



Oregon

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TO: Land Conservation and Development Commission
FROM: Richard Whitman, Director
SUBJECT: Agenda Item 12, December 3-5, 2008, LCDC Meeting

DIRECTOR'S REPORT

I. INFORMATION UPDATES

A. PARTICIPATION IN APPEALS, AND RECENT LUBA AND APPELLATE COURT OPINIONS

ORS 197.090(2) requires the director to report to the Commission on each appellate case in which the department participates, and on the position taken in each such case.

ORS 197.040(1)(c)(C) requires the Commission to determine whether recent Land Use Board of Appeals (LUBA) and appellate court decisions require goal or rule amendments.

1. Department Participation in Appeals

Between September 24 and November 13, 2008, the department received notice of 41 appeals filed with LUBA.

The department filed one of those notices, *DLCD v. Clatsop County*, LUBA No. 2008-176, on October 9, 2008. The department challenges approval of a preliminary subdivision plat based on a Measure 37 waiver (Carlson).

2. LUBA Opinions

Between September 24 and November 13, 2008, the department received copies of 35 recently issued LUBA opinions. Of these, LUBA dismissed 5, remanded 18, reversed 1, affirmed 8, invalidated no local decisions, and transferred 3 petitions to circuit court.

Three of these decisions concern the application or interpretation of a statewide planning goal or LCDC administrative rule:

- **OAR 660, Division 12:** *The League of Women Voters of Umpqua Valley v. City of Roseburg*, LUBA No. 2006-244, filed October 14, 2008: LUBA affirmed city adoption of the city’s transportation system plan.
- **OAR 660-023-0180:** *Gruener, et al v. Klamath County*, LUBA No. 2008-084, filed October 20, 2008: LUBA affirmed plan and zoning map changes to authorize aggregate mining.
- **OAR 660, Division 6:** *Anderson, et al v. Lane County*, LUBA No. 2008-107, filed October 14, 2008: LUBA remanded approval of a plan map amendment from Forest to Marginal Lands.

None of these opinions requires goal or rule amendments.

3. Appellate Court Opinions

Between September 24 and November 13, 2008, the department received copies of four recently issued opinions from the Oregon Court of Appeals. The court affirmed three, dismissed one, and remanded and reversed no LUBA decisions.

4. Decisions of Interest

Department appeals

- LUBA dismissed *DLCD v. Yamhill County*, LUBA No. 2008-130 (Kroo Measure 37 claim) at the department’s request on October 14, 2008.

Measure 37/49

- *Citizens for Constitutional Fairness, et al v. Jackson County*, US District Court for District of Oregon, Civ. No. 08-3015-PA, filed November 12, 2008: The federal district court held that fourteen Measure 37 waivers granted by Jackson County were contracts that were not abrogated by Measure 49. The court has issued a declaratory judgment to that effect. The state is not a party to the case. The decision conflicts with a decision by the Oregon Supreme Court concerning Measure 37. In *MacPherson v. DAS*, the Oregon Supreme Court held that Measure 37 did not authorize waivers as contracts, and that the Oregon legislature was free to amend or even repeal Measure 37. These two decisions will need to be reconciled through further litigation, most likely in state court where several other cases are now pending involving contract claims.
- *Pete’s Mountain Homeowners Association, et al v. Clackamas County*, LUBA No. 2008-065, filed September 25, 2008: LUBA reversed county approval of 41-lot subdivision in Agriculture/Forest zone based on Measure 37 waivers (Bowerman/Campbell).
- *Friends of Yamhill County v. Yamhill County*, LUBA No. 2008-082 (Cook), filed September 30, 2008: LUBA transferred county vested right decision to circuit court.

Others

- *Southern Oregon Pipeline Information Project v. Coos County, et al*, LUBA No. 2007-260, A139623, filed October 22, 2008: The Court affirmed LUBA’s remand of the county’s approval of a liquefied natural gas (LNG) terminal at Coos Bay.

5. Appeal Notices of Interest

Measure 37/49

- Another party appealed the same Measure 49 subdivision decision appealed by the department: *Oregon Shores Conservation Coalition v. Clatsop County*, LUBA No. 2008-178, filed October 14.

Others

- Appeal of **Adair Village**'s 127.5-acre UGB expansion: *Hildenbrand, et al v. City of Adair Village*, LUBA No. 2008-191, filed October 28, 2008.
- Appeal of **Donald**'s 42.5-acre UGB expansion: *Friends of French Prairie, et al v. Marion County*, LUBA No. 2008-186, filed October 22, 2008.

B. GRANTS, INTERGOVERNMENTAL AGREEMENTS AND CONTRACTS

GENERAL FUND GRANTS

The department's general fund grants remain committed for the remainder of the 2007-2009 biennium. The department continues to receive inquiries and applications for technical assistance grants although funds for technical assistance projects are now fully expended. Requests for assistance with periodic review tasks are slower than anticipated but requests have increased in the last two to three weeks. Periodic review projects are the highest priority for remaining grant funds.

C. PERIODIC REVIEW WORK TASKS/PROGRAMS

Those cities currently in periodic review are working to complete plan evaluations and work programs. The department continues to review work program submittals from Hermiston, Portland, Forest Grove and Troutdale. Lake Oswego and Tigard both have requested an extension for submitting initial plan evaluations and draft work plans.

The department reached an agreement with the City of Grants Pass concerning the procedure for review and approval of the city's housing element and the remainder of its work to update its urban growth boundary. The agreement provides that future work by the city to amend its urban growth boundary will be subject to review by the Commission or the department in the manner of periodic review.

D. GOVERNOR'S TRANSPORTATION RECOMMENDATIONS

Governor Kulongoski released his transportation proposal for the 2009 Legislature on November 10. The Jobs and Transportation Act (JTA) is based on work of the Transportation Vision Committee, which distributed its report on November 7. The committee's recommendations are comprehensive and include methods to better integrate land use and transportation planning. The JTA and the vision committee report emphasize the need to plan for and provide a transportation system that reduces greenhouse gas emissions. Key land use recommendations include:

- Legislation requiring metropolitan areas to amend land use and transportation plans to reduce greenhouse gas emission reductions, by planning for reduced vehicle miles traveled (VMT).
- Directing ODOT and DLCDC to redirect existing funding and provide additional funding and technical assistance for local governments to revise land use and transportation plans to support greenhouse gas emission reductions.

The full Transportation Vision Committee report is available online at: http://governor.oregon.gov/Gov/pdf/tvreport_final.pdf. Selected pages of the report are included as Attachment A to this report.

II. DEPARTMENT PROGRAM ACTIVITIES AND INITIATIVES

A. PLANNERS' NETWORK MEETINGS

The department hosted a Central Corridor Planners' Network Meeting at the Deschutes County Building in Bend on October 2. The primary topic of the meeting was destination resorts, but the agenda also included a discussion of affordable housing with a representative of the local housing authority, a recap of department activities and legislative concepts, and a local government roundtable. Representatives from Bend, La Pine, Madras, Redmond, Sisters, and Deschutes, Jefferson, Klamath, Sherman, and Wasco counties attended, along with staff from the state departments of transportation, fish and wildlife, water resources, and state lands. Nine DLCDC representatives, including regional and Salem staff and the director, attended.

The department also participated in two events in Eastern Oregon during October. On October 8, the department held a Planners' Network Meeting for city and county representatives. The city of Baker City hosted the event in the Baker City Council Chambers. Approximately 60 people attended, including city and county planners, planning commissioners, and elected officials from Baker, Grant, Malheur, Morrow, Umatilla, Union, and Wallowa counties. The department and the Transportation Growth Management Program were pleased to include a special guest presentation from Pennsylvania land use speaker Thomas Hylton.

On October 9, the Union County Realtors Association hosted a department workshop on land use planning for Realtors in La Grande. The workshop drew about 25 Realtors from the northeast region. The director and several department staff presented to the group. Workshop topics included a history of Oregon's land use planning program, an overview of current department efforts, planning and economic development, wind energy siting, and Main Streets. The department was also pleased to introduce Hylton's presentation, "Save Our Land, Save Our Towns," to the Realtors. The Realtors also extended an invitation to the department to return in 2009 for another land use workshop.

B. COASTAL MANAGEMENT PROGRAM

Marine Reserves: the Ocean Policy Advisory Council on November 18th approved two proposals for marine reserves near Depoe Bay and Port Orford as pilot projects to send to the Governor and the legislature for approval and funding. The council also recommended that several more sites be considered for designation as reserves, but only after more research and collaboration between supporters and affected communities.

C. MEASURE 49 DEVELOPMENT SERVICES

Eighty-eight final orders have been issued, as of November 21, 2008, and an additional 296 preliminary evaluations have been sent. The division is building rapidly toward a level of at least 200 Measure 49 orders per month. In conjunction with the Department of Justice, we are continuing to examine ways to speed the processing of Measure 49 orders. It is possible that the department will be proposing temporary rule amendments at the December meeting in order to facilitate the processing of certain types of claims. A supplemental notice will be issued if that proposal goes forward.

D. PLANNING SERVICES

TGM Grant Pre-applications

In mid-November, the Transportation and Growth Management (TGM) program began a pre-application process for TGM grants for the 2009-2011 Biennium. The TGM budget includes approximately \$4.5 million for grants each biennium to help local governments update and refine transportation planning and conduct related land use planning to help communities give Oregonians more transportation choices through improved pedestrian, bicycle, transit, and multi-modal street facilities. While TGM grants are directed primarily to local governments, including cities and counties, special districts – such as transit districts and school districts – are also eligible as part of a joint project with a local government.

Through the pre-application process, local governments are informed about the availability of TGM grants and other services and encouraged to identify possible planning projects. TGM program staff (from ODOT and DLCD) work with local governments to help develop projects for the formal application process. Pre-applications are due in mid-December. The TGM grant application packet will be distributed in March, with grant awards scheduled in May. Grant awards are contingent upon Legislative approval of the DLCD and ODOT budgets.

For the 2009-11 biennium, grant award criteria have been revised to emphasize and encourage projects that address state goals to address climate change by planning to reduce greenhouse gas emissions.

E. DIRECTOR'S OFFICE

Bob Rindy and the director have continued to work on refining the agency's legislative concepts during the past six weeks. We expect final versions of the proposed legislation to be completed

by Legislative Counsel around the beginning of December. Several meetings with likely legislative leaders are scheduled in the next couple of weeks to discuss these concepts.

We have begun a regular but informal weekly communication from the Director's Office to all staff and to the Commission reporting on what's going on. This is one part of a multi-faceted campaign to improve communication within the department. Additional effort and planning also is being devoted to external communications.

Cliff Voliva, Communications Officer, is representing the department as a liaison to the Environmental Justice Task Force (SB 420, 2007). The task force has met twice this year (August 27 and October 24). Between those two meetings, the department sent a two-page response to the following questions: (1) If you could implement environmental justice in your agency today, what would you do; and (2) If you can't, why not. The task force may ask some agencies for more information prior to issuing an annual report to the 2009 Legislature Assembly in January. At the October meeting, the task force drafted the following definition of environmental justice: "Environmental justice is equal protection from environmental and health hazards, and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality and play." Voliva also volunteered to work on the task force's education and outreach subcommittee.

III. DEPARTMENT ORGNIZATIONAL AND MANAGEMENT INFORMATION

A. NEW STAFF AND PROMOTIONS

1. Measure 49 Development Services Division

Judith Ingram Moore joins the department on December 8 as the Measure 49 Development Services Division Manager. Moore comes to us from the City of Salem Community Development Department where she worked as a Senior Planner and most recently as the Assistant Planning Administrator. Judith also has experience working for regional planning and county governments, and has her J.D. from Lewis and Clark law school.

Carmel Bender is being appointed by Governor Kulongoski as the Measure 49 Ombudsman, replacing Alwin Turiel. Bender has worked in the Measure 49/37 division for some time, and has experience working in private practice as a lawyer and for the Oregon Land Use Board of Appeals.

Sandy Austin, who recently joined the department, was promoted into a Completeness Review Specialist position on October 1.

Tim Fitzgerald joined the department on October 6 as a Measure 49 Claims Analyst. Fitzgerald has been working with political campaigns for most of this year. Prior to that, he was an auto claims adjuster.

Andy Hardwick joined the department on October 6 as a Measure 49 Claims Analyst. Hardwick has an extensive background in real estate appraisal having owned and managed his own company for the last 20 years.

Kathy Smith joined the department on October 27 as a Measure 49 Publications Specialist. Smith has a bachelor's degree in history from the University of California and was most recently employed as an administrative secretary at Chemeketa Community College.

Debbie Lathrop joined the department on October 27 as a Measure 49 Publications Specialist. Lathrop has been most recently employed as an escrow officer with Ticor Title and prior to that with AmeriTitle. She has over 13 years' experience in the title business.

Shirley Reams joined the department on November 3 as a Measure 49 Claim Intake Specialist. Reams has been most recently employed as a medical records clerk at Salem Clinic. Prior to that, she worked at the Oregon Department of Transportation for over 13 years in various clerical positions.

Cheryl McCarthy joined the department on November 3, as a Measure 49 Completeness Review Specialist. McCarthy has been most recently employed as a clerical assistant at the Oregon Department of Transportation through Galt Temporary Services. She has over 17 years' experience in the clerical field.

2. Operations Services Division

James Mitchell joined the department on November 10 as the Accountant 1 in the Operations Services Division. Mitchell was previously employed with the Department of Human Services and the Oregon Department of Transportation where he worked for more than 11 years in various accounting positions.

3. Director's Office

Lisa Howard joined the department on November 24 as the Executive Assistant to the Director and the Commission. Since 1997, Howard has been the co-owner of Westwind Management Group, Inc. In addition, she was the Deputy Director (1995-2000) and Director (2000-2003) of Executive Appointments in the Office of the Governor. Howard and Bryan González will be tag-teaming the December commission meeting to assure a smooth transition. González has been doing yeoman's work keeping things going on a variety of fronts over the past six weeks.

B. DEPARTING EMPLOYEES

Diane Rolph, a Measure 49 Claims Analyst, left the department on October 24.

Tawni Bean, a Measure 49 Claims Analyst, left the department on to October 24 to return to the Oregon Economic and Community Development Department.

Sarah Watson and Jenny Hill, Executive Assistants to the Director and the Commission, left the department on November 4. They accepted a position with Travel Oregon and the Oregon Tourism Commission.

C. RECRUITMENTS

Measure 49 will be holding interviews for two Program Analyst 1 positions and two Program Analyst 2 positions in the upcoming week. At the time of the Commission meeting, the department anticipates that the recruitment selection will be finalized.

D. DIRECTOR ACTIVITIES

During the period of this report the director has been involved in several activities in support of the work of the department, both within the department and externally. Highlights of the director's activities include:

- Participation in the Governor's Agency Advisors Committee
- Participation in the Natural Resources Cabinet
- Participation in Metro Policy Advisory Committee (MPAC) (several meetings during this period), including meetings on proposed transportation planning concepts for the Portland region as well as meetings on regional infrastructure issues.
- Participation with the Economic Revitalization Team (ERT) Directors' meetings.
- Ongoing senior staff meetings with the Department of Transportation, to help improve coordination and communication between DLCD and ODOT
- Meeting with the Bear Creek Valley Regional Problem Solving (RPS) Policy Committee subgroup concerning next steps in the RPS process (November 17).
- Meeting with Klamath and Deschutes counties concerning possible pilot projects for the transfer of development rights.
- Big Look Task Force Meetings (Portland, October 29–30 and Albany, November 21)
- Community Development Forum (Salem, November 3). This entity attempts to coordinate legislative priorities among a number of state agencies and local governments.
- Speaking at the 11th Annual Conference on Litigating Takings and Related Legal Challenges to Land Use and Environmental Regulation regarding Measure 49 (Stanford Law School, November 6–7)
- Speaking at a joint meeting of the Westside and Clackamas County Economic Alliances regarding Big Look Task Force recommendations (Tigard, November 14)
- Meeting with Klamath County (Klamath Falls, November 17)
- Association of Oregon Counties Annual Conference (Eugene, November 18–19)
- Speaking at the 120-Day Club regarding the department's 2009 legislative agenda (Portland, November 19)
- Meeting with Jackson County (Eugene, November 19)
- Meeting with the City of Bend (planned for December 1)

IV. LEGISLATIVE UPDATE

A. DLCD LEGISLATIVE CONCEPTS

The department received draft bills from Legislative Counsel in October. Under procedures for drafting of agency concepts, DLCD sent edits of these LC drafts back to Legislative Counsel within the 14-day timelines, although DLCD did receive a small extension of time for edits to the Big Look legislation in order to reflect the Task Force decisions on October 30. As of the date of this report, Legislative Counsel has not provided final Bills to the department. However, the department anticipates these bills will be final and returned to DLCD prior to December 1, which is the deadline for agency bill drafts.

B. OTHER LEGISLATIVE ITEMS

The department is working with work groups established and chaired by legislators, including a group discussing legislation on Transfer of Development Rights (TDRs), and a group discussing farm/forest requirements under ORS 215.

V. LCDC POLICY AND RULEMAKING UPDATES

A. RULEMAKING

At its March 2008 meeting, the Commission appointed an advisory work group for the Affordable Housing rulemaking pilot project. The work group has met six times to discuss options for a “pilot project” to encourage affordable housing, and has also discussed other options for rules to encourage affordable housing. The work group is scheduled to meet at least one more time (December 15), and may schedule other meetings. *See* LCDC Agenda Item 8.

The department has an approved legislative concept (a concept shared with the Department of Housing and Community Services) to establish a pilot project based on issues the group is discussing. The department may be required to file this bill with the Governor’s office, and perhaps with the legislature, prior to the next work group meeting. As such, the work group will not be able to consider or modify this proposal prior to the filing dates.

The department’s website has information and materials regarding this project, including as schedule of meetings, at the following link:

http://www.oregon.gov/LCD/meetings.shtml#Affordable_Housing_Work_Group

LCDC appointed a “Phase 2 UGB Work group” to consider new “safe harbors” and other administrative rules intended to clarify and streamline the UGB amendment process. The work group has met six times, and forwarded a recommendation to LCDC for consideration at its December 4 hearing in Tillamook (*see* LCDC Agenda Item 7). LCDC intends to review the work group’s recommendations and possibly adopt amendments to the UGB amendment rules in OAR 660, Division 24, at that hearing. Meeting summaries and materials are on the department’s website, along with other information, at the following link:

http://www.lcd.state.or.us/LCD/ugb_rulemaking_project.shtml

The department is proceeding with a rulemaking regarding wind energy facility siting on farmland. (*see* LCDC Agenda Item 9). The department’s website includes information and materials, as well as the proposed rules, at the following link:

http://www.lcd.state.or.us/LCD/wind_energy_facility_siting_on_farmland.shtml.

B. OTHER POLICY ACTIVITIES

1. Metro Urban and Rural Reserves

The department is continuing to participate in Metro’s process for designating Urban and Rural Reserves, and to coordinate with other state agencies in that effort. The Metro Reserves Steering Committee has met roughly six times, and Metro and the three counties involved in leading the process have agreed on the study area for the effort. The next Reserves Steering Committee meeting will be held on December 10, 2008. Metro is scheduled to brief the Commission on the progress of this effort at the January LCDC meeting.

The department is planning to host a meeting of all state agencies involved in the Metro reserves effort before the next Steering Committee meeting.

2. Climate Changes

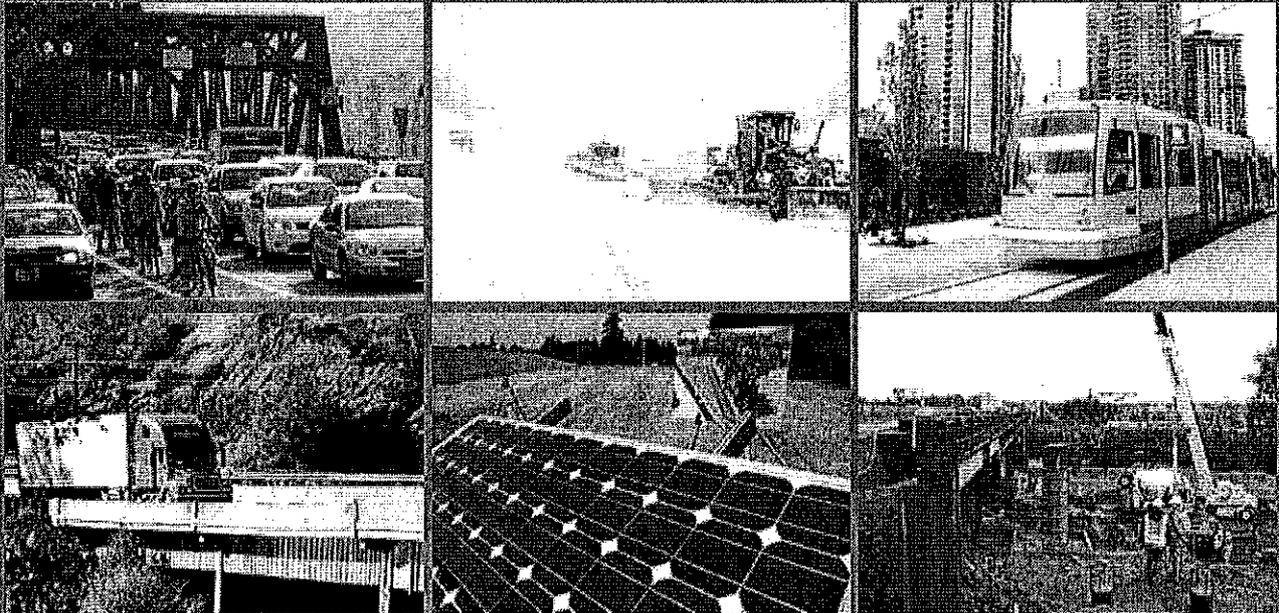
The department met with the petitioners for a new statewide planning goal concerning sea level rise. We are planning a comprehensive briefing for the commission on climate change adaptation issues, including coastal adaptation issues, for the January meeting.

VI. ATTACHMENTS

A. Selected pages of the “Transportation Vision Committee, Report to Governor Ted Kulongoski,” November 2008

Transportation Vision Committee Report to Governor Ted Kulongoski

November 2008



Transportation Vision Committee: Report to the Governor

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Transportation Vision Committee: Report to the Governor

Introduction

Oregon's multi-billion dollar transportation infrastructure hasn't been maintained to keep up with population and freight traffic growth, hindering Oregon's ability to move people, goods and commerce effectively throughout the state. If we do not make critical improvements, it is forecasted that congestion on our roads will increase by 42 percent by 2025, creating gridlock for commuters and further challenging Oregon's ability to compete in the traded sector economy. In addition, since transportation accounts for nearly 40 percent of greenhouse gas emissions, we must reexamine how we provide transportation options that complement our carbon reduction strategies.

In December 2007, Oregon Governor Ted Kulongoski, citing risks to the economy, environment and quality of life for all Oregonians, identified transportation as one of his top priorities for the 2009 Oregon Legislative session.

Governor Kulongoski convened three workgroups composed of business leaders, legislators, local and state officials, transportation stakeholders and sustainability and land use experts to develop recommendations for a comprehensive transportation package for the 2009 legislative session to meet immediate needs and create a framework for future action. The workgroups focused on three areas: Governance; Public Awareness; and Vision.

Governance: The Governance Committee, chaired by Steve Clark of Community Newspapers, was charged with developing recommendations for improving efficiency, coordination and accountability in the transportation system, including how transportation decisions are made, the balance between local, state and federal jurisdictions in decision-making, and how projects are prioritized.

Public Awareness: The Public Awareness Committee, chaired by Chip Terhune, Chief of Staff to the Governor, was charged with developing a plan to engage the public in discussions about the importance of transportation to Oregon's economy and quality of life. The committee was asked to develop tools to help inform the public about the needs of the transportation system, its benefits, and how transportation dollars are spent at the local, state and federal levels.

The Governor asked both of these committees to report to a third, the Transportation Vision Committee, chaired by Patrick Reiten of Pacific Corp.

Vision: The Transportation Vision Committee began its work by developing a consensus statement about what Oregon's transportation system should look like in 2030. It is intended that this vision will help guide transportation investments in 2009.

The Governor outlined five core principles to use as guides in developing the recommendations: economic development; local decision-making; sustainability; transparency and oversight; and statewide distribution.

Transportation Vision Committee: Report to the Governor

Economic development

Because of Oregon's desirable strong traded sector economy, one in every five jobs in Oregon is transportation related. Transportation is vital to maintain and grow the traded sector economy; without transportation, industry will go elsewhere. Transportation funding stimulates the state's economy and directly creates jobs as the infrastructure is both maintained and expanded. Oregon's experience over the past half decade is that these jobs are from Oregon companies, and those companies have grown as a result.

Local decision-making and identification of priorities

The Oregon Transportation Commission will work with Area Commissions on Transportation, local governing bodies, and stakeholders to identify priorities for transportation investment.

Sustainability

The state must develop an investment strategy that not only preserves the current system but makes a strategic investment in a sustainable transportation system, including working towards requirements of the state's goals on greenhouse gas reduction.*

Transparency and oversight

Funding strategies, based on adopted policies, will involve an open discussion for citizen input and direction to guarantee that the funding priorities deliver what the citizens want.

Statewide distribution

Transportation funding is a priority for every corner of the state, whether it is maintenance, preservation or expansion of the system. All Oregonians must benefit from this investment.

*The state of Oregon has adopted goals for the reduction of greenhouse gas emissions. These are:

- To arrest the growth of Oregon's greenhouse gas emissions and begin to reduce greenhouse gas emissions by 2010;
- To achieve greenhouse gas levels that are 10 percent below 1990 levels by 2020; and
- To achieve greenhouse gas levels that are at least 75 percent below 1990 levels by 2050.

Transportation Vision Committee: Report to the Governor

The Oregon Vision

By 2030, Oregon has a working transportation system that safely supports people, places and the economy. To the greatest extent possible, efficient vehicles powered by renewable fuels and non-motorized sources move all transportation modes. Greenhouse gas emissions from the transportation system are consistent with the reduction targets established by federal and state law.

Oregonians and visitors have real transportation choices and transfer easily between air, rail, motor vehicle, bicycle and public transportation. In addition to being the norm in the state's urban communities, high quality, multi choice, and reliable transit serves rural communities and connects them with the state's population centers. Senior and disabled lifeline services are available throughout Oregon.

Oregon's transportation system provides timely and efficient access to global markets. Goods flow just in time through interconnected highway, rail, marine, pipeline and air networks. Our communities and economies -- large and small -- are connected to the rest of Oregon, the Pacific Northwest and the world.

As communities grow and change, the transportation system and funding structures are nimble enough to accommodate growth wherever it occurs in the state. Land use, economic activities and transportation support each other in environmentally responsible ways. Communities are designed to enable people to take care of more of their needs while driving less.

Oregon excels in using new technologies to improve efficiency and mobility. The state maximizes the use of existing facilities across traditional jurisdictions and adds capacity strategically.

Funding for transportation has been shifted away from a dependence on the gas tax to a model that includes having highway users pay based on how much they drive, levels of congestion they drive in, when and where they drive, and the carbon footprint of their vehicle. This system has been developed with an understanding of the diverse needs that exist in the state and does not disadvantage rural or agricultural Oregon.

Under this model, new state and local funding sources are identified to enable investment in all modes of transportation for moving individuals and goods. Public/private partnerships respond to Oregonians' needs across all transportation modes. New investments in the transportation system are evaluated for their economic, environmental and climate change impact.

Transportation system benefits and burdens are distributed fairly, and Oregonians are confident transportation dollars are being spent wisely. Funding for transportation aligns closely with the state's constitutional requirement of "cost responsibility" where system users pay for the cost of their use of the system.

In 2030 Oregonians support innovative, adequate and reliable funding for transportation.

Transportation Vision Committee: Report to the Governor

The Oregon Challenge

The Oregon Challenge: Oregon's transportation system is not currently equipped to respond to the needs of a global economy, increases in population, rising energy costs, and the obligation to reduce greenhouse gas emissions, which contribute to climate change. As Oregonians begin to drive fewer miles in more fuel-efficient vehicles, the revenues from the gas tax and related fees will continue to be less than necessary to meet needs. In fact, ODOT predicts that, within the next few years, revenues will decline in real as well as relative terms. This reduction, combined with the rapid increase in the cost of construction, severely limit Oregon's capability to maintain and preserve existing infrastructure. Further, the economic slowdown the country is facing reduces resources even more. Oregon's challenge is to find a sustainable way to fund a transportation system that supports a vibrant economy, creates jobs, and offers safe, efficient options for travel.

Transportation Vision Committee: Report to the Governor

Oregon's Needs

In September 2006, the Oregon Transportation Commission adopted the Oregon Transportation Plan (OTP), capping a two-year effort to bring the state's 25-year multimodal transportation plan up-to-date and make it a vital part of transportation efforts around the state. The OTP covers Oregon's airports, highways and roadways, bicycle and pedestrian facilities, pipelines, ports and waterway facilities, public transit, and railroads.

Key findings from the OTP highlight the growing needs and underscore the importance of continued investment in Oregon's transportation system:

- By 2030, freight is expected to increase 80 percent statewide and double in the Portland metropolitan region (most of the increase carried by trucks).
- Oregon's population will grow by 41 percent, increasing demand for transportation, as well as wear and tear on the existing infrastructure.
- By 2030, fuel taxes, the traditional means of funding highways, will lose 40 percent of their purchasing power.
- Increasing congestion will undermine the state's economic competitiveness, lengthening the delivery time

for goods and services, shrinking market access and reducing business productivity. Accidents, stalled vehicles, weather, work zones and other incidents cause about 50 percent of traffic delay.

- Oregon's growing population will also grow older, with 26 percent of the population aged 60 and older by 2030. While the state's senior citizens are likely to be healthy and continue to drive until age 85, many will outlive their ability to drive by six - ten years.

The OTP transportation needs analysis found a significant gap — approximately \$1.3 billion per year in 2004 dollars — between current expenditures and the "feasible needs" that adequately maintain and expand the transportation system. "Feasible needs" refers to a level of investment that maintains the system at a slightly better condition than it is currently maintained, replaces infrastructure and equipment on a reasonable life cycle, brings facilities up to standard or adds capacity in a reasonable way. The needs vary for each transportation mode or program, and complete information is available in the OTP.

Summary of 2005 – 2030 Modal Needs and Growth Forecasts (Average 2004 dollars in millions)

Note: Footnote numbers match adopted OTP for consistency

| Mode | Forecasted Annual Growth Rate | Current Annual Expenditures | Annual Average Feasible Needs | Annual Gap |
|---|--|-----------------------------|-------------------------------|------------|
| Air Freight and Passenger⁹ | 2.62% freight tons 2.40% passengers | | | |
| Portland International Airport ¹⁰ | | \$44.4 | \$115.3 | \$70.9 |
| Major modernization ¹¹ | | \$13.9 | \$15.1 | \$1.2 |
| Other airports — Modernization and Preservation ¹² | | \$10.7 | \$47.4 | \$36.7 |
| Intermodal Connectors¹³ | 1.35% total highway travel | n/a | \$11.3 | n/a |

Transportation Vision Committee: Report to the Governor

| Mode | Forecasted Annual Growth Rate | Current Annual Expenditures | Average Annual Feasible Needs | Annual Gap |
|---|--|-----------------------------|-------------------------------|----------------------------|
| Local Roads and Bridges¹⁴ | Reflects state highway program and public transportation growth rate | \$718 | \$1,000 – \$1,200 | \$282 – 482 |
| Natural Gas and Petroleum Pipelines¹⁵ | | n/a | n/a | n/a |
| Ports and Waterways¹⁶ | 0.97% deep draft freight 0.29% shallow draft freight | \$51.3 | \$56.2 | \$4.9 |
| Public Transportation¹⁷ | * | \$510 | \$812 | \$302 |
| Rail Freight and Passenger¹⁸ | 1.83% freight tons 3.60% passengers | | | |
| Private rail facilities | | more than \$6.7 | \$18.8 | n/a |
| Passenger rail ¹⁹ | | \$4.8 | \$9 – 57 | \$4.2 – 52.2 |
| Safety programs | | \$1.6 | | |
| State Highway-Related Programs²⁰ | 1.35% total highway travel 1.35% passenger highway travel 1.40% freight highway travel | \$786.5 | \$1,277.5 | \$490.9 |
| Transportation Options Program | | \$2.8 | \$3.6 | \$0.8 |
| TOTAL | n/a | \$2.2 billion | \$3.4 – 3.6 billion | \$1.2 – 1.4 billion |

⁹Needs forecast addresses capital needs at Oregon's 101 public-use airports.

¹⁰Needs based on Portland International Airport Master Plan alternative.

¹¹Needs identified for eight airports other than Portland International Airport where growth is expected to exceed capacity.

¹²Needs based on 2000 Oregon Aviation Plan and individual airport master plans.

¹³NHS Intermodal Connectors are located in Astoria, Boardman, Coos Bay/North Bend, Eugene, Medford and Portland.

¹⁴The county funding gap may grow because of a drop in federal forest funding. This drop may be as high as \$90 million a year for county roads as early as FY 2007-08. The Association of Oregon Counties' 2006 County Road Needs Report finds the counties' current annual expenditures at \$377 million, with an additional average annual funding need of \$433 million a year for the next five years, increasing annually over the 25-year timeframe.

¹⁵Pipelines are primarily private facilities with no cost information available.

¹⁶Needs forecast address nine port districts that have economic activity associated with waterborne commerce.

¹⁷Feasible needs are consistent with Oregon Public Transportation Plan Level 3 recommendation to increase ridership in accordance with service delivery plans.

¹⁸Only public expenditures are available. Needs are inclusive of both public and private facilities. Freight rail needs include capital costs for rehabilitation and enhancements of short line, mainline and some on-site rail facilities at ports.

¹⁹Number includes capital and operating costs for increased service. A range of costs is given since multiple proposals currently exist.

²⁰Includes state bicycle and pedestrian program. Specific program expenditures and needs are available in OTP Technical Appendix 2.

*The 2006 Oregon Transportation Plan forecast public transit ridership to grow 3.16 percent per year during 2005 to 2030. Ridership grew by more than 8 percent during 2008 – 09 due to high fuel prices. Ridership is now expected to grow by 3 – 5 percent per year beyond 2009, not including growth from service improvements, higher fuel cost and Impact of future carbon-neutral policies.

Transportation Vision Committee: Report to the Governor

Preface

The Transportation Vision Committee believes a comprehensive strategy can address the unique challenges Oregon is facing, seizing opportunities never before presented to the transportation industry, by creating a sustainable transportation system. A sustainable transportation system is one that meets present needs without compromising the ability of future generations to meet their needs from the joint perspective of environmental, economic and community objectives. A sustainable transportation system is consistent with, yet recognizes differences in, local and regional land use and economic development plans. It is efficient and offers choices among transportation modes. It distributes benefits and burdens fairly and is operated, maintained and improved to be sensitive to both the natural and built environments. With this in mind, the Vision Committee recommends the following set of concepts and associated actions to preserve the state's existing assets and strategically expand the entire transportation system to support job growth and quality of life and ensure the state's competitive stance in the global marketplace.

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Chapter One

Transitional Pillars:

*The foundation for a new,
sustainable approach to transportation*

Oregon has established a strong foundation for its transportation system by making smart investments throughout the years based on community needs, economic stability and environmental considerations. As new demands pressure the system, including increasing population, volatile fuel supplies, and global warming, a new approach will strengthen that foundation. The following are proposed new “pillars” of a framework for the future.

Create dedicated funding for non-highway investments.

Before creation of the *ConnectOregon* program in 2005, there was no mechanism for routine investment in Oregon’s non-highway transportation system. Given the constitutional restrictions placed on Oregon’s highway fund¹, the Vision Committee recommends the immediate creation of a fund statutorily dedicated to investments in Oregon’s non-highway transportation needs. A dedicated fund is imperative to assure balanced, multimodal transportation services for people and goods.

Ensure Oregon’s transportation system meets the state’s goals for reducing greenhouse gas emissions.

Reducing transportation greenhouse gases requires that Oregonians have choices in how they travel, the transportation systems that serve them, and the towns and neighborhoods in which they live and work. Oregon should continue to require that new cars and light trucks sold in the state emit less green-

house gas emissions. As the state’s population and economy grow, Oregon will be unable to meet its emission reduction targets if Oregonians have no choice but to continue driving as much as the average household does today.

The state’s fast-growing metropolitan areas need new planning initiatives to enable communities to provide a mix of transportation choices — walking, biking and transit as well as driving — and more mixed-use development in town centers, main streets and other appropriate places, so that more Oregonians have the opportunity to get to and from destinations with fewer miles of driving. These transportation and land use planning strategies should be employed primarily in the larger urban areas of Oregon, where most growth is predicted to occur in the next 20+ years and the opportunities for providing more mixed-use development are greatest. Rural Oregonians will need to be able to maintain current driving patterns because of greater distances and fewer transportation choices in the near term. The state should seek sufficient improvement in rural area transportation emissions through improvements in vehicles and fuels.

In urban area plans, to reduce the need for driving, priority should be given to maintaining freight trips because the movement of goods is critical to the state’s economic health. In planning transportation system improvements to reduce reliance on driving, the state

¹The Oregon Constitution (Article IX, section 3a) dedicates the money raised by taxes and fees on the ownership, operation or use of motor vehicles or on the fuel they use. The money may only be used for the maintenance, operation, improvement or construction of Oregon’s public highways, roads and streets, with limited exceptions.

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should recognize that properly designed capacity projects addressing system bottlenecks could have a net greenhouse gas reduction benefit by contributing to congestion reduction.

Expand user per mile fee concept.

While congestion grows throughout the state and the nation, fuel tax revenues have flattened — and will soon enter into permanent decline. Policymakers are searching for new approaches to fund and manage the nation's road system. Oregon has led the way with its Road User Fee Task Force, created in 2001 to examine potential alternatives to the gas tax for raising revenue. Distance-based or "per mile" road user fees have emerged as worthy of serious consideration.

Based on the Road User Fee Task Force's findings, Oregon developed a pilot program to test the per mile fee concept, with more than 260 volunteers in the Portland area participating in the one-year effort. The results were positive and highly sought by transportation stakeholders around the world.

According to the findings, Oregon's road user charging system is fairly inexpensive to operate, simple for motorists to use, and can accommodate the addition of local options, including time-of-day pricing for congestion management. While the field test showed that a vehicle-mile-tax (or VMT) based fee collection system works, the prototype equipment used in the pilot is not ready for commercial introduction.

The Vision Committee recommends that Oregon continue refining the VMT fee system so that, eventually, VMT charges can replace the fuels tax. Further development of the technology and systems is essential for VMT fee implementation, including work that assures privacy protection for motorists.

The Vision Committee also recognizes that new vehicles will soon enter the market that do not require a trip to the filling station. The committee recommends that the state develop and test an alternative VMT collection system for these types of vehicles while ensuring efficiency of fee payment, cost effectiveness in operations, administrative feasibility and ease of use by the motoring public.

Implement least cost planning.

Oregon Congressman Peter DeFazio, member of the House Transportation and Infrastructure Committee and chair of the House Subcommittee on Highways and Transit, has said he intends to develop the next federal transportation reauthorization bill around the "least cost planning" model. Oregon could also make good use of this proven tool in transportation, acting in advance of a federal requirement. The Vision Committee recommends ODOT begin developing a least cost planning model for use by the state, Metropolitan Planning Organizations (MPOs), and local governments to optimize critical investments in transportation while addressing climate change and other environmental issues critical to Oregon's quality of life. Collaboration between ODOT, MPOs and the local governments is essential to implementing least cost planning due to the strong relationship between land use and transportation.

"Least cost planning" is a concept developed for the electric utility industry that analyzes the methods and costs of taking actions to increase supply while at the same time analyzing the methods and costs of taking actions to decrease demand, and linking these to transmission and power system management choices. This broadens the scope of potential choices for meeting service requirements. The least cost planning framework has the potential to substantially improve transportation

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planning in terms of economic efficiency while integrating environmental considerations into the planning process with greater transparency, to better support informed decision-making and accountability. However, application of least cost planning needs to be structured by the defining characteristics of the transportation sector. In transportation, this approach would allow, for example, evaluation of alternatives that increase capacity while also evaluating alternatives that reduce congestion. In addition to evaluating no-build alternatives, least cost planning also allows for objective consideration of other important policy goals such as reducing carbon output, addressing climate change, supporting economic viability, and enhancing system reliability.

There are fundamental differences between transportation planning and electric utility planning. With transportation, the focus is primarily on movement, but interaction with vehicles, fuels, and facility use is essential. Both applications rely on comparing scenarios that seek to optimize for achieving multiple values rather than any single value, while minimizing risks. An important lesson from the utilities is that there does not appear to be one best way to do least cost planning. Rather, it is important to broaden the range of options considered to achieve transportation objectives and to generate information on the cost and effectiveness of various alternative investment and operations scenarios in transportation.

In least cost planning, different resource and delivery system scenarios (not individual projects) are developed, assessed for costs, and compared. The development of options or scenarios would need to encompass modal choices, geographic areas and the relevant planning horizon. Additional considerations include the quality of transportation service; the costs and availabilities of fuels and ve-

hicle technologies; current and desired future land uses; environmental goals and limitations; and the network aspect of the system (recognizing that the value of any one segment of a transportation mode is dependent on the availability and quality of other segments; a related issue is that there must be some understanding of the inter-relationships among modes: aviation, transit, rail, highway, bike, etc). Finally, the scenarios must take into account the availability of funding and the cost of achieving certain outcomes. Environmental costs that cannot be monetized or quantified are still explicitly weighed in developing scenarios. For example, the scenarios could encompass the full range and needs of the MPO or local government, rather than focusing on any specific project; but specific projects would need to be consistent with the proposed scenarios. If the scenario operates under a greenhouse gas reduction constraint, that constraint would function as a limiting factor in scenario design (as minimum safety requirements might, for example).

There are aspects of least cost planning that exist in the current planning processes at both the state and local levels. The application of this concept to the provision of transportation services is now strongly supported by the Oregon Transportation Plan and the Oregon Highway Plan. The Oregon Transportation Plan also endorses the cost-minimization and cost-effectiveness principles. However, additional work is needed in developing a least cost planning model and using it as a decision making tool in the selection and development of plans and projects, as well as making it accessible and available for MPO-level planning.

Create a Transportation Utility Commission.

The current governance structure for transportation often presents challenges

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credits for common hybrid technologies and apply the credits to vehicle technologies that meet a high standard for efficiency such as Plug-in Hybrid Electric Vehicles (PHEV). If structured correctly, the state could increase the credit for higher efficiency vehicles and still be revenue neutral over the next two biennia. This credit could sunset as PHEV technology becomes more widespread.

The programs described above reveal larger questions about how the state adopts and approves vehicles for tax credits. Despite technologies and the rapidly shifting marketplace, statutes limit the Oregon Department of Energy's ability to adapt. It has the flexibility to set standards for new appliances eligible for the tax credit, but not for vehicles. The state should consider giving ODOE rulemaking authority to set standards for vehicle tax credits so it can stay as current as possible.

6. Plan land use and transportation to include reduction of greenhouse gases.

Oregon's transportation investments must be consistent with the state's commitment to reduce greenhouse gases. In addition to policies and incentives for more efficient vehicles and lower carbon fuels, the legislature should enact planning requirements to enable the state's federally designated metropolitan areas to grow, without causing an increase in the need for automobile travel. Each of Oregon's metropolitan planning organizations and the local governments within the commuting area of each MPO should develop integrated land use and transportation plans that ensure existing and future residents have sufficient choices in where they live and how they travel so that growth in driving does not violate climate standards.

ODOT and the Department of Land Conservation and Development, using existing planning grant programs and additional resources made available in this funding proposal, should support and assist the MPOs in developing accurate models for estimating the amount of car and light truck travel in each metropolitan travel-shed (commuting area) under various combinations of future land use patterns, transportation investments, and transportation system management techniques. The state should also make grants and assist cities and counties within those travel-sheds in making changes to their comprehensive plans and transportation system plans to ensure that future car and light truck emissions stay within emission targets. These regional plans and implementing local plan amendments should be developed with broad public involvement to ensure that the choices developed are feasible and desirable.

Oregon's rural areas and smaller cities outside the commuting areas of the state's MPOs have fewer alternatives to the automobile and are not projected to experience significant growth. These areas should be able to reach climate change goals as residents change vehicles and fuels in the future. These communities should be exempt from the planning requirements described here unless growth projections change or communities wish to plan for significant new growth.

7. Create logistical hubs for rail freight.

Rail has much lower energy intensity than trucks and cars. The Vision Committee believes it makes sense to build on existing resources and preserve rail resources. The Committee encourages the increased use of rail for long haul shipping to improve efficiency, reduce greenhouse gasses and create savings for businesses and consumers.

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As Oregon continues moving toward the integration of transportation and land use planning, the state should include "logistical hubs" located close to rail lines and transportation corridors. These strategically located hubs and corridors would include multimodal connections to encourage the nearby location of wholesale centers so that freight can be delivered by rail and efficiently moved to storage pending short haul transportation by truck. This planning requires that the state locate and plan for hubs and obtain necessary right of way. Representatives from wholesale, retail and shipping industries should be involved in the planning. The Oregon Freight Advisory Committee should take the first steps to identify potential hubs.

8. Encourage the use of clean diesel.

The trucking industry has already taken big steps to clean up emissions from its heavy-duty diesel engines. It is equally important to focus on reducing consumption of diesel fuel, as it plays a vital role in reducing carbon output and addressing climate change.

The 2007 Oregon Legislature passed the Clean Diesel Bill that retrofits older diesel engines with modern pollution control technologies. This program not only works with trucks, but it also helps to clean up emissions from school buses, heavy construction equipment, railroad locomotives and marine diesel engines. The Vision Committee recommends asking the 2009 Legislature to provide additional funding for this important program.

Another way to reduce carbon emissions from diesel engines is through conservation. The Oregon Department of Energy, through its Business Energy Tax Credit program, is working with the trucking industry to purchase technologies that reduce fuel consumption. Reducing consumption by

10 percent or more qualifies a trucker for the tax credit. The Vision Committee recommends ODOE increase efforts by continuing to help equip Oregon's trucking industry with the latest in fuel savings technologies.

The Climate Trust, along with Oregon Solutions, has also been working to reduce diesel emissions by helping install new technologies at Oregon truck stops that allow truckers to reduce idling. The Vision Committee encourages the Climate Trust to continue with this important effort that saves fuel, reduces carbon output and improves highway safety.

9. Support 'Pay-As-You-Drive' auto insurance.

The Vision Committee recommends extending the tax credit for insurance companies that pilot 'Pay-As-You-Drive' auto insurance in Oregon. For motorists, PAYD insurance offers a *voluntary* alternative to fixed-premium auto insurance. PAYD insurance converts a portion of one's annual insurance fee into a per-mile fee. All existing rating factors required by state law (such as a driver's crash and moving violation history, vehicle type, and geographic territory) are incorporated into the per-mile price. PAYD insurance gives drivers more control over driving expenses and provides a strong financial incentive to drive less. Studies suggest that drivers paying per-mile premiums will reduce driving by 5-15 percent and save up to 25 percent on their premiums; and within any given insurance pool, anyone who reduces their driving could save, whether they live in a rural or an urban area. The 2003 Legislature approved a tax credit for insurance companies who pilot the concept in Oregon. This tax credit will expire in 2010 and should be extended since several insurance companies are nearing completion of their research and development phases and may be able to provide a PAYD

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Chapter Four

Transitional Concepts:

Areas identified for further action and exploration

The Vision Committee recommends the following steps to make management and operation of the system more efficient and to better align the limited resources of the State Highway Fund with jurisdictional responsibilities. While these are recommendations for long-term changes, they should also be considered in conjunction with measures to provide additional resources.

1. Develop a new state funding allocation formula.

The current formulas used to distribute State Highway Fund money among state, counties and cities do not recognize the size or use of the highway, road and street systems that each is charged with maintaining and operating. A new jurisdictionally blind formula that incorporates both maintenance and modernization needs is required in order for a superior allocation of funds to state, county and city road and street programs.

This will require both detailed analysis of system preservation and modernization needs and significant participation by ODOT and local government. A legislatively authorized state and local government task force to oversee the effort is recommended.

2. Establish more realistic Transportation System Plan expectations.

Transportation System Plans (TSPs) are a component of the land use planning process. TSPs coordinate local governments' land use and transportation planning processes to

ensure that planned transportation improvements support the travel and land use patterns envisioned in comprehensive plans. Except in large metropolitan areas where TSPs must be consistent with financially constrained regional transportation plans, local government TSPs do not have to be financially constrained to expected revenues. There is concern that this results in inflated public expectations of local government's ability to build the transportation projects needed to meet their comprehensive plans' stated development objectives.

The OTC should undertake a policy review of this issue to (a) determine its extent and significance; (b) consider alternative ways of better aligning plan objectives and expected deliverables; and (c) develop recommended changes to state planning requirements.

3. Develop new highway design investment criteria.

Current Federal Highway Administration (FHWA) project investment criteria require a level of traffic performance in the last year of the planning horizon. Projects, then, must be built to a scale to insure free traffic flow conditions for at least 20 years into the future. This frequently results in large projects that cost more than the ODOT and local agencies can afford or that have the effect of reducing the number of projects that ODOT and

**Oregon's vehicle registration fee
(\$27 for cars and light vehicles)
is the 47th lowest
(2007)**

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Chapter Five

Recommendations for a Successful Transition:

*The next steps in moving toward a
new vision for transportation*

Legislative actions for 2009

1. Create a fund statutorily dedicated to investments in Oregon's non-highway transportation needs (*page 1*).
2. Create a Transportation Utility Commission (*page 3*).
3. Establish a statewide task force to develop and recommend a better alignment of transportation system responsibilities and financial capacity (*page 6*).
4. Establish a joint legislative/stakeholder task force to review national "best practices" for streamlining the public involvement process (*page 6*).
5. Exempt ODOT buildings from current state budget requirements to make the most of opportunities to co-locate county, city and state transportation facilities (*page 7*).
6. Revise the local option vehicle registration fee statute to allow counties to raise more revenue locally (*page 7*).
7. Authorize a graduated first time title fee based on a vehicle's mpg ratings (*page 9*).
8. Enable state agencies to provide electric vehicle charging infrastructure at state expense (*page 9*).
9. Create a category of medium-speed vehicles with maximum speed of 35 mph on roads posted 35 mph or less (*page 9*).
10. Give the Department of Energy rulemaking authority to set standards for vehicle tax credits (*page 10*).
11. Provide state funding and technical support for amending land use and transportation plans to reduce greenhouse gases, and require MPOs and affected local governments to do so. Local communities outside of MPOs may also apply for state funding and technical support in order to adjust their land use and transportation plans to encourage a reduction in greenhouse gases (*page 11*).
12. Authorize additional funding for the Clean Diesel program to reduce emissions from truck, bus and heavy equipment engines (*page 12*).
13. Extend the 'Pay As You Drive' tax credit for insurance companies offering this program (*page 12*).
14. Increase funding from traditional sources (vehicle registration and title fees, fuel tax and heavy vehicle fees) to maintain and preserve the state's road system and make strategic investments in its capacity (*page 15*).
15. Allocate at least 15 percent of state lottery proceeds for investment in non-highway transportation (air, marine port, public transportation, rail passenger, and rail freight) infrastructure (*page 19*).
16. Increase the state cigarette tax by 5 cents per pack to fund transportation services for senior citizens and people with disabilities (*page 20*).
17. Increase the custom plate fee to offset state General Fund money now used to support the Amtrak Cascades trains (*page 21*).
18. Increase the required minimum spending level for bicycle and pedestrian improvements within highway rights of way from 1.0 percent to 1.5 percent (*page 20*).
19. Allocate additional flexible federal transportation money to public