Testimony of Andy Cotugno, Metro Policy Advisor
In Support of Senate Bill 117 before the
Senate Committee on Business and Transportation
March 16, 2015

Metro
www.oregon**metro.gov**

Chair Beyer and members of the Committee:

Good afternoon, I am Andy Cotugno, Senior Policy Advisor for Metro with a long history in transportation issues in the Portland region. I am here to urge your support for Senate Bill 117.

I am testifying on behalf of Metro, the regional government for the Portland metropolitan area. The voters of the region created Metro specifically to address urban issues that are regional in nature rather than local and to deal with challenges that cross city and county lines. As the federally designated metropolitan planning organization – or MPO, Metro has a long-standing role in coordinating transportation planning for the Portland region. The federal government requires the establishment of MPOs as a prerequisite for spending of federal transportation dollars in recognition of the multi-jurisdiction, multi-modal nature of urban transportation systems. Every transportation service provider has a primary focus on the part of the system they are responsible for building, maintaining and operating, including ODOT, the cities and counties, transit agencies and the port. MPOs are responsible for coordinating the plans across modes and across agencies and jurisdictions while the public is indifferent to who owns what as they pass from one part of the region to another. This multi-jurisdictional role is particularly relevant to Senate Bill 117 dealing with establishment of a Task Force on Jurisdictional Transfers, which would hopefully address an issue that inherently crosses jurisdictional lines.

As you know, the Oregon Transportation Forum (OTF) is an organization whose membership is interested in transportation policy, funding and service delivery. For the past year and a half, the OTF members have collaborated to develop a comprehensive transportation funding and policy package for consideration by this Legislature. One element of that package is a recommended pilot program to dedicate a 1-cent gas tax increase to a Jurisdictional Transfer program to facilitate a better alignment between ownership and responsibility for the state's road and highway system.

While on the surface, it may seem there is a clear division of responsibility for roads and highways of state vs. local significance between ODOT and local governments, in fact, there are too many examples of roads belonging to ODOT that function as a local street and roads belonging to cities or counties that carry substantial volumes of through traffic. This mismatch of ownership results in deferred investment and worsening conditions. Due to limited resources and the approach for distributing state highway funds to ODOT and local governments, there is little incentive to change. ODOT rightly prioritizes their limited resources on the major state and interstate routes, leaving state highways that they own that function more like a local road as an "orphan," facing disinvestment and disrepair. Further, the local government generally lacks the ability to invest in maintenance or improvement to the state highway because they can't even keep up with the roads they have direct responsibility for. And, they really have little incentive to take over a state highway plagued with deferred maintenance since their distribution from the state highway funds is based upon their size measured in population or registered vehicles, not their road miles.

A full copy of the pilot program can be accessed on the OTF website. I have provided below a link to the Document Sharing page where it can be downloaded. The recommendation that the OTF called for is to establish a pilot program, give it a try, learn from experience during a 10-year test period to establish policies and protocols for operating the program on a permanent basis. SB 117 is at least a step in the right direction, providing a forum to vet the issues and approaches for addressing the issues before adopting legislation to carry out the program.

We urge you to support SB 117.

https://oregontransportationforum.wordpress.com/documentsminutes/

Oregon Jurisdictional Highway Transfer Program

(Prepared for the Oregon Transportation Forum)

Introduction

Ownership patterns of streets, roads and highways across Oregon are a remnant of history that does not necessarily align with appropriate jurisdictional responsibilities. A road that ODOT would consider of minor importance for which little investment is warranted may be a very important route to the city or county where it is located. The logical answer would be to transfer jurisdictional responsibility and realize the efficiency and priority of a more appropriate alignment. However, in an era of inadequate funding, there is no motivation for the logical jurisdiction to take over ownership when it comes with more cost liability and no more funding from the state highway fund. Presented here is a proposal for a policy framework and funding structure to facilitate appropriate transfers of highway jurisdiction to better align responsibility with interest.

Background

In the case of the Interstate freeway system, there is a very logical connection between the high speed, high capacity character of these routes and the alignment with ODOT's mission to provide connections between cities, regions and states. But the Interstate system is the exception because it was built in recent history as a complete system of interconnected high grade facilities. ODOT also has responsibility for routes classified as Statewide significance which are nearly as high grade and high importance as the Interstate system. These are the routes most recognizable to Oregonians and include US 26, US 97, US 101, Hwy 99, Hwy 22, etc.

But ODOT also has many miles of state highways classified as Regional and District highways that do not provide a significant statewide function and appear to the average citizen to be more like a city street or a county road. In fact, in many cases, they function as city streets or county roads of comparable importance to that community as the locally owned routes. In certain (more limited) locally owned examples, certain routes carry a much higher burden of through traffic than that city or county would customarily be responsible for and, based upon their function, would more appropriately be the responsibility of ODOT.

In all cases where there is a mismatched responsibility, the jurisdiction that owns and operates the route has been forced to de-prioritize funding to upgrade these routes and has deferred routine maintenance to such a level as to risk much higher future costs when the roadway fails. Under ODOT funding policies, highest priority use of limited resources is assigned to operate, maintain and preserve the highway system (Fix-It) with secondary importance to upgrading the system (Enhance). This is most emphatically illustrated by the funding decisions for the 2016-2018 State Transportation Improvement Program which allocates 76% of available ODOT funds to their "Fix-It" program and 24% to their "Enhance" program. Within these overall allocations, the "Fix-it" and "Enhance" funding is focused on routes of Interstate and Statewide significance. As funding becomes tighter and available funds are focused on higher priority Interstate and Statewide routes, the condition of lower priority Regional and District highways will deteriorate the most. In the next decade, ODOT projects the pavement condition on the Interstate system to decline from 95% fair or better to 88%, Statewide highways will decline from 85% to 72% and Regional and District highways will fall the most from 83% to 55%. With such a minimal resource to maintain the Regional and District routes and so many miles to address, the relatively low cost, high miles of rural maintenance tends to be addressed and the relatively high cost, low miles of urban maintenance is deferred.

Furthermore, there is no motivation for cities or counties to take over jurisdictional responsibility, especially for a facility with a high degree of deferred maintenance. This is due to the formula for distributing revenues in the state highway fund to cities based upon population and counties based upon registered vehicles. Since the state highway fund is the most significant source of road funding for that jurisdiction and it falls short of meeting the needs for their existing roads, it is prohibitive to take over ownership of additional road miles with increased financial liability.

Finally, the motivation between different jurisdictions is different. Generally, in growing jurisdictions, there is an interest on the part of the local jurisdiction to own and control these routes to reduce the challenges associated with new development that would otherwise be more complicated under ODOT's jurisdiction. In these cases, there is also growing wealth in the community and greater capacity to take on the added expenses of jurisdictional transfer. In jurisdictions that are not growing, there is little or no development producing changes to the roadway and therefore no significant complications dealing with ODOT. Without the motivation of the local government to want control of the facility, there is only an increased cost liability of jurisdictional transfer.

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<tr><th>Reasons ODOT may want to transfer a highway to a local government:</th><th>Reasons a local government may want to take over ownership of a highway from ODOT:</th></tr>
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The vehicle trips are local in nature, for shopping, commuting, recreation;
A new state highway bypasses a city and through traffic shifts to the new route;
A portion of a state highway is realigned leaving the old section only useful for local traffic;
The highway is not needed for statewide connectivity.
Does not serve a statewide purpose.

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The route is an important street for that community and the deferred maintenance hinders economic vitality and livability;
The local government may want to make improvements to support economic development and livability objectives;
The local government may want to provide greater access to adjacent properties than permitted by ODOT standards;
It is more efficient for one government to make land use decisions and the local government is best suited;

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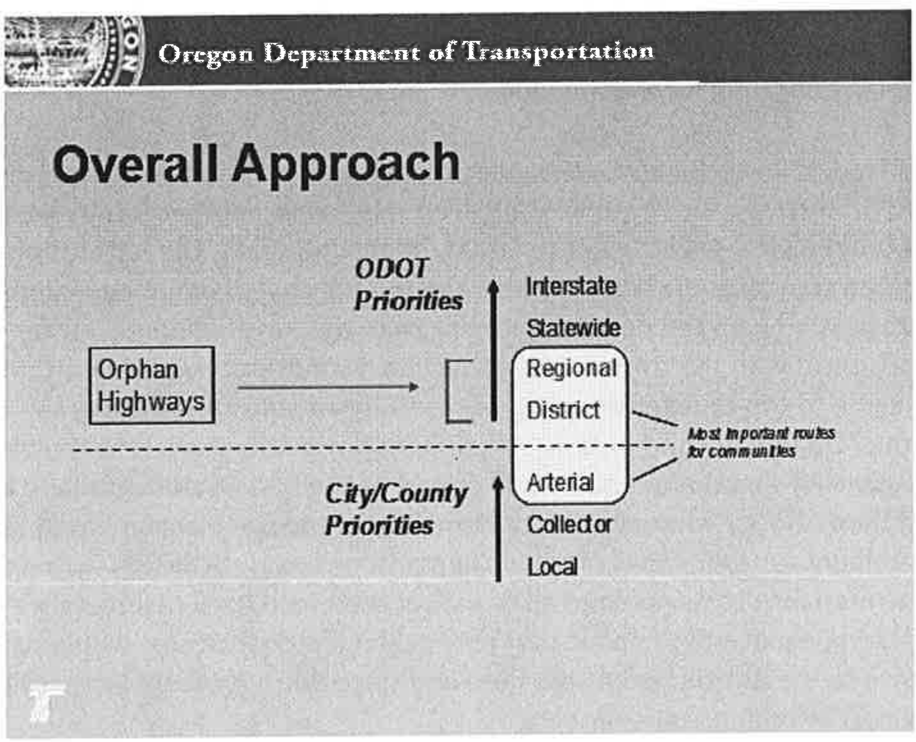
Reasons ODOT may want to take over ownership from a local government:	Reasons a local government may want to transfer a road to ODOT:
• The route is very important for through travel; • The route provides the principal access to commercial/industrial, institutional or recreation destination of statewide significance; • The road segment is functionally part of an interchange. • Does serve a statewide purpose.	• The character of the traffic has changed over time and it is now a significant route for through traffic; • The operations and maintenance cost is beyond the capacity of the local government to provide and deferred maintenance will impact through traffic; • The route has developed into a bypass of another highway of statewide significance due to urban levels of congestion.

The difference in priorities between ODOT and local governments is illustrated in the graphic below. While it is understandable that ODOT prioritize the longer distance, higher speed routes of Interstate and Statewide significance, disinvestment in routes of Regional and District significance impacts the routes within an individual city that is among their most important streets.



Funding Proposal

As a pilot project, increase the gas/diesel tax by 1-cent per gallon and the corresponding weight-mile tax on heavy vehicles (at a level consistent with the scope of expenditure). Establish a program to pay for up to the cost of rehabilitation and upgrade to urban standards plus on-going maintenance to an adequate standard. Up to this maximum, priority would be given to jurisdictional transfers that can be accomplished with a lesser commitment from the Jurisdictional Transfer Fund, as follows:

- First priority: commit funding from the Jurisdictional Transfer Fund an amount sufficient to rehabilitate the pavement condition. Allow this revenue source to be a contribution to an upgrade to urban standards leveraging other revenue sources, including the ODOT Enhance program (subject to those priorities), discretionary and competitive federal funds and various local funding sources (such as urban renewal, system development charges, local improvement districts, other dedicated road funds and local general funds); the receiving jurisdiction commits to taking over future maintenance responsibility.

- Second Priority: commit funding from the Jurisdictional Transfer Fund an amount sufficient to fully or partially upgrade to urban standards (and with the upgrade address the deferred maintenance needs). If partially funded, leverage other revenue sources to fully fund the needed upgrade; the receiving jurisdiction commits to taking over future maintenance responsibility.

- Third Priority: commit funding from the Jurisdictional Transfer Fund an amount sufficient to fully upgrade to urban standards plus an amount equal to the present value of future maintenance cost. This will allow for a single payment from the Fund rather than an on-going obligation for maintenance.

- Jurisdictional Trades: In certain circumstances, a package deal can be structured whereby ODOT transfers a facility to a local government with another facility being transferred from the local government to ODOT. In this situation, the full cost of upgrade to urban standards for both facilities and the full cost of on-going maintenance needs to be calculated with the net commitment from the Jurisdictional Transfer Fund prioritized consistent with the three levels above (i.e. First Priority where both jurisdictions agree to the transfer based upon receiving an amount sufficient to rehabilitate the facilities; Second Priority where both jurisdictions agree to the transfer based upon receiving an amount equal to all or part of the cost of an upgrade to the facilities; and third priority where both jurisdictions agree to the transfer based upon receiving an amount for some level of rehab/upgrade and the jurisdiction with a net increase in maintenance costs receives all or part of their increased maintenance costs. Note: Transferring equal maintenance cost for equal maintenance cost would not be an eligible expense to the Jurisdictional Transfer Fund since there is no net increase in maintenance cost to that jurisdiction.

- Interim use of Funds: Since jurisdictional transfers are the product of a negotiation between ODOT and a local government, there will be a ramp-up period for the program and use of the Fund will be delayed accordingly. In this interim period, the funds should be targeted toward rehabilitation projects that address deferred maintenance on the most likely candidate facilities. This will reduce future costs and moderate the demand on the Fund for future transfers.

Policy Proposal

Every candidate for jurisdictional transfer is a unique case and requires an individual negotiation between ODOT and the local government. As such, any final agreement must be with the consent of the governing boards of both jurisdictions. However, there are some consistent principles that can be applied in the administration of the funding program to reduce the barrier of taking on increased liabilities. Calculation of the potential costs for the transaction would need to be based upon a current assessment of conditions and a consistent application of unit costs appropriate to different parts of the state. Once the costs are determined, the cost sharing arrangement is a function of the non-cost motivations of the parties. In situations where the local government has many other reasons to want local control, a modest investment from the Jurisdictional Transfer Fund is needed. Conversely, if there is minimal other reason, a major investment to upgrade and maintain the facility will be needed. Using this as a pilot project should provide some experience to calibrate appropriate funding commitments to the circumstances. It will, in turn, provide the basis for determining the scope and cost of an on-going program.

Governance

The Jurisdictional Transfer Fund is a shared resource between ODOT, local governments, metropolitan areas, users of the system and the impacted community. As such, there should be a statewide Board established to manage the Fund and make final recommendations to the OTC and the local governing body on funding contributions from the Fund to finalize a transaction. The role of the oversight Board would be to establish policies and protocols to ensure a fair and objective transaction is being negotiated. Since each negotiation will be unique and represent the balancing of financial implication vs. other policy motivations, it is important to have an impartial oversight body. In the final analysis, application of a consistent practice will facilitate stretching the funds available to produce the greatest level of jurisdictional transfer achievable. Furthermore, a transaction will only be finalized when both parties, ODOT and the local government, agree that it is in each of their best interests.

Magnitude of the Need

It is not possible to establish the cost of this proposed program because each jurisdictional transfer is unique and subject to a specific negotiation between ODOT and the relevant local government. However, it is evident from the extent of road-miles/lane-miles owned by ODOT and classified as Regional and District Highways, especially those inside urban growth boundaries, that the need is great:

	Road-Miles	Lane-Miles
ODOT Regional & District Highways inside Cities over 5,000 population	251	726
ODOT Local Interest Roads	1155	2192
ODOT District Highways outside Cities in Counties over 100,000 population	804	1638
Highest Potential Transfer Miles - Total	2210	4556

For just these 4556 lane-miles of roads, if they were being adequately maintained, it would cost nearly $70M per year. Since they have not been adequately maintained due to higher priority routes, there is a large backlog of deferred maintenance. The largest backlog is in urban areas since the cost per mile is so much greater. ODOT has focused its limited resources on less expensive higher speed rural highways to preserve more of the asset. As an example of this cost difference, here are two projects currently under construction. In downtown Sisters, ODOT is rebuilding a 10 block area at a cost of $5M. ODOT is also repaving a rural 5 mile section of Hwy 58 at a cost of $2.5M. If the full 4556 lane-miles were transferred with the level of upgrades desired by the local government, these are the type of costs that would be encountered. The 1-cent gas tax proposal would raise $26.7 million per year (including a 34.5% heavy vehicle share), sufficient to support a pilot program. This would provide the basis for making significant progress, establish the needed policy guidance for individual negotiations and based upon that, better quantify the magnitude of the need. After a 10-year pilot program, one of several options could be implemented:

- Based upon policy and practices established through the pilot program and a better understanding of the magnitude of need, continue the program, either for a time certain period or on a permanent, continuing basis;
- Cancel the program because the need has been met or it does not prove effective and add the 1-cent gas/diesel tax to the city/county/state distribution formula.

Classification of State Highways

The state highway system provides for the safe and efficient movement of people and goods throughout the state and connections to neighboring states. The 1999 Oregon Highway Plan (OHP) places state highways into five categories, each with a different function and management objective. Higher order classifications are intended for longer distance through trips operating at higher speeds and are the priority for investment of ODOT Modernization funding. Lower order classifications are intended for shorter distance local travel and access to adjacent properties, are a low priority for ODOT funding (even funding for maintenance) and are the candidates for jurisdictional transfer. According to the Highway Plan, the classifications are as follows (pages 41-42):

- **Interstate Highways** provide connections to major cities, regions of the state and other states. A secondary function in urban areas is to provide connections for regional trips within the metropolitan areas. Interstate Highways are major freight routes and their objective is to provide mobility. The management objective is to provide for safe and efficient high-speed continuous-flow operation in urban and rural areas. Interstates include I-5, I-84, I-205, and I-405.

- **Statewide Highways** typically provide inter-urban and inter-regional mobility and provide connections to large urban areas, ports, and major recreation areas that are not directly served by Interstate Highways. A secondary function is to provide connections for intra-urban and intra-regional trips. The management objective is to provide safe and efficient, high-speed, continuous-flow operation. In constrained and urban areas, interruptions to flow should be minimal. Examples of Statewide Highways include US 20 (Newport-Corvallis, Sisters-Ontario), OR 126 (Florence-Eugene-Madras) and US 395 (Washington-California state lines).

- **Regional Highways** typically provide connections and links to regional centers, Statewide or Interstate Highways, or economic or activity centers of regional significance. The management objective is to provide safe and efficient, high-speed, continuous-flow operation in rural areas and moderate to high-speed operations in urban and urbanizing areas. A secondary function is to serve land uses that connect to these highways. Examples of Regional Highways include OR 99W in Willamette Valley, OR 138 (Roseburg-US 97) and US 197 (The Dalles – US 97).

- **District Highways** are facilities of countywide significance and function largely as county and city arterials or collectors. They provide connections and links between small urbanized areas, rural centers and urban hubs, and also serve local access. The management objective is to provide for safe and efficient, moderate to high-speed continuous-flow operation in rural areas reflecting the surrounding environment and moderate to low-speed operation in urban and urbanizing areas for traffic flow and for pedestrian and bicycle movements. Examples of District Highways include Canyon Road (Portland-Beaverton), OR 66 (Ashland-Klamath Falls), and OR 216 (Tygh Valley-Grass Valley).

- **Local Interest Roads** function as local streets or arterials and serve little or no purpose for through traffic mobility. Some are frontage roads; some are not eligible for federal funding. Currently, these roads are District Highways or unclassified. The management objective is to provide for safe and efficient, low to moderate speed traffic flow and pedestrian and bicycle movements. ODOT will seek opportunities to transfer these roads to local jurisdictions.

Consistent with the definitions above, ODOT would retain and place priority emphasis on the routes designated as Interstate and Statewide significance. In addition, in certain locations, local roads that are integral to the operation of the Interstate and Statewide routes would be candidates for transfer to ODOT. The most likely candidates for transfer from ODOT to local governments are Local Interest Roads, District Highways inside Cities and Regional Highways inside UGBs of growing cities over 5,000 population.