

**PROPOSED AMENDMENTS TO**

**SENATE BILL 324**

1 On page 1 of the printed bill, line 3, delete “7 and 8” and insert “6, 7 and  
2 8”.

3 In line 4, after the semicolon delete the rest of the line and insert “pre-  
4 scribing an effective date; and providing for revenue raising that requires  
5 approval by a three-fifths majority.”.

6 After line 4, insert:

7 “Whereas road congestion increases engine idling time; and

8 “Whereas an engine idling uses more fuel per minute when idling con-  
9 tinues longer than 10 seconds; and

10 “Whereas increased fuel usage increases greenhouse gas emissions; and

11 “Whereas congestion-reduction infrastructure improvements decrease en-  
12 gine idling time, which in turn decreases greenhouse gas emissions; now,  
13 therefore,”.

14 Delete lines 6 through 27 and delete pages 2 through 4 and insert:

15 “**SECTION 1.** Section 6, chapter 754, Oregon Laws 2009, is amended to  
16 read:

17 “**Sec. 6.** (1) As used in this section **and section 2 of this 2015 Act:**

18 “(a) ‘Greenhouse gas’ has the meaning given that term in ORS 468A.210.

19 “(b) ‘**Incremental cost of compliance**’ is the difference between the  
20 **actual or projected 12-month rolling weighted average price of gasoline**  
21 **and diesel in Oregon during a period that low carbon fuel standards**  
22 **are being enforced and the actual or projected 12-month rolling**

1 **weighted average price of gasoline and diesel in Oregon during a period**  
2 **that low carbon fuel standards are not being enforced.**

3 “[*b*] (c) ‘Low carbon fuel standards’ means standards for the reduction  
4 of greenhouse gas emissions, on average, per unit of fuel energy.

5 “[*c*] (d) ‘Motor vehicle’ has the meaning given that term in ORS 801.360.

6 “[*d*] (e) ‘PADD 5 region’ means the Petroleum Administration for De-  
7 fense District 5 states of Arizona, Nevada, Oregon and Washington.

8 “(2)(a) The Environmental Quality Commission may adopt by rule low  
9 carbon fuel standards for gasoline, diesel and fuels used as substitutes for  
10 gasoline or diesel.

11 “(b) The commission may adopt the following related to the standards,  
12 including but not limited to:

13 “(A) A schedule to phase in implementation of the standards in a manner  
14 that reduces the average amount of greenhouse gas emissions per unit of fuel  
15 energy of the fuels by 10 percent below 2010 levels by the year 2020;

16 “(B) Standards for greenhouse gas emissions attributable to the fuels  
17 throughout their lifecycles, including but not limited to emissions from the  
18 production, storage, transportation and combustion of the fuels and from  
19 changes in land use associated with the fuels;

20 “(C) Provisions allowing the use of all types of low carbon fuels to meet  
21 the low carbon fuel standards, including but not limited to biofuels, biogas,  
22 compressed natural gas, gasoline, diesel, hydrogen and electricity;

23 “(D) Standards for the issuance of deferrals, established with adequate  
24 lead time, as necessary to ensure adequate fuel supplies;

25 “(E) Exemptions for liquefied petroleum gas and other alternative fuels  
26 that are used in volumes below thresholds established by the commission;

27 “(F) Standards, specifications, testing requirements and other measures  
28 as needed to ensure the quality of fuels produced in accordance with the low  
29 carbon fuel standards, including but not limited to the requirements of ORS  
30 646.910 to 646.923 and administrative rules adopted by the State Department

1 of Agriculture for motor fuel quality; and

2 “(G) Adjustments to the amounts of greenhouse gas emissions per unit  
3 of fuel energy assigned to fuels for combustion and drive train efficiency.

4 “(c) Before adopting standards under this section, the commission shall  
5 consider the low carbon fuel standards of other states, including but not  
6 limited to Washington, for the purpose of determining schedules and goals  
7 for the reduction of the average amount of greenhouse gas emissions per unit  
8 of fuel energy and the default values for these reductions for applicable fuels.

9 “[*(d) The commission shall provide exemptions and deferrals as necessary*  
10 *to mitigate the costs of complying with the low carbon fuel standards upon a*  
11 *finding by the commission that the 12-month rolling weighted average price*  
12 *of gasoline or diesel in Oregon is not competitive with the 12-month rolling*  
13 *weighted average price in the PADD 5 region.*]

14 **“(d) The commission may not facilitate compliance with the low**  
15 **carbon fuel standards through the adoption of any mechanism that**  
16 **allows a person to obtain, trade or otherwise engage in market-based**  
17 **transfers of credits for fuels used as substitutes for gasoline or diesel.**

18 **“(e)(A) The commission may not require compliance with the low**  
19 **carbon fuel standards until the division of the Oregon Department of**  
20 **Administrative Services that serves as the office of economic analysis**  
21 **finds, under section 2 of this 2015 Act, that the incremental cost of**  
22 **compliance with the low carbon fuel standards during the first com-**  
23 **pliance year will not exceed four percent of the projected average an-**  
24 **ual retail price of gasoline or diesel in Oregon.**

25 **“(B) The commission shall suspend any implemented requirements**  
26 **to comply with the low carbon fuel standards during a compliance year**  
27 **if, by January 1 of the compliance year, the findings and analysis re-**  
28 **quired by section 2 of this 2015 Act indicate that the incremental cost**  
29 **of compliance with the low carbon fuel standards during the compli-**  
30 **ance year will exceed four percent of the projected average annual**

1 retail price of gasoline and diesel in Oregon.

2 “(C) Following a suspension of compliance requirements under  
3 subparagraph (B) of this paragraph, the commission may reinstate  
4 requirements to comply with the low carbon fuel standards upon  
5 findings and analysis required by section 2 of this 2015 Act that, for  
6 the remainder of the compliance year, the incremental cost of com-  
7 pliance is not projected to exceed four percent of the 12-month rolling  
8 weighted average price of gasoline or diesel in Oregon.

9 “(3) In adopting rules under this section, the [*Environmental Quality*]  
10 commission shall evaluate:

11 “(a) Safety, feasibility, net reduction of greenhouse gas emissions and  
12 cost-effectiveness;

13 “(b) Potential adverse impacts to public health and the environment, in-  
14 cluding but not limited to air quality, water quality and the generation and  
15 disposal of waste in this state;

16 “(c) Flexible implementation approaches to minimize compliance costs;  
17 and

18 “(d) Technical and economic studies of comparable greenhouse gas emis-  
19 sions reduction measures implemented in other states and any other studies  
20 as determined by the commission.

21 “(4) The provisions of this section do not apply to:

22 “(a) Motor vehicles registered as farm vehicles under the provisions of  
23 ORS 805.300.

24 “(b) Farm tractors, as defined in ORS 801.265.

25 “(c) Implements of husbandry, as defined in ORS 801.310.

26 “(d) Motor trucks, as defined in ORS 801.355, used primarily to transport  
27 logs.

28 **“SECTION 2. (1) The division of the Oregon Department of Admin-  
29 istrative Services that serves as the office of economic analysis shall:**

30 **“(a) Monitor and make findings on the actual and projected effects**

1 of the incremental cost of compliance with the low carbon fuel stan-  
2 dards under section 6, chapter 754, Oregon Laws 2009, on the 12-month  
3 rolling weighted average price of gasoline and diesel in Oregon;

4 “(b) Monitor and make findings on the actual and projected effects  
5 of the incremental cost of compliance with the low carbon fuel stan-  
6 dards on the average annual retail price of gasoline and diesel in  
7 Oregon;

8 “(c) Analyze the competitiveness of the 12-month rolling weighted  
9 average price of gasoline and diesel in Oregon with the 12-month roll-  
10 ing weighted average price in the PADD 5 region; and

11 “(d) Make the findings and analysis required under this subsection  
12 available to, and coordinate with, the Environmental Quality Com-  
13 mission as necessary for the commission to comply with section 6  
14 (2)(e), chapter 754, Oregon Laws 2009.

15 “(2) The department may adopt rules as necessary for the division  
16 of the department that serves as the office of economic analysis to  
17 carry out the provisions of this section.

18 **“SECTION 3. (1)(a) For purposes of this section, ‘regulated party’**  
19 **means a producer or importer of fuel regulated under sections 1 and**  
20 **2 of this 2015 Act and as further defined by the Environmental Quality**  
21 **Commission by rule.**

22 “(b) The Environmental Quality Commission may further define the  
23 term ‘regulated party’ by rule.

24 “(2) The Department of Environmental Quality shall levy and col-  
25 lect an annual assessment from regulated parties. The total assess-  
26 ment under this section shall equal \$100 million, with each regulated  
27 party assessed a share of the total assessment that is equal in pro-  
28 portion to the total amount of gallons of fuel produced within or im-  
29 ported into this state in the preceding fiscal year.

30 “(3) Moneys collected by the department under this section shall

1 be deposited in the State Treasury and credited to the Congestion Re-  
2 duction Infrastructure Improvement Fund established under section 4  
3 of this 2015 Act.

4 **“SECTION 4. The Congestion Reduction Infrastructure Improve-**  
5 **ment Fund is established in the State Treasury, separate and distinct**  
6 **from the General Fund. Interest earned by the Congestion Reduction**  
7 **Infrastructure Improvement Fund shall be credited to the fund. Mon-**  
8 **neys in the fund are continuously appropriated to the Department of**  
9 **Transportation for the purpose of funding highway infrastructure**  
10 **projects that facilitate the reduction of traffic congestion.**

11 **“SECTION 5.** Section 9, chapter 754, Oregon Laws 2009, is amended to  
12 read:

13 **“Sec. 9. (1)** The Department of Environmental Quality shall report on the  
14 implementation of **ORS 468A.270 and section 6, chapter 754, Oregon Laws**  
15 **2009, to the Seventy-eighth Legislative Assembly in the manner pro-**  
16 **vided by ORS 192.245.** [*sections 3 and 6 of this 2009 Act to:*]

17 *“[(a) The interim legislative committees on environment and natural re-*  
18 *sources on or before December 31, 2010; and]*

19 *“[(b) The Seventy-sixth, Seventy-seventh and Seventy-eighth Legislative As-*  
20 *semblies in the manner provided by ORS 192.245.]*

21 **“(2)** The [*reports*] **report** required under subsection (1) of this section  
22 must contain a description of:

23 **“(a)** Rules adopted under [*sections 3 and 6 of this 2009 Act*] **ORS 468A.270**  
24 **and section 6, chapter 754, Oregon Laws 2009;**

25 **“(b)** The manner in which the Environmental Quality Commission com-  
26 plied with the requirements of [*sections 3 and 6 of this 2009 Act*] **ORS**  
27 **468A.270 and section 6, chapter 754, Oregon Laws 2009,** in adopting the  
28 rules;

29 **“(c)** Significant policy decisions made by the commission in adopting rules  
30 under [*section 3 of this 2009 Act*] **ORS 468A.270;** and

1       “(d) The anticipated effects of the December 31, [2015] **2020**, repeal of  
2 [sections 6 and 7 of this 2009 Act] **section 6, chapter 754, Oregon Laws**  
3 **2009, and sections 2 and 3 of this 2015 Act** on the availability of low car-  
4 bon fuels and the development of biofuels production facilities and electric  
5 vehicle infrastructure in Oregon.

6       “**SECTION 6. (1) Sections 7 and 8, chapter 754, Oregon Laws 2009,**  
7 **are repealed.**

8       “(2) **Sections 2 and 3 of this 2015 Act and section 6, chapter 754,**  
9 **Oregon Laws 2009, are repealed on December 31, 2020.**

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

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STATE OF OREGON  
Legislative Counsel Committee

January 30, 2015

To: Senator Ted Ferrioli, Senate Republican Leader

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From: Maureen McGee, Deputy Legislative Counsel

Subject: SB 324-4 Amendments

Per your request, I drafted a set of amendments to Senate Bill 324 that (1) add a preamble to the bill; (2) extend to December 31, 2020, rather than repeal, the sunset on Oregon's low carbon fuel standards; (3) prohibit the Environmental Quality Commission from adopting a market-based credit trading program as part of the standards; and (4) require the Department of Environmental Quality to assess a total of \$200 million per biennium from fuel producers and importers regulated by the program and deposit the moneys received under the assessment into a Congestion Reduction Infrastructure Improvement Fund to finance certain highway infrastructure projects.

As I discussed with your legislative assistant Megan Chuinard, the assessment provision in your request would raise revenue from regulated parties in order to fund an aspect of general good governance—highway infrastructure projects—rather than to provide some service or benefit directly to the payers of the assessment. Amending SB 324 to include the assessment on regulated parties would therefore render the measure a bill for raising revenue. *See Northern Counties Trust v. Sears*, 30 Or. 388, 401-402 (1895) (explaining the difference between a bill for raising revenue and a fee for purposes of the Oregon Constitution). Article IV, section 25, of the Oregon Constitution, requires a bill for raising revenue to receive a three-fifths vote from each house for passage. Additionally, Article IV, section 18, of the Oregon Constitution, often called the Origination Clause, requires bills for raising revenue to originate in the House of Representatives. This amendment, if adopted, would render SB 324 a bill for raising revenue originating in the Senate, in violation of Article IV, section 18, of the Oregon Constitution. The bill would therefore be voidable by a court even if it obtained a three-fifths vote in each chamber. Also, a bill for raising revenue must take effect on the 91st day following sine die.

Encl.

