

# House Bill 2063

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Environmental Quality)

## 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 **as introduced**.

Extends authorized uses of moneys received by state pursuant to Volkswagen Environmental Mitigation Trust Agreement and deposited in Clean Diesel Engine Fund.

## A BILL FOR AN ACT

1  
2 Relating to environmental mitigation trust agreement moneys; amending ORS 468A.795 and  
3 468A.805.

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

5 **SECTION 1.** ORS 468A.795 is amended to read:

6 468A.795. As used in ORS 468A.795 to 468A.807:

7 (1) "Alternative fuel" means biofuels, biogas, natural gas, liquefied petroleum gas, hydrogen and  
8 electricity.

9 (2) "Best available exhaust control technology" means the most effective exhaust controls to  
10 reduce diesel particulate that rely on passively regenerated diesel particulate control technology  
11 supported in a vehicle's normal duty cycle.

12 (3) "Combined weight" has the meaning given that term in ORS 825.005.

13 (4) "Cost-effectiveness threshold" means the cost, in dollars, per ton of diesel particulate matter  
14 reduced, as established by rule of the Environmental Quality Commission.

15 (5) "Diesel engine" means a compression ignition engine.

16 (6) "Environmental Mitigation Trust Agreement" means the **fully executed** Environmental Mit-  
17 igation Trust Agreement **for State Beneficiaries effective October 2, 2017, and issued pursuant**  
18 **to Paragraph 17 of** [*required by*] the Volkswagen "Clean Diesel" Marketing, Sales Practices and  
19 Products Liability Litigation partial consent decree dated October 25, 2016.

20 (7) "Equivalent equipment" means a piece of equipment that performs the same function and has  
21 the equivalent horsepower to a piece of equipment subject to a replacement.

22 (8) "Equivalent motor vehicle" means a motor vehicle that performs the same function and is in  
23 the same weight class as a motor vehicle subject to a replacement.

24 (9) "Heavy-duty truck" means a motor vehicle or combination of vehicles operated as a unit that  
25 has a combined weight that is greater than 26,000 pounds.

26 (10) "Incremental cost" means the cost of a qualifying repower or retrofit less a baseline cost  
27 that would otherwise be incurred in the normal course of business.

28 (11) "Medium-duty truck" means a motor vehicle or combination of vehicles operated as a unit  
29 that has a combined weight that is greater than 14,000 pounds but less than or equal to 26,000  
30 pounds.

31 (12) "Motor vehicle" has the meaning given that term in ORS 825.005.

**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 (13) “Nonroad diesel engine” means a diesel engine of 25 horsepower or more that is not de-  
 2 signed primarily to propel a motor vehicle on public highways.

3 (14) “Oregon diesel engine” means an engine at least 50 percent of the use of which, as meas-  
 4 ured by miles driven or hours operated, will occur in Oregon for the three years following the re-  
 5 powering or retrofitting of the engine.

6 (15) “Oregon diesel truck engine” means a diesel engine in a truck at least 50 percent of the  
 7 use of which, as measured by miles driven or hours operated, has occurred in Oregon for the two  
 8 years preceding the scrapping of the engine.

9 (16) “Public highway” has the meaning given that term in ORS 825.005.

10 (17)(a) “Replacement” means:

11 (A) To scrap a motor vehicle powered by a diesel engine and replace the motor vehicle with an  
 12 equivalent motor vehicle; or

13 (B) To scrap a piece of equipment powered by a nonroad diesel engine and replace the equip-  
 14 ment with equivalent equipment.

15 (b) “Replacement” does not mean ordinary maintenance, repair or replacement of a diesel en-  
 16 gine.

17 (18) “Repower” means to scrap an old diesel engine and substitute it with a new engine, a used  
 18 engine or a remanufactured engine, or with electric motors, drives or fuel cells, with a minimum  
 19 useful life of seven years.

20 (19) “Retrofit” means to equip a diesel engine with new emissions-reducing parts or technology  
 21 after the manufacture of the original engine. A retrofit must use the greatest degree of emissions  
 22 reduction available for the particular application of the equipment retrofitted that meets the cost-  
 23 effectiveness threshold.

24 (20) “Scrap” means to destroy, render inoperable and recycle.

25 (21) “Truck” means a motor vehicle or combination of vehicles operated as a unit that has a  
 26 combined weight that is greater than 14,000 pounds.

27 **SECTION 2.** ORS 468A.805 is amended to read:

28 468A.805. (1) Subject to and consistent with ORS 468A.803 (8) and with the terms of the Envi-  
 29 ronmental Mitigation Trust Agreement, any moneys received by the State of Oregon pursuant to the  
 30 agreement that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 must *[be used*  
 31 *by the Department of Environmental Quality to award grants for the purpose of reducing nitrogen*  
 32 *oxides emissions from diesel engines.]*

33 *[(2)(a) To the extent authorized by the agreement, the department shall allocate moneys awarded*  
 34 *pursuant to subsection (1) of this section first to]* **be expended by the Department of Environ-**  
 35 **mental Quality as follows:**

36 (a) **The department shall** award grants to owners and operators of school buses to reduce  
 37 emissions from at least 450 school buses powered by diesel engines operating in this state.

38 (b) **As provided for in Appendix D-2 to the Environmental Mitigation Trust Agreement,**  
 39 **the department may use up to 15 percent of the total moneys received by the State of Oregon**  
 40 **as the state’s allocation of trust funds on the costs necessary for, and directly connected to,**  
 41 **the purchase, installation and maintenance of light-duty electric vehicle supply equipment.**

42 (c)(A) **Moneys not expended under paragraphs (a) and (b) of this subsection must be:**

43 (i) **Awarded as grants for the purpose of reducing nitrogen oxides emissions from diesel**  
 44 **engines; or**

45 (ii) **Utilized by the department as the State of Oregon’s voluntary matching funds under**

1 **the Diesel Emissions Reduction Act Program in the Energy Policy Act of 2005, 42 U.S.C.**  
 2 **16133, and for the purpose of awarding grants for reducing diesel particulate matter emis-**  
 3 **sions from diesel engines.**

4 **(B) The department shall develop a competitive grant program for awarding grants under**  
 5 **this paragraph. The competitive grant program shall apply the preferences set forth in sub-**  
 6 **section (3) of this section.**

7 *[(b)]* **(2)(a)** In awarding grants under *[this subsection]* **subsection (1)(a) of this section**, the  
 8 department shall begin by awarding grants to owners and operators of school buses powered by  
 9 diesel engines that are of the median model year of school buses powered by diesel engines operat-  
 10 ing in this state, and shall proceed to award grants for school buses powered by diesel engines  
 11 through the adjoining model years until the requirements of *[paragraph (a) of this subsection]* **sub-**  
 12 **section (1)(a) of this section** are met. A grant may be awarded under *[this subsection]* **subsection**  
 13 **(1)(a) of this section** for any school bus powered by a diesel engine within the control of an owner  
 14 or operator that meets the following conditions:

15 (A) The school bus has at least three years of remaining useful life;

16 (B) Use of the school bus has occurred in Oregon during the year preceding the date of the  
 17 grant; and

18 (C) For the three years following receipt of a grant award, use of the school bus to which the  
 19 owner or operator applies the grant will occur in Oregon.

20 *[(c)]* **(b)** The grant amount per school bus awarded under *[this paragraph]* **subsection (1)(a) of**  
 21 **this section** shall be for:

22 (A) \$50,000 or 30 percent of the cost to purchase a school bus that meets minimum standards  
 23 adopted by the State Board of Education under ORS 820.100 for the applicable class or type of  
 24 school bus, whichever is less; or

25 (B) Up to 100 percent of the cost to retrofit a school bus with emissions-reducing parts or  
 26 technology that results in a reduction of diesel particulate matter emissions by at least 85 percent  
 27 when compared with the baseline emissions for the relevant engine year and application.

28 *[(3) Except for awarding grants pursuant to subsection (2) of this section, the department may not*  
 29 *award grants from the moneys described under subsection (1) of this section without prior approval*  
 30 *by the Legislative Assembly by law.]*

31 **(3) In awarding grants pursuant to the grant program developed under subsection (1)(c)**  
 32 **of this section, the department shall give preferences for projects that will:**

33 **(a) Benefit sensitive populations or areas with elevated concentrations of diesel**  
 34 **particulate matter;**

35 **(b) Be carried out by a grant applicant that is a disadvantaged business enterprise, as**  
 36 **defined in ORS 200.005;**

37 **(c) Be designed and perform in a manner that reflects engagement with and the support**  
 38 **of the community where the project is located;**

39 **(d) Involve the replacement, repower or retrofit of one or more motor vehicles or pieces**  
 40 **of equipment that have at least three years of remaining useful life at the time that the**  
 41 **grant agreement is executed;**

42 **(e) Support the utilization of fuels for which regulated parties may generate credits un-**  
 43 **der the clean fuels program adopted by rule by the Environmental Quality Commission under**  
 44 **ORS 468A.266 (1)(b);**

45 **(f) Involve small fleets;**

- 1       **(g) Maximize cost effectiveness of emissions reductions in Oregon; or**
  - 2       **(h) Meet the criteria of any other preferences that the commission may establish by rule,**
  - 3 **if the department determines that the additional preferences are necessary to ensure that**
  - 4 **grant awards result in the reduction of nitrogen oxides emissions from diesel engines.**
  - 5       **(4) The commission may adopt rules necessary to implement the provisions of this sec-**
  - 6 **tion.**
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