



# Oregon

Kate Brown, Governor

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**DATE:** July 1, 2017

**TO:** Joint Committee on Transportation Preservation and Modernization

**FROM:** Matthew L. Garrett  
Director, Oregon Department of Transportation

**SUBJECT:** House Bill 2017 -10

Dear Members of the Joint Committee on Transportation Preservation and Modernization:

The Oregon Department of Transportation (ODOT) has put together the following information for your consideration of the -10 amendment:

- Concerns and suggestions with specific sections of HB 2017-10
- Overview of the fiscal impact

## **CONCERNS AND SUGGESTIONS WITH SPECIFIC SECTIONS OF HB 2017-10**

*The following concerns and suggestions are provided as recommendations for a technical correction bill in the February 2018 Legislative Session.*

**Section 6 (page 4): Long Range Plans.** Section 6 requires ODOT to develop and maintain long range plans for modes of transportation that are not within the purview of the agency, including aviation and ports. State gas tax dollars and federal highway funds cannot be used for these non highway modes. We have no sources of funds to pay for an aviation plan or the ports plan.

The amendment requires modal plans to include a fiscally-constrained list of projects needed to maintain and develop infrastructure for at least 20 years. Because transportation revenue and needs are difficult to foresee this far into the future, creating a 20 year project list will require additional planning resources without adding significant value.

*Recommendation:* Require that each modal plan include a strategic investment plan to inform project selection in the STIP.

**Section 14 and Section 80 (page 14 and page 169): Proximity to Aggregate Sites.** Section 14 and Section 80 adds criteria to project selection for both the STIP and Connect Oregon projects specific to a project being located near an aggregate mining or processing location. The language does not specify whether projects located near an aggregate mining or processing operation located on exclusive farm use land should be ranked higher or lower if they are in this vicinity.

*Recommendation:* Clarify intent.

**Section 45 (page 112): Conditions on Fuels Tax Increases.** Section 46 increases the fuels tax by six cents spread out over six years (two cents in 2020, two cents 2022, two cents in 2024). The increases are tied to the Commission submitting a report to the legislature certifying that the commission met specific accountability criteria. The reporting criteria change from year to year, but include the following:

The accountability criteria include ensuring the Continuous Improvement Advisory Committee completes specific work and all of the committee's recommendations are implemented, the provisions of Section 11 are met and bodies receiving fuel tax revenue are in compliance with least cost policies for public improvements in ORS 279C.305.

Additionally, the commission must provide a list of projects and bonding needs to complete the projects on the list as well as the construction and financial status of uncompleted in-progress projects exceeding \$50 million. In addition to those elements, for the first biennium's report in December 2020, the report must include the status of the Treasure Valley Intermodal Facility, the Value Pricing set-up, the I-205 widening and Abernethy Bridge projects and the OR 217 projects.

The commission does not have any authority or administrative mechanism to comply with certain requirements in the section. For example, Section 45 requires that the commission confirm that local agencies are following the standards developed under Section 11 for rating pavement and bridge conditions. If this requirement is not met the fuels tax increases will not be realized. The commission has no control over this action.

In addition, only tax increases that require no additional government approvals can be considered for bonding. The more restrictions, the more complex the security which generally translates to higher cost of funds.

*Recommendation:* Removing language specific to conditions that are outside the authority of the Commission.

**Section 71a (page 146): Distribution of Funds.** Section 71a provides distribution for increases in fuel taxes, registration fees, and weight mile taxes. It specifies that prior to distribution, \$10 million each year is dedicated to Safe Routes to School, the state shall set aside \$10 million for safety and then be used as follows: 40% for bridges, 30% for seismic improvements, 24% on pavements, culverts, and 6% for maintenance.

*Recommendation:* Change the percentages allocated to bridges, seismic, pavements and culverts and maintenance in subsection (3)(c) to align with the commission's adopted investment strategy as follows:

- 30% Bridges
- 10% Seismic Improvements
- 40% Pavement Preservation and Culverts
- 20% Highway Maintenance

**Section 71L (page 157): Quarterly Report.** Section 71L requires quarterly report to the legislature on an estimated amount of revenue received as a result of the increases in taxes and fees, and information about expenditures and distributions.

The department has been reporting quarterly to the legislature on the Jobs and Transportation Act revenue received and projected since 2010. We do not believe these reports have provided significant value to the legislature.

*Recommendation:* Repealing the existing JTA reporting requirement, and change the new requirement to semi-annually to align with the agency's revenue forecast. We also recommend eliminating the reporting requirements around expenditures and distribution as they are duplicative. We already show distributions of revenue on our website, and we will be instituting a website with project information that is also directed in the bill.

**Section 118 And Section 118a (page 210): Road Usage Charge Rate.** Section 118 and 118a adjusts the per-mile road usage charge (RUC) rate to maintain revenue neutrality with the fuels tax. When the state fuels tax rate changes, ODOT needs a proportional change in statute in order for the RUC rate to stay revenue neutral. Because the fuels tax rates are contingent on meeting the requirements in Section 45, putting a specified rate in statute may not align with the fuels tax rate.

*Recommendation:* Add the formula for this change:  
Fuels Tax Rate / 20 (rounded to the nearest one-tenth of a cent)= RUC Rate.

**Section 120 (page 213): Value Pricing.** Section 120 requires the OTC to establish a traffic congestion relief program, seek and receive approval from FHWA and implement value pricing in specific locations on I-205 and I-5. Revenues received from value pricing are deposited into the Congestion Relief Fund to be used to implement and administer the program.

This section would direct the department to implement value pricing regardless of whether it would benefit the transportation system or have negative impacts in other areas (such as equity).

*Recommendation:* Add language to better clarify the legislature's intent but also ensure that value pricing is implemented in a way that improves the transportation system and addresses other potential impacts.

**Section 122L (page 232): Statewide Transportation Improvement Fund.** Section 122L creates a Statewide Transportation Improvement Fund (STIF) fund to fund public transit, other than light rail. The department cannot use state highway funds to pay for transit work, and does not have adequate other funds to pay for administration costs.

*Recommendations:* Add language to allow the agency to use 1% of the funds to pay for administrative costs out of the funds collected.

**Section 134 (page 252): Jurisdictional Transfers.** The funding is not adequate funding for the needs of the roadways.

*Recommendations:* Provide additional funding for successful jurisdictional transfers.

**Section 147 (page 257): Severability.** Section 147 specifies that the components of HB 2017 are independent. If any portion of the act is held unconstitutional or referred and repealed, the other components of the act remain in effect.

We understand the need for severability in the bill; however, this section poses a problem if components that add new requirements or work for the agency remain, but revenue raising components are repealed. As written, the bill would require the agency to continue all the accountability measures to remain if funding was repealed. Retaining those requirements will require existing resources to be devoted to them, which will further exacerbate the funding shortage for the agency.

*Recommendations:* Clarify expectations of the agency if portions of the bill are repealed.

## **OVERVIEW OF FISCAL IMPACT**

The investment in transportation through HB 2017 -10 is approximately \$5.3 billion over ten years. The magnitude of the revenue directly correlates to a significant fiscal impact to the agency in order to complete projects and ensure the elements and added work within the bill are complied with. In order to meet those goals within a reasonable budget and timeframe, ODOT will be phasing in the impact to the agency over three segments:

- July 1, 2017 – January 31, 2018 ('17-'19 Biennium)
- February 1, 2018 – June 30, 2019 ('17-'19 Biennium)
- July 1, 2019 – June 30, 2021 ('19-'21 Biennium)

While the agency has estimated the FTE and fiscal implications of HB 2017-10, we expect to learn more as we begin to implement the bill. The bill is a significant body of work for the agency, and its consultant and construction contracting partners. We have agreed to begin our implementation with a minimal number of FTE until we learn more. We expect to refine our FTE and fiscal needs and bring a recommendation to the legislature in 2018.

## **SUMMARY**

ODOT will continue to refine how the agency will deliver the projects, programs and practices embedded in HB 2017-10. We will bring forward the remaining fiscal impacts during the February 2018 Legislative Session.