

# Senate Bill 682

Sponsored by Senator GOLDEN, Representatives ANDERSEN, GAMBA, Senators CAMPOS, PHAM K; Senators FREDERICK, MANNING JR, MEEK, TAYLOR, Representatives CHAICHI, FRAGALA, HELM, HUDSON, NELSON (Pre-session filed.)

## 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 within the Department of Environmental Quality.

Establishes the Climate Superfund Cost Recovery Program Account.

Requires the State Treasurer to conduct an assessment on the costs of greenhouse gas emissions.

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 Whereas climate change, resulting primarily from the combustion of fossil fuels, is an immediate  
4 and grave threat to this state's communities, environment and economy; and

5 Whereas in addition to mitigating the further buildup of greenhouse gases, the state must take  
6 action to adapt to the consequences of climate change, including wildfires, extreme temperatures,  
7 drought, coastal hazards such as coastal flooding and coastal erosion, changes in the water cycle,  
8 compounded effects on human health and healthcare systems and other threats; and

9 Whereas meeting the challenge of adapting to and mitigating the effects of climate change will  
10 require a shared commitment of purpose and huge investments in new or upgraded infrastructure;  
11 and

12 Whereas the state has previously adopted laws holding polluters strictly liable without regard  
13 to fault for cleanup and repair of damages done by the substances they introduced into the state;  
14 and

15 Whereas we can now determine with great accuracy the share of greenhouse gases released into  
16 the atmosphere by specific fossil fuel companies over the last three decades, making it possible to  
17 assign liability and require compensation from companies commensurate with their emissions; now,  
18 therefore,

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

20 **SECTION 1. Sections 2 to 10 of this 2025 Act are added to and made a part of ORS**  
21 **chapter 468.**

22 **SECTION 2. As used in sections 2 to 10 of this 2025 Act:**

23 (1) **"Climate change adaptation project" means a project designed to respond to, avoid,**  
24 **moderate, repair or adapt to negative impacts caused by climate change and to assist com-**  
25 **munities, households and businesses in preparing for future climate change driven dis-**  
26 **ruptions.**

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

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

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

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

5 (4) “Cost recovery demand” means a charge assessed against a responsible party for cost  
6 recovery payments under sections 2 to 10 of this 2025 Act.

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

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

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

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

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

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

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

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

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

27 (14) “Nature-based solutions” means projects, including green or natural infrastructure  
28 projects, that utilize or mimic nature or natural processes and functions and that may also  
29 offer environmental, economic and social benefits while increasing climate resilience.

30 (15) “Notice of cost recovery demand” means the written communication from the de-  
31 partment informing a responsible party of the amount of the cost recovery demand.

32 (16) “Petroleum product” means any product that is obtained from distilling, refining,  
33 re-refining or processing synthetic or crude oil or crude oil extracted from natural gas liq-  
34 uids or other sources.

35 (17) “Responsible party” means an entity that:

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

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

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

43 **SECTION 3.** The Climate Superfund Cost Recovery Program is established within the  
44 Department of Environmental Quality. The purpose of the program is to:

45 (1) Secure compensatory payments from responsible parties based on a standard of strict

1 liability;

2 (2) Determine the proportional liability of responsible parties;

3 (3) Impose cost recovery demands on responsible parties and issue notices of cost re-  
4 covery demands;

5 (4) Collect and accept payment from responsible parties;

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

8 (6) Disperse funds to implement eligible climate change adaptation projects.

9 **SECTION 4.** (1) The Environmental Quality Commission shall establish by rule:

10 (a) Methodologies using the best available science and publicly available data to identify  
11 responsible parties and determine their applicable share of covered greenhouse gas emis-  
12 sions;

13 (b) Procedures for registering entities that are responsible parties and issuing notices  
14 of cost recovery demands under section 5 of this 2025 Act;

15 (c) Procedures for collecting cost recovery demands under section 5 of this 2025 Act;

16 (d) Rules of procedure for appeals to the Director of the Department of Environmental  
17 Quality under section 6 of this 2025 Act; and

18 (e) Procedures for dispersing moneys from the Climate Superfund Cost Recovery Pro-  
19 gram Account for eligible climate change adaptation projects.

20 (2) The commission shall establish by rule a resilience implementation strategy that in-  
21 cludes:

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

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

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

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

29 (e) Criteria and procedures for identifying and prioritizing climate change adaptation  
30 projects that are consistent with the practices identified in paragraphs (a) to (d) of this  
31 subsection.

32 (3) In adopting the strategy under subsection (2) of this section, the commission shall:

33 (a) Consult the climate adaptation framework developed by the Department of Land  
34 Conservation and Development;

35 (b) Consult with the Environmental Justice Council;

36 (c) In consultation with the Oregon Health Authority and the Environmental Justice  
37 Council, assess the adaptation needs and vulnerabilities of geographic areas that are vital to  
38 this state's economy and the health and well-being of Oregonians;

39 (d) Identify potential and proposed climate change adaptation projects throughout the  
40 state;

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

43 (f) Consult with local governments, businesses, environmental advocates, relevant sub-  
44 ject area experts, representatives of environmental justice communities and other  
45 stakeholders; and

1 (g) Conduct public engagement in communities that have the most significant exposure  
2 to the impacts of climate change, including disadvantaged, low-income and rural communi-  
3 ties.

4 **SECTION 5. (1) A responsible party shall be strictly liable for the costs of climate change**  
5 **caused by the responsible party's covered greenhouse gas emissions, as determined under**  
6 **subsection (2) of this section.**

7 (2) The cost recovery demand for each responsible party shall be an amount equal to the  
8 responsible party's proportionate share of costs to the state and its residents, as determined  
9 under section 7 of this 2025 Act, from the emission of covered greenhouse gases, computed  
10 by multiplying the applicable costs by the ratio of the responsible party's covered greenhouse  
11 gas emissions to all covered greenhouse gas emissions.

12 (3) To determine the amount of covered greenhouse gas emissions attributable to any  
13 entity, the Department of Environmental Quality shall use the U.S. Environmental Pro-  
14 tection Agency's Emissions Factors for Greenhouse Gas Inventories, the best publicly avail-  
15 able fossil fuel volume data and the methodology developed by the Environmental Quality  
16 Commission under section 4 of this 2025 Act.

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

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

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

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

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

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

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

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

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

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

42 (b) Each subsequent payment shall be equal to 10 percent of the total cost recovery de-  
43 mand and shall be due each year no later than the anniversary of the first payment. The  
44 department may adjust the amount of payments described in this paragraph to reflect any  
45 percentage changes in the Consumer Price Index for All Urban Consumers, West Region (All

1 Items), as published by the Bureau of Labor Statistics of the United States Department of  
2 Labor.

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

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

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

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

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

13 (10) The department shall deposit cost recovery demand payments collected under this  
14 section in the Climate Superfund Cost Recovery Program Account established under section  
15 10 of this 2025 Act.

16 **SECTION 6.** A responsible party aggrieved by the issuance of a notice of cost recovery  
17 demand may appeal by filing a notice of appeal with the Director of the Department of En-  
18 vironmental Quality within 30 days following issuance of the notice of cost recovery demand.  
19 After considering the appeal, the director shall cancel the notice of cost recovery demand  
20 or affirm or adjust the cost recovery demand and issue a final notice of cost recovery de-  
21 mand. A person aggrieved by a final notice of cost recovery demand may seek judicial review  
22 of the notice in the manner provided by ORS chapter 183 for judicial review of final orders.

23 **SECTION 7.** The State Treasurer, in consultation with the Department of Environmental  
24 Quality, the Oregon Climate Action Commission, the Oregon Climate Change Research In-  
25 stitute and any other relevant agency or person, shall conduct an assessment to determine  
26 the costs to the state and its residents of covered greenhouse gas emissions for the covered  
27 period. The assessment shall include:

28 (1) An analysis of the various cost-driving effects of covered greenhouse gas emissions  
29 on the state and its residents, including the effects on public health, natural resources,  
30 biodiversity, agriculture, economic development, flood preparedness and safety, housing and  
31 any other effect that the State Treasurer determines is relevant.

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

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

36 **SECTION 8.** (1) The remedies provided in sections 2 to 10 of this 2025 Act are in addition  
37 to and not in lieu of any other remedy available to a person or the state at common law or  
38 under state statute. Sections 2 to 10 of this 2025 Act do not:

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

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

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

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

1 **change; or**

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

4 **(2) Sections 2 to 10 are not intended to preempt, supersede or displace any other state**  
 5 **law or local government ordinance, regulation, policy or program that provides for:**

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

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

8 **(c) Collecting revenue; or**

9 **(d) Conducting or supporting investigations.**

10 **(3) Nothing in sections 2 to 10 of this 2025 Act limits the existing authority of any agency**  
 11 **of state government, as defined in ORS 174.111, to regulate greenhouse gas emissions or es-**  
 12 **tablish strategies or adopt rules to mitigate climate risk and build resilience to climate**  
 13 **change.**

14 **SECTION 9. The Secretary of State, in accordance with ORS 297.210, shall audit the op-**  
 15 **eration and effectiveness of the Climate Superfund Cost Recovery Program no less often**  
 16 **than once every five years. Upon completing the audit, the secretary shall make recom-**  
 17 **mendations to the Department of Environmental Quality on ways to increase program effi-**  
 18 **ciency and cost effectiveness.**

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

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

23 **(a) Cost recovery payments deposited in the account under section 5 of this 2025 Act;**

24 **(b) Moneys appropriated or transferred to the account by the Legislative Assembly; and**

25 **(c) Grants, donations, contributions or gifts from any other public or private sources.**

26 **(3) Moneys in the Climate Superfund Cost Recovery Program Account are continuously**  
 27 **appropriated to the Department of Environmental Quality for the purposes of:**

28 **(a) Distribution for climate change adaptation projects consistent with the resilience**  
 29 **implementation strategy established under section 4 of this 2025 Act;**

30 **(b) Administration of sections 2 to 10 of this 2025 Act; and**

31 **(c) For equal distribution to each of the nine federally recognized Indian tribes in this**  
 32 **state in accordance with subsection (4) of this section.**

33 **(4) Of the money deposited in the account, each biennium, 20 percent shall be equally**  
 34 **distributed to the nine federally recognized Indian tribes in this state for purposes consistent**  
 35 **with the resilience implementation strategy established under section 4 of this 2025 Act.**

36 **SECTION 11. The State Treasurer shall complete the assessment described in section 7**  
 37 **of this 2025 Act no later than January 1, 2027. The State Treasurer shall include the assess-**  
 38 **ment in a report submitted in the manner provided by ORS 192.245 to the Joint Interim**  
 39 **Committee on Ways and Means and the interim committees of the Legislative Assembly re-**  
 40 **lated to finance, revenue, natural resources and the environment.**

41 **SECTION 12. The Environmental Quality Commission shall first adopt rules under sec-**  
 42 **tion 4 of this 2025 Act no later than January 1, 2027.**

43 **SECTION 13. In addition to and not in lieu of any other appropriation, there is appro-**  
 44 **priated to the Department of Environmental Quality, for the biennium beginning July 1, 2025,**  
 45 **out of the General Fund, the amount of \$300,000, which may be expended for the purpose of**

1 carrying out sections 2 to 10 of this 2025 Act.

2 **SECTION 14.** In addition to and not in lieu of any other appropriation, there is appro-  
3 priated to the State Treasurer, for the biennium beginning July 1, 2025, out of the General  
4 Fund, the amount of \$300,000, which may be expended for the purpose of carrying out  
5 sections 2 to 10 of this 2025 Act.

6 **SECTION 15.** This 2025 Act takes effect on the 91st day after the date on which the 2025  
7 regular session of the Eighty-third Legislative Assembly adjourns sine die.

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