

House Bill 2020 -101 Amendment Section by Section

STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTION GOALS

Preamble: Whereas clauses

STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTION GOALS

SECTION 1: Modifies state anthropogenic greenhouse gas (GHG) emission reduction level goals 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; and examine, prioritize and make recommendations to the Joint Committee on Ways and Means (JWM) on expenditures and investments of state auction proceeds. Requires Joint Committee to consider: biennial expenditure reports and audit; biennial climate action investment plan; recommendations of the Environmental Justice Task Force (EJTF); and the Just Transition Plan in developing recommendations to JWM.

CLIMATE POLICY OFFICE ESTABLISHED (Sections 4-6)

SECTION 4 Climate Policy Office: Establishes the Climate Policy Office (CPO) within the Department of Administrative Services (DAS). Requires CPO to coordinate state actions toward achieving greenhouse gas emission reduction goals and carry out duties, functions and powers vested to the CPO by law. Authorizes 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 adopt rules and employ personnel.

SECTION 5 Director: Stipulates the CPO is under the supervision of a director who is responsible for the performance of duties, functions and powers of the office. Requires Governor to appoint director subject to Senate confirmation. Establishes parameters for the director and CPO's organization.

SECTION 6: Requires CPO Director to file statement of economic interest on or before April 15th of each year.

OREGON CLIMATE BOARD (Sections 7-10)

SECTION 7: Establishes the Oregon Climate Board (Board) to ensure correspondence among the CPO, public interest and state climate policies. Establishes membership requirements for ex officio members and nine voting members, appointed by the Governor, subject to Senate confirmation.

SECTION 8: Establishes term of office for Board members is four years, and limits voting Board member from serving more than two terms. Establishes procedures for the Board's operation.

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SECTION 9: Establishes staggered terms for the members first appointed by the Governor.

SECTION 10: Requires Board to: advise the CPO regarding the implementation, administration, and enforcement of CPO programs and activities; and development of the rules and policies of the CPO under the Act; and carry out any other duties, functions and powers vested in the office by law. Requires Board to consider best available science when advising CPO.

ENFORCEMENT (Sections 11-13)

SECTION 11 Enforcement procedures; status of procedures: Authorizes CPO to institute actions or proceedings for legal or equitable remedies to enforce compliance or restrain further violations whenever there is good cause to believe a person is engaged or about to engage in violations of sections 15-40 of Act (Oregon Climate Action Program/OCAP) or any related rule or standard.

SECTION 12 Civil penalties: Defines key terms. Authorizes CPO to impose a civil penalty on a person for a violation of OCA or rules adopted pursuant to OCAP, or submitting any required record, information or report that falsifies or conceals material fact or makes fraudulent representation. Stipulates each day of offense constitutes separate offense. Requires CPO to adopt schedule of civil penalties by rule that do not exceed \$10,000 or \$25,000, per offense, if the violation arises from an intentional, reckless or negligent act. Authorizes civil penalty to include an amount equal to an estimate of the economic benefit received as a result of the violation. Requires CPO to consider certain factors in imposing civil penalty. Requires civil penalties be paid to Department of Administrative Services to be deposited with the State Treasurer in the Oregon Climate Action Program Operating Fund to be used only for providing technical assistance to covered and opt-in entities.

SECTION 13 Supplying false information: Applies statute establishing what constitutes submitting false information to CPO and applies penalties.

OREGON CLIMATE ACTION PROGRAM (Sections 14-40)

SECTION 14 Statement of Purpose: Declares the purpose of the regulatory and investment 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 or climate change policies that allow the state to achieve greenhouse gas (GHG) goals. Stipulates nothing in OCAP or rules adopted pursuant to Act can be interpreted to limit any state agency's authority to reduce GHG emissions.

GHG Cap and Market-based Compliance Mechanism

SECTION 15 Definitions: Defines key terms.

SECTION 16 Adoption of program; general provisions: *Establishment of the GHG emissions cap and market-based mechanism* – Requires the CPO to adopt OCAP by rule in accordance with the Administrative Procedures Act. Requires OCAP to: place a cap on the total regulated anthropogenic GHG emissions

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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 calculate baseline emissions attributable to covered entities.

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

- a) Permitted air contamination source if annual regulated emissions meet or exceed 25,000 metric tons of carbon dioxide equivalent;
- b) Permitted air contamination source if the applicable North American Industry Classification System (NAICS) code is 221112 and it is a natural gas-powered electric power generation facility;
- c) Permitted 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 and meets or exceeds 25,000 metric tons of carbon dioxide equivalent for their own emissions attributable to their business unit.
- 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; and e) compliance periods, standards for calculating compliance obligations and procedures for entities to fulfill their obligations.

Demonstrating Compliance – Requires covered or opt-in entity to surrender compliance instrument equal to compliance obligation no later than date specified by rule. States 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. Prohibits natural gas utility or supplier that delivers gas to a covered or opt-in entity from including in the rate any costs associated with compliance with OCAP.

Stipulates in addition to any penalty provided by law, rules adopted by the CPO 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

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section 12 (civil penalties section of Act.) Stipulates compliance instrument issued does not constitute property or property right.

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 17 Exemptions and exclusions: Requires CPO to exempt from regulation a cogeneration facility owned or operated by a public university or Oregon Health and Science University. Requires CPO to exclude from regulation GHG emissions from the combustion of aviation, watercraft, or railroad locomotive fuel and emissions attributable to a landfill. Authorizes CPO to exempt anyone that imports a de minimis amount of gasoline and diesel fuel as determined by rule.

SECTION 18 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 to adopt rules for allowance distribution that begin operations on or after January 1, 2021.

Requires CPO to allocate a number of allowances for retirement purposes. 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 in order to mitigate leakage. Requires CPO to allocate a percentage of allowances for each annual allowance budget to be distributed into an EITE process reserve account to be distributed at no cost only to EITE entities awarded an adjustment or EITE entity that begins marketing a good or goods after effective date of Act; or uses process not listed in Act but is designated as EITE by rule. 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 allocate remaining allowances to auction holding account. 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. Stipulates receipt of allowance at no cost is exempt from taxation under ORS 316, 317 and 318 (personal income tax, corporation excise tax and corporation income tax).

SECTION 19: Requires CPO to retire allowances equal to regulated emissions of a permitted a natural gas-powered electric power generation facility, with the NAICS code 221112, for the allowances attributable to generation in Oregon that is delivered and consumed in another state, and for which rates are included in multi-jurisdictional electric company for the years 2021-2026. Requires CPO to retire allowances equal to regulated emissions on behalf of a covered entity that is an electric system manager, an amount of allowances equal to the regulated emissions attributable to a consumer-owned utility, if the three-year average of the annual anthropogenic GHG emissions attributable to scheduled electricity by the

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consumer-owned utility or by an electric generation and transmissions cooperative, for final delivery by the consumer-owned utility for consumption in this state is less than 25,000 metric tons of carbon dioxide equivalent for the years 2021-2050.

Stipulates that allowances directly retired by the CPO on behalf of a covered entity count toward fulfilling the covered entity's compliance obligation for the compliance period during which the allowances are retired.

SECTION 20 Direct distribution of allowances for electric companies: Requires CPO, in consultation with Public Utility Commission (PUC), to adopt rules for allocating allowances for direct distribution at no cost to covered entities that are electric companies for the exclusive benefit of rate payers. Requires rules to allow for electric company to use allowances to meet the compliance obligation 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 – 2029 to align with the trajectory of emissions required under the renewable portfolio standard and statutes establishing the elimination of coal from the electricity supply; in 2030 the direct distribution must represent an amount equal to 100% of the forecasted regulated emissions, specifies what forecasted emissions are based on; and 2031 – 2050 an amount that declines from the amount of allowances directly distributed in 2030 an amount that results in 20% of the average annual emissions of the electric company for the five most recent years prior to January 1, 2021 in 2050.

SECTION 21 Direct distribution of allowances for certain electric system managers: Requires CPO to allocate allowances for direct distribution at no cost to covered entities that are electric system managers other than electric companies as follows: in 2021 an amount equal to 100% of GHG emissions that are the 2021 baseline emissions attributable to electricity scheduled for final delivery by consumer-owned utilities for consumption in this state and that has not been otherwise retired; 2022-2050 an amount that declines annually by constant amount proportionate to the decline in allowances available in allowance budgets. Requires proceeds from the sale of allowances by a consumer-owned utility to be used by the consumer-owned utility for the benefit of ratepayers, furthering the purposes set forth in section 6 of the Act and as further required by the consumer-owned utility's governing body. Requires consumer-owned utility governing body that receives or sells allowances to submit a report to Joint Committee on Climate Action on the use of the allowances no later than September 15 of each even-numbered year.

SECTION 22 2021 emissions baseline for electric system managers: Requires CPO to consider certain factors when determining baseline anthropogenic GHG emissions for electric system manager in 2021.

SECTION 23 Direct distribution of allowances for natural gas utilities: Requires the CPO, in consultation with the PUC, to adopt rules for allocating allowances for direct distribution, at no cost to covered entities, that are natural gas utilities. Requires rules allow for a natural gas utility to be directly distributed allowances at no cost in an amount equal to regulated emissions attributable to low-income residential sales customers. Requires that all allowances directly allocated be used for benefiting natural gas utility's low-income sales customers. Requires CPO adopt rules for consigning allowances to the state to be auctioned for a natural gas utility as follows: 60% of the weather normalized GHG emissions forecast for 2021; 2022-2050 an amount that declines annually from 60% by constant amount proportionate to the

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decline in the amount of allowances available in the annual allowance budgets. Limits the total annual direct distribution of allowances to a natural gas utility for 75% of the weather normalized anthropogenic GHG emissions attributable to the natural gas utility for the year the allowances are to be distributed. Requires CPO to require a natural gas utility to consign all allowances to the state to be auctioned, with exception of allowances distributed to the natural gas utility's low income residential sales customers,

SECTION 24 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 entity as an emission-intensive, trade-exposed (EITE) entity if the entity is a permitted air contamination source and is engaged in manufacturing of goods through certain NAICS codes. Requires CPO to adopt a procedure for designating an entity a covered or opt-in entity that begins manufacturing through an EITE process in Oregon after operative date of section. Authorizes CPO 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 designating an EITE entity and receiving allowances at no cost.

SECTION 25 Leakage risk study: Requires CPO to complete study on leakage risk of air contamination sources that report emissions between 10,000 and 25,000 metric tons of carbon dioxide equivalent no later than September 15, 2020. Establishes purpose of leakage risk study is to evaluate emission intensiveness and trade exposure of the sources and to aid in implementing the process for designating certain EITE entities. Requires report to be provided to the Joint Committee. Authorizes CPO Director to hire or contract third-party organization to assist the office in gathering data and conducting analyses.

SECTION 26 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 benchmarked emissions calculations for the goods manufactures by the entity, multiplied by 95 percent. Specifies what annual benchmarked emissions calculations are based on. Requires CPO to establish emissions efficiency benchmarks for goods manufactured in Oregon by an EITE by order. Authorizes CPO to establish efficiency benchmarks separately for each good or for a group of goods under certain circumstances. Establishes emission efficiency benchmarks are applicable for the beginning January 1, 2021 to December 31, 2024. Establishes process for determining each emissions efficiency benchmark. Establishes process for EITE entity to file written request for a contested case hearing to challenge an order establishing emissions efficiency benchmarks. Requires CPO to adopt certain processes by rule including process for entity to apply for adjustment of allowance allocation.

SECTION 27 Operation of emissions efficiency benchmarks based on best available technology: Requires no later than January 1, 2024 the CPO must establish, by order, emission efficiency benchmarks based on best available technology for EITE entities rather than emissions efficiency benchmarks. Stipulates order issued may not become effective until January 1, 2025 but authorizes CPO to take necessary action prior to January 1, 2025.

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SECTION 28: (Effective January 1, 2025) Defines “best available technology.” Requires CPO to establish, and update every nine years, emissions efficiency benchmarks based on best available technology. Requires the CPO to consider: GHG emissions intensity audit specific to the EITE entity; commercial availability, technical feasibility and economic viability of options to reduce GHG emissions, including if pursuing options would lead to increased risk of leakage; fuels processes, equipment and technology used by other facilities producing comparable goods and barriers to adopting best available technology. Authorizes EITE to submit emission intensity audit report to CPO that includes certain analysis and information.

SECTION 29 Benchmark report: Requires CPO to submit report on the established emissions efficiency benchmarks 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 30 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 credits 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 to adopt by rule additional restrictions on the number of allowable offset credits 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 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 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 project development in this 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 process by rule for issuing early action offset credits that occur on or after effective date of Act and ending on January 1, 2021. Requires CPO to adopt by rule process to investigate and invalidate issued offset credit for certain reasons. Requires CPO to withhold percentage of offset credits issued for each project and deposit in an offset integrity account to be used to replace offset credits that are invalidated.

SECTION 31 Offset protocols: Requires any offset protocols and GHG inventory and monitoring requirements related to offset protocols to: be straightforward and effective to implement and administer; provide for flexibility for landowners; establish a predetermined crediting period for a project to remain eligible; and make use of aggregation or other mechanisms to increase development across the broadest possible variety of types and sizes of land.

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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; to extent practicable prioritize low-carbon-impact building material and urban forestry; be able to be administered consistently with applicable state and local land use laws; account for differences in forest management practices between private, state and other owners in establishing baselines for the generation of offset credits on private, state or other nonfederal forestland; and may not be authorize the generation or issuance of offset credits for GHG emissions reductions or removals that occur from January 1, 2021 – December 31, 2026 as the result of offset projects on state forest lands unless they are trust lands (ORS 273.462), lands in the Elliott State Forest (ORS 530.450), Common School Forest Lands (ORS 530.460), or other lands placed under the jurisdiction of the State Land Board.

Requires CPO and ODF to consider ways to avoid significant net cumulative reductions, attributable to offset projects in the regional supply of wood fiber available to wood product manufacturing facilities in Oregon. Requires CPO and ODF to jointly convene a technical advisory committee to advise in the development and monitoring of offset protocols related to forestry. Requires technical advisory committee to include members with expertise in 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 to consider developing offset protocols for manure management that reduces methane emissions from agricultural operations, avoided grassland conversions, and other categories that would result in the reduction of GHG emissions related to agricultural operations; and to ensure that protocols have ability to be administered consistently with applicable state and local land use laws.

Requires CPO to convene technical advisory committee composed of persons with expertise relevant to the development of offset protocols when developing protocols not addressed in forestry and agriculture and conservation on natural and working lands offset sections of Act. Requires the CPO to regularly review and update offset protocols 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 32 Offsets; consultation and reporting: Requires CPO in developing and updating offset protocol rules to: consult and consider the recommendations of ODA, ODF, EJTF, OWEB, other relevant state agencies and eligible Indian tribes; 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 convene a compliance offsets program advisory committee to advise in the developing and updating rules and offset protocols. Requires 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 background requirements for members of

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the offsets program advisory committee. Requires no later than September 15th of the final year of each compliance period ODF in collaboration with CPO must submit a report to the Joint Committee that provides an analysis of the implementation of offset protocols related to forestry. Requires report to: describe location and scope of offset projects; describe forestry offsets marketed, registered, transferred or sold, to date by the State Forester; include information and analysis on cobenefits attributable to offset projects; and identify and address any significant effects attributable to forestry offset projects on the supply of wood fiber available from nonfederally owned forests to wood manufacturing facilities in Oregon. Requires analysis of effects on the supply to wood products manufacturing facilities to include and consider certain information. Authorizes report to include recommendation by ODF on whether a temporary suspension of acceptance of new offset project applications is necessary to address effects attributable to forestry offset projects on the available supply of wood fiber. Authorizes any recommendation that a temporary suspension to include recommendations for measures to minimize adverse effects on landowners developing offset projects.

SECTION 33 Methodology for designating impacted communities: Requires CPO 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 take certain factors into consideration. Requires methodology to give greater weight to the criteria that the CPO determines are the most accurate measurements 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 34 Auctions: Requires CPO to hold auction at least 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 sale of allowances 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. Requires proceeds from any sales of allowances if the hard price ceiling is reached to be paid to DAS for deposit with the State Treasurer to be credited as follows: moneys that constitute revenues described in Article IX, section 3a, of the Oregon Constitution, must be credited to the Transportation Decarbonization Investments Account; moneys that constitute revenues described in Article VIII, section 2 (1)(g), of the Oregon Constitution, must be credited to the Common School Fund; and remaining money must be credited to the Oregon Climate Action Program Operating Fund to be used for the purchase and retirement of offset credits. The proceeds of an auction must be paid to DAS and deposited with the State Treasurer as follows: auction proceeds from the sale of consigned allowances for

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a natural gas utility must be credited to the appropriate trust account, established by the PUC; and auction proceeds paid to the state shall be credited to the Auction Proceeds Distribution Fund.

SECTION 35 Auction Proceeds Distribution Fund: Establishes the Auction Proceeds Distribution Fund and requires CPO to certify amount of money available for distribution and cause the moneys to be distributed 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; an amount necessary to administer the OCAP program must be transferred to the Oregon Climate Action Program Operating Fund; and the remainder to the Climate Investments Fund.

SECTION 36 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; anthropogenic GHG emissions reductions achieved during the compliance period and progress made toward achieving a reduction in total anthropogenic GHG emissions levels; and estimated impacts of the Oregon Climate Action Program on fuel prices, electricity and natural gas bills in Oregon.

SECTION 37 Participation in nonprofit corporation for administrative and technical support: Establishes intent of Legislative Assembly to pursue membership on the board of directors and participation in and receipt of services from a nonprofit corporation established for the purposes of providing administrative and technical support to state and provincial GHG emissions trading programs. Authorizes Governor to enter into agreements to secure membership and to access the benefits of the administrative and technical support. Stipulates agreement authorized under section does not constitute a linkage agreement.

SECTION 38 Linkage with market-based compliance mechanisms in other jurisdictions: In adopting implementation rules, requires CPO 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 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. Prohibits State of Oregon from entering into finalized linkage agreement unless CPO has first provided report on proposed linkage agreement to the Joint Committee that includes certain information.

SECTION 39 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 providing

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technical assistance to covered and opt-in entities. Requires the proceeds from sales of allowances from a reserve account at the hard ceiling price to be deposited in a separate subaccount of the OCAP Operating Fund and used for the purchase and retirement of offset credits.

SECTION 40. Public records law; application: 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 to treat the information as confidential business information, exempt from disclosure under the public records law.

INVESTMENT OF STATE PROCEEDS FROM OREGON CLIMATE ACTION PROGRAM AUCTIONS Transportation Decarbonization Investments Account (Sections 41-45)

SECTION 41. Definitions: Defines key terms.

SECTION 42. 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 must be expended by the Department of Transportation (ODOT) for transportation projects selected by the Oregon Transportation Commission (OTC) and 50 percent to provide grants for transportation projects and to provide technical assistance, which may include grant writing assistance, to applicants for and recipients of the grants. Prohibits amount of money used for technical assistance under the grant program to exceed 1 percent. Requires expenditures from the Transportation Decarbonization Investments Account be in addition to and not in replacement of any existing allocation or appropriation for transportation projects. Provides examples of uses of moneys in the Transportation Decarbonization Investments Account.

SECTION 43 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. Require ODOT to consult with the Oregon Climate Board in adopting rules.

SECTION 44 Selection of transportation projects: Requires 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 one or more 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

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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 OTC; will further the objectives of the biennial climate action investment plan adopted by the CPO; 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 businesses that are owned by members of impacted communities and eligible Indian tribes 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;
- 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; and to the extent practicable provide for distribution of moneys during each biennium that considers the requirements of fairness and proportionality required by Article IX, section 3a (3) of the Constitution. 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. Stipulates transportation projects selected by the OTC under this section are subject to certain labor and contracting provisions established in Act (section 50).

SECTION 45 Procurement: Requires state 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. 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. Requires that if the transportation project involves the use of roadside vegetation the ODOT must purchase the roadside vegetation from nursery stock grown and propagated entirely within this state. 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 (Sections 46-48)

SECTION 46 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 one or

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more 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 as delivered by the CPO. 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; 20 percent be allocated for uses that benefit natural and working lands; no more than one percent shall be allocated to provide technical assistance to certain entities; and \$10 million to be deposited in the Just Transition Fund to establish a Just Transition Program and develop a Just Transition Plan. Provides examples of the types of programs, projects or activities that would benefit natural and working lands. Stipulates allocations from Climate Investments Fund shall be, to the maximum extent possible, in addition to and not in replacement of any existing allocations or appropriations.

SECTION 47 Adjustment of certain funding percentage requirements: Sunsets certain provisions of funding requirements from the Climate Investments Fund July 1, 2027.

SECTION 48: Effective July 1, 2027, removes provisions directing the following allocations from the Climate Investments Fund: 40 percent be allocated for investments and expenditures that benefit impacted communities; 20 percent for natural and working lands; no more than one percent shall be allocated to provide technical assistance to certain entities; and \$10 million per biennium to be deposited in the Just Transition Fund.

SECTION 49. 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 an additional 10 percent the contracting agency may decline to give the building material preference.

Labor and Contracting Provisions

SECTION 50 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.

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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, in consultation with the Attorney General, 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 that for all other funded construction projects 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 cement, concrete, 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; cement, concrete, 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. Notwithstanding a finding by the administering agency, requires a contractor to spend at least 75 percent of the total amount the contractor spends in connection with construction on cement, concrete, steel, iron, coatings for steel and iron and manufactured products that become part of a permanent structure to purchase cement, concrete, 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, contractors and other knowledgeable persons prior to adopting or amending rule. Authorizes ODOT to adopt its own model rules specifying labor, workforce and contracting procedures for use in administering transportation project that receive more than \$50,000 from the Transportation Decarbonization Investments Account.

Just Transition (Sections 51-52)

SECTION 51: 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 52: Requires the HECC in consultation with the State Workforce and Talent Development Board, 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, other than the reserve account; and a Just Transition Plan for the implementation and administration of the Just Transition Program and the use of moneys deposited in the Just Transition Reserve Account. Establishes that moneys deposited through the Just Transition Program must be distributed to support economic diversification, job creation, job training and other employment services. Establishes that moneys deposited in the Just Transition Reserve Account be used only to fund programs and activities that

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provide financial support for workers dislocated or adversely affected by climate change or climate change policies. Requires, each even numbered year, for the HECC to submit a 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 maintenance and use of the reserve account of the Just Transition Fund including recommendations regarding funding necessary to maintain reserve account and the use of moneys deposited in the reserve account. 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. Requires HECC to appoint a just transition advisory committee to be composed of representatives from communities and work places that have the potential to be adversely affected by climate change or climate change policies. Requires advisory committee to advise HECC in developing rules; provide recommendations for grant awards and other expenditures and other recommendations related to the Just Transition Plan and the Just Transition Program.

Common School Fund

SECTION 53: 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 (Sections 43-44)

SECTION 54 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 OTC, Governor, Joint Committee, and Joint Committee on Transportation 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 55 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 expenditure reports to the Governor, OTC, Joint Transportation Committee and the Joint Committee.

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Biennial Climate Action Investments Plan (Sections 56-61) SECTION 56 Definitions: Defines key terms.

SECTION 57 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 OTC, the Governor, the Joint Committee and the Joint Committee on Transportation. Requires the climate action investment plan to identify the short-term and long-term opportunities for the use of state auction proceeds that further the purposes of the Act and are consistent with the Constitution. Requires the biennial climate action investment plan to be based on consideration of the best available science and best economic information available and include an analysis of how investments or expenditures would serve to further the purposes of the Act. Requires CPO to consult with ODOT, PUC, EJTF, other relevant agencies, representatives of eligible Indian tribes, and the citizens' advisory committee. Requires Director of CPO to convene 13-member citizen's advisory committee. Establishes membership requirements for citizen's advisory committee.

SECTION 58: Requires CPO to deliver first biennial climate action investment plan no later than June 1, 2022.

SECTION 59 Priorities for investment of moneys from Climate Investments Fund: Requires in conducting analysis of potential uses of moneys deposited in the Climate Investments Fund the CPO must give first priority to considering whether a potential use will: further objectives in meeting requirements under section 46 of Act regarding Climate Investments Fund distribution; 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 and benefit from statewide efforts to reduce greenhouse gas emissions, including technical assistance for certain entities; promotes low carbon economic development opportunities; or aids households, businesses and workers in the transition to achieving GHG emission reduction goals. Requires analysis to address use of moneys in the Climate Investments Fund in manner that would be approximately equal to half of the proceeds received through the purchase of allowances by EITE entities be used to assist EITE entities in using best available technologies; and an amount equal to half of proceeds related to 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 in analysis when proposing expenditures.

SECTION 60 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 61 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 (Sections 62-72)

SECTION 62: ORS direction.

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SECTION 63: Defines terms.

SECTION 64: Stipulates that if an electric company sells allowances that were directly distributed at no cost to the electric company, the Public Utility Commission (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, in furtherance of purposes of Act. Requires an electric company to prioritize the use of proceeds received from the sale of allowances that were directly distributed at no cost 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 greenhouse gas 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 an electric company that receives allowances directly distributed at no cost to develop a plan for the use of the allowances and file the plan with the PUC. Requires the plan to be revised and updated on a schedule established by the PUC by rule. Requires the plan contain, at a minimum: a strategy for the use of proceeds received by the electric company from the sale of the allowances; and a description of any previous uses of proceeds received by the electric company from the sale of allowances. Requires the PUC, after consultation with the Housing and Community Services Department, to adopt implementation and enforcement rules.

SECTION 65: Requires the PUC, as trustee, to establish a separate trust account for the benefit of each natural gas utility for proceeds from the sale of allowances consigned to the state for auction by the natural gas utilities. Requires the PUC to establish the trust account with the State Treasurer for each natural gas utility. Stipulates that upon request by a natural gas utility, the PUC shall require the Treasurer to transfer amounts necessary to pay for programs or activities consistent with their plan. Authorizes a natural gas utility to request the PUC to authorize the trustee to transfer amounts from the trust account to the natural gas utility that are necessary to pay for programs or activities found to be consistent with the plan developed by the natural gas utility. Requires a natural gas utility to develop a plan for meeting requirements and file the plan with the PUC. Requires a plan to be revised and updated on a schedule consistent with the schedule for integrated resource planning applicable to the natural gas utility, as further specified by the PUC by rule. Requires the plan to: identify a portfolio of approaches to further purposes of Act; invest in no less than 25 percent of proceeds from the sale of consigned allowances to nonvolumetric bill credits or other rate relief for residential, commercial, and industrial sales customers; and address impacts of the regulated emissions attributable to the natural gas utility to address GHG reductions through certain approaches. Authorizes the PUC to adopt implementation and enforcement rules.

SECTION 66: Requires an electric company to develop and file with the PUC an initial plan no later than December 31, 2021. Requires a natural gas utility to develop and file with the PUC an initial plan no later than June 30, 2021.

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SECTION 67: Requires the PUC no later than September 15 of each even-numbered year provide a report to the Joint Committee and the CPO on: how electric companies have made use of allowances that were directly distributed at no cost to each electric company, including a description of how any proceeds received from the sale of allowances were used; and how natural gas utilities have expended proceeds from the sale of allowances consigned to the state for auction by the natural gas utilities.

SECTION 68: Requires the PUC to establish processes and mechanisms to ensure timely cost recovery for prudent and reasonable costs incurred by public utilities associated with compliance with the OCAP. Requires processes and mechanisms to be established to address situations in which compliance with the OCAP results in public utilities incurring costs for which cost recovery mechanisms otherwise authorized by law are not adequate.

SECTION 69: Amends ORS 757.259 to replace “identifiable expenses” with “identifiable costs” and adds the cost of capital in list of factors that PUC may by order defer for later incorporation in rates.

SECTION 70: 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 or to reflect amounts for programs that enable the public utility to assist low-income residential customers. Requires such rates or rate schedules to minimize the shifting of costs to ratepayers that do not qualify for low-income assistance.

SECTION 71: Defines key terms. Authorizes the PUC to allow a rate or rate schedule of an electric company or natural gas utility to reflect amounts for investments in infrastructure measures that support the adoption of alternative forms of transportation vehicles if the investments are consistent with and meet requirements. Makes an investment in infrastructure measures that support the adoption of alternative forms of transportation vehicles a utility service and a benefit to utility payers if: the infrastructure measures will support the adoption of alternative vehicles that are powered by electricity, compressed natural gas, or hydrogen; and the investment can be reasonably anticipated to cost-effectively reduce transportation sector GHG emissions over time and benefit the electric company’s or natural gas utility’s customers. Stipulates benefits may include but need not be limited to: distribution or transmission management benefits; system efficiencies or other economic values inuring to the benefit of ratepayers over the long term; or increased ratepayer choice by providing greater deployment of a variety of fueling technologies to increase availability and access to publicly available fueling stations for alternative forms of transportation vehicles.

SECTION 72: Revises existing sunset date on requirement that PUC submit a biennial estimate to Legislature of rate impacts from existing GHG emission reduction goals.

BIENNIAL STATEWIDE ENERGY BURDEN REPORT

SECTION 73: 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. Requires 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

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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 (Sections 74-80)

SECTION 74: Amends ORS 468A.280. Defines key terms. Authorizes the Environmental Quality Commission (EQC) by rule to require registration and reporting of information necessary to determine GHG emissions by: a person in control of an air contamination source of any class for which registration and reporting is required. Requires a person required to register and report to register with the Department of Environmental Quality (DEQ) and make reports containing information that the EQC by rule may require that is relevant to determining and verifying GHG emissions. Authorizes the EQC by rule to require the person to provide an audit by an independent and disinterested party to verify that the GHG emissions information reported is true and accurate. Requires rules adopted by the EQC include the generating facility fuel type and the megawatt-hours of electricity generated by the electric company for use in this state in reporting. Removes the requirement to use default GHG emissions factors established by the EQC by rule when reporting an estimate of the amount of GHG emissions. Removes electricity purchases for which a renewable energy certificate has been issued but subsequently transferred or sold to a person other than the electric company from the estimate of the amount of GHG emissions used in reporting. Clarifies certain terms. Removes requirement that rules adopted by the EQC be for fossil fuel and expands the requirement to all fuel. Removes requirement that for the purposes of determining GHG emissions related to liquified petroleum gas, the EQC shall allow reporting using publications or submission of data by the American Petroleum Institute but may require reporting of such other information necessary to achieve the purposes of the rules adopted by the EQC. Authorizes the EQC to adjust by rule the registration and reporting requirements 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. Authorizes DEQ to require a person for which registration and reporting is required to provide any pertinent records related to verification of GHG emissions in order to determine compliance with and to enforce adopted rules. Authorizes DEQ to develop an assigned emissions level for the purposes of regulation if a person fails to submit a report. Authorizes EQC to establish a schedule of fees for registration and reporting after considering the total fees for each person subject to registration and reporting. Requires the EQC to limit the established fees to the anticipated cost of developing, implementing, and analyzing data collected under GHG emissions registration and reporting programs. Stipulates emissions data submitted to the DEQ is public information and may not be designated as confidential for purposes of disclosure under the public records law, ORS 192.311 to 192.478. Establishes operative date January 1, 2022 for the transfer of GHG emissions registration and reporting program from the DEQ to the CPO.

SECTION 75. Transfer: Transfers the duties, functions, and powers of EQC and DEQ related to registration and reporting requirements for electricity and fuels (ORS 468A.280) to the CPO.

SECTION 76. Records, property, employees: Requires the Director of DEQ to transfer all records and property related to the reporting requirements for electricity and fuels and transfer any employees engaged in relevant duties and functions. Requires CPO Director to take possession of records and

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property and take charge of employees. Requires Governor to resolve any disputes between DEQ and CPO.

SECTION 77. Unexpended revenues: Transfers unexpended balances relevant to electricity and fuels reporting program from DEQ to CPO.

SECTION 78. Action, proceeding, prosecution: Stipulates that transfer of duties to CPO does not affect any action, proceeding, or prosecution, except that the CPO is substituted for the EQC.

SECTION 79. 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 and DEQ under contracts, leases, and business transactions are transferred to the CPO.

SECTION 80. Rules: Stipulates rules established by the EQC in respect to reporting program are in effect until superseded or repealed by rules of the CPO. Transfers reference from EQC or DEQ in uncodified laws or resolutions to CPO Director and CPO.

Housekeeping in ORS

SECTION 81: Housekeeping

Conforming Amendments (Sections 82-86)

SECTION 82: Changes the authority to require registration and reporting of information necessary to determine GHGs from the Director of the EQC to the CPO. Requires all fees collected by CPO be deposited with the State Treasurer to the credit of the Oregon Climate Action Program Operative Fund.

SECTION 83: Adds ORS 468A.280 to Section 39, Operating Fund. Stipulates moneys deposited in the fund from the collection of fees under ORS 468A.280 may only be used to develop, implement, and analyze data collected under GHG emissions registration and reporting programs.

SECTION 84: Adds ORS 468A.290 to Section 11, Enforcement procedures: status of procedures.

SECTION 85: Adds ORS 468A.280 to Section 29, Benchmark report.

SECTION 86: Adds ORS 468A.280 to Section 13, Supplying false information to office.

ENERGY FACILITY CARBON DIOXIDE EMISSIONS STANDARDS

Repeal of Carbon Dioxide Emissions Standards (Section 87-88)

SECTION 87 and 88: Repeals Energy Facility Siting Council carbon dioxide emissions standards.

Transitional Provisions (Section 89-92)

SECTION 89. 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 90: Requires EFSC to do rulemaking to conform to repeal of standard.

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SECTION 91: Addresses how offset funds that have already been paid to third party entity to comply with CO2 standard but have not been expended by third party entity are required to be used after standard has been repealed. ODOE maintains jurisdiction over monitoring how moneys are spent.

SECTION 92: Repeals direction in Section 91 on date Legislative Counsel receives written notice from EFSC.

Repeal

SECTION 93: Repeals statute.

Conforming Amendments (Sections 94-100)

REPEAL OF FORESTRY CARBON OFFSET PROVISIONS (Sections 101-103)

REGULATION OF LANDFILL METHANE EMISSIONS (Sections 104-106)

SECTION 104: Directed to be made a part of statutes related to air quality (ORS 468A).

SECTION 105: Defines key terms. 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 methane gas emissions from landfills. 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 as of the effective date of the Act 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 to include: reporting requirements; methane gas collection and control system requirements; standards and requirements for methane surface emissions, 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 106: Requires EQC to adopt landfill methane emission rules in time for rules to be operative no later than July 1, 2021.

OREGON GLOBAL WARMING COMMISSION

Abolish and transfer of duties to Oregon Climate Board (Sections 107-115)

SECTION 107: Abolishes the Oregon Global Warming Commission (OGWC). Ceases the tenure of office of the members of the OGWC on the operative date. Transfers all duties, functions, and powers of the OGWC to the Oregon Climate Board (OCB).

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SECTION 108: Requires the OGWC chairperson to deliver all records and property within the jurisdiction of the chairperson that relate to the duties, functions, and powers transferred to the OCB. Requires OCB chairperson to take possession of the records and property. Stipulates the Governor shall resolve any dispute between the OGWC and the OCB relating to transfers of records and property, and the Governor's decision is final.

SECTION 109: Transfers and makes available for expenditure the unexpended balances of amounts authorized to be expended by the OGWC for the biennium beginning July 1, 2019, from revenues dedicated, continuously appropriated, appropriated, or otherwise made available for the purpose of administering and enforcing the duties, functions, and powers to the OCB for the biennium beginning July 1, 2019. Stipulates the expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the OGWC remain applicable to expenditures by the OCB.

SECTION 110: Stipulates the transfer of duties, functions, and powers to the OCB does not affect any action, proceeding, or prosecution involving or with respect to such duties, functions, and powers begun before and pending at the time of the transfer, except that the OCB is substituted for the OGWC in the action, proceeding, or prosecution.

SECTION 111: Stipulates nothing in the transfers, amendments to statutes, or the repeal of statutes relieves a person of a liability, duty, or obligation accruing under or with respect to the duties, functions, and powers transferred. Authorizes the OCB to undertake the collection or enforcement of any such liability, duty, or obligation.

SECTION 112: Stipulates OGWC rules in effect on the operative date that the OGWC is abolished continue in effect until superseded or repealed OCB rules. References in rules of the OGWC to the OGWC or an officer of the OGWC are considered to be references to the OCB or an officer of the OCB.

SECTION 113: Stipulates that whenever, in any statutory law or resolution of the Legislative Assembly or in rule, document, record, or proceeding authorized by the Legislative Assembly, reference is made to the OGWC or an officer or employee of the OGWC, the reference is considered to be a reference to the OCB or an officer of the OCB.

SECTION 114: Authorizes the Legislative Counsel for the purposes of harmonizing and clarifying statutory law, to substitute for words designating the OGWC or its officers, wherever they occur in statutory law, words designating the OCB or its officers.

SECTION 115: Repeals OGWC statutes.

Amendments to statute (Sections 116-121)

SECTION 116: Replaces the OGWC with the OCB.

SECTION 117: Replaces the OGWC with the OCB. Clarifies key term. Removes requirement for the OGWC to examine GHG cap and trade systems, including a statewide and multistate carbon cap and trade system and market-based mechanisms, as a means of achieving the GHG emissions reduction goals.

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SECTION 118: Replaces the OGWC with the OCB. Clarifies key term. Includes the CPO in the organizations the OCB is required to work with to implement the outreach strategy.

SECTION 119: Replaces the OGWC with the OCB. Clarifies key term.

SECTION 120: Replaces the OGWC with the OCB. Clarifies key term.

SECTION 121: Replaces the OGWC with the OCB.

SECTIONS 121a-c: Makes definition of “greenhouse gas” in existing statutes consistent with definition in Act.

EXPEDITED JUDICIAL REVIEW TO SUPREME COURT; EXPIRATION (Sections 122-123)

SECTION 122: Declares intent of the Legislative Assembly that provisions of Act relating to receipt of moneys through the sale of allowances by an auction do not render Act a bill for raising revenue. Authorizes any person who is interested in or affected or aggrieved by or who will be affected or aggrieved by the sale of allowances in the auctions process to petition for judicial review. Confers original jurisdiction on Supreme Court. Establishes process for judicial review.

SECTION 123: Confers original jurisdiction to the Supreme Court to determine whether the auctions conducted under Act impose a tax subject to provisions of Article IX, section 3a of the constitution. Authorizes any person who is interested in or affected or aggrieved by or who will be affected or aggrieved by to petition for judicial review. Establishes process for judicial review.

SECTION 123a: Requires the CPO to include specific opportunities for using auction proceeds and recommendations for legislation in the next biennial climate action plan if the Supreme Court finds that auctions conducted under Act do not impose a tax subject to provisions of Article IX, section 3a of the constitution.

SECTION 123b: Declares Section 123a becomes operative on January 2, the year following the judicial declaration.

SECTION 123c: Repeals section 123a and 123b on the earlier of the date the judicial declaration is made or January 2, 2027.

REPORTS AND REVIEWS (Sections 124-130)

SECTION 124: Initial implementation report: Requires DAS to report on actions being taken to prepare for implementation of Act to the Joint Committee on or before September 15, 2020.

SECTION 125. Greenhouse gas emissions reporting program coordination report: Requires DAS and DEQ to jointly report on the coordination between DAS and DEQ for administration of the registration and reporting processes and for the sharing and administration of information collected on or before December 31, 2020. Outlines requirements for report.

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SECTION 126. Offset implementation report: 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 127. Report on certain exclusions from regulated emissions: Requires CPO to conduct research and provide report to the Joint Committee on the exclusion from regulated GHG emissions of aviation fuel and fuel used in watercraft and railroad locomotives no later than January 1, 2025. Outlines purposes of report. Specifies topics on which CPO must research and provide analyses.

SECTION 128. Credit proposal: Requires ODOT in consultation with the Department of Revenue, the Legislative Revenue Officer, and any other relevant state agencies, to develop a proposal for a program or process for issuing refunds or credits in order to offset estimated increases in motor vehicle fuel costs attributable to the regulation of motor vehicle fuel producers and importers. Outlines program or process parameters as follows: refund or credit in amount up to 100 percent of estimated increase in cost to individuals with adjusted gross income that does not exceed 250 percent of federal poverty guidelines, based on household size and members; and one or more refunds or credits available to offset to estimated increase in cost for motor vehicles not operated on the highways of this state used in farm vehicles, forest products industry or other vehicles used in the agriculture and natural resource sectors. Requires report be delivered to the Joint Committee and the Joint Committee on Transportation on or before September 15, 2019.

SECTION 128a: Increases required frequency of study to be conducted biennially by the OTC on the proportionate share that users of vehicles powered by different means should pay for costs associated with highways and whether those users are paying appropriate share. Expands list of recipients of the study to include the Road User Fee Task Force and the Joint Committee. Requires OTC to report study results no later than September 15 of each odd-numbered year.

SECTION 128b: References chapter laws.

SECTION 129. Residential home heating assistance program proposal: Requires the Department of Housing and Community Services (DHCS) in consultation with the CPO, the Housing Stability Council, and interested stakeholders, to develop a proposal for assisting households that for residential home heating use propane, fuel oil or other fossil fuels that are not natural gas. Requires the proposal to give priority to assisting low income households or impacted communities through: bill assistance; and weatherization, including options for upgrading to more efficient home heating equipment or to home heating systems powered by less GHG emissions-intensive power sources. Requires DHCS develop the proposal in a manner intended to achieve the following goals: reducing GHG emissions; saving energy; reducing the energy burden experienced by households; and reducing residential home heating service disparities in historically underserved populations. Allows the proposal to be for any combination of: the development of a single new program; the development of multiple new programs or activities to achieve different goals; or utilization of existing programs or partnerships to deliver assistance to households. Requires on or before September 15, 2020 OHCS must provide a report detailing the proposal and steps necessary to implement the proposal to the Joint Committee.

House Bill 2020 -101 Amendment Section by Section

SECTION 130. Commercial and industrial natural gas and propane user emissions reduction program

proposal: Requires the Oregon Business Development Department (OBDD) to analyze and determine the commercial needs in this state for loans or other financial assistance to commercial and industrial natural gas users or propane users for projects or activities to: increase the energy efficiency of or reduce the GHG emissions from natural gas or propane-fueled equipment used in industrial or commercial facilities; facilitate replacing existing equipment in order to reduce GHG emissions; and reduce process emissions. Requires the OBDD to develop a proposal for a program to serve the needs identified in the analysis in a manner that furthers one or more of the purposes of OCAP to be submitted to the Joint Committee on or before September 15, 2020. Authorizes OBDD to consult and contract for services as necessary with state or federal agencies or nongovernmental entities that have expertise in climate or energy policy, industrial energy efficiency, or other relevant expertise in conducting the analysis and designing a proposal for a program.

APPROPRIATIONS (Sections 131-132)

SECTION 131: 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 132: Appropriates \$250,000 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.

OPERATIVE DATE

SECTION 133: 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.

CAPTIONS

SECTION 134: Captions do not become part of statute.

EMERGENCY CLAUSE

SECTION 135: Declares emergency, effective on passage.