January 16, 2003

JPACT Organization/Membership/Calendar/Goals

This agenda item was included to start an open discussion about how JPACT is organized and does business. Potential items for discussion include:

Meeting times:

- Does JPACT need more time to conduct its business?
- Should the start time be 7:15 a.m.?
- Should there be 2 meetings per month? Should one of them be an informal while the other deals with action items?

Membership:

- Should JPACT seek to become an ACT under ODOT guidelines? What are the pros, what are the cons?
- Should added members from the business community and interest groups be added?
- Should there be added members from an expanded territory?

Organization:

- Should JPACT operate with periodic subcommittees?
- Should there be a Bylaws subcommittee to develop recommendations on these organizational issues?

Calendar/Goals:

- MPAC has expressed interest in integrating their activities and JPACT's activities more effectively. How can this be accomplished?
- Should there be joint meetings?
- What are the major areas of emphasis for JPACT in the coming year?

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING A REGIONAL POSITION ON REAUTHORIZATION OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (TEA-21)	)))	RESOLUTION NO. 03-3271 Introduced by Councilor Rod Park

WHEREAS, the Transportation Equity Act for the 21st Century (TEA-21) was adopted by Congress in 1998; and

WHEREAS, TEA-21 is scheduled to expire at the end of federal Fiscal Year 2003 (September 30, 2003); and

WHEREAS, Congress will be considering reauthorization of TEA-21 during 2003; and

WHEREAS, TEA-21 has a significant policy effect on transportation planning and decision-making and funding in the Portland region; and

WHEREAS, reauthorization results in the "earmarking" or identification of specific projects and establishes the amount of federal funding eligible to be appropriated to those projects; and

WHEREAS, further review of proposed legislation will lead to possible amendment and refinement to this policy postion; now therefore

BE IT RESOLVED that the Metro Council:

1. Endorses the summary of regional priority policy issues on reauthorization of TEA-21 as reflected in Exhibit A.
2. Endorses the regional position paper on reauthorization of TEA-21 as reflected in Exhibit B.
3. Endorses the projects identified in Exhibit C as the region's priority projects for TEA-21 reauthorization earmarking.

ADOPTED by the Metro Council this _____________ day of January, 2003

____

David Bragdon, Council President

Approved as to Form:

____

Daniel B. Cooper, Metro Attorney

Support Continuation of the Value Pricing Pilot Program

Background: ISTEA created the Congestion Pricing Pilot Program to support jurisdictions in the implementation of congestion pricing or peak period pricing projects. The program was expanded to include pre-project studies. In TEA-21 the program was continued and renamed the Value Pricing Pilot Program. This relatively small program, with funding of about $11 million a year, has supported a number of successful projects and studies around the country. There are on the ground implementation projects in San Diego and Orange County California, Lee County Florida, Houston Texas and New York and New Jersey.

Locally, this program provided $1 million towards the Traffic Relief Options (TRO) study. The TRO citizen's task force recommended that the region consider value pricing whenever major new highway capacity is added. This recommendation was incorporated as a policy requirement in the 2000 RTP. In 2002, Metro obtained an additional $400,000 grant to fund the value pricing portion of an overall alternatives analysis for the Highway 217 corridor. At the State level, the Road User Fee Task Force, which is looking at alternatives to the fuel tax, is funded out of this program.

The Value Pricing Pilot Program is a small program with a limited number of states (15) that are allowed to participate. Further, due to the difficulty of implementing this relatively new and controversial concept, the program has not always obligated all of its funds. Because of these factors, it is a possible candidate for elimination in renewal discussions. We believe that the program has played a valuable role in forwarding research and implementation at a national level of an important new management and financing tool. In addition, it has provided funding in this region and state and could be a small but important potential source for future studies or projects.

Analysis: Value Pricing, while growing in national and international prominence as a demand management and highway financing tool, still remains in its infancy in terms of actual projects. The federal pilot program continues to provide an important source of funding to support project studies and implementations.

Policy Position: Support the continuation of the Value Pricing Pilot Program at similar funding levels. Support the elimination of the limitation on the number of interstate tolling exemption slots so that more states can participate in the program.

PORT OF PORTLAND

January 14, 2003

Councilor Rod Park, Chair
Joint Policy Advisory Committee on Transportation
Metro
600 NE Grand Avenue
Portland, OR 97232-2736

Dear Councilor Park:

I am unable to attend this week's Joint Policy Advisory Committee on Transportation (JPACT) meeting, but would like to convey my positions on Agenda Item Numbers Four and Five.

Agenda Item #4: I endorse the summary of regional priority policy issues with the deletions included in Exhibit A, describing Portland's regional position on the reauthorization of the Transportation Equity Act for the 21st Century (TEA-21). I also support the regional position paper on reauthorization of TEA-21 outlined in Exhibit B and the priority project list for TEA-21 reauthorization with the proposed clarification on project funding categories described in Exhibit C.

Agenda Item #5: I endorse the proposed comments, as written, to the Oregon Transportation Commission on the 2004-2007 Draft STIP. I particularly appreciate the careful wording on Comment #3—Preservation, Safety and Bridge Program Coordination with Local Jurisdictions. This should help the region maximize its return on infrastructure investments and encourage cooperation between agencies. It creates an opportunity and challenge to improve project coordination between the state and local jurisdictions in support of regional goals.

I appreciate the opportunity to convey these thoughts to the committee. I look forward to participating in the February JPACT meeting.

Sincerely,

Bill

Bill Wyatt
Executive Director

c: JPACT members

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING A REGIONAL POSITION ON REAUTHORIZATION OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (TEA-21)	)))	RESOLUTION NO. 03-XXXX Introduced by Councilor Rod Monroe

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ADOPTED by the Metro Council this _____________ day of January, 2003

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David Bragdon, Council President

Approved as to Form:

____
Daniel B. Cooper, Metro Attorney

Exhibit A

Portland Regional Position
on the reauthorization of
the Transportation Equity Act for the 21st Century
Priority Policy Issues

1. Funding levels

   The most paramount issue is to increase the funding levels available for transportation. This is particularly important in light of the growing national budget pressures, the increasing federal deficit, the added costs placed on the transportation system due to national security and the growing needs generally. Without increasing the overall program, any debate about changes in any particular program direction is moot. In addition, current provisions for maintaining the firewalls between the transportation trust fund and the rest of the federal budget, minimum appropriation level guarantees and provisions for increasing spending levels if trust fund receipts are higher than estimated (RABA) should continue. Revenue options under discussion to increase the program include:

   - Indexing the gas tax (potentially retroactive to 1992);
   - Changing the ethanol tax credit to provided lost funding to the transportation trust fund from the general fund;
   - Recapturing interest on the trust fund from the general fund;
   - Bonding against increased resources;
   - Ensure the state maintains at least a 95% return on transportation taxes paid to the federal government; and
   - Maintain firewall provisions that ensure collections to the Trust Fund and provide to the states and localities through annual appropriations.

2. The most important policy area to pursue is to preserve the basic policy structure established by ISTEA and TEA-21, including flexible funding provisions, the role of the MPO in policy setting, funding allocation and project selection and, the sub-allocation to MPOs of STP funds. ~~and consideration of sub-allocation of CMAQ funds to MPOs~~. In addition, continued allocation of funds to transit districts (through Section 5307 funds) is essential to the goals of the region. As the overall size of the transportation program is increased, it is in these funding sources - STP, CMAQ and Section 5307 - that are the highest priorities to increase. The region should monitor and participate in national discussions to address urban congestion problems, especially in large metro areas. ~~Establishment of an urban congestion funding program may be important to support.~~

3. The discretionary funding categories that are likely to have the greatest financial impact on the region are the transit "New Starts" program and the highway "Borders and Corridors" program. Funding levels should be increased in both programs to provide a mechanism to provide discretionary funding to large projects through a rigorous, merit-based approach. Specific issues associated with these programs include:

- Separation of the "Trade Corridors" program from the "International Borders" program with a significant funding increase and establishment of rigorous criteria focused on movement of freight;
- Increased funding for the "New Starts" program in recognition of the growing support for creation of a streamlined "Small Starts" category for lower cost Bus Rapid Transit, Commuter Rail and Streetcar projects: support creation of such a "Small Starts program" if additional resources are made available to fund such projects;
- Inclusion of project selection criteria for Streetcar "Small Starts" projects that emphasize commitment to transit supportive development to generate transit ridership in lieu of regional mobility; and
- Refinement of the TIFIA program to make it more attractive through low cost loans and the addition of a partial grant component.

4. Various programs are under consideration to increase the emphasis on all forms of freight transportation, including research, data collection and funding flexibility, including provisions for selected improvements to the freight rail system. Because of the strong freight character to the Portland area economy, these should be a priority area for the region. Associated with this is consideration of an added Title to the Act that integrates a freight rail program, Amtrak and High-Speed Passenger Rail, including dedication of the 4.3 cent fuel tax now being paid by the railroads to the federal general fund to this Trust Fund.

EXHIBIT B

Regional Position on
Reauthorization of the
Transportation Equity Act for the 21st Century
(TEA-21)

1) Major Funding & Policy Issues

a) Transportation Funding.

i) Setting the Baseline for TEA-21 Reauthorization.

The Transportation Equity Act for the 21st Century (TEA-21) authorized the Revenue Aligned Budget Authority (RABA) to create a more direct linkage between the revenues coming into the highway Trust Fund and the revenues being appropriated to highway and transit construction. Over the first four years of TEA-21, RABA generated significant increases in federal transportation funding. However, the Administration has proposed a significant cut in RABA funding for FY 2003. Unless funding is restored, the baseline spending level for the reauthorization of TEA-21, and the overall level of funding for the five-year authorization period, could be significantly reduced.

Background: The Administration has proposed a RABA formula allocation in its fiscal 2003 budget to Congress that represented an $8.6 billion or 27 percent cut from FY 2002 levels. Congress has indicated that it will likely restore a portion of these highway funds, enough to bring FY 2003 highway spending up to the TEA-21 authorized level of $27.7 billion but well short of the $31.8 billion FY 2002 level. Restoration is important not only for FY03 programs but because the FY03 funding level could establish the baseline for the TEA-21 reauthorization spending levels.

Oregon receives, on average, 1.2 percent of federal aid highway allocations so the impact on the state of setting the reauthorization baseline at the RABA level versus the authorized level is approximately an additional 14 % or approximately $50 million per year in additional funds. Over the course of the six-year authorization the difference would amount to more than $300 million in additional funds if the higher authorization level is achieved.

If the Administration's FY03 budget proposal were to become the new authorization baseline, Oregon could stand to loose approximately $100 million per year over the FY02 RABA levels or $600 million over the life of the new authorization.

Policy Proposal: Support restoration of the highway program spending cuts proposed by the Administration. The "baseline" spending levels in the new TEA-21 should not be influenced by the lower levels proposed in the Administration's FY 03 budget.

Restoring the baseline to the TEA-21 authorized level would increase spending by $4 billion in the first year of the new bill. Restoring funding to the FY02 spending level would increase spending by $8 billion in the first year of the new bill.

Consistency: this is essential to the implementation of the RTP.

ii) **Increase Overall Funding Levels: Additional funding is the most critical issue for the reauthorization of TEA-21.**

Background: The overall level of funding for the highway trust fund largely determines the level of funds available for all federally funded transportation programs including highways, bridges, light rail, bus, bike, pedestrian and planning.

TEA-21 Improvements. Federal highway and transit funding increased dramatically under TEA-21. Guaranteed highway funding levels increased 42 percent over the Intermodal Surface Transportation Efficiency Act (ISTEA) levels to $27 billion. Transit guaranteed levels increased 31 percent. Congress also RABA for the highway program, linking highway spending to trust fund receipts. RABA in particular has generated significantly higher highway funding levels at the national level than would have been available under a fixed authorization formula.

Revenue Aligned Budget Authority. Despite increased funding in TEA-21, needs have continued to outstrip resources because of the aging of the system, increased growth and congestion, growing interest in rail new start projects around the country and the additional cost of responding to new requirements such as the endangered species act. And, although RABA has generated significant additional resources for the highway formula program, recently the appropriations process has varied from the original formula allocation of RABA funds with a few key states receiving earmarks of the full RABA amount. In addition, the interest on the Trust Fund was diverted to the general fund in TEA-21, reducing the available funds significantly.

Inflation. The federal gas tax is a fixed $18.3 cents per gallon. Because it is not indexed to inflation, each year the federal Highway Trust Fund loses purchasing power in real terms. The national inflation rate for heavy highway construction has averaged (%%) per year over the life of TEA-21.

Ethanol Tax Credit. The federal government supports the ethanol industry with a 5.3 cents per gallon tax credit for "gasohol" which consists of 90 percent gasoline and 10 percent ethanol. With the federal tax incentive, companies that blend ethanol pay a 13 cents per gallon federal excise tax, compared with the standard 18.3 cents per gallon tax on motor fuels.

Additionally, 2.5 cents per gallon of the excise tax on ethanol-blended fuels is diverted to the Treasury's general fund. The highway trust fund receives only 10.5 cents per gallon for each gallon of ethanol-blended gasoline, 7.8 cents less than gasoline. Between fiscal 2000 and 2010 approximately $15.3 billion will be lost to the highway trust fund due to the ethanol tax credit and diversion to the general fund.

The American Association of State Highway and Transportation Officials (AASHTO) has set a goal of increasing the federal highway program from $34 billion in fiscal year 2004 to $41 billion in fiscal year 2009 - an increase of 34 percent. The goal for transit is to see an increase from $7.5 billion to $10 billion over six years. In part, AASHTO has proposed funding the increased size of the program through a Federal Transportation Finance Corporation through the use of debt. The goal of the American Public Transportation Association (APTA) is to increase the transit program to $14 billion per year.

Policy Proposal: Additional funding is necessary to meet the federal and local objectives of the transportation program. There are a number of approaches that could be taken to increase funding. They include:

(a) Spend the accumulated balances in the Trust Fund.
(b) Return RABA generated funds to the state formula allocation. Eliminating earmarking would have resulted in an additional $1 billion in formula highway funds in FY 02 distributed to the states by formula.
(c) Use general fund dollars to compensate the Trust Fund for the lower tax rate on ethanol ($.053 lower tax rate) and the portion of the ethanol tax now going to the general fund is $.025). These ethanol tax credits cost the Trust Fund approximately $1.5 billion per year.
(d) Rededicate interest payments currently going to the general fund to the Highway Trust Fund.
(e) Index the federal gas tax to reflect inflation.
(f) Support the Federal Transportation Finance Corporation if tied to new revenues.

Consistency: increased funding is the single most important issue, not only to better fund on-going programs but to allow creation of new programs outlined in this paper.

iii) **Oregon Highway Formula Allocation:** Oregon won a significant victory in TEA-21, changing the national formula to return more federal tax dollars to Oregon.

Background: Oregon won a major victory in TEA-21 with the passage of a highway allocation formula that boosted the state's allocation from $0.89 returned to the state for each $1.00 of tax paid to $0.94 cents returned for each $1.00 paid. The highway allocation formula is critical to the state, local governments, transit districts, and the region because it dictates the amount of funding that is available for planning, air quality improvement, bicycle and pedestrian facilities as well as highway and bridge repair and construction.

Analysis: Next to the overall level of highway trust fund revenues, the allocation formula is the most important factor in determining the amount of federal highway, STP, CMAQ and other transportation funding received by the state. A small change in the formula translates into tens of millions in additional funds allocated to the state. Allocations are based in part on Census data. In past years, the most recent Census data has not always been used, even when available. This has disadvantaged high population growth states and geographic regions.

Policy Proposal:

(a) Support the state's efforts to secure its fair share of federal Highway Trust Fund allocations and improve its position even further in the upcoming reauthorization.
(b) Oppose further suballocations of the trust fund. Suballocations actually reduce the flexibility of federal transportation dollars, rather than increasing flexibility as envisioned in ISTEA and TEA-21.
(c) Congress should require use of the 2000 census wherever the law calls for population in its federal formula programs. If the 2000 census is not available, under no circumstances should data acquired before the 1990 census is used.

Consistency: at least maintaining the formulas that result in Oregon receiving 94%, return is consistent with the RTP.

iv) **Maintain firewalls and funding guarantees.**

Background: Prior to TEA-21, Highway Trust Fund dollars were counted as part of the overall federal budget. Transportation was forced to compete against other federal programs for funding. This resulted in years of under-investment in transportation while at the same time unspent Trust Fund balances ballooned. TEA-21 restored the integrity of the Trust Fund and guarantees that all of its revenues will be spent on transportation.

TEA-21's Revenue Aligned Budget Authority (RABA) provisions have generated significant resources for the highway program. RABA funds are allocated to states based on TEA-21's highway allocation formula. Recently, however, the appropriations process has earmarked funds rather than follow the formula approach.

Analysis: Guaranteed funding for highway and transit programs has provided much needed stability of funding levels, allowing for longer range planning and investment strategies and multi-year federal commitments.

Policy Proposal:

(a) Support maintaining firewalls that separate the Trust Fund from the unified budget.
(b) Support continuation of guaranteed funding for highway and transit programs.
(c) Work to sustain RABA and its formula allocation approach in the next bill, ensuring that Trust Fund balances do not accumulate.

(d) Support the current ratio between the highway and transit accounts of the Trust Fund.

Consistency: this is essential to the implementation of the RTP by shielding transportation appropriations from unexpected budget cuts.

v) **Additional funding for New Starts.**

Background: Since the construction of the original eastside MAX light rail project, the Portland region has received more than $1 billion in New Starts funding. The region has become a national model for using the development of light rail projects to respond to growth, congestion and regional land use and development goals.

Our success has spurred other communities to pursue light rail initiatives of their own. Currently there are 11 projects in Final Design and 39 in Preliminary Engineering. The projects will likely seek a total of $21.1 billion in TEA-21 authority.

The national growth in proposed New Starts projects has raised congressional attention and support for the program. TEA-21 increased the authorized funding available for the New Starts program from $760 million in FY1998 to $1.2 billion in FY2003.

Analysis: While funding has increased, the New Starts program is under intense pressure to respond to a growing number of candidate projects across the country. The most optimistic assumptions for the program call for spending approximately $10 billion over the next authorization period.

It is a very high priority for the region that the New Starts program remains and increases in funding level.

Current regional priorities for funding from the New Starts Program are:

- to complete appropriations toward the FFGA for Interstate MAX;
- execute an FFGA for Wilsonville to Beaverton Commuter Rail and complete appropriations;
- obtain authorization for the South Corridor project; execute an FFGA and complete appropriations.

Taking a longer-term view, future priorities for New Start funding need to be sorted out. Based upon past funding actions of JPACT, consideration should be given to:

- beginning the Clark County loop connecting Interstate MAX and airport MAX;
- the downtown Portland Transit Mall alignment for MAX;
- extension of the Portland Streetcar into North Macadam and along the Willamette Shore route to Lake Oswego.~~The region is currently contemplating a number of~~

~~rail and bus projects, including South Corridor, Wilsonville to Beaverton Commuter Rail, and the Clark Co. Light Rail Loop that could, along with the completion of the Interstate MAX project, require as much as $450 million of federal new start funds during the next authorization period.~~

Policy Proposal: Support a significant increase in federal New Starts funding to respond to the national demand for New Starts projects and to enable the region to pursue its anticipated fixed guideway initiatives. Any increase in funding for the transit program should concentrate on the New Starts program. Increased funding could come from sources noted above. Maintain current non-federal match requirements in statute and FTA flexibility in applying match requirements.

Consistency: this is essential to the implementation of the light rail portion of the RTP since this is the major source of funding and national competition continues to increase.

b) **Major Policy Issues**

i) **Maintain or expand flexible and progressive policies in ISTEA and TEA-21.**

Background: ISTEA's groundbreaking achievement was increasing the flexibility of federal transportation funds with the implementation of the STP, CMAQ and Enhancements programs. In addition ISTEA allowed states and local governments greater ability to tailor their transportation programs to reflect their individual goals and needs, while contributing to the development of a national intermodal transportation system.

TEA-21 maintained the flexible transportation funding structures of TEA-21 and implemented new programs such as TCSP that allowed even greater flexibility.

Analysis: The Portland region has used the flexibility of the federal transportation funding programs authorized in TEA-21 to shape transportation solutions that work for our cities and neighborhoods. The region has succeeded in increasing transit use at a rate faster than population or VMT growth. The result is one of the most livable communities in the country.

Policy Proposal: Urge Congress to maintain the flexible funding structure of TEA-21 and improve programs such as TCSP so they can fulfill their original.

Consistency: this is essential to the implementation of the RTP since these are sources of funds allocated through the MTIP process.

ii) **Intermodal connectors and freight facilities:**

Background: One of the greatest achievements of ISTEA was its emphasis on intermodalism. TEA-21 continued the ISTEA focus on intermodalism and the result has been a more flexible, efficient and integrated transportation system. In particular, ISTEA and TEA-21 allowed greater flexibility in addressing freight mobility issues, an area that had received relatively little attention in federal funding programs previously.

The NHS Intermodal Freight Connectors report sent to Congress documents the fact that NHS freight road segments are in worse condition and receive less funding than other NHS routes. Targeted investment in these "last mile" segments would reap significant economic benefits relative to the costs.

Analysis: TEA-21's focus on intermodalism was a move in the right direction. However, the region's experience over the past six years has indicated areas of potential improvement. For example, there remain a number of limitations on the kinds of freight projects that can receive federal dollars that limit the region's ability to respond to regional priorities.

Policy Proposal:

(a) The Borders and Corridors program should be amended to focus greater resources on a few strategic freight corridors, like Interstate 5, which connect the United States, Mexico and Canada. An emphasis should be placed on projects that improve the movement of freight. The program's authorization level should be increased.
(b) Congress should clarify the eligibility of freight rail and road projects for CMAQ funding.
(c) Congress should consider transferring the 4.3-cent tax on railroad diesel fuel from the General Fund to the Highway Trust Fund to provide resources for expanded freight railroad project eligibility.
(d) Congress should encourage the creation of a Freight Advisory Group -- a mechanism for communicating with one voice to "one DOT" on freight transportation issues.
(e) A Freight Transportation Cooperative Research Program should be created.
(f) Congress should enhance the use of Transportation Infrastructure Financing Innovation Authority (TIFIA) (a credit enhancement program) by lowering the project dollar threshold from $100 million, changing the debt mechanisms from taxable to tax-free, expanding eligibility for freight projects and relaxing repayment requirements; allow pooling of modal funds; expand the State infrastructure Bank program to all states; create tax incentives for freight rail and intermodal infrastructure investment.

Consistency: this is essential to the implementation of the RTP because these recommendations would assist in implementing I-5 Trade Corridor improvements and because this region has a significant freight function.

iii) Oppose devolution or formularizing of transit discretionary grant program.

Background: During the TEA-21 authorization debate a proposal was surfaced in Congress to eliminate the discretionary transit program that allocates funds to a select group of project based on merit (including New Starts), in favor of a formula program that allocates funds based on population.

Analysis: The region opposed devolution or formularizing of the New Starts program during TEA-21 because the current discretionary grant process ensures high quality projects of a scale sufficient to address major transportation corridors. Formularizing funding would mean each state would receive only a relatively small stream of funds, making the construction of large rail projects with federal funds nearly impossible. Regions with superior projects, such as Portland, would receive no additional funding relative to region's pursuing less meritorious projects.

Policy Proposal: Continue to vigorously oppose devolution or formularization proposals.

Consistency: this is essential to the implementation of the RTP because shifting FTA funding to formula would ensure that light rail projects would not be implemented.

2) **New Initiatives and Concepts**

A number of new initiatives are being debated and analyzed at the national level. Pending the outcome of national developments, the region has not taken a firm position on a number of these concepts. These initiatives and concepts are outlined here in order for the region to be fully informed on the national level debate on TEA-21 policy.

a) **Key Transit Policy Issues**

i) **Balancing Additional New Starts funding.**

The region recognizes that attention needs to be given to the needs of existing rail systems to add to their core system capacity. Projects that will make better use of existing infrastructure can offer a cost-effective approach to build transit ridership. This region expects to be able to benefit from such investment in future years. We believe that, consistent with the priority we place on the New Starts program, some of the growth in transit spending above current levels could be devoted to addressing "core capacity" needs.

The top priority of the region is to increase funding for the New Starts program. At the same time, the region continues to support the existing balance at the federal level between New Starts, Rail Modernization and Bus Facilities programs. It will be important to monitor proposals for an added "core capacity" program to determine whether to support it.

Consistency: increased funding for New Starts is essential to the implementation of the RTP. Creation of a "Core Capacity" funding category, may be useful since it could provide an alternative source for capacity expansion of the existing LRT corridors. Similarly, a "Small Streets" program under discussion could provide an alternative source for streetcar and commuter rail projects.

ii) **Full Funding Grant Agreements for BRT.**

Background: There are a set of important regional BRT projects that are often times too small to merit a FFGA for tens of millions in federal participation and too big to be funded in one or two years of the typical one to three-million dollar federal bus discretionary earmark. Transit agencies do not have the capability to carry the financing or the risk of advancing local funds to these projects in anticipation of future federal appropriations.

Analysis: There are some BRT or TSM projects in the new start pipeline, but none have actually received an FFGA. Many TSM projects leverage additional ridership, leverage positive land use patterns around transit stations and generally add value to fixed guideway improvements. At the same time, they do not generally lend themselves to the typical measures used by the FTA in evaluating FFGAs.

Over the course of TEA-21, Congress has moved increasingly to earmarking the FTA bus and bus facilities funds. Unlike the New Starts program, these earmarked projects receive no FTA evaluation or rating prior to congressional funding decisions.

Policy Proposal: To facilitate the development of these projects, which are generally cheaper options, they should be made eligible for FFGAs out of the existing bus program. The FFGAs should undergo FTA review for technical and financial feasibility and transportation benefit but the review should not be as resource demanding as the New Starts program. This would have the effect of returning at least a part of the bus program to a merit-based allocation.

Consistency: this would be useful for implementation of transit elements in the RTP through provision of a multi-year funding agreement.

iii) **Streamline Project Delivery.**

Background: The design build project delivery method has several advantages over the traditional design-bid-build method. Design build projects bring the architect/engineer and the general contractor together into a single contract entity. The resulting partnership enhances communication between the parties and neutralizes their competing and sometimes adversarial business roles. Further, the owner is relieved of its "go-between" role for design/construction coordination matters since this risk is shifted to the design build contractor.

Design build often results in time savings for overall project delivery compared to the traditional method. Time savings are possible due to the ability of the design build team to begin early phases of construction while design is being completed for later phases.

Design build can sometimes yield significant cost savings, particularly in situations where flexibility in the finished product is possible. In such cases, collaboration between the designer and contractor can achieve the most efficient balance of design choices and construction methods.

Tri-Met Experience. Tri-Met has had several positive experiences with design build project delivery. Of particular note is the Portland Airport Light Rail Extension. That project used a single design build contractor for the entire project. The design build contractor was brought into the project very early in the project life, participating in Preliminary Engineering (PE) work prior to final contract negotiations and final design & construction. In fact, the design build contractor was also an equity partner in the project, providing capital funding in exchange for development rights in publicly owned property surrounding a portion of the alignment. By using the design build method, Tri-Met acquired an excellent system extension and experienced the remarkably low change order percentage of 1.5 percent.

Design build in TEA-21. Design build was introduced to the transit industry in the ISTEA Act of 1991. Several demonstration projects were established to explore this delivery method in actual transit practice, and the demonstrations were carried through into TEA-21. Results of the demonstration projects were published in a report to Congress in 1998.

In 2000, FTA released interim guidance on how the existing FFGA process steps should be applied to projects using the design build delivery method. Although the guidance was a beneficial step forward in integrating design build into the New Starts environment, additional changes in the FFGA process could render even greater benefits from design build. Reauthorization of TEA-21 may provide an excellent opportunity to do this.

Analysis. The FFGA process for design build outlined in the current guidance is very similar to the process for the traditional delivery method. It is structured to bring the design build contractor into the project at the time a traditional final design would begin. This sequence allows the existing legal and administrative requirements to be applied to design build. However, introduction of the design build contractor at the time of final design is too late to leverage much of the potential benefit of the design build method.

To gain the maximum benefit of design build for transit projects, it is desirable to bring the design build team into the process very early in the project life. It is beneficial for the design build team to participate in PE, prior to development of documents for NEPA approval. This early involvement allows the design build team to influence the alignment layout and station area development to optimize cost, constructibility, ridership, and joint development opportunities. Early participation in joint development opportunities is especially important in order to promote equity partnership from the design build team.

Policy Proposal: Utilizing such early involvement, a revised FFGA process could be as follows:

(a) *Alternatives Analysis*, including selection of the Locally Preferred Alternative, would be conducted in the usual manner by the sponsor Agency and MPO.
(b) The Agency would submit to FTA a *Request to Enter Design Development.* This would be similar to a Request to Enter PE and would contain the same information and criteria evaluation/requirements. It would differ, however, in that Design Development authority would encompass both PE and a pre-determined portion of Final Design (perhaps to the 30% level). Combined PE/partial FD recognizes the lack of hard edges between PE and FD in design build and thus eliminates the separate steps of PE/Final Design approval.
(c) *Upon approval to enter Design Development*, the Agency would execute a two-phase contract with a design-builder. Phase 1 would be for Design Development/NEPA support and Phase 2 would encompass Design Completion/Construction. Solicitations for interested proposers could be initiated concurrently with Step 2 above. Even at this early stage, real financial competition can be generated from proposers through their commitments on:
    - equity investment for property development rights
    - fee percentage on final design & construction
    - incentives for "beating the budget"
    - sharing of unused construction contingency
    - tax incentive rebate from vehicle leasing mechanisms.
(d) *During Design Development*, the design build would assess the LPA, influence the concept where appropriate, provide support for NEPA documentation, conduct detail design on key issues/areas, and develop a cost estimate for final (production) design and construction. Meanwhile, the agency would lead the NEPA approval effort, solidify local funding (including design build equity partnership, if included) and prepare PMP, Fleet Plans, and other documents. The Agency and the design build would negotiate a firm price for the second phase (design/construction) based on the results of Phase 1 efforts.
(e) Design Development would conclude with *submission of a request for an FFGA.* During the 120-day review process, the design build could proceed with detail design, ROW acquisition and even early construction activities under LONP authority.
(f) Once the *FFGA is approved*, the design build contract's Phase 2 work would be authorized, and final design/construction completed.

The alternate scenario provides for an extremely effective alliance between the Agency, designer, and builder. It recognizes that in the design build process, lines between PE and FD are blurred. PE resources are devoted to issues that harbor the greatest risks and rewards. Further, it is the builder itself who decides where the pressure points are, leading to fewer surprises, lower contingencies, and quantifiable risks. Those risks that remain can be discussed and apportioned between Agency and design build and addressed in the terms of the negotiated price.

Conclusion: The current guidance on use of design build contractors for transit construction is a good first step. In cases where there is little possibility for alignment deviation or Joint Development, PE and Final Design can remain separated and the guidance can be followed.

The alternate process described above facilitates even greater benefit from design build by bringing the builder into the process early, thus gaining the benefit of engineering, construction and commercial knowledge before alignment decisions are fixed. The preferences revealed reflect the unique approach of the specific design build team. Further, their vested interest in the construction and operational phases ensures that their ideas are realistic and pragmatic, and endows the design build team with a fiduciary interest in making them work.

Consistency: this would be useful for delivery of the RTP through more efficient, expedited procedures.

b) **Environmental stewardship and streamlining.**

Background: The National Environmental Policy Act (NEPA) process for large, complex projects has become increasingly lengthy and complex. Listings under the Endangered Species Act (ESA) are impacting not only large construction projects, but also routine preservation and maintenance activities. Previous efforts to streamline the environmental review of transportation projects, including those in TEA-21, have yielded some results, but significant issues remain.

Analysis: In response to Section 1309 of TEA-21, ODOT has developed and implemented a coordinated review process for highway construction projects. This improved method for state and federal permitting agencies to review highway projects is up and running in Oregon. Known as "CETAS" (Collaborative Environmental and Transportation Agreement on Streamlining), it establishes a working relationship between ODOT and ten state and federal transportation, natural and cultural resource and land use planning agencies. The CETAS partnership has defined how to streamline (in six tasks):

Implement an Environmental Management System to achieve performance based permitting:
- Employ Habitat Mitigation Programs;

- Enlarge GIS Mapping Systems of Natural and Cultural Resources;
- Additional Programmatic Biological Opinions (PBOs);
- Seamless Performance of contractors and local governments;
- Expand Partnerships.

Policy Proposal: Congress should support state-led efforts to both protect the environment and streamline the review process for transportation projects by:
- Providing increased funding to state departments of transportation and resource agencies to develop new programmatic approaches.
- Funding a pilot project for ODOT to demonstrate the benefits of implementing an Environmental Management System culminating in ISO 14001 certification.
- Providing resources for Global Information Systems (GIS) mapping of natural and cultural resources.
- Sanctioning advanced wetland and conservation banking for transportation projects.

Consistency: this would be useful for delivery of the RTP through more efficient, expedited procedures.

c) **Key Highway Policy Issues**

i) **Additional resources for the I-5 Trade Corridor.**

Background: Interstate 5 (I-5) in Oregon, Washington and California is one of 12 high priority corridors identified in TEA-21. One-fourth of the nation's exports and imports pass through the I-5 corridor.

The area between the I-84 interchange in Oregon and the I-205 interchange in Washington has been identified as having significant bottlenecks that threaten the economic vitality and livability of the region.

The Governors of Oregon and Washington have appointed a 28-member Task Force to develop a bi-state strategic plan to manage and improve transportation and freight mobility in the corridor.

The strategic plan will address freeway, transit, heavy rail, and arterial street needs. The public planning process started in January 2001 and the strategic plan is expected to be complete by the fall of 2002. Partners in this effort include Oregon and Washington Departments of Transportation, Metro, Southwest Washington Regional Transportation Council, the ports of Portland and Vancouver, the cities of Portland and Vancouver, and Multnomah and Clark counties.

Work by the Task Force in the spring of 2002 will include development of recommendations on finance and implementation, bi-state land use agreements, transportation demand management, community enhancements and environmental justice, and freight and passenger rail.

Analysis: The bi-state strategic plan will address freeway, transit, heavy rail, and arterial needs. The public planning process started in January 2001 and the strategic plan is expected to be complete by the fall of 2002.

Draft Recommendations recently adopted by the Task Force call for:

- Upgrade existing bridges from 6 to 10 lanes across the Columbia River.
- A phased extension of the two existing light rail lines in Portland north to connect as a loop in Clark County
- Implementation of aggressive measures to reduce single auto trip demand, increase transit service and encourage use of alternatives to auto commuting
- Agreement to control land uses to avoid inducing more sprawl in response to a bigger freeway to simply result in a bigger traffic jam in the future.
- Three through-lanes, including Delta Park; and
- Interchange improvements between Columbia Blvd. in Portland and SR 500 in Vancouver.

The Task Force draft recommendations also call for a post-Task Force study of an arterial road west of I-5 in the vicinity of the railroad bridge.

Policy Proposal:

(a) Supports the state's efforts to eliminate bottlenecks in the I-5 Trade Corridor, especially between Portland and Vancouver, Washington.
(b) Support ~~continuation~~ separation of TEA-21's Borders and Corridors program ~~at a higher funding level and~~ with a greater focus of funding in the Corridors program to key international and interstate freight corridors, like the I-5 Trade Corridor. ~~, which are true national freight corridors.~~
(c) Support to a least $1 billion increase of funds for the Border and Corridor program, expand the concept to include projects that support gateways to national and international markets and focus the emphasis on freight and bi-state cooperation.

Consistency: this would provide an expanded funding category for a significant RTP priority.

ii) Additional Railroad Resources in the I-5 Corridor

(1) Track Capacity

Background: Today the federal investment in passenger rail is a fraction of what is spent on other modes of transportation, and is limited primarily to providing Amtrak with annual operating and capital funds, the vast majority of which go to the Northeast Corridor.

In the Pacific Northwest Corridor, the states are paying the full operating cost to Amtrak. Since 1992, Oregon has spent over $24 million for operating costs alone.

The state, local governments and railroads have invested another $25 million for track and station improvements in the corridor.

Over $100 million of track and signal improvements is needed in Oregon's portion of the corridor, without counting the cost of upgrading the rail bridge across the Columbia River. Federal funds are also needed to purchase train equipment, which would help lower operating costs.

The joint UP/BN crossing of the Columbia River is one of the busiest and most important rail links in the region. ODOT and WSDOT, in cooperation with Amtrak, the Ports of Portland and Vancouver, and the railroads, are undertaking a track capacity analysis of the joint UP/BN line across the Columbia River. Previous analyses suggest significant capacity problems on this line segment in the near future, which could impact economic development opportunities, passenger train expansion and through freight operations.

Analysis: States should not have to shoulder these costs alone. Federal highway and transit programs provide capital funding for roads, bridges and transit improvements, and likewise federal funds are needed for passenger rail development. Congress could increase the amount of funding available for passenger rail development if legislation pending this year is enacted. Some versions, however, would create a new complicated loan program rather than a grant program.

Loan programs alone will not provide the federal investment needed for states to develop successful passenger rail corridors. The reauthorization of TEA-21 is an opportunity for Congress to establish a federal rail program that adequately supports passenger rail development.

Policy Proposal: Support federal legislation to increase capital funding for freight and passenger rail facilities. Opposes moves to dissolve Amtrak. However, in the event that Amtrak is dissolved or dramatically restructured to eliminate West Coast services, track rights should revert to the state to allow passenger service to continue.

Consistency: this would provide funding for elements of the RTP dealing with the high-speed rail, the I-5 Trade Corridor and freight movement in general.

(2) Truman Hobbs

Background: The joint UP/BN crossing of the Columbia River is one of the busiest and most important rail links on the West Coast. ODOT and WSDOT, in cooperation with Amtrak, the Ports of Portland and Vancouver, and the railroads, are undertaking a track capacity analysis of the joint UP/BN line across the Columbia River. Previous analyses indicate significant capacity problems on this line segment which wold impact economic development opportunities, passenger train expansion and through freight operations.

The Coast Guard is currently undertaking an examination of the eligibility of the UP/BN railroad bridge over the Columbia River for Truman-Hobbs (navigational hazard) funding. The rail bridge swing-span is lined up with the lift span on the I-5 bridges, making it very difficult and hazardous for ships to use the I-5 "high" fixed span section. Using the fixed span section avoids the need for opening the bridge and the resulting delay on I-5.

Analysis: Truman Hobbs is a federal program that funds projects to address rail hazards to navigation. Projects are selected based on the cost benefit of a given investment to the marine and freight rail facilities.

Policy Proposal: The analysis of the cost delay of the UP/BN rail crossing of the Columbia River should be expanded to include the impacts on truck and auto commerce on the I-5 bridge due to lift span operations caused by the RR bridge.

This can be done under existing statutes, but the law should also be changed to allow car/truck delay as part of the consideration. Truman-Hobbs funds are intended for "in-kind" replacement of navigational hazards but can be contributed toward larger facility upgrading projects such as adding capacity to the UP/BN bridge.

Consistency: this would increase the likelihood of funding to replace the railroad bridge swing span.

d) **Oppose federal preemption of state law regarding weight-mile fees.**

Background: Oregon maintains the cost-responsibility of paying for maintenance, preservation and modernization of the road and highway system through the weight-mile fee on commercial trucks. The weight-mile fee is based on the weight of the vehicle, the number of axels and the distance the vehicle travels on Oregon roads. The weight-mile tax is structured to most closely reflect the cost responsibility of trucks relative to the taxes paid by auto users.

Analysis: The national trucking industry has sought to eliminate the weight-mile system at the state and federal level. In the debate leading up to ISTEA and TEA-21 there were efforts to introduce amendments preempting weight-mile taxes on the state level.

Policy Proposal: The federal government should not preempt state authority to establish the most equitable method of assigning and implementing cost responsibility.

Consistency: this would protect a source of funding for the state highway fund that provides about 35% of the funding.

e) Multi-State Vehicle Miles Traveled tax demo program.

Background: As the prevalence of electric and hybrid fueled vehicles increases, there is a growing recognition in Oregon and other states that the gasoline tax is becoming a progressively less adequate financial source for surface transportation programs. In the 2001 legislative session Governor Kitzhaber asked for and received legislative approval of a task force to address the future of the gas tax as a source of Oregon highway funding. The Road User Fee Task Force (RUFTF) is preparing findings and recommendations regarding the viability and applicability of alternatives to the gas tax.

Analysis: Higher fuel efficiency and greater use of alternative fuels for autos erodes the ability of the gas tax to meet growing system demand. Although these vehicles continue to contribute to congestion and road damage, they do not contribute to the transportation trust fund in a proportional fashion.

Policy Proposal: Support a federal effort to examine ways a VMT tax or other road user fee system could be implemented at the state or federal level.

Consistency: this is similar to the Road User Fee Task Force established by the '01 Oregon Legislature to investigate alternative sources to the gas tax.

~~g)~~f) Highway Bridge Replacement and Repair (HBRR) issues.

Background: Current federal rules to determine the allocation of HBRR formula funds to states are based principally on the square footage of bridges. The TEA-21 formula does not recognize the additional cost in preserving and rehabilitating movable (lift span) bridges. The movable Willamette River bridges in Portland and elsewhere in Oregon receive the same funding per square foot as more easily maintained fixed span bridges.

Analysis: Under current formula, Oregon received approximately $40.2 million in HBRR funds over the first four years of TEA-21, representing approximately 2.7 % of total HBRR funds allocated.

Oregon has 27 heavy movable bridges or approximately 2.3 percent of a national total of approximately 1171 heavy movable bridges. By contrast, Oregon has approximately 7,300 total bridges, about 1.2 percent of the national total for all NHS and non-NHS bridges. Oregon's share of structurally deficient and functionally obsolete bridges is 1 percent of the national total.

It is estimated that the cost to replace or rehabilitate movable bridges is 1.7 times the cost of fixed span bridges.

Policy Proposal: Reauthorization should incorporate a 1.7 times factor in the HBRR formula for lift span bridges.

Consistency: this would provide an expanded source of funds for Multnomah County's Willamette River Bridge project.

~~h)~~g) Orphan Highways.

Background: An orphan highway is any aging US designated state highway that's role as a regional highway has been supplanted by the construction of the Interstate Freeway system. These highway links were predominantly built in the 1930's,'40's and 50's. During their primary service years, land uses that located along their lengths were auto oriented in type and function. Many were constructed as rural areas evolved into the first tier of suburban communities, making the leap from farm to market roads to urban highways. Much of the older commercial strips and nodes that were served by these state roads have been deteriorating and the roadways are likewise underutilized.

Analysis: A program of new reconstruction funds for state and local jurisdictions would make rehabilitation of these roadways viable as multi-modal main streets and boulevards. Application of these funds should be on routes where more intensive comprehensive plan land use designations are already in place. So doing will allow these facilities to not only provide an improved transportation asset but also change the face of the community from a land use perspective.

Examples of Candidate Routes: In Portland, many of the state highway routes that traverse the city have auto oriented commercial uses along their length with intermittent commercial nodes. Sandy Boulevard, as an example, serves several miles of northeast and southeast Portland as a four-lane arterial with sidewalks, intermittent on-street parking, left turn bays and good transit service. The street, which is a state highway, serves both local and non-local transportation trips. The Hollywood and Parkrose Districts serve as commercial centers along its length. Both regional and local land use and transportation policy focus on returning this street to its historic character by reconstructing the street with boulevard type standards that serve all modes and encourage property owners to reinvest in urban density land uses.

The state, in partnership with the city, designed and reconstructed a 12-block length of Sandy Boulevard using the more progressive regional boulevard design guidelines. The amenities included rehabilitation of the entire street cross section; addition of bike lanes, planted medians, pedestrian curb extensions, wider sidewalks and left turn refuges. Existing engineering standards were a difficult stumbling block, requiring design exceptions for some of the design's elements. Providing for more flexible design standards in this proposed program would save considerable time, money and negotiation.

Since its completion private property owners have invested in their storefronts or in some cases completely rebuilt on the sites using the more urban land use development regulations. These new developments have changed the character of the street and added vitality to the community. Now folks actually walk across the street rather than drive. The project is the region's showcase of how these once forgotten highway segments can become the jewel of the community. Other state highway segments that could be candidates include; Powell Boulevard, Lombard Street and Barbur Boulevard in Portland.

Policy Proposal: Create a pilot program of not more than $25 million to be funded out of new federal funds, rather than off the top of the formula program. Candidate projects would be judged based on the following criteria:

(a) 100% federal funding when the local government agrees to take over maintenance.
(b) Local government must commit to supportive comprehensive plan and zoning designations that support more intensive, mixed-use development along part or all of the route.
(c) FHWA should provide for more flexible design standards to achieve the program's design goals.
(d) The program should be limited to a small number of pilot projects to curb wholesale earmarking and provide financing to the truly worthy projects.

Consistency: this would provide a source of funds to implement community-based improvements on state highways ODOT would prefer to transfer to local governments. Consistent with the function called for in the RTP.

~~i)~~h) Freeway Removal and Reuse

Background: There is some interest in more flexibility for federal highway dollars to remove and reuse highways and interstate freeways if that is the desire of the local community.

This would continue the tradition of ISTEA and TEA-21 in giving greater flexibility to local jurisdictions in deciding the best local solution to their transportation and land use needs. It would allow the use of federal funds in major, community defining decisions such as the removal of the waterfront freeway and construction of Tom McCall Park.

However, given the tremendous unmet needs for maintenance and preservation of the existing highway and freeway network and the perhaps even greater unmet need for modernization, there is some concern for how one can justify using federal funds for the removal of functioning highway and freeway segments.

Consistency: this would be useful if the RTP is amended to reconfigure or relocate the Eastbank Freeway (I-5). Federal support is more likely for an approach that replaces the current function than completely removes a freeway with no attention to replacement.

~~j)~~i) Improved Transportation Security.

Background: Following the terrorist attacks of September 11, Congress created a new Transportation Security Administration and Office of Homeland Security to develop and coordinate a comprehensive national strategy to strengthen against terrorist attacks and protect the Nation's transportation systems to ensure freedom of movement for people and commerce.

Analysis: Among the activities that will be worked on in the coming months with state and local agencies are: Incident management, prevention, and response and recovery. For all of these activities, good communications is critical. Transportation agencies play an important role in responding to incidents and ensuring the free movement of people and goods. In the Portland region, an interagency group has identified a series of Intelligent Transportation System (ITS) improvements that will enhance the capability of different government agencies to communicate with one another and share information.

Policy Proposal: Federal funding dedicated to improving security should include transportation improvements in Oregon:

- Fully fund the state's ITS initiative, which includes the Portland region's ITS plan providing greater ability for surveillance and response to emergencies.
- Pay for "hardening" and other improvements to bridges or other potentially vulnerable points in the transportation system.

Consistency: although security is not directly addressed in the RTP, increased attention will no doubt lead to higher costs.

3) Multi-Modal Policy Issues

~~i)~~a) Expanded funding to address endangered species issues.

Background: New restrictions and capital requirements resulting from Endangered Species Act (ESA) designations and other federal natural resource protection requirements are substantially increasing the cost of transportation infrastructure construction and maintenance particularly for bridges. Ditches and culverts are no longer viewed simply as a means of conveying water; they are also water quality facilities and either barriers or facilitators of fish migratory movements. Any improvements made within our public rights-of-way must enhance habitat and water quality. The ESA and Clean Water Act (CWA) provide no funding for the required system improvements.

For example, Clackamas County estimated that there are 975 culverts that are barriers to fish migration and salmon-recovery efforts. Many of these culverts have to be replaced or retrofitted with baffles to slow water flow allowing for passage of all life stages of salmonids. Using an average cost estimated of $93,000 per culvert replacement, retrofitting all the culverts in the county would cost $80-90 million.

Analysis: Over 20 federal statutes impose a variety of environmental mandates on the construction, repair, and maintenance activities undertaken within the federal highway system. A 1995 analysis estimated that added costs due to environmental regulation could be 8 to 10 percent of construction expenditures for federal-aid highway projects. While restrictions are less on state and local roads they are nonetheless considerable.

Multiple environmental benefits can be achieved from conforming road and other transportation projects with ESA requirements. These benefits accrue to the community beyond the transportation benefit in the form of cleaner water, reduced flooding, reduced pollution from urban run off, etc. The cost of providing these additional benefits should be shared beyond the transportation resources.

Policy Proposal: TEA-21 reauthorization could provide a new program significantly expand the existing bridge replacement program to address culverts, blocking fish passage or create an add-on to the Public Lands Highway Program for culverts.

Consistency: the RTP was recently amended to include provisions for "Green Streets" including retrofitting culverts to allow better fish passage. This would provide funding for this purpose.

b) Funding Allocation Issues.

Background: With the 2000 Census, there will be a significant increase in the urbanized areas of the country receiving formula allocation of federal transportation planning funds. As many as one hundred new MPOs will be designated in the new bill. In Oregon, two additional MPOs are being formed in Medford and Corvallis. The new MPOs will receive allocations of federal STP and CMAQ funds without reducing the allocations to the existing MPOs regardless of overall federal funding levels. However, unless federal funding increases in the reauthorization, transportation planning fund distributions to the new MPOs will reduce the funding available for existing MPOs.

Policy Proposal:

(a) FHWA Planning funds should be increased from 1- percent take-down to a 2 percent take-down on the categorical programs to reflect the increasing responsibility of MPOs, the increased number of MPOs as a result of population growth and the increased population inside existing MPOs.
(b) FTA planning funds should be increased commensurate with population growth inside MPOs.

Consistency: this would allow funding to address transportation planning issues consistent with annual approval of the United Work Program.

c) Refocusing of TCSP program.

Background: The Transportation and Community and Systems Preservation Program (TCSP) began as a targeted $25 million program in TEA-21. It has since been expanded through the earmarking process into $250 million program that has drifted significantly from its original purpose. TCSP was established to investigate and address the relationships between transportation and community and system preservation and to identify private sector-based initiatives.

Although any project authorized under Title 23 or chapter 53 of Title 49 U.S.C. was made eligible, it was expected that the program would focus on corridor preservation activities necessary to implement transit oriented development plans, traffic calming measures, or other coordinated preservation practices.

Policy Proposal: Recommended changes include:

(a) FHWA and FTA should continue to develop guidance for projects to be funded through the program.
(b) Publish "best practices" from funded projects. Congress should increase the authorized level of the program to $250 million, comparable to the FY 2003 appropriations.
(c) Tighten up statutory language to ensure grants cannot be awarded unless they demonstrate a supportive land use benefit.
(d) Require an evaluation of the merits of the proposed projects by the Federal Highway Administration and approve funding based upon an evaluation of "Highly Recommended," "Recommended" or "Not Recommended." This should be designed to ensure good projects are recommended for funding, although in a more streamlined manner that the large multi-year contracts under the New Starts and National Trade Corridor Programs.

Consistency: the TCSP program was designed to recognize efforts like ours to link transportation and land use. However, due to congressional earmarking, we have been unable to access these funds since the first year grant to Pleasant Valley planning.

d) CMAQ funding apportionment to states.

Background: ISTEA, adopted in 1991, created the Congestion Mitigation/Air Quality Program to provide a better link between federal transportation spending and the Clean air Act. Specifically, it provided funds to reduce vehicle emissions through federally funded transportation improvements. Apportionment to the states of the total annual appropriation is based upon the population of the metropolitan area weighted by the severity of the air quality problem, as follows:

- 1.4 for "extreme" ozone non-attainment areas
- 1.3 for "severe" ozone non-attainment areas
- 1.2 for "serious" ozone non-attainment areas
- 1.1 for "moderate ozone non-attainment areas
- 1.0 for "marginal" ozone non-attainment areas
- 0.8 for "maintenance" in area that have attained ozone standards

Furthermore, if the metropolitan area is classified a carbon-monoxide non-attainment area, the population is further weighted by a factor of 1.2 and if the area has reached carbon monoxide attainment status, the population is further weighted by a factor of 1.1.

This weighted factor for funding apportionment to states fundamentally creates the wrong incentive. If the area is successful in implementing programs to meet federal air quality standards, it is penalized by a progressively lower funding apportionment. To add insult to injury, when the area succeeds in meeting air quality standards, it's apportionment drops to an 80% share. The disincentive is compounded by the added factor for carbon monoxide.

Policy Proposal:

The disincentive to meeting federal air quality standards should be removed from the apportionment formula. In fact, it would be more appropriate to reverse the weighting factor and reward the metropolitan area with a progressively higher factor as they reach a better attainment status. At a minimum, the final adjustment factor, upon reaching attainment status should be adjusted to 1.1 or 1.2 to create a financial incentive to achieve and then maintain attainment status.

e) **Advanced right-of-way preservation.**

Background: Under current federal regulations, right-of-way acquisition for a federally funded project cannot occur until environmental documents have been prepared and approved and plans and specifications have been approved. Under this approach, right-of-way acquisition happens immediately before construction is to commence. These controls are to ensure that right-of-way acquisition does not happen before the environmental review process determines the best alignment and design for the proposed project and, as a result of early right-of-way acquisition, the environmental review process is prejudiced. As a result of this strict process, right-of-way can be effectively lost in fast growth areas or result in right-of-way that is prohibitively expensive due to development.

Policy Proposal:

Various methods should be sought to allow state and local protection and early acquisition of right-of-way, including:

- Allowing the local government to adopt development regulations identifying a proposed transportation corridor in their comprehensive plans and requiring new development to setback from the proposed corridor. This is commonplace for a setback from an existing road but is more difficult in locations that a new alignment is proposed.
- Allowing the local government to proceed with a protective acquisition of right-of-way when encroachment by a proposed development is imminent with the intent to use the right-of-way for project identified in a local comprehensive plan or sell the proposed right-of-way to the state transportation department upon completion of required environmental review. Under this approach, it would have to be recognized that the environmental review process might result in a different alignment being selected or a decision to not build the project.

- Allowing the state transportation department to proceed with a protective acquisition of right-of-way when encroachment by a proposed development is imminent for any project that is reflected in a federally approved Regional Transportation Plan prepared and adopted by a metropolitan planning organization under federal guidelines.

Further research on these and other methods will be researched with other interest groups.

~~d)~~f) Statewide and MPO bicycle program that addresses bicycle travel planning, operations and safety.

Background: Enact a required statewide and MPO bicycle program that addresses bicycle travel planning, operations, safety, and capital construction. The program would also require of the highway, transit, rail, and air programs that bicycle plans resulting from this initiative be included in an intermodal connection investment strategy required of all modes. The safety program would address a range of issues from integration of auto and bicycle travel to in-school safety training and identification of safe routes to schools for all grade levels. Funding for this requirement would come, in part, from the highway trust fund and could require coordination between school and transportation authorities.

Consistency: this would affect planning requirements and expand the scope of bicycle-related planning.

g) Renew federal support to capitalize State Infrastructure Banks (SIBs), expand flexibility of second-generation funds.

Background: State Infrastructure Banks were authorized in ISTEA as a revolving source of funds for both highway and transit capital improvements. As an original pilot State Infrastructure Bank, Oregon was allowed to capitalize its SIB with federal apportionments. At that time, it was thought that loan funds repaid to the SIB, regardless of source – federal or state – could be reloaned without federal conditions, such as Buy America or Davis-Bacon. TEA-21 altered this. Only four named states are now allowed to capitalize their SIB's with federal funds.

Analysis: The limitations included in TEA-21 have a limiting effect on the size of Oregon's SIB and, by extension, the size of projects the bank can finance at low interest rates.

Policy Proposal: Lift the limitation on SIB capitalization. Consider changes that allow greater flexibility of reloaned funds.

Consistency: this would expand this borrowing option for implementation of RTP projects. All projects have a prerequisite that they be reflected in the RTP.

h) Columbia River channel deepening project

Background: The Port of Portland is pursuing a project sponsored by the Corps of Engineers and six Oregon and Washington ports to deepen the Columbia River navigation channel from 40 to 43 feet, subject to the necessary environmental approvals. A deeper navigation channel will enable cargo ships to carry larger, more cost-effective loads, yielding significant transportation savings to thousands of shippers in the Pacific Northwest and elsewhere in the United States. The project also includes several environmental features that will improve the Columbia River's habitat and environmental quality.

Analysis: Although it is not been addressed in the TEA-21 reauthorization bill, the channel-deepening project continues to be an important transportation priority for the region.

Policy Position: Support the channel-deepening project, subject to the necessary environmental approvals.

Consistency: this reaffirms past positions.

i) Railroad shared use requirements

Background: Current federal regulations regarding shared use of tracks between freight and passenger rail operations are intended to address safety concerns. However, as currently structured, the regulations pose a significant obstacle to the efficient use of these valuable resources. The Federal Railroad Administration (FRA) model emphasizes train crash standards and prohibitions against operating freight and passenger trains together. Other models for preserving safety while allowing shared use are used in Europe where technology is emphasized.

Analysis: The European approach to track sharing regulations emphasizes improved signaling and braking systems to avoid crashes in the first place. European standards deflect the energy of a crash away from passengers, and emphasize braking systems, block signaling systems, speed limits where appropriate, and crumple zones to allow passenger vehicles to absorb the brunt of an impact while protecting passengers and drivers. In comparison, FRA's vehicle safety standards do not speak to locomotive braking, train signaling systems, or speed limits. New authority is needed to facilitate the rules and procedures for permitting shared use of freight rail tracks by Amtrak and commuter rail projects.

Policy Proposal: Support increased funding for the Section 130 grade separation program to enhance public safety at grade crossings on public highways. Encourage FRA to examine European models of freight/passenger train control and approve pilot projects to demonstrate the technology-based approach.

Consistency: this would facilitate the Washington County commuter rail project and any future similar projects.

j) **Streetcar Initiatives**

Background: Many communities are expressing an interest in small scale rail based transit lines to serve redeveloping central city areas and connect neighborhoods in a way that is very different from regional rail systems. The existing federal assistance program, Federal Transit Section 5309 "New Starts," is oversubscribed and is governed by an extensive review and approval process that is not necessary or appropriate for low cost and non-intrusive urban streetcar lines.

Until the 1950's, many communities had extensive streetcar systems which served to connect neighborhoods to central city employment, shopping and cultural opportunities. As heavy industry migrates from the central city, major opportunities are created to foster the development of new, high-density urban neighborhoods. The creation of additional housing in the central city is a key transportation and economic strategy. By absorbing population growth in the central city, valuable farm and forest lands are preserved, the distances that people must travel for employment and other daily needs are greatly shortened, and the environmentally and fiscally costly expansion of the urban interstate highway system can be avoided.

Streetcar Characteristics: By definition, streetcars operate in existing public rights of way, often co-mingled with other traffic. Unlike regional light rail projects that connect major centers over long distances, streetcars connect redeveloping neighborhoods and major attractions over relatively short distances. Streetcars typically operate at lower speeds with more frequent stops to serve a dense mixed-use environment. For this reason the vehicles rely more heavily on operator control than complex technological systems. The vehicles' size and scale are respectful of the neighborhood settings in which they operate. Installation of a streetcar line is accomplished with minimal reconstruction within existing streets or rights of way.

If the Portland region is successful in attaining this new resource program, the region would need to respond by identifying projects that would qualify for financing. The next targeted extension by the City of Portland of the existing streetcar system would be to the connection of the Pearl District, West End, PSU, South Auditorium Area on the west side of the Willamette River with planned high density development in Portland's Central City on the east side of the river including the Lloyd and Central Eastside Industrial Districts and OMSI. This loop system would intercept Downtown bound bus and light rail transit service to facilitate transfers and improve transit access, particularly from the South Corridor to employment concentrations in the Lloyd District.

Analysis: New resources are needed to aid communities in building modern streetcar lines that provide residents and visitors of the central city with a choice in how they move about. For example, a new Portland streetcar line opened in July 2001, demonstrating the ability to capitalize on lower project cost, a minimally disruptive construction process and the opportunity to attract complimentary, mixed-use urban development. The purpose of this proposal is to set forth the context for a new that would assist communities in developing streetcar lines and systems without competing with larger scale, more costly regional fixed guideway projects.

Policy Proposal:

(a) New Funding Program: The region supports the creation of a new streetcar-funding category with added funds. Legislative action to limit the propagation of regulations from the executive branch, limit to the degree possible and responsible NEPA requirements through an umbrella categorical exclusion, authorization for the Secretary to execute full funding grant agreements and such other changes in existing code and regulation as may be required to implement this program.

(b) Project Evaluation Criteria: A new set of project evaluation criteria should be established that is more appropriate to streetcar projects.

Projects should be reviewed solely against the following standards:

- Streetcar projects are intended to be economical and the maximum federal participation should be limited to $50 million.
- Project sponsors may be transit properties or other units of local general-purpose government.
- The maximum federal share should be limited fifty percent of total project cost. In addition, streetcar projects should require the financial participation in project construction of the owners of real property abutting the alignment excluding owner occupied residential properties. Property owner participation should be required to ensure that the project recovers a portion of enhanced property values. Property owner participation should have a floor of 10% of construction cost.
- Streetcar projects should demonstrate the ~~availability of~~ -development / redevelopment opportunities and ~~complimentary land use policies~~ in close proximity to the alignment. Projects must demonstrate that property ~~zoned to accommodate~~zoning and comprehensive planning designations enabling complimentary mixed-use ~~development is available~~ land uses should also be in place adjacent to the alignment.
- Streetcar projects should demonstrate how redeveloping or new neighborhoods on vacant or underutilized land will be connected to each other or major attractors in the central city and with major regional transit services.
- Project sponsors must provide a detailed operating plan including frequency of service, hours of operation, and stop locations and demonstrate the financial capacity to operate the line.
- Create under the Federal Housing Act authority for the Department of Housing and Urban Development to contract with urban communities to fund the construction of urban fixed guideways that support the development of housing and the re-development of housing in urban areas by the use of streetcar technology.

- The projects approved for ~~HUD~~ funding would be ranked according to their support of ~~urban densities and other urban livability criteria~~mixed-use, higher density land uses. They would not be expected to meet traditional ridership thresholds suggested by USDOT-FTA standards. These projects would be eligible to receive up to $25 million in FTA Sec. 5309 New Start construction funds regardless of the level of HUD support. They would not be required to meet DOT New Start criteria, and would be exempt from DOT ranking.

Consistency: expansion of the streetcar system is reflected to a limited extent in the RTP but not with federal funds. In addition, MTIP funding has been allocated to define the transit and bike improvement strategy in the Willamette Shore Corridor to Lake Oswego where a streetcar option would be examined. Creation of a "small starts" federal funding category would facilitate. However, it is not clear that the region should support a "Small Starts" program unless there is significant increases to the "New Starts" program.

k) Technical Issues.

a) Shift PMO funding to FTA wide rather than on project-by-project basis.

Currently Project Management Oversight, FTAs mandated outside project review consultant, is paid out of project appropriations. Often this means that projects receive less funding than expected based on the congressional appropriation for a given year. This can cause troubling adjustments in budget, expenditure and borrowing. PMO work supports the oversight function of and mandate of the FTA and should be funded out of the agency's budget rather than project-by-project.

Consistency: this would increase the efficiency of delivering certain RTP projects.

b) Buy America.

Instead of having the Transit Agencies certify that the products that they meet Buy America, the Bus/Rail manufacturers could certify that the product that they sell meets Buy America. Each manufacturer does the initial work any way, so having the Transit Agency be responsible for certification makes little sense and costs the federal government a lot of money as each transit agency buying vehicles must audit and do the work for the certification. It is mostly the pre-award audit that is costly to the Transit Agencies - the post award, including buy inspections, makes sense for the transit agency to perform from a quality control perspective.

Consistency: this would increase the efficiency of delivering certain RTP projects.

c) **Review of 12-year life for buses.**

Currently, FTA prohibits using federal funds to replace buses less than 12 years old. This requirement does not recognize evolving technology nor does it take into consideration the use of the bus during the 12 years.

When a transit agency tries to participate in forwarding new technology, often the first generation of that technology does not produce the results necessary to maintain operations. Our LNG fleet is good examples. These are 1st Generation LNG buses, which after 8-9 years do not run and we have been unable to get replacement parts as the technology as evolved. They are still listed as 12-year buses and unless we get a waiver from the FTA for both the 12-year life and the pay back for short life, we are on the line for a lot of money to go back to the FTA. This discourages transit agencies from participating in new technology.

Different operating environments age buses in different ways. A small transit agency may only run a bus 25,000 miles per year, 8 hours per day, 5 days per week. We run buses 50,000 miles per year, 20 hours a day, 7 days per week. A more accurate bus life measure would be miles, or hours - or any measure that took in account actual use.

Consistency: this would increase the efficiency of delivering certain RTP projects.

d) **Excess property.**

On projects, other than Westside Light Rail, for which Tri-Met was given a blanket permission to sell excess property, agencies usually have to go through a lengthy Federal process to dispose of unneeded property acquired with federal funds. FTA requires that property be posted for acquisition first by other federal agencies, then by other public agencies. The process can take up to a year.

Consistency: this would increase the efficiency of delivering certain RTP projects.

e) **FTA concurrence.**

Transit agencies are required to get FTA concurrence on the purchase of property over $250,000; that which is $50,000 more than appraisal and anytime condemnation is used. All of this takes a great deal of time. FTA will sometimes allow larger transit districts to purchase property without agency concurrence, however the decision is optional and the threshold uncertain. FTA should allow those properties with FFGAs to exercise this discretion on their own since these properties are already under considerable scrutiny by FTA and PMO.

Consistency: this would increase the efficiency of delivering certain RTP projects.

f) **FTA oversight.**

Oversight could be streamlined. Now we have:

- PMO - project management oversight
- FMO - financial management oversight
- PMO - procurement management oversight
- Rail State Safety (and Security) Oversight
- Triennial Reviews

All the above derive out of the same basic 22 or so FTA certification requirements, but transit agencies are subjected to different audits and different audit teams at different times. So it would be less onerous if FTA consolidated the oversight audits, audit teams, and rationalized the schedule/periodicity and relationship among the oversight reviews. At a minimum there could be 3 teams: PMO (project), State Rail Safety, and Triennial. The fist two would be continuing and the latter every 3 years.

Consistency: this would increase the efficiency of delivering certain RTP projects.

g) **OMB leveling the playing field.**

Many of the differences between FTA and FHWA are rooted in the OMB circulars regarding the differences in the clients served. FHWA primarily deals with states that are considered to have their own constitutional authority and established procedures regarding financial and legal accountability. Transit agencies, cities, and metropolitan areas have lesser status in the view of OMB, largely deriving their authority from states.

OMB requires more scrutiny by the federal departments administering funds to subdivisions of a state. Reducing oversight where it is not needed, such as where jurisdictions can show a consistent record of sound management of federal funds, would reduce costs and unnecessary delay in project implementation.

Consistency: this would increase the efficiency of delivering certain RTP projects.

l) **University Transportation Research Centers**

Request: Support enhancement of the Federal University Transportation Centers as part of the reauthorization of the transportation bill.

Background: Congress first authorized the creation of University Transportation Centers as part of the Surface Transportation and Uniform Relocation Act of 1987. This initial legislation authorized 10 centers to coincide with the Federal regions. The University Transportation Centers were again reauthorized in ISTEA and TEA-21. Currently TEA-21 authorizes $158.8 million for grants to 33 centers (regionally designated centers and congressionally specified centers). Research funded through the Centers requires a 50-50 match and is required to meet peer-review standards; in other words, the research done is not opinion or advocacy research.

The Centers designated as "regional centers" are also called Category A centers in the TEA-21 and receive $1 million per year for research. The level of annual funding for Regional Centers has not changed since 1987, and a variable obligation limit ceiling has reduced current funding to $870,000. The Congressionally mandated centers fall into three categories:

Category B: Received $300,000 in 1998 & 1999 and $500,000 for 2000 & 2001 *There is authorized a limited competition with Category C for the fifth and sixth years
Assumption College, Purdue University, Rutgers University, South Carolina State University, University of Central Florida, University of Denver and Mississippi State University, and University of Southern California and Cal State University Long Beach

Category C: Received $750,000 for years of 1998 through 2001 *There is authorized a limited competition with Category B for the fifth and sixth years
Morgan State University, New Jersey Institute of Technology, North Carolina A & T State University, North Carolina State University, San Jose State University, University of Alabama, University of Arkansas, University of Idaho, and University of South Florida

Category D: Received $2 million per year from 1998 through 2003
George Mason University with University of Virginia and Virginia Polytechnic Institute and State University, Marshall University, Montana State University, Bozeman, Northwestern University, University of Minnesota, and the University of Rhode Island

Justification and Application to Oregon: Making University Transportation Centers a priority in Oregon's recommendations for policies in the reauthorization of the transportation bill will benefit the state's transportation and planning programs. Other organizations are calling for increased funding for research. For example, the American Road and Transport Builders Association is recommending increasing the regional center authorization from $10 million per year to $30 million per year. Currently PSU receives about $100,000 a year in funding for transportation research through an affiliation with the Region X Center located at the University of Washington. Support for the program, including increased funding, would provide additional research capacity through one of two ways: 1) Funding could be increased for the Regional Centers; or 2) PSU could be authorized as one of the Congressionally mandated centers and receive money directly.

Each Center is required to have a theme that organizes the research done by faculty. PSU's theme would be Advanced Information Technology, Urban Transit, and Livability, Health, and Transportation.

Consistency: as proposed, the Portland State University Transportation Research Center would ensure research is independent and peer reviewed. In addition, an oversight committee, which includes representatives from outside PSU, is proposed. With these provisions, an expanded research capability at PSU would help advance innovative policy directions called for in the RTP.

EXHIBIT C

Portland Region
Priority Projects for
TEA-21 Reauthorization Earmarking

The projects identified below are consistent with the following principles:

1. The region should have a relatively short list of priorities.
2. As a target, the region should seek authorization for projects under the New Start category that could reach the funding stage at some point during the 6-year authorization period (2004-2009).
3. As a target, the region should seek $100 million in various highway earmark categories.
4. All projects must be consistent with the RTP Priority System.
5. Project requests should support and reinforce the land use plans of the region.
6. All project requests must be able to use earmarked funds within the six-year timeframe of the reauthorization bill.
7. The jurisdiction requesting a project earmark must be prepared to deliver an appropriate project within the earmarked funding amount regardless of the level of funding earmarked. Partial earmarks must be supplemented with alternate funding sources or scaled to an appropriate sized project.
8. There must be a strong base of support for the projects from governments, community and business organizations.
9. Members of the delegation must be willing to pursue the project earmark.
10. The overall regional list must be regionally balanced.
11. The adopted regional list will be described as the priorities of the region. Local requests outside of the adopted regional list will be strictly the priority of that jurisdiction.

A. Regional Highway Priorities - the following have been identified as regional highway priorities:

- I-5/Delta Park to Lombard................$32.8 million - Borders & Corridors/Interstate 4R/Highway Demo
- Highway 217-TV Hwy-Sunset Hwy
  (Westside Corridor Final Phase).....................................$26.4 million – Highway Demo
- Sunrise Corridor - Phase 1
  Preliminary Engineering & Right-of-Way acquisition.....$32.0 million – ~~Interstate 4-R/~~Highway Demo
  (Interstate 4R Discretionary can also be considered for funding earmarked)
- Columbia Blvd. Intermodal Corridor
  Ramsay Railroad Yard...$11.0 million – Freight Rail/Highway Demo
  Air Cargo access)..$ 9.0 million – Highway Demo

B. Regional Transit Priorities – The following have been identified as regional transit priorities:

1. Projects to be reauthorized – Section 530~~7~~ – New Starts:

   - Continue authorization for preliminary engineering and construction for the entire South/North project from Clackamas County to Clark County: 1. To complete Interstate MAX; 2. ~~To begin construction as the region's #1 priority for "New Start" funding, the South Corridor Project~~The

Region's #1 priority for "New Start' authorization and funding is the South Corridor Project; 3. To allow for future extension of Interstate MAX: Expo-Clark College.

2. Projects requiring new authorization – Section 530~~7~~9– New Starts:

   - Provide new authority for Willamette Shoreline Streetcar Extension: PSU Lake Oswego – authorization for preliminary engineering and construction.

3. New transit project funding earmarks – Section 530~~7~~9 – Bus:

   - Earmark funds for TriMet bus expansion and replacement.

4. State of Washington – Section 530~~7~~9 – New Starts:

   - Support RTC and C-TRAN request for new preliminary engineering authority for I-5 to I-205 Clark County LRT "Loop".

C. Regional Livability Priorities: The following have been identified as community livability projects:

1. Boeckman Road (Wilsonville)..$8.00 Million – Highway Demo
2. Lake Road (Milwaukie)..$5.60 Million – TCSP/Highway Demo
3. Gresham Civic Neighborhood LRT Station ....$2.70 Million – TCSP/New Starts
4. Kenton Feed-and-Seed..$2.00 Million – TCSP/New Starts
5. Rockwood Town Center..$2.00 Million – TCSP/Highway Demo
6. Bancroft/North Macadam Access..$8.00 Million – TCSP/Highway Demo
7. Sauvie Island Bridge..$25.0 Million – Bridge/Highway Demo
8. Regional Culvert Retrofit – Phase 1 ....$5.00 Million – Highway Demo
9. Regional Trail Program – Next Phase..................................$5.00 Million – Highway Demo
10. Beaverton Hillsdale/Scholls Ferry/Oleson Rd......................$14.4 Million - Highway Demo

D. The region also supports Portland State University's request for designation as a Federal University Transportation Research Center.

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Note: It is not clear at this time how project earmarking will be implemented. As such, the categories noted above are preliminary and other funding categories may be more appropriate.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-XXXX, FOR THE PURPOSE OF ENDORSING A REGIONAL POSITION ON THE REAUTHORIZATION OF THE TRANSPORTATION EQUITY ACT OF THE 21ST CENTURY (TEA-21)

Date: December 27, 2002 Prepared by: Andy Cotugno

BACKGROUND

The Transportation Equity Act for the 21st Century (TEA-21), adopted by Congress in 1997, is scheduled to expire September 30, 2003. TEA-21 is the federal authorization bill for transportation projects and funding. The authorization bill establishes federal programs, identifies or "earmarks" some specific projects and sets the upper limits on the amount of federal funds the programs and projects are eligible to receive. The act also establishes rules for the distribution of federal transportation funds including apportionment formulas for those programs whose funds are distributed by such methods.

The reauthorization bill will have a direct effect on Metro and the region's jurisdictions in terms of how planning for transportation is performed and how much federal assistance to perform this planning function is made available. There is also a direct impact on which transportation projects are identified as eligible to receive federal funding.

The next reauthorization of a federal transportation bill will be considered in the upcoming Congressional session and is scheduled for completion prior to adjournment in the fall of 2003. To favorably influence the federal legislation, it is important to clearly articulate the region's positions during their consideration of the reauthorization bill language.

ANALYSIS/INFORMATION

1. **Known Opposition** None known at this time. Local jurisdictions that have not successfully identified their local transportation priority projects as regional priority projects for federal reauthorization may oppose the regional priority project list.

2. **Legal Antecedents** TEA-21 is the current federal transportation authorization authority providing Metro the authority to function as a federally designated Metropolitan Planning Organization (MPO). TEA-21 is scheduled to expire September 30, 2003 and Congress will be considering reauthorization of transportation legislation during its 2003 session.

3. **Anticipated Effects** This resolution will communicate the regional policy position for reauthorization of TEA-21. The policy paper will be used in the regions federal reauthorization activities in Congress.

4. **Budget Impacts** Reauthorization is a significant issue affecting Metro and the Portland region and, as such, this paper and efforts to influence its outcome are a significant work effort for the department. In addition, one of the issues directly affects funding to MPOs including Metro.

RECOMMENDED ACTION

Adopt Resolution No. 03-XXXX as recommended to be amended by TPAC (TPAC amendments are denoted in strike-through and underscore format). The TPAC recommendation to delete reference to suballocation of CMAQ funds to MPOs in Section 2 of Exhibit A is predicated on the understanding from comments from ODOT that it is more appropriate to decide how to best allocate CMAQ funds within Oregon. Under current practices, CMAQ funds are suballocated to current and former air quality non-attainment areas (including to Metro to allocate through the MTIP process). TPAC recommended that there be a letter sent to ODOT from JPACT indicating that this provision was removed because the current practice is to suballocate CMAQ funds and this practice should continue.

M E M O R A N D U M

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METRO

DATE: January 16, 2003

TO: Oregon Transportation Commission

FROM: Joint Policy Advisory Committee on Transportation

SUBJECT: Comments on the 2004-07 Draft STIP

JPACT appreciates the opportunity to comment on the Draft State Transportation Improvement Program (STIP) for 2004-07. Although it is Metro's responsibility to adopt the STIP in it final form as part of the Metropolitan Transportation Improvement Program (MTIP), we feel it is important to share these comments with you while it is still in draft form.

1. **Modernization Projects**

   The '07 modernization reserve account of $12.13 million, and the PE/ROW account of $2.98 million are not tied to any specific project. ODOT staff has stated that they are waiting to understand funding levels authorized for specific projects in the federal reauthorization process before committing ODOT modernization funds. This would allow ODOT to make priority projects whole before committing any funds to lower priority or any new projects. It is likely, however, that several earmarked projects will emerge from the federal reauthorization process without adequate funding.

   JPACT requests ODOT take action to identify its intentions regarding the uncommitted modernization funds. One option would be to identify priorities for projects in the final STIP that will receive modernization funds that JPACT and the Metro Council agrees to honor. Another option would be to commit to a decision process with the region for use of the modernization funds that will be adopted as an amendment to the final STIP once the federal authorization process is completed.

   In addition, in December, Metro published the Draft Environmental Impact Statement for the South Corridor Project. The next step after the public hearings in February is to select the preferred alternative and identify a funding strategy. The possibility of funding from the ODOT modernization program toward the selected South Corridor preferred alternative should be considered.

2. **Project Development for Future Modernization Projects**

The Draft STIP identifies PE and ROW funds in 2004,'05, '06 and '07 for Various Highways within several separate descriptions totaling more than $30 million. ODOT should identify specific facilities slated to enter PE or identify a process by which facilities will be identified. The opportunity to comment on which facilities will be prioritized for engineering and thus become ready to receive modernization funds should be provided.

3. **Preservation, Safety and Bridge Program Coordination with Local Jurisdictions**

Limitations in transportation funding have caused ODOT to focus scarce resources on its preservation program at the expense of modernization. In addition to the importance of pursuing new sources of funding for modernization, this significantly increases the importance to address smaller scale modernization needs out of efficiencies from and supplemental funding to programmed preservation projects.

Although coordination with local staff does currently occur on preservation projects, the emphasis of a strict preservation scope makes unclear to local staff what the scope of their comments should entail and what opportunities to suggest design issues, and coordination to leverage capital needs are available or appropriate. We suggest an increased emphasis by ODOT to establish a "rapid response" review process with affected local jurisdiction planning and engineering staff to evaluate the priority preservation projects as generated by the pavement and bridge preservation needs analysis with clear parameters for accepting comments on the project scope. In requesting this early comment and expanded scope process, we recognize the obligation for local jurisdictions to improve communication and coordination with ODOT staff.

The review should include communication by ODOT on a draft scope of the project elements and an opportunity for local comment on the scope. Comments on the scope may include request to ODOT to improve substandard conditions as part of the project, opportunity to provide additional resources for capital improvements to be included in the project or for modifications to existing road designs within the scope of the existing right-of-way to accommodate future capital improvements.

It would be important to establish the rapid review early in the design process, soon after pavement analysis and internal review establishes preservation project priority needs and prior to estimation of final costs. The process itself should afford ODOT the opportunity to reconsider the project scope. After the initial review process, ODOT staff may decide to make no changes, increase the project scope, accommodate a local capital project within the design process, or delay a preservation project and prioritize future ODOT modernization resources to the facility.

This early and quick process would be essential to keep such a process from delaying the ability of ODOT to expend preservation funds and keep pavement and bridges from deteriorating to unacceptable conditions. JPACT understands and supports the need for ODOT to not unnecessarily delay the preservation of its facilities.

To accommodate such a review process, ODOT would need to communicate a policy or guidelines on the intended scope of preservation projects, including the types of substandard conditions that would be appropriate to correct in a preservation project.

The STIP stakeholder committee could help ODOT develop guidelines for implementing coordination activities with local transportation system plans and the regional transportation plan with its preservation program.

There are particular preservation projects in the Draft 2004-07 STIP that would benefit from a modified "rapid response" review of project scope. These include:

SE Powell Boulevard; SE 6th to SE 50th. This is a pavement preservation project with bus pads and safety elements. This project began design this year and is funded for implementation in 2004. The project presents an opportunity to provide upgrades to the street section in conjunction with the overlay. Opportunities to supplement funding and identify design improvements should be explored with affected agencies. In particular, the City of Portland and TriMet are currently developing improvements along this facility.

McLoughlin Boulevard Preservation; SE Harold – SE Naef. This is a $5 million pavement preservation project scheduled for implementation in 2006. The ODOT design team should coordinate design of reconstruction with City of Portland and South Corridor Study staff to explore opportunities to supplement funding for any design improvements to the facility that could be completed in conjunction with the preservation project. The South Corridor Draft Environmental Impact Statement, now undergoing public review, identifies planned improvement to this segment of McLoughlin Boulevard.

Others include: OR 213; S Conway to Henrici Road, OR 224; River Road to E Portland Freeway, Sandy Blvd safety improvements, and OR 47; Quince St. to Dist. Boundary.

4. **Corridor Planning Contribution**

The Corridor Planning program at Metro will be addressing major ODOT highway corridors to define project needs. ODOT should be making a contribution from their funding program to complete planning work affecting their facilities.

The support for corridor planning should be consistent with the regional process used to establish priorities for corridor planning efforts as adopted in Metro Resolution 01-3089.

5. **I-5 Trade Corridor TDM**

The I-5 Trade Corridor study identifies TDM programs as an important strategy in reducing travel demand. ODOT should support TDM programs in this and other corridors. The STIP should also clarify whether and how Region 1 receives funding from the statewide TDM program.

6. **ITS/ATMS Updates**

   JPACT requests an annual presentation at TPAC of the ITS/ATMS program to better track the status of the regional system and how future funds are proposed to be spent, similar to other program presentations.

7. **Protective Screening Budget Increase**

   The increase in funding from $1.42 million in 04/05 to $6.63 million in 06/07 for protective screening of overpasses appears large without further clarification of project need. Significant progress has been made on protective screening of overpasses, particularly relative to other needs. JPACT recommends a stable level of funding for protective screening and a reallocation of the balance of the funding to other unfunded capital projects without a more clear demonstration of need at this time.

8. **MTIP Coordination**

   We look forward to coordinating with you on the development of regional funding priorities through the Transportation Priorities 2004-07 (MTIP) process and further definition of projects selected as a part of the 2002-05 MTIP to be included in the STIP document. When we have completed and adopted the 2004-07 MTIP, it will be essential to accurately reflect those projects in the final STIP document.

Thank you for considering our comments.

Transportati 'rioities 2004-07
List of Proj..t Applications

Rank	Bike/Trail	Requested Amount
cb1	Trolley Trail: Jefferson to Courtney (PE to Glen Echo)	$0.844
pb1	E. Bank Trail/Springwater Gaps (PE/ROW only)	$1.049
wb1	Beaverton Powerline Trail: LRT to Schuepback Park	$0.431
wb2	Rock Creek Trail: Amberwood to Cornelius Pass	$0.216
wb3	Washington Sq. RC Trail: Hall to Hwy 217 (PE to Greenberg)	$0.386
pb2	Willamette Greenway: River Forum to River Parkway	$1.256
mb1	Gresham/Fairview Trail: Burnside to Division	$0.630
	Total:	**$4.812**

Rank	Boulevard	Requested Amount
mblvd1	Stark St. Ph. 2: 190th to 197th	$1.800
pblvd1	102nd Ave: Weidler to Burnside	$3.350
cblvd1	McLoughlin: I-205 to Hwy 43 Bridge	$3.000
cblvd2	Boones Ferry: Kruse to Madrona (PE and ROW)	$2.550
pblvd2	Killingsworth: Interstate to MLK	$1.000
pblvd3	Burnside: W 19th to E 14th (PE only)	$2.000
wblvd1	Cornell: Murray to Saltzman	$3.500
	Total:	**$17.200**

Rank	Bridge	Requested Amount
pbr1	Broadway Bridge Span 7 painting	$2.500
	Total:	**$2.500**

Rank	Green Streets	Requested Amount
pgs1	Cully Blvd Recon: Prescott to Killingsworth	$2.200
mgs1	Yamhill Recon: 190th to 197th	$0.450
mgs2	Civic Drive Recon: LRT to 13th	$0.250
mgs3	Beaver Creek Culverts: Troutdale, Cochran, Stark	$1.470
	Total:	**$4.370**

Rank	Freight	Requested Amount
wf1	Tualatin-Sherwood Rd.: Hwy 99 to Teton (PE only)	$2.818
pf1	MLK: Columbia to Lombard (PE only)	$2.000
	Total:	**$4.818**

Rank	Planning	Requested Amount
rpln1	Metro MPO required planning	$1.580
rpln2	Rx for Big Streets - Phase I Design	$0.276
rpln3	Powell/Foster Corridor Plan (Phase II)	$0.200
rpln4	RTP Corridor Plan - Next Priority Corridor	$0.500
rpln5	I-5/99W Connector Corridor Study	$0.500
rpln6	Regional Freight Data Collection	$0.500
ppln1	Union Station Multi-modal Facility Development	$0.300
	Total:	**$3.856**

Rank	Pedestrian	Requested Amount
pped1	Central Eastside Bridgeheads	$1.456
wped1	For. Grove TC Ped Improvements	$0.900
wped2	Hillsboro TC Ped Improvements	$0.522
pped2	St. Johns TC Ped Improvements	$1.934
wped3	Tigard TC Ped Improvements	$0.203
pped3	Tacoma St: 6th to 21st	$1.278
cped1	Molalla Ave.: Gaffney to Fir	$0.800
wped4	Merlo Rd.: LRT Station to 170th	$0.271
	Total:	**$7.364**

Rank	Road Modernization	Requested Amount
crm1	Boeckman Rd: 95th to Grahams Ferry	$1.956
prm1	SW Macadam: Bancroft to Gibbs	$2.350
wrm1	Highway 8 Intersection @ 19th/20th (PE only)	$0.400
prm2	SE Foster/Barbara Welch intersection	$3.500
wrm2	Farmington Rd.: 185th to 198th (PE only)	$1.005
wrm3	Farmington Rd: 170th to 185th (PE only)	$1.197
wrm4	Cornell Road: Evergreen to Bethany (PE only)	$1.088
wrm5	185th Ave.: Westview HS to W Union (PE only)	$0.581
wrm6	10th Ave: E Main to Baseline	$1.346
wrm7	Murray Blvd: Science Park to Cornell	$1.811
wrm8	Murray Blvd: Scholls Ferry to Barrows	$2.579
wrm9	Rose Biggi: LRT to Crescent	$1.908
wrm10	Greenberg Rd.: Shady Lane to North Dakota	$1.789
wrm11	Farmington Rd. @ Murray intersection	$2.618
crm2	Sunnyside Rd: 142nd to 152nd	$4.000
crm3	Kinsman Rd: Barber to Boeckman	$1.000
wrm12	Baseline/Jenkins ATMS	$0.449
crm4	Wilsonville Rd. Traveler Info	$0.105
crm5	Clackamas Railroad Xing Traveler Info	$0.385
crm6	I-205 Johnson Cr Blvd interchange design/PE	$0.600
mrm1	223rd Ave. Railroad Under Xing	$3.400
	Total:	**$34.067**

Rank	Road Reconstruction	Requested Amount
crr1	Lake Rd: 21st to Hwy 224	$1.481
prr1	Division: 12th to 60th	$2.500
prr2	SE 39th: Burnside to Holgate (PE only)	$0.400
prr3	W Burnside: 19th to 23rd	$3.589
mrr1	242nd Ave.: Glisan to Stark	$0.550
	Total:	**$8.520**

Rank	TDM	Requested Amount
rtdm1	Regional TDM Program	$3.987
ptdm1	Interstate Ave. TravelSmart	$0.300
stdm1	I-5 Corridor TDM Plan	$0.224
ctdm1	Clackamas RC TMA Shuttle	$0.129
	Total:	**$4.640**

Rank	TOD	Requested Amount
rtod1	Metro TOD Program	$4.500
rtod2	Urban Center Program	$1.000
ptod1	N Macadam TOD	$0.500
	Total:	**$6.000**

Rank	Transit	Requested Amount
rtr1	S/N STP Commitment	$12.000
rtr2	Frequent Bus Corridors	$6.374
rtr3	Local Focus Areas	$1.005
ptr1	102nd Bus Stops	$0.135
str1	Jantzen Beach Access	$0.449
mtr1	Rockwood Bus/MAX Xfer	$0.382
rtr4	Hybrid Bus Expansion	$2.244
rtr5	North Macadam Infrastructure	$1.347
rtr6	North Macadam Transit Access	$0.449
ctr1	Clackamas RC TOD/P&R (PE only)	$0.250
mtr2	Gresham Civic Station TOD	$3.450
ctr2	South Metro Amtrak Station	$0.800
	Total:	**$28.885**

Grand Total: $127.032

METRO

Transportation Priorities 2004-07 Schedule

September 2002	Project solicitation began
Dec. 20, 2002	Deadline for project applications
Feb. 21, 2003	Technical rankings released
Feb. 28, 2003	Transportation Policy Alternatives Committee review of technical rankings and staff recommended 150 percent cut list
March 13, 2003	Joint Policy Advisory Committee on Transportation review of technical rankings and Transportation Policy Alternatives Committee recommended 150 percent cut list
March 14, 2003	Joint Policy Advisory Committee on Transportation 150 percent list recommendation released and 30-day public comment period begins
April 10-16, 2003	Public listening posts held around the region
April 16, 2003	30-day public comment period ends
May 30, 2003	Transportation Policy Alternatives Committee recommendation on final Transportation Priorities program
June 12, 2003	Joint Policy Advisory Committee on Transportation recommendation on final Transportation Priorities program
June 19, 2003	Metro Council action on final Transportation Priorities program
June/July 2003	Air quality conformity determination conducted
July 2003	30-day public comment period on air quality conformity analysis begins
August 2003	Joint Policy Advisory Committee on Transportation and Metro Council action on air quality conformity and Transportation Priorities 2004-07 program adopted in 2004-07 Metropolitan Transportation Improvement Program with other federally funded projects
October 2003	Obligation of FY 2004 funding begins

January '03

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1794

METRO

DRAFT
(12/23/02)

January 16, 2003

Ms. Jerri Bohard, Manager
Planning Section
Transportation Development Division
Oregon Department of Transportation
555 13th Street NE
Salem, OR 97301

Subject: ***Comments on Draft Guidelines for Area Commissions on Transportation (ACTs)***

Dear Ms. Bohard:

The Joint Policy Advisory Committee on Transportation (JPACT) has reviewed the draft guidelines for the *"The Formation and Operation of Area Commissions on Transportation."* We thank you for the opportunity to comment on the draft guidelines. We have provided some general comments and have also addressed the specific questions identified in Commissioner Stuart Foster's November 8, 2002 memorandum.

General Comments

The latest draft of the guidelines is a clear and understandable list of expectations for ACTs, their roles, responsibilities, and their relationship with the Oregon Transportation Commission (OTC) and ODOT. The guidelines in and of themselves have raised two major issues for JPACT:

1. Should JPACT membership include private stakeholder representation?
2. What options are available to ensure complete ACT coverage in Region 1?

As you know, JPACT and ODOT Region 1 have begun to consider those two questions and hope to have identified an approach that ensures ACT or "ACT-like" coverage and representation throughout the Metro area in the near future. Therefore, recognizing that different models may achieve optimum results, we suggest that to the degree possible, the guidelines remain guidelines. We also recommend that the formation and operation of ACTs remains flexible to best meet regional interests.

Regarding specific comments, Metro staff and others in the region have commented on earlier drafts of the guidelines. We appreciate the changes that have been made as a result of those comments and feel the current draft is one that we can support. We do offer the following comments on specific questions called out in Commissioner Foster's November 8 memo.

Section II. Roles and Responsibilities

Question 1 asks whether the document is clear as to the multi-modal nature of the transportation system and then refers the reader to the glossary for a definition of "transportation system" that lists various modes of transportation. For the ease of the reader, that language should be added to either the text of the section or as a footnote.

Question 2 asks whether the OTC should seek policy recommendations from ACTs. JPACT would welcome the opportunity to provide comments on potential state transportation policy. The cooperative nature of planning in Oregon sets such a precedent and it should be extended to the ACT/OTC relationship.

Section IV. Act Structure and Membership

Question 3 specifically addresses ACT membership and voting. As we have stated above, JPACT and the Metro Council will be reviewing prospective models to ensure that the principals and structure of ACTs are efficiently adhered to in the Metro area over the next few months. We recommend maintaining flexibility in determining membership, voting privileges, and technical advisory committees. Regarding voting and membership, the intent of stakeholder inclusion can be met effectively in a number of manners, many of which are already included in Metro area planning processes (stakeholder meetings, task forces, project or policy advisory committees, etc.). Technical committees are a good sounding board for ideas and alternatives analysis, but may not be practical on a statewide basis.

Section V. Operations of the ACT

Question 4 is regard to ODOT as a voting member of the ACT. ODOT is currently a voting member of JPACT. Given the broad role of JPACT in both state and Metro policy, project, and funding deliberations, and given the importance of ODOT as a regional partner in implementation, we support ODOT as a voting member. It is important to get both ODOT perspective and buy-in.

Question 5 asks what is the appropriate ODOT staff level for the ACT. At this time, Metro staffs JPACT and works with ODOT on OTC related items. If JPACT were to reconfigure, ODOT staff support would be considered accordingly.

Section VI. Basis for Decisionmaking

Question 6 repeats question two. Our response is stated above.

Question 7 asks how ACTs can achieve statewide perspective. Statewide perspective varies among the different regions. For example, in the Metro area, projects that provide for access to national and inter-national commerce have statewide significance but may not be on the state system. Yet, transportation improvements to non-state facilities are likely in the interest of the entire state. Main-street type projects also have statewide significance in terms of state goals to better connect transportation and land use. Given this diversity of opinion, the OTC should attempt to better clarify statewide significance in terms of the Oregon Transportation Plan update, the Oregon Highway Plan, and funding source (e.g., statewide significance for the Transportation Enhancement program is different than significance for the bridge program). The STIP Stakeholder Committee should address this issue.

Question 8 refers to ACT involvement in bridge and pavement projects. Given the scale, cost, and importance of these types of projects to local communities and metropolitan areas, ACTs should have the opportunity to comment on these projects. Specifically, ACTs can ensure that these projects best meet both state and local objectives; and can possibly be leveraged with other funding sources to implement a complete multi-modal project consistent with Transportation System Plans.

Section VII. Coordination

Question 9 asks whether ACT and OTC communication is sufficient. Communication between the OTC and JPACT is sufficient, but more communication is welcome. Two recent examples of OTC participation in Metro area activities were extremely useful: 1) Commissioner Corey's participation on the Metro area Transportation Funding Task Force; and 2) Commissioner Foster's participation in the December 2002 JPACT meeting to discuss these guidelines. Understanding the busy schedules and commitments of the individual OTC members, it has always been beneficial to JPACT when OTC members can visit a meeting. We look forward to more opportunities to meet in the future.

Question 10 asks what should be the form of communication between MPOs and ACTs. Currently, JPACT, with the Metro Council acts as the MPO, and both bodies provide input on STIP and other OTC policy matters. Again, if the model is revisited, we may have additional comments in this area and we suggest the guidelines remain flexible given the differing size of MPOs, status under federal planning guidelines, and local authority provided under state law.

Again, we thank you for the opportunity to comment on these guidelines and thank Commissioner Foster, ODOT staff, and the STIP stakeholder committee for their hard work.

Sincerely,

Rod Park
JPACT Chair

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1794

METRO

DRAFT

January 16, 2003

The Honorable Bruce Starr
Oregon State Senate
PO Box 5875
Aloha, OR 97006

Re: Comments to the Road User Fee Task Force (RUFTF)

Dear Senator Starr:

We are extremely supportive of the Task Force's mission to seek out an alternative transportation use fee that can replace the current gas tax. We appreciate the progress you have made and encourage the Task Force to press forward in completing its charge.

After reviewing the RUFTF's Preliminary Report to the Legislative Assembly (September, 2002), we have several concerns that we would like to see addressed as the task force work proceeds.

Technology

The preliminary report recommends the use of GPS technology. GPS technology raises serious privacy issues. The flexibility and ability to price very specific locations offered by this technology needs to be balanced against the public policy concerns it raises. These concerns differ significantly in extent from those associated with AVI technology, which gleans more limited information. The task force should research which technologies the public is willing to accept.

Congestion Pricing

The task force report recommends charging a higher rate for travel within key urbanized areas within the state. We believe that area pricing is too broad an approach to achieve the demand management and revenue goals of congestion pricing. The Traffic Relief Options (TRO) Final

Report recommended the use of peak period pricing only on new capacity to manage demand and raise revenues on specific congested facilities. In addition, we have concerns about the proposed limitations on the use of revenues to modernization projects. There was strong public sentiment in favor of restricting the use of revenues to transportation improvements that relieve a congestion problem on a particular corridor. This could include capital, operating and maintenance for roadway or constitutionally permitted alternative modes uses.

Area pricing also raises a number of equity issues. The TRO project learned that there were significant concerns about the potential for economic dislocation with respect to area pricing, particularly among the business community. We understand that the main reason that area pricing was recommended over facility pricing was that, while GPS can generally identify the transmitter location, it cannot currently differentiate between two lanes or roads that are within a few feet of each other. During the 5-20 year implementation period, we believe that the matter of precision will be resolved. We suggest that congestion pricing be limited to specific locations and times of day and that the use of revenues be restricted to the corridor where congestion pricing is implemented.

Use of Revenues

In addition to the specific issues with respect to revenues related to congestion pricing, we are interested in how State allocation formulas would be applied with respect to the VMT fee. We would like the task force to strengthen the tie between where the funds are generated and where they are spent.

Air Quality

The task force report recommends a flat VMT fee, regardless of the fuel efficiency of the car. The use of the road, however, results in an impact on air quality. The gas tax currently is a user fee that addresses both impacts (although not very well). The task force needs to consider both impacts on road and on air quality in developing a replacement.

Timing

We understand that the current proposal is to undertake a 20-year phase in due to the costs of technology retrofits. The task force should closely consider the losses from declining gas tax revenues versus the costs of retrofit over various phase-in periods.

Again, we applaud the RUFTF for the excellent work completed to date. We look forward to working closely with you as the project progresses.

Sincerely,

Councilor Rod Park
JPACT Chair

Preliminary Report to Legislative Assembly

EXECUTIVE SUMMARY

Background

Charge By Legislature. Recognizing the gas tax is a declining revenue source for Oregon's road system, the 2001 Legislative Assembly passed House Bill 3946, mandating formation of the Road User Fee Task Force with the following statutory mission,

> "To develop a design for revenue collection for Oregon's roads and highways that will replace the current system for revenue collection."

History of Fuel Taxes. Oregon enacted the nation's first fuel tax on gasoline in 1919. The fuel tax quickly became the principal method of financing Oregon's roads. Rampant inflation during the 1970s and early 1980s seriously eroded the buying power of gas tax revenues, motivating the legislature to pass a series of fuel tax increases between 1983 and 1991.

While inflationary pressures have continued to erode the purchasing power of the gas tax, a new problem emerged having an equally negative impact upon available gas tax dollars. Since the 1970s motorists are purchasing ever more fuel efficient vehicles. Gasoline purchases per mile driven have dropped dramatically and, correspondingly, fuel taxes revenues as well.

Importance of Fuel Taxes to Road Finance in Oregon. Fuel tax revenue constitutes the bulk of the total funding available for Oregon roads. Fuel taxes, state and federal, make up approximately 60 to 70 percent of total Oregon road revenue for a given year, depending upon the annual federal contribution. In 2002, fuel taxes comprise 70 percent of the total road budget.

Technological Improvements To Allow Even Greater Fuel Efficiency. New technology will soon greatly improve the average fuel efficiency of the statewide passenger vehicle fleet in Oregon. The highly fuel-efficient hybrid electric vehicle engine will become optional for many standard models by 2006 and the non-gasoline powered fuel cell engine may appear by the end of the decade.

Projection of Fuel Tax Revenues to 2012. Due to fuel efficiency improvements, Oregon fuel tax revenues from the sale of gasoline are likely to level off during the next ten years and then permanently drop.

Proceedings

The Road User Fee Task Force has held seven meetings. Among numerous findings, the task force discovered the following,

- The average passenger vehicle increased fuel efficiency from 11.8 miles per gallon in 1970 to 19.1 miles per gallon in 2000.
- The fuel tax will become an ever-shrinking portion of total road revenues.
- The task force identified numerous technologies that could facilitate application of a mileage-based fee.

The task force made a number of policy choices to develop an alternative to the current revenue system for road funding and analyzed 26 potential revenue mechanisms. The task force recommends any new system be founded upon "user pay" methods directly related to providing road infrastructure and services.

The task force developed four revenue sources for the new revenue system.

1. Mileage-Based Fee - A distance-traveled charge imposed according to the amount a vehicle owner/operator uses the road system.

The task force developed numerous scenarios for collection of a mileage-based fee, including payment at gasoline stations, an independent collection center, DMV or as part of statewide spot tolling system.

The task force expressed the following preferences for the design of a mileage-based fee, configured as a vehicle miles traveled fee (VMT fee).

- Private Data Collection and Fee Retrieval through Independent Center
- To Gather Mileage Driven Data, GPS or AVI/odometer Linked Devices
- Data Upload to Center via Radio Frequency
- During Phase In, VMT Fee For New Vehicles with Mandated Technology
- During Phase In, Credit for Gas Tax Paid Against income Taxes
- Gas Tax Continued for Resident Non-VMT Fee Payers and Non-Residents Until Interstate Compact Adopted
- Privacy Protected by Design limitation and Legal Prohibition
- Enforcement by Traffic Fines and Private Collection
- Base Rate Adjustment Only for Variable Pricing in Congested Areas
- Base Rate Designed as Revenue Neutral Except for Recovery of Administrative Costs and Amortized Capital Expenditures

Numerous issues arose that have a great effect upon design of a mileage-based fee. The expense of retrofitting the necessary technology into currently owned vehicles would necessitate a long phase in period. During phase in, the fuel tax must be retained for motorists whose vehicles do not contain the necessary technology. Motorists paying the VMT fee will receive credit for fuel tax paid. Privacy issues can be addressed through design and legal safeguards.

Under a flat VMT fee rate, vehicles with high rates of fuel consumption would be advantaged and vehicles with low rates of fuel consumption would be disadvantaged in relation to gas tax payments.

2. **Congestion Pricing -** Charging the owner/operator of a motor vehicle a fee for using certain roadways during periods of high congestion.

The task force determined that congestion pricing is appropriate for certain Oregon urban areas. Cost and technology are no longer impediments.

Congestion pricing can be implemented as a rate adjustment to a system-wide road charging mechanism, or as a separate, "stand alone" charge for a specific facility. The manner in which congestion pricing is implemented depends upon the type of technology selected and the type of pricing preferred by policy-makers. These factors heavily influence one another.

3. **New Facility Tolling -** Tolling any new road, bridge or extended lane, to the extent practicable, for construction, maintenance and operation.

While tolling roads and bridges is common practice in other states and nations in the industrialized world, Oregon has no toll roads and only two toll bridges.
The task force concluded any new roads, bridges or extended lanes should be paid for, at least in part, through tolling, when practicable.

4. **Studded Tire Use Fee -** Charging owner/operators of motor vehicles using studded tires for damage directly related to studded tire use.

The task force found the cost of studded tire damage repair is currently spread across all passenger vehicles, whether or not they use studded tires. Studded tire usage tends to reduce the useful life of road surfaces but the damage is not uniform across the state, ranging from one percent of total damage in Eastern Oregon to 47 percent of total damage in the Portland Metro area.

The task force is developing a recommendation for a Studded Tire Use Permit Program. Each operator of a motor vehicle using studded tires in Oregon would be required to display a permit. Permit fees would vary by county.

Support Continuation of the Value Pricing Pilot Program

Background: ISTEA created the Congestion Pricing Pilot Program to support jurisdictions in the implementation of congestion pricing or peak period pricing projects. The program was expanded to include pre-project studies. In TEA-21 the program was continued and renamed the Value Pricing Pilot Program. This relatively small program, with funding of about $11 million a year, has supported a number of successful projects and studies around the country. There are on the ground implementation projects in San Diego and Orange County California, Lee County Florida, Houston Texas and New York and New Jersey.

Locally, this program provided $1 million towards the Traffic Relief Options (TRO) study. The TRO citizen's task force recommended that the region consider value pricing whenever major new highway capacity is added. This recommendation was incorporated as a policy requirement in the 2000 RTP. In 2002, Metro obtained an additional $400,000 grant to fund the value pricing portion of an overall alternatives analysis for the Highway 217 corridor. At the State level, the Road User Fee Task Force, which is looking at alternatives to the fuel tax, is funded out of this program.

The Value Pricing Pilot Program is a small program with a limited number of states (15) that are allowed to participate. Further, due to the difficulty of implementing this relatively new and controversial concept, the program has not always obligated all of its funds. Because of these factors, it is a possible candidate for elimination in renewal discussions. We believe that the program has played a valuable role in forwarding research and implementation at a national level of an important new management and financing tool. In addition, it has provided funding in this region and state and could be a small but important potential source for future studies or projects.

Analysis: Value Pricing, while growing in national and international prominence as a demand management and highway financing tool, still remains in its infancy in terms of actual projects. The federal pilot program continues to provide an important source of funding to support project studies and implementations.

Policy Position: Support the continuation of the Value Pricing Pilot Program at similar funding levels. Support the elimination of the limitation on the number of interstate tolling exemption slots so that more states can participate in the program.

WASHINGTON COUNTY
OREGON

January 15, 2003

The Hon. David Bragdon, President
Hon. METRO Councilors
METRO
600 NE Grand Avenue
Portland, OR 97232-2736

Dear President Bragdon and members of METRO Council:

The Transportation Investment Task Force has concluded its work to develop a transportation package. We share with all of you an appreciation of the difficulty of balancing the transportation needs with revenue sources that are likely to be supported by the voters. For this reason, we appreciate the work of the Task Force and the time and expertise of its members.

Washington County has had some experience in asking voters to support transportation improvements with our MSTIP. During that process we had many conversations with constituents and other jurisdictions to help form our perspective on what the community would support. As a result, we have had several successful elections for transportation funding. With that history, we offer the following observations about the Task Force's proposals and their viability among our voters.

- We appreciate the Task Force's accelerated effort to develop a transportation package, their work is not a substitute for the JPACT process. Therefore, we urge the METRO Council to receive the report of the Task Force and refer it to JPACT for further review and coordination. We believe this would be a constructive step to alleviate any confusion regarding the projects identified by the Task Force and those currently prioritized or under consideration through the regional process at JPACT.

- With respect to the details of the report, the transit funding package proposes a property tax of $.25/1000. We ask our regional partners to recognize that this would be a particularly sensitive issue for our residents and businesses. Our current MSTIP, all dedicated to multi-modal transportation in Washington County, costs approximately $ .80/1000 of value in property taxes county wide. In addition, 160,000+ of our residents pay another $.25/1000 for the Urban Roads Maintenance District. Thus, Washington County property tax payers already pay $.80 or $1.05/1000 for transportation improvements. Adding $.25/1000 tax burden for transit projects is likely to be carefully scrutinized.

Board of County Commissioners
155 North First Avenue, Suite 300, MS 22, Hillsboro, OR 97124-3072
phone: (503) 846-8681 • fax: (503) 846-4545

- Washington County would generate approximately 34.11% of the revenue from property taxes (transit applications) and almost 27% of the revenue from the proposed increase in Vehicle Registration Fees (non-transit applications). The Transit package of $251 million offers about $20 Million in projects that directly benefit Washington County (about 8%). We do not expect or require mathematical equity, but we believe our constituents do expect a reasonable correlation between the revenue a jurisdiction generates and the return to that jurisdiction. Although we recognize past regional contributions to Westside transit, and support future regional support for South Corridor transit, we believe this proposal will be viewed as falling short of the equity standard.

- The freeway /highway projects address needed capital improvements on State facilities and the Community Transportation projects appear to focus on intersection congestion, boulevard and sidewalk improvements, omitting the critical arterial expansion needs of our local/regional system that are off State facilities. Some Task Force members suggested the freeway/highway improvement package locates enough projects in Washington County to "rebalance" benefits. However, those projects are part of the state system and are used by a many people not residing in Washington County.

As the Task Force report suggests (in Item 5, page 2), the list of projects and revenue proposals will need some refinement. In a few short months, we will know much more about federal reauthorization of TEA-21, the status of the region's Federal transportation requests, the EIS on South/North options and any actions of the 2003 Legislature affecting revenues. Each of these could call for amendments in the Task Force's revenue and project recommendations.

On behalf of the Washington County Board of Commissioners, we also wish to clearly express our support for projects of regional significance and for consideration of a regional approach to transportation funding. Again, we thank the members of the Task Force for their work and especially the participants from the business community. Their work provides a perspective that adds value to the ongoing discussion with our community and our legislators throughout the region. All these perspectives are necessary to resolve our pressing transportation needs.

Respectfully,

Tom Brian

Tom Brian
Chairman
Washington County Board of Commissioners

Cc: JPACT Members

The Testing Scenario for a Mileage-Based Fee

(Note: The Testing Scenario is based on Scenarios One, Two and Five in the Preliminary Report presented to the Oregon Legislative Assembly on September 30, 2002)

Vehicle Miles Traveled Fee

Collected at Fuel Pump with a Gas Tax Credit

Description

Actual mileage data is uploaded to a reader, for transmission to either a service station computer or independent collection center, for fee calculation and payment. All operators of vehicles containing necessary technology would be charged a VMT fee based on mileage since the last reading. User receives credit for gas tax paid.

Data Collection Technology

GPS or AVI/odometer Linked Technology. The task force prefers a policy that encourages or mandates installation of technology that facilitates electronic collection of VMT data for purposes of straight application of a fee charge per mile. In this respect, the task force chose the options of either a "simple" Global Positioning System (GPS) or an AVI/odometer Tag device, depending upon the interoperability of these technologies with other elements of the preferred VMT fee system and cost per unit for retrofitting into older vehicles.

Data Upload Technology

Radio Frequency Upload to Service Station. VMT data would be uploaded from GPS device or AVI/odometer Tag device within the vehicle via radio frequency to readers at gasoline service stations for purposes of calculating the fee based upon actual VMT.

Data Collection and Fee Retrieval

Paid at Service Stations (Actual VMT). The VMT fee would be paid at gasoline service stations by application of the fee rate to actual VMT data collected at the service station. Service stations would forward the fees collected to the Highway Fund net of an administrative charge.

OR

Collection Center. A collection center would calculate a VMT fee on a periodic basis and send the vehicle owner a billing. The vehicle owner would pay the billing and the collection center would remit the fees collected to the appropriate taxing authority net of an administrative charge and costs.

Phasing Into Current Oregon Road Finance System (Credit for Gas Tax Paid by VMT Taxpayers).

Collection of VMT Fee Net of Gas Tax Credit. The incidence of gasoline taxation would remain at distributor level. Service stations apply a credit for gas tax paid against the VMT fee before forwarding the net amount to the Highway Fund. If gas tax paid exceeded the assessed VMT fee for any transaction, there would be no rebate of any portion of the gas tax paid but the payer would receive an income tax credit for the excess amount.

OR

Gas Taxes Refunded as Income Tax Credit. Passenger vehicle owners who pay a VMT fee would receive an income tax credit for actual gas tax payments during the same period.

Enforcement

Mandated Collection of VMT Fee. Collection of VMT fee would be a mandated requirement for the sale of gasoline at service stations.

OR

Private Collection and Traffic Fines. The collection center would have the authority to collect non-payment of fees through the private collection system (e.g. civil judgments, debt collection agencies, liens etc). Traffic fines would also be assessed for operation of a motor vehicle without payment of VMT fees. Suspension of vehicle registration would occur upon accumulation of fines above a threshold amount.

Retrofitting/ Phase-In Application

Phase In of GPS Acquisition (Newly Purchased Vehicles)/ No Mandatory Retrofitting. The VMT fee would be phased in for vehicles containing either a simple GPS device or AVI/odometer Tag device and associated data transmission technology. An electronic mileage data collection device and data transmission technology would be required for newly purchased vehicles only. Owners of older vehicles would be allowed to participate by voluntarily retrofitting the necessary technology.

Privacy Protections

Task Force Preference – Design Limitation. State would be required to build into the data collection system a design limitation that prevents state from location of passenger vehicles in real time or to determine detailed travel history of vehicle other than to upload summary mileage data. **AND**

Task Force Preference – Legal Prohibition. A civil and/or criminal law statute would prohibit anyone connected with a state agency from accessing a mileage data collection device, without the consent of the vehicle owner, for purposes of locating passenger vehicles in real time or to determine detailed travel history of vehicle locations.

Non-resident Fee Payments

Task Force Preference – Defer Resolution of Non-Resident Tax Issue. Wait to resolve non-resident tax issues until after VMT fee is fully phased-in and gas tax is fully phased out. Interstate compact will likely resolve taxation issues pertaining to interstate travel before gas tax is fully phased out. **AND**

Task Force Preference – Continue Gas Tax. Continue gas tax indefinitely for passenger vehicles traveling in Oregon without the necessary VMT fee technology.

Setting Rate Including Administrative Cost Recovery

Revenue Neutrality Plus Cost Recovery. The VMT fee rate would be based on three factors. One, a rate of 1.25 cents per mile (e.g. based on the 24 cents gas tax divided by the current passenger vehicle fleet average of 19.2 miles per gallon). Two, an amount per mile for the cost recovery of fee collection overhead. Three, an amount per mile for the cost recovery of amortized capital expenditures related to implementation of the new fee system.

Rate Adjustment Overlays

Congestion Pricing Only Overlay. The VMT fee rate would only be adjusted for congestion pricing (See Targeted Revenue Options) when VMT fee fully phased in.

Preliminary Report to Legislative Assembly

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- Base Rate Adjustment Only for Variable Pricing in Congested Areas
- Base Rate Designed as Revenue Neutral Except for Recovery of Administrative Costs and Amortized Capital Expenditures

Numerous issues arose that have a great effect upon design of a mileage-based fee. The expense of retrofitting the necessary technology into currently owned vehicles would necessitate a long phase in period. During phase in, the fuel tax must be retained for motorists whose vehicles do not contain the necessary technology. Motorists paying the VMT fee will receive credit for fuel tax paid. Privacy issues can be addressed through design and legal safeguards.

Under a flat VMT fee rate, vehicles with high rates of fuel consumption would be advantaged and vehicles with low rates of fuel consumption would be disadvantaged in relation to gas tax payments.

2. **Congestion Pricing -** Charging the owner/operator of a motor vehicle a fee for using certain roadways during periods of high congestion.

The task force determined that congestion pricing is appropriate for certain Oregon urban areas. Cost and technology are no longer impediments.

Congestion pricing can be implemented as a rate adjustment to a system-wide road charging mechanism, or as a separate, "stand alone" charge for a specific facility. The manner in which congestion pricing is implemented depends upon the type of technology selected and the type of pricing preferred by policy-makers. These factors heavily influence one another.

3. **New Facility Tolling -** Tolling any new road, bridge or extended lane, to the extent practicable, for construction, maintenance and operation.

While tolling roads and bridges is common practice in other states and nations in the industrialized world, Oregon has no toll roads and only two toll bridges.
The task force concluded any new roads, bridges or extended lanes should be paid for, at least in part, through tolling, when practicable.

4. **Studded Tire Use Fee -** Charging owner/operators of motor vehicles using studded tires for damage directly related to studded tire use.

The task force found the cost of studded tire damage repair is currently spread across all passenger vehicles, whether or not they use studded tires. Studded tire usage tends to reduce the useful life of road surfaces but the damage is not uniform across the state, ranging from one percent of total damage in Eastern Oregon to 47 percent of total damage in the Portland Metro area.

The task force is developing a recommendation for a Studded Tire Use Permit Program. Each operator of a motor vehicle using studded tires in Oregon would be required to display a permit. Permit fees would vary by county.

Innovative Finance Advisory Committee

Senate Bill 966, passed into law by the 2001 Legislative Assembly, required Oregon Department of Transportation to undertake a study exploring the feasibility of establishing public-private transportation projects in Oregon. SB 966 specifically required the Oregon Transportation Commission to form the Innovative Finance Advisory Committee to assist the department in conducting the study and to advise the commission and department on ways to solicit and encourage private entities to participate in joint public-private transportation projects. The Oregon Transportation Commission formed the Innovative Finance Advisory Committee in 2002.

Membership of the Innovative Finance Advisory Committee consists of some of the finest minds locally and on the West Coast with regard to public-private partnerships and innovative finance, having worked on innovative transportation partnerships throughout the United States and internationally as well. Advisory Committee members have specific expertise on a wide variety of relevant topics including public-private transportation projects, design-build arrangements and innovative transportation finance.

Members of the Innovative Finance Advisory Committee

- Bill Thorndike, CEO, Medford Fabrication, Medford, Oregon **(Advisory Committee Chair)**
- John Carter, Principal in Goldschmidt Imeson Carter, Portland, Oregon (formerly Executive Vice President and Director of Bechtel Group, Inc., San Fransisco, California)
- Karen Hedlund, Partner, Nossaman Guthner, Knox & Elliott LLP, Los Angeles, California
- Beth deHamel, Executive Director, Morgan Stanley, Portland, Oregon
- Richard Page, Pb Consult, a subsidiary of Parsons Brinckerhoff, Seattle, Washington
- Douglas Goe, Partner, Ater Wynne LLP, Portland. Oregon
- Scott Williams, President, Hamilton Construction, Springfield, Oregon
- Tom Walsh, Tom Walsh and Co., Portland, Oregon (formerly General Manager of Tri-Met, Portland, Oregon)

Administration for the Innovative Finance Advisory Committee

- James Whitty, ODOT Transportation Funding Task Forces Administrator
- Rachel Knowles, ODOT Administrative Support

Contributing ODOT Staff

- Bruce Warner, ODOT Director
- Dave Williams, ODOT Region One Planning & Development Manager
- Diane Hopper, ODOT Debt and Innovative Finance Manager
- June Carlson, ODOT Metro East Area Manager

Oregon Innovative Partnerships Program

As proposed by the Innovative Finance Advisory Committee

I. Vision.

The Oregon Innovative Partnerships Program applies entrepreneurial approaches to the procurement, design, management and financing of transportation projects to accelerate cost-effective project delivery.

II. Principles.

The principles guiding development and functioning of the Oregon Innovative Partnerships Program are expediting project delivery process, maximizing of innovation and developing partnerships with private entities and other governmental partners that can bring substantial benefits to project development and execution.

III. Attributes of Program

A. **Partnership Perspectives**. The fundamental basis of the Oregon Innovative Partnerships Program is that ODOT, its leadership, its staff, and its organizational allies such as the governor's office, the Commission, and area commissions, must recognize private sector entities and other governmental agencies as "partners" and conduct business differently as outlined in subsequent sections. Some general characteristics of "partners" apply and need to be kept in mind in order to achieve mutual success for both partners:

1. Partners respect each other and recognize that mutual need to achieve success
2. Partners communicate effectively with each other, especially about difficulties
3. Partners operate in good faith
4. Partners are responsive to the other partner's needs
5. Partners focus on the mutually-agreed and negotiated goal

The ability to have a true partnership in place is an essential element. If effectual, mutually beneficial partnership arrangements cannot be reached, the project will not be successful and should not proceed.

B. **Organizational Support for Program.** The Oregon Innovative Partnerships Program must have the support of ODOT leadership and be accepted by the ODOT organization as an important tool for project delivery. In order to be successful in this endeavor, there must be a clear commitment to innovation on the part of ODOT and a corresponding commitment to adherence to necessary governmental actions on the part of the private sector.

C. **Institutional Capacity to Manage the PPP Program**. ODOT must obtain the institutional capacity to define the program's organizational structure, expertise and authority and then accomplish an effective implementation. As the public partner, ODOT needs to have the capability of performing needed cost and risk analysis as well as comprehensive assessment of each project's economic and social benefits. ODOT may be both a regulating authority and a contracting or a concession-granting authority and will require a legal, fiscal, accounting and financial framework adequate for these roles.

D. **Risk Management Philosophy**. A critical component of public-private partnerships is the identification, quantification and assignment of risk to the partners able to assume those risks most effectively and at the lowest cost. ODOT must adopt a risk management philosophy for projects subject to innovative partnerships in order for such assignments to be made. This risk management philosophy should recognize that when allocating risk between the public and private sectors, both the level of risk assigned and their control over that risk have a direct relationship to the expectation of return to the private sector.

E. **Adequate Information for Decision-Making**. A successfully negotiated partnership requires each party to have a good knowledge of direct and indirect costs. ODOT must be able to demonstrate the value added from private sector participation. To address these issues, ODOT must obtain accurate information on project costs, schedules, risks, financing options and public benefit streams. This information must be gathered and assessed in a timely manner consistent with expediting project delivery.

F. **Full Tool-Box of Innovative Finance Mechanisms**. Legislation must be adopted and administrative rules crafted to allow ODOT to access state-of-the-art innovative finance mechanisms for innovative partnerships.

G. **Flexibility**. The range of project types under an innovative partnership program may be diverse. The incentive for participation by private partners may hinge on the ability to innovate and act quickly. Both of these factors will require ODOT, in turn, to demonstrate a high degree of openness to new ideas and a quick turnaround capability.

H. **Innovative Selection of Partners**. The selection of private sector partners must be swift, efficient and reasonable. This will require pre-selection of qualified private sector partners and protection of proprietary information.

I. **Positive Political Climate**. The Legislative Assembly, the Governor, and the Oregon Transportation Commission must support the overall approach of the Oregon Innovative Partnerships Program as well as innovative partnerships for given projects. This means that for success, the Legislative Assembly, the Governor and the Oregon Transportation Commission must understand and support two essential underpinnings for the new program:

1. **Management of Risk**. There will be a different approach to management of risk in every innovative partnership arrangement that will involve sharing of risk elements between public sector parties and private sector parties with the party best able to control an element of risk bearing that risk.

2. **Predictability.** The most important element in every innovative partnership arrangement is for the Legislative Assembly, the Governor and the Oregon Transportation Commission to accept responsibility to provide predictability for these arrangements, meaning that the negotiated arrangements under this program will be allowed to be implemented.

The Legislative Assembly, Governor and Oregon Transportation Commission must also understand and accept that innovative partnership projects, being fairly high risk ventures, will occasionally fail for a variety of reasons, many of which are not predictable. The failure of any one project should not negatively impact the Oregon Innovative Partnerships Program.

ODOT should implement an ongoing communications process with the Legislative Assembly to ensure familiarity with the Oregon Innovative Partnerships Program and provide sufficient guidance and transparency to allow rapid implementation of negotiated agreements and adequate authority for execution of innovative partnerships. ODOT may require specific authority from the Legislative Assembly for an oversight process that defines appropriate political, administrative and judicial supervision. Clarity about how the program will be administered is key to the smooth execution of negotiated agreements.

J. **Transparency**. With limited exceptions, every stage of the ODOT processes for selecting an innovative partnership project and putting together and implementing an innovative partnership arrangement should allow for public scrutiny. The only exceptions are during negotiations for the innovative partnership arrangement and the confidentiality required for evaluation of unsolicited proposals.

IV. Structure and Process for Innovative Partnerships.

A. Aligning ODOT Strategic Approach to Innovative Partnerships. An effective innovative partnership program must have certain characteristics.

1. **Grant of Authority.** The Oregon Transportation Commission should direct creation of an innovative partnerships unit (IPU) at the highest level within ODOT. To adequately support the IPU, the Oregon Transportation Commission should grant the Director the broad authority necessary to allow the mission of this program to be achieved expeditiously and thoroughly. The ODOT Director should be charged with leading the effort for successful design and implementation of the Oregon Innovative Partnerships Program.

2. **Purpose.** The purpose of the IPU should be to work effectively with the private sector and other governmental agencies on eligible transportation projects in order to enable acceleration and cost effectiveness in project delivery.

3. **Structure for Decision-making.** The IPU should be established in the ODOT Director's office to manage projects with entrepreneurial flexibility, imagination and speed.

4. **Implementation and Operations.** The IPU should be granted authority to

    - screen and recommend projects for inclusion as innovative partnership projects;
    - review and recommend projects submitted as unsolicited proposals for inclusion as innovative partnership projects;
    - solicit, procure and negotiate innovative partnership agreements;
    - perform contract management and oversight; and
    - seek an appropriate State Transportation Improvement Program allocation or other funds for a project.

5. **Management of Project Components.** The ODOT Director should grant authority to the IPU to advance projects that are (a) financed without a mandate for a direct fee from the user, (b) financed involving various combinations of user fees, value capture, development rights, debt, traditional funding sources or any other innovative source, or (c) financed without state funding. Most innovative projects are likely to include a variety of private or public

financial contributions beyond traditional highway trust fund sources. In managing an innovative partnership arrangement, the IPU shall have defined roles and authority relative to the ODOT Highway Finance Office, Financial Services, Technical Services, the Director's Office, the ODOT regions and the rest of ODOT.

6. **Development of Innovative Partnership Process.** The IPU, or current ODOT staff, should develop a description of the process ODOT intends to use in evaluating and negotiating public/private initiatives. This should include (a) program objectives, (b) project assessment methodologies (e.g., socioeconomic benefits, risk analysis, costing and schedules), (c) regulatory authority and procedures, and (d) reporting procedures. The IPU shall describe IPU roles and authority relative to the ODOT Finance Office, Financial Services, Technical Services, the Director's Office, ODOT regions and the rest of ODOT. The IPU shall identify changes necessary in ODOT policies, procedures, rules and regulations to enable effective delivery of innovative partnership projects.

7. **Acquisition of Capability & Expertise.** Personnel in the IPU must be required to have a firm understanding of project management and finance and commitment to innovative project delivery. The manager of the IPU shall report to the ODOT Director. IPU personnel should easily identify with the entrepreneurial profile of the IPU. To acquire appropriate human resources, the Director should consider entering into a personnel exchange program with private sector firms and governmental partners or contracting for services to acquire necessary expertise.

8. **Budget.** The Oregon Transportation Commission should allocate a percentage of the available ODOT budget to the accomplishment of projects through innovative partnerships. These funds will be available for use as "up front" costs, project funds or ancillary work related to an innovative partnership project.

9. **Communication with Private Sector Firms.** The IPU shall have the principal responsibility of communicating with private sector firms on matters of innovative partnerships.

10. **Legislative Involvement.** The IPU, in conjunction with its partners and ODOT Governmental Affairs Division, shall establish regular contact with key legislators, in bipartisan manner, for the duration of each innovative partnership project, to keep them informed of project status.

11. **Local and Citizen Involvement.** The IPU should operate with transparency to the general public with regard to IPU project selection and project development. The IPU, in conjunction with its partners and ODOT Governmental Affairs Division, shall engage in local outreach with community leaders and citizens and interest groups, local and statewide, to ensure adequate flow of information and input and to facilitate smooth communications about innovative partnership projects.

12. **Advisory Committee.** It would serve the ODOT Director well to create an informal advisory committee to advise and inform the Director and the IPU regarding the Oregon Innovative Partnerships Program.

B. **Entry of Projects into the Oregon Innovative Partnerships Program.** There should be two ways for a project to enter the Oregon Innovative Partnerships Program. One is through a screening process to determine appropriateness and readiness. The other is through unsolicited proposal.

1. **Screening.** A "project screening process" should be developed and applied for determining which unfunded projects have appropriate characteristics and have reached the point of readiness for innovative private sector involvement.

- **Eligibility as IPU Project**. For an unfunded project to successfully pass through the screening process, sufficient project development must have occurred. To determine the sufficiency of project development, the following eight parameters will be considered:

  (1) **Need for the Project**. The project would provide significant benefits to the state transportation system and/or local area.

  (2) **Cost of the Project**. The project costs have been reviewed and are considered to include all material components and be a reasonable estimate.

  (3) **Short Time-to-Completion**. The project can be completed in a time frame that is materially shorter than could be achieved through a traditional process.

(4) **Political Support vis-a-vis Political Resistance.** The project has significant political support. This political support is sufficient to overcome barriers and enable the project to be implemented in a timely manner.

(6) **Application of Innovative Finance Techniques**. The project is situated and structured in such a way that it is amenable to the application of innovative finance techniques.

(7) **Local Commitment/Local Match to the Project**. The local beneficiaries of the project have committed local resources, including a local match, and local process efforts to the success of the project.

(8) **Legal Feasibility.** The project as described shall be consistent with state law.

- **Findings.** The IPU should make findings on the qualification of a project that satisfies the screening parameters for treatment as an innovative partnership project.

- **Projects Failing Screening Process**. Projects that fail to satisfy the screening parameters are not considered IPU projects. These projects may be funded locally or through traditional STIP processes.

2. **Unsolicited Proposals.** ODOT should develop a process for accepting and evaluating unsolicited proposals from the private sector. The submitter of an unsolicited proposal shall not be entitled to compensation from ODOT whether or not the proposal is accepted. The criteria used to develop an ODOT process should:

    - Encourage submission of unsolicited proposals for projects other than those that have completed the screening process or are currently under evaluation as part of the screening process;
    - Allow the opportunity for preliminary inquiries as to general need and factual background data;
    - Provide a descriptive list of all the information required for ODOT action on an unsolicited proposal;
    - Ensure adequate confidentiality for the submitter;

- Outline a timely review process;
- Consider the fees, if any, that should be charged; and
- Provide for other interested parties to propose on the project in competition. To enable the competitive process, public notice should include a description of the submitted proposal but deleting any proprietary information. Competing proposals should have a short time period for submission. [Note: Virginia places a time limit of 45 days for submission of a competing proposal.]

C. Process for Creation of Innovative Partnership Arrangements.

1. **Defining the Project.** The IPU should define any project included in the Oregon Innovative Partnerships Program, including description, goals and objectives, parameters, timing, cost, risk, public benefits and justification.

2. **Approval for Inclusion within IPU.** The IPU shall apply authority granted by the Oregon Transportation Commission to approve or deny inclusion of the project as an innovative partnership project.

3. **Pre-Qualification of Partners.** Private sector partners in an innovative partnership must be selected carefully. For projects under solicitation by ODOT, these partners should go through a pre-qualification process to determine eligibility for selection as a partner for an innovative partnership project. ODOT should develop criteria for selection of a private sector partner, including qualities and capacity of the firm and firm record on safety and claims experience.

4. **Partner Selection.** For a screened project, the nature of the project shall determine how the private sector partner will be chosen. To accommodate the vision of the Oregon Innovative Partnerships Program, preference should be given to a competitive process among a short-list of candidates in a publicly funded competition to develop the project to a certain point.

5. **Negotiation of Contract.** Once a private sector partner is chosen, a project contract should be negotiated. Among the considerations to be made in any contractual arrangement are the following.

    - **Assignment of Roles and Responsibilities.** The parties must determine when the private sector partner will enter the project (e.g. pre-EIS, EIS, PE, Design, Construction or Operation). The parties must also determine which parties will assume responsibilities for specific elements of the project.

- **Alignment of Incentives.** In each innovative partnership, the incentives of the public and private sector must be aligned at the outset. The public sector entities and the private sector firms must agree, in negotiating the contract, how risk will be managed and how risk will be allocated among public and private sector parties. In developing incentive mechanisms for managing and allocating risk, the private sector entities must agree to the importance of public policy considerations in a project and the public sector must recognize the importance of reasonable profitability of the project for the private sector.

- **Cost Sharing in Development Phase**. In order for the private sector to put capital at risk in the development phase of a project, there must either be a reasonable predictability of project completion or, if there are considerable "uncontrollable risks," the public sector must be willing to either share the cost or reimburse the cost.

- **Risk Transfer/ Risk Management.** Public and private partners should seek the best ways to manage risk and find the most cost-effective alternatives for a project. A risk matrix analysis can identify risks that can be eliminated and reduce others. The accurate appraisal of the risks of each partner will optimize risk sharing.

- **Return on Investment.** Negotiations for the project agreement must take into consideration market rates for the activity under negotiation when determining the rate of return. The returns must be reasonable, related to the risk taken and clear to all public sector and private sector parties to the agreement. To be most effective, the returns should be tied to the performance of the private sector parties against benchmarks.

- **ODOT Oversight: Performance Standards vs. Specifications**. The public sector entity must accept that oversight for design-build type projects must focus on adherence to performance criteria/standards as a measure of performance rather than compliance with strict conventional specifications. In return, the private sector must take responsibility for delivering a project that meets all performance criteria and work cooperatively with the project oversight process.

- **Public-Private Cost Sharing of Overruns.** The public sector must be willing to bear some of the responsibility of certain legitimate and unanticipated cost changes that are outside the control of the private partner and not otherwise insurable. The private sector must be willing to take on additional risks typically carried by the public sector and provide fixed price contracts, guarantees and/or warrantees to ODOT. Innovative contracting methods typically involve significant additional responsibility on the part of the private sector for project insurance and must be addressed at the beginning of an arrangement.

- **Incentives for Performance/ Penalties for Nonperformance.** Penalties for non-performance should be assigned in a way that protects the public but also retains an incentive for the private sector partner to meet contract obligations.

6. **Review by Director.** Once an innovative partnership arrangement is reached for a project with a private sector partner, the Director shall review the arrangement and make a recommendation to the Oregon Transportation Commission. The OTC shall have approval authority for the arrangement. The Director shall be the contractor signatory.

7. **Publicizing the Contract.** After Director approval, the innovative partnership arrangement must be communicated in a way that allows for public scrutiny by citizens and institutions with an interest in the project or contractual arrangement.

8. **Accounting and Auditing.** An accounting and auditing procedure appropriate for innovative partnership projects should be applied.

V. Management and Development of Innovative Projects.

Private Partner in Project Development. From a project development perspective, it is most advantageous to engage a private sector partner as early as possible in the process. It is often more likely that a private sector firm will commit significant investment dollars into a project when the firm has the opportunity to evaluate and shape the course of the project. The timing of the private sector partner's entry into the process will determine the degree of the partner's involvement in project assessment, design and management.

VI. Innovative Finance Mechanisms.

A. **ODOT Credit Backstop.** ODOT should have authority to use ODOT Highway User Tax Revenue Bond credit to backstop local System Development Charges or other local revenue charges in support of an innovative partnership project.

B. **Infrastructure Bank.**

1. **Private Sector Participation.** The Oregon Transportation Infrastructure Bank (OTIB) should facilitate loans and infrastructure assistance to the private sector in support of public-private partnerships.

2. **Acquisition of Developable Property.** OTIB should have authority to finance non-right-of-way acquisition of developable property that would benefit by a project (or combined projects) in a public-private partnership.

3. **OTIB Capitalization.** OTIB should obtain additional capital to provide loans and infrastructure assistance for more and larger projects. This may include federal or state sources of capital or use of OTIB's existing bonding authority.

C. **Acquisition of Land/ Development Rights.**

1. **ODOT Acquisition of Land.** ODOT should have the authority to acquire land for non-right-of-way purposes to facilitate financing of innovative partnership projects. ODOT should also have the authority to acquire land in conjunction with private of local government partners.

2. **Facilitating Private Sector Purchases of Land or Development Rights.** As part of a public-private partnership arrangement, ODOT and local government partners should provide private sector partners the opportunity to purchase land or development rights that would benefit by a project in exchange for private dollar investments into the project.

3. **Land Trading.** Opportunity for land trading not related to right-of-way should be explored as a way to support innovative partnership projects.

4. **Land Donations**. Opportunity for land donations not related to right-of-way should be explored as a way to support- innovative partnership projects.

E. **Tolling.** ORS 383.330 should be repealed to eliminate the state's right to acquire a toll bridge after three years following construction and operation.

F. **Federal Financing Programs**

1. **TIFIA**. ODOT should have the authority to enter into agreements under the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) as part of public private partnerships.

   TIFIA was enacted as part of the Transportation Equity Act for the 21st Century (TEA-21) and established a new Federal program under which the U.S. Department of Transportation (USDOT) provides loans and credit assistance to major surface transportation projects of national or regional significance. The TIFIA credit program offers three distinct types of financial assistance, designed to address the varying requirements of projects throughout their life cycles:

   - Direct loans to project sponsors that offer flexible repayment terms and provide combined construction and permanent financing of capital costs, often sooner and at a lower cost than could otherwise be obtained.
   - Loan guarantees that provide full-faith-and-credit guarantees by the Federal Government to institutional investors, such as pension funds, which make loans for projects.
   - Standby lines of credit that represent secondary sources of funding in the form of contingent Federal loans. These loans may be drawn upon to supplement project revenues, if needed, during the first 10 years of project operations.

2. **GARVEEs**. ODOT should have the authority to issue Grant Anticipation Revenue Vehicle Bonds (GARVEE Bonds).

   GARVEE Bonds pledge future Federal-aid for debt service and are authorized for Federal reimbursement of debt service and related financing costs. This financing mechanism generates up-front capital for major highway projects that the state may be unable to construct in the near term using traditional pay-as-you-go funding approaches.

G. **Joint Powers Authority.** Oregon's statute for intergovernmental agreements (ORS 190.003 et seq.) should be amended to allow ODOT participation in a "joint powers authority" (a.k.a. intergovernmental agreement). The statutory change should also allow other states' governmental entities to participate in Oregon intergovernmental agreements involving multi-state transportation projects.

H. **Other Innovative Finance Mechanisms**. The Innovative Finance Advisory Committee considered several other financial mechanisms of interest but does not give these mechanisms priority for further legislative action or ODOT implementation. Among the other financial mechanisms considered were ODOT authority to impose systems development charges, ODOT authority to impose traffic impact fees for value capture and ODOT or local government authority to charge fees for the "up zoning" of properties into an Urban Growth Boundary.

VII. Timeline for Adoption, Formation and Implementation of the Oregon Innovative Partnerships Program.

Owing to the urgency of opening Oregon to public-private transportation projects, the Innovative Finance Advisory Committee recommends the following timeline for program development.

A. **Legislative Approval.** The Legislative Assembly should pass legislation to implement the program, as described above, no later than June 30, 2003.

B. **Formation of the Innovative Partnerships Unit.** ODOT should form the Innovative Partnerships Unit no later than September 30, 2003.

C. **First IPU Project Award.** The Innovative Partnerships Unit should award the first innovative partnership project no later than December 31, 2003.

JPACT Members and *Alternates*

	COURTESY_TITL	FIRST_NAMI	MIDDLE_NAMI	LAST_NAME	ORGANIZATION	REPRESENTING	ADDRESS	E	SUITE	CITY	STATE	ZIPCODE
1.	**The Honorable**	**Rod**		**Park**	**Metro**	**Chair**	**600 NE Grand Ave.**			**Portland**	**OR**	**97232-2736**
2.	The Honorable	Rex		Burkholder	Metro	Vice-Chair	600 NE Grand Ave.			Portland	OR	97232-2736
3.	**The Honorable**	**Carl**		**Hosticka**	**Metro**	**Metro**	**600 NE Grand Ave.**			**Portland**	**OR**	**97232-2736**
4.	**The Honorable**	**Bill**		**Kennemer**	**Clackamas County**	**Clackamas County**	**907 Main St.**			**Oregon City**	**OR**	**97045-1882**
	The Honorable	*Michael*	*J*	*Jordan*	*Clackamas County*	*Clackamas County*	*906 Main St.*			*Oregon City*	*OR*	*97045-1882*
5	**The Honorable**	**Maria**		**Rojo de Steffey**	**Multnomah County**	**Multnomah County**	**501 SE Hawthorne Blvd.**	**Room**		**Portland**	**OR**	**97214-3585**
	The Honorable	*Lonnie*		*Roberts*	*Multnomah County*	*Multnomah County*	*501 SE Hawthorne Blvd.*	*Room*	*600*	*Portland*	*OR*	*97214-3585*
6.	**The Honorable**	**Roy**		**Rogers**	**Washington County**	**Washington County**	**12700 SW 72ND Ave.**			**Portland**	**OR**	**97223-8335**
	The Honorable	*Tom*		*Brian*	*Washington County*	*Washington County*	*155 N. 1st Ave.*	*MS*	*22*	*Hillsboro*	*OR*	*97124-3001*
7.	**The Honorable**	**Jim**		**Francesconi**	**City of Portland**	**City of Portland**	**1221 SW 4th Ave.**	**Room**	**220**	**Portland**	**OR**	**97204-1906**
	The Honorable	*Vera*		*Katz*	*City of Portland*	*City of Portland*	*1221 SW 4th Ave.*	*Room*	*340*	*Portland*	*OR*	*97204-1907*
8.	**The Honorable**	**Karl**		**Rohde**	**Oswego**	**County**	**PO Box 227**			**Oswego**	**OR**	**97034-0369**
	The Honorable	*Brian*	*M*	*Newman*	*City of Milwaukie*	*Cities of Clackamas County*	*10110 SE Waverly Ct.*	*#*	*19*	*Milwaukie*	*OR*	*97222*
9.	**The Honorable**	**Larry**		**Haverkamp**	**City of Gresham**	**County**	**1333 NW Eastman Pkwy.**			**Gresham**	**OR**	**97030-3825**
	The Honorable	*James*	*W*	*Kight*	*City of Troutdale*	*Cities of Multnomah County*	*950 Jackson Park Rd.*			*Troutdale*	*OR*	*97060-2114*
10.	**The Honorable**	**Robert**		**Drake**	**City of Beaverton**	**County**	**PO Box 4755**			**Beaverton**	**OR**	**97076-4755**
	The Honorable	*Lou*		*Ogden*	*City of Tualatin*	*Cities of Washington County*	*21040 SW 90TH Ave.*			*Tualatin*	*OR*	*97062-9346*
11.	**Mr.**	**Fred**		**Hansen**	**Tri-Met**	**Tri-Met**	**4012 SE 17th Ave.**			**Portland**	**OR**	**97202**
	Mr.	*Neil*		*McFarlane*	*Tri-Met*	*Tri-Met*	*710 NE Holladay St.*			*Portland*	*OR*	*97232*
12.	**Ms.**	**Kay**		**Van Sickel**	**ODOT**	**ODOT**	**123 NW Flanders St.**			**Portland**	**OR**	**97209-4037**
	Mr.	*Bruce*		*Warner*	*ODOT*	*ODOT*	*355 Capitol St., NE*	*Room*	*135*	*Salem*	*OR*	*97301-3871*
13.	**Ms.**	**Stephanie**		**Hallock**	**DEQ**	**Oregon DEQ**	**811 SW 6TH Ave.**			**Portland**	**OR**	**97204**
	Mr.	*Paul*		*Slyman*	*DEQ*	*Oregon DEQ*	*811 SW 6TH Ave.*			*Portland*	*OR*	*97204*
	Mr.	*Andy*		*Ginsburg*	*DEQ*	*Oregon DEQ*	*811 SW 6th Ave.*	*Floor*	*11*	*Portland*	*OR*	*97204*
	Ms.	*Annette*		*Liebe*	*DEQ*	*Oregon DEQ*	*811 SW 6th Ave.*			*Portland*	*OR*	*97204-1390*
14.	Mr.	Don		Wagner	WSDOT	Washington State DOT	PO Box 1709			Vancouver	WA	98668
	Ms.	*Mary*		*Legry*	*WSDOT*	*Washington State DOT*	*PO Box 1709*			*Vancouver*	*WA*	*98668*
~~15.~~	~~Mr.~~	~~Bill~~		~~Wyatt~~	~~Port of Portland~~	~~Port of Portland~~	~~PO Box 3529~~			~~Portland~~	~~OR~~	~~97208~~
	~~*Mr.*~~	~~*David*~~		~~*Lohman*~~	~~*Port of Portland*~~	~~*Port of Portland*~~	~~*PO Box 3529*~~			~~*Portland*~~	~~*OR*~~	~~*97208*~~
16.	The Honorable	Royce	E	Pollard	City of Vancouver	City of Vancouver	PO Box 1995			Vancouver	WA	98668
	~~*Mr.*~~	~~*Dean*~~		~~*Lookingbill*~~	~~*RTC*~~	~~*SW Washington RTC*~~	~~*1351 Officers Row*~~			~~*Vancouver*~~	~~*WA*~~	~~*98661*~~
17.	**The Honorable**	**Craig**		**Pridemore**	**Clark County**	**Clark County**	**PO Box 5000**			**Vancouver**	**WA**	**98666-5000**
	Mr.	*Peter*		*Capell*	*Clark County*	*Clark County*	*PO Box 9810*			*Vancouver*	*WA*	*98666-9810*

COMMITTEE TITLE JPACT

DATE January 16, 2003

NAME	AFFILIATION
Rod Park	Metro Council
FRED HANSEN	TRIMET
Maria Rojo de Steffey	Mult. Cty.
Kay Van Sickel	ODOT
Rod Monroe	Metro Council
Larry Haverkamp	Cities Mult. Co.
Stephanie Hallock	DEQ
KARL ROHDE	C^3
Roy Rogers	Washington County
Rex Burkholder	Metro Council
Andy Cotugno	metro
Bridget Wieghart	Metro
LAUREL WENTWORTH	CITY OF PORTLAND
Rooney Barker	Metro Council Office
Kathy Busse	Wash County
Robin Katz	Port of Portland
Ron Papsdorf	Cities of Mult. Co.
TOM KLOSTER	METRO

COMMITTEE TITLE **JPACT**

DATE **January 16, 2003**

NAME	AFFILIATION
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Jan Tell	ODOT
OLIVIA CLARK	TRI-MET
David Calver	Parsons Brinckerhoff.
L A. ORNELAS	OHSU
Sharon Nasset	NPBA
Susan Caldwell	Rep. Greenlick's Office
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TOM MARKGRAF	Rep. BlumenAuER
Dick Feeney	Tri-Met
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