

DRAFT

SUMMARY

Digest: This Act creates a program to recover the costs of climate change. (Flesch Readability Score: 81.8).

Establishes the Climate Superfund Cost Recovery Program as an interagency response to the effects of climate change. Directs the Department of Land Conservation and Development to serve as the lead agency of an interagency team. Requires the department to conduct an assessment on the costs of greenhouse gas emissions.

Directs the Department of Environmental Quality to issue cost recovery demand notices to entities determined to be responsible for the costs of climate change.

Establishes the Climate Superfund Cost Recovery Program Account.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to greenhouse gas emissions; and prescribing an effective date.

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

SECTION 1. As used in sections 1 to 7 of this 2026 Act:

(1) **“Climate change resilience project” means a project designed to respond to, avoid, moderate, repair or adapt to negative impacts caused by climate change and to assist communities, households and businesses with climate change driven disruptions.**

(2) **“Coal” means bituminous coal, anthracite coal and lignite.**

(3) **“Covered greenhouse gas emissions” means the total quantity of greenhouse gases released into the atmosphere during the covered period, expressed in metric tons of carbon dioxide equivalent, resulting from the use of fossil fuels extracted or refined by an entity.**

(4) **“Covered period” means the period beginning on January 1, 1995,**

1 and ending on December 31, 2024.

2 (5) “Crude oil” means oil or petroleum of any kind and in any form,
3 including bitumen, oil sands, heavy oil, conventional and unconven-
4 tional oil, shale oil, natural gas liquids, condensates and related fossil
5 fuels.

6 (6) “Entity” means any individual, trustee, agent, partnership, as-
7 sociation, corporation, company, municipality, political subdivision or
8 other legal organization, including a foreign nation, that holds or held
9 an ownership interest in a fossil fuel business during the covered pe-
10 riod.

11 (7) “Environmental justice community” has the meaning given that
12 term in ORS 182.535.

13 (8) “Fossil fuel” means coal, a petroleum product or fuel gas or a
14 byproduct of coal, a petroleum product or fuel gas.

15 (9) “Fossil fuel business” means a business engaged in the ex-
16 traction of fossil fuels or the refining of petroleum products.

17 (10) “Fuel gas” means methane, natural gas, liquified natural gas
18 or manufactured fuel gases.

19 (11) “Greenhouse gas” has the meaning given that term in ORS
20 468A.210.

21 (12) “Nature-based solutions” means projects, including green or
22 natural infrastructure projects, that utilize or mimic nature or natural
23 processes and functions and that may also offer environmental, eco-
24 nomic and social benefits while increasing climate resilience.

25 (13) “Petroleum product” means any product that is obtained from
26 distilling, refining, re-refining or processing synthetic or crude oil or
27 crude oil extracted from natural gas liquids or other sources.

28 (14) “Responsible party” means an entity that:

29 (a) Holds or held a majority ownership interest in a business en-
30 gaged in extracting or refining fossil fuel during the covered period,
31 or is a successor in interest to the business;

(b) During any part of the covered period, did business in this state or otherwise had sufficient contacts with this state to establish personal jurisdiction on any basis consistent with the United States Constitution; and

(c) The Department of Environmental Quality determines is responsible for more than one billion metric tons of covered greenhouse gas emissions, in aggregate globally, during the covered period.

SECTION 2. (1) The Climate Superfund Cost Recovery Program is established as an interagency response to the effects of climate change. The purpose of the program is to adapt to and mitigate the effects of climate change and hold responsible parties strictly liable for the costs of climate change caused by covered greenhouse gas emissions.

(2)(a) The Department of Land Conservation and Development shall lead an interagency team to carry out sections 1 to 7 of this 2026 Act.

(b) Any state agency shall assist or participate in the interagency team upon the request of the Director of the Department of Land Conservation and Development.

(c) The Department of Land Conservation and Development and other state agencies participating in the interagency team may enter into intergovernmental agreements as necessary to carry out the duties of the interagency team.

(3)(a) State agencies participating in the interagency team shall work collaboratively to carry out the purposes of the program.

(b) The department shall serve as the lead agency of the interagency team and shall, in coordination with the interagency team:

(A) Develop, adopt, implement and update a resilience implementation strategy that will identify eligible climate change resilience projects; and

(B) Disperse funds to implement eligible climate change resilience projects.

1 (c) The following agencies, in coordination with the department and
2 the interagency team, shall develop and implement the following
3 portions of the resilience implementation strategy:

4 (A) The Oregon Department of Emergency Management shall de-
5 velop and implement those portions of the resilience implementation
6 strategy related to disaster preparedness and recovery.

7 (B) The Oregon Health Authority shall develop and implement those
8 portions of the resilience implementation strategy related to harms to
9 public health as a result of climate change, including harms resulting
10 from extreme heat and other extreme weather events and disease re-
11 lated to environmental conditions.

12 (C) The Department of the State Fire Marshal shall develop and
13 implement those portions of the resilience implementation strategy
14 related to fire loss prevention and fire recovery due to wildfire.

15 (d) The Department of Land Conservation and Development may
16 direct any state agency participating in the interagency team to de-
17 velop or implement portions of the resilience implementation strategy,
18 as consistent with the agency's existing authorities and responsibil-
19 ities.

20 (4) The Environmental Quality Commission and the Department of
21 Environmental Quality shall, in coordination with the interagency
22 team, carry out the responsibilities of the commission and the de-
23 partment described in sections 9 to 12 of this 2026 Act.

24 SECTION 3. (1) The Department of Land Conservation and Devel-
25 opment, in consultation with the interagency team established under
26 section 2 of this 2026 Act, shall establish by rule a resilience imple-
27 mentation strategy that includes:

28 (a) Practices for utilizing nature-based solutions intended to stabi-
29 lize floodplains, riparian zones, shorelands, wetlands and similar lands;

30 (b) Practices to adapt infrastructure to the impacts of climate
31 change, including but not limited to homes, buildings and public

spaces;

(c) Practices needed to build out early warning mechanisms and support fast, effective response to climate-related threats;

(d) Practices that support economic and environmental sustainability in the face of changing climate conditions;

(e) Criteria and procedures for identifying and prioritizing climate change resilience projects that are consistent with the practices identified in paragraphs (a) to (d) of this subsection; and

(f) Procedures for dispersing moneys from the Climate Superfund Cost Recovery Program Account established in section 7 of this 2026 Act for eligible climate change resilience projects.

(2) In adopting the strategy under subsection (1) of this section, the department shall:

(a) Consult with the Department of Environmental Quality and the Environmental Justice Council;

(b) Assess the resilience needs and vulnerabilities of geographic areas that are vital to this state's economy and the health and well-being of Oregonians;

(c) Identify potential and proposed climate change resilience projects throughout this state;

(d) Identify opportunities for alignment with existing federal, state and local funding streams;

(e) Consult with local governments, businesses, environmental advocates, relevant subject area experts, representatives of environmental justice communities and other stakeholders; and

(f) Conduct public engagement in communities that have the most significant exposure to the impacts of climate change, including disadvantaged, low-income and rural communities.

(3) For purposes of determining whether a climate change resilience project benefits an environmental justice community, as provided by section 7 (5) of this 2026 Act, rules adopted by the Department of Land

Conservation and Development:

(a) Must define a “community”:

(A) As a group of individuals living in geographic proximity to one another who experience common conditions; and

(B) Without reference to or consideration of the race, color, ethnicity or national origin of the individuals living within the community.

(b) May require the department to use the environmental justice mapping tool developed under ORS 182.555.

SECTION 4. The Department of Land Conservation and Development and the Department of Environmental Quality, in consultation with other relevant state agencies as may be necessary, shall conduct an assessment to determine the costs to this state of covered greenhouse gas emissions for the covered period. The assessment shall include:

(1) An analysis of the various cost-driving effects of covered greenhouse gas emissions on the state, including the effects on public health, natural resources, biodiversity, agriculture, economic development, flood preparedness and safety, housing and any other effect that the Department of Land Conservation and Development determines is relevant.

(2) A description of the costs that have been incurred and are projected to be incurred as a result of the effects analyzed under subsection (1) of this section.

(3) A description of the costs that have been incurred and are projected to be incurred to abate the effects of covered greenhouse gas emissions.

SECTION 5. (1) The remedies provided in sections 1 to 7 and 9 to 12 of this 2026 Act are in addition to and not in lieu of any other remedy available to a person or this state at common law or under state statute. Sections 1 to 7 and 9 to 12 of this 2026 Act do not:

1 (a) Relieve the liability of any entity for damages resulting from
2 climate change under any applicable law; or

3 (b) Preempt, displace or restrict any rights or remedies of a person,
4 this state, local government, as defined in ORS 174.116, or tribal gov-
5 ernment under any applicable law relating to a past, present or future
6 allegation of:

7 (A) Deception concerning the effects of fossil fuels on climate
8 change;

9 (B) Damage or injury resulting from the role of fossil fuels in con-
10 tributing to climate change; or

11 (C) Failure to avoid damage or injury related to climate change,
12 including claims for nuisance, trespass, design defect, negligence,
13 failure to warn or deceptive or unfair practices.

14 (2) Sections 1 to 7 and 9 to 12 of this 2026 Act are not intended to
15 preempt, supersede or displace any other state law or local govern-
16 ment ordinance, regulation, policy or program that provides for:

17 (a) Limiting, setting or enforcing standards for emissions of
18 greenhouse gases;

19 (b) Monitoring, reporting or keeping records of greenhouse gases;

20 (c) Collecting revenue; or

21 (d) Conducting or supporting investigations.

22 (3) Nothing in sections 1 to 7 and 9 to 12 of this 2026 Act limits the
23 existing authority of any agency of state government, as defined in
24 ORS 174.111, to regulate greenhouse gas emissions or establish strate-
25 gies or adopt rules to mitigate climate risk and build resilience to cli-
26 mate change.

27 **SECTION 6.** The Secretary of State, in accordance with ORS 297.210,
28 shall audit the operation and effectiveness of the Climate Superfund
29 Cost Recovery Program no less often than once every five years. Upon
30 completing the audit, the secretary shall make recommendations to
31 the Department of Land Conservation and Development on ways to

1 increase program efficiency and cost effectiveness.

2 **SECTION 7. (1) The Climate Superfund Cost Recovery Program**
3 **Account is established in the State Treasury, separate and distinct**
4 **from the General Fund. Interest earned by the Climate Superfund Cost**
5 **Recovery Program Account shall be credited to the account.**

6 **(2) The Climate Superfund Cost Recovery Program Account consists**
7 **of:**

8 **(a) Cost recovery payments deposited in the account under section**
9 **11 of this 2026 Act;**

10 **(b) Moneys appropriated or transferred to the account by the Leg-**
11 **islative Assembly; and**

12 **(c) Grants, donations, contributions or gifts from any other public**
13 **or private source.**

14 **(3) Moneys in the Climate Superfund Cost Recovery Program Ac-**
15 **count are continuously appropriated to the Department of Land Con-**
16 **servation and Development for the purposes of:**

17 **(a) Distribution for climate change resilience projects, or other cli-**
18 **mate change resilience activities, consistent with the resilience im-**
19 **plementation strategy established under section 3 of this 2026 Act;**

20 **(b) Administration of sections 1 to 7 of this 2026 Act; and**

21 **(c) Transfer to the Department of the State Fire Marshal under**
22 **subsection (4) of this section.**

23 **(4) Thirty percent of the moneys deposited in the account each**
24 **biennium shall be transferred to the Department of the State Fire**
25 **Marshal for wildfire resilience, recovery and mitigation activities.**

26 **(5) At least 40 percent of the moneys deposited in the account each**
27 **biennium, whether expended by the Department of Land Conservation**
28 **and Development or the Department of the State Fire Marshal, shall**
29 **be expended on climate change resilience projects that benefit envi-**
30 **ronmental justice communities, as determined pursuant to rules**
31 **adopted under section 3 of this 2026 Act.**

SECTION 8. Sections 9 to 12 of this 2026 Act are added to and made a part of ORS chapter 468.

SECTION 9. As used in sections 9 to 12 of this 2026 Act:

(1) “Coal” means bituminous coal, anthracite coal and lignite.

(2) “Controlled group” means two or more entities treated as a single employer under:

(a) 26 U.S.C. 52(a) or (b), without regard to 26 U.S.C. 1563(b)(2)(C); or

(b) 26 U.S.C. 414(m) or (o).

(3) “Cost recovery demand” means a charge assessed against a responsible party for cost recovery payments under sections 9 to 12 of this 2026 Act.

(4) “Covered greenhouse gas emissions” means the total quantity of greenhouse gases released into the atmosphere during the covered period, expressed in metric tons of carbon dioxide equivalent, resulting from the use of fossil fuels extracted or refined by an entity.

(5) “Covered period” means the period beginning on January 1, 1995, and ending on December 31, 2024.

(6) “Crude oil” means oil or petroleum of any kind and in any form, including bitumen, oil sands, heavy oil, conventional and unconventional oil, shale oil, natural gas liquids, condensates and related fossil fuels.

(7) “Entity” means any individual, trustee, agent, partnership, association, corporation, company, municipality, political subdivision or other legal organization, including a foreign nation, that holds or held an ownership interest in a fossil fuel business during the covered period.

(8) “Fossil fuel” means coal, a petroleum product or fuel gas or a byproduct of coal, a petroleum product or fuel gas.

(9) “Fossil fuel business” means a business engaged in the extraction of fossil fuels or the refining of petroleum products.

1 (10) “Fuel gas” means methane, natural gas, liquified natural gas
2 or manufactured fuel gases.

3 (11) “Greenhouse gas” has the meaning given that term in ORS
4 468A.210.

5 (12) “Notice of cost recovery demand” means the written commu-
6 nication from the Department of Environmental Quality informing a
7 responsible party of the amount of the cost recovery demand.

8 (13) “Petroleum product” means any product that is obtained from
9 distilling, refining, re-refining or processing synthetic or crude oil or
10 crude oil extracted from natural gas liquids or other sources.

11 (14) “Responsible party” means an entity that:

12 (a) Holds or held a majority ownership interest in a business en-
13 gaged in extracting or refining fossil fuel during the covered period,
14 or is a successor in interest to the business;

15 (b) During any part of the covered period, did business in this state
16 or otherwise had sufficient contacts with this state to establish per-
17 sonal jurisdiction on any basis consistent with the United States Con-
18 stitution; and

19 (c) The department determines is responsible for more than one
20 billion metric tons of covered greenhouse gas emissions, in aggregate
21 globally, during the covered period.

22 SECTION 10. The Environmental Quality Commission shall estab-
23 lish by rule:

24 (1)(a) Methodologies using the best available science and publicly
25 available data to identify responsible parties and determine their ap-
26 plicable share of covered greenhouse gas emissions.

27 (b) In adopting rules under this subsection, the commission may
28 consider emissions factors developed by the United States Environ-
29 mental Protection Agency.

30 (2) Procedures for registering entities that are responsible parties
31 and issuing notices of cost recovery demands under section 11 of this

2026 Act.

(3) Procedures for collecting cost recovery demands under section 11 of this 2026 Act.

(4) Rules of procedure for appeals to the Director of the Department of Environmental Quality under section 12 of this 2026 Act.

SECTION 11. (1) A responsible party shall be strictly liable for the costs of climate change caused by the responsible party's covered greenhouse gas emissions, as determined under subsection (2) of this section.

(2) The cost recovery demand for each responsible party shall be an amount equal to the responsible party's proportionate share of costs to this state, as determined under section 4 of this 2026 Act, from the emission of covered greenhouse gases, computed by multiplying the applicable costs by the ratio of the responsible party's covered greenhouse gas emissions to all covered greenhouse gas emissions.

(3) To determine the amount of covered greenhouse gas emissions attributable to any entity, the Department of Environmental Quality shall use the best publicly available fossil fuel volume data and the methodologies developed by the Environmental Quality Commission under section 10 of this 2026 Act.

(4) For purposes of this section, all entities in a controlled group shall be:

(a) Treated as a single entity for the purpose of identifying a responsible entity; and

(b) Jointly and severally liable for payment of any cost recovery demand owed by any entity in the controlled group.

(5) If a responsible party owns a minority interest of 10 percent or more in another entity that engaged in extracting or refining fossil fuel during the covered period, the responsible party's applicable share of covered greenhouse gas emissions shall be increased by the applicable share of covered greenhouse gas emissions for the entity in

1 which the responsible party holds a minority interest multiplied by the
2 percentage of the minority interest held by the responsible party.

3 (6) The department may adjust the cost recovery demand of a re-
4 sponsible party that refined petroleum products or that is a successor
5 in interest to an entity that refined petroleum products if the respon-
6 sible party establishes to the satisfaction of the department that:

7 (a) A portion of the cost recovery demand amount was attributable
8 to the refining of crude oil extracted by another entity; and

9 (b) The greenhouse gas emissions attributable to the crude oil ex-
10 tracted by the other entity was accounted for when the department
11 determined the cost recovery demand amount for the other entity or
12 a successor in interest of the other entity.

13 (7) Except as provided in subsections (8) and (9) of this section, a
14 responsible party shall pay the cost recovery demand in full not later
15 than six months following the date of issuance of the notice of cost
16 recovery demand.

17 (8) A responsible party may elect to pay the cost recovery demand
18 in nine annual payments as follows:

19 (a) A first payment equal to 20 percent of the total cost recovery
20 demand shall be paid no later than six months from the date of issu-
21 ance of the notice of cost recovery demand.

22 (b) Each subsequent payment shall be equal to 10 percent of the
23 total cost recovery demand and shall be due each year no later than
24 the anniversary of the first payment. The department may adjust the
25 amount of payments described in this paragraph to reflect any per-
26 centage changes in the Consumer Price Index for All Urban Consum-
27 ers, West Region (All Items), as published by the Bureau of Labor
28 Statistics of the United States Department of Labor.

29 (9)(a) The unpaid balance of a cost recovery demand shall become
30 due immediately if:

31 (A) A responsible party fails to pay any installment in a timely

1 manner, as specified by the commission by rule;

2 (B) Except as provided in paragraph (b) of this subsection, there is
3 a liquidation or sale of all or substantially all of the assets of the re-
4 sponsible party; or

5 (C) The responsible party ceases to do business.

6 (b) In the case of a sale of all or substantially all of the assets of
7 a responsible party, the remaining payments do not become due im-
8 mediately if the buyer enters into an agreement with the department
9 to assume liability for the remaining payments due under subsection
10 (8) of this section.

11 (10) The department shall deposit cost recovery demand payments
12 collected under this section in a suspense account established under
13 ORS 293.445 for the purpose of receiving the demand payments. The
14 department may pay the actual expenses of the department for the
15 administration and enforcement of sections 9 to 12 of this 2026 Act out
16 of moneys received from cost recovery demand payments. Amounts
17 necessary to pay administrative and enforcement expenses are con-
18 tinuously appropriated to the department from the suspense account.

19 (11) After payment of administrative and enforcement expenses
20 under subsection (10) of this section and refunds or credits arising
21 from erroneous overpayments, the department shall transfer the bal-
22 ance of the moneys received from cost recovery demand payments to
23 the Climate Superfund Cost Recovery Program Account established
24 under section 7 of this 2026 Act.

25 SECTION 12. A responsible party aggrieved by the issuance of a
26 notice of cost recovery demand may appeal by filing a notice of appeal
27 with the Director of the Department of Environmental Quality within
28 30 days following issuance of the notice of cost recovery demand. After
29 considering the appeal, the director shall cancel the notice of cost re-
30 covery demand or affirm or adjust the cost recovery demand and issue
31 a final notice of cost recovery demand. A person aggrieved by a final

1 notice of cost recovery demand may seek judicial review of the notice
2 in the manner provided by ORS chapter 183 for judicial review of or-
3 ders other than contested cases.

4 **SECTION 13.** The Department of Land Conservation and Develop-
5 ment shall complete the assessment described in section 4 of this 2026
6 Act no later than January 1, 2029. The department shall include the
7 assessment in a report submitted in the manner provided by ORS
8 192.245 to the Joint Interim Committee on Ways and Means and the
9 interim committees of the Legislative Assembly related to finance,
10 revenue, natural resources and the environment.

11 **SECTION 14.** (1) The Department of Land Conservation and Devel-
12 opment shall first adopt rules under section 3 of this 2026 Act no later
13 than January 1, 2029.

14 (2) The Environmental Quality Commission shall first adopt rules
15 under section 10 of this 2026 Act no later than January 1, 2029.

16 **SECTION 15.** In addition to and not in lieu of any other appropri-
17 ation, there is appropriated to the Department of Land Conservation
18 and Development, for the biennium ending June 30, 2027, out of the
19 General Fund, the amount of \$300,000, which may be expended for the
20 purpose of carrying out sections 1 to 7 of this 2026 Act.

21 **SECTION 16.** This 2026 Act takes effect on the 91st day after the
22 date on which the 2026 regular session of the Eighty-third Legislative
23 Assembly adjourns sine die.