

# House Bill 2301

Sponsored by Representative LEWIS (Presession filed.)

## 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**.

Imposes tax on use of electricity to charge battery of electric vehicle at rate equivalent to rate of license tax imposed on first sale, use or distribution of motor vehicle fuel. Confers administration of tax on Department of Transportation.

Punishes violation of Act by maximum of 364 days' imprisonment, \$6,250 fine, or both.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to the taxation of the use of electricity to charge the battery of an electric vehicle; creat-  
3 ing new provisions; amending ORS 184.644, 319.990, 366.505, 802.110 and 803.108; prescribing an  
4 effective date; and providing for revenue raising that requires approval by a three-fifths major-  
5 ity.

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

7 **SECTION 1. As used in sections 1 to 22 of this 2023 Act, "EV charging tax" means the**  
8 **tax imposed under section 2 of this 2023 Act.**

9 **SECTION 2. (1) A tax on the use of electricity to charge the battery of an electric vehicle**  
10 **in this state is imposed at the rate of \$0.\_\_\_\_\_ per kilowatt hour. The tax may be rounded**  
11 **to the nearest whole cent.**

12 **(2) The tax shall be imposed on charging that occurs at:**

13 **(a) Commercial charging stations;**

14 **(b) Commercial and private residential structures, regardless of the number of individual**  
15 **dwellings contained in the structure; and**

16 **(c) Charging stations operated by public bodies to the extent that the stations are used**  
17 **to charge vehicles owned by the public body's officers and employees.**

18 **(3) Charging that occurs at a private residential structure is subject to the tax regardless**  
19 **of the ownership of the electric vehicle being charged or the jurisdiction in which the electric**  
20 **vehicle is registered.**

21 **(4)(a) The tax is considered a liability of the person, whether individual or corporate, that**  
22 **controls the charging equipment used to charge the electric vehicle and each such person is**  
23 **considered a taxpayer.**

24 **(b) The taxpayer may collect the amount of the tax at the time of the transaction from**  
25 **the person whose electric vehicle is being charged using the taxpayer's charging equipment.**

26 **(5)(a) It is the intent of sections 1 to 22 of this 2023 Act to impose a tax on the use of**  
27 **electricity to charge the battery of an electric vehicle at a rate that is equivalent to the rate**  
28 **of the license tax imposed on the first sale, use or distribution of motor vehicle fuel under**  
29 **ORS 319.020.**

30 **(b) To that end, the Department of Transportation shall annually adjust the rate of the**

**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 tax imposed under this section as needed to maintain the equivalency.

2 **SECTION 3.** (1)(a) Each taxpayer liable for any amount of the EV charging tax shall re-  
 3 port to the Department of Transportation the number of kilowatt hours used during the  
 4 preceding calendar quarter in taxable charging of an electric vehicle for which the taxpayer  
 5 is liable and such other information as the department may require.

6 (b) The department shall prescribe the form of the report and the manner in which the  
 7 report shall be delivered to the department.

8 (2) The quarterly reports shall be filed on or before the following dates:

9 (a) First quarter, April 20.

10 (b) Second quarter, July 20.

11 (c) Third quarter, October 20.

12 (d) Fourth quarter, January 20.

13 (3) The taxpayer shall remit to the department with each report all the tax due from  
 14 taxable charging of an electric vehicle during the preceding calendar quarter for which the  
 15 taxpayer is liable.

16 (4)(a) Notwithstanding subsections (1) to (3) of this section, if the department determines  
 17 that the average annual EV charging tax to be paid by a taxpayer will be less than \$1,000,  
 18 the department may authorize the taxpayer to file annual tax reports in lieu of the quarterly  
 19 tax reports otherwise required under this section.

20 (b) The annual reports and accompanying remittances as shown on the reports to be due  
 21 and payable, shall be filed on or before January 20 following the calendar year to which the  
 22 reports relate.

23 **SECTION 4.** (1) Except as provided in subsection (2) of this section, if any taxpayer is  
 24 delinquent in remitting any amount of the EV charging tax on or before the date specified  
 25 in section 3 of this 2023 Act, a penalty of 10 percent of the unpaid amount of the tax due shall  
 26 be added to the amount due and the total shall immediately be due and payable.

27 (2) If the Department of Transportation determines that the delinquency was due to  
 28 reasonable cause and without any intent to avoid payment, the penalty imposed under sub-  
 29 section (1) of this section may be waived.

30 (3)(a) If the EV charging tax is not paid as required under section 3 of this 2023 Act, in-  
 31 terest shall be charged at the rate of 0.0329 percent per day until the tax and interest have  
 32 been paid in full.

33 (b) If the EV charging tax is overpaid, the department may credit interest to the account  
 34 of the taxpayer in the amount of 0.0329 percent per day up to a maximum amount that equals  
 35 any interest assessed against the taxpayer under paragraph (a) of this subsection in any  
 36 given reporting period.

37 (4) No taxpayer that incurs a tax liability under sections 1 to 22 of this 2023 Act shall  
 38 knowingly and willfully fail to report and pay the tax liability to the department as required  
 39 under section 3 of this 2023 Act.

40 **SECTION 5.** (1)(a) Every person liable for the EV charging tax shall keep a record of the  
 41 number of kilowatt hours used in charging vehicles and be prepared to prove that all the tax  
 42 due and payable has been remitted.

43 (b) Such records shall be preserved in this state for a period of three years together with  
 44 any receipts or other relevant records or papers which may be specified by the Department  
 45 of Transportation.

1 (2) The department or its authorized agent may examine every taxpayer's records and  
 2 papers required to be preserved under this section:

3 (a) By a business or public body, at any time during normal business hours; and

4 (b) By an individual, at any reasonable hour the department appoints in accordance with  
 5 the taxpayer's schedule.

6 **SECTION 6.** (1) Any amount of the EV charging tax, including any interest or penalty  
 7 added to the tax, that is owed by an individual taxpayer shall constitute a lien upon, and shall  
 8 have the effect of an execution duly levied against, any electric vehicle owned by the tax-  
 9 payer in connection with which the taxable use of electricity occurs, attaching at the time  
 10 of such use.

11 (2) The lien may not be removed until the tax has been paid or the electric vehicle subject  
 12 to the lien has been sold in payment of such tax.

13 (3) The lien arising under this section shall be paramount to all private liens or  
 14 encumbrances of whatever character upon the electric vehicle and to the rights of any con-  
 15 ditional vendor or any other holder of the legal title in or to the electric vehicle.

16 **SECTION 7.** (1) If a taxpayer that is a commercial entity is delinquent in the payment  
 17 of any liability imposed under sections 1 to 22 of this 2023 Act, the Department of Trans-  
 18 portation may give notice of the amount of such delinquency by registered or certified mail  
 19 to all persons having in their possession or under their control any credits or other personal  
 20 property belonging to the taxpayer, or owing any debts to such taxpayer, at the time of the  
 21 receipt by them of the notice.

22 (2) A person so notified may not transfer or otherwise dispose of such credits, personal  
 23 property or debts until the earlier of the date on which:

24 (a) The department consents to a transfer or other disposition; or

25 (b) 30 days have elapsed after the receipt of the notice.

26 (3) All persons so notified shall, within five days after the receipt of the notice, advise  
 27 the department of all such credits, personal property or debts in their possession, under  
 28 their control or owing by them, as applicable.

29 **SECTION 8.** (1) Whenever any taxpayer is delinquent in the payment of any liability im-  
 30 posed under sections 1 to 22 of this 2023 Act, the Department of Transportation may proceed  
 31 to collect the amount due from the taxpayer in the manner prescribed in this section.

32 (2) The department shall seize any electric vehicle subject to the lien that arises under  
 33 section 6 of this 2023 Act and sell it at public auction to pay the liability and any and all costs  
 34 that may have been incurred on account of the seizure and sale.

35 (3)(a) Notice of the intended sale and the time and place shall be given to the delinquent  
 36 taxpayer and to all persons appearing of record to have an interest in the electric vehicle.

37 (b) The notice shall be given in writing at least 10 days before the date set for the sale  
 38 by United States mail, postage prepaid, addressed to the taxpayer at the address as it ap-  
 39 pears in the records of the department and, in the case of any person appearing of record  
 40 to have an interest in the electric vehicle, addressed to the person at the last-known resi-  
 41 dence or place of business.

42 (c) In addition, the notice shall be published at least three times, the first of which shall  
 43 be not less than 10 days before the date set for the sale, in a newspaper of general circulation  
 44 published in the county in which the electric vehicle seized is to be sold. If there is no  
 45 newspaper of general circulation in the county, the notice shall be posted in three public

1 places in the county for such period of 10 days.

2 (4) The notice shall contain a description of the electric vehicle to be sold, together with  
 3 a statement of the amount due under sections 1 to 22 of this 2023 Act, the name of the tax-  
 4 payer and the further statement that unless the amount is paid before the time fixed in the  
 5 notice the electric vehicle will be sold in accordance with law and the notice.

6 (5) Upon the lapse of the 10-day period without payment of the delinquent EV charging  
 7 tax amounts, the department shall proceed to sell the electric vehicle in accordance with the  
 8 law and the notice, and shall deliver to the purchaser a bill of sale vesting title in the pur-  
 9 chaser.

10 (6)(a) If upon any such sale the moneys received exceed the amount due to the state  
 11 under sections 1 to 22 of this 2023 Act from the delinquent taxpayer, the excess shall be re-  
 12 turned to the taxpayer.

13 (b) If any person having an interest in or lien upon the electric vehicle has filed with the  
 14 department prior to the sale notice of the interest or lien, the department shall withhold  
 15 payment of any excess to the delinquent taxpayer pending a determination of the rights of  
 16 the respective parties by a court of competent jurisdiction.

17 (c) If for any reason the delinquent taxpayer does not receive the excess, the department  
 18 shall deposit the excess with the State Treasurer as trustee for the taxpayer or for the heirs,  
 19 successors or assigns of the taxpayer.

20 SECTION 9. (1) Whenever any taxpayer is delinquent in the payment of any liability un-  
 21 der sections 1 to 22 of this 2023 Act, the Department of Transportation may transmit notice  
 22 of the delinquency to the Attorney General who shall at once proceed to collect by appro-  
 23 priate legal action the delinquent EV charging tax due and any amount of interest or penalty  
 24 on the tax.

25 (2) In any suit brought to enforce the rights of the state under sections 1 to 22 of this  
 26 2023 Act, a certificate by the department showing the delinquency is prima facie evidence of  
 27 the amount of the liability, of the delinquency of the payment and of compliance by the de-  
 28 partment with all provisions of sections 1 to 22 of this 2023 Act relating to the delinquent  
 29 liability.

30 SECTION 10. (1) If a person fails to pay in full any liability due under sections 1 to 22  
 31 of this 2023 Act, the Department of Transportation may issue a warrant for the amount of  
 32 the delinquent liability and the cost of executing the warrant. A copy of the warrant shall  
 33 be mailed or delivered to the debtor by the department at the debtor's last-known address.

34 (2) At any time after issuing a warrant under this section, the department may record  
 35 the warrant in the County Clerk Lien Record of any county of this state. Recording of the  
 36 warrant has the effect described in ORS 205.125.

37 (3)(a) After recording a warrant, the department may direct the sheriff of the county in  
 38 which the warrant is recorded to levy upon and sell the real and personal property of the  
 39 debtor found within that county, and to levy upon any currency of the debtor found within  
 40 that county, for the application of the proceeds or currency against the amount reflected in  
 41 the warrant and the sheriff's cost of executing the warrant.

42 (b) The sheriff shall proceed on the warrant in the same manner prescribed by law for  
 43 executions issued against property pursuant to a judgment, and is entitled to the same fees  
 44 as provided for executions issued against property pursuant to a judgment.

45 (c) The fees of the sheriff shall be added to and collected as a part of the warrant liabil-

1 ity.

2 (4) In the discretion of the department, a warrant issued under this section may be di-  
 3 rected to any agent authorized by the department to collect liabilities under this section, and  
 4 in the execution of the warrant the agent has all of the powers conferred by law upon  
 5 sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the  
 6 performance of such duty.

7 **SECTION 11.** (1) The Department of Transportation may engage the services of a col-  
 8 lection agency to collect any liability due to the state under sections 1 to 22 of this 2023 Act.  
 9 The department may engage the services by entering into agreements to pay reasonable  
 10 charges on a contingent fee or other basis.

11 (2) The department may assign to the collection agency, for collection purposes only, any  
 12 of the liabilities due the state under sections 1 to 22 of this 2023 Act.

13 (3) The collection agency may bring such actions or take such proceedings, including at-  
 14 tachment and garnishment proceedings, as may be necessary.

15 (4) Any liability due the state assigned to a collection agency pursuant to this section  
 16 that remains uncollected for two years after the date of the assignment meets the criteria  
 17 for uncollectibility formulated pursuant to ORS 293.240.

18 (5) ORS 293.245 applies to any liability due the state and described in subsection (1) of this  
 19 section.

20 **SECTION 12.** (1) If the Department of Transportation is not satisfied that a report filed  
 21 under section 3 of this 2023 Act or any amount of EV charging tax, interest or penalty paid  
 22 to the state by any taxpayer is correct, the department may assess the EV charging tax,  
 23 interest and penalty due based upon any information available to the department.

24 (2)(a) The department shall give to the taxpayer written notice of the assessment.

25 (b) The notice may be served personally or by depositing the notice in the United States  
 26 mail, postage prepaid, addressed to the taxpayer at the address as it appears in the records  
 27 of the department.

28 **SECTION 13.** (1) If any taxpayer fails to make a report required under section 3 of this  
 29 2023 Act, the Department of Transportation shall make an estimate, based upon any infor-  
 30 mation available to the department, for the calendar quarter or year with respect to which  
 31 the taxpayer failed to make a report, and assess the tax, interest and penalty due from the  
 32 taxpayer under sections 1 to 22 of this 2023 Act.

33 (2) The department shall give to the taxpayer written notice of the assessment in the  
 34 manner prescribed under section 12 of this 2023 Act.

35 **SECTION 14.** (1) Any taxpayer against whom an assessment is made under section 12 or  
 36 13 of this 2023 Act may petition for a reassessment within 30 days after service of notice of  
 37 the assessment. If a petition is not filed within the 30-day period, the amount of the assess-  
 38 ment becomes conclusive.

39 (2)(a) If a petition for reassessment is filed within the 30-day period, the Department of  
 40 Transportation shall reconsider the assessment and, if requested in the petition, shall grant  
 41 the taxpayer an oral hearing and give the taxpayer 10 days' notice of the time and place of  
 42 the oral hearing.

43 (b) The department may continue the hearing from time to time.

44 (c) The department shall serve on the petitioner notice of its finding upon reassessment.

45 (d) If the finding is that any amount of EV charging tax, interest or penalty is delinquent,

1 the petitioner shall pay to the department, within 30 days after notice is served, the entire  
 2 amount found to be delinquent.

3 (3) Notice required by this section shall be served in the manner prescribed under section  
 4 12 of this 2023 Act.

5 **SECTION 15.** (1) Any person aggrieved by a finding, order or determination by the De-  
 6 partment of Transportation under section 14 of this 2023 Act may appeal the finding, order  
 7 or determination to the circuit court of the county in which the person resides or in which  
 8 the EV charging tax liability was incurred.

9 (2) The appeal shall be taken within 60 days from the date of the entry or making of the  
 10 order, finding or determination and in the manner provided by law for appeals in actions at  
 11 law.

12 **SECTION 16.** Except in the case of an alleged fraudulent report, or neglect or refusal to  
 13 make a report, under section 3 of this 2023 Act, no notice of assessment shall be served on  
 14 a taxpayer after three years have elapsed since the date on which the alleged erroneous re-  
 15 port was filed or a report should have been filed.

16 **SECTION 17.** (1) If the Department of Transportation determines any amount of EV  
 17 charging tax, interest or penalty has been paid more than once or has been erroneously or  
 18 illegally collected, the department shall:

19 (a) Credit the amount against any amounts of EV charging tax, interest or penalty then  
 20 due from the taxpayer under sections 1 to 22 of this 2023 Act or ORS 319.990 (5); and

21 (b) Refund any balance to the taxpayer or any successor, administrator or executor of  
 22 the taxpayer.

23 (2)(a) A taxpayer may claim a credit or refund for any amount of EV charging tax, in-  
 24 terest or penalty that the taxpayer has paid more than once or that has been collected er-  
 25 roneously or illegally.

26 (b) A claim for a credit or refund under this subsection may not be allowed unless the  
 27 claim is filed with the department within the later of:

28 (A) Three years following the date of the payment or collection; or

29 (B) With respect to an assessment made under section 12 or 13 of this 2023 Act, six  
 30 months following the date on which the assessment becomes conclusive.

31 (c) Every claim must be in writing and must state the specific grounds upon which it is  
 32 founded.

33 (d) Failure to file a claim within the time prescribed in this subsection shall constitute  
 34 waiver of any and all demands against this state on account of the claimed overpayments.

35 (e) Within 30 days of allowing or disallowing any claim in whole or in part, the depart-  
 36 ment shall serve notice on the claimant of its action. The service shall be made in the  
 37 manner prescribed under section 12 of this 2023 Act.

38 **SECTION 18.** (1) The Department of Transportation may investigate claims for credits  
 39 or refunds under section 17 of this 2023 Act and gather and compile such information in re-  
 40 gard to the claims as it considers necessary to safeguard the state and prevent fraudulent  
 41 practices in connection with EV charging tax credits and refunds and tax evasions.

42 (2) The department may, in order to establish the validity of any claim, examine the  
 43 books and records of the claimant for such purposes.

44 (3) Failure of the claimant to accede to the demand for such examination constitutes a  
 45 waiver of all rights to a credit or refund on account of the transaction questioned.

1        **SECTION 19.** (1) The Department of Transportation is hereby charged with the enforce-  
 2        ment of the provisions of sections 1 to 22 of this 2023 Act and ORS 319.990 (5), and hereby  
 3        is authorized to prescribe, adopt and enforce rules and policies relating to the administration  
 4        and enforcement of the EV charging tax.

5        (2) Notwithstanding any other provision of law, the department may enter into agree-  
 6        ments with the governing body of any Indian tribe residing on a reservation in Oregon to  
 7        provide for the administration of the tax imposed under sections 1 to 22 of this 2023 Act.

8        **SECTION 20.** (1) It is unlawful for the Department of Transportation, or any person  
 9        having an administrative duty under sections 1 to 22 of this 2023 Act, to divulge the business  
 10       affairs, operations, or information obtained by an investigation of records and equipment of  
 11       any EV charging taxpayer or other person visited or examined in the discharge of official  
 12       duty, or the amount or source of income, profits, losses, expenditures or any particular  
 13       thereof, set forth or disclosed in any report, or to permit any report or copy of a report or  
 14       any book containing any abstract or particulars of a report to be seen or examined by any  
 15       person except as provided by law.

16       (2) Notwithstanding subsection (1) of this section, the department may authorize exam-  
 17       ination of such reports by, and the giving of information contained in the reports to, other  
 18       state officers as needed for enforcement of sections 1 to 22 of this 2023 Act.

19       **SECTION 21.** (1) No person shall intentionally make a false statement in any report, pe-  
 20       tition or claim required or permitted by sections 1 to 22 of this 2023 Act.

21       (2) No person shall intentionally collect, or attempt to collect or receive, a refund of any  
 22       amount of EV charging tax, interest or penalty paid to the Department of Transportation  
 23       under sections 1 to 22 of this 2023 Act to which the person is not entitled.

24       (3) No person shall intentionally aid or assist another person to violate any provision of  
 25       sections 1 to 22 of this 2023 Act.

26       **SECTION 22.** All moneys received by the Department of Transportation pursuant to  
 27       sections 1 to 22 of this 2023 Act shall be turned over promptly to the State Treasurer and  
 28       shall be disposed of as provided in ORS 802.110.

29       **SECTION 23.** ORS 319.990 is amended to read:

30       319.990. (1) Any person who violates any of the provisions of ORS 319.010 to 319.430, or any  
 31       person who makes any false statement in any statement required by ORS 319.010 to 319.430 for the  
 32       refund of any money or tax as provided in ORS 319.010 to 319.430, or who collects or causes to be  
 33       repaid to the person or any person any tax, without being entitled to it under the provisions of ORS  
 34       319.010 to 319.430, commits a Class B misdemeanor.

35       (2) Violation of ORS 319.180 (6) or 319.694 (4) **or section 4 (4) of this 2023 Act** is theft of public  
 36       money and, upon conviction, is punishable as provided in ORS 164.043 to 164.057.

37       (3) Violation of any provision of ORS 319.240 (4) and (5) is a Class B misdemeanor.

38       (4) Violation of any provision of ORS 319.510 to 319.880 is a Class A misdemeanor.

39       **(5) Violation of any provision of sections 1 to 22 of this 2023 Act is a Class A**  
 40       **misdemeanor.**

41       **SECTION 24.** ORS 366.505 is amended to read:

42       366.505. (1) The State Highway Fund shall consist of:

43       (a) All moneys and revenues derived under and by virtue of the sale of bonds, the sale of which  
 44       is authorized by law and the proceeds thereof to be dedicated to highway purposes.

45       (b) All moneys and revenues accruing from the licensing of motor vehicles, operators and

1 chauffeurs.

2 (c) Moneys and revenues derived from any tax levied upon gasoline, distillate, liberty fuel or  
 3 other volatile and inflammable liquid fuels, except moneys and revenues described in ORS 184.642  
 4 (2)(a) that become part of the Department of Transportation Operating Fund.

5 **(d) Moneys and revenues derived from the EV charging tax imposed under section 2 of**  
 6 **this 2023 Act.**

7 [(d)] (e) Moneys and revenues derived from the road usage charges imposed under ORS 319.885.

8 [(e)] (f) Moneys and revenues derived from the use tax imposed under ORS 320.410.

9 [(f)] (g) Moneys and revenues derived from or made available by the federal government for road  
 10 construction, maintenance or betterment purposes.

11 [(g)] (h) All moneys and revenues received from all other sources which by law are allocated  
 12 or dedicated for highway purposes.

13 (2) The State Highway Fund shall be deemed and held as a trust fund, separate and distinct from  
 14 the General Fund, and may be used only for the purposes authorized by law and is continually ap-  
 15 propriated for such purposes.

16 (3) Moneys in the State Highway Fund may be invested as provided in ORS 293.701 to 293.857.  
 17 All interest earnings on any of the funds designated in subsection (1) of this section shall be placed  
 18 to the credit of the highway fund.

19 **SECTION 25.** ORS 184.644 is amended to read:

20 184.644. (1) For purposes of this section, a liquidated and delinquent debt is a debt that meets  
 21 one of the following conditions:

22 (a) Judgment has been entered on the debt; or

23 (b) Liability for and the amount of the debt have been established through an administrative  
 24 proceeding.

25 (2) If a person fails to pay in full any liquidated and delinquent debt due the Department of  
 26 Transportation, the department may issue a warrant for the amount due, with the added penalties  
 27 or charges, interest and cost of executing the warrant. A copy of the warrant shall be mailed or  
 28 delivered to the debtor by the department at the debtor's last-known address.

29 (3) At any time after issuing a warrant under this section, the department may record the war-  
 30 rant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the  
 31 effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff  
 32 for the county in which the warrant is recorded to levy upon and sell the real and personal property  
 33 of the debtor found within that county, and to levy upon any currency of the debtor found within  
 34 that county, for the application of the proceeds or currency against the amount reflected in the  
 35 warrant and the sheriff's cost of executing the warrant. The sheriff shall proceed on the warrant in  
 36 the same manner prescribed by law for executions issued against property pursuant to a judgment,  
 37 and is entitled to the same fees as provided for executions issued against property pursuant to a  
 38 judgment. The fees of the sheriff shall be added to and collected as a part of the warrant liability.

39 (4) In the discretion of the department a warrant under this section may be directed to any  
 40 agent authorized by the department to collect debts under this section, and in the execution of the  
 41 warrant the agent has all of the powers conferred by law upon sheriffs, but is entitled to no fee or  
 42 compensation in excess of actual expenses paid in the performance of such duty.

43 (5) Nothing in this section affects any provision of ORS 319.182, 319.742 or 825.504 **or section**  
 44 **10 of this 2023 Act.**

45 **SECTION 26.** ORS 802.110 is amended to read:



1 802.110. Any procedures the Department of Transportation establishes for financial adminis-  
2 tration of those functions of the department dealing with driver and motor vehicle services and for  
3 the disposition and payment of moneys it receives from the provision of driver and motor vehicle  
4 services shall comply with all of the following:

5 (1) The department shall deposit all moneys it receives related to driver and motor vehicle ser-  
6 vices in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved  
7 expenses and disbursements before payment of general administrative expenses of the department related  
8 to the provision of driver and motor vehicle services. Notwithstanding this subsection, the depart-  
9 ment may return a bank check or money order when received in incorrect or incomplete form or  
10 when not accompanied by the proper application.

11 (2) The department shall pay the following approved expenses and disbursements from the Depart-  
12 ment of Transportation Driver and Motor Vehicle Suspense Account before payment of the general  
13 administrative expenses of the department related to driver and motor vehicle services:

14 (a) Refunds authorized by any statute administered by the department when such refunds are  
15 approved by the department.

16 (b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carry-  
17 ing out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and  
18 Facility Account and to the Marine Navigation Improvement Fund by ORS 319.415, amounts trans-  
19 ferred to the State Aviation Account by ORS 319.417 and amounts transferred to the Department  
20 of Transportation Operating Fund by ORS 184.643.

21 (c) After deduction of expenses of collection, transfer and administration, the department shall  
22 pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040,  
23 807.150 and 807.370 to the State Treasurer for deposit in the Student Driver Training Fund. The  
24 moneys deposited in the Student Driver Training Fund under this paragraph are continuously ap-  
25 propriated to the department for the following purposes:

26 (A) To the extent of not more than 10 percent of the amount transferred into the Student Driver  
27 Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805,  
28 336.810 (2) and 336.815.

29 (B) The remaining moneys, for reimbursing school districts and commercial driver training  
30 schools as provided under ORS 336.805.

31 (d) After deduction of expenses of collection, transfer and administration, the department shall  
32 pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treas-  
33 urer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys  
34 paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.

35 (e) After deduction of expenses for the administration of the issuance of customized registration  
36 plates under ORS 805.240, the department shall place moneys received from the sale of customized  
37 registration plates in the Passenger Rail Transportation Account. The moneys placed in the account  
38 are continuously appropriated to the department and shall be used for the payment of expenses in-  
39 curred in administering passenger rail programs.

40 (f) After deduction of expenses of collection, transfer and administration, the department shall  
41 pay moneys from any registration fees established by the governing bodies of counties or a district,  
42 as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts.  
43 The department shall make the payments on at least a monthly basis unless another basis is estab-  
44 lished by the intergovernmental agreements required by ORS 801.041 and 801.042 between the de-  
45 partment and the governing bodies of a county or a district.

1 (g) After deducting the expenses of the department in collecting and transferring the moneys,  
2 the department shall make disbursements and payments of moneys collected for or dedicated to any  
3 other purpose or fund except the State Highway Fund, including but not limited to, payments to the  
4 Department of Transportation Operating Fund established by ORS 184.642 (1) and (2).

5 (3) The department shall refund from the Department of Transportation Driver and Motor Ve-  
6 hicle Suspense Account any excess or erroneous payment to a person who made the payment or to  
7 the person's legal representative when the department determines that money has been received by  
8 it in excess of the amount legally due and payable or that it has received money in which it has  
9 no legal interest. Refunds payable under this subsection are continuously appropriated for such  
10 purposes in the manner for payment of refunds under this section. If the department determines that  
11 a refund is due, the department may refund the amount of excess or erroneous payment without a  
12 claim being filed. Except as provided in ORS 319.290, 319.375, 319.820 and 319.831 **and section 17**  
13 **of this 2023 Act**, any claim for a refund from the department must be filed within 12 months after  
14 the date payment is received by the department.

15 (4) After payment of those expenses and disbursements approved for payment before general admin-  
16 istrative expenses related to the provision of driver and motor vehicle services, the department shall  
17 pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Ac-  
18 count its general administrative expenses incurred in the administration of any law related to driver  
19 and motor vehicle services that the department is charged with administering and any other ex-  
20 penses the department is permitted by law to pay from moneys held by the department before  
21 transfer of the moneys to the State Highway Fund. The following limitations apply to payments of  
22 administrative expenses under this subsection:

23 (a) The department shall make payment of the expenses of administering the issuance of winter  
24 recreation parking permits under ORS 811.595 from those moneys received from issuing the permits.

25 (b) The department shall pay its expenses for administering the registration and titling of  
26 snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those  
27 sections. The department shall also pay its expenses for the administration of the snowmobile driver  
28 permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

29 (c) The department shall pay its expenses for determining the amount of money to be withheld  
30 under ORS 802.120 from the fees collected for administering the registration and titling of  
31 snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary  
32 but may not exceed \$10,000 during each biennium.

33 (d) The department shall retain not more than \$15,000 in any biennium for the expenses of col-  
34 lecting and transferring moneys to the Student Driver Training Fund under this section and for the  
35 administration of ORS 336.810 (3).

36 (5) Except as otherwise provided in this subsection, the department shall transfer to the State  
37 Highway Fund the moneys not used for payment of the general administrative expenses or for ap-  
38 proved expenses and disbursements before payment of general administrative expenses. The following  
39 apply to this subsection:

40 (a) If the Director of Transportation certifies the amount of principal or interest of highway  
41 bonds due on any particular date, the department may make available for the payment of such in-  
42 terest or principal any sums that may be necessary to the extent of moneys on hand available for  
43 the State Highway Fund regardless of the dates otherwise specified under this section.

44 (b) Notwithstanding paragraph (a) of this subsection, the department may not make available for  
45 purposes described in paragraph (a) of this subsection any moneys described in ORS 367.605 when

1 there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds  
 2 issued under ORS 367.615.

3 (6) Notwithstanding any other provision of this section, the following moneys shall be trans-  
 4 ferred to the State Highway Fund at the times described:

5 (a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses  
 6 of the department shall be transferred before July 31 of each year.

7 (b) Moneys received from the registration of snowmobiles that are not to be used for payment  
 8 of administrative expenses of the department shall be transferred within 30 days after the end of the  
 9 quarter.

10 (c) Moneys received from the issuance of winter recreation parking permits that are not used  
 11 for payment of administrative expenses of the department shall be transferred within 30 days after  
 12 the end of the quarter.

13 (7) The following moneys transferred to the State Highway Fund under this section may be used  
 14 only for the purposes described as follows:

15 (a) Moneys collected from the issuance of winter recreation parking permits, and the interest  
 16 on such moneys, shall be used to enforce the requirement for winter recreation parking permits and  
 17 to remove snow from winter recreation parking locations designated under ORS 810.170. Any re-  
 18 maining moneys shall, upon approval by the Winter Recreation Advisory Committee:

19 (A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170  
 20 and snowmobile facilities that are parking lots developed with moneys as provided under this sec-  
 21 tion;

22 (B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

23 (C) Be carried over to be used in subsequent years for the purposes and in the manner described  
 24 in this paragraph.

25 (b) Moneys received from the registration of snowmobiles or under ORS 802.120 may be used for  
 26 development and maintenance of multiuse trails within urban growth boundaries or for the devel-  
 27 opment and maintenance of snowmobile facilities, including the acquisition of land therefor by any  
 28 means other than the exercise of eminent domain. Moneys received under ORS 802.120 may also be  
 29 used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140, 821.150, 821.190, 821.210 and  
 30 821.240 to 821.290.

31 (8) The department shall maintain the Revolving Account for Emergency Cash Advances sepa-  
 32 rate from other moneys described in this section. From the account, the department may pay for the  
 33 taking up of dishonored remittances returned by banks or the State Treasurer and for emergency  
 34 cash advances to be subsequently reimbursed. The account shall be used only as a revolving  
 35 fund. The department shall at all times be accountable for the amount of the account, either in cash  
 36 or unreimbursed items and advances. The moneys in the account are continuously appropriated for  
 37 the purposes of this subsection. The amount of moneys in the account under this subsection may not  
 38 exceed \$40,000 from moneys received by the department in the performance of its driver and motor  
 39 vehicle services functions and moneys otherwise appropriated for purposes of this subsection. The  
 40 account under this subsection shall be kept on deposit with the State Treasurer. The State Treas-  
 41 urer is authorized to honor and pay all properly signed and indorsed checks or warrants drawn  
 42 against the account.

43 **SECTION 27.** ORS 803.108 is amended to read:

44 803.108. If the ownership of a motor vehicle subject to *[the]* a lien provided for *[by]* **under** ORS  
 45 319.700 **or section 6 of this 2023 Act** is transferred, whether by operation of law or otherwise, the

1 Department of Transportation shall not issue, to the transferee or person otherwise entitled thereto,  
2 a registration card or title with respect to such motor vehicle until the department has determined  
3 that the lien has been removed. Implements of husbandry are not subject to this section by virtue  
4 of exemption under ORS 319.520 from the lien provided for by ORS 319.700.

5 **SECTION 28. Sections 1 to 22 of this 2023 Act and the amendments to ORS 184.644,**  
6 **319.990, 366.505, 802.110 and 803.108 by sections 23 to 27 of this 2023 Act apply to the use of**  
7 **electricity to charge electric vehicles occurring on or after January 1, 2024.**

8 **SECTION 29. This 2023 Act takes effect on the 91st day after the date on which the 2023**  
9 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

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