

Senate Bill 1187

Sponsored by Senators PHAM K, GOLDEN, CAMPOS, Representatives ANDERSEN, GAMBA; Senators FREDERICK, MEEK, TAYLOR, Representatives FRAGALA, HUDSON, NELSON

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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

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

1
2 Relating to greenhouse gas emissions; and prescribing an effective date.

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

SECTION 1. As used in sections 1 to 7 of this 2025 Act:

4
5 (1) **“Climate change adaptation project” means a project designed to respond to, avoid,**
6 **moderate, repair or adapt to negative impacts caused by climate change and to assist com-**
7 **munities, households and businesses in preparing for future climate change driven dis-**
8 **ruptions.**

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

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

13 (4) **“Covered period” means the period beginning on January 1, 1995, and ending on De-**
14 **cember 31, 2024.**

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

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

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

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

25 (9) **“Fossil fuel business” means a business engaged in the extraction of fossil fuels or**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the refining of petroleum products.

2 (10) "Fuel gas" means methane, natural gas, liquified natural gas or manufactured fuel
3 gases.

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

5 (12) "Nature-based solutions" means projects, including green or natural infrastructure
6 projects, that utilize or mimic nature or natural processes and functions and that may also
7 offer environmental, economic and social benefits while increasing climate resilience.

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

11 (14) "Responsible party" means an entity that:

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

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

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

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

24 (2)(a) The Department of Land Conservation and Development shall lead an interagency
25 team that includes, but is not limited to, the Department of Environmental Quality, the
26 Oregon Department of Emergency Management, the Oregon Health Authority, the Depart-
27 ment of the State Fire Marshal and the State Department of Agriculture.

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

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

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

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

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

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

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

43 (A) The Oregon Department of Emergency Management shall develop and implement
44 those portions of the resilience implementation strategy related to disaster preparedness and
45 recovery.

1 **(B) The Oregon Health Authority shall develop and implement those portions of the**
2 **resilience implementation strategy related to harms to public health as a result of climate**
3 **change, including harms resulting from extreme heat and other extreme weather events and**
4 **disease related to environmental conditions.**

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

8 **(d) The Department of Land Conservation and Development may direct any state agency**
9 **participating in the interagency team to develop or implement portions of the resilience im-**
10 **plementation strategy, as consistent with the agency's existing authorities and responsibil-**
11 **ities.**

12 **(4) The Environmental Quality Commission and the Department of Environmental Qual-**
13 **ity shall, in coordination with the interagency team, carry out the responsibilities of the**
14 **commission and the department described in sections 9 to 12 of this 2025 Act.**

15 **SECTION 3. (1) The Department of Land Conservation and Development shall establish**
16 **by rule a resilience implementation strategy that includes:**

17 **(a) Practices for utilizing nature-based solutions intended to stabilize floodplains, riparian**
18 **zones, shorelands, wetlands and similar lands;**

19 **(b) Practices to adapt infrastructure to the impacts of climate change;**

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

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

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

27 **(f) Procedures for dispersing moneys from the Climate Superfund Cost Recovery Program**
28 **Account established in section 7 of this 2025 Act for eligible climate change adaptation**
29 **projects.**

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

31 **(a) Consult with the Department of Environmental Quality and the Environmental Jus-**
32 **tice Council;**

33 **(b) In consultation with the authority and the council, assess the adaptation needs and**
34 **vulnerabilities of geographic areas that are vital to this state's economy and the health and**
35 **well-being of Oregonians;**

36 **(c) Identify potential and proposed climate change adaptation projects throughout this**
37 **state;**

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

40 **(e) Consult with local governments, businesses, environmental advocates, relevant sub-**
41 **ject area experts, representatives of environmental justice communities and other**
42 **stakeholders; and**

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

1 (3) For purposes of determining whether a climate change adaptation project benefits an
 2 environmental justice community, as provided by section 7 (4) of this 2025 Act, rules adopted
 3 by the Department of Land Conservation and Development:

4 (a) Must define a “community”:

5 (A) As a group of individuals living in geographic proximity to one another who experi-
 6 ence common conditions; and

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

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

11 **SECTION 4.** The Department of Land Conservation and Development, the Department
 12 of Environmental Quality, the Oregon Climate Action Commission, the Oregon Climate
 13 Change Research Institute and any other relevant agency or person, shall conduct an as-
 14 sessment to determine the costs to this state of covered greenhouse gas emissions for the
 15 covered period. The assessment shall include:

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

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

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

24 **SECTION 5.** (1) The remedies provided in sections 1 to 7 and 9 to 12 of this 2025 Act are
 25 in addition to and not in lieu of any other remedy available to a person or this state at
 26 common law or under state statute. Sections 1 to 7 and 9 to 12 of this 2025 Act do not:

27 (a) Relieve the liability of any entity for damages resulting from climate change under
 28 any applicable law;

29 (b) Preempt, displace or restrict any rights or remedies of a person, this state, local
 30 government, as defined in ORS 174.116, or tribal government under any applicable law relat-
 31 ing to a past, present or future allegation of:

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

33 (B) Damage or injury resulting from the role of fossil fuels in contributing to climate
 34 change; or

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

37 (2) Sections 1 to 7 and 9 to 12 of this 2025 Act are not intended to preempt, supersede
 38 or displace any other state law or local government ordinance, regulation, policy or program
 39 that provides for:

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

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

42 (c) Collecting revenue; or

43 (d) Conducting or supporting investigations.

44 (3) Nothing in sections 1 to 7 and 9 to 12 of this 2025 Act limits the existing authority
 45 of any agency of state government, as defined in ORS 174.111, to regulate greenhouse gas

1 emissions or establish strategies or adopt rules to mitigate climate risk and build resilience
2 to climate change.

3 **SECTION 6.** The Secretary of State, in accordance with ORS 297.210, shall audit the op-
4 eration and effectiveness of the Climate Superfund Cost Recovery Program no less often
5 than once every five years. Upon completing the audit, the secretary shall make recom-
6 mendations to the Department of Land Conservation and Development on ways to increase
7 program efficiency and cost effectiveness.

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

11 (2) The Climate Superfund Cost Recovery Program Account consists of:

- 12 (a) Cost recovery payments deposited in the account under section 11 of this 2025 Act;
- 13 (b) Moneys appropriated or transferred to the account by the Legislative Assembly; and
- 14 (c) Grants, donations, contributions or gifts from any other public or private sources.

15 (3) Moneys in the Climate Superfund Cost Recovery Program Account are continuously
16 appropriated to the Department of Land Conservation and Development for the purposes of:

17 (a) Distribution for climate change adaptation projects consistent with the resilience
18 implementation strategy established under section 3 of this 2025 Act;

19 (b) Administration of sections 1 to 7 of this 2025 Act; and

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

22 (4) Of the moneys deposited in the account, each biennium:

23 (a) Thirty percent shall be transferred to the Department of the State Fire Marshal for
24 wildfire resilience and recovery activities; and

25 (b) Forty percent shall be expended on climate change adaptation projects that benefit
26 environmental justice communities, as determined pursuant to rules adopted under section
27 3 of this 2025 Act.

28 **SECTION 8.** Sections 9 to 12 of this 2025 Act are added to and made a part of ORS
29 chapter 468.

30 **SECTION 9.** As used in sections 9 to 12 of this 2025 Act:

31 (1) “Climate change adaptation project” means a project designed to respond to, avoid,
32 moderate, repair or adapt to negative impacts caused by climate change and to assist com-
33 munities, households and businesses in preparing for future climate change driven dis-
34 ruptions.

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

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

- 37 (a) 26 U.S.C. 52(a) or (b), without regard to 26 U.S.C. 1563(b)(2)(C); or
- 38 (b) 26 U.S.C. 414(m) or (o).

39 (4) “Cost recovery demand” means a charge assessed against a responsible party for cost
40 recovery payments under sections 9 to 12 of this 2025 Act.

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

44 (6) “Covered period” means the period beginning on January 1, 1995, and ending on De-
45 cember 31, 2024.

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

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

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

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

12 (11) “Fuel gas” means methane, natural gas, liquified natural gas or manufactured fuel
13 gases.

14 (12) “Greenhouse gas” has the meaning given that term in ORS 468A.210.

15 (13) “Notice of cost recovery demand” means the written communication from the De-
16 partment of Environmental Quality informing a responsible party of the amount of the cost
17 recovery demand.

18 (14) “Petroleum product” means any product that is obtained from distilling, refining,
19 re-refining or processing synthetic or crude oil or crude oil extracted from natural gas li-
20 quids or other sources.

21 (15) “Responsible party” means an entity that:

22 (a) Holds or held a majority ownership interest in a business engaged in extracting or
23 refining fossil fuel during the covered period, or is a successor in interest to the business;

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

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

29 **SECTION 10.** The Environmental Quality Commission shall establish by rule:

30 (1)(a) Methodologies using the best available science and publicly available data to iden-
31 tify responsible parties and determine their applicable share of covered greenhouse gas
32 emissions.

33 (b) In adopting rules under this subsection, the commission may consider emissions fac-
34 tors developed by the federal U.S. Environmental Protection Agency.

35 (2) Procedures for registering entities that are responsible parties and issuing notices of
36 cost recovery demands under section 11 of this 2025 Act.

37 (3) Procedures for collecting cost recovery demands under section 11 of this 2025 Act.

38 (4) Rules of procedure for appeals to the Director of the Department of Environmental
39 Quality under section 12 of this 2025 Act.

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

43 (2) The cost recovery demand for each responsible party shall be an amount equal to the
44 responsible party’s proportionate share of costs to this state, as determined under section 4
45 of this 2025 Act, from the emission of covered greenhouse gases, computed by multiplying

1 the applicable costs by the ratio of the responsible party's covered greenhouse gas emissions
2 to all covered greenhouse gas emissions.

3 (3) To determine the amount of covered greenhouse gas emissions attributable to any
4 entity, the Department of Environmental Quality shall use the best publicly available fossil
5 fuel volume data and the methodology developed by the Environmental Quality Commission
6 under section 10 of this 2025 Act.

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

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

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

11 (5) If a responsible party owns a minority interest of 10 percent or more in another entity
12 that engaged in extracting or refining fossil fuel during the covered period, the responsible
13 party's applicable share of covered greenhouse gas emissions shall be increased by the ap-
14 plicable share of covered greenhouse gas emissions for the entity in which the responsible
15 party holds a minority interest multiplied by the percentage of the minority interest held by
16 the responsible party.

17 (6) The department may adjust the cost recovery demand of a responsible party that re-
18 fined petroleum products or that is a successor in interest to an entity that refined petro-
19 leum products if the responsible party establishes to the satisfaction of the department that:

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

22 (b) The greenhouse gas emissions attributable to the crude oil extracted by the other
23 entity was accounted for when the department determined the cost recovery demand amount
24 for the other entity or a successor in interest of the other entity.

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

28 (8) A responsible party may elect to pay the cost recovery demand in nine annual pay-
29 ments as follows:

30 (a) A first payment equal to 20 percent of the total cost recovery demand shall be paid
31 no later than six months from the date of issuance of the notice of cost recovery demand.

32 (b) Each subsequent payment shall be equal to 10 percent of the total cost recovery de-
33 mand and shall be due each year no later than the anniversary of the first payment. The
34 department may adjust the amount of payments described in this paragraph to reflect any
35 percentage changes in the Consumer Price Index for All Urban Consumers, West Region (All
36 Items), as published by the Bureau of Labor Statistics of the United States Department of
37 Labor.

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

39 (A) A responsible party fails to pay any installment in a timely manner, as specified by
40 the commission by rule;

41 (B) Except as provided in paragraph (b) of this subsection, there is a liquidation or sale
42 of all or substantially all of the assets of the responsible party; or

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

44 (b) In the case of a sale of all or substantially all of the assets of a responsible party, the
45 remaining payments do not become due immediately if the buyer enters into an agreement

1 with the department to assume liability for the remaining payments due under subsection
2 (8) of this section.

3 (10) The department shall deposit cost recovery demand payments collected under this
4 section in a suspense account established under ORS 293.445 for the purpose of receiving the
5 demand payments. The department may pay the actual expenses of the department for the
6 administration and enforcement of sections 9 to 12 of this 2025 Act out of moneys received
7 from cost recovery demand payments. Amounts necessary to pay administrative and
8 enforcement expenses are continuously appropriated to the department from the suspense
9 account.

10 (11) After payment of administrative and enforcement expenses under subsection (10) of
11 this section and refunds or credits arising from erroneous overpayments, the department
12 shall transfer the balance of the moneys received from cost recovery demand payments to
13 the Climate Superfund Cost Recovery Program Account established under section 7 of this
14 2025 Act.

15 **SECTION 12.** A responsible party aggrieved by the issuance of a notice of cost recovery
16 demand may appeal by filing a notice of appeal with the Director of the Department of En-
17 vironmental Quality within 30 days following issuance of the notice of cost recovery demand.
18 After considering the appeal, the director shall cancel the notice of cost recovery demand
19 or affirm or adjust the cost recovery demand and issue a final notice of cost recovery de-
20 mand. A person aggrieved by a final notice of cost recovery demand may seek judicial review
21 of the notice in the manner provided by ORS chapter 183 for judicial review of orders other
22 than contested cases.

23 **SECTION 13.** The Department of Land Conservation and Development shall complete the
24 assessment described in section 4 of this 2025 Act no later than January 1, 2028. The de-
25 partment shall include the assessment in a report submitted in the manner provided by ORS
26 192.245 to the Joint Interim Committee on Ways and Means and the interim committees of
27 the Legislative Assembly related to finance, revenue, natural resources and the environment.

28 **SECTION 14.** (1) The Department of Land Conservation and Development shall first adopt
29 rules under section 3 of this 2025 Act no later than January 1, 2028.

30 (2) The Environmental Quality Commission shall first adopt rules under section 10 of this
31 2025 Act no later than January 1, 2028.

32 **SECTION 15.** In addition to and not in lieu of any other appropriation, there is appro-
33 priated to the Department of Land Conservation and Development, for the biennium begin-
34 ning July 1, 2025, out of the General Fund, the amount of \$300,000, which may be expended
35 for the purpose of carrying out sections 1 to 7 of this 2025 Act.

36 **SECTION 16.** This 2025 Act takes effect on the 91st day after the date on which the 2025
37 regular session of the Eighty-third Legislative Assembly adjourns sine die.

38