

# Senate Bill 971

Sponsored by COMMITTEE ON BUSINESS AND TRANSPORTATION

## 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**.

Adds grants and loans for replacements to permissible uses of moneys in Clean Diesel Engine Fund. Makes other modifications to provisions for grants and loans from fund for purpose of reducing emissions from diesel engines.

Authorizes State of Oregon to receive moneys pursuant to Volkswagen Environmental Mitigation Trust Agreement, deposit agreement moneys in Clean Diesel Engine Fund and use moneys to award grants for reducing emissions from diesel engines. Specifies allocation of grants from agreement moneys.

Requires Department of Environmental Quality to hire or contract with third-party organization to complete inventory of nonroad diesel engines used in Oregon. Sets forth required qualifications of third-party organization, requirements for inventory and required uses of inventory by department.

Requires completion of inventory no later than July 1, 2019.

Sunset requirement to obtain inventory from third-party organization January 2, 2020.

Requires department to make inventory publicly available in aggregate form.

Appropriates moneys to department to cover costs of hiring or contracting with third-party organization for purposes of inventory.

Declares emergency, effective July 1, 2017.

## A BILL FOR AN ACT

Relating to diesel; creating new provisions; amending ORS 468A.795, 468A.797, 468A.799, 468A.801 and 468A.803 and section 12, chapter 855, Oregon Laws 2007; and declaring an emergency.

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

## DIESEL ENGINES

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

468A.795. As used in ORS 468A.795 to 468A.803 and sections 11 to 16, chapter 855, Oregon Laws 2007:

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

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

(3) **"Diesel engine" means a compression ignition engine designed primarily to propel a motor vehicle on public highways in this state.**

(4) **"Environmental Mitigation Trust Agreement" means the Environmental Mitigation Trust Agreement required by the Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation partial consent decree dated October 25, 2016.**

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

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

**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        [(3)] (7) “Heavy-duty truck” means a motor vehicle or combination of vehicles operated as a unit  
2 that has a combined weight that is greater than 26,000 pounds.

3        [(4)] (8) “Incremental cost” means the cost of a qualifying repower or retrofit less a baseline  
4 cost that would otherwise be incurred in the normal course of business.

5        [(5)] (9) “Medium-duty truck” means a motor vehicle or combination of vehicles operated as a  
6 unit that has a combined weight that is greater than 14,000 pounds but less than or equal to 26,000  
7 pounds.

8        [(6)] (10) “Motor vehicle” has the meaning given that term in ORS 825.005.

9        [(7)] (11) “Nonroad [*Oregon*] diesel engine” means [*any Oregon diesel*] **a compression ignition**  
10 engine that was not designed primarily to propel a motor vehicle on public highways of this state.

11        [(8) “*Oregon diesel engine*” means an engine at least 50 percent of the use of which, as measured  
12 by miles driven or hours operated, will occur in Oregon for the three years following the repowering  
13 or retrofitting of the engine.]

14        [(9)] (12) “Oregon diesel truck engine” means a diesel engine in a truck at least 50 percent of  
15 the use of which, as measured by miles driven or hours operated, has occurred in Oregon for the  
16 two years preceding the scrapping of the engine.

17        [(10)] (13) “Public highway” has the meaning given that term in ORS 825.005.

18        (14)(a) **“Replacement” means:**

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

21        **(B) To scrap a piece of equipment powered by a nonroad diesel engine and replace the**  
22 **equipment with equivalent equipment.**

23        **(b) “Replacement” does not mean ordinary maintenance, repair or replacement of a diesel**  
24 **engine.**

25        [(11)] (15) “Repower” means to scrap an old diesel engine and [*replace*] **substitute** it with a new  
26 engine, a used engine or a remanufactured engine, or with electric motors, drives or fuel cells, with  
27 a minimum useful life of seven years.

28        [(12)] (16) “Retrofit” means to equip a diesel engine with new emissions-reducing parts or tech-  
29 nology after the manufacture of the original engine. A retrofit must use the greatest degree of  
30 emissions reduction available for the particular application of the equipment retrofitted that meets  
31 the cost-effectiveness threshold.

32        [(13)] (17) “Scrap” means to destroy and render inoperable.

33        [(14)] (18) “Truck” means a motor vehicle or combination of vehicles operated as a unit that has  
34 a combined weight that is greater than 14,000 pounds.

35        **SECTION 2.** ORS 468A.795, as amended by section 6a, chapter 855, Oregon Laws 2007, is  
36 amended to read:

37        468A.795. As used in ORS 468A.795 to 468A.803:

38        (1) “Combined weight” has the meaning given that term in ORS 825.005.

39        (2) “Cost-effectiveness threshold” means the cost, in dollars, per ton of diesel particulate matter  
40 reduced, as established by rule of the Environmental Quality Commission.

41        (3) **“Diesel engine” means a compression ignition engine designed primarily to propel a**  
42 **motor vehicle on public highways in this state.**

43        (4) **“Environmental Mitigation Trust Agreement” means the Environmental Mitigation**  
44 **Trust Agreement required by the Volkswagen “Clean Diesel” Marketing, Sales Practices and**  
45 **Products Liability Litigation partial consent decree dated October 25, 2016.**

1       **(5) “Equivalent equipment” means a piece of equipment that performs the same function**  
 2       **and has the equivalent horsepower to a piece of equipment subject to a replacement.**

3       **(6) “Equivalent motor vehicle” means a motor vehicle that performs the same function**  
 4       **and is in the same weight class as a motor vehicle subject to a replacement.**

5       [(3)] **(7) “Heavy-duty truck”** means a motor vehicle or combination of vehicles operated as a unit  
 6 that has a combined weight that is greater than 26,000 pounds.

7       [(4)] **(8) “Incremental cost”** means the cost of a qualifying repower or retrofit less a baseline  
 8 cost that would otherwise be incurred in the normal course of business.

9       [(5)] **(9) “Medium-duty truck”** means a motor vehicle or combination of vehicles operated as a  
 10 unit that has a combined weight that is greater than 14,000 pounds but less than or equal to 26,000  
 11 pounds.

12       [(6)] **(10) “Motor vehicle”** has the meaning given that term in ORS 825.005.

13       [(7)] **(11) “Nonroad [Oregon] diesel engine”** means *[any Oregon diesel]* **a compression ignition**  
 14 engine that was not designed primarily to propel a motor vehicle on public highways of this state.

15       [(8)] *“Oregon diesel engine” means an engine at least 50 percent of the use of which, as measured*  
 16 *by miles driven or hours operated, will occur in Oregon for the three years following the repowering*  
 17 *or retrofitting of the engine.]*

18       [(9)] **(12) “Oregon diesel truck engine”** means a diesel engine in a truck at least 50 percent of  
 19 the use of which, as measured by miles driven or hours operated, has occurred in Oregon for the  
 20 two years preceding the scrapping of the engine.

21       [(10)] **(13) “Public highway”** has the meaning given that term in ORS 825.005.

22       **(14)(a) “Replacement” means:**

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

25       **(B) To scrap a piece of equipment powered by a nonroad diesel engine and replace the**  
 26 **equipment with equivalent equipment.**

27       **(b) “Replacement” does not mean ordinary maintenance, repair or replacement of a diesel**  
 28 **engine.**

29       [(11)] **(15) “Repower”** means to scrap an old diesel engine and *[replace]* **substitute** it with a new  
 30 engine, a used engine or a remanufactured engine, or with electric motors, drives or fuel cells, with  
 31 a minimum useful life of seven years.

32       [(12)] **(16) “Retrofit”** means to equip a diesel engine with new emissions-reducing parts or tech-  
 33 nology after the manufacture of the original engine. A retrofit must use the greatest degree of  
 34 emissions reduction available for the particular application of the equipment retrofitted that meets  
 35 the cost-effectiveness threshold.

36       [(13)] **(17) “Scrap”** means to destroy and render inoperable.

37       [(14)] **(18) “Truck”** means a motor vehicle or combination of vehicles operated as a unit that has  
 38 a combined weight that is greater than 14,000 pounds.

39       **SECTION 3.** ORS 468A.797 is amended to read:

40       468A.797. (1) The Environmental Quality Commission by rule shall establish standards related  
 41 to the certified cost necessary to perform a qualifying **replacement**, repower or retrofit, including  
 42 but not limited to rules establishing the certified cost for purposes of the tax credit established in  
 43 section 12, chapter 855, Oregon Laws 2007.

44       (2) For the purposes of subsection (1) of this section, certified cost:

45       (a) May not exceed the incremental cost of labor and hardware that the Department of Envi-

1 ronmental Quality finds necessary to perform a qualifying **replacement**, repower or retrofit;

2 (b) Does not include the cost of any portion of a **replacement**, repower or retrofit undertaken  
3 to comply with any applicable local, state or federal pollution or emissions law or for ordinary  
4 maintenance, repair or replacement of a diesel engine; and

5 (c) May not exceed the cost-effectiveness threshold.

6 **SECTION 4.** ORS 468A.797, as amended by section 7a, chapter 855, Oregon Laws 2007, is  
7 amended to read:

8 468A.797. (1) The Environmental Quality Commission by rule shall establish standards related  
9 to the certified cost necessary to perform a qualifying **replacement**, repower or retrofit.

10 (2) For the purposes of subsection (1) of this section, certified cost:

11 (a) May not exceed the incremental cost of labor and hardware that the Department of Envi-  
12 ronmental Quality finds necessary to perform a qualifying **replacement**, repower or retrofit;

13 (b) Does not include the cost of any portion of a **replacement**, repower or retrofit undertaken  
14 to comply with any applicable local, state or federal pollution or emissions law or for ordinary  
15 maintenance, repair or replacement of a diesel engine; and

16 (c) May not exceed the cost-effectiveness threshold.

17 **SECTION 5.** ORS 468A.799 is amended to read:

18 468A.799. (1) The Environmental Quality Commission by rule shall establish standards for *[the*  
19 *qualifying repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine,]* **quali-**  
20 **fyng replacements, repowers and retrofits**, including but not limited to rules establishing re-  
21 power or retrofit qualifications for purposes of the tax credit established in section 12, chapter 855,  
22 Oregon Laws 2007.

23 (2) The standards adopted by the commission under this section must *[include]* **require, at a**  
24 **minimum:**

25 *[(a) A requirement for the reduction of diesel particulate matter emissions by at least 25 percent*  
26 *compared with the baseline emissions for the relevant engine year and application;]*

27 (a) **For the qualifying replacement of a motor vehicle powered by a diesel engine, that:**

28 (A) **The motor vehicle to be scrapped has at least three years of remaining useful life;**  
29 **and**

30 (B) **The engine model year of the equivalent motor vehicle is 2010 or newer.**

31 (b) **For the qualifying replacement of a piece of equipment powered by a nonroad diesel**  
32 **engine, that:**

33 (A) **The nonroad piece of equipment to be scrapped has at least three years of remaining**  
34 **useful life; and**

35 (B) **The equivalent equipment is powered by a nonroad diesel engine that meets or ex-**  
36 **ceeds the United States Environmental Protection Agency Tier 4 standards for nonroad die-**  
37 **sel exhaust emissions.**

38 (c) **For the qualifying repower of a nonroad diesel engine, that the repower will be ac-**  
39 **complished using a higher tier engine than the engine to be scrapped, based on the United**  
40 **States Environmental Protection Agency tier standards for nonroad diesel exhaust emis-**  
41 **sions.**

42 (d) **For the qualifying retrofit of a diesel engine, a resulting reduction of diesel**  
43 **particulate matter emissions by at least 85 percent when compared with the baseline emis-**  
44 **sions for the relevant engine year and application.**

45 *[(b)]* (e) **That** a list of technologies approved as qualifying repowers or retrofits that have been

1 verified by the United States Environmental Protection Agency or the California Air Resources  
2 Board[; and] **is included in the standards.**

3 [(c)] (3) [A requirement that] A qualifying **replacement**, repower or retrofit [does] **may** not in-  
4 clude the **replacement**, repower or retrofit of a **motor** vehicle, **piece of equipment** or engine for  
5 which a grant, loan or tax credit under ORS 468A.803 or section 12, chapter 855, Oregon Laws 2007,  
6 has **previously** been awarded or allowed, unless the **replacement**, repower or retrofit will reduce  
7 emissions further than the **replacement**, repower or retrofit funded by the **previous** grant, loan or  
8 tax credit.

9 **SECTION 6.** ORS 468A.799, as amended by section 8a, chapter 855, Oregon Laws 2007, is  
10 amended to read:

11 468A.799. (1) The Environmental Quality Commission by rule shall establish standards for [the  
12 qualifying repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine] **qualify-**  
13 **ing replacements, repowers and retrofits.**

14 (2) The standards adopted by the commission under this section must [include] **require, at a**  
15 **minimum:**

16 [(a) A requirement for the reduction of diesel particulate matter emissions by at least 25 percent  
17 compared with the baseline emissions for the relevant engine year and application;]

18 (a) **For the qualifying replacement of a motor vehicle powered by a diesel engine, that:**

19 (A) **The motor vehicle to be scrapped has at least three years of remaining useful life;**  
20 **and**

21 (B) **The engine model year of the equivalent motor vehicle is 2010 or newer.**

22 (b) **For the qualifying replacement of a piece of equipment powered by a nonroad diesel**  
23 **engine, that:**

24 (A) **The nonroad piece of equipment to be scrapped has at least three years of remaining**  
25 **useful life; and**

26 (B) **The equivalent equipment is powered by a nonroad diesel engine that meets or ex-**  
27 **ceeds the United States Environmental Protection Agency Tier 4 standards for nonroad die-**  
28 **sel exhaust emissions.**

29 (c) **For the qualifying repower of a nonroad diesel engine, that the repower will be ac-**  
30 **complished using a higher tier engine than the engine to be scrapped, based on the United**  
31 **States Environmental Protection Agency tier standards for nonroad diesel exhaust emis-**  
32 **sions.**

33 (d) **For the qualifying retrofit of a diesel engine, a resulting reduction of diesel**  
34 **particulate matter emissions by at least 85 percent when compared with the baseline emis-**  
35 **sions for the relevant engine year and application.**

36 [(b)] (e) **That** a list of technologies approved as qualifying repowers or retrofits that have been  
37 verified by the United States Environmental Protection Agency or the California Air Resources  
38 Board[; and] **is included in the standards.**

39 [(c)] (3) [A requirement that] A qualifying **replacement**, repower or retrofit [does] **may** not in-  
40 clude the **replacement**, repower or retrofit of a **motor** vehicle, **piece of equipment** or engine for  
41 which a grant or loan under ORS 468A.803 has **previously** been awarded or allowed, unless the  
42 **replacement**, repower or retrofit will reduce emissions further than the **replacement**, repower or  
43 retrofit funded by the **previous** grant or loan.

44 **SECTION 7.** ORS 468A.801 is amended to read:

45 468A.801. (1) The Clean Diesel Engine Fund is established in the State Treasury separate and

1 distinct from the General Fund. Interest earned by the Clean Diesel Engine Fund shall be credited  
 2 to the fund. The moneys in the fund are continuously appropriated to the Department of Environ-  
 3 mental Quality to be used for the purposes described in ORS 468A.803.

4 (2) The Clean Diesel Engine Fund consists of:

5 (a) Funds appropriated by the Legislative Assembly;

6 (b) Grants provided by the federal government pursuant to the federal Clean Air Act, 42 U.S.C.  
 7 7401 et seq., or other federal laws; *[and]*

8 *[(c) Any other revenues derived from gifts or grants given to the state for the purpose of providing*  
 9 *financial assistance to owners or operators of diesel engines for the purpose of repowering, retrofitting*  
 10 *or scrapping diesel engines to reduce diesel engine emissions.]*

11 **(c) Moneys paid to the State of Oregon pursuant to the Environmental Mitigation Trust**  
 12 **Agreement; and**

13 **(d) Any other moneys received by the state for the purpose of providing financial and**  
 14 **technical assistance to owners or operators of diesel engines for the purpose of reducing**  
 15 **emissions from diesel engines.**

16 **SECTION 8.** ORS 468A.803 is amended to read:

17 468A.803. (1) The Department of Environmental Quality shall use the moneys in the Clean Diesel  
 18 Engine Fund to award:

19 **(a) Grants and loans to the owners and operators of motor vehicles powered by diesel**  
 20 **engines, and equipment powered by nonroad diesel engines, for up to 25 percent of the cer-**  
 21 **tified costs of qualifying replacements as described in ORS 468A.797 and 468A.799;**

22 *[(a)] (b) Grants and loans to the owners and operators of [Oregon] diesel engines for up to 100*  
 23 *percent of the certified costs of qualifying retrofits as described in ORS 468A.797 and 468A.799;*

24 *[(b)] (c) Grants and loans to the owners and operators of nonroad [Oregon] diesel engines for*  
 25 *up to 25 percent of the certified costs of qualifying repowers as described in ORS 468A.797 and*  
 26 *468A.799; and*

27 *[(c)] (d) Grants to the owners of Oregon diesel truck engines to scrap those engines.*

28 *[(2) Subject to and consistent with federal law, any moneys received from the federal government*  
 29 *that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 (2)(b) must be used for ini-*  
 30 *tiatives to reduce emissions from diesel engines. Subsections (1), (3) to (5) and (7) of this section and*  
 31 *ORS 468A.797 and 468A.799 do not apply to use of moneys in the Clean Diesel Engine Fund received*  
 32 *from the federal government.]*

33 **(2) The Environmental Quality Commission by rule may set grant or loan award rates**  
 34 **at a percentage that is greater than a percentage allowed under subsection (1) of this sec-**  
 35 **tion, provided that the grant or loan assistance will not exceed the cost-effectiveness**  
 36 **threshold, if the higher percentage award rate would:**

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

39 **(b) Otherwise increase participation by those categories of owners or operators.**

40 (3) In determining the amount of a grant or loan under this section, the department must reduce  
 41 the incremental cost of a qualifying **replacement**, repower or retrofit by the value of any existing  
 42 financial incentive that directly reduces the cost of the qualifying **replacement**, repower or retrofit,  
 43 including tax credits, other grants or loans, or any other public financial assistance.

44 (4) The department may certify third parties to perform qualifying **replacements**, repowers and  
 45 retrofits and may contract with third parties to perform such services for the certified costs of

1 qualifying **replacements**, repowers and retrofits. The department may also contract with insti-  
2 tutions of higher education or other public bodies as defined by ORS 174.109 to train and certify  
3 third parties to perform qualifying **replacements**, repowers and retrofits.

4 **(5) The department may not award a grant or loan for a replacement, repower or retrofit**  
5 **under subsection (1) of this section unless the grant or loan applicant demonstrates to the**  
6 **department's satisfaction that the resulting equivalent motor vehicle, equivalent equipment,**  
7 **repowered nonroad diesel engine or retrofitted diesel engine will undergo at least 50 percent**  
8 **of its use in Oregon, as measured by miles driven or hours operated, for the three years**  
9 **following the replacement, repower or retrofit.**

10 [(5)] **(6) The department may not award a grant to scrap an Oregon diesel truck engine under**  
11 **subsection (1)[(c)] of this section unless the engine was manufactured prior to 1994 and the engine**  
12 **is in operating condition at the time of the grant application or, if repairs are needed, the owner**  
13 **demonstrates to the department's satisfaction that the engine can be repaired to an operating con-**  
14 **dition for less than its commercial scrap value. The Environmental Quality Commission shall adopt**  
15 **rules for a maximum grant awarded under subsection (1)[(c)] of this section for an engine in a**  
16 **heavy-duty truck and for an engine in a medium-duty truck. A grant awarded under subsection**  
17 **(1)[(c)] of this section may not be combined with any other tax credits, grants or loans, or any other**  
18 **public financial assistance, to scrap an Oregon diesel truck engine.**

19 **(7) Subject to and consistent with federal law, any moneys received from the federal**  
20 **government that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 (2)(b)**  
21 **must be used for initiatives to reduce emissions from diesel engines. Subsections (1) to (6)**  
22 **of this section and ORS 468A.797 and 468A.799 do not apply to use of moneys in the fund re-**  
23 **ceived from the federal government.**

24 **(8) Subject to and consistent with the terms of the Environmental Mitigation Trust**  
25 **Agreement, any moneys received by the State of Oregon pursuant to the agreement that are**  
26 **deposited in the Clean Diesel Engine Fund must be used by the department to award grants**  
27 **for the purpose of reducing nitrogen oxides emissions from diesel engines. Subsections (1)**  
28 **to (7) of this section and ORS 468A.797 and 468A.799 do not apply to use of moneys in the**  
29 **fund received pursuant to the agreement. To the extent authorized by the agreement, the**  
30 **department shall allocate moneys awarded pursuant to this subsection among:**

31 **(a) Owners and operators of school buses powered by diesel engines for 30 percent of**  
32 **certified replacement costs beginning with the oldest diesel powered school buses in the state**  
33 **and proceeding until at least 450 buses have been replaced; and**

34 **(b) Owners and operators of the following categories of motor vehicles powered by diesel**  
35 **engines, subject to the preferences for grant awards established under section 10 (1)(b) of**  
36 **this 2017 Act:**

37 **(A) Drayage trucks.**

38 **(B) Delivery trucks.**

39 **(C) Waste hauling trucks.**

40 **(D) Transit buses.**

41 **(9) The department may not award a grant under subsection (8) of this section to the**  
42 **owner or operator of a motor vehicle powered by a diesel engine unless the following criteria**  
43 **are met:**

44 **(a) Use of the motor vehicle has occurred in Oregon during the year preceding the date**  
45 **of the grant.**

1       **(b) The motor vehicle is authorized for use in this state.**

2       **(c) For the three years following the receipt of a grant award, at least 50 percent of the**  
 3 **motor vehicle use for which the owner or operator received the grant will occur in Oregon,**  
 4 **as measured by miles driven or hours operated.**

5       **(d) The grant will not exceed the cost-effectiveness threshold where, notwithstanding**  
 6 **ORS 468A.795, the “cost-effectiveness threshold” for purposes of this paragraph means the**  
 7 **cost in dollars per ton of diesel particulate and nitrogen oxides reduced, as established by**  
 8 **rule of the commission.**

9       **(e) Any other criteria the department deems necessary to ensure that a grant award will**  
 10 **result in reducing emissions from diesel engines in this state.**

11       **[(6)] (10) The department may use the moneys in the Clean Diesel Engine Fund to pay expenses**  
 12 **of the department in administering the program described in [this section] ORS 468A.795 to**  
 13 **468A.803.**

14       *[(7) The commission shall adopt rules to implement this section and ORS 468A.801, including but*  
 15 *not limited to establishing preferences for grant and loan awards based upon percentage of engine use*  
 16 *in Oregon, whether a grant or loan applicant will provide matching funds, whether scrapping, repow-*  
 17 *ering or retrofitting an engine will benefit sensitive populations or areas with elevated concentrations*  
 18 *of diesel particulate matter, or such other criteria as the commission may establish. The rules adopted*  
 19 *by the commission shall reserve a portion of the financial assistance available each year for applicants*  
 20 *that own or operate a small number of Oregon diesel engines or Oregon diesel truck engines and shall*  
 21 *provide for simplified access to financial assistance for those applicants.]*

22       *[(8) The department may perform activities necessary to ensure that recipients of grants and loans*  
 23 *from the Clean Diesel Engine Fund comply with applicable requirements. If the department determines*  
 24 *that a recipient has not complied with applicable requirements, it may order the recipient to refund all*  
 25 *grant or loan moneys and may impose penalties pursuant to ORS 468.140.]*

26       **SECTION 9. Section 10 of this 2017 Act is added to and made a part of ORS 468A.795 to**  
 27 **468A.803.**

28       **SECTION 10. (1) The Environmental Quality Commission shall adopt rules to implement**  
 29 **ORS 468A.801 and 468A.803, including but not limited to rules that establish preferences for**  
 30 **awarding:**

31       **(a) Grants and loans under ORS 468A.803 (1) based upon a percentage of diesel engine use**  
 32 **in Oregon, whether a grant or loan applicant will provide matching funds, whether scrapping,**  
 33 **replacement, repowering or retrofitting an engine will benefit sensitive populations or areas**  
 34 **with elevated concentrations of diesel particulate matter, or such other criteria as the**  
 35 **commission may establish; and**

36       **(b) Grants under ORS 468A.803 (8)(b) based upon the estimated number of vehicles in**  
 37 **each category, estimated emission reduction benefits by category measured in tons per year**  
 38 **relative to the costs of achieving those benefits, or such other criteria as the commission**  
 39 **may establish.**

40       **(2) Rules adopted by the commission under this section must reserve a portion of the**  
 41 **financial assistance available each year for applicants that own or operate a small number**  
 42 **of diesel engines or Oregon diesel truck engines and must provide for simplified access to**  
 43 **financial assistance for those applicants.**

44       **(3) The Department of Environmental Quality may perform activities necessary to ensure**  
 45 **that recipients of grants and loans from the Clean Diesel Engine Fund comply with applicable**

1 requirements. If the department determines that a recipient has not complied with applicable  
 2 requirements, the department may order the recipient to refund all grant or loan moneys  
 3 and may impose penalties pursuant to ORS 468.140.

4  
 5 **NONROAD DIESEL ENGINE INVENTORY**

6  
 7 (Inventory)

8  
 9 **SECTION 11.** (1) As used in this section, “nonroad diesel engine” means a compression  
 10 ignition engine of 25 horsepower or more that is not designed primarily to propel a motor  
 11 vehicle on public highways.

12 (2) The Department of Environmental Quality shall hire or contract with a third-party  
 13 organization to develop a comprehensive, statewide inventory of nonroad diesel engines used  
 14 in Oregon. The department shall require the third-party organization to complete the in-  
 15 ventory and all other activities necessary to meet the requirements of this section no later  
 16 than July 1, 2019. A third-party organization hired or contracted with under this section  
 17 must have experience related to:

18 (a) Collecting, analyzing and compiling data and information relating to developing  
 19 equipment and emission inventories;

20 (b) Tailoring the presentation of data and information to be compatible with the techno-  
 21 logical and informational needs of a government agency in a manner that enhances and  
 22 supplements the agency’s existing information; and

23 (c) Reviewing, developing and making recommendations on government financial incen-  
 24 tives for reducing diesel engine emissions.

25 (3) Information gathered by the third-party organization must include all of the following:

26 (a) For each vehicle powered by a nonroad diesel engine:

27 (A) The manufacturer, type, model year, model number, serial number and purchase date  
 28 of the vehicle.

29 (B) The primary vocation and all other vocations that the vehicle is operated in.

30 (b) For each nonroad diesel engine, including all nonroad diesel engines powering a  
 31 multiengine vehicle:

32 (A) The manufacturer, model year, model number, serial number, horsepower and engine  
 33 family name of the nonroad diesel engine.

34 (B) The purchase date of the nonroad diesel engine, if different from the purchase date  
 35 of the vehicle powered by the nonroad diesel engine.

36 (C) The annual average hours of operation and annual average fuel consumption of the  
 37 nonroad diesel engine during the previous three years.

38 (D) Information on whether the nonroad diesel engine can also be used in an application  
 39 other than as a nonroad diesel engine.

40 (E) Information on whether the nonroad diesel engine was equipped with new  
 41 emissions-reducing parts or technology after the manufacture of the original nonroad diesel  
 42 engine.

43 (c) For each emissions-reducing part or technology with which a nonroad diesel engine  
 44 was equipped after the manufacture of the original nonroad diesel engine, the manufacturer,  
 45 model number, serial number, purchase date and engine family name of the part or tech-

1 nology.

2 (d) Information relating to whether nonroad diesel engines that do not meet emission  
 3 standards in the State of California are being sold to and used by owners and operators in  
 4 this state.

5 SECTION 12. Section 11 of this 2017 Act is repealed on January 2, 2020.

6 SECTION 13. (1) The Department of Environmental Quality shall maintain an inventory  
 7 of nonroad diesel engines used in Oregon. The department shall use the inventory required  
 8 by this section to inform any decision-making or rulemaking by the department or the En-  
 9 vironmental Quality Commission that is related to the adoption or administration of stan-  
 10 dards, financial incentives or other policies related to the control of nonroad diesel engine  
 11 emissions. The department and the commission shall utilize the inventory for purposes in-  
 12 cluding, but not limited to:

13 (a) Ensuring the accuracy and integrity of the department’s understanding of the share  
 14 of air contaminant emissions attributable to the use of nonroad diesel engines in this state  
 15 as compared to the share of air contaminant emissions attributable to all other air contam-  
 16 ination sources, as that term is defined in ORS 468A.005.

17 (b) Determining the specific impacts that the use of nonroad diesel engines in Oregon  
 18 have on any exceedance or projected exceedance in the near future of national ambient air  
 19 quality standards.

20 (c) Identifying the highest and best uses of any financial incentives that the department  
 21 may offer to owners and operators of nonroad diesel engines to reduce diesel engine emis-  
 22 sions.

23 (d) Identifying any principally local or regional concerns related to nonroad diesel engine  
 24 emissions and tailored solutions for addressing those principally local or regional concerns.

25 (e) The economic and socioeconomic impacts on public and private owners and operators  
 26 of nonroad diesel engines of imposing additional state standards or other air quality regu-  
 27 lations related to nonroad diesel engine emissions.

28 (2) The department shall aggregate data concerning nonroad diesel engines using the in-  
 29 formation contained in the inventory and make the aggregate data publicly available on the  
 30 department’s website.

31 (3) All nonaggregate and individually identifiable information procured by or furnished  
 32 to the department in connection with maintaining the inventory required by this section is  
 33 exempt from disclosure under ORS chapter 192.

34 SECTION 14. Section 13 of this 2017 Act becomes operative January 1, 2020.

35  
 36 (Appropriation)

37  
 38 SECTION 15. In addition to and not in lieu of any other appropriation, there is appro-  
 39 priated to the Department of Environmental Quality, for the biennium beginning July 1, 2017,  
 40 out of the General Fund, the amount of \$\_\_\_\_\_ for the purpose of hiring a third-party or-  
 41 ganization to complete an inventory of nonroad diesel engines as required by section 11 of  
 42 this 2017 Act.

43  
 44 CONFORMING AMENDMENTS TO TAX CREDIT  
 45 APPLICABLE TO PAST TAX YEARS

1        **SECTION 16.** Section 12, chapter 855, Oregon Laws 2007, is amended to read:

2        **Sec. 12.** (1) A personal income or corporate income or excise taxpayer is allowed a credit  
3 against the taxes that are otherwise due under ORS chapter 316, 317 or 318 for the certified costs  
4 of a repower of a nonroad [*Oregon*] diesel engine or retrofit of [*an Oregon*] a diesel engine that oc-  
5 curs after [*the effective date of this 2007 Act*] **September 27, 2007**, if:

6        (a) The repower or retrofit has been identified as qualifying for the credit under rules adopted  
7 by the Environmental Quality Commission under [*section 8 of this 2007 Act*] **ORS 468A.799**;

8        (b) [*The engine will constitute an Oregon diesel engine*] **The repowered or retrofitted engine**  
9 **will undergo at least 50 percent of its use in Oregon, as measured by miles driven or hours**  
10 **operated, for the three years following the repower or retrofit**; and

11        (c) The taxpayer has obtained a tax credit cost certification from the Department of Environ-  
12 mental Quality under section 16 [*of this 2007 Act*], **chapter 855, Oregon Laws 2007**, for the cost  
13 of the repower or retrofit.

14        (2) The maximum amount of the tax credit allowed under this section is limited to:

15        (a) 25 percent of the certified cost of each qualifying repower; and

16        (b) 50 percent of the certified cost of each qualifying retrofit.

17        (3) The amount of the tax credit allowed to the taxpayer under this section in any one tax year  
18 may not exceed the tax liability of the taxpayer for the tax year.

19        (4) Any tax credit that is allowed under this section, but limited by subsection (3) of this section,  
20 and that is not used by the taxpayer in a particular tax year may be carried forward and offset  
21 against the taxpayer's tax liability as prescribed in subsection (3) of this section for the next suc-  
22 ceeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
23 forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section  
24 for the second succeeding tax year. Any credit remaining unused in the second succeeding tax year  
25 may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3)  
26 of this section for the third succeeding tax year, but may not be carried forward for any tax year  
27 thereafter.

28        (5) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
29 duction for the engine to which the taxpayer otherwise may be entitled for purposes of ORS chapter  
30 316, 317 or 318. The taxpayer's adjusted basis for determining gain or loss may not be decreased by  
31 any tax credits allowed under this section.

32        (6)(a) The Department of Revenue may disallow the credit allowed under this section if the de-  
33 partment finds that the credit was obtained by fraud or misrepresentation, or if the department  
34 learns that the engine that was the subject of the qualifying repower or retrofit was destroyed by  
35 arson committed by the taxpayer, or if the engine no longer meets the requirements for obtaining  
36 the tax credit.

37        (b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or  
38 other law, all prior tax relief provided to the taxpayer shall be forfeited, the department shall pro-  
39 ceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit  
40 and the taxpayer shall be denied any further credit provided under this section.

41        (c) The department may perform activities necessary to ensure that recipients of the tax credit  
42 comply with applicable requirements.

43        (7)(a) A nonresident individual shall be allowed the credit computed in the same manner and  
44 subject to the same limitations as the credit allowed a resident by this section. However, the credit  
45 shall be prorated using the proportion provided in ORS 316.117.

1 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
 2 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
 3 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

4 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 5 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
 6 ORS 316.117.

7 (8) The taxpayer shall claim the credit on a form prescribed by the Department of Revenue  
 8 containing the information required by the Department of Revenue. The taxpayer shall maintain the  
 9 tax credit cost certification issued by the Department of Environmental Quality under section 16  
 10 [of this 2007 Act], **chapter 855, Oregon Laws 2007**, in the records of the taxpayer for the length  
 11 of time prescribed by the Department of Revenue and shall provide a copy of the cost certification  
 12 to the Department of Revenue if requested.

13 (9) A taxpayer may not claim a credit under this section and ORS 315.304 with respect to the  
 14 same diesel engine or group of diesel engines. A taxpayer may claim a credit under this section and  
 15 under ORS [469.185 to 469.225] **469B.130 to 469B.169** with respect to the same diesel engine or group  
 16 of diesel engines if the taxpayer and diesel engines otherwise meet the requirements to be allowed  
 17 a tax credit under ORS [469.185 to 469.225] **469B.130 to 469B.169**.

18  
 19 **CAPTIONS**

20  
 21 **SECTION 17. The unit captions used in this 2017 Act are provided only for the conven-**  
 22 **ience of the reader and do not become part of the statutory law of this state or express any**  
 23 **legislative intent in the enactment of this 2017 Act.**

24  
 25 **EMERGENCY CLAUSE**

26  
 27 **SECTION 18. This 2017 Act being necessary for the immediate preservation of the public**  
 28 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
 29 **July 1, 2017.**

30 \_\_\_\_\_