



# Oregon

Kate Brown, Governor

Department of Transportation

Director's Office

355 Capitol St. NE, MS 11

Salem, OR 97301

**DATE:** April 1, 2019

**TO:** Joint Committee on Transportation

**FROM:** Matthew L. Garrett, Director

**SUBJECT:** HB 2020 (-31) – Oregon Climate Action Program

### *Introduction*

ODOT's mission is to provide a safe and reliable multimodal transportation system that connects people and helps Oregon's communities and economy thrive. As Oregon looks to the future, we identify opportunities to help our transportation system overcome the challenges ahead, adapt to meet the needs of all users, and discover new ways to build, support, and maintain our transportation system. The Oregon Climate Action Program, as established in HB 2020 and the (-31) amendments, represents a significant opportunity for the Oregon Department of Transportation to join partners across the state in taking concrete steps to reduce greenhouse gas emissions from the transportation sector, make our system more resilient from the impacts of climate change, and provide transportation options to all Oregonians.

ODOT appreciates the opportunity to articulate our understanding of ODOT's role in implementing the Oregon Climate Action Program as we move toward a more sustainable and resilient transportation system.

### *Discussion*

HB 2020 (-31) establishes the Oregon Climate Action Program ("Program"). The Program establishes statewide goals for anthropogenic greenhouse gas emission reduction, directs development of a carbon marketplace, and caps the allowable amount of greenhouse gas emissions from carbon emitters across the state. The Program's marketplace provides for purchase of allowances by covered entities.

The Program utilizes revenues generated from sale of allowances through targeted investments in measures to reduce carbon emissions, support communities and sectors impacted by climate change, and support transition of Oregon's economy in light of the Program.

The Program establishes a Transportation Decarbonization Investments Account ("TDIA") within the State Highway Fund; all moneys that constitute revenue described in Article IX, Section 3a of the Oregon Constitution (revenues from motor vehicle use and fuel) are directed to the TDIA. The Carbon Policy Office estimates the Program will generate \$350-360m/year from sale of allowances, starting in 2021; these revenues are expected to go into the TDIA. HB 2020 (-31) further articulates and prioritizes investments from the TDIA.

Attachment A provides an analysis of the transportation-related sections of HB 2020 (-31), including ODOT's understanding of the intended process, timing, and priorities of the Oregon Climate Action Program.

Several foundational principles underpin the transportation-related sections of HB 2020 (-31):

- The Program provides a unique opportunity to continue transitioning our transportation system to reduce the sector's carbon emissions and build its resiliency from future impacts;
- The Oregon Transportation Commission sits at the helm, providing high-level, strategic guidance on how to best utilize funding opportunities to meet our carbon reduction goals and build our future system;
- The Oregon Legislature will exercise program oversight similar to its oversight of HB 2017; and
- The Oregon Department of Transportation intends to coordinate and collaborate with all system partners as we balance the needs of our current system with the needs of our future.

### ***Conclusion***

The Oregon Climate Action Program represents a significant opportunity to make progress toward our carbon emission goals and build a transportation system of the future.

Please do not hesitate to reach out with any questions.

| Step                 | Action  | Details  | HB 2020 (-31) Section | Involved Parties   |
|----------------------|---|--|-----------------------|--|
| 1                    | Biennial Climate Action Investment Plan                   | <ul style="list-style-type: none"> <li>• Biennial Climate Action Investment Plan developed and delivered by June 1, even numbered years</li> <li>• Plan developed by Carbon Policy Office in consultation with ODOT for TDIA funds</li> <li>• Biennial Climate Action Investment Plan guides and informs OTC investment strategy and project selection for TDIA</li> </ul> | Section 46            | <ul style="list-style-type: none"> <li>• Carbon Policy Office develops Plan</li> <li>• ODOT consulted on TDIA fund Plan</li> <li>• Governor receives Plan</li> <li>• Joint Committee on Climate Action receives Plan</li> <li>• Environmental Justice Task Force receives Plan</li> <li>• <b>Oregon Transportation Commission** (should receive Plan)</b></li> </ul> |
| 2a                   | Allowances Sold, Revenue Generated                        | <ul style="list-style-type: none"> <li>• Allowances sold to 8(g) entities</li> <li>• Moneys deposited into TDIA (subaccount of State Highway Fund)</li> </ul>  | Section 8             | <ul style="list-style-type: none"> <li>• Carbon Policy Office administers marketplace, sells allowances</li> <li>• 8(g) entities purchase allowances</li> </ul>  |
| 2b – one time action | Rulemaking/Program Development ( <i>one time action</i> ) | <ul style="list-style-type: none"> <li>• Rulemaking and program development for Transportation Decarbonization Investments Account (TDIA)</li> <li>• <b>ODOT should have immediate rulemaking authority (Sec. 90)**</b></li> </ul>   | Sections 32, 43       | <ul style="list-style-type: none"> <li>• Oregon Transportation Commission</li> <li>• Oregon Department of Transportation</li> <li>• Stakeholders</li> </ul>  |

\*\*Intended to note recommendations not currently reflected in the -31 amendments to HB 2020 (2019)

|    |                                     |   |                        |   |
|----|-------------------------------------|---|------------------------|---|
|    |                                     | <ul style="list-style-type: none"> <li>• ODOT should have rulemaking authority for contracting provisions (Sec. 39)**</li> <li>• Rulemaking includes but is not limited to: <ul style="list-style-type: none"> <li>○ Contracting provisions</li> <li>○ Competitive grant program</li> <li>○ Content and form of Sec 43 reporting</li> </ul> </li> </ul>   |                        |   |
| 3a | Project Selection <50% state system | Project selection for <50% ODOT funds <ul style="list-style-type: none"> <li>• OTC develops investment strategy consistent with Biennial Climate Action Investment Plan</li> <li>• ODOT runs STIP-like process for State 50%; coordination with ACTs, stakeholders</li> <li>• OTC approves projects</li> </ul>  | Sections 31, 7, 21, 33 | <ul style="list-style-type: none"> <li>• Oregon Transportation Commission</li> <li>• Oregon Department of Transportation</li> <li>• Area Commissions on Transportation</li> <li>• Stakeholders</li> </ul>                               |
| 3b | Project Selection >50% local system | Project selection for >50% to cities, counties, and MPOs <ul style="list-style-type: none"> <li>• OTC develops competitive grant program</li> <li>• Solicitation and application review, coordination with ACTs</li> <li>• Eligibility criteria set by statute</li> <li>• Selection criteria set by OTC, guided by Biennial Plan</li> <li>• OTC approves grants</li> <li>• Grant agreements executed</li> </ul> | Sections 31, 32, 33    | <ul style="list-style-type: none"> <li>• Oregon Transportation Commission</li> <li>• Oregon Department of Transportation</li> <li>• Area Commissions on Transportation</li> <li>• Cities</li> <li>• Counties</li> <li>• MPOs</li> </ul> |

\*\*Intended to note recommendations not currently reflected in the -31 amendments to HB 2020 (2019)

|    |                                    |   |            |  |
|----|------------------------------------|---|------------|--|
| 4a | Procurement and Contracting        | <ul style="list-style-type: none"> <li>• Preference for building materials created under carbon pricing market</li> <li>• Preference for Oregon nursery stock</li> <li>• These preferences apply to any project for which TDIA funds are used</li> </ul>  | Section 34 | <ul style="list-style-type: none"> <li>• Oregon Department of Transportation</li> <li>• Cities</li> <li>• Counties</li> <li>• MPOs</li> <li>• Contracting community</li> </ul> |
| 4b | Labor and Workforce considerations | <ul style="list-style-type: none"> <li>• DAS to develop model rules</li> <li>• Primary contractor must ensure: <ul style="list-style-type: none"> <li>○ Prevailing wage</li> <li>○ Retirement and healthcare</li> <li>○ Opportunity for apprenticeship</li> <li>○ History of compliance requirements</li> <li>○ These requirements apply to all projects for which &gt;\$50k of TDIA funds are used</li> </ul> </li> <li>• Project labor agreements on any project above \$200,000 for which TDIA funds are used</li> </ul> | Section 39 | <ul style="list-style-type: none"> <li>• Oregon Department of Transportation</li> <li>• Cities</li> <li>• Counties</li> <li>• MPOs</li> <li>• Contracting community</li> </ul> |
| 5  | Project Construction               | <ul style="list-style-type: none"> <li>• ODOT responsible for construction on state system</li> <li>• Road authority/Local government responsible for construction on local system</li> </ul>   |            | <ul style="list-style-type: none"> <li>• Oregon Department of Transportation</li> <li>• Cities</li> <li>• Counties</li> <li>• MPOs</li> <li>• Contracting community</li> </ul> |

|    |           |   |            |   |
|----|-----------|---|------------|---|
| 6a | Reporting | <ul style="list-style-type: none"> <li>• All fund recipients (including ODOT) required to report annually on how funds are spent</li> <li>• <b>OTC**</b> submits biennial report (even-numbered years) to Governor's Office, Joint Committee on Climate Action, <b>Joint Committee on Transportation**</b></li> </ul> | Section 43 | <ul style="list-style-type: none"> <li>• Oregon Transportation Commission</li> <li>• Oregon Department of Transportation</li> <li>• Cities</li> <li>• Counties</li> <li>• MPOs</li> <li>• Carbon Policy Office</li> <li>• Governor's Office</li> <li>• Joint Committee on Climate Action</li> <li>• <b>Joint Committee on Transportation**</b></li> </ul> |
| 6b | Auditing  | <ul style="list-style-type: none"> <li>• <b>OTC**</b> and Carbon Policy Office select 3<sup>rd</sup> party auditor for biennial audit</li> <li>• Audit submits report to Governor's Office, Joint Committee on Climate Action, <b>Joint Committee on Transportation**</b></li> </ul>                                  | Section 44 | <ul style="list-style-type: none"> <li>• Oregon Transportation Commission</li> <li>• Oregon Department of Transportation</li> <li>• Carbon Policy Office</li> <li>• Governor's Office</li> <li>• Joint Committee on Climate Action</li> <li>• <b>Joint Committee on Transportation**</b></li> </ul>   |

**\*\*Intended to note recommendations not currently reflected in the -31 amendments to HB 2020 (2019)**