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Policy Opportunities for Natural Gas Vehicles

At Issue:

Natural Gas Vehicles (NGVs) represent a significant untapped opportunity for Pacific Northwest vehicle operators seeking to lower costs, reduce emissions and play a role in North American energy independence. Utilizing a fuel that is widely available and reliably used by millions of consumers across our continent NGVs have been slow to catch on due to our region's limited fueling infrastructure and the up front costs associated with NGV purchases or conversions. This fact sheet details a number of opportunities for regional policymakers to positively influence the adoption of natural gas vehicles and fueling infrastructure.

Governmental Support & Leadership:

Oregon, Washington and Idaho need comprehensive plans to provide fleet owners and truck owners with the confidence to make the switch away from diesel. Ensuring CNG and LNG refueling availability on key corridors is very important for our region to be able to meet its GHG targets and provides a cost competitive alternative to conventional vehicle fuels.

Policymakers can play a key role in providing for natural gas as a transportation fuel through participation in regional coordination. Several neighboring states, most notably California and Utah, have made great progress in deploying CNG and LNG. The Governor's office and others should work with these states and regional stakeholders to identify the best regional locations for refueling infrastructure in support of an effective network in the Pacific Northwest.

Additionally, state commissions and agencies, local jurisdictions, regional governments and public-private partnerships have assembled CNG/LNG infrastructure plans that often overlap. Coordinating these endeavors will focus efforts and funding in a more strategic way.

Allow for Utility Participation:

Nationally, NGV success stories have occurred in states where utilities have participated in the provision of fueling. Questar Natural Gas has seen NGV adoption rates grow in Utah thanks to their ability to provide rate-based CNG and LNG fueling stations. In British Columbia, FortisBC has been a leader in fostering CNG and LNG adoption, in part due to their ability to provide fueling opportunities along with other incentives for natural gas transportation.

Regulated options for natural gas fueling and LNG supply in the Pacific Northwest provide consumers with the confidence to invest in new vehicles and the knowledge that they will enjoy safe and reliable CNG or LNG service for the life of their fleet. Utility involvement also provides the transparency and PUC oversight enjoyed by traditional natural gas consumers.

Gross Vehicle Weight Allowances:

The increased strength of fuel tanks designed to hold either CNG or LNG means increased weight. Fully fueled a natural gas powered truck may weigh over 1,500 pounds more than its conventionally fueled equivalent. This increased weight means decreased payloads and revenue, as roadway weight limits cap total vehicle tonnage.

In order to offset these payload losses a number of states have implemented, or are considering, an increase in the vehicle weight allowances for natural gas fueled vehicles up to 2,000 pounds. In 2013 Colorado, Ohio and Indiana put laws on the books that slightly relaxed weight limits on natural gas vehicles, removing a barrier to adoption without impacting either state's budget. In Colorado's case the relaxed limits applied to all alternative fuel vehicles, Indiana and Ohio each dealt directly with natural gas vehicles. The relevant portion of the Ohio statute outlines beneficiaries of the allowance as:

“A vehicle fueled solely by compressed natural gas may exceed by not more than two thousand pounds the gross vehicle weight provisions of sections 5577.01 to 5577.09 of the Revised Code” *Ohio Statute 5577.044 Weight restrictions for vehicles fueled by natural gas (See Appendix 1, for the full text)*

In both Indiana and Ohio the allowance is small enough to offset payload penalties, only applies to vehicles fueled solely by natural gas and does not apply on highways, roads or bridges that have reduced weight limits.

Phase in Natural Gas Fuel Excise Taxes:

Idaho is the only Pacific Northwest state with an existing tax on alternative fuels, \$0.25 per Gasoline Gallon Equivalent (GGE). In both Oregon and Washington policy makers can seek to incentivize early adoption of natural gas vehicles through a transparent phase-in of fuel excise taxes on natural gas fuels. Colorado has implemented a six-year phase in schedule, detailed below, that provides fleet operators with important fuel cost planning information and provides a benefit for those operators that are willing to switch their fleets to natural gas early in the phase-in period.

	2014	2015	2016	2017	2018	2019 & Beyond
CNG	\$0.03	\$0.06	\$0.09	\$0.12	\$0.15	\$0.183
LNG	\$0.03	\$0.05	\$0.07	\$0.08	\$0.10	\$0.12

Table 1: Planned Phase in of Colorado Natural Gas Fuel Excise Tax, Effective 1/1/2014 (Ref. CO Revised Statutes 39-27-102 and 42-3-304)

Standard Definitions for AFV Energy Equivalency:

Both CNG and LNG enjoy clear price advantages over alternative fuels such as propane, biodiesel and ethanol. An October 2013 nationwide fuel price survey by the Alternative Fuels Data Center (AFDC.energy.gov), found CNG to cost \$2.09 per GGE on average, enjoying a price advantage of \$0.80 to \$2.00 over all other fuels listed.

Providing price transparency at the pump allows for easy comparison between different fuel types. However, most states lack a standard definition regarding how alternative vehicle fuel prices should be displayed and how conversions should be made. In 2013 Colorado mandated conversion standards and price display guidelines in order to standardize alternative fuels through the comparison to conventional gasoline in Gasoline Gallon Equivalents (GGEs). Full text of the revised statutes is located in Appendix 2, which also includes provisions for the conversion to Diesel Gallon Equivalent (DGE) pricing where appropriate. According to the Colorado statute:

“The term GGE is defined to equate the energy content of any motor fuel, including alternative fuels, to that of a gallon of gasoline. Any dispenser used for the sale of motor fuel in GGEs must display GGEs as the primary display information provided.” (Reference [Colorado Revised Statutes 8-20-232.5](#))

Utilize Incentives to Promote Private Fleet and Fueling Infrastructure:

While direct financial incentives for new natural gas vehicle purchases have been a victim of shrinking budgets in a number of states, and at the federal level, some ideas include:

- A universal service fund providing financial incentives for infrastructure when a fleet large enough to justify a refueling station converts to CNG/LNG.
- Operational incentives, including lower tipping fees for garbage haulers; line priorities at landfills; and road use tax exemptions for CNG and LNG vehicles.
- Alternative Fuel Vehicle Revolving Funds, similar to Oregon Senate Bill 583 (2013), to provide loans to Oregon’s public bodies and federally recognized tribes for purchasing new alternative fuel vehicles and converting existing gasoline or diesel vehicles to alternative fuels (See Appendix 3 for full SB 583 text).

Appendices

1. Ohio Weight Exemption Statute

5577.044 Weight restrictions for vehicles fueled by natural gas.

(A) Notwithstanding sections 5577.02 and 5577.04 of the Revised Code, a vehicle fueled solely by compressed natural gas may exceed by not more than two thousand pounds the gross vehicle weight provisions of sections 5577.01 to 5577.09 of the Revised Code or the axle load limits of those sections.

(B) If a vehicle described in division (A) of this section exceeds the weight provisions of sections 5577.01 to 5577.09 of the Revised Code by more than the allowance provided for in division (A) of this section, both of the following apply:

(1) The applicable penalty prescribed in section 5577.99 of the Revised Code;

(2) The civil liability imposed by section 5577.12 of the Revised Code.

(C) Division (A) of this section does not apply to the operation of a vehicle on either of the following:

(1) A highway that is part of the interstate system;

(2) A highway, road, or bridge that is subject to reduced maximum weights under section 4513.33, 5577.07, 5577.071, 5577.08, 5577.09, or 5591.42 of the Revised Code.

Added by 130th General Assembly File No. 7, HB 51, §101.01, eff. 7/1/2013.

2. Colorado GGE Mandate

C.R.S. 8-20-232.5

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 8. LABOR AND INDUSTRY
LABOR I - DEPARTMENT OF LABOR AND EMPLOYMENT
ARTICLE 20. FUEL PRODUCTS
PART 2. FUEL PRODUCTS

C.R.S. 8-20-232.5 (2013)

8-20-232.5. Method of sales of motor fuels - gallon equivalents - conversion factors

(1) In addition to any other allowed unit of measurement, motor fuels may be sold by gallon equivalents pursuant to the requirements of this section.

(2) (a) Any dispenser used for the sale of motor fuel in gallon equivalents shall display gallon equivalents as the primary display information provided. Such dispenser shall indicate the number of gallon equivalents and fractions of gallon equivalents sold, the total sales price of the motor fuel dispensed, and the sales price per gallon equivalent of motor fuel sold. Information concerning the sale of motor fuels by gallon equivalents may be provided at the point of sale in literature, signs, or other advertisements. Street sign advertisements regarding the sale of motor fuels by gallon equivalents may abbreviate the term "gallon gasoline equivalent" as "gallon G.E." and the term "gallon diesel equivalent" as "gallon D.E.".

(b) In addition to the information required by paragraph (a) of this subsection (2), the face of a dispenser that is used for the sale of motor fuel in gallon equivalents shall prominently display the conversion factor that is being used by the seller to determine the number of gallon equivalents sold based upon the type and amount of actual measured units of motor fuel that is dispensed. The information displayed on such a dispenser shall include, but is not limited to, the following statements concerning the conversion factor:

(I) "One gallon diesel equivalent of (type of motor fuel) is equivalent to (amount of actual units of measurement) of (type of motor fuel)."

(II) "One gallon diesel equivalent of (type of motor fuel) contains an average lower heating value of 128,000 BTUs of energy, but in no case contains a lower heating value of less than 124,000 BTUs of energy."

(III) "One gallon gasoline equivalent of (type of motor fuel) is equivalent to (amount of actual units of measurement) of (type of motor fuel)."

(IV) "One gallon gasoline equivalent of (type of motor fuel) contains an average lower heating value of 114,000 BTUs of energy, but in no case contains a lower heating value of less than 110,000 BTUs of energy."

(3) Any seller using gallon equivalents for motor fuel sales shall calculate the conversion factor used by the seller to

convert the actual units by which a motor fuel is measured at the dispenser to gallon equivalent units based on the inferred energy content of such motor fuel as measured by one of the following methods:

(a) For conversions to gallon diesel equivalents:

(I) If the motor fuel is actually measured at the dispenser as a volume, the gallon diesel equivalent measurement shall be calculated by determining the number of measured volumetric units required to provide an average lower heating value of one hundred twenty-eight thousand BTUs (British thermal units), but in no case a lower heating value of less than one hundred twenty-four thousand BTUs.

(II) If the motor fuel is actually measured at the dispenser as a mass, the gallon diesel equivalent measurement shall be calculated by determining the number of measured mass units required to provide an average lower heating value of one hundred twenty-eight thousand BTUs (British thermal units), but in no case a lower heating value of less than one hundred twenty-four thousand BTUs.

(b) For conversions to gallon gasoline equivalents:

(I) If the motor fuel is actually measured at the dispenser as a volume, the gallon gasoline equivalent measurement shall be calculated by determining the number of measured volumetric units required to provide an average lower heating value of one hundred fourteen thousand BTUs (British thermal units), but in no case a lower heating value of less than one hundred ten thousand BTUs.

(II) If the motor fuel is actually measured at the dispenser as a mass, the gallon gasoline equivalent measurement shall be calculated by determining the number of measured mass units required to provide an average lower heating value of one hundred fourteen thousand BTUs (British thermal units), but in no case a lower heating value of less than one hundred ten thousand BTUs.

(4) The actual unit of measurement for a motor fuel sold in terms of gallon equivalents shall be calibrated by the seller with appropriate precision to ensure conformance with any required dispensing accuracies.

(5) Repealed.

HISTORY: Source: L. 93: Entire section added, p. 270, § 3, effective July 1. L. 97: (5) repealed, p. 138, § 3, effective March 28.

Cross references: For the legislative declaration contained in the 1993 act enacting this section, see section 1 of chapter 79, Session Laws of Colorado 1993.

3. Sample Legislation: OR SB 583 (2013)-Relating to Alternative Fuel Vehicles

Sponsored by Senator STARR; Senator THOMSEN

CHAPTER

AN ACT

Relating to alternative fuel vehicles; creating new provisions; amending ORS 315.336, 469B.320 and 469B.344 and section 54, chapter 730, Oregon Laws 2011; appropriating money; limiting expenditures; and prescribing an effective date.

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

SECTION 1. As used in sections 1 to 7 of this 2013 Act:

(1) "Alternative fuel vehicle" means a motor vehicle, as defined in ORS 801.360, that is manufactured or modified to use an alternative fuel, including but not limited to electricity, biofuel, gasohol with at least 20 percent denatured alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other fuel approved by the Director of the State Department of Energy, and that produces lower exhaust emissions or is more energy efficient than equivalent equipment fueled by gasoline or diesel.

(2) "Public body" has the meaning given that term in ORS 174.109.

(3) "Tribe" means a federally recognized Indian tribe in Oregon.

SECTION 2. (1) The Alternative Fuel Vehicle Revolving Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Alternative Fuel Vehicle Revolving Fund shall be credited to the fund. The moneys in the Alternative Fuel Vehicle Revolving Fund are continuously appropriated to the State Department of Energy to be used for the purposes described in section 3 of this 2013 Act.

(2) The State Treasurer may accept contributions, donations, bequests, gifts or grants from any source, whether public or private. Moneys received under this subsection shall be deposited into the Alternative Fuel Vehicle Revolving Fund.

(3) The Alternative Fuel Vehicle Revolving Fund shall consist of:

(a) Moneys appropriated by the Legislative Assembly;

(b) Any other revenues derived from contributions, donations, bequests, gifts or grants; (c) Other amounts deposited in the fund from any source;

(d) All repayments of moneys borrowed from the fund; and

(e) All interest payments made by borrowers from the fund.

(4) The State Treasurer may invest and reinvest moneys in the Alternative Fuel Vehicle Revolving Fund in the manner provided by law. All earnings from such investment and reinvestment shall be credited to the Alternative Fuel Vehicle Revolving Fund.

SECTION 3. (1) The State Department of Energy shall use the moneys in the Alternative Fuel Vehicle Revolving Fund for a loan program to provide loans to public bodies and tribes to:

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(a) Assist in the purchase of new alternative fuel vehicles by providing funding for the additional cost of purchasing alternative fuel vehicles as compared to vehicles that are not alternative fuel vehicles; and

(b) Convert existing vehicles that use gasoline or diesel to alternative fuel vehicles.

(2) Funding priority under subsection (1) of this section must be given to vehicle conversions.

(3) The department may also use the moneys in the Alternative Fuel Vehicle Revolving Fund to pay the expenses of the department in administering the Alternative Fuel Vehicle Revolving Fund and the loan program and any other costs incurred by the department in carrying out the provisions of sections 1 to 7 of this 2013 Act.

SECTION 4. (1) In administering the Alternative Fuel Vehicle Revolving Fund, the State Department of Energy shall:

(a) Allocate funds for loans in accordance with procedures adopted by the department by rule.

(b) Use accounting, auditing and fiscal procedures that conform to generally accepted government accounting standards.

(c) Seek to maximize the ability of the Alternative Fuel Vehicle Revolving Fund to operate on a self-sustaining basis and to maintain a perpetual source of financing to provide loans as described in section 3 of this 2013 Act.

(2) In connection with the loan program, the department may:

(a) Establish requirements for loans made from the Alternative Fuel Vehicle Revolving Fund to ensure that adequate funds will be available in the fund to pay the costs of administering the fund and the loan program.

(b) Exercise any remedies available to the department in connection with defaults on loans of advanced funds made to public bodies and tribes.

SECTION 5. (1) Any public body or tribe desiring a loan from the Alternative Fuel Vehicle Revolving Fund shall submit an application to the State Department of Energy. The application shall be in such form as may be specified by the department.

(2) Any public body or tribe receiving a loan from the Alternative Fuel Vehicle Revolving Fund shall establish and maintain a dedicated source of revenue or other acceptable source of revenue for the repayment of the loan.

SECTION 6. Notwithstanding any limitation contained in any other provision of law or local charter, a public body or tribe may:

(1) Borrow money from the Alternative Fuel Vehicle Revolving Fund through the State Department of Energy; and

(2) Enter into loan agreements and make related agreements with the department, in which the public body or tribe agrees to repay the borrowed money in accordance with the terms of the loan agreement.

SECTION 7. (1) The State Department of Energy shall establish by rule policies for establishing loan terms and interest rates for loans made from the Alternative Fuel Vehicle Revolving Fund that ensure that the objectives of sections 1 to 7 of this 2013 Act are met and that adequate funds are maintained in the Alternative Fuel Vehicle Revolving Fund to meet future needs. In establishing the policy, the department shall take into consideration at least the following factors:

(a) The ability of a public body or tribe to repay a loan.

(b) Current market rates of interest.

(2) The department may establish an interest rate ranging from zero to the market rate.

The department may establish the loan term, provided that the loan is fully amortized not later than six years after the purchase of a new alternative fuel vehicle or the conversion of a vehicle that uses gasoline or diesel to an alternative fuel vehicle.

(3) The department shall adopt by rule any procedures or standards necessary to carry out the provisions of sections 1 to 7 of this 2013 Act.

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SECTION 8. Section 9 of this 2013 Act is added to and made a part of ORS chapter 315.

SECTION 9. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified alternative fuel vehicle contributions made by the taxpayer during the tax year to the Alternative Fuel Vehicle Revolving Fund established under section 2 of this 2013 Act.

(2)(a) The Department of Revenue shall, in cooperation with the State Department of Energy, conduct an auction of tax credits under this section. The Department of Revenue may not auction more than \$3 million of tax credits under this section. The department may conduct the auction in the manner that the department determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the Department of Revenue for the actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The Department of Revenue shall deposit net receipts from the auction required under this section in the Alternative Fuel Vehicle Revolving Fund established under section 2 of this 2013 Act. Net receipts from the auction required under this section shall be used to provide loans as described in section 3 of this 2013 Act.

(b) The State Department of Energy shall adopt rules for the administration and implementation of this section.

(3) Contributions made under this section shall be deposited in the Alternative Fuel Vehicle Revolving Fund.

(4)(a) Upon receipt of a contribution, the State Department of Energy shall issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed \$3 million for the tax year beginning January 1, 2013.

(b) The State Department of Energy and the Department of Revenue are not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(5) The tax credit allowed under this section for any one tax year may not exceed the tax liability of the taxpayer.

(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and, likewise, any credit not used in the second succeeding tax year may be carried forward and used in the third succeeding tax year but may not be carried forward for any tax year thereafter.

(7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer, the amount shall be allowed without proration under ORS 316.117.

(8) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes.

SECTION 10. During the biennium beginning July 1, 2013, the limit imposed under ORS 469B.344 (1)(a) on the total amount of potential tax credits for all transportation projects in this state shall be reduced by the total

amount of potential tax credits auctioned under section 9 of this 2013 Act during the biennium beginning July 1, 2013.

SECTION 11. Section 9 of this 2013 Act applies to tax years beginning on or after January 1, 2013, and before January 1, 2015.

SECTION 12. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1, chapter , Oregon Laws 2013 (Enrolled House Bill

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5011), for the biennium beginning July 1, 2013, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by State Department of Energy, is increased by \$3,000,000.

SECTION 13. ORS 469B.320, as amended by section 7, chapter 45, Oregon Laws 2012, is amended to read: 469B.320. As used in ORS 315.336 and 469B.320 to 469B.347:

(1) "Acquisition of an alternative fuel vehicle fleet" includes the replacement of two or more vehicles that are not used primarily for personal, family or household purposes, that are modified or acquired directly from the factory and that:

(a) Use an alternative fuel, including electricity, biofuel, gasohol with at least 20 percent denatured alcohol content, hydrogen, Hythane, methane, methanol, natural gas, propane or any other fuel approved by the Director of the State Department of Energy as an alternative fuel; and

(b) Produce lower exhaust emissions, or are more energy efficient, than equivalent vehicles fueled by gasoline or diesel.

[(1)] (2) "Alternative fuel vehicle infrastructure project" includes a facility for mixing, storing, compressing or dispensing fuels for alternative fuel vehicles, and any other necessary and reasonable equipment.

(3) "Alternative fuel vehicle project" means:

(a) The acquisition of an alternative fuel vehicle fleet; or

(b) An alternative fuel vehicle infrastructure project.

[(2)] (4) "Cost" includes capital expenditures and core expenses such as vehicle repair, fuel, personnel and administrative expenses.

[(3)] (5) "Transportation project" means:

(a) Transit services provided to members of the public by a public or nonprofit entity that receives state or federal funding for those services, or is the direct recipient of funding from an entity that receives state or federal funding for the services; or

(b) An alternative fuel vehicle [*infrastructure*] project.

SECTION 14. ORS 315.336, as amended by section 6, chapter 45, Oregon Laws 2012, is amended to read:

315.336. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for a transportation project, based upon the certified cost of the project during the period for which the project is certified under ORS 469B.320 to 469B.347.

(2) The credit allowed for a project other than an alternative fuel vehicle [*infrastructure*] project shall be as follows:

(a) For tax years beginning on or after January 1, 2011, and before January 1, 2012, the maximum allowed credit shall be:

(A) 35 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 prior to July 1, 2011; or

(B) 25 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 on or after July 1, 2011, and before January 1, 2012.

(b) For tax years beginning on or after January 1, 2012, and before January 1, 2013, the maximum allowed credit shall be 25 percent of certified cost.

(c) For tax years beginning on or after January 1, 2013, and before January 1, 2014, the maximum allowed credit shall be 20 percent of certified cost.

(d) For tax years beginning on or after January 1, 2014, and before January 1, 2015, the maximum allowed credit shall be 15 percent of certified cost.

(e) For tax years beginning on or after January 1, 2015, and before January 1, 2016, the maximum allowed credit shall be 10 percent of certified cost.

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(3) The total amount of the credit allowable for an alternative fuel vehicle [*infrastructure*] project under this section may not exceed 35 percent of the certified cost of the project.

(4)(a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the project, but may not exceed the tax liability of the taxpayer.

The credit allowed in each of the succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability of the taxpayer.

(b) If the amount of the credit allowed under this section is less than 35 percent of the certified cost of the project, the credit allowed in any tax year may not exceed five percent of the certified cost of the project, and may not exceed the tax liability of the taxpayer.

(5) In order for a tax credit to be allowable under this section:

(a) The project must be located in Oregon.

(b) The project must have received final certification from the Director of the State Department

of Energy under ORS 469B.320 to 469B.347.

(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise, any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (2) of this section only as provided in this subsection.

(7) The credit allowed under this section is not in lieu of any depreciation or amortization deduction for the transportation project to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

(8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax credits allowed under this section.

(9) The definitions in ORS 469B.320 apply to this section.

SECTION 15. ORS 469B.344, as amended by section 10, chapter 45, Oregon Laws 2012, is amended to read:

469B.344. (1)(a) The total amount of potential tax credits for all transportation projects in this state may not, at the time of preliminary certification under ORS 469B.329, exceed \$20 million for any biennium.

(b) For each tax year, the Director of the State Department of Energy may allocate a percentage of the amount allowed in paragraph (a) of this subsection to alternative fuel vehicle [*infrastructure*] projects and a percentage to transit services.

(2) Notwithstanding ORS 315.336, in the event that the director receives applications for preliminary certification with a total amount of potential tax credits in excess of the limits set by the director pursuant to subsection (1)(b) of this section, the director shall allocate the issuance of preliminary certifications among applicants as follows:

(a) If an excess of applications for credits for transit services is received, the director shall allocate the issuance of preliminary certifications among applicants for credits for transit services and proportionately reduce the amount of allowed credit, with no applicant receiving more than 20 percent of the amount established under subsection (1)(b) of this section for transit services.

(b) The director may allocate the issuance of preliminary certifications among applicants for credits for alternative fuel vehicle [*infrastructure*] projects and may award credits for less than the amount otherwise allowed applicants.

(c) If, after making any reductions required under paragraph (a) of this subsection, an unallocated amount remains, the director shall allocate this additional amount among applicants affected by the percentage restriction in paragraph (a) of this subsection.

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SECTION 16. Section 54, chapter 730, Oregon Laws 2011, is amended to read:

Sec. 54. (1) A taxpayer may not be allowed a credit for a transportation project, other than an alternative fuel vehicle [*infrastructure*] project, certified under [*section 60 of this 2011 Act*] **ORS 469B.332** if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2016.

(2) A taxpayer may not be allowed a credit for an alternative fuel vehicle [*infrastructure*] project certified under [*section 60 of this 2011 Act*] **ORS 469B.332** if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2018.

SECTION 17. The amendments to ORS 315.336, 469B.320 and 469B.344 by sections 13 to 15 of this 2013 Act apply to tax years beginning on or after January 1, 2015.

SECTION 18. This 2013 Act takes effect on the 91st day after the date on which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

Passed by Senate July 7, 2013

..... Robert Taylor, Secretary of Senate
..... Peter Courtney, President of Senate

Passed by House July 7, 2013

..... Tina Kotek, Speaker of House

Received by Governor:

.....M., 2013

Approved:

.....M., 2013

..... John Kitzhaver, Governor

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.....M., 2013

..... Kate Brown, Secretary of State