

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1389

By: Boren

AS INTRODUCED

An Act relating to the Corporation Commission; creating the Greenhouse Gas Cap and Invest Program; defining terms; directing rule promulgation; establishing terms of the Program; directing air quality study; providing certain exempted emissions; establishing Program requirements to commence by certain date; establishing Program participants; directing maintenance of public roster; providing for auction process; establishing emissions containment reserve; providing for carbon offset credits and projects; creating the Greenhouse Gas Cap and Invest Program Revolving Fund; stating fund purpose; establishing source of funds; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 803.1 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. 1. There is hereby established within the Corporation Commission the "Greenhouse Gas Cap and Invest Program".

2. The Commission shall promulgate rules, regulations, and any other provisions deemed necessary to effectuate the provisions of this act.

1 B. As used in this act:

2 1. "Allowance" means an authorization to emit up to one metric
3 ton of carbon dioxide equivalent;

4 2. "Allowance price containment reserve" means an account
5 maintained by the Corporation Commission with allowances available
6 for sale through separate reserve auctions at predefined prices to
7 assist in containing compliance costs for Greenhouse Gas Cap and
8 Invest Program participants in the event of unanticipated high costs
9 for compliance instruments;

10 3. "Annual allowance budget" means the total number of
11 greenhouse gas allowances allocated for auction and distribution for
12 one calendar year by the Commission;

13 4. "Compliance instrument" means an allowance or offset credit
14 issued by the Commission. One compliance instrument is equal to one
15 metric ton of carbon dioxide equivalent;

16 5. "Compliance obligation" means the requirement to submit to
17 the department the number of compliance instruments equivalent to a
18 participant's covered emissions during the compliance period;

19 6. "Emissions containment reserve allowance" means a
20 conditional allowance that is withheld from sale at an auction by
21 the Commission or its agent to secure additional emissions
22 reductions in the event prices fall below the emissions containment
23 reserve trigger price;

1 7. "Greenhouse gas emissions" means emissions from any gas
2 capable of absorbing infrared radiation emitted from Earth's
3 surface;

4 8. "Offset credit" means a tradable compliance instrument that
5 represents an emissions reduction or emissions removal of one metric
6 ton of carbon dioxide equivalent;

7 9. "Offset project" means a project that reduces or removes
8 greenhouse gases that are not covered emissions under this act; and

9 10. "Participant" means an entity that is licensed, approved,
10 or otherwise under the jurisdiction of the Commission that emits
11 greenhouse gas emissions, or any other company or business in this
12 state that wishes to participate in the Program.

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 803.2 of Title 17, unless there
15 is created a duplication in numbering, reads as follows:

16 A. 1. The Corporation Commission shall, in coordination with
17 the Department of Environmental Quality, conduct an air quality
18 study for each county in this state to identify and quantify
19 greenhouse gas emissions and subsequently develop a list of high-
20 priority emissions to be reduced.

21 2. The Commission, following the completion of the study under
22 this subsection, shall establish provisions within the Greenhouse
23 Gas Cap and Invest Program to track, verify, and enforce compliance
24 of the cap on participants.

1 3. The following emissions shall be exempt from the study and
2 any subsequent emissions reporting requirements:

- 3 a. emissions from the combustion of aviation fuels,
- 4 b. carbon dioxide emissions from the combustion of
5 biomass or biofuels,
- 6 c. motor vehicle fuel or special fuel that is used
7 exclusively for agricultural purposes by a farm fuel
8 user,
- 9 d. emissions from facilities with North American Industry
10 Classification System (NAICS) code 92811, and
- 11 e. emissions from municipal solid waste landfills.

12 B. The Program shall consist of:

- 13 1. An annual allowance budget that limits emissions from
14 participants within the Program;
- 15 2. Price containment provisions, such as a floor and ceiling
16 for allowances auctioned under this Program;
- 17 3. Providing for offset credits as a means for meeting
18 compliance obligations;
- 19 4. Auction processes as established pursuant to this act;
- 20 5. Creating a climate investment account for the deposit of
21 receipts from the distribution of emission allowances; and
- 22 6. Any other provisions deemed necessary to implement the
23 Program.

1 C. The Commission shall commence the Program by January 1,
2 2026, by determining an emissions baseline establishing the
3 proportionate share that the total greenhouse gas emissions of
4 entities bears to the total anthropogenic greenhouse gas emissions
5 in the state. The allowance budget shall be set annually not later
6 than December 1 of the preceding year for the upcoming calendar
7 year.

8 D. Program participants shall consist of all entities which are
9 licensed or under the jurisdiction of the Corporation Commission,
10 and any other voluntary persons, facilities, or companies that
11 choose to opt in. Program participants shall disclose any other
12 entities or opt-in participants that the participant has a legal
13 affiliation with or financial interest in.

14 E. The Commission shall use a secure, online electronic
15 tracking system to register entities into the Program, track
16 emission allowance usage, and support market oversight.

17 F. The Commission shall maintain a public roster of all
18 participants in the Program on a publicly available website.

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 803.3 of Title 17, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The Greenhouse Gas Cap and Invest Program shall include the
23 provision of the following accounts for each participant:
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1 1. A compliance account where compliance instruments are
2 transferred to the Corporation Commission for retirement; and

3 2. A holding account that is used when a participant is
4 interested in trading allowances. Allowances in holding accounts
5 may be bought, sold, transferred, or traded.

6 B. 1. The Commission shall hold four (4) auctions annually.
7 Allowances to be included within the auction shall be set by the
8 Commission. The Department shall engage a qualified independent
9 contractor to run auctions subject to the competitive bidding
10 procedures provided by law.

11 2. Auctions may be open to all participants of the Program that
12 are in good standing. The Commission shall establish registration
13 requirements. An entity may only participate in an auction after
14 receiving notice of approval by the Commission.

15 3. The Commission may require a bid guarantee in an amount
16 greater than or equal to the sum of the maximum value of the bids to
17 be submitted.

18 4. The Commission may set requirements or limitations on
19 participant purchases within a given auction.

20 C. Upon completion and verification of auction results, the
21 Commission shall notify winning bidders and transfer the auction
22 proceeds to the Greenhouse Gas Cap and Invest Program Revolving
23 Fund.

1 D. The Commission shall promulgate rules to guard against
2 bidding collusion and minimize the potential for market
3 manipulation.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 803.4 of Title 17, unless there
6 is created a duplication in numbering, reads as follows:

7 To ensure that the price of allowances remains sufficient to
8 incentivize reductions in greenhouse gas emissions, the Corporation
9 Commission shall establish an emissions containment reserve and set
10 an emissions containment reserve trigger price. The price shall be
11 set at a reasonable amount above the auction floor price. In the
12 event that the emissions containment reserve trigger price is met
13 during an auction, the Commission shall automatically withhold
14 allowances as needed. The Commission shall convert and transfer any
15 allowances that have been withheld from auction into the emissions
16 containment reserve account. Emissions containment reserve
17 allowances may only be withheld from an auction if the demand for
18 allowances would result in an auction clearing price that is less
19 than the emissions containment trigger price.

20 SECTION 5. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 803.5 of Title 17, unless there
22 is created a duplication in numbering, reads as follows:

23 The Corporation Commission shall promulgate rules and protocol
24 for offset projects and securing offset credits that may be used to

1 meet a portion of a Greenhouse Gas Cap and Invest Program
2 participant's compliance obligation.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 803.6 of Title 17, unless there
5 is created a duplication in numbering, reads as follows:

6 There is hereby created in the State Treasury a revolving fund
7 for the Corporation Commission to be designated the "Greenhouse Gas
8 Cap and Invest Program Revolving Fund". The fund shall be a
9 continuing fund, not subject to fiscal year limitations, and shall
10 consist of all monies received by the Commission from auction sales
11 provided for in this act. All monies accruing to the credit of the
12 fund are hereby appropriated and may be budgeted and expended by the
13 Commission for the purpose provided for in this act. Expenditures
14 from the fund shall be made upon warrants issued by the State
15 Treasurer against claims filed as prescribed by law with the
16 Director of the Office of Management and Enterprise Services for
17 approval and payment.

18 SECTION 7. This act shall become effective November 1, 2024.
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