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METRO SERVICE DISTRICT
OFFICE OF GENERAL COUNSEL

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1378 FOR THE PURPOSE
OF ENDORSING WESTSIDE CORRIDOR PROJECT IMPLEMENTATION
MEASURES

Date: January 8, 1991

Presented by: Andrew Cotugno

FACTUAL BACKGROUND AND ANALYSIS

PROPOSED ACTION

Adopt Resolution No. 91-1378 relating to implementation measures for the Westside Corridor project:

1. Endorsing adoption by the Oregon Legislature of HB 2128 providing the state's half of the local match for the Westside LRT project.
2. Proceeding with two measures to expedite and streamline the decision-making process for the approval of the preferred alternative for the Westside Corridor project.
 - a. Endorsing adoption by the Oregon Legislature of LC 2193 providing for a streamlined decision-making and review process under Oregon land use law; and
 - b. Authorizing execution of an amendment to the Inter-governmental Agreement between Metro, Tri-Met, ODOT, Portland, Washington County and Multnomah County providing for local agreement to follow this streamlined process.

BACKGROUND

. HB 2128

The intended financing approach for the Westside Corridor project includes the following elements:

- a. 75 percent UMTA funding for the LRT project provided for in the '91 Appropriations Bill and required to be executed in a Full-Funding Agreement by September 30, 1991 upon securing all aspects of the required local match and upon completion of the required EIS process.
- b. Funding for the Sunset Highway and Highway 217 aspects of the project by ODOT as provided in the '90-96 ODOT Highway Improvement Program.

c. Provision of one-half the local match for the LRT project by a combination of Tri-Met General Obligation bonds as approved by the voters in the November 1990 general election, plus commitment of an additional \$21 million of local funds from jurisdictions representing benefitted constituencies as follows:

Tri-Met	\$ 7 million
Metro	2
Portland	7
Washington County	5
	<hr/>
	\$21 million

d. Provision of one-half the local match for the LRT project by the Oregon Legislature.

HB 2128 will be considered by the Oregon Legislature to provide their half of the local match. The bill provides a two-step mechanism: first, a commitment of \$10 million per year revenue stream from the existing cigarette tax to the Regional Light Rail Construction Fund and, second, use of the revenue stream to repay incurred debt necessary to provide the required local match amount.

This resolution endorses adoption of HB 2128 by the Oregon Legislature.

LC 2193

The Oregon Legislature will consider adoption of LC 2193 providing for a streamlined decision-making process and an expedited procedure for judicial review of the project decision under Oregon land use law. Key provisions include:

- a. Definition of the Tri-Met Board of Directors' decision to be the final order for selection of the preferred corridor alternative based upon input and recommendation from Metro, Portland, Washington County, Multnomah County and ODOT.
- b. Requirement that any comprehensive or regional plans requiring amendment must be consistent with this final order.
- c. Definition of the criteria for adoption of the final order.
- d. Definition of the procedures, criteria and schedule for appeal of the final order for judicial review by the state Land Use Board of Appeals (LUBA) and the Oregon Supreme Court.

This action is necessitated by the delay in starting the project approval process due to delays in the schedule for federal approval and release of the Supplemental Draft

Environmental Impact Statement (SDEIS). Under previously established schedules, a more lengthy decision-making and judicial review schedule could have been possible. However, since the final deadline of September 30, 1991 to sign the Full-Funding contract under provisions of the existing Surface Transportation Act cannot be delayed, current schedules for releasing the SDEIS require compressing the schedule. This proposal maintains the key requirement for public hearings and input, jurisdictional input and judicial review but with a very specifically defined procedure and schedule. Integral to the bill are the recitals reflected on pages 1 through 5 describing the unique circumstances necessitating this bill.

This resolution endorses adoption of LC 2193 by the Oregon Legislature.

Intergovernmental Agreement

The Current Intergovernmental Agreement was executed between the eight parties of the Westside Corridor project consistent with a process involving a more lengthy decision-making process. This amended agreement provides for the same eight jurisdictions to agree to the more streamlined process provided for by LC 2193.

This resolution authorizes execution of the amended Intergovernmental Agreement.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1378.

ACC:lmk
1-8-91
91-1378.RES

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING	)	RESOLUTION NO. 91-1378
WESTSIDE CORRIDOR PROJECT)	
IMPLEMENTATION MEASURES	)	Introduced by
	)	George Van Bergen, Chair
	)	Joint Policy Advisory
	)	Committee on Transportation

WHEREAS, ODOT has committed funds for the associated highway improvements in the 1990-1996 Six-Year Highway Improvement Program; and

WHEREAS, The Westside Corridor Project is comprised of Light Rail Transit (LRT) from Portland to Hillsboro and improvements to the Sunset Highway and Highway 217; and

WHEREAS, The Westside Corridor Project is the region's number one priority; and

WHEREAS, The United States Congress has directed that a full-funding contract for 75 percent federal participation be executed by September 30, 1991; and

WHEREAS, The allowable federal participation will likely change to a maximum of 50 percent after September 30, 1991; and

WHEREAS, Steps to be completed prior to execution of the Full-Funding Contract include publishing the Supplemental Draft Environmental Impact Statement, conducting a public hearing, selecting and approving the Preferred Alternative, and completing the Final Environmental Impact Statement; and

WHEREAS, The voters of the metropolitan area approved \$110 million of general obligation bonds toward the needed LRT local matching funds; and

WHEREAS, Portland, Washington County and Metro will provide an additional \$21 million toward the needed LRT local matching funds; and

WHEREAS, Completion of the decision-making process and funding commitments in an expeditious manner is critical to maintain the schedule to sign a Full-Funding Agreement by September 30, 1991; and

WHEREAS, the project is consistent with the Regional Transportation Plan; now, therefore

BE IT RESOLVED,

That the Council of the Metropolitan Service District:

1. Endorses HB 2128 (Exhibit A) to be adopted by the Oregon Legislature providing for a commitment of state funds to complete the local match commitment for the LRT project.
2. Endorses LC 2193 dated December 24, 1990 (Exhibit B) to be adopted by the Oregon Legislature providing for an expedited process for judicial review of land use appeal(s) of the approved Westside Corridor Project Preferred Alternative including the explanation of the basis for the bill as reflected in the recitals.
3. Authorizes amendment to the Westside Transit Corridor Planning Coordination Agreement (Exhibit C) to ensure an expedited decision-making process.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

HB 2128

FINAL
DRAFT

LC 1204

11/15/90 (JB/bg)

DRAFT

SUMMARY

Requires first \$10 million in annual revenue from cigarette taxes otherwise credited to General Fund to be transferred into Regional Light Rail Extension Construction Fund.

Provides for termination of transfer of cigarette tax moneys to Regional Light Rail Extension Construction Fund when moneys are no longer needed for Westside corridor light rail extension.

Prohibits expenditure of moneys from Regional Light Rail Extension Construction Fund unless Director of Transportation determines, with respect to construction phases of project, elements of project which are designated for state participation and estimates total amount of state's funding obligation.

Declares emergency, effective July 1, 1991.

A BILL FOR AN ACT

1

2 Relating to light rail system extensions; creating new provisions; amending
3 ORS 323.455 and 391.120; and declaring an emergency.

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

5 SECTION 1. (1) Notwithstanding ORS 323.455, of the moneys paid over
6 to the State Treasurer by the Department of Revenue under ORS 323.455, the
7 State Treasurer in each fiscal year shall transfer \$10 million from the sus-
8 pense account established under ORS 293.445 to the Regional Light Rail
9 Extension Construction Fund established by ORS 391.120. Moneys trans-
10 ferred to the Regional Light Rail Extension Construction Fund under this
11 section shall be taken from those moneys that are otherwise required under
12 ORS 323.455 to be credited to the General Fund.

13 (2) In each fiscal year, the State Treasurer shall transfer and credit the
14 amount of money specified in this section to the Regional Light Rail Exten-
15 sion Construction Fund before crediting any moneys to the General Fund
16 under ORS 323.455.

17 (3) Moneys credited to the Regional Light Rail Extension Construction

NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

1 Fund under this section shall be transferred to the fund at the same time
2 as the cigarette tax moneys are distributed to cities and counties under ORS
3 323.455.

4 (4) Moneys transferred to the Regional Light Rail Extension Construction
5 Fund under this section may be expended for any purpose for which moneys
6 in the Regional Light Rail Extension Construction Fund may be lawfully
7 expended under ORS 391.120.

8 (5) The transfer of moneys to the Regional Light Rail Extension Con-
9 struction Fund authorized by this section shall cease when the Director of
10 Transportation certifies in writing that transfers of moneys under this sec-
11 tion are no longer necessary because:

12 (a) Moneys in the Regional Light Rail Extension Construction Fund are
13 sufficient for the payment of all amounts committed to be paid under all
14 written agreements or commitments entered into between the Director of
15 Transportation and the Tri-County Metropolitan Transportation District
16 pursuant to ORS 391.120 with respect to the Westside corridor extension of
17 light rail referred to in ORS 391.120(2)(a); and

18 (b) The Westside corridor extension of light rail referred to in ORS
19 391.120(2)(a) has been completed and such project has been accepted by the
20 Department of Transportation, and all claims, suits and actions arising out
21 of such project that could create a liability payable out of the moneys in the
22 Regional Light Rail Extension Construction Fund have been resolved.

23 (6) The Director of Transportation shall deliver a copy of such certif-
24 ication to the Governor and the State Treasurer. Upon receipt of the direc-
25 tor's written certification that transfer of moneys to the Regional Light Rail
26 Extension Construction Fund under this section is no longer necessary, the
27 State Treasurer shall thereafter credit moneys received from the Department
28 of Revenue under ORS 323.455 to the General Fund as required by ORS
29 323.455.

30 SECTION 2. ORS 323.455 is amended to read:

31 323.455. (1) All moneys received by the department from the tax imposed

1 by ORS 323.030 (1) shall be paid over to the State Treasurer to be held in a
2 suspense account established under ORS 293.445. After the payment of re-
3 funds and except as provided in section 1 of this 1991 Act, eleven-
4 fourteenths shall be credited to the General Fund, one-fourteenth is
5 appropriated to the cities of this state, one-fourteenth is appropriated to the
6 counties of this state and one-fourteenth is continuously appropriated to the
7 Public Transit Division of the Department of Transportation for the purpose
8 of financing and improving transportation services for elderly and disabled
9 individuals as provided in ORS 391.800 to 391.830.

10 (2) The moneys so appropriated to cities and counties shall be paid on a
11 monthly basis within 35 days after the end of the month for which a dis-
12 tribution is made. Each city shall receive such share of the money appro-
13 priated to all cities as its population, as determined under ORS 190.510 to
14 190.590 last preceding such apportionment, bears to the total population of
15 the cities of the state, and each county shall receive such share of the money
16 as its population, determined under ORS 190.510 to 190.590 last preceding
17 such apportionment, bears to the total population of the state.

18 (3) The moneys appropriated to the Public Transit Division of the De-
19 partment of Transportation under subsection (1) of this section shall be dis-
20 tributed and transferred to the Elderly and Disabled Special Transportation
21 Fund established by ORS 391.800 at the same time as the cigarette tax mon-
22 eys are distributed to cities and counties under this section.

23 SECTION 3. ORS 391.120 is amended to read:

24 391.120. (1) The Regional Light Rail Extension Construction Fund, sepa-
25 rate and distinct from the General Fund, is established in the State Treasury.
26 All moneys in the fund are appropriated continuously to the Public Transit
27 Division of the Department of Transportation for the purposes specified in
28 this section. Interest received on moneys credited to the Regional Light Rail
29 Extension Construction Fund shall accrue to and become part of the Re-
30 gional Light Rail Extension Construction Fund.

31 (2) The Public Transit Division may expend moneys in the Regional Light

1 Rail Extension Construction Fund to finance the preliminary engineering
2 phase, final design phase, advanced right of way acquisition phase or con-
3 struction and acquisition of equipment and facilities phase of projects for
4 extensions to the Tri-County Metropolitan Transportation District's light
5 rail system, as designated in the Regional Transportation Plan adopted by
6 the metropolitan service district in 1989, as amended from time to time. The
7 Director of Transportation may enter into written agreements with the Tri-
8 County Metropolitan Transportation District that commit the department to
9 pay anticipated funds from the Regional Light Rail Extension Construction
10 Fund to the district for the purpose of financing such costs of extending the
11 district's light rail system, including servicing any obligations entered into
12 by the district to finance the costs of extending the district's light rail sys-
13 tem, which written agreements may provide for the remittance of such funds
14 on such periodic basis, in such amounts, over such period of years and with
15 such priority over other commitments of such funds as the director shall
16 specify in the commitment. Any such written agreements or commitments,
17 when executed by the director and accepted by the district, shall be solely
18 conditioned upon actual funds available in the Regional Light Rail Extension
19 Construction Fund and shall be valid, binding and irrevocable in accordance
20 with its terms, subject only to the requirements of subsection (3) of this
21 section. The extensions to the light rail system for which projects may be
22 authorized and financed from the Regional Light Rail Extension Con-
23 struction Fund include:

- 24 (a) The Westside corridor.
- 25 (b) The Interstate 5 North corridor.
- 26 (c) The Interstate 205 corridor.
- 27 (d) The Milwaukie corridor.
- 28 (e) The Barbur corridor.
- 29 (f) The Lake Oswego corridor.
- 30 (g) Appropriate branches to the Banfield corridor.
- 31 (h) Appropriate branches to the corridors specified in paragraphs (a) to

1 (f) of this subsection.

2 (3) Notwithstanding any written agreement entered into by the Di-
3 rector of Transportation under subsection (2) of this section, no moneys
4 shall be expended from the Regional Light Rail Extension Construction Fund
5 for the preliminary engineering phase, final design phase, advanced right of
6 way acquisition phase or construction and acquisition phase of projects un-
7 less the Director of Transportation determines:

8 (a) That all state and local approvals are in place for the phase of the
9 specific project for which funding is being sought;

10 (b) That assurances are in place for obtaining all moneys, other than
11 moneys for which the determination is being made, necessary to enable
12 completion of the phase of the specific project for which funding is being
13 sought and that the Tri-County Metropolitan Transportation District has
14 agreed to provide an amount of money equal to that being provided by the
15 Regional Light Rail Extension Construction Fund for the phase of the spe-
16 cific project for which money is being sought; [and]

17 (c) With respect to the phase of the specific project for which funding is
18 being sought, that the body of local officials and state agency representatives
19 designated by the metropolitan service district which functions wholly or
20 partially within the Tri-County Metropolitan Transportation District and
21 known as the Joint Policy Advisory Committee on Transportation has certi-
22 fied that the phase of the specific project is a regional priority[.]; and

23 (d) With respect to construction phases of any project, the elements
24 of the project that are designated for state participation and an esti-
25 mated total amount of the state's funding obligation.

26 (4) When the actual expenditures for a phase of a specific light rail
27 project fall short of the estimated expenditures for the project, those moneys,
28 other than federal moneys, that are not required for that phase of the project
29 shall remain in the Regional Light Rail Extension Construction Fund for use
30 in completing other projects described in subsection (2) of this section.

31 (5) On or before August 31 in each year, the Director of Transpor-

1 tation shall certify to the Governor and the State Treasurer whether
2 or not there existed, as of the end of the immediately preceding fiscal
3 year, an unobligated balance of moneys in the Regional Light Rail
4 Extension Construction Fund that was derived from the moneys re-
5 quired to be transferred to the Regional Light Rail Extension Con-
6 struction Fund under section 1 of this 1991 Act. If the Director of
7 Transportation certifies that there existed such an unobligated balance
8 of moneys derived from the moneys required to be transferred to the
9 Regional Light Rail Extension Construction Fund under section 1 of
10 this 1991 Act, an amount equal to the unobligated balance as of the
11 end of the immediately preceding fiscal year shall revert to the Gen-
12 eral Fund, and the State Treasurer shall credit such amount to the
13 General Fund on or before the September 15 next following the date
14 of the certification by the Director of Transportation.

15 [(5)] (6) The Director of Transportation shall certify the unobligated bal-
16 ance of the Regional Light Rail Extension Construction Fund, and that un-
17 obligated balance shall revert to the General Fund if the Director of
18 Transportation determines that all projects referred to in subsection (2) of
19 this section have been completed and the projects have been accepted by the
20 Director of Transportation and all claims, suits and actions arising out of
21 the projects have been resolved.

22 (7) For purposes of subsections (5) and (6) of this section, moneys
23 in the Regional Light Rail Extension Construction Fund derived from
24 the moneys required to be transferred to the Regional Light Rail Ex-
25 tension Construction Fund under section 1 of this 1991 Act shall be
26 obligated to the extent such moneys are needed to fund the amounts
27 committed to be paid in the current or any future fiscal year under
28 any written agreement or commitment entered into by the Director
29 of Transportation under subsection (2) of this section.

30 (8) The Public Transit Division of the Department of Transportation
31 may deduct from the Regional Light Rail Extension Construction Fund

1 the costs associated with administering the fund.

2 SECTION 4. This Act being necessary for the immediate preservation of
3 the public peace, health and safety, an emergency is declared to exist, and
4 this Act takes effect July 1, 1991.

5

Revised re Findings

LC 2193
Processed But Not
Drafted By Legisla-
tive Counsel
12/24/90 (JB/rc)

D R A F T

SUMMARY

Declares that approval of Westside Corridor Project under this Act is consistent with applicable statewide planning goals.

Establishes procedures for Tri-County Metropolitan Transportation District when conducting hearing for adoption of final order selecting route and improvements for corridor project.

Requires amendment of specified comprehensive plans and land use regulations to make them consistent with final order.

Grants exclusive jurisdiction for review of final order to Land Use Board of Appeals or Supreme Court.

Provides procedure for judicial review of final order.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1

2 Relating to Westside Corridor Project; and declaring an emergency.

3 Whereas Portland metropolitan area governments are united in seeking
4 federal funding for a transportation facility, known as the Westside Corridor
5 Project. Since 1983, the Metropolitan Service District's Regional Transpor-
6 tation Plan, based upon recommendation of the Tri-County Joint Policy Ad-
7 visory Committee on Transportation, has identified the project as the
8 Portland metropolitan region's highest transportation priority. The Depart-
9 ment of Transportation has identified the project as its highest transporta-
10 tion priority. The Department of Environmental Quality has identified the
11 project as a high air-quality priority in the region. The Department of En-
12 ergy has identified the project among its emission reduction strategies for
13 the Portland metropolitan area; and

14 Whereas at a total estimated cost over \$900 million, the project would be
15 the largest public works project in Oregon history. To obtain federal funds

1 at 75 percent of the project cost, the Tri-County Metropolitan Transportation
2 District must sign a full funding agreement with the Urban Mass Transpor-
3 tation Administration by September 30, 1991. Thereafter, a change in federal
4 law will reduce federal participation in the project from the current 75 per-
5 cent level to 50 percent or less of project cost. The difference between the
6 federal contribution at 75 percent of project cost and 50 percent of project
7 cost is approximately \$227 million; and

8 Whereas the Portland metropolitan area has demonstrated strong political
9 and financial support for the project. In November 1990, 74 percent of those
10 voting in the tri-county region approved a \$125 million bond measure in-
11 creasing local property taxes to fund the project; and

12 Whereas the Tri-County Metropolitan Transportation District must com-
13 plete certain steps necessary to obtain a full funding agreement with the
14 Urban Mass Transportation Administration by the September 30, 1991,
15 deadline. In January 1989, the Tri-County Metropolitan Transportation Dis-
16 trict submitted to the Urban Mass Transportation Administration a supple-
17 mental draft environmental impact statement to allow the project to go
18 forward. The Tri-County Metropolitan Transportation District had expected
19 to release the supplemental draft environmental impact statement and hold
20 public hearings thereon by March 1989. However, the Urban Mass Trans-
21 portation Administration has requested revisions and new information, re-
22 sulting in delay in releasing the supplemental draft environmental impact
23 statement; and

24 Whereas Metro's Regional Transportation Plan and the acknowledged
25 comprehensive plans of the affected counties and cities already authorize
26 light rail transit usage. Those determinations were not appealed; and

27 Whereas aside from determinations to be made under federal law, the only
28 outstanding land use related issues to be resolved are a choice between an
29 above-ground or tunnel rail alignment through the Sunset Canyon in the
30 City of Portland, a choice between the Henry Street and Burlington North-
31 ern rail alignments in the City of Beaverton, and issues related to elements

1 of the highway improvements included in the project. Under federal law,
2 these matters cannot be decided until after the Urban Mass Transportation
3 Administration has accepted the supplemental draft environmental impact
4 statement and a public hearing on the supplemental draft environmental
5 impact statement has been held. Upon acceptance by the Urban Mass
6 Transportation Administration, the supplemental draft environmental impact
7 statement must be circulated for 45 days, during which the Tri-County Met-
8 ropolitan Transportation District will hold a public hearing on the docu-
9 ment. Following the hearing, the Tri-County Metropolitan Transportation
10 District must adopt a Preferred Alternative Report, determining whether or
11 not to build the project and, if to build, determining the alignment; and

12 Whereas following Tri-County Metropolitan Transportation District's
13 adoption of the Preferred Alternative Report, Tri-County Metropolitan
14 Transportation District must prepare a Final Environmental Impact State-
15 ment for Urban Mass Transportation Administration approval and then
16 complete and sign the full funding agreement. Approximately 45 days are
17 required to complete the Final Environmental Impact Statement process.
18 This includes time to gain necessary signatures from the United States En-
19 vironmental Protection Agency, up to 14 days to distribute the Final Envi-
20 ronmental Impact Statement for publication in the Federal Register, and a
21 30-day circulation period. At the conclusion of this Final Environmental
22 Impact Statement process, the Urban Mass Transportation Administration
23 can sign the Federal Decision of Record giving final approval to the project.
24 Thereafter, approximately 30 days are required for the Urban Mass Trans-
25 portation Administration and the Tri-County Metropolitan Transportation
26 District to complete negotiations on and enter into the full funding agree-
27 ment; and

28 Whereas upon the Tri-County Metropolitan Transportation District's de-
29 termination of the light rail route and associated highway improvements,
30 affected local governments and the Metropolitan Service District may need
31 to amend their comprehensive or functional plans or make other land use

1 decisions necessary to be consistent with the Tri-County Metropolitan
2 Transportation District's determination. Each of these actions could consti-
3 tute a land use decision subject to appeal to the Land Use Board of Appeals
4 and the appellate courts. The time required for these local governments and
5 agencies to make necessary land use decisions, and for the Land Use Board
6 of Appeals and the appellate courts to review those decisions and enter final
7 orders, would extend well beyond the September 30, 1991, deadline for signing
8 the full funding agreement, and thereby could cause the region to lose fed-
9 eral funding at the 75 percent level; and

10 Whereas under federal law and practice, the Tri-County Metropolitan
11 Transportation District must assure the Urban Mass Transportation Admin-
12 istration that all land use decisions concerning the determination to build
13 the project and determination of the light rail route and associated highway
14 improvements are fully and finally resolved prior to completion of the Final
15 Environmental Impact Statement, entry of the federal Decision of Record and
16 Urban Mass Transportation Administration approval of the full funding
17 agreement. To accomplish these steps and enter into the full funding agree-
18 ment by September 30, 1991, all land use issues concerning whether to build
19 the project and selection of project alignment must be fully and finally re-
20 solved no later than July 15, 1991; and

21 Whereas to avoid multiple appeals that jeopardize the Tri-County Metro-
22 politan Transportation District's ability to complete and sign a full funding
23 agreement for 75 percent federal funding by September 30, 1991, it is neces-
24 sary to consolidate all land use decisions required to approve the alignment
25 for the project into a single land use decision. Because the Tri-County Met-
26 ropolitan Transportation District is the agency preparing the supplemental
27 draft environmental impact statement, adopting the Preferred Alternative
28 Report, preparing the Final Environmental Impact Statement and negotiating
29 the full funding agreement with the Urban Mass Transportation Adminis-
30 tration, the Tri-County Metropolitan Transportation District is the most
31 appropriate body to make the consolidated decision on behalf of all affected

1 local governments; and

2 Whereas the project plays a critical role in reducing traffic congestion in
3 the Portland metropolitan area and enhancing the movement of people and
4 goods. The project is necessary to avoid unacceptable levels of congestion
5 and improve transportation and air quality in the metropolitan area; and

6 Whereas an emergency need exists to complete the route selection and
7 associated highway improvement decision process and fully resolve the re-
8 lated land use issues by July 15, 1991, in order to obtain federal funding for
9 the project, from downtown Portland to downtown Hillsboro, at the 75 per-
10 cent level. It is in the interest of the people of the State of Oregon to provide
11 for a speedy, efficient and exclusive process for judicial review of the related
12 land use issues in order to complete the funding process by September 30,
13 1991, and retain approximately \$227 million in federal funding. This Act shall
14 be liberally construed to accomplish such purposes; and

15 Whereas the supplemental draft environmental impact statement for
16 which the Tri-County Metropolitan Transportation District must obtain Ur-
17 ban Mass Transportation Administration approval by September 30, 1991,
18 includes only that portion of the project between downtown Portland and
19 SW 185th Street. The remaining portion, extending west to downtown
20 Hillsboro, will be addressed in a separate draft environmental impact state-
21 ment which the Tri-County Metropolitan Transportation District will pre-
22 pare following completion and signing of the full funding agreement. Under
23 federal legislation, the full funding agreement can be extended at the 75
24 percent funding level to include that portion from SW 185th to downtown
25 Hillsboro; now, therefore,

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

27 **SECTION 1.** As used in this Act, unless the context requires otherwise:

28 (1) "Administrator" means the State Court Administrator.

29 (2) "Affected local governments" means the cities of Portland, Beaverton
30 and Hillsboro; the Counties of Washington and Multnomah; and the Metro-
31 politan Service District established pursuant to ORS chapter 268.

1 (3) "Board" means the Land Use Board of Appeals.

2 (4) "Court" means the Oregon Supreme Court.

3 (5) "Criteria" means the criteria with which the project or project exten-
4 sion must demonstrate compliance, as provided in section 3 of this Act.

5 (6) "District" means the Tri-County Metropolitan Transportation District
6 of Oregon established under ORS 267.010 to 267.390, or its successor agency.

7 (7) "Final order" means the final written order or orders of the governing
8 body of the district selecting the light rail route and associated highway
9 improvements for the project or the project extension.

10 (8) "Project" means the Westside Corridor Project between downtown
11 Portland and S.W. 185th Avenue in Hillsboro, including project alternatives
12 or options as set forth in the Westside Corridor Project Supplemental Draft
13 Environmental Impact Statement.

14 (9) "Project extension" means an extension of the project from S.W. 185th
15 Avenue to downtown Hillsboro.

16 (10) "Tri-County Metropolitan Transportation District" means the Tri-
17 County Metropolitan Transportation District.

18 **SECTION 2.** (1) The Legislative Assembly reaffirms its commitment to
19 the land use policies of this state and its municipal corporations. Except for
20 demonstration of compliance with the criteria set forth in this Act, the
21 Legislative Assembly finds that the project complies with all applicable
22 comprehensive plan provisions of Multnomah and Washington Counties and
23 the Cities of Portland, Beaverton and Hillsboro. The Legislative Assembly
24 finds that approval of the project under the provisions of this Act is con-
25 sistent with applicable statewide planning goals as follows:

26 (a) Goal 1 (Citizen Involvement): Tri-County Metropolitan Transportation
27 District's process for adopting the Supplemental Draft Environmental Impact
28 Statement has involved citizen advisory committee meetings and other public
29 meetings at which interested members of the public have had the opportunity
30 to participate and share their views on the project. The process set forth in
31 this Act provides for a public hearing before Tri-County Metropolitan

1 Transportation District for interested persons to submit testimony. Affected
2 local governments also have provided opportunity for citizen participation
3 throughout the process and will provide further opportunity prior to Tri-
4 County Metropolitan Transportation District's adoption of the preferred al-
5 ternative report.

6 (b) Goal 2 (Land Use Planning): Consideration of the project has been
7 coordinated among affected cities and counties, Metropolitan Service Dis-
8 trict, Tri-County Joint Policy Advisory Committee on Transportation, De-
9 partment of Transportation and other affected state and federal agencies.
10 Tri-County Metropolitan Transportation District, Department of Transporta-
11 tion, Metropolitan Service District and the affected cities and counties also
12 have entered into an intergovernmental agreement, known as the Westside
13 Corridor Project Planning Coordination Agreement, to insure appropriate
14 coordination of the project. Through compliance with this Act, the decision
15 whether to build and the decision regarding route selection and associated
16 highway improvements will be supported by an adequate factual base and
17 will be consistent with affected comprehensive plans.

18 (c) Goal 5 (Natural Resources): Goal 5 will be met through compliance
19 with the criteria provided for in this Act.

20 (d) Goal 6 (Air, Land and Water Quality): The project will improve mo-
21 bility, reduce noise and congestion and improve air quality in the tri-county
22 region. The Department of Environmental Quality has identified the project
23 as a high air quality priority in the region.

24 (e) Goal 7 (Natural Hazards): Goal 7 will be met through compliance with
25 the criteria provided for in this Act.

26 (f) Goal 8 (Recreational Needs): Goal 8 does not apply because the project
27 does not involve recreational facilities. However, the project will enhance
28 public access to the Metro Washington Park Zoo, Washington Park,
29 Washington County Fairgrounds and other recreational facilities within the
30 project area, thereby facilitating public enjoyment of those recreational fa-
31 cilities.

1 (g) Goal 9 (Economy of the State): The project will provide better
2 commuter and passenger service to metropolitan area residents. The project
3 will improve public accessibility to jobs, housing, commercial areas and
4 recreational facilities. The project also will stimulate and improve economic
5 development in the area served by light rail transit stations. Acquisition of
6 federal funding at 75 percent of project cost will reduce the local and state
7 share of the project, thereby freeing those public funds for other purposes
8 which benefit this state economy.

9 (h) Goal 10 (Housing): Light rail encourages housing types and densities
10 commensurate with the needs and desires of Oregon residents and supports
11 urbanization at more efficient housing densities.

12 (i) Goal 11 (Public Facilities and Services): The project is a public facility
13 already included in the acknowledged comprehensive plans of affected juris-
14 dictions. Light rail will provide an efficient transportation service to support
15 urban development.

16 (j) Goal 12 (Transportation): The project will reduce principal reliance on
17 the automobile, contribute to improved air quality, conserve energy, facili-
18 tate the flow of goods and services and conform with local comprehensive
19 plans which authorize light rail transit.

20 (k) Goal 13 (Energy Conservation): Light rail transit reduces principal
21 reliance on gasoline consumption and conserves energy.

22 (L) Goal 14 (Urbanization): Light rail transit will increase mobility within
23 the urban growth boundary and create incentives for residential, commercial
24 and industrial development at appropriate densities and intensities to sup-
25 port maximum efficiency of land uses.

26 (2) The Legislative Assembly finds that all other statewide planning goals
27 do not apply to the Westside Corridor Project.

28 **SECTION 3.** The following procedures shall govern the conduct of the
29 district in conducting a hearing for adoption of a final order. The procedures
30 in ORS 197.763 shall not apply to proceedings regarding adoption of a final
31 order.

1 (1) The district board shall identify the criteria that apply to the project
2 or project extension. Prior to identification of the criteria, the district shall
3 prepare or cause to be prepared a plan analysis, in coordination with affected
4 local governments. The plan analysis shall identify those plan policies of the
5 affected local governments that are applicable to the project and the project
6 extension; those plan policies of the affected local governments with which
7 the project or project extension already has demonstrated compliance; and
8 criteria with which the project or project extension must demonstrate com-
9 pliance in order to satisfy those plan policies of the affected local govern-
10 ments with which the project or project extension has yet to demonstrate
11 compliance. The actions of the district board under this subsection shall not
12 be subject to judicial or administrative review.

13 (2) The district shall publish notice of the hearing on the project or
14 project extension in a newspaper of general circulation within the district
15 at least seven days prior to the hearing. No other form of notice is required.
16 The notice shall identify the project or project extension and the street ad-
17 dress where the staff report and the criteria may be found. The notice shall
18 also identify the date, time and location of the hearing and state that failure
19 by any person to raise an issue, in person or by letter, or failure to provide
20 sufficient specificity to afford the district an opportunity to respond to the
21 issue precludes appeal to the board or court based on that issue.

22 (3) A copy of the staff report shall be available for inspection at no cost
23 at least seven days prior to the hearing on the project or the project exten-
24 sion. The district may amend the staff report as it considers necessary prior
25 to the hearing.

26 (4) The district board shall establish a procedure for public hearing on
27 the project and the project extension. The procedure need not be that pro-
28 vided for contested case proceedings under ORS 183.413 to 183.470 and need
29 not provide for continuances.

30 (5) At the commencement of the hearing, a statement shall be made to
31 those in attendance that:

1 (a) Lists the criteria;

2 (b) States that testimony shall be directed toward the criteria; and

3 (c) States that failure to raise an issue, prior to the close of the public
4 hearing, with sufficient specificity to afford the district board an opportunity
5 to respond to the issue precludes review by the board or court on that issue.

6 (6) The district board may take official notice of any matter as authorized
7 by the Oregon Evidence Code or rules adopted by the district board.

8 (7) Following the close of the public hearing on the project or the project
9 extension, the district board shall adopt a final order. The district board may
10 continue the matter as it considers necessary for the purpose of final order
11 adoption. The district board shall consider comments by affected local gov-
12 ernments and the public in rendering its final order. The final order shall
13 be accompanied by written findings demonstrating compliance with the cri-
14 teria.

15 **SECTION 4.** (1) A final order shall require the state and all counties,
16 cities, special districts and political subdivisions to:

17 (a) Amend their comprehensive or functional plans, including public fa-
18 cility plans, and their land use regulations, to make them consistent with the
19 final order; and

20 (b) Issue the appropriate permits, licenses and certificates necessary for
21 the construction of project or project extension facilities. Permits, licenses
22 and certificates may be subject to reasonable and necessary conditions of
23 approval, but may not, either by themselves or cumulatively, prevent the
24 implementation of a final order.

25 (2) A final order shall be fully effective notwithstanding any other pro-
26 vision of state or local law.

27 (3) Plan and land use regulation amendments required under subsection
28 (1) of this section shall not be reviewable by any court or agency.

29 (4) Issuance of permits, licenses and certificates to implement a final or-
30 der may be the subject of administrative and judicial review as provided by
31 law. However, such review shall not have the effect of preventing the im-

1 plementation of a final order. The district may contest the necessity or
2 reasonableness of conditions of approval through administrative or judicial
3 review as provided by law.

4 (5) Each state or local government agency that issues a permit, license
5 or certificate for the project or project extension shall continue to exercise
6 enforcement authority over the permit, license or certificate.

7 **SECTION 5.** (1) Except as otherwise provided in section 7 of this Act,
8 and notwithstanding ORS 183.400, 183.482, 183.484 and 197.825 or any other
9 law, exclusive jurisdiction for review of a final order relating to the project
10 is conferred on the board and the Supreme Court as provided by this Act.

11 (2) Review of a final order relating to the project shall be initiated within
12 three days of adoption of that final order by personal delivery to the board,
13 to the State Court Administrator and to the district of a notice of intent to
14 appeal as required by this section.

15 (3) A person may petition for review of a final order relating to the
16 project if the person:

17 (a) Personally delivered a notice of intent to appeal the final order as
18 provided in subsection (2) of this section;

19 (b) Appeared before the district board orally or in writing in relation to
20 the project; and

21 (c) Is affected by residing or owning property within sight or sound of the
22 project or is adversely affected economically in excess of \$10,000 in value
23 exclusive of mitigation or compensation.

24 (4) A person's failure to raise an issue, orally or in writing, before the
25 district board, precludes that person from petitioning for review of that is-
26 sue.

27 (5) The notice of intent to appeal shall:

28 (a) Contain an affidavit stating the facts which support the petitioner's
29 standing as provided in subsection (3) of this section;

30 (b) State with particularity the grounds on which the petitioner assigns
31 error; and

1 (c) State the residence or business address of the petitioner to which
2 documents may be delivered, and the telephone and facsimile number or
3 numbers where the petitioner may be reached during normal business hours.

4 (6) The district shall personally deliver to the board and the administrator
5 a record of its final order proceedings one day following the delivery of a
6 notice of intent to appeal. The record shall be available to the public for the
7 actual costs of preparation. The record shall consist of the final order, the
8 notice of the final order hearing, the minutes of the hearing, any
9 audiocassette recordings of the hearing, a statement of matters which have
10 been officially noticed and documents presented during the hearing. The
11 district shall provide one copy of the record to each petitioner at no charge.

12 (7) Any objection to the record shall be personally delivered to the board,
13 the administrator and the district within four days following delivery of the
14 record to the board. Within four days thereafter, responses to objections to
15 the record shall be personally delivered to the board and delivered to the
16 residences or offices of the persons objecting. Thereafter, the board shall rule
17 expeditiously on objections. The board's ruling on objections shall not affect
18 the briefing schedule or decision timeliness set forth in this Act.

19 (8) No stays of proceedings or interventions shall be permitted.

20 (9) Within 10 days following adoption of a final order, the petitioner shall
21 personally deliver a petition for review to the board, the administrator and
22 the district. The petition for review shall set out in detail each assignment
23 of error and shall identify those portions of the record in which the
24 petitioner raised in the final order hearing the issue as to which error is
25 assigned. The petition for review shall comply with the specifications for
26 briefs set forth in the Oregon Rules of Appellate Procedure.

27 (10) Within 17 days following adoption of the final order, the district shall
28 personally deliver to the board, the administrator and the petitioner the
29 district's response to the petition for review. The response shall comply with
30 the specifications for answering briefs set forth in the Oregon Rules of Ap-
31 pellate Procedure.

1 (11) Within 24 days following adoption of the final order, the board shall
2 hear oral argument. The board shall issue a final opinion within 15 days
3 following oral argument. The final opinion of the board shall be in the form
4 of a recommendation to the court that the final order be affirmed or re-
5 manded, stating reasons for the recommendation.

6 (12) The board shall recommend remand of the final order only if it finds
7 that the final order:

8 (a) Is unlawful in substance in that the district has improperly construed
9 the criteria applicable to the project;

10 (b) Is unlawful in procedure, but error in procedure shall be cause for
11 remand only to the extent that the provisions of this Act have not been fol-
12 lowed and that noncompliance has prejudiced a petitioner's substantial
13 rights;

14 (c) Is unconstitutional; or

15 (d) Is not supported by substantial evidence in the whole record.

16 (13) The board forthwith shall file with the administrator the final opin-
17 ion and a copy of its own record. The board shall provide copies of its final
18 opinion to the parties and shall inform the parties of the filing of the final
19 opinion by telephone or facsimile.

20 (14) Neither the board nor the court shall substitute its judgment for that
21 of the district board as to any issue of fact or any issue within the discretion
22 of the district board.

23 (15) Proceedings for review under this Act shall be given priority over
24 all other matters before the board and court.

25 (16) The 77-day period provided under ORS 197.830 (14) applicable to all
26 other appeals pending before the board at the time a notice of intent to ap-
27 peal is delivered to the board under this section shall be extended 14 days.

28 **SECTION 6.** (1) Any party seeking court review of the board's final
29 opinion shall personally delivery a request for review to the administrator
30 and district within three days following the board's filing of its final opinion
31 with the administrator and shall personally delivery a copy of the request

1 for review to all parties appearing before the board. If a request for review
2 is not filed within the time provided in this subsection the board's final
3 opinion shall become a final, nonappealable order.

4 (2) Within seven days following the filing of a request for review, any
5 party appearing before the board may submit a supplemental memorandum
6 to the court. The supplemental memorandum shall comply with the specifi-
7 cations for petitions for review set forth in the Oregon Rules of Appellate
8 Procedure.

9 (3) The court may hold oral argument and shall decide the matter with
10 the greatest expediency, consistent with this Act.

11 (4) The court shall affirm or remand the final order, in whole or in part.
12 The court shall base its decision on the standards for review set forth in of
13 section 5 (12) of this Act. If the court remands, the district shall respond
14 as to those matters remanded by adopting a final order on remand.

15 (5) If the court remands, the court shall retain jurisdiction over the mat-
16 ter. Within seven days following adoption of a final order on remand, the
17 parties before the court shall submit memoranda to the court with respect
18 thereto. The court's decision on the final order on remand shall be based on
19 the standards set forth in section 5 (12) of this Act.

20 **SECTION 7.** If a final order relating to the project is adopted on or after
21 March 30, 1991, then notwithstanding any contrary provisions of this Act:

22 (1) The Supreme Court shall have exclusive jurisdiction to review the
23 final order relating to the project and shall directly determine the validity
24 of that final order under such rules of procedure as it may establish, con-
25 sistent with sections 1 to 3 and 7 of this Act. In such event, the board shall
26 have no jurisdiction to review any proceedings under this Act.

27 (2) The notice of intent to appeal the final order shall be personally de-
28 livered to the administrator and the district within the times set forth and
29 shall contain the information required by section 5 of this Act.

30 (3) The record on appeal shall be the record as defined in section 5 of this
31 Act.

1 **SECTION 8.** Modifications to a final order resulting from adoption of the
2 final environmental impact statement under regulations implementing the
3 National Environmental Policy Act of 1969, as amended, or required by the
4 Federal Government to execute a full funding agreement shall be considered
5 technical and environmental mitigation measures and shall not be reviewable
6 by any court or state agency.

7 **SECTION 9.** The requirements in section 5 of this Act shall apply to a
8 final order of the district on the project extension, except that the timelines
9 set forth in ORS 197.805 to 197.835 shall apply to review by the board.

10 **SECTION 10.** This Act being necessary for the immediate preservation
11 of the public peace, health and safety, an emergency is declared to exist, and
12 this Act takes effect on its passage.

13

Revised December 21, 1990

WESTSIDE TRANSIT CORRIDOR
PLANNING COORDINATION AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 1990, by the Metropolitan Service District (Metro), Oregon Department of Transportation (ODOT), Tri-County Metropolitan Transportation District of Oregon (Tri-Met), Washington and Multnomah counties, political subdivisions of the State of Oregon, and the cities of Beaverton, Hillsboro and Portland, incorporated municipalities of the state of Oregon.

WHEREAS, ORS chapter 190 authorizes units of local government and state agencies to enter into agreements for the performance of any or all functions and activities that a party to the agreement, its officers or agents, have authority to perform; and

WHEREAS, Statewide Planning Goal 11 (Facilities Planning), ORS 197.190, ORS 268.385, and OAR 660-11-015(2) require that city and county public facility plans and actions related to transportation facilities shall be coordinated with each other and state and federal providers of public facilities; and

WHEREAS, ORS 197.185 and OAR 660-11-015(3) require special districts to assist in the development of public facility plans for those facilities they provide, and to enter into intergovernmental cooperative agreements with affected jurisdictions or Metro to coordinate the plans and programs of the District affecting land use; and

WHEREAS, The Westside Corridor Project Draft Environmental Impact Statement (DEIS) was completed in 1982; and

WHEREAS, The Westside light rail transit was the recommended corridor and mode of transportation in the 1983 Preferred Alternative Report for the Westside Corridor from Downtown Portland to S.W. 185th Avenue; and

WHEREAS, Tri-Met prepared a DEIS Evaluation Report in January 1989 which identified changed circumstances and changes to the proposed action which would result in significant environmental impacts not addressed in the DEIS, and recommended supplementing the 1982 DEIS; and

WHEREAS, A Supplemental Draft Environmental Impact Statement (SDEIS) is being prepared by Tri-Met and ODOT, with the concurrence of the Urban Mass Transportation Administration (UMTA) and Federal Highway Administration (FHWA), to evaluate impacts of changed circumstances since 1982; evaluate the impacts of LRT alignment option and highway improvement refinements to

the 1983 Preferred Alternative; and evaluate a No-Build alternative as required by the National Environmental Policy Act, a Transportation Systems Management (TSM) alternative as required by UMTA, and short termini options also required by UMTA; and

WHEREAS, A Preferred Alternative Report recommending an alternative is anticipated after hearings on the SDEIS technical findings; and

WHEREAS, Metro has initiated, with the concurrence of UMTA, an Alternative Analysis and Draft Environmental Impact Statement (AA/DEIS) for the Hillsboro Corridor west of 185th Avenue terminus of the Westside Corridor Project; and

WHEREAS, The Hillsboro AA/Draft EIS will evaluate an LRT extension, a TSM alternative, and a No-Build Alternative west of 185th Avenue; and

WHEREAS, A Preferred Alternative Report recommending an alternative is anticipated in the spring of 1991 after hearings on the AA/DEIS; and

WHEREAS, The Westside Corridor Project and Hillsboro Project Preferred Alternative adoption will be independent decisions; and

WHEREAS, To obtain federal funds at 75 percent of project cost, Tri-Met must complete a Final Environmental Impact Statement (FEIS) and sign a Full Funding Agreement with the Urban Mass Transportation Administration (UMTA) by September 30, 1991. Thereafter, a change in federal law will reduce federal participation in the project from the current 75 percent level to 50 percent or less of project cost; and

WHEREAS, Strong political and financial support for the Westside Corridor Project was demonstrated by 74 percent voter approval of a \$125 million bond measure increasing local property taxes in the tri-county region to fund a light rail build option; and

WHEREAS, Tri-Met is engaged in steps necessary to obtain a Full Funding Agreement with UMTA by the September 30, 1991, deadline. Tri-Met had originally expected to release the SDEIS and hold public hearings thereon by March 1989. Now, UMTA is expected to publish the SDEIS after January 1, 1991. Upon acceptance and publication by UMTA, the SDEIS must be circulated for 45 days, during which Tri-Met will hold a public hearing on the document. Following the hearing, Tri-Met must adopt a Preferred Alternative Report, identifying the alignment for the Westside Corridor Project; and

WHEREAS, A short time remains to specify a single agency to issue the "final order" in compliance with state land use processes; and

WHEREAS, After the SDEIS public hearing and prior to Tri-Met's public hearing and action on a Preferred Alternative Report, Tri-Met seeks recommendations from affected local governments; and

WHEREAS, State, regional, and local governments seek to coordinate facility planning for this-major-regional transportation-corridor-from-the-time selection of a project configuration may-first-be-adopted consistent with proposed legislation to amend state land use processes for this project;

NOW, THEREFORE, METRO, ODOT, TRI-MET, MULTNOMAH COUNTY, WASHINGTON COUNTY, AND THE CITIES OF BEAVERTON, HILLSBORO AND PORTLAND AGREE AS FOLLOWS:

- I. Plan and Zoning Review: Metro, Counties and Cities hereby agree to initiate staff review of existing regional functional plan, comprehensive plan, public facility plan and land use regulation provisions relating to transportation in the Westside Corridor. These parties shall identify amendments to regional functional plans, local comprehensive plan policies, public facility plan elements, land use regulations and other adopted comprehensive plan implementation measures that are required if a "build" option is selected in the Preferred Alternative Reports, and to identify local plan and land use regulation requirements for which findings of consistency will be necessary.
 - A. The cities of Portland, Beaverton, and Hillsboro, and Washington and Multnomah counties agree to prepare by January 15, 1991, explanations of compliance with applicable plan policies for project options set forth in the Westside Corridor Project SDEIS, including identification of specific criteria to comply with applicable plan policies remaining to be satisfied.
 - B. Tri-Met agrees to compile these explanations of compliance and identified remaining criteria into the "plan analysis" document proposed in draft legislation for use in explanation of the proposed legislation.

II. Preferred Alternative Recommendations

- A. After the SDEIS hearing and closure of the record each County and City governing body, the Metro Council, and the Oregon Transportation Commission shall consider a Resolution recommending a project alternative from the SDEIS or a no-build option to be the Preferred Alternative. The parties agree that action shall be taken by each governing body so that the Resolutions may be part of the record at Tri-Met's hearing on the Preferred Alternative Report.
- B. Tri-Met shall consider the remaining parties' recommendation of a Preferred Alternative in a public hearing on its Preferred Alternative Report.

III. Adoption of Preferred Alternative Report and Final Order

- A. Tri-Met shall adopt the Preferred Alternative Report selecting a Preferred Alternative, as required by federal procedures, after consideration of recommendations from the remaining parties. A separate action, based on the same hearing and record, called the Final Order, is identified in proposed legislation as the final decision to build the Preferred Alternative for state land use purposes. The final decision for state law purposes shall be accompanied by project findings based on the criteria for compliance with remaining local plan policies identified in the proposed legislation.
- B. All parties hereby agree to provide staff participation in the development of land use findings for applicable criteria for any project configuration in the Preferred Alternative Report considered for adoption by all affected jurisdictions. Tri-Met shall be responsible for coordinating the development of Project land use findings with the participation and assistance of all parties.

IV. Plan Amendments

All parties hereby agree to consider and take action on the Preferred Alternative Report as follows:

- A. Metro shall make any appropriate amendments to its Regional Transportation Plan necessary to be consistent with the Final Order of Tri-Met selecting a Preferred Alternative project, including a no-build option.
- B. Each County and City shall make any appropriate amendments to its comprehensive plan necessary to be consistent with the Final Order of Tri-Met selecting a Preferred Alternative project, including a no-build option.
- C. ODOT shall take such action as may be required by its certified state agency coordination program for its planning to be consistent with the Final Order of Tri-Met selecting a Preferred Alternative project, including a no-build option.

- V. Local Implementation: Implementation of comprehensive plan provisions for any Westside Corridor Project or Hillsboro Project will require detailed project design and mitigation specifications. These details are beyond the scope of a Preferred Alternative Reports project recommendation. Such design specification decisions shall be accomplished at design review or permit approval by each city or county consistent with its comprehensive plan, public facility plan, and zoning ordinance for that portion of the Westside Corridor or Hillsboro facility within its jurisdiction.

Specifically, in the City of Portland additional design specification decisions may include, but are not limited to the following actions: design review approval; land use approval for tracks, transit stations, electrical substations, and/or park-and-ride facility, if required by the underlying zone; the approval of easements, street use permits and/or subsurface leases pertaining to City rights-of-way; City Engineer order requiring relocation of existing facilities to accommodate construction; City Forester review under the proposed Scenic Resources Protection Plan, if adopted; review and selection of E zone mitigation measures, if applicable; and condemnation of property to accommodate construction, if necessary.

In Washington and Multnomah counties, public utility special use permits may be required for any park-and-ride facilities, transit centers, and relocation of public utilities. Facilities permits may be required

for LRT crossings of county roads, drainage pipes or other structures.

In the City of Beaverton, additional design specification decisions may be made following any necessary amendments to the General Plan and Development Code resulting from the adoption of a preferred alignment by one or more of the following actions: review by the Facilities Review Committee, which may include review of easements, street use permits, utilities, electric substations, and related technical issues; design review approval; floodplain alternation approval, land use approval for tracks, park-and-ride lots, and/or stations and related facilities; and the condemnation of property necessary to accommodate construction of the selected preferred alternative.

In the City of Hillsboro, additional design specification decisions may include, but are not limited to the following actions: Development Review approval; floodplain alteration approval, cultural resource alteration approval, land use approval for transit stations, electrical substations, and/or park-and-ride facilities, if required by the underlying zone; the approval of easements, street use permits and/or subsurface leases pertaining to City rights-of-way; relocation of existing facilities to accommodate construction; and condemnation of property to accommodate construction, if necessary.

- VI. Joint Defense of Appeals: All parties hereby agree that the appeal of any-party's-action Tri-Met's adoption of a Final Order to LUBA or the courts Oregon Supreme Court based on the regional-goal land-use project findings in III. above, shall cause the remaining parties who have adopted the-Preferred Alternative-Reports-or a Resolution of-Intent recommending the same Preferred Alternative that Tri-Met adopts to intervene as parties to the appeal upon Tri-Met's request, with coordinated participation and representation in defense of the recommendation decision. An appeal based on additional-plan-or-land use-regulation-amendments-and-findings-in-III-7-above, or an implementation action under IV: V., above, shall be the responsibility of the affected jurisdiction with the cooperation of all remaining parties, as appropriate.

VII. Coordination of Planning and Implementation Actions:

A. Definitions

1. Regional Transportation Plan means the regional functional plan for transportation adopted by Metro pursuant to ORS 268.390(2) containing transportation project recommendations and requirements identified as necessary for orderly and responsible development of the metropolitan area.
2. Comprehensive Plan shall have the meaning set forth in ORS 197.015(5).
3. Land Use Regulation shall have the meaning set forth in ORS 197.015(11).
4. Supplemental Draft EIS is the document being prepared by Tri-Met and ODOT with the concurrence of UMTA and FHWA to comply with the requirements of NEPA.
5. Preferred Alternative Report is the report being prepared to define the preferred alternative of light rail transit and any needed highways for the Westside Corridor Project.
6. Westside Corridor Project is the transit and highway project from downtown Portland to 185th Avenue.
7. Hillsboro Project is the project from 185th Avenue to the Hillsboro Transit Center.

- B. Metro, Counties and Cities shall provide all parties with the appropriate opportunity to participate, review and comment on proposed amendments to or adoption of the regional transportation plan, comprehensive plans, or implementing regulations relating to a Westside Corridor project. The following procedures shall be used by these parties to notify and involve all parties in the process to amend or adopt a regional transportation plan, comprehensive plan, or implementing regulation relating to a Westside Corridor project:

1. The party with jurisdiction over a proposed amendment, hereinafter the originating party, shall notify the other parties, hereinafter responding parties, of the proposed action at the time such planning efforts are initiated, but in no case less than forty-five (45) days prior to the final hearing on adoption. The specific method and level of involvement may be finalized by "Memorandums of Understanding" negotiated and signed by the planning directors or other appropriate staff of the respective parties. "Memorandums of Understanding" shall clearly outline the process by which the responding party shall participate in the adoption process.
2. The originating party shall transmit draft recommendations on any proposed actions to the responding parties for review and comment before finalizing. Unless otherwise agreed to in a "Memorandum of Understanding," responding parties shall have ten (10) days after receipt of a draft to submit comments orally or in writing. Lack of response shall be considered "no objection" to the draft.
3. The originating party shall respond to the comments made by the responding party either by a) revising the final recommendations, or b) by letter to the responding party explaining why the comments cannot be addressed in the final draft.
4. Comments from the responding parties shall be given consideration as a part of the public record on the proposed action. If after such consideration, the originating party acts contrary to the position of a responding party, the responding party may seek appeal of the action through the appropriate appeals body and procedures.
5. Upon final adoption of the proposed action by the originating party, it shall transmit the adopting ordinance to the responding party as soon as publicly available, or if not adopted by ordinance, whatever other written documentation is available to properly inform the responding party of the final actions taken.

VIII. Amendments to this Facilities Planning Coordination Agreement

- A. The following procedures shall be followed by all parties to amend the language of this agreement:
1. The party originating the proposal, shall submit a formal request for amendment to the responding parties.
 2. The formal request shall contain the following:
 - a. A statement describing the amendment.
 - b. A statement of findings indicating why the proposed amendment is necessary.
 - c. If the request is to amend a recommendation of the Preferred Alternative Report, a map which clearly indicates the location of the proposed change and surrounding area.
 3. Upon receipt of a request for amendment from the originating party, responding parties shall schedule a review of the request before the appropriate governing bodies with forty-five (45) days of the date the request is received.
 4. All parties shall make good faith efforts to resolve requests to amend this Agreement. Upon completion of the review, the reviewing body may approve the request, deny the request, or make a determination that the proposed amendment warrants additional review. If it is determined that additional review is necessary, the following procedures shall be followed:
 - a. All parties shall agree to initiate a joint study. Such a study shall commence within thirty (30) days of the date it is determined that a proposed amendment creates a disagreement, and shall be completed within ninety (90) days of said date. Methodologies and procedures regulating the conduct of the joint study shall be mutually agreed upon by all parties prior to commencing the study.

b. Upon completion of the joint study, the study and the recommendations drawn from it shall be included within the record of the review. The party considering the proposed amendment shall give careful consideration to the study prior to making a final decision.

B. The parties will jointly review this Agreement every two (2) years to evaluate the effectiveness of the processes set forth herein and to make any amendments. The review process shall commence two (2) years from the date of execution and shall be completed within sixty (60) days. All parties shall make a good faith effort to resolve inconsistencies that may have developed since the previous review. If, after completion of the 60-day review period inconsistencies still remain, any party may terminate this Agreement.

METROPOLITAN SERVICE DISTRICT

OREGON DEPARTMENT OF
TRANSPORTATION

TRI-COUNTY
METROPOLITAN TRANSPORTATION
DISTRICT OF OREGON

WASHINGTON COUNTY

MULTNOMAH COUNTY

CITY OF BEAVERTON

CITY OF HILLSBORO

CITY OF PORTLAND

LS/gl
1024c

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1379 FOR THE PURPOSE
OF ENDORSING A POSITION ON THE SURFACE TRANSPORTATION ACT
UPDATE OF 1991

Date: January 7, 1991

Presented by: Andrew C. Cotugno

PROPOSED ACTION

Adopt Resolution No. 91-1379 endorsing the statewide position paper on issues relating to the adoption of the Surface Transportation Act of 1991 by the U.S. Congress. The position paper was developed by ODOT with the input and participation of affected transportation organizations statewide, including Metro.

FACTUAL BACKGROUND AND ANALYSIS

The Surface Transportation Act (STA) provides the framework for federal investment in highway and transit improvements, defining program categories, requirements and limitations, funding level and local match requirements.

The current STA expires on September 30, 1991 and a new one must be adopted by the U.S. Congress prior to that time for federal funding to continue. A new act is considered every 4-6 years. The current act is consistent with the program emphasis of the past 40 years, centered on building the Interstate system. The new act promises to be significantly changed from the past program.

Key elements of the Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA) proposals are as follows:

FHWA

Highways of National Significance
Urban Flexible Program
Rural Flexible Program
Bridge Program

UMTA

Discretionary Grant Program
- Rail Modernization
- New Rail Starts
- Bus Capital Improvements
Large Urban Area Formula Funding
Small Urban and Rural Area Formula Funding

Attachment A provides a more detailed explanation and evaluation of the FHWA and UMTA proposals together with a series of principles of

interest approved by TPAC, JPACT and the Metro Intergovernmental Relations Committee.

Metro's input and participation in the development of the ODOT position paper was based upon achieving these principles. All of these principles are reflected in the position paper with the exception of the proposal to separate urban and rural program aspects of the program designed to fund Highways of National Significance.

Establishment of funding clearly designated to urban areas is still of interest to ensure implementation of the Regional Transportation Plan but is not recommended as a federal position at this time. Successful adoption of the proposed series of positions in the new Surface Transportation Act would make very significant progress in this direction. As such, unified support for a statewide position is recommended.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1379.

ACC:lmk
91-1379.RES
1-7-91

D R A F T

**OREGON'S POSITION ON
SURFACE TRANSPORTATION
ASSISTANCE ACT**

OREGON DEPARTMENT OF TRANSPORTATION

December, 1990

INTRODUCTION

Congress this year will consider the reauthorization of federal highway and transit programs. Although budget constraints may prevent it, this year's reauthorization has been seen to be a major program restructuring, reflecting the impending completion of the Interstate System among other factors.

Oregon has much at stake in this legislation. It is important, therefore, the state determine what are the most critical elements to it and marshal its efforts toward enacting a favorable piece of legislation.

Recognizing the importance of this legislation and the need for Oregon to develop a comprehensive, statewide position, Oregon Transportation Commission Chairman Michael Hollern formed a task force to develop statewide priorities for the new reauthorization bill. Chairman Hollern invited participants representing varied interests throughout the state and different modes of transportation. Those invited to participate were: Metro's Joint Policy Advisory Committee on Transportation (JPACT); Oregon Business Council; Oregon Public Ports Association; Oregon Transit Association; League of Oregon Cities; Association of Oregon Counties; Chair, Senate Transportation Committee; and Chair, House Transportation Committee.

The task force met twice during the month of December, 1990, to formulate the Oregon position. The following document represents the State of Oregon position and priorities on the new Surface Transportation Assistance Act (STAA) as identified by the task force.

1. UMTA Section 3

The federal funding source for the Westside light rail transit line (LRT) is the "new start" component of the UMTA, Section 3 Program. Other possible extensions of Portland's MAX System will seek funding from this same source.

Funding levels for Section 3 have declined by over 35 percent since 1983, while prices have risen over 20 percent. Competition for these funds has intensified as well. There are now 69 new starts in various stages of development. The estimated cost of those projects in at least the "alternatives analysis" stage of the EIS process exceeds \$13 billion. The "new start" program is being replenished at a rate of about \$420 million per year. It is important, then, that this program remain sufficiently funded and accessible for Oregon projects.

One, a "grandfather" clause needs to be included in the highway/transit reauthorization act to ensure the 75/25 match ratio for which the Westside has been developed is maintained. It is likely that Congress in this legislation will increase the local match requirement for future new starts to 50/50. The Westside can be protected by exempting projects having full funding agreements, letters of intent or letters of commitment from the revised match ratios.

An associated concern, best mentioned here, is retention of the Interstate Transfer (FAIX) program which still contains funding credits for a transit project in the I-205 corridor (\$17 million) and other transportation projects in the Portland region.

Two, federal funding should be increased for new starts in recognition of both lost purchasing power and increased demand for fixed guideway solutions to urban transportation problems. A number of cities are recognizing, as Portland has, the important role LRT and other fixed guideway transit must play in solving urban transportation problems.

Smaller urban districts seeking to use Section 3 for bus fleet expansion or replacement will have a particularly difficult time competing for funds. Rogue Valley Transportation District (RVTD), for instance, needs to replace its 23 bus fleet. RVTD receives \$338,000 in Section 9 (FY '91 funds). Standard diesel buses cost about \$190,000 each. So, RVTD's Section 9 apportionment is just enough to replace two buses a year, if it is all used for capital outlay. As a practical matter, RVTD fleet replacement requires a small Section 3 grant.

Three, efforts to switch the funding source for Section 3 from the Mass Transit Account of the Highway Trust Fund to the General Fund should be opposed. More susceptible to budget cuts, General Fund support for UMTA programs has declined by over half since the mid-1980's, even though all states and transit districts receive funds from this source. Switching Section 3 to the General Fund, while other UMTA programs are funded from the Trust Fund, would reduce political support for General Fund revenues to a limited number of cities.

2. Interstate Preservation

Preservation of the Interstate System (IS) must be the top priority of the Federal-aid Highway Program. The 42,800 mile system links every state and major urban area with standard, high-quality, limited access highways. One percent of the nation's highways, the Interstate System accommodates 21 percent of vehicle miles traveled.

Because of the Interstate System's importance to national mobility, interstate commerce, rural development and international trade, the system cannot be allowed to structurally or functionally deteriorate. The nation must protect its investment.

AASHTO has estimated that to meet current structural and functional needs requires an annual federal FAI-4R investment of \$6.38 billion. (This assumes a 90/10 federal/state match ratio in 1994 dollars.) To make all improvements required to meet identified structural deficiencies and to provide acceptable service levels in the face of future traffic growth, will require a \$15.03 billion annual FAI-4R investment.

Ensuring the Interstate System is adequately preserved will require additional federal funds. Proposals to fold the Interstate in with selected major arterial highways in a "Highway System of National Significance" (NHS), creates a special problem. The focusing of federal and state construction dollars on the Interstate System over the last several decades has created considerable demand in many states for off-Interstate improvements, particularly to highways providing access to the Interstate System. A non-dedicated funding source for FAI-4R, as the NHS program would be, may result in siphoning funds away from needed Interstate preservation.

Oregon supports, therefore, keeping the Interstate System as a distinct component of the NHS and having a higher federal match ratio (90/10) for 3R and operational improvements on this system. This lower state matching requirement should deter states from diverting funds to less essential investments.

3. Public Lands Compensation

Over 50 percent of Oregon is federally-owned land. Although sparsely populated, this land must be provided highway access for recreation and resource development. Twenty percent of the State Highway System is on federal land.

States and local governments with large federal land holdings face abnormally high per capita highway preservation costs due to supporting roads on tax-exempt public lands.

The Federal-aid Highway Program traditionally has compensated states with large public land holdings with additional funds and other provisions. This needs to be continued. There are three mechanisms for accomplishing it in the next highway/transit reauthorization bill.

One, the allocation formula for the NHS should include a factor for state land area, as well as factors reflecting highway system size and use. While beneficial to large states in general, land area better compensates states with large public land holdings than highway system size alone.

Two, sliding scale provisions which permit a reduction in state matching requirements for states with large federal land holdings should be retained. These provisions should apply to both the NHS and Urban/Rural programs administered by FHWA.

Three, the Federal Lands Highway Program, which is used for roads on parks, forest lands and indian reservations, should be retained. Similarly, retention of the Public Lands Program should be sought. Currently this is a \$40 million/year set aside for improvements to highways which, due to their location within federal lands and away from population centers, have difficulty competing for other federal aid funds against highways having higher traffic volumes. The program works on a discretionary/application basis, but over time the distribution of funds reflect a state's share of federal land holdings.

4. UMTA Sections 9, 18 and 16(b)(2)

UMTA Sections 9 and 18 provide operating and capital assistance to urban and rural transit providers respectively. Supported by the General Fund, these programs (particularly Section 9) have seen major losses in federal funds in recent years.

This trend should be reversed. As federal funds have declined, costs have risen. The Section 18 capital program in Oregon for the 1991-1993 biennium is projected at \$618,500, the smallest it has ever been. A standard, 35 foot, diesel bus currently sells for \$190,000; a 15-passenger van for \$20,000--a 40 percent increase over 1980 prices. This funding/price squeeze has created a large backlog of unfunded capital investment in Oregon's small city transit districts.

In addition to reducing funding, the federal government also is trying to limit funding to capital projects only. (Currently, Section 9 operating assistance is "capped".)

This will hurt Oregon's transit districts. Ballot Measure 5 will cause districts like Salem to lose property tax revenue. Because Measure 5 permits capital improvement bond levies over the \$10 per thousand limit, making it relatively easier to raise capital funds locally, federal operating assistance will become more important.

General Fund support for transit, therefore, should be increased and operating assistance should be retained as a legitimate use of federal funds.

The UMTA 16(b)(2) program funds the purchase of vehicles providing transportation for the elderly and handicapped. Although less susceptible than other UMTA programs to recent budget cuts, applications for vehicle replacement in this program consistently exceed revenues by two or three times. Again, program demand coupled with lost purchasing power are at odds with a continually shrinking federal transit program.

5. Bridge Program

One out of every five Oregon highway bridges over 20 feet in length is structurally or functionally deficient. Nationally, 40 percent of highway bridges have deteriorated enough to require traffic restrictions, or are functionally inadequate for the type of traffic presently using them.

The magnitude of the bridge deficiency problem and the critical importance of bridges to the nation's highway system require bridge rehabilitation and replacement continue as federal priorities. The retention of a distinct bridge program, which allocates funds for bridges both on and off the federal-aid system and provides discretionary funds for larger projects, is necessary to provide the greatest assurance highway bridge deficiencies are corrected.

The presence of a separate bridge program which allocates moneys to on-system and off-system bridges and provides discretionary funds for larger projects eliminates the need for a bridge deficiency factor in the NHS allocation formula, as proposed by some eastern states. The recommended minimum value for discretionary projects should be \$10 million for NHS projects and \$5 million for off-system projects. Otherwise, too many Oregon bridges would not qualify for funding.

FHWA currently proposes to administratively replace its bridge sufficiency rating regulation which determines each state's relative share of deficient bridges and, thereby,

serves as the basis for allocating bridge funds among states. Initial review of the proposed regulation suggests the introduction of a bias favoring East Coast or rapidly urbanizing states having more bridges underdesigned for the functional class of road they serve. Further, the regulation would enable far fewer off-system bridges to qualify for funding. Since 85 percent of Oregon bridges are in rural areas and 42 percent are off-system, these changes could adversely affect federal bridge funds coming to Oregon.

Upon final determination of these effects, a legislative remedy may be appropriate.

6. Federal Match Ratios

USDOT is proposing to increase nonfederal matching requirements for most highway and transit program elements. The match ratio for the NHS is to be 75/25 and 60/40 for the urban/rural flexible program. UMTA programs also would change; Sections 18, 9 and 3 would drop to 60/40 with rail new starts at 50/50.

This reflects the declining contribution of the federal government to surface transportation, coupled with the desire of USDOT to retain policy leadership. Increasing matching requirements as federal funding continues to decline, however, creates certain problems.

First, a greater percentage of transportation projects will have to comply with federal requirements and standards than otherwise would be necessary. In a period of inadequate infrastructure investment, this is an unnecessary and costly inefficiency.

Second, inordinate amounts of state and local money will chase federal dollars, biasing investment priorities and rewarding wealthy states in competition for discretionary funds.

Third, local governments already have difficulty matching federal funds within highway obligation constraints. Higher matching ratios will exacerbate this problem.

Consequently, federal matching requirements should not be increased. The solution to both a shrinking federal role and inadequate investment levels is increased federal highway and transit funding.

7. Match Ratio Equity

Typically, there are a variety of ways of meeting transportation objectives. In a given urban corridor, options might include adding capacity to an existing highway, increasing bus service supported by additional park and ride lots, improving parallel streets and local circulation networks, or constructing an LRT line.

The current draft USDOT legislation proposes different match ratios for each alternate funding source which could be applied toward one of these options. As described above, the lowest nonfederal match would be for freeway improvements and the highest for LRT. Improvements to adjacent streets and increased bus service also would have higher matching requirements than freeway expansion.

This difference in match ratios can be expected to bias investment decisions. A superior approach would be a consistent 75 percent federal share across all federal highway and transit programs with the exception of funding for Interstate preservation (see above). Funding for capacity expansion of the Interstate System, however, should require the same state match as other programs, 25 percent.

8. Urban Corridor Planning and Funding

FHWA has proposed requiring the development of a multimodal "congestion management system" as a component of the urban transportation planning process in areas over 200,000 population.

Congestion levels and locations would be identified for both current and future conditions on the NHS. A system for monitoring changes in congestion would be established. Strategies for

dealing with congestion on the NHS, including both operational improvements and demand reduction, then would be developed. Major capacity expansions of the NHS only should be considered after exhausting more cost effective solutions and finding them inadequate for handling future traffic at acceptable service levels.

This type of comprehensive, multimodal approach will be necessary if congestion is to be kept at acceptable levels on the NHS. Unfortunately, FHWA seems unwilling to take the next logical step, which is to allow NHS funds to be used for improvements on parallel streets or to increase transit service. The FHWA approach, therefore, would require the search for cost effective solutions, but limit the expenditure of funds to capital projects on the NHS route itself or to limited operational improvements on or immediately adjacent to the NHS route.

Instead, states could develop and adopt NHS "Investment Strategies" for their urbanized areas based upon FHWA's proposed congestion management system. These strategies would have to include all NHS corridors within an urban area to be in compliance with adopted regional land use and transportation plans and be supportive of local clean air objectives. They should have both long and short range components demonstrating the cost-effectiveness of proposed solutions in meeting interstate travel objectives and maintaining service levels on the NHS within the urbanized area.

Upon FHWA approval, states could apply Federal-aid NHS funds for the purposes set forth in the strategies, including increased transit service or improvements to parallel arterials.

9 . Land Use Planning Incentives

Solutions to traffic congestion and the provision of adequate, affordable mobility for urban residents ultimately must be derived from sound land use planning. Continuation of today's urban development patterns and the transportation systems "supportive" of these patterns, have been shown in California, among other places, to lead inexorably to gridlock, a reduction in quality of life and a heavy economic cost on society. A problem is created which becomes very difficult to correct.

The solution lies in land use configurations and densities which avoid travel patterns and volumes which cannot be served effectively. Federal transportation programs should offer incentives to urban governments to undertake the type of planning and land use activities conducive to efficient urban transportation. This is particularly important for transit capital projects which are used to induce, as well as support higher density developments. The next highway/transit reauthorization act should support stronger urban land use and transportation planning. One, the act should strengthen the role of metropolitan planning organizations to ensure a regionwide approach by requiring the adoption of long-range land use and transportation plans containing defined urban boundaries.

Two, the cost effectiveness evaluation criteria for UMTA, Section 3 "new starts" should include the adoption of a land use plan which requires minimum densities for property adjacent to fixed guideways and sets forth the actions necessary to achieve those densities.

Three, the "new start" criteria also should be modified to require UMTA consideration of certain factors, including air quality, energy conservation, joint development opportunities, reduced auto reliance and the forestalling of highway construction, in determining whether to fund a project. Further, projects demonstrating these characteristics should require less nonfederal match.

Four, joint development projects, which enhance transit operational self-sufficiency through inducing ridership and the generation of lease revenues, should be encouraged by making such projects eligible for UMTA grants. Again, reduced matching requirements for jurisdictions supporting these developments with higher densities, parking restrictions, and other mechanisms should be available.

10. Scenic Highways

The growth in tourism and recreational driving will place unique demands on particular highways. In Oregon, U.S. 101 is one such highway.

The Coast is the most traveled tourist destination in the state and is experiencing steady growth in visitor traffic. This growth is fueling the expansion of travel-related business activity in coastal urban areas, additional tourist-related development and growth in highway traffic volumes for both urban and rural areas. Coupled with this are significant increases in the number of recreational vehicles, bicycles and tour buses, which must share the highway with auto and truck traffic, and an aging driving population which can benefit from appropriate signing and highway design features.

Traditional planning is not adequate to meet these diverse transportation demands while preserving and enhancing the environmental and aesthetic qualities of scenic corridors like the Oregon coast.

Oregon has initiated a special scenic corridor planning effort for the Coast. The federal government should support such efforts, enabling them to be multistate in character and sufficiently comprehensive to incorporate needed local land use, environmental protection, access control and urban design changes critical for managing complementary development. This can be accomplished through a scenic highway planning and development program for the Pacific Coast Highway corridor that could serve as a model for other significant scenic/recreational routes throughout the nation.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING A
POSITION ON THE SURFACE TRANS-
PORTATION ACT UPDATE OF 1991

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RESOLUTION NO. 91-1379

Introduced by
George Van Bergen, Chair
Joint Policy Advisory
Committee on Transportation

WHEREAS, The United States Congress will be considering adoption of the Surface Transportation Act of 1991; and

WHEREAS, Major restructuring of federal transportation funding programs is anticipated; and

WHEREAS, Implementation of needed transportation improvements in the Portland metropolitan area will be significantly impacted by the new Surface Transportation Act; and

WHEREAS, ODOT has developed a proposed statewide position on the interests to be reflected in the new Surface Transportation Act which accomplishes most of the Portland region's long-range objectives although it does not fully set aside funds intended for urban areas; and

WHEREAS, The Joint Policy Advisory Committee on Transportation has recommended adoption of this position; now, therefore

BE IT RESOLVED,

That the Council of the Metropolitan Service District:

Endorses the state position paper on the Surface Transportation Act Update as reflected in Exhibit A.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

ACC:mk/lmk
91-1379.RES
1-7-91



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

ATTACHMENT A

Date: October 29, 1990
To: JPACT
From: *M* Andrew C. Cotugno, Transportation Director
Re: Surface Transportation Act Reauthorization

FHWA and UMTA have released legislative proposals for their respective components of the Surface Transportation Act. These are in the process of review by the Office of the Secretary of Transportation and the Office of Management and Budget. A Draft bill is expected to be submitted to Congress in February, 1991.

Attached is an overview of the key elements of the FHWA and UMTA proposals (more details are available upon request), together with an evaluation of the implication of the proposal to urban areas and a recommendation for adopting a position.

ODOT has initiated an effort to establish a statewide position through the participation of statewide interest groups.

JPACT IS REQUESTED TO REVIEW THIS PROPOSED POSITION AND PROVIDE GUIDANCE ON THESE ISSUES IN ORDER TO EFFECTIVELY PARTICIPATE IN THE STATEWIDE EFFORT. IN DECEMBER/JANUARY, AFTER THE ODOT EFFORT IS COMPLETED, A FORMAL POSITION WILL BE SUBMITTED TO JPACT FOR ADOPTION.

ACC:lmk

Attachment
CC: TPAC

FHWA Legislative Proposal Highlights

A. NHS Program

1. A National Highway System (NHS) category is proposed, representing a consolidation of the previous categories for "Interstate" and the "major" "Primary" routes (3.5 percent of the total public road miles). 50-70 percent of highway funding would be distributed through this program.

	<u>Current STA</u>	<u>Proposed STA</u>
Interstate	\$3.15 b.	\$0 b.
Interstate-4R.	2.815	0
Primary.	2.325	0
NHS.	<u>0</u>	<u>8.65</u>
	\$8.29 b.	\$8.65 b.

2. NHS funding will be distributed to the states. The states will select improvements on the NHS routes in cooperation with local officials through the MPO's.
3. Fund flexibility for alternatives to upgrading the NHS route will be limited to operational improvements to parallel arterials, HOV lanes on the NHS route, and park-and-ride lots.
4. Match ratio will be 90 percent for operational and rehabilitation-type improvements; 75 percent for other capital improvements; 60 percent for start-up costs of traffic management and control systems; 35 percent on toll facilities.

By comparison, the basic existing federal share is 90 percent for Interstate and 75 percent for Primary. Both the new and the old STA increase these federal shares if the state contains a large amount of federal lands. In Oregon, the revised shares are currently 92 percent and 88 percent, respectively, and would be higher than the basic rates under the new STA.

5. The Interstate system will be retained and signed for the motorist. NHS funds can be used to build or upgrade additional routes which can be signed as Interstate routes if they meet Interstate standards and connect with the Interstate system.
6. Use of NHS funds on beltways or bypasses in areas over 200,000 population will be for improvements designed to ultimately provide for multi-lane divided highways with separate lanes for through traffic and with access limited to interchanges with other NHS routes.

7. NHS funding would be used for high-speed, intercity rail studies, use of highway rights-of-way and highway design modifications.
8. Set-aside within the NHS category will be created for discretionary funding of high cost, large scale, access-controlled projects on the Interstate system or routes directly connected to the Interstate system. Funding will be paid back as a loan through future years appropriation.
9. Funds will be distributed 70 percent on the basis of fuel consumption and 30 percent total public road mileage. By comparison, current Interstate-4R funds are distributed on the basis of Interstate lane miles (55%) and Interstate vehicle miles traveled (45%); current Primary funds are distributed on the basis of rural population (22%), urban population (33%), rural area (22%) and rural mail delivery routes (22%).

The effect is to shift the distribution away from one which emphasizes the geographic size of the state to one which emphasizes the population size of the state (at Oregon's detriment).

B. Urban Program

1. An "Urban/Rural Program" is proposed representing a consolidation of the "minor" portion of the "Primary" system, the FAU system plus all other Collector routes not currently on the FAU system and, in the rural areas, the FAS system.
2. Funding for the Urban/Rural program would be more than double the existing FAU/FAS level.

	<u>Current STA</u>	<u>Proposed STA</u>
FAU	\$0.75 b.	\$0 b.
FAS	0.6	0
Urban/Rural	<u>0</u>	<u>3.3</u>
	\$1.35 b.	\$3.3 b.

3. Flexibility for use on transit allowed (although transit improvements on NHS routes not clear).
4. Federal project approvals and inspections would be replaced with overall program approval. EIS requirements would still apply.
5. 60/40 match ratio.

6. Funding distributed to each state based upon what they paid in; funds available until spent.

C. Bridge Program

1. Revised formula approach for funding distribution to states would remain with NHS, off-system and other (i.e., FAU system and FAS system) set-asides; set-aside shares not defined; formula basis unclear.
2. "Discretionary" Bridge program expanded to all facilities except off-system (i.e., allows FAU bridges).
3. Minimum threshold for Discretionary funding -- \$10 million for NHS and \$5 million for other routes.
4. Discretionary funding requires toll feasibility analysis; criteria not defined.
5. 75/25 match ratio.

D. Additional Requirements

1. Pavement Management System required for NHS system by the states.
2. Bridge Management System required for NHS and all other systems for which bridge funds will be used (i.e., all bridges).
3. Congestion Management Plan required in urban areas greater than 200,000 population by the states in cooperation with MPO's.
4. Safety Management System required for the NHS system by the states.

UMTA Program Highlights

1. Revised overall program funding level as follows:

	<u>Current STA</u>	<u>Proposed STA</u>
General Fund	\$2.3 b.	\$1.8-1.48 b.
Gas Tax.	<u>1.4</u>	<u>2.2-3.2</u>
	\$3.7 b.	\$4.0-4.68 b.

This increase is accomplished through a draw-down of the trust fund surplus rather than a gas tax increase.

2. Funding for discretionary versus formula programs is proposed to be reversed with discretionary funded from the General Fund rather than the gas tax (as provided by the current STA) and vice versa. This provides greater assurance for formula funds, responds to the objections of some rural states that they pay gas taxes but never receive discretionary funding and leaves New Starts exposed to future budget cuts because of the General Fund source of revenue.
3. Changes Rail Modernization program from current distribution to eight old rail cities to all rail cities.
4. Funding for New Starts = \$500 million per year without separate category for Washington, D.C. Metro (current = \$400 million plus \$100 million Washington, D.C. Metro).
5. Urban program equivalent to current urban Section 9 plus Rail Modernization; Rural program equivalent to current Section 9 (small city), Section 18 (rural) and Section 16(b)(2) (private, nonprofit). Section 16(b)(2) program in urban areas unclear.
6. Changes the federal share from 75 percent to 60 percent.
7. Eliminates use of Section 9 funding for operating assistance but allows an expanded definition of "Materials and Supplies" under the capital program.
8. Allows flexibility to use transit formula for highways.
9. Retains current recipients in areas over 200,000 population; distributes funds through states to areas under 200,000.

Evaluation of Legislative Proposals

According to the U.S. Department of Transportation report to Congress, "The Status of the National's Highways and Bridges: Conditions and Performance," 40 percent of the needs nationwide are for Modernization improvements in the metropolitan areas. In addition, 16 percent are for Interstate Rehabilitation, a portion of which are in the metropolitan areas. The FHWA/UMTA legislative proposals do not ensure these needs will be met nor that an equitable share of the funds will be targeted to the metropolitan areas. Furthermore, the proposals provide insufficient flexibility and will inherently bias funding decisions against projects that can most cost-effectively meet urban mobility objectives.

The FHWA/UMTA proposals continue the past trend of disinvesting in the urban areas, emphasizing intercity highway improvements and skewing funding that does flow to urban areas toward major highway improvements. Particular concerns are as follows:

A. Urban Mobility Not Adequately addressed:

1. The major funding categories to meet Urban Mobility objectives are either through NHS program or UMTA-New Starts program. The NHS program will receive 50-70 percent of all the FHWA funding (@ \$8+ billion) while the New Starts program will continue at a meager \$.5 billion.
 - a. NHS provides bias toward major highways without adequate flexibility for alternatives involving upgrading parallel arterials, bus service expansion, rail construction or demand management even if these will more cost-effectively meet NHS congestion objectives.
 - b. New Start funding inadequate to meet legitimate demand for New Start facilities. The overall funding level is increased \$100 million/year but will also include Washington, D.C. Metro. In addition, shifting the New Start program from the gas tax to the General Fund puts this funding level in jeopardy.
 - c. NHS funding to states for both urban and intercity improvements reinforce bias for intercity improvements at the expense of urban mobility improvements. Since the Rural NHS is intended to connect all urban areas of population greater than 10,000, urban vs. rural competition will be significant.

- d. Level of NHS funding intended for urban areas not necessarily targeted to urban areas. The level of funding is based upon the overall NHS needs (urban and rural) but the distribution is not targeted.
- e. Match ratio bias in favor of NHS improvements (75/25) rather than urban arterials (60/40) or New Starts (60/40).

- 2. The Urban program (FHWA and UMTA) which is intended to meet the balance of the urban system needs is insufficient to meet urban needs. "Urban" funding would be spread across a larger system. FAU system would be expanded with more large scale facilities shifted from the FAP system and added smaller facilities (all Collector routes).
- 3. Added requirements that urban areas implement Congestion Management Plans are not accompanied with resources and flexibility to meet requirements.
- 4. The FHWA/UMTA programs should be restructured to ensure a balanced approach to meeting key national objectives affecting:
 - a. Urban/suburban growth and gridlock
 - b. Urban air quality
 - c. International economic competitiveness

B. Intercity Improvements Partially Satisfied

- 1. The philosophy of NHS for intercity connections appears acceptable (involving connecting all urban areas of 10,000 population or greater) but should not be the priority at the expense of urban mobility.
- 2. An artificial mileage cap (150,000 miles) could limit intended function of NHS, but all mileage levels under consideration (120,000 to 180,000) represent a significant increase over the Interstate system (44,000 miles).
- 3. Preservation of the Interstate system could be jeopardized by shifting funds to Preservation and Modernization on a much larger NHS system.

Recommendation

A. Principles

- 1. Urban areas should be assured funding through a formula approach to the greatest extent possible.

2. A federal Discretionary program for NHS and New Starts should be provided to supplement formula programs for large scale, high-cost projects.
3. Funding available to urban areas should be sufficiently flexible to meet objectives through the most cost-effective alternative available. Modal bias resulting from funding availability, match ratios or difference in administrative requirements should be eliminated.
4. Comprehensive Congestion Management requirements should be a joint responsibility of the state and urban area, including the state Department of Transportation, MPO, cities, counties and transit operators, and should be the primary basis for targeting funds to urban mobility needs. Congestion management requirements should apply to UMTA programs in addition to FHWA.

B. Proposed Changes to FHWA/UMTA Proposals

1. Designate NHS system in urban areas only for the purpose of defining a congestion management requirement for facilities of national significance (NHS routes into and through urban areas) rather than for targeting funds for NHS improvements.
2. Standardize match ratios at 75/25.
3. Increase funding for New Start program with reliable trust fund dollars.
4. Retain "New Starts" and NHS "Discretionary" programs for high-cost, large scale projects.
5. Maintain Bridge program.

C. Alternatives for Distributing Funds to Meet Urban Mobility Objectives

Alternative 1

- . Maintain "NHS" and "Urban" categories as currently proposed.
- . Suballocate urban portion of "NHS" funds to urban areas.
- . Allow use of the urban NHS allocation for preservation projects on the NHS system identified by the state.
- . Allow use of the urban NHS allocation for actions identified by the state and the region in the Congestion

Management Plan to meet level-of-service objectives on the NHS system. Allow sufficient flexibility to fund highway, transit, arterial or demand management improvements that most cost-effectively benefit the NHS route.

- . Suballocate FHWA "Urban" funds and UMTA "Urban" funds to each urban area to meet mobility objectives off the NHS system. Allow use of highway funds for transit; transit funds for highways.

Alternative 2

- . Maintain an Interstate-Preservation category to be administered by the state in both urban and rural areas.
- . Merge the funding intended for NHS "Urban" Modernization with the FHWA "Urban" program and the UMTA "Urban" program into a single category with suballocations to each urban area.
- . Allow first priority use of the consolidated "Urban" funding program for cost-effective actions identified by the state and the region in the Congestion Management Plan to meet level-of-service objectives on the NHS system.
- . Allow use of the consolidated "Urban" funding program on mobility improvements off the NHS system if reasonable progress on the NHS system can be demonstrated.

1991 SURFACE TRANSPORTATION ACT UPDATE PROGRAM OPTIONS

CURRENT S.T.A.

URBAN:	FAI/FAI-4R	FAP	FAU	HBR	UMTA Sec. 9	New Starts
RURAL:			FAS		Sec. 18	
MATCH RATIO	92/8	88/12	88/12	80/20	75/25	75/25

FHWA/UMTA PROPOSAL

URBAN:	NHS	FHWA-URBAN	HBR	UMTA-URBAN	New Starts
RURAL:		FHWA-RURAL		UMTA-RURAL	
MATCH RATIO	75/25	60/40	75/25	60/40	60/40

JPACT-ALTERNATIVE 1

URBAN:	NHS-URBAN	FHWA-URBAN	HBR	UMTA-URBAN	New Starts
RURAL:	NHS-RURAL	FHWA-RURAL		UMTA-RURAL	
MATCH RATIO	75/25	75/25	75/25	75/25	75/25

JPACT-ALTERNATIVE 2

URBAN:	FAI-3R	FHWA-URBAN	HBR	UMTA-URBAN	New Starts
RURAL:		FHWA-RURAL		UMTA-RURAL	
MATCH RATIO	75/25	75/25	75/25	75/25	75/25

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1380 FOR THE PURPOSE OF APPROVING USE OF PORTLAND REGION FEDERAL-AID URBAN SYSTEM FUNDS IN PARTIAL SUPPORT OF THE OREGON ROADS FINANCE STUDY UPDATE.

Date: January 4, 1991

Presented by: Andrew C. Cotugno

PROPOSED ACTION

Adoption of this resolution would authorize \$144,901 of Federal-Aid Urban (FAU) funds as the Portland region's contribution toward the update of the Oregon Roads Finance Study based on pro-rata shares of the regions FY 1991 FAU allocations:

Region	\$ 84,274	(58.16%)
City of Portland	<u>\$ 60,627</u>	(41.84%)
	\$144,901	

Additionally, the resolution would recognize that the City of Portland, at its option, may take separate action (FAU or other funds) in providing its pro-rata share.

TPAC has reviewed the usage of these funds and recommends approval of Resolution No. 90-1380.

FACTUAL BACKGROUND AND ANALYSIS

The Oregon Highway Division, Association of Oregon Counties, and League of Oregon Cities have recommended an update of the Oregon Roads Finance Study.

The objective of the study is to develop a legislative proposal for the 1993 session for a roads financing package to meet the long-term needs of the cities, counties and state. Key elements of the study toward this objective include establishment of road needs for Maintenance, Preservation and Modernization of the city, county and state systems, evaluation of existing and potential revenue sources, and development of a recommended package to fund unmet needs.

The 18-month study is to begin in May with funding (\$1.8 million) to be provided as follows: 60 percent from the State Highway Fund, 25 percent from Federal-Aid Secondary funds on behalf of the counties, and 15 percent (\$270,000) from Federal-Aid Urban funds on behalf of the cities. The funding shares are based upon the current formula for distributing state highway revenues. This resolution approves the Portland regions's share (\$144,901) of the FAU portion of the funding based on FY 1991 pro-rata allocation of FAU funds statewide.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1380.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING USE	)	RESOLUTION NO. 91-1380
OF PORTLAND REGION FEDERAL-AID)	
URBAN SYSTEM FUNDS IN PARTIAL	)	Introduced by
SUPPORT OF THE OREGON ROADS	)	George Van Bergen, Chair
FINANCE STUDY UPDATE	)	Joint Policy Advisory
	)	Committee on Transportation

WHEREAS, The Oregon Transportation Commission (OTC)/
Association of Oregon Counties (AOC)/League of Oregon Cities (LOC)
appointed Policy Committee has proposed an update of Oregon's road
needs and existing sources of revenues; and

WHEREAS, It is intended that the results of the study
will serve as a recommended package on which the 1993 Legislature
can base state and local road financing; and

WHEREAS, Costs of the study are to be financed from the
State Highway Fund at 60 percent, Federal-Aid Secondary funds
(counties) at 25 percent, and Federal-Aid Urban funds (urban areas)
at 15 percent; and

WHEREAS, The Metro region has been called upon to provide
its pro-rata share of the \$144,901 of Federal-Aid Urban funds; now,
therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service
District endorses completion of the Oregon Multi-Modal Transporta-
tion Plan and the Roads Finance Study.

2. That \$84,274 of regional Federal-Aid Urban funds is
hereby released to ODOT to support the study.

3. That the Metro Council recognizes that the City of Portland will have the option to take separate action (FAU or other funds) to provide its pro-rata share of \$60,627.

4. That the Metro Council finds these actions in accordance with the Regional Transportation Plan and gives affirmative Intergovernmental Project Review approval.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1388 FOR THE PURPOSE OF ENDORING PRINCIPLES ASSOCIATED WITH DEQ'S COMPREHENSIVE EMISSIONS FEE PROPOSAL

Date: January 7, 1991

Presented by: Andrew C. Cotugno

FACTUAL BACKGROUND AND ANALYSIS

PROPOSED ACTION

Adopt Resolution No. 91-1388 endorsing principles regarding DEQ's proposed emissions fee program proposed for consideration by the 1991 Oregon Legislature.

BACKGROUND

The Joint Interim Committee on Energy, Environment and Hazardous Materials with the assistance of DEQ have developed a proposal for a comprehensive emissions fee program. Under this program, consistent with recently adopted federal requirements on industry, a \$25.00 per ton fee is proposed on polluters. Included is a proposed emission fee on automobiles statewide and a parking fee program proposed for the Portland metropolitan area. An overview of the proposal is described in Attachments A and B from DEQ.

The aspects of the program affecting transportation include a fee on all automobiles statewide to be collected through annual vehicle registrations, new car sales or tire sales. Because of the significance of the air quality problem in the Portland region, an additional program designed to reduce vehicle miles of travel involves a fee on parkers for work trips to encourage use of alternative forms of transportation. Numerous details remain to be defined and are not reflected in the legislative proposal. These could be established through amendments considered by the Oregon Legislature or at a later date through DEQ Administrative Rule. Because of the lack of specificity, it is not recommended to specifically endorse the proposed bill. However, a number of objectives that the bill are intended to accomplish merit endorsement and therefore the proposed resolution endorsing a series of principles is recommended for adoption.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1388.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING) RESOLUTION NO. 91-1388
PRINCIPLES ASSOCIATED WITH)
DEQ'S COMPREHENSIVE EMISSIONS) Introduced by
FEE PROPOSAL) George Van Bergen, Chair
Joint Policy Advisory Committee
on Transportation

WHEREAS, The Portland metropolitan area is in violation of air quality standards for carbon monoxide and ozone; and

WHEREAS, Motor vehicles are a significant contributor to this air quality problem; and

WHEREAS, Significant growth of population, vehicle travel and congestion threaten to exacerbate this problem; and

WHEREAS, DEQ has proposed a market-sensitive approach to reduce emissions through fees on polluters at the rate of \$25.00 per ton; now, therefore

BE IT RESOLVED,

That the Council of the Metropolitan Service District adopts the following principles:

1. Motor vehicles are a significant source of air pollution statewide and should shoulder its share of the burden of meeting air quality standards.
2. A statewide approach to addressing this problem is appropriate.
3. Significant air quality problems in the Portland region warrant implementation of a special approach for this airshed.
4. Programs proposed to control automobile emissions

should be consistent with state, regional and local land use objectives.

5. Revenues from fees imposed on transportation sources in this area should be linked to transportation improvements in this area, particularly to assist in implementing the transit expansion aspects of the Regional Transportation Plan.

6. Limitations on the use of motor vehicle fee alternatives due to restrictions of the Oregon Constitution should be changed.

7. The Metro Council, JPACT and TPAC should be further involved in the development of program details.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

Department of Environmental Quality
Comprehensive Emission Fee
Legislative Proposal LC-1205

Presented to Metro TPAC/JPACT
January 1991

By
John Kowalczyk
Manager, Air Planning: 229-6459

OREGON'S AIR PROGRAMS/ PROBLEMS

* 27 of 33 Rules Oriented to Industrial Processes

* State Wide Annual Emission
Inventory

- Motor Vehicles	36.1%
- Slash Burning	17.9%
- Wood Stoves	11.5%
- Industry	5.7%
- Field Burning	2.4%
- Misc. (Dust, Area Sources)	26.4%
TOTAL	<hr/> 100%

EMISSION FEE REVENUE

	<u>Revenue</u>	<u>Unit</u>
	Million/Yr.	Price
Motor Vehicle	7.8	\$ 3.24/Vehicle
Slash Burning	3.6	\$16.00/Acre
Wood Heating	3.3	\$ 3.00/Cord
Industry	2.7	\$25.00/Ton (Ave.)
Field Burning	0.9	\$ 4.47/Acre
Total	----- 18.3 Million/Yr.	

POTENTIAL MAJOR PROJECTS FUNDED

- Mass Transit Improvements
- Wood Stove Conversion Subsidies
- Power Plant Subsidies for Burning Forest Slash & Grass Straw Residue

EMISSION FEE PROGRAM ACCOMPLISHMENTS

Up to 40% Reduction in
State Wide Emissions

Within 5-10 Year
Time Frame

REDUCTIONS

- | | |
|-----------------|---------|
| - Motor Vehicle | 10%-20% |
| - Slash Burning | 40%-60% |
| - Industry | 10%-20% |
| - Field Burning | 50%-75% |
| - Wood Heating | 25% |

MOTOR VEHICLE COMPONENT - PART 1

STATEWIDE FEE
(\$7.8 million/year)

Fee Collection Alternatives:

- ♦ VMT Basis (Collected through Biennial Registration)
- ♦ Lifetime Emissions (Collected on new car sales)
- ♦ Tire Treadwear Rating (Tire Sales)

FUND USES: Proposed in the Bill

- ♦ Mass Transit Improvements
- ♦ Alternative Fueled Vehicle Rebates
- ♦ Electronic Toll Road Feasibility Studies/Demo Projects
(at least one for the Portland area required)

OTHER FUND USES:

- ♦ Buy-back Oldest/Highest Polluting Vehicles
- ♦ Alternative Fuel Production, Refueling Stations
- ♦ Sales Rebate to New Lowest Polluting Vehicles
- ♦ Highway Trust Fund Limited Projects
 - HOV Lanes
 - Computerized Traffic Signalization
 - Transit/Highway Crossings

MOTOR VEHICLE COMPONENT - PART 2

Ozone Non-Attainment Area Fee
(Portland Area)

NEED:

- ◆ Statewide Vehicle Emission Fee: Not sufficient to deter driving, or to fund major emission reduction projects in the Metro area.
- ◆ Area Ozone problem worsening.
- ◆ Vehicle emissions > 75% of Ozone precursors.
- ◆ Vehicle emissions present greatest Metro area Toxic air pollutant risks: (Approx. 1 in 10,000 Cancer Risk).
- ◆ Population growth of 40% (Approx. 500,000) in next 20 years will further increase VMT emissions.
- ◆ VMT nationally is growing at a rate 2-5 times the population growth rate in urban areas because of urban sprawl, and longer commuter trips.
 - Tri-County VMT growth was 44% between 1982 and 1988, versus a 5% population growth rate.
 - Portland CBD Parking Lid: Although it is an effective carbon monoxide control strategy, it also contributes to urban sprawl.
- ◆ 1990 Clean Air Act will only reduce vehicle ozone precursor emissions approximately 40%.
- ◆ NEED TO REDUCE METRO VMT GROWTH TO PROVIDE HEALTHFUL AIR QUALITY OVER THE NEXT 10-20 YEARS.

OZONE NON-ATTAINMENT AREA FEE (continued)

FEE ALTERNATIVE:

- ◆ Parking Fee: Very effective market-based approach to reduce driving/emissions.
- ◆ Charge for value of parking. A parking permit fee in the range of \$15/month could be assessed on employees who's employer provides free parking. This would affect about half the work force if limited to employers with over 100 employees.

(A similar proposal in the San Francisco Bay Area uses a minimum fee of \$30/month.)
- ◆ Potential revenue to the Metro area would be in the range of \$25 million per year.
- ◆ Provide employer with some revenue from the permit fees collected to assist with developing mass transit or other alternatives for their employee's. (Assistance from the permit fee's would only be available to those employers who submit a plan to increase vehicle occupancy to 1.5 persons/car average.)

(Los Angeles requires employers to have such a vehicle occupancy increase plan, but they do not require a fee or provide funding assistance.)
- ◆ Remaining revenues from fee to be used for transit improvements.
- ◆ Permit issuance & fee collection would be through least cost approach (possibly Tri Met, Metro, or DEQ).

PROGRAM BENEFITS

- ◆ Does not stop the building of new parking spaces, nor stop people from driving.
- ◆ Saves energy
- ◆ Reduces congestion.
- ◆ Save's substantial cost of highway maintenance/construction, and transit expansion.
- ◆ Possible 20% reduction in regional VMT

EMISSION FEE CONCEPT SUPPORT

- ◆ Clearly difficult to sell to legislature because of the wide-spread economic impact of the Bill, but the alternative would be additional regulatory programs.
- ◆ Joint Interim Committee on Energy, Environment, and Hazardous Materials work group (including interested parties) generally supported the principals of the Bill.
- ◆ Bi-State Committee formally supports a uniform, broad based emissions fee program in both states. (Metro resolution No. 90-1352, attached).
- ◆ Oregon Department of Energy's State Energy Plan supports an emission fee concept.
- ◆ The governor elect supports bill introduction into the legislature.
- ◆ Oregon Transit Association informally supports the concept.
- ◆ Washington Department of Ecology is proposing new vehicle emission fee legislation which also includes fee's on other pollution sources as well.
- ◆ The Parking Permit Fee concept is one of six measures reported by the Oregonian to address Metro's regional growth problem. (article attached).

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

Verified & True Copy of the Original Thereof
[Signature]
Clerk of the Council

FOR THE PURPOSE OF APPROVING THE)	RESOLUTION NO. 90-1352
RECOMMENDATIONS OF THE BI-STATE)	
POLICY ADVISORY COMMITTEE)	INTRODUCED BY COUNCILOR
REGARDING AIR QUALITY)	LAWRENCE BAUER, CO-CHAIR
PROTECTION MEASURES)	BI-STATE POLICY ADVISORY
)	COMMITTEE

WHEREAS, the Metro Council and the Intergovernmental Resource Center of Clark County established the Bi-State Policy Advisory Committee (Bi-State) by joint resolution on September 24, 1981; and

WHEREAS, Metro's charge to Bi-State includes the direction, "to develop recommendations for consideration by the Metro Council;" and

WHEREAS, Bi-State has identified air quality as one of the seven issues for its investigation, in recognition of the importance of the local air quality problem and the need for a regional approach to address it; and

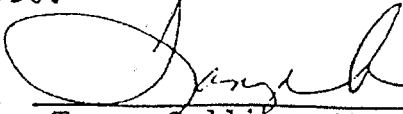
WHEREAS, Bi-State has established an Air Quality Subcommittee to investigate air quality issues in the Portland-Vancouver metropolitan area; and

WHEREAS, Bi-State's Air Quality Subcommittee has developed recommendations in support of standardized air quality protection measures for the Portland-Vancouver airshed; and

WHEREAS, Bi-State adopted Resolution 10-01-1990 on October 26, 1990 (attached as Exhibit A), which "accepts and endorses the recommendations of the Air Quality Subcommittee and encourages Metropolitan Service District and Intergovernmental Resource Center to forward these recommendations to their respective state legislatures;" and

ADOPTED by the Council of the Metropolitan Service District this

29th day of November, 1990.



Tanya Collier, Presiding Officer

cs:blsairq.res

State

1351 Officers' Row
Vancouver, Washington 98661

by established by IRC and METRO in 1983

Exhibit "B"

(206) 699-2361
Fax (206) 696-1847

October 12, 1990

Councilor Lawrence Bauer, Co-Chair
Commissioner John Magnano, Co-Chair
Bi-State Policy Advisory Committee
1351 Officers' Row
Vancouver, WA 98661

RE: Recommendations on Air-Quality Issues

Dear Councilor Bauer and Commissioner Magnano:

The States of Washington and Oregon share a mutual concern for maintaining the unique quality of life enjoyed by residents in the Portland-Vancouver metropolitan area. This concern has formed the agenda of the Bi-State Policy Advisory Committee. Through this intergovernmental mandate, the committee has identified the airshed shared by the two states as a common resource impacted by the inevitable and rapid growth of urban areas on both sides of the Columbia River. In establishing the Bi-State Air Quality Subcommittee, the Advisory Committee has acknowledged both the importance of the local air quality problem and the need for a regional approach to addressing it.

We of the Air Quality Subcommittee believe there is a need for understanding the ways in which different emissions affect the environment in order to formulate policies which are consistent and equitable, a "leveling of the playing field" that ensures that both the public and private industry are paying costs proportionate to their respective levels of pollutants, for example.

As the time for new legislative sessions approaches in Salem and Olympia, we urge that the Advisory Committee put forward recommendations to Governors Gardner and Goldschmidt which we believe will result in constructive new legislation of benefit to both states. Our recommendations are as follows:

1. *The Bi-State Air Quality Subcommittee supports a more consistent and uniform approach by the governments of Washington and Oregon regarding air quality issues affecting the Portland-Vancouver metropolitan area. With respect to proposed legislation, such an approach would seek to adopt regulations which would be largely standardized between the states and which would not place disproportionate costs on any group or area. We recommend the following policy actions:*
 - a. *Standardize and enhance an expanded motor vehicle emission inspection and maintenance (I/M) program to cover major urban areas on both sides of the Columbia River. The EPA has determined that I/M programs are among the most cost-effective for controlling urban air pollution. We recommend that projections of urban growth's impact on local travel be used to determine the boundaries of the I/M program.*
 - b. *Standardize regulations and enforcement procedures on stationary sources of air pollution on both sides of the Columbia River. These sources, also called point sources, are monitored and regulated differently in the two states, resulting in inconsistent control of industrial emissions within the region.*
 - c. *Establish and enforce a standardized system of stationary source emissions fees within the framework of the new Clean - Air Act requirements to further limit air pollution from major industrial and commercial sources.*
 - d. *Expand the Emission Fee concept to all major area sources of air pollution. These sources are potentially more effectively controlled through a nonregulatory, market-based approach which should include establishing an air quality improvement fund from the fees to support public and private projects that would cost-effectively reduce emissions.*
 - e. *Preserve local control of air-quality policy, with the objective being coordination--not centralization--of policy implementation.*

We are in the process of formulating additional and more specific recommendations to the Advisory Committee in the coming weeks, realizing that time is growing short for submission of formal recommendations to the state legislatures. We are also aware of a need for educating the public in Portland, Vancouver, and particularly the surrounding small communities and rural areas on the significance and implications of air-quality issues. We will be considering ways to inform residents of the metro area on why the varying impacts of different categories of emissions require a range of approaches to control.


Councilor Lawrence Bauer
Commissioner John Magnano
October 12, 1990
Page 3

On behalf of the subcommittee members, we invite your questions and comments in response to these recommendations, which should be directed to subcommittee coordinator Dave Anderson.

Sincerely,



Stuart Clark, Air Program Analyst
Washington State Department of Ecology
Member, Bi-State Air Quality Subcommittee



John Kowalczyk, Manager, Air Quality Planning & Development
Oregon State Department of Environmental Quality
Member, Bi-State Air Quality Subcommittee

Other Subcommittee members listed below:

John Magnano, Clark County Commissioner
Richard Brandman, Transportation Planning Manager,
Metropolitan Service District of Portland
Dick Serdoz, Director, SW Washington Air Pollution Control
Authority
Elsa Coleman, Parking Manager, City of Portland

RECEIVED OCT 31 1990

BI-STATE POLICY ADVISORY COMMITTEE
RESOLUTION 10-01-1990

Exhibit "A"

For the purpose of recommending that Metropolitan Service District and Intergovernmental Resource Center forward recommendations to their respective state legislatures concerning consistent and uniform approaches to air quality regulations affecting the Portland-Vancouver metropolitan area.

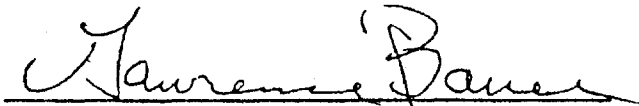
WHEREAS, the Bi-State Policy Advisory Committee established a subcommittee to investigate air quality issues in the Portland-Vancouver metropolitan area; and

WHEREAS, the Air Quality Subcommittee met on two occasions during the months of August and September of 1990 to formulate recommendations regarding air quality regulations applied to the metropolitan area; and

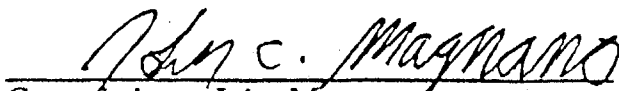
WHEREAS, the September 27, 1990 meeting of the Air Quality Subcommittee culminated in policy recommendations to the Bi-State Policy Advisory Committee as expressed in an October 12, 1990 letter from Stuart Clark, Air Program Manger with the Washington State Department of Ecology, and John Kowalczyk, Air Quality Planning and Development Manager with Oregon State Department of Environmental Quality, to Councilor Larry Bauer and Commissioner John Magnano, a copy of which is appended to this Resolution.

NOW THEREFORE BE IT RESOLVED that the Bi-State Policy Advisory Committee accepts and endorses the recommendations of the Air Quality Subcommittee and encourages Metropolitan Service District and Intergovernmental Resource Center to forward these recommendations to their respective state legislatures.

Adopted this 26th day of October, 1990, by the Bi-State Policy advisory Committee.



Councilor Lawrence Bauer
Co-Chair



Commissioner John Magnano
Co-Chair

SOLVING THE GROWTH PUZZLE

METRO/NORTHWEST

THE SUNDAY OREGONIAN, DECEMBER 23, 1990

Here is a collection of ideas you will be hearing more about in the coming months as politicians, planners, developers and citizens search for common ground in dealing with the crush of growth, especially in the metropolitan area.

Share the wealth.



A major obstacle to regional cooperation on growth is competition among cities, counties, and special districts for economic

development to boost their tax bases.

One solution can be found in tax-base sharing, a Robin Hood-type system that takes property tax booty from rich communities, and gives it poor ones.

In the Minneapolis-St. Paul area, 40 percent of all new industrial and commercial growth in the region is pooled in a tax base that is then redistributed to seven counties, 132 cities and 50 school districts.

In the Portland area, Measure 5 complicates the politics of selling such a program. Under the tax limitation measure, an increase in property value through development is the only new source of new property tax money for governments at the limit.

These communities are not likely to be in a mood to share.

In the Twin Cities area, governments that lose under the system complain every year, but the program is popular with citizens, said Charles Weaver, a

former Minnesota legislator who wrote the original law.

"If you're a loser," Weaver said, "it's only because you were getting more than your share to begin with."

Move forward on light rail



Build the entire light rail system as soon as possible. By itself, light rail is just an expensive toy. But by encouraging

downtown-style development around transit stations, and backing up light rail with good bus service, the transit system could reduce the need to build more highways, give people a desirable alternative to driving, and reign in sprawl.

However, current federal rules only allow funding of one light rail line at a time. At that pace, it could be 50 years before Portland gets anything like a complete system. Portland City Commissioner Earl Blumenauer's transportation office has been holding neighborhood meetings to excite interest in light rail lines in North and Northeast Portland across to Vancouver, Wash., out Southwest Barbur Boulevard to Tigard, out Southeast McLoughlin Boulevard to Milwaukie.

But Blumenauer has stopped short of suggesting a way to pay for such a system outside of federal help.

Here's one way: Tri-Met has the power to impose a 1 percent income tax. The agency estimates this would generate about \$100 million a year - although officials stress they are not actually proposing such a tax.

Guide growth



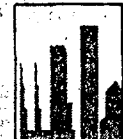
Be honest about where growth will go next. A Metro advisory committee has suggested creation of "urban reserves" — places

where the urban growth boundary should be expanded in the future. The idea is to limit the speculation happening now on farmland all around the boundary, and to provide guidance about where to extend long-term services. The first place to look might be where counties have already allowed development outside the line - so-called "exception" lands. Everyone on the committee felt good about this concept until citizens got wind of it last month, said Pat Kliever, one committee member.

As a former chairwoman of the Citizen Participation Organization

in the Reedville area, Kliever presented the idea to the umbrella group for all the county CPOs. "I got jumped on," she said. "They hated the idea." She said residents feared it would create even more feverish speculation in the reserve areas, and would give developers more ammunition to argue for bringing the land inside the line.

Activity centers



Focus development around a limited number of "activity centers" — planning jargon for places that can be made to work like

downtowns, with high-density housing, shopping and offices, all easily reachable on foot or by public transit. However, this kind of compact, mixed-use, urban style of living is an alien concept in suburbia, where zoning laws require single-family homes, apartment complexes, shopping centers and factories to be grouped in their own separate areas. Other unresolved issues include where and how many such activity centers there should be. The Clackamas Town Center area might be an obvious choice, but how about downtown Sherwood?

Taxing free parking



The IRS gives employers a sizable tax deduction for providing workers free parking, but gives a much smaller break for bus passes. Nationally, this amounts to a \$50 billion-a-year subsidy for the one-person, one-car principle.

The state Department of Environmental Quality will propose a tax on free parking as part of an air-quality package for the 1991 Legislature.

It would work like this: Commuters who don't already pay for parking would be required to pay a fee. The fee would only be imposed in places that violate federal ozone standards (so far, that's only metropolitan Portland) and on firms with more than 100 workers. John Kowalczyk, air-quality manager for the DEQ, calls it a user-fee for the air.

Employers would also be required to find ways of bringing the ratio of workers-per-car up to 1.5 to 1. It's now close to one-to-one. "It doesn't stop people from building a parking space or driving," Kowalczyk said. "But if you do, you're going to start paying."

Pay as you grow



One way to keep growth from outracing public services is to make it illegal.

"Concurrency" is the current buzzword in the growth control game. Basically, it means requiring certain levels of service before development is allowed.

Some fast-growth areas of Florida, where state law flatly forbids development unless services are in place, are threatened with moratoria due to lack of roads.

Although the idea is seductive, a couple of thorny issues are involved. First, which services do you include? Roads, water, and sewer might be obvious choices, but how about parks and open space, transit service, or a particular pupil-teacher ratio in the schools?

Also, how do you split the costs between newcomers and existing residents? In parts of California, system development charges have reached \$60,000 per house. "Concurrency without funding is a false hope," said Ethan Seltzer, Metro planner.

Excerpted from "Region at a Crossroads of Growth"
The final article in a series on growth.

DEPARTMENT OF ENVIRONMENTAL QUALITY

COMPREHENSIVE EMISSION FEE
DRAFT BILL

Revised: 11/26/90

(Legislative Counsel draft to be completed 11/30/90)

LIST OF SECTIONS

PREAMBLE.

- Section 1. Legislative Purpose.
- Section 2. Definitions.
- Section 3. Emission Fee Established.
- Section 4. Air Quality Improvement Fund Established.
- Section 5. Air Quality Improvement Fund Administration.
- Section 6. Air Quality Improvement Fund Use.
- Section 7. Industrial Program.
- Section 8. Residential Wood Heating Program.
- Section 9. Motor Vehicle Program.
- Section 10. Forest Prescribed Burning Program.
- Section 11. Agricultural Field Burning Program.
- Section 12. Program Evaluation.

DESCRIPTION OF SECTIONS

PREAMBLE.

The Legislative Assembly finds that:

(1) Air pollution continues to present a threat to the public health and welfare of the state despite enactment and implementation of longstanding regulatory programs at the federal, state and local levels.

(2) Providing the purity of the air expected by citizens of the state, particularly in light of anticipated growth, requires new and innovative approaches.

(3) Tightening of traditional regulatory programs has not met with widespread support in recent times, particularly for non-industrial sources, whereas utilizing a market driven approach has gained increasing support as a method of motivating and providing assistance to public and industry efforts to prevent and control air pollution.

(4) An emission fee-based program offers the opportunity to reduce total state-wide air pollutant emissions by up to 40% within a 5 to 10 year time frame.

Section 1. Legislative Purpose.

The Legislative Assembly declares the purpose of this Act is:

(1) To provide authority to impose air pollution emission fees on industrial sources as required by the federal Clean Air Act of 1990.

(2) To provide an economic incentive to reduce air pollution from all major source categories of air pollution in the state.

(3) To establish a fund for public and private sector programs and projects in all areas of the state that will substantially improve air quality.

(4) To enhance air quality of the state while conserving energy and encouraging orderly growth and economic development.

(5) To develop an awareness that the air resources of the state are not a free dumping ground for air pollutants and that emissions of air pollutants can have a negative environmental or economic impact whether that be on a neighbor, local airshed, statewide or global basis.

Section 2. Definitions.

As used in sections 3 through 12, unless the context requires otherwise:

(1) "Agricultural Field Burning" or "Field Burning" means burning of any perennial or annual grass seed or cereal grain crop, or associated residue, including but not limited to open burning, stack burning, and propane flaming.

(2) "Consumer Price Index" means the average of the Consumer Price Index for all-urban consumers (or the revision which is most consistent with the Consumer Price Index for the calendar year 1989) published by the United States Department of Labor, as of the close of the 24-month period ending on July 31 of each biennium;

(3) "Cost-beneficial" means achieves larger emission reductions per dollar expended than alternate projects or programs;

(4) "Cord Wood" means any split or not split logs or branches of any length, other than artificially compressed logs or pelletized fuel, that are to be used, sold or re-sold as fuel for residential space heating;

(5) "Federal Air Permit Program" means the permit program submitted to the United States Environmental Protection Agency in accordance with section 502(d) of the reauthorization of the Clean Air Act of 1990 (P. L. ____).

(6) "Average Vehicle Ridership" means the figure derived by dividing the average employee population at a given worksite that reports to work weekdays between 6:00 a.m. and 10:00 a.m. by the number of motor vehicles, excluding transit vehicles and vehicles stopping on route to other worksites, driven by these employees commuting from home to the worksite during these hours.

Section 3. Emission Fee Established.

(1) An annual fee is established for the discharge of pollutants into the outdoor air of the state based on an average base rate of \$25 per ton. The specific emission fee for each major air pollutant shall be the product of the average base rate and the following factors which are weighted to the potential environmental impact of that pollutant.

	<u>Factor</u>
(a) Volatile Organic Compounds:	1.75
(b) PM10:	1.68
(c) Nitrogen oxides:	0.87

- (d) Sulfur Oxides: 0.66
- (e) Carbon Monoxide: 0.04
- (f) For other toxic air pollutants from industrial sources not covered under (a) through (e) above for which standards are promulgated by the Environmental Quality Commission pursuant to section 112 of the federal Clean Air Act of 1990, specific factors shall be adopted by the Environmental Quality Commission by rule which shall approximately average 1.00 and not exceed 2.00.

The average base rate of the emission fee shall be increased biennially by the percentage, if any, by which the Consumer Price Index changes.

(2) Emission fees shall apply to emissions from industry, residential wood heating, motor vehicles, forest prescribed burning, and agricultural field burning sources as specified in sections 7 through 11, respectively.

(3) The Environmental Quality Commission shall establish by rule emission calculation methodologies, specific fee schedules and fee payment due dates for sources subject to emission fees, based on the fee schedule in subsection 1 of this section. The fee schedule shall relate to the extent practicable to actual emissions. The fee schedule for each category of sources shall be enumerated and assessed in the following units:

(a) dollars per ton of emissions for industrial emissions fees which are assessed pursuant to subsection (1) of section 7;

(b) dollars per cord of wood for residential wood heating emissions fees which are assessed pursuant to subsection (1) of section 8;

(c) (A) dollars per tire for motor vehicle emissions fees which are assessed pursuant to subsection (1) of section 9;

(B) dollars per mile driven for motor vehicle emissions fees which are assessed pursuant to subsection (2) of section 9;

(C) dollars per vehicle for motor vehicle emissions fees which are assessed pursuant to subsection (3) of section 9;

(d) dollars per acre for forest prescribed burning emissions fees which are assessed pursuant to subsection (1) of section 10.

(e) dollars per acre for agricultural field burning emissions fees which are assessed pursuant to subsection (1) of section 11.

(4) A person shall first become liable for the payment of fees established under this section for activities resulting in emissions of air pollutants that occur on July 1, 1992, or such later date as established by the Environmental Quality Commission by rule. The person shall pay the emission fee in accordance with the schedule adopted under subsection (3) of this section.

Section 4. Air Quality Improvement Fund Established.

(1) Emission fees collected shall be deposited into separate accounts dedicated for each source category within an Air Quality Improvement Fund. A common account shall also be created and utilized pursuant to subsection (4) of section 6.

Section 5. Air Quality Improvement Fund Administration.

(1) An Air Quality Improvement Fund Advisory Board is established to advise the Environmental Quality Commission on uses of the available funds in the Air Quality Improvement Fund. The advisory board shall consist of 9 members as specified in subsection (2) of this section.

(2) The Air Quality Improvement Fund Advisory Board shall consist of two members of the general public, appointed by the Governor, one of whom shall serve as the chair of the board, and the Chair or member of the following bodies or their designee:

- (a) Economic Development Commission
- (b) Energy Facility Siting Council
- (c) Land Conservation and Development Commission
- (d) Public Health Advisory Council
- (e) State Board of Agriculture
- (f) State Board of Forestry
- (g) Transportation Commission

(3) At least biennially the Air Quality Improvement Fund Advisory Board shall make recommendations to the Environmental Quality Commission for projects and programs to be funded from the Air Quality Improvement Fund. In making such recommendations, the board shall consider projects and programs compiled by the Department of Environmental Quality pursuant to subsection (5) of this section and shall seek comment from interest groups representing at least industry, city governments, county governments, motor vehicle drivers,

environmental organizations, agriculture, forestry, woodstove industry, and public health. Public meetings shall also be held to receive comments from the general public.

(4) A member of the board is entitled to compensation and expenses as provided in ORS 292.495 which shall be payable from the Air Quality Improvement Fund.

(5) At least biennially the Department of Environmental Quality shall solicit and compile a list of projects and programs eligible for Air Quality Improvement Funding along with an analysis of the relative merits of each project and present this information to the Air Quality Improvement Fund Advisory Committee for consideration. In preparing this analysis, the Department of Environmental Quality shall seek comment from other state departments and agencies whose programs may be directly or indirectly affected by the projects or programs.

(6) The Environmental Quality Commission shall establish by rule:

(a) procedures for submitting project and program proposals for funding from the Air Quality Improvement Fund including, but not limited to, the content, format and due date for proposals;

(b) criteria for selection of projects and programs consistent with section 6; and

(c) minimum conditions for approval of projects and programs including, but not limited to, oversight, evaluation, fiscal control and accounting procedures.

Section 6. Air Quality Improvement Fund Use.

(1) The Environmental Quality Commission shall at least biennially and with consideration of recommendations from the Air Quality Improvement Fund Advisory Board and public comment, select the projects and programs that will be funded from available Air Quality Improvement Funds. The selected projects and programs shall be submitted to the Legislature as part of the normal biennial budget. Up to 20% of available funds may be budgeted for projects and programs to be selected by the Environmental Quality Commission during the biennium.

(2) Emission fees collected from industries permitted by the Department of Environmental Quality shall be utilized to cover the total costs of the Federal Air Permit Program administered by the Department of Environmental Quality as specified in section 7.

(3) Costs to collect emission fees and administer the Air Quality Improvement Fund for non-industrial sources shall be supported by the emission fees from these sources. The Environmental Quality Commission shall establish by rule a reasonable and appropriate portion of the emission fees that may be retained by organizations which directly collect emission fees to reimburse the organizations for emission fee collection costs up to a maximum of 15% of fees collected.

(4) Eighty percent of the remaining emission fees deposited each year in the dedicated accounts within the Air Quality Improvement Fund, after costs specified in subsections (2) and (3) of this section are covered, shall be utilized for projects and programs relating to the sources paying the emission fees. The remainder of the funds shall be placed in the common account within the Air Quality Improvement Fund to be utilized for any eligible project or program. If in any biennium funds remain in any specific source account after all eligible projects and programs are funded they shall also be placed in the common account.

(5) All projects and programs eligible for Air Quality Improvement Funds must relate in some manner to preventing or reducing air pollutant emissions in the state of Oregon.

(6) Air Quality Improvement Funds shall be applicable to federal, state, local government, public and private industry projects and programs including those specifically identified in sections 7 through 11. Funds may be utilized in any reasonable and appropriate manner, including but not limited to:

- (a) capital improvement projects;
- (b) low or no interest loans;
- (c) operating subsidies; and
- (d) grants.

(7) Priority shall be given to projects or programs which:

- (a) achieve the largest reductions in emissions and exposure to air pollutants;
- (b) are principally dedicated to full scale air quality improvement projects;
- (c) are cost-beneficial;
- (d) receive additional funding or in-kind services from the federal government, state government, local governments or private industry;
- (e) provide energy and other environmental benefits;

(f) address airshed problems that are barriers to orderly growth and economic development.

Section 7. Industrial Program.

(1) All industrial emission sources subject to the federal Air permit program shall be subject to emission fees as specified in section 3. The fees shall be assessed on permitted emissions. These fees shall be paid to the Department of Environmental Quality or regional authority having jurisdiction over the source in lieu of existing air permit fees. A source may apply for a partial refund of fees if actual emissions are less than permitted emissions as specified in subsection 3 of this section. Any penalty paid under section 510 of the Clean Air Act of 1990 for emissions in excess of allowances possessed by a source and any amount paid under section 519 of the Clean Air Act of 1990 for the purchase of allowances shall be credited in the year paid against emission fees due for emissions of the same pollutants in excess of 4,000 tons per year.

(2) All industrial emission sources subject to state air permit requirements other than sources subject to subsection (1) of this section shall continue to be subject to permit fees as authorized by subsection (2) of ORS 468.065 established by the Environmental Quality Commission by rule.

(3) In rules established under subsection (3) of section 3, the Environmental Quality Commission shall specify requirements for partial refunds applied for under subsection (1) of this section. These rules shall specify acceptable and accurate methods for determining actual emissions including, but not limited to, emission monitoring, material balances, fuel use, and production data. The maximum total refund shall be the difference between the revenues actually received from fees collected under subsection (1) of this section and revenue based on actual emissions but in no case shall the refund result in remaining revenue of less than the total cost of the Department of Environmental Quality's and applicable regional authority's permit program, including fee collection costs, in that year attributable to sources subject to the federal Air permit program. In any year where the total amount of applications approved for refunds exceed the maximum available refund, each refund shall be reduced by an equal percentage. If remaining revenue exceeds the cost of the Department's federal air permit program, the excess shall be placed in the Air Quality Improvement Fund as provided in subsection (4) of section 6.

(4) Persons applying for a permit for a new source or a major modification which, upon construction and operation, would be subject to fees under subsection (1) of this section shall submit with the permit application a non-refundable

permit issuance fee for extraordinary application processing work. The Environmental Quality Commission shall establish by rule a graduated schedule for the permit issuance fees based on the anticipated complexity of the analysis and permit issuance process above and beyond normal permit issuance costs. This schedule shall reflect but not be limited to work performed in control technology analysis, modelling, toxic risk assessment, and emission trading evaluation. This fee shall be retained by the Department of Environmental Quality and be separate and apart from emission fees required under section 3.

Section 8. Residential Wood Heating Program.

(1) Emission fees specified in section 3 shall apply to residential wood heating in the form of a cord wood assessment on the Federal, State or Private land managers providing the cord wood. Private land managers with forest land holdings in the state of less than 1,000 acres shall be exempt from this requirement. The specific fee schedules established under subsection (3) of section 3 shall take into account the effect of wood species on emissions. The fees shall be collected by the Department of Environmental Quality.

(2) Some portion of Air Quality Improvement Funds shall be provided for a statewide low/no interest loan program to replace traditional woodstoves providing the following conditions are met:

(a) all forms of new high efficiency, low emitting heating systems are allowed;

(b) removed woodstove is destroyed;

(c) installations of used woodstoves which were not certified for sale as new on or after July 1, 1988 pursuant to subsection (1) of ORS 468.655 are prohibited through building code provision.

(3) Air Quality Improvement Funds may be provided to local governments in areas not in attainment with PM10 air quality standards for a low income total subsidy program to upgrade weatherization and replace traditional woodstoves provided the following conditions are met:

(a) all forms of new high efficiency, low emitting heating systems are allowed;

(b) removed woodstove is destroyed;

(c) a local ordinance is adopted and enforced which limits emissions from woodstoves to no visible smoke

(except for steam and heat waves) during periods of air stagnation and to 20% opacity during other periods of time. This requirement shall not be in lieu of any final stage of woodstove curtailment required during air stagnation if such final stage of curtailment is necessary in order to prevent exceedance of air purity standards and air quality standards established pursuant to ORS 468.295.;

(d) in airsheds requiring more than a 50% reduction in wood-heating emissions as specified in the PM10 State Implementation Plan control strategy, program participants are required to have a back up heat source if a certified woodstove is selected.

(4) Some portion of Air Quality Improvement Funds shall be made available to local governments in PM10 nonattainment areas to assist in implementation of public education, curtailment and opacity programs to reduce residential wood heating emissions.

Section 9. Motor Vehicle Program.

(1) One half of the emission fee specified in section 3 shall be applied to motor vehicle emissions and collected in the form of a surcharge on new replacement motor vehicle tire fees collected pursuant to ORS 459.509. The specific emission fee schedule established under subsection (3) of section 3 shall include consideration of an average vehicle emission factor and the potential average vehicle miles travelled on the replacement tire as indicated by the tread-wear rating.

(2) One half of the emission fee specified in section 3 shall be applied to motor vehicle emissions from motor vehicles with a combined weight of 26,000 pounds or less which are owned by persons subject to registration under ORS 803.300 through a surcharge on renewal vehicle registration fees collected pursuant to ORS 803.455. One half of the emission fee specified in section 3 shall be applied to motor vehicle emissions from motor vehicles with a combined weight of more than 26,000 pounds which are owned by carriers subject to a weight-mile tax under ORS 767.815 through a surcharge on such weight-mile tax. The specific emission fee schedule established under subsection (3) of section 3 shall account for the actual emissions per mile expected for the vehicle considering the type of engine used in the vehicle. Where vehicle miles are not reported, the Environmental Quality Commission shall establish a default value. These funds shall be used only for air quality improvement projects and programs eligible under highway trust fund restrictions.

(3) (a) An excess emission surcharge shall be assessed on new motor vehicles subject to title requirements under ORS 803.025 at the time of sale based on the emission fee specified in section 3 for those vehicles with emissions above the average emission rate for the applicable class of vehicles established by the Environmental Quality Commission for the preceding model year. The Environmental Quality Commission shall annually establish an average emission rate for one or more classes of vehicles as determined by the Commission based on the best available emission test data compiled by the US Environmental Protection Agency. The specific emission fee schedule established under subsection (3) of section 3 shall be based on the expected lifetime emissions of the vehicle considering the type of engine used in the vehicle. The excess emission surcharge shall be conspicuously labeled on the vehicle and shall be remitted with the vehicle licensing fee to the Division of Motor Vehicles. A dealer who is designated to accept applications and fees for titling pursuant to ORS 802.030 shall accept the excess emission surcharge at the time of sale of a new vehicle. If the referendum referred under paragraph (b) of this subsection is not approved by the voters, the fees collected under this subsection shall be used only for air quality improvement projects and programs eligible under the highway trust fund restrictions.

(b) A referendum is referred to the voters for a constitutional amendment to allow the funds collected under paragraph (a) of this subsection to be rebated to new vehicles which are below the average emission rate for the applicable class of vehicle for the preceding model year. If the referendum is approved by the voters, the Environmental Quality Commission shall establish a specific low-emission rebate schedule which shall be proportional to the amount the vehicle is below the average emission rate for the applicable class of vehicle for the preceding model year and shall result in total rebates equal to the projected total fees collected under this subsection in each biennium less any amount by which actual rebates exceeded actual funds collected under paragraph (a) in the preceding biennium. The low-emission rebate shall be conspicuously labeled on the vehicle and shall be advanced to the purchaser at the time of sale by the dealer and reimbursed to the dealer from the Air Quality Improvement Fund by the Department of Environmental Quality. A lessor of a new vehicle shall provide a statement indicating any low-emission rebate which was applicable to the purchase of the vehicle to persons leasing the vehicle before a leasing contract is signed.

(4) In areas in exceedence of the air quality standard for ozone established pursuant to ORS 468.295 on or after January 1, 1990, employees of employers of over 100 employees shall display an air quality parking permit when parking in employer provided parking. The parking permit shall be sold by the local, regional or state government body determined by the Environmental Quality Commission by rule to be the least cost means of collecting the fee. The Environmental Quality Commission shall establish by rule the cost for parking permits based on the average annualized operating and capital cost of a parking space, up to a maximum of \$15 per month and the period or periods of time for which a parking permit shall be valid. An employee who provides proof that he or she is paying his or her employer an amount at least equal to the cost of the parking permit for employer provided parking shall be issued a free air quality parking permit. Revenue from the air quality parking permit program shall be deposited in the transportation account within the air quality improvement fund to be used for funding work trip reduction projects including transit service improvements, van pool, car pool, and transit subsidy programs sponsored by employers subject to the trip reduction program requirements in subsection (5) of this section. Employers shall be responsible for designating parking areas for employees where air quality parking permits are required and parking areas for visitors where permits are not required. Enforcement of the permit requirement shall be by the body issuing permits. The parking permit fee established by the Environmental Quality Commission shall be increased biennially by the percentage, if any, by which the Consumer Price Index changes. The Environmental Quality Commission shall establish rules needed to implement this subsection or shall delegate rulemaking authority to the body selected to issue air quality parking permits.

(5) In areas in exceedence of the air quality standard for ozone established pursuant to ORS 468.295 on or after January 1, 1990, employers of over 100 employees shall submit a trip reduction plan, in accordance with a schedule and rules adopted by the Environmental Quality Commission, to achieve an average vehicle ridership for employee vehicles of at least 1.5. Trip reduction plans shall include designation of an individual responsible for implementation of the plan, an estimate of the existing average vehicle ridership, a list of existing incentives used to increase average vehicle ridership, and a list of specific incentives the employer will undertake which can reasonably be expected to lead to the achievement and maintenance of the target average vehicle ridership within 12 months of plan approval. The Environmental Quality Commission shall prepare guidance on incentive programs which may be incorporated by an employer in the trip reduction plan. An employer may submit an application for funding from the transportation account of

the Air Quality Improvement Fund for specific projects identified in the trip reduction plan. Trip reduction plans shall be revised periodically in accordance with a schedule adopted by the Environmental Quality Commission.

(6) Any amount included in an Oregon income tax payer's adjusted federal income which is attributable to the provision of a mass transit subsidy from the tax payer's employer shall be subtracted from the tax payer's adjusted Oregon income. The Department of Revenue shall adopt rules to implement this subsection.

(7) Some of the Air Quality Improvement Funds collected under subsection 1 of this section shall be used for funding a rebate program for a resident individual who purchases a new alternative-fueled vehicle or converts a gasoline or diesel powered vehicle, in whole or in part, to an alternative-fueled vehicle. The specific rebate shall be determined through the process specified in sections 5 and 6 but in no case shall the amount exceed \$2000.

(8) Some of the Air Quality Improvement Funds collected under subsection 2 may be used for feasibility studies and pilot demonstration projects to collect tolls on roadways congested by peak commuter traffic. At least one such study shall be funded in the Portland Metro area.

Section 10. Forest Prescribed Burning Program.

(1) Emission fees specified in section 3 shall apply to all prescribed forest burning in Class I forest land under ORS 526.324 which is under private ownership or is managed by federal or state government. This shall include broadcast as well as pile burning. The specific fee schedule established under subsection (3) of section 3 shall consider fuel moisture, fuel loadings, lighting and mop-up techniques. Fees shall be collected through the Department of Forestry's smoke management fee program for all prescribed burning on land subject to that program. The Environmental Quality Commission shall select the lowest cost mechanism for collecting fees for prescribed burning on land not subject to the Department of Forestry's smoke management fee program, considering collection by the Department of Forestry, the State Fire Marshall, the Department of Environmental Quality, and other appropriate bodies.

Section 11. Agricultural Field Burning Program.

(1) Emission fees specified in section 3 shall apply to all agricultural field burning in the state. The specific fee schedule established under subsection (3) of section 3 shall take into account fuel moisture, fuel loading and lighting techniques. Fees shall be collected through the Department

of Environmental Quality's smoke management fee program for all agricultural field burning on land subject to that program. The Environmental Quality Commission shall select the lowest cost mechanism for collecting fees for agricultural field burning on land not subject to the Department of Environmental Quality's smoke management fee program, considering collection by any county court, any board of county commissioners, any fire chief of a rural fire protection district, the Department of Agriculture, the Department of Environmental Quality, and other appropriate bodies.

Section 12. Program Evaluation.

(1) The Department of Environmental Quality shall submit a biennial report to the Legislature evaluating the improvements in the air quality of the state resulting from the comprehensive emission fee program. The report shall include a detailed account of air pollutant emissions and changes caused by the program.

(2) The Executive Department shall submit a biennial report to the legislature evaluating the overall effectiveness of the emission fee program including the project and program selection process, the incentives created by emission fees, the management of major projects funded from the Air Quality Improvement Fund, the consistency of major projects with the purpose specified in section 1, the adequacy of the fund to meet air quality improvement objectives, and the reasonableness and appropriateness of fee collection costs.

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METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Date: January 7, 1991

To: Metro Council/JPACT

From: ^{for} David Knowles, Metro Councilor

Re: Article on Reauthorization of Surface Transportation Act

Enclosed is a copy of an article from Governing Magazine on the Reauthorization of the Surface Transportation Act (STA) and other transportation issues. I hope this will serve as useful background information on the STA.

DK:lmk

Enclosure.

TRANSPORTATION:

PLANNING THE FUTURE



watershed era in American transportation is coming to an end. Another has already begun. And every state and community, it seems, wants a hand in shaping

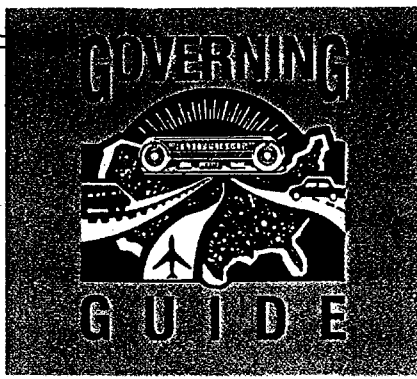
that new era to its own best interests.

The interstate highway system, which for 34 years has devoured most of the nation's transport energy and resources, is practically built—at a cost of \$108 billion. Only 300 scattered miles remain to be slotted into the 43,000-mile network.

With the interstate's legislative underpinning set to expire in September 1991, transportation planners see a prime opportunity to create a funding mechanism that suits the United States of the 1990s—just as the interstate program did in the 1950s, when the nation's major need was for better highways to connect cities separated by bad roads and deteriorating railbeds.

“It's a once-in-a-generation moment in transportation history.

BY JOHN L. MOORE • ILLUSTRATIONS BY CHRIS SPOLLEN



radiate from the city hub. Eighty-three percent of commuters used a car to get to work, almost double the 1960 figure.

Environment. Environmental laws

and awareness complicate transportation planning in the 1990s vastly more than they did in the 1950s, when the interstate highway system was being mapped out.

The new Clean Air Act could have major consequences for new projects and federal aid tied to reductions in automobile emissions and urban smog. Transportation officials already must

take into account noise pollution near highways and airports, wetlands preservation and leakage of gasoline and other contaminants at abandoned gas stations and storage sites.

Consensus. The demographics have produced an uneven "crisis," with some 85 percent of rural highway capacity unused while highways in metropolitan areas are clogged.

The urban-rural split—which often breaks along highway-mass transit lines—has implications for the efforts of transportation officials to present a unified front on the post-interstate highway program.

Currently, federal funding is based on how many highway miles an area has, a system which tends to favor rural states. Francois said AASHTO would like to decouple federal aid from mileage formulas that pit "the haves against the have-nots." Not mileage but service, such as whether a road gets heavy truck usage, should be the measure of eligibility, he said.

The FHWA's Lockwood says that there is increased cooperation within the Department of Transportation and that a strong effort is being made to "level the playing field" between FHWA and the Urban Mass Transit Administration, the federal agency which handles mass transit needs.

Fragmentation. For the transportation community, the major challenge is to overcome the "turf mentality" that frustrates efforts to make a coherent whole of the nation's movement of people and goods. More than 38,000 government entities are involved in building and maintaining highways. Dozens of congressional committees and federal agencies oversee parts of the transportation system.

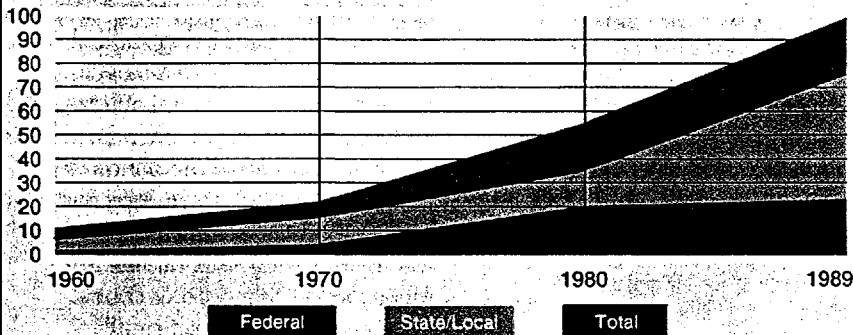
"We can no longer afford to address highways and public transportation separately, for in much of our nation both modes are necessary to meeting mobility needs and must function together in a coordinated manner," says Kermit Justice, the current AASHTO president and Delaware DOT secretary.

Only three states had departments of transportation when the U.S. De-

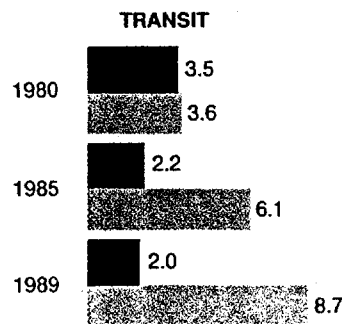
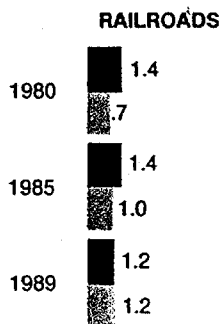
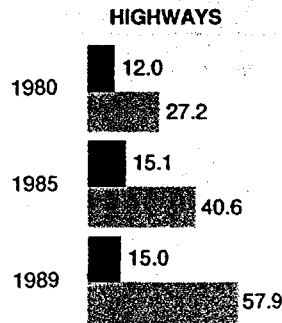
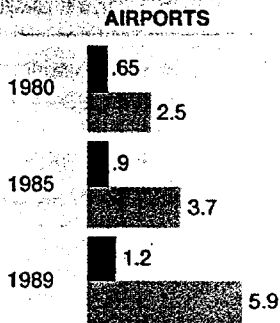
(continued on page 52)

TRANSPORTATION TRENDS

Government spending by all levels of government is going nowhere but up. Check out these trends (figures are in billions):



During the 1980s, state and local governments steadily increased their spending for airports, highways, railroads and transit, while federal spending grew far more slowly. (Figures are in billions.)



Source: Eno Foundation for Transportation.

ONE MAN'S LESSON: 'NO MORE MODES!'

With apologies to Gilbert and Sullivan, Thomas M. Downs might be called a very modern model of a multimodal general.

Over the past 20 years he has tussled with public administration and transportation problems as a city manager in Kansas and Arkansas, assistant to the U.S. secretary of transportation, policy and planning director at the Federal Highway Administration, executive director of the Urban Mass Transportation Administration, deputy mayor of Washington, D.C., and president of New York's Triborough Bridge and Tunnel Authority.

Now, as New Jersey's commissioner of transportation, Downs has been handed what may be his toughest assignment—coordinating the state's sometimes obstreperous toll road authorities, as well as other transportation agencies and NJ Transit, which Downs also heads. He is in charge of the new Transportation Executive Council, which must prepare a statewide transportation plan.

Taking a brief time out from those duties, Downs reflected on the state of transportation planning in the United States today. Here are some of his thoughts:

Transportation today is not a unified product. It has turf boundaries. It has mode champions. The challenge today is the international productivity of the system, not the fight over table scraps. No more modes! Transportation does only two things: one, move people or, two, move goods.

As one who struggled in a couple of different roles ... I was struck by how dominated planning investment was by something called "categorical modes." It sounded kind of funny, like pie à la mode. Each had its own role in the bureaucracy, its own rules, its own budget.

It's as if someone who had to take a cab to the train cared whether it was a different mode. Instead of thinking about moving people and goods from one place to another ... we made it into a very narrow set of concerns about how we spend money.

I think of Fred Smith, who developed Federal Express. He had a marvelously simple idea. A package of paper doesn't care whether it takes two or three modes to get there. From a courier to a van to an airport sorting facility to another airplane out to a van to courier—he integrated the whole operation. He was selling a service, moving something from point A to point B. That was his product, not a piece of the product.

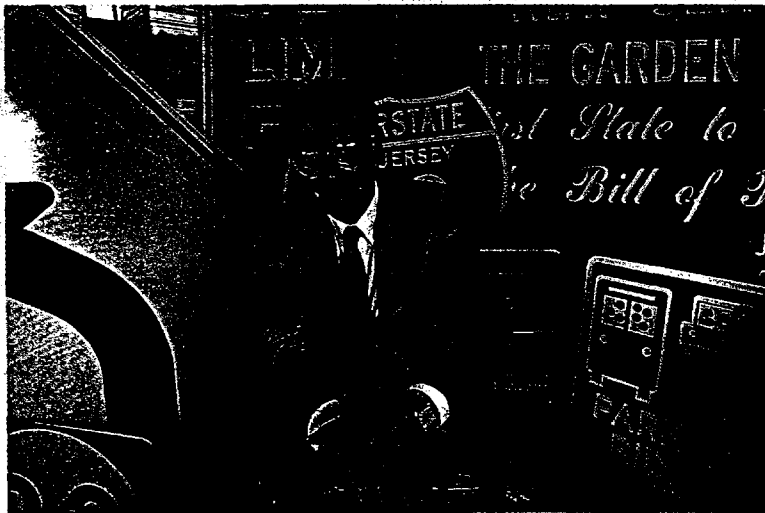
We love cars instead of mobility. We think of trucks instead of international competition. Competing instead of complementing. It makes us city versus rural, east versus west, highway versus transit. Most other developed countries don't think that way.

A lot of our productivity is tied up in the transportation investment decisions we make. We're not dominant any more, and the economic gains go to those who pay attention to those investments.

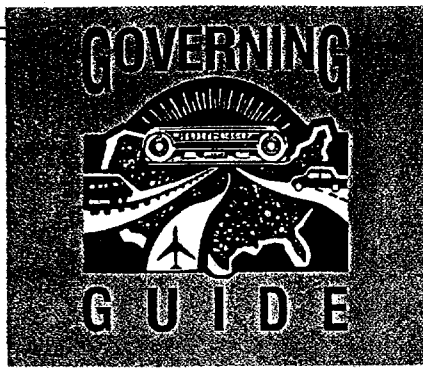
[Transportation Secretary Samuel K.] Skinner's program stopped at describing the overwhelming needs in transportation, mobility, the future of the country. In other words, "We need to put more money into it and we're sure the states will." But there was no real definition of the financial role the federal government will play.

And I think it will stay stopped. The government has made itself almost superfluous in its inability to make decisions because of the budget crisis. All it can do is pass laws and regulations. It can't be a partner.

It's interesting. From my experience at the local, federal and now state levels, it seems that the only place in the 1990s making serious decisions is the state. It's the only one large enough to accumulate enough mass multimodally—air, land and water—to make a difference. For the 1990s, the states are *it* in terms of action.



Thomas M. Downs



partment of Transportation was created in 1967. Now there are 44 state DOTs and most of them have up-to-date highway system plans. But few have similar plans for other modes.

State and local governments across the country are moving to overcome this fragmentation. In New Jersey, where the governor has just sought to rein in several turnpike and bridge authorities, independence was once an asset. It "served us well" when toll revenues were growing along with traffic, says Christine Johnson, deputy transportation commissioner. "But we're in a new era now. There's congestion but not much growth. All the authorities must be strategic in their investments and have a feel for the other guy's needs."

In the San Francisco Bay Area, five of nine counties have formed policy bodies to levy voter-approved sales taxes for transportation projects. There's irony in this proliferation of agencies growing out of Proposition 13, which was intended to reduce government, says Lawrence D. Dahms, executive director of the area's Metropolitan Transportation Commission. But the overall effect is positive, en-

abling the area to begin \$4 billion in otherwise unfunded projects.

WHO PAYS?

The fragmentation that characterizes transportation in the United States is matched by the patchwork of taxes, tolls and other revenues that help pay for the \$800 billion a year in transportation spending. State and local governments borrow heavily to cover the costs of upgrading their transportation systems, and that trend is likely to continue. In 1989, states and cities issued \$7.4 billion worth of long-term, tax-exempt municipal bonds for transportation projects, most of them revenue bonds, to be repaid with revenues, such as tolls, generated by the projects they finance.

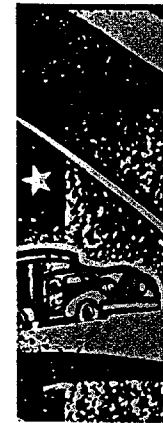
Highways. After the Bush administration unveiled its transportation plan, Illinois' Republican governor, James R. Thompson, summed up the feeling of many of the nation's governors about the President's message: "Read my lips; raise your taxes."

The governors point out that state and local governments already are paying 78 percent of the cost of highways. And they believe their gasoline taxes are at the limit already, exceeding the federal gasoline tax in almost all cases. Only 13 states impose a tax of less than 15 cents a gallon.

Yet the states are unhappy about

the increase in the federal gasoline tax—especially if it is used for deficit reduction, not transportation. They contend that the \$10 billion surplus in the Highway Trust Fund is being maintained to make the federal deficit seem smaller.

Transit. In recent years, states have supplanted the federal government as the primary revenue source for mass



The U.S. spends about \$800 billion a year on transportation, about 20 percent of the Gross National Product.

transit projects, providing \$1 billion more than the \$3.2 billion federal share in 1989.

California has proposed that mass transit funds raised from federal gasoline tax revenues be allocated according to each state's proportionate contribution of the tax. Currently, 1 cent of the federal gas tax is earmarked for mass transit under a formula that California officials say benefits only a few large cities with mass transit systems in place. In approving an increase in the state gas tax in June, California voters permitted the tax revenues to be used for mass transit. They also approved \$3 billion in bond issues for transit and intercity rail projects.

Light-rail systems, the modern version of the electric trolley cars that clanged through many American cities for the first half of the century, continue to grow in popularity as a less expensive substitute for or supplement to commuter rail projects. Some 20 U.S. cities are planning or building light-rail systems, often using abandoned railroad rights of way.

Aviation. Most large airports are

(continued on page 56)



Hurry up and wait: Is America's future going to be tied up in traffic?

HIGH-TECH TRANSPORT:

Pie in the sky. Pipe dreams, Buck Rogers stuff. Descriptions of the world in 2020? No, these are phrases applied 30 years ago, as work began on the interstate highway system, to such far-fetched notions as personal computers, space shuttles and video tape recorders.

Today the same terms are heard to describe—and sometimes deride—the anti-gridlock technology that could become commonplace to the next generation.

High-speed rail. By 1995, Florida wants to have in place a 325-mile high-speed rail line connecting Tampa, Orlando and Miami. That line will probably be a “steel wheel on steel rail” line, but Florida also is leading in a possible demonstration of “Maglev” trains, which are suspended above the rails by powerful magnets. Free of friction, the trains can speed 300 miles an hour or faster, making them competitive with air travel for trips under 800 miles. A 17-mile line from Orlando Airport to Disney World may become one of the first working Maglev systems, when it opens in 1994.

Privately financed high-speed rail projects are also being considered in California, Illinois, Michigan, Minnesota, Nevada, New York, Ohio, Pennsylvania, Texas, Washington State and Wisconsin.

Daniel Patrick Moynihan, chairman of the Senate Public Works Subcommittee on Transportation, is pushing to subsidize Maglev development. He and others see Maglev as an outlet for aerospace companies idled by defense cutbacks.

Rail freight. To regain some of the business they have lost to the trucking industry, railroads in several states are experimenting with “RoadRailers,” truck trailers fitted with tires for highway use and retractable steel wheels for rail use. A locomotive can haul coupled RoadRailers like a string of conventional freight cars.

Trains of flat cars carrying double-stacked containers are proving to be competitive with trucks in hauling freight to and from seaports.

The Virginia Port Authority has even built an “inland port” at Front Royal, 200 miles from the Atlantic Ocean. Because truck transportation becomes more expensive closer to the congested east coast, freight is transferred to rail cars at the 160-acre facility for the final run to the port of Hampton Roads, Va.

Railroads also are developing a high-tech method to make up trains without crews. Using computers and satellite signals, the system enables a single dispatcher to find cars and relocate them within the freight yard.



MOVING RIGHT ALONG

Automated toll collection. With more toll roads envisioned because of scarce tax money, avoidance of toll-booth slowdowns is a high priority. Scanners that can read automatic vehicle identification stickers like grocery bar codes offer many possibilities. Cars and trucks with prepaid tolls can roll through without stopping, or the toll could automatically be charged to a credit card. Charges can be adjusted to encourage off-peak use or to detour heavy trucks to stronger roads.

Tough turnstiles. Designers are working on automatic fare-collection turnstiles that can withstand the rigors of inventive fare-beaters who ride New York City's subway system. Passengers would pass through electronic turnstiles using a token or prepaid fare card, a system currently used in cities like San Francisco and Boston. Among the new design elements are chutes that prevent tokens from sticking and make it difficult for people to jam turnstiles with paper.

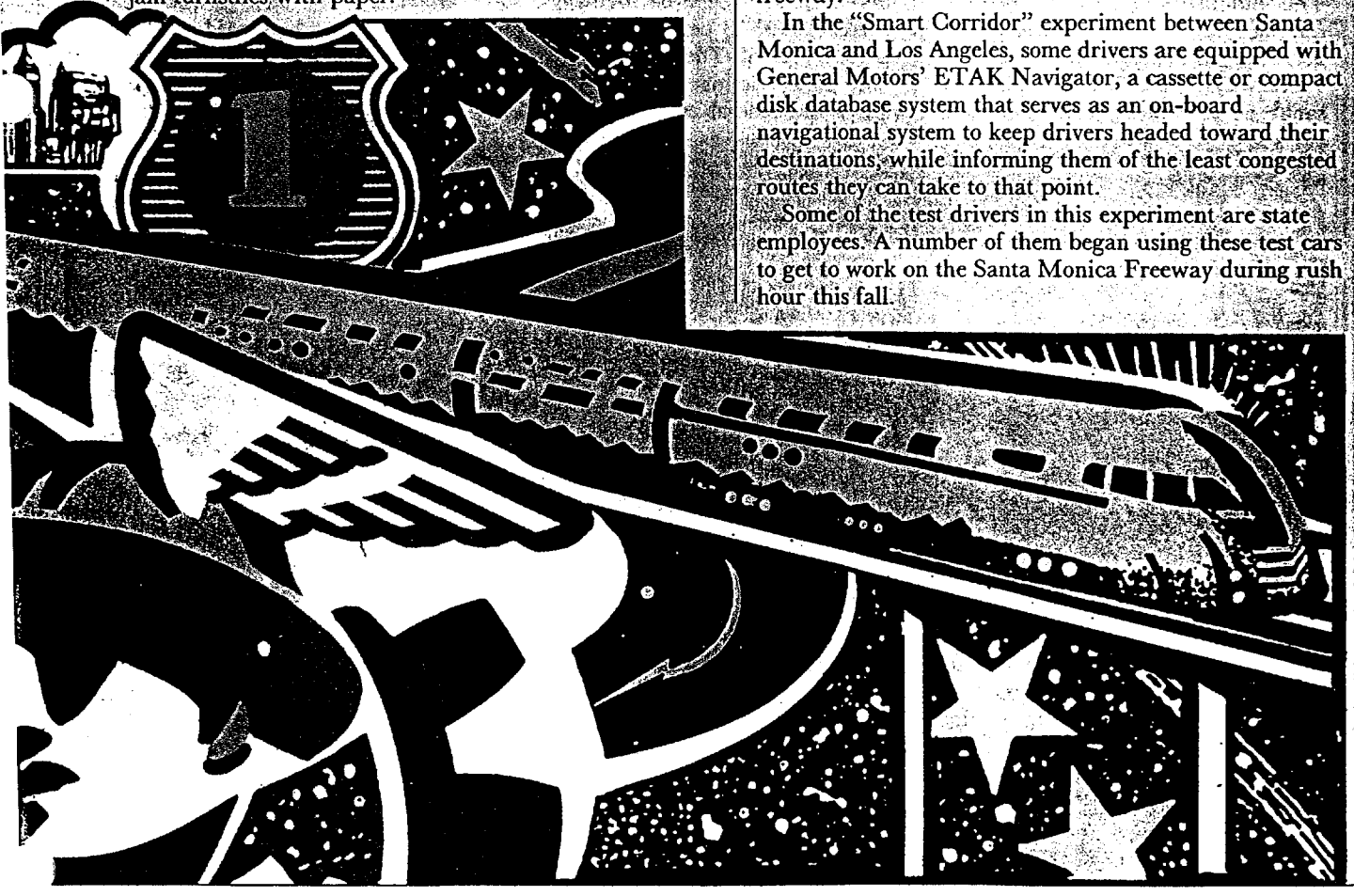
Traffic management projects. "Intelligent" vehicle and highway system projects use signs and radio messages to divert traffic from freeways to less-congested parallel arteries. Sensors embedded in pavements can be used with traffic signals to control the flow of cars onto crowded freeways.

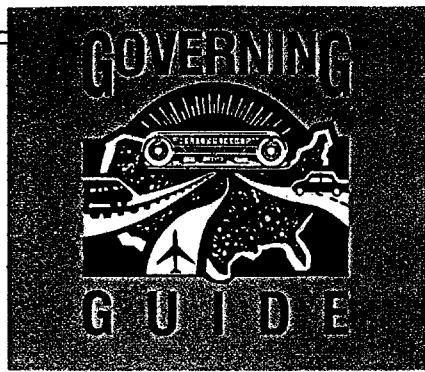
Noting that most airplane or helicopter traffic reports are broadcast intermittently and usually reach drivers too late to be of any use, traffic engineers speak of providing "real-time" or on-demand information so that motorists can choose another route if the freeway is blocked up ahead.

Such systems are useful but they have their limits, says Lawrence D. Dahms, executive director of the Metropolitan Transportation Commission which is responsible for highway and transit coordination in the nine-county San Francisco Bay Area. A smart corridor "doesn't matter if there's no alternative to staying on the freeway."

In the "Smart Corridor" experiment between Santa Monica and Los Angeles, some drivers are equipped with General Motors' ETAK Navigator, a cassette or compact disk database system that serves as an on-board navigational system to keep drivers headed toward their destinations while informing them of the least congested routes they can take to that point.

Some of the test drivers in this experiment are state employees. A number of them began using these test cars to get to work on the Santa Monica Freeway during rush hour this fall.





owned by local or regional governments. State governments operate only those serving Baltimore-Washington, Hartford and Honolulu. But the state role is growing, with some states—notably Colorado, Florida and Illinois—taking the lead in planning new or expanded airports. Eleven states have more than doubled their aviation spending in the last two years.

The Airport and Airway Trust Fund, which has a cash balance of \$8 billion, provided \$1.4 billion in fiscal 1990 for the Airport Improvement Program. Most money for the trust fund comes from an 8 percent passenger ticket tax, which the Bush administration would increase to 10 percent. The administration also proposed permitting local governments to impose a \$3 facility charge per passenger.

Waterways. In Seattle, where thousands of commuters ride state-oper-

were not part of the original interstate highway network and therefore not eligible for 90 percent federal funding. California has proposed that the new federal legislation include roads to major seaports and airports as part of the Highway System of National Significance.

Infrastructure Repairs. Estimates of the money needed by the year 2000 to repair the nation's infrastructure range from \$113 billion annually, by the Association of General Contractors, to \$38.1 billion annually, by the Congressional Budget Office. Already, the transportation infrastructure is demanding substantial annual capital expenditures—well over \$30 billion in recent years.

AASHTO's Francois said the group is trying to raise the current rate of spending in a rational way, with a staged increase spread among government levels in the same proportion they now spend on highways: 50 percent state, 28 percent local and 22 percent federal. The Bush transportation policy seems to be moving to lower the federal share to 18 or 20



Airlines fly 450 million passengers a year. Amtrak carries about 35 million passengers annually.

nism, is considering them. "It's an old idea whose time has come back," says Carl B. Williams of Caltrans, the California Department of Transportation. "The Brooklyn Bridge was entirely private and had a toll."

Applying that same basic principle, Colorado's East-470 Authority is building a \$575-million beltway around eastern Denver using tax-exempt bonds to be repaid with toll receipts, vehicle registration fees and developers' subsidies. Although the state legislature granted the authority emi-



Coast to coast: How long will Americans stand in line for better public transit?

ated ferries across Puget Sound every day, the people are taxing themselves for improvements to the ferry and other transit systems without waiting for federal aid, says Ronald D. McCready of the Puget Sound Council of Governments.

Some states have used so-called demonstration grants to build waterways and airport access roads that

percent, an idea that does not win favor among state and local officials.

PRIVATIZATION

Private investment is an increasingly important source of public works funding, one that would be a mainstay of the Bush policy.

California, which once disdained toll roads as an East Coast anachro-

nent domain, owners are donating most of the 48-mile right of way.

Because the expected \$4.3 million in toll receipts would not support sufficient borrowing, the amount is being leveraged with a letter of credit to secure the authority's bonds. The four-lane highway will be expandable to eight lanes, with the median reserved for transit. And it will be "right

at the front door" of Denver's new airport, says John Arnold, head of the authority.

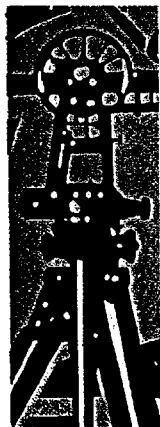
Referring to the transportation secretary's call for more public-private cooperation in building expensive projects, Arnold said, "Sam Skinner defined E-470 when he said that. The country's going to be building a lot more of them."

Tysons Corner, a Northern Virginia area with a daytime population of 500,000, has received \$40 million worth of private transportation improvements through TYTRAN, the Tysons Transportation Association. The developers and property owners formed TYTRAN to facilitate movement between two giant mall and office developments on both sides of the I-495/I-95 beltway around Washington, D.C.

TYTRAN is similar to a relatively new type of entity, the transportation management association, which has sprung up to provide needed facilities where public investment may not be available or justified. Near the Tysons Corner area, an association called DATA (the Dulles Area Transportation Association) is supporting a private corporation's proposal to extend an existing toll road beyond Dulles International Airport to Leesburg. Private investors have also proposed a light-rail line connecting Dulles with the subway system that serves the Washington, D.C. metropolitan area.

FLEXIBILITY

As Congress shapes the basic legislation that will frame the nation's fu-



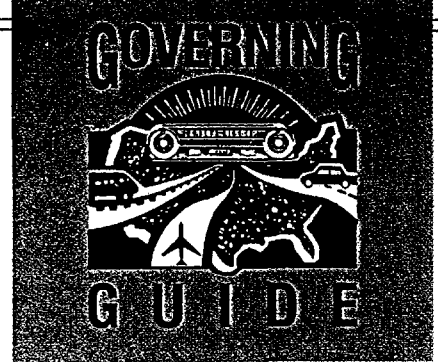
One of every 3 miles of interstate highway needs repair. Two out of 5 bridges are obsolete or falling apart.

ture transportation system, it will be able to look to several states for models of what can be done with a more flexible, multimodal approach to transportation planning and funding.

California. The state most identified with freeways has long since gotten religion. It has an established mass transit system in San Francisco's BART, another one under construction in Los Angeles and active intermodal planning programs in other metropolitan areas. California and several other states seeking more flexibility in federal policy oppose a "business-as-usual" stance favoring wider freeways over alternative solutions to transportation problems, says Williams, author of Caltrans' recent report recommending changes in federal transportation policy.

"So much of federal transportation money is 'cookie-jarred,' put in separate containers," Williams said. "It's not only inconvenient, it gets you into the most stupid things. For instance, maybe you could get a higher benefit with mass transit or improving the arterials. But you go for widening the interstate by four lanes because that's the only way you get the money."

Illinois. Working with other agencies, the Illinois DOT has a multimodal plan to relieve congestion, particularly in and around Chicago. Part of the plan, "Operation Green Light," focuses on signalization and other short-term changes to improve the management of freeways and streets. The state's 2010 Plan also



takes a long-range look at mass transit and other capital needs. IDOT's Michael A. Williamsen, coordinator of the study, urges other state planners to ask themselves: "Do the various modes truly work together to solve congestion?" and "Can we get away from compartmentalizing of transportation funds?"

New Jersey. In one of the most sweeping moves toward coordination, New Jersey's Democratic governor, James J. Florio, set up a Transportation Executive Council in the Transportation Department under Downs. (See box, page 49.) The council's membership includes a dozen independent bridge and toll road authori-

(continued on page 60)

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GETTING IN GEAR

For more information about transportation, there are a number of places that state and local officials can contact for help.

Aerospace Industries Association of America, 1250 I St. N.W., Washington, D.C. 20005. (202) 371-8400.

Air Traffic Control Association, 2020 N. 14th St., Arlington, Va. 22201. (703) 522-5717.

Air Transport Association of America, 1709 New York Ave. N.W., Washington, D.C. 20006. (202) 626-4000.

Aircraft Owners and Pilots Association, 500 E St. S.W., Washington, D.C. 20024. (202) 479-4050.

Airport Operators Council International, 1220 19th St. N.W., Washington, D.C. 20036. (202) 293-8500.

American Association of Port Authorities, 1010 Duke St., Alexandria, Va. 22314. (703) 684-5700.

American Association of State Highway and Transportation Officials, 444 N. Capitol St. N.W., Washington, D.C. 20001. (202) 624-5800.

American Automobile Association, 500 E St. S.W., Washington, D.C. 20024. (202) 554-6070.

American Bus Association, 1015 15th St. N.W., Washington, D.C. 20005. (202) 842-1645.

American Public Transit Association, 1201 New York Ave. N.W., Washington, D.C. 20005. (202) 898-4000.

American Public Works Association, 1301 Pennsylvania Ave. N.W., Washington, D.C. 20005. (202) 393-2792.

American Road and Transportation Builders Association, 501 School St. S.W., Washington, D.C. 20024. (202) 488-2722.

American Short Line Railroad Association, 2000 Massachusetts Ave. N.W., Washington, D.C. 20036. (202) 785-2250.

American Trucking Associations, 2200 Mill Rd., Alexandria, Va. 22314. (703) 838-1700.

Association for Commuter Transportation, 1776 Massachusetts Ave. N.W., Washington, D.C. 20036. (202) 659-0602.

Association of American Railroads, 50 F St. N.W., Washington, D.C. 20001. (202) 639-2100.

Eno Foundation for Transportation, 270 Saugatuck Ave., Westport, Conn. 06880. (203) 227-4852.

Federal Aviation Administration, 800 Independence Ave. S.W., Washington, D.C. 20591. (202) 267-3111.

Federal Highway Administration, 400 7th St. S.W., Washington, D.C. 20590. (202) 366-0650.

Federal Railroad Administration, 400 7th St. S.W., Washington, D.C. 20590. (202) 366-0710.

Highway Users Federation for Safety and Mobility, 1776 Massachusetts Ave. N.W., Washington, D.C. 20036. (202) 857-1200.

Institute of Transportation Engineers, 525 School St. S.W., Washington, D.C. 20024. (202) 554-8050.

International City Management Association, 1120 G St. N.W., Washington D.C. 20005. (202) 626-4600.

Maritime Administration, 400 7th St. S.W., Washington, D.C. 20590. (202) 366-5823.

National Air Carrier Association, 1730 M St. N.W., Washington, D.C. 20036. (202) 833-8200.

National Air Transportation Association, 4226 King St., Alexandria, Va. 22302. (703) 845-9000.

National Association of Counties, 440 First St. N.W., Washington, D.C. 20001. (202) 393-6226.

National Association of Railroad Passengers, 236 Massachusetts Ave. N.E., Washington, D.C. 20002. (202) 546-1550.

National Association of Regional Councils, 1700 K St. N.W., Washington, D.C. 20006. (202) 457-0710.

National Business Aircraft Association, 1200 18th St. N.W., Washington, D.C. 20036. (202) 783-9000.

National Conference of State Legislatures, 444 N. Capitol St. N.W., Washington, D.C. 20001. (202) 624-5400.

National Governors' Association, Suite 250, 444 N. Capitol St. N.W., Washington, D.C. 20001. (202) 624-5300.

National League of Cities, 1301 Pennsylvania Ave. N.W., Washington, D.C. 20004. (202) 626-3000.

National Research Council, Transportation Research Board, 2001 Wisconsin Ave. N.W., Washington, D.C. (mailing address: 2101 Constitution Ave. N.W., Washington, D.C. 20418) (202) 334-2933.

National Safety Council, 1050 17th St. N.W., Washington, D.C. 20036. (202) 293-2270.

National Transportation Safety Board, 800 Independence Ave. S.W., Washington, D.C. 20594. (202) 382-6850.

National Railroad Passenger Corp. (Amtrak), 60 Massachusetts Ave. N.E., Washington, D.C. 20002. (202) 906-3960.

Rebuild America Coalition, 1957 E St. N.W., Washington, D.C. 20006. (202) 638-3811.

Regional Airline Association, 1101 Connecticut Ave. N.W., Washington, D.C. 20036. (202) 857-1170.

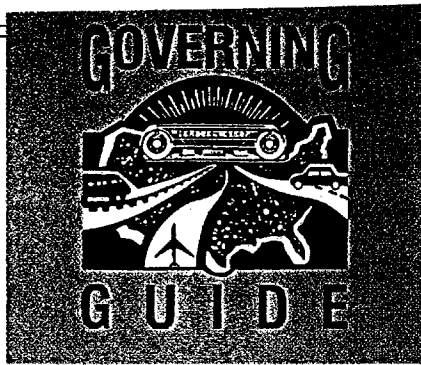
The American Waterways Operators, 1600 Wilson Blvd., Arlington, Va. 22209. (703) 841-9300.

The Road Information Program, 1200 18th St. N.W., Washington, D.C. 20036. (202) 466-6706.

Urban Land Institute, 625 Vermont Ave. N.W., Washington, D.C. 20004. (202) 289-8500.

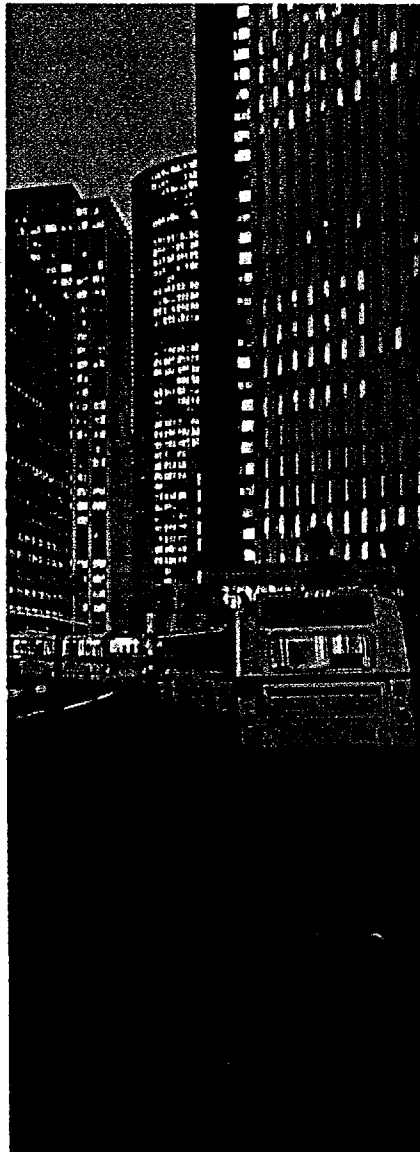
Urban Mass Transportation Administration, 400 7th St. S.W., Washington, D.C. 20590. (202) 366-4043.

U.S. Conference of Mayors, Fourth Floor, 1620 I St. N.W., Washington, D.C. 20006. (202) 293-7330.



ties, including those which run the New Jersey Turnpike, Garden State Parkway and Atlantic City Expressway. In the past, some of their toll increases or road-widening projects had ignored statewide needs.

"Groups that should be working together for the good of all have been acting far too often like sovereign nations, accountable to no one," Florio said. He directed Downs and the



Urban solution: Back to the bus?

council to "set an action agenda for the entire state."

Maryland. Because it has a state DOT with control over all modes of transportation, one of the few so organized, Maryland was able to act quickly several years ago to compete for designation of Baltimore-Washington International Airport as a hub facility for Piedmont Airlines, which was also considering Dulles International Airport, in Virginia, as the site of the hub operation. Dulles, then under FAA control, had to go through the federal appropriations process; Maryland did not. The facility was built in nine months using \$20 million borrowed from highway toll receipts.

In the summer of 1990, the state opened a spur from I-95 to the airport, which is also served by a nearby Amtrak station. A transportation management association, Greater BWI Commuter Transportation Center, is working with major employers to reduce congestion in the area.

The state DOT and other local authorities coordinated with the Washington, D.C. subway system in the construction of adjoining subway and Amtrak stations at I-95 and soon will include a light-rail line from north of Baltimore to the BWI train station.

Paul Wiedefeld has just completed a \$1.3 million Statewide Commuter Assistance Study of 24 transportation corridors for the state. Its purpose, he says, was "to get the best bang for the buck" using all transportation modes. In a time of limited funding, he says, such thinking "has to be the way of the future."

The idea is spreading. Virginia officials recently agreed to use tolls from the road to Dulles to build a rail link between the airport and Washington's subway system.

WHAT NEXT?

Transportation's constituency is so large and diverse that getting its major components to agree on anything seems well nigh impossible. But achieving something like a consensus appears imperative if Congress is to devise an effective replacement for the interstate highway program.

State, regional and local governments need to determine what they want from the new program and let Congress know about it. Without consensus on a new direction for national transportation policy, lawmakers could simply pass a short-term renewal of the existing system or abort it altogether. Either way, state and transportation interests believe, the



**The U.S. has
165 million
licensed drivers.
They drive 144
million cars and
44 million
trucks and
buses.**

nation would lose.

But for now, disagreement clouds the transportation front. Moreover, there is pessimism about the federal government's ability to do much about the problems facing states and their communities.

Puget Sound's McCready believes that the highway-vs.-transit argument has become irrelevant in today's complex society. The country can't wait around for the federal government to decide whether it wants to be a partner in solving the more difficult problems that remain, he says.

"We don't need or want the feds for anything besides money," he said. "And even that is just a return of the money we put in."

Because of the budget crisis, said New Jersey's Downs, "The government has made itself almost superfluous in its inability to make decisions. . . . All it can do is pass laws and regulations. It can't be a partner."

If they are right, it's all the more important that states and communities develop their own mobility solutions and find ways to make them happen.

"The smart guys aren't waiting," says McCready.



COMMITTEE MEETING TITLE SPACT

DATE 1-17-91 7:15 a.m.

NAME	AFFILIATION
M- Carl Brunnerman	City of Portland
M- Ed DeLong	Clackamas Co.
M- Carter Mac Dugal	Port
M- Steven S. Silber	Clackamas Cities
M- Pauline Anderson	Multnomah County
MA- Keith Ahola	WSDOT
M- Clifford Clark	Cities of Wash Co.
MA- Les White	C-TRAN
M- Marjorie P. Schumack	Cities of Mult County
M- RICHARD DEKIN	METRO
M- Ronald Hart	City of Vancouver
M- George Van Bergen	Metro
M- Jim Loren	Tri / met
M- Roy Rogers	WASHINGTON County
M- Daniel Knowles	Metro
Andy Colman	Metro
G- John Kowalczyk	DEQ
G- Denny Moore	DOT
G- GB ARRINGTON	TRI-MET
G- Molly O'Keilly	Citizen
G- Andy Ginsburg	DEQ
G- Margo Norwen	Office of Sen. Mark Hatfield
G- Mary Weber	TRWC

COMMITTEE MEETING TITLE JPACT

DATE 1/17/91 (CONT'D)

NAME

AFFILIATION

G- STEVE DOTTERER CITY OF PORTLAND STAFF

G- Howard Harris DEB

Karen Shackston meteo

G- PAUL HAINES CLACKAMAS CITIES - LAKE OSWEGO

G- Susie Ladsee Mult. CO.

MARTIN WINCH METRO COUNCIL

G- BRUCE WARNER UN. CO.

G- ROD SANDERSON CLACKAMAS COUNTY

G- D. MULLS Intergovernmental Resource Center

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G- DAVE WILLIAMS ODOT

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MA Don Adams ODOT