

LC 44
2018 Regular Session
1/8/18 (MAM/ps)

D R A F T

SUMMARY

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 and Legislative Assembly each even-numbered year. 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.

Requires certain persons to pay annual program development fee to Department of Environmental Quality. Becomes operative July 1, 2019. Sunsets January 2, 2021.

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

Declares emergency, effective on passage.

A BILL FOR AN ACT

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Relating to greenhouse gas emissions; creating new provisions; amending ORS 184.617, 468A.005, 468A.210, 468A.235, 468A.240, 468A.250, 468A.260, 468A.265, 468A.279, 468A.280, 757.357 and 757.528 and section 9, chapter 751, Oregon Laws 2009; repealing ORS 468A.205; and declaring an emergency.

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 mountain snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and food sources, the degradation of the natural 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 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 significant stored carbon dioxide and eliminates the potential for future sequestration; and

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

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

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

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

8 Whereas in the absence of effective national engagement, it is the re-
9 sponsibility of the individual states, deemed to be the laboratories of
10 progress, to take immediate leadership actions to address climate change and
11 ocean acidification; and

12 Whereas by exercising a leadership role in addressing climate change and
13 ocean acidification, the State of Oregon will position its economy, technol-
14 ogy centers, financial institutions and businesses to benefit from the national
15 and international efforts that must occur to reduce greenhouse gas emis-
16 sions; and

17 Whereas by joining together with other leadership jurisdictions similarly
18 resolved to address climate change and ocean acidification, Oregon will help
19 encourage more states, the federal government and the international com-
20 munity to act; and

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

25 Whereas climate change policies can be designed to protect impacted
26 communities, rural communities and workers from economic costs and can
27 provide cobenefits to and within these communities that include, but are not
28 limited to, opportunities for job creation and training, investments in
29 infrastructure, affordable housing investment, economic development, air
30 quality improvements, energy savings and conservation and increased utili-
31 zation of clean energy technologies; and

1 Whereas a key strategy in promoting net reductions of atmospheric car-
2 bon dioxide and adapting to climate change is preserving and maintaining
3 the resilient, healthy function of this state’s forests and other natural and
4 working lands; and

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

8 Whereas the climate crisis is pressing; and

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

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

13

14 **“GREENHOUSE GAS” DEFINED FOR PURPOSES OF**
15 **AIR QUALITY LAWS**

16

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

18 468A.005. As used in ORS chapters 468, 468A and 468B, unless the context
19 requires otherwise:

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

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

25 (3) “Air contamination” means the presence in the outdoor atmosphere
26 of one or more air contaminants which contribute to a condition of air pol-
27 lution.

28 (4) “Air contamination source” means any source at, from, or by reason
29 of which there is emitted into the atmosphere any air contaminant, regard-
30 less of who the person may be who owns or operates the building, premises
31 or other property in, at or on which such source is located, or the facility,

1 equipment or other property by which the emission is caused or from which
2 the emission comes.

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

9 (6) "Area of the state" means any city or county or portion thereof or
10 other geographical area of the state as may be designated by the Environ-
11 mental Quality Commission.

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

15

16 **STATEWIDE GREENHOUSE GAS EMISSION LIMITS**

17

18 **SECTION 2. ORS 468A.205 is repealed.**

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

21 **SECTION 4. (1) As used in this section, "statewide greenhouse gas**
22 **emissions" means:**

23 **(a) The total annual emissions of anthropogenic greenhouse gases**
24 **in this state; and**

25 **(b) All emissions of anthropogenic greenhouse gases from outside**
26 **this state that are attributable to the generation of electricity that is**
27 **delivered to and consumed in this state, accounting for transmission**
28 **and distribution line losses.**

29 **(2) The Environmental Quality Commission shall adopt by rule:**

30 **(a) A statewide greenhouse gas emissions reduction goal to, by the**
31 **year 2025, achieve greenhouse gas levels that are at least 20 percent**

1 below 1990 levels;

2 (b) A statewide greenhouse gas emissions limit that, for the year
3 2035, requires greenhouse gas emissions to be reduced to levels that
4 are at least 45 percent below 1990 levels; and

5 (c) A statewide greenhouse gas emissions limit that, for the year
6 2050, requires greenhouse gas emissions to be reduced to levels that
7 are at least 80 percent below 1990 levels.

8 (3) This section does not create any additional regulatory authority
9 for an agency of the executive department as defined in ORS 174.112.

10

11 **JOINT LEGISLATIVE COMMITTEE ON CLIMATE**

12

13 **SECTION 5.** (1) There is established the Joint Legislative Commit-
14 tee on Climate.

15 (2) The joint committee consists of members of the Senate ap-
16 pointed by the President of the Senate and members of the House of
17 Representatives appointed by the Speaker of the House of Represen-
18 tatives.

19 (3) The President of the Senate and the Speaker of the House of
20 Representatives shall each appoint one cochair for the joint committee
21 with the duties and powers necessary for the performance of the
22 functions of the offices as the President and the Speaker determine.

23 (4) The joint committee has a continuing existence and may meet,
24 act and conduct its business during sessions of the Legislative As-
25 sembly or any recess thereof and in the interim between sessions.

26 (5) The term of a member shall expire upon the date of the con-
27 vening of the odd-numbered year regular session of the Legislative
28 Assembly next following the commencement of the member's term.

29 (6)(a) If there is a vacancy for any cause, the appointing authority
30 shall make an appointment to become immediately effective.

31 (b) When a vacancy occurs in the membership of the joint com-

1 mittee in the interim between odd-numbered year regular sessions,
2 until the vacancy is filled:

3 (A) The membership of the joint committee shall be considered not
4 to include the vacant position for the purpose of determining whether
5 a quorum is present; and

6 (B) A majority of the remaining members constitutes a quorum.

7 (7)(a) Members of the joint committee shall receive an amount
8 equal to that authorized under ORS 171.072 from funds appropriated
9 to the Legislative Assembly for each day spent in the performance of
10 their duties as members of the joint committee or any subcommittee
11 of the joint committee in lieu of reimbursement for in-state travel
12 expenses.

13 (b) Notwithstanding paragraph (a) of this subsection, when engaged
14 in out-of-state travel, members shall be entitled to receive their actual
15 and necessary expenses in lieu of the amount authorized by this sub-
16 section. Payment shall be made from funds appropriated to the Legis-
17 lative Assembly.

18 (8) The joint committee may not transact business unless a quorum
19 is present. Except as provided in subsection (6)(b)(B) of this section,
20 a quorum consists of a majority of joint committee members from the
21 House of Representatives and a majority of joint committee members
22 from the Senate.

23 (9) Action by the joint committee requires the affirmative vote of
24 a majority of joint committee members from the House of Represen-
25 tatives and a majority of joint committee members from the Senate.

26 (10) The joint committee may adopt rules necessary for the opera-
27 tion of the joint committee.

28 (11) The Legislative Policy and Research Director may employ per-
29 sons necessary for the performance of the functions of the joint com-
30 mittee. The director shall fix the duties and amounts of compensation
31 of the employees. The joint committee shall use the services of con-

1 **tinuing legislative staff, without employing additional persons, to the**
2 **greatest extent practicable.**

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

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

9 **(a) Provide general legislative oversight of policy related to climate,**
10 **including but not limited to the program established under sections**
11 **12 to 19 of this 2018 Act;**

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

14 **(c) Make recommendations related to the expenditures and invest-**
15 **ments of state proceeds from auctions conducted under section 18 of**
16 **this 2018 Act to the Joint Committee on Ways and Means.**

17 **(2) In developing recommendations under subsection (1)(c) of this**
18 **section, the Joint Legislative Committee on Climate shall consider the**
19 **recommendations of the program advisory committee established un-**
20 **der section 8 of this 2018 Act and shall solicit and consider the rec-**
21 **ommendations of the Oregon Global Warming Commission, the**
22 **Oregon Climate Change Research Institute and the Environmental**
23 **Justice Task Force.**

24
25 **GREENHOUSE GAS CAP AND INVESTMENT PROGRAM**

26 **(Program Advisory Committee)**

27
28 **SECTION 7. Sections 8 to 20 of this 2018 Act and ORS 468A.200 to**
29 **468A.260 are added to and made a part of ORS chapter 468A.**

30 **SECTION 8. (1) There is established in the Department of Environ-**
31 **mental Quality a program advisory committee consisting of 21 mem-**

1 **bers appointed by the Governor as follows:**

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

4 **(b) Two members who represent Indian tribes;**

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

8 **(d) Three members who represent the interests of business and in-**
9 **dustry, including one who represents covered entities, one who re-**
10 **presents small businesses and one who represents business sectors**
11 **affected by climate change;**

12 **(e) Two members who represent local governments, including one**
13 **who represents the interests of cities and one who represents the in-**
14 **terests of counties;**

15 **(f) Two members who represent labor unions;**

16 **(g) Two members who represent environmental organizations, in-**
17 **cluding one with expertise in climate mitigation and one with exper-**
18 **tise in climate resiliency;**

19 **(h) One member with expertise in climate science; and**

20 **(i) One member with expertise in public health equity.**

21 **(2) In making appointments to the committee, the Governor shall**
22 **seek to reflect the geographic and demographic diversity of this state's**
23 **population.**

24 **(3)(a) The term of office of each member is four years, but a mem-**
25 **ber serves at the pleasure of the Governor.**

26 **(b) Before the expiration of the term of a member, the Governor**
27 **shall appoint a successor whose term begins on January 1 next fol-**
28 **lowing.**

29 **(c) A member is eligible for reappointment.**

30 **(d) If there is a vacancy for any cause, the Governor shall make**
31 **an appointment to become immediately effective for the unexpired**

1 term.

2 (4) A majority of the members of the committee constitutes a quo-
3 rum for the transaction of business.

4 (5) The Governor shall appoint one of the members of the commit-
5 tee to serve as chairperson.

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

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

10 (8) All agencies of the executive department as defined in ORS
11 174.112 are directed to assist the committee in the performance of its
12 duties and, to the extent permitted by laws relating to confidentiality,
13 to furnish such information and advice as the members of the com-
14 mittee consider necessary to perform their duties.

15 **SECTION 9.** Notwithstanding the term of office specified by section
16 8 of this 2018 Act, of the members first appointed to the program ad-
17 visory committee established under section 8 of this 2018 Act:

18 (1) Five shall serve for a term ending January 1, 2020.

19 (2) Five shall serve for a term ending January 1, 2021.

20 (3) Five shall serve for a term ending January 1, 2022.

21 (4) Six shall serve for a term ending January 1, 2023.

22 **SECTION 10.** (1) The program advisory committee established under
23 section 8 of this 2018 Act shall:

24 (a) Advise the Environmental Quality Commission, the Department
25 of Environmental Quality and other relevant state agencies on the
26 development and implementation of rules for the program established
27 under sections 12 to 19 of this 2018 Act; and

28 (b) Advise the Governor, the Oregon Department of Administrative
29 Services, the Department of Transportation, the Public Utility Com-
30 mission and other relevant state agencies on the development and
31 implementation of rules for the program established under sections 12

1 to 19 of this 2018 Act and on the expenditures and investments of state
2 proceeds from auctions conducted under section 18 of this 2018 Act.

3 (2) The program advisory committee may conduct studies, request
4 information and provide other advice related to the program estab-
5 lished under sections 12 to 19 of this 2018 Act and the expenditures and
6 investments of state proceeds from auctions conducted under section
7 18 of this 2018 Act as necessary to provide advice as described in sub-
8 section (1) of this section.

9 (3)(a) The program advisory committee shall prepare a biennial re-
10 port that includes:

11 (A) The recommendations of the committee for the expenditures
12 and investments of state proceeds from auctions conducted under
13 section 18 of this 2018 Act that are deposited in the Climate Invest-
14 ments Fund established under section 28 of this 2018 Act and in the
15 Transportation Decarbonization Investments Fund established under
16 section 29 of this 2018 Act; and

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

20 (b) The committee shall submit the report required by this sub-
21 section to:

22 (A) The interim committees of the Legislative Assembly related to
23 climate, in the manner provided by ORS 192.245; and

24 (B) The Governor by July 1 of each even-numbered year for con-
25 sideration by the Governor during the preparation of the Governor's
26 budget.

27
28 (Statement of Purposes)

29
30 **SECTION 11.** (1) The Legislative Assembly finds and declares that
31 the purposes of the program established under sections 12 to 19 of this

1 **2018 Act and the investments provided for in sections 27 to 32, 33 and**
2 **34 of this 2018 Act are to reduce greenhouse gas emissions consistent**
3 **with the statewide greenhouse gas emissions limits established under**
4 **section 4 of this 2018 Act and to promote carbon sequestration and**
5 **adaptation and resilience by this state’s natural and working lands,**
6 **communities and economy in the face of climate change and ocean**
7 **acidification.**

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

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

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

14

15 **(Greenhouse Gas Cap and Market-Based Compliance Mechanism)**

16

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

19 **(1) “Aggregation” means an approach for qualifying and quantifying**
20 **offset projects that allows for the grouping together of two or more**
21 **geographically or temporally separate activities that result in re-**
22 **ductions or removals of greenhouse gases in a similar manner.**

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

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

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

30 **(5) “Carbon dioxide equivalent” means the amount of carbon dioxide**
31 **by weight that would produce the same global warming impact as a**

1 given weight of another greenhouse gas, based on considerations in-
2 cluding but not limited to the best available science, including infor-
3 mation from the Intergovernmental Panel on Climate Change.

4 (6) “Coal-fired resource” has the meaning given that term in ORS
5 757.518.

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

8 (8) “Compliance obligation” means the quantity of regulated emis-
9 sions for which a covered entity must submit compliance instruments
10 to the Department of Environmental Quality during a compliance pe-
11 riod.

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

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

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

18 (a) A reduction in or avoidance of emissions of any air contaminant
19 in this state other than a greenhouse gas;

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

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

25 (12) “Electric company” has the meaning given that term in ORS
26 757.600.

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

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

30 (a) Is a registered entity;

31 (b) Is not a covered entity or an opt-in entity; and

1 (c) Intends to purchase, hold, sell or voluntarily surrender compli-
2 ance instruments.

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

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

10 (17) “Natural and working lands” means:

11 (a) Land that is actively used by an agricultural owner or operator
12 for an agricultural operation that includes, but need not be limited to,
13 active engagement in farming or ranching;

14 (b) Land producing forest products;

15 (c) Lands consisting of forests, grasslands, deserts, freshwater and
16 riparian systems, wetlands, coastal and estuarine areas, watersheds,
17 wildlands or wildlife habitat; or

18 (d) Lands used for recreational purposes such as parks, urban and
19 community forests, trails, greenbelts and other similar open space
20 land.

21 (18) “Natural gas utility” means a natural gas utility regulated by
22 the Public Utility Commission under ORS chapter 757.

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

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

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

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

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

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

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

14 (b) On a voluntary basis.

15 SECTION 13. Adoption of program; general provisions. (1) The En-
16 vironmental Quality Commission shall, by rule, adopt a program that
17 places a cap on the total anthropogenic greenhouse gas emissions by
18 all covered entities through setting annual allowance budgets and that
19 provides a market-based mechanism for covered entities to demon-
20 strate compliance with the program. In adopting the program required
21 by this section, the commission shall set an annual allowance budget
22 for the calendar year 2021, and a schedule of annual allowance budgets
23 that decline by a predetermined rate each calendar year until 2050. The
24 schedule of annual allowance budgets must reflect the total
25 anthropogenic greenhouse gas emissions from all covered entities as
26 a proportionate share of statewide greenhouse gas emissions, as de-
27 fined in section 4 of this 2018 Act, that must be reduced to prevent
28 exceedance of the statewide greenhouse gas emissions limits estab-
29 lished under section 4 of this 2018 Act.

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

1 (a) The commission shall designate a person in control of an air
2 contamination source for which a permit is issued pursuant to ORS
3 468.065, 468A.040 or 468A.155 as a covered entity if the annual regulated
4 emissions attributable to the air contamination source meet or exceed
5 25,000 metric tons of carbon dioxide equivalent. The commission shall
6 exempt from regulation under sections 12 to 19 of this 2018 Act the
7 methane emissions from a landfill that are demonstrated to have been
8 recaptured and used for the generation of renewable energy, including
9 but not limited to electricity, transportation fuels or heat.

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

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

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

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

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

1 section.

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

9 (C) Designate as covered entities persons not described in subpara-
10 graphs (A) and (B) of this paragraph as necessary to address regulated
11 emissions that are attributable to the combustion of fuel that is im-
12 ported, sold or distributed for use in this state. For purposes of this
13 subparagraph, the commission:

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

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

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

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

28 (b) Standards, pursuant to section 17 of this 2018 Act, for offset
29 projects and for covered entities to use offset credits;

30 (c) Rules for the administration of auctions of allowances pursuant
31 to section 18 of this 2018 Act;

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

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

4 (f) Compliance periods, standards for calculating compliance obli-
5 gations and procedures for covered entities to demonstrate compliance
6 with the compliance obligations.

7 (4) The commission shall require a covered entity or opt-in entity
8 to surrender to the Department of Environmental Quality a quantity
9 of compliance instruments equal to the covered entity's or opt-in
10 entity's compliance obligation no later than the surrender date speci-
11 fied by the commission by rule or order. In addition to any penalty
12 provided by law, rules adopted by the commission may require a cov-
13 ered entity or opt-in entity that fails to timely surrender to the de-
14 partment a sufficient quantity of compliance instruments to meet a
15 compliance obligation to surrender to the department an adjusted
16 compliance obligation.

17 (5)(a) All covered entities, opt-in entities and general market par-
18 ticipants must register as registered entities to participate in the pro-
19 gram established under sections 12 to 19 of this 2018 Act.

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

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

28 SECTION 14. Temporary exemption for certain emissions. (1) An-
29 nual verified greenhouse gas emissions reported or assigned under
30 ORS 468A.280 that are emissions of hydrofluorocarbons,
31 perfluorocarbons, sulfur hexafluoride, nitrogen trifluoride or other

1 **fluorinated greenhouse gases generated during semiconductor and re-**
2 **lated device manufacturing are exempt from regulation under sections**
3 **12 to 19 of this 2018 Act and rules adopted under sections 12 to 19 of**
4 **this 2018 Act.**

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

8 **SECTION 15. Section 14 of this 2018 Act is repealed on January 2,**
9 **2026.**

10 **SECTION 16. Allocation of allowances. (1) The Department of En-**
11 **vironmental Quality shall allocate a percentage of allowances from**
12 **each annual allowance budget to be distributed directly into an al-**
13 **lowance price containment reserve designed to assist in containing**
14 **compliance costs for covered entities.**

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

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

24 **(b) Taking into consideration the interaction of sections 12 to 19 of**
25 **this 2018 Act with the provisions of ORS 469A.005 to 469A.210 and**
26 **757.518, allow an electric company to surrender as compliance instru-**
27 **ments a portion of the allowances directly distributed to the electric**
28 **company under paragraph (a) of this subsection that reflects**
29 **greenhouse gas emissions from coal-fired resources in the electric**
30 **company's allocation of electricity;**

31 **(c) Require the department to allocate allowances for direct dis-**

1 **tribution at no cost to a natural gas utility and require the natural**
2 **gas utility to consign the directly distributed allowances to the state**
3 **to be auctioned pursuant to section 18 of this 2018 Act; and**

4 **(d) Include a methodology for determining the allocation for dis-**
5 **tribution directly to covered entities described in this subsection that,**
6 **to the extent feasible, is based on the following principles:**

7 **(A) The direct distribution to a covered entity during the calendar**
8 **year 2021 should represent an amount equal to 100 percent of the cov-**
9 **ered entity's proportionate share of regulated emissions during repre-**
10 **sentative calendar years prior to 2018; and**

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

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

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

28 **(c) The governing body of a consumer-owned utility that receives**
29 **directly distributed allowances under this subsection shall, no later**
30 **than September 15 of each even-numbered year, submit a report to the**
31 **Joint Legislative Committee on Climate on the uses by the**

1 **consumer-owned utility of the directly distributed allowances. The re-**
2 **port must include, but not be limited to, a description of the uses by**
3 **the consumer-owned utility of auction proceeds from the sale of al-**
4 **lowances consigned to the state for auction under this subsection.**

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

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

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

20 **(B) Require the allocation to a covered entity to decline annually**
21 **at a rate equal to the predetermined rate of decline for annual allow-**
22 **ance budgets adopted under section 13 of this 2018 Act.**

23 **(c) A covered entity shall receive an allocation under this sub-**
24 **section if the covered entity is classified as being engaged in one or**
25 **more of the processes described by the following industry descriptions**
26 **and codes in the North American Industry Classification System:**

27 **(A) Cement Manufacturing, code 327310.**

28 **(B) Other Crushed and Broken Stone Mining and Quarrying, code**
29 **212319.**

30 **(C) Frozen Fruit, Juice and Vegetable Manufacturing, code 311411.**

31 **(D) Frozen Specialty Food Manufacturing, code 311412.**

1 (E) Dried and Dehydrated Food Manufacturing, code 311423.

2 (F) Iron and Steel Mills and Ferroalloy Manufacturing, code 331110.

3 (G) Other Basic Inorganic Chemical Manufacturing, code 325180.

4 (H) All Other Plastics Product Manufacturing, code 326199.

5 (I) Mineral Wool Manufacturing, code 327993.

6 (J) Polystyrene Foam Product Manufacturing, code 326140.

7 (K) Glass Container Manufacturing, code 327213.

8 (L) Ethyl Alcohol Manufacturing, code 325193.

9 (M) Reconstituted Wood Product Manufacturing, code 321219.

10 (N) Gypsum Product Manufacturing, code 327420.

11 (O) Pulp Mills, code 322110.

12 (P) Paper (except Newsprint) Mills, code 322121.

13 (Q) Paperboard Mills, code 322130.

14 (d) The commission shall, by the year 2024 and once every three
15 years thereafter, conduct a review of rules adopted under this sub-
16 section and any updated data and analysis to determine whether up-
17 dates to the rules are necessary to:

18 (A) Mitigate leakage by covered entities engaged in emissions-
19 intensive, trade-exposed processes; or

20 (B) Prevent allocation to covered entities of allowances under this
21 section that are in excess of the allocation necessary to mitigate
22 leakage.

23 (e) In addition to and not in lieu of the review required by para-
24 graph (d) of this subsection, the commission may update the list of
25 processes in paragraph (c) of this subsection by rule if a covered entity
26 makes a proposal to the commission that an update to the list is nec-
27 essary to mitigate leakage.

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

31 (5) After making all allocations provided for in subsections (1) to

1 (4) of this section, the department shall allocate all remaining allow-
2 ances in the annual allowance budget to be distributed to an auction
3 holding account for auction pursuant to section 18 of this 2018 Act.

4 **SECTION 17. Offset projects.** (1) Offset projects:

5 (a) Must be located in the United States or in a jurisdiction with
6 which the Environmental Quality Commission has entered into a
7 linkage agreement pursuant to section 19 of this 2018 Act;

8 (b) Must not be otherwise required by law; and

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

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

13 (B) Are in addition to greenhouse gas emissions reductions or re-
14 movals otherwise required by law and any other greenhouse gas
15 emissions reductions or removals that would otherwise occur.

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

22 (b)(A) The commission may by rule adopt additional restrictions on
23 the number of offset credits that may be surrendered by a covered
24 entity that is an air contamination source that is geographically lo-
25 cated in an impacted community if:

26 (i) The geographic area within which the air contamination source
27 is located is also a nonattainment area or an attainment area
28 projected by the Department of Environmental Quality to exceed air
29 quality standards within five years and the air contamination source
30 substantially contributes to or causes the nonattainment or projected
31 nonattainment of air quality standards; or

1 (ii) The air contamination source is individually causing an
2 exceedance of air quality standards.

3 (B) Additional restrictions adopted under this paragraph may in-
4 clude, but need not be limited to, restrictions that prohibit an air
5 contamination source described in this paragraph from surrendering
6 offset credits to meet a compliance obligation.

7 (3) In adopting rules governing offset projects and covered entities'
8 use of offset credits, the commission shall:

9 (a) Take into consideration standards, rules or protocols for offset
10 projects and offset credits established by other states, provinces and
11 countries with programs comparable to the program established under
12 sections 12 to 19 of this 2018 Act;

13 (b) Encourage opportunities for the development of offset projects
14 in this state by adopting offset protocols that must include, but need
15 not be limited to, protocols that make use of aggregation or other
16 mechanisms to reduce transaction costs related to the development
17 of offset projects;

18 (c) Consult with and consider the recommendations of the advisory
19 committee required by subsection (4) of this section, the State De-
20 partment of Agriculture, the State Board of Forestry, the Environ-
21 mental Justice Task Force and other relevant state agencies; and

22 (d) Adopt by rule a process for the Department of Environmental
23 Quality to investigate and invalidate issued offset credits as necessary
24 to uphold the environmental integrity of the program established un-
25 der sections 12 to 19 of this 2018 Act.

26 (4) The Director of the Department of Environmental Quality shall
27 appoint a compliance offsets protocol advisory committee to aid and
28 advise the commission in adopting and updating rules governing offset
29 projects and covered entities' use of offset credits. The advisory com-
30 mittee shall provide guidance to the commission in developing and
31 updating offset protocols for the purposes of increasing offset projects

1 with direct environmental benefits in this state while prioritizing off-
2 set projects that benefit impacted communities, Indian tribes and na-
3 tural and working lands. The director shall appoint at least one
4 member to the advisory committee from each of the following groups:

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

16 **SECTION 18. Auctions.** (1) Except as provided in subsection (6) of
17 this section, auctions of allowances are open to registered entities.

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

20 (3) The department may engage:

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

23 (b) A qualified financial services administrator to conduct financial
24 transactions related to the auction.

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

27 (5) The Environmental Quality Commission shall:

28 (a) Set an auction floor price for the year 2021 and a schedule for
29 the floor price to increase by a predetermined amount each calendar
30 year; and

31 (b) Take actions to minimize the potential for market manipulation

1 and to guard against bidder collusion, including but not limited to
2 specifying as holding limits the maximum number of allowances that
3 may be held for use or trade by a registered entity at any time.

4 (6) Reserve auctions of allowances from the allowance price con-
5 tainment reserve shall be conducted separately from the auction of
6 other allowances for the purpose of addressing high costs of compli-
7 ance instruments. Allowances unsold at a reserve auction must be
8 made available again at future reserve auctions. Only covered entities
9 may participate in reserve auctions.

10 (7) The proceeds of an auction shall be transferred as follows:

11 (a) Auction proceeds from the sale of allowances consigned to the
12 state for auction shall be transferred to the electric company, natural
13 gas utility or consumer-owned utility that consigned the allowances.

14 (b) Auction proceeds payable to the state shall be transferred to the
15 State Treasurer to be deposited in the Auction Proceeds Distribution
16 Fund established under section 26 of this 2018 Act.

17 SECTION 19. Linkage with market-based compliance mechanisms
18 in other jurisdictions. (1) In adopting and implementing rules under
19 sections 12 to 19 of this 2018 Act, the Environmental Quality Commis-
20 sion and the Department of Environmental Quality shall:

21 (a) Consider market-based compliance mechanisms designed to re-
22 duce greenhouse gas emissions in other jurisdictions; and

23 (b) Implement the program established under sections 12 to 19 of
24 this 2018 Act in a manner that:

25 (A) Avoids double counting of emissions or emissions reductions;
26 and

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

29 (2) The commission may not link the market-based compliance
30 mechanism established pursuant to sections 12 to 19 of this 2018 Act
31 and rules adopted under sections 12 to 19 of this 2018 Act with the

1 market-based compliance mechanism of any other jurisdiction unless
2 the commission notifies the Governor that the commission intends to
3 link the market-based compliance mechanism and the Governor makes
4 the following findings:

5 (a) The jurisdiction with which the commission proposes to link has
6 adopted program requirements for greenhouse gas reductions, includ-
7 ing but not limited to requirements for offsets, that are equivalent to
8 or stricter than those required by sections 12 to 19 of this 2018 Act;

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

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

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

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

30

31 (Methodology for Designating Impacted Communities)

1 **SECTION 20.** (1) The Environmental Quality Commission, by rule
2 and in consultation with the Portland State University Population
3 Research Center, the Oregon Health Authority, the program advisory
4 committee established under section 8 of this 2018 Act and other rele-
5 vant state agencies and local agencies and officials, shall designate
6 impacted communities, as defined in section 12 of this 2018 Act, by
7 census tract. The commission shall designate impacted communities
8 based on a methodology that takes into consideration geographic,
9 socioeconomic, public health and environmental hazard criteria. The
10 commission may designate as impacted communities areas that in-
11 clude, but are not limited to:

12 (a) Areas with above average concentrations of low income house-
13 holds, high unemployment, low levels of homeownership, high rent
14 burden, sensitive populations or residents with low levels of educa-
15 tional attainment.

16 (b) Areas disproportionately affected by environmental pollution
17 and other hazards that can lead to negative public health effects, ex-
18 posure or environmental degradation.

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

23 (3) The commission shall review and update the methodology re-
24 quired by this section and the designation of impacted communities a
25 minimum of once every five years.

26
27 (Department of Environmental Quality Program Development Fee)

28
29 **SECTION 21.** Section 22 of this 2018 Act is added to and made a part
30 of ORS chapter 468A.

31 **SECTION 22.** (1) In addition to and not in lieu of any other fee re-

1 quired by law, and subject to subsection (3) of this section, a person
2 required to register and report greenhouse gas emissions to the De-
3 partment of Environmental Quality under ORS 468A.280 shall pay to
4 the department an annual program development fee of \$_____ if,
5 for the year prior to the year in which the annual program develop-
6 ment fee is assessed, the person reported annual greenhouse gas
7 emissions attributable to the person that equal or exceed 25,000 metric
8 tons of carbon dioxide equivalent.

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

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

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

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

24
25 (Auction Proceeds Investment)

26
27 SECTION 24. Section 25 of this 2018 Act is added to and made a part
28 of ORS chapter 757.

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

30 (a) “Auction proceeds” means revenue transferred to an electric
31 company or natural gas utility under section 18 of this 2018 Act from

1 the sale of allowances that the electric company or natural gas utility
2 consigned to the state for auction, pursuant to the program estab-
3 lished by the Environmental Quality Commission under sections 12 to
4 19 of this 2018 Act.

5 (b) “Electric company” has the meaning given that term in ORS
6 757.600.

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

9 (2) Auction proceeds received by an electric company or natural gas
10 utility must be spent within the service territory of the electric com-
11 pany or natural gas utility and must be used only for activities that
12 serve to reduce greenhouse gas emissions, as defined in ORS 468A.005,
13 or to stabilize or reduce energy bills for customers.

14 (3) An electric company or natural gas utility shall use the auction
15 proceeds for activities that benefit the following customers, in the
16 following order:

17 (a) Low-income residential customers, including but not limited to
18 low-income residential customers that are tenants.

19 (b) All other customers, including residential customers, small
20 commercial customers and energy intensive industrial customers that
21 are not covered entities receiving allowances directly allocated at no
22 cost under section 16 of this 2018 Act.

23 (4)(a) An electric company or natural gas utility shall prioritize the
24 use of auction proceeds for bill assistance, weatherization and energy
25 efficiency measures. Except as provided in paragraph (b) of this sub-
26 section, auction proceeds returned to customers as bill assistance
27 must be returned in a nonvolumetric manner.

28 (b) An electric company or natural gas utility shall expend a por-
29 tion of the auction proceeds received by the electric company or na-
30 tural gas utility each year to fund volumetric bill assistance to
31 low-income residential customers.

1 (5) The Public Utility Commission shall, pursuant to ORS 756.040
2 and in consultation with the Housing and Community Services De-
3 partment and the program advisory committee established under sec-
4 tion 8 of this 2018 Act, adopt rules for the implementation and
5 enforcement of this section.

6 **SECTION 26.** (1) The Auction Proceeds Distribution Fund is estab-
7 lished in the State Treasury, separate and distinct from the General
8 Fund.

9 (2) The Auction Proceeds Distribution Fund shall consist of moneys
10 transferred to the fund under section 18 of this 2018 Act. Interest
11 earned by the fund shall be credited to the fund.

12 (3) Subject to subsection (4) of this section, the Department of En-
13 vironmental Quality shall certify the amount of moneys available for
14 distribution in the Auction Proceeds Distribution Fund and distribute
15 the moneys as follows:

16 (a) All moneys that constitute revenues described in Article IX,
17 section 3a (1), of the Oregon Constitution, must be transferred to the
18 Transportation Decarbonization Investments Fund; and

19 (b) Of the moneys remaining after the transfer under paragraph (a)
20 of this subsection:

21 (A) Eighty-five percent must be transferred to the Oregon Climate
22 Investments Fund; and

23 (B) Fifteen percent must be transferred to the Just Transition
24 Fund.

25 (4) The Department of Environmental Quality shall consult with the
26 Department of Transportation in determining the amount of moneys
27 to be transferred under subsection (3)(a) of this section.

28 **SECTION 27.** As used in sections 27 to 32 of this 2018 Act:

29 (1) “Impacted communities” has the meaning given that term in
30 section 12 of this 2018 Act.

31 (2) “Metropolitan planning organization” has the meaning given

1 that term in ORS 197.629.

2 (3) “Natural and working lands” has the meaning given that term
3 in section 12 of this 2018 Act.

4 (4) “Regional transportation plan” has the meaning given that term
5 in ORS 184.899.

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

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

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

19 (a) Sixty percent must be allocated for projects, programs or ac-
20 tivities that are to the benefit of or geographically located in impacted
21 communities;

22 (b) Twenty percent must be allocated for projects, programs or ac-
23 tivities that represent investments in natural and working lands; and

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

29 (4) Of the moneys allocated by the Legislative Assembly under
30 subsection (3)(a) of this section, at least 33 percent must be allocated
31 for activities that benefit rural areas that are designated as impacted

1 communities. For purposes of this subsection, “rural area” means an
2 area located entirely outside of the acknowledged Portland Metropol-
3 itan Area Regional Urban Growth Boundary and the acknowledged
4 urban growth boundaries of cities with populations of 30,000 or more.

5 (5) The department may perform activities necessary to ensure that
6 recipients of moneys distributed from the Climate Investments Fund
7 comply with applicable requirements. If the department determines
8 that a recipient has not complied with applicable requirements, the
9 department may order the recipient to refund all moneys distributed
10 from the fund. Moneys refunded pursuant to this subsection shall be
11 credited to the fund.

12 SECTION 29. (1) The Transportation Decarbonization Investments
13 Fund is established in the State Treasury, separate and distinct from
14 the General Fund. Interest earned by the Transportation
15 Decarbonization Investments Fund shall be credited to the fund.
16 Moneys in the fund are continuously appropriated to the Oregon De-
17 partment of Administrative Services to be distributed by the depart-
18 ment as provided in this section.

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

21 (3) Moneys deposited in the fund shall be used only:

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

24 (b) For activities that further the purposes stated in section 11 of
25 this 2018 Act.

26 (4) The Legislative Assembly shall allocate the moneys deposited in
27 the fund subject to section 30 of this 2018 Act. At least 60 percent of
28 the moneys deposited in the fund each biennium must be allocated for
29 purposes that benefit impacted communities.

30 (5) The department may perform activities necessary to ensure that
31 recipients of moneys distributed from the Transportation

1 **Decarbonization Investments Fund comply with applicable require-**
2 **ments. If the department determines that a recipient has not complied**
3 **with applicable requirements, the department may order the recipient**
4 **to refund all moneys distributed from the fund. Moneys refunded**
5 **pursuant to this subsection shall be credited to the fund.**

6 **SECTION 30. (1) Moneys deposited in the Climate Investments Fund**
7 **and moneys deposited in the Transportation Decarbonization Invest-**
8 **ments Fund shall be allocated, where applicable to the extent feasible,**
9 **cost-effective and consistent with law, to support the purposes stated**
10 **in section 11 of this 2018 Act and to:**

- 11 **(a) Complement efforts to achieve and maintain local air quality;**
- 12 **(b) Provide opportunities for Indian tribes, members of impacted**
13 **communities and businesses owned by women or members of minority**
14 **groups to participate in and benefit from statewide efforts to reduce**
15 **greenhouse gas emissions;**
- 16 **(c) Make use of domestically produced products to the maximum**
17 **extent feasible; or**
- 18 **(d) Promote low carbon economic development opportunities and**
19 **creation of jobs that sustain living wages.**

20 **(2) Moneys may be allocated from the Climate Investments Fund**
21 **for investments that may include, but need not be limited to, any of**
22 **the following:**

- 23 **(a) Funding to reduce greenhouse gas emissions or promote adap-**
24 **tation or resiliency through energy efficiency and energy conservation**
25 **in buildings, low-income weatherization and support of affordable**
26 **housing that is transit oriented or located near employment centers.**
- 27 **(b) Funding to reduce greenhouse gas emissions through electrical**
28 **grid decarbonization efforts, including but not limited to investments**
29 **in energy generation from renewable resources, distributed energy re-**
30 **sources, transmission and storage projects for renewable energy, de-**
31 **mand response, community solar projects and other community-scale**

1 **renewable energy projects.**

2 **(c) Funding to reduce greenhouse gas emissions associated with**
3 **transportation, including but not limited to investments in transpor-**
4 **tation electrification, transit, fuel and energy efficiency in vessels**
5 **powered by marine engines and roadside landscape management ef-**
6 **forts that promote carbon sequestration.**

7 **(d) Funding to support planning or implementation of planning by**
8 **local governments and metropolitan planning organizations for re-**
9 **ducing greenhouse gas emissions or promoting carbon sequestration,**
10 **adaptation or resilience, including but not limited to funding for met-**
11 **ropolitan planning organizations to incorporate and implement strat-**
12 **egies for reducing greenhouse gas emissions in regional transportation**
13 **plans.**

14 **(e) Funding to reduce greenhouse gas emissions or support adapta-**
15 **tion or resiliency through investments in natural and working lands,**
16 **including but not limited to investments in agricultural or forestry**
17 **practices that reduce greenhouse gas emissions or promote carbon**
18 **sequestration, restoration of tidal marsh or intertidal areas of**
19 **estuaries, irrigation efficiency projects, riparian zone restoration**
20 **projects and methane recovery.**

21 **(f) Funding to facilitate the development in Oregon of clean energy**
22 **infrastructure or technologies, low carbon infrastructure or technolo-**
23 **gies, carbon capture and storage or carbon-free infrastructure and**
24 **technologies.**

25 **(3)(a) In allocating moneys from the Transportation**
26 **Decarbonization Investments Fund, the Legislative Assembly shall, to**
27 **the extent feasible and consistent with law, seek to invest in pro-**
28 **grams, projects or activities that are consistent with, or that comple-**
29 **ment, investments described in subsection (2) of this section.**

30 **(b) A project, program or activity that is eligible to be funded by**
31 **moneys deposited in the Transportation Decarbonization Investments**

1 **Fund may also be eligible to be funded by moneys deposited in the**
2 **Climate Investments Fund for those portions of the project, program**
3 **or activity that may not be constitutionally funded by revenues de-**
4 **scribed in Article IX, section 3a (1), of the Oregon Constitution.**

5 **(4) If a construction project is funded in whole or in part by moneys**
6 **deposited in the Climate Investments Fund or the Transportation**
7 **Decarbonization Investments Fund, the primary contractor partic-**
8 **ipating in the construction project:**

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

11 **(b) May not be a contractor listed by the Commissioner of the Bu-**
12 **reau of Labor and Industries under ORS 279C.860 as ineligible to re-**
13 **ceive a contract or subcontract for public works;**

14 **(c) Must demonstrate a history of compliance with the rules and**
15 **other requirements of the Construction Contractors Board and of the**
16 **Workers' Compensation Division and the Occupational Safety and**
17 **Health Division of the Department of Consumer and Business Services;**
18 **and**

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

21 **(5)(a) If a construction project is funded in whole or in part by**
22 **moneys deposited in the Climate Investments Fund or the Transpor-**
23 **tation Decarbonization Investments Fund, the state agency charged**
24 **with administering the funds for the project may require the use of a**
25 **high road agreement or a project labor agreement if the use of either**
26 **type of agreement would advance the public interest and be consistent**
27 **with law.**

28 **(b)(A) A high road agreement required under paragraph (a) of this**
29 **subsection must be an agreement among multiple stakeholders that**
30 **specifies goals for a project or program that are related to the quality**
31 **and accessibility of economic opportunities provided by that project**

1 **or program and that includes:**

2 **(i) Strategies for advancing the specified goals based on metrics**
3 **that may include but are not limited to:**

4 **(I) Requirements for wages and benefits;**

5 **(II) Workforce and business diversity;**

6 **(III) Training and career development; and**

7 **(IV) Environmental benefits;**

8 **(ii) A mechanism for implementing the agreement; and**

9 **(iii) A process for evaluating the progress of a project or program**
10 **toward achieving the goals specified in the agreement.**

11 **(B) A project labor agreement required under paragraph (a) of this**
12 **subsection must be a collective bargaining agreement with one or**
13 **more labor organizations that establishes the terms and conditions of**
14 **employment for a specific construction project and that, at a mini-**
15 **mum:**

16 **(i) Binds all contractors and subcontractors on the construction**
17 **project through the inclusion of appropriate specifications in all rele-**
18 **vant solicitation provisions and contract documents;**

19 **(ii) Allows all contractors and subcontractors to compete for con-**
20 **tracts and subcontracts without regard to whether the contractors or**
21 **subcontractors are parties to any other collective bargaining agree-**
22 **ment;**

23 **(iii) Contains guarantees against strikes, lockouts and similar job**
24 **disruptions; and**

25 **(iv) Sets forth effective, prompt and mutually binding procedures**
26 **for resolving labor disputes that arise during the term of the project**
27 **labor agreement.**

28 **(6) Agencies of the executive department as defined in ORS 174.112,**
29 **counties, cities and all other public and private entities receiving**
30 **moneys under sections 27 to 32 of this 2018 Act shall report annually**
31 **to the Oregon Department of Administrative Services on the expendi-**

1 tures of the moneys.

2 (7) The Oregon Department of Administrative Services shall make
3 an annual report to the Legislative Assembly presenting the informa-
4 tion required by subsection (6) of this section. The report must be
5 made to the Joint Legislative Committee on Climate.

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

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

19 SECTION 32. (1) The Oregon Department of Administrative Ser-
20 vices, in consultation with the program advisory committee estab-
21 lished under section 8 of this 2018 Act, the Department of
22 Transportation and other interested state agencies, shall adopt rules
23 as necessary to implement sections 27 to 32 of this 2018 Act.

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

28 SECTION 33. (1) The Just Transition Fund is established in the
29 State Treasury, separate and distinct from the General Fund. Interest
30 earned by the Just Transition Fund shall be credited to the fund.
31 Moneys in the fund are continuously appropriated to the Higher Edu-

1 cation Coordinating Commission to be distributed pursuant to the Just
2 Transition Program established under section 34 of this 2018 Act.

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

5 (3)(a) Of the moneys deposited in the fund each biennium, the
6 commission shall set aside 50 percent of the funds in a reserve ac-
7 count.

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

11 (A) An amount that, in the commission's determination, is ade-
12 quate for the purposes specified in paragraph (c) of this subsection;
13 or

14 (B) \$2.5 million.

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

19 SECTION 34. (1) The Higher Education Coordinating Commission,
20 in consultation with the program advisory committee established un-
21 der section 8 of this 2018 Act, the Employment Department and other
22 interested state agencies, shall jointly establish a Just Transition
23 Program for the purpose of distributing moneys deposited in the Just
24 Transition Fund.

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

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

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

31 (c) Provide mental health services for workers dislocated or ad-

1 **versely affected by climate change or climate change policies; or**

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

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

13 **(4) The commission may adopt rules necessary for the adminis-**
14 **tration of the Just Transition Program, including but not limited to**
15 **rules that set standards for awarding grants.**

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

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

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

22 **(6) The commission may perform activities necessary to ensure that**
23 **recipients of moneys distributed from the Just Transition Fund comply**
24 **with applicable requirements. If the commission determines that a**
25 **recipient has not complied with applicable requirements, the commis-**
26 **sion may order the recipient to refund all moneys distributed from the**
27 **fund. Moneys refunded pursuant to this subsection shall be credited**
28 **to the fund.**

29

30 **GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**

31

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

2 468A.280. (1) *[In addition to any registration and reporting that may be*
 3 *required under ORS 468A.050,]* The Environmental Quality Commission by
 4 rule may require registration and reporting **of information necessary to**
 5 **determine greenhouse gas emissions** by:

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

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

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

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

21 *[(2)] (3)* Rules adopted by the commission under this section for electricity
 22 that is imported, sold, allocated or distributed for use in this state may re-
 23 quire reporting of information necessary to determine greenhouse gas emis-
 24 sions from generating facilities used to produce the electricity and related
 25 electricity transmission line losses.

26 *[(3)(a)] (4)(a)* The commission shall allow consumer-owned utilities, as
 27 defined in ORS 757.270, to comply with reporting requirements imposed under
 28 this section by the submission of a report prepared by a third party. A report
 29 submitted under this paragraph may include information for more than one
 30 consumer-owned utility, but must include all information required by the
 31 commission for each individual utility.

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

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

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

11 [(4)(a)] **(5)(a)** Rules adopted by the commission pursuant to this section
12 for electricity that is purchased, imported, sold, allocated or distributed for
13 use in this state by an electric company, as defined in ORS 757.600, must be
14 limited to the reporting of:

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

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

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

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

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

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

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

28 (i) Electricity purchases made by a particular seller to the electric com-
29 pany;

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

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

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

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

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

10 [(5)] (6) Rules adopted by the commission under this section for *[fossil]*
11 fuel that is imported, sold or distributed for use in this state may require
12 reporting of the type and quantity of the fuel and any additional information
13 necessary to determine the *[carbon content]* **greenhouse gas emissions as-**
14 **sociated with the use or combustion** of the fuel. *[For the purpose of de-*
15 *termining greenhouse gas emissions related to liquefied petroleum gas, the*
16 *commission shall allow reporting using publications or submission of data by*
17 *the American Petroleum Institute but may require reporting of such other in-*
18 *formation necessary to achieve the purposes of the rules adopted by the com-*
19 *mission under this section.]*

20 [(6)] (7) To an extent that is consistent with the purposes of the rules
21 adopted by the commission under this section, the commission shall minimize
22 the burden of the reporting required under this section by:

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

25 (b) Allowing electronic reporting;

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

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

31 (e) Requiring reporting by the fewest number of persons in a fuel dis-

1 tribution system that will allow the commission to acquire the information
2 needed by the commission; or

3 (f) Other appropriate means and procedures determined by the commis-
4 sion.

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

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

12 **(9) If a person required to register and report under subsection (1)**
13 **of this section fails to submit a report under this section, the depart-**
14 **ment may develop an assigned emissions level for the person if nec-**
15 **essary for the purpose of regulating persons under sections 12 to 19**
16 **of this 2018 Act.**

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

21 **(b) The commission shall limit the fees established under this sub-**
22 **section to the anticipated cost of developing, implementing and ana-**
23 **lyzing data collected under greenhouse gas registration and reporting**
24 **programs.**

25

26

CONFORMING AMENDMENTS

27

28 **SECTION 36.** ORS 184.617 is amended to read:

29 184.617. (1) The Oregon Transportation Commission shall:

30 (a) Establish the policies for the operation of the Department of Trans-
31 portation in a manner consistent with the policies and purposes of ORS

1 184.610 to 184.665.

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

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

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

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

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

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

31 (f) Initiate studies, as it deems necessary, to guide the director concerning

1 the transportation needs of Oregon.

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

4 (h) Seek to enter into intergovernmental agreements with local govern-
5 ments and local service districts, as those terms are defined in ORS 174.116,
6 to encourage cooperation between the department and local governments and
7 local service districts to maximize the efficiency of transportation systems
8 in Oregon.

9 (i) Review and approve the department's:

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

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

15 (C) Anticipated capital construction requirements;

16 (D) Construction priorities; and

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

18 (j) Adopt a statewide transportation strategy on greenhouse gas emissions
19 to aid in achieving the greenhouse gas emissions reduction goals set forth
20 in ORS 468A.205 **(2017 Edition)**. The commission shall focus on reducing
21 greenhouse gas emissions resulting from transportation. In developing the
22 strategy, the commission shall consider state and federal programs, policies
23 and incentives related to reducing greenhouse gas emissions. The commission
24 shall consult and cooperate with metropolitan planning organizations, other
25 state agencies, local governments and stakeholders and shall actively solicit
26 public review and comment in the development of the strategy. **The com-
27 mission shall periodically assess, update and modify the strategy as
28 necessary to prevent exceedance of the greenhouse gas emissions lim-
29 its established under section 4 of this 2018 Act.**

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

31 (2) The commission has general power to take any action necessary to

1 coordinate and administer programs relating to highways, motor carriers,
2 motor vehicles, public transit, rail, transportation safety and such other
3 programs related to transportation.

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

7 **SECTION 37.** ORS 468A.210 is amended to read:

8 468A.210. As used in ORS 352.823 and 468A.200 to 468A.260,[:]

9 [(1)] “global warming” means an increase in the average temperature of
10 the earth’s atmosphere that is associated with the release of greenhouse
11 gases.

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

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

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

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

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

20 **SECTION 38.** ORS 468A.235 is amended to read:

21 468A.235. The Oregon Global Warming Commission shall recommend ways
22 to coordinate state and local efforts to reduce greenhouse gas emissions in
23 Oregon consistent with [*the greenhouse gas emissions reduction goals estab-*
24 *lished by ORS 468A.205*] **section 4 of this 2018 Act** and shall recommend
25 efforts to help Oregon prepare for the effects of global warming. The Office
26 of the Governor and state agencies working on multistate and regional ef-
27 forts to reduce greenhouse gas emissions shall inform the commission about
28 these efforts and shall consider input from the commission for such efforts.

29 **SECTION 39.** ORS 468A.240 is amended to read:

30 468A.240. (1) In furtherance of [*the greenhouse gas emissions reduction*
31 *goals established by ORS 468A.205*] **section 4 of this 2018 Act**, the Oregon

1 Global Warming Commission may recommend statutory and administrative
2 changes, policy measures and other recommendations to be carried out by
3 state and local governments, businesses, nonprofit organizations or residents.
4 In developing its recommendations, the commission shall consider economic,
5 environmental, health and social costs, and the risks and benefits of alter-
6 native strategies, including least-cost options. The commission shall solicit
7 and consider public comment relating to statutory, administrative or policy
8 recommendations.

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

13 [(3)] (2) The commission shall examine possible funding mechanisms to
14 obtain low-cost greenhouse gas emissions reductions and energy efficiency
15 enhancements, including but not limited to those in the natural gas industry.

16 **SECTION 40.** ORS 468A.250 is amended to read:

17 468A.250. (1) The Oregon Global Warming Commission shall track and
18 evaluate:

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

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

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

24 (d) The physical science of global warming;

25 (e) Progress toward *[the greenhouse gas emissions reduction goals estab-*
26 *lished by ORS 468A.205]* **preventing exceedance of the greenhouse gas**
27 **emissions limits established under section 4 of this 2018 Act;**

28 (f) Greenhouse gases emitted by various sectors of the state economy, in-
29 cluding but not limited to industrial, transportation and utility sectors;

30 (g) Technological progress on sources of energy the use of which gener-
31 ates no or low greenhouse gas emissions and methods for carbon

1 sequestration;

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

4 (i) The carbon sequestration potential of Oregon's forests, alternative
5 methods of forest management that can increase carbon sequestration and
6 reduce the loss of carbon sequestration to wildfire, changes in the mortality
7 and distribution of tree and other plant species and the extent to which
8 carbon is stored in tree-based building materials;

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

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

13 (L) Any other information, policies or analyses that the commission de-
14 termines will aid in [*the achievement of the greenhouse gas emissions re-*
15 *duction goals established by ORS 468A.205.*] **preventing exceedance of the**
16 **greenhouse gas emissions limits established under section 4 of this 2018**
17 **Act.**

18 (2) The commission shall:

19 (a) Work with the State Department of Energy and the Department of
20 Environmental Quality to evaluate all gases with the potential to be
21 greenhouse gases and to determine a carbon dioxide equivalency for those
22 gases; and

23 (b) Use regional and national baseline studies of building performance to
24 identify incremental targets for the reduction of greenhouse gas emissions
25 attributable to residential and commercial building construction and oper-
26 ations.

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

28 468A.260. The Oregon Global Warming Commission shall submit a report
29 to the Legislative Assembly, in the manner provided by ORS 192.245, by
30 [*March 31 of each odd-numbered year*] **September 15 of each even-**
31 **numbered year** that describes Oregon's progress toward [*achievement of the*

1 *greenhouse gas emissions reduction goals established by ORS 468A.205]* **pre-**
2 **venting exceedance of the greenhouse gas emissions limits established**
3 **under section 4 of this 2018 Act.** The report may include relevant issues
4 and trends of significance, including trends of greenhouse gas emissions,
5 emerging public policy and technological advances. The report also may
6 discuss measures the state may adopt to mitigate the impacts of global
7 warming on the environment, the economy and the residents of Oregon and
8 to prepare for those impacts.

9 **SECTION 42.** ORS 468A.265 is amended to read:

10 468A.265. As used in ORS 468A.265 to 468A.277:

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

14 (2) “Clean fuels program” means the program adopted by rule by the En-
15 vironmental Quality Commission under ORS 468A.266 (1)(b).

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

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

23 (5) “Credit aggregator” means a person who voluntarily registers to par-
24 ticipate in the clean fuels program to facilitate credit generation on behalf
25 of a credit generator and to trade credits with regulated parties, credit gen-
26 erators and other credit aggregators.

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

30 (7) “Deferral” means a delay or change in the applicability of a scheduled
31 applicable low carbon fuel standard for a period of time, accomplished pur-

1 suant to an order issued under ORS 468A.273 or 468A.274.

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

6 [(9) “Greenhouse gas” has the meaning given that term in ORS 468A.210.]

7 [(10)] (9) “Low carbon fuel standard” means a standard adopted by the
8 commission by rule under ORS 468A.266 for the reduction of greenhouse gas
9 emissions, on average, per unit of fuel energy.

10 [(11)] (10) “Motor vehicle” has the meaning given that term in ORS
11 801.360.

12 [(12)] (11) “Regulated party” means a person responsible for complying
13 with the low carbon fuel standards.

14 [(13)] (12) “Small deficit” means a net deficit balance at the end of a
15 compliance period, after retirement of all credits held by a regulated party,
16 that does not exceed a percentage set by the commission by rule of the total
17 number of deficits that the regulated party generated for a compliance period
18 and that may not be greater than 10 percent of the total number of deficits
19 that the regulated party generated for a compliance period.

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

21 468A.279. (1) As used in this section[:],

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

23 [(b)] “motor vehicle” has the meaning given that term in ORS 801.360.

24 (2) The Environmental Quality Commission may adopt by rule standards
25 and requirements described in this section to reduce greenhouse gas emis-
26 sions.

27 (3)(a) The commission may adopt requirements to prevent the tampering,
28 alteration and modification of the original design or performance of motor
29 vehicle pollution control systems.

30 (b) Before adopting requirements under this section, the commission shall
31 consider the antitampering requirements and exemptions of the State of

1 California.

2 (4) The commission may adopt requirements for motor vehicle service
3 providers to check and inflate tire pressure according to the tire
4 manufacturer's or motor vehicle manufacturer's recommended specifications,
5 provided that the requirements:

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

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

10 (5) The commission may adopt restrictions on engine use by commercial
11 ships while at port, and requirements that ports provide alternatives to en-
12 gine use such as electric power, provided that:

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

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

18 (c) The requirements must be developed in consultation with represen-
19 tatives of Oregon ports and take into account operational considerations,
20 operational agreements, international protocols and limitations, the ability
21 to fund the purchase and use of electric power equipment and the potential
22 effect of the requirements on competition with other ports.

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

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

26 (b) Potential adverse impacts to public health and the environment, in-
27 cluding but not limited to air quality, water quality and the generation and
28 disposal of waste in this state;

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

30 (d) Technical and economic studies of comparable greenhouse gas emis-
31 sions reduction measures implemented in other states and any other studies

1 as determined by the commission.

2 (7) The provisions of this section do not apply to:

3 (a) Motor vehicles registered as farm vehicles under the provisions of
4 ORS 805.300.

5 (b) Farm tractors, as defined in ORS 801.265.

6 (c) Implements of husbandry, as defined in ORS 801.310.

7 (d) Motor trucks, as defined in ORS 801.355, used primarily to transport
8 logs.

9 **SECTION 44.** ORS 757.357 is amended to read:

10 757.357. (1) As used in this section:

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

12 (b) “Transportation electrification” means:

13 (A) The use of electricity from external sources to provide power to all
14 or part of a vehicle;

15 (B) Programs related to developing the use of electricity for the purpose
16 described in subparagraph (A) of this paragraph; and

17 (C) Infrastructure investments related to developing the use of electricity
18 for the purpose described in subparagraph (A) of this paragraph.

19 (c) “Vehicle” means a vehicle, vessel, train, boat or any other equipment
20 that is mobile.

21 (2) The Legislative Assembly finds and declares that:

22 (a) Transportation electrification is necessary to reduce petroleum use,
23 achieve optimum levels of energy efficiency and carbon reduction, meet fed-
24 eral and state air quality standards, [*meet this state’s greenhouse gas emis-*
25 *sions reduction goals described in ORS 468A.205*] **prevent exceedance of the**
26 **greenhouse gas emissions limits established under section 4 of this 2018**
27 **Act** and improve the public health and safety;

28 (b) Widespread transportation electrification requires that electric com-
29 panies increase access to the use of electricity as a transportation fuel;

30 (c) Widespread transportation electrification requires that electric com-
31 panies increase access to the use of electricity as a transportation fuel in low

1 and moderate income communities;

2 (d) Widespread transportation electrification should stimulate innovation
3 and competition, provide consumers with increased options in the use of
4 charging equipment and in procuring services from suppliers of electricity,
5 attract private capital investments and create high quality jobs in this state;

6 (e) Transportation electrification and the purchase and use of electric
7 vehicles should assist in managing the electrical grid, integrating generation
8 from renewable energy resources and improving electric system efficiency
9 and operational flexibility, including the ability of an electric company to
10 integrate variable generating resources;

11 (f) Deploying transportation electrification and electric vehicles creates
12 the opportunity for an electric company to propose, to the Public Utility
13 Commission, that a net benefit for the customers of the electric company is
14 attainable; and

15 (g) Charging electric vehicles in a manner that provides benefits to elec-
16 trical grid management affords fuel cost savings for vehicle drivers.

17 (3) The Public Utility Commission shall direct each electric company to
18 file applications, in a form and manner prescribed by the commission, for
19 programs to accelerate transportation electrification. A program proposed
20 by an electric company may include prudent investments in or customer re-
21 bates for electric vehicle charging and related infrastructure.

22 (4) When considering a transportation electrification program and deter-
23 mining cost recovery for investments and other expenditures related to a
24 program proposed by an electric company under subsection (3) of this sec-
25 tion, the commission shall consider whether the investments and other ex-
26 penditures:

27 (a) Are within the service territory of the electric company;

28 (b) Are prudent as determined by the commission;

29 (c) Are reasonably expected to be used and useful as determined by the
30 commission;

31 (d) Are reasonably expected to enable the electric company to support the

1 electric company's electrical system;

2 (e) Are reasonably expected to improve the electric company's electrical
3 system efficiency and operational flexibility, including the ability of the
4 electric company to integrate variable generating resources; and

5 (f) Are reasonably expected to stimulate innovation, competition and
6 customer choice in electric vehicle charging and related infrastructure and
7 services.

8 (5)(a) Tariff schedules and rates allowed pursuant to subsection (3) of this
9 section:

10 (A) May allow a return of and a return on an investment made by an
11 electric company under subsection (3) of this section; and

12 (B) Shall be recovered from all customers of an electric company in a
13 manner that is similar to the recovery of distribution system investments.

14 (b) A return on investment allowed under this subsection may be earned
15 for a period of time that does not exceed the depreciation schedule of the
16 investment approved by the commission. When an electric company's invest-
17 ment is fully depreciated, the commission may authorize the electric company
18 to donate the electric vehicle charging infrastructure to the owner of the
19 property on which the infrastructure is located.

20 (6) For purposes of ORS 757.355, electric vehicle charging infrastructure
21 provides utility service to the customers of an electric company.

22 (7) In authorizing programs described in subsection (3) of this section, the
23 commission shall review data concerning current and future adoption of
24 electric vehicles and utilization of electric vehicle charging infrastructure.
25 If market barriers unrelated to the investment made by an electric company
26 prevent electric vehicles from adequately utilizing available electric vehicle
27 charging infrastructure, the commission may not permit additional invest-
28 ments in transportation electrification without a reasonable showing that
29 the investments would not result in long-term stranded costs recoverable
30 from the customers of electric companies.

31 **SECTION 45.** ORS 757.528 is amended to read:

1 757.528. (1) Unless modified by rule by the State Department of Energy
2 as provided in this section, the greenhouse gas emissions standard that ap-
3 plies to consumer-owned utilities is 1,100 pounds of greenhouse gases per
4 megawatt-hour for a generating facility.

5 (2) Unless modified pursuant to subsection (4) of this section, the
6 greenhouse gas emissions standard includes only carbon dioxide emissions.

7 (3) For purposes of applying the emissions standard to cogeneration fa-
8 cilities, the department shall establish an output-based methodology to en-
9 sure that the calculation of emissions of greenhouse gases for cogeneration
10 facilities recognizes the total usable energy output of the process and in-
11 cludes all greenhouse gases emitted by the facility in the production of both
12 electrical and thermal energy.

13 (4) The department shall review the greenhouse gas emissions standard
14 established under this section no more than once every three years. After
15 public notice and hearing, and consultation with the Public Utility Com-
16 mission, the department may:

17 (a) Modify the emissions standard to include other greenhouse gases as
18 defined in ORS [468A.210] **468A.005**, with the other greenhouse gases ex-
19 pressed as their carbon dioxide equivalent; and

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

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

26 (B) Has a heat rate at high elevation within the boundaries of the West-
27 ern Electricity Coordinating Council; and

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

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

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

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

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

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

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

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

20 (b) Fifteen percent below 2005 levels.

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

25

26 **EXPEDITED JUDICIAL REVIEW TO SUPREME COURT;**
27 **EXPIRATION**

28

29 **SECTION 47.** (1) **It is the intent of the Legislative Assembly that**
30 **the provisions of this 2018 Act relating to the receipt of moneys by the**
31 **state through the sale of allowances by auction as part of the**

1 market-based compliance mechanism for the program established un-
2 der sections 12 to 19 of this 2018 Act do not render this 2018 Act a bill
3 for raising revenue subject to the provisions of Article IV, sections 18
4 and 25 (2), of the Oregon Constitution.

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

8 (3) A person that is or that will be adversely affected by the pro-
9 visions of sections 12 to 19 of this 2018 Act relating to the receipt of
10 moneys by the state through the sale of allowances by auction as part
11 of the market-based compliance mechanism for the program estab-
12 lished under sections 12 to 19 of this 2018 Act may institute a pro-
13 ceeding for review by filing with the Supreme Court a petition that
14 meets the following requirements:

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

16 (b) The petition must include the following:

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

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

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

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

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

29
30 **APPROPRIATION FOR ENVIRONMENTAL JUSTICE TASK FORCE**

1 **address any negative impacts or to best align the laws, policies or**
2 **protocols with the purposes set forth in section 11 of this 2018 Act.**

3

4

CAPTIONS

5

6 **SECTION 52. The unit and section captions used in this 2018 Act**
7 **are provided only for the convenience of the reader and do not become**
8 **part of the statutory law of this state or express any legislative intent**
9 **in the enactment of this 2018 Act.**

10

11

EMERGENCY CLAUSE

12

13 **SECTION 53. This 2018 Act being necessary for the immediate**
14 **preservation of the public peace, health and safety, an emergency is**
15 **declared to exist, and this 2018 Act takes effect on its passage.**

16
