

House Bill 4001

Sponsored by Representative HELM, Senators DEMBROW, BEYER, Representatives HERNANDEZ, MARSH, WILLIAMSON; Representatives FAHEY, GORSEK, GREENLICK, HOLVEY, KENY-GUYER, KOTEK, LIVELY, MALSTROM, MCLAIN, NOSSE, PILUSO, POWER, REARDON, SALINAS, SANCHEZ, SMITH WARNER, SOLLMAN, Senators FREDERICK, GELSER, MANNING JR, MONROE, PROZANSKI, RILEY, TAYLOR (Pre-session filed.)

SUMMARY

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

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

1
2 Relating to greenhouse gas emissions; creating new provisions; amending ORS 184.617, 468A.005,
3 468A.210, 468A.235, 468A.240, 468A.250, 468A.260, 468A.265, 468A.279, 468A.280, 757.357 and
4 757.528 and section 9, chapter 751, Oregon Laws 2009; repealing ORS 468A.205; and declaring
5 an emergency.

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

9 Whereas the diverse impacts of climate change and ocean acidification include the exacerbation
10 of air quality problems, a reduction in the quantity and quality of water available to this state from
11 mountain snowpack, a rise in sea levels resulting in the displacement of thousands of coastal busi-
12 nesses and residences, damage to marine ecosystems and food sources, the degradation of the na-
13 tural environment from increased severity of forest fires and pest infestations of stressed land-based
14 ecosystems, extreme weather events and an increase in the incidences of infectious diseases, asthma
15 and other human health-related problems; and

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

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

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

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

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

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

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

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

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

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

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

31 Whereas climate change policies can be designed to protect impacted communities, rural com-
 32 munities and workers from economic costs and can provide cobenefits to and within these commu-
 33 nities that include, but are not limited to, opportunities for job creation and training, investments
 34 in infrastructure, affordable housing investment, economic development, air quality improvements,
 35 energy savings and conservation and increased utilization of clean energy technologies; and

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

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

41 Whereas the climate crisis is pressing; and

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

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

45

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

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

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

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

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

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

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

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

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

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

STATEWIDE GREENHOUSE GAS EMISSION LIMITS

SECTION 2. ORS 468A.205 is repealed.

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

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

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

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

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

(a) A statewide greenhouse gas emissions reduction goal to, by the year 2025, achieve greenhouse gas levels that are at least 20 percent below 1990 levels;

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

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

(3) This section does not create any additional regulatory authority for an agency of the

1 executive department as defined in ORS 174.112.

2
3 **JOINT LEGISLATIVE COMMITTEE ON CLIMATE**
4

5 **SECTION 5.** (1) There is established the Joint Legislative Committee on Climate.

6 (2) The joint committee consists of members of the Senate appointed by the President
7 of the Senate and members of the House of Representatives appointed by the Speaker of the
8 House of Representatives.

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

12 (4) The joint committee has a continuing existence and may meet, act and conduct its
13 business during sessions of the Legislative Assembly or any recess thereof and in the interim
14 between sessions.

15 (5) The term of a member shall expire upon the date of the convening of the odd-
16 numbered year regular session of the Legislative Assembly next following the commence-
17 ment of the member's term.

18 (6)(a) If there is a vacancy for any cause, the appointing authority shall make an ap-
19 pointment to become immediately effective.

20 (b) When a vacancy occurs in the membership of the joint committee in the interim be-
21 tween odd-numbered year regular sessions, until the vacancy is filled:

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

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

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

29 (b) Notwithstanding paragraph (a) of this subsection, when engaged in out-of-state travel,
30 members shall be entitled to receive their actual and necessary expenses in lieu of the
31 amount authorized by this subsection. Payment shall be made from funds appropriated to the
32 Legislative Assembly.

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

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

40 (10) The joint committee may adopt rules necessary for the operation of the joint com-
41 mittee.

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

1 practicable.

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

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

7 (a) Provide general legislative oversight of policy related to climate, including but not
8 limited to the program established under sections 12 to 17 of this 2018 Act;

9 (b) Examine expenditures and investments of state proceeds from auctions conducted
10 under section 16 of this 2018 Act; and

11 (c) Make recommendations related to the expenditures and investments of state proceeds
12 from auctions conducted under section 16 of this 2018 Act to the Joint Committee on Ways
13 and Means.

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

19
20 **GREENHOUSE GAS CAP AND INVESTMENT PROGRAM**
21 **(Program Advisory Committee)**
22

23 **SECTION 7.** Sections 8 to 18 of this 2018 Act and ORS 468A.200 to 468A.260 are added to
24 and made a part of ORS chapter 468A.

25 **SECTION 8.** (1) There is established in the Department of Environmental Quality a pro-
26 gram advisory committee consisting of 21 members appointed by the Governor as follows:

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

29 (b) Two members who represent Indian tribes;

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

33 (d) Three members who represent the interests of business and industry, including one
34 who represents covered entities, one who represents small businesses and one who repres-
35 ents business sectors affected by climate change;

36 (e) Two members who represent local governments, including one who represents the
37 interests of cities and one who represents the interests of counties;

38 (f) Two members who represent labor unions;

39 (g) Two members who represent environmental organizations, including one with exper-
40 tise in climate mitigation and one with expertise in climate resiliency;

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

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

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

45 (3)(a) The term of office of each member is four years, but a member serves at the

1 pleasure of the Governor.

2 (b) Before the expiration of the term of a member, the Governor shall appoint a succes-
3 sor whose term begins on January 1 next following.

4 (c) A member is eligible for reappointment.

5 (d) If there is a vacancy for any cause, the Governor shall make an appointment to be-
6 come immediately effective for the unexpired term.

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

9 (5) The Governor shall appoint one of the members of the committee to serve as chair-
10 person.

11 (6) A member of the committee is entitled to actual and necessary travel and other ex-
12 penses as provided in ORS 292.495.

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

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

18 **SECTION 9.** Notwithstanding the term of office specified by section 8 of this 2018 Act,
19 of the members first appointed to the program advisory committee established under section
20 8 of this 2018 Act:

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

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

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

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

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

27 (a) Advise the Environmental Quality Commission, the Department of Environmental
28 Quality and other relevant state agencies on the development and implementation of rules
29 for the program established under sections 12 to 17 of this 2018 Act; and

30 (b) Advise the Governor, the Oregon Department of Administrative Services, the De-
31 partment of Transportation, the Public Utility Commission and other relevant state agencies
32 on the development and implementation of rules for the program established under sections
33 12 to 17 of this 2018 Act and on the expenditures and investments of state proceeds from
34 auctions conducted under section 16 of this 2018 Act.

35 (2) The program advisory committee may conduct studies, request information and pro-
36 vide other advice related to the program established under sections 12 to 17 of this 2018 Act
37 and the expenditures and investments of state proceeds from auctions conducted under sec-
38 tion 16 of this 2018 Act as necessary to provide advice as described in subsection (1) of this
39 section.

40 (3)(a) The program advisory committee shall prepare a biennial report that includes:

41 (A) The recommendations of the committee for the expenditures and investments of
42 state proceeds from auctions conducted under section 16 of this 2018 Act that are deposited
43 in the Climate Investments Fund established under section 26 of this 2018 Act and in the
44 Transportation Decarbonization Investments Fund established under section 27 of this 2018
45 Act; and

1 (B) The recommendations of the committee, which may include recommendations for
2 legislation, regarding the effectiveness of implementation of sections 12 to 17, 25 to 30, 31 and
3 32 of this 2018 Act.

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

5 (A) The interim committees of the Legislative Assembly related to climate, in the man-
6 ner provided by ORS 192.245; and

7 (B) The Governor by July 1 of each even-numbered year for consideration by the Gover-
8 nor during the preparation of the Governor's budget.

9
10 (Statement of Purposes)

11
12 **SECTION 11.** (1) The Legislative Assembly finds and declares that the purposes of the
13 program established under sections 12 to 17 of this 2018 Act and the investments provided
14 for in sections 25 to 30, 31 and 32 of this 2018 Act are to reduce greenhouse gas emissions
15 consistent with the statewide greenhouse gas emissions limits established under section 4
16 of this 2018 Act and to promote carbon sequestration and adaptation and resilience by this
17 state's natural and working lands, communities and economy in the face of climate change
18 and ocean acidification.

19 (2) Sections 12 to 17 of this 2018 Act and the rules adopted pursuant to sections 12 to 17
20 of this 2018 Act:

21 (a) May not be interpreted to limit the authority of any state agency to adopt and im-
22 plement measures to reduce greenhouse gas emissions; and

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

24
25 (Greenhouse Gas Cap and Market-Based Compliance Mechanism)

26
27 **SECTION 12. Definitions.** As used in ORS 468A.200 to 468A.260 and sections 8 to 17 of this
28 2018 Act:

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

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

33 (3) "Allowance" means a tradable authorization to emit one metric ton of carbon dioxide
34 equivalent.

35 (4) "Annual allowance budget" means the number of allowances available to be allocated
36 during one year of the program established under sections 12 to 17 of this 2018 Act.

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

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

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

44 (8) "Compliance obligation" means the quantity of regulated emissions for which a cov-
45 ered entity must submit compliance instruments to the Department of Environmental

1 **Quality during a compliance period.**

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

3 (10) **“Covered entity” means a person that is designated by the Environmental Quality**
 4 **Commission as subject to the program established under sections 12 to 17 of this 2018 Act.**

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

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

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

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

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

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

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

14 (a) **Is a registered entity;**

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

16 (c) **Intends to purchase, hold, sell or voluntarily surrender compliance instruments.**

17 (15) **“Impacted communities” means communities most at risk of being disproportion-**
 18 **ately impacted by climate change as designated by the Environmental Quality Commission**
 19 **under section 18 of this 2018 Act.**

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

22 (17) **“Natural and working lands” means:**

23 (a) **Land that is actively used by an agricultural owner or operator for an agricultural**
 24 **operation that includes, but need not be limited to, active engagement in farming or ranch-**
 25 **ing;**

26 (b) **Land producing forest products;**

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

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

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

33 (19) **“Offset credit” means a tradable credit generated through an offset project that re-**
 34 **presents a greenhouse gas emissions reduction or removal of one metric ton of carbon**
 35 **dioxide equivalent.**

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

38 (21) **“Opt-in entity” means a person that is not designated as a covered entity by the**
 39 **Environmental Quality Commission and that voluntarily chooses to participate in the pro-**
 40 **gram established under sections 12 to 17 of this 2018 Act as if the entity were a covered en-**
 41 **tity.**

42 (22) **“Registered entity” means a covered entity, opt-in entity or general market partic-**
 43 **ipant that has successfully registered to participate in the program established under**
 44 **sections 12 to 17 of this 2018 Act.**

45 (23) **“Regulated emissions” means the verified greenhouse gas emissions reported by or**

1 assigned to a covered entity or opt-in entity under ORS 468A.280 that the commission de-
 2 termines by rule are greenhouse gas emissions regulated under sections 12 to 17 of this 2018
 3 Act.

4 (24) “Surrender” means to transfer a compliance instrument to the Department of En-
 5 vironmental Quality:

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

7 (b) On a voluntary basis.

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

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

21 (a) The commission shall designate a person in control of an air contamination source
 22 for which a permit is issued pursuant to ORS 468.065, 468A.040 or 468A.155 as a covered en-
 23 tity if the annual regulated emissions attributable to the air contamination source meet or
 24 exceed 25,000 metric tons of carbon dioxide equivalent. The commission shall exempt from
 25 regulation under sections 12 to 17 of this 2018 Act the methane emissions from a landfill that
 26 are demonstrated to have been recaptured and used for the generation of renewable energy,
 27 including but not limited to electricity, transportation fuels or heat.

28 (b) For the purpose of regulating persons that import, sell, allocate or distribute for use
 29 in this state electricity generated outside this state, and unless the commission determines
 30 that a method exists for regulating persons described in this paragraph that is more accu-
 31 rate or efficient or that better enables the state to pursue linkage agreements under section
 32 17 of this 2018 Act, the commission shall:

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

37 (B) Designate an electricity service supplier as a covered entity for the purpose of ad-
 38 dressing regulated emissions attributable to the electricity service supplier.

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

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

45 (B) Designate a natural gas utility as a covered entity for the purpose of addressing an-

1 nual regulated emissions that are attributable to the combustion of natural gas that the
2 natural gas utility imports, sells or distributes for use in this state and that are not emis-
3 sions accounted for through the regulation of air contamination sources under paragraph (a)
4 of this subsection or natural gas marketers under subparagraph (A) of this paragraph.

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

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

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

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

18 (a) Criteria for the allocation of allowances pursuant to section 14 of this 2018 Act;

19 (b) Standards, pursuant to section 15 of this 2018 Act, for offset projects and for covered
20 entities to use offset credits;

21 (c) Rules for the administration of auctions of allowances pursuant to section 16 of this
22 2018 Act;

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

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

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

28 (4) The commission shall require a covered entity or opt-in entity to surrender to the
29 Department of Environmental Quality a quantity of compliance instruments equal to the
30 covered entity's or opt-in entity's compliance obligation no later than the surrender date
31 specified by the commission by rule or order. In addition to any penalty provided by law,
32 rules adopted by the commission may require a covered entity or opt-in entity that fails to
33 timely surrender to the department a sufficient quantity of compliance instruments to meet
34 a compliance obligation to surrender to the department an adjusted compliance obligation.

35 (5)(a) All covered entities, opt-in entities and general market participants must register
36 as registered entities to participate in the program established under sections 12 to 17 of this
37 2018 Act.

38 (b) The commission shall adopt by rule registration requirements and any additional re-
39 quirements necessary for registered entities to participate in auctions administered pursuant
40 to section 16 of this 2018 Act.

41 (c) The commission may adopt a schedule of fees for registration under this subsection.
42 Fees must be reasonably calculated not to exceed the costs to the department in adminis-
43 tering sections 8 to 18 of this 2018 Act.

44 **SECTION 14. Allocation of allowances.** (1) The Department of Environmental Quality
45 shall allocate a percentage of allowances from each annual allowance budget to be distributed

1 directly into an allowance price containment reserve designed to assist in containing com-
 2 pliance costs for covered entities.

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

6 (a) Require the department to allocate allowances for direct distribution at no cost to
 7 electric companies and natural gas utilities and require the electric companies and natural
 8 gas utilities to consign the directly distributed allowances to the state to be auctioned pur-
 9 suant to section 16 of this 2018 Act; and

10 (b) Include a methodology for determining the allocation for distribution directly to cov-
 11 ered entities described in this subsection that, to the extent feasible, is based on the follow-
 12 ing principles:

13 (A) The direct distribution to a covered entity during the calendar year 2021 should rep-
 14 resent an amount equal to 100 percent of the covered entity's proportionate share of regu-
 15 lated emissions during representative calendar years prior to 2018; and

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

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

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

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

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

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

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

1 (B) Require the allocation to a covered entity to decline annually at a rate equal to the
 2 predetermined rate of decline for annual allowance budgets adopted under section 13 of this
 3 2018 Act.

4 (c) The commission shall, by the year 2024 and once every three years thereafter, con-
 5 duct a review of rules adopted under this subsection and any updated data and analysis to
 6 determine whether updates to the rules are necessary to:

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

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

11 (d) In addition to and not in lieu of the review required by paragraph (c) of this sub-
 12 section, the commission may update the rules adopted under paragraph (a) of this subsection
 13 if a covered entity makes a proposal to the commission that an update to the rules is nec-
 14 essary to mitigate leakage.

15 (e) A covered entity that is a fossil fuel distribution and storage facility or
 16 infrastructure, or an electric generating unit, may not receive an allocation under this sub-
 17 section.

18 (5) After making all allocations provided for in subsections (1) to (4) of this section, the
 19 department shall allocate all remaining allowances in the annual allowance budget to be
 20 distributed to an auction holding account for auction pursuant to section 16 of this 2018 Act.

21 **SECTION 15. Offset projects.** (1) Offset projects:

22 (a) Must be located in the United States or in a jurisdiction with which the Environ-
 23 mental Quality Commission has entered into a linkage agreement pursuant to section 17 of
 24 this 2018 Act;

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

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

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

28 (B) Are in addition to greenhouse gas emissions reductions or removals otherwise re-
 29 quired by law and any other greenhouse gas emissions reductions or removals that would
 30 otherwise occur.

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

35 (b)(A) The commission may by rule adopt additional restrictions on the number of offset
 36 credits that may be surrendered by a covered entity that is an air contamination source that
 37 is geographically located in an impacted community if:

38 (i) The geographic area within which the air contamination source is located is also a
 39 nonattainment area or an attainment area projected by the Department of Environmental
 40 Quality to exceed air quality standards within five years and the air contamination source
 41 substantially contributes to or causes the nonattainment or projected nonattainment of air
 42 quality standards; or

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

45 (B) Additional restrictions adopted under this paragraph may include, but need not be

1 limited to, restrictions that prohibit an air contamination source described in this paragraph
 2 from surrendering offset credits to meet a compliance obligation.

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

5 (a) Take into consideration standards, rules or protocols for offset projects and offset
 6 credits established by other states, provinces and countries with programs comparable to the
 7 program established under sections 12 to 17 of this 2018 Act;

8 (b) Encourage opportunities for the development of offset projects in this state by
 9 adopting offset protocols that must include, but need not be limited to, protocols that make
 10 use of aggregation or other mechanisms to reduce transaction costs related to the develop-
 11 ment of offset projects;

12 (c) Consult with and consider the recommendations of the advisory committee required
 13 by subsection (4) of this section, the State Department of Agriculture, the State Board of
 14 Forestry, the Environmental Justice Task Force and other relevant state agencies; and

15 (d) Adopt by rule a process for the Department of Environmental Quality to investigate
 16 and invalidate issued offset credits as necessary to uphold the environmental integrity of the
 17 program established under sections 12 to 17 of this 2018 Act.

18 (4) The Director of the Department of Environmental Quality shall appoint a compliance
 19 offsets protocol advisory committee to aid and advise the commission in adopting and up-
 20 dating rules governing offset projects and covered entities' use of offset credits. The advisory
 21 committee shall provide guidance to the commission in developing and updating offset pro-
 22 tocols for the purposes of increasing offset projects with direct environmental benefits in
 23 this state while prioritizing offset projects that benefit impacted communities, Indian tribes
 24 and natural and working lands. The director shall appoint at least one member to the advi-
 25 sory committee from each of the following groups:

- 26 (a) Scientists;
- 27 (b) Public health experts;
- 28 (c) Carbon market experts;
- 29 (d) Representatives of Indian tribes;
- 30 (e) Environmental justice advocates;
- 31 (f) Labor and workforce representatives;
- 32 (g) Forestry experts;
- 33 (h) Agriculture experts;
- 34 (i) Environmental advocates;
- 35 (j) Conservation advocates; and
- 36 (k) Dairy experts.

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

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

40 (3) The department may engage:

- 41 (a) A qualified, independent auction administrator to administer auctions; or
- 42 (b) A qualified financial services administrator to conduct financial transactions related
 43 to the auction.

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

45 (5) The Environmental Quality Commission shall:

1 (a) Set an auction floor price for the year 2021 and a schedule for the floor price to in-
2 crease by a predetermined amount each calendar year; and

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

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

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

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

15 (b) Auction proceeds payable to the state shall be transferred to the State Treasurer to
16 be deposited in the Auction Proceeds Distribution Fund established under section 24 of this
17 2018 Act.

18 SECTION 17. Linkage with market-based compliance mechanisms in other jurisdictions.

19 (1) In adopting and implementing rules under sections 12 to 17 of this 2018 Act, the Envi-
20 ronmental Quality Commission and the Department of Environmental Quality shall:

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

23 (b) Implement the program established under sections 12 to 17 of this 2018 Act in a
24 manner that:

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

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

28 (2) The commission may not link the market-based compliance mechanism established
29 pursuant to sections 12 to 17 of this 2018 Act and rules adopted under sections 12 to 17 of
30 this 2018 Act with the market-based compliance mechanism of any other jurisdiction unless
31 the commission notifies the Governor that the commission intends to link the market-based
32 compliance mechanism and the Governor makes the following findings:

33 (a) The jurisdiction with which the commission proposes to link has adopted program
34 requirements for greenhouse gas reductions, including but not limited to requirements for
35 offsets, that are equivalent to or stricter than those required by sections 12 to 17 of this 2018
36 Act;

37 (b) Under the proposed linkage, the State of Oregon is able to enforce sections 12 to 17
38 of this 2018 Act against any entity subject to regulation under sections 12 to 17 of this 2018
39 Act and against any entity located within the linking jurisdiction to the maximum extent
40 permitted under the United States and Oregon Constitutions;

41 (c) The proposed linkage provides for enforcement of applicable laws by the commission
42 or by the linking jurisdiction of program requirements that are equivalent to or stricter than
43 those required by sections 12 to 17 of this 2018 Act; and

44 (d) The proposed linkage and any related engagement by the State of Oregon of an inde-
45 pendent organization to provide administrative or technical services to support implementa-

tion of sections 12 to 17 of this 2018 Act shall not impose any significant liability on the state or any state agency for any failure associated with the linkage.

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

(Methodology for Designating Impacted Communities)

SECTION 18. (1) The Environmental Quality Commission, by rule and in consultation with the Portland State University Population Research Center, the Oregon Health Authority, the program advisory committee established under section 8 of this 2018 Act and other relevant state agencies and local agencies and officials, shall designate impacted communities, as defined in section 12 of this 2018 Act, by census tract. The commission shall designate impacted communities based on a methodology that takes into consideration geographic, socioeconomic, public health and environmental hazard criteria. The commission may designate as impacted communities areas that include, but are not limited to:

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

(b) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure or environmental degradation.

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

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

(Department of Environmental Quality Program Development Fee)

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

SECTION 20. (1) In addition to and not in lieu of any other fee required by law, and subject to subsection (3) of this section, a person required to register and report greenhouse gas emissions to the Department of Environmental Quality under ORS 468A.280 shall pay to the department an annual program development fee of \$_____ if, for the year prior to the year in which the annual program development fee is assessed, the person reported annual greenhouse gas emissions attributable to the person that equal or exceed 25,000 metric tons of carbon dioxide equivalent.

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

1 sections 8 to 18 of this 2018 Act.

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

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

8 SECTION 21. Section 20 of this 2018 Act is repealed on January 2, 2021.

9
10 (Auction Proceeds Investment)

11
12 SECTION 22. Section 23 of this 2018 Act is added to and made a part of ORS chapter 757.

13 SECTION 23. (1) As used in this section:

14 (a) "Auction proceeds" means revenue transferred to an electric company or natural gas
15 utility under section 16 of this 2018 Act from the sale of allowances that the electric company
16 or natural gas utility consigned to the state for auction, pursuant to the program established
17 by the Environmental Quality Commission under sections 12 to 17 of this 2018 Act.

18 (b) "Electric company" has the meaning given that term in ORS 757.600.

19 (c) "Natural gas utility" means a natural gas utility regulated by the Public Utility
20 Commission under this chapter.

21 (2) Auction proceeds received by an electric company or natural gas utility must be spent
22 within the service territory of the electric company or natural gas utility and must be used
23 only for activities that serve to reduce greenhouse gas emissions, as defined in ORS 468A.005,
24 or to stabilize or reduce energy bills for customers.

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

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

29 (b) All other customers, including residential customers, small commercial customers
30 and energy intensive industrial customers that are not covered entities receiving allowances
31 directly allocated at no cost under section 14 of this 2018 Act.

32 (4)(a) An electric company or natural gas utility shall prioritize the use of auction pro-
33 ceeds for bill assistance, weatherization and energy efficiency measures. Except as provided
34 in paragraph (b) of this subsection, auction proceeds returned to customers as bill assistance
35 must be returned in a nonvolumetric manner.

36 (b) An electric company or natural gas utility shall expend a portion of the auction pro-
37 ceeds received by the electric company or natural gas utility each year to fund volumetric
38 bill assistance to low-income residential customers.

39 (5) The Public Utility Commission shall, pursuant to ORS 756.040 and in consultation with
40 the Housing and Community Services Department and the program advisory committee es-
41 tablished under section 8 of this 2018 Act, adopt rules for the implementation and enforce-
42 ment of this section.

43 SECTION 24. (1) The Auction Proceeds Distribution Fund is established in the State
44 Treasury, separate and distinct from the General Fund.

45 (2) The Auction Proceeds Distribution Fund shall consist of moneys transferred to the

1 fund under section 16 of this 2018 Act. Interest earned by the fund shall be credited to the
2 fund.

3 (3) Subject to subsection (4) of this section, the Department of Environmental Quality
4 shall certify the amount of moneys available for distribution in the Auction Proceeds Dis-
5 tribution Fund and distribute the moneys as follows:

6 (a) All moneys that constitute revenues described in Article IX, section 3a (1), of the
7 Oregon Constitution, must be transferred to the Transportation Decarbonization Invest-
8 ments Fund; and

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

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

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

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

16 **SECTION 25.** As used in sections 25 to 30 of this 2018 Act:

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

19 (2) “Metropolitan planning organization” has the meaning given that term in ORS 197.629.

20 (3) “Natural and working lands” has the meaning given that term in section 12 of this
21 2018 Act.

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

23 **SECTION 26.** (1) The Climate Investments Fund is established in the State Treasury,
24 separate and distinct from the General Fund. Moneys in the Climate Investments Fund are
25 continuously appropriated to the Oregon Department of Administrative Services to be dis-
26 tributed by the department as provided in this section. The fund shall consist of moneys
27 deposited in the fund under section 24 of this 2018 Act. Interest earned by the fund shall be
28 credited to the fund.

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

31 (3) The Legislative Assembly shall allocate the moneys deposited in the fund subject to
32 section 28 of this 2018 Act. Of the moneys deposited in the fund each biennium:

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

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

37 (c) Twenty percent may be allocated for any projects, programs or activities that meet
38 the requirements of subsection (2) of this section, as further described in section 28 of this
39 2018 Act, regardless of whether a program, project or activity funded under this paragraph
40 is described in paragraph (a) or (b) of this subsection.

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

1 **ulations of 30,000 or more.**

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

7 **SECTION 27. (1) The Transportation Decarbonization Investments Fund is established in**
 8 **the State Treasury, separate and distinct from the General Fund. Interest earned by the**
 9 **Transportation Decarbonization Investments Fund shall be credited to the fund. Moneys in**
 10 **the fund are continuously appropriated to the Oregon Department of Administrative Services**
 11 **to be distributed by the department as provided in this section.**

12 **(2) The fund shall consist of moneys deposited in the fund under section 24 of this 2018**
 13 **Act.**

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

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

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

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

20 **(5) The department may perform activities necessary to ensure that recipients of moneys**
 21 **distributed from the Transportation Decarbonization Investments Fund comply with appli-**
 22 **cable requirements. If the department determines that a recipient has not complied with**
 23 **applicable requirements, the department may order the recipient to refund all moneys dis-**
 24 **tributed from the fund. Moneys refunded pursuant to this subsection shall be credited to the**
 25 **fund.**

26 **SECTION 28. (1) Moneys deposited in the Climate Investments Fund and moneys depos-**
 27 **ited in the Transportation Decarbonization Investments Fund shall be allocated, where ap-**
 28 **licable to the extent feasible, cost-effective and consistent with law, to support the purposes**
 29 **stated in section 11 of this 2018 Act and to:**

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

31 **(b) Provide opportunities for Indian tribes, members of impacted communities and busi-**
 32 **nesses owned by women or members of minority groups to participate in and benefit from**
 33 **statewide efforts to reduce greenhouse gas emissions;**

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

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

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

39 **(a) Funding to reduce greenhouse gas emissions or promote adaptation or resiliency**
 40 **through energy efficiency and energy conservation in buildings, low-income weatherization**
 41 **and support of affordable housing that is transit oriented or located near employment cen-**
 42 **ters.**

43 **(b) Funding to reduce greenhouse gas emissions through electrical grid decarbonization**
 44 **efforts, including but not limited to investments in energy generation from renewable re-**
 45 **sources, distributed energy resources, transmission and storage projects for renewable en-**

1 **ergy, demand response, community solar projects and other community-scale renewable**
 2 **energy projects.**

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

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

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

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

20 **(3)(a) In allocating moneys from the Transportation Decarbonization Investments Fund,**
 21 **the Legislative Assembly shall, to the extent feasible and consistent with law, seek to invest**
 22 **in programs, projects or activities that are consistent with, or that complement, investments**
 23 **described in subsection (2) of this section.**

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

29 **(4) If a construction project is funded in whole or in part by moneys deposited in the**
 30 **Climate Investments Fund or the Transportation Decarbonization Investments Fund, the**
 31 **primary contractor participating in the construction project:**

32 **(a) Shall participate in an apprenticeship program registered with the State Apprentice-**
 33 **ship and Training Council;**

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

37 **(c) Must demonstrate a history of compliance with the rules and other requirements of**
 38 **the Construction Contractors Board and of the Workers' Compensation Division and the**
 39 **Occupational Safety and Health Division of the Department of Consumer and Business Ser-**
 40 **vices; and**

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

42 **(5)(a) If a construction project is funded in whole or in part by moneys deposited in the**
 43 **Climate Investments Fund or the Transportation Decarbonization Investments Fund, the**
 44 **state agency charged with administering the funds for the project may require the use of a**
 45 **high road agreement or a project labor agreement if the use of either type of agreement**

1 would advance the public interest and be consistent with law.

2 (b)(A) A high road agreement required under paragraph (a) of this subsection must be
 3 an agreement among multiple stakeholders that specifies goals for a project or program that
 4 are related to the quality and accessibility of economic opportunities provided by that project
 5 or program and that includes:

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

- 8 (I) Requirements for wages and benefits;
- 9 (II) Workforce and business diversity;
- 10 (III) Training and career development; and
- 11 (IV) Environmental benefits;

12 (ii) A mechanism for implementing the agreement; and

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

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

19 (i) Binds all contractors and subcontractors on the construction project through the
 20 inclusion of appropriate specifications in all relevant solicitation provisions and contract
 21 documents;

22 (ii) Allows all contractors and subcontractors to compete for contracts and subcontracts
 23 without regard to whether the contractors or subcontractors are parties to any other col-
 24 lective bargaining agreement;

25 (iii) Contains guarantees against strikes, lockouts and similar job disruptions; and

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

28 (6) Agencies of the executive department as defined in ORS 174.112, counties, cities and
 29 all other public and private entities receiving moneys under sections 25 to 30 of this 2018 Act
 30 shall report annually to the Oregon Department of Administrative Services on the expen-
 31 ditures of the moneys.

32 (7) The Oregon Department of Administrative Services shall make an annual report to
 33 the Legislative Assembly presenting the information required by subsection (6) of this sec-
 34 tion. The report must be made to the Joint Legislative Committee on Climate.

35 (8) If an allocation of moneys for a particular purpose by the Legislative Assembly under
 36 sections 25 to 30 of this 2018 Act is determined by a court to be inconsistent with law, the
 37 allocation is hereby declared independent and severable and the invalidity, if any, of any part
 38 or feature of the allocation shall not affect or render the remainder of the allocations by the
 39 Legislative Assembly under sections 25 to 30 of this 2018 Act invalid or inoperative.

40 **SECTION 29.** In preparing the Governor’s budget as required under ORS 291.202, the
 41 Governor shall consider the recommendations for the expenditures and investments of state
 42 proceeds from auctions conducted under section 16 of this 2018 Act that are contained in the
 43 biennial report prepared by the program advisory committee under section 10 of this 2018
 44 Act.

45 **SECTION 30.** (1) The Oregon Department of Administrative Services, in consultation with

1 the program advisory committee established under section 8 of this 2018 Act, the Department
2 of Transportation and other interested state agencies, shall adopt rules as necessary to im-
3 plement sections 25 to 30 of this 2018 Act.

4 (2) Rules adopted under this section must include guidelines for agencies that receive
5 allocations of funds under sections 25 to 30 of this 2018 Act for ensuring that expenditures
6 of funds allocated under sections 25 to 30 of this 2018 Act comply with all applicable laws.

7 **SECTION 31.** (1) The Just Transition Fund is established in the State Treasury, separate
8 and distinct from the General Fund. Interest earned by the Just Transition Fund shall be
9 credited to the fund. Moneys in the fund are continuously appropriated to the Higher Edu-
10 cation Coordinating Commission to be distributed pursuant to the Just Transition Program
11 established under section 32 of this 2018 Act.

12 (2) The Just Transition Fund shall consist of moneys deposited in the fund under section
13 24 of this 2018 Act.

14 (3)(a) Of the moneys deposited in the fund each biennium, the commission shall set aside
15 50 percent of the funds in a reserve account.

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

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

20 (B) \$2.5 million.

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

24 **SECTION 32.** (1) The Higher Education Coordinating Commission, in consultation with
25 the program advisory committee established under section 8 of this 2018 Act, the Employ-
26 ment Department and other interested state agencies, shall jointly establish a Just Transi-
27 tion Program for the purpose of distributing moneys deposited in the Just Transition Fund.

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

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

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

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

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

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

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

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

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

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

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

11
12 **GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**

13
14 **SECTION 33.** ORS 468A.280 is amended to read:

15 468A.280. (1) *[In addition to any registration and reporting that may be required under ORS*
16 *468A.050,]* The Environmental Quality Commission by rule may require registration and reporting
17 **of information necessary to determine greenhouse gas emissions** by:

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

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

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

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

30 [(2)] (3) Rules adopted by the commission under this section for electricity that is imported, sold,
31 allocated or distributed for use in this state may require reporting of information necessary to de-
32 termine greenhouse gas emissions from generating facilities used to produce the electricity and re-
33 lated electricity transmission line losses.

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

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

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

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

1 type of contract.

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

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

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

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

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

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

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

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

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

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

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

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

23 (v) Total energy losses from electricity transmission and distribution equipment owned or oper-
 24 ated by the electric company.

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

28 [(5)] (6) Rules adopted by the commission under this section for [*fossil*] fuel that is imported, sold
 29 or distributed for use in this state may require reporting of the type and quantity of the fuel and
 30 any additional information necessary to determine the [*carbon content*] **greenhouse gas emissions**
 31 **associated with the use or combustion** of the fuel. [*For the purpose of determining greenhouse gas*
 32 *emissions related to liquefied petroleum gas, the commission shall allow reporting using publications*
 33 *or submission of data by the American Petroleum Institute but may require reporting of such other*
 34 *information necessary to achieve the purposes of the rules adopted by the commission under this sec-*
 35 *tion.*]

36 [(6)] (7) To an extent that is consistent with the purposes of the rules adopted by the commission
 37 under this section, the commission shall minimize the burden of the reporting required under this
 38 section by:

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

40 (b) Allowing electronic reporting;

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

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

45 (e) Requiring reporting by the fewest number of persons in a fuel distribution system that will

1 allow the commission to acquire the information needed by the commission; or

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

3 [(7) As used in this section, "greenhouse gas" has the meaning given that term in ORS
4 468A.210.]

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

9 **(9) If a person required to register and report under subsection (1) of this section fails
10 to submit a report under this section, the department may develop an assigned emissions
11 level for the person if necessary for the purpose of regulating persons under sections 12 to
12 17 of this 2018 Act.**

13 **(10)(a) By rule the commission may establish a schedule of fees for registration and re-
14 porting under this section. Before establishing fees pursuant to this subsection, the com-
15 mission shall consider the total fees for each person subject to reporting under this section.**

16 **(b) The commission shall limit the fees established under this subsection to the antic-
17 ipated cost of developing, implementing and analyzing data collected under greenhouse gas
18 registration and reporting programs.**

19
20 **CONFORMING AMENDMENTS**

21
22 **SECTION 34.** ORS 184.617 is amended to read:

23 184.617. (1) The Oregon Transportation Commission shall:

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

26 (b) Develop and maintain state transportation policies, including but not limited to policies re-
27 lated to the management, construction and maintenance of highways and other transportation sys-
28 tems in Oregon, including but not limited to aviation, ports and rail.

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

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

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

37 (d) In coordination with the State Marine Board, the Oregon Business Development Department,
38 the State Aviation Board, cities, counties, mass transit districts organized under ORS 267.010 to
39 267.390 and transportation districts organized under ORS 267.510 to 267.650, develop plans for each
40 mode of transportation and multimodal plans for the movement of people and freight. Subject to
41 paragraph (c) of this subsection, the plans must include a list of projects needed to maintain and
42 develop the transportation infrastructure of this state for at least 20 years in the future.

43 (e) For the plans developed under paragraph (d) of this subsection, include a list of projects for
44 at least 20 years into the future that are capable of being accomplished using the resources rea-
45 sonably expected to be available. As the plans are developed by the commission, the Director of

1 Transportation shall prepare and submit implementation programs to the commission for approval.
 2 Work approved by the commission to carry out the plans shall be assigned to the appropriate unit
 3 of the Department of Transportation or other appropriate public body, as defined in ORS 174.109.

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

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

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

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

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

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

17 (C) Anticipated capital construction requirements;

18 (D) Construction priorities; and

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

20 (j) Adopt a statewide transportation strategy on greenhouse gas emissions to aid in achieving
 21 the greenhouse gas emissions reduction goals set forth in ORS 468A.205 **(2017 Edition)**. The com-
 22 mission shall focus on reducing greenhouse gas emissions resulting from transportation. In develop-
 23 ing the strategy, the commission shall consider state and federal programs, policies and incentives
 24 related to reducing greenhouse gas emissions. The commission shall consult and cooperate with
 25 metropolitan planning organizations, other state agencies, local governments and stakeholders and
 26 shall actively solicit public review and comment in the development of the strategy. **The commis-**
 27 **sion shall periodically assess, update and modify the strategy as necessary to prevent**
 28 **exceedance of the greenhouse gas emissions limits established under section 4 of this 2018**
 29 **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 coordinate and administer
 32 programs relating to highways, motor carriers, motor vehicles, public transit, rail, transportation
 33 safety and such other programs related to transportation.

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

37 **SECTION 35.** ORS 468A.210 is amended to read:

38 468A.210. As used in ORS 352.823 and 468A.200 to 468A.260,[:]

39 [(1)] "global warming" means an increase in the average temperature of the earth's atmosphere
 40 that is associated with the release of greenhouse gases.

41 [(2)] "*Greenhouse gas*" means any gas that contributes to anthropogenic global warming including,
 42 but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and
 43 sulfur hexafluoride.]

44 [(3)] "*Greenhouse gas cap-and-trade system*" means a system that:]

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

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

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

3 **SECTION 36.** ORS 468A.235 is amended to read:

4 468A.235. The Oregon Global Warming Commission shall recommend ways to coordinate state
5 and local efforts to reduce greenhouse gas emissions in Oregon consistent with *[the greenhouse gas*
6 *emissions reduction goals established by ORS 468A.205]* **section 4 of this 2018 Act** and shall re-
7 commend efforts to help Oregon prepare for the effects of global warming. The Office of the Gov-
8 ernor and state agencies working on multistate and regional efforts to reduce greenhouse gas
9 emissions shall inform the commission about these efforts and shall consider input from the com-
10 mission for such efforts.

11 **SECTION 37.** ORS 468A.240 is amended to read:

12 468A.240. (1) In furtherance of *[the greenhouse gas emissions reduction goals established by ORS*
13 *468A.205]* **section 4 of this 2018 Act**, the Oregon Global Warming Commission may recommend
14 statutory and administrative changes, policy measures and other recommendations to be carried out
15 by state and local governments, businesses, nonprofit organizations or residents. In developing its
16 recommendations, the commission shall consider economic, environmental, health and social costs,
17 and the risks and benefits of alternative strategies, including least-cost options. The commission
18 shall solicit and consider public comment relating to statutory, administrative or policy recommen-
19 dations.

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

23 *[(3)]* (2) The commission shall examine possible funding mechanisms to obtain low-cost
24 greenhouse gas emissions reductions and energy efficiency enhancements, including but not limited
25 to those in the natural gas industry.

26 **SECTION 38.** ORS 468A.250 is amended to read:

27 468A.250. (1) The Oregon Global Warming Commission shall track and evaluate:

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

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

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

33 (d) The physical science of global warming;

34 (e) Progress toward *[the greenhouse gas emissions reduction goals established by ORS 468A.205]*
35 **preventing exceedance of the greenhouse gas emissions limits established under section 4 of**
36 **this 2018 Act;**

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

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

41 (h) Efforts to identify the greenhouse gas emissions attributable to the residential and commer-
42 cial building sectors;

43 (i) The carbon sequestration potential of Oregon's forests, alternative methods of forest man-
44 agement that can increase carbon sequestration and reduce the loss of carbon sequestration to
45 wildfire, changes in the mortality and distribution of tree and other plant species and the extent to

1 which carbon is stored in tree-based building materials;

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

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

5 (L) Any other information, policies or analyses that the commission determines will aid in *[the*
6 *achievement of the greenhouse gas emissions reduction goals established by ORS 468A.205.]* **prevent-**
7 **ing exceedance of the greenhouse gas emissions limits established under section 4 of this 2018**
8 **Act.**

9 (2) The commission shall:

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

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

16 **SECTION 39.** ORS 468A.260 is amended to read:

17 468A.260. The Oregon Global Warming Commission shall submit a report to the Legislative As-
18 sembly, in the manner provided by ORS 192.245, by *[March 31 of each odd-numbered year]* **Septem-**
19 **ber 15 of each even-numbered year** that describes Oregon's progress toward *[achievement of the*
20 *greenhouse gas emissions reduction goals established by ORS 468A.205]* **preventing exceedance of**
21 **the greenhouse gas emissions limits established under section 4 of this 2018 Act.** The report
22 may include relevant issues and trends of significance, including trends of greenhouse gas emissions,
23 emerging public policy and technological advances. The report also may discuss measures the state
24 may adopt to mitigate the impacts of global warming on the environment, the economy and the
25 residents of Oregon and to prepare for those impacts.

26 **SECTION 40.** ORS 468A.265 is amended to read:

27 468A.265. As used in ORS 468A.265 to 468A.277:

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

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

33 (3) "Compliance period" means the calendar year during which a regulated party must demon-
34 strate compliance with the low carbon fuel standards through participation in the clean fuels pro-
35 gram.

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

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

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

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

1 or 468A.274.

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

5 [(9) "*Greenhouse gas*" has the meaning given that term in ORS 468A.210.]

6 [(10)] (9) "Low carbon fuel standard" means a standard adopted by the commission by rule under
 7 ORS 468A.266 for the reduction of greenhouse gas emissions, on average, per unit of fuel energy.

8 [(11)] (10) "Motor vehicle" has the meaning given that term in ORS 801.360.

9 [(12)] (11) "Regulated party" means a person responsible for complying with the low carbon fuel
 10 standards.

11 [(13)] (12) "Small deficit" means a net deficit balance at the end of a compliance period, after
 12 retirement of all credits held by a regulated party, that does not exceed a percentage set by the
 13 commission by rule of the total number of deficits that the regulated party generated for a compli-
 14 ance period and that may not be greater than 10 percent of the total number of deficits that the
 15 regulated party generated for a compliance period.

16 **SECTION 41.** ORS 468A.279 is amended to read:

17 468A.279. (1) As used in this section[:],

18 [(a) "*Greenhouse gas*" has the meaning given that term in ORS 468A.210.]

19 [(b)] "motor vehicle" has the meaning given that term in ORS 801.360.

20 (2) The Environmental Quality Commission may adopt by rule standards and requirements de-
 21 scribed in this section to reduce greenhouse gas emissions.

22 (3)(a) The commission may adopt requirements to prevent the tampering, alteration and modifi-
 23 cation of the original design or performance of motor vehicle pollution control systems.

24 (b) Before adopting requirements under this section, the commission shall consider the anti-
 25 tampering requirements and exemptions of the State of California.

26 (4) The commission may adopt requirements for motor vehicle service providers to check and
 27 inflate tire pressure according to the tire manufacturer's or motor vehicle manufacturer's recom-
 28 mended specifications, provided that the requirements:

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

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

32 (5) The commission may adopt restrictions on engine use by commercial ships while at port, and
 33 requirements that ports provide alternatives to engine use such as electric power, provided that:

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

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

38 (c) The requirements must be developed in consultation with representatives of Oregon ports
 39 and take into account operational considerations, operational agreements, international protocols
 40 and limitations, the ability to fund the purchase and use of electric power equipment and the po-
 41 tential effect of the requirements on competition with other ports.

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

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

44 (b) Potential adverse impacts to public health and the environment, including but not limited to
 45 air quality, water quality and the generation and disposal of waste in this state;

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

2 (d) Technical and economic studies of comparable greenhouse gas emissions reduction measures
3 implemented in other states and any other studies as determined by the commission.

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

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

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

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

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

9 **SECTION 42.** 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 or part of a vehicle;

14 (B) Programs related to developing the use of electricity for the purpose described in subpara-
15 graph (A) of this paragraph; and

16 (C) Infrastructure investments related to developing the use of electricity for the purpose de-
17 scribed in subparagraph (A) of this paragraph.

18 (c) "Vehicle" means a vehicle, vessel, train, boat or any other equipment that is mobile.

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

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

25 (b) Widespread transportation electrification requires that electric companies increase access to
26 the use of electricity as a transportation fuel;

27 (c) Widespread transportation electrification requires that electric companies increase access to
28 the use of electricity as a transportation fuel in low and moderate income communities;

29 (d) Widespread transportation electrification should stimulate innovation and competition, pro-
30 vide consumers with increased options in the use of charging equipment and in procuring services
31 from suppliers of electricity, attract private capital investments and create high quality jobs in this
32 state;

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

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

40 (g) Charging electric vehicles in a manner that provides benefits to electrical grid management
41 affords fuel cost savings for vehicle drivers.

42 (3) The Public Utility Commission shall direct each electric company to file applications, in a
43 form and manner prescribed by the commission, for programs to accelerate transportation
44 electrification. A program proposed by an electric company may include prudent investments in or
45 customer rebates for electric vehicle charging and related infrastructure.

1 (4) When considering a transportation electrification program and determining cost recovery for
 2 investments and other expenditures related to a program proposed by an electric company under
 3 subsection (3) of this section, the commission shall consider whether the investments and other
 4 expenditures:

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

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

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

8 (d) Are reasonably expected to enable the electric company to support the electric company's
 9 electrical system;

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

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

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

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

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

20 (b) A return on investment allowed under this subsection may be earned for a period of time
 21 that does not exceed the depreciation schedule of the investment approved by the commission. When
 22 an electric company's investment is fully depreciated, the commission may authorize the electric
 23 company to donate the electric vehicle charging infrastructure to the owner of the property on
 24 which the infrastructure is located.

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

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

34 **SECTION 43.** ORS 757.528 is amended to read:

35 757.528. (1) Unless modified by rule by the State Department of Energy as provided in this sec-
 36 tion, the greenhouse gas emissions standard that applies to consumer-owned utilities is 1,100 pounds
 37 of greenhouse gases per megawatt-hour for a generating facility.

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

40 (3) For purposes of applying the emissions standard to cogeneration facilities, the department
 41 shall establish an output-based methodology to ensure that the calculation of emissions of
 42 greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process
 43 and includes all greenhouse gases emitted by the facility in the production of both electrical and
 44 thermal energy.

45 (4) The department shall review the greenhouse gas emissions standard established under this

1 section no more than once every three years. After public notice and hearing, and consultation with
 2 the Public Utility Commission, the department may:

3 (a) Modify the emissions standard to include other greenhouse gases as defined in ORS
 4 [468A.210] **468A.005**, with the other greenhouse gases expressed as their carbon dioxide equivalent;
 5 and

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

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

10 (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordi-
 11 nating Council; and

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

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

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

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

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

25 **SECTION 44.** Section 9, chapter 751, Oregon Laws 2009, is amended to read:

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

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

30 (b) Fifteen percent below 2005 levels.

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

34
 35 **EXPEDITED JUDICIAL REVIEW TO SUPREME COURT;**
 36 **EXPIRATION**

37
 38 **SECTION 45.** (1) **It is the intent of the Legislative Assembly that the provisions of this**
 39 **2018 Act relating to the receipt of moneys by the state through the sale of allowances by**
 40 **auction as part of the market-based compliance mechanism for the program established un-**
 41 **der sections 12 to 17 of this 2018 Act do not render this 2018 Act a bill for raising revenue**
 42 **subject to the provisions of Article IV, sections 18 and 25 (2), of the Oregon Constitution.**

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

1 (3) A person that is or that will be adversely affected by the provisions of sections 12 to
2 17 of this 2018 Act relating to the receipt of moneys by the state through the sale of allow-
3 ances by auction as part of the market-based compliance mechanism for the program es-
4 tablished under sections 12 to 17 of this 2018 Act may institute a proceeding for review by
5 filing with the Supreme Court a petition that meets the following requirements:

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

7 (b) The petition must include the following:

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

9 (B) A statement and supporting affidavit showing how the petitioner is or will be ad-
10 versely affected.

11 (4) The petitioner shall serve a copy of the petition by registered or certified mail upon
12 the Environmental Quality Commission, the Department of Environmental Quality, the At-
13 torney General and the Governor.

14 (5) Proceedings for review under this section shall be given priority over all other mat-
15 ters before the Supreme Court.

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

19
20 **APPROPRIATION FOR ENVIRONMENTAL JUSTICE TASK FORCE**

21
22 **SECTION 46.** In addition to and not in lieu of any other appropriation, there is appropri-
23 ated to the Environmental Justice Task Force, for the biennium beginning July 1, 2017,
24 out of the General Fund, the amount of \$_____, which may be expended for compensation
25 and expenses incurred by members of the task force who are not members of the Legislative
26 Assembly in the manner and amounts provided for in ORS 292.495, and for provision by the
27 Governor of clerical and administrative staff support to the task force.

28
29 **OPERATIVE DATES**

30
31 **SECTION 47.** (1)(a) Sections 19 to 21 of this 2018 Act become operative on July 1, 2019.

32 (b) The Environmental Quality Commission may adopt rules or take any actions before
33 the operative date specified in paragraph (a) of this subsection that are necessary to enable
34 the commission, on and after the operative date specified in paragraph (a) of this subsection,
35 to carry out the provisions of sections 19 to 21 of this 2018 Act.

36 (2)(a) Sections 3 to 10 of this 2018 Act, the amendments to statutes and uncodified law
37 by sections 1 and 33 to 44 of this 2018 Act and the repeal of ORS 468A.205 by section 2 of this
38 2018 Act become operative on January 1, 2019.

39 (b) The Environmental Quality Commission may adopt rules or take any actions before
40 the operative date specified in paragraph (a) of this subsection that are necessary to enable
41 the commission, on and after the operative date specified in paragraph (a) of this subsection,
42 to carry out the provisions of sections 3 to 10 of this 2018 Act, the amendments to statutes
43 and uncodified law by sections 1 and 33 to 44 of this 2018 Act and the repeal of ORS 468A.205
44 by section 2 of this 2018 Act. Any rules adopted under this paragraph may not become op-
45 erative until January 1, 2019.

1 (3)(a) Sections 11 to 18 and 22 to 32 of this 2018 Act become operative on January 1, 2021.

2 (b) The Environmental Quality Commission, the Public Utility Commission, the Depart-
3 ment of Transportation, the Oregon Department of Administrative Services, the Governor
4 and the Higher Education Coordinating Commission may adopt rules or take any actions
5 before the operative date specified in paragraph (a) of this subsection that are necessary to
6 enable the Governor, the commissions and the departments, on and after the operative date
7 specified in paragraph (a) of this subsection, to carry out the provisions of sections 11 to 18
8 and 22 to 32 of this 2018 Act. Any rules adopted under this paragraph may not become op-
9 erative until January 1, 2021.

10
11 **REPORTS AND REVIEWS**

12
13 **SECTION 48.** On or before September 15, 2020, the Department of Environmental Quality
14 shall report on the actions being taken by the Environmental Quality Commission and the
15 department to prepare for implementation of sections 11 to 18 and 22 to 32 of this 2018 Act
16 to the interim legislative committees on the environment and natural resources.

17 **SECTION 49.** On or before September 15, 2031, the Department of Environmental Quality
18 shall conduct a review and provide a report to the Legislative Assembly in the manner pro-
19 vided by ORS 192.245 on the implementation of section 15 of this 2018 Act and rules adopted
20 under section 15 of this 2018 Act. The report may include recommendations for legislation.

21 The review and report must:

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

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

27
28 **CAPTIONS**

29
30 **SECTION 50.** The unit and section captions used in this 2018 Act are provided only for
31 the convenience of the reader and do not become part of the statutory law of this state or
32 express any legislative intent in the enactment of this 2018 Act.

33
34 **EMERGENCY CLAUSE**

35
36 **SECTION 51.** This 2018 Act being necessary for the immediate preservation of the public
37 peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect
38 on its passage.