

HB 2020 -26, -27, -31, -44 STAFF MEASURE SUMMARY

Joint Committee On Carbon Reduction

Prepared By: Beth Reiley, LPRO Analyst

Meeting Dates: 2/8, 2/11, 2/15, 2/18, 2/22, 2/23, 2/25, 3/1, 3/2, 3/25, 3/29, 4/1

WHAT THE MEASURE DOES:

Modifies state **GHG (GHG) reduction goals** to: at least 45 percent below 1990 emission levels by 2035; and at least 80 percent below 1990 emission levels by 2050.

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. Requires Joint Committee to: provide general oversight of policy related to climate; and 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 by the Environmental Justice Task Force in developing recommendations to JWM.

Establishes the Carbon Policy Office (**CPO**) within the Department of Administrative Services (DAS). Requires CPO to coordinate state actions toward achieving GHG 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.

Requires the CPO Director to adopt the Oregon Climate Action Program (**OCAP**) by rule. 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**. 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.

Declares the **purpose** of the regulatory and expenditure portion (sections 7 to 41 of Act) of OCAP is to: (1) 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; (2) promote GHG emissions sequestration and mitigation; (3) promote adaptation and resilience by natural and working lands, fish and wildlife resources, communities and the economy in the face of climate change and ocean acidification; and (4) provide assistance to households, businesses and workers impacted by the transition to an economic system that allows for the State to achieve GHG reduction goals.

Requires CPO to designate the following as **covered entities**:

- Certain permitted entities with emissions that meet or exceed 25,000 metric tons of carbon dioxide equivalent;
- Certain permitted entities if the industry description and code listed under the North American Industry Classification System is fossil fuel electric power generation;
- 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;
- Natural gas marketer 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;

- 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
- 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: (1) criteria for the allocation of allowances; (2) standards for offset projects and the use of offset credits; (3) administration of auctions of allowances; (4) trading of compliance instruments; (5) banking and carrying forward allowances; (6) prohibiting allowance borrowing from future annual allowance budgets; (7) allowing opt-in entities and general market participants to participate in the market-based compliance mechanism; and (8) compliance periods, standards for calculating compliance obligations and procedures to demonstrate compliance.

Requires covered entities, opt-in entities and general market participants to **register** to participate in OCAP. Stipulates covered or opt-in entity is required to **surrender compliance instrument** equal to compliance obligation no later than date specified by rule. Establishes for purpose of determining compliance obligation for electric system manager electricity scheduled that is generated from renewable resource and acquired without acquiring renewable energy certificate is considered to have the emission attributes of the underlying renewable resource.

Provides **exemptions and exclusions** for certain entities and emissions from regulation from the OCAP program including a temporary exclusion for certain fluorinated gases. Requires CPO to report to Joint Committee regarding the temporary exclusion no later than September 15, 2024.

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 electricity generation reserve.

Requires CPO Director to adopt rules for allocating allowances for **direct distribution** at no cost to covered entities that are **electric companies** as follows: 100 percent of the electric company's forecasted 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 overall cap. 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 overall cap. Requires CPO Director 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 to allocate allowances for direct distribution at no cost to covered or opt-in entity engaged in the manufacturing of goods through **emission-intensive, trade-exposed (EITE)** processes as identified by certain North American Industry Classification System (NAICS) codes. Prohibits covered or opt-in entity that is fossil fuel distribution and storage facility or infrastructure, or electric generating unit from receiving allowances at no cost. Establishes annual allocation of no cost allowances for covered or opt-in EITE entities are as follows: 100 percent during 2021; and in 2022 until 2050 a percentage that is adjusted annually in schedule adopted by the CPO Director by rule in amount proportionate to the decline in the overall cap. Establishes processes for calculating annual good specific emissions, and sector and facility benchmarks. Requires CPO Director to adopt process for EITE entities to apply for allowance allocation adjustment by rule. Requires CPO Director to adopt process to determine whether allowances be allocated at no cost to mitigate leakage for entities that begin manufacturing

goods on or after effective date of Act and manufactures goods through EITE process listed in certain NAICS codes by rule. Requires CPO to provide **report** to the Joint Committee no later than Nov 1 following the end of every second compliance period on the **benchmarks established and an assessment** of the EITE of included industries; reduction opportunities; and whether an adjustment of benchmarks is warranted.

Establishes **offset** projects: must be located in United States or jurisdiction that Oregon has entered into linkage agreement with; must not be otherwise required by law; and must result in GHG 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 a 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 level, or area projected by Department of Environmental Quality (DEQ) to become nonattainment area within five years and source substantially contributes to or causes nonattainment or projected nonattainment; or source is in violation of any air quality permit issued by DEQ or regional air quality control authority. Requires CPO Director in adopting offset rules to: (1) take into consideration standards, rules or protocols for offset credits in similar programs; (2) encourage development of Oregon offset projects; (3) consult with certain agencies; (4) adopt process for offset credit invalidation; and (5) provisions to withhold up to three percent of the offset credits issued for each project to deposit in offset integrity account to be used to replace invalidated credits. Requires CPO Director to appoint compliance **offsets protocol advisory committee** to provide guidance in developing and updating offset protocols. 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.

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 by census tract**. Requires CPO to review and update methodology and designation of impacted communities every five years.

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 CPO to take action to minimize potential for market manipulation by specifying as **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 set prices in a manner that enables linkage agreements with other jurisdiction when adopting rules establishing floor and ceiling prices.

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; and remaining money must be transferred to the Climate Investments Fund.

Requires CPO to submit a **market activity report** to the Joint Committee no later than six months after the close of each compliance period. Stipulates the report must detail activity during **compliance period** and include aggregated information on: number of allowances bought and sold at each auction and all auction prices; beginning and ending balances of all account reserves held by CPO; regulated emission reductions achieved during compliance period and progress towards achieving reduction levels; and estimated impacts of OCAP on fuel, electricity and natural gas prices in Oregon.

Requires CPO Director to consider **market-based compliance mechanisms** designed to reduce GHG 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 **linkage 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, in consultation with Attorney General, to issue findings within 45-days of receiving notice and directs Governor to provide findings to Legislative Assembly. Stipulates findings issued are not subject to judicial review.

Requires no later than June 1 of each even numbered year the CPO must deliver a **biennial climate action investment plan** (Investment Plan) to the EJTF, the Governor and the Joint Committee. Requires the Environmental Justice Task Force to review and develop recommendations in response to the Investment Plan to be reported to the Governor and Joint Committee no later than August 1 of each even numbered year.

Establishes **Oregon Climate Action Program Operating Fund** (OCAP Operating Fund) in the State Treasury and continuously appropriates money in OCAP Operating Fund to Oregon DAS for use by the CPO. Stipulates money in OCAP Operating Fund consists of money appropriated by Legislative Assembly and any other money deposited into OCAP Operating Fund by any other source. Places limitation on the use of civil penalties

Requires money deposited in the **Climate Investments Fund** and the **Transportation Decarbonization Investments Account** must be allocated in a manner **consistent with purposes** established in Act and requirements of the Oregon Constitution. Requires that allocations to the maximum extent feasible, cost-effective and consistent with law: prioritize projects that 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 members of minority groups to participate and benefit from statewide efforts to reduce GHG emissions; makes use of domestically produced products; promotes low carbon economic development opportunities; and provides assistance to help households businesses and workers transitioning to economic system that allow as state to achieve GHG emission goals.

Establishes the **Climate Investments Fund** in the State Treasury. Stipulates money in the Climate Investments Fund may be used for projects, programs, and activities to further purpose of the Act. Authorizes Legislative Assembly to allocate money in the Climate Investment Fund each biennium in the following way: 10 percent for projects, programs, and activities that benefit Indian tribes; percentage not to exceed ___ to be allocated to the Oregon Climate Action Program Operating Fund; and no less than \$___ to be allocated to the Just Transition Fund.

Establishes the **Transportation Decarbonization Investments Account** as a separate account within the State Highway Fund. Stipulates moneys deposited in account must be used only: as authorized by Article IX, section 3a of the Oregon Constitution and for activities that further the purposes of the Act. Provides direction to Legislative Assembly on allocating money from Transportation Decarbonization Investments Account.

Directs Public Utility Commission (PUC) to require that proceeds received by an electric company or natural gas utility used from the **sale of allowances that had been directly distributed** at no cost are: to be spent by the within the service territory of the electric company or natural gas utility; and are used only for activities that serve to reduce GHG emissions or provide energy assistance to retail customers, consistent with the Act. Requires an electric company or natural gas utility to **prioritize the use of auction proceeds** for energy assistance programs, including: rate design-based solutions; bill assistance, weatherization, energy efficiency, transportation electrification measures and grid modernization; and participation by low-income residential customers in conservation programs to further reduce out-of-pocket costs for energy efficiency measures. Requires the PUC, after consultation with the Oregon Housing and Community Services Department (OHCS), to adopt rules for

implementation and enforcement.

Establishes requirements for contractors of projects funded in whole or in part by moneys allocated by the Legislative Assembly from the Climate Investments Fund or the Transportation Decarbonization Investments Account. Directs DAS to adopt **model rules specifying labor, workforce, and contracting procedures** for all state agencies to use in administering funds for projects from the Climate Investments Fund or the Transportation Decarbonization Investments Account.

Requires all recipients of moneys from the Climate Investments Fund to **report annually** to the CPO on the expenditure of moneys received and the result of the expenditures. Requires that no later than January 1 of each even numbered year the CPO shall deliver a biennial report to the Governor and Joint Committee describing investments and the result of those investments in carrying out purpose of Act. Requires all recipients of moneys from the Transportation Decarbonization Investments Account to report annually to the Oregon Department of Transportation (ODOT) on the expenditure of moneys received and the result of the expenditures. Requires that no later than January 1 of each even numbered year the Oregon Department of Transportation (ODOT) deliver a biennial report to the Governor and Joint Committee describing investments and the result of those investments in carrying out purpose of Act

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 to the Governor and the Joint Committee.

Establishes the **Just Transition Fund** in the State Treasury and continuously appropriates moneys to the Higher Education Coordinating Commission (HECC) to be distributed for the Just Transition Program. Requires HECC to set aside 50 percent of the funds deposited each biennium in a reserve account. Requires the HECC to continue to credit the reserve account until the balance is the lesser of: an amount that, in the HECC's determination, is adequate to fund programs or activities that provide financial support for workers dislocated or adversely affected by climate change or climate change policies; or \$ _____. Requires the HECC in consultation with Employment Department and other interested agencies to establish a Just Transition Program for the purposes of distributing money from the Just Transition Fund. Requires money distributed through the **Just Transition Program** to: (1) support economic diversification, job creation, job training and other employment services; (2) provide financial support for workers dislocated or adversely affected by climate change or climate change policies; (3) provide mental health services for workers dislocated or adversely affected by climate change or climate change policies; or (4) other actions consistent with purposes of Act to provide related workforce support to communities in this state that are adversely affected by climate change or climate change policies.

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.

Requires no later than November 1 of each even numbered year for the OHCS and the Oregon Department of Energy (ODOE) to jointly transmit to the Governor and the Legislative Assembly a **biennial statewide energy burden report**. Requires OHCS and ODOE to adopt rules, in consultation with consumer-owned utilities, for gathering necessary data to prepare report.

Transfers duties, functions and powers of Environmental Quality Commission and Department of Environmental Quality related to **GHG reporting** (ORS468A.280) to Carbon Policy Office. Makes conforming changes in GHG

reporting statute.

Repeals Energy Facility Siting Council **carbon dioxide emissions standards**. Includes provisions for treatment of site certificate conditions affected by repeal of standards.

Provides that provisions related to CPO, OCAP, investment of certain moneys, PUC, transfer of duties, and repeal of Energy Facility Siting Council carbon dioxide emissions standards become **operative January 1, 2021**.

Provides for **expedited supreme court review** of: provisions of Act relating to receipt of money through sales of allowances by auction do not render Act a bill for raising revenue and that certain revenue from auctions are subject to provisions of Article IX, section 3a of the Oregon Constitution upon petition by adversely affected party.

Appropriates \$____ from the General Fund to the DAS for the biennium beginning July 1, 2019 for use by the CPO in the development and implementation of the OCAP. Appropriates \$____ from the General Fund to the EJTF for the biennium beginning July 1, 2019 which may be used for compensation and expenses incurred by non-legislative EJTF members and for provision by the Governor of clerical and administrative staff.

Requires DAS to report on actions being taken to **prepare for implementation** of Act to the Joint Committee on or before September 15, 2020.

Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Interim committee process
- Potential cost of cap-and-invest program to Oregonians
- Cost to Oregonians of not reducing greenhouse gas emissions
- Program revenue investments
- Interaction with transportation package
- Other governments that have adopted cap and trade programs
- Current and historical temperatures
- Effect on future generations
- Actions individuals and industries have taken to reduce greenhouse gas emissions
- Other programs and policies
- Role of rulemaking in the program
- Forest management and effects of forest fires

EFFECT OF AMENDMENT:

-26 Requires the Carbon Policy Office to designate as covered entities under the Oregon Climate Action Program those companies that are based in Oregon but that manufacture their products in other countries or states that do not have a price on carbon, for the purpose of regulating the emissions generated in the production of those products manufactured by the company in another country but sold or offered for sale in Oregon under certain circumstances.

-27 Requires Oregon Department of Administrative Services to adopt policy encouraging those who use state's motor fleet to first use electric or low-emission vehicles. Requires vehicle purchased by DAS to be part of fleet to be zero-emission vehicle unless: vehicle is over 8,000 pounds; is for emergency purposes; or it is purchased or leased for nonemergency purposes for which zero-emission vehicles are not technologically feasible or commercially available. Applies to purchases on and after January 1, 2021.

-31 STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTION GOALS

Replaces measure. 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.

Establishes the Joint Committee on Climate Action (Joint Committee). Establishes parameters for the Committees membership and operation. 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 certain recommendations in developing recommendations to JWM.

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 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. Authorizes CPO to advise, consult and cooperate with other entities with respect to all matters relating to GHG reduction emission levels. 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.

Requires the CPO Director to adopt and Oregon Climate Action Program (OCAP) by rule. Declares the purpose of the sections 7 to 41 of Act, regulatory and expenditure portion of 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. 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. Requires CPO to designate certain entities as covered entities.

Requires CPO Director to adopt rules for the market-based compliance mechanism that include specific provisions, including certain penalties. Requires covered or opt-in entity to surrender compliance instrument equal to compliance obligation no later than date specified by rule. 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.

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.

Requires CPO to allocate a percentage of allowances for each annual allowance budget to be distributed into an allowance price containment reserve, voluntary renewable energy generation reserve, electricity price containment reserve, and EITE process reserve account. Requires CPO to allocate allowances for direct distribution at no cost to covered entities electric system managers other than electric companies, natural gas

utilities and entities that are engaged in emission-intensive, trade-exposed (EITE) process.

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.

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.

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.

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.

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 through 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. 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. 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. Requires CPO to submit report to the Joint Committee no later than September 15, 2030.

Requires offset projects: be located in United States or approved by jurisdiction that Oregon has entered into linkage agreement with; not be otherwise required by law; and 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 in certain areas. Establishes requirements for offset rules adopted by CPO Director. Requires CPO to withhold percentage of offset credits issued for each project and deposit it in an offset integrity account to be used to replace offset credits that are invalidated.

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. 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. Requires the CPO to collaborate and consult with all relevant state agencies in the development and monitoring of offset protocols related to agriculture and conservation on natural and working lands. Requires the CPO in consider developing certain protocols. Requires the CPO Director to appoint a technical advisory committee. Requires the CPO to regularly review and update offset. 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. Requires CPO Director to appoint a compliance offsets program advisory committee to provide guidance to the CPO. Establishes compliance offsets program advisory committee member requirements.

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 gives 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.

Requires CPO to hold auction annually and 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. Requires CPO to consider prevailing prices for carbon in other jurisdiction and setting prices in a manner that enables linkage agreements. 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 to the State Treasurer and deposited in Auction Proceeds Distribution Fund and any proceed from the sale of allowances must be transferred to the State Treasurer and deposited in the Oregon Climate Action Program Operating 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.

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 certain information.

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.

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.

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. Places restrictions on use of any civil penalty.

States Legislative Assembly intent. 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.

Authorizes CPO Director to impose a civil penalty for certain violations and requires all civil penalties recovered to be deposited in OCAP Operating Fund.

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. 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. Requires ODOT be advised by the OCAP Advisory Committee. 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 project will further certain objectives and investments. Requires OTC to give priority to projects that accomplish certain objectives. 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.

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 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.

Establishes the Climate Investments Fund. Requires money in the Climate Investments Fund to 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 that 10 percent be allocated for investments and expenditures that benefit eligible Indian tribes; and that until July 1, 2027: 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.

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. 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 must meet specified standards. 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 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.

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.

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 certain information. 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. Authorizes HECC to perform activities necessary to ensure compliance with applicable requirements and if applicant is determined to not have complied to refund money.

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.

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. 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. 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. Specifies information required to be included in the biennial climate action investment plan. 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. 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 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. Requires Governor to consider the climate action investment plan prepared by the CPO in preparing the Governor's budget. 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.

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

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 necessary adopt rules 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.

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. Requires the Director of DEQ to transfer and CPOR Director to take possession of all records and property related to the reporting requirements for electricity and fossil fuels and transfer any employees engaged in relevant duties and functions. 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.

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. Repeals Energy Facility Siting Council carbon dioxide emissions standards and forestry offset provisions.

Requires the Environmental Quality Commission (EQC) to adopt by rule standards and requirements for reducing 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. Requires EQC to adopt landfill methane emission rules in time for rules to be operative no later than July 1, 2021.

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. 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 processes for judicial review.

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. 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.

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

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. Declares emergency, effective on passage.

-44 Authorizes PUC to allow a rate or rate schedule of electric company or natural gas utility to reflect investments in infrastructure that support adoption of alternative forms of transportation vehicles under certain circumstances. Stipulates investment in infrastructure for alternative forms of transportation is a utility service and benefit to ratepayer if: it will support adoption of alternative vehicles powered by electricity or compressed natural gas; and it can be reasonably anticipated to cost-effectively reduce GHG emissions over time, benefit utility system. Establishes that benefits may include but need not be limited to: distribution or transmission managing benefits system efficiencies or other economic values benefiting ratepayers over the long term or increased access to long term utility service.

BACKGROUND:

A cap-and-trade program is a market-based system designed to reduce greenhouse gas emissions. Total allowed emissions are capped at a given level that decreases each year. Polluters are required to buy an allowance for each ton of greenhouse gas they emit above a specified amount, as quantified through mandatory reporting of emissions to the government. Allowances are purchased at auctions held either by the government or a contracted third party. Allowances may also be distributed for free, often to emissions-intensive, trade-exposed industries. Covered entities can also purchase offset credits to meet their compliance obligations. Offsets represent a verified emission reduction of one ton of carbon dioxide equivalent from an uncapped sector. At the end of each compliance period, polluters must remit a number of allowances equal to their emissions or face a penalty. Companies may sell surplus allowances to other companies. A cap-and-invest program uses the proceeds generated from the auction of allowances for designated purposes.

Ten states currently have cap-and-trade systems. Nine are Northeastern states that joined together in 2009 to create a common carbon market through the Regional Greenhouse Gas Initiative. California runs a separate program that began in 2012 and is linked to the Canadian province of Quebec and Nova Scotia through the Western Climate Initiative. These programs include emissions from transportation fuels, natural gas, industrial processes, and electricity generation including emissions associated with imported electricity. The linked jurisdictions participate in joint auctions of allowances, and allowances issued by one jurisdiction can be used by any compliance entity within the linked programs.