

Enrolled
House Bill 2165

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

CHAPTER

AN ACT

Relating to alternative fuel transportation; creating new provisions; amending ORS 320.435 and 757.357 and sections 148, 150 and 152, chapter 750, Oregon Laws 2017; and repealing sections 96b and 157, chapter 750, Oregon Laws 2017.

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

TRANSPORTATION ELECTRIFICATION

SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 757.

SECTION 2. (1) As used in this section:

- (a) "Distribution" has the meaning given that term in ORS 757.600.
- (b) "Electric company" has the meaning given that term in ORS 757.600.
- (c) "Retail electricity consumer" has the meaning given that term in ORS 757.600.
- (d) "Transportation electrification" has the meaning given that term in ORS 757.357.

(2) An electric company that makes sales of electricity to 25,000 or more retail electricity consumers in this state shall collect, through monthly meter charges, an amount from each retail electricity consumer served through the distribution system owned and operated by the electric company, regardless of whether the retail electricity consumer purchases the electricity from the electric company. The total amounts collected under this section must be set to one quarter of one percent of the total revenues collected by the electric company from all retail electricity consumers.

(3) Funds collected under subsection (2) of this section must be expended by the electric company to support and integrate transportation electrification and must be consistent with a budget approved by the Public Utility Commission for use of funds collected under this section. Expenditures made by an electric company pursuant to this subsection must be made on elements contained within the electric company's transportation electrification plan accepted by the commission pursuant to ORS 757.357.

(4) An electric company shall account separately for all revenues and expenditures related to funds described in this section and shall report the revenues and expenditures on a schedule and in the manner prescribed by the commission.

(5) Funds collected and expended pursuant to this section shall be a minimum investment in transportation electrification and may not limit the amounts that may otherwise be collected by an electric company in rates to recover the costs of prudently incurred investments that support transportation electrification.

(6) An electric company shall make reasonable efforts to expend not less than one-half of the amount collected under subsection (2) of this section each year to support transportation electrification in underserved communities through approaches that may include but are not limited to programs, infrastructure, rebates or expenses that support:

(a) The use of electric vehicles by residents of rental or multifamily housing;

(b) The use of electric vehicles by communities of color, communities experiencing lower incomes, tribal communities, rural communities, frontier communities, coastal communities and other communities adversely harmed by environmental and health hazards;

(c) The use of electric vehicles by communities described in paragraph (b) of this subsection in areas with a low density of public charging stations; or

(d) The deployment of electric school and transit buses in a manner that benefits communities described in paragraph (a) or (b) of this subsection.

SECTION 3. Section 2 of this 2021 Act is repealed on January 2, 2031.

SECTION 4. ORS 757.357 is amended to read:

757.357. (1) As used in this section:

(a) “Electric company” has the meaning given that term in ORS 757.600.

(b)(A) “Infrastructure measures” includes, but is not limited to, investments in, expenses related to or rebates for:

(i) Distribution system infrastructure that supports transportation electrification;

(ii) Communication and control technologies that support transportation electrification; and

(iii) Behind the meter infrastructure that supports transportation electrification and is owned by an electric company or by a customer.

(B) “Infrastructure measures” does not include investments in or expenses related to education and outreach activities related to transportation electrification, or other transportation electrification-related activities determined by the Public Utility Commission to be separate and distinct from the development of infrastructure.

(c) “Retail electricity consumer” has the meaning given that term in ORS 757.600.

~~(b)~~ (d) “Transportation electrification” means:

(A) The use of electricity from external sources to provide power to all or part of a vehicle;

(B) Programs related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph; ~~and~~

(C) Infrastructure ~~[investments]~~ measures related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph~~]; and~~

(D) Programs related to supporting the adoption and service of vehicles powered as described in subparagraph (A) of this paragraph.

~~(c)~~ (e) “Vehicle” means a vehicle, vessel, train, boat or any other equipment that is mobile.

(2) The Legislative Assembly finds and declares that:

(a) Transportation electrification is necessary to reduce petroleum use, achieve optimum levels of energy efficiency and carbon reduction, meet federal and state air quality standards, meet this state’s greenhouse gas emissions reduction goals described in ORS 468A.205 and improve the public health and safety;

(b) Widespread transportation electrification requires that electric companies increase access to the use of electricity as a transportation fuel;

(c) Widespread transportation electrification requires that electric companies increase access to the use of electricity as a transportation fuel in low and moderate income communities;

(d) Widespread transportation electrification should stimulate innovation and competition, provide consumers with increased options in the use of charging equipment and in procuring services from suppliers of electricity, attract private capital investments and create high quality jobs in this state;

(e) Transportation electrification and the purchase and use of electric vehicles should assist in managing the electrical grid, integrating generation from renewable energy resources and improving

electric system efficiency and operational flexibility, including the ability of an electric company to integrate variable generating resources;

(f) Deploying transportation electrification and electric vehicles creates the opportunity for an electric company to propose, to the [Public Utility] commission, that a net benefit for the customers of the electric company is attainable; and

(g) Charging electric vehicles in a manner that provides benefits to electrical grid management affords fuel cost savings for vehicle drivers.

(3)(a) The [Public Utility] commission shall direct each electric company to file [applications, in a form and manner prescribed by the commission, for programs to accelerate transportation electrification.]:

(A) Applications for programs to support transportation electrification; and

(B) A plan, for acceptance by the commission, that integrates the electric company's transportation electrification actions.

(b) The applications and plan must be filed in a form and manner prescribed by the commission.

(c) A program proposed by an electric company may include prudent investments in or customer rebates for electric vehicle charging and related infrastructure.

(4) The commission may allow an electric company to recover costs from retail electricity consumers for prudent infrastructure measures to support transportation electrification if the infrastructure measures are consistent with and meet the requirements of subsection (5) of this section.

(5) If undertaken by an electric company, an infrastructure measure to support transportation electrification is a utility service and a benefit to utility customers if the infrastructure measure can be reasonably anticipated to:

(a) Support reductions of transportation sector greenhouse gas emissions over time; and

(b) Benefit the electric company's customers in ways that may include, but need not be limited to:

(A) Distribution or transmission management benefits;

(B) Revenues to utilities from electric vehicle charging to offset utilities' fixed costs that may otherwise be charged to customers;

(C) System efficiencies or other economic values inuring to the benefit of customers over the long term; or

(D) Increased customer choice through greater transportation electrification infrastructure deployment to increase the availability of and access to public and private electric vehicle charging stations.

[4] (6) When considering a transportation electrification program and determining cost recovery for investments and other expenditures **that are not infrastructure measures and that are** related to a program proposed by an electric company under subsection (3) of this section, the commission shall consider whether the investments and other expenditures:

(a) Are within the service territory of the electric company;

(b) Are prudent as determined by the commission;

(c) Are reasonably expected to be used and useful as determined by the commission;

(d) Are reasonably expected to enable the electric company to support the electric company's electrical system;

(e) Are reasonably expected to improve the electric company's electrical system efficiency and operational flexibility, including the ability of the electric company to integrate variable generating resources; and

(f) Are reasonably expected to stimulate innovation, competition and customer choice in electric vehicle charging and related infrastructure and services.

(7) In undertaking infrastructure measures that involve the installation of one or more electric vehicle charging stations, an electric company must allow for customer choice in the selection of the type of electric vehicle charging station to be installed, subject to equipment

eligibility as determined by the electric company. An electric company may prequalify multiple types of eligible electric vehicle charging stations based on criteria determined by the electric company.

(8) Nothing in this section restricts or prohibits a corporation, company, partnership, individual or association of individuals exempt from regulation under ORS 757.005 (1)(b)(G) from furnishing electricity to any number of customers for use in motor vehicles.

[(5)(a)] (9)(a) Tariff schedules and rates allowed pursuant to [subsection (3)] subsections (3) to (6) of this section:

(A) May allow a return of and a return on an investment made by an electric company under [subsection (3)] subsections (3) to (6) of this section; and

(B) Shall be recovered from [all customers] the retail electricity consumers of an electric company in a manner [that is similar to the recovery of distribution system investments] determined by the commission.

(b) A return on investment allowed under this subsection may be earned for a period of time that does not exceed the depreciation schedule of the investment approved by the commission. When an electric company's investment is fully depreciated, the commission may authorize the electric company to donate the electric vehicle charging infrastructure to the owner of the property on which the infrastructure is located.

[(6)] (10) For purposes of ORS 757.355, electric vehicle charging infrastructure provides utility service to the customers of an electric company.

[(7)] (11) In authorizing programs described in subsection (3) of this section, the commission shall review data concerning current and future adoption of electric vehicles and utilization of electric vehicle charging infrastructure. If market barriers unrelated to the investment or expenditures made by an electric company prevent electric vehicles from adequately utilizing available electric vehicle charging infrastructure, the commission may not permit additional investments in or expenditures related to supporting transportation electrification without a reasonable showing that the investments or expenditures would not result in long-term stranded costs recoverable from the [customers] retail electricity consumers of electric companies.

ZERO-EMISSION AND ELECTRIC VEHICLE REBATES

SECTION 4a. Section 148, chapter 750, Oregon Laws 2017, as amended by section 154, chapter 750, Oregon Laws 2017, and section 34, chapter 491, Oregon Laws 2019, is amended to read:

Sec. 148. As used in sections 148 to 152, chapter 750, Oregon Laws 2017:

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

- (a) Has a gross vehicle weight rating of 8,500 pounds or less;
- (b) Is capable of attaining a speed of 55 miles per hour or more; and
- (c) Is powered:

(A) Primarily by an electric battery and may or may not use a flywheel energy storage device or a capacitor that also stores energy to assist in vehicle operation.

(B) By polymer electrolyte membrane fuel cells or proton exchange membrane fuel cells that use hydrogen fuel and oxygen from the air to produce electricity.

(C) Primarily by a zero-emission energy storage device that provides enough power for the vehicle to travel 75 miles or more using only electricity and may or may not use a backup alternative power unit that does not operate until the energy storage device is fully depleted.

(2) "Motor vehicle" has the meaning given that term in ORS 801.360.

(3) "Neighborhood electric vehicle" means a low-speed vehicle that:

- (a) Is powered using an electric battery;
- (b) Has a gross vehicle weight not exceeding 3,000 pounds; and
- (c) Has at least four wheels.

(4) "Person" means a person as defined in ORS 174.100 or a public body as defined in ORS 174.109.

- (5) “Plug-in hybrid electric vehicle” means a hybrid electric motor vehicle that:
 - (a) Has zero evaporative emissions from its fuel system;
 - (b) Has an onboard electrical energy storage device with useful capacity of 10 or more miles of urban dynamometer driving schedule range, as described by the United States Environmental Protection Agency, on electricity alone;
 - (c) Is equipped with an onboard charger;
 - (d) Is rechargeable from an external connection to an off-board electrical source;
 - (e) Meets the super ultra-low emission vehicle standards for exhaust emissions, as defined by the Environmental Quality Commission by rule;
 - (f) Has a warranty of at least 15 years and 150,000 miles on emission control components; and
 - (g) Is capable of attaining a speed of 55 miles per hour or more.

- (6) “Qualifying vehicle” means a motor vehicle that:
 - (a) Is a:
 - (A) Light-duty zero-emission vehicle;
 - (B) Neighborhood electric vehicle;
 - (C) Plug-in hybrid electric vehicle; or
 - (D) Zero-emission motorcycle;
 - (b) Is new, or has been previously used only as a dealership floor model or test-drive vehicle;
 - (c) Has not previously been registered;
 - (d) Is constructed entirely from new parts that have never been the subject of a retail sale;
 - (e) Has a base manufacturer’s suggested retail price of less than:
 - (A) \$50,000; or
 - (B) **If the motor vehicle is powered as described in subsection (1)(c)(B) of this section, \$60,000;**

- (f) Is covered by a manufacturer’s express warranty on the vehicle drive train, including the applicable energy storage system or battery pack, for at least 24 months from the date of purchase; and

- (g) Is certified by the manufacturer to comply with all applicable federal safety standards issued by the National Highway Traffic Safety Administration for new motor vehicles and new motor vehicle equipment.

(7)(a) “Vehicle dealer” means:

- (A) A person engaged in business in this state that has been issued a vehicle dealer certificate under ORS 822.020; and

- (B) A person engaged in business in another state that would be subject to ORS 822.005 if the person engaged in business in this state.

- (b) Notwithstanding paragraph (a) of this subsection, a person is not a vehicle dealer for purposes of sections 148 to 152, chapter 750, Oregon Laws 2017, to the extent the person:

- (A) Conducts an event that lasts less than seven consecutive days, for which the public is charged admission and at which otherwise qualifying vehicles are sold at auction; or

- (B) Sells an otherwise qualifying vehicle at auction at an event described in this paragraph.

(8) “Zero-emission motorcycle” means a motorcycle that:

- (a) Has zero evaporative emissions from its fuel system;
- (b) Is capable of attaining a speed of 55 miles per hour or more;
- (c) Is designed to travel on two wheels; and
- (d) Is powered by electricity.

SECTION 5. Section 150, chapter 750, Oregon Laws 2017, as amended by section 21, chapter 93, Oregon Laws 2018, and section 36, chapter 491, Oregon Laws 2019, is amended to read:

Sec. 150. (1) As used in this section:

[*(a) “Area median income” means the median income for the metropolitan statistical area in which a household is located or, if the household is not located within a metropolitan statistical area, for the metropolitan statistical area in closest proximity to the location of the household, as determined by the Housing and Community Services Department, adjusted for household size.*]

[(b)] (a) “Charge ahead rebate” means a rebate for the purchase or lease of a new or used light-duty zero-emission vehicle or plug-in hybrid electric vehicle issued through the Charge Ahead Oregon Program established under this section.

[(c) “Low income household” means a household with income less than or equal to 80 percent of the area median income.]

[(d) “Moderate income household” means a household with income less than or equal to 120 percent and greater than 80 percent of the area median income.]

(b) “**Low-income service provider**” means an organization that provides health, dental, social, financial, energy conservation or other assistive services to low or moderate income individuals or low or moderate income households, as further defined by the Environmental Quality Commission by rule.

(c) “**Qualifying household**” means a household with income that does not exceed 400 percent of federal poverty guidelines.

(2) The Department of Environmental Quality shall establish a Charge Ahead Oregon Program [to provide for] **for providing** charge ahead rebates to [low income households and moderate income households] **qualifying households and low-income service providers**. The Director of the Department of Environmental Quality may hire or contract with a third-party organization to implement and serve as the administrator of the program required by this section.

(3) The department may:

(a) Specify design features for the program; and

(b) Establish procedures to:

(A) Prioritize available moneys to specific income levels or geographic areas; and

(B) Limit the number of charge ahead rebates available.

(4) An eligible purchaser or lessee of a new or used light-duty zero-emission vehicle or plug-in hybrid electric vehicle may apply for a charge ahead rebate for a portion of the purchase price or may choose to assign the charge ahead rebate to a vehicle dealer or lessor.

(5) Rebates under the Charge Ahead Oregon Program shall be made from moneys credited to or deposited in the Zero-Emission Incentive Fund established under section 152, chapter 750, Oregon Laws 2017. A rebate may not be made until there are sufficient moneys available in the fund to make the rebate.

(6) The department shall prescribe the rebate application procedure for **eligible** purchasers and lessees. All rebate applications must include a declaration under penalty of perjury in the form required by ORCP 1 E.

(7) Charge ahead rebates shall be in an amount up to [,\$2,500] **\$5,000**, but not less than [,\$1,250] **\$2,500**.

(8) To be eligible for a charge ahead rebate, a person requesting a rebate under the program must:

(a) Be a member of a [low income household or a moderate income household] **qualifying household or be a low-income service provider**.

(b) Purchase or lease a new or used light-duty zero-emission vehicle or plug-in hybrid electric vehicle. A lease must have a minimum term of 24 months.

(c) Provide proof of an intent to use the light-duty zero-emission vehicle or plug-in hybrid electric vehicle primarily on the public highways of this state, which may be satisfied by providing proof of registration of the vehicle in Oregon.

(d) Submit an application for a charge ahead rebate to the administrator of the program within six months of the date of purchase or six months from the date the lease begins.

(e) Retain registration of the light-duty zero-emission vehicle for a minimum of 24 consecutive months following the date of purchase or following the date the lease begins.

(9) A person that receives a charge ahead rebate may not make or allow any modifications to the vehicle’s emissions control systems, hardware, software calibrations or hybrid system.

(10)(a) If a charge ahead rebate recipient sells the vehicle or terminates the vehicle lease before the end of 24 months, the charge ahead rebate recipient shall:

(A) Notify the administrator of the program of the sale or termination; and
(B) Reimburse the administrator for the rebate in a prorated amount based on the number of months that the rebate recipient owned or leased the qualifying vehicle.

(b) The administrator may waive the reimbursement requirement under paragraph (a) of this subsection if the administrator determines that a waiver is appropriate given unforeseeable or unavoidable circumstances that gave rise to a need for the rebate recipient to sell the qualifying vehicle or terminate the qualifying vehicle lease before the end of 24 months.

(11) Charge ahead rebate recipients may be requested to participate in ongoing research efforts.

(12) The administrator of the program shall work to ensure timely payment of charge ahead rebates with a goal of paying rebates within 60 days of receiving an application for a charge ahead rebate.

(13) In establishing the Charge Ahead Oregon Program, the department shall provide opportunities for public comment by [*low income households, moderate income households*] **qualifying households, low-income service providers** and **other** community-based organizations that are located in areas of this state that have elevated concentrations of air contaminants attributable to motor vehicle emissions, relative to other areas of the state. The department shall use the comments received pursuant to this subsection to inform, evaluate and strengthen the design of the program in order to increase the usage of light-duty zero-emission vehicles and plug-in hybrid electric vehicles.

(14) The administrator of the program shall, throughout the course of implementing the program, conduct community outreach to [*low income households, moderate income households*] **qualifying households, low-income service providers** and **other** community-based organizations that are located in areas of this state that have elevated concentrations of air contaminants attributable to motor vehicle emissions, relative to other areas of the state, in order to:

(a) Solicit feedback on program implementation; and

(b) Take steps to ensure that the program is promoted effectively.

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

(16) A charge ahead rebate may be combined with a rebate described in section 149, chapter 750, Oregon Laws 2017.

(17) An organization that the department has hired or contracted with to implement and serve as the administrator of the program may offer expanded financing mechanisms for program participants, including, but not limited to, a loan or loan-loss reserve credit enhancement program to increase consumer access to new or used light-duty zero-emission vehicles and plug-in hybrid electric vehicles.

(18) The Environmental Quality Commission may adopt any rules necessary to carry out the provisions of this section.

SECTION 6. Section 152, chapter 750, Oregon Laws 2017, is amended to read:

Sec. 152. (1) The Zero-Emission Incentive Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Zero-Emission Incentive Fund shall be credited to the fund.

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

(a) Amounts donated to the fund;

(b) Amounts transferred to the fund by the Department of Revenue under [*section 96 of this 2017 Act*] **ORS 320.435**;

(c) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

(d) Other amounts deposited in the fund from any public or private source; and

(e) Interest earned by the fund.

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

(4) Moneys in the fund are continuously appropriated to the department to be used to carry out the provisions of sections 148 to 152 [of this 2017 Act], **chapter 750, Oregon Laws 2017.**

(5)(a) No more than 10 percent of the moneys deposited in the fund per biennium may be expended to pay [the] **administrative** expenses incurred in the administration of sections 148 to 152 [of this 2017 Act], **chapter 750, Oregon Laws 2017,** by:

[(a)] (A) The department; and

[(b)] (B) Any third-party organization that the department hires or contracts with under sections 149 and 150 [of this 2017 Act], **chapter 750, Oregon Laws 2017.**

(b) As used in this subsection, “administrative expenses” does not include expenses incurred by the department or third-party organizations in:

(A) Conducting community outreach under section 150 (14), chapter 750, Oregon Laws 2017; or

(B) Otherwise engaging in efforts to promote transportation electrification through participation in the programs established under sections 149 and 150, chapter 750, Oregon Laws 2017.

(6) The Environmental Quality Commission may adopt by rule provisions for the allocation of moneys deposited in the fund between the programs established under sections 149 and 150 [of this 2017 Act], **chapter 750, Oregon Laws 2017.** Rules adopted under this subsection must require that at least [10] **20** percent of the moneys deposited in the fund per biennium are allocated to fund the provision of rebates through the Charge Ahead Oregon Program established under section 150 [of this 2017 Act], **chapter 750, Oregon Laws 2017.**

SECTION 7. ORS 320.435, as amended by section 96a, chapter 750, Oregon Laws 2017, is amended to read:

320.435. (1) The Department of Revenue shall deposit all revenue collected from the privilege tax imposed under ORS 320.405 and the use tax imposed under ORS 320.410 in a suspense account established under ORS 293.445 for the purpose of receiving the revenue. The department may pay expenses for the administration and enforcement of the privilege and use taxes out of moneys received from the privilege and use taxes. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After payment of administrative and enforcement expenses under subsection (1) of this section and refunds or credits arising from erroneous overpayments, the department shall transfer the balance of the moneys received from the privilege and use taxes as follows:

(a) Moneys attributable to the privilege tax shall be transferred **as follows:**

(A) \$12 million shall be transferred annually to the Zero-Emission Incentive Fund established under section 152, chapter 750, Oregon Laws 2017.

(B) After the transfer required under subparagraph (A) of this paragraph, the balance of the moneys shall be transferred to the Connect Oregon Fund established under ORS 367.080.

(b) Moneys attributable to the use tax shall be transferred to the State Highway Fund.

SECTION 8. Sections 96b and 157, chapter 750, Oregon Laws 2017, are repealed.

SECTION 9. The amendments to sections 148 and 150, chapter 750, Oregon Laws 2017, by sections 4a and 5 of this 2021 Act apply to vehicles purchased or leased on or after the effective date of this 2021 Act.

UNIT CAPTIONS

SECTION 10. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

Passed by House May 6, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 17, 2021

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Peter Courtney, President of Senate

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Kate Brown, Governor

Filed in Office of Secretary of State:

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