SUMMARY

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

Requires Department of Transportation to establish [pilot] program to reduce greenhouse gas emissions [by means of replacing or substituting certain materials used in constructing or maintaining state transportation system with other materials that enable greenhouse gas emission reductions, or by means of other appropriate measures] that assesses greenhouse gas emissions attributable to certain covered materials department uses in construction and maintenance activities for state’s transportation system, conducts life cycle assessments for selected set of construction and maintenance activities and devises strategies for reducing greenhouse gas emissions. Specifies required scope and content of [pilot] program.

Requires [bids and proposals for designated demonstration projects within pilot program to include] department, in making procurements in connection with program, to require contractors to submit environmental product declarations before installing covered materials. Specifies exceptions. Prohibits department from using environmental product declarations to rank or score bid or proposal before January 1, 2027. Requires department to establish grant program to assist bidders and proposers in preparing or submitting environmental product declarations.

Requires department to establish technical advisory committee and specifies matters on which committee will advise department.

Requires department to report annually to Oregon Transportation Commission and interim committee of Legislative Assembly related to transportation concerning implementation of [pilot] program.

[Sunsets December 31, 2030.]

Takes effect on 91st day following adjournment sine die.
cordance with rules the department adopts that are based on ISO Standard 14025 and on independently verified life cycle assessment data, life cycle inventory and analysis data or information modules in accordance with the ISO 14040 series of standards.

(e) “Procurement” has the meaning given that term in ORS 279A.010.
(f) “Proposer” has the meaning given that term in ORS 279A.010.
(g) “Public contract” has the meaning given that term in ORS 279A.010.
(h) “Public Contracting Code” has the meaning given that term in ORS 279A.010.
(i) “Technical advisory committee” means the committee described in section 2 of this 2022 Act.

(2)(a) The department, not later than December 31, 2025, shall establish a program for greenhouse gas reduction that:

(A) Assesses the greenhouse gas emissions attributable to covered materials the department uses in the department’s construction and maintenance activities for the state’s transportation system;

(B) Conducts life cycle assessments of a selected set of the department’s construction and maintenance activities; and

(C) Devises strategies for reducing greenhouse gas emissions that include, but are not limited to, improving pavement and bridge conditions.

(b) In establishing the program described in paragraph (a) of this subsection, the department shall identify and disclose in any reports the department produces all relevant measurement difficulties, deficiencies in needed data, assumptions, uncertainties, technological limitations, costs associated with assessment and implementation and any other relevant limitations of methodology, practice or implementation.

(c) In devising the strategies described in paragraph (a)(C) of this subsection, the department, at a minimum, shall consider and evaluate:

(A) Advancements in materials and engineering as applied to greenhouse gas emission reduction;

(B) Regional variability in the quality and durability of aggregates and other components of covered materials;

(C) The types and effects of fuels available for use in manufacturing, transporting and using covered materials;

(D) The quality and performance of the covered materials; and

(E) Any other factors that the department, in consultation with the technical advisory committee, deems relevant and useful.

(d) The department shall conduct the assessments and devise the strategies described in paragraph (a) of this subsection separately for each of the state’s five transportation regions, accounting for differences among the regions with respect to the availability of covered materials, fuel and other necessary resources and the quantity of covered materials the department uses or plans to use.

(3)(a) In procuring covered materials for the program described in subsection (2)(a) of this section, the department shall require contractors to submit environmental product declarations before the contractor installs the covered materials, unless the department:

(A) Procures the covered materials on an emergency basis;

(B) Determines that a relevant product category rule does not exist;

(C) Determines that requiring an environmental product declaration will reduce compe-
tion for public contracts or otherwise contravene the requirements of the Public Contracting Code;

(D) Determines that requiring an environmental product declaration would unreasonably affect the department's specifications or requirements for covered materials or impair the department's construction or maintenance activities;

(E) Determines that an environmental product declaration is not necessary to measure or quantify greenhouse gas emissions; or

(F) Determines after consultation with the technical advisory committee that other considerations outweigh the need for requiring environmental product declarations or that a construction or maintenance activity would use less than a threshold amount of covered materials. The department, in consultation with the technical advisory committee, shall specify the threshold amount by rule.

(b) Notwithstanding paragraph (a) of this subsection, in procuring asphalt paving mixtures, the department may allow contractors to submit environmental product declarations within a reasonable time after executing a public contract for constructing roads or acquiring materials or within the time required for an environmental product declaration provider to prepare the environmental product declaration, but not later than the date on which the contractor completes performance of the public contract.

(c) The department may not use an environmental product declaration as a consideration in ranking or scoring a bid or proposal before January 1, 2027, but thereafter may consider environmental product declarations if the department determines that doing so is beneficial and if, after consulting with the technical advisory committee, construction contractors, material suppliers and other stakeholders, the department devises a scoring methodology that ensures fairness among bidders and proposers.

(4)(a) In order to assist bidders or proposers to prepare or submit environmental product declarations required under this section, the department by rule shall establish a program to extend grants to bidders or proposers that require financial assistance to prepare environmental product declarations.

(b) Before establishing a program under this subsection, the department shall submit a request for funding to the Legislative Assembly in an amount that the department estimates would be necessary to provide the grants described in this subsection. The department shall deposit any funding the department receives into a designated account within the department's operating account and shall keep records of disbursements from the account. Any moneys the department does not award as grants must revert to the General Fund upon the termination of the program.

(c) The department by rule shall establish criteria for eligibility for grants under this subsection and shall specify the maximum amount of each grant on the basis of available funding.

SECTION 2. (1) The Department of Transportation shall establish a technical advisory committee to assist the department with issues related to implementing the program described in section 1 of this 2022 Act.

(2) Members of the technical advisory committee must include, but need not be limited to, representatives from the Department of Transportation and the Department of Environmental Quality, from construction firms engaged in transportation construction and maintenance, from suppliers of covered materials, from construction and material supplier
industry associations, from workers in construction or manufacturing industries, from en-
vironmental organizations and from institutions of higher education.

(3) The technical advisory committee shall:
   (a) Recommend quantities of covered materials below which the Department of Trans-
   portation need not require an environmental product declaration.
   (b) Advise the department as needed to prepare the reports required under section 3 of
   this 2022 Act.
   (c) Advise and guide the department concerning:
       (A) The extent to which environmental product declarations are available or are in de-
   velopment;
       (B) Which of the department’s construction and maintenance activities are appropriate
       for inclusion in the program described in section 1 (2) of this 2022 Act;
       (C) The time within which a bidder or proposer must submit an environmental product
       declaration and any related information;
       (D) How to properly analyze or interpret an environmental product declaration;
       (E) The content of and criteria for devising, adopting and implementing the strategies
       described in section 1 (2)(a)(C) of this 2022 Act;
       (F) Potential changes to the design or implementation of the program described in sec-
       tion 1 of this 2022 Act in light of technological advances and the need to maintain reasonable
       competition for public contracts; and
       (G) Other matters the technical advisory committee deems necessary to achieve the
       goals of the program.

(4) The technical advisory committee may recommend to the department additional ma-
terials for designation as covered materials.

(5) A majority of the members of the technical advisory committee constitutes a quorum
for the transaction of business.

(6) The technical advisory committee shall elect two of the members of the technical
advisory committee to serve as cochairpersons.

(7) The department shall appoint a replacement for any vacancy on the technical advisory
committee. The replacement must become immediately effective upon appointment.

(8) The technical advisory committee must meet at least four times within each calendar
year at times and places specified by the call of the chairperson, of a majority of the mem-
ers of the technical advisory committee or of the Director of Transportation.

(9) The department shall provide staff support to the technical advisory committee.

(10) Members of the technical advisory committee are not entitled to compensation or
reimbursement for expenses and serve as volunteers on the technical advisory committee.

SECTION 3. The Department of Transportation, after establishing the program described
in section 1 of this 2022 Act, shall report annually not later than December 31 of each cal-
endar year to the Oregon Transportation Commission and an interim committee of the Leg-
islative Assembly related to transportation concerning the progress of the program and
related matters. The department shall prepare the reports in consultation with the technical
advisory committee and the reports, at a minimum, must include:

(1) A description of the department’s efforts to design and implement the program, an
evaluation of the department’s success in reducing greenhouse gas emissions by means of
environmental product declarations and recommendations as to whether to continue or ex-
pand the program; and

(2) Any other matters the department, in consultation with the technical advisory com-
mittee, deems relevant, material or important to highlight or recommend to the commission
or the Legislative Assembly.

SECTION 4. This 2022 Act takes effect on the 91st day after the date on which the 2022
regular session of the Eighty-first Legislative Assembly adjourns sine die.