

D R A F T

SUMMARY

Imposes fee on fossil fuel or fossil fuel-generated electricity to be paid by vendors. Directs Public Utility Commission to calculate vendors' carbon emissions rate and provide assessments to vendors.

Establishes Pollution Refund Credit Trust Fund.

Distributes moneys collected from fee to personal income taxpayers and their dependents in equal shares.

Appropriates moneys from General Fund to Department of Revenue and commission for purpose of funding first year of administration of fee.

Applies to fossil fuels sold to consumers or used to produce electricity on or after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to climate protection; prescribing an effective date; and providing
3 for revenue raising that requires approval by a three-fifths majority.

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

5 **SECTION 1. Sections 2 to 7 of this 2015 Act shall be known and may**
6 **be cited as the Oregon Climate Protection Act.**

7 **SECTION 2. The Legislative Assembly finds that:**

8 **(1) Enacting the provisions proposed in sections 2 to 7 of this 2015**
9 **Act will benefit the economy, human health and the environment by**
10 **correcting market distortions, reducing greenhouse gas pollutants and**
11 **reducing Oregon's dependence on imported natural resources.**

12 **(2) Phased-in carbon fees on greenhouse gas emissions will:**

13 **(a) Be the most efficient, transparent and enforceable mechanism**
14 **to drive an effective and fair transition to a domestic energy economy;**

15 **(b) Stimulate investment in alternative energy technologies; and**

1 (c) Provide all businesses powerful incentives to increase energy
2 efficiency and reduce carbon footprints in order to remain competitive.

3 (3) The distribution of equal credits or refunds to every taxpayer
4 and dependent in this state will help ensure that families and individ-
5 uals can afford the energy they need during the transition to a
6 greenhouse gas-free economy.

7 **SECTION 3. As used in sections 2 to 7 of this 2015 Act:**

8 (1) “Bulk transfer” means any change in ownership of fuel con-
9 tained in a terminal storage facility or any physical movement of fuel
10 between terminal storage facilities by pipeline or marine transport.

11 (2) “First sale, use or distribution” means the first withdrawal,
12 other than by bulk transfer, of fuel from terminal storage facilities for
13 sale, use or distribution in this state. “First sale, use or
14 distribution” also means the first sale, use or distribution of motor
15 vehicle fuel or aircraft fuel after import into this state if the motor
16 vehicle fuel or aircraft fuel is delivered other than to the terminal
17 storage facilities of a licensed dealer.

18 (3) “Fossil fuel” means coal, natural gas, petroleum products and
19 any other product used for fuel that contains carbon and emits carbon
20 dioxide when combusted. “Fossil fuel” does not include any product
21 used for fuel that was embedded with chemical energy fewer than 1,000
22 years ago.

23 (4) “Fossil fuel-generated electricity” means electric energy gener-
24 ated by combustion of fossils fuels that release carbon emissions into
25 the atmosphere.

26 (5) “Fuel supplier” means a person that sells fossil fuel to consum-
27 ers.

28 (6) “Liquid fuel” includes aviation gas, butane, gasoline, jet fuel,
29 kerosene, diesel fuel and propane.

30 (7) “Utility” means a public utility operating under ORS chapter
31 757, a people’s utility district operating under ORS chapter 261, a mu-

1 **municipal utility operating under ORS chapter 225 or any other entity**
2 **that supplies fossil fuel-generated electricity to consumers.**

3 **(8) “Vendor” includes utilities, energy service providers and whole-**
4 **salers.**

5 **SECTION 4. (1) A fee is imposed on all fossil fuels and fossil fuel-**
6 **generated electricity at the equivalent rate of \$30 per metric ton of**
7 **carbon dioxide emissions. Fees shall be collected at the first sale, use**
8 **or distribution of each unit of fuel or each carbon emission.**

9 **(2) The fee for liquid fuel shall be collected at the first point that**
10 **retailers purchase wholesale quantities in this state.**

11 **(3) Fees for fossil fuel-generated electricity shall be paid by all**
12 **utilities, energy service providers and any other vendor of electricity**
13 **inside this state.**

14 **(4) If a fee is collected from a wholesaler of electricity in this state,**
15 **the wholesaler’s customers may not be assessed a second fee when**
16 **they sell to their own customers.**

17 **(5) On January 1 of each year, beginning in 2017, the fees imposed**
18 **under this section shall be annually increased as follows:**

19 **(a) The fee shall be increased by \$10 per ton of carbon dioxide**
20 **emissions; and**

21 **(b) The Department of Revenue shall additionally adjust the fee**
22 **according to the cost-of-living adjustment for the calendar year. The**
23 **department shall make the adjustment by multiplying the increased**
24 **rate specified in paragraph (a) of this subsection by the percentage (if**
25 **any) by which the monthly averaged U.S. City Average Consumer**
26 **Price Index for the 12 consecutive months ending August 31 of the**
27 **prior calendar year exceeds the monthly averaged U.S. City Average**
28 **Consumer Price Index for the 12 consecutive months ending August**
29 **31, 2015. As used in this paragraph, “U.S. City Average Consumer**
30 **Price Index” means the U.S. City Average Consumer Price Index for**
31 **All Urban Consumers (All Items) as published by the Bureau of Labor**

1 **Statistics of the United States Department of Labor.**

2 **(6) The fee imposed under this section does not apply to carbon-**
3 **based fuel or carbon-generated electricity that this state is prohibited**
4 **from taxing under the Constitution or laws of the United States or the**
5 **Constitution or laws of the State of Oregon.**

6 **SECTION 5. (1) On or before the last day of each month, all vendors**
7 **shall make a report to the Public Utility Commission. The report shall**
8 **include the vendor's total carbon dioxide emissions for the prior**
9 **month.**

10 **(2) All vendors of electricity shall report carbon dioxide emissions**
11 **to the commission, whether generated directly from that vendor's ac-**
12 **tivities or by a third party selling electricity to the vendor. The report**
13 **shall include:**

14 **(a) The vendor's total carbon dioxide emissions related to gener-**
15 **ation, in metric tons, the vendor's total electricity sold to all cus-**
16 **tomers, in millions of Btu, and the vendor's total electricity sold in**
17 **this state, in millions of Btu.**

18 **(b) The vendor's total carbon dioxide emissions from any mode of**
19 **electricity generation in any state.**

20 **(3) The commission shall exclude fees paid by utilities in compliance**
21 **with sections 2 to 7 of this 2015 Act from the total assessment of their**
22 **costs, such that the fees cannot be used to justify an increase in**
23 **consumers' bills to allow the utilities to meet their guaranteed rate**
24 **of return.**

25 **(4) The commission shall calculate each electricity vendor's carbon**
26 **emission rate, defined by the metric tons of carbon emitted divided by**
27 **its total electricity generated over the month. The rate shall be**
28 **multiplied by the carbon emissions allocable to this state in the ratio**
29 **of carbon emissions in this state to carbon emissions everywhere.**

30 **(5) Fees imposed under section 4 of this 2015 Act shall be collected**
31 **on an annual basis.**

1 (6) On or before January 31 of each year, the Department of Reve-
2 nue shall send to each fuel supplier and utility an assessment that
3 identifies the liability of the vendor for the prior calendar year for the
4 fee imposed under section 4 of this 2015 Act.

5 (7) On or before March 31 of each year, each fuel supplier and util-
6 ity that receives an assessment under subsection (6) of this section
7 shall pay the amount of the fee that is due to the department.

8 (8) The provisions of ORS 314.400 apply to a person who fails to file
9 a report required under this section or fails to pay a fee at the time
10 the fee becomes due.

11 (9) If the amount paid by the fuel supplier or utility under sub-
12 section (7) of this section exceeds the amount of fee payable, the de-
13 partment shall refund the amount of the excess with interest at the
14 rate established under ORS 305.220 for payment of refunds for each
15 month or fraction of a month from the date of payment of the excess
16 until the date of the refund. A refund is not available to a fuel supplier
17 or utility that fails to claim the refund within two years after the due
18 date for the filing of the return with respect to which the claim for
19 refund relates.

20 (10) If a fuel supplier or utility fails to pay the fee assessed against
21 it under subsection (6) of this section, the department may enforce
22 collection by the issuance of a distraint warrant for the collection of
23 the delinquent amount and all penalties, interest and collection
24 charges. The warrant shall be issued, docketed and proceeded upon in
25 the same manner and shall have the same force and effect as is pre-
26 scribed with respect to warrants for the collection of delinquent in-
27 come taxes.

28 SECTION 6. (1) Moneys received by the Department of Revenue
29 pursuant to the fee imposed under section 4 of this 2015 Act shall be
30 deposited in a suspense account created pursuant to ORS 293.445. After
31 the payment of costs for the implementation and enforcement of

1 sections 2 to 7 of this 2015 Act and repayment of any funds borrowed
2 to initiate implementation and enforcement of sections 2 to 7 of this
3 2015 Act, moneys in that account shall be transferred to the Pollution
4 Refund Credit Trust Fund established in section 7 of this 2015 Act.

5 (2) On or after September 1, but not later than September 30, of
6 each year, all but \$50 million of the Pollution Refund Credit Trust
7 Fund shall be distributed in equal shares to all persons who are:

8 (a) Taxpayers who filed an Oregon personal income tax return for
9 the immediately preceding tax year; or

10 (b) Dependents, residing in this state, claimed by taxpayers who
11 filed on Oregon personal income tax return for the immediately pre-
12 ceding tax year.

13 (3) Distributions required under this section shall be issued in the
14 same manner as refunds made under ORS 314.415.

15 SECTION 7. The Pollution Refund Credit Trust Fund is established
16 in the State Treasury, separate and distinct from the General Fund.
17 Interest earned by the Pollution Refund Credit Trust Fund shall be
18 credited to the fund. Moneys in the fund are continuously appropriated
19 to the Department of Revenue for the payment of distributions as
20 provided in section 6 of this 2015 Act.

21 SECTION 8. (1) In addition to and not in lieu of any other appro-
22 priation, there is appropriated to the Department of Revenue, for the
23 biennium beginning July 1, 2015, out of the General Fund, the amount
24 of \$_____, which may be expended for the purpose of funding the first
25 year of administration of the fee imposed under section 4 of this 2015
26 Act.

27 (2) In addition to and not in lieu of any other appropriation, there
28 is appropriated to the Public Utility Commission, for the biennium
29 beginning July 1, 2015, out of the General Fund, the amount of
30 \$_____, which may be expended for the purpose of assisting the Public
31 Utility Commission in administering the first year of the fee imposed

1 **under section 4 of this 2015 Act.**

2 **SECTION 9. Sections 2 to 7 of this 2015 Act apply to fossil fuels sold**
3 **to consumers in this state or used to produce electricity that is sup-**
4 **plied to consumers in this state on or after January 1, 2016.**

5 **SECTION 10. This 2015 Act takes effect on the 91st day after the**
6 **date on which the 2015 regular session of the Seventy-eighth Legisla-**
7 **tive Assembly adjourns sine die.**

8
