Road User Fee Task Force
Meeting Minutes – April 12, 2002

Members Present: Representative Bruce Starr, Senator Gary George, Representative Joanne Verger, Senator Susan Castillo, Roger Hinshaw, Commissioner John Russell, Mayor Jim Torrey, Judge Laura Pryor, John Watt, John Charles, Commissioner Randy Pape.

Members Absent: Dr. Chris Bell

Staff Members Participating: Jim Whitty, Jack Svadlenak, Mazen Malik, Doug Tindall, Rachel Knowles.

A quorum being present, the chair of the Road User Fee Task Force, Representative Bruce Starr, called the meeting to order.

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A motion to approve the minutes for March 8, 2002 was made. The motion was seconded and the minutes were approved.

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Presentation: Mayor Jim Torrey, City of Eugene, Andrea Fogue, League of Oregon Cities, and Victor Rhodes, City of Portland, presented information on the history, nature and condition of Oregon's city road systems.

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Presentation: Alternative Fuel Taxes

Quintin Hess, ODOT manager of the Fuels Tax Unit presented information about the Oregon use fuels tax that covers taxation of fuels other than gasoline. In answer to a question about whether hydrogen would be subject to the use fuel tax, Mr. Hess responded that if hydrogen was in gaseous form it could be taxed under the use fuel statutes. When Chair Starr asked whether electricity could be covered by the use fuel statutes, Mr. Hess responded that the statute would have to be modified to cover electricity as it is not a gaseous fluid or material. Mr. Hess doubted electricity would work as a material to be taxed.

Whitty stated that if the use fuel tax is to be considered a viable alternative to the gas tax, the use fuel tax would have to tax electricity that is generated by the vehicle. He noted that in hybrid electric vehicles, energy generated while breaking is not lost but rather is captured and stored within the vehicle and is available for use later. The incidence of taxation is on the road as opposed to at the fuel pump or at a point of connection with the provider. Whitty asked, "Is there any way for the use fuel statutes to be altered to allow for the taxation of vehicle generated electricity?" Mr. Hess responded in the negative.

Whitty then posed the concern about how the use fuel vehicles are fairing with fuel efficiency. He asked, "If use fuels are becoming more fuel efficient, will we have the same problem with generating revenue with use fuels that we are having with the gasoline powered vehicles? Hess responded it is likely that we will have the similar experience and it is just a matter of time.

The consensus of the task force is that the use fuel tax mechanism is not a viable alternative to the gas tax as a general system-wide revenue raising mechanism.

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Discussion: Studded Tires

The task force was joined by Mazen Malik, ODOT Economist and Doug Tindall, ODOT's State Maintenance Engineer.

Whitty presented the handout summarizing the ODOT studded tire study report, "Studded Tires in Oregon – Analysis of Pavement Wear and Cost of Mitigation, prepared by Mazen Malik in 2000. The study report noted that in some ODOT regions the impact of studded tires was near zero. Malik explained that in some regions the amount of studded tire use is not sufficient to reduce the design life of the roads in the region.

Whitty explained that from a cost responsibility standpoint studded tire costs are assigned to the passenger vehicle category. The result is that for purposes of cost allocation, the cost of damage from studded tire use is spread across all passenger vehicles.

The task force then discussed two possible fee mechanisms for studded tires. One is a point of sale tax and the other is an annual use permit.

Malik described that the problem with the point of sale fee is the elasticity of the demand. If Oregon had a closed border, a point of sale tax would work well, but Oregon has an open border.

Tindall predicted that over the next ten years no one will be able to buy studded tires anymore because fewer manufacturers are making cases for tires that are studdable.

With regard to the use permit fee, Tindall stated his chief concern is that the concept would not work to change behavior and that the simplest way to change behavior is through the point of sale fee.

Chair Starr asked whether a combination of the two concepts could be designed, a permit sold at point of sale with a requirement for renewal every year. Tindall responded that a combination option would work.

Russell asked whether it would be feasible with a different fee in each region for ODOT to segregate the revenues by region and make sure that that money is actually spent in that region. Tindall responded that ODOT does not track funds that way.

The task force reached consensus to direct staff to prepare a legislative concept for a studded tire use permit that could be reviewed at the next meeting. The legislative concept should contain the following elements.

1. An annual studded tire permit fee based on actual estimated cost responsibility;
2. The fee shall be variable based on this regional analysis contained in the ODOT studded tire study report.

A discussion followed about what other states are doing to collect for the damage caused by studded tires. Tindall reported no other state has a fee for studded tires. Wisconsin and Michigan have banned them. Colorado is looking at a fee for studded tires.

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Discussion: Vehicle Miles Traveled Fee

The task force was joined by Professor Robert Bertini of Portland State University.

Whitty presented a handout explaining how a vehicle miles traveled (VMT) fee would meet the criteria the task force had set for establishing user fees.

Svadlenak presented five design scenarios for the application of available technology to data retrieval and revenue collection. He said moving to a VMT fee would make things more complicated. The way Oregon collects the fuel tax is up high at the distributor level, so we have approximately 200 taxpayers in the state. If we move to a VMT fee, Oregon will then have 3 million taxpayers in the state. That makes the administrative costs and the transaction costs higher.

Russell asked under the scenarios presented if there were two vehicles, one with high fuel efficiency and one with low fuel efficiency, which one would pay the higher tax per gallon?

Svadlenak responded that under the scenarios presented each would pay the same amount of tax. They would still pay the fuel tax but if they owed more than that the fuel tax would be credited and they would have to pay the extra amount they owe. If they owed less than what they were paying under the fuel tax, the fuel tax would be credited to their amount and they would get a refund on their fill up cost for their overpayment on the gas tax.

Russell commented that the gas tax also functions as an emissions tax. If the task force recommends substituting a VMT fee for the gas tax then another separate emissions tax must be created that would replace the function of the gas tax as an emissions tax.

Charles disagreed, saying that auto emissions are over time being reduced to essentially an insignificant amount for most vehicles. He suggested avoiding getting into incentives or disincentives and instead focus on a fee for use to pay for the concrete.

Chair Starr explained that with a straight VMT tax everyone is charged the same for the miles they drive. There would be other opportunities to reward behavior outside of the use tax for the roads, not unlike the tax credit that hybrid cars get now.

Charles asked why the fuel tax is retained in the five scenarios. Svadlenak responded that the fuel tax would be continued in part to assess vehicles that are unequipped or out of state vehicles.

Svadlenak explained that since the gas tax is collected so far up the distribution chain, rather than alter collection of the gas tax, it should simply be used as a credit/debit mechanism for the VMT fee payers. In effect, the gasoline consumers would continue to reimburse the gasoline retailers who, in turn, reimburse the distributors for gas taxes paid but it would serve as the consumers' partial or full payment of their VMT fee.

Svadlenak explained that gas stations might be compensated for incurring added expense in collecting a VMT fee. Minnesota estimated the cost per service station of adding the new equipment in today's dollars is roughly $20 thousand dollars. He noted, for example, the use fuel sellers currently retain 4% of their tax collections.

Charles suggested that perhaps the task force should attempt to reduce the role of gasoline dealers and reduce the role of the gas tax by simply converting a couple of the interstate highways into straight forward toll-ways using the AVI technology. Congestion pricing could then piggy back where necessary and have flat rates where appropriate. This would require a minimal amount of expensive infrastructure but capture a whole bunch of VMT. The VMT could then be backed out of the gas tax and the highway trust fund and begin to lower the gas tax.

Bertini explained that for 50 years or so people have talked about new ways of pricing roadways, but the barrier has always been, "How do you collect the fees?" In the last five years, not only has technology for reading the transponders improved, the transponders themselves are quite inexpensive. What could happen in the next 10 to 15 years is that as the fleet increases technologically conversion to a location based system could occur. The way beyond AVI devices would take advantage of what is being used in the vehicles.

Bertini offered that for purposes of the pilot demonstrations the task force might not want to rely on one group, say fuel stations or AVI. Rather, the task force may want to set up the possibility to demonstrate several different possibilities, so that if one does not pan out or if the fuel station problem becomes too big, then some of these other pathways that you have been discussing may become promising.

Bertini discussed the possibility of using a telematic system to retrieve VMT data. A telematic system consists of a GPS receiver and an embedded cellular phone. It has the ability to receive calls and puts calls out and there is a data transfer process.

On the long term viability issue, Bertini said most people are counting on GPS getting better but not being replaced by a new system. It is hard to see a big revolution away from GPS in the next 10 to 15 years. GPS is becoming inexpensive and reliable. These types of wireless communications devices are everywhere. Soon the cell phone itself may have a GPS system in it.

Starr noted that among the five scenarios, none included having a master computer make cellular phone calls to the receiving component in the vehicles with automatic data transmission occurring overnight and a bill to the taxpayer generated. He asked whether this method is far too expensive or not practical.

Svadlenak responded that such a method appeared to be very expensive and that it had practical problems as many people would not want to cooperate with automatic payment methods such as a credit card or checking account deductions.

Russell suggested pilot testing a completely computer based, paperless system using huge fleets such as utilities fleet.

Egan said the task force might think about tying payment of a tax based on data through a centralized system to an annual registration fee.

Pape suggested requiring use of a debit card that people have to purchase to draw against. The card might be purchased in 25 dollar increments. When the card runs out, you are told your license is expired.

Daryl Fuller of the Oregon Automobile Dealers Association was invited to join the discussion. Fuller suggested determining the cost of a system where the vehicle calls a central system at 3:00 in the morning versus a gas station based system. He said the cost of a central system may be much less than the $20,000 per gas station.

Whitty noted that the rate contained in the scenarios -- 1.25 cents per mile – is based on the approximate fuel efficiency of the entire passenger vehicle fleet, 19.1 miles per gallon. He offered that if the task force wanted to encourage more fuel efficient vehicles, this rate could be adjusted to allow fuel efficient vehicles to pay less than non-fuel efficient vehicles.

Watt expressed concern that under the five scenarios there is no provision for imposing a VMT fee on out of state vehicles. If the task force is going to suggest moving away from the fuel tax, then we will have to address the issue of the out of state or unequipped vehicles.

Starr said if the state moves to a VMT fee, then there must be an opportunity in the future to put together a multi-state system where states cooperate across state borders. How this will work remains to be seen.

Craig Campbell of the AAA Oregon and Idaho was invited to join the discussion. Campbell noted that a VMT tax is the fairest way of taxing motorists in Oregon to reflect cost responsibility but it also scares the public because of the perception of its intrusive nature. He suggested that AAA Oregon/Idaho be involved in any testing. He also suggested a private vendor based collection system rather than a government based system. A private vendor can be sued for a breech of confidentiality but the government cannot. He suggested a longer term transition and encouraged the task force to look at the end-result and not design the system according to transition.

Campbell suggested not designing the new system to provide a disincentive to someone who is using a hybrid vehicle to go onto the new system. The more that you connect a new system to an existing system it will appear much more complicated and the taxpayer will not perceive to be getting much out of it. He suggested separating the gas tax from the VMT tax through a switch on the gas pump that either collects the gas tax or does not.
If I am on the new system, VMT or GPS, and I have a sticker that says I am on the system, they just switch to the non-tax version. If someone is not on the system or is coming in from out of state, they pay the gas tax. The more people that move over to the new system, you are going to get a good collection of data about vehicle miles of travel and how much impact that is going to have on the system. The remaining miles then allow you to calculate what your gas tax is going to be. I will tell you it is going to be a lot easier in the future for you to get the legislature to make sure that the gas tax is matching the need if a mass of the Oregon public is not paying that tax. For those who are coming out of state or who are not on the system, that the goal should not be to collect additional revenue but to make sure that the gas tax is matching the equivalent of their cost responsibility. You thus meet a legitimate state purpose and are not going to be subject to lawsuit over a two tax system.

Bertini said there are two organizations that have the capability to handle a centralized system -- On-Star and ATX. Those two organizations have supposedly scalable database and computing structures to support the automotive industry.

Dale Hormann of the Oregon Department of Justice was invited to join the discussion. Hormann advised that, "Any of these methods of alternative fee collection has to be tied back to the cost responsibility and the case he [Craig Cambell] cited was a great example. We are looking at the use of the highways and the cost responsibility and all of these types of methods have to be tied back to that somehow."

Egan noted when a GPS or a hubodometer system is set up that clicks off at the border and we have figured out how to account for out of staters, then our system clicks off we are travelling there free of Oregon tax. In theory that is not much different than if we are just buying our gas here exclusively and travelling up there on a regular basis. Egan asked Hormann if that brings any red flags.

Hormann responded, "I don't think it does as a legal matter necessarily, but certainly that is going to be something that the other states are going to look at. The other states are going to want to address as to how to equalize that income to their state versus the income to our state when that is clicking off and we are being able to drive in their state essentially for free."

Starr asked how is that different from the gas tax system now?

Hormann responded, "It is really no different, but it becomes equalized because we pay here, we use our gas in their state, they pay in their state and use in our state so it is no different but it is sort of equalized. Once you go to a VMT system it is not quite as equal."

Campbell said that whatever the taxing mechanism for the out of state driver is, they should pay for each mile they travel in the state. The tax should try to capture what an in state VMT payer would pay. So if an instant VMT payer would pay 1.25 cents per mile, then the gas tax that they pay should theoretically be targeted to try and recapture that.

Whitty expressed concern about having two taxes and systems running at once. As an example, if only newer vehicles were on one of them, or even only hybrids on one of them, and everyone else is still on the gas tax and that rate for the VMT tax is based on the average fuel rate for the whole fleet in the state which works out to roughly 19.1 miles per gallon or 1.25 cents per mile. The gasoline tax payers would have different levels of fuel efficiency. Some vehicles would be at 20 miles per gallon (mpg) and some at 12 mpg and some 30 mpg. They are each paying the paying the gas tax so is there a problem with those that are paying the VMT tax which is more precise.

Hormann responded, "I see your issue. Over the past century we have made the assumption that it's equalized even though everyone isn't paying the same rate per mile, they are paying it because they pay by the gallon. Now that we are taking a part of the travelers, the motoring public, and being more precise on their cost per mile but we still have this other group where it is an average and we are not very precise. Good question and I don't know. I don't know how that would be considered. I don't have anything to really compare that to. I would suspect, and this is merely my opinion, very rough opinion, that a court would still probably say since it is as a general matter, they are all sort of paying at the same rate, it is probably okay even though you are being more precise yourself."

Hormann added, "I think one way to address it is even during a phase in, is to make the other system available to anybody that wanted to use it. If you were using the VMT system as the more precise one even though you are phasing it in and you are probably going to do it more on the new vehicles the hybrid vehicles etc. . . , if you made it available even at a cost to the older vehicles I think that equalizes that in equity."

Whitty asked, "So, someone getting twelve miles to the gallon could shift to the VMT system."

Hormann responded, "Yes, you would give that as an option."

Whitty – I would like to have a discussion next meeting about congestion pricing and the legal limitations related to that. Dale Hormann may be available by phone, but since you are here we could talk about what you are worried about with congestion pricing -- unequal treatment for the same tax payer.

Hormann responded "I think is the same thing that we have been talking about. It is the same issue and it is really the same issue for any of these, it is not just for congestion pricing. Although congestion pricing gets kind of interesting because you are both using congestion pricing now as a revenue raising measure and as a traffic management measure. When you start to automatically treat people differently, I mean that is congestion pricing. You are charging different rates at a different time. But as long as you are charging different rates at different times and then treating everyone in that same situation the same then you shouldn't have a problem, but overall it is the same issue we were just discussing with the cost responsibility and equal paying for their share of the cost."

Whitty asked "What about out of state drivers?"

Hormann responded "Again it is the same issue with the out of state drivers."

Whitty asked, "We have to figure out a way for them to participate in the congestion pricing?"

Hormann responded "Yes we are, yes."

Svadlenak noted, "You can't phase in congestion pricing." He asked, "Everyone pays it [or] everyone doesn't, if I understand what you are saying."

Hormann responded, "I think yes."

Svadlenak said that it would be very difficult to phase in a congestion pricing system.

Charles said congestion pricing could be phased in in terms of how many facilities you apply it to, but not on the facility itself.

The task force reached consensus about going forward with only three of the five VMT fee scenarios. The task force excluded from additional consideration scenario one, the paper and pencil method, and scenario three, the hubodometer method.

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Discussion: Facility Tolling

Whitty presented a revision of a handout provided at the March 8th meeting demonstrating the ability of selected rural roads to pay for themselves. The handout contained a new column, added at the request of the task force, that reflects the rate per VMT that must be charged for each of the listed roads to be able to pay for their own maintenance and preservation.

Whitty then presented handouts regarding the response back from the ODOT regions on potential toll facility pilot projects and summarizing studies done in 1996 on the potential for tolling a Newberg/Dundee by-pass and a Tualatin/Sherwood connector to I-5.

The task force expressed interest in "costing out" the potential pilots. The task force decided that the list should be paired down to a few for this purpose.

Starr said Highway 26 is not a good candidate as a toll facility because it is too hard to toll as too many people get on and off, traveling short distances.

Russell is concerned about the unintended consequences resulting from imposing tolls on roads. He advised the task force to be careful suggesting tolling part of the system because people are induced to make choices about where they are going to work and we distort the system. Inevitably, the tendency is to toll high volume roads and roads that are centralized. He is concerned that if only the high volume roads are tolled, the result would be decentralization of the places that people work. He views congestion pricing as a halfway measure to VMT pricing.

Hinshaw countered that congestion pricing is meant to deal with altering behavior in addition to collecting revenues. It is not necessarily just a halfway measure. He said the task force is dealing with both the congestion pricing and VMT pricing issues and didn't see why the task force couldn't test with a pilot project that incorporates both issues.

Charles offered that if congestion pricing is done correctly, Portland would have very little congestion. He said that a pilot would have to be done comprehensively. He does not advocate, therefore, tolling I-84 as congestion pricing pilot from Gresham to I-5 because traffic coming to a screeching halt as drivers hit mispriced I-5 would not produce any benefits.

Torrey proposed putting tolls on a pilot facility only during certain times of the day to educate the public as well as generating revenue.

Starr said the only way he would be interested in tolling I-217 is if two new lanes were added, not unlike SR91 in California. Pape expressed agreement.

Charles said if at either end of I-217 drivers run into totally congested highways all the benefit of higher speed along that 7 mile stretch is lost. I am not sure any scenario for any individual highway in Portland would generate enough consumer benefits for people to feel that they are benefiting because it is lacking comprehensiveness.

Russell agreed. He said congestion pricing is terrific if comprehensive. Isolated congestion pricing will be a disaster.

Russell noted that for the Newberg/Dundee and the Tualatin/Sherwood tolling studies it was estimated that tolls would pay for no more than _ cost, which is not a bad deal.

Whitty described that Highway 20 would be priced primarily for local industry to avoid an out-of-the-way truck trips on Highway 18. The pricing would not actually involve a per trip toll but rather local industries would estimate their traffic and enter into a contractual agreement to provide sufficient revenue to pay off a portion of the bonds.

Pape asked about including the West Eugene Parkway on the list going forward.

Torrey responded that tolling the new West Eugene Parkway would defeat the purpose of offering a free option to getting west Eugene traffic to I-5 other than on city streets.

Pryor raised the issue of the Newberg/Dundee bypass. At some point it becomes such a bottleneck that it causes other problems. She encouraged the task force to at least look at that one.

Whitty reported that ODOT commissioned a study on the Newberg/Dundee by-pass in 1996. At that time, 18,000 cars were going through Newberg per day and the estimate by 2020 was more than double that. In 1996, the toll was going to be 75 cents but would only pay for 40 percent of the project. With double the traffic, the ability to toll at a higher rate increases.

The task force reached consensus on four potential toll facility pilot projects moving forward – the hot lane for Interstate 217, Interstate 5 bridge, the Newberg Dundee By-Pass and Highway 20 from Pioneer Mountain to Eddyville.

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Discussion: Additional Potential Revenue Sources

Whitty presented a list of more potential revenue sources. He described the tire and battery tax, the vehicle impact fee (a.k.a. transportation impact fee or first time title and registration fee), indexing the gas tax, temporary visitor access fee, emission fees and bicycle fees.

The task force reached **consensus** that none of the potential revenue sources presented should be researched further at this point.

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Public Testimony

There was no public testimony.