

D R A F T

SUMMARY

Imposes tax on each fuel supplier and utility based on amount of carbon in carbon-based fuel that is sold by fuel supplier to consumers in this state or that is used to produce carbon-generated electricity supplied by utility to consumers in this state.

Establishes Climate Investments Account within State Highway Fund. Requires that certain tax proceeds be deposited in account for purpose of funding programs consistent with legislative purposes of carbon pollution market.

Establishes Pollution Refund Credit Trust Fund. Requires that certain tax proceeds be deposited in fund, to be used by State Department of Energy to fund tax credits or other reductions in personal income tax and corporate excise tax.

Establishes Oregon Climate Investments Fund. Requires that certain tax proceeds be deposited in fund, to be distributed through Climate Investments Grant Program adopted by Environmental Quality Commission by rule.

Creates Climate Investments in Disadvantaged Communities Advisory Committee. Requires committee to advise on distributions of certain tax proceeds.

Establishes Just Transition Fund. Requires that certain tax proceeds be deposited in fund, to be distributed through Just Transition Grant Program adopted by Oregon Business Development Department by rule.

Applies to carbon-based fuel sold to consumers or used to produce carbon-generated electricity on or after effective date of Act.

Becomes operative on January 1, 2021.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

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Relating to entities that contribute to greenhouse gas emissions; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

POLICY STATEMENT

SECTION 1. (1) The Legislative Assembly finds and declares that the purposes of sections 1 to 14 of this 2017 Act are to reduce greenhouse gas emissions consistent with the greenhouse gas emissions reduction goals established under ORS 468A.205 and to promote adaptation and resilience by this state's communities and economy in the face of climate change.

(2) Sections 1 to 14 of this 2017 Act and the rules adopted pursuant to sections 1 to 14 of this 2017 Act:

(a) May not be interpreted to limit the authority of any state agency to adopt and implement measures to reduce greenhouse gas emissions; and

(b) Shall be interpreted in a manner consistent with federal law.

CARBON TAX

SECTION 2. As used in sections 1 to 14 of this 2017 Act:

(1) "Carbon-based fuel" means coal, natural gas, petroleum products and any other product used for fuel that contains carbon and emits carbon dioxide when combusted. "Carbon-based fuel" does not include any product used for fuel that is derived from a resource that is less than 1,000 years old in its natural state.

(2) "Carbon-based fuel group" means a group of carbon-based fuels that contain similar levels of carbon.

(3) "Carbon-generated electricity" means electric energy that is produced by using a carbon-based fuel. "Carbon-generated electricity" does not include electric energy produced by using a fuel that is derived from a resource that is less than 1,000 years old in its natural state.

(4) "Disadvantaged communities" includes, but is not limited to:

1 (a) **Communities with a high percentage of people of color, low-**
2 **income households, immigrants or refugees relative to other commu-**
3 **nities;**

4 (b) **Linguistically isolated communities; and**

5 (c) **Communities with high exposures to pollution or toxics relative**
6 **to other communities.**

7 (5) **“Economically distressed area” means an area designated as**
8 **distressed by the Oregon Business Development Department under**
9 **ORS 285A.020 and 285A.075.**

10 (6) **“Fuel supplier” means a person that sells carbon-based fuel to**
11 **consumers.**

12 (7) **“High road agreement” means an agreement among multiple**
13 **stakeholders that specifies goals for a project or program that are re-**
14 **lated to the quality and accessibility of economic opportunities pro-**
15 **vided by that project or program, and that includes:**

16 (a) **Strategies for advancing the specified goals based on metrics**
17 **that may include but are not limited to:**

18 (A) **Requirements for wages and benefits;**

19 (B) **Workforce and business diversity;**

20 (C) **Training and career development; and**

21 (D) **Environmental benefits;**

22 (b) **A mechanism for implementing the agreement; and**

23 (c) **A process for evaluating the progress of a project or program**
24 **toward achieving the goals specified in the agreement.**

25 (8) **“Project labor agreement” means a collective bargaining agree-**
26 **ment with one or more labor organizations that establishes the terms**
27 **and conditions of employment for a specific construction project and**
28 **that, at a minimum:**

29 (a) **Binds all contractors and subcontractors on the construction**
30 **project through the inclusion of appropriate specifications in all rele-**
31 **vant solicitation provisions and contract documents;**

1 (b) Allows all contractors and subcontractors to compete for con-
2 tracts and subcontracts without regard to whether they are parties to
3 any other collective bargaining agreement;

4 (c) Contains guarantees against strikes, lockouts and similar job
5 disruptions; and

6 (d) Sets forth effective, prompt and mutually binding procedures for
7 resolving labor disputes that arise during the term of the project labor
8 agreement.

9 (9) "Utility" means a public utility regulated by the Public Utility
10 Commission under ORS chapter 757, a people's utility district operat-
11 ing under ORS chapter 261, a municipal utility operating under ORS
12 chapter 225, an electric cooperative organized under ORS chapter 62
13 or other entity that supplies carbon-generated electricity to consum-
14 ers.

15 **SECTION 3. (1)(a)** A tax is imposed on carbon-based fuel, to be paid
16 by each fuel supplier and utility, at a rate of \$10 per ton of carbon in
17 a carbon-based fuel that is:

18 (A) Sold by a fuel supplier to consumers in this state; or

19 (B) Used to produce carbon-generated electricity that is supplied by
20 a utility to consumers in this state.

21 (b) The rate of taxation established by subsection (1) of this section
22 shall increase annually at a rate of \$10 per ton of carbon until the rate
23 reaches \$60 per ton of carbon, after which the rate shall be adjusted
24 for inflation annually.

25 (2) Notwithstanding subsection (1) of this section, the amount of tax
26 imposed on oil or natural gas under this section may not exceed six
27 percent of the market value of oil or natural gas that is described in
28 Article IX, section 3b, of the Oregon Constitution. If the total of all
29 taxes imposed by all laws on oil or natural gas described in Article IX,
30 section 3b, of the Oregon Constitution, exceeds six percent of the
31 market value of the oil or natural gas, the amount that is in excess

1 of six percent because of taxes imposed by the laws of this state, other
2 than the tax imposed by this section, shall be refunded to the taxpay-
3 ers.

4 (3) The Department of Revenue shall calculate the tax liability of
5 a fuel supplier or utility by multiplying the rate specified in subsection
6 (1) of this section by the total amount of carbon in all carbon-based
7 fuel groups that was:

8 (a) Sold by the fuel supplier to consumers in this state in the pre-
9 vious calendar year; or

10 (b) Used to produce carbon-generated electricity supplied by the
11 utility to consumers in this state in the previous calendar year.

12 (4)(a) If a utility is unable to provide the information required for
13 the calculation under subsection (3) of this section, the Department
14 of Revenue shall calculate the utility's tax liability by multiplying the
15 rate specified in subsection (1) of this section by the product of the
16 average amount of carbon used in the generation of one kilowatt of
17 electricity supplied by the utility and the total number of kilowatts
18 of electricity supplied by the utility to consumers in this state.

19 (b) The State Department of Energy shall calculate the average
20 amount of carbon used in the generation of one kilowatt of electricity
21 supplied by the utility, based on the State Department of Energy's
22 estimate of the carbon contributed by each carbon-based fuel group
23 and the total amount of carbon produced in the generation of the
24 electricity. Each year, the State Department of Energy shall recal-
25 late and report to the Department of Revenue the average amount of
26 carbon used in the generation of one kilowatt of electricity supplied
27 by the utility to take into account any changes in the ratio of
28 carbon-based fuel groups used in the generation of the electricity.

29 (5) The Department of Revenue and the State Department of Energy
30 may adopt any rules necessary for the calculation and collection of the
31 tax imposed under this section.

1 (6) The tax imposed under this section does not apply to:

2 (a) Carbon-based fuel or carbon-generated electricity that the State
3 of Oregon is prohibited from taxing under the Constitution or laws of
4 the United States or the Constitution or laws of the State of Oregon.

5 (b) Any fuel supplier or utility that is administered by a federal
6 agency.

7 (c) Any carbon-based fuel or carbon-generated electricity that is
8 transported through this state but not consumed in this state.

9 SECTION 4. Unless the context requires otherwise, the provisions
10 of ORS chapters 305, 314 and 316 that relate to the audit and exam-
11 ination of reports and returns, confidentiality and disclosure of reports
12 and returns, determination of deficiencies, assessments, claims for
13 refunds, penalties, interest, jeopardy assessments, warrants, confer-
14 ences and appeals to the Oregon Tax Court, and related procedures,
15 apply to section 3 of this 2017 Act the same as if the tax were a tax
16 imposed upon or measured by net income.

17 SECTION 5. For the purpose of first calculating the tax imposed
18 under section 3 of this 2017 Act, the State Department of Energy shall
19 determine the percentage of carbon in each carbon-based fuel group
20 and report those percentages to the Department of Revenue.

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22 **DISTRIBUTION OF TAX PROCEEDS**

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24 SECTION 6. (1) All moneys received by the Department of Revenue
25 from the tax imposed under section 3 of this 2017 Act that are due to
26 the sale of motor vehicle fuel or any other product used for the pro-
27 pulsion of motor vehicles, other than electric vehicles, shall be depos-
28 ited in the Climate Investments Account in the State Highway Fund.

29 (2) All moneys received by the Department of Revenue from the tax
30 imposed under section 3 of this 2017 Act that are not received as de-
31 scribed in subsection (1) of this section shall be paid to the State

1 **Treasurer to be held in a suspense account established under ORS**
2 **293.445. After payment of administrative expenses and refunds, moneys**
3 **in that account shall be distributed as follows:**

4 (a) **Fifty percent to be deposited in the Pollution Refund Credit**
5 **Trust Fund;**

6 (b) **Forty-two percent to be deposited in the Oregon Climate In-**
7 **vestments Fund; and**

8 (c) **Eight percent to be deposited in the Just Transition Fund.**

9
10 (Climate Investments Account in the State Highway Fund)

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12 **SECTION 7. (1) The Climate Investments Account is established**
13 **within the State Highway Fund. Interest earned by the Climate In-**
14 **vestments Account shall be credited to the account. Moneys in the**
15 **account are continuously appropriated to the Department of Trans-**
16 **portation to be used only for activities that further the purposes of**
17 **sections 1 to 14 of this 2017 Act as stated in section 1 of this 2017 Act.**

18 (2) **The Climate Investments Account shall consist of moneys de-**
19 **posited in the account under section 6 of this 2017 Act.**

20 (3)(a) **Of the moneys deposited in the account each biennium:**

21 (A) **At least 20 percent must be used to support projects that are**
22 **geographically located in disadvantaged communities; and**

23 (B) **At least 20 percent must be used to support projects that oth-**
24 **erwise benefit disadvantaged communities.**

25 (b) **For purposes of this section, the Department of Transportation**
26 **shall designate disadvantaged communities using the methodology**
27 **adopted by the Environmental Quality Commission by rule under sec-**
28 **tion 10 of this 2017 Act.**

29 (4) **In distributing moneys in the account, the Department of**
30 **Transportation shall:**

31 (a) **Consult with the Climate Investments in Disadvantaged Com-**

1 **munities Advisory Committee created under section 11 of this 2017 Act;**
2 **and**

3 **(b) To the maximum extent feasible and practicable, give funding**
4 **preference to projects that will result in the greatest greenhouse gas**
5 **emissions reductions.**

6 **(5) If a construction project is funded in whole or in part by moneys**
7 **from the account, the primary contractor participating in the con-**
8 **struction project:**

9 **(a) Must participate in an apprenticeship program registered with**
10 **the State Apprenticeship and Training Council;**

11 **(b) May not be a contractor listed by the Commissioner of the Bu-**
12 **reau of Labor and Industries under ORS 279C.860 as ineligible to re-**
13 **ceive a contract or subcontract for public works;**

14 **(c) Must demonstrate a history of compliance with the rules and**
15 **other requirements of the Construction Contractors Board and of the**
16 **Workers' Compensation Division and the Occupational Safety and**
17 **Health Division of the Department of Consumer and Business Services;**
18 **and**

19 **(d) Must demonstrate a history of compliance with federal and state**
20 **wage and hour laws.**

21 **(6) If a construction project is funded in whole or in part by moneys**
22 **from the account, the Department of Transportation may, on a**
23 **project-by-project basis, require the use of a high road agreement or**
24 **a project labor agreement if the use of either type of agreement would**
25 **advance the public interest and be consistent with law.**

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(Pollution Refund Credit Trust Fund)

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29 **SECTION 8. (1) The Pollution Refund Credit Trust Fund is estab-**
30 **lished in the State Treasury, separate and distinct from the General**
31 **Fund. Interest earned by the Pollution Refund Credit Trust Fund shall**

1 be credited to the fund. Moneys in the fund are continuously appro-
2 priated to the State Department of Energy for the purpose of funding
3 tax credits or other reductions in personal income tax and corporate
4 excise tax.

5 (2) The Pollution Refund Credit Trust Fund shall consist of moneys
6 deposited in the fund under section 6 of this 2017 Act.

7 (3) Moneys in the fund may be used only for activities that further
8 the purposes of sections 1 to 14 of this 2017 Act as stated in section 1
9 of this 2017 Act.

10
11 (Oregon Climate Investments Fund)
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13 SECTION 9. (1) The Oregon Climate Investments Fund is estab-
14 lished in the State Treasury, separate and distinct from the General
15 Fund. Interest earned by the Oregon Climate Investments Fund shall
16 be credited to the fund. Moneys in the fund are continuously appro-
17 priated to the Department of Environmental Quality to be distributed
18 pursuant to the Climate Investments Grant Program adopted under
19 section 10 of this 2017 Act.

20 (2) The Oregon Climate Investments Fund shall consist of moneys
21 deposited in the fund under section 6 of this 2017 Act.

22 (3) Moneys in the fund may be used only for activities that further
23 the purposes of sections 1 to 14 of this 2017 Act as stated in section 1
24 of this 2017 Act.

25 SECTION 10. (1) The Environmental Quality Commission shall
26 adopt by rule a Climate Investments Grant Program for distributing
27 moneys in the Oregon Climate Investments Fund. The grant program
28 must carry out the purposes of sections 1 to 14 of this 2017 Act as
29 stated in section 1 of this 2017 Act.

30 (2)(a) Moneys must be distributed through the grant program de-
31 veloped under this section such that, of the moneys deposited in or

1 **credited to the Oregon Climate Investments Fund each biennium:**

2 **(A) At least 40 percent of the moneys are distributed to projects or**
3 **programs that are geographically located in disadvantaged communi-**
4 **ties; and**

5 **(B) At least 40 percent of the moneys are distributed to projects or**
6 **programs that are geographically located in economically distressed**
7 **areas, with an emphasis placed on projects or programs that support**
8 **job creation and job education and training opportunities.**

9 **(b) Disadvantaged communities and economically distressed areas**
10 **may be, but need not be, considered mutually exclusive for purposes**
11 **of this subsection.**

12 **(c) The commission shall consult with the Environmental Justice**
13 **Task Force, other state agencies, local agencies and local officials in**
14 **adopting by rule a methodology for designating disadvantaged com-**
15 **munities for purposes of this subsection.**

16 **(3) The grant program shall include the appointment of a grant**
17 **committee. Members of the grant committee shall be appointed by the**
18 **Governor. The grant committee may be composed of any number of**
19 **individuals with qualifications that the Governor determines neces-**
20 **sary. However, the Governor shall appoint at least one member from**
21 **each congressional district in this state and shall include individuals**
22 **with experience in administering state grant programs. The appoint-**
23 **ment of members of the grant committee is subject to confirmation**
24 **by the Senate in the manner prescribed in ORS 171.562 and 171.565.**

25 **(4) The commission shall determine the form and method of apply-**
26 **ing for grants from the grant program, the eligibility requirements for**
27 **grant applicants and general terms and conditions of the grants.**

28 **(5) The rules adopted by the commission under this section shall**
29 **provide that the grant committee consult with the Climate Invest-**
30 **ments in Disadvantaged Communities Advisory Committee created**
31 **under section 11 of this 2017 Act in reviewing grant applications and**

1 **making determinations of funding based on a scoring system developed**
2 **by the commission. The scoring system shall give funding preference**
3 **to projects and programs that:**

4 **(a) Maximize multiple benefits in this state, including but not lim-**
5 **ited to environmental, social and economic benefits;**

6 **(b) Result in greenhouse gas emissions reductions that are cost ef-**
7 **fective or that are the product of business and research development**
8 **interests in this state;**

9 **(c) Constitute investments in, and facilitate the development of,**
10 **clean energy infrastructure and technologies in this state;**

11 **(d) Complement efforts to achieve and maintain federal and state**
12 **air quality standards;**

13 **(e) Protect disadvantaged communities and economically distressed**
14 **areas from economic uncertainties associated with climate change or**
15 **climate change policies; or**

16 **(f) Make use of domestically produced products to the maximum**
17 **extent feasible.**

18 **(6) The grant program adopted under this section may:**

19 **(a) Require that a grant applicant provide matching funds for**
20 **completion of the project or program for which a grant is awarded;**
21 **and**

22 **(b) Allow an applicant to appeal to the commission for reevaluation**
23 **of any determination of grant funding.**

24 **(7) If a construction project is funded in whole or in part by a grant**
25 **awarded under the grant program, the grant agreement shall require**
26 **that the primary contractor participating in the construction project:**

27 **(a) Must participate in an apprenticeship program registered with**
28 **the State Apprenticeship and Training Council;**

29 **(b) May not be a contractor listed by the Commissioner of the Bu-**
30 **reau of Labor and Industries under ORS 279C.860 as ineligible to re-**
31 **ceive a contract or subcontract for public works;**

1 (c) Must demonstrate a history of compliance with the rules and
2 other requirements of the Construction Contractors Board and of the
3 Workers' Compensation Division and the Occupational Safety and
4 Health Division of the Department of Consumer and Business Services;
5 and

6 (d) Must demonstrate a history of compliance with federal and state
7 wage and hour laws.

8 (8) If a construction project is funded in whole or in part by a grant
9 awarded under the grant program, the Department of Environmental
10 Quality may, on a project-by-project basis, require the use of a high
11 road agreement or a project labor agreement if the use of either type
12 of agreement would advance the public interest and be consistent with
13 law.

14 (9) Subject to the rules adopted by the commission, and subject to
15 reevaluation by the commission on appeal, the grant committee has
16 the responsibility to review grant applications and make funding de-
17 terminations under the grant program adopted pursuant to this sec-
18 tion.

19 SECTION 11. (1) There is created a Climate Investments in Disad-
20 vantaged Communities Advisory Committee consisting of 17 members
21 appointed by the Governor, with at least one member from each con-
22 gressional district in this state. The Governor shall appoint members
23 to the advisory committee as follows:

24 (a) Eight members must be recommended by the Environmental
25 Justice Task Force and have experience in working to support envi-
26 ronmental justice in disadvantaged communities;

27 (b) Three members must represent labor interests;

28 (c) Three members must have experience in sustainable develop-
29 ment;

30 (d) One member must represent the interests of cities;

31 (e) One member must represent the interests of counties; and

1 (f) One member must represent the interests of business.

2 (2) The advisory committee shall consult with and make recom-
3 mendations to the following public bodies regarding the investment
4 of funds in projects and programs that are geographically located in
5 disadvantaged communities or that otherwise benefit disadvantaged
6 communities:

7 (a) The Department of Transportation with relation to the use of
8 moneys in the Climate Investments Account; and

9 (b) The grant committee appointed by the Governor under section
10 10 of this 2017 Act with relation to the award of grants under the Cli-
11 mate Investments Grant Program.

12 (3) A majority of the members of the advisory committee consti-
13 tutes a quorum for the transaction of business.

14 (4) The advisory committee shall elect one of its members to serve
15 as chairperson.

16 (5) The term of a member of the advisory committee shall be four
17 years. Members of the advisory committee may be reappointed. If
18 there is a vacancy for any cause, the Governor shall make an ap-
19 pointment to become immediately effective.

20 (6) The advisory committee shall meet at times and places specified
21 by the call of the chairperson or of a majority of the members of the
22 advisory committee.

23 **SECTION 12.** Notwithstanding the term of office specified by section
24 11 of this 2017 Act, of the members first appointed to the Climate In-
25 vestments in Disadvantaged Communities Advisory Committee:

26 (1) Four shall serve for a term ending January 1, 2022.

27 (2) Four shall serve for a term ending January 1, 2023.

28 (3) Four shall serve for a term ending January 1, 2024.

29 (4) Five shall serve for a term ending January 1, 2025.

30
31 (Just Transition Fund)

1 **SECTION 13.** (1) The Just Transition Fund is established in the
2 State Treasury, separate and distinct from the General Fund. Interest
3 earned by the Just Transition Fund shall be credited to the fund.
4 Moneys in the fund are continuously appropriated to the Oregon
5 Business Development Department to be distributed pursuant to the
6 Just Transition Grant Program developed under section 14 of this 2017
7 Act.

8 (2) The Just Transition Fund shall consist of moneys deposited in
9 the fund under section 6 of this 2017 Act.

10 (3) Moneys in the fund may be used only for activities that further
11 the purposes of sections 1 to 14 of this 2017 Act as stated in section 1
12 of this 2017 Act.

13 **SECTION 14.** (1) The Oregon Business Development Department
14 shall adopt by rule a Just Transition Grant Program for the disburse-
15 ment of moneys in the Just Transition Fund. In developing the grant
16 program, the department shall appoint and consider the suggestions
17 of an advisory committee that represents the interests of persons who
18 the grant program is intended to benefit. The purpose of the grant
19 program shall be to support economic diversification, job creation, job
20 training and other employment and mental health services for workers
21 and communities in this state that are adversely affected by climate
22 change or climate change policies.

23 (2) The grant program shall include the appointment of a grant
24 committee. Members of the grant committee shall be appointed by the
25 Governor, subject to confirmation by the Senate in the manner pro-
26 vided in ORS 171.562 and 171.565. The grant committee may be com-
27 posed of any number of individuals with qualifications that the
28 Governor determines necessary. However, the Governor shall include
29 on the grant committee:

30 (a) Individuals who have experience in administering state grant
31 programs;

1 (b) Individuals recommended by the Environmental Justice Task
2 Force who have experience in working to support environmental jus-
3 tice in disadvantaged communities;

4 (c) Representatives of labor organizations;

5 (d) Individuals with energy and climate policy expertise; and

6 (e) At least one individual from each congressional district in this
7 state.

8 (3) Subject to the rules adopted by the department, and subject to
9 reevaluation by the department on appeal, the grant committee has
10 the responsibility to review grant applications and make funding de-
11 terminations under the grant program adopted pursuant to this sec-
12 tion.

13 (4) The department shall determine the form and method of apply-
14 ing for grants from the grant program, the eligibility requirements for
15 grant applicants and general terms and conditions of the grants.

16 (5) The grant program adopted under this section may:

17 (a) Require that a grant applicant provide matching funds for
18 completion of the project or program for which a grant is awarded;
19 and

20 (b) Allow an applicant to appeal to the department for reevaluation
21 of any determination of grant funding.

22
23 **OPERATIVE DATE**

24
25 **SECTION 15.** (1) Sections 1 to 14 of this 2017 Act become operative
26 on January 1, 2021.

27 (2) The Department of Revenue, the Department of Transportation,
28 the Environmental Quality Commission, the Oregon Business Devel-
29 opment Department and the State Department of Energy may adopt
30 rules or take any actions before the operative date specified in sub-
31 section (1) of this section that are necessary to carry out the pro-

1 **visions of sections 1 to 14 of this 2017 Act.**

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CAPTIONS

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5 **SECTION 16. The unit captions used in this 2017 Act are provided**
6 **only for the convenience of the reader and do not become part of the**
7 **statutory law of this state or express any legislative intent in the**
8 **enactment of this 2017 Act.**

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EFFECTIVE DATE

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12 **SECTION 17. This 2017 Act takes effect on the 91st day after the**
13 **date on which the 2017 regular session of the Seventy-ninth Legislative**
14 **Assembly adjourns sine die.**

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