

Senate Bill 1051

Sponsored by Senators BEYER, DEMBROW, Representative POWER

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**.

Establishes, if House Bill 2020 becomes law, credit available to eligible persons for purpose of mitigating carbon price indirectly paid through purchase of fuel to propel eligible motor vehicles on public highways.

Establishes, if House Bill 2020 becomes law, refund available to certain persons for purpose of mitigating carbon price indirectly paid through purchase of fuel used to propel motor vehicles, for certain farming and forestry activities, on certain roads other than highways.

Becomes operative January 1, 2021.

Takes effect on 91st day following adjournment sine die or on effective date of chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), whichever is later.

A BILL FOR AN ACT

Relating to mitigating fuel costs; creating new provisions; amending section 42, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020); and prescribing an effective date.

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

CREDIT FOR FUEL USED TO PROPEL

ELIGIBLE MOTOR VEHICLES ON PUBLIC HIGHWAYS

SECTION 1. As used in sections 1 to 5 of this 2019 Act:

(1) "County per-gallon carbon price" means the portion of the price of a gallon of fuel in a county in Oregon that is attributable to the cost to a fuel producer or importer of being regulated under the Oregon Climate Action Program.

(2) "Eligible motor vehicle" means a passenger motor vehicle that is powered by fuel.

(3) "Eligible person" means an individual with an adjusted gross income that does not exceed 250 percent of the federal poverty guidelines, based on the individual's household size and household members.

(4) "Fuel" means:

(a) Motor vehicle fuel as defined in ORS 319.010; and

(b) Fuel subject to the tax imposed under ORS 319.530 on the use of fuel in a motor vehicle within the meaning of ORS 319.520.

(5) "Median vehicle miles traveled" means, for a county, the median number of miles traveled in this state per capita by residents of that county who are eligible persons using eligible motor vehicles.

(6) "Oregon Climate Action Program" has the meaning given that term in section 15, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020).

SECTION 2. (1)(a) Not later than November 30 of each year, the Department of Transportation, in consultation with the Climate Policy Office, shall prepare, for each county, an

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 annual estimate of:

2 (A) The median vehicle miles traveled for that county;

3 (B) The median number of gallons of fuel used by an eligible motor vehicle in traveling
4 the median vehicle miles traveled for that county; and

5 (C) The county per-gallon carbon price.

6 (b) In preparing the estimate required under paragraph (a)(C) of this subsection, the de-
7 partment shall take into account differences by county in the median annual cost of a gallon
8 of fuel. The department shall subtract from the estimate any increase solely attributable to
9 a percentage increase, from 2020 to the current calendar year, in the Consumer Price Index
10 for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor
11 Statistics of the United States Department of Labor. The estimate shall be expressed in a
12 positive amount of dollars per gallon of fuel.

13 (c) The Department of Transportation may contract with an independent third-party or-
14 ganization to assist in preparing the estimates required under this subsection.

15 (2) Using the estimates prepared under subsection (1) of this section, the department
16 shall develop a schedule that lists for each county the annual per capita credit amount
17 available to each eligible person who is a resident of the county. The annual per capita credit
18 amount available to an eligible person in a county shall be computed:

19 (a) To reflect the median number of gallons of fuel used by an eligible motor vehicle in
20 traveling the median vehicle miles traveled for the county, multiplied by the applicable
21 county per-gallon carbon price;

22 (b) To closely approximate the carbon price indirectly paid by eligible persons in the
23 county through the purchase of fuel to propel eligible motor vehicles on the public highways;
24 and

25 (c) To reflect any adjustments necessary to account for differences between the total
26 moneys available for issuance of credits during the previous calendar year in the Climate
27 Action Reimbursement Fund established under section 5 of this 2019 Act and the total mon-
28 eys issued as payment of credits during the previous calendar year.

29 (3) Not later than August 15 of each year, the Department of Transportation shall notify
30 the Department of Revenue of, as calculated for each county for the immediately preceding
31 year:

32 (a) The estimates required under this section; and

33 (b) The annual per capita credit amount available to an eligible person.

34 (4) The Department of Transportation may adopt rules necessary to carry out this sec-
35 tion.

36 **SECTION 3.** (1) Each eligible person may apply for a credit under this section in an
37 amount equal to the annual per capita credit amount for the county in which the eligible
38 person is located, as computed under section 2 of this 2019 Act.

39 (2) The Department of Revenue shall provide a means on the personal income tax return,
40 beginning with returns filed for tax years beginning on or after January 1, 2021, by which
41 an eligible person may apply for the credit. An eligible person may apply for the credit on
42 the return filed by the eligible person for any personal income tax year beginning on or after
43 the date on which the estimate required under section 2 of this 2019 Act is made.

44 (3) The department shall allow for an eligible person who is not required to file a personal
45 income tax return to apply for the credit in a form prescribed by the department by rule.

1 (4) An eligible person claiming a credit under this section shall provide to the depart-
 2 ment:

3 (a) Proof of registration in Oregon to the eligible person of at least one eligible motor
 4 vehicle; and

5 (b) Any other information required by the department by rule.

6 (5) The amount of credit allowed under this section shall equal, for residents of each
 7 county:

8 (a) Twice the amount of the per capita credit amount listed for that county on the
 9 schedule developed under section 2 of this 2019 Act, if claimed on a joint return, provided the
 10 return includes proof of registration of two eligible motor vehicles; or

11 (b) The per capita credit amount listed for that county on the schedule developed under
 12 section 2 of this 2019 Act, for credits claimed on all types of personal income tax returns
 13 other than joint returns.

14 (6) In no event may more than twice the per capita credit amount be allowed on the basis
 15 of one return, regardless of the number of eligible motor vehicles registered to an eligible
 16 person.

17 (7) The amounts authorized under this section shall be credited by the department out
 18 of the Climate Action Reimbursement Fund established under section 5 of this 2019 Act and
 19 in the manner of refund payments in excess of tax liability under ORS chapter 316. The de-
 20 partment may not issue a credit unless there are sufficient moneys available in the fund to
 21 pay the credit.

22 (8) Amounts received through a credit issued under this section are exempt from per-
 23 sonal income taxation under Oregon law.

24 (9) Credits allowed under this section do not bear interest.

25 **SECTION 4.** Except as otherwise provided in section 3 of this 2019 Act, or where the
 26 context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and
 27 examination of reports and returns, periods of limitation, determination of and notices of
 28 deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds,
 29 conferences, appeals to the Oregon Tax Court, stays of collection pending appeal,
 30 confidentiality of returns and the penalties and procedures relative thereto, apply to the de-
 31 terminations of taxes, credits, penalties and interest under section 3 of this 2019 Act.

32 **SECTION 5.** The Climate Action Reimbursement Fund is established in the State Treas-
 33 ury, separate and distinct from the General Fund. The Climate Action Reimbursement Fund
 34 shall consist of moneys transferred to the fund under section 42, chapter _____, Oregon
 35 Laws 2019 (Enrolled House Bill 2020). Interest earned by the fund shall be credited to the
 36 fund. Moneys in the fund are continuously appropriated to the Department of Revenue to
 37 issue credits under section 3 of this 2019 Act.

38
 39 **REFUND FOR FUEL USED IN CERTAIN FARM OR FOREST ACTIVITIES**

40
 41 **SECTION 6.** As used in sections 6 to 9 of this 2019 Act:

42 (1) "Fuel" means:

43 (a) Motor vehicle fuel as defined in ORS 319.010; and

44 (b) Fuel as defined in ORS 319.520.

45 (2) "Oregon Climate Action Program" has the meaning given that term in section 15,

1 chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020).

2 (3) "Statewide per-gallon carbon price" means the portion of the price of a gallon of fuel
3 in Oregon that is attributable to the cost to a fuel producer or importer of being regulated
4 under the Oregon Climate Action Program.

5 **SECTION 7.** (1) Not later than November 30 of each year, the Department of Transpor-
6 tation, in consultation with the Climate Policy Office, shall prepare an annual estimate of the
7 statewide per-gallon carbon price. In preparing the estimate, the department shall subtract
8 any increase solely attributable to a percentage increase, from 2020 to the current calendar
9 year, in the Consumer Price Index for All Urban Consumers, West Region (All Items), as
10 published by the Bureau of Labor Statistics of the United States Department of Labor. The
11 estimate shall be expressed in a positive amount of dollars per gallon of fuel.

12 (2) The Department of Transportation may contract with an independent third-party or-
13 ganization to assist in preparing the estimate required by this section.

14 **SECTION 8.** (1) The following persons may apply to the Department of Transportation for
15 a refund equal to the number of gallons of fuel used during a calendar year for the following
16 purposes, multiplied by the statewide per-gallon carbon price for that calendar year, as es-
17 timated by the department under section 7 of this 2019 Act:

18 (a) A farmer, as defined in ORS 319.320 (4), for fuel used in farming operations in the
19 operation of any motor vehicle on any road, thoroughfare or property in private ownership.

20 (b) Any person, for fuel used in operation of a motor vehicle on any road, thoroughfare
21 or property, other than a state highway, county road or city street, for the removal of forest
22 products as defined in ORS 321.005, or the product of forest products converted to a form
23 other than logs at or near the harvesting site, or when used for the construction or main-
24 tenance of the road, thoroughfare or property, pursuant to a written agreement or permit
25 authorizing the use, construction or maintenance of the road, thoroughfare or property,
26 with:

27 (A) An agency of the United States;

28 (B) The State Board of Forestry;

29 (C) The State Forester; or

30 (D) A licensee of an agency named in this subsection.

31 (c) Any person, for fuel used in operation of a motor vehicle on any county road for the
32 removal of forest products as defined in ORS 321.005, or the products of forest products
33 converted to a form other than logs at or near the harvesting site, if:

34 (A) The use of the county road is pursuant to a written agreement entered into with the
35 State Board of Forestry, the State Forester or an agency of the United States, authorizing
36 the person to use the road and requiring the person to pay for or to perform the con-
37 struction or maintenance of the county road;

38 (B) The board, officer or agency that entered into the agreement or granted the permit,
39 by contract with the county court or board of county commissioners, has assumed the re-
40 sponsibility for the construction or maintenance of the county road; and

41 (C) Copies of the agreements or permits required by this subsection are filed with the
42 Director of Transportation.

43 (2) An application for a refund under this section shall be in a form prescribed by the
44 Department of Transportation by rule and must include a statement, signed by the applicant
45 under penalties for false swearing, that sets forth the number of gallons of fuel proposed

1 under subsection (1) of this section as the basis for computing the amount of the refund.

2 (3)(a) The department may investigate a refund application submitted under this section
 3 and gather and compile such information related to the application as the department con-
 4 siders necessary.

5 (b) The department may examine the relevant records of the applicant in order to es-
 6 tablish the validity of an application.

7 (c) If an applicant does not permit the department to examine the relevant records, the
 8 applicant waives all rights to the refund to which the application relates.

9 (4)(a) The department shall reject or approve an application for a refund submitted under
 10 this section.

11 (b) The department may allow the applicant to modify an application without refiling to
 12 any reasonable extent necessary for approval of the application.

13 (c) If the department rejects an application, the department shall notify the applicant and
 14 explain the reasons for the rejection. An applicant may appeal a rejection, subject to the
 15 provisions of section 9 of this 2019 Act.

16 (d) If the department approves an application, the department shall notify the applicant
 17 and issue payment of the refund.

18 (5) The refunds authorized under this section shall be paid by the department out of the
 19 Transportation Decarbonization Investments Account established under section 42, chapter
 20 _____, Oregon Laws 2019 (Enrolled House Bill 2020), and in the manner of refund payments
 21 in excess of tax liability under ORS chapter 316.

22 (6) The refunds available under this section shall be in addition to and not in lieu of any
 23 other refund available pursuant to ORS 319.320 or 319.831.

24 (7) Amounts received through a refund issued under this section are exempt from per-
 25 sonal income taxation under Oregon law.

26 (8) The department may adopt rules necessary to carry out sections 6 to 9 of this 2019
 27 Act.

28 **SECTION 9.** Except as otherwise provided in section 8 of this 2019 Act, or where the
 29 context requires otherwise, the provisions of ORS chapters 305, 314 and 316 as to the audit
 30 and examination of reports and returns, periods of limitation, determination of and notices
 31 of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds,
 32 conferences, appeals to the Oregon Tax Court, stays of collection pending appeal,
 33 confidentiality of returns and the penalties and procedures relative thereto, apply to the de-
 34 terminations of taxes, credits, penalties and interest under section 8 of this 2019 Act.

35
 36 **TRANSPORTATION DECARBONIZATION INVESTMENTS ACCOUNT AMENDMENTS**

37
 38 **SECTION 10.** If House Bill 2020 becomes law, section 42, chapter _____, Oregon Laws 2019
 39 (Enrolled House Bill 2020), is amended to read:

40 **Sec. 42.** (1) The Transportation Decarbonization Investments Account is established as a sepa-
 41 rate account within the State Highway Fund. Interest earned by the Transportation Decarbonization
 42 Investments Account shall be credited to the account.

43 (2) Moneys in the Transportation Decarbonization Investments Account are continuously ap-
 44 propriated to the Department of Transportation for the purposes described in subsections (4) and (5)
 45 of this section and sections 43 and 44, **chapter _____, Oregon Laws 2019 (Enrolled House Bill**

1 **2020** [of this 2019 Act].

2 (3) The Transportation Decarbonization Investments Account consists of moneys deposited in
 3 the account under sections 34 and 35, **chapter _____, Oregon Laws 2019 (Enrolled House Bill**
 4 **2020)** [of this 2019 Act].

5 (4)(a) Of the moneys deposited in the Transportation Decarbonization Investments Account each
 6 biennium, **the department shall:**

7 **(A) First, transfer 30 percent to the Climate Action Reimbursement Fund established**
 8 **under section 5 of this 2019 Act; and**

9 **(B) Second, use the moneys deposited in the account to pay the refunds authorized under**
 10 **section 8 of this 2019 Act.**

11 **(b) Of the moneys available each biennium after meeting the requirements of paragraph**
 12 **(a) of this subsection:**

13 [(a)] **(A)** 50 percent shall be used by the Department of Transportation for transportation
 14 projects selected by the Oregon Transportation Commission pursuant to section 44, **chapter**
 15 **_____, Oregon Laws 2019 (Enrolled House Bill 2020)** [of this 2019 Act]; and

16 [(b)] **(B)** 50 percent shall be used to provide grants for transportation projects pursuant to
 17 sections 43 and 44, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020),** [of this 2019
 18 Act] and to provide technical assistance, which may include grant writing assistance, to applicants
 19 for and recipients of the grants.

20 (5) The amount of moneys used to provide technical assistance under subsection [(4)(b)] **(4)(b)(B)**
 21 of this section may not exceed one percent of the amount of moneys [deposited in the account each
 22 biennium] **available each biennium after meeting the requirements of paragraph (a) of this**
 23 **subsection.**

24 (6) Expenditures [from the Transportation Decarbonization Investments Account] **under sub-**
 25 **section (4)(b) of this section** shall, to the extent feasible and consistent with law, be in addition
 26 to and not in replacement of any existing allocation or appropriation for transportation projects.

27 (7) Examples of uses of moneys [deposited in the Transportation Decarbonization Investments
 28 Account] **pursuant to subsection (4)(b) of this section** may include, but are not limited to, uses
 29 related to:

30 (a) Enhancing roadway drainage, improving slope stability, investment in the safe routes to
 31 schools program established under ORS 184.741, the repower, retrofit or replacement of certain
 32 diesel engines, reducing vehicle miles traveled through bike, pedestrian or other multimodal im-
 33 provements and traffic signal optimization; and

34 (b) Increasing the resilience of transportation infrastructure and evacuation routes against the
 35 effects of climate change, extreme precipitation, sea level rise, and extreme temperatures and
 36 wildfires.

37
 38 **CAPTIONS**

39
 40 **SECTION 11. The unit captions used in this 2019 Act are provided only for the conven-**
 41 **ience of the reader and do not become part of the statutory law of this state or express any**
 42 **legislative intent in the enactment of this 2019 Act.**

43
 44 **OPERATIVE DATE**

1 **SECTION 12.** (1) Sections 1 to 9 of this 2019 Act and the amendments to section 42,
 2 chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), by section 10 of this 2019 Act
 3 become operative on January 1, 2021.

4 (2) The Department of Transportation and the Department of Revenue may adopt rules
 5 or take any actions before the operative date specified in subsection (1) of this section that
 6 are necessary to enable the departments, on and after the operative date specified in sub-
 7 section (1) of this section, to carry out the provisions of sections 1 to 9 of this 2019 Act and
 8 the amendments to section 42, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020),
 9 by section 10 of this 2019 Act.

10
 11 **EFFECTIVE DATE**
 12

13 **SECTION 13.** This 2019 Act does not take effect unless House Bill 2020 becomes law.

14 **SECTION 14.** If House Bill 2020 becomes law, this 2019 Act takes effect on the later of:

15 (1) The 91st day after the date on which the 2019 regular session of the Eightieth Legis-
 16 lative Assembly adjourns sine die; or

17 (2) The effective date of chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020).
 18 _____