3-5-2010

Moving Forward: A Better Way to Govern Regional Transportation

City Club of Portland (Portland, Or.)

Moving Forward: A Better Way to Govern Regional Transportation

RECOMMENDATION(S) ADOPTED

City Club *of* Portland
Good citizens are the riches of a city

City Club of Portland Bulletin, Vol. 96, No. 32, March 5, 2010

City Club members will vote on this report on Friday, March 5, 2010. Until the membership votes, City Club of Portland does not have an official position on this report. The outcome of the vote will be reported in the City Club Bulletin dated March 19, 2010 and online at www.pdxcityclub.org.

The mission of City Club is to inform its members and the community in public matters and to arouse in them a realization of the obligations of citizenship.

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EXECUTIVE SUMMARY

This study responds to a suggestion in an earlier City Club report that a committee be formed to answer these questions: "Is the governance structure for transportation (including planning, allocation of federal and state funds to specific projects, and other top-level decision making) in the Portland metropolitan region adequate to meet the needs of a region facing significant growth, aging infrastructure, and climate change? If not, what criteria or principles should be followed in making needed changes?"

After reviewing possible definitions of the "Portland metropolitan region," this report settles on "Metro Region" for the area inside the Metro Urban Growth Boundary, and "Portland/Vancouver Metropolitan Area" to mean a broader area that includes the Metro Region and its suburban and exurban extensions in Oregon and Washington. It discusses the complex, interacting federal, state, regional and local components of the current transportation governance system. Transportation governance in the Metro Region is the product of Oregon state policies that require the close integration of land use and transportation planning, with a focus on transportation-oriented development. In contrast, Washington State requires less integration and less dense development, which makes unified, consistent planning throughout the Portland/Vancouver Metropolitan Area difficult to achieve.

The report discusses three case studies — the Sellwood Bridge, the Newberg/Dundee Bypass and the Columbia River Crossing (CRC) — that illustrate some of the flaws in the present system of transportation governance. The Sellwood Bridge has been allowed to deteriorate because ownership and responsibility are not linked to the users and their financial resources. The Newberg/Dundee Bypass has been favored by state politicians making deals at the expense of more important projects in the Metro Region. The CRC is a costly bi-state collaboration that is collapsing because of different land use and transportation objectives and local politics on both sides of the Columbia River.

The report then focuses on Metro and the Joint Policy Advisory Committee on Transportation within Metro (JPACT). JPACT has 17 members, including representatives of local governments (counties and cities), state agencies, Metro and Washington State. It makes policy decisions, helping to develop the regional transportation plan for the Metro Region, which is tied to Metro's long-range planning document, the 2040 Plan. JPACT also allocates a small fraction ($23-37 million) of the funds ultimately spent in the region. The Oregon Department of Transportation (ODOT) controls a much larger percentage of the state and federal expenditures in the Metro Region — about $200 million per year for road-related projects, including interstate freeways, state bridges and local streets that have regional significance. ODOT distributes transportation funds directly to cities and counties — about 29 percent of the funds spent by cities ($56 million) and 48 percent of the funds spent by counties ($70 million).

The report next identifies future challenges affecting or affected by transportation governance: population growth, climate change, deterioration of existing transportation infrastructure and transportation equity. It discusses the proposed federal response, which will be implemented through the next federal transportation act, the Surface Transportation Authorization Act of 2009 (STAA 2009). STAA 2009 identifies serious problems that should be addressed, particularly poor maintenance of existing facilities, delays in completing approved projects, inadequate funds and a lack of a performance-based framework for intermodal transportation investment. It proposes major "Tier One Grants" for 10 metropolitan areas, selected in a competitive process. Criteria for selection include evidence of successful cooperation to reduce transportation congestion, the use of tolls for congestion management and infrastructure improvements, prescribed planning criteria, reduced greenhouse gas emissions and performance management.

The state has responded along the same lines as the proposed STAA 2009, with Governor Ted Kulongoski's Transportation Vision Committee making recommendations, the most intriguing of which is the formation of a transportation utility commission, comparable to the Public Utility Commission, which would determine the revenue needs of the transportation system, including all modes, and then, using performance measures, analyze the means available to meet them. This would require a far better understanding of the cost of transportation operations, maintenance and desired improvements than exists today. The Oregon legislature responded to the Transportation Vision Committee recommendations by adopting HB 2001, which takes some of the recommended steps and increases the fuel tax, but unfortunately also establishes an unwelcome precedent of legislative earmarking of transportation improvements.

The proposed Metro 2035 Transportation Improvement Plan (TIP) states a vision for the Metro Region transportation system that reflects the continued evolution of transportation planning from a project-driven endeavor to one that considers impacts on daily living. That vision includes a more thorough collection of data and a better use of performance monitoring measures. It emphasizes integration with the 2040 Plan. Unfortunately, the 2035 TIP defers consideration of 13 unresolved issues to some date in the future, including climate change, a regional transportation funding strategy, a regional bridge funding strategy and ODOT's district and regional highways, which now function as aging urban arterials.

Before making any recommendations, the report examines six comparable regional transportation-planning agencies. Since each agency is a product of local thinking and political structures that have evolved over time, none is a realistic model for the Metro Region. However, in San Diego, where transportation, land use and energy planning are combined in a single agency (SANDAG), there has been a significant improvement in the

integration of these functions, with conspicuous political and financial benefits. In Vancouver, B.C., there is a fully integrated transit system across all modes, including the network of arterial roads, which has the potential to result in coordinated, multi-modal transportation decision making. Planning in the Metro Region and even the Portland/Vancouver Metropolitan Area could benefit from the incorporation of some of these ideas.

The report then discusses potential improvements to transportation governance in the Metro Region. Acknowledging that bi-state urban area cooperation is an elusive goal because of the different views that exist on opposite sides of the Columbia River regarding land use and transportation planning, the report suggests that federal funding incentives and a joint Metropolitan Planning Organization might, over time, reduce bi-state conflicts. To address the conflicts that can arise between the Metro Region and outlying areas in Oregon, the report urges the formation of a new Area Commission on Transportation, to include Metro and Yamhill and Columbia counties, with the hope that this could provide a new level of cooperation and planning coordination. The report notes that ODOT and the state largely decide what investments should be made in the Metro Region, which contributes more transportation revenue to the state than it receives. For the larger Portland/Vancouver Metropolitan Area, the opportunities for collaboration with Washington appear more limited than with outlying areas in Oregon, but the report recommends working with federal incentives, such as the Tier One grants, and more energetic efforts by the governors of Oregon and Washington to produce a unified approach consistent with Metro's efforts for the entire region.

The report considers three categories of regional and local transportation facilities: the Willamette River bridges, regional roads and local streets, and transit. It discusses the creation of a bridge authority affiliated with Metro and a funding source to support the authority. It recommends the transfer to Metro of all funds previously distributed or spent by ODOT within the Metro Region, other than funds for freeways. It suggests that Metro be given the *authority* to take possession of and operate regional roads and local streets when and if it makes sense, while making clear that now is not the time. Finally, it recognizes TriMet's expertise and ongoing successes and recommends that Metro, which has charter authority to assume the duties, functions, powers and operations of TriMet, not exercise that authority.

The report discusses transportation revenues and notes the inequities in the present system of raising revenues for local transportation improvements, which are inimical to the wise allocation of funds in the Metro Region. To address these inequities, which arise from historical choices and unforeseen circumstances, the report recommends that Metro's charter be amended to give it authority to impose property, vehicle, fuel and/or road use taxes, tolls and fees for transportation purposes in the Metro Region. All existing property, vehicle, fuel or road use taxes or bond levies imposed for transportation purposes by cities and counties in the Metro Region should be phased out at the local level as Metro exercises its new taxing authority, and any further such local taxes should be prohibited. Metro's revenues will have to increase to avoid the continuing deterioration of existing transportation infrastructure in the Metro Region.

As Metro's authority increases, the composition of JPACT will have to change to make it more representative. The report recommends that JPACT's present voting structure be made more transparent and accountable by reforming it so that local elected officials of the general purpose governments (cities and counties) in the region are the sole voting authority, in proportion to their populations within the Metro Region. Metro councilors, Washington state representatives, and agency representatives would have a non-voting, advisory role.

Finally, the report endorses the use of a "utility model" for transportation decision making in the Metro Region, to do a better job of matching resources to need and to induce a more realistic approach to the creation of a well-maintained, multimodal transportation system. Over time, Metro should establish a system to explain its current revenues, expenditures, and facility conditions; a system-wide revenue estimate; a conceptual framework for a rate design and a strategy for collection, including peak and off-peak congestion pricing; and a framework for least-cost planning

INTRODUCTION

Objectives of the Study: To Describe and Recommend

This study arises out of a suggestion made in an earlier City Club report, "Enhancing Portland's Business Environment: A Public — Private Enterprise" (June 27, 2008). That report identified specific transportation concerns that are not being adequately addressed, including increasing commuter traffic from suburb to suburb, which is not adequately handled by a wheel-and-spoke mass transit system; fragmented authority and oversight for transportation infrastructure; competition between local governments for parochial objectives; and inadequate funding for transportation facilities. The resultant delays adversely affect business competitiveness.[1] The earlier report called for a comprehensive study to address transportation issues in the region.

This report describes the transportation governance system in the Portland metropolitan region and responds to these questions: "Is the governance structure for transportation (including planning, allocation of federal and state funds to specific projects, and other top-level decision making) in the Portland metropolitan region adequate to meet the needs of a region facing significant growth, aging infrastructure, and climate change? If not, what criteria or principles should be followed in making needed changes?" To avoid a parochial perspective, your committee read articles published by experts on planning and transportation showcasing different approaches, studied government websites from jurisdictions around the nation and in Canada, and interviewed 49 witnesses.* These included present and former government policy decision makers from the Oregon Department of Transportation (ODOT), Metro, Portland, Beaverton, Lake Oswego, Vancouver, Clackamas County, Washington County, Yamhill County and Clark County; representatives of business organizations; representatives of regional transportation governance organizations in San Diego, Sacramento, Minneapolis, New York ,Washington, D.C. and Vancouver, B.C.; and representatives of organizations whose missions include a focus on transportation planning, decision-making and social equity.

"Transportation governance includes how transportation decisions are made, the balance between local, state and federal jurisdictions, the sources of funding, and how projects are prioritized."

In considering the issues presented by the charge, your committee became conscious of certain principles, which ultimately guided the discussion and, later, the formulation of the conclusions and recommendations at the end of this report:

- Transportation projects are not an end in themselves, but a means to achieve the ultimate goal of moving people and products efficiently.
- Transportation decisions should be made by the governmental body whose jurisdiction most closely coincides with the movement pattern of most of the affected population, most of the time.
- The governmental body making the decision to construct transportation improvements must specify in advance how the improvements will be maintained and also must have the financial and human resources to carry out its responsibilities.
- Maintenance of a transportation system requires a sufficient, dependable revenue base.
- Funds should be allocated across different transportation modes to achieve the maximum efficiency in movement of people and freight at the lowest financial and environmental cost.
- Governmental organization must reflect the close link between transportation, land use and the environment.
- When changing a system of governance, rather than creating one, it is essential to preserve the competencies of the existing system.

Your committee concludes that the Portland/Vancouver metropolitan region suffers from too many government bodies having some involvement in the planning, project design, project approval, funding, construction, maintenance, operation and preservation of transportation facilities. Decision making is ad hoc and does not respond to a coherent vision. Your committee believes that some consolidation of authority in Metro and reforms to the decision making process at Metro will clarify the costs of transportation and the resources available to meet those costs. Your committee supports the use of a utility model to allocate resources more effectively to meet the challenges of a growing population, maintenance of existing transportation facilities and global warming.

Definition of "Transportation Governance"

Governance is another word for government. Transportation governance includes how transportation decisions are made, the balance between local, state and federal jurisdictions, the

* A full list of witnesses is attached in the "Witnesses" section near the end of this report.

sources of funding, and how projects are prioritized. It raises controversial issues like local control, public participation in decision making, appropriate transportation objectives and their relation to land use planning principles, taxation and social equity.

Possible Definitions of "Portland Metropolitan Region"

Based on Federal Metropolitan Statistical Areas

What constitutes a particular metropolitan area depends largely on the purpose of the person or entity considering the issue. The Office of Management and Budget of the federal government establishes Metropolitan Statistical Areas (MSAs) for the nation's major metropolitan regions. The Portland MSA includes Multnomah, Clackamas, Columbia, Yamhill and Washington Counties in Oregon and Clark and Skamania counties in Washington. This view of the area is considerably more expansive than the popular view that the Portland area is limited to the urban parts of Multnomah, Clackamas, Washington and Clark counties.

Based on Overlapping Regional Jurisdictions

The June 27, 2008 City Club report is correct that from the perspective of transportation governance, the Portland MSA is a patchwork of overlapping designations and jurisdictions.

1. Metro is designated as a Metropolitan Planning Organization (MPO), a policy board established by federal law in areas with a population greater than 50,000 to carry out the transportation planning process.[2] It is the only directly elected MPO in the United States.[3] While Metro's planning takes into account population density and transportation facilities in the Portland MSA, Metro's governance is limited to the boundaries of Metro,[4] which correspond closely (though not exactly) to the Metro Urban Growth Boundary (UGB). The Metro UGB includes the urban parts of Multnomah, Clackamas and Washington counties. (North Plains, Newberg, Sandy, Estacada, Scappoose and Molalla are examples of cities not within Metro that many would consider to be part of "the Portland region.")[5] The Metro UGB included an estimated 1.4 million people in 2008.[6]

2. The Southwest Washington Regional Transportation Council (RTC) is the designated MPO for the Clark County, Washington, portion of the larger Portland/Vancouver urbanized area.* The population of this area was just over 400,000 in 2003.[7]

3. Area Commissions on Transportations (ACTs), which are advisory bodies to the Oregon Department of Transportation, handle transportation planning in the rural parts of the region (outside the Metro UGB). For example, the rural portion of Washington County is part of the Northwest ACT, which also includes Clatsop, Tillamook and Columbia counties.[8] Yamhill County is part of the Mid-Willamette Valley ACT, which also includes Polk County and parts of Marion County.[9]

4. At the state level, the Oregon portion of the Portland region is part of ODOT's Region 1, which includes all of Multnomah, Columbia and Hood River counties, most of Washington and Clackamas counties and small parts of Tillamook and Clatsop counties.[10] The Southwest Region of the Washington State Department of Transportation (WSDOT) includes Clark and Skamania counties, along with five other counties (Klickitat to the east and Lewis, Cowlitz, Wahkiakum and Pacific to the north and west).[11]

Based on Transportation Service Agencies

The region may also be defined by considering agencies that provide transportation services, including the Port of Portland, the Port of Vancouver USA, TriMet, Canby Area Transit (CAT), South Metro Area Regional Transit (SMART) (Wilsonville), South Clackamas Transportation District (Mollala), C-TRAN (Vancouver) and Cherriots (Salem).

Based on Jobs, Geographic Identity and Economic Ties

Yet another way of defining "the Portland metropolitan region" is to ask where people who work in Portland live and where their jobs are located. By this definition the Portland metropolitan region extends to Newberg, Woodburn, Salem, Hood River, Woodland (Washington), and many other communities outside the Metro Region.

Academic studies of the Portland region's transportation system, primarily conducted at Portland State University, do not have a specific definition of the region. Rather, as they consider specific topics, they choose boundaries that relate to that specific topic. They tend to view the region from a traveler's perspective. A traveler typically does not care about jurisdictional boundaries between states, counties and cities. As Rob Bertini, Director of the Oregon Transportation and Education Research Consortium, explains, "Sometimes our definition depends on the boundaries of a particular data source. For example, the region's freeway sensors are simply defined by where the sensors are; the TriMet data we work with is dependent on TriMet's service area; and U.S. Census data depends on their definitions."[12]

* The RTC also is the state-designated Regional Transportation Planning Organization (RTPO) for the three-county area of Clark, Skamania and Klickitat.

Your Committee's Two Definitions

It is probably impossible to arrive at a single definition of the Portland metropolitan region that does justice to the range of possible definitions. To avoid paralysis, your committee has settled on two definitions. Because the area included in Metro's jurisdictional boundaries and the area included in Metro's planning boundaries (the Metro UGB) are almost identical, your committee uses "Metro Region" for both in this discussion, unless there is a reason to make a distinction. Your committee uses "the Portland/Vancouver Metropolitan Area" to mean a broader area similar to the Portland MSA, which includes the Metro Region and the surrounding areas (suburbs and exurbs) that are effectively an extension of it. This includes Vancouver and its suburbs in Washington, and the exurbs in Oregon and in Washington, such as Scappoose or Battle Ground. These non-Metro areas are often discussed in counterpoint with the Metro Region.

Transportation governance in the Portland/Vancouver Metropolitan Area cannot be discussed apart from transportation governance at the federal and state level. Federal and state policies, mandates and organizational principles both aid and frustrate progressive, efficient policies at the metropolitan level. Many political leaders and activists at all levels have called for change in the past few years.

What Could Be Wrong? Three Case Studies of Failing Governance

Photo by Richard Ross

Your committee looked at three cases, which to some extent illustrate the failings of the present system of transportation governance. Transportation facilities are planned, funded and managed for a wide array of trips, different in length and purpose. How this is done varies widely from state to state and from urban area to urban area. In the Portland/Vancouver Metropolitan Area, the federal government, state government and local governments and agencies all play a role. Since the transportation network crosses every boundary, it is often not clear which public or private entity should take responsibility for developing and maintaining which part of the network.

Sellwood Bridge: Failure to Match Ownership and Responsibility to Financial Resources and Users

Existing political entities often do not have adequate resources, expertise or interest to manage the transportation facilities that they own or supervise. The most celebrated example of this problem is the Sellwood Bridge. The Sellwood Bridge is one of the five bridges on the Willamette River within the City of Portland that are operated and maintained by Multnomah County, as required by statute.[13] For the six Multnomah County bridges — Sellwood, Ross Island, Morrison, Hawthorne, Broadway and Sauvie Island (which is outside the city) — the county has $2.6 million for maintenance (adjusted for inflation) and $2.9 million for capital engineering (not adjusted for inflation). In addition, Multnomah County receives about $4 million from the federal government, but this amount is not guaranteed. The state does not provide funds on a regular basis.[14] By statute, the county may not establish or collect rents or other compensation for the use of the bridges by cars, street cars and trains.[15]

The Sellwood Bridge is the busiest two-lane bridge in the state of Oregon, carrying 32,000 vehicles per day, double the number it carried in 1961. Seventy-five percent of these vehicles begin or end their trips in Clackamas County. Multnomah County projects that the number of vehicles will increase to 40,000 vehicles per day by 2015.[16] Although the Sellwood Bridge received a "major renovation" in 1980, it is in need of substantial repairs. It has cracks in its west end piers and "problems" with its expansion joints. Concrete regularly falls off the bridge.[17] The cracks prompted Multnomah County to reduce the bridge's weight limit in 2004, from 32 tons to 10 tons. The concrete, where the cracks were discovered, was then reinforced with steel plates. Because of its poor condition, the county inspects the bridge every three months, as required by law.[18] The most serious need is to rehabilitate the concrete and asphalt deck at a cost of $1,020,000. Another major concern is how to protect the bridge during earthquakes. To reinforce the bridge to withstand a minor earthquake would cost $300,000. To protect it from a major earthquake would cost $5 million.[19]

As the county's focus shifted to providing social services, its desire and ability to maintain and improve its bridges waned. Consequently, the Sellwood Bridge, used by many commuters from Clackamas County, which pays nothing for maintenance, has fallen into disrepair. If a decision is made to build a new bridge, Multnomah County plans to introduce a 20-year bond measure for $127 million. To raise the necessary funds, the county wishes to enact a vehicle registration fee of $19 per vehicle per year for vehicles registered within the county. For its part, the city of Portland plans to introduce a 20-year bond measure for $100 million, which would pay $8 million every year to cover the cost. Multnomah County would get another $30 million from a "State Interchange" request, $40 million from the federal government, $22 million from Clackamas County, and $11 million "carried over from other sources."[20] The proposed funding structure for the new bridge would require the residents of Multnomah County and the city of Portland to pay more than 10 times as much as the residents of Clackamas County, who use the bridge nearly as often. It seems inappropriate that a regional facility be supported to a disproportionate extent by just one part of the region.

The case of the Sellwood Bridge illustrates what happens when the users of a transportation facility are different from the people who are responsible for maintaining it. It also shows how good transportation decisions suffer when responsibility is not aligned with funding capability.

"The case of the Sellwood Bridge illustrates what happens when the users of a transportation facility are different from the people who are responsible for maintaining it. It also shows how good transportation decisions suffer when responsibility is not aligned with funding capability."

Newberg/Dundee Bypass: State Politics Taint Funding Decisions

Although its size and wealth set the Metro Region apart from the rest of the state, meaning that it contributes more than it receives in transportation dollars, funding decisions for transportation projects and maintenance in the Metro Region and elsewhere are largely made by the Oregon Transportation Commission (OTC), in reliance on ODOT's recommendations. When transportation dollars are limited, devoting a large portion of available funds to improvements outside the Metro Region makes it likely that improvements that could benefit more people in more significant ways will be deferred in favor of comparatively less beneficial improvements. This becomes still more likely when legislative politics play a significant role.

More than two decades ago, proposals were made to construct a Newberg-Dundee bypass to Highway 99W, to relieve the traffic congestion that has developed in Newberg and adjoining Dundee. The source of the congestion is population growth: Yamhill County grew from 55,332 residents in 1980 to 94,325 in 2008, a 70 percent increase. In the same period, the county's two largest cities, Newberg and McMinnville, which had populations of 22,645 and 32,400 in 2008, grew by 118 and 130 percent, respectively, while the hamlet of Dundee grew by 149 percent. Some of the new residents are commuters, who work in the area extending from Salem to the Metro Region. The decision by the City of Newberg to allow several miles of strip commercial development on Highway 99W and the development of the Spirit Mountain Casino also have contributed to traffic congestion.[21]

In 2002, average daily traffic on 99W in Dundee and Newberg ranged from 32,000 to 40,000 vehicles, respectively, with peak-period lines stretching up to a mile long in both cities. Traffic volume had grown 40 percent in the prior decade. Without the proposed bypass, traffic volume is projected to grow to 47,000 vehicles in Dundee and 56,000 vehicles in Newberg by 2025.[22]

The 11-mile long, $550 million bypass project has been in the planning stages for the past decade. It has an approved location Federal Environmental Impact Statement (FEIS) and now is proceeding into a design Draft Environmental Impact Statement (DEIS). ODOT investigated the feasibility of a toll-financed facility for several years until 2007. Ultimately, ODOT deemed a toll road not feasible because local residents objected to a proposal that would have tolled both the bypass and existing 99W, and financial consultants found that tolls on the bypass alone would not be sufficient to finance the project.

In testimony to the OTC on September 9, 2008, Mayor Bob Andrews of Newberg contended that the Newberg/Dundee bypass would reduce congestion, improve livability, assure economic vitality and enhance the character of the cities of Newberg and Dundee. He observed: "Over two-thirds of the traffic on 99W in this area is non-residents. Highway 99W has the highest traffic volume of any two-lane highway in the state system. Traffic is forecast to increase up to 70 percent by 2025."

In HB 2001, the Legislature lists specified dollar amounts for 37 "priority" state highway projects totaling $917.2 million that "shall be expended" from a newly established Transportation Project Account in the State Highway Fund. ODOT is to determine the timing and amount, subject to final approval of the OTC. The largest earmark is $192 million for Phase I of the Newberg/Dundee bypass. HB 2001 also authorizes the issuance of new Highway User Tax Bonds in an amount sufficient to produce "net proceeds" of not more than $840 million to be used for the $917.2 million of earmarked highway projects, and commits ODOT's 50 percent share of the remainder money from the increased fuel tax to funding those earmarked projects. The second "priority" after the earmarked projects is $15 million per year "for maintenance, preservation and safety of the highways."

This degree of legislative intervention in the prioritization of transportation projects is unprecedented and controversial. It was widely viewed as a concession to Senator Larry George, who represents Newberg, and a few other Republican senators in exchange for their agreement not to block a fuel tax increase. As *The Oregonian* complained in a May 29, 2009 editorial, the $192 million "is a political shortcut, a troubling route that leads to a future where logrolling and legislative clout could well determine Oregon's transportation priorities." The editorial pointed out that the Legislature traditionally has been responsible for providing *funding* for Oregon's transportation systems, while the OTC has determined the *priorities* for transportation investments.

By elevating the Newberg/Dundee Bypass to the state's top transportation priority, the Legislature has created a troubling precedent for transportation project selection. It effectively drained funds from the allocations made through the State Transportation Improvement Program (STIP) process, which includes orderly consultation with the 13 Area Commissions on Transportation (ACTs) and six Metropolitan Planning Organizations (MPOs) in the state. The OTC previously had recognized the bypass as one of many projects of "statewide significance,"* but the 2010-2013 draft STIP contains only $22 million for bypass right-of-way acquisition. While the large legislative earmark for

* The 2010-2013 draft STIP contains $22 million for bypass right-of-way acquisition.

the bypass will accelerate development and construction of the bypass highway, it is the product of a political tradeoff that has undermined the STIP consultation process. It remains to be seen if HB 2001 is the harbinger of more political deal making with respect to transportation priorities. If so, it is unlikely that Oregon's transportation priorities will be determined in an orderly, reliable and open public process by knowledgeable participants.

Columbia River Crossing: A Difficult Bi-State Collaboration Founders

The Columbia River Crossing (CRC) project is a bridge, transit and highway improvement project of the Federal Highway Administration (FHWA),* the Federal Transit Administration (FTA),† ODOT and the Washington State Department of Transportation (WSDOT), the RTC,‡ Metro, C-TRAN and TriMet. Project staff works with state and local agencies in both Oregon and Washington, in collaboration with federal agencies and tribal governments. The CRC is likely the most significant project currently proposed for the I-5 corridor between Canada and Mexico. The FHWA and the FTA regulate the National Environmental Policy Act (NEPA) process for federal transportation projects. NEPA governs proposed actions requiring federal funding, permits, or approvals. The FHWA and the FTA need to approve the NEPA Final Environmental Impact Statement (FEIS) and the Record of Decision (ROD) to move the project forward into design and construction.[23] The United States Department of Transportation (USDOT) has pledged to support the project with a grant from its "Corridors of the Future Program."§,[24] A finance plan will be published with the FEIS, expected in early 2010.

The impetus for the CRC project was the bi-state collaboration, beginning in 2001, of the governors of Washington and Oregon, who sought to fix problem areas along the I-5 corridor, one of which was the CRC. This resulted in the formation of a 39-member CRC Task Force in 2005 to obtain local participation by leaders from a broad cross section of Oregon and Washington communities, including businesses, civic organizations, neighborhoods, freight, commuter and environmental groups. It also involved the federal, state and local agencies that ultimately have a responsibility for the implementation of whatever solution is chosen to the CRC problem.[25] As a bi-state project, the CRC project is subject to both Oregon and Washington regulations, as well as many federal requirements. The CRC project team worked with state and federal agencies to develop an approach for coordinating their involvement and streamlining regulatory reviews and permits. The result is explained in an "Interstate Collaborative Environmental Process Agreement."[26] The CRC project staff then formed citizen advisory groups in an effort to ensure that the values and interests of the community were reflected in the studied alternatives.[27] There was extensive public participation in the alternatives selection process.

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The six local project "partners," called the Project Sponsors Council,¶ considered a Draft Environmental Impact Statement (DEIS), public comment and the CRC Task Force recommendation to select a Locally Preferred Alternative (LPA) — a replacement bridge with light rail to Clark College — in July 2008.[28] The LPA was chosen based on information in the DEIS, the recommendation from the 39-member Task Force and public comment. In March 2009, the Project Sponsors Council recommended that the replacement bridges have three through lanes and three add/drop lanes in each direction, for a total of 12 lanes.

The CRC project staff also considered the impact of the various alternatives on greenhouse gas (GHG) emissions. During the selection process for the LPA, local partner agencies requested an independent review of the GHG analysis conducted by the Columbia River Crossing project. The primary purpose of CRC's GHG emissions analysis was to compare alternatives presented in the DEIS.[29] A panel of independent experts, called the Greenhouse Gas Emissions Expert Review Panel, reviewed and evaluated the GHG emissions analysis presented in the DEIS. The panel agreed with the CRC finding that the LPA would generate lower GHG emissions than a no-build alternative. The panel then made suggestions to refine the calculations for the FEIS.[30]

Over the next year, if political controversies do not slow or stop progress completely, additional key decisions will be made on project elements, including financing and tolling, design of the I-5 bridge, pedestrian and bicycle pathway, light rail route and station location and design, sustainability plan and mitigation

* The FHWA carries out federal highway programs in partnership with state and local agencies.

† The FTA distributes federal funding to support a variety of public transportation systems throughout the U.S., including buses, subways, light rail, commuter rail, streetcars, monorail, passenger ferry boats, inclined railways, and "people movers."

‡ The Regional Transportation Committee makes decisions on what to recommend through a consensus process, or if necessary, by a super-majority vote of its quorum membership (two-thirds of total membership). Such decisions on Committee recommendations are advisory to JPACT/Metro, RTC, and local and regional agencies, *and have no legal or regulatory authority.*

§ The Corridors of the Future Program is a new federal initiative to develop multi-state corridors to help reduce congestion. The selected corridors carry 22.7 percent of the nation's daily interstate travel. The improvements to the corridors could include building new roads and adding lanes to existing roads, building truck-only lanes and bypasses, and integrating technology that can match available capacity on roads to changing traffic demands. USDOT and the states are working to finalize formal agreements that will detail the commitments of the federal, state, and local governments involved as partners. These agreements will outline the anticipated role of the private sector as well as how the partners will handle the financing, planning, design, construction, and maintenance of the corridor. In the case of I-5, Washington, Oregon and California requested $15 million in Interstate Maintenance Discretionary (IMD) funds for the CRC project. The CRC project is among the most important and significant of the proposed projects for the corridor.

¶ The Project Sponsors Council includes the mayors of the City of Vancouver and the City of Portland and the leadership of RTC, Metro, C-TRAN and TriMet.

plan. Additional analysis of the environmental and community effects of the LPA will be included in the FEIS. The FEIS will describe the additional analysis on potential community and environmental effects of the project and will include responses to comments received during the DEIS public comment period.

The different viewpoints north and south of the river could still kill, stall or downsize the project, because the federal government, which will be an important contributor of funding, is not expected to proceed in the face of a local dispute.[31] Besides cost and scope, the most significant issues are tolls and light rail. Vancouver Mayor Tim Leavitt opposed tolls during his election campaign, stating on his campaign website: "We cannot ask the citizens of Vancouver to pick up the tab…. Tim fought diligently to remove reference to tolls from the City of Vancouver's resolution on the bridge."[32] Apparently, in response, Portland mayor Sam Adams emailed his constituents on September 18, 2009: "Based on public support for a 'no tolls' option in Vancouver, I have new concerns about whether Vancouver voters will approve a required sales tax increase for light rail line operating funds…. The fiscal context for the CRC project has changed dramatically. The political assumptions…are no longer on solid ground." In a joint statement on December 3, 2009, one day prior to a Project Sponsors Council meeting, Mayor Adams and Metro President David Bragdon, while acknowledging it is inappropriate to "start over," called for:

- A reliable budget based on realistic revenue projections;
- A realistic assessment of the relationship between tolls, updated demand forecasts, desired land use patterns and size of the CRC facilities;
- Project elements that are firmly based in performance outcomes;
- Recognition that the interstate system must function in concert with local systems.

They noted that the Project Sponsors Council has asked that the CRC project team use the performance measures being developed by the Performance Measures Advisory Group, which was established at the insistence of Mayor Adams, to guide the project refinement process and assess the effect on key interests and stakeholders, such as the freight industry and the ports. They remarked, "We have not yet seen analysis of potential refinements according to those specific measures." Finally, they suggested that the decision-making process be extended for up to 18 additional months, since that is the length of the expected delay in the federal transportation bill reauthorization.[33]

On January 19, 2010, Adams, Bragdon, Leavitt and Clark County Commission Chair Steve Stuart sent a letter to governors Kulongoski and Gregoire requesting a stronger voice for local governments in decisions about the CRC project.[34] The letter stated that notwithstanding their support for a CRC project, "we believe that cost, physical and environmental elements of the project as currently proposed impose unacceptable impacts on our communities." The letter contained five recommendations, including:

- Complete the development of performance targets for the project, and use those targets to model and evaluate LPA refinements and other design options;
- Develop a clear and accountable performance-based management plan for the operation of the constructed project;
- Create a project financing plan that protects local taxpayers and road users;
- Provide project funds for the local governments represented on the Project Sponsors Council to hire and supervise independent experts to verify critical project assumptions and help evaluate the performance of proposed refinements;
- Commit to meeting the needs of the Hayden Island Community.

The CRC project illustrates the difficulty of obtaining agreement and collaboration across the Columbia River, when the citizens on either side have different points of view on planning and transportation issues. The voters of Vancouver, who rejected light rail in 1995, still appear to object to paying for it and also to tolls on the new bridge. Efforts to reduce the cost of the bridge have resulted in a new plan that would adversely affect Hayden Island by displacing a commercial area, including a Safeway store. There is an apparent distrust of the project assumptions underlying the LPA. In spite of years of effort to build consensus, at a cost of more than $1 million per month (or more than $65 million by July 2009),[35] the CRC project is apparently stalled.

WHERE WE ARE NOW: THE CURRENT TRANSPORTATION GOVERNANCE SYSTEM

The three case studies from the previous chapter illustrate some of the failings of the present system of transportation governance in the Portland/Vancouver Metropolitan Area, which includes federal, state and local government components. The region has two states, at least four (and arguably 10) counties, and more than 30 cities. These governmental structures have evolved over more than 100 years, and now the comfort of the status quo has become an obstacle to change. Yet the present system is largely incoherent in its approach to the regional issues of transportation.

The state is the entity responsible for transportation governance and funding, even in the Metro Region, which faces unique issues. However, there are new challenges to this structure from the federal government and even from the state, which now controls most transportation dollars. The following discussion focuses separately on each level of transportation planning and regulation, beginning with the federal government and continuing down through the state governments (Oregon and Washington), Metro and the Bi-State Coordination Committee, which attempts to bridge some of the differences between the states. Although this report is concerned with transportation governance in the Portland/Vancouver Metropolitan Area, it can only be understood in the context of federal and state requirements.

The inevitable weakness of an individual discussion of each level of governance is that while it promotes clarity with respect to each, it tends to de-emphasize the ways in which the levels are integrated. Although the lowest level of decision making may often appear to be the most detailed and carefully thought out, each level of governance answers to the requirements established by the levels above it. A top-down discussion is appropriate because the most radical shifts in transportation policy at all levels may occur in response to the change or addition of just a few words in a federal statute. However, through its interviews, your committee discovered that local governments do not quietly accede to the decrees of the next-higher level. Metro works hard to develop relationships with federal decision makers that allow it to influence federal transportation policy and funding decisions, and local governments speak up loudly to influence Metro decision-making.

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Federal Policies and Related Requirements

Federal Planning Organizations

Planning by Metropolitan Planning Organizations

Federal transportation policy has dual objectives: (1) to improve surface transportation systems that serve people and freight, thus fostering economic growth, while minimizing fuel consumption and air pollution; and (2) to encourage the improvement and evolution of the metropolitan and statewide transportation planning processes by Metropolitan Planning Organizations (MPOs), state departments of transportation and public transport operators.[36] The MPO is the cornerstone of federal transportation planning. So far, federal law has left state-centered funding and planning of transportation facilities more or less intact, while addressing metropolitan transportation planning by creating new advisory structures whose actual power depends to a large extent on state law.[37] To receive federal transportation revenue, it is necessary to comply with federal transportation planning requirements.

Each MPO must consist of local elected officials, officials of public agencies that administer or operate major modes of transportation in the metropolitan area and "appropriate state officials."[38] The actual boundary of the area planned by an MPO is determined by agreement between the MPO and the state governor. Each MPO must include at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan developed by the MPO. This area may be drawn to include the entire Metropolitan Statistical Area (MSA),* as defined by the Bureau of the Census.[39]

Planning Objectives of Metropolitan Planning Organizations

The MPO planning process is supposed to consider projects and strategies that will accomplish the following objectives:

1. Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

* A metropolitan area identified as a consolidated metropolitan statistical area (CMSA) has a population of one million or more and also has separate component areas — primary metropolitan statistical areas (PMSAs) — meeting statistical criteria and supported by local opinion.

2. Increase the safety of the transportation system for motorized and non-motorized users;
3. Increase the security of the transportation system for motorized and non-motorized users;
4. Increase the accessibility and mobility of people and for freight;
5. Protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and state and local planned growth and economic development patterns;
6. Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;
7. Promote efficient system management and operation; and
8. Emphasize the preservation of the existing transportation system.[40]

However, there is no enforcement mechanism to make sure the projects and strategies are actually designed to achieve the listed objectives. Federal law does not allow court review of the way the objectives are (or are not) considered.[41]

Multistate Metropolitan Planning Organizations

There is a general federal policy to encourage bi-state or tri-state cooperation: The U.S. Secretary of Transportation "shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate [MPO] to provide coordinated transportation planning for the entire metropolitan area."[42] Two or more states may enter into agreements or compacts for cooperative efforts and mutual assistance and may establish agencies, including joint agencies, as needed to make these agreements or compacts effective.*, [43] Congress has granted its consent to two or more states wishing to enter into agreements or compacts for cooperative efforts and mutual assistance in support of multi-state planning activities or to establish authorities they consider desirable for making the agreements or compacts effective.[44] So far, unfortunately, federal encouragement has been insufficient to assure coordinated transportation decision making across the Columbia River. It appears that a mandate or strong financial incentives, not just consent, will be required.

The Regional Transportation Plan

Each MPO must prepare and update a transportation plan, called a Regional Transportation Plan (RTP), for the metropolitan area every four years in "nonattainment areas" under the Clean Air Act† and every five years in other areas.[45] The RTP must contain an identification of existing transportation facilities, including roads, transit, multimodal, intramodal and intermodal connectors, and must give emphasis to those that serve important national and regional transportation functions. It should consider the projects, strategies and objectives previously listed, as they relate to a 20-year forecast period.[46]

The RTP should include a financial plan that identifies monetary and other resources from public and private sources that are reasonably expected to be made available to carry out the plan. In other words, it is "financially constrained": projects, strategies and objectives must be matched to the financial resources available to carry them out. The RTP may include a discussion of additional projects that would be undertaken if funding were available.

Photo by Richard Ross

The RTP should discuss environmental mitigation activities in consultation with federal, state and tribal wildlife, land management and regulatory agencies. It should include operational and management strategies to improve the performance of transportation facilities to relieve congestion and maximize safety and mobility, capital investment strategies, proposed transportation and transit enhancement activities.[47] In nonattainment areas, it should be coordinated with the development of transportation control measures of the state implementation plan required by the Clean Air Act. It also should be developed in consultation with state and local agencies responsible for land use management, natural resources, environmental protection, conservation and historic preservation and with consideration of state conservation plans or maps and inventories of natural and historic resources, if any are available.[48]

It is generally recognized at all levels of government that inviting public participation in decisions about planning and public investment is a way to avoid unpleasant surprises. The RTP must be published. To increase public participation further, the MPO must develop a plan that may include web publication, public meetings and "visualization techniques."[49] An MPO must provide a reasonable opportunity for comment on a proposed RTP to a long list of specified groups, including citizens, affected public agencies, public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, and representatives of users of public transportation, pedestrian walkways and bicycle transportation facilities and of the disabled.[50]

The Transportation Improvement Program

Each Metropolitan Planning Organization (MPO) must prepare a Transportation Improvement Program (TIP) for its planning area. The TIP implements the 20-year Regional Transportation Plan (RTP) and, like the RTP, must be updated every four years.[51] The

* For example, Longview and Kelso, Washington, are in a bi-state MPO with Rainier, Oregon, whose lead agency is the Cowlitz-Wahkiakum Council of Governments.

† A nonattainment area is one that "does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for [a particular] pollutant;" 42 USC 7407(d)(1)(A)(i). Examples of such pollutants are ozone or carbon monoxide.

RTP and TIP must provide for "the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities)," in order to create an intermodal transportation system for the state and nation.[52] They must be coordinated with the transportation activities carried out by MPOs.[53]

Consultation between MPOs and the state(s) in devising a TIP is required where more than one MPO has planning authority over an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act. Actual coordination also is required where a transportation improvement, such as the Columbia River Crossing, which is funded from the federal Highway Trust Fund or authorized by the U.S. Secretary of Transportation, is located in more than one metropolitan planning area. MPOs are encouraged to consult with officials responsible for planning activities other than just transportation planning, including state and local "planned growth, economic development, environmental protection, airport operations and freight movements." To the "maximum extent practicable," they are to coordinate such planning activities. [54]

The TIP, which must be developed with the same opportunity for public participation as the RTP, must include a priority list of proposed federally supported projects and strategies to be carried out within each four-year period after the initial adoption of the TIP. It must include a financial plan that demonstrates how it can be implemented through public and private revenue sources and innovative financing techniques.[55] The plan is thus "financially constrained" by the financial resources that are reasonably available to implement it. Regionally significant projects must be identified individually.[56]

The TIP must be consistent with the RTP.[57] Ultimately, the state, in cooperation with the MPOs, selects which federally funded projects in metropolitan areas shall be carried out from the approved TIP.[58] The TIP must be published or otherwise made available by the MPO to the public for its review.[59]

Larger Metropolitan Planning Organizations

Additional requirements apply to an MPO, such as Metro, which alone in Oregon serves a Transportation Management Area (TMA). A TMA is an "urban area (as defined by the Bureau of the Census) with a population of over 200,000 individuals." First, transportation plans must be based "on a continuing and comprehensive planning process" carried out by the MPO in cooperation with the state and public transportation operators, such as TriMet. Second, the planning process must address congestion by providing for effective management and operation of new and existing transportation facilities eligible for federal funding "through the use of travel demand reduction and operational management strategies."[60] The MPO and any affected public transportation operator must select from the approved TIP all federally funded projects, excluding projects carried out on the National Highway System, the bridge program or the Interstate maintenance program. These are selected from the TIP by the state, in cooperation with the MPO.[61]

Sources of Federal Funding

Since 1956, the Federal Aid-Highway Act has provided federal funding under formula grant programs to states and transportation governance entities and federal governance directives, which have resulted in completion of the National Highway System (NHS) — including Interstate Highways — and greatly influenced how transportation money is used by states and metropolitan areas. The federal focus has been on surface roadways (including bridges) and public transit. That federal money has helped to fund I-5, I-205, I-405 and additional light rail and bus transit in the Metro Region. What is not covered by federal money must be paid from state or local funds, or both. Usually federal funding is conditioned on obtaining commitments from state and local sources to fund a specified portion of an approved project. The power the federal government has demonstrated over forms of transportation in the past arises from its superior funding capability, which supports the view that controlling funds means controlling the form of transportation development that will occur.

The primary revenue source for transportation at the federal level is the federal fuel tax, presently 18 cents per gallon. The revenue for the fuel tax is combined with revenues derived from the federal income tax and other taxes, and is collected in the Federal Highway Trust Fund. The federal government distributes these funds to ODOT. They must be allocated according to formulas and earmarks established by federal legislation, some of which require distribution to regional or local jurisdictions or for specific projects in Oregon.[62] Unfortunately, the Federal Highway Trust Fund is not expected to be adequate to meet the demands being placed upon it. Federal funds comprise about 16 percent of ODOT's total revenue, [63] but this percentage can be expected to diminish over time, as the Federal Highway Trust Fund increasingly falls short.*

Federal Requirements for States

Under federal law, each state must prepare its own long-range transportation plan, with a minimum 20-year forecast period for all areas of the state. [64] The state plan must be done in cooperation with MPOs, with nonmetropolitan local officials responsible for transportation, and with Indian tribal governments (in Indian tribal areas). Many analogies may be drawn between the statewide transportation planning process under federal law and the MPO transportation planning process.

The state must provide an opportunity to the public and stakeholders to comment on the plan.[65] Consideration must be given to environmental mitigation.[66] The planning process should achieve the essentially the same objectives as those established for MPOs. However, as with the MPOs, the failure to consider any of these objectives is not reviewable by a court.[67] In contrast

* One reason for the shortfall is that as vehicles become more fuel-efficient, the owners pay less in fuel taxes, although the wear and tear on the highways remains the same.

with MPOs, the inclusion of a financial plan is optional.[68]

Following the development of the transportation plan, the state must prepare a state TIP (STIP) to implement the plan. The STIP must be updated every four years (or more frequently, if the governor wishes).[69] The consultation and public participation requirements applicable to the development of the state transportation plan also apply to the STIP. The STIP must include a list of projects proposed for funding, but a project may only be included if "full funding can reasonably be anticipated to be available for the project within the time period anticipated for completion of the project."[70]

State of Oregon Requirements

Oregon Transportation and Land Use Planning

The Oregon Transportation Plan is the long-range transportation plan mandated by federal and state law,[71] which requires the Oregon Transportation Commission to "develop and maintain a state transportation policy and a comprehensive, long-range plan for a safe, multimodal transportation system for the state." The STIP is a list of transportation projects that is required by federal law.[72] Under state law, which carries out federal law, these projects are to be implemented within four years following adoption or modification of the list; are to be consistent with the Oregon long-range transportation plan and with metropolitan plans developed by MPOs; and are limited by the revenue resources reasonably expected to be available.[73]

Photo by Richard Ross

The Oregon Transportation Plan also responds to the requirements of the Oregon land use planning program. The Transportation Planning Rule (TPR),[74] which implements Statewide Planning Goal 12, requires ODOT to prepare a transportation system plan (TSP) to identify transportation facilities and services to meet state transportation and land use needs. Together with adopted multimodal, modal/topic and transportation facility plans, the Oregon Transportation Plan serves as the state TSP.[75]

The TPR sets requirements for the coordination of TSPs across levels of government throughout the state (state, regional, and local) and establishes rules for the preparation, content, refinement, implementation and amendment of transportation system plans. TSPs adopted pursuant to the TPR fulfill the statutory requirements for public facilities[76] as they relate to transportation facilities.

The TPR establishes a hierarchy. The Oregon Transportation Plan sets the overall framework for transportation needs, services and facilities in the state. TSPs prepared by Metropolitan Planning Organizations (MPOs), counties and cities (or, in Portland's case, Metro), must comply with the Oregon Transportation Plan and all applicable federal transportation planning requirements. Local TSPs must be consistent with regional and state transportation plans. The TPR details the standards for determining compliance by local TSPs with regional TSPs and of regional TSPs with the Oregon Transportation Plan.[77] The TSP adopted by an MPO should be prepared, adopted, amended and updated in coordination with RTPs prepared by MPOs, as required by federal law.[78] To the extent possible, regional TSPs for metropolitan areas should be created through a single coordinated process that complies with the applicable requirements of federal law.*

The preparation of a TSP is a complex and difficult task. In May 2008, ODOT published Transportation System Planning Guidelines, which are intended to help local jurisdictions develop transportation system plans.[79] State rules include a long list of what TSPs must include, such as a determination of transportation needs, a road plan, a public transportation plan, a bicycle and pedestrian plan, a plan for transportation system management and demand management, a parking plan, etc.[80] They also require a transportation financing program, to include a list of planned transportation facilities and major improvements; a general estimate of the timing for planned transportation facilities and major improvements; a determination of rough cost estimates for the transportation facilities and major improvements identified in the TSP; and, in metropolitan areas, policies to guide selection of transportation facility and improvement projects for funding in the short-term.[81] These potentially complex policies are a means to meet the standards and benchmarks established in the rules, which are intended to reduce reliance on the automobile by changing land use patterns and transportation systems, so that walking, cycling and use of transit are more convenient.[82] For example, some of those interviewed by your committee mentioned the "20-minute neighborhood," where basic needs can be met within a distance it takes 20 minutes or less to cover on foot. Concentrating housing near jobs or around transit corridors can substantially reduce the amount of daily required automobile travel. Rather than demonstrate compliance with a complex set of prescriptions and standards, a metropolitan area may take advantage of a "safe harbor" by demonstrating that adopted plans and measures are likely to achieve a five percent reduction in vehicle miles traveled (VMT) per capita over the 20-year planning period.[83]

The TSP is part of a local government's comprehensive plan. Amendments to the TSP are treated as "post-acknowledgment plan amendments," which must be reviewed by the Oregon Department of Land Conservation and Development (DLCD) prior to adoption. DLCD may comment on the record in the local proceedings and may file an appeal to the Oregon Land Use Board of Appeals (LUBA) based on any issues raised by any party during the local proceedings.[84]

* OAR 660-012-0016(3) contains specific criteria to determine when an amendment to an MPO's RTP requires review by the Oregon Department of Land Conservation and Development (DLCD) as an amendment to the TSP.

Oregon State Transportation Improvement Program

The Oregon Transportation Commission (OTC), a group of volunteers appointed by the governor, makes the Oregon Department of Transportation's (ODOT's) spending decisions.* The OTC is staffed by ODOT, which recommends projects for funding from the Oregon State Transportation Improvement Program (STIP). In adopting the STIP, the OTC allocates available state and federal funding to specific projects.†

However, as discussed above, with respect to the Newberg/Dundee Bypass, the 2009 legislature effectively overrode ODOT's priority recommendations by including funding allocations in HB 2001. This was a radical (and highly politicized) departure from established practices.

"…with respect to the Newberg/Dundee Bypass, the 2009 legislature effectively overrode ODOT's priority recommendations by including funding allocations in HB 2001. This was a radical (and highly politicized) departure from established practices."

Most projects in the STIP concern making improvements to existing facilities, such as repaving a highway. The "modernization" program funds projects that add highway capacity. The STIP includes engineering and environmental studies for future projects and other development work, as well as earmarked projects designated in federal legislation.[85] Key STIP participants include the OTC, ODOT, the ODOT divisions (Highway Division, Transportation Development Division, Public Transit Division), the five ODOT regions, the 12 Area Commissions on Transportation (ACTs), the Oregon Freight Advisory Committee, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), Tribal governments, the U.S. Forest Service, six Metropolitan Planning Organizations (MPOs), the Metro Region Transportation Management Area (TMA), cities and counties.

ODOT seeks agreement as to how projects should be prioritized during the four-year plan period. In theory, projects are approved and scheduled according to their priority, available funding, and readiness to proceed. Participants in the STIP process understand, however, that because actual revenues may not be as much as forecasted revenues, individual projects may be delayed. Delays may result in a shifting of priorities or in deferral of a project to a subsequent STIP.[86] The early part of the STIP development process focuses on funding targets and program goals. Later, the focus shifts to which projects should be approved.[87]

ODOT collected about $4.3 billion statewide in the 2007-2009 biennium. About 20 percent of the state's revenue came from the federal government, much of it from the federal motor fuels tax of 18.4 cents per gallon of gasoline and 24.4 cents per gallon of diesel, which is returned to the states using a formula based on population, number of roads and other factors. The other 80 percent was derived from state sources, the largest of which are revenue bonds (21 percent), the state motor fuels tax of 24 cents per gallon (20 percent), the weight mile tax (12 percent) and driver and vehicle licenses (11 percent). Under the Oregon Transportation Investment Act (OTIA), the revenue bonds are to be used to finance road and bridge projects. According to ODOT, "[w]hen registration, title fees and sales taxes are added to the fuel tax, the total cost of driving a car in Oregon is significantly less than in most other states."[88]

Of ODOT's biennial $4.3 billion budget, about 14.1 percent (or $608 million) was distributed to Oregon cities and counties. The cities received about $247 million (40.6 percent of $608 million) and the counties received about $361 million (59.4 percent of $608 million). After these disbursements (and additional disbursements to other agencies for which ODOT serves as tax collector) were made, there was roughly $3.4 billion remaining for ODOT's biennial operating budget.[89]

In the 2007-2009 biennium, ODOT spent $352 million on its highway maintenance program, $242 million on its preservation program, $932 million on its bridge investment program, $397 million on its highway modernization program, $52 million on the highway safety program, $49 million on its operations program, $261 million on its local government program (for partnerships with cities, counties and regional governments on transportation projects) and $257 million for special programs (salmon, watersheds, scenic byways, pedestrians and bicycles, winter recreation parking and more).[90]

As a Transportation Management Area (TMA), the Metro Region receives a share, mandated by federal law, of the state's federal transportation distribution. TMAs may decide on their own how to spend their federal money. They list the projects they select in their Metropolitan Transportation Improvement Program (MTIP).[91] ODOT participates in the development of regional MTIPs and provides advice to help Oregon TMAs decide whether their funds should be allocated to the state highway system, the local street system or the public transportation system.[92] Based on ODOT's projected costs in the Portland MPO for 2006-2009, the average annual ODOT expenditure in the Metro Region is $284 million.‡

* Under ORS 366.205, the Oregon Transportation Commission has general supervision and control over all matters pertaining to the selection, establishment, location, construction, improvement, maintenance, operation and administration of state highways, the letting of contracts, the selection of materials to be used and "all other matters and things considered necessary or proper by the commission."

† ODOT has published a "STIP Users Guide," which is available at http://www.oregon.gov/ODOT/TD/TP/docs/newStipCmte/stipGuide/apr06guide/ch2.pdf.

‡ ECONorthwest Report, p. 2-6.

The Metro Region and Its Oregon Surroundings

In the Metro Region

The Metro Council

The Metro Council consists of a president who is elected region-wide and six councilors who are elected by district in nonpartisan races every four years. The president presides over the council, sets its policy agenda, and appoints all members of Metro committees, commissions, and boards.[93] Metro has several functions, one of which is to be the MPO for the Metro Region. The Metro Council reviews transportation plans, projects and programs recommended by the Joint Policy Advisory Committee on Transportation (JPACT). In turn, JPACT is advised by the Transportation Policy Alternatives Committee (TPAC), which includes 21 members. TPAC members include technical staff from the same governments and agencies as JPACT, a representative of the Southwest Washington Regional Transportation Council (RTC) and six community representatives appointed by the Metro Council. The Federal Highway Administration (FHWA) and C-TRAN each have one appointed, non-voting member on TPAC.

Joint Policy Advisory Committee on Transportation

Under JPACT's Bylaws, "It is the mission of JPACT to coordinate the development of plans defining required regional transportation improvements, to develop a consensus of governments on the prioritization of required improvements and to promote and facilitate the implementation of identified priorities." [94] The Bylaws continue:

"The principal duties of JPACT are as follows:

a. To approve and submit to the Metro Council for adoption the Regional Transportation Plan (RTP) and periodic amendments.

b. To approve and submit to the Metro Council for adoption short and long-range growth forecasts and periodic amendments upon which the RTP will be based.

c. To approve and submit to the Metro Council for adoption the Unified Planning Work Program (UPWP) and periodic amendments for the Oregon and Washington portions of the metropolitan area. The Metro Council will adopt the recommended action or refer it back to JPACT with a recommendation for amendment.

d. To approve and submit to the Metro Council for adoption the Transportation Improvement Program (TIP) and periodic amendments. The Metro Council will adopt the recommended action or refer it back to JPACT with a recommendation for amendment.

e. To approve and submit to the Metro Council for adoption the transportation portion of the State Implementation Plan for Air Quality for submission to the Oregon Department of Environmental Quality. The Metro Council will adopt the recommended action or refer it back to JPACT with a recommendation for amendment.

f. To periodically adopt positions that represent the region's consensus on transportation policy matters, including adoption of regional priorities on federal funding, federal transportation reauthorizations and appropriations, the State Transportation Improvement Program priorities and regional priorities for Light Rail Transit (LRT) funding. The Metro Council will adopt the recommended action or refer it back to JPACT with a recommendation for amendment.

g. To review and comment on the RTP and TIP for the Clark County portion of the metropolitan area and include in the RTP and TIP for the Oregon urbanized portion of the metropolitan area a description of issues of bi-state significance and how they are being addressed.

h. To review and comment, as needed, on the regional components of local comprehensive plans, public facility plans and transportation plans and programs of ODOT, TriMet and the local jurisdictions."[95]

Under these provisions, while JPACT does not have final decision making authority over the actions in (c) through (f), the Metro Council will not substitute its preferences for JPACT's. Rather, Metro will refer the proposed action back to JPACT with a recommendation for amendment. Typically, in such situations, an amendment is made. Your committee is not aware of any occasion where the Metro Council and JPACT reached an impasse on any issues related to actions (c) through (f).

Provisions (c) and (g) integrate, to some limited degree, planning at Metro and within jurisdictions on the Washington side of the river. The presence of the Washington State representatives on JPACT enhances communication and the potential for cooperation. However, JPACT and Metro have only an advisory role with respect to transportation decisions in Washington.

JPACT is composed of representatives of the following voting jurisdictions and agencies:

	Members	Votes
Multnomah County	1	1
Washington County	1	1
Clackamas County	1	1
City of Portland	1	1
Cities of Multnomah County	1	1

Cities of Washington County	1	1
Cities of Clackamas County	1	1
Oregon Department of Transportation	1	1
TriMet	1	1
Port of Portland	1	1
Department of Environmental Quality	1	1
Metro	3	3
State of Washington	3	3
TOTAL	**17**	**17**

Metro Planning Advisory Committee

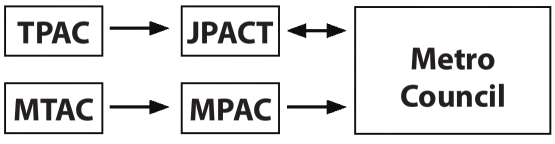
The transportation planning and project investment allocation work of JPACT is linked to the land use planning work of the Metro Planning Advisory Committee (MPAC). The 1992 Metro Charter established the MPAC to advise the Metro Council on the adoption and amendment of the Regional Framework Plan, which implements the Metro 2040 Growth Concept. MPAC considers the following issues:

- Regional transportation.
- Management of the UGB.
- Protection of lands outside the UGB for natural resource, future urban or other uses.
- Planning responsibilities required by state law.
- Other growth management and land use planning matters determined by the Metro Council to be of metropolitan concern that will benefit from regional planning.

MPAC is comprised of 21 voting members representing cities, counties, special districts, and the public, and six non-voting members, including a representative from DLCD, the Port of Portland, cities in Clackamas County outside the UGB, cities in Washington County outside the UGB, the City of Vancouver, Washington, and Clark County, Washington. Three Metro Councilors participate as non-voting members.

Regional Transportation Decision Making Process

While MPAC advises the Metro Council on growth management and land use issues at the policy level, the Metro Technical Advisory Committee (MTAC) provides technical planning input. MTAC members represent cities, counties, special districts and the public as well as utilities, land use advocacy and environmental organizations, the development community, and economic development associations. As illustrated by the flow chart below,[96] MTAC is to MPAC what TPAC is to JPACT — the technically sophisticated advisors to a policy-making body. Metro receives recommendations from JPACT and has the authority to question those recommendations and make its own recommendations in response (as shown by the two-headed arrow below).



Source: Metro

In most areas of the United States, transportation planning is focused on creating transportation facilities to satisfy demand, without considering whether the development pattern generating demand is itself appropriate or desirable. In the Metro Region, although there are separate committees to address transportation planning and land use planning, they do coordinate to a substantial degree. JPACT and MPAC have joint meetings on occasion, to address large issues that combine land use and transportation planning. MPAC supports the process through which the RTP is approved as a land use action, consistent with the statewide planning goals and the Metro Charter.

When viewed from a national perspective, the close association between land use and transportation planning in the Portland region is quite unusual, although not unique. In San Diego, for example, regional land use planning and regional transportation planning (and a number of other functions) are combined in one agency — the San Diego Association of Governments (SANDAG).[97] The agency represents 18 cities and San Diego County as the regional MPO and allocates millions of dollars each year in local, state, and federal funds for the region's transportation network.

In the view of some, there is not sufficient coordination between land use planning and transportation planning in the Metro Region. When interviewed by your committee, Gil Kelley, the former planning director at the City of Portland, Metro Council President David Bragdon, and Metro Councilor Robert Liberty each stated that he would combine JPACT and MPAC, to avoid decision making on transportation facilities that is disconnected from land use planning.[98] "[T]he transactional and political costs," Kelley argues, "of having to…align [the planning and transportation] functions is madness and prevents us (especially at the larger city or metropolitan level) [from being] the lean, effective, nimble and fast moving organizations we could otherwise be." Kelley continues: "It doesn't mean land use planners rule; it means you have a new kind of organization where collaboration and common purpose are the order of the day." He urges a combination of land use planning, transportation planning and capital projects planning and design.[99]

Yet this view is not uniformly held. Another Metro councilor, Rex Burkholder, opposes the consolidation of JPACT and MPAC, in part because of the burdens it would place on volunteer elected officials facing time constraints as they run their governments, hold down jobs and attend Metro meetings. As Burkholder explains, MPAC considers many issues, such as solid waste policy, that JPACT does not. If JPACT and MPAC were consolidated, people with a transportation focus would be compelled to consider many unrelated agenda items. Burkholder notes that the RTP update has been integrated into the Metro Urban Growth Management Functional Plan* update in a way that makes trans-

* The purpose of the Metro Urban Growth Management Functional Plan is "to implement regional goals and objectives adopted by the Metro Council as the Regional Urban Growth Goals and Objectives (RUGGO), including the Metro 2040 Growth Concept and the Regional Framework Plan;" Metro Code § 3.07.010.

portation subservient to planning.[100] If he is correct, this could have the effect of moving transportation decision making away from the "project" focus objectionable to Kelley, Bragdon and Liberty.

As its bylaws show, JPACT has a policy role. With the aid of Metro staff, it helps to develop the RTP for the region. According to the executive summary of the Metro 2035 Regional Transportation Plan,* an "overarching aim" is "to link transportation planning and investment decisions to the vision embodied in the 2040 Growth Concept, the region's long-range strategy for managing growth."[101]

Many of those interviewed by your committee view the JPACT allocation process as political, ineffective at allocating projects based on regional merit and, to some degree, untethered from regional objectives and planning principles. There has been a conflict between parochial interests and regionally more important projects.[102] According to Metro Councilor Rex Burkholder, however, there has been a recent effort to turn the allocation into a "modally and jurisdictionally blind" grant process, with a focus on return on investment.[103] Metro has established the "Regional Flexible Fund Project Solicitation" process, which includes specific objectives to "define how the allocation process should be conducted and what outcomes should be achieved with the overall allocation process."[104] In addition, Metro has created "Project and Program Services Policy Objectives," which define the objectives against which project and program services should be evaluated and prioritized for funding.[105] The solicitation process establishes sub-regions, such as "City and Port of Portland" or "Clackamas County and its Cities," and limits the number of applications individual sub-regions may file in rough proportion to the population of the sub-region.[106] Projects must be on the 2035 RTP financially constrained system list, unless a successful application is made to amend the list. Applications will be evaluated on the basis of four "outcome-based" categories.[107] The Regional Flexible Fund Project Solicitation process requires a technical review against the criteria, using a detailed scoring approach, and TPAC and Metro staff make a preliminary recommendation to JPACT of which applications to accept.

Photo by Cheryl Juetten

After a public comment phase, JPACT and the Metro Council may direct technical staff to develop a technical recommendation on a final list of projects and programs for JPACT/Metro Council consideration. After Metro staff and TPAC make a technical recommendation, JPACT and the Metro Council will select projects to be funded by available revenues.[108] This system is relatively new, and it remains to be seen whether it will be successful in reducing or eliminating the political horse-trading that has been common in the past.

* The Metro 2035 Regional Transportation Plan is in the public review and adoption process for state and federal components.

Outside the Metro Boundary

While Metro can plan inside its UGB, areas outside the UGB affect and are affected by development inside the UGB. For example, many Yamhill County residents commute to Portland and many Portland residents travel across Yamhill County on their way to the Oregon Coast. Notwithstanding this interaction, Yamhill County leadership apparently views Metro with suspicion. There appears to be a sense that the big city to the north is a threat to local control. When interviewed by your committee, Yamhill County Commissioner Leslie Lewis expressed anti-Metro views and indicated that she believes the county should collaborate with Polk County and Marion County through the Mid-Willamette Valley ACT, but not with Metro.[109]

State of Washington Requirements

Washington Land Use Planning

Transportation governance must be discussed in conjunction with land use planning, because the two are so intertwined. The state of Washington regulates land use through its Growth Management Act (GMA),[110] first adopted in 1990 and revised in 1994. The GMA takes an approach similar to Oregon's.† One significant difference, however, is that the Oregon Department of Land Conservation and Development (DLCD) reviews all amendments to local comprehensive plans and zoning ordinances and can seek changes, while in Washington, the Department of Community, Trade and Economic Development can comment but has no additional authority. Review against GMA requirements does not occur unless there is an appeal to a Growth Management Hearings Board (GMHB). From GMHB decisions, there is an appeal available by filing a petition in the superior court for Thurston County (where the state capitol is located), the county of the petitioner's residence or principal place of business, or in any county where the property owned by the petitioner and affected by the contested decision is located.[111]

The tension between statewide land use planning and local control exists in both Oregon and Washington. However, because the Washington land use planning system is less regulated by the state, local politics plays an even greater role than in Oregon. The absence of a state agency comparable to DLCD and the opportunity in Washington to select a local superior court when appealing from a GMHB decision — as opposed to an appeal to the Oregon Court of Appeals from a LUBA decision — creates the potential to elevate the importance of local politics and skew decision making accordingly.

On the issue of compact development, there recently have been indications that the politics north and south of the river are diverging, rather than converging. Instead of working to concentrate development, which is supportive of light rail, the

† Instead of UGBs, Washington has Urban Growth Areas (UGAs), but the principle is the same.

Clark County Board of Commissioners shifted course on land use planning when the composition of the board changed in 2005. The new board revised the comprehensive plan adopted by the previous board in 2004 to allow a substantial expansion of the Urban Growth Area (UGA) onto agricultural land.*

Washington Transportation Planning

In 2007, the Washington Legislature adopted five policy goals "for the planning, operation, performance of, and investment in, the state's transportation system." These include preservation, safety, mobility, environment and stewardship.[112] The Washington Transportation Commission (WTC), with eight members appointed by the governor, has authority over statewide transportation planning and bond issuance approval; it also serves as the state's tolling authority and sets ferry fares. It has a major role as a public forum for transportation policy development and makes recommendations to the governor.

The Washington State Department of Transportation (WSDOT) staffs the WTC and has a role similar to ODOT's role in Oregon.[113] The WTC adopts the Washington Transportation Plan, which is designed to "offer policy guidance for all jurisdictions statewide on matters related to the transportation system over the next 20 years." It includes data gathered statewide and identifies the top investment priorities for the entire state with respect to the five policy goals.

To align transportation policies with the five policy goals, the WTC must, among other things, "provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs."[114] By December 2010, the WTC must prepare a comprehensive and balanced statewide transportation plan consistent with the state's growth management goals, which relate to land use planning, and the five policy goals.[115] The plan must be reviewed and revised every four years and submitted to the governor and the legislative committees on transportation.

There are fourteen regional transportation planning organizations (RTPOs) in Washington, including the Southwest Washington Regional Transportation Council (RTC), which is the RTPO for the Southwest Washington Region. They were authorized as part of the 1990 Washington Growth Management Act (GMA), to ensure local and regional coordination of transportation plans. They must prepare an RTP; certify that countywide planning policies and the transportation element of local comprehensive plans are consistent with the RTP; and develop and maintain a six-year Regional TIP.[116] The work of the RTPO must be aligned with state transportation policy set by the WTC, and local government transportation plans must be consistent with regional transportation plans. The RTC distributes any available federal transportation funds to the Southwest Washington Region.[117]

The city of Vancouver obtains $3-4 in federal and state matching funds for every dollar it spends on transportation projects.[118]

Washington Funding Distribution Mechanism

Washington State Department of Transportation (WSDOT) develops a budget that is reviewed by the WTC and ultimately approved by the state legislature. Washington funds transportation facilities with a fuel tax, vehicle registration fees, tolls and ferry charges. The fuel tax is 37.5 cents/gallon on gasoline and diesel fuel, up from 23 cents/gallon in 2002.[119] This compares to Oregon's fuel tax of 24 cents per gallon, planned to increase to 30 cents per gallon. The revenues resulting from the increased fuel tax have funded the largest capital construction program in WSDOT's history.[120]

Bi-State Coordination and Cooperation

Although there have been efforts to coordinate transportation decision making across the river, they have been weak. The Bi-State Coordination Committee, which was formed in 1999, includes six members from Clark County and seven members from the Metro Region.† It initially advised the Southwest Washington Regional Transportation Council (RTC) and JPACT/Metro on land use and economic issues of bi-state significance. In 2004 the mission of the committee was broadened. Now it considers the impacts of land use and transportation decisions within the context of economic development and environmental justice issues. JPACT and the RTC Board cannot take action on an issue of major bi-state transportation significance without first referring the issue to the Bi-State Coordination Committee for its consideration and recommendation. However, neither JPACT nor the RTC Board is required to follow the committee's recommendation.

For the time being, Metro and the RTC should make every effort to coordinate their transportation planning. Plans come from goals, and goals come from vision, so at the deepest level the coordination of transportation planning depends on a shared vision of the community. The course of planning for the CRC illustrates the problems that arise when there is not a shared vision of the community. An early opportunity for this will come under pending federal legislation, which encourages large metropolitan areas to collaborate in applying for significant transportation funds.

* This strategy has not always been successful. An appeal was filed in 2007, which resulted in a court order requiring the county to redesignate certain properties, comprising over 2,600 acres, as agricultural.

† The rules of the Bi-State Coordination Committee provide: "Membership will be drawn from member agencies serving on JPACT and RTC Board and consist of elected officials as well as leadership from key agencies and organizations. Committee membership includes: Cities of Portland and Vancouver; Clark and Multnomah Counties; one smaller city each in Multnomah and Clark Counties; Oregon Department of Transportation; Washington State Department of Transportation; Ports of Vancouver and Portland; TriMet; C-TRAN; and Metro. Each agency shall select their member for the Bi-State Coordination Committee and shall also identify an alternate. Membership will be valid as long as the member is a member of JPACT and the RTC Board or appointed by JPACT or RTC Board."

The System in Action

Local and Regional Sources of Transportation Funds

The table below shows both *existing local* and *potential regional* sources of transportation funds:

EXISTING LOCAL FUND SOURCES (Cities and Counties)	POTENTIAL REGIONAL TRANSPORTATION FUND SOURCES
LOCAL SOURCES (may be transformed into Metro funding source) Fuel tax Bond measures, special levies Vehicle registration fee Street utility fees (maintenance)	**REGIONAL SOURCES** (transformed from local funding source) Regional fuel tax Regional bond measure Regional vehicle registration fee Regional transportation utility fee (operations, maintenance, preservation for all roads)
LOCAL SOURCES (may not be transformed into Metro funding source) System development charges Traffic impact fees Developer contributions Property taxes Franchise fees Vehicle parking fees Urban renewal districts Local improvement districts Urban road maintenance districts (unincorporated county areas)	**REGIONAL SOURCES** (independent of any existing local funding source) Regional Vehicle Miles Traveled Fee Existing Tri Met Passenger Revenues Existing TriMet Payroll Taxes Existing Port Transportation Improvement Fund Regional Transportation Finance Authority Regional System of Road Pricing Regional Toll System
STATE SOURCES State Highway Trust Fund share *(Cities and County Urban areas in Metro boundary, share of state fuel tax, registration fees, weight mile tax)* Other State Transportation Grants and Funds	**STATE SOURCES** Regional Share of ODOT funds distributed or spent in the region (except freeways) State Highway Trust Fund share for Cities and County urban areas within the Metro Boundary *(Create a region-wide fund for local Operations, Maintenance and Preservation, with a regional pass-through to local governments)*
FEDERAL SOURCES Local Project Earmarks by Congress Metro Transportation Improvement Program Flexible Funds *(Surface Transportation, Congestion Mitigation/Air Quality)* Other Federal Funds *	**FEDERAL SOURCES** Regional Share of ODOT Federal Funds* for regional allocation (except freeways) Regional Project Earmarks to ODOT (except freeways) Existing Metro Transportation Improvement Program Flexible Funds (STP, CMAQ) Existing TriMet Formula/Discretionary Funds New Metropolitan Funds and other funds from new 2010 Surface Transportation Act

* **Federal Funds** include Surface Transportation, Congestion Mitigation/Air Quality, Transportation-Growth Management, Bridge, Enhancement, and Safety Funds.

References: Draft Metro 2035 RTP, ch. 3; Regional Infrastructure Analysis, June 2009.

Notwithstanding the importance of its policy role, Metro's JPACT gets more attention for its role in allocating funds for transporta-

tion projects. Yet JPACT has a very limited amount of money to allocate, approximately $23-37 million of flexible federal funds per year through the Regional Flexible Fund Allocation Program. This is about four percent of the annual transportation spending in the region.[121] Regional flexible funds are derived from two components of the federal transportation authorization and appropriations process: the Surface Transportation Program (STP) and the Congestion Mitigation/Air Quality (CMAQ) program.

Approximately $67.8 million is expected to be available to the Metro Region from these two programs during the years 2012 and 2013. Each program's funding comes with specific restrictions. STP funds, which represent about $38.5 million of the approximately $67.8 million available, may be used for any transportation project or program except for construction of local streets. CMAQ program funds, which represent approximately $23.9 million of the approximately $67.8 million available, cannot be used for construction of new lanes for automobile travel. Additionally, projects that use these funds must demonstrate that some improvement of air quality will result from building or operating the project or program.[122]

"Gone are the days when JPACT was responsible for the millions of dollars in federal money that originally had been allocated for the Mt. Hood freeway project (about $1 billion, adjusted for inflation, over a period of 15 years). That money has been spent."

Gone are the days when JPACT was responsible for the millions of dollars in federal money that originally had been allocated for the Mt. Hood freeway project (about $1 billion, adjusted for inflation, over a period of 15 years).* That money has been spent.

ODOT now spends much more money in the Metro Region than the federal flexible funds that JPACT allocates.[123†] The federal Surface Transportation Program (STP) allocation to the Portland Transportation Management Area (TMA) is estimated by ODOT to be approximately $16.3 million in 2009.[124] The federal High-Priority Project Program (HPPP), a discretionary program for capital projects, should generate between $10.6 and $22.6 million for the Metro Region, about 50 percent of which will be used by ODOT for its facilities and 50 percent (or $5.3-$11.3 million) for local facilities.[125] Other federal highway funds, including funds for Highway Bridge Rehabilitation and Repair (HBRR), Congestion Mitigation/Air Quality (CMAQ), transportation enhancements and other smaller programs, amounted to approximately $22.1 to $31.0 million in 2009.

Federal, state and local money for transportation facilities and projects in the Metro Region currently is not adequate to cover what transportation planners say is needed to bring existing transportation systems and facilities to a "state of good repair" and also to develop new transportation systems and facilities to address projected population and business growth in the Metro Region.

Flow of Funds

Because there are so many entities that build, operate and maintain transportation facilities in the Metro Region (ODOT, 20 cities, three counties, two transit districts, Port of Portland‡), each with its own system and timetable of accounting for project commitments, revenues received and revenues expended, there is no single or reliably consistent source of financial reporting for the Metro Region that tabulates what actually is received and spent on transportation infrastructure in a given 12-month period.

A background paper commissioned by Metro and issued in December 2006, however, does provide ballpark estimates, based on a number of assumptions and projections that give a general sense of the magnitude of transportation revenues expended in the Metro Region in the course of a calendar year and the amounts that come from federal, state and local sources. The report, prepared by ECONorthwest, is titled "Preliminary Financial Analysis for the 2035 Regional Transportation Plan Update" (ECON Report).

The ECON Report provides detailed financial estimates that enable the reader to separate or combine "Road-Related," Transit," "Capital," "OM&P" (operations, maintenance and preservation) and other financial information for the years 2007 through 2035.

Your committee's Tables A-1 and B-1, attached as Appendix Two, are based on the ECON Report and show all estimated transportation revenues in the Metro Region (excluding Port of Portland) for calendar year 2008. In summary they show the following:

Sources of Revenue in the Metro Region

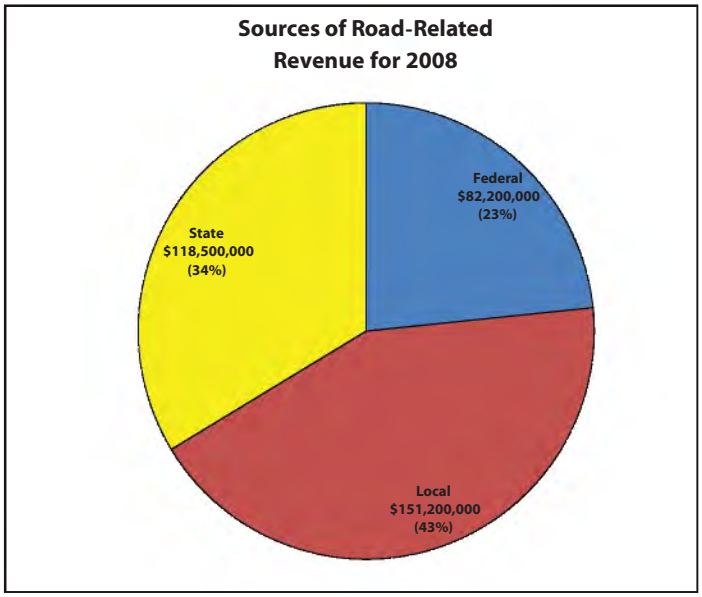
Total road-related and transit revenue in the Metro region for 2008 amounted to $888.5 million. Of this amount, $536.6million consisted of road-related revenue and $351.9 million consisted of transit revenue.

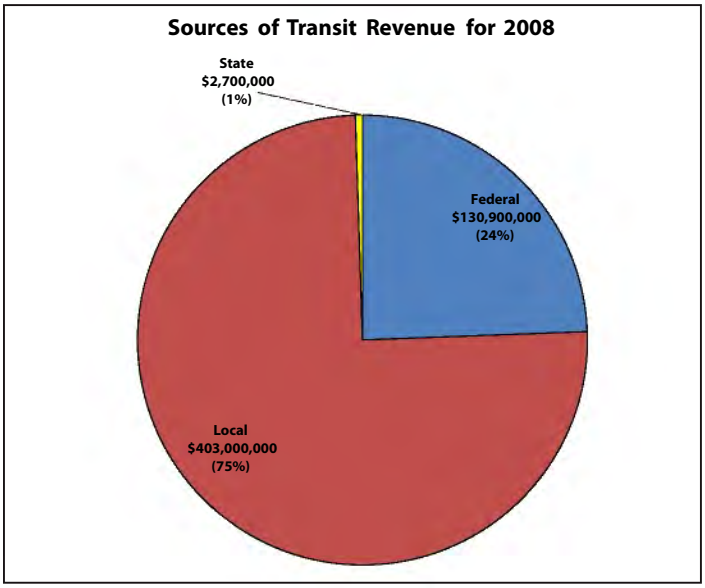
The two pie charts on the next page illustrate the sources of road-related and transit revenue:

* According to Metro MTIP Manager, Ted Leybold, Metro received $497,242,456 in Mt. Hood money between 1977 and 2006. The full final amount was $517 million in federal expenditure dollars during the period from 1976 to 1990, comprised of $350 million of Mt. Hood money, $150 million of I-505 money and $17 million of I-205 bus lane money.

† As David Bragdon explained in a February 11, 2010 email, JPACT allocated "the Metropolitan Transportation Improvement Plan dollars, which are the federal flexible funds over which there is discretion. That amounts to roughly $30 million per year, which is a small fraction of overall transportation funding. The ODOT figures are harder to track because of one-time funds. The floor for base programs is something like $50 million per year, but in the past decade there has also been Oregon Transportation Improvement Acts 1, 2 and 3 to the tune of $600 million, Connect Oregon for about $50 million, and the HB 2001 earmarks for something like $284 million, all in this region."

‡ Your committee's charge excluded the Ports of Portland and Vancouver from the transportation governance entities to be studied.





Two charts above compiled from ECON Report, Tables 3-1, 4, 5, 6, 9, 10, 11.

The 2009 HB 2001 fuel tax increase of six cents per gallon and vehicle registration fee increase could result in an additional $128 million in revenue. However, the precise timing and amount of any increase remains uncertain.

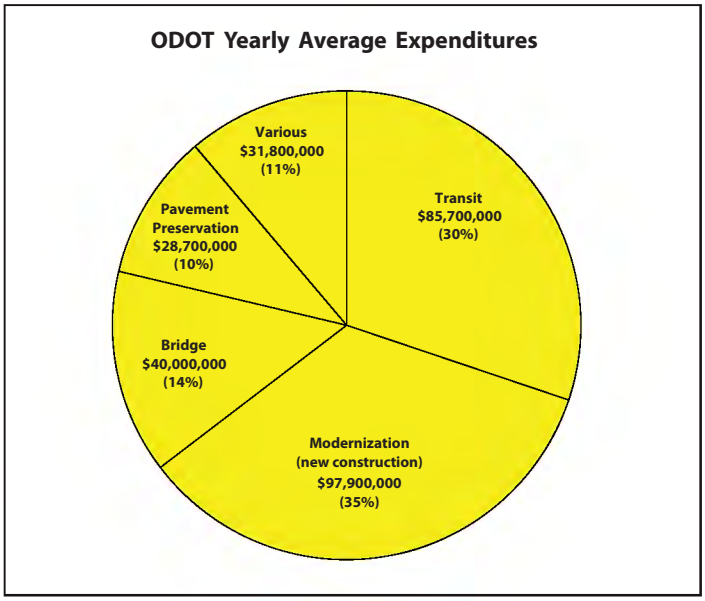
In 2009, a committee of the U.S. House of Representatives proposed that federal funding be doubled for at least six years to address a huge transportation underfunding gap* that will take an estimated 50 years to overcome.[126] The Metro Region has a significant transportation underfunding gap. Even with the federal fund increase, it is likely that funding from local sources also will have to be increased significantly.[127]

* "Underfunding gap" means the difference between what transportation planners say is needed (planning "costs") and what "reasonably available" federal, state and local revenues will fund (actual "project costs," i.e., expenditures).

Control and Allocation of Transportation Revenues in the Metro Region

ODOT

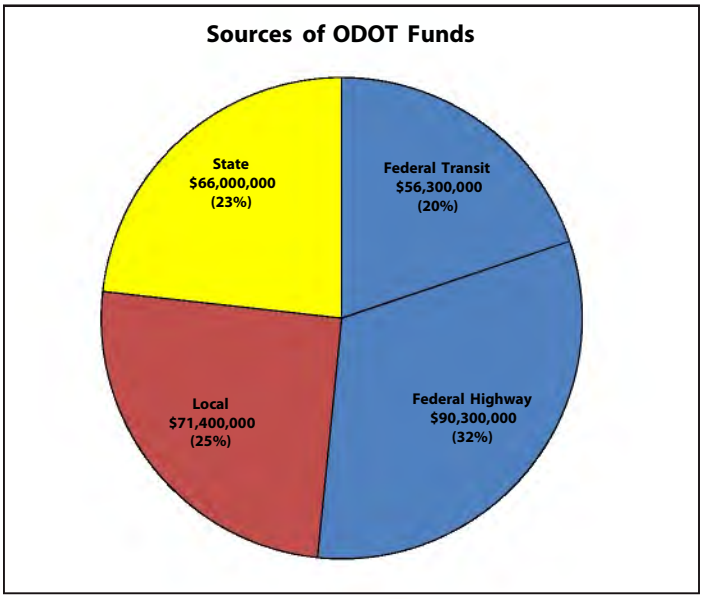
ODOT Average Yearly Expenditures. Because there is no consistency of reporting actual transportation expenditures in the Metro Region, ECONorthwest used the 2006-2009 STIP, which lists approved transportation projects for which funding has been committed, and determined that ODOT's annual average project cost in the Metro Region for 2006-2009 is $284 million.[128] That number combines transit, roadway and bridge funding controlled by ODOT. Here is a breakdown:



Compiled from ECON Report, Table 2-1, "ODOT Project Costs by Type in the Portland MPO (2006-2009)"

Road-related expenditures. After subtracting the $85.7 million for transit, which presumably is controlled by TriMet, ODOT controls almost $200 million per year in road-related projects (including interstate and state bridges and "local streets that have regional significance")[129] in the Metro Region.

In addition to revenue derived from the Oregon fuel tax and other state sources, ODOT controls a yearly average of $90.3 million of federal highway money, $56.3 million of federal transit money and $71.4 of local money.[130]



Compiled from ECON Report, Table 2-2, "Funding sources for ODOT, local, and transit projects in the Portland MPO, 2006-2009."

Federal money is split about equally between improvement and OM&P (operations, maintenance and preservation). State money is spent mostly on improvement (94.4 percent); Oregon has a "Modernization Program" that requires up to one-half of certain revenues be used for modernization (new construction) projects.[131] Local money is spent mostly on improvement (88.6 percent).[132]

The majority of ODOT controlled transit revenue is federal (76.5 percent).

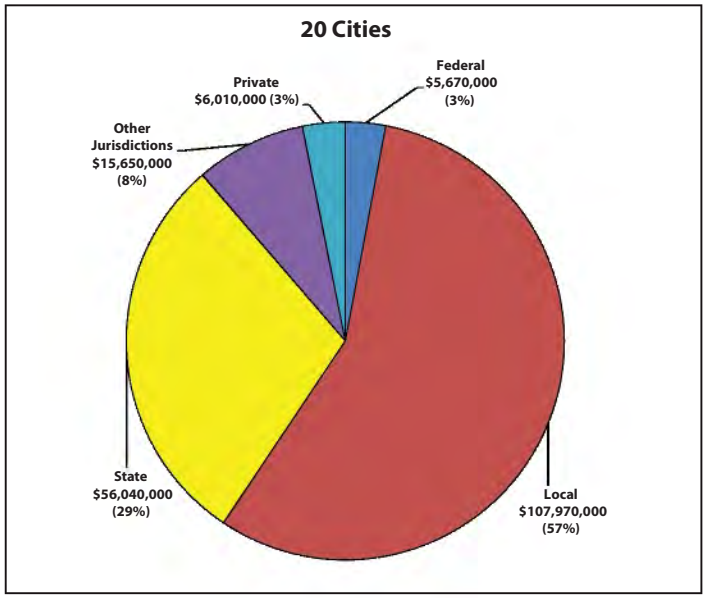
Twenty Cities

Cities' average yearly road-related expenditures. The ECON Report collected transportation revenue and expenditure data from the 20 largest cities in the Metro Region* for the years 2003-2005.

The data showed that total average annual road-related expenditures were $187 million, with 53 percent ($99.45 million) spent for OM&P and 45 percent ($84.45 million) spent on "Capital" (new) projects.[133]

* Cities in the Metro Region are Portland, Beaverton, Hillsboro, Tigard, Gresham, Lake Oswego, Wilsonville, Cornelius, Forest Grove, Sherwood, Tualatin, Troutdale, Fairview, Oregon City, Gladstone, West Linn, Wood Village, Milwaukie, Damascus, and Happy Valley. (There are five more, very small cities, which are not counted here: Rivergrove, Johnson City, Maywood Park, King City and Durham.)

The sources of the annual average road-related revenue[134] were:



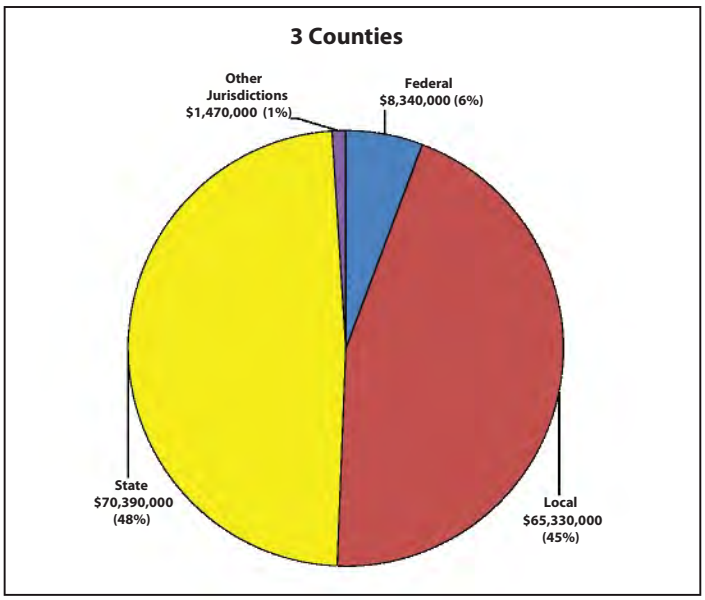
Compiled from ECON Report, Table 2-7, "Average annual road-related revenue by source in cities in the Metro Region, 2003-2005 (millions of dollars)."

Three Counties

The ECON Report collected transportation revenue and expenditures from the three counties in the Metro Region for the years 2003-2005.

Counties' average yearly road-related expenditures. The data showed that total average annual road-related expenditures were $134.75 million, with 34 percent ($45.61 million) spent for OM&P and 66 percent ($89.14 million) spent on "capital" (new) projects. Multnomah County spent the least on OM&P (22.2 percent) and Clackamas County spent the most on OM&P (44.6 percent).[135]

The sources of the annual average road-related revenue[136] were:



Compiled from ECON Report, Table 2-5, "Average annual road-related revenue by source in Clackamas, Multnomah, and Washington Counties, FY 2002/03-2004/2005 (millions of dollars)."

Multnomah County contributes the least revenue ($8.51 million), and Washington County contributes the most ($35.81 million).

TriMet

The ECON Report looked at yearly audited financial statements of TriMet for fiscal years ending in 2001 through 2005. For fiscal year 2005, annual revenues were $309.3 million (including $58.4 million of grants and "Capital Reimbursement") and annual expenditures were $331.4 million.[137] As reported to your committee by TriMet General Manager Fred Hansen, TriMet's revenues currently are about $400 million per year. About 55 percent of TriMet's revenue is from payroll tax and about 20 percent from passenger revenue.[138]

According to ECONorthwest, roughly 60 percent of TriMet's expenditures have been for bus and rail operations (45 percent for bus and 15 percent for rail), and about 10 percent have been for capital (new) projects and facilities.[139] TriMet maintains a separate capital fund to segregate and track capital revenue and expenditures.

When transit funds controlled by ODOT ($85.7 million, mostly from federal sources) are combined with TriMet's $400 million and SMART's $3 million from transit operations, the yearly total transit revenues for the Metro Region are nearly $500 million, controlled mostly by TriMet (82 percent).

Combined Road-Related and Transit

The boldface numbers in the following table show how much transportation revenue expended in the Metro region is controlled by each of four types of entities each year using mostly estimates and projections for 2008.[140] The non-bold numbers show how much of the "bolded" revenue comes from local sources.

Road-Related Revenue Controlled by Governmental Entities		
Controlling Entity	**Annual Average**	**Percent of Total**
ODOT Local funding	**$198.3 million** $71.4 million (25%)	**37%**
Twenty cities Local funding	**$191.0 million** $108.0 million (56%)	**36%**
Three counties Local funding	**$146.0 million** $65.3 million (45%)	**27%**
Road Total Local funding	**$535.0 million** $244.7 million (46%)	

Transit Revenue Controlled by ODOT and TriMet		
Controlling Entity	**Annual Average**	**Percent of Total**
ODOT Local funding	**$85.7 million** $20.0 million (23%)	**22%**
TriMet Local funding	**$309.3 million** $251.0 million (81%)	**78%**
Transit total Local funding	**$395.0 million** $271.0 million (67%)	

Two charts above compiled from ECON Report, Tables 2-1 through 2-11.

Metro allocates and distributes transportation revenue, but with the exception of funds allocate by JPACT, Metro does not control transportation investments. The flow-through distributions by Metro end up in the totals shown above for the entities, mostly cities and counties, which actually control transportation investments.

The combined estimates for 2008 in the Metro Region shown in II.A. below are lower than the combined estimates shown in II.B. below. One reason for the difference is that the II.A. transit number uses TriMet director Fred Hansen's current revenue estimate (about $400 million), rather than the fiscal year 2005 number reported in the ECON Report ($309.3 million), because TriMet's revenues increased after 2005.

Another reason is that the ECON Report tables used for II.A. are based on ECONorthwest's 2006 analysis of ODOT's projections, using data collected from previous time periods, whereas the ECON Report tables used for II.B. are based on ODOT's approved projects for the period 2006-2009 and on city, county and TriMet financial reports showing actual expenditures for reporting periods before and ending in 2005.

	II.A.	**II.B.**
Road-related	$351.9 million	$535.0 million
Transit	$536.6 million	$395.0 million
2008 Total	**$888.5 million**	**$930.0 million**

The key points, however, are that the magnitude of total revenue and expenditures for the Metro Region in a year is now about $900 million, and that both revenues and expenditures are likely to increase over the next 25 years. Of this, Metro, through JPACT, actually controls only $23-37 million.

PRESENT RESPONSES TO PERCEIVED CHALLENGES

Future Challenges

Population Growth

The population of the Metro Region in Oregon is expected to grow from 1.4 million in 2005 to 2.0 million in 2035, an increase of 43 percent. In the same period, daily person trips will grow from 6.0 million to 9.1 million, an increase of 52 percent. Daily vehicle miles will grow from 20.0 million to 27.6 million, an increase of 38 percent. The percentage of roadways that are severely congested during the evening rush hour is expected to grow from two percent to ten percent, an increase of 400 percent.[141]

The result of mounting congestion and the availability of new modalities means that there will be a shift away from single occupancy vehicle trips (minus 4 percent), carpool and vanpool trips (minus 2 percent), and school bus trips (minus 11 percent). There will be an increase in transit trips (41 percent), walk trips (14 percent) and bike trips (9 percent).[142]

Climate Change

The United Nations Intergovernmental Panel on Climate Change has stated that "warming of the climate system is unequivocal."[143] In light of the serious threat posed by climate change, which is associated with carbon emissions, land use and transportation planning decisions must reduce, to the extent possible, the consumption of fossil fuel. In response to the climate change challenge, the Oregon Legislature adopted HB 3543 (2007), which requires the state to reduce greenhouse gas (GHG) to a level 10 percent below 1990 levels by 2020 and 20 percent below 1990 levels by 2050. In Portland and Multnomah County, GHG has declined 0.7 percent since 1990.[144] Transportation sources account for 34 percent of GHG emissions in Oregon.[145]

Deterioration of Existing Transportation Infrastructure

Many witnesses confirmed that future transportation governance must do much more to address the increasing deterioration and, in some cases, obsolescence of the transportation investments that now exists. The Metro Draft 2035 Regional Transportation Plan (RTP) (2035 RTP) states:

> "The region's aging infrastructure is deteriorating and requires more maintenance than ever before…. According to the American Society of Civil Engineers, 38 percent of Oregon's major roads are in poor or mediocre condition. Comprehensive data of the Portland/Vancouver Metropolitan Area is not currently available. The city of Portland has documented a $422 million backlog of unmet maintenance needs for existing transportation facilities. Without new revenue, that backlog is expected to continue growing at a rate of $9 million per year. Increased traffic volume also increases the maintenance needs of regional streets and throughways. Maintenance needs of regional streets and throughways are compounded by the current age of most regional facilities."[146]

In short, the problem of deteriorating transportation infrastructure is critical, and it is getting worse. In addition to increasing transportation revenues, new Oregon statutes (HB 2001, discussed below) and federal laws* will require substantial changes to transportation governance in the Metro Region.

Transportation Equity

Briefly stated, transportation equity means providing adequate transportation to all classes and regions in the Metro Region. It also means distributing the benefits and adverse impacts of transportation facilities fairly. Providing an opportunity for participation in transportation decision making to typically underrepresented groups is one way to move towards transportation equity.[147]

Present Responses to Transportation Challenges

In the next 18 months it is likely that Congress will pass an omnibus transportation bill laying out the federal government's priorities in transportation for the next seven years; the Oregon legislature will act further on the recommendations of a task force charged with proposing regional solutions to transportation and environmental goals; Metro will adopt its regional transportation plan for the next 25 years; Metro will develop alternative strategies for meeting the state goal for GHG emissions in the Portland metropolitan

"The world of transportation is changing as old assumptions are reexamined. It is time to reexamine and adjust the system of transportation governance in the Portland/Vancouver Metropolitan Area in order to rationalize the decision making process."

* The proposed new federal law, the Surface Transportation Authorization Act of 2009 (STAA 2009), has yet to be enacted.

area; the CRC project will decide on a final project design; and a census will be taken. The world of transportation is changing as old assumptions are reexamined. It is time to reexamine and adjust the system of transportation governance in the Portland/Vancouver Metropolitan Area in order to rationalize the decision making process.

Federal Proposed Response

The Transportation System in Crisis: A Call to Action

There is an increasing concern at the federal level about the deficiencies in the present transportation system, arising from poor maintenance and the past focus on facilities for the automobile. Every six years Congress must authorize the transportation revenues and any governance reforms that will apply for the next period of six fiscal years (ending September 30th). On June 18, 2009, the U.S. House Committee on Transportation and Infrastructure (U.S. House Committee) issued an Executive Summary and "A Blueprint for Investment and Reform" (Blueprint) with its proposed Surface Transportation Authorization Act of 2009 (STAA 2009). The executive summary makes these alarming points:*

- 37 percent of all lane miles in the National Highway System (NHS) are "in poor or fair condition."
- One of every four of the 600,000 bridges in the U.S. is "structurally deficient or functionally obsolete."
- There are "unnecessarily long delays" — more than ten years for many highway and transit projects — before completion of approved projects.
- The U.S. Highway Trust Fund does not have adequate revenues to meet existing commitments.
- The "current user fees" supporting the Federal Highway Trust Fund ("Trust Fund") are "completely inadequate to maintain our existing infrastructure."

The executive summary concludes that:

"Prompt Federal action is necessary to stabilize the Trust Fund and restore the confidence of state departments of transportation and the contractor community or many states will not have enough confidence in future financing of the programs to go forward with significant new construction…. We must move from an amalgamation of prescriptive programs to a performance based framework for intermodal transportation investment."

An earlier study commissioned by Congress called for an annual investment by all levels of government and the private sector between $225 billion and $340 billion "over the next 50 years" to upgrade all modes of surface transportation (highways, bridges, public transit, freight rail, intercity passenger rail) "to a good state of repair."[148] The U.S. House Committee proposes that the Federal investment in transportation funding for the next six years be doubled to $450 billion ($75 billion per year).[149]

The Proposed Solution: New Criteria to Qualify for Federal Funding

The proposed STAA 2009, released June 17, 2009 by the U.S. House Committee, would, if enacted, make major changes to federal funding and transportation governance requirements for the Metro Region (and other metropolitan regions in the United States). Your committee's detailed summary of the proposed STAA 2009, as it relates to metropolitan regions, is in Appendix Three. The bill includes the following programs:

- *Tier One Grants*. The Metropolitan Planning Organization (MPO) of a metropolitan area with more than one million people (like Metro) can qualify for one of ten national "Tier One" grants to reduce traffic congestion (a significant difficulty in the Metro Region). An MPO that qualifies will directly receive part of a new $50 billion Federal fund under a proposed "Metropolitan Mobility and Access Program" (MMAP). Unlike other Federal Highway-Aid funds, MMAP grant money would bypass the longstanding (and continuing) flow of funds to ODOT (and other state departments of transportation).

- *National Infrastructure Bank.* A national infrastructure bank would be created to provide grants, loans, loan guarantees, lines of credit, private-activity bonds, tax-credit bonds and other financial tools to help metropolitan areas implement their plans for improved transit operations, congestion pricing, and expanded highway and transit capacity.

- *Tolls.* Tolling would be permitted under an agreement with the U.S. Secretary of Transportation, providing that tolls must be "just and reasonable" and limiting how toll proceeds can be used (debt service, reasonable return on any private investment, proper operation and maintenance of toll facility, operating costs of public transit that uses the same travel corridor).

- *Planning Criteria*. The metropolitan planning process would have to provide consideration of projects and strategies that will:

  a. "promote…sustainability, and livability"

  b. "reduce surface transportation-related [GHG] emissions"

  c. "[reduce] reliance on foreign oil"

  d. "adapt to the effects of climate change"

  e. "improve…public health"

  f. "promote consistency between transportation improvements and…housing and land use patterns"

* See Appendix Four, setting forth other facts and proposed "Findings" by the U.S. Congress.

- *Reduce GHG Emissions*. MPOs would have to "demonstrate progress" in stabilizing and reducing GHG emissions based on models and methodologies under the Clean Air Act.

- *MPO Performance Management*. Larger MPOs (like Metro and RTC) would have to implement a system of performance management that would include "qualitative and quantitative performance measures." Measurement criteria would include "best practices" by MPOs, reduction of congestion, improved mobility and safety, increased "state of good repair" of surface transportation assets, decreased emissions and energy consumption, consistency with land use plans, and increased connectivity. Metro (and other MPOs with more than one million people) would also be required to measure land use patterns that support improved mobility and reduced dependency on single-occupant motor vehicle trips; provide an adequate supply of housing for all income levels; limit impacts on valuable farm land, natural resources, and air quality; reduce GHG emissions; increase water and energy conservation and efficiency; and improve the livability of communities.

Oregon's Response to the Transportation Crisis

The Governor's Transportation Vision Committee

Oregon is considering measures that are to some degree even more progressive than the proposed federal legislation. In December 2007, Governor Kulongoski convened a Transportation Vision Committee, composed of a wide spectrum of legislators, business leaders, government officials, civic groups interested in planning and transportation and other stakeholders. The governor asked the committee to make recommendations based on five core objectives: (1) economic development; (2) local decision-making; (3) sustainability; (4) transparency and oversight; and (5) statewide distribution.[150]

The committee divided into three workgroups, focused on governance, public awareness and vision, and produced its report in November 2008. It developed "recommendations for improving efficiency, coordination and accountability in the transportation system, including how transportation decisions are made, the balance between local, state and federal jurisdictions in decision-making and how projects are prioritized."[151] The report outlines an "Oregon Vision" of transportation, which incorporates the following objectives, to be achieved by 2030:

- Efficient vehicles powered by renewable fuels
- GHG emissions consistent with reduction targets established by federal and state law
- Multimodal (air, rail motor vehicle, bicycle and public transportation) choices
- Timely freight movement through interconnected highway, rail, marine, pipeline and air networks
- New technologies
- Adaptation to change in different communities around the state

It recommeded shifting revenue sources from the fuel tax to "a model that includes having highway users pay based on how much they drive, levels of congestion they drive in, when and where they drive, and the carbon footprint of their vehicle," but does not "disadvantage rural or agricultural Oregon."[152]

The report notes that Oregon's present transportation system is based on a declining revenue source, the fuel tax, which will decline further as more fuel-efficient vehicles, including electric vehicles, displace existing models. The Oregon Transportation Plan "needs analysis" found a $1.3 billion gap in 2004 dollars between current expenditures and a level of investment that would maintain the transportation system at a slightly better condition than presently, replace infrastructure and equipment in a timely manner and bring facilities up to a reasonable standard and capacity.[153] This analysis included air freight and passenger services, intermodal connectors, local roads and bridges, natural gas and petroleum pipelines, ports and waterways, public transportation, rail freight and passenger services, state highways, and the transportation options program.[154]

The Transportation Vision Committee report then proposes a new framework for the future, to include the following "pillars":

1. Create dedicated funding for non-highway investments,* to be used to support multimodal investments.
2. Ensure the transportation system meets GHG emission targets, through land use planning, multimodal transportation facilities and regulation of vehicles.
3. Expand the user per mile fee concept with the ultimate objective of replacing the fuel tax with "vehicle miles traveled" (VMT) fees.
4. Implement "least-cost planning," a technique adopted for the electric utility industry that analyzes the methods and costs of taking actions to increase supply and decrease demand. In least-cost planning, different resource and delivery system scenarios, as opposed to individual projects, are prepared. The development of scenarios includes consideration of modal choices, geography and the planning period, as well as a host of other factors.

* Article 9, §3a of the Oregon Constitution limits taxes "levied on, with respect to, or measured by the storage, withdrawal, use, sale, distribution, importation or receipt of motor vehicle fuel or any other product used for the propulsion of motor vehicles" to use "exclusively for the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in this state."

5. Create a transportation utility commission, a professional agency comparable to the Public Utility Commission, to determine revenue needs and set the rate design. This would replace the present system, where the legislature, county commissions and city councils all have responsibilities to set tax rates and fees to pay for roads and other transportation services, acting without adequate information and constrained by property tax limitations and the loss of federal timber receipts; where the lines of responsibility are unclear; and where the state fuel taxes and weight mile fees are distributed under a fixed formula that is often not responsive to need.[155] The new transportation utility commission would have the task of establishing a "chart of accounts," which would explain the current revenues, expenditures, and facility conditions for each jurisdiction; a system-wide revenue estimate; a conceptual framework for a rate design (local and state fundraising responsibilities) and a strategy for collection, including peak and off-peak pricing; a framework for least-cost planning; and alternative rates for consumers to choose in lieu of the fuel tax.[156]

The fifth recommendation (for a transportation utility commission) impressed your committee with its audacity, persuasiveness and simplicity — in concept, if not in implementation. It is deeply disturbing that today transportation decision making is as ad hoc as it is. Decisions are made without much knowledge of what it costs to maintain the present system, the financial impacts of growing that system and the financial consequences of choosing one form of transportation investment over another. The funding mechanism can be fairly described as a struggle by many interested parties for "more," when there is never enough to go around, although no one even knows what "enough" is. Projects compete for funding, but no one can say with any confidence that decisions are being made in such a way that available funds are invested to maximize benefit across all available transportation modes.

"Decisions are made without much knowledge of what it costs to maintain the present system, the financial impacts of growing that system, and the financial consequences of choosing one form of transportation investment over another."

When interviewed, Duncan Wyse, president of the Oregon Business Council and member of the Transportation Vision Committee, pointed out some of the deficiencies of the present system in Oregon. He noted: (1) road ownership is divided among levels of governments — federal, state, counties, cities — based on population and land use patterns that existed many decades ago, which today are illogical, given the growth of cities and counties into each other within the metropolitan area, leading to inefficiencies in operations, maintenance, planning and financing; (2) the present financing system for transportation improvements is broken because (a) Ballot Measure 5 reduced revenue once used for city and county roads and (b) the fuel tax is becoming increasingly inadequate, as fuel-efficient vehicles result in lower tax collections; (3) there is no systematic way to determine the revenue required to maintain and grow the transportation infrastructure, and no mechanism to collect that amount once it is determined; (4) under the Oregon Constitution, fuel taxes are dedicated to roads, which makes the sensible allocation of resources between different transportation modes difficult; and (5) congestion pricing is not being used to control and direct transportation demand.

Wyse commented that few users have any idea what it costs to construct and maintain streets, roads and highways because they appear to be free. As a result, there is no financial incentive beyond fuel savings to share cars, time trips, take the bus or do anything that would reduce the demand for more road improvements. While financial burdens can fall more heavily on the financially disadvantaged with congestion pricing, Wyse noted persuasively that there are means, such as subsidies or rebates, that have been used successfully in analogous situations to address these equity concerns without undermining a strategy that uses cost incentives to modify individual behavior.[157]

The Transportation Vision Committee report proposes a long list of "transitional first steps" to reach a functioning transportation system, including, but not limited to, the following:

1. Make intergovernmental agreements;
2. Engage in "ownership rationalization," where responsibility for and use and ownership of transportation facilities are made consistent;
3. Reconsider opportunities for public involvement;
4. Have the OTC initiate a study of national "best practices" for improving the delivery of metropolitan transportation services through enhanced regional decision making;
5. Expand the opportunity for local registration fees;
6. Allow co-location of ODOT and local government transportation facilities;
7. Develop new criteria for project selection for upcoming Statewide Transportation Improvement Program (STIP) allocations.
8. Enhance transportation demand management by promoting alternative modes of transportation, carpools, etc;
9. Implement a congestion pricing pilot;

10. Consider giving the State Department of Energy (DOE) rulemaking authority to set standards for energy-efficient vehicle credits in order to keep pace with rapidly evolving technology;

11. Plan land use and transportation to include reduction of GHGs.[158]

The report also makes a number of additional recommendations for practical programs or actions to further protect the environment and reduce GHGs. It proposes a series of new or increased charges for vehicle users; the dedication of 15 percent of lottery receipts to the multimodal fund, to equal at least 20 percent of new revenue generated for the highway fund; and various additional taxes.[159] Finally, the report concludes with a proposed legislative agenda for the 2009, 2011 and 2013 legislatures.

The Oregon Legislature Responds: HB 2001

Proposed Structural Changes

Acting in response to the Transportation Vision Committee's report, the 2009 legislature adopted HB 2001 at the urging of Governor Kulongoski. Among other things, HB 2001 requires:

- The House and Senate interim committees related to transportation shall consult with ODOT, local governments, MPOs and other transportation stakeholders in order to:

    1. Review the responsibilities given to the state, counties and cities for improvement, maintenance and management of the highway system and the resources available to each level of government and make recommendations to better align resources and responsibilities. This responds to (2) of the Vision Committee's "transitional first steps."

    2. Review best practices for stakeholder involvement in transportation decision making. This responds to (3) of the "transitional first steps."

    3. Identify opportunities to achieve greater program efficiency in delivering transportation services. This responds to (1) of the "transitional first steps."

    4. Study national best practices for improving metropolitan transportation services through enhanced regional decision-making. This responds to (4) of the "transitional first steps."

    5. Prepare legislation to implement recommendations made by the interim committee for introduction in the 2011 legislature.[160]

- ODOT, in cooperation with Clackamas, Multnomah and Washington counties, the city of Portland and Metro, shall develop one or more pilot programs and implement congestion pricing in the Portland/Vancouver Metropolitan Area and study the effect congestion pricing may have on reducing traffic congestion. Such programs may include, but need not be limited to, time-of-day pricing with variable tolls.[161] This responds to (9) of the "transitional first steps."

- ODOT, in consultation with local governments and MPOs, shall develop a least-cost planning model for use as a decision-making tool in the development of plans and projects at both the state and regional level.[162] This responds to (4) of the "pillars."

- ODOT shall apply new criteria in selecting projects for the STIP, with an emphasis on the condition, connectivity and capacity of freight-reliant infrastructure; on fostering livable communities "by demonstrating that the investment does not undermine sustainable urban development"; on enhancing the value of transportation projects through "designs and development that reflect environmental stewardship and community sensitivity"; and on acting consistently with the state GHG emissions goals and reducing the state's dependence on foreign oil."[163] This responds to (7) of the "transitional first steps."

- Cities and counties or other local governments shall not adopt any new fuel taxes until 2014.[164]

- The Department of Administrative Services shall conduct an "efficient fee study" that considers "the actual costs users impose on the highway system, including but not limited to highway replacement costs, traffic congestion costs and the cost of GHG emissions." The efficient fee study must include recommendations for legislation to implement the efficient fee method of cost allocation.[165] This responds to (4) of the "transitional first steps."

- Metro shall develop two or more alternative land use and transportation scenarios that accommodate planned population and employment growth while achieving a reduction in GHG emissions from motor vehicles with a gross vehicle weight rating of 10,000 pounds or less and, after public review and comment, shall choose one, which will be adopted by local governments within Metro's jurisdiction.[166] Eventually, the MPO serving Eugene/Springfield shall do the same for its region. This responds to (2) of the "pillars."

- DLCD shall adopt rules for Metro to meet automobile GHG reduction goals. This includes a process involving ODOT, the Department of Environmental Quality (DEQ) and the State Department of Energy for estimating the generation of GHGs by motor vehicles with a gross vehicle weight rating of 10,000 pounds or less. The proposed rules would include a land use and transportation scenario and a process for the adoption of regional

or local plans to implement the scenario, to occur over several years.[167] This also responds to (2) of the "pillars."

Increasing Transportation Revenue

In addition, as discussed above, HB 2001 increases the state fuel tax from 24 cents to 30 cents per gallon,* deferred until there is a two percent increase in non-farm payroll employment or January 1, 2011, whichever is sooner.[168] It allows Multnomah County to charge a vehicle registration fee to raise money for the construction of a bridge over the Willamette. It also allows other counties to establish a vehicle registration fee, subject to voter approval, 40 percent of which must be distributed to cities within the county, for the same purposes as the state vehicle registration fee.[169] This responds to number (5) of the "transitional first steps."

HB 2001 raises a large number of fees associated with motor vehicles, such as title fees, registration fees and truck-weight fees. The first $24 million in increased revenues from the fees is allocated to ODOT for highway maintenance (68 percent) and highway modernization (32 percent); the next $3 million is allocated to the TIC; and the remainder of the money ("remainder money") is to be divided as follows: 50 percent to ODOT, 30 percent to counties,† and 20 percent to cities.‡, [170]

Earmarked Transportation Investments

HB 2001 disappointed many who hoped for more thoughtful, less political legislation. It substitutes a study for the adoption of the utility model, which is the most original recommendation of the Transportation Vision Committee. As discussed above, a controversial aspect of HB 2001 is that it lists specified dollar amounts for 37 "priority" state highway projects totaling $917.2 million that "shall be expended" from a newly established Transportation Project Account in the State Highway Fund. ODOT is to determine the timing and amount, subject to final approval of the OTC (unpaid appointees). The largest earmark is $192 million for Phase I of the Newberg/Dundee Bypass on state highway 99W, 11 miles of new highway construction that, according to estimates, will ultimately cost $550 million when all phases are completed. HB 2001 also authorizes the issuance of new Highway User Tax Bonds in an amount sufficient to produce "net proceeds" of not more than $840 million to be used for the $917.2 million of earmarked highway projects, and commits ODOT's fifty percent share of the remainder money from the increased fuel tax to funding those earmarked projects. The second "priority" after the earmarked projects is $15 million per year "for maintenance, preservation and safety of the highways."[171]

Commenting on the bill, Metro Council President David Bragdon notes that there have been concepts floated over the past several years at the legislature to create more regional control over transportation funds and more flexibility. However, he criticizes the legislature for the "same old list of earmarked, big projects, without any change in paradigm, so it's a real missed opportunity at the state level."[172] He comments, "The legislature thinks very conventionally about this issue," and complains that the inclusion of the Newberg/Dundee Bypass in HB 2001 was calculated to get three Republican votes.[173] Bragdon considers the existing state debt level excessive and thinks it is inappropriate to commit the ODOT remainder money to specified "big highway projects."[174] In his view, the proportion of future gas tax revenues that are committed to huge projects will reduce future legislatures' and other policy makers' flexibility, because they will be saddled with paying off the debt. He is generally critical of ODOT for thinking imaginatively (at times), but then acting unimaginatively. He sees more hope at the federal level, where the new transportation bill may incorporate concepts like least-cost planning, congestion pricing, asset management, regionalism and outcome-based capital planning.[175]

Potential Revenue Sources not Charged

There are other user fees that are employed by other transportation governance entities around the United States and the world, but Oregon has not put them at the forefront of solutions to reducing congestion, lowering vehicle use and GHG emissions, or funding multimodal means of transport. They include vehicle miles traveled (VMT) taxes, tolls (including congestion pricing), assessment of households, and public transportation utility charges.

Metro's Response: The 2035 Regional Transportation Plan

On September 15, 2009, Metro released a public review draft of the 2035 Regional Transportation Plan (2035 RTP).[176] The public comment period ended on October 15, 2009. Between April and June 2010, there will be a public review and adoption process for the final 2035 RTP. The final RTP is considered a land-use action to be adopted by ordinance.

The 2035 RTP is intended to support the 2040 Growth Concept, which was adopted by Metro in 1995. The Growth Concept concentrates mixed-use and higher density development in 38 "centers"; 33 "light-rail communities" and 400 miles of "mobility corridors" that connect many of the centers through high-capacity transit.

The first chapter of the 2035 RTP identifies six critical transportation challenges that the region faces: (1) climate change, (2) competing in a global economy, (3) growth and shifting demographics, (4) deteriorating infrastructure and inadequate funding mechanisms, (5) public health, environmental and safety concerns and (6) growing congestion.

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* To compensate Oregon partially "for the use of its highways," an "excise tax" is imposed at the rate of 30 cents per gallon on the use of "fuel in a motor vehicle." The fuel can be in liquid or gaseous form. There is a formula to convert the gaseous form to its liquid equivalent. See HB 2001, Section 49 (amending ORS 319.530).

† The distribution to individual counties is calculated as follows: In proportion of the number of vehicles, trailers, semitrailers, pole trailers and pole or pipe trailers registered in each county, to the total number of such vehicles registered in the state as of December 31 of the preceding year, as indicated by motor vehicles registration records; ORS 366.764.

‡ The share of the money each city receives is in the same proportion to the total distributed to cities as its population bears to the total population of the cities; ORS 366.805.

The second chapter establishes a "vision" for the transportation system that, most importantly, calls for outcomes-based decision making, focused on equity, environment and economy.* According to the 2035 RTP, "The vision reflects the continued evolution of transportation planning from a project-driven endeavor to one that is framed by a broader set of outcomes that affect people's everyday lives."[177] These "outcomes" include vibrant communities, economic prosperity, safe and reliable transportation, leadership on climate change, clean air and water, and equity.[178] The vision emphasizes the integration of land use and transportation planning, so that transportation decisions support the 2040 Growth Concept, which was developed earlier to accommodate urban growth while minimizing the expansion of the Metro UGB. It looks beyond motor vehicles to "moving people and goods and connecting people and places."[179] The stated objectives are linked to a number of JPACT-endorsed performance targets related to the economy, the environment and equity, such as the following: "By 2035, reduce vehicle hours of delay per person by 10 percent compared to 2005" (economy); "By 2035, reduce carbon dioxide emissions by 40 percent below 1990 levels" (environment); "By 2035, reduce the average household combined cost of housing and transportation by 25 percent compared to 2000" (equity).[180] The vision includes proposed performance measures and establishes modal targets (a desired distribution of travel between different modes, such as automobiles, transit, bicycles and pedestrians).

The third chapter discusses an investment strategy to implement the Vision, taking note of the different transportation modalities and their needs, and the resource shortfalls with respect to each modality. It contains a detailed discussion of the sources of transportation funding. The chapter notes that the federal RTP is constructed around meeting the requirement of financial constraints, while the fundamental requirement of the state RTP — essentially the Metro Transportation System Plan (TSP) — is that it be adequate to serve planned land uses.

The fourth chapter discusses performance evaluation and monitoring over time. One of the challenges to performance evaluation in the past has been the unavailability of data. Metro hopes to do a better job of collecting data, and in the RTP establishes the following performance monitoring measures:

1. Vehicle miles traveled (total and per capita).
2. Average trip length by mobility corridor.
3. Motor vehicle and transit travel time between key origin-destinations for mid-day and PM peak.
4. Congestion - Location of throughways, arterials, and regional freight network facilities that exceed RTP motor vehicle-based level of service thresholds in mid-day and PM peak.
5. Travel time reliability on throughways (buffer index - additional time added to ensure on time arrival 95 percent of the time).
6. Average incident duration on throughway system.
7. Number and share of average daily shared ride, walking, bicycling and transit trips region wide, by mobility corridor and for the Portland central city and individual regional centers.
8. Transit productivity (transit boarding rides per revenue hour) for high capacity transit and bus.
9. Percent of regional pedestrian system completed region-wide and by 2040 centers and RTP transit-mixed-use corridor.
10. Percent of regional bicycle system completed region-wide and by mobility corridor.
11. Number and percent of households and jobs within 30 minutes of central city, regional centers, and key employment/industrial areas for mid-day and PM peak.
12. Number of fatalities, serious injuries and crashes per capita for all modes of travel region-wide.
13. Average household combined cost of housing and transportation.
14. Tons of transportation-related air pollutants.[181]

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* The RTP defines the "regional transportation system" to mean: "(1) All state transportation facilities (including interstate, statewide, regional and district highways and their bridges, overcrossings and ramps). (2) All arterial facilities and their bridges. (3) Transportation facilities within designated 2040 centers, corridors, industrial areas, employment areas, main streets and station communities. (4) All high capacity transit and regional transit systems and their bridges. (5) All regional bicycle and pedestrian facilities and their bridges, including regional trails with a transportation function. (6) All bridges that cross the Willamette, Columbia, Clackamas, Tualatin or Sandy rivers. (7) All freight and passenger intermodal facilities, airports, rail facilities and marine transportation facilities and their bridges. (8) Any other transportation facility, service or strategy that is determined by JPACT or the Metro Council to be of regional interest because it has a regional need or impact (e.g., transit-oriented development, transportation system management and demand management strategies, local street connectivity and culverts that serve as barriers to fish passage)."

Through regular monitoring, Metro hopes to be able to address new issues that emerge as the RTP is implemented. As Metro's senior attorney, Dick Benner, has explained, Metro needs to collect data and measure outcomes in order to determine if its policies are working. However, some local leaders are resisting the data collection on the basis that Metro is "wandering far afield."[182]

The fifth chapter discusses implementation. It emphasizes the "mobility corridors" that are visualized in the 2040 Growth Concept and discusses how to establish realizable objectives with respect to these corridors. Because the 2035 RTP assumes that the existing structure for transportation will remain intact, it makes no suggestions for change. It identifies 13 unresolved issues to be resolved "post-RTP adoption." Those pertinent to the work of your committee include climate change, regional funding, a funding strategy for regional bridges, and ODOT district and regional highways.

Dealing with Climate Change

In April 2008, Metro announced a sustainability initiative intended to reduce carbon emissions. The Climate Change Action Plan is one of several strategies included in the initiative. The plan is split into three phases. The first includes conducting a regional GHG inventory to establish baseline information; surveying existing goals, programs and activities in the region; creating a Climate Change Steering Committee to set regional priorities; and hosting a regional climate change summit to engage the public.

During the second phase, the actual climate action plan will be developed by a task force of representatives from local governments, businesses, environmental advocacy groups and residents who will be responsible for setting GHG-reduction goals and identifying the programs that will help meet those goals.

"… no air quality goal can be met without addressing transportation, no transportation goal can be met except by planning, and no transportation plan can succeed unless government is given the power to make rules and direct resources to support it. Metro is uniquely positioned to do this for the Metro Region."

An optional third phase would run concurrently with the first and second phases and include small "Climate Solutions" projects funded by a grant program.

Notwithstanding the Climate Change Action Plan, Metro's initial modeling of GHG predicts that traffic and population growth will increase vehicle emissions by 49 percent.[183] This outcome means the RTP's new 2035 climate change performance target of 40 percent reduction of carbon dioxide emissions below 1990 levels[184] will not be met by a huge margin. HB 2001 requires Metro to test alternate land use and transportation scenarios for controlling GHG by 2012, and to incorporate these results in future plans. The 2035 RTP utterly fails to meet this mandate, evidence that the politics surrounding hard decisions on transportation still do not respond to the crisis of climate change.

Despite Metro's disappointing performance to date on GHG reduction, it is in the best position to address the problem. As a practical matter, no air quality goal can be met without addressing transportation, no transportation goal can be met except by planning, and no transportation plan can succeed unless government is given the power to make rules and direct resources to support it. Metro is uniquely positioned to do this for the Metro Region.

Metro's Regional Funding Strategy for Transportation

The 2035 RTP contains a thorough discussion of funding needs and the inadequacy of available resources, but it does not call for a new regional funding strategy. Other regions investigated by your committee (e.g. San Diego, Vancouver, B.C. and Sacramento), which have regional transportation governance, also have strong regional funding strategies. They collect and allocate more money than JPACT and Metro.

Metro's Funding Strategy for Regional Bridges

The RTP concludes that the "region continues to struggle" with a long-term strategy to maintain and modernize regional bridges, particularly those over the Willamette River. Without discussing what such a strategy might be, the plan simply concludes more work is needed to determine the future funding and responsibility.

Your committee examined models of bridge authorities such as TransLink in Vancouver B.C, and the Port of New York and New Jersey. A bridge authority can better manage some of these important transportation facilities, better align agency missions and capacity, and secure new regional resources for these facilities. This is a key element of governance in many regions with major rivers and harbors.

ODOT District and Regional Highways

ODOT's district and regional highways now function as aging urban arterials. Most are overdue for multimodal modernization, in order to work well as regional corridors. While ODOT has transferred a few of these highways to local governments, the RTP calls for "a long term strategy for transferring these routes to local governments." These state roads (Beaverton-Hillsdale Highway, 82nd Ave, Barbur Blvd., 99 West through Tigard, and 99 East from Milwaukie to Gladstone) serve many 2040 regional and town centers and main streets. Many local government witnesses in this study noted the difficulties of implementing coordinated land use and transportation on state highways. When interviewed by your committee, Congressman Earl Blumenauer stated he planned to sponsor legislation that would provide funds to upgrade these "orphan highways," which could facilitate their transfer to local governments.[185]

A transfer of state responsibility for orphan highways makes sense. Along with this, ODOT should provide the region with a

"A transfer of state responsibility for orphan highways makes sense. Along with this, ODOT should provide the region with a fair share of state and federal resources needed to maintain and modernize these roads."

fair share of state and federal resources needed to maintain and modernize these roads. California's progressive revenue-sharing model with its metropolitan regions deserves consideration. The California State Transportation Improvement Program shares 75 percent of its state and federal resources (for new capital projects) with its regions, who nominate, coordinate, administer and program these funds in regional projects and plans.

Strategies Employed by Other Regions

Regions Examined

As part of the study process, your committee examined and interviewed managers of six comparable regional transportation-planning agencies. These included (1) the San Diego Association of Governments (SANDAG), (2) the Sacramento Area Council of Governments, (3) the National Capital Region Transportation Planning Board (Washington D.C.), (4) TransLink, the South Coast B.C. Transportation Authority (Vancouver B.C.), (5) the Metropolitan Council Transportation Advisory Board (Minneapolis-St. Paul), and (6) the Port Authority of New York and New Jersey.

Except for the Port Authority of New York and New Jersey, the agencies all have broad regional transportation planning authority like Metro. Two are bi-state agencies (National Capital Region Transportation Planning Board and Port Authority of New York and New Jersey). Several have substantial financial and operating authority for regional roads, tunnels, bridges, and transit systems (SANDAG, Vancouver, Minneapolis-St. Paul, Port Authority of New York and New Jersey). Two have regional governments comparable to Metro (Vancouver, B.C. and Minneapolis-St Paul).

All six regions have rail transit systems. The approaches taken in San Diego and Vancouver, B.C. are most useful for a detailed comparison to the Metro Region, because, as Western cities, they share many of the same development characteristics and attitudes towards transportation. They have moved ahead recently in ways that the Metro Region could realistically be expected to emulate. In San Diego a single agency combines certain planning and transportation functions, while in Vancouver, B.C., the transportation agency handles almost all transportation modalities. The way in which these agencies came into existence, the political challenges they faced, and the experimental nature of their present composition may provide guidance and an example for Metro.

The chart on the next page shows how they compare to Metro.

San Diego Area Council of Governments

The San Diego Council of Governments (SANDAG) is the product of legislation that requires coordination between transportation and land use planning. It began as a planning agency, but in 2000, the governance model was changed, and it now also is a transportation agency. The California legislature required SANDAG to adopt a regional comprehensive plan. This plan brings together land use, transportation, energy and education pieces to strengthen the connection between land use and transportation. SANDAG controls federal, state and local funds to implement its function. It imposes a half-cent sales tax, which is used to fund public infrastructure projects and planning activities that will support compact, mixed use development focused around public transit, and increase housing and transportation choices. As an example, with the consent of the federal and state government, it has done a demonstration project that inserts toll lanes between the lanes of an interstate highway. There it employs congestion pricing and value pricing, with the tolls changing every six minutes in response to traffic conditions. The revenues are used to improve bus service. The freeways themselves are still owned and maintained by the state.

The SANDAG board is composed of the mayor of San Diego and 18 elected representatives from smaller cities in San Diego County, who have voting rights weighted in proportion to population. The agency has developed a growth strategy that identifies about 200 areas where good planning indicates growth should occur and directs development there. In an effort to minimize the effect of local politics, local elected officials have adopted quantitative and qualitative criteria to be applied in the choice of transportation projects. Although there is no UGB, the county water authorities use water scarcity as a tool to create growth limits.

To create a joint land use and transportation planning agency, it was necessary to overcome institutional resistance, merging 80 planners and 102 engineers. According to Gary Gallegos, the Executive Director of SANDAG, the first challenge was to put together the capacity to build a $180 million project. Today, after the merger, the staff is 200: one-third engineers, one-third planners, and one-third technical and administrative personnel. The consolidation of planning and transportation has made SANDAG more effective in competing for funding and has resulted in more comprehensive, less parochial decision making.[193]

continued page 31

COMPARISON OF TRANSPORTATION AGENCIES IN VARIOUS REGIONS

	Metro Region	San Diego County	Vancouver B.C. Region
Population 2008[186]	1.4 million	3 million	2.3 million
Regional transportation planning agency	Metro	San Diego Area Council of Governments	TransLink (South Coast B.C. Transportation Authority)
Primary agency responsibilities[187]	• Regional government • Regional transportation and growth management planning • Metropolitan planning organization • Regional greenspaces, facilities, waste management, zoo	• Council of governments • Regional transportation planning and finance • Metropolitan planning organization • Plan, finance and operate regional transit system • Manage housing funds, air quality and solid waste plans	• Regional corporation • Regional transportation planning and finance • Plan, finance and operate regional transit system • Plan and finance major roads and bridges
Transportation improvement program,[188] **regional funding resources (estimated)**[189]	$32 million FY 09[190]	$308 million FY 09[191]	C$1.3 billion FY 2010[192]
Transportation improvement program, program/ project costs (estimated)	$529 million FY 09 TIP	$957 million FY 09 TIP	C$1.1 billion FY 2010
Governing body composition	A. Metro Council • 7 elected members B. Joint Policy Advisory Committee on Transportation (JPACT) • 3 counties (Multnomah, Washington, Clackamas) • 3 groups of cities (by county) • 1 City of Portland • 3 Metro councilors • 1 Oregon state DOT • 1 Oregon state DEQ • 1 Port of Portland • 1 Tri-Met • 3 Washington State	SANDAG Board • 19 members (elected officials): 1 county, 18 cities 9 Advisory members • 1 Caltrans • 1 Port of San Diego • 1 Metropolitan Transit • 6 other transportation and interest groups, adjacent county	A. Mayors Council • 21 mayors representing 21 cities in region B. TransLink Board of Directors • 9 paid members (private leaders) appointed by Mayors Council
Voting Representation on Governing Body	A. Metro Councilors each have one vote and represent districts sized on the basis of population. B. All 17 JPACT members have equal votes. 7 elected city and county representatives comprise 41 percent of the JPACT votes; Metro Councilors comprise 18 percent.	19 local government members vote, with weighted voting proportionate to their population share of the region. Cities and counties comprise 100 percent of voting members. Advisory members do not vote.	A. 21 city members vote, with weighted voting proportionate to their population (1 vote for 20,000 residents). Cities comprise 100 percent of voting members.

Source: see related endnotes for detailed source information.

TransLink (Metro Vancouver, B.C.)

When founded, TransLink, Metro Vancouver, B.C.'s regional transportation authority, was unique among North American transportation agencies in having a fully integrated transit system across all modes, plus responsibility for a network of arterial roads connecting many of Metro Vancouver's 21 municipalities. TransLink provides the regional transportation plan for an area of 2.3 million residents. It plans, finances and operates the bus and rail transit system, commuter ferries, major regional roads and bridges, tunnels, bike paths and greenways. Unlike SANDAG (or Metro), it does not have a land use planning function; this is handled by Metro Vancouver, the regional government.[194] Metro Vancouver must be consulted on TransLink's long-term transportation plan and fare increases.[195]

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The governance of TransLink results in a unique balancing of regional politics and technical expertise. TransLink is governed by a "Mayors' Council on Regional Transportation," which is presently composed of the 21 mayors of municipalities within Metro Vancouver. The mayors have weighted voting authority, according to population, with each vote representing about 20,000 voters. The Mayors' Council appoints the Board of Directors and the Commissioner. It approves the transportation plan and regional funding and borrowing limits. The Commissioner is separate from the Council, the Board of Directors and TransLink staff, but reports annually to the Mayor's Council. The Commissioner approves cash fare increases above inflation, the agency's plans for annual customer satisfaction surveys, its customer complaint process and any proposed sale of major assets.[196]

The members of the Board of Directors are selected based on their skills and expertise and have no political constituency. They hire, compensate and monitor the performance of the Chief Executive Officer and provide oversight of TransLink's strategic planning, finances, major capital projects and operations. The Chief Executive Officer is responsible for preparing plans and reports for approval by the board and for building and operating TransLink's many transportation services in a manner that will allow TransLink to achieve its annual and long-term plans. [197]

TransLink funds road and transit operations within the Metro Vancouver region, including improvements and expansion, from its share of the motor fuel tax, transit fares and a portion of property taxes collected in each of the region's 21 municipalities. The legislation establishing TransLink relies on a "base plan," which limits revenue increases (through fares and new taxes) to three percent, the estimated rate of inflation. This effectively precludes the development of any new projects without the approval of the Mayors' Council. Because the legislation is still relatively new, it is still uncertain if this approach to financing will be successful.[198]

SANDAG and TransLink illustrate different approaches to land use and transportation planning and implementation that offer good and bad points for consideration in the Portland/Vancouver Metropolitan Area. Along with the other four regions examined by your committee, they also show how local history and politics have framed the development of present planning and transportation systems elsewhere.

POTENTIAL IMPROVEMENTS TO TRANSPORTATION GOVERNANCE IN THE METRO REGION

Terms

For the balance of this discussion, your committee uses the following terms with the following meanings:

1. *Complete responsibility:* Planning, finance, project selection, project design, project construction, maintenance, operation and preservation.

2. *Regional Road:* Any road designated as a highway, regional boulevard or regional street in Metro's 2035 RTP.

3. *Freeway:* Any road designated as a freeway in Metro's 2035 RTP, including, but not limited to, Interstate Highways and limited access highways.

Regional Cooperation between the Players

Bi-State Urban Area Cooperation

Common sense calls out for joint land use and transportation planning in the Portland/Vancouver Metropolitan Area. The entire area shares a single air supply, the same geography, socioeconomic homogeneity, the same river-based economic opportunities and Interstate 5. That the Columbia River is a state line impedes consistent planning because of dissimilar politics and an "us versus them" mentality on both sides of the river.

Although Oregon and Washington ostensibly take a similar approach to land use planning, Washington leaves more decision making to local government. Washington focuses less on multimodality than on moving vehicles more efficiently. As Clark County has demonstrated over the past few years, local discretion in Washington can mean erratic shifts in land use planning policy. Less attention is paid to uniting land use planning and transportation planning north of the Columbia than in the Metro Region. Metro's 2035 RTP is a sophisticated effort to discuss supporting the 2040 Growth Concept through multimodal transportation decision making.

There has been no equivalent effort made for the area north of the river. Portland and Vancouver have a different status in their respective states. Portland is Oregon's most important city and is the focus of both state and regional planning attention. Vancouver and Clark County are far less central to the thinking of Washington state officials, who concentrate more on the regional planning challenges posed by the Seattle area.

Unified bi-state transportation planning appears almost impossible under present circumstances. The CRC project demonstrates that collaboration between the states is possible when a single project demands attention. However, project-to-project collaboration does not result in a well-planned transportation system. As many of the local leaders interviewed by your committee agreed, project-oriented decision making often is undesirable because it does not consider the complex relationships between individual projects and the transportation system as a whole.

A joint MPO might be an improvement. Federal law encourages multi-state MPOs, and there are existing examples. The Washington, D.C. area has an MPO composed of two states and the District of Columbia, called the National Transportation Planning Board (TPB). Its planning area covers the District of Columbia and surrounding jurisdictions in Maryland and Virginia. The TPB is associated with the Metropolitan Washington Council of Governments (COG), which was established in 1957 by local cities and counties to deal with regional concerns including growth, housing, environment, public health and safety, as well as transportation. According to Ron Kirby, the transportation planning director of COG, the two states and D.C. have always viewed D.C. and its suburbs as one economic region and have found cooperation on transportation issues to be appropriate.[199] The TPB does not exercise direct control over funding and does not implement transportation projects, which limits its influence.[200] However, the TPB must approve regional transportation projects.

There is a local example of a bi-state MPO in Longview, Kelso and Rainier. However, even a joint MPO would not solve the problems posed by two sovereign states with different approaches to land use planning, because the transportation decisions on either side of the river must respond to the land use planning strategies in effect on that side of the river.

Your committee considered the potential for joint state legislative action to result in the adoption of a consistent land use and transportation planning strategy for the entire Portland/Vancouver Metropolitan Area. While this is desirable in theory, it faces a lot of political and procedural obstacles. It seems a remote possibility now in light of local politics north of the river, where a candidate can gain traction simply by arguing that he is "not them." Former Vancouver mayor Royce Pollard supported federal government incentives for consistent bi-state transportation planning,[201] but he was defeated. On his campaign website, Tim Leavitt, the newly elected mayor of Vancouver, distinguished himself from Pollard by opposing tolls on the CRC bridge. Leavitt commented, "Tim understands that $1,500+ in tolls per year is just too much for most citizens to bear." Leavitt continued, "The incumbent has presented tolls as a major part of bridge funding, and Tim fought diligently to remove reference to tolls from the City of Vancouver's resolution on the bridge. He achieved consensus with all other council members — except Royce Pollard."[202]

The solution to dissonant land use and transportation planning in two states may lie in federal financial incentives, which could prompt institutional reforms. Your committee supports federal legislation that would make a significant amount of money available to the entire Portland/Vancouver Metropolitan Area if, and only if, both sides of the river were willing to cooperate in meeting federal objectives of multimodality in transportation, GHG reduction, compact urban form, and other issues. If the Tier One funding program is enacted as part of STAA 2009, Metro and the Southwest Washington Regional Transportation Council (RTC) should increase efforts to coordinate transportation planning, since the proposed legislation would provide incentives for the coordination or merger of adjacent MPOs.

"The solution to dissonant land use and transportation planning in two states may lie in federal financial incentives, which could prompt institutional reforms."

Oregon Exurbs: Areas with Commuters beyond the Metro Region

In Oregon, the urban fringe of the Metro Region, which includes parts of Yamhill and Columbia counties, poses transportation governance challenges because of the transportation needs of daily commuters to and from the region. These exurbs are politically independent from Metro. They are not planned by Metro; yet they have impacts on and are impacted by Metro residents. To some degree, their proximity, combined with their independence, acts to undermine the principles upon which Metro planning is based: compact development served by mass transit and reduced reliance on the automobile.

Parochial decision making is fundamentally unacceptable with respect to challenges like climate change, inadequate infrastructure funding and system inefficiencies. However, the independent stance taken by some political leaders apparently generates support in certain places and perhaps yields some local commercial advantage.

The Metro Region and ODOT Region 1 elected not to have an Area Commission on Transportation (ACT).[203] Your committee suggests that these areas be expanded to include Yamhill County and Columbia County in a new Metro ACT. This would move Yamhill County from the Mid-Willamette Valley ACT and Columbia County from the Northwest ACT. Creation of the Metro ACT would recognize the reality that Yamhill County and Columbia County are urbanizing as the Portland/Vancouver Metropolitan Area expands. The newly configured Metro ACT could provide a new level of cooperation and an opportunity for planning coordination between Metro and the urbanizing areas outside the Metro Region. Metro should approach any such working group as an opportunity to demonstrate competency and interest in helping these jurisdictions with their transportation issues.

ODOT and Metro

To be most effective, the transportation governance entity responsible for integrating its intermodal transportation planning with land use, healthy environmental planning and best practices also should have the power to raise and allocate the revenues needed to implement its policies and plans. Several planners interviewed emphasized the importance of money. Metro was able to use the federal funding for the cancelled Mt. Hood Freeway project to support its transportation planning. Over time, as explained above, the roughly half billion dollars, authorized from 1976 to 1990, was expended from 1977 to 2006 for about one billion dollars (present value) of transportation infrastructure in the Metro Region, including the Eastside Light Rail.[204] Today, while Metro still is responsible for intermodal transportation and land use planning in the Metro Region, most of the money the state distributes to Metro is committed to specific regional projects, leaving only $23-37 million per year of discretionary funds to be allocated by Metro/JPACT for the entire Metro Region. This means that ODOT and the state largely decide what investments to make in the Metro Region.

"Today, while Metro still is responsible for intermodal transportation and land use planning in the Metro Region, most of the money the state distributes to Metro is committed to specific regional projects, leaving only $23-37 million per year of discretionary funds to be allocated by Metro/JPACT for the entire Metro Region."

Metro and Regional Transportation Facilities

Willamette River Bridges

There is a mismatch between who owns, uses and can pay for the local (non-freeway) bridges across the Willamette, Clackamas and Tualatin rivers (the Hwy 43-Oregon City, Sellwood, Ross Island, Hawthorne, Morrison, Burnside, Broadway, St. John's, Boones Ferry Road, 99W and 99E bridges). These short strips of "road" pose unique planning, engineering and cost challenges. They are used by residents of all parts of the region and are essential to the welfare and economy of the entire region. Some of the bridges are owned by the state and others by counties.*

* The Steel Bridge, which serves rail, vehicles and pedestrians, is an exception, in that it is currently owned by the Union Pacific Railroad, with the upper deck leased to ODOT, and subleased to TriMet, although the city of Portland is responsible for the approaches. Your committee also does not include other railroad bridges, such as the Burlington Northern Bridge (St. Johns Railroad

The crisis in ownership and management of the Willamette River bridges presently owned and operated by Multnomah County illustrates what can happen when ownership of transportation facilities continues after there has been a transfer of revenues and expertise to another entity. Bridges owned by the state have fared better than those owned by the county, not because maintaining state bridges at a higher level is necessarily a better use of transportation funds, but simply because the state has more revenue at its disposal. For example, because ODOT owns the Ross Island Bridge, that bridge was renovated ahead of the Sellwood Bridge, owned by Multnomah County, which is in far worse condition.

Your committee believes that because all state-owned and county-owned Willamette bridges* serve travelers from the entire Metro Region, particularly Clackamas County, and not just local travelers, they should be owned and operated, as soon as possible, by a regional bridge authority that answers to Metro. In addition, three bridges in Clackamas and Washington Counties inside the Metro UGB — the Highway 99E Bridge between Gladstone and Oregon City, and the 99W Bridge and the Boone's Ferry Road Bridge across the Tualatin River — should be the responsibility of the new bridge authority. The illustrations to the right show how these bridges are mapped today and how they would be mapped under a new bridge authority. Placing regional facilities under the auspices of a regional authority will make balanced management possible.

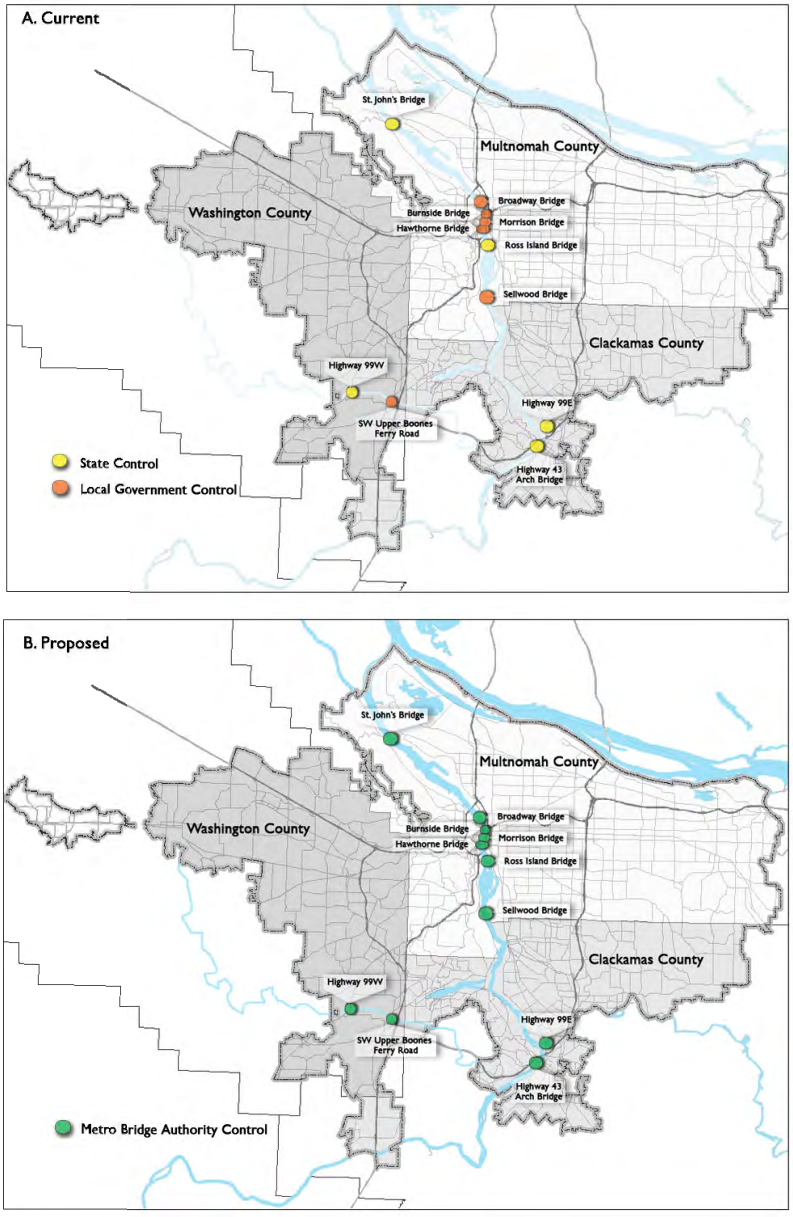
Although Metro presently allocates a modest amount of STP and CMAQ program funds to other governments in the Metro Region for transportation investment, it will need its own funding source if it becomes responsible for the bridges. To make this possible, state legislation will almost certainly be necessary. Metro can then prioritize projects, remaining neutral as to underlying jurisdictions, to achieve the best overall result possible.

Control and Funding of Regional Roads and Local Streets

Your committee was persuaded by the arguments of local leaders that ODOT lacks the necessary expertise and familiarity with urban planning to decide the best way to spend money in the Metro Region. ODOT is influenced by state legislative politics, of which the earmarks in HB 2001 are an example. Decisions concerning how to build, improve and maintain transportation facilities should be made by a regional entity that can balance competing interests throughout the region.

Because control of funds is a way to control decision making, Metro should be given responsibility for allocating all funds previously distributed or spent by ODOT within the Metro Region, other than funds for freeways. With respect to the freeway exception, a strong case can be made that the state interest in maintaining state and federal regional transportation facilities should trump local control. (However, since the freeways also serve local traffic, it is a close call.) ODOT should retain its existing authority and responsibility with respect to all highways and bridges in the Metro Region that have limited access. These are: Highway 217, Sunset Highway, I-5, I-205, I-405, I-84, the Marquam and Fremont bridges across the Willamette River, the I-205 bridges across the Clackamas and Willamette rivers, and the I-5 bridge across the Tualatin River. ODOT has special competency with respect to the traffic, engineering and financial aspects of these roadways.

Regional Bridges to be Placed Under Proposed Metro Bridge Authority



Source: Metro RLIS; ODOT GIS

Bridge), which is owned by the Burlington Northern Santa Fe Railway and does not carry road traffic. The Sauvie Island Bridge is owned by Multnomah County, but is outside the Metro UGB.

* These include the St. Johns, Broadway, Burnside, Morrison, Hawthorne, Ross Island, Sellwood and Oregon City-West Linn bridges.

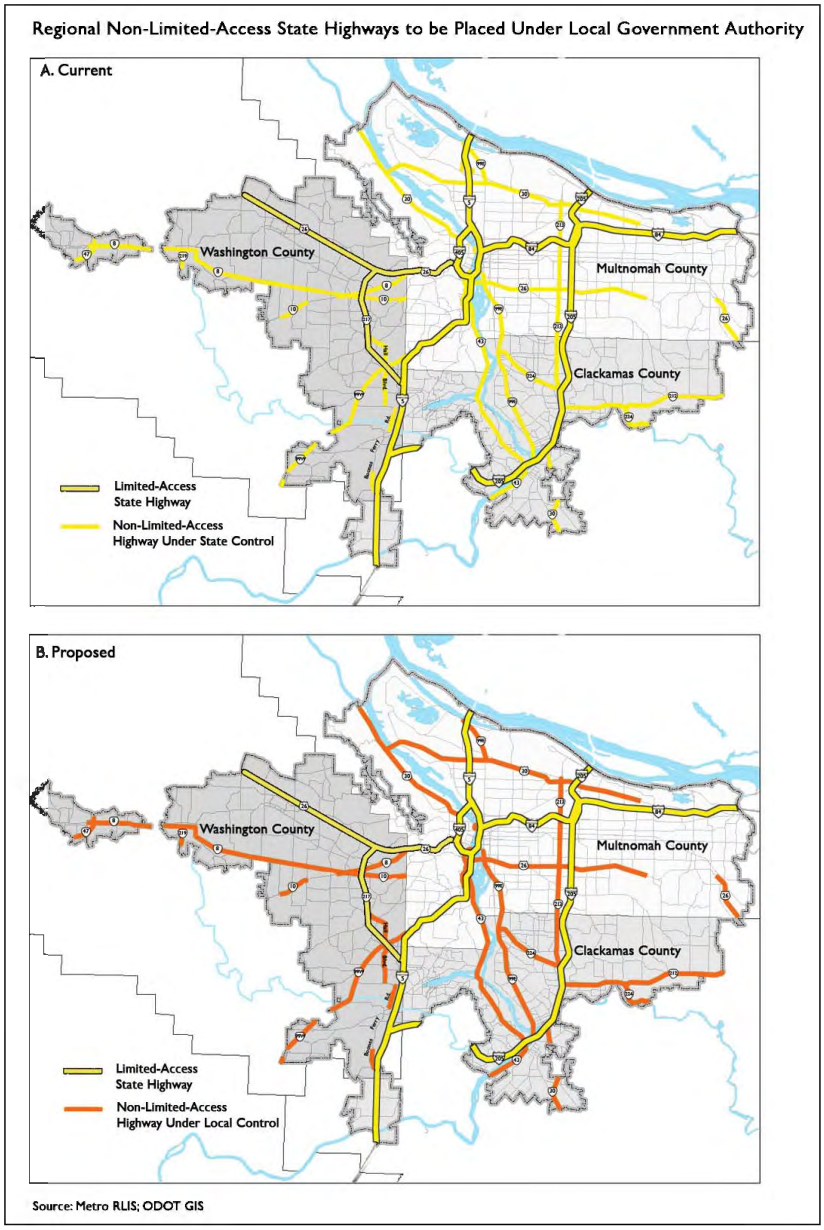
There is a disconnect between ownership and use of the state and federal highways in the Metro Region that do not have limited access (St. Helens Road, Lombard Street, Sandy Boulevard, Barbur Boulevard, Beaverton-Hillsdale Highway, Hall Boulevard, Farmington Road, Tualatin Valley Highway, Pacific Highway, Powell Boulevard, McLoughlin Boulevard, Milwaukie Expressway, Clackamas Highway and Cascade Highway). These roads may have highway signs, but they are indistinguishable from other two- and four-lane roads in the metropolitan area. Where they once connected discrete communities, they now are urban streets. ODOT is less qualified than local decision makers to make transportation judgments concerning these orphan highways. ODOT presently spends money on its own facilities in the Metro Region according to state transportation priorities. As the Sellwood Bridge case study suggests, that can result in improvements to facilities, such as the Ross Island Bridge, that are already in better condition than other facilities in greater need of attention.

Like the bridges, the regional roads, including the orphan highways, in the Metro Region are regional facilities and arguably should be owned and operated by Metro. The illustrations to the right show how these facilities are mapped today and how they would be mapped if Metro owned and operated them.

However, Metro officials caution that trying to separate regional roads from ordinary local streets could create jurisdictional problems that would be daunting if the situation were established in perpetuity.

Local streets are viewed as being not only for local access, but as an important part of the entire transportation system. Therefore, your committee suggests that Metro be given the authority to take possession of and operate regional roads and local streets when and if it makes sense.* For the time being, however, cities and counties in the Metro Region should continue to be responsible for all streets and roads in the Metro Region, including any non-limited-access highways they inherit from the state. The customs, competencies, relationships and expectations associated with the established operations of city and county transportation departments are important. Transferring day-to-day responsibility to Metro, which presently has no department of transportation, would be unwise now. It is better to make some ownership adjustments for bridges and highways, to modify the flow of funds, to make the regional authority more accountable, and then to see whether future changes are warranted.

Metro has the power now, under its charter, to annex territory by ordinance to increase the land subject to Metro's land use and transportation planning authority.[205] It also has the power to assume the duties, functions, powers and operations of a mass transit district, including the light rail and bus operations of TriMet.† Whether Metro should exercise a new power to take possession of and operate regional roads and local streets can be decided later.



TriMet

Metro should not, at least for now, exercise its charter authority to assume the duties, functions, powers and operations of

* Metro's charter, Chapter II, Section (6)(2), allows it to provide or regulate a local government service by ordinance "approved by the voters of Metro or a majority of the members of the MPAC. Voter approval may occur by approval of a referred measure (1) authorizing the function or (2) relating to finances and authorizing financing or identifying funds to be used for exercise of the function."

† Metro's charter, Chapter II, Section (6)(4), allows it to "assume the duties, functions, powers and operations of a mass transit district by ordinance. Before adoption of this ordinance the Council shall seek the advice of the Joint Policy Advisory Committee on Transportation or its successor." The Metro Council must then "establish a mass transit commission of not fewer than seven members and determine its duties in administering mass transit functions for Metro." The initial members of the newly established commission will be the members of the governing body of the mass transit district at the time of its assumption by Metro. They will remain members of the initial Metro mass transit commission for the remainder of their respective terms of office.

TriMet. For historical and federal structural reasons, TriMet has been successful in obtaining federal funding for the expansion of its light rail system. Metro staff provides planning services to TriMet decision makers already. Metro and TriMet have a good working relationship, and TriMet's transportation and land use decisions are coordinated with Metro's land use and transportation decisions. Improving the manner in which the roads network is planned, built and maintained will improve coordination between road and rail transportation, and should bring into clearer focus whether authority for those different modes should be consolidated.

Transportation Revenues

Regional Authority to Raise Funds

The present system of raising revenues for local transportation improvements is unfair. Washington County imposed a property tax for local streets and roads before Ballot Measure 5 imposed a property tax limitation, and as a result it has more money available than Clackamas County, which is struggling to provide adequate transportation infrastructure in the face of rapid growth. This kind of inequity is bad for the Metro Region. Given that UGB decisions are made regionally and there is a strong need for transportation infrastructure improvements in areas where there is no funding mechanism available, a regional funding mechanism is required. If necessary, Metro's charter should be amended to give it authority to impose property, vehicle, fuel, and/or road use taxes, tolls and fees for transportation purposes in the Metro Region.* Because equity requires equal treatment throughout the region, all existing property, vehicle, fuel or road use taxes or bond levies imposed for transportation purposes by cities and counties in the Metro Region should be phased out at the local level as Metro exercises its new taxing authority, and any further such local taxes should be prohibited.

The first flow chart on the next page shows the source and distribution of transportation funds today. The second illustrates how these funds would likely be used were they consolidated, as proposed by your committee, under the control of Metro.

Revenue Gap

According to ECONorthwest, there is a "funding gap" or "funding deficit" between the "costs" that transportation planners say are needed for transportation investments in the Metro Region and the "fiscally constrained" transportation revenue that reasonably can be expected to be received from federal, state, local and private sources.

- *Road-related gap*. The estimated yearly road-related "gap" ranges from $252 million (assuming existing revenue plus a conservative estimate of increased revenue) to $413 million (using only existing revenues). The latter "deficit" is 17 percent greater than total estimated revenue for 2008 ($352 million).[206] But because Oregon has approved revenue increases in fuel tax and vehicle registration fees, the former is a more realistic estimate of future unfunded needs. Even with increased funding, there are estimated funding gaps both in the operation, maintenance and preservation ("OM&P") of existing roads and the building of new road facilities ("modernization").[207]

- *Transit-related gap*. The estimated yearly gap for transit in the Metro Region (primarily TriMet) is smaller ($162 million),[208] but the dynamic of significant locally generated transit revenue plus TriMet's practice of proceeding only when federal revenue is secured makes the transit gap less troubling.

While the existence of a "gap" or "deficit" suggests the need for more transportation revenue, the "gap" or "deficit" also can be shrunk by cost reductions, postponement or abandonment of the "needed" transportation project. The reality is that the only transportation projects that get built are actually funded with "fiscally constrained" revenues from all sources.

The goal of the ECONorthwest Report was to make "preliminary" and "rough" estimates, that were based on multiple assumptions and projections about what might occur over a 29-year period (2007-2035), and were to be refined during later stages of producing Metro's next Regional Transportation Plan.[209] The key message is not the numbers used in the estimated projection, but the projected underfunding of future transportation needs and resulting deterioration of our transportation infrastructure if nothing is done to increase future transportation revenues in the Metro Region.

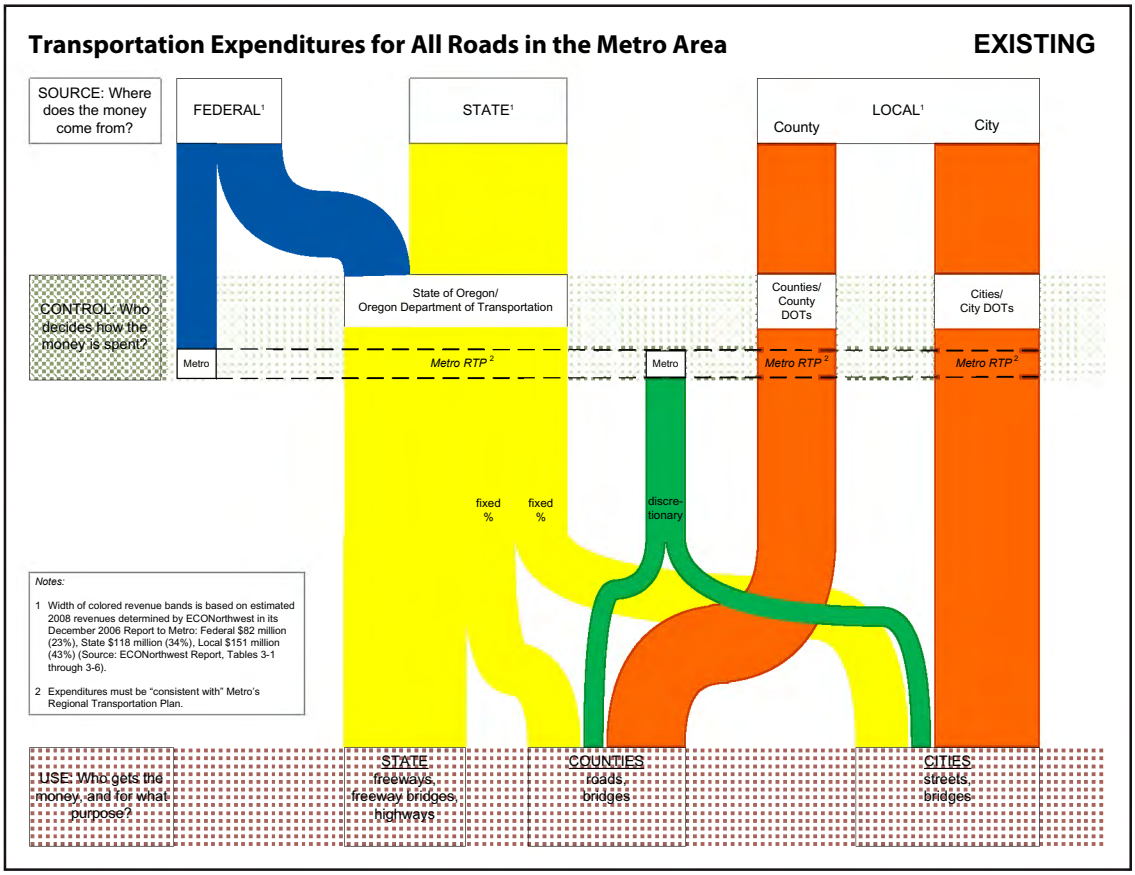
The Expansion of Metro Authority Requires Modifications to JPACT

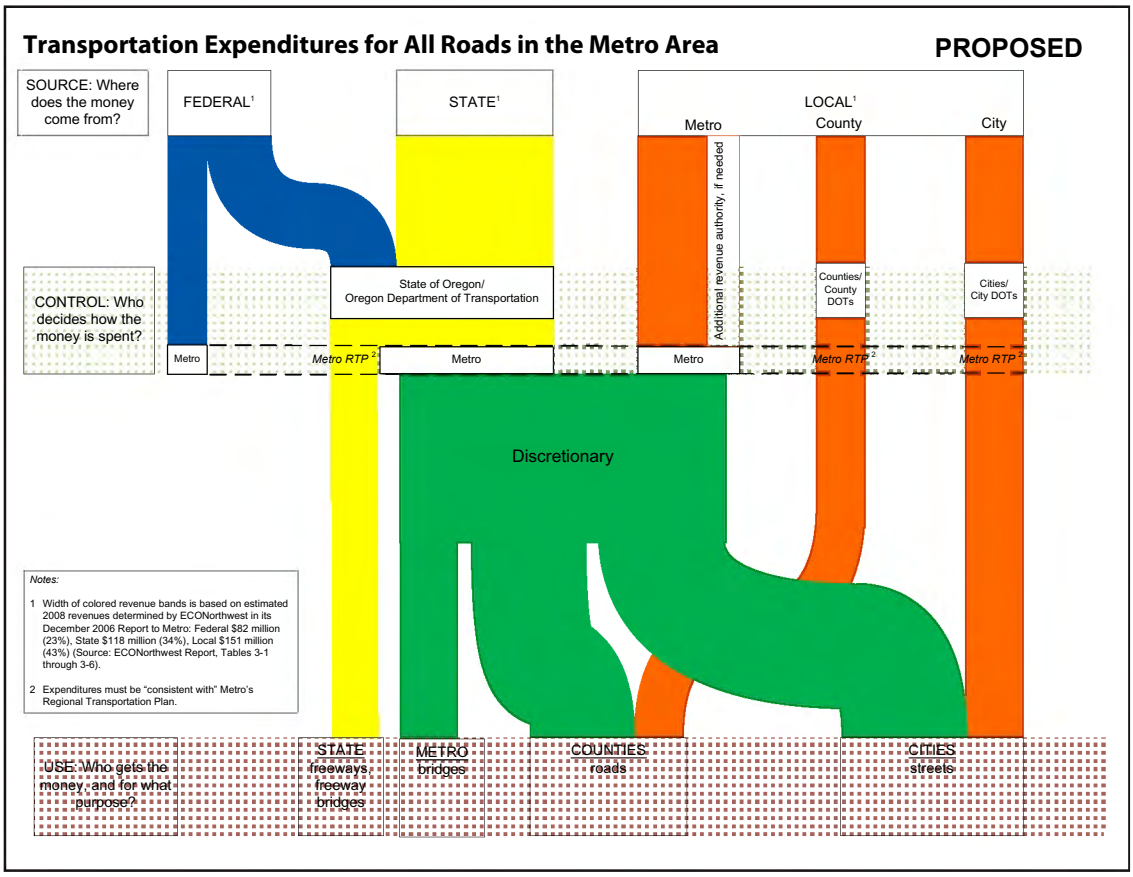
Given the near-term difficulties in developing a bi-state transportation governance entity, your committee has focused its recommendations on changes that could be made to transportation governance in the Metro Region. Because it excludes parts of Washington County and all of Yamhill and Columbia counties, the Metro Region is smaller than the actual travelshed of all persons who regularly live, work or recreate in Portland. Nevertheless, it includes the vast majority. Metro is uniquely qualified to take on additional transportation governance responsibility, having been engaged with pioneering work on regional transportation and land use planning issues for more than 30 years.

If Metro is to assume a larger role in regional transportation decision making, funding and operations, as your committee recommends, it will have to reform JPACT.

continued page 38

* Your committee has not analyzed whether amendments to the Oregon Constitution will be necessary to address the tax limitation provisions of Ballot Measure 5.


Transportation Expenditures for All Roads in the Metro Area
EXISTING
SOURCE: Where does the money come from?
FEDERAL1
STATE1
LOCAL1
County
City
CONTROL: Who decides how the money is spent?
State of Oregon/ Oregon Department of Transportation
Counties/ County DOTs
Cities/ City DOTs
Metro
Metro RTP 2
Metro
Metro RTP 2
Metro RTP 2
fixed %
fixed %
discre-tionary
Notes:
1 Width of colored revenue bands is based on estimated 2008 revenues determined by ECONorthwest in its December 2006 Report to Metro: Federal $82 million (23%), State $118 million (34%), Local $151 million (43%) (Source: ECONorthwest Report, Tables 3-1 through 3-6).
2 Expenditures must be "consistent with" Metro's Regional Transportation Plan.
USE: Who gets the money, and for what purpose?
STATE
freeways,
freeway bridges
highways
COUNTIES
roads
bridges
CITIES
streets,
bridges


Transportation Expenditures for All Roads in the Metro Area
PROPOSED
SOURCE: Where does the money come from?
FEDERAL1
STATE1
LOCAL1
Metro
County
City
Additional revenue authority, if needed
CONTROL: Who decides how the money is spent?
State of Oregon/ Oregon Department of Transportation
Counties/ County DOTs
Cities/ City DOTs
Metro
Metro RTP 2
Metro
Metro
Metro RTP 2
Metro RTP 2
Discretionary
Notes:
1 Width of colored revenue bands is based on estimated 2008 revenues determined by ECONorthwest in its December 2006 Report to Metro: Federal $82 million (23%), State $118 million (34%), Local $151 million (43%) (Source: ECONorthwest Report, Tables 3-1 through 3-6).
2 Expenditures must be "consistent with" Metro's Regional Transportation Plan.
USE: Who gets the money, and for what purpose?
STATE
freeways,
freeway
bridges
METRO
bridges
COUNTIES
roads
CITIES
streets

Voting Power Based on Population Represented by Elected Officials

The composition of JPACT is consistent with the current federal requirement that MPOs must consist of local elected officials, officials of public agencies that administer or operate major modes of transportation in the metropolitan area and "appropriate state officials." The law does not specify a voting structure. MPOs are chartered and recertified by agreement of the governor and "general-purpose local governments" representing 75 percent of the affected area population, including the region's largest city.[210] Therefore, some MPOs reserve voting membership for "general purpose local governments," with advisory memberships for state, federal and regional entities.

The chart below shows representation on JPACT by population:

JPACT MEMBERS 2009	2008 POPULATION ESTIMATES						
	Members	Votes	Percent Votes	City/County Population in UGB Estimated	City/County Percent in UGB Estimated	Unincorp. County in UGB Estimated	Unincorp. County Percent in UGB Estimated
TOTAL POPULATION in UGB				**1,432,100**			
Multnomah County	1	1	5.9%	692,715	48.37%	4,639	0.3%
Washington County	1	1	5.9%	487,769	34.06%	172,808	12.1%
Clackamas County	1	1	5.9%	251,616	17.57%	83,480	5.8%
TOTAL COUNTIES in UGB	**3**	**3**	**17.6%**	**1,432,100**	**100%**	**260,927**	**18.2%**
City of Portland	1	1	5.9%	557,706	38.9%		
Cities of Multnomah County	1	1	5.9%	130,394	9.1%		
Cities of Washington County	1	1	5.9%	314,781	22.0%		
Cities of Clackamas County	1	1	5.9%	168,292	11.8%		
TOTAL CITIES	**4**	**4**	**23.5%**	**1,171,173**	**81.8%**		
TOTAL COUNTIES/CITIES in UGB	**7**	**7**	**41.2%**	**1,432,100**	**100%**		
Oregon Department of Transportation	1	1	5.9%				
TriMet	1	1	5.9%				
Port of Portland	1	1	5.9%				
Oregon Department of Environmental Quality	1	1	5.9%				
Metro Councilors	3	3	17.6%				
State of Washington	3	3	17.6%				
NON-LOCAL MEMBERS	**10**	**10**	**58.8%**				
TOTAL JPACT MEMBERSHIP	**17**	**17**	**100%**				

Sources: Metro Research Center; Portland State University 2008 Population Estimates; U.S. Census 2008 Population Estimates

JPACT's voting structure gives disproportionate authority (10 votes or 59 percent) to state and regional agencies (including the State of Washington). JPACT provides more limited authority (seven votes or 41 percent) to "general purpose local government" and their elected officials. Cities, which represent about 82 percent of the region's population (inside the UGB) are particularly underrepresented, with only 24 percent of the JPACT votes.* While JPACT determines many issues by consensus, JPACT's voting structure is top-heavy with non-local government agencies. The Metro Council, by comparison, has proportionate representation by population in its six equal council districts and elected President. JPACT's voting structure offers much less transparency and accountability to the region's population, through its local elected officials, than JPACT's policy partner, the Metro Council.

Some counties and small cities may be expected to resist the loss of direct funding control over the amounts they presently receive directly from the state. However, they may reconsider their opposition when they realize that proportional representation at JPACT may actually increase their influence. It may augment their voice with respect to how transportation funds are spent throughout the region.

* See Appendix Three.

Brookings Institution Report

A 2006 Brookings Institution report found that many MPOs do not have equitable representation of the populations they serve. In its survey of 50 large Metro Regions, Brookings found that central cities, inner suburbs, and racial and ethnic minorities are often under-represented on MPO voting boards. Only 16 of the 50 MPOs use voting systems weighted by size of a local jurisdiction, and five employ voting proportionate to population.[211]

The report also found that voting representatives of state, regional and federal agencies dominate many MPOs, as opposed to general-purpose local governments. MPOs with proportionate voting for local governments, however, can better address growing federal priorities for early and continuous public involvement, environmental justice, and equitable distribution of transportation funds. Your committee believes that JPACT should be reformed to use population-weighted voting. This reform can happen through the periodic MPO certification process and federal legislation.[212]

Proposed New Federal Requirements for Metropolitan Planning Organizations

Making these changes would effect a major adjustment of voting power on JPACT, but they are justified by good policy reasons. Control over taxes demands accountability to the taxpayer. Control over expenditures requires accountability to those the expenditures are meant to serve. And proportional representation may soon become the law under pending federal transportation legislation* (if it is not already the law under the Fourteenth Amendment to the Federal Constitution). As substantial monies flow through Metro and become subject to Metro's discretionary allocation within the region, there should be a direct, proportional and easily understood correlation between voting power and population. This is already true of the Metro council, where each councilor represents approximately the same number of people. It should be true of JPACT as well.

Proposed Changes for Metro/JPACT

Only Elected Officials Vote; Population-Weighted Voting

Local elected officials of cities and counties ("general purpose governments") should be the sole voting authority on JPACT, in proportion to their populations.† The voting weight of a county should be in proportion to the population of the county within Metro's boundaries that does not reside in a city. This would provide equitable representation of the region's residents on JPACT, align JPACT's regional policy functions with local policy authority, and raise the public profile of JPACT. It would better balance Metro's and JPACT's functions among both regional and local elected officials, and it would make JPACT a forum for local and regional policy, dialogue and accountability in regional transportation decisions. If representation is proportional, it could appear more fair, which might help to alleviate a lingering view in parts of the region that Metro stands apart somehow and is arrogant and unresponsive to their concerns.

One MPO model for this could be SANDAG, which allocates 100 votes to its 19 cities and one county, proportional to population. Advisory members of SANDAG include state and regional transportation agencies, adjacent counties, and other interest groups. SANDAG holds some votes by simple majority or consent of voting members, but weighted voting may be used for final actions.[213]

Metro Councilors and Agency Representatives Are Advisory Members of JPACT

JPACT membership should be advisory (non-voting) for Metro councilors. It is inconsistent with Metro's function as the ultimate decision maker on transportation plans, policies and funding allocations (and as a representative regional body) to have three voting members on JPACT.

JPACT membership should also be advisory for state and regional agencies, and nearby Washington agencies. These agencies already have extensive ties to Metro, through their policy, administrative, consultative, and operating roles. They do not require voting membership on JPACT to effectively carry out their agency duties, advise JPACT, or represent the population of the Metro Region.

Coordination with Adjacent Jurisdictions

Choosing Metro as the vehicle to address regional transportation needs highlights the importance of coordinating Metro's transportation policies with those of adjacent jurisdictions, in the real travelshed. Metro should retain the presence of Southwest Washington representatives on JPACT. Metro should consider including a JPACT representative from adjacent counties and cities in Oregon not presently represented. All such representatives, for reasons explained below, should be non-voting members.

Making these changes would highlight that local elected officials, as full partners with the Metro Council, are also responsible for the region's transportation policy direction. Through MPAC, they presently maintain this partner role with the Metro Council in growth management policy, but their role is not as clear in JPACT's case. Proportional representation for city governments would give the region's cities a regional leadership role in shaping transportation policy, commensurate with the regional leadership they now exercise in providing local governance to 82 percent of the Metro Region's population. Counties, which now have about 18 percent of JPACT votes, would still have a similar share of votes, in proportion to their unincorporated urban populations within Metro or the Urban Growth Boundary (UGB).

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* STAA 2009, Section 1508, if enacted, will require that MPOs be structured so that "[v]oting members of the MPO are represented in proportion to the population of each political subdivision to the total population [of] the metropolitan planning area." This is to be certified by the Secretary of Transportation.

† This does not mean that a single JPACT member could not represent a number of small cities, as long as the ratio of those represented to each JPACT member is kept roughly the same across the board.

What about Washington?

The most significant institutional issue not resolved in this report is the coexistence of two adjacent metropolitan planning organizations in Oregon and Washington. Even though the Portland/Vancouver Metropolitan Area comprises a single travelshed, single airshed and single economic unit, and coordinated land use and transportation planning under a single entity would be appropriate, the time is not ripe to discuss this at length. Oregon has enough work to do on its own. Metro, with its land use responsibilities, has a broader mission than the Southwest Washington Regional Transportation Council (RTC). Government finance is different on the two sides of the Columbia River. There are cultural differences in considering transportation modes and revenue structures that should be lessened before entities can successfully merge. Your committee believes that the two approaches to transportation will converge over time, particularly since STAA 2009 calls for region-wide transportation planning. This could be accelerated to the benefit of the region if the governors of Oregon and Washington first recognized publicly that the division between states is historic and artificial and that the Portland/Vancouver Metropolitan Area requires coordinated planning and transportation governance; and second, took action to make it a reality.

The Utility Model

Many leaders interviewed pointed to the inadequacy of funding generally as a root cause of the deterioration of transportation infrastructure in the Metro Region. Your committee supports the use of a "utility model," which the Transportation Vision Committee recommended to the governor for use by the state. The utility model calls for a new analytical approach to transportation that would employ all available transportation modes to maximize the desired movement of people and freight at the lowest possible environmental and financial cost. This approach requires data that so far is not available, to explain current revenues, expenditures, and facility conditions. It requires a conceptual framework for transportation "rate design," a revenue estimate and a strategy to collect the funds necessary for multimodal transportation improvements. It requires a framework for least-cost planning and a means of pricing transportation, other than the fuel tax, for the consumer.

"The utility model calls for a new analytical approach to transportation that would employ all available transportation modes to maximize the desired movement of people and freight at the lowest possible environmental and financial cost."

The utility model stands in stark contrast to the present system of making transportation investment decisions and raising the funds necessary to implement them. The Metro Region currently has no person or institution who can demonstrate that past transportation monies have been well spent, articulate the need for any new or different fees or taxes for transportation, and credibly guarantee that funds will be used for a specified purpose. Instead of a considered approach to the overall transportation system, there has been a focus on individual transportation projects and a balkanization of transportation decision making.

Metro should conduct a needs assessment of the cost of repairing, maintaining and preserving all existing roads and bridges in the Metro Region, other than limited access highways and bridges for which the state is responsible. It should determine the amount of local funds, and the funding mechanism, by which all existing non-state roads and bridges within the Metro Region can be brought into and maintained in good condition, taking into account all funds from other sources. Over time, Metro should establish a system to explain its current revenues, expenditures, and facility conditions; a system-wide revenue estimate; a conceptual framework for raising the necessary funds for multimodal transportation infrastructure and improvements; and a strategy for collection.

CONCLUSIONS AND RECOMMENDATIONS FOR CHANGES IN TRANSPORTATION GOVERNANCE

CONCLUSIONS

1. Transportation policy in the Portland/Vancouver Metropolitan Area is framed by federal and state policies. There is a new focus on regional transportation planning, multimodality, cost efficiencies and greenhouse gas reductions. However, there is still considerable hesitancy at the federal and state levels in mandating that specific steps be taken to reach desired objectives.

2. Transportation governance in the Portland/Vancouver Metropolitan Area is fragmented by jurisdictional boundaries rooted in history. Although collaboration across boundaries is possible, it cannot be taken for granted. Different jurisdictions are often at cross-purposes.

3. Transportation in an urban metropolitan area is a regional issue. To increase the probability of consistent, informed decision making, transportation governance in the Portland/Vancouver Metropolitan Area ideally would be consistent throughout that region.

4. The political divide at the Columbia River between two states is, for now, an insurmountable obstacle to unified transportation governance throughout the Portland/Vancouver Metropolitan Area. A different attitude towards land use planning and modes of transportation in the Metro Region and Southwest Washington is retarding meaningful cooperation.

5. Although they exclude the Washington side of the Columbia River and certain exurbs, Metro's boundaries, authority and expertise offer the best existing platform for dealing with metropolitan transportation issues.

6. The Metro Region is a national leader in the coordination of transportation and land use policies and decisions, but it can learn from several other metropolitan areas that provide informative examples of different ways to align transportation authority and resources, implement transportation policy and hold transportation decision makers accountable.

7. Because of a mismatch between ownership and authority, on the one hand, and capability and available funds, on the other hand, transportation project selection within the Portland/Vancouver Metropolitan Area does not correspond to the most pressing needs.

8. ODOT's control of most federal and state funds for transportation has put the amount of funding for projects and the choice of projects in the Metro Region under the control of state administrative officials and politicians.

9. The members of the Metro Joint Policy Advisory Committee on Transportation (JPACT) are selected in a way that gives too much weight to Metro councilors and Washington state and agency representatives, and does not proportionately represent the residents of the Metro Region.

RECOMMENDATIONS

Control of Regional Transportation Revenues

1. The Oregon legislature should direct ODOT to give Metro, instead of its constituent cities and counties, the transportation funds presently being distributed to those jurisdictions for expenditures within the Metro UGB. ODOT should transfer to Metro all categories of funds that ODOT itself has historically spent for highways and bridges in the Metro Region, other than for limited access highways and bridges. Metro should distribute these transportation funds to cities and counties in accordance with Metro's determination of need.

2. To the extent constitutionally possible in light of Ballot Measure 5, the Oregon legislature should amend any applicable statutes and Metro should amend Section 13 of its charter to give Metro the power to impose taxes, tolls or fees as necessary for transportation purposes.

3. As Metro exercises its new taxing authority, all existing local vehicle, fuel or road use taxes, street utility fees or bond levies imposed for citywide or countywide transportation purposes in the Metro Region should be phased out. Any further such local taxes should be prohibited.

Control of Regional Transportation Infrastructure

4. ODOT should transfer its responsibility for all non-limited-access highways in the Metro Region to the city or county in which they are located.

5. All non-freeway road bridges within the Metro boundary across the Willamette, Clackamas and Tualatin rivers, other than the Steel Bridge, should be planned, financed, built, operated and maintained as regional assets under a separate bridge authority to be established by Metro, which shall not be given preferential treatment compared to other transportation funding requests made to Metro.

6. Metro should be given charter authority to assume — at its discretion — ownership and responsibility for some or all of the roads and streets within its boundaries.

Collaboration with Governance Entities Contiguous to the Metro Region

7. ODOT should establish a new Area Commission on Transportation (ACT), to include Metro and Columbia and Yamhill counties, to collaborate on matters of common interest within the travelshed of the Portland/Vancouver Metropolitan Area.

8. Metro and the Southwest Washington Regional Transportation Commission (RTC) should make every effort to maximize their cooperation with respect to common goals.

9. Over a longer term, the governors of Oregon and Washington should make it a priority to end the division between the local governments on both sides of the Columbia River with respect to land use and transportation planning. The governors of both states should seek the support of local governments and, if necessary, initiate legislation to permit the creation of a bi-state land use and transportation planning and governance entity for the Portland/Vancouver Metropolitan Area. The legislation should ensure that planning and implementation by the bi-state entity is consistent with Metro's present planning approach.

Regional Performance Measurement and Accountability

10. With the assistance of the counties and cities, Metro should conduct a needs assessment with respect to the operation, maintenance and preservation of all existing streets, roads and bridges within the boundaries of Metro, other than the limited access highways and bridges, for which the state should remain responsible.

11. Metro should develop a financial analysis of the costs of operating, maintaining and preserving existing streets, roads and bridges in the Metro Region and making necessary transportation improvements. It should devise a revenue structure that allows it to meet these costs. Thereafter, Metro should take a "utility" model approach to operating, maintaining, preserving and improving these transportation facilities.

12. Metro should implement a financial reporting system that collects and tabulates on a consistent basis the actual dollars spent on all transportation investments in the Metro Region, and periodically evaluate and report results to the public.

13. Metro should continue to refine — and apply — its performance criteria for adopting plans, selecting projects, and allocating transportation dollars in order to maximize its return on investment.

Voting Power on JPACT

14. The elected officials of cities and counties on JPACT should be its only voting members, and their votes should be weighted in proportion to the population they represent residing within the Metro UGB. The Metro councilors and Oregon and Washington agency representatives on JPACT should become non-voting members.

Respectfully submitted,

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189 "Regional Funding Resources" are those which the regional agency has full authority to allocate.
190 Estimated resources include the following: Federal Surface Transportation (STP) funds of $19.4 million and Congestion Mitigation Air Quality (CMAQ) funds of $12.5 million; see Metro's Transportation Improvement Program for 2008-11.
191 Estimated resources include the following: STP funds of $31.6 million; CMAQ funds of $30.2 million; and Transnet .5 percent regional sales tax expected to generate $246 million; see San Diego Area Council of Governments Transportation Improvement Program for 2008-13.
192 Estimated resources include the following (in Canadian dollars): regional fuel tax of 15 cents/liter: $322 million; regional property tax: $271 million; other regional fees: $83 million; transit revenues: $456 million; bridge tolls: $47 million; federal or provincial capital contributions: $134 million. TransLink regional resources and program costs are *not* strictly comparable to Portland and San Diego, due to differences in U.S. regional capital programming, and the inclusion of TransLink's transit operations in both resources and program costs; see TransLink's 10 Year Transportation and Financial Supplemental Plan 2010.
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APPENDIX ONE

Acronyms Used in the Report

Acronym	Term
ACT	Area Commission on Transportation (Oregon)
CAT	Canby Area Transit
CMAQ	Congestion Mitigation/Air Quality (Federal)
CMSA	Consolidated Metropolitan Statistical Area (Federal)
DLCD	Oregon Department of Land Conservation & Development
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
GHG	Greenhouse Gas(es)
GMHB	Growth Management Hearing Board (Washington)
HBRR	Highway Bridge Rehabilitation and Repair (Federal)
HPPP	High Priority Project Program (Federal)
JPACT	Joint Policy Advisory Committee on Transportation (Metro)
LPA	Locally Preferred Alternative (Federal)
LUBA	Oregon Land Use Board of Appeals
MMAP	Metropolitan Mobility and Access Program (Federal)
MPO	Metropolitan Planning Organization (Federal)
MSA	Metropolitan Statistical Area (Federal)
MTIP	Metropolitan Transportation Improvement Program (Metro)
NEPA	National Environmental Policy Act (Federal)
NHS	National Highway System (Federal)
ODOT	Oregon Department of Transportation
OTIA	Oregon Transportation Investment Act
PMSA	Primary Metropolitan Statistical Area (Federal)
ROD	Record of Decision (Federal)
RTC	Southwest Washington Regional Transportation Council
RTP	Regional Transportation Plan (Federal)
RTPO	Regional Transportation Planning Organization (Washington)
SANDAG	San Diego Association of Governments (California)
SMART	South Metro Area Regional Transit (Wilsonville)
STAA 2009	Surface Transportation Authorization Act of 2009 (Federal)
STIP	State Transportation Improvement Program (Federal)
STP	Surface Transportation Program (Federal)
TIP	Transportation Improvement Program (Federal)
TMA	Transportation Management Area (Federal)
TPAC	Transportation Policy Alternatives Committee (Metro)
TPR	Transportation Planning Rule (Oregon)
TSP	Transportation System Plan (Oregon)
UGA	Urban Growth Area (Washington)
UGB	Urban Growth Boundary (Oregon)
UPWP	Unified Planning Work Program (Metro)
VMT	Vehicle Miles Traveled
WSDOT	Washington State Department of Transportation
WTC	Washington Transportation Commission
TPB	National Transportation Planning Board (D.C., Maryland, Virginia)

APPENDIX TWO

Transportation Funding in the Metro Region

The 2008 numbers in Tables A and B below are based on estimates and projections by ECONorthwest in its December 2006 report to Metro entitled "Preliminary Financial Analysis for the 2035 Regional Transportation Plan Update" ("ECON Report"):

Table A-1. 2008 Road-Related Revenue in Metro Region

Source of Funds	Governance Entity	2008 Amount*	Purpose
Federal	ODOT†	$ 20.5 million	Modernization projects in urban areas‡
Federal	ODOT	$ 18.2 million§	Earmarked by Congress for HPPP¶
Federal	ODOT	$ 16.6 million	Federal Surface Transportation Program
Other Federal	ODOT	$ 26.9 million	Bridges, congestion mitigation, air quality, etc.
Federal		**$ 82.2 million (23.3%)**	
Oregon		**$118.5 million (33.7%)**	**Allocation by OSHTF** to cities and counties in the Metro region**
Local††		**$151.2 million (43%)**	**Depends on terms of the funding method**
TOTAL		**$351.9 million**	

Table B-1. 2008 Transit-Related Revenue in Metro Region

Source of Funds	Governance Entity	2008 Revenue	Purpose
Federal	TriMet‡‡	$130.9 million	Used mostly for capital expenses
Oregon	TriMet	$2.7 million	Transit for elderly and disabled
Oregon	TriMet	($3.9 million)§§	Capital programs (starts 2010)
Local¶¶	TriMet	$369.0 million***	Used mostly for operations (2005 revenue)
Local	TriMet	$31.0 million	Used mostly for capital improvements (2005 expenditures)
Local	SMART†††	$3.0 million	Used mostly for operations
TOTAL		**$536.6 million**	

* Amounts are in millions of 2007 dollars as estimated by ECONorthwest.

† ODOT is Oregon Department of Transportation. By federal law, federal funds are allocated to ODOT for expenditure on federal and state transportation facilities and for distribution to regional and local governmental entities.

‡ Distribution of modernization funds to build new transportation facilities is determined by deliberation among ODOT, local governments, Metropolitan Planning Organizations (MPOs), and the Oregon Transportation Commission (OTC).

§ Average of two or three alternatives in the ECONorthwest report.

¶ HPPP is Federal High-Priority Project Program.

** OSHTF is Oregon State Highway Trust Fund. Although OSHTF holds and distributes federal and Oregon road-related revenues, the OSHTF numbers shown in Table A-1 report just revenue from Oregon sources, without assuming any changes in the 2006 Oregon fuel tax (24¢ per gallon) and vehicle registration fees. By Oregon law, those fuel tax and registration revenues must be used for roadway related purposes.

†† Local revenue sources include taxes, development charges, special assessments, fuel taxes, transportation utility fees, urban renewal funds, and private developer contributions.

‡‡ TriMet is Tri-County Metropolitan Transportation District of Oregon, an Oregon municipal corporation.

§§ The $3.9 million per year starts in 2010, after state pays off the lottery-backed bonds that paid for the Portland area's light rail system in the 1990s. This assumes that Oregon will continue to pay to TriMet the same amount per year used to satisfy the state's bond liability.

¶¶ Local transit revenue comes mostly from payroll taxes (55 percent) and passenger revenue (21 percent).

*** TriMet's local revenue has grown from $309 million in 2005 to about $400 million in 2009 (Fred Hansen interview June 24, 2009). ECONorthwest estimates that about 10 percent of local transit revenue is spent by TriMet on capital projects (ECONorthwest Report, p. 2-15).

††† SMART is South Metro Area Rapid Transit which primarily serves Wilsonville.

Table B-2. 2008 Transit-Related Expenditures in Metro Region

Use of Funds	2008 Expenditures	
Operations	$374.7 million	69.8%
Capital Projects	$161.9 million	30.2%
TOTAL	**$536.6 million**	

Table B-3. 2008 Projected Cost of Transit-Related Needs in Metro Region

Usage	2008 Needs	
Operations	$569 million	70.2%
Capital Projects	$241 million	29.8%
TOTAL	**$810 million**	

The numbers in Table B-3 above are one twenty-ninth of the 2007-2035 transit-related "costs" estimated by ECONorthwest in Table 4-3 of its December 2006 report to Metro.

APPENDIX THREE

Study Committee's Memorandum: Analysis of the Proposed Federal Surface Transportation Authorization Act of 2009* for Metropolitan Regions, October 16, 2009

1. *Focus.* Just the STAA 2009 provisions relating to highways and bridges in metropolitan regions.

2. *The Need for Reform and Increased Funding of United States Transportation Infrastructure (BP 4-5).*

   After summarizing the substantial increase in usage of existing surface transportation facilities, the human toll and cost from traffic accidents, the costs to individuals and businesses from increased traffic congestion, the increasing deterioration of the nation's transportation infrastructure, and the obsolescence of a national transportation policy created in 1956, the House Committee on Transportation and Infrastructure's *Blueprint for Investment and Reform* (dated June 17, 2009)† describes the "crisis" in the Federal Highway Trust Fund. Key points (BP 4-5):

   2.1 *Likely insolvency*. The Federal Highway Account of the Trust Fund "is running out of cash," and may not be able to reimburse states "as early as August 2009."

   2.2 *Dependence on a declining user fee*. The "current user fees" supporting the Trust Fund are "completely inadequate to maintain our existing infrastructure." The current federal "user fee" of 18.3 cents per gallon of vehicle fuel has not been increased since 1993, and produces progressively less revenue as the fuel efficiency of vehicles increases. For 2010, that revenue source will produce $35.1 billion, a 34 percent cut from $53 billion in 2009. For the next six years, it will fund only $236 billion for highways and transit, $90 billion short of funding at the 2009 level, and about half of the proposed $450 billion appropriation for the next six years.

   2.3 *Declining employment*. Funding shortfalls will cause significant job losses.

3. *Components of Federal Reform (BP 5).*

   "The next surface transportation authorization must affirm the nation's commitment to building and operating an intermodal surface transportation network that can meet the demands of the 21st Century. The Surface Transportation Authorization Act creates a performance-based framework, designed to achieve results with transparency, accountability, and oversight to ensure that goals are met. This Act restructures DOT to implement more effectively the goals and objectives of the Federal surface transportation programs, improve the delivery of critical surface transportation projects, facilitate the utilization of all modal options to address needs, and provide taxpayers with a better, more measurable return on their investment in the nation's infrastructure."

   3.1 *A Clear Federal Role and National Objectives (BP 5).*

   - Create a National Transportation Strategic Plan.
   - Improve the safety of the surface transportation network.
   - Bring existing highway and transit facilities and equipment to a state of good repair.
   - Facilitate goods movement.
   - Improve metropolitan mobility and access.
   - Expand rural access and interconnectivity.
   - Lessen environmental impacts from the transportation network.
   - Improve the project delivery process by eliminating duplication in documentation and procedures.
   - Facilitate private investment in the national transportation system that furthers the public interest.

* Federal Surface Transportation Authorization Act of 2009, proposed June 17, 2009 by the House Committee on Transportation and Infrastructure ("STAA 2009" or "Act").

† "BP" refers to the page number in the Blueprint issued by the House Committee.

- Ensure that States receive a fair rate of return on their contributions to the Trust Fund.
- Provide transportation choices.
- Improve the sustainability and livability of communities.

3.2 *Consolidate or Eliminate 75 Programs* and direct "most highway funding" to *four "core formula categories"* with specific performance objectives (BP 6).

(1) *Critical Asset Investment* program to bring federal highways and bridges "to a state of good repair" and "maintain that condition."

(2) *Safety*. Make improvements to lessen safety hazards and reduce accidents.

(3) *Local Needs*. Fund specific highway and transit needs in states and metropolitan regions as determined by "local decision making."

(4) *Congestion and Air Quality*. Restructure Congestion Mitigation/Air Quality to fund projects that improve air quality, reduce congestion and improve public health and livability in communities.

3.3 *Implement Performance Standards and Accountability (BP 6-7).* STAA 2009 transforms the Federal surface transportation investment from a block grant to a performance based framework by including program-specific performance standards and measures that will hold funding recipients accountable for their choices. For states, which now have the power to transfer up to 50 percent of their core highway funds to other programs without performance accountability, proposed STAA 2009 institutes "transparency, accountability and oversight" to ensure that new federal performance objectives are met. See 3.7(g).

3.4 *The National Surface Transportation Funding Gap (BP 9).* The National Surface Transportation and Revenue Study Commission identified "a significant surface transportation investment gap," and called for an *annual* investment level between *$225 billion and $340 billion "by all levels of government and the private sector — over the next 50 years"* (emphasis added) to upgrade all modes of surface transportation (highways, bridges, public transit, freight rail, and intercity passenger rail) "to a good state of repair." By comparison, the *current "annual* capital investment" from *all sources* in all modes of surface transportation is only *$85 billion*.

The House Committee found that a *federal* investment of $450 billion over the next six years ($75 billion per year) is "necessary to begin reducing roadway fatalities and injuries, improving mobility and access, eliminating freight bottlenecks, mitigating the impacts of our surface transportation system on the environment, and providing greater modal choice for all travelers" (BP 9). Implied (but not stated) is the assumption that the state, local and private sources also need to make comparable increases of their funding of surface transportation investments.

3.5 *Increase Federal Transportation Funding (ES 4).** For the next six years, STAA 2009 proposes to increase Federal funding for highways, bridges and mass transit (surface transportation) to $450 billion ($75 billion per year), allocated as follows:

- *$12.6 billion* for "highway and motor carrier safety."
- *$337.4 billion* for "highway construction investment," including at least $100 billion for capital asset investment to bring federal highways and bridges to "a state of good repair."
- *$87.6 billion* from the Mass Transit Account.
- *$12.2 billion* from the General Fund to bring public transit to "a good state of repair" and provide transportation choices from big cities to small towns.

Included within the $450 billion are funds dedicated to helping *metropolitan areas*:

- *$50 billion* for a new *Metropolitan Mobility and Access Program* to "unlock the congestion that chokes major metropolitan regions" (See 3.6).
- *$25 billion* for Projects of National Significance focusing on "goods movement and freight mobility."

* "ES 4" means the House Committee's Executive Summary at page 4.

An additional $50 billion "to develop 11 authorized high-speed rail corridors" brings the six-year federal total to $500 billion ($83.3 billion per year). That federal transportation investment will *"create or sustain approximately six million family-wage jobs"* (assuming a 20 percent match using state or local funds).

3.6 *New Metropolitan Mobility and Access Program (MMAP).* This new $50 billion program would provide federal funds that go *"directly to metropolitan planning organizations"* (MPOs) (emphasis added) in larger urban areas, thus bypassing the longstanding flow of other federal surface transportation funds to State Departments of Transportations (DOTs) for distribution and use by state and local transportation entities (Act § 701(b)).*

Tier One Grants. The MPO of an urban area with more than one million people can qualify for Tier One Grants for projects intended to remedy "substantial travel time delays" that cannot be remedied by using "low cost traffic management strategies and systems" (Act § 7.01(f)). The MPO must adopt a "metropolitan mobility plan" under criteria yet to be developed by the U.S. Secretary of Labor (Secretary) (target date is 18 months after enactment) and demonstrate, to the satisfaction of the Secretary, that, in spite of the low cost traffic strategies already implemented (e.g. traffic signals designed to optimize traffic flows), the MMAP project is needed to remedy "substantial travel time delays" in traffic flow (Act § 701(f)(2)(B)), and will be done "in coordination with state and local transit authorities" (Act § 701(h)(3)). The focus is to alleviate urban traffic congestion by using "system operations and management improvements" and "travel demand strategies"; new highway and transit capacity will qualify "if necessary" (Act § 701(c)). Obvious consequences should be reduction in usage of fossil fuels, mitigation of declining air quality, shortening of vehicle travel time, and improved transportation efficiency. The Portland Metro region meets the population test (now 1.3 million people), but the maximum number of Tier One Grants for the entire U.S. is ten and the dollar cap for Tier One is $20 billion over the next six years. Metro should be urged to take advantage of this new MMAP program (if enacted).

Tier Two Grants. An MPO in an urban area with at least 500,000 people can qualify for a Tier Two Grant provided the MPO has not received a Tier One Grant. The 60 percent ($30 billion) for Tier Two Grants must achieve "geographically equitable distribution." If Metro cannot qualify for Tier One, it should be urged to apply for Tier Two. The Southwest Washington MPO has 400,000 people and is growing; in time it also might qualify for Tier Two.

Local 20 percent match. All Tier One and Tier Two Grants are conditioned on a local funding match of 20 percent (Act § 701(m)) and will be handled under a full funding grant agreement between the MPO and the Secretary (Act § 701(j)).

National Infrastructure Bank. STAA 2009 also would create a National Infrastructure Bank to provide grants, loans, loan guarantees, lines of credit, private-activity bonds, tax-credit bonds, and other financial tools to help metropolitan regions implement their plans for improved transit operations, congestion pricing and expanded highway and transit capacity. The new bank should help MPOs and local transportation entities meet their share of any MMAP project costs (Act § 701(p)).

Tolls. The Secretary "may permit" federal participation in "a toll facility in an urbanized area" that is subject to a Metropolitan Mobility Plan approved by the Secretary (Act § 701(q)).

Application of MMAP to the Portland Metropolitan Area. The MMAP federal funding that goes directly to an MPO could create an incentive for Metro and the Southwest Washington MPO to combine forces as a single MPO to get one of the ten Tier One Grants. Federal law already gives the "consent of Congress" for two states to enter into "agreements or compacts" to coordinate "transportation planning" for an entire "multistate metropolitan area." 23 USC § 134(f). The boundaries of an MPO are determined by agreement between the MPO and the Governor. 29 USC § 134(e)(1). Presumably it would take agreement among the two governors (OR and WA) and the two MPOs (Metro and SWRTC) to make a legally enforceable bi-state MPO for the Portland metropolitan area. See 3.8(b).

3.7 *New Federal Requirements for Tolled Facilities.* Existing 23 USC § 129(a)(3) sets forth permitted exceptions for the general rule of 23 USC § 301 that all highways constructed with federal funds "shall be free from tolls of all kinds." Permitted exceptions now include tolling of any highway, bridge or tunnel that receives federal funding, provided there is an agreement with the Secretary that specifies how toll revenue must be used. Permitted revenue uses are (i) debt service, (ii) a reasonable return on any private investment in the project, and (iii) "proper operation and maintenance of the toll facility." The state may use any "excess" toll revenues for "any purposes for which Federal funds may be obligated by a State."

* STAA 2009 § 1205 amends USC Title 23 to add new § 701 entitled "Metropolitan Mobility and Access Programs."

STAA 2009 amends 23 USC § 129(a)(3) to expand the use of "excess" toll revenues to cover "operating costs" of equipment and facilities for use in "public transportation," and to require that any such toll facility "shall provide" public transportation service in "the same travel corridor" or "cordon" area as the tolled facility (Act 2009 § 1301(a), amending 23 USC § 129(a)(3)).

STAA 2009 also would prohibit noncompete agreements that would benefit a private party; require public comment on toll rates; require the Secretary to approve only toll rates that are "just and reasonable" and do not have "substantial negative impacts" on interstate commerce or travel; permit tolling of "low occupancy vehicles" or "low emission or energy-efficient vehicles" for their use of a "high occupancy vehicle facility" (e.g. HOV lane); and permit "variable tolls" as part of a Metropolitan Mobility Plan (id.).

3.8 *Major Change of Federal Transportation Planning Directives for Metropolitan Areas.* Section 134 of Title 23 of the U.S. Code (USC) sets forth the requirements for a metropolitan area to qualify to receive federal transportation funds.* For over 50 years, federal funds and federal requirements have been significant in shaping the transportation system and facilities we have today. They will continue to be significant in the future.

Under existing 23 USC § 134, all metropolitan transportation planning and projects that qualify for federal funding are controlled by the MPO. For the Oregon part of the Portland metropolitan area, Metro is the MPO. For the Southwest Washington part, SWRTC is the MPO.

Under existing federal law, each MPO's power is confined to transportation plans and programs in its urban area. In general, when exercising such power the MPO should consider all modes of transportation, cooperate with transit operators, integrate the urban transportation system and facilities with State and Federal transportation systems and facilities, foster economic growth and development within and between states and urbanized areas, and minimize transportation-related fuel consumption and air pollution. There is no mention of livability and sustainability of communities or coordination of transportation planning with land use planning and housing.

STAA 2009 § 1508 would amend and supplement existing § 134. Several changes are significant, as shown by the following summary:

(a) *Policy.* Section 134(a) would be amended to add the following "national interest" policies (Act § 134(a)(3)):

- "encourage and promote the livability and sustainability of all communities,"
- "increase coordination among land use, housing, and transportation plans and projects," and
- "increase surface transportation systems connectivity and intermodality through metropolitan and statewide transportation planning processes identified in this chapter."

(b) *Coordination in multistate areas.* Section 134(f) would be amended to have the Secretary "require" (not just "encourage") each Governor having responsibility for a portion of a "multistate metropolitan area" (like the Portland metropolitan area) to "coordinate transportation planning for the entire metropolitan area." With the land use and other federal requirements in STAA 2009, the Secretary would have the mandate to pressure the governors of Oregon and Washington to bring about integrated land use and multimodal transportation planning for the bi-state metropolitan region.

(c) *Planning Process.* Section 134(h) would be amended so that the metropolitan planning process "shall provide for consideration of projects and strategies" that will:

- "promote…sustainability, and livability"
- "reduce surface transportation-related greenhouse gas emissions"
- [reduce] "reliance on foreign oil"
- "adapt to the effects of climate change"
- "improve…public health"

* Section 134 is part of Chapter 1, "Federal Aid Highways," located in USC Title 23.

- "promote consistency between transportation improvements and…housing and land use patterns"

(d) *Reduction of Greenhouse Gas Emissions.* Section 134(k) would be amended to require that the transportation planning process "shall address transportation-related greenhouse gas emissions by including emission reduction targets and strategies." At minimum, the MPO "shall demonstrate progress in stabilizing and reducing transportation-related greenhouse gas emissions" based on models and methodologies under the Clean Air Act. Failure by an MPO to "develop, submit or publish" the strategies and targets results in not being certified by the Secretary.

(e) *Certification by the Secretary.* To assure compliance with Section 134 requirements, new Section 134(q) would require that the Secretary and each MPO complete a certification review no less than once every four years. If the MPO's "metropolitan planning process" is not certified by the Secretary, the Secretary "may withhold up to 20 percent of the funds attributable to the metropolitan planning area." The funds "shall be restored" once the planning process is certified.

MPO Voting Requirements. To be certified, the voting requirements for the MPO must be:

> "(c) Voting members of the metropolitan planning organization are represented in proportion to the population of each political subdivision to the total population [of] the metropolitan planning area."

(f) *National MPO Database*. New Section 134(r) would provide for an MPO database to receive and hold "structural, financial, operating, planning, programming, and performance information" about every MPO in the U.S., using "uniform categories" and "a uniform system of accounts."

(g) *MPO Performance Management*. New Section 134(s) would require larger MPOs to implement a system of performance management that includes "qualitative and quantitative performance measures." Metro and SWRTC meet the population thresholds to comply. Measurement criteria include:

- "best practices of current metropolitan planning organization performance management systems and strategies"
- The degree to which the long-range transportation plan:
  - "reduces congestion,"
  - "improves mobility and safety,"
  - "increases the state of good repair of surface transportation assets,"
- "decreases surface transportation-related emissions and energy consumption"
- "is consistent with land use plans"
- "increases the connectivity of and access to the surface transportation system."

Metro and other MPOs with more than 1 million people, also must measure and report on:

(i) Land use patterns that support improved mobility and reduced dependency on single-occupant motor vehicle trips.

(ii) An adequate supply of housing for all income levels.

(iii) Limited impacts on valuable farmland, natural resources, and air quality.

(iv) A reduction in greenhouse gas emissions.

(v) An increase in water and energy conservation and efficiency.

(vi) An improvement in the livability of communities.

APPENDIX FOUR

Study Committee's Memorandum: Interesting Findings and Facts by the U.S. House Committee on Transportation and Infrastructure, October 20, 2009

This memorandum supplements the October 16, 2009 memorandum on the proposed new federal Surface Transportation Authorization Act of 2009 (STAA 2009). Below are interesting findings and facts from the U.S. House Committee on Transportation and Infrastructure:

1. *Findings set forth in proposed STAA 2009.*

   If approved, the following will be "Findings" by the U.S. Congress:

   1. 80 percent of the U.S. population lives in metropolitan areas.
   2. The largest metropolitan areas generate 75 percent of the U.S. GDP.
   3. Over 85 percent of the U.S. "market share" of "critical" transportation infrastructure exists in metropolitan areas.
   4. Most metropolitan areas are comprised of several counties, cities, suburbs and towns that have commuting ties to an urban core.
   5. Metropolitan areas often have complex transportation networks and multiple jurisdictions and operating agencies.
   6. In 2005, total congestion costs (wasted fuel and time) cost $78.2 billion.
   7. In 2007, congestion at choke points in the top 437 urban areas caused Americans to lose 4.2 billion hours and 2.9 billion gallons of fuel sitting in traffic jams.
   8. Such congestion represents an annual "congestion tax" of $600 to $1,600 [per person] because of lost time and fuel.
   9. In the largest cities, highway congestion impacts 67 percent of travel, lasts seven hours per day, and increases the length of the average rush hour trip by 37 percent.
   10. Traffic congestion undermines air quality.
   11. Truck transportation accounts for 77 percent of transportation costs; congestion increases business costs and undermines productivity.
   12. In 2007, truck transportation accounted for $671 billion of transportation costs; $455 billion related to "intercity trucking."
   13. In 2007, "logistics costs" amounted to 10.1 percent of GDP.

2. *Facts and Conclusions Reported in the House Committee's Executive Summary (ES) and Blueprint Introduction (BP)**

   House Committee's Executive Summary:

   - Each year 42,500 people are killed and 2.5 million people are injured in more than six million motor vehicle crashes (ES 1).
   - Traffic accidents and delays cost $1,200 per U.S. man, woman and child (ES 1).
   - 37 percent of all lane miles in the National Highway System (NHS) are in "poor or fair condition" (ES 1).
   - One of every four of the 600,000 bridges in the U.S. is "structurally deficient or functionally obsolete" (ES 1).
   - More than 32,500 public transit buses and vans have "exceeded their useful life" (ES 1).
   - The percentage growth in increased miles traveled on NHS highways has been three times the percentage growth in NHS lane miles (ES 1).
   - 28 percent of total greenhouse gas emissions in the U.S. are attributed to the transportation sector (ES 2).

* Duplications have been eliminated.

- Private vehicles account for 55 percent of the carbon emissions from U.S. households (ES 2).
- Unlike other major industrialized nations, Americans have almost no high-speed passenger rail services (ES 2).
- Most of the U.S. DOT policies are administered by separate agencies which focus on "a single mode of transportation" (ES 2).
- There has been no attempt to aggregate long-range transportation plans developed by states and MPOs and develop an intermodal National Transportation Strategic Plan (ES 2).
- Federal transportation programs have no performance metrics or performance oversight and accountability (ES 2).
- There are "unnecessarily long delays" — more than ten years for many highway and transit projects — before completion of approved projects (ES 2).
- The US. Highway Trust Fund does not have adequate revenues to meet existing commitments (ES 2).

House Committee's Introduction to its Blueprint:

- Since passage of The Federal-Aid Highway Act of 1956 (BP 1):
  - The U.S. population has almost doubled to 300 million people.
  - GDP has increased from $345 billion to $14.3 trillion.
  - Land use, economic development, and migration patterns have changed significantly.
  - 87 percent of daily trips involve use of personal vehicles
  - The number of passenger vehicles on the nation's roadways has increased 150 percent to 135 million vehicles.
- Many segments of the transportation network handle volumes of traffic that "greatly exceed their design standards" (BP 1).
- In 2007, more than 400,000 vehicle crashes involving large trucks and buses resulted in more than 5,100 deaths and 101,000 injured people (BP 1-2).
- During the past 27 years, metropolitan regions where the "average driver" experienced 40 or more hours of delay per year have increased from one (Los Angeles) to 28.
- For every one mile per hour reduction in average speed of shipments, General Mills' "logistics costs" increase by $2 million (BP 2).
- The American Society of Civil Engineers grades the U.S. transportation system as follows (BP 2):

Roads	D-
Bridges	C
Transit	D
Rail	C-

- The same Society estimates that $2.2 trillion will need to be invested over the next five years to bring the transportation infrastructure "to a state of good repair" (BP 2).
- A "major deficiency" is the absence of "a high-speed rail system" (BP 2).
- $8 billion has been committed by Congress to begin construction of eleven authorized high speed rail corridors (BP 3).
- China announced that it will invest $730 billion in its railways in the four years ending with 2012 (BP 3).
- "With completion of the Interstate Highway System, national transportation policy lost its focus" (BP 3).

- GAO stated in 2008: "To some extent, the Federal-aid Highway program functions as a cash transfer, general purpose grant program, not as a tool for pursuing a cohesive national transportation policy" (BP 3).
- "Prompt Federal action is necessary to stabilize the Trust Fund and restore the confidence of state departments of transportation and the contractor community or many states will not have enough confidence in future financing of the programs to go forward with significant new construction" (BP 4).
- The power of states to transfer up to 50 percent of their "core highway formula program funds" to other programs "eliminates the link between Federal goals and the actual investment decisions at state and local levels" (BP 7).
- "We must move from an amalgamation of prescriptive programs to a performance based framework for intermodal transportation investment" (BP 10).