



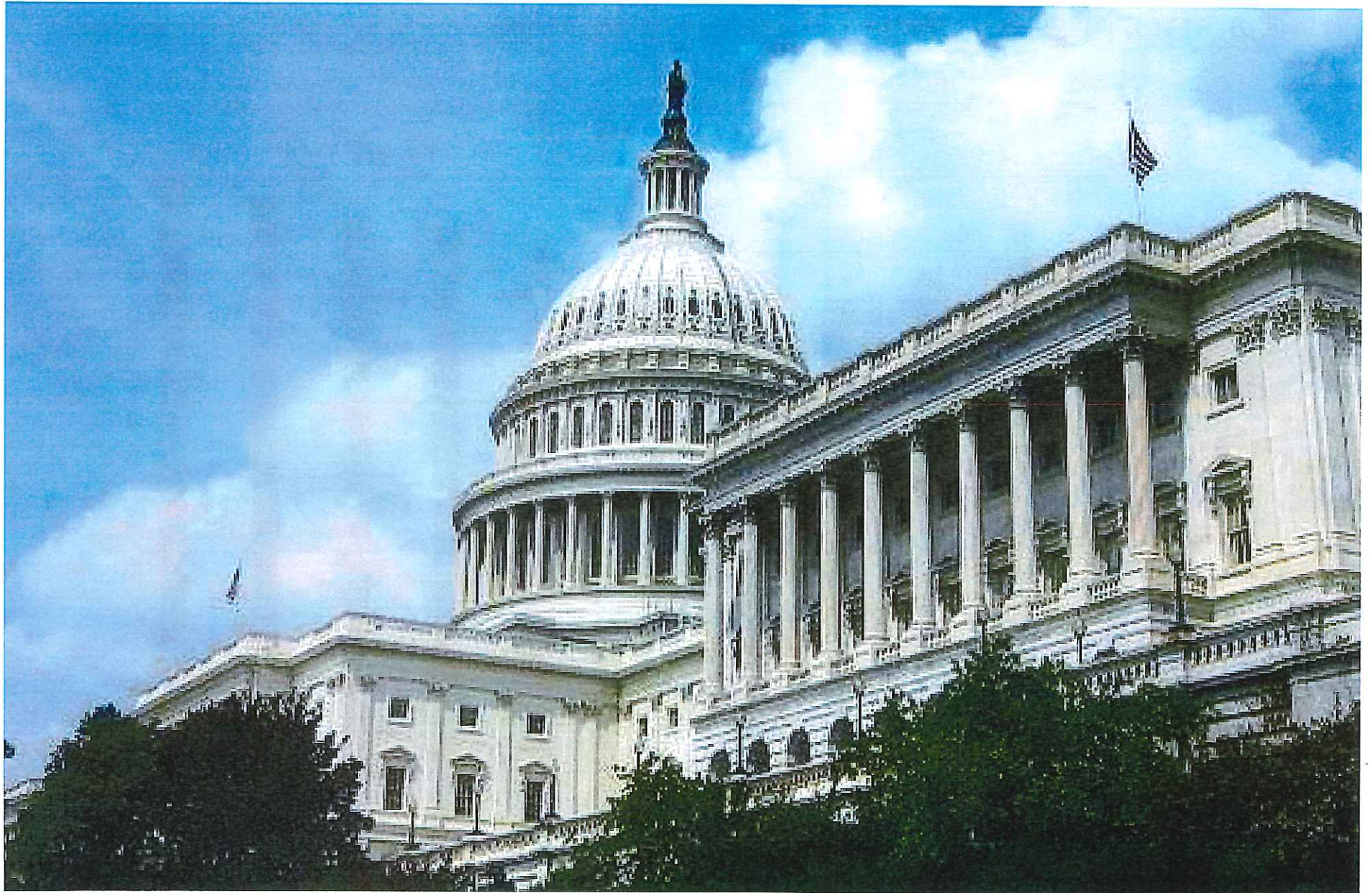
Transportation Funding & Finance 101

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Congestion Workgroup
February 20, 2017



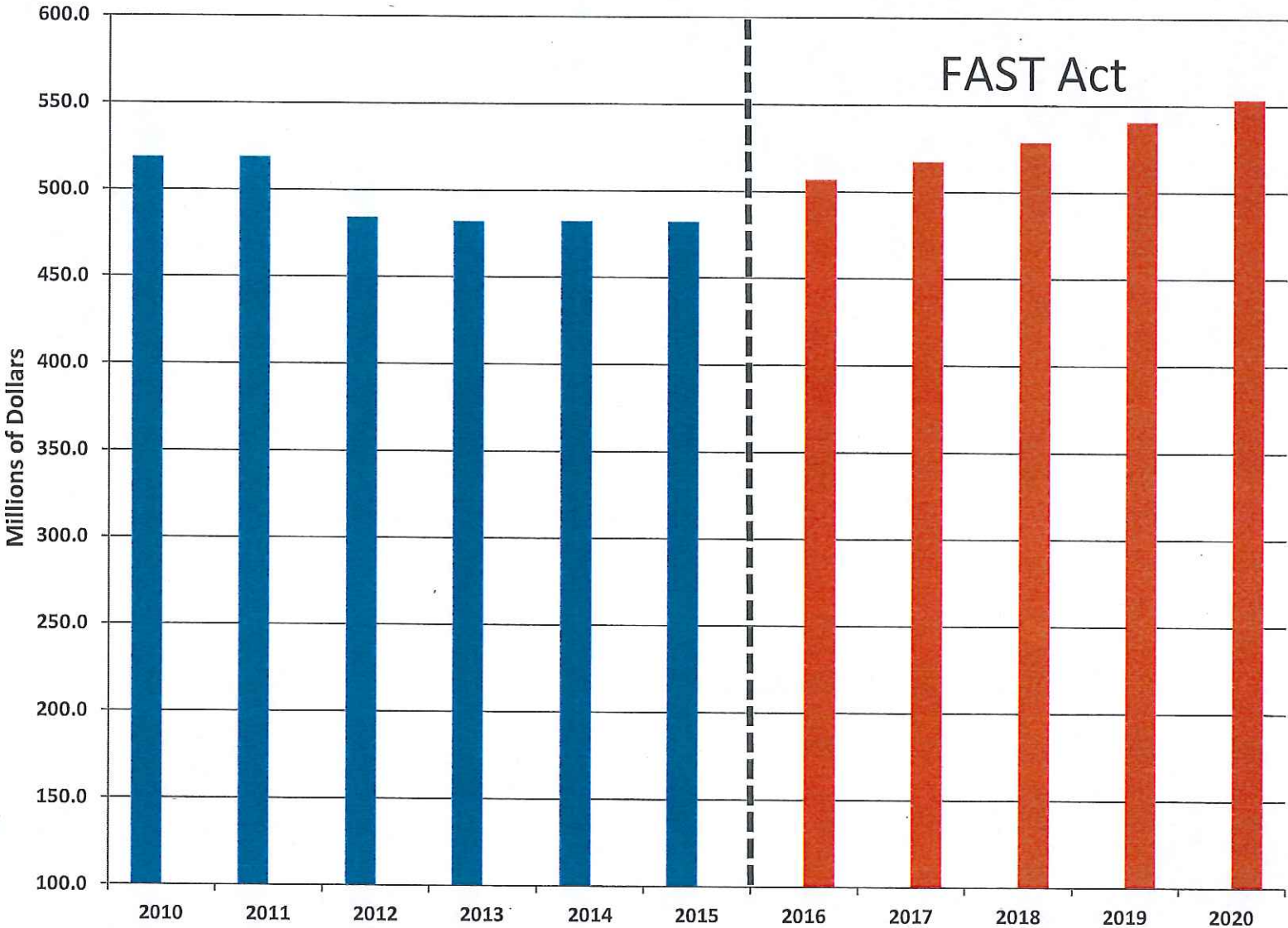
Major Funding Sources

Federal Surface Transportation Funding



Federal Highway Funding to Oregon

Oregon Federal-aid Highway Program apportionments



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Federal Surface Transportation Funding in Oregon

Funding from the federal Highway Trust Fund flows to ODOT and local governments in Oregon through a variety of formula-based programs. Each of these formula programs has been established to serve a different purpose – safety, freight mobility, etc. With direction from the Oregon Transportation Commission, ODOT uses funding from these programs to invest in the Enhance and Fix-it projects that make up the four year Statewide Transportation Improvement Program (STIP). All of the funding from the formula programs listed below has been committed, via the STIP, to state and local government projects through 2018. Additionally, the OTC has published a draft 2018-2021 STIP for public comment after receiving project recommendations from Area Commissions on Transportation (ACTs).

Freight Programs

National Highway Freight Program

The National Highway Freight Program is a FAST Act-created program which provides funding by formula to states for investing in freight projects. In total, Oregon can expect to receive nearly \$78 million in new funding over the five years of the FAST Act (\$14.3 million in 2016) through this program. Funds may be used only on projects located on the National Highway Freight Network, which, in Oregon, is primarily made up of the Interstate System. ODOT has a two year grace period to begin obligating National Highway Freight Program funding, but by December of 2017, ODOT will be required to have a Federal Highway Administration (FHWA) compliant freight plan in order to retain the authority to obligate NHFP funds. Compliant freight plans must include an inventory of bottlenecks as well as a fiscally constrained freight investment plan. ODOT has completed the inventory of freight bottlenecks and is on track to update the Oregon Freight Plan by the federal deadline. The Oregon Transportation Commission chose to invest funding from this program into the following freight projects in the 2015-2018 STIP:

- I-5 South Bound: Auxiliary Lane from OR 217 to I-205 \$13 million
- I-205: Stafford to Oregon City (Development) \$2.5 million
- I-5: Rose Quarter (Development) \$2.5 million
- I-5 North Bound: Third Lane – Commercial to Kuebler \$14.5 million
- I-5: Salem to Albany Third Lane (Development) \$3.0 million
- I-5 North Bound: Roberts Mountain Climbing Lane \$7.0 million
- I-84 East Bound: Ladd Canyon Climbing Lane \$7.4 million

FASTLANE Grants

Unlike the formula programs listed in this document, the FASTLANE program is a competitive federal discretionary grant program specifically designed to alleviate congestion and promote freight mobility. In total, \$4.5 billion in FASTLANE funding will be available on a competitive basis to states, tribes, and local governments (\$900 million annual average). The bulk of the program is designed to fund freight related projects over \$100 million in total cost. Each year, ten percent of FASTLANE funds are reserved for projects smaller than \$100 million, and 25 percent of funds are reserved for projects in rural areas. Roughly eleven percent of funds over the five year life of the program are reserved for multimodal freight projects. This program has proven to be highly competitive. While there was \$800 million available nationally in 2016, USDOT received 212 applications totaling \$9.8 billion in requests. Only 18 projects were funded. ODOT submitted three applications for funding in 2016 and was not awarded funding, though the Coos Bay Rail Link did receive a small grant. 2017 FASTLANE grants are currently under consideration by USDOT.

Core Formula Programs

National Highway Performance Program

The National Highway Performance Program is the largest of the core funding programs. Of the overall \$507 million apportioned to Oregon in FY 2016, roughly \$291 million flowed through the National Highway Performance Program. This program funds projects that preserve, improve, or expand the higher volume roads and highways of the National Highway System classification.

Surface Transportation Block Grant Program

This flexible program, formerly known as the Surface Transportation Program, is the chief federal-aid program for funding non-highway and local government projects. Roughly half of the funding Oregon receives through this program is distributed to local governments based on population, and the other half is retained by the state to distribute in other areas of the state. In practice, federal law only requires these funds to be suballocated to metropolitan areas over 200,000 in total population (Portland MPO, Salem MPO, and Eugene MPO). ODOT, by voluntary agreement with the Association of Oregon Counties and the League of Oregon Cities, shares funding from this program with smaller cities and counties. Oregon was apportioned \$145 million in Surface Transportation Block Grant program dollars in 2016. Of that, the Portland MPO received \$26.5 million, the Eugene MPO received \$4.4 million, and the Salem MPO received \$4.3 million.

Transportation Alternatives

Under the FAST Act, the Transportation Alternatives Program, formerly a standalone program focused on bicycle and pedestrian projects, became a funding set-aside within the Surface Transportation Block Grant Program. Oregon was apportioned \$5.6 million under this set-aside in 2016. Of that, the Portland MPO received \$1.5 million, the Eugene MPO received \$247,000, and the Salem MPO received \$236,000.

Highway Safety Improvement Program

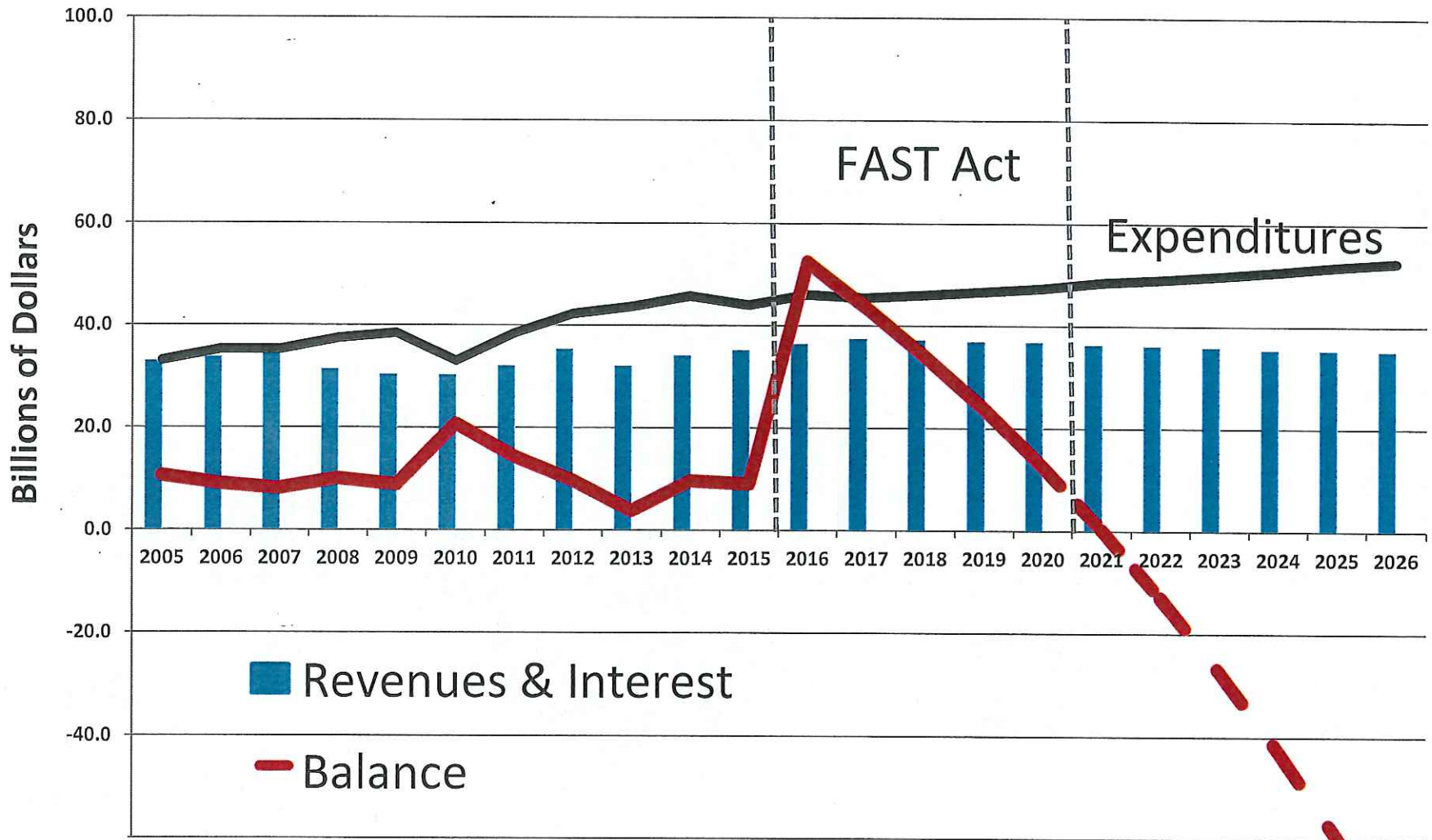
The purpose of this program remains funding physical infrastructure projects that reduce serious injuries and fatalities for all highway users including bicyclists, pedestrians, and people with disabilities. In 2016, Oregon received \$27.4 million through the Highway Safety Improvement Program. The Highway Safety Improvement Program will continue to fund the bulk of ODOT's All Roads Transportation Safety (ARTS) Program. After the passage of MAP-21, ODOT developed the ARTS program with input from the Association of Oregon Counties and the League of Oregon Cities. ARTS is intended to be a jurisdictionally blind, data driven program that funds projects that maximize safety benefits.

Congestion Mitigation and Air Quality Improvement Program

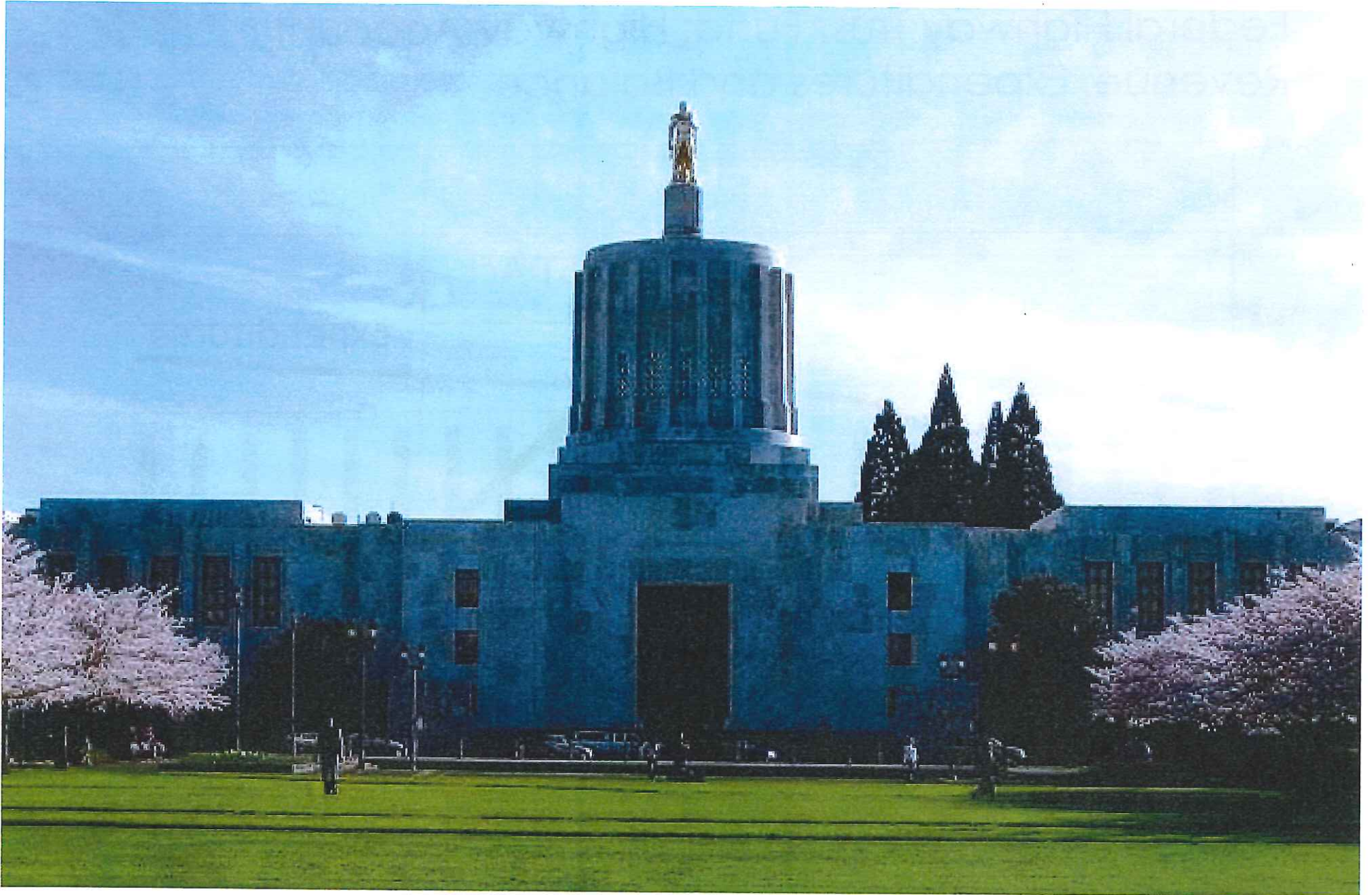
CMAQ funding is available to use on transportation projects that relieve congestion or improve air quality in certain areas of the state with air quality challenges – as of early 2017, this list includes the Portland MPO, Eugene MPO, Salem MPO, Medford MPO, Klamath Falls, La Grande, Oakridge, and Lakeview. In the past, ODOT has shared all of its apportioned CMAQ funding with local governments in eligible areas. In March of 2016, the Federal Highway Administration (FHWA) made a new determination that both the Salem and Eugene metropolitan areas were eligible to receive CMAQ funding. This FHWA determination rendered ODOT's old method for sharing CMAQ funds (a simple formula) unusable. In August of 2016, the Oregon Transportation Commission (OTC) kicked off a year-long process to reexamine the methods by which CMAQ funds are distributed to local governments. This process includes stakeholders from eligible jurisdictions and it set to conclude in the late summer of 2017. In 2016, ODOT was apportioned \$19.3 million in CMAQ funding.

Federal Funding is Uncertain

Federal Highway Trust Fund: Highway Account
Revenue, Expenditures and Balance

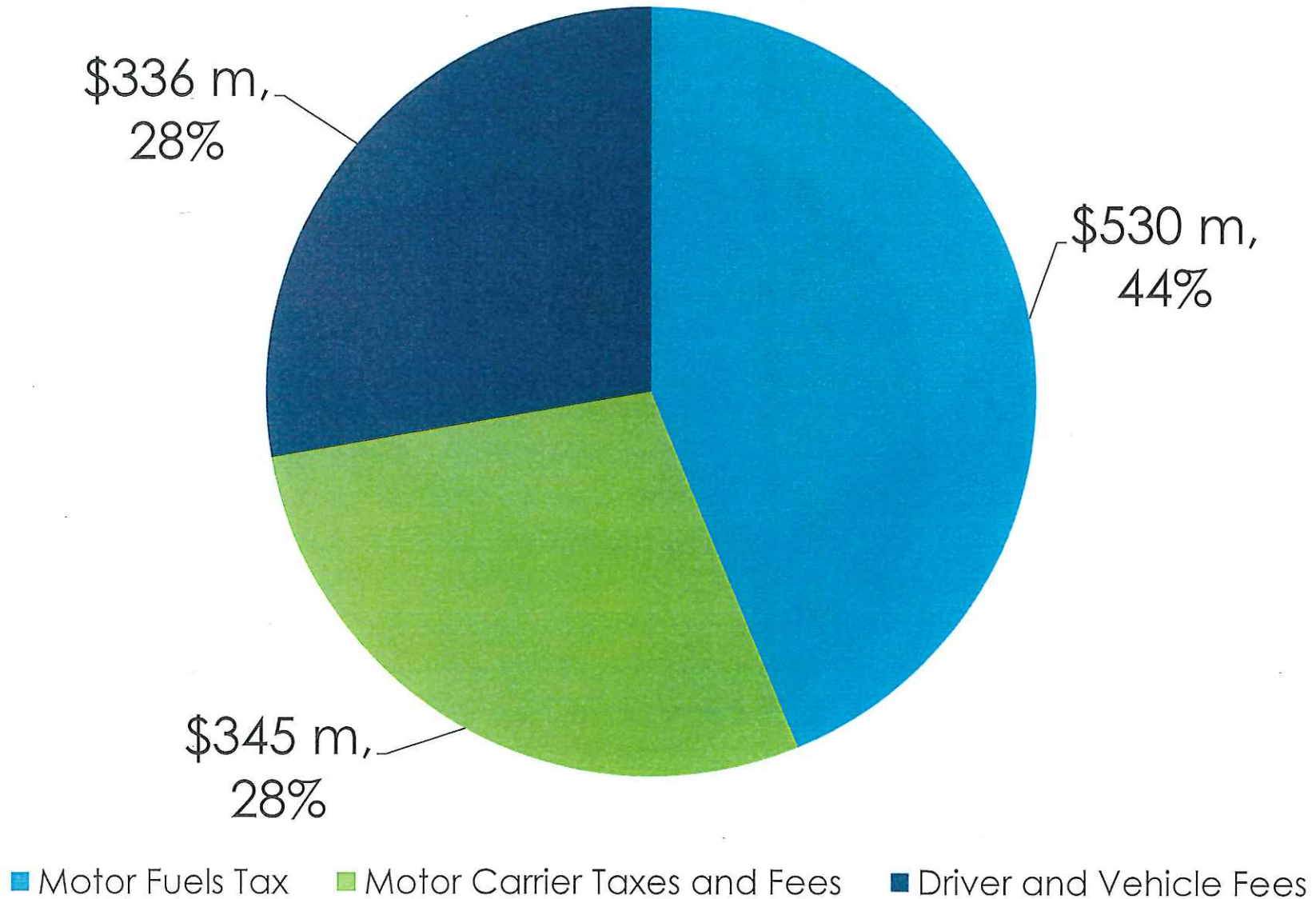


State Highway Fund



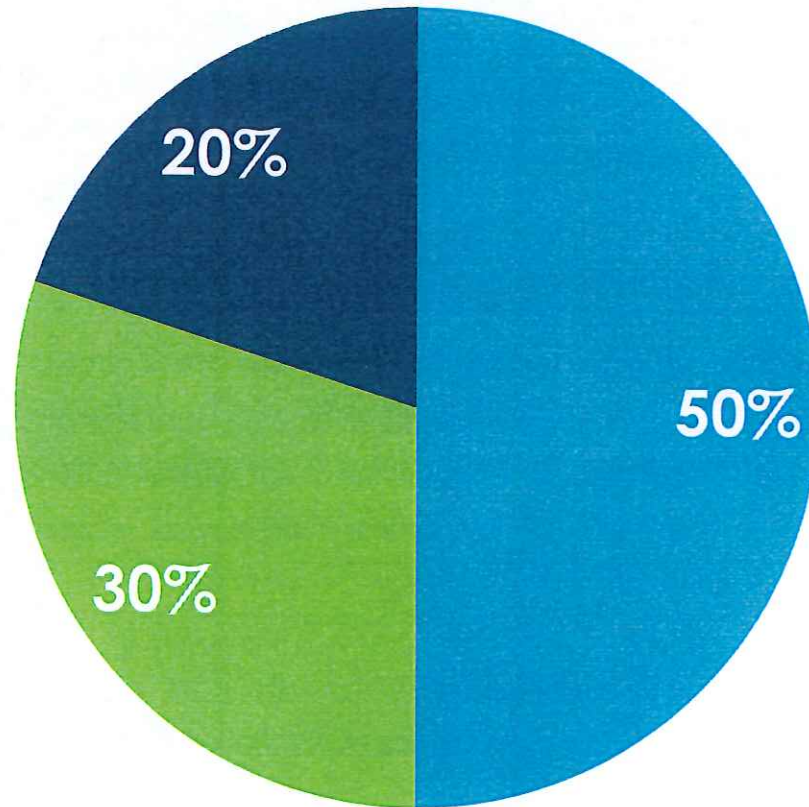
State Highway Fund Gross Revenue

In Millions of Dollars in State FY 15-16



State Highway Fund Distribution

Net of collection costs, transfers to other agencies, and debt service in State FY 15-16



■ ODOT ■ Counties ■ Cities

State Highway Fund for Local Governments

State FY 2015-2016 Apportionments

Counties

30% of State Highway Fund

\$243.4 million total

Distributed to **36 counties**
based on



Ranging from

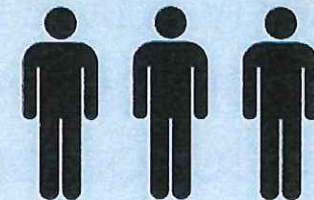
\$41,442,925 for Multnomah Co
to
\$139,733 for Wheeler Co

Cities

20% of State Highway Fund

\$163.7 million total

Distributed to **200+ cities**
based on



Ranging from

\$36,008,241 for Portland
to
\$1,186 for Lonerock

Oregon Constitution Article IX Section 3

“[R]evenue from the following shall be used exclusively for the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in this state:

(a) Any tax levied on, with respect to, or measured by the storage, withdrawal, use, sale, distribution, importation or receipt of motor vehicle fuel or any other product used for the propulsion of motor vehicles; and

(b) Any tax or excise levied on the ownership, operation or use of motor vehicles. ”



Uses of Major Types of Funds

HIGHWAYS	BICYCLE/ PEDESTRIAN	TRANSIT	RAIL	PORTS	AVIATION
Federal Surface Transportation Funding					
Oregon Highway Fund					
	Connect Oregon Funding				



Units of Investment

Revenue Yield Table

Revenue Source	Tax or Fee Increase	Annual Revenue Generated
Fuel Tax	\$0.01	\$28.4 Million
Registration Fee	\$1.00	\$5.9 Million
New Title Fee	\$1.00	\$360,000
Existing Title Fee	\$1.00	\$1.5 Million
Class C License Fee	\$1.00	\$600,000
New Vehicle Excise Tax	1%	\$127.9 Million
Bicycle Excise Tax	1%	\$450,000

Based on December 2016 ODOT Revenue Forecast
 FY 2017-2023 average revenues
 Includes heavy vehicle shares

Oregon has lower automobile related taxes than other Western states

Comparison of Automobile Related Taxes in Western States Converted into Dollars Per Gallon Equivalents



Revenue options matrix

This matrix evaluates funding options in comparison with a series of criteria. This chart is somewhat subjective and is not intended as endorsement or rejection of any particular funding option.

Source: Updated from GTVP Report, page 46.

		Adequacy of revenue	Responsiveness to inflation	Revenue stability and predictability	Appropriateness of dedication (user pays)	Administrative costs (relative to revenue)	Equity by income group
Roadway funding options:							
1) Existing user fees	a. Increase state gas taxes	Very Good	Poor	Fair	Good	Very Good	Poor
	b. Increase other user fees (license, registration, title fees)	Good	Poor	Very Good	Fair	Very Good	Poor
2) A temporary gas tax increase		Very Good	Poor	Poor	Good	Very Good	Poor
3) New vehicle user fees	a. Electric vehicle registration fees	Poor	Poor	Fair	Good	Very Good	Fair
	b. First-time title fees on new vehicles	Fair	Poor	Poor	Fair	Very Good	Good
	c. A new vehicle excise tax	Very Good	Good	Fair	Fair	Good	Very Good
4) State gas tax indexing		Good	Very Good	Fair	Good	Very Good	Poor
5) Local funding options	a. Local gas taxes	Fair	Poor	Fair	Good	Very Good	Poor
	b. Local registration fees	Fair	Poor	Very Good	Fair	Very Good	Poor
6) Studded tire tax		Poor	Poor	Poor	Good	Good	Fair
Non-roadway funding options:							
7) A permanent <i>ConnectOregon</i> multimodal fund	a. Lottery revenue dedication	Good	Poor	Fair	Poor	Good	Poor
	b. Statewide property tax	Good	Good	Good	Fair	Fair	Good
8) Transit and passenger rail funding	a. Employer payroll taxes	Good	Good	Fair	Fair	Good	Good
	b. Employee payroll taxes	Good	Good	Fair	Fair	Good	Fair
	c. Property tax dedication	Good	Good	Good	Fair	Good	Good
9) Bicycle and pedestrian funding	a. Bicycle excise taxes	Poor	Good	Fair	Good	Good	Good
	b. Increase state and federal dedication	Good	Poor	Good	Poor	Very Good	Fair
10) Cigarette, alcohol, and cannabis taxes		Fair	Fair	Fair	Poor	Good	Poor
Mid-term and long-term funding options:							
11) Road and bridge tolling		Fair	Fair	Fair	Very Good	Poor	Poor
12) Per-mile road user charges		Very Good	Poor	Good	Very Good	Poor	Fair
13) A carbon tax		Good	Poor	Fair	Very Good	Very Good	Poor

Finance -- Bonding

**OREGON DEPARTMENT OF TRANSPORTATION
CAPITAL DEBT FINANCING OPTIONS**

STATE DEBT FINANCING OPTIONS

Highway User Tax Revenue Bonds

- Direct revenue obligations of the Department
- Payable solely from dedicated State Highway Fund revenues
- Does not constitute a debt or general obligation of the State
- Examples include:
 - State Highway User Tax Revenue Bonds
 - Oregon Transportation Investment Act (OTIA)
 - Jobs and Transportation Act (JTA)
 - Oregon Transportation Infrastructure Bank (OTIB) Revenue Bonds

Lottery Revenue Bonds

- Direct revenue obligations payable solely from dedicated Lottery funds
- Examples include:
 - *Connect* Oregon Multimodal Transportation Infrastructure Projects
 - Restricted to non-highway eligible multi-modal purposes
 - Local Government Transportation Infrastructure Projects

State Highway General Obligation Bonds

- Constitutional authority – Article XI, section 7
- Secured by the unlimited full faith and credit of the State
- Limited to highway and road projects
- Debt service repayment source: General Funds or State Highway Fund or both
- Example includes the 2015 Legislature authorization of \$35 million in State Highway GO bonds for highway safety improvement projects

State Facility General Obligation Bonds

- Constitutional Authority – Article XI-Q
- Secured by the unlimited full faith and credit of the State
- Limited to State-owned office buildings, facilities and other capital projects
- Debt service repayment source: General Funds or State Highway Fund or both
- Examples include:
 - Transportation Building Renovation Project
 - State Radio Project (SRP)

OREGON DEPARTMENT OF TRANSPORTATION
BOND ISSUANCE SNAPSHOT

The Oregon Department of Transportation (ODOT) issues municipal bonds or debt securities to finance statewide capital transportation infrastructure projects, including roads and highways, bridges and facilities such as the Transportation Building on the Capitol Mall. The Department does not issue debt to fund its day-to-day operations or ongoing maintenance.

Borrowing for major capital project needs complements pay-as-you-go financing. It is a sub-set and key component of ODOT's transportation infrastructure policies and capital financial planning. Capital planning considers the long-term horizon, paying special attention to financing priorities including major capital outlays, competing projects, operations and maintenance, and infrastructure repair, replacement and renewal.

Prudent use of debt financing in combination with pay-as-you-go funding of capital projects can facilitate the allocation of resources and increase financial flexibility. Issuance of municipal bonds has allowed the Department to preserve existing resources for current operations and maintenance needs while accelerating the delivery of significant capital transportation infrastructure assets.

SOME CONSIDERATIONS WHEN ISSUING DEBT

Legislative Authorization

All state agency debt requires specific legislative authorization. General obligation debt requires Constitutional authorization whereas most other types of debt are approved by statute. All debt issued by state agencies must also be included in the legislatively approved biennial bond bill.

The expenditure of bond proceeds can only be used for the specific legislatively approved purposes as provided in the applicable statute or Constitutional amendment.

Asset Useful Life

Long-term debt financing should only be used to finance capital projects, except in cases of emergency. Generally, debt is not issued for periods that exceed the useful life of the asset being financed. This is especially important in the case of tax-exempt bonds. IRS regulations require that the maturity of the tax-exempt debt not exceed the financed assets useful life.

Credit Ratings

The State and the Department seek to maintain the highest possible bond credit ratings without compromising policy goals and objectives or provide for necessary and required program services. In ODOT's case, this would include the ability to satisfy state transportation policy objectives and to provide for ongoing statewide transportation program operations and maintenance.

Credit ratings are a reflection of the issuer's general fiscal condition, its debt structure and burden, local economic conditions, available revenues and the expertise and stability of its management team.

The State's and ODOT's commitment to prudent and disciplined debt management is evidenced by its high credit ratings as detailed below.

OREGON DEPARTMENT OF TRANSPORTATION
BOND ISSUANCE SNAPSHOT

- State of Oregon GO: AA+/Aa1/AA+ (by Fitch, Moody's and S&P respectively)
- ODOT Highway User Tax Revenue Bonds: AA+/Aa1/AAA (by Fitch, Moody's and S&P respectively)

By maintaining the highest possible credit ratings, the State and the Department benefit by being able to issue its debt at a lower interest cost.

Debt Service Coverage Requirements

The Department's Highway User Tax Revenue Bond Program is secured and payable solely from specific pledged revenue sources. These include:

- Motor carrier revenue (weight-mile taxes and road use assessment fees)
- Fuel tax revenue (motor vehicle fuel and fuel use taxes), and
- Vehicle titling and registration fees and driver license fees.

In determining the affordability of proposed revenue bonds, consideration needs to be given to the projected annual net pledged revenues available (after payment of operations and maintenance expenses) as compared to the estimated annual debt service requirements.

The legal covenants set forth in the bond documents governing ODOT's Highway User Tax Revenue Bond Program require minimum pledged revenue to debt service coverage ratios as follows:

- Senior Lien Bonds: 3-times pledged revenues to maximum annual debt service
- Subordinate Lien Bonds: 2-times pledged revenues to maximum annual debt service

Any consideration of new Highway User Tax Revenue Bonds or other debt payable from State Highway Fund revenues should consider a number of factors some of which would include:

- ODOT's current debt burden;
- Availability of existing and future revenues to pay for any added debt service;
- Impact of added debt service costs to other transportation programs and to ongoing operations and maintenance requirements; and
- Potential negative impact on the program's credit ratings.

Issuance of new debt without corresponding revenues could result in a lowering of ODOT's credit rating. This would undoubtedly lead to higher borrowing costs for any future new money or refunding bond issuance.

OREGON DEPARTMENT OF TRANSPORTATION
BOND ISSUANCE SNAPSHOT

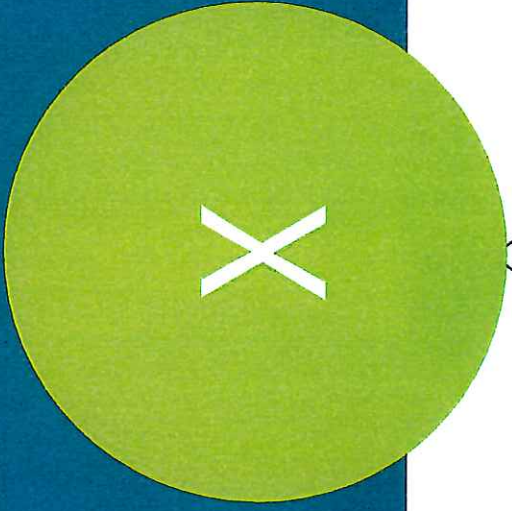
With any new Highway User Tax Revenue bond program it may be helpful to consider the amount of revenue needed to produce the desired amount of project funds.

There will be principal assumptions such as:

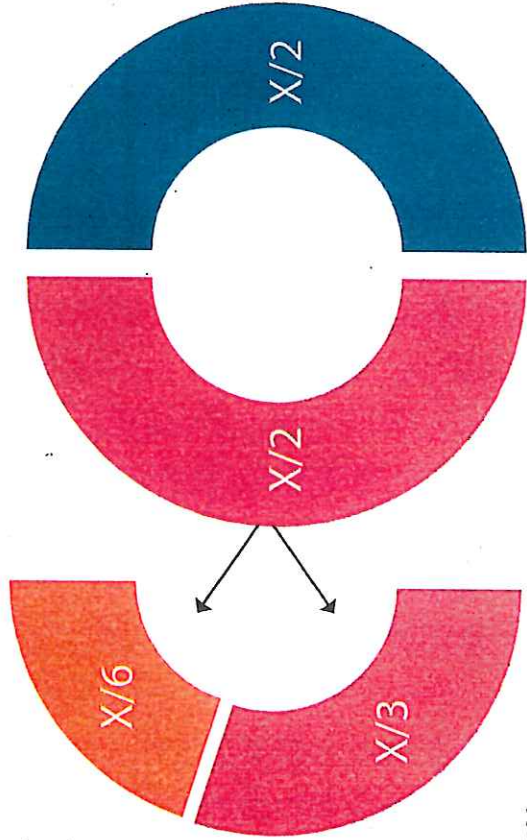
- Term of Payment -- e.g., 25-year bond maturity
- Coverage factor -- e.g., pledged revenue to debt service coverage ratio (x3)
- Borrowing costs -- e.g., 5 % interest rate

Traditional Funding Package Structure

Funding Package
= X



50% ODOT
50% Cities & Counties



1/3* of ODOT
bonded for
construction
projects

2/3 of ODOT
for maintenance
and preservation

*1/3 because of "coverage"
Total amount of Bonded = $X/6 \times 12$ or $2X$

State and Agency Credit Ratings

As of January 1, 2017

Agency	Type	Lien	Fitch	Moody's	S&P
State of Oregon	General Obligation	First Lien	AA+	Aa1	AA+
Department of Transportation	Highway User Tax Revenue	Senior Lien	AA+	Aa1	AAA
		Subordinate Lien	AA	Aa2	AA+
Department of Administrative Services	COP Lottery Revenue	First Lien	AA	Aa2	AA-
		First Lien	-	Aa2	AAA

**OREGON DEPARTMENT OF TRANSPORTATION
TIFIA AND GARVEE DEBT FINANCING OPTIONS**

TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT (“TIFIA”)

The Transportation Infrastructure Finance and Innovation Act of 1988, or “TIFIA,” is a program managed by the U.S. Department of Transportation Build America Bureau (“USDOT”) and provides credit assistance for qualified surface transportation projects of regional and national significance. Eligible projects include highway, transit, railroad, intermodal freight, and port access projects with minimum anticipated project costs of \$50 million.

The program was designed specifically to assist large-scale toll or other user fee revenue-backed projects that had difficulty obtaining financing at reasonable rates due to the uncertainty surrounding these revenue streams.

TIFIA loans are limited to no more than 49% of the eligible project costs, although as a practical matter approved TIFIA loans fund up to 33% of costs.

There are several advantages to the use of TIFIA loans for project financing. The interest rate is set at the 30-year U.S. Treasury Bond rate plus 1 basis point (0.01%), which at present puts the borrowing rate at 3.04% - much lower than the equivalent tax-exempt yield available to most municipal transportation borrowers. In addition, amortization is flexible, and borrowers can amortize their loans over 35 years following project completion, including deferring principal repayment for up to five years following project completion.

However, this lower cost and flexibility comes with some considerations, including the fact that TIFIA cannot fund 100% of a project, approvals for a TIFIA loan are uncertain, and the application and closing process can take considerable time and negotiation with USDOT.

As with all borrowing programs, TIFIA doesn't pay for the project – the project revenues do – so while TIFIA can make project financing more affordable and thereby permit the project to be delivered at a lower annual cost (and, correspondingly, potentially lower end-user fees), it is not in itself a revenue source.

**OREGON DEPARTMENT OF TRANSPORTATION
TIFIA AND GARVEE DEBT FINANCING OPTIONS**

GRANT ANTICIPATION REVENUE VEHICLES (“GARVEE”)

GARVEEs are a borrowing tool that permits recipients of Federal-aid grants for highways to advance funds for projects eligible for assistance under Title 23, as an alternative to pay-as-you-go financing.

GARVEEs are facilitated by the use of advance construction and partial advance construction to enable using Federal-aid funds for future debt service payments. States and political subdivisions of states are eligible issuers of GARVEEs.

GARVEEs do not provide new or additional Federal-aid funding, but rather is a borrowing tool that permits issuers to address the mismatch between the receipt of Federal-aid grants and project funding needs. GARVEEs are payable from the issuer’s pledge of Federal-aid funds expected to be received in the future.

Projects funded with the proceeds of GARVEEs are subject to the same project eligibility and state match requirements as any Federal-aid funded transportation project. GARVEEs are typically issued as notes that mature within ten to fifteen years or shorter, primarily due to investor concerns over Federal transportation funding reauthorization.

Credit rating criteria tend to constrain the amount of GARVEE debt service to no more than one-third of the Federal-aid pledged by the issuer to the payment of the GARVEEs.

Tolling and Road Pricing

Tolling as a Revenue Option

Tolling is charging a fee for the use of a road or bridge. While tolling has been used to finance highway projects in Oregon, it has not been used extensively in recent years.

Oregon tolling policies

Anticipating the potential for tolling various highway facilities, the Oregon Transportation Commission undertook an in-depth policy development process that culminated with laying out a statewide tolling policy framework that has been incorporated into the Oregon Highway Plan and Oregon Transportation Plan. Strategy 2.1.10 of the OTP calls on the state to consider the use of toll revenue, including time-of-day pricing revenue, from existing state highways in a manner consistent with other Oregon Transportation Commission policies, state law, and federal statutes and planning regulations. In addition, Strategy 6.1.4 sets out the policy to consider the use of tolling for financing the construction of new roads, bridges or dedicated lanes only if expected toll receipts will pay for an acceptable portion of project costs.

For more information on the Commission's policy development work around tolling, visit ODOT's tolling and pricing webpage at <https://www.oregon.gov/ODOT/TD/TP/pages/tolling.aspx>.

Tolling applications in Oregon

In order to be useful in raising significant revenue, tolling (including congestion pricing) must be applied to facilities that serve high traffic volumes so that it can address a large share of system needs while minimizing collection costs.

In Oregon, these facilities include:

- Interstate highways
- Other existing freeways
- Proposed freeways
- Large bridges with no nearby alternatives.

With very few exceptions, federal law does not permit tolling of interstate highways;

Oregon Transportation Commission: A Strategic Investment in Transportation

in general, the number of free lanes on the interstate cannot be reduced, so only added lanes can be tolled. For non-interstate facilities, federal law permits toll-free federal-aid highways to be converted to toll facilities as they are reconstructed. It also permits toll-free bridges (including interstate highway bridges) to be converted to toll facilities as they are reconstructed.

Tolling's potential applicability to today's highway system is limited due to the federal restriction on tolling of the highly used interstate highway network and the extremely high level of traffic diversion that typically occurs from tolled facilities to toll-free facilities (i.e., interstate highways). As existing traffic patterns have already developed around interstate highways, new tolled facilities in the vicinity of an interstate highway are unlikely to generate enough revenue to fund a significant portion of their construction costs (as reflected in debt service payments). New tolls added to existing non-interstate facilities near an interstate highway corridor are likely to divert most traffic to the interstate highway. Opportunities to construct self-supporting toll facilities are generally limited to large bridges some distance from parallel bridges (for example, the Interstate 5 Bridge over the Columbia River), and non-interstate freeways located well away from toll-free parallel facilities.

To the extent tolling may be used as a revenue source, toll revenue is subject to Article IX, section 3a of the Oregon Constitution. This section requires the revenue from "any tax or excise levied on the ownership, operation or use of motor vehicles" to be used for public highway purposes. Oregon statutes place additional restrictions on the use of toll revenue.

Congestion Pricing

While typically the purpose of the charge has been to raise revenue, in recent decades the concept of "congestion pricing" has emerged as a viable concept. Congestion pricing is a subset of tolling where the level of a toll is used to either ration highway capacity or finance additional, needed highway capacity, or often both. Congestion pricing can take many forms, in broad terms including variable time-of-day pricing of entire facilities, charging for use of specific ("managed") lanes, charging for entry into specific areas, peak-hour charging by mileage, charging according to actu-

al congestion levels, or some combination. Each of these may have several variations. While the purpose of varying toll rates according to congestion levels is primarily to manage congestion, it can have the effect of raising additional revenue.

Public Private Partnerships

While most transportation projects involve the private sector for construction and often design, public-private partnerships (PPPs) bring in the private sector for other elements that may include financing, operating, and maintaining a facility. PPPs are a project delivery method rather than a financing tool; like any project they require a sustainable funding or financing source in the form of public money or toll revenue.

PPPs have been used as a delivery method for many large infrastructure projects, including many projects financed in part or in full by tolls. Private equity financing is typically more expensive than public sector financing through the tax exempt bond market because equity investors demand greater return on investment in exchange for greater risk. Nonetheless, PPPs are an appropriate delivery tool when a "value for money" analysis demonstrates a net benefit to the public. These benefits typically occur when the public sector can shift significant risk to the private sector or the private sector can offer innovative design or operational solutions that reduce lifecycle project costs or offer improved performance.

Typically, most highway PPPs have exceeded \$1 billion in total cost. In past years, many PPPs used a toll-based "concession" model in which the private sector would design, build, finance, operate and maintain a highway for a period of years in exchange for toll revenues. In recent years, however, the private sector has shied away from assuming risk associated with uncertain traffic volumes. As a result, the market has moved to an "availability payment" model in which a firm will design, build, finance, operate and maintain a facility in exchange for a specified annual payment,

which often includes penalties and bonuses based on performance. ODOT has statutory authority to undertake public-private partnerships (ORS 367.800-824) and has explored use of PPPs for large-scale highway projects. However, to date no highway project has penciled out as a PPP. Nonetheless, ODOT supports continued ability to use this project delivery tool in the appropriate circumstances when a PPP can demonstrate a net benefit to the public.

Federal Law

- Generally, with exceptions, existing Interstate System highways may not be tolled
- Reconstruction/replacement of all bridges may be tolled
- New highways may be tolled
- Other Federal-aid highways may be tolled for reconstruction or capacity additions
- Tolling of Federal-aid highways not accompanied by reconstruction or capacity additions on those highways is not permitted

Congestion pricing defined

“Congestion pricing” is a subset of tolling where the level of the toll is used to:

1. Ration oversubscribed highway capacity; or
2. Finance additional highway capacity that addresses an oversubscription problem

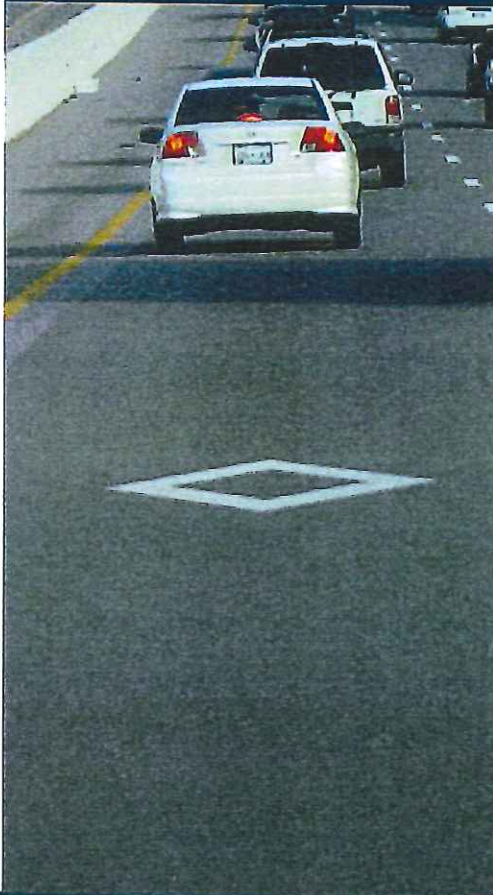


Congestion pricing may be applied to

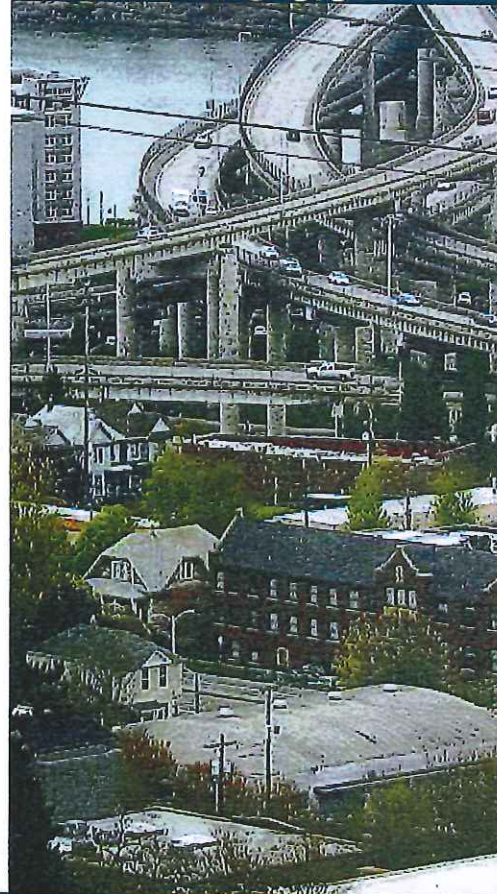
Entire
Facilities



Specific
Lanes



Entry into
Specified
Areas



Mileage



Some Combination

■ Glossary of Terms

Amortization - A financial term referring to terms of a loan where the provision is made in advance for the gradual reduction of an amount owed over time.

Area pricing - A tolling approach where vehicles are charged a fee to travel within a high activity center, such as a downtown or business district. Prices may vary by time of day to encourage motorists to enter the zone during less busy times or to use transit. An example is Fareless Square in Portland, where transit is available for free to discourage short-term and short-distance auto travel within the business district.

Bus rapid transit (BRT) - High-frequency bus service on dedicated lanes that are separate from general travel. BRT combines the advantages of rail transit - exclusive right-of-way to improve punctuality and frequency - with the advantages of a bus system - low implementation costs and flexibility to serve lower density areas.

Congestion pricing - an overarching term used to describe measures that reduce congestion by charging drivers tolls that vary by time of day or traffic volumes.

Consumer surplus - In economics, the difference between the price a consumer pays for an item and the price she would be willing to pay rather than do without it.

Cordon pricing - A pricing scheme where vehicles entering a high activity area are charged a fee when they cross the boundary line into the activity center. Motorists are charged each time they cross the cordon line. Prices could vary by time of day, to encourage motorists to enter the cordon zone during non-peak periods or to make peak trips using transit. This is similar to area pricing, distinguished by the toll being charged for crossing the cordon rather than for driving within the cordon zone.

Cost-benefit analysis (CBA) - An analytic technique used in determining the economic value of a project or plan. Costs and benefits are typically denominated in dollars and include the money, time, resources, and consequences associated with a project or activity.

Distance-based tolls - Fixed toll rates based on distance traveled and vehicle type.

Diversion - the result of people making different travel choices, in this case as a result of a toll. Diversion can refer to taking different routes, or changing modes, travel time or destination.

Dynamic congestion pricing - Toll rates that change based on real-time travel conditions. For example, when traffic volumes go up, so do the tolls. Rates are lowered as demand eases.

Elasticity - The price elasticity of demand measures the nature and degree of the relationship between changes in quantity demanded of a good and changes in its price. High elasticity implies high sensitivity to changes in price while low elasticity, often referred to as inelasticity, means low sensitivity to price changes.

Electronic toll collection (ETC) - Using technology to collect tolls from drivers without requiring them to stop and make cash payments.

Equity - the idea that all travelers are of equal standing, and should be considered in the development of toll policy. Social, geographic and income equity are examples of equity issues that arise in toll policy development and implementation.

Express toll lanes - Limited access, normally barrier-separated highway lanes requiring drivers of all vehicles to pay toll in order to use the facility. All tolls are collected electronically.

Fixed tolls - Toll rates that don't change. They are typically used to pay for the bridge or road on which they are charged. Trucks pay more than cars.

Fixed-schedule congestion pricing - Tolls charged at predetermined rates reflective of demand levels at different times of day; rates can be based on hour of the day, day of the week, direction of travel and vehicle type.

Gas tax - A state levied tax on the consumption of gasoline. The primary means currently of financing highways in Oregon.

Greenhouse gas emissions - The generation and emission of gases, such as carbon dioxide, methane, nitrous oxide and halocarbons which accumulate in the atmosphere and have a long residence time, leading to a surface warming of the land and oceans.

High occupancy vehicle (HOV) - A vehicle containing more than one person.

High occupancy vehicle (HOV) lane - A travel lane restricted to transit and carpool vehicles meeting occupancy requirements of two or three people per car. HOV lanes are meant to carry more people in less space than general purpose lanes.

High occupancy toll (HOT) lanes - Travel lanes restricted to either qualifying HOVs or solo drivers willing to pay a toll. The toll typically varies by time of day or traffic levels and is collected electronically.

Investment grade - The top four rating categories for bonds. Important to tolling as special, independent analysis of the revenue generating capacity of a particular toll project may be required for bond issuance.

Managed toll lanes - Any toll lane that uses variably priced tolls to maintain superior, less congested travel conditions.

Mileage-based fee or mileage tax - A tax on vehicle use based upon miles driven rather than fuel consumption.

Non recurrent delay - A type of travel delay that occurs because of incidents, and is therefore not as predictable as recurrent delay caused by traffic exceeding capacity, bottlenecks, other infrastructure problems.

Open road tolling - use of electronic toll collection methods to keep traffic moving, as opposed to making people stop at toll booths to pay the toll.

Opportunity cost - In economics, the value of the next-highest-valued alternative use of a given resource.

Parking policies - Adopted means of managing access to a particular locale by changes in the price of parking.

Peak period - the busiest travel times of the day, also known as commute time or rush hour. There are typical two peak periods each weekday - the morning and afternoon commute times.

Public-Private Partnerships (PPPs) - Contractual agreements formed between a public agency and private sector entity, which expand on the traditional private sector role in the delivery of transportation projects. PPPs are particularly prevalent for tolling projects.

Pricing - A tolling concept where the level of toll (price) is used to change travel behavior.

Public good - In economics, a good that is non-rival and non excludable. This means consumption of the good by one individual does not reduce the amount of the good available for consumption by others and no one can be effectively excluded. A non-congested public highway can be considered a public good.

Recurrent delay - A type of highway delay that occurs regularly due to too much traffic and/or geometric constraints.

Single occupancy vehicle (SOV) - A vehicle containing only one occupant.

State Infrastructure Bank (SIB) - An ODOT managed revolving loan fund available for transportation projects.

System-wide tolling - implementing tolls on highways and major arterials to reduce congestion, minimize route diversion and increase transportation revenues.

Theory of the Second Best - In economics, a theory of what happens when one or more optimality conditions are not satisfied in an economic model. It implies the need to study the details of a situation prior to assuming theory based conclusions because improvements in market performance in one area may not mean an overall improvement. This is significant in congestion pricing schemes where theoretically optimal conditions are likely to be unachievable.

Time-of-day pricing - A tolling approach that varies by the time-of-day in order reduce congestion at peak hours; rates are higher at peak hours than at off-peak.

Tolling - Charging a price to use a road, bridge or tunnel.

Toll revenue bonds – A type of municipal bond where the principal and interest are secured by tolls paid by the users of the facility that is built with the proceeds of the bond issue.

Travel-demand forecasting – The analytical estimation of future travel volumes and patterns, typically performed with computer models. There are four basic components: (1) trip generation – predicting the number of trips that will be made; (2) trip distribution – determining where the trips will go; (3) Mode usage – how the trips will be divided among available modes of travel; and (4) Trip assignment – predicting which routes the trips will take, resulting in highway system and transit ridership forecasts.

Travel demand management – The application of techniques that affect when, how, where, and how much we travel done in a purposeful manner by government or other organizations. The techniques include education, policies, regulations or other combinations of incentives and disincentives.

Truck only toll (TOT) lanes – Limited access, normally barrier-separated toll lanes available only to trucks for a variably priced toll. All tolls are collected electronically.

Value of time – One of the most important benefits of road pricing, as well as other transportation projects, is travel time savings. What these savings are worth to motorists can vary by income, gender, age, trip purpose, mode used, length of trip, uncertainty of travel time and other factors. This in turn implies analytical difficulties in applying values to given situations.

Value pricing – Toll rates that vary in direct proportion to travel demand or congestion on alternative free routes.

Variable toll – a toll that changes by time of day, traffic volumes or other factor.

State Law
Tollways-ORS Chapter 383

Chapter 383 — Tollways
2015 EDITION

TOLLWAYS

HIGHWAYS, ROADS, BRIDGES AND FERRIES

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383.001 Findings. The Legislative Assembly finds that:

- (1) The development, improvement, expansion and maintenance of an efficient, safe and well-maintained system of roads, highways and other transportation facilities is essential to the economic well-being and high quality of life of the people of this state.
 - (2) Public sources of revenues, including federal funding, to provide an efficient transportation system have not kept pace with the state's growing population and growing transportation needs, and all available alternative sources of funding should be utilized to supplement available public sources of revenues.
 - (3) Because public funding sources are not providing the state with sufficient funds to meet all of its transportation needs, private funding should be encouraged as an additional source of funding for transportation projects and facilities.
 - (4) Various alternatives for utilizing the funds of private entities in the acquisition, design, construction, reconstruction, operation and maintenance of transportation facilities exist, including arrangements whereby private entities obtain exclusive agreements to design, build, own, lease or operate with private funds all or a portion of transportation projects and facilities in exchange for the right to receive certain revenues generated from the operation and utilization of such transportation projects and facilities.
 - (5) Another important alternative for the funding of transportation facilities is the use of federal funds pursuant to 23 U.S.C. 129(a), as amended by section 112 of the Intermodal Surface Transportation Efficiency Act of 1991, which established a program authorizing federal participation in construction of publicly or privately owned toll highways, bridges and tunnels.
 - (6) The federal legislation allows for a mix of federal funding and private funding of transportation facilities, allowing the states to leverage available federal funds as a means for attracting private capital.
 - (7) Legislation for the utilization of private funding of transportation facilities should be flexible enough to permit the Department of Transportation to obtain the advantages of any available alternative under which the acquisition, design, construction, reconstruction, operation, maintenance and repair of transportation facilities can be financed in whole or in part or in combination by any available sources of private or public funding.
 - (8) The funding of transportation facilities through the imposition of tolls on those who use such facilities is a fair and impartial means of assessing the costs of improvements against those who most benefit from such improvements, and is consistent with public policy.
 - (9) Joint endeavors of public and private entities do the following:
 - (a) Take advantage of private sector efficiencies in designing, constructing and operating transportation projects.
 - (b) Allow for the rapid formation of capital necessary for funding transportation projects.
 - (c) Require continued compliance with environmental requirements and applicable state and federal laws that all publicly financed projects must address. [1995 c.668 §1]
- 383.003 Definitions for ORS 383.003 to 383.075.** As used in ORS 383.003 to 383.075:
- (1) "Department" means the Department of Transportation.
 - (2) "Electronic toll collection system" means a system that records use of a tollway by electronic transmissions to or from the vehicle using the tollway and that collects tolls, or that is capable of charging an account established by a person for use of the tollway.
 - (3) "Photo enforcement system" means a system of sensors installed to work in conjunction with an electronic toll collection system and other traffic control devices and that automatically produces videotape or one or more photographs, microphotographs or other recorded images of a vehicle in connection with the collection or enforcement of tolls.

- (4) "Private entity" means any nongovernmental entity, including a corporation, partnership, company or other legal entity, or any natural person.
- (5) "Related facility" means any real or personal property that:
- (a) Will be used to operate, maintain, renovate or facilitate the use of the tollway;
 - (b) Will provide goods or services to the users of the tollway; or
 - (c) Can be developed efficiently when tollways are developed and will generate revenue that may be used to reduce tolls or will be deposited in the State Tollway Account.
- (6) "Toll" means any fee or charge for the use of a tollway.
- (7) "Toll booth collections" means the manual or mechanical collection of cash or charging of an account at a toll plaza, toll booth or similar fixed toll collection facility.
- (8) "Tollway" means any roadway, path, highway, bridge, tunnel, railroad track, bicycle path or other paved surface or structure specifically designed as a land vehicle transportation route, the construction, operation or maintenance of which is wholly or partially funded with toll revenues resulting from an agreement under ORS 383.005.
- (9) "Tollway operator" means the unit of government or the private entity that is responsible for the construction, reconstruction, installation, improvement, financing, maintenance, repair and operation of a tollway or a related facility.
- (10) "Tollway project" means any capital project involving the acquisition of land for, or the construction, reconstruction, improvement, installation, development or equipping of, a tollway, related facilities or any portion thereof.
- (11) "Unit of government" means any department or agency of the federal government, any state, any department or agency of a state, any bistate entity created by agreement under ORS 190.420 or other law for the purposes of the Interstate 5 bridge replacement project, and any city, county, district, port or other public corporation organized and existing under statutory law or under a voter-approved charter. [1995 c.668 §2; 2007 c.531 §3; 2013 c.4 §9]

383.004 Establishment of tolls; rules. (1) Except as provided in subsection (2) of this section, a toll may not be established unless the Oregon Transportation Commission has reviewed and approved the toll. The commission shall adopt rules specifying the process under which proposals to establish tolls will be reviewed. When reviewing a proposal to establish tolls, the commission shall take into consideration:

- (a) The amount and classification of the traffic using, or anticipated to use, the tollway;
- (b) The amount of the toll proposed to be established for each class or category of tollway user and, if applicable, the different amounts of the toll depending on time and day of use;
- (c) The extent of the tollway, including improvements necessary for tollway operation and improvements necessary to support the flow of traffic onto or off of the tollway;
- (d) The location of toll plazas or toll collection devices to collect the toll for the tollway;
- (e) The cost of constructing, reconstructing, improving, installing, maintaining, repairing and operating the tollway;
- (f) The amount of indebtedness incurred for the construction of the tollway and debt service requirements, if any;
- (g) The value of assets, equipment and services required for the operation of the tollway;
- (h) The period of time during which the toll will be in effect;
- (i) The process for altering the amount of the toll during the period of operation of the tollway;
- (j) The method of collecting the toll; and
- (k) The rate of return that would be fair and reasonable for a private equity holder, if any, in the tollway.

(2)(a) Nothing in ORS 383.003 to 383.075 prohibits a city or county from establishing a toll on any highway, as defined in ORS 801.305, that the city or county has jurisdiction over as a road authority pursuant to ORS 810.010.

(b) Nothing in ORS 383.003 to 383.075 prohibits Multnomah County from establishing a toll on the bridges across the Willamette River that are within the boundaries of the City of Portland and that are operated and maintained by Multnomah County as required under ORS 382.305 and 382.310. [2007 c.531 §2; 2009 c.385 §3]

383.005 Agreements for tollway projects; operation of projects. (1) For purposes of the acquisition, design, construction, reconstruction, operation or maintenance and repair of tollway projects, the Department of Transportation may enter into any combination of contracts, agreements and other arrangements with any one or more private entities or units of government, or any combination thereof, including but not limited to the following:

(a) Design-build contracts with private entities pursuant to which a portion or all aspects of the design, construction and installation of all or any portion of a tollway project are accomplished by the private entity;

(b) Lease agreements, lease-purchase agreements and installment sale arrangements for the lease, sale or purchase of real and personal property for tollway projects by the state from private entities or units of government or by private entities or units of government from the state;

(c) Licenses, franchises or other agreements for the periodic or long-term operation or maintenance of a tollway project;

(d) Financing agreements for a tollway project pursuant to which the department borrows from, or makes any loan, grant, guaranty or other financing arrangement to or with, a private entity or unit of government; and

(e) Agreements for purchase or acquisition of fee ownership, easements, rights of way or any other interests in land upon which a tollway project is to be built.

(2) The department may operate tollway projects and impose and collect tolls on any tollway project the department operates. Any private entity or unit of government that operates a tollway project pursuant to an agreement with the department may impose and collect tolls on the tollway project. [1995 c.668 §3; 2001 c.844 §7; 2013 c.4 §14]

383.006 Authority of tollway operator. A tollway operator may operate toll booth collections, an electronic toll collection system, a photo enforcement system or any combination of toll booth collections, an electronic toll collection system and a photo enforcement system. [2007 c.531 §6]

383.007 [1995 c.668 §3a; 1997 c.390 §1; 1997 c.671 §3; repealed by 2001 c.844 §9]

383.009 State Tollway Account; sources; uses. (1) There is hereby established the State Tollway Account as a separate account within the State Highway Fund. The State Tollway Account shall consist of:

(a) All moneys and revenues received by the Department of Transportation from or made available by the federal government to the department for any tollway project or for the operation or maintenance of any tollway;

(b) Any moneys received by the department from any other unit of government or any private entity for a tollway project or from the operation or maintenance of any tollway;

(c) All moneys and revenues received by the department from any loan made by the department for a tollway project pursuant to ORS 383.005, and from any lease, agreement, franchise or license for the right to the possession and use, operation or management of a tollway project;

(d) All tolls and other revenues received by the department from the users of any tollway project;

- (e) The proceeds of any bonds authorized to be issued for tollway projects;
 - (f) Any moneys that the department has legally transferred from the State Highway Fund to the State Tollway Account for tollway projects;
 - (g) All moneys and revenues received by the department from all other sources that by donation, grant, contract or law are allocated or dedicated for tollway projects;
 - (h) All interest earnings on investments made from any of the moneys held in the State Tollway Account; and
 - (i) All civil penalties and administrative fees paid to the department from the enforcement of tolls.
- (2) Moneys in the State Tollway Account may be used by the department for the following purposes:
- (a) To finance preliminary studies and reports for any tollway project;
 - (b) To acquire land to be owned by the state for tollways and any related facilities therefor;
 - (c) To finance the construction, renovation, operation, improvement, maintenance or repair of any tollway project;
 - (d) To make grants or loans to a unit of government for tollway projects;
 - (e) To make loans to private entities for tollway projects;
 - (f) To pay the principal, interest and premium due with respect to, and to pay the costs connected with the issuance or ongoing administration of any bonds or other financial obligations authorized to be issued by, or the proceeds of which are received by, the department for any tollway project;
 - (g) To provide a guaranty or other security for any bonds or other financial obligations, including but not limited to financial obligations with respect to any bond insurance, surety or credit enhancement device issued or incurred by the department, a unit of government or a private entity, for the purpose of financing a single tollway project or any related group or system of tollways or related facilities; and
 - (h) To pay the costs incurred by the department in connection with its oversight, operation and administration of the State Tollway Account, the proposals and projects submitted under ORS 383.015 and the tollway projects financed under ORS 383.005.
- (3) For purposes of paying or securing bonds or providing a guaranty, surety or other security authorized by subsection (2)(g) of this section, the department may:
- (a) Irrevocably pledge all or any portion of the amounts that are credited to, or are required to be credited to, the State Tollway Account;
 - (b) Establish subaccounts in the State Tollway Account, and make covenants regarding the credit to and use of amounts in those accounts and subaccounts; and
 - (c) Establish separate trust funds or accounts and make covenants to transfer to those separate trust funds or accounts all or any portion of the amounts that are required to be deposited in the State Tollway Account.
- (4) Notwithstanding any other provision of ORS 383.001 to 383.075, the department shall not pledge any funds or amounts at any time held in the State Tollway Account as security for the obligations of a private entity unless the department has entered into a binding and enforceable agreement that provides the department reasonable assurance that the department will be repaid, with appropriate interest, any amounts that the department is required to advance pursuant to that pledge.
- (5) Moneys in the State Tollway Account are continuously appropriated to the department for purposes authorized by this section. [1995 c.668 §4; 2005 c.22 §264; 2007 c.531 §12; 2013 c.4 §15]

383.010 [Repealed by 1981 c.153 §79]

383.011 Contract terms regarding entry into possession by Department of Transportation; eminent domain. (1) Every contract, agreement or other arrangement between the Department of Transportation and any private entity pursuant to which a private entity owns, leases or operates a

tollway shall provide that, if an event occurs that seriously jeopardizes or impairs the continued availability and operation of the tollway, the department shall be entitled to enter into and take possession of the tollway and to exercise all of the rights attendant to such possession, including the right to receive all tolls and other revenues of the tollway, subject to any obligations incurred for the tollway, and the right to operate, maintain, repair and reconstruct the tollway.

(2) The department may exercise the power of eminent domain to acquire property for tollway projects, regardless of whether the property will be owned in fee simple by the department. [1995 c.668 §5; 2001 c.844 §2]

383.013 Tollway design. (1) The design of each tollway shall at least meet the minimum design standards generally applicable, at the time the Department of Transportation authorizes the tollway, to the state and other units of government authorized to build and own roads, highways, bridges, tunnels, railways and related facilities.

(2) In considering the design of a tollway, the department shall solicit the recommendation of all units of government having jurisdiction over any of the territory encompassing or adjacent to the proposed route of the tollway. The department shall consider the present and future needs of local transit authorities and whether the proposed tollway project should be expanded to include the acquisition of land or rights of way for future mass transit needs or for future expansion due to projected population growth.

(3) In considering the design of a tollway, the department shall solicit the recommendation of state and local parks departments to consider whether parks or campsites for travelers or bicyclists should be incorporated into the tollway design. The department may enter into agreements for the use of state and local funding for the acquisition and construction of such parks and campsites. The land on which such parks and campsites shall be located may be owned or leased in any manner in which any other tollway property may be owned or leased and shall be managed by any entity chosen by the department for such purpose, including the entity that operates or maintains the tollway. The allocation of revenues derived from the ownership or operation of any park or campsite shall be in accordance with any arrangement the department deems desirable. [1995 c.668 §6; 2001 c.844 §3]

383.014 Interstate system compatibility; rules. The Oregon Transportation Commission shall set standards by rule for electronic toll collection systems and photo enforcement systems used on tollways in this state to ensure that systems used in Oregon and systems used in the State of Washington are compatible to the extent technology permits. [2007 c.531 §8]

383.015 Initiation of project; fees; rules; conditions for authorization; studies. (1) Tollway projects may be initiated by the Department of Transportation, by a unit of government having an interest in the installation of a tollway, or by a private entity interested in constructing or operating a tollway project. The department shall charge an administrative fee for reviewing and considering any tollway project proposed by a private entity, which the department shall establish by rule. All such administrative fees shall be deposited into the State Tollway Account.

(2) The department shall adopt rules pursuant to which it will consider authorization of a tollway project. The rules shall require consideration of:

(a) The opinions and interests of units of government encompassing or adjacent to the path of the proposed tollway project in having the tollway installed;

(b) The probable impact of the proposed tollway project on local environmental, aesthetic and economic conditions and on the economy of the state in general;

(c) The extent to which funding other than state funding is available for the proposed tollway project;

- (d) The likelihood that the estimated use of the tollway project will provide sufficient revenues to independently finance the costs related to the construction and future maintenance, repair and reconstruction of the tollway project, including the repayment of any loans to be made from moneys in the State Tollway Account;
- (e) With respect to tollway projects, any portion of which will be financed with state funds or department loans or grants:
 - (A) The relative importance of the proposed tollway project compared to other proposed tollways; and
 - (B) Traffic congestion and economic conditions in the communities that will be affected by competing tollway projects; and
 - (f) The effects of tollway implementation on community and local street traffic.
- (3) Notwithstanding any other provision of ORS 383.001 to 383.075, no tollway project shall be authorized unless the department finds that either:
 - (a) Based on the department's estimate of present and future traffic patterns, the revenues generated by the tollway project will be sufficient, after payment of all obligations incurred in connection with the acquisition, construction and operation of such tollway project, to ensure the continued maintenance, repair and reconstruction of the tollway project without the contribution of additional public funds; or
 - (b) The revenues generated by the tollway project will be at least sufficient to pay its operational expenses and a portion of the costs of its construction, maintenance, repair and reconstruction, and the importance of the tollway project to the welfare or economy of the state is great enough to justify the use of public funding for a portion of its construction, maintenance, repair and reconstruction.
 - (4) If the department finds that a proposed tollway project qualifies for authorization under this section, the department may conduct or cause to be conducted any environmental, geological or other studies required by law as a condition of construction of the tollway project. The costs of completing the studies for any proposed tollway project may be paid from moneys in the State Tollway Account that are reimbursed from the permanent financing for the project. [1995 c.668 §7; 1997 c.390 §2; 2007 c.531 §17; 2013 c.4 §16]

383.017 Awarding of contracts for tollway projects; rules for awarding rest area

concessions; application of certain laws. (1) The Department of Transportation may award any contract, franchise, license or agreement related to a tollway project, other than a concession for the provision of goods or services at a rest area, under a competitive process or by private negotiation with one or more entities, or by any combination of competition and negotiation without regard to any other laws concerning the procurement of goods or services for projects of the state.

(2) When using a competitive process for the award of a tollway project contract, the department shall consider the following factors in addition to the proposer's estimate of cost:

(a) The quality of the design, if applicable, submitted by a proposer. In considering the quality of the design of a tollway project, the department shall take into consideration:

(A) The structural integrity of the design, including the probable effect of the design on the future costs of maintenance of the tollway;

(B) The aesthetic qualities of the design, including such factors as the width of lane separators, landscaping and sound walls;

(C) The traffic capacity of the design;

(D) The aspects of the design that affect safety, such as the lane width, the quality of lane markers and separators, the shape and positioning of ramps and curves and the changes in elevation; and

(E) The ease with which traffic will be able to pass through the toll collection facilities.

(b) The extent to which small businesses will be involved in the tollway project. The department shall encourage participation by small businesses to the maximum extent the department determines is

practicable. As used in this paragraph, “small business” means an independent business with fewer than 20 employees and with average annual gross receipts over the last three years not exceeding \$1 million for construction firms and \$300,000 for nonconstruction firms. “Small business” does not include a subsidiary or parent company belonging to a group of firms that are owned and controlled by the same individuals and that have average aggregate annual gross receipts in excess of \$1 million for construction firms or \$300,000 for nonconstruction firms over the last three years.

(c) The financial stability of the proposer and the ability of the proposer to provide funding for the tollway project and surety for its performance and financial obligations with respect to the tollway project.

(d) The experience of the proposer and its subcontractors in building and operating projects such as the tollway project.

(e) The terms of the financial arrangement proposed or accepted by the proposer with respect to franchise fees, license fees, lease payments or operating expenses and the proposer’s required rate of return from its operation or maintenance of the tollway.

(3)(a) The department may adopt rules and procedures for the award of franchises, licenses, leases or other concessions for rest areas without regard to any other laws concerning the procurement of goods or services for projects of the state. All such franchises, licenses, leases or other concessions shall require the franchisee, licensee, lessee or concessionaire, as applicable, to maintain the subject premises in accordance with all applicable state and federal health and safety standards, to maintain one or more policies of casualty and property insurance and adequate workers’ compensation insurance, and to pay and discharge all taxes, utilities, fees and other charges or claims that are levied, assessed or charged against the premises or concession or that may become a lien upon the premises. The rules shall encourage participation by small businesses to the maximum extent the department determines is practicable. The department may grant any small business a 10 percent or greater bid advantage in any bidding process for a concession.

(b) As used in this subsection, “small business” means an independent business with fewer than 20 employees and with average annual gross receipts over the last three years not exceeding \$300,000. “Small business” does not include a subsidiary or parent company belonging to a group of firms that are owned and controlled by the same individuals and that have average aggregate annual gross receipts in excess of \$300,000 over the last three years. “Small business” also does not include a franchise of any business that has average aggregate annual gross receipts in excess of \$300,000 over the last three years.

(4) Notwithstanding any other provision of this section, the department may use any method for the award of any contract, franchise, license or agreement that is necessary to comply with the requirements of any grant or other funding source.

(5) If public funds are involved in the project, construction of a tollway project shall be subject to the prevailing wage requirements of ORS 279C.800 to 279C.870.

(6) For purposes of complying with applicable state and local land use laws, including statewide planning goals, comprehensive plans, land use regulations, ORS chapters 195, 196, 197, 198, 199, 215, 221, 222 and 227, and any requirement imposed by the Land Conservation and Development Commission, a tollway project shall be treated as a project of the department and not as a project of any other person or entity.

(7) Tollways, and any related facilities that would normally be purchased, constructed or installed by the department if the tollway were a conventional highway that was constructed and operated by the department, shall be exempt from ad valorem property taxation.

(8) Tollways are considered state highways for purposes of law enforcement and application of the Oregon Vehicle Code. [1995 c.668 §8; 2003 c.794 §269]

383.019 Agreements between department and private entities regarding maintenance of tollways. (1) Every agreement between the Department of Transportation and a private entity pursuant to which the private entity owns or operates a tollway and is entitled to collect the revenues therefrom shall require that the tollway be maintained in a safe condition and be returned to the state in a safe and serviceable condition without need of any repair or reconstruction.

(2) Every agreement between the department and a private entity pursuant to which the private entity owns or operates a tollway and is entitled to collect the revenues therefrom shall provide for the establishment and funding of a maintenance, repair and reconstruction trust fund that is designed to ensure that adequate funds will be available to maintain and repair the tollway, so that the tollway will be surrendered to the department in good condition without need of repair or reconstruction. [1995 c.668 §9]

383.020 [Repealed by 1981 c.153 §79]

383.021 [1995 c.668 §10; repealed by 2001 c.844 §9]

383.023 Revenue bonds for tollway projects. (1) In accordance with the applicable provisions of ORS chapter 286A, the State Treasurer, at the request of the Department of Transportation, may issue revenue bonds for the purpose of financing a tollway project, provided that such bonds shall never constitute a debt or general obligation of the department or of this state or any of its political subdivisions, but shall be payable solely from the revenues, amounts, funds and accounts described in ORS 383.009 (3).

(2) The proceeds of revenue bonds issued under this section may be used by the department or loaned to a private entity or a unit of government for the purpose of financing any portion of the capital costs related to the construction of a tollway project, including costs of the acquisition of interests in land upon which the tollway project will be constructed, to provide a financial reserve required under any federal funding agreement and for the payment of the costs of issuing the bonds and funding bond reserves.

(3) The bonds authorized by this section may be issued as taxable bonds or as tax-exempt bonds under the income tax laws of the United States.

(4) Notwithstanding the status of the bonds for federal income tax purposes, interest paid to the owners of the bonds shall be exempt from personal income taxes imposed by this state.

(5) When issuing bonds authorized by this section, the department and the State Treasurer may make covenants with bondholders regarding the imposition and regulation of tolls, the making of loans and grants funded from the State Tollway Account, the use of amounts required to be deposited in the State Tollway Account and the issuance of additional bonds. [1995 c.668 §11; 2007 c.783 §177]

383.025 Certain information provided to Department of Transportation exempt from disclosure. Sensitive business, commercial or financial information presented to the Department of Transportation by a private entity for the purpose of determining the feasibility of the entity's participation in a tollway project is exempt from disclosure under ORS 192.410 to 192.505. [2001 c.844 §5]

383.027 Issuance of revenue bonds by municipality for tollway project. (1) A public body, as defined in ORS 287A.001, may issue revenue bonds for the purpose of financing a tollway project.

(2) A nonprofit corporation organized under Oregon law may issue revenue bonds for the purpose of financing a tollway project.

(3) Revenue bonds authorized by this section shall be issued as prescribed in ORS chapter 287A. [2001 c.844 §6; 2007 c.783 §§178,232d]

383.030 [Repealed by 1981 c.153 §79]

383.035 Failure to pay toll; penalty. (1) A person who fails to pay a toll, established pursuant to ORS 383.004, shall pay to the Department of Transportation the amount of the toll, a civil penalty of not more than \$25 and an administrative fee established by the tollway operator not to exceed the actual cost of collecting the unpaid toll.

(2) In addition to any other penalty, the department shall refuse to renew the motor vehicle registration of the motor vehicle owned by a person who has not paid the toll, the civil penalty and any administrative fee charged under this section.

(3) This section does not apply to:

(a) A person operating a vehicle owned by a unit of government or the tollway operator;

(b) A person who is a member of a category of persons exempted by the Oregon Transportation Commission from paying a toll; or

(c) A person who is a member of a category of persons made eligible by the commission for paying a reduced toll, to the extent of the reduction.

(4) Subsection (1) of this section does not apply to a person who fails to pay a toll established under section 8, chapter 4, Oregon Laws 2013.

(5)(a) Upon receiving a request from the State of Washington, or from the State of Washington's designee that has contracted with the State of Washington to collect tolls, the department shall provide information to identify registered owners of vehicles who fail to pay a toll established under section 8, chapter 4, Oregon Laws 2013.

(b) If the State of Washington, or the State of Washington's designee that has contracted with the State of Washington to collect tolls, gives notice to the department that a person has not paid a toll established under section 8, chapter 4, Oregon Laws 2013, or a civil penalty or administrative fee imposed by reason of failure to pay the toll, the department shall refuse to renew the Oregon motor vehicle registration of the motor vehicle operated by the person at the time of the violation.

(c) The department may renew an Oregon motor vehicle registration of a person described in paragraph (b) of this subsection upon receipt of a notice from the State of Washington, or from the State of Washington's designee, indicating that all tolls, civil penalties and other administrative fees owed by the person have been paid. [2007 c.531 §4; 2013 c.4 §10]

383.040 [Repealed by 1981 c.153 §79]

383.045 Evidence from photo enforcement system; payment of fees. (1) Except as provided in subsection (2) of this section, a recorded image of a vehicle and the registration plate of the vehicle produced by a photo enforcement system at the time the driver of the vehicle did not pay a toll shall be prima facie evidence that the registered owner of the vehicle is the driver of the vehicle.

(2) If the registered owner of a vehicle is a person in the vehicle rental or leasing business, the registered owner may elect to identify the person who was operating the vehicle at the time the toll was not paid or to pay the toll, civil penalty and administrative fee.

(3) A registered owner of a vehicle who pays the toll, civil penalty and administrative fee is entitled to recover the same from the driver, renter or lessee of the vehicle. [2007 c.531 §10]

383.050 [Repealed by 1981 c.153 §79]

383.055 Assessment and collection of unpaid tolls; rules. The Oregon Transportation Commission shall establish a process by rule for the assessment of unpaid tolls and the collection of civil penalties and administrative fees under ORS 383.035. [2007 c.531 §9]

383.060 [Repealed by 1981 c.153 §79]

383.065 Information provided for toll booth collections. The Department of Transportation may provide to a tollway operator the information needed by the operator for toll booth collections or for the operation of an electronic toll collection system or a photo enforcement system. [2007 c.531 §7]

383.070 [Repealed by 1981 c.153 §79]

383.075 Driver records and information used to collect and enforce tolls. (1) Except as provided in subsections (2) and (3) of this section, records and information used to collect and enforce tolls are exempt from disclosure under public records law and are to be used solely for toll collection and traffic management by the Department of Transportation.

(2) Information collected or maintained by an electronic toll collection system may not be disclosed to anyone except:

- (a) The owner of an account that is charged for the use of a tollway;
 - (b) A financial institution, as necessary to collect tolls owed;
 - (c) Employees of the department;
 - (d) The tollway operator and authorized employees of the operator;
 - (e) A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement; and
 - (f) An administrative law judge or court in an action or proceeding in relation to unpaid tolls or administrative fees or civil penalties related to unpaid tolls.
- (3) Information collected or maintained by a photo enforcement system may not be disclosed to anyone except:
- (a) The registered owner or apparent driver of the vehicle;
 - (b) Employees of the department;
 - (c) The tollway operator and authorized employees of the operator;
 - (d) A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement; and
 - (e) An administrative law judge or court in an action or proceeding in relation to unpaid tolls or administrative fees or civil penalties related to unpaid tolls. [2007 c.531 §11]

383.080 [Repealed by 1981 c.153 §79]

383.090 [Repealed by 1981 c.153 §79]

383.100 [Repealed by 1981 c.153 §79]

383.110 [Repealed by 1981 c.153 §79]

383.120 [Repealed by 1981 c.153 §79]

383.130 [Repealed by 1981 c.153 §79]

- 383.140** [Repealed by 1981 c.153 §79]
- 383.210** [Repealed by 1981 c.153 §79]
- 383.220** [Amended by 1971 c.741 §29; repealed by 1981 c.153 §79]
- 383.230** [Repealed by 1981 c.153 §79]
- 383.240** [Repealed by 1981 c.153 §79]
- 383.250** [Repealed by 1981 c.153 §79]
- 383.260** [Repealed by 1981 c.153 §79]
- 383.270** [Repealed by 1981 c.153 §79]
- 383.280** [Repealed by 1981 c.153 §79]
- 383.310** [Repealed by 2007 c.531 §19]
- 383.315** [1995 c.668 §13; repealed by 2007 c.531 §19]
- 383.320** [Repealed by 2007 c.531 §19]
- 383.330** [Repealed by 2007 c.531 §19]
- 383.340** [Repealed by 2007 c.531 §19]
- 383.350** [Repealed by 2007 c.531 §19]
- 383.360** [Repealed by 2007 c.531 §19]
- 383.370** [Repealed by 2007 c.531 §19]
- 383.380** [Repealed by 2007 c.531 §19]
- 383.385** [1997 c.671 §1; repealed by 2007 c.531 §19]
- 383.386** [1997 c.671 §2; 2001 c.844 §8; repealed by 2007 c.531 §19]
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