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To: Members of the Joint Committee on Carbon Policy

**From: Marie Dodds, Director of Government and Public Affairs
AAA Oregon/Idaho**

Date: February 11, 2019

Re: Testimony re: HB 2020 – Cap and Trade Legislation

Chair Dembrow, Chair Power, Vice-Chairs Bentz and Brock Smith and members of the committee,

For the record, my name is Marie Dodds. I am the Director of Government and Public Affairs for AAA Oregon/Idaho and I am here today to comment on HB 2020

AAA has been the spokesperson for the traveler and driver for more than 100 years. AAA was founded in 1902 nationally and 1905 in Oregon. We have about 700,000 members in our state. Of course, most know us for our roadside assistance, but we also offer travel and insurance services. AAA has always been at the forefront in advocating for traffic safety and transportation funding. Our mission is to be the traveler's most trusted and vocal advocate.

We believe strongly that Oregonians and our economy are best served when our transportation infrastructure is maintained and where bottlenecks and congestion are addressed. We also understand that our members, who represent a cross-section of Oregonians from throughout the state, care about the environment and the impact of carbon emissions.

As we evaluate the provisions in HB 2020, we consider the perspective and needs of our members and utilize a comprehensive set of policies that reflect transportation best practices. With this in mind, I would like to outline our key principles and offer a few observations about HB 2020 in its current form.

Key Principles:

Insure constitutionally identified revenues are deposited into the Highway Trust Fund

We believe any Cap and Trade proposal should strictly adhere to the Article IX, section 3a (1)(a) of the Oregon Constitution which clearly directs revenues generated from any "tax levied on, with respect to, or measured by the storage, withdrawal, use, sale, distribution, importation, or receipt of motor vehicle fuel" into the Highway Trust Fund. We oppose any effort to redirect funds that belong in the Highway Trust Fund.

Honor Constitutional Limitations on Expenditures within the Highway Trust Fund

Revenues that flow into the Highway Trust Fund must be used exclusively for the purposes established in Article IX, section 3a (1) of the Oregon Constitution and clarified in *Rogers v Lane County* 771 P.2d 254 (1989) where the Court held that "Expenditures of motor vehicle and fuel taxes within the meaning of "improvement, operation and use" must be limited exclusively to expenditures on highways, roads, streets and roadside rest areas themselves and for other projects or purposes within or adjacent to a highway, road, street or roadside rest area right-of-way that

primarily and directly facilitate motorized vehicle travel.” This ruling includes two-parts that limit expenditures from the trust fund exclusively to:

- To expenditures on highways, roads, streets and roadside rest areas themselves and for other projects or purposes within or adjacent to a highway, road, street or roadside rest area right-of-way; and
- That primarily and directly facilitate motorized vehicle travel.

Maintain constitutionally required cost responsibility between Cars and Trucks:

Article IX, section 3a (3) requires that revenues in the Highway Trust Fund paid for the use of light vehicles, including cars, and those paid for the use of heavy vehicles, including trucks “is fair and proportionate to the costs incurred for the highway system because of each class of vehicle.”

Protect the transportation funding package passed during the 2017 Legislative Session (HB 2017)

This funding package carefully balanced the need for revenue to address a wide range of needs within our transportation system with the impacts of increased cost to motorists and the trucking industry. The package was negotiated as a “package” and the entire package as reflected in HB 2017 must be protected from any impacts from a cap and trade proposal.

Concerns and Questions re: HB 2020:

Increased cost to motorists resulting from passage of HB 2020 as currently drafted:

In light of the 10 cent increase in fuel taxes approved as part of the 2017 Transportation Funding Package, additional cost to motorists from cap and trade legislation is of concern. According to our survey research, Oregon drivers have a limited tolerance for additional increases in gas taxes. Based on the provisions of HB 2020, we believe strongly that an independent economic analysis that models the range of fuel price impacts to motorists over time should be conducted. The analysis should use all available data and consider market factors in order to determine the range of potential impacts. As currently drafted, the Carbon Policy Office is authorized and directed to set “an auction floor price for 2021 and a schedule for the floor price to increase by a fixed percentage over inflation each calendar year” and a “set a hard price ceiling for 2021 and a schedule for the hard price ceiling to increase by a fixed percentage over inflation each calendar year (Section 21 (5) (a)&(c)). We are concerned about any state agency having the sole authority to set a floor and ceiling for auction prices and believe certainty about the potential cost to motorists is vital to quantify.

The Oregon Department of Environmental Quality (DEQ) estimated the initial floor price at \$16 per ton or 16 cents per gallon of gas. This cost would be added to the 10 cent increase in the gas tax negotiated in HB 2017 (transportation package) and potential increases in the gas tax due to enacting the Oregon Low Carbon Fuel Standard program. The current average price for a gallon of regular in Oregon is \$2.77. Adding 16 cents would make our average \$2.93 a gallon, which would make Oregon the third most expensive state in the country, behind Hawaii and California.

Importance of Oregon Transportation Commission (OTC) Oversight of Highway Trust Fund Expenditures:

We believe strongly that the Oregon Transportation Commission should retain jurisdiction over the development of the State Transportation Investment Plan (STIP) to include all revenue deposited into the Highway Trust Fund including revenue generated as a result of HB 2020. In section 32, HB 2020 creates a Transportation Decarbonization Investments Account as a subaccount of the Highway Trust Fund and identifies the Oregon Legislative Assembly as the entity that allocates revenue that is deposited into the account and not the OTC.

Restrictions on expenditure of revenues deposited into the Transportation Decarbonization Investment Account:

HB 2020 places a series of requirements on the expenditure of revenues that are deposited into the Highway Trust Fund (Transportation Decarbonization Investment Account) that appear in numerous sections of the bill (i.e. Sections 7, 29, 32 & 33). While the bill requires expenditures to comply with Article IX, section 3a, the bill also adds

a laundry list of additional restrictions that are unlikely to align with the constitution. We recommend that restrictions on the use of these revenues be limited to compliance with Article IX, section 3a. Other parameters around the expenditure of these funds should be identified as a “may include” list as oppose to a “shall comply” list. All provisions related to revenues deposited in the Highway Trust Fund should be simplified and included in a single section within HB 2020.

Expedited Judicial Review to Supreme Court in Section 69 (revenue raising bill chamber of origination & 3/5 vote requirement for revenue raising measures) and Section 70 (Revenue subject to Highway Trust Fund):

We are concerned with the expedited Judicial Review provisions in Section 69 and Section 70. While the legislation as currently drafted respects the provisions of Article 9 of the Oregon Constitution by directing revenue from the sale of allowances by auction into the Highway Trust Fund, Section 70 opens the door to attempts to “bust the Trust” by challenging the need for revenue from Cap and Trade generated from the Transportation sector to flow into the Trust Fund. Section 70 opens the door for a challenge to constitutional requirements for revenue raising bills to originate in the Oregon House of Representatives and requirements that measures raising revenue pass with a 3/5th vote requirement. In both Section 69 and 70, a person who “is or will be” adversely affected or aggrieved may initiate a petition for review. We request that HB 2020 be amended to remove Section 69 and Section 70.

Thank you for your consideration.