

# House Bill 3302

Sponsored by Representatives LIVELY, GORSEK (at the request of Oregon Transportation Forum)

## 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**.

Provides for annual adjustment of motor vehicle fuel taxes by percentage equal to percentage by which ratio of gallons of motor vehicle fuel sold in state to motor vehicles registered in state decreased from previous accounting period.

Increases fuel tax rate, road use assessment fee and motor carrier tax rate and allocates revenue for certain purposes.

Authorizes issuance of lottery bonds for transportation projects funded from Multimodal Transportation Fund. Specifies allocation of lottery bond proceeds.

Directs Oregon Transportation Commission to develop and conduct multimodal transportation system assessment.

Directs Department of Transportation to attempt to enter into agreements for sharing facilities, equipment or both in five regions.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to transportation; creating new provisions; amending ORS 184.618, 319.020, 319.530, 366.739,  
3 818.225, 825.476 and 825.480; prescribing an effective date; and providing for revenue raising that  
4 requires approval by a three-fifths majority.

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

## FUEL TAX INDEXING

6  
7  
8  
9 **SECTION 1.** (1) **On or before February 1 of each year, the Oregon Department of Ad-**  
10 **ministrative Services shall determine the following amounts for each of the two previous**  
11 **calendar years:**

12 (a) **The number of gallons of motor vehicle fuel subject to taxation under ORS 319.020**  
13 **that were sold, used or distributed in Oregon and the number of gallons of fuel subject to**  
14 **taxation under ORS 319.530 that were sold for use in motor vehicles in Oregon; and**

15 (b) **The number of motor vehicles registered in Oregon.**

16 (2) **Upon making the determinations required under subsection (1) of this section, the**  
17 **department shall:**

18 (a) **Compute the ratio of the total number of gallons determined under subsection (1)(a)**  
19 **of this section to the total number of motor vehicles determined under subsection (1)(b) of**  
20 **this section for the previous calendar year;**

21 (b) **Compute the ratio required under paragraph (a) of this subsection for the calendar**  
22 **year immediately preceding the previous calendar year; and**

23 (c) **Determine the percentage by which the ratio computed under paragraph (a) of this**  
24 **subsection is less than the ratio computed under paragraph (b) of this subsection. If the ratio**  
25 **computed under paragraph (a) of this subsection is equal to or greater than the ratio com-**

**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 **puted under paragraph (b) of this subsection, the percentage shall be zero. The percentage**  
 2 **determined under this paragraph shall be stated as a decimal.**

3 **(3) As soon as practicable, the department shall certify the percentage determined under**  
 4 **subsection (2)(c) of this section to the Oregon Transportation Commission and the commis-**  
 5 **sion shall adopt the department's certification for purposes of the tax rates imposed under**  
 6 **ORS 319.020 (1)(b) and 319.530 (1).**

7  
 8 **FUNDING HIGHWAY MAINTENANCE, MODERNIZATION AND PRESERVATION**

9  
 10 **SECTION 2.** ORS 366.739 is amended to read:

11 366.739. Except as otherwise provided in ORS 366.744 **and section 4 of this 2015 Act**, the taxes  
 12 collected under ORS 319.020, 319.530, 803.090, 803.420, 818.225, 825.476 and 825.480, minus \$71.2  
 13 million per biennium, shall be allocated 24.38 percent to counties under ORS 366.762 and 15.57 per-  
 14 cent to cities under ORS 366.800.

15 **SECTION 3.** ORS 366.739, as amended by section 7, chapter 13, Oregon Laws 2014, is amended  
 16 to read:

17 366.739. Except as otherwise provided in ORS 366.744 **and section 4 of this 2015 Act**, the taxes  
 18 collected under ORS 319.020, 319.530, 803.090, 803.420, 818.225, 825.476 and 825.480 and the special  
 19 use fuel license fees collected under section 2, chapter 13, Oregon Laws 2014, minus \$71.2 million  
 20 per biennium, shall be allocated 24.38 percent to counties under ORS 366.762 and 15.57 percent to  
 21 cities under ORS 366.800.

22 **SECTION 4. (1) The amount attributable to the increase in fees and tax rates by the**  
 23 **amendments to ORS 319.020, 319.530, 818.225, 825.476 and 825.480 by sections 5 to 10 of this**  
 24 **2015 Act shall be allocated and used as described in subsections (2) and (3) of this section.**

25 **(2) The moneys described in subsection (1) of this section shall be allocated first in an**  
 26 **amount of \$26.7 million per year in monthly installments to the Department of Transporta-**  
 27 **tion for the purpose of transferring jurisdiction of highways designated as high priority**  
 28 **transfers under section 11 of this 2015 Act. The remainder of the moneys shall be allocated**  
 29 **as provided in subsection (3) of this section.**

30 **(3) The moneys described in subsection (1) of this section that remain after the allocation**  
 31 **of moneys described in subsection (2) of this section and that become available to the de-**  
 32 **partment, counties and cities following the allocation described in ORS 366.739 shall be used**  
 33 **for the purpose of modernizing, maintaining and preserving highways, as defined in ORS**  
 34 **801.305.**

35 **SECTION 5.** ORS 319.020 is amended to read:

36 319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise  
 37 provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in  
 38 the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle  
 39 fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state  
 40 lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

41 (a) Not later than the 25th day of each calendar month, render a statement to the Department  
 42 of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn  
 43 by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state  
 44 by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the  
 45 applicable license tax during the preceding calendar month. The dealer shall render the statement

1 to the department in the manner provided by the department by rule.

2 (b)(A) Except as provided in ORS 319.270, pay a license tax computed on the basis of [30]  
3 \_\_\_\_\_ cents per gallon on the first sale, use or distribution of such motor vehicle fuel [*or aircraft*  
4 *fuel*] so sold, used, distributed or withdrawn as shown by such statement in the manner and within  
5 the time provided in ORS 319.010 to 319.430.

6 **(B) Beginning on April 1 of each year, the license tax imposed under this paragraph shall**  
7 **be imposed for the succeeding 12 months at a rate equal to the rate then in effect multiplied**  
8 **by an amount equal to one plus the percentage adopted under section 1 (3) of this 2015 Act.**

9 (2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed  
10 on the basis of nine cents per gallon of fuel so sold, used or distributed, except that when aircraft  
11 fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distributed, the  
12 tax rate shall be one cent per gallon.

13 (3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in  
14 nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment  
15 of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a  
16 credit or deduction on the monthly statement and payment of tax.

17 (4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor  
18 vehicle or aircraft fuel may not be imposed wherever such tax is prohibited by the Constitution or  
19 laws of the United States with respect to such tax.

20 **SECTION 6.** ORS 319.530 is amended to read:

21 319.530. (1)(a) To compensate this state partially for the use of its highways, an excise tax  
22 hereby is imposed at the rate of [30] \_\_\_\_\_ cents per gallon on the use of fuel in a motor vehicle.

23 **(b) Beginning on April 1 of each year, the excise tax imposed under this subsection shall**  
24 **be imposed for the succeeding 12 months at a rate equal to the rate then in effect multiplied**  
25 **by an amount equal to one plus the percentage adopted under section 1 (3) of this 2015 Act.**

26 (2) Except as otherwise provided in subsections (3) and (4) of this section, 100 cubic feet of fuel  
27 used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees  
28 Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

29 (3) One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous state,  
30 measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the  
31 same rate as a gallon of liquid fuel.

32 (4) One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at the  
33 same rate as a gallon of other liquid fuel.

34 (5)(a) Except as provided in paragraph (b) of this subsection, the excise tax imposed under sub-  
35 section (1) of this section does not apply to diesel fuel blended with a minimum of 20 percent  
36 biodiesel that is derived from used cooking oil.

37 (b) The exemption provided under paragraph (a) of this subsection does not apply to fuel:

38 (A) Used in motor vehicles that have a gross vehicle weight rating of 26,001 pounds or more;

39 (B) That is not sold in retail operations; or

40 (C) That is sold in operations involving fleet fueling or bulk sales.

41 **SECTION 7.** ORS 319.530, as amended by section 3, chapter 648, Oregon Laws 2013, is amended  
42 to read:

43 319.530. (1)(a) To compensate this state partially for the use of its highways, an excise tax  
44 hereby is imposed at the rate of [30] \_\_\_\_\_ cents per gallon on the use of fuel in a motor vehicle.

45 **(b) Beginning on April 1 of each year, the excise tax imposed under this subsection shall**

1 **be imposed for the succeeding 12 months at a rate equal to the rate then in effect multiplied**  
2 **by an amount equal to one plus the percentage adopted under section 1 (3) of this 2015 Act.**

3 (2) Except as otherwise provided in subsections (3) and (4) of this section, 100 cubic feet of fuel  
4 used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees  
5 Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

6 (3) One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous state,  
7 measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the  
8 same rate as a gallon of liquid fuel.

9 (4) One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at the  
10 same rate as a gallon of other liquid fuel.

11 **SECTION 8.** ORS 818.225 is amended to read:

12 818.225. (1)(a) In addition to any fee for a single-trip nondivisible load permit, a person who is  
13 issued the permit or who operates a vehicle in a manner that requires the permit is liable for pay-  
14 ment of a road use assessment fee of [seven and one-tenths] \_\_\_\_\_ cents per equivalent single-axle  
15 load mile traveled. As used in this subsection, "equivalent single-axle load" means the relationship  
16 between actual or requested weight and an 18,000 pound single-axle load as determined by the  
17 American Association of State Highway and Transportation Officials Road Tests reported at the  
18 Proceedings Conference of 1962. The Department of Transportation may adopt rules to standardize  
19 the determination of equivalent single-axle load computation based on average highway conditions.

20 (b) If the road use assessment fee is not collected at the time of issuance of the permit, the de-  
21 partment shall bill the permittee for the amount due. The account shall be considered delinquent if  
22 not paid within 60 days of billing.

23 (c) The miles of travel authorized by a single-trip nondivisible load permit shall be exempt from  
24 taxation under ORS chapter 825.

25 (2) The department by rule may establish procedures for payment, collection and enforcement  
26 of the fees and assessments established by this chapter.

27 **SECTION 9.** ORS 825.476 is amended to read:

28 825.476.

29 \_\_\_\_\_  
30  
31 MILEAGE TAX RATE TABLE "A"

32 Declared Combined	33 Fee Rates
34 Weight Groups	35 Per Mile
36 (Pounds)	37 (Mills)
38 26,001 to 28,000	39 [49.8] _____
40 28,001 to 30,000	41 [52.8] _____
42 30,001 to 32,000	43 [55.2] _____
44 32,001 to 34,000	45 [57.6] _____
46 34,001 to 36,000	[59.9] _____
47 36,001 to 38,000	[63.0] _____
48 38,001 to 40,000	[65.4] _____
49 40,001 to 42,000	[67.7] _____
50 42,001 to 44,000	[70.2] _____
51 44,001 to 46,000	[72.6] _____
52 46,001 to 48,000	[74.9] _____

1	48,001	to	50,000	[77.4]	_____
2	50,001	to	52,000	[80.3]	_____
3	52,001	to	54,000	[83.3]	_____
4	54,001	to	56,000	[86.4]	_____
5	56,001	to	58,000	[90.0]	_____
6	58,001	to	60,000	[94.1]	_____
7	60,001	to	62,000	[99.0]	_____
8	62,001	to	64,000	[104.5]	_____
9	64,001	to	66,000	[110.4]	_____
10	66,001	to	68,000	[118.3]	_____
11	68,001	to	70,000	[126.6]	_____
12	70,001	to	72,000	[135.0]	_____
13	72,001	to	74,000	[142.7]	_____
14	74,001	to	76,000	[150.0]	_____
15	76,001	to	78,000	[157.2]	_____
16	78,001	to	80,000	[163.8]	_____

17

18

19

AXLE-WEIGHT MILEAGE

20

TAX RATE TABLE "B"

21

Declared Combined Weight Groups (Pounds)	Number of Axles				
	5	6	7	8	9 or more
80,001 to 82,000	[169.2]	154.8	144.7	137.4	129.6]
82,001 to 84,000	[174.7]	157.2	147.0	139.2	131.3]
84,001 to 86,000	[179.9]	160.9	149.4	140.9	133.2]
86,001 to 88,000	[186.0]	164.3	151.8	143.4	135.0]
88,001 to 90,000	[193.2]	168.6	154.3	145.8	137.4]
90,001 to 92,000	[201.6]	173.4	156.5	148.2	139.8]
92,001 to 94,000	[210.7]	178.2	159.0	150.5	141.7]
94,001 to 96,000	[220.2]	183.6	162.0	153.0	143.9]
96,001 to 98,000	[230.4]	190.2	165.6	155.5	146.4]
98,001 to 100,000		[197.3]	169.2	158.4	148.8]
100,001 to 102,000			[172.8]	162.0	151.3]

45

1	102,001 to 104,000	[176.4	165.6	154.3]
2		_____	_____	_____
3	104,001 to 105,500	[181.1	169.2	157.2]
4		_____	_____	_____

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6  
7 **SECTION 10.** ORS 825.480 is amended to read:

8 825.480. (1)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor  
9 vehicles in the transportation of logs, poles, peeler cores or piling may pay annual fees for such  
10 operation computed at the rate of [*seven dollars and fifty-nine cents*] \_\_\_\_\_ for each 100 pounds  
11 of declared combined weight.

12 (b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt from  
13 taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public  
14 highways whenever operations are for the purpose of repair, maintenance, servicing or moving from  
15 one exempt highway operation to another.

16 (2) The annual fees provided in subsections (1), (4) and (5) of this section may be paid on a  
17 monthly basis. Any carrier electing to pay fees under this method may not change an election during  
18 the same calendar year in which the election is made, but may be relieved from the payment due  
19 for any month on a motor vehicle which is not operated. A carrier electing to pay fees under this  
20 method shall report and pay these fees on or before the 10th of each month for the preceding  
21 month's operations. A monthly report shall be made on all vehicles on the annual fee basis including  
22 any vehicle not operated for the month.

23 (3)(a) In lieu of the fees provided in ORS 825.470 to 825.474, motor vehicles described in ORS  
24 825.024 with a combined weight of less than 46,000 pounds that are being operated under a permit  
25 issued under ORS 825.102 may pay annual fees for such operation computed at the rate of [*six dol-  
26 lars and twenty-three cents*] \_\_\_\_\_ for each 100 pounds of declared combined weight.

27 (b) The annual fees provided in this subsection shall be paid in advance but may be paid on a  
28 monthly basis on or before the first day of the month. A carrier may be relieved from the fees due  
29 for any month during which the motor vehicle is not operated for hire if a statement to that effect  
30 is filed with the Department of Transportation on or before the fifth day of the first month for which  
31 relief is sought.

32 (4)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in the operation of motor  
33 vehicles equipped with dump bodies and used in the transportation of sand, gravel, rock, dirt, debris,  
34 cinders, asphaltic concrete mix, metallic ores and concentrates or raw nonmetallic products,  
35 whether crushed or otherwise, moving from mines, pits or quarries may pay annual fees for such  
36 operation computed at the rate of [*seven dollars and fifty-three cents*] \_\_\_\_\_ for each 100 pounds  
37 of declared combined weight.

38 (b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt for  
39 taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public  
40 highways whenever operations are for the purpose of repair, maintenance, servicing or moving from  
41 one exempt highway operation to another.

42 (5)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles  
43 in the transportation of wood chips, sawdust, barkdust, hog fuel or shavings may pay annual fees for  
44 such operation computed at the rate of [*thirty dollars and sixty-five cents*] \_\_\_\_\_ for each 100  
45 pounds of declared combined weight.

1 (b) Any carrier electing to pay under this method may, as to vehicles otherwise exempt from  
 2 taxation, elect to be taxed on the mileage basis for movement of such empty vehicles over public  
 3 highways whenever operations are for the purpose of repair, maintenance, service or moving from  
 4 one exempt highway operation to another.

5  
 6 **JURISDICTIONAL TRANSFER OF**  
 7 **DESIGNATED HIGHWAYS**  
 8

9 **SECTION 11.** (1) As used in this section, “highway” has the meaning given that term in  
 10 **ORS 801.305.**

11 (2) The Oregon Transportation Commission shall develop criteria, in consultation with  
 12 cities and counties, to create and maintain a list of highways that would be best served by  
 13 transferring jurisdiction from the state to the appropriate city or county or from a city or  
 14 county to the state. In creating the list of highways for potential jurisdictional transfer, the  
 15 commission shall identify:

16 (a) State highways that primarily serve a role in the local highway system and no longer  
 17 primarily serve a role within the state highway system; and

18 (b) City streets and county roads that primarily serve a role within the state highway  
 19 system and no longer primarily serve a role in the local highway system.

20 (3) In consultation with the affected cities and counties, the commission shall determine  
 21 which of the highways on the list created under subsection (2) of this section are high pri-  
 22 ority transfers.

23 (4) Nothing in this section authorizes a jurisdictional transfer without agreement of the  
 24 parties affected by the transfer.

25 (5) The commission may adopt rules for the administration and implementation of this  
 26 section.

27 **SECTION 12.** ORS 366.739, as amended by section 7, chapter 13, Oregon Laws 2014, and section  
 28 3 of this 2015 Act, is amended to read:

29 366.739. Except as otherwise provided in ORS 366.744 [*and section 4 of this 2015 Act*], the taxes  
 30 collected under ORS 319.020, 319.530, 803.090, 803.420, 818.225, 825.476 and 825.480 and the special  
 31 use fuel license fees collected under section 2, chapter 13, Oregon Laws 2014, minus \$71.2 million  
 32 per biennium, shall be allocated 24.38 percent to counties under ORS 366.762 and 15.57 percent to  
 33 cities under ORS 366.800.

34 **SECTION 13.** Section 4 of this 2015 Act is amended to read:

35 **Sec. 4.** (1) The amount attributable to the increase in fees and tax rates by the amendments to  
 36 ORS 319.020, 319.530, 818.225, 825.476 and 825.480 by sections 5 to 10 of this 2015 Act shall be al-  
 37 located and used as described in [*subsections (2) and (3)*] **subsection (2)** of this section.

38 [*(2) The moneys described in subsection (1) of this section shall be allocated first in an amount of*  
 39 *\$26.7 million per year in monthly installments to the Department of Transportation for the purpose of*  
 40 *transferring jurisdiction of highways designated as high priority transfers under section 1 of this 2015*  
 41 *Act. The remainder of the moneys shall be allocated as provided in subsection (3) of this section.*]

42 [(3)] (2) The moneys described in subsection (1) of this section that [*remain after the allocation*  
 43 *of moneys described in subsection (2) of this section and that*] become available to the department,  
 44 counties and cities following the allocation described in ORS 366.739 shall be used for the purpose  
 45 of modernizing, maintaining and preserving highways, as defined in ORS 801.305.





1 (1) Region one consists of Clackamas, Columbia, Hood River, Multnomah and Washington  
2 Counties.

3 (2) Region two consists of Benton, Clatsop, Lane, Lincoln, Linn, Marion, Polk, Tillamook  
4 and Yamhill Counties.

5 (3) Region three consists of Coos, Curry, Douglas, Jackson and Josephine Counties.

6 (4) Region four consists of Crook, Deschutes, Gilliam, Jefferson, Klamath, Lake,  
7 Sherman, Wasco and Wheeler Counties.

8 (5) Region five consists of Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union and  
9 Wallowa Counties.

10  
11 **MULTIMODAL NEEDS ASSESSMENT**  
12

13 **SECTION 17.** (1) The Oregon Transportation Commission shall develop and conduct an  
14 assessment of the multimodal transportation system to examine the scope of investments  
15 needed to maintain the condition of the transportation assets in a state of good repair.

16 (2) In the process of developing the multimodal transportation system assessment, the  
17 commission shall coordinate and consult with transportation stakeholders and public bodies,  
18 as defined in ORS 174.109, that have authority over transportation facilities.

19 (3) In developing and conducting the multimodal transportation system assessment, for  
20 each mode of transportation, the commission, in agreement with transportation stakeholders  
21 and public bodies, shall:

22 (a) Inventory existing infrastructure and equipment and assess service levels;

23 (b) Estimate the resources that would be required to maintain the current condition of  
24 the infrastructure and equipment in a state of good repair and to maintain the current levels  
25 of service.

26 (4) The commission shall revise and conduct the multimodal transportation system as-  
27 sessment at least every two years to reflect changing conditions and needs. Before each re-  
28 vision of the multimodal transportation system assessment, the commission shall solicit  
29 input from transportation stakeholders and public bodies, as defined in ORS 174.109, that  
30 have authority over transportation facilities.

31 (5) The commission shall report to the Legislative Assembly on or before September 15  
32 of each odd-numbered year in the manner provided in ORS 192.245. The report must include:

33 (a) The results of the multimodal transportation system assessment;

34 (b) Information regarding the status of the transportation system;

35 (c) Information regarding transportation system performance;

36 (d) An estimate of the amount of resources that would be required to maintain and op-  
37 erate the transportation system at the system's current level.

38 (6) The cost of developing, revising and conducting a multimodal transportation system  
39 assessment shall be shared among public bodies, as defined in ORS 174.109, that have au-  
40 thority over transportation facilities.

41 (7) For purposes of this section, "multimodal transportation system" includes aviation,  
42 bicycle lanes and footpaths, whether located within public rights-of-way or not, state high-  
43 ways, county roads, city streets, marine ports, navigation channels and aids to navigation,  
44 fixed route and demand-responsive public and special transportation services, and passenger  
45 and freight rail lines that move people and goods within this state.



