

A-Engrossed
House Bill 2092

Ordered by the House April 21
Including House Amendments dated April 21

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates tax credit for contributions to Zero-Emission Incentive Fund. Directs Department of Revenue, in cooperation with Director of State Department of Energy, to conduct auction of tax credits.

Creates Charge Ahead Oregon program for purpose of increasing use of electric and battery-operated vehicles in Oregon.

Establishes Zero-Emission Incentive Fund and requires that auction proceeds be deposited in fund for purpose of making rebates to purchasers of alternative fuel vehicles or zero-emission vehicles. Provides for payment of rebates from fund and for administration of rebate program by Director of State Department of Energy. Limits amount of credits and corresponding rebates to [*\$30 million*] \$_____ for any biennium.

Applies to tax years beginning on or after January 1, [*2016*] **2015**, and before January 1, 2022, and to applications for rebates submitted after July 1, [*2015*] **2016**.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a tax credit for contributions; and prescribing an effective date.

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

4 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 315.**

5 **SECTION 2. (1) A credit against the taxes otherwise due under ORS chapter 316 or, if the**
6 **taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified**
7 **contributions made by the taxpayer during the tax year to the Zero-Emission Incentive Fund**
8 **established under section 7 of this 2015 Act.**

9 **(2)(a) The Department of Revenue shall, in cooperation with the Director of the State**
10 **Department of Energy, conduct an auction of tax credits under this section. The department**
11 **may conduct the auction in the manner that the department determines is best suited to**
12 **maximize the return to the state on the sale of tax credit certifications and shall announce**
13 **a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent**
14 **of the total amount of the tax credit. Moneys necessary to reimburse the department for the**
15 **actual costs incurred by the department in administering an auction, not to exceed 0.25**
16 **percent of auction proceeds, are continuously appropriated to the department. The depart-**
17 **ment shall deposit net receipts from the auction required under this section in the Zero-**
18 **Emission Incentive Fund.**

19 **(b) The Director of the State Department of Energy may adopt rules in order to achieve**
20 **the following goals:**

21 **(A) Subject to paragraph (a) of this subsection, to generate contributions for which tax**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 credits of \$_____ are certified for each fiscal year;

2 (B) To maximize income and excise tax revenues that are retained by the State of Oregon
3 for state operations; and

4 (C) To provide the necessary financial incentives for taxpayers to make contributions,
5 taking into consideration the impact of granting a credit upon a taxpayer's federal income
6 tax liability.

7 (3) Contributions made under this section shall be deposited in the Zero-Emission In-
8 centive Fund.

9 (4)(a) Upon receipt of a contribution, the Director of the State Department of Energy
10 shall issue to the taxpayer written certification of the amount certified for tax credit under
11 this section to the extent the amount certified for tax credit, when added to all amounts
12 previously certified for tax credit under this section, does not exceed \$_____ for the fiscal
13 year in which certification is made.

14 (b) The Director of the State Department of Energy is not liable, and a refund of a con-
15 tributed amount need not be made, if a taxpayer who has received tax credit certification is
16 unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

17 (5) To the extent the director does not certify contributed amounts as eligible for a tax
18 credit under this section, the taxpayer may request a refund of the amount the taxpayer
19 contributed, and the officer shall refund that amount.

20 (6)(a) A tax credit claimed under this section may not exceed the tax liability of the
21 taxpayer and may not be carried over to another tax year.

22 (b) A taxpayer is not eligible for a tax credit under this section if the first tax year for
23 which the credit would otherwise be allowed begins on or after January 1, 2022.

24 (7) If a tax credit is claimed under this section by a nonresident or part-year resident
25 taxpayer, the amount shall be allowed without proration under ORS 316.117.

26 (8) If the amount of contribution for which a tax credit certification is made is allowed
27 as a deduction for federal tax purposes, the amount of the contribution shall be added to
28 federal taxable income for Oregon tax purposes.

29 SECTION 3. The Director of the State Department of Energy may hire or contract with
30 a marketer to market the tax credits described in section 2 of this 2015 Act to taxpayers.

31 SECTION 4. (1) As used in this section, "battery-operated vehicle" means a vehicle pow-
32 ered by any of the following means:

33 (a) Primarily through the use of an electric battery but may use a flywheel energy stor-
34 age device or a capacitor that also stores energy to assist in vehicle operation.

35 (b) Polymer electrolyte membrane fuel cells or proton exchange membrane fuel cells that
36 use hydrogen fuel and oxygen from the air to produce electricity.

37 (c) Predominantly by a zero-emission energy storage device that provides enough power
38 for the vehicle to travel 75 miles or more using only electricity but may use a backup auxil-
39 iary power unit that does not operate until the energy storage device is almost depleted.

40 (2) The Director of the State Department of Energy shall hire or contract with a third-
41 party organization to develop and implement a Charge Ahead Oregon program for the pur-
42 pose of achieving the goals described in subsection (3) of this section.

43 (3) The goals of the Charge Ahead Oregon program include but are not limited to the
44 following:

45 (a) Increasing the use of electric vehicles and battery-operated vehicles across Oregon;

1 (b) Increasing the use of electric vehicles and battery-operated vehicles in rural com-
2 munities;

3 (c) Increasing the use of electric vehicles and battery-operated vehicles among low in-
4 come households and moderate income households, as those terms are defined in ORS
5 456.270;

6 (d) Making electric vehicles and battery-operated vehicles more affordable to all
7 Oregonians; and

8 (e) Increasing electric vehicle and battery-operated vehicle infrastructure throughout
9 this state.

10 (4) To maximize participation, at least three programs shall be developed across this
11 state to reach communities that might not otherwise have access to electric vehicles or
12 battery-operated vehicles.

13 **SECTION 5.** As used in this section and section 6 of this 2015 Act:

14 (1) “Light-duty zero-emission vehicle” means a motor vehicle that:

15 (a) Has a gross vehicle weight rating of 8,500 pounds or less;

16 (b) Is capable of attaining a speed of 55 miles per hour or more; and

17 (c) Is powered by any of the following means:

18 (A) Primarily through the use of an electric battery but may use a flywheel energy
19 storage device or a capacitor that also stores energy to assist in vehicle operation.

20 (B) Polymer electrolyte membrane fuel cells or proton exchange membrane fuel cells that
21 use hydrogen fuel and oxygen from the air to produce electricity.

22 (C) Predominantly through the use of a zero-emission energy storage device that provides
23 enough power for the vehicle to travel 75 miles or more using only electricity but may use
24 a backup alternative power unit that does not operate until the energy storage device is fully
25 depleted.

26 (2) “Neighborhood electric vehicle” means a low-speed vehicle that:

27 (a) Is powered using an electric battery;

28 (b) Has a gross vehicle weight not exceeding 3,000 pounds; and

29 (c) Has at least four wheels.

30 (3) “Person” means a person as defined in ORS 174.100 or a public body as defined in ORS
31 174.109.

32 (4) “Plug-in hybrid electric vehicle” means a hybrid electric vehicle that:

33 (a) Has zero evaporative emissions from its fuel system;

34 (b) Has an on-board electrical energy storage device with useful capacity of 10 or more
35 miles of urban dynamometer driving schedule range, as described by the United States En-
36 vironmental Protection Agency, on electricity alone;

37 (c) Is equipped with an on-board charger;

38 (d) Is rechargeable from an external connection to an off-board electrical source;

39 (e) Meets the super ultra-low emission vehicle standards for exhaust emissions, as de-
40 fined by the State Department of Energy by rule;

41 (f) Has a 15-year and 150,000-mile warranty on emission control components; and

42 (g) Is capable of attaining a speed of 55 miles per hour or more.

43 (5) “Qualifying vehicle” means a vehicle that:

44 (a) Is of a type defined in this section as a:

45 (A) Light-duty zero-emission vehicle;

1 (B) Neighborhood electric vehicle;

2 (C) Plug-in hybrid electric vehicle; or

3 (D) Zero-emission motorcycle;

4 (b) Is new, or has been previously used only as a dealership floor model or test-drive
5 vehicle;

6 (c) Has not previously been registered;

7 (d) Is constructed entirely from new parts that have never been the subject of a retail
8 sale;

9 (e) Is covered by a manufacturer's express warranty on the vehicle drive train, including
10 the applicable energy storage system or battery pack, for at least 24 months from the date
11 of purchase; and

12 (f) Is certified by the manufacturer to comply with all applicable federal safety standards
13 issued by the National Highway Traffic Safety Administration for new motor vehicles and
14 new motor vehicle equipment.

15 (6) "Vehicle dealer" means a person issued a vehicle dealer certificate under ORS 822.020
16 or renewed under ORS 822.040.

17 (7) "Zero-emission motorcycle" means a vehicle that has zero evaporative emissions from
18 its fuel system, is capable of attaining a speed of 55 miles per hour or more and:

19 (a) Is a fully-enclosed vehicle designed to travel on three wheels; or

20 (b) Is a motorcycle designed to travel on two wheels and is powered by electricity.

21 **SECTION 6.** (1) The State Department of Energy shall establish an alternative fuel or
22 zero-emission vehicle rebate program to provide rebates to persons that purchase and reg-
23 ister qualifying vehicles in this state.

24 (2) The purchaser or lessee of a qualifying vehicle registered in this state may apply for
25 a rebate for a portion of the purchase price or may choose to assign this rebate to a vehicle
26 dealer or lessor.

27 (3) Rebates under this section shall be made from moneys credited to or deposited in the
28 Zero-Emission Incentive Fund established under section 7 of this 2015 Act. A rebate may not
29 be made if sufficient funds are not available in the fund to make the rebate.

30 (4) The department by rule shall prescribe the rebate application procedure for purchas-
31 ers. All rebate applications must include a declaration under penalty of perjury in the form
32 required by ORCP 1 E.

33 (5) Subject to section 8 of this 2015 Act, rebates for the following qualifying vehicles un-
34 der this section shall be as follows:

35 (a) For light-duty zero-emission vehicles, \$3,000.

36 (b) For neighborhood electric vehicles, \$750.

37 (c) For plug-in hybrid electric vehicles, \$1,500.

38 (d) For zero-emission motorcycles, \$750.

39 (6) To be eligible for a rebate, a person requesting a rebate under this section shall:

40 (a) Purchase or lease a new qualifying vehicle. Any lease must have a minimum term of
41 24 months.

42 (b) Register the qualifying vehicle in Oregon.

43 (c) Submit an application for a rebate within six months of the date of purchase or six
44 months from the date the lease begins.

45 (d) Retain registration of the qualifying vehicle in Oregon for a minimum of 24 consec-

1 **utive months following the date of purchase or following the date the lease begins.**

2 **(7) A person that receives a rebate under this section may not make or allow any mod-**
3 **ifications to the vehicle's emissions control systems, hardware, software calibrations or hy-**
4 **brid system.**

5 **(8) If a rebate recipient intends to sell the vehicle, or otherwise terminate the vehicle**
6 **lease before the end of 24 months, the rebate recipient shall notify the department of the**
7 **recipient's intent to sell the vehicle or terminate a lease and reimburse the department for**
8 **the entire rebate amount.**

9 **(9) The department may request participation from rebate recipients in ongoing research**
10 **efforts.**

11 **(10) The department shall work to ensure timely payment of rebates with a goal of paying**
12 **rebates within 60 days of receiving an application for a rebate.**

13 **(11) The department may adopt any rules necessary to carry out the provisions of this**
14 **section.**

15 **SECTION 7. (1) The Zero-Emission Incentive Fund is established in the State Treasury,**
16 **separate and distinct from the General Fund. Interest earned by the Zero-Emission Incentive**
17 **Fund shall be credited to the fund.**

18 **(2) Moneys in the Zero-Emission Incentive Fund shall consist of:**

19 **(a) Amounts donated to the fund;**

20 **(b) Amounts appropriated or otherwise transferred to the fund by the Legislative As-**
21 **sembly;**

22 **(c) Other amounts deposited in the fund from any source; and**

23 **(d) Interest earned by the fund.**

24 **(3) Moneys in the fund are continuously appropriated to the State Department of Energy.**
25 **Each biennium after the payment of refunds to taxpayers as described in section 2 of this**
26 **2015 Act, out of the moneys deposited in the fund, the remaining funds may be used as fol-**
27 **lows:**

28 **(a) Up to \$_____ per biennium may be expended to pay a third-party organization to**
29 **market and administer the alternative fuel or zero-emission vehicle rebate program de-**
30 **scribed in section 6 of this 2015 Act.**

31 **(b) Up to \$_____ per biennium may be expended to pay a third-party organization to**
32 **design and implement the Charge Ahead Oregon program described in section 4 of this 2015**
33 **Act.**

34 **(c) Up to \$_____ per biennium may be expended to pay the State Department of**
35 **Energy's costs of administering sections 4 to 7 this 2015 Act.**

36 **(d) To provide rebates to the purchaser or lessee of a qualifying vehicle under section 6**
37 **of this 2015 Act.**

38 **(4) Expenditures from the fund are not subject to ORS 291.232 to 291.260.**

39 **SECTION 8. (1) The total amount of potential tax credits for Zero-Emission Incentive**
40 **Fund contributions in this state may not, at the time of certification under section 2 of this**
41 **2015 Act, exceed \$_____ for any biennium.**

42 **(2) In the event that the Director of the State Department of Energy receives applica-**
43 **tions for rebates under section 6 of this 2015 Act in excess of the contributions received**
44 **pursuant to section 2 of this 2015 Act, the director shall:**

45 **(a) Disburse the funds the director has received;**

1 (b) Decrease the amount of the rebates distributed under section 6 of this 2015 Act; and

2 (c) Allocate the issuance of rebates.

3 (3) The director shall adopt rules to carry out the provisions of this section.

4 **SECTION 9.** (1) No later than October 30, 2016, the Director of the State Department of
5 Energy shall provide a report on the Charge Ahead Oregon program described in section 4
6 of this 2015 Act to the Legislative Assembly in the manner provided in ORS 192.945. The re-
7 port must summarize:

8 (a) How the funds for the program have been spent.

9 (b) What impact the funding had on achieving the goals described in section 4 of this 2015
10 Act.

11 (c) Recommendations for legislation necessary to meet the goals of the program.

12 (2) No later than October 30, 2017, the director shall provide a report to the Legislative
13 Assembly in the manner provided in ORS 192.945. The report must summarize the uses to
14 date of moneys in the Zero-Emission Incentive Fund established under section 7 of this 2015
15 Act and project the level of funding that would be required to continue to provide rebates
16 described in section 6 of this 2015 Act to all purchasers or lessees of qualifying vehicles
17 through the 2017-2019 biennium.

18 **SECTION 10.** Sections 2 and 6 of this 2015 Act apply to tax years beginning on or after
19 January 1, 2015, and before January 1, 2022, and to applications for rebates submitted on or
20 after July 1, 2016.

21 **SECTION 11.** (1) Section 9 of this 2015 Act is repealed on January 2, 2017.

22 (2) Section 4 of this 2015 Act is repealed on January 2, 2022.

23 (3) Sections 1 to 3 and 5 to 8 of this 2015 Act are repealed on January 2, 2025.

24 **SECTION 12.** This 2015 Act takes effect on the 91st day after the date on which the 2015
25 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.
26