FISCAL IMPACT OF PROPOSED LEGISLATION **Measure: SB 1530 - 35**
80th Oregon Legislative Assembly – 2020 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:
Modifies statewide greenhouse gas emissions reduction goals.

Government Unit(s) Affected:
Oregon Parks and Recreation Department (OPRD), Oregon Business Development Department (OBDD), Housing and Community Services Department (HCSD), Special Districts, Cities, Counties, Department of Administrative Services (DAS), Department of Consumer and Business Services (DCBS), Department of Energy (DOE), Department of Environmental Quality (DEQ), Department of Forestry (ODF), Department of Justice (DOJ), Department of Land Conservation and Development (DLCD), Employment Department (OED), Higher Education Coordinating Commission (HECC), Legislative Revenue Office (LRO), Oregon Department of Agriculture (ODA), Oregon Department of Transportation (ODOT), Oregon Judicial Department (OJD), Oregon Watershed Enhancement Board (OWEB), Public Utility Commission (PUC), Metro

Analysis:

> ***This is a fiscal lite statement issued for the purpose of transmitting this measure from the Senate Committee on Environment and Natural Resources to the Joint Committee on Ways and Means. Total costs of this measure should be considered indeterminate at this time. All numbers included below are estimates for the purpose of informing the Committee of potential costs related to this bill. A more complete fiscal analysis on the measure will be prepared as the measure is considered in the Joint Committee on Ways and Means.***

Overview of SB 1530
SB 1530 sets new targets for greenhouse gas emissions in Oregon through a program called the Oregon Greenhouse Gas Initiative (OGGI). Targets are to be met by limiting emissions from fossil fuels, electricity, and industrial processes. Over time, allowable emissions from these sectors will decrease in order to meet greenhouse gas emissions goals. Allowances for these regulated sectors, which is the authorization to emit one metric ton of carbon dioxide, will be sold at auction. Funds from the sale of allowances will be distributed to various state agencies, local governments, and Indian tribes to be used to further the overall greenhouse gas reduction goals of the OGGI. SB 1530 directs a newly created Office of Greenhouse Gas Regulation (OGGR), housed within the Department of Environmental Quality (DEQ), to conduct the first auction of allowances in January 2022. Policy direction of the OGGR is to be provided by a newly-created Oregon Greenhouse Gas Reduction Board (GGRB).

Guide to the fiscal impact for SB 1530 - 35
The programs described in SB 1530 are generally intended to be self-supporting based on revenue collected from the auction of allowances. However, the Legislative Fiscal Office (LFO) assumes that agencies will use General Fund or existing Other Funds funding streams until the 2023-25 biennium. Revenues generated from the auction of allowances could be available to agencies to offset General Fund costs as soon as January 2022, but it is

uncertain how much money will be collected from the auctions initially and when these funds will be available for agency use.

This fiscal includes estimates for budgetary impacts and staffing in the 2021-23 biennium. All agencies will need to request additional staff and funding for the 2021-23 biennium either during the 2021-23 budget cycle, during the 2021 legislative session, or through the Emergency Board.

Expenditure overview
Initial cost estimates for implementation of this measure are $19,863,431 General Fund and $1,558,843 Other Funds in 2019-21. In 2021-23, costs are estimated at $21,994,405 total funds.

2019-21 Biennium Estimated Fiscal Impact			
Agency	*General Fund*	*Other Funds*	*Total*
Revolving Loan Fund	$ 10,000,000		$ 10,000,000
DEQ	$ 8,262,323	$ 131,191	$ 8,393,514
DLCD	$ 327,162		$ 327,162
HCSD	$ 158,091		$ 158,091
LRO	$ 150,000		$ 150,000
ODA	$ 111,536		$ 111,536
ODF	$ 139,215		$ 139,215
ODOT		$ 127,517	$ 127,517
OWEB	$ 689,924		$ 689,924
PUC	$ 25,180	$ 1,300,135	$ 1,325,315
Total	**$ 19,863,431**	**$ 1,558,843**	**$ 21,422,274**

The 2019-21 costs include $9.9 million General Fund, for agencies to implement the provisions of the measure, and a $10 million General Fund appropriation to seed the Traded Sector Greenhouse Gas Reduction Revolving Loan Fund. These Revolving Loan Funds are to be disbursed as low- or zero-interest loans to trade-exposed natural gas users and emissions-intensive trade exposed facilities, to finance projects or upgrades that will lead to reduction in greenhouse gas emissions. The revolving loan program will be operated by the Oregon Business Development Department. Administrative costs to the department, estimated to total $500,000 in the 2019-21 biennium, will be funded from the $10 million General Fund deposit, leaving $9.5 million remaining for project loans. The agency will need a $500,000 Other Funds expenditure limitation increase in its budget to allow this.

The costs outlined in this fiscal impact statement are primarily associated with the initial implementation of the bill in the 2019-21 biennium. Subsequent biennial costs may be significantly higher due to the roll-up of position costs, standard inflation, or undefined factors such as information technology application implementation. Additionally, the cost estimates provided by agencies do not include funding for contingencies such as possible legal challenges, employment market risk, or implementation delays.

Revenues and fund types
Revenues from auctions of allowances could be available as soon as January 2022, when the first auction is required to take place. Revenues are to be distributed in order as follows:

1. Auction proceeds first are deposited in the Auction Proceeds Distribution Fund
2. Constitutionally dedicated funds within the Auction Proceeds Distribution Fund are distributed to the:
    a. Transportation Decarbonization Investments Account (TDIA), within the State Highway Fund
    b. Common School Fund
3. Certain remaining funds in the Auction Proceeds Distribution Fund are distributed to the Oregon Greenhouse Gas Initiative Operating Fund for administration of the program
4. All remaining funds are distributed to the Climate Investments Fund (CIF)

The Transportation Decarbonization Investments Account

Funds in the TDIA are distributed to the Oregon Department of Transportation (ODOT). Ten percent of funds go to ODOT for transportation projects, and 90 percent to local governments for planning and implementation of metropolitan climate plans.

Climate Investments Fund

Funds in the CIF are first distributed to the Just Transition Fund. The Just Transition Fund receives 10 percent or $10 million from the CIF, whichever is less.

Remaining funds are to be distributed as follows:

- 25 percent goes to the Oregon Watershed Enhancement Board (OWEB) for uses that benefit natural and working lands;
- 25 percent goes to the Oregon Department of Forestry (ODF) for wildfire mitigation; and,
- 50 percent is allocated by the Legislature, in a manner that prioritizes greenhouse gas reductions, with:
    - 10 percent distributed for the benefit of eligible Indian tribes;
    - 20 percent to local governments; and
    - 20 percent to agencies of state government

Estimates of the revenues available to state agencies as a result of this measure will be provided in a Revenue Impact Statement by the Legislative Revenue Office.

Fiscal impacts by agency

Department of Environmental Quality

This measure establishes the Oregon Greenhouse Gas Reduction Board (GGRB). The Board adopts rules for the Office of Greenhouse Gas Regulation (OGGR) to implement the Oregon Greenhouse Gas Initiative within DEQ. The administrator of the OGGR is appointed by the Governor and confirmed by the Senate, as is the Board, so this Office appears to operate largely outside of DEQ and Environmental Quality Commission (EQC) purview.

The newly-created Board and Office will run auctions of allowances; track emissions allowances and retire them at the correct rate for each entity; enforce this measure; designate impacted communities, which are communities in Oregon at risk of being disproportionately impacted by climate change; develop a Just Transition Plan for aiding households, businesses, and workers impacted by climate change or climate change policies; develop a climate investment action plan for new revenues; and complete various reporting requirements, among other duties.

The EQC is charged with adopting standards and requirements for reducing methane emissions from landfills and may require registration and reporting to determine greenhouse gas emissions by certain entities. The EQC is further required to regulate use of hydrofluorocarbons in certain products.

Because OGGR runs the auctions of allowances, all revenues generated by this measure are dependent on OGGR's ability to accomplish rulemaking before the first auction in January 2022. Should rulemaking happen on schedule, agencies that receive auction revenues may be able to offset General Fund with these new Other Funds revenues before the end of the 2021-23 biennium. Should this not happen on schedule, then the timeline and costs for DEQ/OGGR and all other agencies dependent on auction revenues are likely to change.

DEQ estimates they will need 32 new positions (17.45 FTE) in 2019-21, with a total cost of $8,262,323 General Fund and $131,191 Other Funds to staff OGGR. In 2021-23, the program will expand to 40 positions (38.00 FTE) with a total cost of $14,037,288 General Fund and $1,117,980 Other Funds. This includes:

- Two positions to support the GGRB (Operations and Policy Analyst 4, Administrative Specialist 2)
- Five Air Quality Division positions (Greenhouse Gas Reporting Analysts, Landfill Methane Engineer, etc.)
- 14 positions related to management and administration (HR, IT, etc.)

- 21 positions in the new OGGR (Rules Writer, Economists, Carbon Markets Manager, Policy and Proceeds Manager, etc.)

The costs above also include position-related Services and Supplies, an estimated $327,600 in funding for rent, and estimated Department of Justice (DOJ) costs of $850,000 in 2019-21 and $1.7 million in 2021-23. OGGR will also have several one-time costs related to third-party contracts, which include:

- A contract with WCI, Inc. to provide cap and trade services at an estimated cost of $900,000 annually (the only ongoing contractor cost), with start-up costs of $500,000
- Modifications to the agency's Environmental Data Management System related to new greenhouse gas reporting requirements - $250,000
- An independent Quality Assurance contract for projects going through Stage Gate review - $50,000
- Development of offset protocols - $400,000
- A review of methods to reduce industrial manufacturing emissions - $500,000
- Development of a forecast for the allowance budget - $400,000
- Audits of projects funded by auction proceeds- this cost is indeterminate but a placeholder amount of $500,000 is included in this fiscal.

All positions within the fiscal impact are budgeted at Step 2, but DEQ notes that recent changes to pay equity requirements have resulted in new position hires averaging closer to Step 5. If positions are hired at Step 5, this will result in an additional cost of $527,783 General Fund in 2019-21 and $1,012,652 General Fund in 2021-23; and an additional $14,531 Other Funds in 2019-21 and $122,857 Other Funds in 2021-23, plus indirect cost changes.

DEQ may need to return to the Emergency Board or a future meeting of the Legislative Assembly to request additional funding related to rent and legal costs. DEQ's offices are currently at capacity, and there may be additional rental costs beyond what is projected if DEQ needs to negotiate for additional office space to house this new OGGR staff. Legal costs are based on DOJ and DEQ projections, but given the relatively unprecedented nature of this program, it is difficult to state these costs with certainty at this time.

This fiscal does not include any potential fiscal impact to DEQ as a result of the waste reduction study directed by the - 35 amendment.

Public Utility Commission

PUC is directed to undertake rulemaking on how to distribute allowances for electric companies and natural gas users; to oversee utility trust accounts; to consult on the climate action investment plan; to determine and oversee rate relief programs for certain energy consumers; to incorporate the goals of this act into planning and rate cases; to review alternative transportation infrastructure investments; and to fulfill reporting requirements.

PUC anticipates they will need nine new permanent, full-time positions (4.25 FTE in 2019-21, 9.00 FTE in 2021-23) to complete this work. Anticipated staffing needs include one Principal Executive Manager E, five Utility and Energy Analysts 3, one Economist 4, one Operations and Policy Analyst 3, and one Accountant 3. General Fund costs are anticipated at $25,180 in 2019-21 and $287,911 in 2021-23. Other Fund costs are anticipated at $1,300,135 in 2019-21 and $1,947,834 in 2021-23. Other Funds are derived from the agency's existing Utility Gross Operating Revenue Fee. General Fund is requested in cases where the work being done does not directly benefit utility sales customers or PUC's ratepayers.

While all positions here are priced at Step 2, PUC will likely hire most of these positions at Step 6 based on past hiring trends. If all positions are hired at Step 6, this will increase costs by $164,681 total funds in 2019-21 and $344,365 total funds in 2021-23.

Oregon Business Development Department

OBDD is directed to set up a new revolving loan program. This measure includes a one-time General Fund appropriation of $10 million, which is to be deposited in the newly-created Traded Sector Greenhouse Gas Reduction Revolving Loan Fund. The fund is separate and distinct from the General Fund, with moneys continuously appropriated to OBDD in order to issue loans and administer the program.

Revolving loan funds are to be disbursed as low- or zero-interest loans to trade-exposed natural gas users and emissions-intensive trade exposed facilities, to finance projects or upgrades that will lead to reductions in greenhouse gas emissions. OBDD anticipates that they will work with a third-party contractor with expertise in greenhouse gas emissions and mitigation technologies to develop rules and administer the fund. OBDD estimates contracting costs of $500,000 in 2019-21, derived from the $10 million appropriated for the Revolving Loan Fund.

Oregon Watershed Enhancement Board

OWEB receives 25 percent of funds available from the CIF. Funds are to be used to support natural and working lands projects. To distribute CIF revenues, OWEB plans to set up a separate grant program for natural and working lands projects with mitigation, sequestration, and adaptation benefits.

OWEB anticipates needing three new permanent positions (two full-time and one part-time, for a total of 1.57 FTE) in 2019-21, with six additional permanent positions (for a total of 8.50 FTE) to phase in during the 2021-23 biennium to support grant program development and administration. In 2019-21, grant program development will be overseen by an Operations and Policy Analyst 4 with technical support from a Natural Resource Specialist (NRS) 4 and administrative support from an Office Specialist 2. In 2021-23, implementation of the grant program will include a Principal Executive Manager E, three new NRS 4 positions, one new NRS 3 position, a Program Analyst 2, and a Fiscal Analyst 2. OWEB also anticipates contracting costs of $100,000 each biennium, DOJ costs, other assorted Services and Supplies costs, as well as costs for use of existing management staff during program set up. Total expenses are $689,924 General Fund in 2019-21 and $2,511,979 General Fund in 2021-23.

OWEB's fiscal impact hinges on the assumption that grant solicitations begin in January 2022, the earliest possible date that CIF revenues would become available. If funds were not to be available to agencies until the 2023-25 biennium under a conservative scenario, then OWEB would anticipate a minimal fiscal impact in 2019-21 and would push back hiring any grant management positions until sometime during the 2021-23 biennium.

Further analysis of the impact of this measure for OWEB is required.

Department of Land Conservation and Development

The Department of Land Conservation and Development (DLCD) will be involved in development and review of metropolitan climate plans, which local governments must develop in order to received TDIA funds. DLCD anticipates that they will need to hire three new permanent positions (totaling 1.25 FTE in 2019-21 and 2.50 FTE in 2021-23) to assist with rulemaking, technical assistance to local governments, and plan review. This includes a part-time Planner 2, a full-time Planner 3, and a full-time Operations and Policy Analyst 1.

The total cost is estimated at $327,162 General Fund in 2019-21 and $604,416 General Fund in 2021-23, including position-related Services and Supplies, DOJ costs, and a contract for rulemaking facilitation and support. It is assumed the General Fund will be used to support these positions on an ongoing basis as the measure does not state that TDIA funds may be transferred to agencies besides ODOT for administrative costs, and this work is not included as an administrative expense that may be covered by funds from the Oregon Greenhouse Gas Initiative Operating Fund.

Housing and Community Services Department

The Housing and Community Services Department (HCSD) is directed to develop a proposal, in consultation with OGGR and the Oregon Housing Stability Council, to assist households that use fuels other than natural gas for residential home heating. This is to be reported to the Legislature by September 15, 2021.

HCSD anticipates they will need two limited-duration, part-time positions to accomplish this work. This includes a Program Analyst 4 (0.44 FTE in 2019-21, 0.13 FTE in 2021-23) and an Administrative Specialist 2 (0.11 FTE in 2019-21 and 0.04 FTE in 2021-23), who will meet with stakeholders, design a program and proposal, and create a report. The total cost of these positions and associated Services and Supplies is estimated at $158,091 General Fund in 2019-21 and $57,808 General Fund in 2021-23.

Department of Administrative Services
The Department of Administrative Services (DAS), in consultation with the Attorney General, is directed to adopt model rules that specify labor, workforce and contracting procedures for state agencies to use in administering funds for projects that receive a certain amount of funding from the TDIA or CIF.

Because writing model procurement rules is generally done by the Department of Justice and not generally a task that DAS undertakes, DAS anticipates they will need to hire two new limited-duration, full-time positions (both 1.00 FTE) in 2021-23. This includes a State Procurement Analyst and an Operations and Policy Analyst 4. The total cost of these positions is estimated at $484,532 for Personal Services and $36,154 for position-related Services and Supplies. These are Other Funds expenditures from DAS' assessment on state agencies, which means some of these funds are derived from the General Fund.

This fiscal does not include any potential fiscal impact to DAS as a result of the electric vehicle fleet procurement model requirement, or the study of greenhouse gas emissions in regard to awarding state procurement contracts, which are included in the - 35 amendment.

Department of Forestry
ODF will be responsible for assisting with the development of forestry carbon offset protocols and reporting on offset and other projects related to this bill. ODF will receive 25 percent of funds available from the CIF to be used for wildfire mitigation efforts.

ODF will hire one permanent full-time Operations and Policy Analyst 4 (0.50 FTE in 2019-21, 1.00 FTE in 2021-23) to begin working on forestry offset protocols. ODF also anticipates there will be contracting costs related to production of fiber supply impact reports required by this measure. The total cost of the new position, associated Services and Supplies, and contracting costs is estimated at $139,215 General Fund in 2019-21 and $248,429 General Fund in 2021-23.

ODF will need to request additional staff and funding in future biennia based on when CIF moneys are anticipated to be available.

This fiscal does not include any potential contracting costs for ODF, which are still being priced out.

Oregon Department of Transportation
ODOT will receive funds that flow to the TDIA. Of these funds, 10 percent will be used by ODOT and 90 percent will go to local governments. Local governments must report annually to ODOT on use of these funds, and ODOT will work jointly with the GGRB to hire a third-party auditor for funded projects. ODOT assumes that the State Highway Fund will be used to cover expenses until other revenue is generated from the sale of allowances, at which point the State Highway Fund will be reimbursed.

ODOT anticipates needing three permanent full-time Operations and Policy Analyst 4 (OPA 4) positions. One will be hired in 2019-21 (0.50 FTE in 2019-21, 1.00 FTE in 2021-23) to serve as the TDIA program manager. The other OPA 4 positions will be hired in 2021-23 (each 0.50 FTE in 2021-23) and will work on Project Labor Agreements. Total known expenditures related to the three OPA 4 positions are $127,517 Other Funds in 2019-21 and $510,074 Other Funds in 2021-23.

Additionally, ODOT is directed to work jointly with the Legislative Revenue Officer on a variety of studies that must be presented to the Legislative Assembly by September 15, 2022. This may require ODOT to hire outside consultants to supplement the work of existing ODOT economists, but the cost is indeterminate at this time.

ODOT anticipates that they will request additional staff and funding during the 2021-23 budget development cycle based on the outcome of rulemaking done around this bill and based on when TDIA funds are anticipated to be available.

ODOT has noted that some of the contracting requirements in the bill do not align with federal rules around preference in procurements. ODOT will not be able to follow these preference requirements for projects that receive federal funding.

Oregon Department of Agriculture
The Oregon Department of Agriculture (ODA) would hire a new temporary full-time NRS 3 (0.50 FTE) in 2019-21 at a total cost of $111,536 General Fund. This position will provide consultation and research about agricultural lands and industries for designation of Energy Intensive Trade Exposed entities and impacted communities, and research the viability of different offset projects. ODA also anticipates minimal Other Funds expenditures related to fuel standards.

Legislative Revenue Office
The Legislative Revenue Office (LRO) assumes a fiscal impact of $150,000 General Fund in both the 2019-21 and 2021-23 biennia. These funds would be used to contract with a third party to complete reports required by the bill. This is an initial estimate based on previous costs of contracting for studies.

Department of Justice
The Department of Justice (DOJ) anticipates that two new permanent, full-time positions (1.08 FTE in 2019-21, 0.54 FTE in 2021-23) will be needed to address various legal aspects of this measure Total expenses related to these positions and related Services and Supplies are estimated at $455,597 Other Funds in 2019-21, and $829,427 Other Funds in 2021-23. DOJ revenues are derived from charges to agencies, so a small amount of these funds could originate as General Fund, as DOJ will charge legal services costs to DAS and DEQ, as well as ODOT and PUC.

DOJ anticipates that DEQ will require the services of one new permanent full-time Senior Assistant Attorney General in DOJ's General Counsel - Natural Resources Section (0.63 FTE in 2019-21, 1.00 FTE in 2021-23) to advise on the OGGI. DEQ will be billed for these services.

DOJ anticipates that the PUC will require the services of one additional permanent full-time Senior Assistant Attorney General (0.47 FTE in 2019-21, 1.00 FTE in 2021-23) in DOJ's General Counsel - Business Activities Section to consult with PUC on new requirements for utilities under this measure. PUC will be billed for these services.

There is minimal fiscal impact for DOJ to provide DAS and ODOT with legal services related to development of labor, workforce, and contracting procedures that will be used for projects funded by the TDIA and CIF.

DOJ will require additional expenditure limitation and position authority as a result of this measure, but this is not reflected in the table at the beginning of this document in order to avoid double counting expenditures related to this measure.

Further analysis is needed of any additional legal costs related to the - 35 amendment.

Oregon Judicial Department
The Oregon Judicial Department (OJD) anticipates that the Court of Appeals will see a small number of additional cases related to administrative rulemaking, contested case hearings, and civil penalties, with minimal fiscal

impact; and that circuit courts will also see an increase in civil cases related to enforcement of the measure, as well as an increase in some felony cases, with minimal fiscal impact. This measure allows for direct review by the Supreme Court of four potential constitutional questions related to whether the revenue raised in relation to this bill can be considered a tax or excise. OJD anticipates that if cases are brought before the court, the cases will require staff time for case processing. Because the costs and number of potential cases are unknown, OJD currently foresees a minimal fiscal impact, but would need to return to the Emergency Board or a later legislative session if costs exceed currently allotted funding.

Other state agencies
The Higher Education Coordinating Commission (HECC), Department of Consumer and Business Services (DCBS), and Oregon Department of Energy (ODOE) have indeterminate fiscal impacts as a result of this bill.

HECC and OED are directed to consult with OGGR on the Just Transition Plan and Program. HECC anticipates this will have a fiscal impact, but the impact is unknown until more details about the Just Transition Plan are formulated.

DCBS is likely to have a minimal fiscal impact, but the fiscal impact will ultimately be determined based on rulemaking that needs to be done around what constitutes material compliance with Worker's Compensation Division coverage for contractors and who is authorized to do the rulemaking.

ODOE anticipates a minimal fiscal impact, with existing staff involved in rulemaking and research/analysis. However, there could be costs related to the site certificate amendment process if it is determined that certain work is not cost-recoverable as a result of this measure. ODOE also anticipates there could be potential legal costs related to the implementation of light bulb energy efficiency standards.

This fiscal does not include an analysis of the potential costs to the Oregon Parks and Recreation Department related to the Tree Planting Day program that is included in the - 35 amendment.

This fiscal does not include an analysis of the potential costs to LRO, OBDD and the Department of Revenue for the report on addressing barriers to capital investment by businesses in Oregon that is included in the - 35 amendment.

Cities and Counties
Cities and Counties anticipate a fiscal impact, but the full impact is indeterminate.

Cities and Counties will have the opportunity to receive state funding from the TDIA and CIF if they develop/adopt metropolitan climate plans. Creating these plans would require many cities and counties to hire additional staff or consultants. There will likely be additional costs related to development and administration of projects funded by these moneys.

Cities also report that there could be a fiscal impact as the increase in gas prices increases costs for use of city fleet vehicles. The League of Oregon Cities estimates that costs for fuel for fleet vehicles in certain impacted cities could increase by a combined $2.3 million annually. Cities also anticipate potential but indeterminate cost increases related to use of natural gas.

Of note, numerous state agencies could also see fuel cost increases, including DAS, ODOT, ODF, OSP, and other state agencies with fleet vehicles. Costs to state agencies as a result of fuel price increases are indeterminate.