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# TRANSPORTATION

*Transportation* .....

## Transportation Overview

Passage of the 2001 Oregon Transportation Investment Act (OTIA I) during the 2001 legislative session and subsequent passage of OTIA II in a special session, laid the groundwork for the successful passage of the 2003 Transportation Investment Act (OTIA III) this session. OTIA III represents the largest transportation investment in Oregon's history. With OTIA III the state will infuse an estimated \$2.5 billion into the economy by making critical investments in Oregon's transportation infrastructure over the next 10 years, creating an estimated 5000 jobs. Initially the funding package was focused solely on bridges. The League and fought hard to ensure funding for roads was included in the package.

OTIA III represents the most significant investment in job creation and economic stimulus the Legislature made this session. It is the first new significant revenue dedicated to cities and counties in over a decade. The local projects generated by this revenue will be the first on the ground providing for immediate job creation and economic stimulus. In addition to dollars for critical roads and bridges, cities will benefit from modernization projects across the state, funding for projects of state-wide significance and the development of industrial sites.

With an identified bridge repair and replacement need of \$4.7 billion and an annual \$500 million backlog of road and bridge preservation projects on the state, county and city system, OTIA III will go a long way toward beginning to addressing critical transportation needs across the state. Even with the success of the past two sessions, Oregon has work ahead to achieve adequate funding for its transportation system.

The process to get OTIA III passed by the legislature had a few bumps along the way. An issue arose with an existing agreement between the City of Portland and Multnomah County that directs how funding is shared between the city and county. This came under scrutiny and although a local issue, threatened success of the package. The City of Portland worked with Multnomah County and other cities within East Multnomah County to resolve the issue and the package moved forward. The City of Gresham and democratic leadership were instrumental in the effort to keep the package on track.

Additional concerns were raised over a provision in the package that provided for income tax sequestration. The provision would have captured a portion of the new income tax revenue from jobs created by HB 2041. The new income tax revenue would have been used for three purposes:

Replacement of mass transit vehicles including senior and disabled transportation, demand reduction programs to explore more efficient use of highways, and a truck engine pollution control investment tax credit.

Ultimately the sequestration provision of the bill was removed to ensure the bill was palatable enough to get the necessary three-fifths vote necessary to pass the revenue increase. ODOT found funding for the replacement of mass transit districts and demand reduction programs. Additionally, truckers will be able to take the truck engine tax credit as an income tax credit with a sunset provision at the end of 2007.

Although the funding package is not perfect it represents a balance achieved through compromise among legislators, the governor, various transportation stakeholders and stewards of the transportation system. In large part, the successful passage of OTIA III was driven by legislative leadership and the governor. It was a priority fueled by the need to create jobs, stimulate Oregon's economy, and address failing bridges across the state.

Successful in the end, the process along the way left much to be desired. Initially the transportation funding package was focused solely on bridges. Even with the significant number of failing bridges across the state, the severe backlog of road needs could not be ignored. Cities and counties worked with legislators to ensure long over due funding for roads was included in the package. That resulted in the first new revenue for local roads in over a decade.

The process to develop OTIA III was largely driven by legislative leadership, the governor's office, ODOT and transportation stakeholders such as AAA and the Oregon Trucking Association. Cities and counties, the remaining stewards of Oregon's transportation system, were not involved in crafting the initial draft of the funding proposal. As a result, the traditional agreement between the state and local governments to split any new revenue on a 50/50 basis was in jeopardy. The agreement is based on detailed analysis of the state-wide needs of Oregon's transportation system. With the overwhelming support of city officials and legislators, the League prevailed in maintaining the integrity of the funding agreement.

OTIA I represented the first time since the 1980's that some portion of a new revenue package was not shared on a 50/50 basis. The understanding was that the exception would not become a new way of doing business, but a way of generating momentum for transportation funding. Ultimately, the success of OTIA I led to the passage of OTIA III, accomplishing that goal.

The final package which was supported by the governor and all other stakeholders includes significant new road fund revenues for cities and counties and is just shy of fully meeting the 50/50 agreed upon revenue split. This was an indication of the magnitude of the bridge issues facing Oregon but does not represent a change in the revenue sharing commitment between the state and local governments. Future transportation packages need to ensure not only the funds are shared equitably but also that the state and local system-wide needs are addressed.

Equally as significant as what cities achieved with OTIA III this session, is what they retained, namely the ability to implement Street User Fees and Local Gas Taxes. These tools have been in

place for decades and are critical to addressing local transportation needs on the local level. The identified backlog of city road and bridge maintenance and preservation is over \$130 million annually. That estimate does not include modernization or take into account rail, transit, and enhancement funding needs in cities.

Every day local governments provide essential services to their communities, including critical infrastructure to promote the economic viability of business, industry, tourism and the quality of life for Oregonians. Taking away valuable tools will only serve to limit the ability to provide these services. Because of the grassroots efforts of cities working with their legislators, cities defeated efforts to eliminate these invaluable local revenue raising tools.

## **OTIA III Summary:**

### 2003 Oregon Transportation Investment Act (III) Bridges, local preservation and maintenance, and new modernization

#### **Goals**

1. *To improve mobility and reduce congestion for Oregon Citizens.*
2. *To improve safety on Oregon roads and bridges.*
3. *To preserve Oregon taxpayer investment in transportation systems.*

#### **Additional Revenue** [revenue estimates include proportionate truck fee increases]

◆ \$12 increase in registration fees (\$30 to \$54 paid every two years) (HB 2041)	\$ 66.8 million
◆ \$25 increase in the title fee (\$30 to \$55) (HB 2041)	\$ 37.5 million
◆ Various DMV fees (HB2041 and HB2388)	<u>\$ 8.3 million</u>
	\$112.6 million

#### **Investment**

\$2.5 billion to improve Oregon's highways, roads and streets over the next 10 years.

- ◆ \$1.3 billion in bond proceeds to replace and repair state bridges.
- ◆ \$300 million in bond proceeds to replace and repair local bridges.
- ◆ \$361 million for county and city maintenance and preservation.
- ◆ \$500 million for modernization projects statewide.

**4,750 family-wage jobs in road construction and maintenance sustained annually for the next 10 years**

#### **Financing & Distribution**

##### **Bridges - \$1.6 billion**

- ◆ \$60 million of additional revenue, plus \$31 million (anticipated) from existing state funds, will finance \$1.3 billion bonded for state owned bridges on critical freight routes throughout the state.
- ◆ \$16.5 million of additional revenue, plus \$5 million (anticipated) from existing local bridge program, will finance \$300 million bonded to fix local bridges on critical freight routes throughout Oregon.

**Maintenance and Preservation**

- ◆ \$361 million for city and county road maintenance and preservation - \$18.6 million (estimated) per year for cities, \$17.5 million (estimated) per year for counties.

**Modernization**

- ◆ Use Federal Advance Construction and bond half the State Modernization Program (\$25 million annually) to provide additional funds for expansion of the state system [\$100 million for freight mobility and projects that support job creation; \$200 million for projects of statewide significance and federal earmarks; and, \$200 million for other modernization projects.]

**Additional Objectives**

- ◆ Establish priority for freight mobility projects that are located along freight routes of statewide significance, remove barriers to safe and efficient movement of goods, and facilitate creation of jobs.
- ◆ Enhance support for economic development that creates jobs for Oregonians.

**Funding .....**

**◆◆◆FUNDING - PASSED BILLS◆◆◆**

**SB 180: Indian Tribe Public Transportation Funding**

*Effective Date: January 1, 2004*

*Chapter Not Available at Publication Time*

The 2001 Legislative Assembly approved SB 770, directing state agencies to promote positive government-to-government relations with Indian tribes in Oregon, and to cooperate with the tribes in the development of implementation of programs of the state that effect tribes. SB 180 is ODOT’s response to SB 770.

SB 180 allows ODOT to work directly with the state’s nine federally recognized Indian tribes to distribute Elderly and Disabled Special Transportation funds. Previously, the tribal governments applied directly to counties or transportation districts for these funds. Cities will continue to work primarily with counties and transportation districts to apply for funding.

Cities and counties raised concerns with SB 180, primarily with the department’s interpretation of SB 770, which directed government-to-government relations between state agencies and tribes. There were concerns that SB 180 interferes with relationships that already exist between Indian tribes and local governments.

**SB 469: ODOT Ending Balance**

*Effective Date: September 17, 2003*

*Chapter Not Available At Publication Time*

Although this bill was originally introduced to increase Tri-Met's payroll taxing authority, along the way it was amended to allocate a one-time \$16 million from ODOT's FY 2003 ending balance to cities and counties through the Highway Fund. However, at the insistence of the governor's office, the provision was repealed in the last 24 hours of the session with SB 469. Instead of sending the dollars directly to cities and counties ODOT agreed to spend that amount on state facilities that serve as local streets or roads.

**SB 474: Highway Cost Allocation Study**

*Effective Date: September 17, 2003*

*Chapter Not Available At Publication Time*

This bill requires the Oregon Department of Administrative Services (DAS) to conduct the biennial highway cost allocation study, or to review data since a previous study. ODOT will provide needed data to DAS for future studies and will participate in the technical and policy discussions. The purposes of the study or review are to determine the proportionate share that users of each vehicle class should pay for maintenance and operation of highways, and whether the users are paying their share. This requires a report to the Legislative Assembly through the Revenue and Transportation Committees. The Legislative Assembly is required to use the report to determine whether adjustments need to be made to certain vehicle taxes in order to comply with the Oregon Constitution, and then to make those necessary adjustments.

**SB 772: Public-Private Transportation Partnerships**

*Effective Date: September 22, 2003*

*Chapter 790*

With SB 966 the 2001 legislature directed the Oregon Transportation Commission and ODOT to study the feasibility of establishing joint private-public transportation projects that use innovative financing methods and to appoint an advisory committee to assist with the study. SB 772 is the result of the study and the advisory committee recommendations.

SB 772 encourages private-sector firms to develop and construct major Oregon transportation projects in partnership with ODOT and other units of government. The bill directs ODOT to enter into public/private partnerships for transportation projects. It establishes the Oregon Innovative Partnerships Program and State Transportation Enterprise Fund, and appropriates moneys in the fund to ODOT. The bill specifies what information is subject to public disclosure in these deals and when. Finally, the bill requires ODOT to report to the Emergency Board at least twice each interim on projects proposed or agreed to under this act.

**HB 2041: Title and Registration Fee Increases and Various Provisions**

*Effective Date: January 1, 2004*

*Chapter 618*

The bill authorizes the Department of Transportation to issue additional Highway User Tax revenue bonds to finance highway improvement projects. It limits net proceeds of new bonds to \$1.6 billion for state and local bridge repair/replacement and \$300 million for modernization

projects. It increases vehicle title fees from \$30 to \$55 for cars and other light vehicles and increases biennial registration fees from \$30 to \$54 for cars and light vehicles. The bill also decreases biennial registration fees for hybrid electric vehicles from \$60 to \$54.

These new revenues will support the sale of bonds -- \$1.3 billion for bridges on the state system (including the interstates) and \$300 million for bridges on city and county routes. The bill requires the department to use \$100 million of the modernization bond proceeds for projects recommended by the Freight Advisory Committee and for projects that improve access to industrial land sites or sites where jobs can be created.

The new bill allows up to half of existing state modernization funds to be spent on projects of statewide significance. Additionally, the bill requires ODOT to use \$200 million in Federal Advance Construction funds for modernization projects. It specifies distribution of revenues from the increased registration fees (except the recreational vehicle fees), title fees, and weight mile taxes as 57.53 percent to the state, 25.48 percent to ODOT for bond repayment for county bridges, and 16.99 percent to ODOT for bond repayment for city bridges. The bill further requires Multnomah County to spend a majority of this distribution on bridges in the county, and the remainder equitably within the county under an agreement with cities within the county.

The bill also allows revenue not needed for bond repayment for local bridges to be distributed to cities and counties for other road purposes. Although the vast majority of cities will use the new revenue to address the severe backlog of road maintenance and preservation projects the bill does not specify a purpose for the funds other than they be used within the current constitutional parameters for the use of highway funds.

It modifies the county allocation method and moves \$250,000 from the general county allocation to the Special County program allocation to supplement Highway Fund distributions to those counties receiving the lowest levels of funding. This provision sunsets on July 1, 2008. Finally, the bill specifies distribution of additional fees from driver license and testing fees to counties (60 percent) and to cities (40 percent) (formerly HB 2367). The additional DMV fees are raised in HB 2388.

#### Various Provisions:

- The amount of revenue that will flow directly to cities through the Highway Fund depends on the local bridge selection process because the amount of revenue will vary depending on the number of city bridges selected in the process. The number of city bridges funded will determine how much of the city allocation of the new revenue will be bonded for the city portion of the \$300 million in local bridges. The remaining revenue will flow to cities on a per capita basis through the Highway Fund. Based on preliminary estimates cities should anticipate an additional \$7 per capita. However, this is an estimate and should not be used for final budgeting purposes. The League anticipates having a final per capita estimate by March 1, 2004, the date by which the Transportation Commission is expected to approve the list of local bridge projects.

- The Oregon Transportation Commission may not permanently reduce the vehicle-carrying capacity of an identified freight route when altering, relocating, changing or realigning a state highway unless safety or access considerations require reduction. A local government may apply to the commission for an exemption. The commission is required to grant the exemption if it finds that the exemption is in the best interest of the state and that freight movement is not unreasonably impeded by the exemption.
- When choosing modernization projects the Transportation Commission is required to give funding priority to modernization projects that are “ready for construction.” The Commission is also required to adopt rules defining “ready for construction” for purposes of the OTIA III modernization funding no later than June 30, 2004.
- The Transportation Commission is required to consult with the Economic and Community Development Department and local governments in selecting sites to improve access to industrial lands. They will give preference to sites that provide local match.
- The League negotiated a provision that requires ODOT to repair damage to highways that are designated as detour routes if the damage results from the increase in traffic caused by the detour. ODOT must consult with local governments when designating detour routes. Depending on what is most cost effective ODOT may repair the damage prior to directing traffic onto a detour route or after use of the detour route is discontinued.
- With the modernization projects the intent is to increase highway safety, accelerate improvements from the backlog of needs on the state highways and fund modernization of highways and local roads to support economic development in Oregon. Projects both on and off the state highway system are eligible. The Transportation Commission may use a portion of the modernization dollars for modernization projects already identified by them as projects of statewide significance. Except for projects that are of statewide significance, projects must be equitably distributed throughout Oregon. Among other considerations the Transportation Commission may give priority to projects where there is local government or private sector financial participation. Eligible projects may be on county or city arterial roads connecting to or supporting a state highway.
- The Transportation Commission is required to consult with local governments to choose the bridges that will receive the \$300 million in local bridge funding. Eligible bridge projects must meet the following freight criteria:
  - are located on identified freight routes of statewide or regional significance
  - remove identified barriers to the safe, reliable and efficient movement of goods
  - facilitate public and private investment that creates or sustains jobs

In developing the Statewide Transportation Improvement Program (STIP) the department must also give priority to freight mobility projects that meet these criteria.

- ODOT, cities, and counties are required to report to the next Legislative General Assembly on the value of bridge and highway contracts entered into with the private sector for the biennium ending June 30, 2003 and for the period from July 1, 2003 to December 31, 2004.
- The existence and role of the Freight Advisory Committee is formalized in HB 2041. Prior to this bill they were considered an ad hoc committee to the Transportation Commission. In addition to providing input on statewide and regional policies and actions that impact freight mobility, they will advise the Transportation Commission and regionally based advisory groups about the Statewide Transportation Improvement Program (STIP) and the program's consideration and inclusion of highest priority multimodal freight mobility projects in each of ODOT's regions.
- The bill repeals certain provisions in OTIA I making the dollars flowing between OTIA I and OTIA II more flexible.
- A number of other odds and ends were included in this bill as it made its way through the process. It authorizes ODOT to exempt the bonded bridge contracts from bid security and performance bond requirements or to reduce the required security bond level, and it allows ODOT to vary fees in pilot programs established under HB 3946 (passed in 2001) to facilitate the maximum use of road capacity.

Applicable ODOT Budget Note (HB 5077):

Budget notes are a record of directions given by the Ways and Means Subcommittee to the department during the budget discussion.

State Bridge Replacement Program Management (applicable to state bridges only) -

"If House Bill 2041 becomes law, the Committee expects that the Oregon Department of Transportation (ODOT) will contract with the private sector in managing the bridge repair and replacement program and the overall implementation of HB 2041. The Department and the private sector are directed to develop a strategy to complete the bridge repair and replacement program that maximizes the following:

- 1) Ease of traffic movement –contracting strategies that keep traffic moving will minimize effects on other industries and the public;
- 2) Expedient delivery-quick project delivery will allow freedom of freight movement and ensures that products can be delivered throughout the state;

3) Involvement of Oregon construction firms and employees –the use of Oregon firms and employees, emerging small businesses and minorities will result in economic stimulus that will benefit the state overall.”

“It is further expected that ODOT will insure that the firm selected to manage the bridge repair and replacement program develops packages in size that achieves all three of the objectives above, but with a primary emphasis on the ability of Oregon construction firms to compete for the packages. The department is directed to insure opportunities for private sector stakeholder input on project delivery methods and package sizes are continued. In order to stimulate the economy for Oregon businesses, the Legislature expects that the firm selected by the department to manage the bridge repair and replacement program will provide design-engineering services, but not engage in construction projects that are part of the bridge repair and replacement program.”

“The Department is directed to report to the appropriate interim legislative policy committee and the Emergency Board the contract language that implements this budget not prior to advertising for bids or no later than January 2005 whichever comes first.”

**HB 2213: Highway Transportation Bonds**  
*Effective Date: June 4, 2003 Chapter 201*

In addition to providing the authority for ODOT to issue Grant Anticipation Revenue Vehicle (GARVEE) bonds secured by federal revenues, HB 2213 increases ODOT’s limit on short-term borrowing for specified purposes from \$25 million to \$100 million and from a term of one year to a maximum of three years. The bill also changes the maturity period on Highway User Tax Bonds from 30 years to the expected economic life of the improvement.

**HB 2388: DMV Fee Increase Dedicated to Cities and Counties**  
*Effective Date: January 1, 2004 Chapter 600*

This bill is a component of the 2003 Oregon Transportation Investment Act (OTIA III). The bill increases title, registration and permit fee revenue by requiring title and registration transfers. See the OTIA III summary and HB 2041 for more information.

**HB 3183: Transit Payroll Tax Authority**  
*Effective Date: November 26, 2003 Chapter 739*

This bill became the vehicle for the Tri-Met transit payroll tax increase, previously SB 549. Over thirty years ago, the Oregon State Legislature created TriMet to provide public transportation. Operating in the metro region, the transit district is supported by a payroll tax as well as a variety of other revenue sources. HB 3183 will enable TriMet to work with employers and metro communities to discuss an increase in the tax. If supported, the TriMet Board must pass a local ordinance to enact any increase.

TriMet has committed that they do not intend to pursue any increase without an improvement in the economy and that any increase will be exclusively for the addition of new and enhanced transit service.

HB 3183 authorizes the TriMet Board of Directors to increase the payroll tax by one-tenth of one percent over a ten-year period and requires the Board, if they adopt an increase to phase it in over the ten-year period. It also specifies that the increments by which the increase is phased in may not exceed .02 percent in any one year of the ten-year period. In addition, the bill directs the TriMet Board to consider economic recovery factors before implementing the first incremental increase. The bill applies to payroll and self-employment tax reporting periods beginning on or after January 1, 2004.

**HB 3231: Elderly and Disabled Special Transportation Fund**

*Effective Date: July 22, 2003*

*Chapter 601*

Oregon residents that do not have driver's licenses may obtain identification cards from the DMV. Revenue from the cards may only be used for functions related to the cards. The fee is currently generating revenue exceeding the cost of issuance. HB 3231 requires that the revenues exceeding program costs be transferred to the Elderly and Disabled Special Transportation Fund. Other funds dedicated to Elderly and Disabled Special Transportation include two cents of the state cigarette tax, federal Surface Transportation Funds, and the state General Fund. The funds support local transit programs.

**HB 3522: Elderly and Disabled Special Transportation Fund Oversight**

*Effective Date: January 1, 2004*

*Chapter 613*

Although ODOT administers the Elderly and Disabled Special Transportation Fund, the department has limited control over accountability and management of the funds. Under Oregon statute three-quarters of the fund is distributed to local public transportation districts and to counties without public transportation districts through a formula based on population. The remainder of the fund is distributed to districts through a competitive grant program. Funds are used for the improvement of elderly and disabled transportation. HB 3522 allows ODOT through rule making to place requirements on the distribution of funds from districts and counties to not-for-profit providers, and to establish penalties for failure to comply with rules or statutory provisions.

**HB 3582: Distribution of Highway Fund to Counties**

*Effective Date: September 17, 2003*

*Chapter 780*

The bill directs the Association of Oregon Counties (AOC) to establish a work group to study the method by which highway funds are allocated to counties. Currently funds are distributed based on vehicle registration. The bill requires AOC to consider a number of factors, including the unique needs of fast-growing counties, the financial needs of sparsely populated counties, the effects of large bridges on county road programs and the effect that vehicles registered in a

county, but not using its road system, have on a county road program. The bill requires the group to report to the Legislative Assembly by January 2, 2005. AOC may enter into intergovernmental agreements to fund the expenses of the work group from highway revenues allocated to the counties. State agencies and the League of Oregon Cities are to assist the work group. The bill sunsets on January 2, 2006.

**HB 5067: Rail Lottery Allocations**  
*Effective Date: August 29, 2003 Chapter 732*

This bill allocates lottery revenues for the 2003-2005 biennium. ODOT will receive an allocation of \$21,145,408 for lottery bonds for rail projects and rail infrastructure assistance, to fund bond reserves, and to pay related costs:

The funds are allocated as follows:

- Westside Light Rail \$19,928,618
- Short Line Infrastructure Assistance \$673,761
- South Metro Commuter Rail \$43,473
- Industrial Rail Spur Assistance \$500,050

The bill also ensures that the biennial debt service payments for the Westside Light Rail Construction Bonds have priority over other allocations in the event that lottery revenues are lower than anticipated.

Please see HB 5077 below for funding levels for ODOT's Rail Program.

**HB 5077: ODOT Budget / Omnibus Appropriations Bill**  
*Effective Date: August 29, 2003 Chapter 710*

This bill is an omnibus appropriations bill. Sections 81-86 are ODOT's 2003-2005 Legislatively Adopted Budget. This bill also sets the funding levels for ODOT's rail, transit and Transportation Growth Management (TGM) programs. While the TGM and transit programs were kept whole, the rail program was in jeopardy. When the legislature adjourned, one of two existing Willamette Valley trains had been cut, due to a lack of funding. This would have effectively ended Oregon's passenger rail program. Fortunately, ODOT was able to find funding to restore the second train, keeping the program whole for the time being.

Applicable Budget Note:

Budget notes are a record of directions given by the Ways and Means Subcommittee to the department during the budget discussion.

## Access Management:

“Recognizing the concerns of constituents and the legislature about the amount of time it takes to issue an access permit, percent of decisions that are made in the field compared to percent of time reviews are required by the regional engineer, and extent that access permit review is integrated with the local government review process; the Committee supports one additional limited duration position for each region for 18 months. The Department is directed to provide a report to the Emergency Board by December 2004 on its performance in reducing the amount of time it takes to issue an access permit, increasing the number of decisions that can be made in the field, and steps taken to integrate the review process with local government reviews. The Department is directed to work with the Legislative Fiscal Office to establish an evaluation process that incorporates an independent survey of local governments and permittees to measure customer satisfaction with processes implemented by the Department to issue access permits. The Emergency Board may extend the Limited Duration positions if satisfactory progress is made improving the permit process.”

## ❖❖❖FUNDING - FAILED BILLS❖❖❖

### **SB 549: Transit Payroll Tax Authority**

This bill would have increased Tri-Met’s maximum authorized payroll tax rate for mass transit districts. Ultimately the provisions of this bill were included in HB 3183 and passed by the legislature

See HB 3183 above for more information

### **SB 585: Street User Fee Preemption**

Senate Bill 585 would have preempted a city’s authority to enact a Street User Fee, sometimes referred to as a Street Utility Fee or Transportation Utility Fee. The language in the bill was cleverly crafted to look like it granted cities new authority to adopt the fee, when in fact cities already have the authority to implement such fees. Any language placed in state statute would have restricted the way in which the local fee can be structured and what it is used for. If this bill passed cities would have lost the flexibility necessary to adapt the fee to meet the needs of their communities effectively ending the ability of a city to implement a street user fee, and restricting cities that already have the fee in place.

With an annual road maintenance and preservation backlog of over \$130 million, the street user fee is critical to the ability of cities to respond to the needs of their citizens and businesses. Major proponents of this bill included the Oregon Grocery Industry Association and big box businesses like Fred Meyer, Rite Aid, and Safeway. When the bill had a hearing a panel of city officials presented testimony expressing how critical this tool, which has been in place for over two decades, is to local communities. In addition to the testimony, cities demonstrated their strong

opposition to the bill by sending letters and showing their presence at the hearing. Although cities were given a short time to respond before the hearing, over three dozen letters were entered into the record, representing cities of every size from Ontario to Portland. While the preemption effort was defeated this session, the League anticipates the issue will return.

**SB 881: Local Gas Tax Preemption**

SB 881 would have preempted cities and counties from imposing a gas tax. It would have also preempted any cities and counties that have a local gas tax from increasing the tax. The Oregon Gasoline Dealers Association was the main proponent of this bill. Although this effort was defeated, this issue is perennial and is expected to return.

**SJR 13: Highway Funds for State Police**

The resolution would have allowed revenue from the State Highway Fund to be used for state policing needs. The estimated impact to the State Highway Fund would have been approximately \$75 million per biennium. In testimony the League and the Association of Oregon Counties jointly raised concerns, primarily the current inadequacy of the Highway Fund. In addition to a maintenance and preservation gap of \$481 million annually on the state, county and city road system, \$4.7 billion dollars in bridge repair and rehabilitation needs have been identified across the state, and when modernization needs are taken into consideration, approximately \$1 is available for every \$3-\$4 that is needed.

Because the bill would have required a change to the state's constitution if passed it would have required a vote of the people. Similar measures were defeated twice (1992 and 2000) at the polls after a 1980 ballot measure removed state police from the highway fund. SJR 13 had the support of the Governor and was worked into the eleventh hour of the session, but ultimately failed. The League anticipates this issue will return.

**SJR 32: Highway Funds for Education**

This resolution would have allowed public education to be funded out of the Highway Trust Fund. Because the bill would have required a change to the state's constitution if passed it would have required a vote of the people.

**HB 2139: Studded Tires Permit**

The 1999 legislature established the Road User Fee Task Force to look at the future of the gas tax given changing technologies and recommend how road fees should be structured in the future for the long-term health of the transportation system. A short term recommendation of the task force was to address equity issues regarding the use of studded tires and the corresponding damage to Oregon's roads. HB 2139 would have implemented a system that charged higher fees to those who use studded tires where there is little snow or ice, resulting in more road damage and lower fees to those who use studded tires in areas where snow covers the roads most of the

winter and the tires do little or no damage there. As in the past there was controversy across the state and within the legislature, resulting in the bill not moving forward during the session.

**HB 3510: Jurisdictional Transfer of State Highway**

Jurisdictional transfer of roads can be a controversial subject whether the transfer is a state road to a local government or between local governments. Since the passage of the 2001 Oregon Transportation Investment Act, the Oregon Transportation Commission has placed increased priority on projects that involve a jurisdictional transfer of a state road to a local government. This has sparked debate over when it is appropriate to require jurisdictional transfer of a road as a condition for receiving funding for a project. The League maintains a policy that each jurisdictional transfer be negotiated at the local level on an individual basis.

HB 3510, introduced at the request of Grants Pass, would have prohibited ODOT from making jurisdictional transfer of a state highway a condition of funding a modernization project. The bill would still allow transfers to be negotiated on a case by case basis.

**HJR 25: Highway Funds for State Police**

This bill was similar to SJR 13 which eventually became the primary vehicle for the effort to “bust the highway trust” to allow state police to be funded out of the Highway Trust Fund

See SJR 13 for more information.

**Regulatory.....**

**◆◆◆REGULATORY - PASSED BILLS◆◆◆**

**SB 425: Oversized Trucks**

*Effective Date: January 1, 2004*

*Chapter 185*

Christmas trees are the primary reason this bill was introduced. A “road authority” is the body authorized to exercise authority over a road, highway, street, or alley. A road authority deals with issues of size, weight, and speed limits. Current law makes the county governing body the road authority for county roads outside the boundaries of an incorporated city. Current law also contains a list of length limitations for different types of trucks. To legally exceed that length on Oregon roads, a truck must obtain a variance permit from Department of Transportation or the county in which they will be traveling. The nursery and Christmas tree industry tend to hire outside transporters to pick up and deliver their goods. Usually, one truck stops at several businesses, often in different counties, to pick up product and fill the truck before making the

delivery. This sometimes results in the need for variance permits from multiple counties which can delay the transfer of goods and increase the cost to shipper, grower, and consumer.

This bill allows truckers/transporters to request a road authority to allow unrestricted access on a specific route for truck tractor and semitrailer combinations in excess of the lengths authorized by statute. Upon request, the bill requires road authorities to either grant the request, perform a test run, or produce a previous evaluation to determine if trucks of that length can safely travel the route. The bill makes provisions for more detailed evaluation when initial evaluation determines the road can not safely accommodate that truck length. The League of Oregon Cities had concerns with this bill until the proponents agreed to take cities out, primarily because the issues raised by the truckers/transporters were limited to counties.

**SB 663: U-Turn Feasibility Study**  
*Effective Date: January 1, 2004 Chapter 246*

Current Oregon law makes U-turns illegal at intersections controlled by lights unless the intersection is posted as U-turn permitted. As more parkways and restricted left-turn access routes are constructed, U-turns become more necessary for access. Analysis of each intersection is required, however, to determine whether a U-turn can be made in one continuous motion. Complications arise with larger vehicles, dual left turn lanes, and heavy traffic areas.

This legislation requires the Department of Transportation (ODOT) to study the feasibility of expanding the number of places where U-turns are permitted. Unlike surrounding states, Oregon law does not currently allow U-turns at intersections unless permitted by signing. It directs ODOT to focus on safety and cost and to report to the Legislative Assembly by January 31, 2005.

**SB 666: Operation of Golf Carts**  
*Effective Date: September 17, 2003 Chapter Not Available at Time of Publication*

Current statute allows cities and counties to adopt ordinances allowing golf carts to operate on local streets and roads adjacent to golf courses under specified circumstances. Existing law limits use to within a half-mile of the golf course. This has created confusion as to where the half-mile is measured from and is an arbitrary limit on local government authority to determine safe routes for use of golf carts in their jurisdictions. SB 666 removes the one-half mile restriction on the distance that local governments can allow golf carts to operate on streets or roads adjacent to a golf course.

**SB 765: Highway Access Management**  
*Effective Date: January 1, 2004 Chapter 371*

Current law requires ODOT and counties to adopt rules for the use of rights-of-way on highways and roads. Oregon statute requires a person who wants to build an approach road or a driveway across state or county right-of-way to first obtain permission from ODOT or the county. Under the current administrative rule, the agencies can grant access to a highway even though access to

the property is available from a local street. SB 765 specifies criteria for determining whether the local street access is reasonable.

The bill requires the access be sufficient to allow the authorized uses of property identified in the local comprehensive plan and to serve the volume and type of traffic anticipated based on planned uses of the property. The bill repeals the sunset on the law allowing the department to help property owners pay for costs of relocating driveways or access roads.

**SB 771: Agency Permits for ODOT Projects**  
*Effective Date: January 1, 2004 Chapter 340*

This legislation directs agencies that issue permits necessary for an ODOT project to give ODOT a list of applicable standards for the permit, to provide technical assistance in completing the permit process, and to expedite permit review and decision making. It also directs agencies to provide assistance in applying statutes and rules when ODOT is facing local land use decisions concerning a transportation project, and to assist on any appeal. The affected agencies are: Environmental Quality; Land Conservation and Development; State Lands; Agriculture; Fish and Wildlife; Geology and Mineral Industries; Forestry; and Parks and Recreation.

**SB 787: Segway Personal Mobility Device**  
*Effective Date: January 1, 2004 Chapter 341*

The electric personal assistive mobility device was introduced with the debut of the brand, Segway, in 2001. The device transports a person in a standing position and has a sophisticated combination of sensors, gyroscopes, and computers to achieve a self-balancing function. Initially, the Segway was sold only for commercial uses, or to public bodies such as police departments and utilities. Last year a new version was introduced for the general public. Thirty-three states and the District of Columbia have enacted laws permitting and regulating Segway-type vehicles.

Under SB 787 the operation of electric personal assistive mobility devices is permitted by persons sixteen years of age or older on bicycle lanes, bicycle paths, and sidewalks, and on highways with posted speeds of 35 miles per hour (mph) or less. The devices are exempt from compliance with vehicle title, vehicle registration, and liability insurance requirements. Operators of the devices are exempt from driver license and helmet requirements, unless otherwise required by a local government. The bill retains a local jurisdiction's authority to regulate or prohibit use of the devices.

The bill also creates the offense of unsafe operation of an electric personal assistive mobility device for: operating on a road that is posted for over 35 mph and not in a bicycle lane; riding on a road or bike path over 15 mph; operating with another person aboard; operating carelessly on a sidewalk; failing to yield to a pedestrian; or failing to give an audible warning to a pedestrian when overtaking the pedestrian. The offense is a Class D traffic violation with a maximum fine of \$75.

**HB 2219: Required Railroad Access Notification**  
*Effective Date: January 1, 2004 Chapter 145*

Under Oregon law railroad-highway crossings are classified in three ways. Those open to public traffic, and under ODOT's jurisdiction are known as public crossings. Private crossings are not formally recognized by statute, but exist through agreements between a property owner and railroad to provide limited access to a residence or business and the third classification is an unauthorized public crossing. Unauthorized public crossings are open to the public but not regulated or maintained by ODOT.

Problems occur when a private crossing becomes one that is used by the public because of land use changes such as building a residential subdivision or adding a retail business, resulting in serious safety concerns. HB 2219 requires applicants requesting a land use action to disclose to the local planning office if access to the property is over a railroad. It also requires the local planning office to provide notice of the proposed action to the railroad and to the ODOT Rail Division. The bill only affects new applications for a land use decision.

**HB 2265: ODOT Areas of Critical Concern**  
*Effective Date: January 1, 2004 Chapter 27*

In 1995 the Legislature transferred regulatory and other responsibilities regarding railroads and motor carriers (commercial trucks) from the Public Utility Commission to ODOT. When the change occurred, the statutes listing ODOT's areas of critical concern were not amended to include them. The statutes currently list highways, drivers and vehicles, public transit, safety, and maritime pilotage, as areas of critical concern, and all have Division status within the agency. Motor carrier and rail have Division status within ODOT, but are not specifically listed as areas of critical concern.

HB 2265 puts in statute what already exists at a policy level, officially recognizing that railroads and motor carriers are part of ODOT's responsibilities and indicating that ODOT has a multimodal responsibility in Oregon law.

**HB 2546: Pollution Control Tests for Government Vehicles**  
*Effective Date: January 1, 2004 Chapter 61*

HB 2546 deletes the annual certification requirement for government fleet vehicles, placing them under the same biennial certification requirement as all other vehicles subject to Department of Environmental Quality emissions testing. Currently, the Portland and Medford areas are the only airsheds where testing is required.

**HB 3615: Travel Information Council Signs**  
*Effective Date: January 1, 2004 Chapter 388*

Tourist-oriented directional signs are the blue-background signs near highway exits that inform motorists of restaurants, hotels, service stations, and tourist attractions. The Oregon Travel Information Council has authority over the signs and administers the program under federal standards. The signs are paid for by annual fees from the advertising businesses. Under current law, if the state transfers jurisdiction over a state highway to a city or county, the authority over the existing tourist directional signs is unclear. HB 3615 clarifies that the Travel Information Council retains authority over travel information signs when jurisdiction over a state highway is transferred from ODOT to a county or city.

◆◆◆REGULATORY - FAILED BILLS◆◆◆

**SB 472: State Highway Capacity**

Introduced at the request of the Oregon Trucking Association, this bill would have prohibited the reduction of capacity on a state highway capacity except when required for safety. Ultimately, the issue was addressed in HB 2041, a component of the 2003 Oregon Transportation Investment Act.

See HB 2041 for more information.

**HB 2434: Segway Personal Mobility Device**

This was one of two bills to regulate the use of the Segway personal mobility device. This bill did not move forward.

See SB 787, signed into law, for more information.

**HB 2686: Fire Truck Exemption**

Currently fire trucks are required to work on a bridge by bridge, jurisdiction by jurisdiction basis to obtain appropriate permits for traveling over bridges that have been posted because of a weight limitation. During the session this was raised as a problem, particularly for fire trucks that serve multiple jurisdictions. Cities and counties agreed to look at the issue during the interim and find a way for fire departments to work with road officials to address the concerns.

## Miscellaneous .....

### ◆◆◆MISCELLANEOUS - PASSED BILLS◆◆◆

**HB 2043: Pay As You Go Insurance**  
*Effective Date: November 25, 2003 Chapter 545*

Currently, insurance policies only provide a small discount for policy holders who drive a short distance. Automobiles are a major source of greenhouse gases, air pollution and toxic runoff. The more people drive, the greater the demand for expanded transportation infrastructure – roads, bridges, highways and the greater the incidence of traffic accidents. “Pay as you drive” insurance is designed to be an option that rewards drivers who limit the driving. In this case it is an incentive to companies to offer such insurance.

This bill allows a corporate excise tax credit for corporations that provide motor vehicle insurance based on the number of miles traveled or time-based rating insurance plans. It specifies that an eligible corporation must provide motor vehicle insurance policies that are at least 70 percent based on a mile-based or time-based rating plan. It limits the corporate tax credit to \$100 per vehicle and \$300 per policy and the credit can only be claimed once per policy. HB 2043 restricts the excise tax credit total to \$1 million of the actual tax credit claimed for all tax years beginning January 1, 2005 and before January 1, 2010.

**HB 2853: Transportation District Governance**  
*Effective Date: January 1, 2004 Chapter 124*

Problems have occurred with election cycles for the governing board of a transportation district. Initially, board terms were not staggered, leading to a large amount of turn over at once. HB 2853 allows a district at the next board election to vary the terms of a portion of the board members so that future terms will be staggered.

**HB 2857: Petition for Withdrawal from a Transportation District**  
*Effective Date: January 1, 2004 Chapter 611*

Current statute places time restrictions on petitions for property owners to withdraw from special districts. For transportation districts, statute currently stipulates that petitions for withdrawal may be filed only between January 1 to August 30 every fifth year beginning in 2001. To address some concerns raised in Southern Oregon, specifically the Rogue Valley Transit District, HB 2857 revises the procedure for withdrawal from a transportation district in Southern Oregon. Southern Oregon is defined as the portion of the state located south of the City of Roseburg, west of the summit of the Cascade Range, north of the southern boundary of the state and east of the Pacific Ocean.

HB 2857 allows all or part of a city with a population of 10,000 or fewer located within a transportation district, but not receiving services from the district, to petition to withdraw the portion that does not receive regularly scheduled direct transportation services. The transportation district governing board and county governing board are directed to approve the petition. The bill sunsets on January 2, 2006.

**HB 2933: Vehicle Accident Reporting**  
*Effective Date: January 1, 2004 Chapter 531*

Under current law, all drivers involved in a motor vehicle collision must file a report with the Driver and Motor Vehicle Service (DMV) if any person is injured or killed, or if the property damage to any vehicle is over \$1,000. The report form seeks information regarding parties involved, insurance coverage, how and where the collision occurred, location of damage on the vehicle, etc. DMV verifies the insurance coverage with the carrier, and takes action against drivers who did not have proper insurance at the time of the collision. DMV uses the data to analyze safety issues.

By law the report must be filed within 72 hours of the collision. If DMV learns of a subject collision, it sends a notice to any driver who has not submitted a report. The notice warns the person that they must file a report or their license will be suspended.

The states of Washington, California, and Idaho each have a vehicle damage threshold under \$1,000. In 1997 Oregon's Legislative Assembly increased the threshold amount from \$500 to \$1,000. Concern was raised by some legislators that drivers were unknowingly having their license suspended because they failed to submit an accident report, even if the driver was not at fault in the accident. There was an effort to raise the vehicle damage threshold to \$2,500. This was a concern for ODOT and cities that utilize the DMV data to analyze safety issues.

Subsequent discussions resulted in raising the threshold from \$1,000 to \$1,500, and removing the dual reporting requirement in some cases. HB 2933 requires only the damaged vehicle's driver to file when the damage amount is \$1,500 or more but requires all drivers and owners to file when there is an injury or death or any vehicle is towed from the scene.