

Senate Bill 1541

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Natural Resources and Wildfire)

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

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

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

4 (1) “Climate change resilience project” means a project designed to respond to, avoid, 5 moderate, repair or adapt to negative impacts caused by climate change and to assist com- 6 munities, households and businesses with climate change driven disruptions.

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

8 (3) “Covered greenhouse gas emissions” means the total quantity of greenhouse gases 9 released into the atmosphere during the covered period, expressed in metric tons of carbon 10 dioxide equivalent, resulting from the use of fossil fuels extracted or refined by an entity.

11 (4) “Covered period” means the period beginning on January 1, 1995, and ending on De- 12 cember 31, 2024.

13 (5) “Crude oil” means oil or petroleum of any kind and in any form, including bitumen, 14 oil sands, heavy oil, conventional and unconventional oil, shale oil, natural gas liquids, 15 condensates and related fossil fuels.

16 (6) “Entity” means any individual, trustee, agent, partnership, association, corporation, 17 company, municipality, political subdivision or other legal organization, including a foreign 18 nation, that holds or held an ownership interest in a fossil fuel business during the covered 19 period.

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

21 (8) “Fossil fuel” means coal, a petroleum product or fuel gas or a byproduct of coal, a 22 petroleum product or fuel gas.

23 (9) “Fossil fuel business” means a business engaged in the extraction of fossil fuels or 24 the refining of petroleum products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (B) The Oregon Health Authority shall develop and implement those portions of the
44 resilience implementation strategy related to harms to public health as a result of climate
45 change, including harms resulting from extreme heat and other extreme weather events and

1 disease related to environmental conditions.

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

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

9 (4) The Environmental Quality Commission and the Department of Environmental Quality
10 shall, in coordination with the interagency team, carry out the responsibilities of the
11 commission and the department described in sections 9 to 12 of this 2026 Act.

12 **SECTION 3.** (1) The Department of Land Conservation and Development, in consulta-
13 tion with the interagency team established under section 2 of this 2026 Act, shall establish by rule
14 a resilience implementation strategy that includes:

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

17 (b) Practices to adapt infrastructure to the impacts of climate change, including but not
18 limited to homes, buildings and public spaces;

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

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

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

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

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

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

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

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

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

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

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

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

1 by the Department of Land Conservation and Development:

2 (a) Must define a “community”:

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

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

5 (b) May require the department to use the environmental justice mapping tool developed

6 under ORS 182.555.

7 **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:

8 (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.

9 (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.

10 (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.

11 **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:

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

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

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

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

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

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

18 (a) Limiting, setting or enforcing standards for emissions of 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 existing authority of any agency of state government, as defined in ORS 174.111, to regulate greenhouse gas emissions or establish strategies or adopt rules to mitigate climate risk and build resilience to climate change.

23 **SECTION 6.** The Secretary of State, in accordance with ORS 297.210, shall audit the op-

1 eration and effectiveness of the Climate Superfund Cost Recovery Program no less often
 2 than once every five years. Upon completing the audit, the secretary shall make recom-
 3 mendations to the Department of Land Conservation and Development on ways to increase
 4 program efficiency and cost effectiveness.

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

8 (2) The Climate Superfund Cost Recovery Program Account consists of:
 9 (a) Cost recovery payments deposited in the account under section 11 of this 2026 Act;
 10 (b) Moneys appropriated or transferred to the account by the Legislative Assembly; and
 11 (c) Grants, donations, contributions or gifts from any other public or private source.
 12 (3) Moneys in the Climate Superfund Cost Recovery Program Account are continuously
 13 appropriated to the Department of Land Conservation and Development for the purposes of:
 14 (a) Distribution for climate change resilience projects, or other climate change resilience
 15 activities, consistent with the resilience implementation strategy established under section
 16 3 of this 2026 Act;
 17 (b) Administration of sections 1 to 7 of this 2026 Act; and
 18 (c) Transfer to the Department of the State Fire Marshal under subsection (4) of this
 19 section.

20 (4) Thirty percent of the moneys deposited in the account each biennium shall be trans-
 21 ferred to the Department of the State Fire Marshal for wildfire resilience, recovery and
 22 mitigation activities.

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

28 **SECTION 8.** Sections 9 to 12 of this 2026 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 2026 Act:**
 31 (1) "Coal" means bituminous coal, anthracite coal and lignite.
 32 (2) "Controlled group" means two or more entities treated as a single employer under:
 33 (a) 26 U.S.C. 52(a) or (b), without regard to 26 U.S.C. 1563(b)(2)(C); or
 34 (b) 26 U.S.C. 414(m) or (o).
 35 (3) "Cost recovery demand" means a charge assessed against a responsible party for cost
 36 recovery payments under sections 9 to 12 of this 2026 Act.

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

40 (5) "Covered period" means the period beginning on January 1, 1995, and ending on De-
 41 cember 31, 2024.

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

45 (7) "Entity" means any individual, trustee, agent, partnership, association, corporation,

1 company, municipality, political subdivision or other legal organization, including a foreign
2 nation, that holds or held an ownership interest in a fossil fuel business during the covered
3 period.

4 (8) "Fossil fuel" means coal, a petroleum product or fuel gas or a byproduct of coal, a
5 petroleum product or fuel gas.

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

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

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

11 (12) "Notice of cost recovery demand" means the written communication from the De-
12 partment of Environmental Quality informing a responsible party of the amount of the cost
13 recovery demand.

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

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

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

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

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

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

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

29 (b) In adopting rules under this subsection, the commission may consider emissions fac-
30 tors developed by the United States Environmental Protection Agency.

31 (2) Procedures for registering entities that are responsible parties and issuing notices of
32 cost recovery demands under section 11 of this 2026 Act.

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

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

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

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

44 (3) To determine the amount of covered greenhouse gas emissions attributable to any
45 entity, the Department of Environmental Quality shall use the best publicly available fossil

1 fuel volume data and the methodologies developed by the Environmental Quality Commission
2 under section 10 of this 2026 Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (b) In the case of a sale of all or substantially all of the assets of a responsible party, the
41 remaining payments do not become due immediately if the buyer enters into an agreement
42 with the department to assume liability for the remaining payments due under subsection
43 (8) of this section.

44 (10) The department shall deposit cost recovery demand payments collected under this
45 section in a suspense account established under ORS 293.445 for the purpose of receiving the

1 demand payments. The department may pay the actual expenses of the department for the
2 administration and enforcement of sections 9 to 12 of this 2026 Act out of moneys received
3 from cost recovery demand payments. Amounts necessary to pay administrative and
4 enforcement expenses are continuously appropriated to the department from the suspense
5 account.

6 (11) After payment of administrative and enforcement expenses under subsection (10) of
7 this section and refunds or credits arising from erroneous overpayments, the department
8 shall transfer the balance of the moneys received from cost recovery demand payments to
9 the Climate Superfund Cost Recovery Program Account established under section 7 of this
10 2026 Act.

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

19 **SECTION 13.** The Department of Land Conservation and Development shall complete the
20 assessment described in section 4 of this 2026 Act no later than January 1, 2029. The de-
21 partment shall include the assessment in a report submitted in the manner provided by ORS
22 192.245 to the Joint Interim Committee on Ways and Means and the interim committees of
23 the Legislative Assembly related to finance, revenue, natural resources and the environment.

24 **SECTION 14.** (1) The Department of Land Conservation and Development shall first adopt
25 rules under section 3 of this 2026 Act no later than January 1, 2029.

26 (2) The Environmental Quality Commission shall first adopt rules under section 10 of this
27 2026 Act no later than January 1, 2029.

28 **SECTION 15.** In addition to and not in lieu of any other appropriation, there is appro-
29 priated to the Department of Land Conservation and Development, for the biennium ending
30 June 30, 2027, out of the General Fund, the amount of \$300,000, which may be expended for
31 the purpose of carrying out sections 1 to 7 of this 2026 Act.

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