

Oregon Department of **ENERGY**

2018 Legislative
Session Report



OREGON
DEPARTMENT OF
ENERGY

LEGISLATIVE SESSION REPORT – 2018

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Senate Bills – Passed

SCR 206 – Resolution Setting Deadlines of Measure Introduction

SCR 206 is a resolution that sets deadlines for the rules governing the 2019 process for drafting legislation. All requests to draft measures must be accompanied by a brief summary of the problem to be addressed, the proposed solution to the problem, and any other relevant information about the proposed measure.

The Senate and House of Representatives must adhere to the following schedule for the 2019 regular session of the Eightieth Legislative Assembly:

- Members and committees must submit requests for drafts of measures to be pre-session-filed to the Office of the Legislation Counsel no later than 5 p.m. on September 26, 2018.
- The Office of Legislation Counsel shall deliver drafts of measures to be pre-session-filed to the requestors no later than 5 p.m. on December 5, 2018.
- Requestors must submit drafts of measures to be pre-session-filed for introduction to the Senate Desk or the House Desk no later than 5 p.m. on December 21, 2018.

The President of the Senate, the House Interim Committee on Rules, and the Joint Interim Committee on Ways and Means are not subject to the resolution deadlines.

SB 1541 – Toxic Air Contaminant Emissions

SB 1541 authorizes the Environmental Quality Commission (EQC) to adopt a program and rules to reduce public health risks from toxic air contaminant emissions from individual stationary industrial and commercial sources. The measure also authorizes the EQC to establish a pilot program in one area of the state for evaluating and controlling public health risks associated with ambient concentrations of toxic air contaminants from multiple emission sources. DEQ is authorized to increase fees for air contamination sources to cover the costs of implementing the measure, with maximum limits set for expenditures to implement the measure.

Air toxics are air pollutants known or suspected to cause cancer or other serious health problems. Air toxics include diesel soot, benzene, polycyclic aromatic hydrocarbons (tar-like-by-products from auto exhaust and other sources), and metals including manganese, nickel, and lead.

SB 1542 – Regular Session Start Date

SB 1542 changes the start date for the “regular,” or odd-numbered year, Legislative Sessions. The bill states “the regular session of the Legislative Assembly shall be held at the capital of the state and shall commence: In the case of an odd-numbered year regular session, on the Tuesday after the holiday for Martin Luther King, Jr.’s Birthday.”

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The bill will start the 2019 session, and every session of odd-years that follow, on Tuesday following the MLK holiday. Currently, session starts on the first day of February, except if the first day is a Thursday, Friday, Saturday, or Sunday. Then it commences on the following Monday. For example, in 2018, the session began on February 5.

Article IV, section 10, of the Oregon Constitution provides the maximum length of the legislative sessions while allowing for the five-day extensions pursuant to a two-thirds vote. In odd-numbered years, the maximum is 160 days. With passage of Senate Bill 1542, the 2019 regular session of the Legislative Assembly will begin on January 22, 2019, with a presumptive constitutional end date of June 30, 2019.

House Bills – Passed

HB 4022 – State Owned or Operated Electric Vehicle Charging Stations

HB 4022 E modifies the statutes governing how state agencies may provide devices or facilities that the state agency installs, or has installed by a contractor, to deliver electricity to the public for electric motor vehicles. The measure removes the limitation currently imposed on the Department of Administrative Services to install EV chargers at no more than 10 locations during a biennium and on other agencies to install EV chargers at no more than five locations per biennium. The bill now authorizes DAS to install equipment in as many locations as are sufficient to meet demand, and requires DAS to establish criteria by rule to be used by state agencies to determine the appropriate number of EV chargers to install. If a state agency receives a grant to support installations, it may install more equipment than is determined by rule.

Agencies may establish and adjust prices for using devices or facilities, but pricing must recover to the maximum extent practicable the cost of operating and administering the devices or facilities. Prices may not exceed 110 percent of the average market price for delivering electricity to the public in the county in which the equipment is located, and state agencies must set a uniform price for the delivery of electricity at devices and facilities the state owns or controls. DAS will establish criteria and a specified methodology for agencies to use to calculate uniform pricing.

DAS is required to report to the Legislative Assembly not later than February 1, of 2019, 2021, and 2023 detailing state agency implementation of the authority granted by the measure.

HB 4063 E – Task Force on Autonomous Vehicles

HB 4063 establishes the Task Force on Autonomous Vehicles. The task force consists of 31 members appointed by the Senate President, the Speaker of the House, and the Director of the Department of Transportation. Six of the members appointed by the Director of Transportation will represent state agencies affected by the deployment of autonomous vehicles.

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The task force is charged with developing legislative recommendations for the 2019 Legislative Session addressing deployment of autonomous vehicles on highways. The proposed legislation must be consistent with federal law and guidelines and address licensing and registration, law enforcement and accident reporting, cybersecurity, and insurance liability. The task force may study and consider potential long-term effects of autonomous vehicle deployment to be addressed in future legislation, including land use, road and infrastructure design, public transit, workforce changes, or state responsibilities related to cybersecurity and privacy.

The task force is required to make two reports to the Legislative Assembly by September 15, 2018, on recommendations for legislation in 2019 addressing deployment of autonomous vehicles on the highways. The Task Force may also submit a report by September 15, 2019, which would include recommendations for legislation resulting from the study on long-term effects of autonomous vehicle deployment.

HB 5201 – Budget Reconciliation 2017-19 Biennium

HB 5201 is the 2018 legislative session omnibus budget reconciliation bill that adjusts the state budget for the 2017-19 biennium. This bill includes technical adjustments and actions recommended by the Interim Joint Committee on Ways and Means. As part of the adjustments, the Department of Energy received an additional limitation of \$402,655 in Other Funds revenue and \$42,762 in Federal Funds. These adjustments are expected to cover costs associated with compensation plan changes. The bill also allocated \$3 million General Fund to Oregon State University for the Northwest National Marine Renewable Energy Center and \$1.435 million General Fund to support a new Carbon Policy Office to be housed temporarily in the Department of Administrative Services. The new office will be staffed with four limited duration positions (2.73 FTE): the Governor’s Carbon Policy Advisor, a Climate Policy Manager, and support staff. The appropriation includes \$650,000 for studies examining the economic impacts of a cap and trade program on Oregon’s jobs and economy, leakage risk of emission-intensive and trade-exposed industries, and carbon sequestration.

Senate Bills – Failed

SB 1507 A – Clean Energy Jobs Bill

Note: SB 1507 A is substantially similar to HB 4001. The summary below describes both bills, calling differences between the two bills in bullet points.

The bill would have directed the Environmental Quality Commission (EQC) to adopt a program that established a cap on total anthropogenic greenhouse gas (GHG) emissions by covered entities and a market-based compliance mechanism (program) that enabled the state to pursue linkage agreements with other jurisdictions. The bill repealed statutory GHG emission reduction goals and required EQC to adopt a 2025 goal and 2035 and 2050 limits on statewide GHG emissions by rule. It also established program purposes to reduce GHG emissions consistent with statewide GHG emissions limits and to

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promote carbon sequestration, adaptation, and resilience by the state’s working lands, communities, and economy in the face of climate change and ocean acidification.

Program details: The bill required EQC to adopt an annual allowance budget starting in 2021, with a schedule for the budget to decrease by a pre-determined amount each year until 2050 to prevent exceeding emissions limits. It also directed EQC to designate certain entities that emit 25,000 metric tons of carbon dioxide equivalent (CO₂e) or more as covered entities subject to regulation. Exemptions included (1) methane emissions from landfills demonstrated to have been recaptured and used for renewable energy, (2) marine and aviation fuel, and (3) any fuel suppliers whose emissions are deemed to be *de minimus*.

- SB 1507 A (but not HB 4001) directed that emissions of fluorinated GHGs generated during semi-conductor and related device manufacturing would be exempt from regulation for the period beginning January 1, 2021, and ending December 31, 2025. SB 1507 A also exempted land disposal sites closed before the effective date of this bill, and cogeneration facilities owned or operated by a public university or by a hospital.

The bill modified authority of EQC to require by rule the registration and reporting of GHG-related information necessary to implement the program. Authorized EQC to adopt rules for the program, including for allowance allocation, offset projects and use of offset credits, auction administration (including floor price and reserve auctions), trading of compliance instruments, opt-in and general market entity participation, and compliance. Allowed for the adoption of a schedule of registration fees reasonably calculated not to exceed DEQ’s program administration costs. Directed EQC to require each covered entity to surrender to DEQ a quantity of compliance instruments equal to its obligation.

- SB 1507 A (but not HB 4001) allowed electric companies to comply by using a portion of free allowances that reflected their GHG emissions from coal-fired resources.

Required EQC to adopt rules for allocating allowances to emissions-intensive, trade-exposed (EITE) industries at no cost using an output-based benchmarking methodology. Directed DEQ to hire a third-party consultant to assist in designation of any other EITE processes. Required EITE allowance allocation to decline annually at a rate equal to the predetermined rate of decline for annual allowance budgets. Required EQC, by 2024 and once every three years after, to review rules to determine if an update was necessary to mitigate leakage or prevent over-allocation beyond that necessary to mitigate leakage.

- SB 1507 A (but not HB 4001) specified that entities engaged in one or more of the processes described by one of 17 codes in the North American Industry Classification System shall receive allowances from the state at no cost.

Authorized the EQC to allow verified offset credits to cover a percentage* of an entity’s compliance obligation per period, at least half of which provided direct environmental benefits in the state. Established a compliance offsets protocol advisory committee to aid and advise the EQC in adopting and updating rules governing offset projects and covered entities’ use of offset credits.

- *SB 1507 A set the percentage at eight percent, while HB 4001 set it at four percent.

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Oversight: Established Joint Legislative Committee on Climate (JLCC) to provide general legislative oversight of policy related to climate, including programs, and to examine and make recommendations to the Joint Legislative Committee on Ways and Means on expenditures and investment of state auction proceeds. Required JLCC to consider recommendations of PAC, Oregon Global Warming Commission, Oregon Climate Change Research Institute, and Environmental Justice Task Force when developing recommendations.

Stakeholder Input: Established 21-member Program Advisory Committee (PAC) appointed by the Governor to advise the Governor, DEQ, EQC, and other relevant state agencies on rule development and implementation and the expenditure and investment of state auction proceeds.

Investments of Program Proceeds: Required electric companies and natural gas utilities to use proceeds within their service territories to benefit low-income residential customers, including tenants, (prioritizing bill assistance, weatherization, and energy efficiency measures), and then all other customers, including residential, small commercial, and energy-intensive industrial customers that are not EITEs. Required COUs that choose to participate in auctions to use any proceeds for the benefit of their ratepayers, consistent with program purposes and as further required by the COU board. No later than September 15 of each even-numbered year, required COU board to submit a report to JLCC on the uses of the allowances and auction proceeds. Established Auction Proceeds Distribution Account consisting of proceeds from auction of non-consigned allowances that are transferred as follows: all revenues described in Article IX, section 3a of the Oregon Constitution to Transportation Decarbonization Investment Account; 85 percent of remaining moneys to Climate Investments Fund; and the remaining 15 percent to Just Transition Fund.

- SB 1507 A (but not HB 4001) specified that moneys found to constitute revenues described in Article VIII, section 2 (1)(g), of the Oregon Constitution, go to the Common School Fund.

Established the Climate Investments Fund and restricted use of moneys to projects, programs, and activities that further program purposes. Required EQC, after consultation with experts and other entities, to designate impacted communities by census tract based on methodology that considers geographic, socioeconomic, historical disadvantage, public health, and environmental hazard criteria. Directed Legislature to allocate money as follows:

- HB 4001 allocated 60 percent to benefit or be geographically located in impacted communities; of this, at least 33 percent for rural impacted communities. SB 1507-A specifically allocated 10 percent to benefit Indian tribes and 50 percent for impacted communities (with 33 percent rural).
- Both HB 4001 and SB 1507-A allocated 20 percent to investments in natural and working lands; and 20 percent to any project, program, or activity that furthers program purposes.

Created a fund (HB 4001) or account within the State Highway Fund (SB 1507-A) for Transportation Decarbonization Investments, of which at least 60 percent was intended to benefit impacted communities. SB 1507 A directed the Oregon Transportation Commission (OTC) to submit a biennial transportation decarbonization proposal with a list of recommended projects to JLCC and the Legislature as part of the Governor's recommended budget. Established the Just Transition Fund, through which \$2.5 million

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would have been reserved for direct financial support for workers dislocated or adversely affected by climate change or climate policies. The remainder was slated for a Just Transition Program for training and retraining in clean energy jobs, administered by the Higher Education Coordinating Commission.

HB 4001 declared an emergency, effective on passage. SB 1507-A made the act effective on the 91st day after the date on which 2018 regular legislative session adjourned.

SB 1509 – Commercial Vehicle Idling

SB 1509 would have made changes to the statutes governing vehicle idling. The bill repealed the preemption of local regulation of idling. Idling restrictions for commercial vehicles were changed to apply only to those vehicles with a gross vehicle weight over 26,000 pounds. Vehicle idling restrictions were removed for vehicles with 2008 or newer diesel engines and specific manufacturer certification.

SB 1519 A – Oregon Energy Commission

SB 1519 A made extensive changes to ORS 469.010, .030, and .040, which impact the Legislative findings and declarations around energy policy for the state of Oregon; created a new 10-member Oregon Energy Commission with six voting members and four nonvoting members; extensively modified the general duties of the State Department of Energy, creating the department under the Commission; and significantly modified the role of the Director for the State Department of Energy.

The bill required ODOE to develop a Statewide Strategic Energy Plan to implement the energy policies stated in the bill. The commission was required to periodically review and revise the plan with adoption of an initial plan by January 1, 2021. ODOE was required to produce a draft plan to submit to the Legislature by September 15, 2020.

SB 1519 A reduced the Energy Supplier Assessment under ORS 469.421 from 0.375 percent of an energy supplier's gross operating revenue derived within the state to 0.15 percent, and exempted from payment any individual energy resource supplier assessment whose calculated share was less than \$2500.

The bill transferred all powers, duties, and functions of the Small Scale Local Energy Program to Oregon Business and Development Department. The bill also moved the fund account and the tax credit revenue for the Renewable Energy Development program to OBDD, along with the authority to sell tax credits, which had previously sunset December 31, 2017. The bill did not reauthorize the expired authority, and required ODOE to work in consultation with OBDD to report findings to the Legislature on costs associated with managing the loan portfolio. It transferred the Clean Energy Deployment Program and the Clean Energy Deployment Fund to OBDD, and repealed the Energy Efficiency and Sustainable Technical Loan Program in ORS 470.500-470.720. The bill also repealed other statutes related to EEAST in ORS 701.108 (Failure to comply with prevailing wage rate or other wage and hour standards for energy efficiency and sustainable technology projects) and 701.119 (Certification to participate in small scale local energy project program). Under the measure, the Small Scale Local Energy Program Advisory Committee would have remained intact; however, members would have been appointed by the OBDD

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director. The bill would have appropriated General Funds to OBDD, beginning July 1, 2019, in an unspecified amount, for the purpose of carrying out the provisions for a transfer of SELP.

No later than September 15, 2019, SB 1519 A would have required ODOE to study and prepare a report detailing the department's recommendations for restructuring the department to focus only on ORS 469.010.

SB 1537 – Oregon Energy Commission

SB 1537 was very similar in many respects to SB 1519 A, and in fact SB 1519 was amended to incorporate much of SB 1537 into the measure. SB 1537 did not contain any components dealing with the Energy Supplier Assessment, the Small Scale Local Energy Loan Program or require the Department of Energy to recommend restructuring the department. It created an Oregon Energy Commission that had broad authority over the department and the director, made extensive changes to the Legislative findings and declarations found under ORS 469.010, and refocused energy policy in Oregon. It also required ODOE to adopt a strategic energy plan.

House Bills – Failed

HB 4001 – Clean Energy Jobs Bill

Please see SB 1507 A for a full explanation of what this measure did and the differences between the two carbon cap and investment measures.

HB 4003 A – Clean Diesel Provisions

HB 4003 would have created new regulations, programs, and fees around diesel engine emissions. The provisions created would have applied to state agencies or specified local contracting agencies for public improvement contracts with a value of \$2 million or more and for which state funds constituted 30 percent or more of the value of the contract. The bill required a public contract reserve of one percent of the total contract price for the purpose of performing qualifying replacement, repowers, or retrofits of diesel engines.

The bill further required operators of non-road diesel engines to register with the Department of Environmental Quality. The DEQ was required to provide a register for non-road diesel engines and collect registration fees from owner/operators. Fees collected would have been deposited into the Clean Diesel Fund.

The bill required the Environmental Quality Commission to establish diesel engine emission standards by rule and set out specific requirements for standards. The rules emission standards would apply to medium-duty trucks and heavy-duty trucks, but not farm registered vehicles.

HB 4003 would have expanded the uses of the Environmental Mitigation Trust Agreement Funds to include drayage and delivery trucks, transit buses, vehicles owned and operated by local governments,

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and airport group support vehicles if they were powered by diesel engines. Grants from the fund could have been used to reduce nitrogen oxides emissions from diesel engines.

The bill would have repealed the state preemption of local regulation of idling by primary engines in commercial vehicles under ORS 825.615.

HB 4109 – Carbon Sequestration Study

HB 4109 directed the Department of Environmental Quality (DEQ) and the State Forestry Department (ODF) to coordinate to conduct a study on opportunities for state actions to promote carbon sequestration for purposes of reducing greenhouse gas emissions, which would have included consideration of regional approaches other than adopting or participating in a greenhouse gas cap-and-trade system. HB 4109 referenced definitions of greenhouse gas and greenhouse gas cap-and-trade system in ORS 468A.210.

The study would have evaluated opportunities that included, but weren't limited to:

- Opportunities for providing incentives to industries to engage in carbon sequestration and other activities to store carbon, including but not limited to opportunities for providing tax incentives or tax credits to electric companies, natural gas utilities, transportation industry entities, and other industries for reducing greenhouse gas emissions and engaging in carbon capture and carbon sequestration efforts, to be used for job creation or carbon capture and carbon sequestration projects.
- Other opportunities for capitalizing on carbon sequestration methods, such as natural ecosystems carbon sequestration and carbon capture and storage technologies and other industrial carbon sequestration methods, to store carbon while also promoting economic development and long-term job creation in this state within the market sectors engaged in carbon sequestration efforts.

HB 4109 directed DEQ and ODF to submit their report, which may have included recommendations for legislation, to the legislature no later than September 15, 2019.

HB 4121 A – Efficiency Incentive Program

HB 4121 A would have developed an incentive program, operated by the Oregon Housing and Community Services Department, to give incentives for “energy improvement projects” on residential structures and manufactured homes. Energy improvement projects would have included projects that:

- reduce energy requirements for a residential structure through conservation, weatherization or increased efficiency;
- replace or extend the economic life of a manufactured dwelling;
- generate solar energy for a residential structure; or
- create all or part of a solar generation system for a community.

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The purpose of the measure was to protect jobs and Oregon’s “strategic capacity in the residential energy efficiency and solar industries;” enable broad, equitable access to energy improvement projects; and increase health, safety and energy efficiency in affordable housing.

OHCS was directed by the measure to establish and administer a program that would have provided incentive payments to contactors completing energy projects. The bill provided direction on the development of payment rate structures and stated that no incentives would have been paid to property owners with a federally adjusted gross income over \$187,000, unless the owner was a nonprofit or the property was affordable housing.

HB 4121 A would have required contractors to apply the full incentive payment toward reducing the amount owed by the property owner. Maximum incentive amounts were set at \$4,500 for energy improvements in a single-family residence; \$4,500 per unit, up to \$45,000 per structure for energy improvements in a multifamily structure; and \$4,500 per unit during the 2018 calendar year; \$3,000 per unit during 2019; and \$2,000 during calendar years 2020 and 2021 for solar generation under an energy improvement project.

The bill did not specify a source of funding for the projects or an amount for the biennium ending in 2019. However, the bill designated program funding to maximize energy efficiency, extend usable life and improve health and safety for occupants of affordable housing. At least 25 percent of the funding for the program was to be allocated for evaluating and preventing health hazards in affordable housing and grants to replace or extend the useful life of manufactured dwellings owned or occupied by persons of low or very low income with preferences for dwellings constructed prior to June 15, 1976.

The program would have been repealed January 2, 2022.

[HB 4148 – Oregon Energy Board](#)

HB 4148 established an Oregon Energy Board that was described as creating “close correspondence, transparency, and accountability among the State Department of Energy’s policies and programs, the public interest, and energy users in this state.”

The board would have been appointed by the Governor, confirmed by the Senate, and made up of seven members. ODOE’s director and one member of the Pacific Northwest Electric Power and Conservation Planning Council would have served as nonvoting, ex officio members of the board.

Board members were to be residents of the state, well-informed in energy and climate issues and reflecting a diverse range of experiences. The bill authorized the Governor to appoint up to two individuals with pecuniary interests, including anyone who had any contract of employment with, or any substantial voluntary transactions with, a business entity conducting operations that, if conducted within the state, would be subject to the energy supplier assessment imposed under ORS 469.421(8).

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Duties of the Board included developing a statewide strategic energy plan, consistent with the plan the board would have advised and made recommendations to ODOE on the department's proposals related to:

- Planning, policy and technical analysis
- Legislative concepts
- Department's request budget (ARB)

The Director, through the chairperson, was authorized to review with the board the activities of the department and subject to policy direction by the board, and to outline the methods, policies, and program work for the department.

The board would have received regular reports from the Energy Facility Siting Council and the Oregon Hanford Board. Public hearings were required to provide an opportunity for public comment in carrying out the board's activities.

As it related to ORS 469.030, the duties of the Department of Energy, the department would have been subject to the policy direction of the Oregon Energy Board, and in furtherance of the energy policies stated in ORS 469.010 and 469.310 (these statutes cover energy, conservation programs, and energy facilities), which maintained the statutory duties and responsibilities of the department with the addition of a new mandate to provide staff support for the Oregon Energy Board, and codified in statute staff support for the Oregon Global Warming Commission, the Hanford Cleanup Board, and EFSC.

The bill added the members of the Oregon Energy Board to the list of persons and state officers who must file a verified statement of economic interest with the Oregon Government Ethics Commission each year on or before April 15.