits as necessary to uphold the environmental integrity of the
program established under sections 12 to 19 of this 2018 Act.

(4) The Director of the Department of Environmental Quality shall appoint a compliance
offsets protocol advisory committee to aid and advise the commission in adopting and up-
dating rules governing offset projects and covered entities’ use of offset credits. The advisory
committee shall provide guidance to the commission in developing and updating offset pro-
tocols for the purposes of increasing offset projects with direct environmental benefits in
this state while prioritizing offset projects that benefit impacted communities, Indian tribes
and natural and working lands. The director shall appoint at least one member to the advi-
sory committee from each of the following groups:
(a) Scientists;  
(b) Public health experts;  
(c) Carbon market experts;  
(d) Representatives of Indian tribes;  
(e) Environmental justice advocates;  
(f) Labor and workforce representatives;  
(g) Forestry experts;  
(h) Agriculture experts;  
(i) Environmental advocates;  
(j) Conservation advocates; and  
(k) Dairy experts.

SECTION 18. Auctions. (1) Except as provided in subsection (6) of this section, auctions of allowances are open to registered entities.  
(2) The Department of Environmental Quality shall hold auctions at least annually.  
(3) The department may engage:  
(a) A qualified, independent auction administrator to administer auctions; or  
(b) A qualified financial services administrator to conduct financial transactions related to the auction.  
(4) The department shall issue notice for an upcoming auction prior to the auction.  
(5) The Environmental Quality Commission shall:  
(a) Set an auction floor price for the year 2021 and a schedule for the floor price to increase by a predetermined amount each calendar year; and  
(b) Take actions to minimize the potential for market manipulation and to guard against bidder collusion, including but not limited to specifying as holding limits the maximum number of allowances that may be held for use or trade by a registered entity at any time.  
(6) Reserve auctions of allowances from the allowance price containment reserve shall be conducted separately from the auction of other allowances for the purpose of addressing high costs of compliance instruments. Allowances unsold at a reserve auction must be made available again at future reserve auctions. Only covered entities may participate in reserve auctions.  
(7) The proceeds of an auction shall be transferred as follows:  
(a) Auction proceeds from the sale of allowances consigned to the state for auction shall be transferred to the electric company, natural gas utility or consumer-owned utility that consigned the allowances.  
(b) Auction proceeds payable to the state shall be transferred to the State Treasurer to be deposited in the Auction Proceeds Distribution Fund established under section 26 of this 2018 Act.

SECTION 19. Linkage with market-based compliance mechanisms in other jurisdictions.  
(1) In adopting and implementing rules under sections 12 to 19 of this 2018 Act, the Environmental Quality Commission and the Department of Environmental Quality shall:  
(a) Consider market-based compliance mechanisms designed to reduce greenhouse gas emissions in other jurisdictions; and  
(b) Implement the program established under sections 12 to 19 of this 2018 Act in a manner that:  
(A) Avoids double counting of emissions or emissions reductions; and
(B) Enables the state to pursue linkage agreements pursuant to this section with other jurisdictions.

(2) The commission may not link the market-based compliance mechanism established pursuant to sections 12 to 19 of this 2018 Act and rules adopted under sections 12 to 19 of this 2018 Act with the market-based compliance mechanism of any other jurisdiction unless the commission notifies the Governor that the commission intends to link the market-based compliance mechanism and the Governor makes the following findings:

(a) The jurisdiction with which the commission proposes to link has adopted program requirements for greenhouse gas reductions that are equivalent to or stricter than those required by sections 12 to 19 of this 2018 Act;

(b) Under the proposed linkage, the State of Oregon is able to enforce sections 12 to 19 of this 2018 Act against any entity subject to regulation under sections 12 to 19 of this 2018 Act and against any entity located within the linking jurisdiction to the maximum extent permitted under the United States and Oregon Constitutions;

(c) The proposed linkage provides for enforcement of applicable laws by the commission or by the linking jurisdiction of program requirements that are equivalent to or stricter than those required by sections 12 to 19 of this 2018 Act; and

(d) The proposed linkage and any related engagement by the State of Oregon of an independent organization to provide administrative or technical services to support implementation of sections 12 to 19 of this 2018 Act shall not impose any significant liability on the state or any state agency for any failure associated with the linkage.

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

(1) The Environmental Quality Commission, by rule and after consultation with the Portland State University Population Research Center, the Oregon Health Authority, the program advisory committee established under section 8 of this 2018 Act and other relevant state agencies and local agencies and officials, shall designate impacted communities, as defined in section 12 of this 2018 Act, by census tract. The commission shall designate impacted communities based on a methodology that takes into consideration geographic, socioeconomic, historic disadvantage, public health and environmental hazard criteria. The commission may designate as impacted communities areas that include, but are not limited to:

(a) Areas with above average concentrations of low income households, historically disadvantaged households, high unemployment, high linguistic isolation, low levels of homeownership, high rent burden, sensitive populations or residents with low levels of educational attainment.

(b) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure or environmental degradation.
(2) The methodology required by this section must give greater weight to those criteria that the commission determines are the most accurate predictors of vulnerability to the impacts of climate change and ocean acidification.

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

(Department of Environmental Quality Program Development Fee)

SECTION 21. Section 22 of this 2018 Act is added to and made a part of ORS chapter 468A.

SECTION 22. (1) In addition to and not in lieu of any other fee required by law, and subject to subsection (3) of this section, a person required to register and report greenhouse gas emissions to the Department of Environmental Quality under ORS 468A.280 shall pay to the department an annual program development fee of $___________ if, for the year prior to the year in which the annual program development fee is assessed, the person reported annual greenhouse gas emissions attributable to the person that equal or exceed 25,000 metric tons of carbon dioxide equivalent.

(2) Fees collected under this section shall be deposited into the State Treasury to the credit of an account of the department. Moneys deposited under this subsection are continuously appropriated to the department for the payment of expenses of the department and the Environmental Quality Commission in developing and preparing for implementation of sections 8 to 20 of this 2018 Act.

(3) A person described in subsection (1) of this section shall pay to the department the fee required under this section no later than 30 days after the date of the invoice issued by the department for the fee.

(4) The commission may adopt rules necessary to implement the provisions of this section, including but not limited to rules imposing a penalty for failure to pay, substantial underpayment of or late payment of the fee required by this section.

SECTION 23. Section 22 of this 2018 Act is repealed on January 2, 2021.

(Auction Proceeds Investment)

SECTION 24. Section 25 of this 2018 Act is added to and made a part of ORS chapter 757.

SECTION 25. (1) As used in this section:

(a) “Auction proceeds” means revenue transferred to an electric company or natural gas utility under section 18 of this 2018 Act from the sale of allowances that the electric company or natural gas utility consigned to the state for auction, pursuant to the program established by the Environmental Quality Commission under sections 12 to 19 of this 2018 Act.

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

(c) “Natural gas utility” means a natural gas utility regulated by the Public Utility Commission under this chapter.

(2) Auction proceeds received by an electric company or natural gas utility must be spent within the service territory of the electric company or natural gas utility and must be used only for activities that serve to reduce greenhouse gas emissions, as defined in ORS 468A.005, or to stabilize or reduce energy bills for customers.
(3) An electric company or natural gas utility shall use the auction proceeds for activities that benefit the following customers, in the following order:
(a) Low-income residential customers, including but not limited to low-income residential customers that are tenants.
(b) All other customers, including residential customers, small commercial customers and energy intensive industrial customers that are not covered entities receiving allowances directly allocated at no cost under section 16 of this 2018 Act.
(4)(a) An electric company or natural gas utility shall prioritize the use of auction proceeds for bill assistance, weatherization and energy efficiency measures. Except as provided in paragraph (b) of this subsection, auction proceeds returned to customers as bill assistance must be returned in a nonvolumetric manner.
(b) An electric company or natural gas utility shall expend a portion of the auction proceeds received by the electric company or natural gas utility each year to fund volumetric bill assistance to low-income residential customers.
(5) The Public Utility Commission shall, pursuant to ORS 756.040 and after consultation with the Housing and Community Services Department and the program advisory committee established under section 8 of this 2018 Act, adopt rules for the implementation and enforcement of this section.

SECTION 26. (1) The Auction Proceeds Distribution Fund is established in the State Treasury, separate and distinct from the General Fund.
(2) The Auction Proceeds Distribution Fund shall consist of moneys transferred to the fund under section 18 of this 2018 Act. Interest earned by the fund shall be credited to the fund.
(3) Subject to subsection (4) of this section, the Department of Environmental Quality shall certify the amount of moneys available for distribution in the Auction Proceeds Distribution Fund and distribute the moneys as follows:
(a) All moneys that constitute revenues described in Article IX, section 3a, of the Oregon Constitution, must be transferred to the Transportation Decarbonization Investments Account;
(b) All moneys that constitute revenues described in Article VIII, section 2 (1)(g), of the Oregon Constitution, must be transferred to the Common School Fund; and
(c) Of the moneys remaining after the transfer under paragraphs (a) and (b) of this subsection:
(A) Eighty-five percent must be transferred to the Oregon Climate Investments Fund; and
(B) Fifteen percent must be transferred to the Just Transition Fund.
(4) The Department of Environmental Quality shall consult with the Department of Transportation in determining the amount of moneys to be transferred under subsection (3)(a) of this section.

SECTION 27. As used in sections 27 to 32 of this 2018 Act:
(1) “Impacted communities” has the meaning given that term in section 12 of this 2018 Act.
(2) “Metropolitan planning organization” has the meaning given that term in ORS 197.629.
(3) “Natural and working lands” has the meaning given that term in section 12 of this 2018 Act.
(4) “Regional transportation plan” has the meaning given that term in ORS 184.899.

SECTION 28. (1) The Climate Investments Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys in the Climate Investments Fund are continuously appropriated to the Oregon Department of Administrative Services to be distributed by the department as provided in this section. The fund shall consist of moneys deposited in the fund under section 26 of this 2018 Act. Interest earned by the fund shall be credited to the fund.

(2) Moneys in the Climate Investments Fund may be used only for projects, programs and activities that further the purposes stated in section 11 of this 2018 Act.

(3) The Legislative Assembly shall allocate the moneys deposited in the fund subject to section 30 of this 2018 Act. Of the moneys deposited in the fund each biennium:

(a) Fifty percent must be allocated for projects, programs or activities that are to the benefit of or geographically located in and to the benefit of impacted communities;

(b) Ten percent must be allocated for projects, programs or activities that are to the benefit of Indian tribes;

(c) Twenty percent must be allocated for projects, programs or activities that represent investments in natural and working lands; and

(d) Twenty percent may be allocated for any projects, programs or activities that meet the requirements of subsection (2) of this section, as further described in section 30 of this 2018 Act, regardless of whether a program, project or activity funded under this paragraph is described in paragraphs (a) to (c) of this subsection.

(4) Of the moneys allocated by the Legislative Assembly under subsection (3)(a) of this section, at least 33 percent must be allocated for activities that benefit rural areas that are designated as impacted communities. For purposes of this subsection, “rural area” means an area located entirely outside of the acknowledged Portland Metropolitan Area Regional Urban Growth Boundary and the acknowledged urban growth boundaries of cities with populations of 30,000 or more.

(5) The department may perform activities necessary to ensure that recipients of moneys distributed from the Climate Investments Fund 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 moneys distributed from the fund. Moneys refunded pursuant to this subsection shall be credited to the fund.

SECTION 29. (1) The Transportation Decarbonization Investments Account is established as a separate account within the State Highway Fund. Interest earned by the Transportation Decarbonization Investments Account shall be credited to the account. Moneys in the account are continuously appropriated to the Department of Transportation to be distributed by the department as provided in this section.

(2) The account shall consist of moneys deposited in the account under section 26 of this 2018 Act.

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

(a) The uses stated in Article IX, section 3a, of the Oregon Constitution; and

(b) Activities that further the purposes stated in section 11 of this 2018 Act.

(4) The Legislative Assembly shall allocate the moneys deposited in the account subject to section 30 of this 2018 Act. At least 60 percent of the moneys deposited in the account each biennium must be allocated for purposes that benefit impacted communities.
(5) The department may perform activities necessary to ensure that recipients of moneys distributed from the account 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 moneys distributed from the account. Moneys refunded pursuant to this subsection shall be credited to the account.

SECTION 29a. (1) The Oregon Transportation Commission shall prepare, for each biennium, a transportation decarbonization investment proposal that sets forth:

(a) A list of recommended transportation projects to be funded with moneys in the Transportation Decarbonization Investments Account established under section 29 of this 2018 Act; and

(b) Any additional recommendations for the Legislative Assembly to consider in determining how to best allocate moneys deposited in the account.

(2) Prior to selecting transportation projects for inclusion in the proposal, the commission shall consider the recommendations contained in the biennial report submitted to the commission under section 10 of this 2018 Act, and shall seek additional input from the program advisory committee established under section 8 of this 2018 Act.

(3) In selecting transportation projects for inclusion in the proposal, the commission shall consider:

(a) Whether proposed transportation projects meet the requirements of sections 29 (3) and 30 of this 2018 Act;

(b) How selection of projects to be funded through moneys deposited in the account may affect the state's ability to carry out the purposes of Article IX, section 3a (3), of the Oregon Constitution; and

(c) How much of the cost of a proposed transportation project can be funded from any source other than the account.

(4) The commission shall submit the proposal required under this section to:

(a) The interim Joint Legislative Committee on Climate in the manner provided by ORS 192.245; and

(b) The Oregon Department of Administrative Services, to be included and submitted to the Legislative Assembly as part of the Governor's recommended budget.

SECTION 30. (1) Moneys deposited in the Climate Investments Fund and moneys deposited in the Transportation Decarbonization Investments Account shall be allocated, to the extent feasible, cost-effective and consistent with law, to maximize greenhouse gas emissions reductions, to support the purposes stated in section 11 of this 2018 Act and to:

(a) Complement efforts to achieve and maintain local air quality;

(b) Provide opportunities for Indian tribes, members of impacted communities and businesses owned by women or members of minority groups to participate in and benefit from statewide efforts to reduce greenhouse gas emissions, including technical assistance for minority or women owned businesses, nonprofit organizations and other community institutions that serve or represent most impacted communities or low-income households;

(c) Make use of domestically produced products to the maximum extent feasible; or

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

(2) Moneys may be allocated from the Climate Investments Fund for investments that may include, but need not be limited to, any of the following:
(a) Funding to reduce greenhouse gas emissions or promote adaptation or resiliency through energy efficiency and energy conservation in buildings, low-income weatherization and support of affordable housing that is transit oriented or located near employment centers.

(b) Funding to reduce greenhouse gas emissions through electrical grid decarbonization efforts, including but not limited to investments in energy generation from renewable resources, distributed energy resources, transmission and storage projects for renewable energy, demand response, community solar projects and other community-scale renewable energy projects.

(c) Funding to reduce greenhouse gas emissions associated with transportation, including but not limited to investments in transportation electrification, transit, fuel and energy efficiency in vessels powered by marine engines and roadside landscape management efforts that promote carbon sequestration.

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

(e) Funding to reduce greenhouse gas emissions or support adaptation or resiliency through investments in natural and working lands, including but not limited to investments in agricultural or forestry practices that reduce greenhouse gas emissions or promote carbon sequestration, restoration of tidal marsh or intertidal areas of estuaries, irrigation efficiency projects, riparian zone restoration projects and methane recovery.

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

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

(3)(a) In allocating moneys from the Transportation Decarbonization Investments Account, the Legislative Assembly shall, to the extent feasible and consistent with law, seek to invest in:

(A) Programs, projects or activities that are consistent with, or that complement, investments described in subsection (2) of this section;

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

(C) The development and implementation of land use and transportation scenarios by local governments and metropolitan planning organizations in accordance with the guidelines established by the Department of Transportation and the Department of Land Conservation and Development under ORS 184.893.

(b) A project, program or activity that is eligible to be funded by moneys deposited in the Transportation Decarbonization Investments Account may also be eligible to be funded by moneys deposited in the Climate Investments Fund for those portions of the project, program or activity that may not be constitutionally funded by revenues described in Article IX,
section 3a (1), of the Oregon Constitution.

(4) Agencies of the executive department as defined in ORS 174.112, counties, cities and all other public and private entities receiving moneys under sections 27 to 32 of this 2018 Act shall report annually to the Oregon Department of Administrative Services on the expenditures of the moneys.

(5) The Oregon Department of Administrative Services shall make an annual report to the Legislative Assembly presenting the information required by subsection (4) of this section. The report must be made to the Joint Legislative Committee on Climate.

(6) If an allocation of moneys for a particular purpose by the Legislative Assembly under sections 27 to 32 of this 2018 Act is determined by a court to be inconsistent with law, the allocation is hereby declared independent and severable and the invalidity, if any, of any part or feature of the allocation shall not affect or render the remainder of the allocations by the Legislative Assembly under sections 27 to 32 of this 2018 Act invalid or inoperative.

SECTION 30a. (1) If a construction project is funded in whole or in part by moneys allocated by the Legislative Assembly from the Climate Investments Fund or the Transportation Decarbonization Investments Account, the primary contractor participating in the construction project:

(a) Shall participate in an apprenticeship program registered with the State Apprenticeship and Training Council;

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

(c) Must demonstrate a history of compliance with the rules and other requirements of the Construction Contractors Board and of the Workers’ Compensation Division, the Building Codes Division and the Occupational Safety and Health Division of the Department of Consumer and Business Services; and

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

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

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

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

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

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

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

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

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

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

(e) Before adopting or amending a rule under this subsection, the department shall consult with the program advisory committee established under section 8 of this 2018 Act, representatives of labor and workforce equity and contractor equity, and other knowledgeable persons.

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

SECTION 31. In preparing the Governor’s budget as required under ORS 291.202, the Governor shall consider the recommendations for the expenditures and investments of state proceeds from auctions conducted under section 18 of this 2018 Act that are contained in the biennial report prepared by the program advisory committee under section 10 of this 2018 Act.

SECTION 32. (1) The Oregon Department of Administrative Services, after consultation with the program advisory committee established under section 8 of this 2018 Act, the Department of Transportation and other interested state agencies, shall adopt rules as necessary to implement sections 27 to 32 of this 2018 Act.

(2) Rules adopted under this section must include guidelines for agencies that receive allocations of funds under sections 27 to 32 of this 2018 Act for ensuring that expenditures of funds allocated under sections 27 to 32 of this 2018 Act comply with all applicable laws.

SECTION 33. (1) The Just Transition Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Just Transition Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Higher Education Coordinating Commission to be distributed pursuant to the Just Transition Program.
established under section 34 of this 2018 Act.

(2) The Just Transition Fund shall consist of moneys deposited in the fund under section 26 of this 2018 Act.

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

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

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

(B) $2.5 million.

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

SECTION 34. (1) The Higher Education Coordinating Commission, after consultation with the program advisory committee established under section 8 of this 2018 Act, the Employment Department and other interested state agencies, shall establish a Just Transition Program for the purpose of distributing moneys deposited in the Just Transition Fund.

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

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

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

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

(d) Consistent with the purposes stated in section 11 of this 2018 Act, provide other related workforce support to communities in this state that are adversely affected by climate change or climate change policies.

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

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

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

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

(b) Allow a grant applicant to appeal to the office for reevaluation of any determination of grant funding.

(6) The commission may perform activities necessary to ensure that recipients of moneys distributed from the Just Transition Fund comply with applicable requirements. If the commission determines that a recipient has not complied with applicable requirements, the commission may order the recipient to refund all moneys distributed from the fund. Moneys refunded pursuant to this subsection shall be credited to the fund.
SECTION 34a. Moneys deposited in the Common School Fund under section 26 of this 2018 Act are continuously appropriated to the Department of State Lands to be used for purposes:

(1) For which other moneys in the Common School Fund may be used; and

(2) That are consistent with the purposes stated in section 11 of this 2018 Act.

GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING

SECTION 35. ORS 468A.280 is amended to read:

468A.280. (1) [In addition to any registration and reporting that may be required under ORS 468A.050,] The Environmental Quality Commission by rule may require registration and reporting of information necessary to determine greenhouse gas emissions by:

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

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

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

(2) A person required to register and report under subsection (1) of this section shall register with the Department of Environmental Quality and make reports containing information that the commission by rule may require that is relevant to determining and verifying greenhouse gas emissions. The commission may by rule require the person to provide an audit by an independent and disinterested party to verify that the greenhouse gas emissions information reported by the person is true and accurate.

Rules adopted by the commission under this section for electricity that is imported, sold, allocated or distributed for use in this state may require reporting of information necessary to determine greenhouse gas emissions from generating facilities used to produce the electricity and related electricity transmission line losses.

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

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

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

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

Rules adopted by the commission pursuant to this section for electricity that is purchased, imported, sold, allocated or distributed for use in this state by an electric company, as defined in ORS 757.600, must be limited to the reporting of:

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

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

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

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

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

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

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

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

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

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

(iv) Electricity transmitted for others by the electric company; and

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

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

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

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

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

(b) Allowing electronic reporting;

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

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

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

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

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

(8) The department may require a person for which registration and reporting is required
under subsection (1) of this section to provide any pertinent records related to verification of greenhouse gas emissions in order to determine compliance with and to enforce this section and rules adopted pursuant to this section.

(9) If a person required to register and report under subsection (1) of this section fails to submit a report under this section, the department may develop an assigned emissions level for the person if necessary for the purpose of regulating persons under sections 12 to 19 of this 2018 Act.

(10)(a) By rule the commission may establish a schedule of fees for registration and reporting under this section. Before establishing fees pursuant to this subsection, the commission shall consider the total fees for each person subject to registration and reporting under this section.

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

CONFORMING AMENDMENTS

SECTION 36. ORS 184.617 is amended to read:

184.617. (1) The Oregon Transportation Commission shall:

(a) Establish the policies for the operation of the Department of Transportation in a manner consistent with the policies and purposes of ORS 184.610 to 184.665.

(b) Develop and maintain state transportation policies, including but not limited to policies related to the management, construction and maintenance of highways and other transportation systems in Oregon, including but not limited to aviation, ports and rail.

(c) Develop and maintain a comprehensive, 20-year long-range plan for a safe, multimodal transportation system for the state which encompasses economic efficiency, orderly economic development and environmental quality. The comprehensive, long-range plan:

(A) Must include, but not be limited to, aviation, highways, mass transit, ports, rails and waterways; and

(B) Must be used by all agencies and officers to guide and coordinate transportation activities and to ensure transportation planning utilizes the potential of all existing and developing modes of transportation.

(d) In coordination with the State Marine Board, the Oregon Business Development Department, the State Aviation Board, cities, counties, mass transit districts organized under ORS 267.010 to 267.390 and transportation districts organized under ORS 267.510 to 267.650, develop plans for each mode of transportation and multimodal plans for the movement of people and freight. Subject to paragraph (c) of this subsection, the plans must include a list of projects needed to maintain and develop the transportation infrastructure of this state for at least 20 years in the future.

(e) For the plans developed under paragraph (d) of this subsection, include a list of projects for at least 20 years into the future that are capable of being accomplished using the resources reasonably expected to be available. As the plans are developed by the commission, the Director of Transportation shall prepare and submit implementation programs to the commission for approval. Work approved by the commission to carry out the plans shall be assigned to the appropriate unit of the Department of Transportation or other appropriate public body, as defined in ORS 174.109.

(f) Initiate studies, as it deems necessary, to guide the director concerning the transportation
needs of Oregon.

(g) Prescribe the administrative practices followed by the director in the performance of any
duty imposed on the director by law.

(h) Seek to enter into intergovernmental agreements with local governments and local service
districts, as those terms are defined in ORS 174.116, to encourage cooperation between the depart-
ment and local governments and local service districts to maximize the efficiency of transportation
systems in Oregon.

(i) Review and approve the department’s:

(A) Proposed transportation projects, as described in the Statewide Transportation Improvement
Program, and any significant transportation project modifications, as determined by the commission;

(B) Proposed budget form prior to the department submitting the form to the Oregon Department
of Administrative Services under ORS 291.208;

(C) Anticipated capital construction requirements;

(D) Construction priorities; and

(E) Selection, vacation or abandonment of state highways.

(j) Adopt a statewide transportation strategy on greenhouse gas emissions to aid in achieving
the greenhouse gas emissions reduction goals set forth in ORS 468A.205 (2017 Edition). The com-
misson shall focus on reducing greenhouse gas emissions resulting from transportation. In develop-
ing the strategy, the commission shall consider state and federal programs, policies and incentives
related to reducing greenhouse gas emissions. The commission shall consult and cooperate with
metropolitan planning organizations, other state agencies, local governments and stakeholders and
shall actively solicit public review and comment in the development of the strategy. The commis-
sion shall periodically assess, update and modify the strategy as necessary to prevent
exceedance of the greenhouse gas emissions limits established under section 4 of this 2018
Act.

(k) Perform any other duty vested in it by law.

(2) The commission has general power to take any action necessary to coordinate and administer
programs relating to highways, motor carriers, motor vehicles, public transit, rail, transportation
safety and such other programs related to transportation.

(3) The commission may require the director to furnish whatever reports, statistics, information
or assistance the commission may request in order to study the department or transportation-related
issues.

SECTION 37. 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.]
and local efforts to reduce greenhouse gas emissions in Oregon consistent with [the greenhouse gas emissions reduction goals established by ORS 468A.205] section 4 of this 2018 Act 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 39. ORS 468A.240 is amended to read:

468A.240. (1) In furtherance of [the greenhouse gas emissions reduction goals established by ORS 468A.205] section 4 of this 2018 Act, the Oregon Global Warming 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 40. ORS 468A.250 is amended to read:

468A.250. (1) The Oregon Global Warming 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] preventing exceedance of the greenhouse gas emissions limits established under section 4 of this 2018 Act;

(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, alternative methods of forest 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

[29]
Any other information, policies or analyses that the commission determines will aid in preventing exceedance of the greenhouse gas emissions limits established under section 4 of this 2018 Act.

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.

SECTION 41. ORS 468A.260 is amended to read:

468A.260. The Oregon Global Warming Commission shall submit a report to the Legislative Assembly, in the manner provided by ORS 192.245, by March 31 of each odd-numbered year or September 15 of each even-numbered year that describes Oregon’s progress toward preventing exceedance of the greenhouse gas emissions reduction goals established by ORS 468A.205 preventing exceedance of the greenhouse gas emissions limits established under section 4 of this 2018 Act. 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 42. ORS 468A.265 is amended to read:

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

(1) “Biodiesel” means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats or other nonpetroleum resources, not including palm oil.

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

(3) “Compliance period” means the calendar year during which a regulated party must demonstrate compliance with the low carbon fuel standards through participation in the clean fuels program.

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

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

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

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

(8) “Deficit” means a unit of measure generated when a fuel with a carbon intensity that is more than the applicable low carbon fuel standard is produced, imported or dispensed for use in Oregon, such that one deficit is equal to one metric ton of carbon dioxide equivalent.
“Greenhouse gas” has the meaning given that term in ORS 468A.210.]

ORS 468A.266 for the reduction of greenhouse gas emissions, on average, per unit of fuel energy.

“(9) “Low carbon fuel standard” means a standard adopted by the commission by rule under

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

“(11) “Regulated party” means a person responsible for complying with the low carbon fuel

“(12) “Small deficit” means a net deficit balance at the end of a compliance period, after

SECTION 43. ORS 468A.279 is amended to read:

“(a) “Greenhouse gas” has the meaning given that term in ORS 468A.210.

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

(2) The Environmental Quality Commission may adopt by rule standards and requirements de-

(3) The commission may adopt requirements to prevent the tampering, alteration and modifi-

(b) Before adopting requirements under this section, the commission shall consider the anti-

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

(b) Do not require motor vehicle service providers to purchase equipment to check and inflate

tire pressure.

(5) The commission may adopt restrictions on engine use by commercial ships while at port, and

requirements that ports provide alternatives to engine use such as electric power, provided that:

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

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

(b) Engine use shall be allowed when necessary for reasonable periods due to emergencies and

(c) The requirements must be developed in consultation with representatives of Oregon ports

and take into account operational considerations, operational agreements, international protocols

and limitations, the ability to fund the purchase and use of electric power equipment and the po-

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

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

(b) Engine use shall be allowed when necessary for reasonable periods due to emergencies and

other considerations as determined by the commission; and

(c) The requirements must be developed in consultation with representatives of Oregon ports

and take into account operational considerations, operational agreements, international protocols

and limitations, the ability to fund the purchase and use of electric power equipment and the poten-

(7) The provisions of this section do not apply to:
(a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.
(b) Farm tractors, as defined in ORS 801.265.
(c) Implements of husbandry, as defined in ORS 801.310.
(d) Motor trucks, as defined in ORS 801.355, used primarily to transport logs.

SECTION 44. ORS 757.357 is amended to read:

757.357. (1) As used in this section:
(a) “Electric company” has the meaning given that term in ORS 757.600.
(b) “Transportation electrification” means:
(A) The use of electricity from external sources to provide power to all or part of a vehicle;
(B) Programs related to developing the use of electricity for the purpose described in subpara-
graph (A) of this paragraph; and
(C) Infrastructure investments related to developing the use of electricity for the purpose de-
scribed in subparagraph (A) of this paragraph.
(c) “Vehicle” means a vehicle, vessel, train, boat or any other equipment that is mobile.

(2) The Legislative Assembly finds and declares that:
(a) Transportation electrification is necessary to reduce petroleum use, achieve optimum levels
of energy efficiency and carbon reduction, meet federal and state air quality standards, [meet this
state’s greenhouse gas emissions reduction goals described in ORS 468A.205] prevent exceedance
of the greenhouse gas emissions limits established under section 4 of this 2018 Act and im-
prove the public health and safety;
(b) Widespread transportation electrification requires that electric companies increase access to
the use of electricity as a transportation fuel;
(c) Widespread transportation electrification requires that electric companies increase access to
the use of electricity as a transportation fuel in low and moderate income communities;
(d) Widespread transportation electrification should stimulate innovation and competition, pro-
vide consumers with increased options in the use of charging equipment and in procuring services
from suppliers of electricity, attract private capital investments and create high quality jobs in this
state;
(e) Transportation electrification and the purchase and use of electric vehicles should assist in
managing the electrical grid, integrating generation from renewable energy resources and improving
electric system efficiency and operational flexibility, including the ability of an electric company to
integrate variable generating resources;
(f) Deploying transportation electrification and electric vehicles creates the opportunity for an
electric company to propose, to the Public Utility Commission, that a net benefit for the customers
of the electric company is attainable; and
(g) Charging electric vehicles in a manner that provides benefits to electrical grid management
affords fuel cost savings for vehicle drivers.

(3) The Public Utility Commission shall direct each electric company to file applications, in a
form and manner prescribed by the commission, for programs to accelerate transportation
electrification. A program proposed by an electric company may include prudent investments in or
customer rebates for electric vehicle charging and related infrastructure.
(4) When considering a transportation electrification program and determining cost recovery for
investments and other expenditures related to a program proposed by an electric company under
subsection (3) of this section, the commission shall consider whether the investments and other
expenditures:
(a) Are within the service territory of the electric company;
(b) Are prudent as determined by the commission;
(c) Are reasonably expected to be used and useful as determined by the commission;
(d) Are reasonably expected to enable the electric company to support the electric company’s electrical system;
(e) Are reasonably expected to improve the electric company’s electrical system efficiency and operational flexibility, including the ability of the electric company to integrate variable generating resources; and
(f) Are reasonably expected to stimulate innovation, competition and customer choice in electric vehicle charging and related infrastructure and services.

(5)(a) Tariff schedules and rates allowed pursuant to subsection (3) of this section:
(A) May allow a return of and a return on an investment made by an electric company under subsection (3) of this section; and
(B) Shall be recovered from all customers of an electric company in a manner that is similar to the recovery of distribution system investments.
(b) A return on investment allowed under this subsection may be earned for a period of time that does not exceed the depreciation schedule of the investment approved by the commission. When an electric company’s investment is fully depreciated, the commission may authorize the electric company to donate the electric vehicle charging infrastructure to the owner of the property on which the infrastructure is located.
(6) For purposes of ORS 757.355, electric vehicle charging infrastructure provides utility service to the customers of an electric company.
(7) In authorizing programs described in subsection (3) of this section, the commission shall review data concerning current and future adoption of electric vehicles and utilization of electric vehicle charging infrastructure. If market barriers unrelated to the investment made by an electric company prevent electric vehicles from adequately utilizing available electric vehicle charging infrastructure, the commission may not permit additional investments in transportation electrification without a reasonable showing that the investments would not result in long-term stranded costs recoverable from the customers of electric companies.

SECTION 45. ORS 757.528 is amended to read:
757.528. (1) Unless modified by rule by the State Department of Energy as provided in this section, the greenhouse gas emissions standard that applies to consumer-owned utilities is 1,100 pounds of greenhouse gases per megawatt-hour for a generating facility.
(2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions standard includes only carbon dioxide emissions.
(3) For purposes of applying the emissions standard to cogeneration facilities, the department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy.
(4) The department shall review the greenhouse gas emissions standard established under this section no more than once every three years. After public notice and hearing, and consultation with the Public Utility Commission, the department may:
(a) Modify the emissions standard to include other greenhouse gases as defined in ORS [468A.210] 468A.005, with the other greenhouse gases expressed as their carbon dioxide equivalent;
and

(b) Modify the emissions standard based upon current information on the rate of greenhouse gas
emissions from a commercially available combined-cycle natural gas generating facility that:

(A) Employs a combination of one or more gas turbines and one or more steam turbines and
produces electricity in the steam turbines from waste heat produced by the gas turbines;

(B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordinating Council; and

(C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

(5) In modifying the greenhouse gas emissions standard, the department shall:

(a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions
through cogeneration recognizes the total usable energy output of the process and includes all
greenhouse gases emitted by the generating facility in the production of both electrical and thermal
energy; and

(b) Consider the effects of the emissions standard on system reliability and overall costs to
electricity consumers.

(6) If upon a review conducted pursuant to subsection (4) of this section, the department deter-
mines that a mandatory greenhouse gas emissions limit has been established pursuant to state or
federal law, the department shall issue a report to the appropriate legislative committees of the
Legislative Assembly stating which portions, if any, of the greenhouse gas emissions standard are
no longer necessary as a matter of state law.

SECTION 46. Section 9, chapter 751, Oregon Laws 2009, is amended to read:

Sec. 9. (1) The Public Utility Commission shall develop estimates of the rate impacts for electric
companies and natural gas companies to meet the following alternative greenhouse gas emission
reduction goals for 2020:

(a) Ten percent below 1990 levels, as specified in ORS 468A.205; and

(b) Fifteen percent below 2005 levels.

(2) The commission shall submit a report presenting the estimates and explaining the analysis
used to develop the estimates to the appropriate interim committee of the Legislative Assembly prior
to November 1 of each even-numbered year.

EXPEDITED JUDICIAL REVIEW TO SUPREME COURT;
EXPIRATION

SECTION 47. (1) It is the intent of the Legislative Assembly that the provisions of this
2018 Act relating to the receipt of moneys by the state through the sale of allowances by
auction as part of the market-based compliance mechanism for the program established un-
der sections 12 to 19 of this 2018 Act do not render this 2018 Act a bill for raising revenue
subject to the provisions of Article IV, sections 18 and 25 (2), of the Oregon Constitution.

(2) Jurisdiction is conferred on the Supreme Court to determine whether this 2018 Act
is a bill for raising revenue subject to the provisions of Article IV, sections 18 and 25 (2), of
the Oregon Constitution.

(3) A person that is or that will be adversely affected by the provisions of sections 12 to
19 of this 2018 Act relating to the receipt of moneys by the state through the sale of allow-
ances by auction as part of the market-based compliance mechanism for the program es-
tablished under sections 12 to 19 of this 2018 Act may institute a proceeding for review by

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filing with the Supreme Court a petition that meets the following requirements:

(a) The petition must be filed on or before January 1, 2019.

(b) The petition must include the following:

(A) A statement of the basis of the challenge; and

(B) A statement and supporting affidavit showing how the petitioner is or will be adversely affected.

(4) The petitioner shall serve a copy of the petition by registered or certified mail upon the Environmental Quality Commission, the Department of Environmental Quality, the Attorney General and the Governor.

(5) Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.

(6) In the event that the Supreme Court determines that there are factual issues in the petition, the Supreme Court may appoint a special master to hear evidence and to prepare recommended findings of fact.

APPROPRIATION FOR ENVIRONMENTAL JUSTICE TASK FORCE

SECTION 48. In addition to and not in lieu of any other appropriation, there is appropriated to the Environmental Justice Task Force, for the biennium beginning July 1, 2017, out of the General Fund, the amount of $_______, which may be expended for compensation and expenses incurred by members of the task force who are not members of the Legislative Assembly in the manner and amounts provided for in ORS 292.495, and for provision by the Governor of clerical and administrative staff support to the task force.

OPERATIVE DATES

SECTION 49. (1)(a) Sections 21 to 23 of this 2018 Act become operative on July 1, 2018.

(b) The Environmental Quality Commission may adopt rules or take any actions before the operative date specified in paragraph (a) of this subsection that are necessary to enable the commission, on and after the operative date specified in paragraph (a) of this subsection, to carry out the provisions of sections 21 to 23 of this 2018 Act.

(2)(a) Sections 3 to 10 of this 2018 Act, the amendments to statutes and uncodified law by sections 1 and 35 to 46 of this 2018 Act and the repeal of ORS 468A.205 by section 2 of this 2018 Act become operative on January 1, 2019.

(b) The Environmental Quality Commission may adopt rules or take any actions before the operative date specified in paragraph (a) of this subsection that are necessary to enable the commission, on and after the operative date specified in paragraph (a) of this subsection, to carry out the provisions of sections 3 to 10 of this 2018 Act, the amendments to statutes and uncodified law by sections 1 and 35 to 46 of this 2018 Act and the repeal of ORS 468A.205 by section 2 of this 2018 Act. Any rules adopted under this paragraph may not become operative until January 1, 2019.

(3)(a) Sections 11 to 20 and 24 to 34a of this 2018 Act become operative on January 1, 2021.

(b) The Environmental Quality Commission, the Public Utility Commission, the Department of Transportation, the Oregon Department of Administrative Services, the Governor and the Higher Education Coordinating Commission may adopt rules or take any actions
before the operative date specified in paragraph (a) of this subsection that are necessary to enable the Governor, the commissions and the departments, on and after the operative date specified in paragraph (a) of this subsection, to carry out the provisions of sections 11 to 20 and 24 to 34a of this 2018 Act. Any rules adopted under this paragraph may not become operative until January 1, 2021.

REPORTS AND REVIEWS

SECTION 50. On or before September 15, 2020, the Department of Environmental Quality shall report on the actions being taken by the Environmental Quality Commission and the department to prepare for implementation of sections 11 to 20 and 24 to 34a of this 2018 Act to the interim legislative committees on the environment and natural resources.

SECTION 51. On or before September 15, 2031, the Department of Environmental Quality shall conduct a review and provide a report to the Legislative Assembly in the manner provided by ORS 192.245 on the implementation of section 17 of this 2018 Act and rules adopted under section 17 of this 2018 Act. The report may include recommendations for legislation. The review and report must:

(1) Assess the implementation of laws, policies and protocols for offset projects and the use of offset credits by covered entities; and

(2) Make determinations and recommendations regarding whether changes to laws, policies or protocols are necessary or advisable to address any negative impacts or to best align the laws, policies or protocols with the purposes set forth in section 11 of this 2018 Act.

CAPTIONS

SECTION 52. The unit and section captions used in this 2018 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 2018 Act.

EFFECTIVE DATE

SECTION 53. This 2018 Act takes effect on the 91st day after the date on which the 2018 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.