

April 5, 2017

**Union of Concerned Scientists' Testimony in Opposition to House HB 3386
Oregon House Committee on Energy and Environment**

My name is Max Muller, and I'm here today representing the Union of Concerned Scientists. On behalf of UCS's 11,000 supporters in Oregon, thank you for the opportunity to provide comments on HB 3386, which proposes the creation of an additional means of compliance with Oregon's Clean Fuels Program.

UCS has been very involved in federal and state clean fuels policies for many years, including the California Low Carbon Fuel Standard, which is operating successfully.

Our Oregon members strongly supported 2015's reauthorization of Oregon's Clean Fuels Program as a way for the state to create new industries and jobs from home-grown sources of fuels, while diversifying fuel supplies to reduce reliance on price-volatile imports. The Program is also an important step to cleaning Oregon's air, improving public health, and reducing global warming pollution.

UCS opposes HB 3386 because the proposal deviates fundamentally from the Clean Fuels Program's goals by allowing obligated parties to continue to use the same highly polluting fossil fuels as before, so long as they pay a fee. While the purposes to which these fees would be put are notionally related to mitigating global warming pollution, they depart from the science-based carbon accounting upon which the Clean Fuels Program is based. Grants for student transportation and grants for research on, loans for manufacturing of, and rebates for alternative fueled vehicles may be aimed at worthy goals, but there is no guarantee that using fee funds in this way will actually reduce pollution or by how much. Since this use of funds may be unconstitutional, the fees this bill generates may ultimately be sent to the Highway Trust Fund, where, if they're used for road expansion projects, it would make the prospect of their earning emissions reductions still more dubious.

UCS is concerned that this bill's creation of an alternative compliance pathway would fundamentally undermine the Program's functioning. By design, Program participants already have several compliance options, including producing or acquiring a wide variety of low carbon fuels, or purchasing credits from others who produce or use these fuels. The Program also allows credit banking, which provides additional flexibility.

The bill circumvents the deliberate and thoughtful process already underway at the Department of Environmental Quality to develop an appropriate cost containment strategy. The DEQ is currently in the process of rulemaking to develop a cost containment mechanism for the Program. This adds to other regulatory measures that are in place to cap compliance costs, address short or long term scarcity of low carbon fuels and to ensure DEQ can anticipate and act if necessary to address any unforeseen problems. All of these measures

have been developed to support a predictable transition to clean fuels, while protecting Oregon consumers and balancing the legitimate concerns of clean fuels buyers and sellers.

In this rulemaking process, all stakeholders have been able to weigh in with their concerns and fully vet the implications of proposals from DEQ or other stakeholders. Through this process, a Western States Petroleum Association proposal regarding price spikes, which provided the basis for an earlier version of this bill, was considered and debated. UCS and other stakeholder provided extensive analysis and commentary on its feasibility and likely outcomes. The process played out over several months and, as a result, DEQ is heading towards a package of refinements that will balance the legitimate concerns of all stakeholders while ensuring the stability of the policy is maintained, and the goals set by the legislature can be met.

Lastly, at best, the \$75 per ton compliance credits envisioned in this bill would be an unreliable funding mechanism for the Programs that depend on them. That is because it is entirely possible that Clean Fuels Program's credit prices will stay below \$75 per ton for the duration of the Program, in which case direct compliance would be the lowest-cost compliance strategy and no funds would be generated for research, manufacturing, student transportation or alternative fueled vehicles. If funding for these Programs is generated, it would remain unpredictable, as policies outside Oregon's market, for example federal fuels or vehicle policies, could lead credit prices to drop. Grants for research and other low carbon transportation goals are more effective if they have stable and predictable source of support. In this way, the bill undermines the stability of support for low carbon fuels, without provided stable support for the other goals contained in the bill.

UCS believes that allowing the regulatory agency, DEQ, to continue its ongoing rulemaking is the most appropriate way to refine the details of the Clean Fuels Program—and it does so without undermining the legislature's overarching goals for the Program.

Thank you.