

A-Engrossed
House Bill 2704

Ordered by the House March 28
Including House Amendments dated March 28

Sponsored by Representative HELM (Pre-session filed.)

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.

Requires Environmental Quality Commission to establish program to provide rebates to persons that purchase and register certain low emission vehicles and zero-emission transit buses in this state **on or after effective date of Act.**

Creates Charge Ahead Oregon program [*for purpose of increasing use of electric and battery-operated vehicles in Oregon*]. Sunsets January 2, 2027.

Creates Zero-Emission Incentive Fund. Appropriates moneys in fund to Department of Environmental Quality for activities related to providing rebates and Charge Ahead Oregon program.

Extends sunset on tax credits for certified alternative fuel vehicle contributions. Transfers certain responsibilities for tax credit auction from State Department of Energy to Department of Environmental Quality. Transfers deposit of tax credit auction proceeds from Alternative Fuel Vehicle Revolving Fund to Zero-Emission Incentive Fund. **Applies to tax years beginning on or after January 1, 2018, and before January 1, 2027.**

[*Rebate program and tax credit auction apply to tax years beginning on or after January 1, 2018, and before January 1, 2027.*]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to vehicle emission reductions; creating new provisions; amending sections 9 and 11, chap-
3 ter 774, Oregon Laws 2013; and prescribing an effective date.

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

5
6 **REBATE PROGRAM**

7
8 **SECTION 1. As used in sections 1 to 3 of this 2017 Act:**

9 (1) **"Light-duty zero-emission vehicle" means a motor vehicle that:**

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

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

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

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

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

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

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 **(2) “Neighborhood electric vehicle” means a low-speed vehicle that:**
2 **(a) Is powered using an electric battery;**
3 **(b) Has a gross vehicle weight not exceeding 3,000 pounds; and**
4 **(c) Has at least four wheels.**
5 **(3) “Person” means a person as defined in ORS 174.100 or a public body as defined in ORS**
6 **174.109.**
7 **(4) “Plug-in hybrid electric vehicle” means a hybrid electric vehicle that:**
8 **(a) Has zero evaporative emissions from its fuel system;**
9 **(b) Has an on-board electrical energy storage device with useful capacity of 10 or more**
10 **miles of urban dynamometer driving schedule range, as described by the United States En-**
11 **vironmental Protection Agency, on electricity alone;**
12 **(c) Is equipped with an on-board charger;**
13 **(d) Is rechargeable from an external connection to an off-board electrical source;**
14 **(e) Meets the super ultra-low emission vehicle standards for exhaust emissions, as de-**
15 **finied by the State Department of Energy by rule;**
16 **(f) Has a 15-year and 150,000-mile warranty on emission control components; and**
17 **(g) Is capable of attaining a speed of 55 miles per hour or more.**
18 **(5) “Public transportation” means transportation provided by:**
19 **(a) A city, county, special district or any other political subdivision or municipal or public**
20 **corporation; or**
21 **(b) A community action agency.**
22 **(6) “Qualifying vehicle” means a vehicle that:**
23 **(a) Is of a type defined in this section as a:**
24 **(A) Light-duty zero-emission vehicle;**
25 **(B) Neighborhood electric vehicle;**
26 **(C) Plug-in hybrid electric vehicle; or**
27 **(D) Zero-emission motorcycle;**
28 **(b) Is new, or has been previously used only as a dealership floor model or test-drive**
29 **vehicle;**
30 **(c) Has not previously been registered;**
31 **(d) Is constructed entirely from new parts that have never been the subject of a retail**
32 **sale;**
33 **(e) Has a base manufacturer’s suggested retail price of less than \$60,000;**
34 **(f) Is covered by a manufacturer’s express warranty on the vehicle drive train, including**
35 **the applicable energy storage system or battery pack, for at least 24 months from the date**
36 **of purchase; and**
37 **(g) Is certified by the manufacturer to comply with all applicable federal safety standards**
38 **issued by the National Highway Traffic Safety Administration for new motor vehicles and**
39 **new motor vehicle equipment.**
40 **(7) “Vehicle dealer” means a holder of a vehicle dealer certificate issued under ORS**
41 **822.020 or renewed under ORS 822.040.**
42 **(8) “Zero-emission motorcycle” means a vehicle that has zero evaporative emissions from**
43 **its fuel system, is capable of attaining a speed of 55 miles per hour or more and:**
44 **(a) Is a fully enclosed vehicle designed to travel on three wheels; or**
45 **(b) Is a motorcycle designed to travel on two wheels and is powered by electricity.**

1 (9) “Zero-emission transit bus” means a commercial bus that:

2 (a) Does not produce carbon or particulate matter exhaust emissions under any opera-
3 tional modes or conditions;

4 (b) Will be operated after purchase to provide public transportation;

5 (c) Is new and is constructed entirely from new parts that have never been the subject
6 of a retail sale or is repowered entirely with a zero-emission drive train;

7 (d) Has not previously been registered; and

8 (e) Is of a model that has been tested by, and received a passing score from, the Federal
9 Transit Administration at a facility authorized under 49 U.S.C. 5318(a).

10 **SECTION 2.** (1) The Environmental Quality Commission shall hire or contract with a
11 third-party nonprofit organization to implement and administer an alternative fuel or zero-
12 emission vehicle rebate program to provide rebates to persons that purchase and register
13 qualifying vehicles and zero-emission transit buses in this state.

14 (2) The commission may:

15 (a) Require that the third-party nonprofit organization includes in the program design
16 features specified by the commission; and

17 (b) Establish procedures to:

18 (A) Prioritize available moneys for specific qualifying vehicles; and

19 (B) Limit the number of rebates available for each type of qualifying vehicle.

20 (3) The purchaser or lessee of a qualifying vehicle or zero-emission transit bus registered
21 in this state may apply for a rebate for a portion of the purchase price or may choose to
22 assign the rebate to a vehicle dealer or lessor.

23 (4) Rebates under this section shall be made from moneys credited to or deposited in the
24 Zero-Emission Incentive Fund established under section 8 of this 2017 Act. A rebate may not
25 be made if sufficient funds are not available in the fund to make the rebate.

26 (5) The commission shall prescribe the rebate application procedure for purchasers. All
27 rebate applications must include a declaration under penalty of perjury in the form required
28 by ORCP 1 E.

29 (6)(a) Subject to section 9 of this 2017 Act, rebates for the following qualifying vehicles
30 under this section shall be as follows:

31 (A) For light-duty zero-emission vehicles and plug-in hybrid electric vehicles with an
32 electrochemical energy storage capacity of 10 kilowatt hours or more, \$2,500.

33 (B) For light-duty zero-emission vehicles or plug-in hybrid electric vehicles with an
34 electrochemical energy storage capacity of less than 10 kilowatt hours, \$1,500.

35 (C) For neighborhood electric vehicles, \$750.

36 (D) For zero-emission motorcycles, \$750.

37 (b) Subject to section 9 of this 2017 Act, rebates for zero-emission transit buses shall be
38 \$250,000.

39 (7) 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 to the Department of Environmental Quality within
44 six months of the date of purchase or six 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 **(8) 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 **(9) 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 **(10) The department may request participation from rebate recipients in ongoing re-**
10 **search efforts.**

11 **(11) 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 **(12) A vehicle dealer may advertise the program on the premises owned or operated by**
14 **the vehicle dealer. If no moneys are available from the program or the program otherwise**
15 **changes, a vehicle dealer who advertises the program may not be held liable for advertising**
16 **false or misleading information.**

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

19
20 **CHARGE AHEAD OREGON PROGRAM**

21
22 **SECTION 3. (1) The Director of the Department of Environmental Quality shall hire or**
23 **contract with a third-party nonprofit organization to develop and implement a Charge Ahead**
24 **Oregon program.**

25 **(2) The Charge Ahead Oregon program shall:**

26 **(a) Provide rebates or similar incentives for low income households and moderate income**
27 **households, as those terms are defined in ORS 456.270, to voluntarily retire or scrap high-**
28 **emission passenger motor vehicles and replace those vehicles with new or used light-duty**
29 **zero-emission vehicles;**

30 **(b) Require that the high-emission passenger motor vehicles are currently registered as**
31 **operable and have been continuously registered for the two years immediately preceding the**
32 **date of application to the program;**

33 **(c) Limit participation to low income households and moderate income households that**
34 **are located in areas of this state that are highly impacted by air pollution; and**

35 **(d) Ensure appropriate outreach and targeted promotion to the low income households**
36 **and moderate-income households described in paragraph (c) of this subsection.**

37 **(3) The program may:**

38 **(a) Include expanded financing mechanisms to increase consumer access to light-duty**
39 **zero-emission vehicles, including loans or loan-loss reserve credit enhancement options; and**

40 **(b) Include incentives for making electric vehicle charging infrastructure more affordable**
41 **to participating households.**

42
43 **REPORTS**

44
45 **SECTION 4. (1) No later than September 15, 2018, the Director of the Department of**

1 **Environmental Quality shall provide a report on the Charge Ahead Oregon program de-**
2 **scribed in section 3 of this 2017 Act to the Legislative Assembly in the manner provided in**
3 **ORS 192.945. The report must summarize:**

- 4 (a) **How the funds for the program have been spent.**
5 (b) **The impact of the funding.**
6 (c) **Any recommendations regarding the program.**

7 (2) **No later than October 30, 2018, the director shall provide a report to the Legislative**
8 **Assembly in the manner provided in ORS 192.945. The report must summarize the uses to**
9 **date of moneys in the Zero-Emission Incentive Fund established under section 8 of this 2017**
10 **Act and project the level of funding that would be required to continue to provide rebates**
11 **described in section 2 of this 2017 Act to all purchasers or lessees of qualifying vehicles**
12 **through the 2019-2021 biennium.**

13
14 **TAX CREDIT AUCTION**
15

16 **SECTION 5.** Section 9, chapter 774, Oregon Laws 2013, is amended to read:

17 **Sec. 9.** (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
18 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified al-
19 ternative fuel vehicle contributions made by the taxpayer during the tax year to the [*Alternative*
20 *Fuel Vehicle Revolving Fund established under section 2 of this 2013 Act*] **Zero-Emission Incentive**
21 **Fund established under section 8 of this 2017 Act.**

22 (2)(a) The Department of Revenue shall, in cooperation with the [*State Department of Energy*]
23 **Department of Environmental Quality**, conduct an auction of tax credits under this section. The
24 Department of Revenue may not auction more than \$3 million of tax credits under this section. The
25 department may conduct the auction in the manner that the department determines is best suited
26 to maximize the return to the state on the sale of tax credit certifications and shall announce a
27 reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the
28 total amount of the tax credit. Moneys necessary to reimburse the Department of Revenue for the
29 actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of
30 auction proceeds, are continuously appropriated to the department. The Department of Revenue
31 shall deposit net receipts from the auction required under this section in the [*Alternative Fuel Ve-*
32 *hicle Revolving Fund established under section 2 of this 2013 Act. Net receipts from the auction re-*
33 *quired under this section shall be used to provide loans as described in section 3 of this 2013 Act*]
34 **Zero-Emission Incentive Fund established under section 8 of this 2017 Act.**

35 (b) The [*State Department of Energy*] **Environmental Quality Commission** shall adopt rules for
36 the administration and implementation of this section.

37 (3) Contributions made under this section shall be deposited in the [*Alternative Fuel Vehicle*
38 *Revolving Fund*] **Zero-Emission Incentive Fund.**

39 (4)(a) Upon receipt of a contribution, the [*State Department of Energy*] **Department of Envi-**
40 **ronmental Quality** shall issue to the taxpayer written certification of the amount certified for tax
41 credit under this section to the extent the amount certified for tax credit, when added to all amounts
42 previously certified for tax credit under this section, does not exceed \$3 million for the tax year
43 beginning **on or after** January 1, 2013, **and before January 1, 2017, and \$23 million for any**
44 **biennium beginning on or after July 1, 2017.**

45 (b) The [*State Department of Energy*] **Department of Environmental Quality** and the Depart-

1 ment of Revenue are not liable, and a refund of a contributed amount need not be made, if a tax-
2 payer who has received tax credit certification is unable to use all or a portion of the tax credit to
3 offset the tax liability of the taxpayer.

4 (5) The tax credit allowed under this section for any one tax year may not exceed the tax li-
5 ability of the taxpayer.

6 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
7 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
8 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
9 forward and used in the second succeeding tax year, and, likewise, any credit not used in the second
10 succeeding tax year may be carried forward and used in the third succeeding tax year but may not
11 be carried forward for any tax year thereafter.

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

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

17 **SECTION 6.** Section 11, chapter 774, Oregon Laws 2013, as amended by section 9, chapter 38,
18 Oregon Laws 2014, is amended to read:

19 **Sec. 11. (1)** Section 9, chapter 774, Oregon Laws 2013, applies to tax years beginning on or after
20 January 1, 2013, and before January 1, [2017] **2027.**

21 **(2) The amendments to section 9, chapter 774, Oregon Laws 2013, by section 5 of this 2017**
22 **Act apply to tax years beginning on or after January 1, 2018, and before January 1, 2027.**

23 **SECTION 7. The Director of the Department of Environmental Quality may hire or con-**
24 **tract with a marketer to market the tax credits described in section 9, chapter 774, Oregon**
25 **Laws 2013, to taxpayers.**

26
27 **ZERO-EMISSION INCENTIVE FUND**
28

29 **SECTION 8. (1) The Zero-Emission Incentive Fund is established in the State Treasury,**
30 **separate and distinct from the General Fund. Interest earned by the Zero-Emission Incentive**
31 **Fund shall be credited to the fund.**

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

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

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

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

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

38 **(3) Moneys in the fund are continuously appropriated to the Department of Environ-**
39 **mental Quality. Each biennium after the payment of refunds to taxpayers as described in**
40 **section 9, chapter 774, Oregon Laws 2013, out of the moneys deposited in the fund per**
41 **biennium, the remaining funds may be used as follows:**

42 **(a)(A) Up to one percent per biennium may be expended to pay a third-party nonprofit**
43 **organization to market the tax credits described in section 9, chapter 774, Oregon Laws 2013,**
44 **to taxpayers.**

45 **(B) Up to 10 percent per biennium may be expended to pay a third-party nonprofit or-**

1 organization to design and implement the Charge Ahead Oregon program described in section
2 3 of this 2017 Act.

3 (C) Up to 10 percent per biennium may be expended to pay the Department of Environ-
4 mental Quality's costs of administering sections 1 to 4 and 7 to 9 of this 2017 Act.

5 (b) After the expenditures listed in paragraph (a) of this subsection, may be expended to
6 pay a third-party nonprofit organization to implement, administer, promote and evaluate the
7 alternative fuel or zero-emission vehicle rebate program described in section 2 of this 2017
8 Act and to pay out rebates under the program.

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

10 (5) The Department of Environmental Quality shall encourage gifts, grants, donations or
11 other contributions to the fund.

12 **SECTION 9.** (1) The total amount of potential tax credits for Zero-Emission Incentive
13 Fund contributions in this state may not, at the time of certification under section 9, chapter
14 774, Oregon Laws 2013, exceed \$23 million for any biennium.

15 (2) The Environmental Quality Commission may adopt rules as necessary to carry out
16 the provisions of this section.

17
18 **MISCELLANEOUS**
19

20 **SECTION 10.** Section 2 of this 2017 Act applies to qualifying vehicles purchased or leased
21 on or after the effective date of this 2017 Act.

22 **SECTION 11.** (1)(a) Sections 1 to 3, 8 and 9 of this 2017 Act are repealed on January 2,
23 2027.

24 (b) Any moneys remaining in the Zero-Emission Incentive Fund on the date of the repeal
25 specified in subsection (1) of this section that are unexpended, unobligated and not subject
26 to any conditions shall be transferred by the State Treasurer to the credit of an account of
27 the Department of Environmental Quality to be used for vehicle emission reduction pro-
28 grams.

29 (2) Section 4 of this 2017 Act is repealed on January 2, 2019.

30 **SECTION 12.** The unit captions used in this 2017 Act are provided only for the conven-
31 ience of the reader and do not become part of the statutory law of this state or express any
32 legislative intent in the enactment of this 2017 Act.

33 **SECTION 13.** (1) Sections 1 to 4 and 7 to 9 of this 2017 Act and the amendments to
34 sections 9 and 11, chapter 774, Oregon Laws 2013, by sections 5 and 6 of this 2017 Act become
35 operative on January 1, 2018.

36 (2) The Department of Environmental Quality and the Environmental Quality Commis-
37 sion may take any action before the operative date specified in subsection (1) of this section
38 that is necessary to enable the department and the commission to exercise, on or after the
39 operative date specified in subsection (1) of this section, all of the duties, functions and
40 powers conferred on the department and the commission by sections 1 to 4 and 7 to 9 of this
41 2017 Act and the amendments to sections 9 and 11, chapter 774, Oregon Laws 2013, by
42 sections 5 and 6 of this 2017 Act.

43 **SECTION 14.** This 2017 Act takes effect on the 91st day after the date on which the 2017
44 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.
45