

STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTION GOALS

Preamble: Whereas Clauses

SECTION 1: Modifies state anthropogenic greenhouse gas (GHG) reduction levels to: at least 45 percent below 1990 emission levels by 2035; and at least 80 percent below 1990 emission levels by 2050.

JOINT COMMITTEE ON CLIMATE ACTION

SECTION 2: Establishes the Joint Committee on Climate Action (Joint Committee). Requires Joint Committee to be comprised of members appointed by President of Senate and Speaker of House. Establishes parameters for the Committees operation. Authorizes Legislative Policy Research Office Director to employ staff for the performance of Joint Committee functions but must use existing staff to greatest extent practicable. Requires all agencies to assist Joint Committee in performance of their duties.

SECTION 3: Requires Joint Committee to: provide general oversight of policy related to climate; examine, prioritize and making recommendations to the Joint Committee on Ways and Means (JWM) on expenditures and investments of state auction proceeds. Requires Joint Committee to consider recommendations in: biennial expenditure reports and audit; biennial climate action investment plan; and the Environmental Justice Task Force (EJTF) in developing recommendations to JWM.

CARBON POLICY OFFICE ESTABLISHED (Section 4-5)

SECTION 4. Carbon Policy Office: Establishes the Carbon Policy Office (CPO) within the Department of Administrative Services (DAS). Requires CPO to coordinate state actions toward achieving greenhouse gas emission reduction goals and other statutes, rules and policies that govern the state's and agencies actions to reduce GHG emissions; and carry out the duties, functions and powers established by Act and certain other statutes, rules or policies. Authorize CPO to advise, consult and cooperate with other agencies, political subdivisions, states or federal governments with respect to any proceeding and all matters relating to GHG reduction emission levels. Authorizes CPO to employ personnel.

SECTION 5. Director: Stipulates the CPO is under the supervisions of director who is responsible for duties, functions and powers of the office. Requires Governor to appoint director subject to Senate Confirmation. Authorizes director to adopt rules to carry out duties committed to the CPO. Establishes parameters for the director and CPO's organization.

OREGON CLIMATE ACTION PROGRAM (Section 6-41) – Statement of Purpose

SECTION 6: Declares the purpose of the sections 7 to 41 of Act, regulatory and expenditure portion of Oregon Climate Action Program, (OCAP) is to: a) achieve a reduction in total levels of regulated emissions of at least 45 percent below 1990 emissions levels by 2035 and at least 80 percent below 1990 emissions levels by 2050; b) promote GHG emissions sequestration and mitigation; c) promote adaptation and resilience by natural and working lands, fish and wildlife resources, communities and the economy, state's infrastructure in the face of climate change and ocean acidification; and d) to provide assistance to households, businesses and workers impacted by climate change and ocean acidification. Stipulates nothing in Oregon Climate Action program or rules adopted pursuant to Act can be interpreted to limit

*Underlined text is new in the -31 Amendment

any state agency's authority to reduce GHG emissions and shall be interpreted in manner consistent with federal law.

GHG CAP AND MARKET-BASED COMPLIANCE MECHANISM

SECTION 7. Definitions: Defines key terms.

SECTION 8. Adoption of program; general provisions: *Establishment of the GHG emissions cap and market-based mechanism* – Requires the CPO Director to adopt and Oregon Climate Action Program (OCAP) by rule. Requires OCAP to: place a cap on the total regulated anthropogenic GHG emissions through setting allowance budgets starting in 2021 through 2050 and provide a market-based mechanism for covered entities to demonstrate compliance. Stipulates that the annual allowance budget for 2021 must be a number of allowances equal to baseline emissions. Requires allowances available each year to decline by constant amount as necessary during 2022 through 2035 and 2036 through 2050 to accomplish reduction levels. Establishes process for CPO to undertake to calculate baseline emissions attributable to covered entities.

Regulated entities – Requires CPO to designate the following as covered entities:

- a) Certain permitted entities with emissions that meet or exceed 25,000 metric tons of carbon dioxide equivalent;
- b) Certain permitted entities if the industry description and code listed under the North American Industry Classification System is fossil fuel electric power generation;
- c) A person in control of air contamination source that is a facility comprised of two or more business units collocated with a cogeneration facility that generates energy utilized by the air contamination source, if the entity has attributable regulated emissions that meet or exceed 25,000 metric tons of carbon dioxide equivalent will be covered for their own emissions attributable to their business units.
- d) Electric system manager for purpose of addressing regulated emissions from outside of the state that are attributable to the electricity generated and scheduled for delivery and consumption in Oregon, including wholesale market purchases;
- e) Natural gas supplier for purpose of addressing emissions attributable to combustion of natural gas sold for use in state by persons who are not designated as covered entities;
- f) Natural gas utility for the purpose of addressing emissions attributable to combustion of natural gas that the utility imports, sells or distributes that are not accounted for through the regulation of an air contamination source; and
- g) Entities that produce or import into Oregon fuel that is sold or distributed for use in this state.

Requires CPO Director to adopt rules for the market-based compliance mechanism that include: a) trading of compliance instruments; b) allowing registered entities to bank and carry forward allowances; c) prohibition on borrowing of allowances from future compliance periods; d) allowing opt in entities and general market participants to participate in OCAP; e) compliance periods, standards for calculating compliance obligations and procedures for entities to fulfill their obligations.

*Underlined text is new in the -31 Amendment

Demonstrating Compliance – Stipulates covered or opt-in entity is required to surrender compliance instrument equal to compliance obligation no later than date specified by rule. Determines for purpose of determining compliance obligation for electric system manager electricity scheduled that is generated from renewable resource regardless of the renewable energy certificate disposition to be considered to have the emission attributes of the underlying renewable resource.

Stipulates in addition to any penalty provided by law, rules adopted by the CPO Director shall require that an entity that fails to timely surrender sufficient compliance instruments to surrender to the CPO a number of compliance instruments in addition to their obligation and may establish a process for placing restrictions on the holding count of a registered entity determined to have engaged in a violation of section 28 (public records section of Act.)

Program registration – Requires all covered or opt-in entities and general market participants to register to participate in the OCAP. Requires CPO Director to adopt registration and other necessary requirements for participating in auctions by rule.

SECTION 9. Exemptions and exclusions: Requires CPO to exempt land disposal site and a cogeneration facility owned or operated by a public university or Oregon Health and Science University. Requires CPO to exclude the following emissions from being regulated: GHG emissions attributable to certain permitted entities that are attributable to the electricity generation that is delivered and consumed in another state, and for which the capital and fuel costs are included in a multistate jurisdictional electric company rates charged to customers outside of Oregon; GHG emissions from the combustion of aviation, water craft or railroad locomotive fuel; and GHG emissions attributable to a consumer-owned utility if the three-year average of annual emissions is less than 25,000 metric tons of carbon dioxide equivalent. Authorizes CPO to exempt anyone that imports a de minimis amount of gasoline and diesel fuel as determined by rule.

SECTION 10. Allocation of allowances, generally: Requires CPO to allocate a percentage of allowances for each annual allowance budget to be distributed into an allowance price containment reserve. Authorizes the CPO to allocate percentage to voluntary renewable energy generation reserve and requires CPO Director to adopt rules for allowance distribution that begin operations on or after January 1, 2021. Requires CPO to allocate allowances for direct distribution at no cost to covered entities electric system managers other than electric companies. Requires percentage of allowances from each annual budget to be directly distributed into electricity price containment reserve and stipulates when it can be utilized. Requires CPO to allocate allowances for direct distribution at no cost to covered entities that are natural gas utilities. Requires CPO to allocate allowances for direct distribution at no cost to covered and opt in entities that are engaged in emission-intensive, trade-exposed (EITE) process. Requires CPO to allocate a percentage of allowances for each annual allowance budget to be distributed into an EITE process reserve account. Authorizes CPO to allocate allowances for direct distribution into any other reserve account established by rule that the CPO determines is necessary. Requires after making all allocations the CPO must allocate remaining allowances to auction holding account and distribute the annual allowance budget. Stipulates if allowances distributed into auction holding account remain unsold after two or more consecutive auctions the CPO may redistribute allowances to the allowance price containment reserve.

*Underlined text is new in the -31 Amendment

SECTION 11. Direct distribution of allowances for electric companies: Requires CPO Director, in consultation with Public Utility Commission (PUC), adopt rules for allocating allowances for direct distribution at no cost to covered entities that are electric companies. Requires direct distribution to be for the exclusive benefit of rate payers. Requires rules to allow for electric company to use allowances to meet compliance obligations associated electricity use to serve the load of the company's retail consumers subject to PUC oversight. Requires rules to implement direct distribution as follows: 100 percent of the electric company's forecasted regulated emissions from 2021 – 2030 to align with the trajectory of emissions required under the renewable portfolio standard and statutes establishing the elimination of coal from the electricity supply; and from 2031 – 2050 the amount directly distributed must decline in amount proportionate to decline in the allowance budgets. Specifies what forecasted regulated emissions are based on.

SECTION 12. Direct distribution of allowances for certain electric system managers: Requires CPO to allocate allowances to electric system managers that are covered entities as follows: 100 percent during 2021 for eligible covered emissions; and in 2022 until 2050 a declining amount proportionate to the decline in the allowance budgets. Requires proceeds of the sale of directly distributed allowances to be used by the consumer-owned utility for the benefit of the rate payers and consistent with purposes of Act. Requires a consumer-owned utility's governing body, that sells directly distributed allowances, to report no later than September 15th of each even numbered year to the Joint Committee on the use of the proceeds from the sale of allowances.

SECTION 13. Direct distribution of allowances for natural gas utilities: Requires CPO Director, in consultation with PUC, to adopt rules for allocating allowances for direct distribution at no cost to covered entities that are natural gas utilities. Requires natural gas utility to be directly distributed allowances at amount equal to emissions attributable to providing service to natural gas utility's low-income residential customers. Requires CPO to consult with the PUC in determining the quantity of allowances to directly allocate. Requires natural gas utilities to use allocated allowances to minimize program impacts on low-income residential customers. Requires CPO director to adopt a process by rule to designate an entity as EITE that: begins manufacturing on or after operative date of Act; or manufactures a good or service not listed but is identified as an EITE process by rule.

SECTION 14. Designation of covered entities and opt-in entities engaged in emissions-intensive, trade-exposed processes as EITE entities: Requires CPO to designate a covered or opt-in as an emission-intensive, trade-exposed (EITE) entity if the entity is in control of an air contamination source and is engaged in manufacturing of goods though certain North American Industry Classification System (NAICS) codes. Requires CPO Director to contract with third-party organization to assist in gathering data and conducting necessary analyses. Authorizes rules adopted to allow for the CPO to assign a good manufactured by an EITE entity a temporary benchmark and to adjust the temporary benchmark after the close of the first compliance period. Prohibits covered or opt in entity that is a fossil fuel distribution and storage facility or infrastructure, or electric generating unit from being designated as an EITE entity and receiving allowances at no cost.

*Underlined text is new in the -31 Amendment

SECTION 15. Leakage risk study: Requires CPO to complete study on leakage risk of air contamination sources that report between 10,000 and 25,000 metric tons of carbon dioxide equivalent no later than September 15, 2021. Establishes purpose of leakage risk study is to evaluate emission intensiveness and trade exposure of the sources as and to aid in implementing the process for designating certain EITE entities. Requires report to be provided to the Joint Committee.

SECTION 16. Direct distribution of allowances for EITE entities: Requires the annual allocation of allowances for direct distribution at no cost to an EITE entity to be the number of allowances equal to the sum of the total annual good-specific emissions calculations for the goods manufactures by the entity, multiplied by 95 percent. Specifies what annual good-specific emissions calculations are based on. Requires CPO to calculate and apply facility benchmark for each good manufactured in Oregon by each EITE for the calendar year 2020-2023. Establishes process for calculating facility benchmark. Requires CPO to apply a best available technology benchmark for each good manufactured in Oregon by EITE beginning in 2024 until 2050. Requires CPO to adopt best available technology benchmarks no later than January 1, 2024 and is required to update once every six years. Stipulates best available technology benchmark must represent the GHG emissions attributable to a manufacturer if the entity were to use the best available technology as of the date that the benchmark was last updated. Requires CPO to review and consider emission intensity audit reports produced by qualified independent third-party organization. Authorizes EITE to submit emission intensity audit report to CPO that includes specific analysis and information. Requires CPO director to adopt a means for attributing covered entities and opt in entities GHG emissions to the manufacturer and requirements for pertinent records to be submitted for verification. Requires CPO director to adopt process by rule for entity to apply for adjustment of allowance allocation.

SECTION 17. Benchmark report: Requires CPO to submit report to the Joint Committee no later than September 15, 2030 that assesses: the emissions intensity and trade exposure of covered and opt-in entities; reduction opportunities available; and whether the assessments required warrant an adjustment to the methods for calculating benchmarks.

SECTION 18. Offsets generally; rules: Requirements for offset protocols – Establishes offset projects: must be located in United States or approved by jurisdiction that Oregon has entered into linkage agreement with; must not be otherwise required by law; and must result in greenhouse gas emissions reductions or removals that are real, permanent, quantifiable, verifiable and enforceable; and are in addition to emission reductions otherwise required by law. Stipulates no more than 8 percent of a covered entities compliance obligation may be met by surrendering offset and no more than 4 percent may be met by surrendering credits from offset projects that do not provide direct environmental benefit in Oregon. Authorizes CPO Director to adopt by rule additional restrictions on the number of allowable offsets that may be surrendered by covered entity if air contamination source is in impacted community if: source is within nonattainment area, and source substantially contributes to or causes nonattainment; or source is in violation of any air quality permit issued by DEQ or regional air quality control authority.

Requirements for offset rules – Requires CPO Director in adopting offset rules to: provide for development of offset protocol in manner that enables state to pursue linkage agreements with other jurisdictions; takes into consideration standards, rules or protocols for offset credits in similar programs and voluntary

*Underlined text is new in the -31 Amendment

offset projects and the generation and use of offset credits as established by offset credit registries; allow for the broadest possible participation by landowners in developing and operating projects; encourages offset development in state; prioritizes projects that benefit impacted communities, members of eligible Indian tribes and natural and working lands; and address qualifications for persons and agencies that provide third-party verification and registration. Requires CPO to adopt by rule process for investigate and invalidate issued offset credit for certain reasons. Requires CPO to withhold percentage of offset credits issued for each project and deposit it in a n offset integrity account to be used to replace offset credits that are invalidated.

SECTION 19. Offset protocols: Requires any offset protocols and GHG inventory and monitoring requirements related to offset protocols must: be straightforward and effective to implement and administer; provide for flexibility for landowners and make use of aggregation or other mechanisms to increase development across the broadest possible variety of types and sizes of land.

Forestry offsets – Requires CPO to collaborate and consult with Oregon Department of Forestry (ODF) in the development and monitoring of offset protocols related to forestry. Requires forestry offset protocols to: prioritize reforestation, avoided forest conversion and improved forest management; be consistent with the Oregon Forest Practices Act and be able to be administered consistently with applicable state and local land use laws; and may include offset protocols for low carbon-impact building materials and urban forestry. Requires CPO and ODF to jointly convene a technical advisory committee to advise in the development and monitoring of offset protocols related to forestry.

Agriculture and conservation on natural and working lands offsets – Requires the CPO to collaborate and consult with all relevant state agencies, including but not limited to the State Department of Agriculture (ODA) and the Oregon Watershed Enhancement Board (OWEB), in the development and monitoring of offset protocols related to agriculture and conservation on natural and working lands. Requires the CPO in developing offset protocols to consider developing offset protocols for manure management that reduces methane emissions, avoided grassland conversions, and other categories that would result in the reduction of GHG emissions related to agricultural operations; and be able to be administered consistently with applicable state and local land use laws.

Requires the CPO Director to appoint a technical advisory committee composed of people with relevant expertise for any manner not addressed by forestry and agriculture and conservation on natural and working lands offset section. Requires the CPO to regularly review and update offset including any updates, as necessary, to the methods or technologies used for measuring and monitoring the greenhouse gas emissions reductions or removals attributable to the offset projects.

SECTION 20. Offsets; consultation: Requires CPO Director in adopting and updating offset protocol rules to: consult and consider the recommendations of ODA, ODF, EJTF, OWEB and other relevant state agencies; and persons and agencies that provide third-party verification and registration offset projects and offset credits; and may contract persons or agencies that provide third-party verification and registration of offset projects and offset credits to assist offset protocol development. Requires CPO Director to appoint a compliance offsets program advisory committee to advise in the developing and

*Underlined text is new in the -31 Amendment

updating rules and offset protocols. Requires the compliance offsets program advisory committee to provide guidance to the CPO in designing the rules and offset protocols to promote offset projects that provide direct environmental benefits in this state and to prioritize offset projects that benefit impacted communities, members of eligible Indian tribes and natural and working lands. Establishes compliance offsets program advisory committee member requirements.

SECTION 21. Methodology for designating impacted communities: Requires CPO Director by rule, in consultation with Portland State University Population Research Center, Oregon Health Authority and other relevant agencies and officials, to designate impacted communities. Requires methodology to give greater weight to the criteria that the CPO determines are the most accurate predictors of vulnerability to the impacts of climate change and ocean acidification. Requires CPO to review and update methodology and designation of impacted communities every five years.

SECTION 22. Auctions: Requires CPO to hold auction annually. Authorizes CPO to engage independent auction administrator; or qualified financial services administrator. Requires CPO to set auction floor price, allowance price containment reserve floor price, and hard ceiling price for 2021 and a schedule for prices to increase by fixed percentage each year. Requires rules be adopted for making an unlimited number of allowances available for auction upon exceedance of hard price ceiling. Requires CPO to take action to minimize potential for market manipulation by specifying holding limits the maximum number of allowances that may be held for use or traded by registered entity at any time. Requires CPO to consider prevailing prices for carbon in other jurisdiction and setting prices in a manner that enables linkage agreements with other jurisdiction when adopting rules establishing floor and ceiling prices. Requires reserve allowance auction from the allowance price containment reserve to be conducted separately from other auctions for the purpose of addressing high costs of compliance instruments. Prohibits general market participants from participating in reserve auctions. Requires CPO to offer for sale allowances from any reserve at the ceiling price if the hard ceiling price for an auction is reached as necessary to meet demand. Directs auction proceeds must be transferred to the State Treasurer and deposited in Auction Proceeds Distribution Fund and any proceeds from the sale of allowances must be transferred to the State Treasurer and deposited in the Oregon Climate Action Program Operating Fund.

SECTION 23. Auction Proceeds Distribution Fund: Establishes the Auction Proceeds Distribution Fund and requires CPO to certify amount available for distribution and distribute funds as follows: all money that constitutes revenues described in Article IX, section 3a, of the Oregon Constitution, must be transferred to the Transportation Decarbonization Investments Account; all money that constitutes revenues described in Article VIII, section 2 (1)(g), of the Oregon Constitution, must be transferred to the Common School Fund; 2 percent must be transferred to the Oregon Climate Action Program Operating Fund; and the remainder to the Climate Investments Fund.

SECTION 24. Annual Oregon Climate Action Program report: Requires the CPO to annually submit a report to the Joint Committee detailing activity during the compliance period under the market-based compliance mechanism. Requires report to include: aggregated information on the following for the compliance period: number of allowances bought and sold at each auction and all auction prices; beginning and ending balances of all allowance reserves held by the office; regulated emissions

*Underlined text is new in the -31 Amendment

reductions achieved during the compliance period and progress made toward achieving emissions reduction levels; and estimated impacts of the Oregon Climate Action Program on fuel, electricity and natural gas prices in Oregon.

SECTION 25. Linkage with market-based compliance mechanisms in other jurisdictions: Requires CPO Director to consider market-based compliance mechanisms designed to reduce greenhouse gas emission in other jurisdictions; and provide for implementation of OCAP in manner that avoids double counting of emissions or emission reductions and enables state to pursue linking agreements with other jurisdictions. Prohibits linking with other jurisdiction unless the CPO Director notifies the Governor of intention to link and the Governor makes certain findings. Requires Governor to issue findings within 45 days of receiving notice and directs Governor to provide findings to Legislative Assembly. Requires Governor to consider advice of the Attorney General in making findings. Stipulates findings issued are not subject to judicial review.

SECTION 26. Oregon Climate Action Program advisory committee: Requires Governor to appoint nine-member advisory committee, comprised of persons impacted by or otherwise interested in OCAP, to advise the CPO Director in adopting rules.

SECTION 27. Operating fund: Establishes Oregon Climate Action Program Operating Fund (OCAP Operating Fund) in the State Treasury and continuously appropriates money in OCAP Operating Fund to Oregon Department of Administrative Services for use by the CPO. Outlines what money in OCAP Operating Fund consists of. Requires that any civil penalty deposited is placed in sub account and used only for administering enforcement or providing technical assistance to covered and opt-in entities. Requires the proceeds from sales of allowances from a reserve account at the hard ceiling price must be deposited in a separate subaccount of the fund and used for the purchase and retirement of offset credits.

SECTION 28. Public records law; application: Legislative Assembly declares that it is the policy of the state that the market-based compliance mechanism of the OCAP operate free of abuse and disruptive activity. States Legislative Assembly intent that certain provisions of Act be implemented in a manner necessary to prevent fraud, abuse or market manipulation to the greatest extent possible while upholding the public interest in transparency in public process and government through making certain market activity information available in aggregated form. Requires certain information obtained by state be treated as confidential business information and is exempt from disclosure under the public records law and may not be disclosed to any person or entity except in aggregated form or to another state agency or executive department that Oregon has entered into a linkage agreement with. Requires any person who this information is disclosed to under linkage agreement must treat the information as confidential business information, exempt from disclosure under the public records law.

SECTION 29. Civil penalties: Authorizes CPO Director to impose a civil penalty on a person for any of the following: violation of regulatory portion of OCAP; violation of GHG reporting statute (468A.280) or related rules adopted; submitting record, information, or report that falsifies or conceals a material fact of makes and false or fraudulent representation. Stipulates each day of violation is separate offense. Requires CPO Director to adopt schedule for civil penalty that may not exceed \$10,000 a day, with

*Underlined text is new in the -31 Amendment

exception for intentional, reckless or negligent act, which cannot exceed \$25,000 per day, in addition to amount equal to economic benefit received as a result of the violation. Requires CPO Director to consider certain factors when imposing penalty. Directs all civil penalties recovered to be deposited in the Oregon Climate Action Program Operating Fund.

INVESTMENT OF STATE PROCEEDS FROM OREGON CLIMATE ACTION PROGRAM AUCTIONS Transportation Decarbonization Investments Account (Section 30-34)

SECTION 30. Definitions: Defines key terms.

SECTION 31. Transportation Decarbonization Investments Account: Establishes the Transportation Decarbonization Investments Account as a separate account within the State Highway Fund. Stipulates that of the money deposited in the Transportation Decarbonization Investments Account that 50 percent may be expended by the Department of Transportation (ODOT) for transportation projects selected by the Oregon Transportation Commission (OTC) pursuant to direction and 50 percent to provide grants for transportation projects and to provide technical assistance to applicants for and recipients of the grants.

SECTION 32. Grant program: Authorizes ODOT to provide grants to cities, counties and metropolitan planning organizations for transportation projects. Requires ODOT adopt rules specifying the competitive process used to apply for a grant including requirement that receiving entity provide a percentage of the moneys required for the transportation project and ODOT be advised by the Oregon Climate Action Program Advisory Committee.

SECTION 33. Selection of transportation projects: Authorizes the OTC to select the transportation projects to be funded with moneys in the Transportation Decarbonization Investments Account. Prohibits a transportation project from being funded using Transportation Decarbonization Investments Account unless the OTC determines that the transportation project furthers the purposes of the Act and may constitutionally be funded by revenues described in Article IX, section 3a, of the Oregon Constitution. Requires OTC to seek input from the applicable area commission on transportation prior to selecting projects. Requires OTC to consider whether a proposed transportation project: will further the objectives of the statewide transportation strategy on greenhouse gas emissions adopted by the commission; will further the objectives of the biennial climate action investment plan adopted by the Carbon Policy Office; and is consistent with or complements investments that may be funded by moneys deposited in the Climate Investments Fund. Requires OTC to give priority to projects that:

- benefit impacted communities;
- complement efforts to achieve and maintain local air quality;
- provide opportunities for eligible Indian tribes, members of impacted communities and businesses owned by women or members of minority groups to participate in and benefit from statewide efforts to reduce greenhouse gas emissions;
- promote low carbon economic development opportunities and the creation of jobs that sustain living wages;
- will facilitate in the implementation or planning and developing of land use and transportation scenarios by metropolitan service districts and local governments;

*Underlined text is new in the -31 Amendment

- will, to the greatest extent practicable, serve to conserve, restore, preserve and enhance adjacent natural resources through the use of roadside vegetation in a manner designed to: minimize soil erosion; improve or maintain slope stability; reduce storm water runoff volume and velocity; promote water conservation and plant survivability; and otherwise address the full range of impacts associated with the use of the roadside vegetation.

Requires OTC to provide for a balanced distribution over time of moneys: among all geographic areas of this state; and to the extent practicable, in a manner that provides equal funding support between projects that result in greenhouse gas emissions reductions and projects that support climate change adaptation. Authorizes a project to be funded by both the Transportation Decarbonization Investments Account and the Climate Investments Fund if a transportation project is eligible only in part to be funded by the Transportation Decarbonization Investments Account.

SECTION 34. Procurement preferences: Requires a contracting agency, when using funds from the Transportation Decarbonization Investments Account to give a preference of not more than 10 percent to: building materials procured from manufacturers subject to a carbon pricing program; and nursery stock that is grown, propagated and sold entirely within this state, notwithstanding provisions of law requiring contract be awarded to lowest responsible bidder. Stipulates if the contracting agency finds that the building material is not available in the quantity, quality, type or timeframe required for the procurement, or if the cost of the building material is more than 10 percent the contracting agency may decline to give the building material preference. Stipulates if the department. Stipulates that if the department finds that the nursery stock is not available in the quantity, quality, type or timeframe required for the procurement, or if the cost of the nursery stock is more than 10 percent more than the contracting agency may decline to give the nursery stock preference. Declares that this section does not apply to emergency work, minor alterations, ordinary repairs or maintenance work for public improvements or to other construction contracts.

Climate Investments Fund (section 35-38)

SECTION 35. Climate Investments Fund: Establishes the Climate Investments Fund. Requires money in the Climate Investments Fund may only be used for projects, programs and activities that further the purposes set forth in the Act. Requires the Legislative Assembly to allocate the moneys deposited in the fund, as informed by the biennial climate action investment plan adopted by the Climate Policy Office. Requires that of the moneys deposited in the Climate Investments Fund each biennium: ten percent be allocated for investments and expenditures that benefit eligible Indian tribes; 40 percent be allocated for investments and expenditures that benefit impacted communities; no more than one percent shall be allocated to provide technical assistance to eligible Indian tribes and impacted communities that are applicants for or recipients of moneys allocated from the Climate Investments Fund; and \$10 million per biennium to be deposited in the Just Transition Fund.

SECTION 36. Repeal of certain funding percentage requirements: Sunsets certain provisions July 1, 2027. Sunsets provisions directing the following allocations from the Climate Investments Fund: 40 percent be allocated for investments and expenditures that benefit impacted communities; no more than one percent shall be allocated to provide technical assistance to eligible Indian tribes and impacted

*Underlined text is new in the -31 Amendment

communities that are applicants for or recipients of moneys allocated from the Climate Investments Fund; and \$10 million per biennium to be deposited in the Just Transition Fund effective July 1, 2027

SECTION 38. Procurement preferences: Requires a contracting agency, when using funds from the Climate Investments Fund to give a preference of not more than 10 percent to: building materials procured from manufacturers subject to a carbon pricing program notwithstanding provisions of law requiring contract be awarded to lowest responsible bidder. Stipulates if the contracting agency finds that the building material is not available in the quantity, quality, type or timeframe required for the procurement, or if the cost of the building material is more than 10 percent the contracting agency may decline to give the building material preference.

Labor and Contracting Provisions

SECTION 39. Construction projects funded by certain auction proceeds; requirements: Establishes if a construction project receives more than \$50,000 in funding from moneys deposited in the Climate Investments Fund or the Transportation Decarbonization Investments Account the primary contractor participating in the construction project:

- (a) Shall pay the prevailing rate of wage for an hour's work in the same trade or occupation in the locality where the labor is performed;
- (b) Shall offer health care and retirement benefits to the employees performing the labor on the construction project;
- (c) Shall participate in an apprenticeship program registered with the State Apprenticeship and Training Council;
- (d) May not be a contractor listed by the Commissioner of the Bureau of Labor and Industries as ineligible to receive a contract or subcontract for public works under ORS 279C.860;
- (e) Must demonstrate a history of compliance with the certain rules and requirements; and
- (f) Must demonstrate a history of compliance with federal and state wage and hour laws.

Prohibits farm labor contractor (ORS 658.405) from receiving moneys from the Climate Investments Fund or the Transportation Decarbonization Investments Account unless the farm labor contractor is in compliance with all licensing and any other requirements or regulations imposed upon farm labor contractors (ORS 658.405 to 658.503). Requires DAS to adopt model rules that specify labor, workforce and contracting procedures for all state agencies to use in administering funds for construction projects that received more than \$50,000 in funding from moneys deposited in the Climate Investments Fund or the Transportation Decarbonization Investments Account. Requires model rules to require the use of a project labor agreement for construction projects that receive more than \$200,000 in funding from moneys deposited in the Climate Investments Fund or the Transportation Decarbonization Investments Account. Specifies for all other construction the model rules shall: establish measurable, enforceable goals for the training and hiring of persons who are members of impacted communities and for contracting with businesses that are owned or operated by members of impacted communities; and establish wage, benefit and labor relations standards consistent with the Act. Requires model rules to promote best practices in procurement and contracting and that steel, iron, coatings for steel and iron and manufactured products that the contractor purchases for the project and that become part of a permanent structure be produced in the United States unless the administering agency finds that: the requirement is inconsistent with the public interest; steel, iron, coatings for steel and iron and

*Underlined text is new in the -31 Amendment

manufactured products are not produced in the United States in sufficient and reasonably available quantities and with satisfactory quality; or it will increase the costs of the project, exclusive of labor costs involved in final assembly for manufactured products, by 25 percent or more. Requires a contractor to spend at least 75 percent of the total amount the contractor spends in connection with construction on steel, iron, coatings for steel and iron and manufactured products that become part of a permanent structure to purchase steel, iron, coatings for steel and iron and manufactured products that are produced in the United States. Requires DAS to consult with representatives of labor and workforce equity and contractor equity prior to adopting or amending rule.

Just Transition (Section 40-41)

SECTION 40: Establishes the Just Transition Fund and continuously appropriates fund to the Higher Education Coordinating Commission (HECC) to be used for certain purposes. Requires fund to include a reserve account to be maintained and used to fund programs or activities that provide financial support for workers dislocated or adversely affected by climate change or climate change policies.

SECTION 41: Requires the HECC in consultation with the Employment Department and other interested state agencies, to establish: Just Transition Program for the purpose of distributing moneys deposited in the Just Transition Fund; and a Just Transition Plan for the implementation and administration of the Just Transition Program. Requires HECC to submit a biennial report to the Governor and the Joint Committee that includes: information on implementation of the Just Transition Program; recommendations regarding the level of funding necessary to carry out activities; and recommendations regarding the funding necessary to maintain the reserve account and recommendations of how the reserve account would be best used. Requires money distributed through the Just Transition Program to be distributed to: support economic diversification, job creation, job training and other employment services; provide financial support for workers dislocated or adversely affected by climate change or climate change policies; or other related workforce support to communities are adversely affected by climate change or climate change policies consistent with the purposes set forth in Act. Requires HECC to seek to develop and implement the Just Transition Program in a manner consistent and complementary to other programs, policies and incentives. Authorizes the Just Transition Program to include a competitive grant program. Stipulates a grant program adopted under this section may: encourage, but not require, a grant applicant to provide matching funds; and allow a grant applicant to appeal to the HECC for reevaluation of any determination of grant funding. Authorizes HECC to perform activities necessary to ensure compliance with applicable requirements and if applicant is determined to not have complied to refund money.

Common School Fund

SECTION 42: Any auction proceeds deposited in the Common School Fund are continuously appropriated to Department of State Lands to be used in manner that is consistent with Oregon Constitution and carries out purposes of Act.

Distribution of Auction Proceeds; Expenditure Reporting (section 43-44)

*Underlined text is new in the -31 Amendment

SECTION 43. Biennial expenditure reporting; audit: Requires all public and private entities receiving money from the Climate Investments Fund to annually report to the CPO on moneys received and the results of the expenditures. Requires no later than January 1 of each even-numbered year, the CPO must deliver a biennial report to the Governor and the Joint Committee describing: the investments from the Climate Investments Fund; whether the investments met the requirements for allocations; and the effectiveness of those investments in carrying out the purposes of the Act. Requires all public and private entities receiving money from the Transportation Decarbonization Investments Account to annually report ODOT on the moneys received and the results of the expenditures. Requires no later than January 1 of each even-numbered year, ODOT deliver a biennial report to the Governor and the Joint Committee describing: the transportation projects funded from the Transportation Decarbonization Investments Account; how the transportation projects met the requirements of the Act; and the results of the transportation projects in furthering the purposes set forth Act.

SECTION 44. Biennial expenditure audit: Requires CPO and ODOT to jointly select an independent third-party organization to prepare a biennial audit of all programs, projects or activities funded by the Climate Investments Fund and the Transportation Decarbonization Investments Account. Requires the CPO and ODOT to provide the audit report together with the biennial reports to the Governor and the Joint Committee.

Biennial Climate Action Investments Plan (Section 45-49)

SECTION 45. Definitions: Defines Key terms.

SECTION 46. Biennial Climate Action Investment Plan: Directs the CPO to deliver biennial climate action plan no later than June 1 of each even-numbered year to the EJTF, the Governor and the Joint Committee. Requires the climate action investment plan to identify the short-term and long-term objectives of the state for making expenditures and investments of state proceeds from auctions for purposes of Act and consistent with the requirements of the Oregon Constitution. Requires the biennial climate action investment plan to be based on the best scientific and economic information available and must include: a plan for investments and expenditures of moneys in the Transportation Decarbonization Investments Account made in consultation with ODOT; proposal for investments and expenditures of moneys deposited in the Climate Investments Fund and a description of how the plan and proposal: furthers the purposes of the program, meets allocation requirements and carries out expenditure priorities; and description of how the proposal will result in a balanced and complementary package of investments and expenditures that represent the best opportunities available to the state. Requires the CPO to consult with ODOT, PUC, EJTF, any other relevant agencies, representatives of eligible Indian tribes; and the citizens' advisory committee. Requires CPO Director to convene a citizens' advisory committee to advise the office in carrying out the requirements of this section.

SECTION 47. Priorities for investment of moneys from Climate Investment Fund: Requires in proposing investments from the Climate Investments Fund for inclusion in the biennial climate action investment plan the CPO must give first priority to considering whether an investment of expenditure will: benefit impacted communities; complement efforts to achieve and maintain local air quality; provide opportunities for Indian tribes, members of impacted communities and businesses owned by women or

*Underlined text is new in the -31 Amendment

members of minority groups to participate and benefit from statewide efforts to reduce greenhouse gas emissions; promotes low carbon economic development opportunities; or provides assistance to help households businesses and workers transitioning to economic system that allow as state to achieve GHG emission goals. Requires CPO to aim to develop proposal that would result in: (a) an amount approximately equal to the amount of proceeds received through the purchase of allowances by natural gas utilities, to be invested in energy efficiency improvements benefitting the retail customers in Oregon of natural gas utilities; (b) an amount approximately equal to half the amount of proceeds received through the purchase of allowances by EITE entities to be used to assist the EITE entities in using best available technology; (c) an amount approximately equal to the amount of proceeds received through the purchase of allowances related to GHG emissions attributable to the direct combustion of municipal solid waste to generate renewable energy to be used for programs for reducing plastics-related greenhouse gas emissions. Establishes additional priorities to be considered when proposing expenditures.

SECTION 48. Use of biennial climate investments plan in budget process: Requires Governor to consider the climate action investment plan prepared by the CPO in preparing the Governor's budget.

SECTION 49. Environmental Justice Task Force review of biennial climate action investment plan; report: Requires the EJTF to review and develop recommendations in response to the biennial climate action investment plan and deliver a report on the EJTF's recommendations to the Governor and the Joint Committee no later than August 1 of each even-numbered year.

PROVISIONS RELATED TO THE PUBLIC UTILITY COMMISSION (Section 50-54)

SECTION 50: ORS direction.

SECTION 51: Stipulates that if, an electric company sells allowances that were directly distributed at no cost to the electric company, the PUC shall require the proceeds received by the electric company through the sale: be spent for the exclusive benefit of the electric company's retail electricity consumers; and be used only for activities that serve to reduce GHG emissions or provide assistance to the electric company's retail electricity consumers, consistent with the purposes of Act. Requires an electric company to prioritize the use of proceeds received from the sale of directly distributed allowances for: providing weatherization, energy efficiency improvements, bill assistance or rate assistance to the electric company's low-income residential customers; accelerated transportation electrification; investments and activities that serve to reduce GHG emissions through actions such as energy efficiency improvements, voltage optimization, portfolio optimization and renewable energy procurement; and facilitating integration and utilization of variable energy resources through investments in programs and technologies such as demand response, smart grid communication and control systems, grid connected end-uses and energy storage. Requires the PUC after consultation with the Housing and Community Services Department (OHCS), to adopt implementation rules that must include a regular reporting requirement to the PUC. Requires the PUC to report no later than September 15 of each even-numbered year to the Joint Committee and to the CPO on how electric companies have made use of allowances that were directly distributed at no cost to the electric company, including a description of how any proceeds received by the electric company from the sale of the allowances were used.

*Underlined text is new in the -31 Amendment

SECTION 52: Requires the PUC to establish a process to ensure prudent, appropriate, and contemporaneous cost recovery for public utilities subject to compliance with OCAP.

SECTION 53: Authorizes the PUC, in the manner it determines is proper, to allow a rate or rate schedule of a public utility to include differential rates to reflect amounts to enable the utility to assist low-income residential customers. Requires rates or rates schedules to minimize the shifting of costs to ratepayers that do not qualify for low income assistance.

SECTION 54: Revises existing sunset date to be consistent with Act becoming effecting.

BIENNIAL STATEWIDE ENERGY BURDEN REPORT

SECTION 55: Requires OHCS and State Department of Energy (ODOE) to jointly submit to the Governor and the Legislative Assembly a biennial statewide energy burden report no later than November 1 of every even-numbered year. Authorizes OHCS and ODOE to jointly adopt rules for gathering necessary data after consultation with consumer-owned utilities. Establishes purposes of the biennial energy burden report. Requires OHCS, in consultation with ODOE to convene an Energy Burden and Poverty Working Group to provide guidance and assistance to the departments in developing the biennial statewide energy burden report. Includes parameters for the Energy Burden and Poverty Working Group.

GHG EMISSIONS REGISTRATION AND REPORTING

Transfer of Duties Related to GHG Reporting Program (section 56-61)

SECTION 56. Transfer: Transfers the duties, functions and powers of the Department of Environmental Quality (DEQ) related to registration and reporting requirements for electricity and fossil fuels (ORS 468A.280) to the Carbon Policy Office.

SECTION 57. Records, property, employees: Requires the Director of DEQ to transfer all records and property related to the reporting requirements for electricity and fossil fuels and transfer any employees engaged in relevant duties and functions. Requires CPO Director to take possess in of records and property and take charge of employees. Requires Governor to resolve any disputes between DEQ and CPO.

SECTION 58. Unexpended revenues: Transfers unexpended balances relevant to electricity and fossil fuels reporting program from DEQ to CPO.

SECTION 59. Action, proceeding, prosecution: Stipulates that transfer of duties to the Carbon Policy Office does not affect any action, proceeding or prosecution, except that the CPO is substituted for the Environmental Quality Commission (EQC).

SECTION 60. Liability, duty, obligation: Stipulates nothing in the program transfer relieves a person of liability, duty or obligation in respect of the program. The rights legally incurred by EQC under contracts, leases and business transactions are transferred to the CPO.

*Underlined text is new in the -31 Amendment

SECTION 61. Rules: Stipulates rules established by the EQC in respects to reporting program are in effect until superseded or repealed by rules of the CPO. Transfers reference from EQC or Department of Environmental Quality in uncodified laws or resolutions to CPO Director and CPO.

Housekeeping in ORS

SECTION 62: Housekeeping

Amendments to Statutes

SECTION 63: Makes statute consistent with transfer of authority in Act. Authorizes CPO to adjust by rule the registration and reporting required if necessary to accommodate participation in an energy imbalance market by persons who import, sell allocate or distribute electricity, or as necessary to otherwise address developments in electricity markets

ENERGY FACILITY CARBON DIOXIDE EMISSIONS STANDARDS Repeal of Carbon Dioxide Emissions Standards (Section 64-67)

SECTION 64 and 65: Repeals Energy Facility Siting Council carbon dioxide emissions standards.

Transitional Provisions (Section 66-69)

SECTION 66: Includes provisions for treatment of site certificate conditions affected by repeal of carbon dioxide emissions standards. On the date it is repealed the conditions would not be enforceable.

SECTION 67: Requires EFSC to do rulemaking to conform to repeal of standard.

SECTION 68: Addresses how offset funds that have already been paid to 3rd party entity to comply with standard but have not been expended by third party entity are required to be used after standard has been used. ODOE maintains jurisdiction over monitoring how moneys are spent.

SECTION 69: Repeals direction.

Repeal

SECTION 70: Repeals statute

Conforming Amendments (section 71-77)

REPEAL OF FORESTRY CARBON OFFSET PROVISIONS (Section 78-82)

REGULATION OF LANDFILL METHANE EMISSIONS (section 83-85)

SECTION 83: Directed to be made a part of statutes related to air quality (ORS 468A).

SECTION 84: Declares it is the intent of the Legislative Assembly that the standards and requirements be at least as stringent as the most stringent standards and requirements for reducing methane gas emissions from landfills implemented among the states having a boundary with Oregon. Requires the Environmental Quality Commission (EQC) to adopt by rule standards and requirements for reducing

*Underlined text is new in the -31 Amendment

methane gas emissions from landfills. Requires prior to adopting standards and requirements the EQC must consider the standards and requirements of the State of California. Exempts the following landfills from standards and requirements: landfills that emit less than 25,000 metric tons of carbon dioxide equivalent in anthropogenic greenhouse gas emissions annually; landfills that only receive hazardous waste; landfills that only receive building demolition or construction wastes; and land disposal sites that are closed and no longer receiving solid waste, are maintained in compliance certain statutes and have less than 450,000 tons of waste-in-place. Requires rules include: reporting requirements; methane gas collection and control system requirements; standards and requirements for methane limits, monitoring and corrective actions; alternative compliance measures and methods that may be applied for certain landfills on a case-by-case basis; and standards and requirements for records retention, landfill closure notification, gas collection and control device removal or modification and annual operating reports.

SECTION 85: Requires EQC to adopt landfill methane emission rules in time for rules to be operative no later than July 1, 2021.

EXPEDITED JUDICIAL REVIEW TO SUPREME COURT; EXPIRATION (Section 86-87)

SECTION 86: Declares intent of Legislative Assembly that provisions of Act relating to receipt of money through sales of allowances by auction do not render Act a bill for raising revenue subject to provisions of Article IV, sections 18 and 25(2) of the Oregon Constitution. Assigns original jurisdiction to the Supreme Court to determine whether the Act is a bill for raising revenue. Establishes process for judicial review.

SECTION 87: Declares original jurisdiction to the Supreme Court to determine whether auctions conducted impose a tax that is subject to the provisions of Article IX, section 3a, of the Oregon Constitution. Establishes process for judicial review.

APPROPRIATIONS (Section 88-89)

SECTION 88: Appropriates \$_____ from the General Fund to the Oregon Department of Administrative Services for the biennium beginning July 1, 2019 for use by the CPO in the development and implementation of the OCAP.

SECTION 89: Appropriates \$_____ from the General Fund to the Environmental Justice Task Force (EJTF) for the biennium beginning July 1, 2019 which may be used for compensation and expenses incurred by EJTF members who are not members of the Legislative Assembly and for provision by the Governor of clerical and administrative staff support to the EJTF. or use by the CPO in the development and implementation of the OCAP.

OPERATIVE DATE

SECTION 90: Establishes certain sections of Act become operative January 1,2021. Authorizes certain agencies to take action prior to operative date if necessary to carry out provisions of Act.

REPORTS AND REVIEWS (Section 91-94)

SECTION 91: Require DAS to report on actions being taken to prepare for implementation of Act to the Joint Committee on or before September 15, 2020.

*Underlined text is new in the -31 Amendment

SECTION 92: Requires CPO to conduct review and provide report to the Joint Committee on implementation of offset portion of Act and rules adopted on or before September 15, 2031. Outlines requirements for report.

SECTION 93: Requires CPO to conduct review and provide report to the Joint Committee on the exclusion from GHG emission from aviation fuel and fuel used in watercraft and railroad locomotives no later than January 1, 2025. Outlines purpose of report.

SECTION 94: Requires ODOT in consultation with the Department of Revenue and any other relevant state agencies, to study the creation of refunds or credits deposited in the Transportation Decarbonization Investments Fund to offset estimated increases in motor vehicle fuel costs and report to the Joint Committee and the Joint Committee on Transportation on or before September 15, 2019. The study is to include costs attributable to the regulation of motor vehicle fuel producers and importers as covered entities for Oregon households whose combined incomes are at or below 100 of the area median income and refunds or credits available to offset the estimated increase in motor vehicle fuel used to propel motor vehicles off road for vehicles used in the agricultural and natural resource sectors.

CAPTIONS

SECTION 95: Captions do not become part of statute.

EMERGENCY CLAUSE

SECTION 96: Declares emergency, effective on passage.

*Underlined text is new in the -31 Amendment