

CHAPTER 687

AN ACT

SB 1051

Relating to mitigating fuel costs; creating new provisions; amending sections 42, 46 and 47, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020); repealing section 48, chapter [In committee upon adjournment], 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) "Eligible motor vehicle" means a passenger motor vehicle that is powered by fuel.

(2) "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.

(3) "Fuel" means:

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

(b) Fuel as defined in ORS 319.520.

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

(5) "Oregon Climate Action Program" has the meaning given that term in section 15, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020).

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

SECTION 2. (1)(a) Not later than August 15 of each year, the Department of Transportation, in consultation with the Climate Policy Office, shall prepare an annual estimate of the per-gallon carbon price and, for each county, an annual estimate of:

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

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

(b) The annual estimate of the per-gallon carbon price required under paragraph (a) of this subsection shall be expressed in a positive amount of dollars per gallon of fuel.

(c) The department may contract with an independent third-party organization to assist in preparing the estimates required under this subsection.

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

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

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

(c) To reflect any adjustments necessary to account for differences between the total moneys available for issuance of credits during the previous calendar year in the Climate Action Reimbursement Fund established under section 5 of this 2019 Act and the total moneys issued as payment of credits during the previous calendar year, if the amount claimed as credits exceeded the total moneys available.

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

(a) The estimates required under this section; and

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

(4) The Department of Transportation may adopt rules necessary to carry out this section.

SECTION 3. (1) Each eligible person may apply for a credit under this section in an amount equal to the annual per capita credit amount for the county in which the eligible person resided as of December 31 of the year for which the credit is applied for, as computed under section 2 of this 2019 Act.

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

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

(4) An eligible person claiming a credit under this section shall provide to the department:

(a) Proof of registration in Oregon, as of December 31 of the year for which the credit is applied for, to the eligible person of at least one eligible motor vehicle; and

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

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

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

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

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

(7) The amounts authorized under this section shall be credited by the department out of the Climate Action Reimbursement Fund established under section 5 of this 2019 Act and in the manner of refund payments in excess of tax liability under ORS chapter 316.

(8) Amounts received through a credit issued under this section are exempt from personal income taxation under Oregon law.

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

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

SECTION 5. The Climate Action Reimbursement Fund is established in the State Treasury, separate and distinct from the General Fund. The Climate Action Reimbursement Fund shall consist of moneys transferred to the fund under section 42, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020). Interest earned by the fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Revenue to issue credits under section 3 of this

2019 Act and to pay the administrative expenses of the department in connection with implementation and administration of sections 1 to 5 of this 2019 Act.

REFUND FOR FUEL USED IN CERTAIN FARM OR FOREST ACTIVITIES

SECTION 6. (1) As used in this section, “fuel” and “per-gallon carbon price” have the meaning given those terms in section 1 of this 2019 Act.

(2) The following persons may apply to the Department of Transportation for a refund equal to the number of gallons of fuel used during a calendar year for the following purposes, multiplied by the per-gallon carbon price for that calendar year, as estimated by the department under section 2 of this 2019 Act:

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

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

(A) An agency of the United States;

(B) The State Board of Forestry;

(C) The State Forester; or

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

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

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

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

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

(3) An application for a refund under this section shall be in a form prescribed by the Department of Transportation by rule and must include a statement, signed by the applicant under penalties for false swearing, that sets forth the number of gallons of fuel proposed under subsection (2) of this section as the basis for computing the amount of the refund. An application for a refund under this section must be filed with the department within 15 months of the date of purchase of fuel proposed under subsection (2) of this section as the basis for computing the amount of the refund.

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

(b) The department may examine the relevant records of the applicant in order to establish the validity of an application.

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

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

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

(c) If the department rejects an application, the department shall notify the applicant and explain the reasons for the rejection. An applicant may request review of a rejection in the manner prescribed for a contested case under ORS chapter 183.

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

(6) The refunds authorized under this section shall be paid by the department out of the Farm and Forest Climate Action Reimbursement Fund established under section 7 of this 2019 Act.

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

(8) Amounts received through a refund issued under this section are exempt from personal income taxation under Oregon law.

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

(10) The department may adopt rules necessary to carry out this section.

SECTION 7. (1) The Farm and Forest Climate Action Reimbursement Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Farm and Forest Climate Action Reimbursement Fund shall be credited to the fund. Moneys

in the fund are continuously appropriated to the Department of Transportation to issue refunds under section 6 of this 2019 Act and to pay the administrative expenses of the department in connection with implementation and administration of section 6 of this 2019 Act.

(2) The Farm and Forest Climate Action Reimbursement Fund shall consist of:

(a) Moneys transferred to the fund under section 42, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020);

(b) Moneys allocated from the Climate Investments Fund established under section 46, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020);

(c) Funds appropriated by the Legislative Assembly; and

(d) Any moneys deposited in the fund from any other public or private source.

TRANSPORTATION DECARBONIZATION INVESTMENTS ACCOUNT AMENDMENTS

SECTION 8. If House Bill 2020 becomes law, section 42, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020), is amended to read:

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

(2) Moneys in the Transportation Decarbonization Investments Account are continuously appropriated to the Department of Transportation for the purposes described in subsections (4) and (5) of this section and sections 43 and 44, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020) *[of this 2019 Act]*.

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

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

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

(B) Second, transfer an amount to the Farm and Forest Climate Action Reimbursement Fund established under section 7 of this 2019 Act, as necessary to pay the refunds authorized under section 6 of this 2019 Act for which moneys in the Transportation Decarbonization Investments Account may constitutionally be used.

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

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

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

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

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

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

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

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

CLIMATE INVESTMENTS FUND AMENDMENTS

SECTION 9. If House Bill 2020 becomes law, section 46, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020), is amended to read:

Sec. 46. (1) The Climate Investments Fund is established in the State Treasury, separate and distinct from the General Fund. The Climate Investments Fund shall consist of moneys deposited in the fund under sections 34 and 35, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020) [of this 2019 Act]. Interest earned by the fund shall be credited to the fund. The Oregon Department of Administrative Services shall administer the fund.

(2) Moneys in the fund are continuously appropriated to be used only for programs, projects and activities that further one or more of the purposes set forth in section 14, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020), [of this 2019 Act] consistent with section 59, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020) [of this 2019 Act].

(3) The Legislative Assembly shall allocate the moneys deposited in the fund as informed by the biennial climate action investment plan delivered by the Climate Policy Office under section 57, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020) [of this 2019 Act].

(4) Of the moneys deposited in the fund each biennium:

(a) 10 percent shall be allocated for uses that directly benefit eligible Indian tribes, as defined in section 15, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020) [of this 2019 Act];

(b) 40 percent shall be allocated for uses that benefit impacted communities, as defined in section 15, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020) [of this 2019 Act];

(c) 20 percent shall be allocated for uses that benefit natural and working lands, as defined in section 15, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020) [of this 2019 Act];

(d) No more than one percent shall be allocated to provide technical assistance to applicants for or recipients of moneys described in paragraphs (a) to (c) of this subsection; [and]

(e) \$10 million shall be allocated for deposit in the Just Transition Fund established in section 51, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020), [of this 2019 Act] to be used to establish a Just Transition Program and develop a Just Transition Plan pursuant to section 52, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020) [of this 2019 Act.]; and

(f) An amount shall be allocated for deposit in the Farm and Forest Climate Action Reimbursement Fund established under section 7 of this 2019 Act, as necessary for the payment of refunds authorized under section 6 of this 2019 Act that may not be paid with moneys deposited in the Transportation Decarbonization Investments Account established under section 42, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020).

(5) Moneys allocated for investments and expenditures that benefit natural and working lands pursuant to subsection (4)(c) of this section shall be allocated to promote adaptation and resilience in the face of climate change and ocean acidification through actions that may include, but need not be limited to:

(a) Programs, projects or activities that achieve energy efficiency or emissions reductions in the agricultural sector such as through fertilizer management, soil management, bioenergy or biofuels;

(b) Programs, projects or activities that result in sequestration of carbon in forests, agricultural soils, and other terrestrial and aquatic areas;

(c) Improving forest and natural and working lands health and resilience to climate change impacts through actions including thinning, prescribed fire and wildland fire prevention;

(d) Project-specific planning, design and construction projects that reduce the storm water impacts of existing infrastructure and development;

(e) Reducing the risk of flooding by restoring natural floodplain ecological functions, protecting against damage caused by floods and protecting or restoring naturally functioning areas where floods occur;

(f) Improving the availability and reliability of water supplies for instream uses and out-of-stream uses;

(g) Projects to prepare for sea level rise and to restore and protect estuaries, fisheries, marine shoreline and inland habitats; and

(h) Increasing the ability to adapt to and remediate the impacts of ocean acidification.

(6) Allocations from the Climate Investments Fund shall, to the maximum extent feasible and consistent with law, be in addition to and not in replacement of any existing allocations or appropriations for programs, projects and activities.

SECTION 10. If House Bill 2020 becomes law, section 47, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020), is amended to read:

Sec. 47. The amendments to section 46, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020), *[of this 2019 Act]* by *[section 48 of this 2019 Act]* **section 11 of this 2019 Act** become operative on July 1, 2027.

SECTION 11. If House Bill 2020 becomes law, section 48, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020) (amending section 46, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020)), is repealed and section 46, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020), as amended by section 9 of this 2019 Act, is amended to read:

Sec. 46. (1) The Climate Investments Fund is established in the State Treasury, separate and distinct from the General Fund. The Climate Investments Fund shall consist of moneys deposited in the fund under sections 34 and 35, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020). Interest earned by the fund shall be credited to the fund. The Oregon Department of Administrative Services shall administer the fund.

(2) Moneys in the fund are continuously appropriated to be used only for programs, projects and activities that further one or more of the purposes set forth in section 14, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020), consistent with section 59, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020).

(3) The Legislative Assembly shall allocate the moneys deposited in the fund as informed by the biennial climate action investment plan delivered by the Climate Policy Office under section 57, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020).

(4) Of the moneys deposited in the fund each biennium:

(a) 10 percent shall be allocated for uses that directly benefit eligible Indian tribes, as defined in section 15, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020); **and**

[(b) 40 percent shall be allocated for uses that benefit impacted communities, as defined in section 15, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020);]

[(c) 20 percent shall be allocated for uses that benefit natural and working lands, as defined in section 15, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020);]

[(d) No more than one percent shall be allocated to provide technical assistance to applicants for or recipients of moneys described in paragraphs (a) to (c) of this subsection;]

[(e) \$10 million shall be allocated for deposit in the Just Transition Fund established in section 51, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020), to be used to establish a Just Transition Program and develop a Just Transition Plan pursuant to section 52, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020); and]

[(f) (b) An amount shall be allocated for deposit in the Farm and Forest Climate Action Reimbursement Fund established under section 7 of this 2019 Act, as necessary for the payment of refunds authorized under section 6 of this 2019 Act that may not be paid with moneys deposited in the Transportation Decarbonization Investments Account established under section 42, chapter [In committee upon adjournment], Oregon Laws 2019 (Enrolled House Bill 2020).

[(5) Moneys allocated for investments and expenditures that benefit natural and working lands pursuant to subsection (4)(c) of this section shall be allocated to promote adaptation and resilience in the face of climate change and ocean acidification through actions that may include, but need not be limited to:]

[(a) Programs, projects or activities that achieve energy efficiency or emissions reductions in the agricultural sector such as through fertilizer management, soil management, bioenergy or biofuels;]

[(b) Programs, projects or activities that result in sequestration of carbon in forests, agricultural soils, and other terrestrial and aquatic areas;]

[(c) Improving forest and natural and working lands health and resilience to climate change impacts through actions including thinning, prescribed fire and wildland fire prevention;]

[(d) Project-specific planning, design and construction projects that reduce the storm water impacts of existing infrastructure and development;]

[(e) Reducing the risk of flooding by restoring natural floodplain ecological functions, protecting against damage caused by floods and protecting or restoring naturally functioning areas where floods occur;]

[(f) Improving the availability and reliability of water supplies for instream uses and out-of-stream uses;]

[(g) Projects to prepare for sea level rise and to restore and protect estuaries, fisheries, marine shoreline and inland habitats; and]

[(h) Increasing the ability to adapt to and remediate the impacts of ocean acidification.]

[(6)] (5) Allocations from the Climate Investments Fund shall, to the maximum extent feasible and consistent with law, be in addition to and not in replacement of any existing allocations or appropriations for programs, projects and activities.

CAPTIONS

SECTION 12. The unit captions used in this 2019 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 2019 Act.

OPERATIVE DATE

SECTION 13. (1) Sections 1 to 7 of this 2019 Act and the amendments to sections 42 and 46,

chapter **[In committee upon adjournment]**, Oregon Laws 2019 (Enrolled House Bill 2020), by sections 8 and 9 of this 2019 Act become operative on January 1, 2021.

(2) The Department of Transportation and the Department of Revenue may adopt rules or take any actions before the operative date specified in subsection (1) of this section that are necessary to enable the departments, on and after the operative date specified in subsection (1) of this section, to carry out the provisions of sections 1 to 7 of this 2019 Act and the amendments to sections 42 and 46, chapter **[In committee upon adjournment]**, Oregon Laws 2019 (Enrolled House Bill 2020), by sections 8 and 9 of this 2019 Act.

EFFECTIVE DATE

SECTION 14. This 2019 Act does not take effect unless House Bill 2020 becomes law.

SECTION 15. If House Bill 2020 becomes law, this 2019 Act takes effect on the later of:

(1) The 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die; or

(2) The effective date of chapter **[In committee upon adjournment]**, Oregon Laws 2019 (Enrolled House Bill 2020).

Approved by the Governor August 9, 2019

Filed in the office of Secretary of State August 9, 2019

Effective date

NOTE: SB 1051 was to take effect on the later of September 29, 2019, or the effective date of HB 2020 if HB 2020 became law. HB 2020 was in committee upon adjournment.