To: Joint Committee on Transportation, Oregon Legislature 2021 Session
From: Douglas R. Allen
Date: February 9, 2021

Subject: Problems with HB3055 Sections 52 through 80

The following testimony relates particularly to sections 52-57, 64, 65, and 66 of HB3055.

Oregon currently has multiple tolling programs described by law, including the two existing toll bridges across the Columbia, an unused program aimed largely at private toll road operators, laws developed for the former Columbia River Crossing project, and the congestion relief program from HB2017 (2017 session). Local and regional governments also have plans or studies for tolling. HB3055 may have a worthwhile purpose in rationalizing the various programs and associated funds, but the issues involved are complex, and have not been thought through sufficiently.

Consider the policy implications regarding emission of greenhouse gases: Certain toll facilities are designed to facilitate greater traffic volumes, and when tolls are pledged to repay construction bonds, one result is the need to maintain traffic volumes, and another result is inefficient use of roadway capacity and diversion to non-tolled facilities. The Legislature needs to have an unbiased analysis of how HB3035 potentially affects greenhouse gas emissions, and how it needs to be modified in order to provide a maximal contribution to meeting Oregon's climate goals.

The Oregon Transportation Commission and ODOT have already collected a lot of valuable information about tolling, much of it shared via the Value Pricing Policy Advisory Committee (VPPAC) and at OTC meetings.

Most important is the distinction between tolling for traffic management and tolling for funding projects. Consultants to the VPPAC made a compelling case why congestion pricing could be a fair and cost-effective way to restore capacity to our urban freeway systems when imposed for managing congestion. Traditionally, tolls have been used to raise money to build or maintain roads and bridges, but consultants provided a key insight into how "value pricing" works best: Tolls needed for congestion relief are much lower than tolls needed for new construction.

For the greatest benefit, tolls should be set at the lowest level needed to keep traffic moving. When tolls are applied broadly across the freeway system, they are more effective, fairer, and lower. They should drop to zero during non-congested times of the day. Properly designed tolls help minimize or eliminate diversion to arterial streets.

Both passenger vehicles and commercial vehicles benefit. While it may make sense to provide relief to poverty-level workers who lack alternatives, many low-income earners would gladly pay a modest toll in order to assure themselves of reliable, faster commutes. Freight carriers would likewise benefit, assuming tolls are designed to facilitate freight

movement. Congestion pricing, if done well, actually increases peak period capacity by preventing "hyper-congestion" in which traffic slows to stop-and-go.

When tolls are imposed to pay for projects, they are typically used to pay back bond-holders who funded the project. Bond covenants designed to ensure repayment end up eliminating flexibility in toll rates, and cause tolls to be implemented outside of peak periods, and at high rates on commercial vehicles. This actually reduces the capacity of the freeway system, causing diversion to alternate non-tolled routes.

Furthermore, extensive studies are required to ensure that sufficient traffic will remain after tolls are implemented, so that the bond payments can be made. A large portion of the VPPAC membership recommended that ODOT implement tolling only for traffic management, not for funding projects. This can be a win-win for both freight carriers and the environment. Several organizations represented on the VPPAC wrote a letter to the OTC in June of 2018, emphasizing this approach to tolling.

Subsequent presentations to the OTC, from CalTrans and WashDOT staff, made clear that Oregon has to decide what sort of tolling it wants in order to get it right. The following quotes are from the official minutes of the March 21, 2019 OTC meeting[1]:

"[Executive Director for Washington State Transportation Commission Reema Griffith] noted the objective of tolling is about managing traffic and creating a reliable trip. Tolling is not a reliable revenue source because it is based on the whim of drivers to use it based on congestion." (page 21)

"ODOT Tolling Technologies System Manager Kathryn Jones presented a PowerPoint about the foundations of a tolling system. Jones noted ODOT staff developed key takeaways after ODOT's interactions with WSDOT, CADOT, and transportation partners. Jones noted raising revenue and managing congestion aren't completely exclusive but they have different objectives. Jones noted policy decisions frame a tolling system and tolling objectives are critical to the design of the tolling system." (page 22)

I would encourate you to watch some of the video of that OTC meeting, as well as review findings from the VPPAC.

Section 64 contains the fundamental error in HB3055: replacing a congestion relief program with a toll program. Tolling, particularly targeted variable tolling, may be a tool for relieving congestion. Travel alternatives and capacity expansion are also tools. But we still need an overall traffic congestion relief program that emphasizes reductions in greenhouse gas emissions, reduced congestion, and social equity. Tolling is not a goal in itself, and the structure of any tolling program must be subordinate to the goals of a congestion relief program. The tail shouldn't wag the dog.

Sections 57 and 58, which abolish the congestion relief fund, are misguided. Oregon needs two separate tolling funds, one to repay debt from bonded projects and one that is unencumbered with bond covenants, purely for traffic management. Remember that tolls

imposed purely for traffic management are lower and more equitable. They make more efficient use of the roadway. Value pricing is too valuable a tool to be subordinated to funding of capacity expansion.

As time goes by, the Portland region is leaving money on the table because of congestion. Properly done, congestion pricing returns greater benefit to road users than the price charged. It can relieve "hyper-congestion" where capacity drops below maximum. To do it right, ODOT must have the ability to charge low tolls (or no tolls) during much of the day on most freeway segments. Even then, congestion pricing can produce significant revenue, but it should be spent on a pay-as-you-go basis, not pledged so as to hamper tolling flexibility.

One significant recommendation from the VPPAC was that a large share of the net revenue, after the cost of tolling, should go toward mitigation, whether economic relief for low income travelers, in-highway transit priority measures, or safety and other measures on adjacent non-tolled streets. Use of toll revenue to fund projects may well result in zero dollars of net available revenue for mitigation.

Another important consideration that was presented to the VPPAC is that on I-5 in particular, through Portland, there is neither the opportunity nor community support to construct a fourth tolled express lane. Consultants made clear that the only efficient way to toll I-5 is to variably price all existing lanes. This allows the most efficient use of the existing freeway capacity as well as the best opportunity to restore peak capacity through elimination of hyper-congestion.

In order to do this legally, Oregon must utilize the Federal Value Pricing Pilot Program (VPPP). This is described in the Federal Highway Administration's (FHWA) reply[2] to Oregon's incomplete application for tolling authority: "Additional project detail is needed for a final eligibility determination... however... the I-5 Project is likely eligible for tolling under the VPPP." That program is for variable pricing to manage traffic. Although VPPP revenue can be used to construct additional capacity, that is not a requirement, and federal regulations allow net revenue from VPPP tolling to be spent for a variety of transportation purposes, including mitigating transit facilities and safety features.

It would be a mistake to combine the Congestion Relief Fund with the Toll Program Fund. Perhaps standard tolling can be used for mega-projects such as the Interstate Bridge Replacement, but when COVID-19 retreats, congestion may return, and we need tools that can be implemented quickly. Congestion pricing can only work if it is unencumbered with bond repayment obligations. To accomplish that, we need a separate fund.

Also, note that congestion pricing was intended, by HB 2017, to be implemented expeditiously. There is a December 2018 deadline to apply for permission to the Federal Highway Administration (FHWA). As quoted above, ODOT did not meet the spirit of that deadline, and instead made a vague request to FHWA, so we have not received approval, only guidance on how to proceed toward approval. The last page of the FHWA

letter says: "After satisfactory completion of the above items, the FHWA's approval of tolling projects under the VPPP has typically been a straight forward process, commonly taking as little as a few months."

As written, HB 3055 has removed all deadlines for moving forward with congestion pricing. Section 64 removes the missed December 2018 deadline, but sets no timeline going forward. If tolling is tied to funding of projects, traffic volumes will return after COVID, and the cost of congestion will return. We should expedite, not place roadblocks to fast implementation of an efficient congestion pricing program that would benefit businesses and freight carriers.

[1] https://www.oregon.gov/odot/Get-Involved/OTCSupportMaterials/Consent_01_Minutes_March_2019.pdf
(March 21, 2019 OTC meeting)

[2] https://www.oregon.gov/odot/tolling/ResourcesHistory/19-01-08%20Oregon%20Tolling%20Letter.pdf
(response letter from FHWA)