Testimony of Joseph Cortright
to the

Transportation and Economic Development Subcommittee
Joint Ways and Means Committee

HB 5040

March 16, 2023

Oregon's transportation finance system is in crisis and ODOT's budget will make this crisis worse. The agency's traditional sources of revenue are collapsing, and will certainly decline further in coming years. The agency is failing to maintain existing roads, and has a huge backlog of maintenance, safety, seismic and other needs that continue to grow. In the face of declining revenues and deferred maintenance, the agency is embarking on an unprecedented spending spree for expensive megaprojects. ODOT has shown no ability to manage project costs, with every major project incurring massive cost overruns. The agency is moving to start construction on these projects and commit the state to paying for them without a financial plan in place. It claims it will use toll revenues to pay for megaprojects, but has no experience collecting or accurately estimating tolls. It is planning to take on billions of dollars in debt backed by the promise of tolls. It has used short-term borrowing—the government version of a payday loan—to get projects started while avoiding the independent, investment grade analysis that will be required to get long-term financing. Repaying the debt incurred for these projects will take legal precedence over all other state transportation priorities, leading to further cuts in maintenance and repair, and jeopardizing every other capital construction project in the state. The Legislature needs to inject some prudence into transportation finance by requiring a "fix it first" policy, telling ODOT to live within its means, right-sizing bloated megaprojects, and securing independent expert financial advice**.**

Revenue is collapsing, the highway fund is in structural decline

It is increasingly apparent that Oregon's chief source of highway funding is collapsing. Oregon relies heavily on fuel taxes to pay for roads. According to the Oregon Department of Environmental Quality, in order to stay on track to meet the state's adopted climate goals, gasoline and diesel sales will fall by half between now and 2035. That means a huge drop in future revenue. Unfortunately, that's a fact that ODOT has failed to acknowledge in its transportation forecasts, which count on gasoline and diesel consumption remaining stable for the next decade. Realistic forecasts of gasoline and diesel consumption consistent with our stated climate goals will mean a big decrease in revenue for transportation.

A growing backlog of needs has been ignored

Already, ODOT has short-changed operations and maintenance spending, claiming that the law requires it to spend billions on these freeway expansion projects. The agency has continued to neglect a backlog of maintenance, safety, seismic, and accessibility needs, and short-changed active transportation. By its own reckoning:

- ODOT is already spending hundreds of millions less than it needs to each year to keep roads from deteriorating further. We're repaving roads an average of once every 50 years.
- The state has a five-billion-dollar seismic retrofit to-do list.
- It will require nearly a billion dollars to bring highways into compliance with the Americans with Disabilities Act,
- We have a billion-dollar backlog of bike and pedestrian projects that would take 150 years to complete at current spending levels, according to ODOT, and
- There's not nearly enough money to pay to fix ODOT's "orphan highways"--high speed arterials in many communities that are the chief cause of rising bike and pedestrian fatalities.

Expensive megaprojects with huge cost overruns

ODOT has embarked on a multi-billion-dollar series of freeway expansion projects—the I-5 Rose Quarter freeway widening, the Abernethy Bridge and I-205 widening, and the Interstate Bridge Replacement (IBR) project-- for which it doesn't have funding, at a time when its financial foundations are steadily eroding--and promise to decline further.

There have been prodigious cost-overruns on nearly all the major projects it has undertaken in the past two decades--problems that haven't been fixed.

- In December, the cost of the IBR project jumped 50 percent to $7.5 billion.
- Earlier in 2022, the cost of the Abernethy bridge increased 100 percent to $500 million.
- In 2021, the cost of the Rose Quarter—which the Legislature approved at $450 million four years earlier—tripled to $1.45 billion.

These are just the large projects in the Portland metropolitan area. Statewide, there are billions of dollars of additional projects seeking ODOT funding.

Tolling: Over-estimated, under-studied

ODOT claims it will pay for the bulk of these projects by implementing tolling. Road pricing has much to recommend it, not just as a means to pay for transportation, but to better manage our expensive investment in highways. Pricing is the only policy that has been shown to reduce traffic congestion. But ODOT has no experience in collecting or accurately estimating toll revenues. ODOT has been less than frank with Oregonians about the amounts it plans to charge: I've obtained ODOT documents show that between bridge tolls and per-mile regional mobility pricing, a peak hour trip between Wilsonville and Vancouver could cost $15.00 each way.

ODOT is counting on tolls to generate the revenue to pay back the construction costs of these very expensive projects. But the high tolls it is likely to charge will significantly depress traffic growth. Experience in other states has shown adding tolls leads to dramatic reductions in traffic. Louisville, Kentucky built a project nearly identical to the proposed IBR, and after it opened, it charged $1-$2 tolls, and traffic levels fell by half from pre-construction levels. They spent a billion dollars on bridge capacity they didn't need, and that driver's wouldn't pay to use, and now they have a huge debt problem.

State after state has overestimated toll revenues. As a result, private bond markets and the federal government won't accept state toll revenue estimates. They insist on the preparation of an independent "investment grade analysis" which invariably shows that revenues are lower that state DOT projections. In the case of the Columbia River Crossing, the investment grade analysis required that off-peak tolls had to be twice as high as Oregon DOT planned in the project's Environmental Impact Statement. The investment grade analysis also showed that a new I-5 bridge would carry only half as many vehicles as ODOT projected.

A risky expansion of debt

ODOT is planning to plunge the state deeper into debt to pay for these projects, with no clear idea on how they'll be repaid, save for hopes that an untried and much delayed system of congestion pricing will raise the necessary funds. And ODOT has repeatedly refused to seek serious, objective, independent advice on how much revenue pricing might generate.

Prior to 2000, ODOT had essentially no debt—for decades we paid the capital costs of new road construction on a current basis. Since then, debt service has increased to more than 20 percent of the ODOT budget. That means we're spending more on interest, and less on roads.

In November, ODOT issued half a billion dollars in short-term debt—commercial paper secured by highway fund revenues—effectively the government equivalent of a payday loan. They're using that money to finance each of their giant megaprojects. They're hoping to eventually refinance that debt by selling toll backed bonds. But because they have no experience with tolling, or estimating toll revenues, there's simply no assurance how

That's hugely risky—ODOT plans to embark on projects like the Rose Quarter and IBR without a full funding plan in place, and hope that some combination of tolls and federal grants will pay the cost (plus any additional cost overruns).

By using short term debt to get these projects started, ODOT has avoided getting the kind of independent financial scrutiny that would be provided by an investment grade analysis. Once the project is started with the short-term borrowing, the state will be on the hook for all the costs, regardless of how little revenue tolls might generate. The investment grade analysis is the essential due diligence that any investor should undertake before committing to the investment, and ODOT is effectively blocking that from happening.

ODOT is embarked on the classic "driving-stakes-and-selling bonds" strategy that New York's master builder Robert Moses perfected in the 1930s. It appears that the plan is to start a series of multi-billion-dollar projects, and issue debt backed by pledges of hypothetical future toll revenues, guaranteed by state and federal transportation funds. Once the debt is issued, the state will have no ability to "right size" the projects in the face of cost overruns, and it will be obligated to slash maintenance spending and other transportation priorities and put bond-holders first in line for every available state transportation dollar.

In the face of the climate crisis, this approach to road finance is deeply perverse: Once the state builds more roadways, if its efforts to reduce driving (and cut carbon emissions) are successful, toll revenues will decline and the shortfall will have to be made up by cutting other transportation spending. The state will even be obligated to use federal funds (which can be used flexibly for transit, walking, and cycling projects that would reduce greenhouse gas emissions) to pay off the bond-holders who financed the under-used highway capacity.

Priorities for Transportation Finance in Oregon

As legislators, you should set a clear direction to ODOT for the prudent financial management of one of the state's critical assets. Here are four broad policies you can insist on to put transportation finance in Oregon on a sound footing.

Fix it first. The state highway system is a multi-billion-dollar asset. Failing to keep it in good repair costs us money in the form of larger costs later on. ODOT says it only has the budget to re-surface Oregon roads once every fifty years. It should guarantee all roads are in good maintenance before it spends money on new roadways.

Live within our means. Over the past two decades ODOT debt has increased from almost nothing to more than 20 percent of state highway fund revenue. ODOT just issued $500 million more in short term debt--for which long-term repayment hasn't been worked out--to start up the I-205 expansion project. It's contemplating billions more in future debt, backed by tolling—these debt-based spending plans are a fiscal time bomb for future legislatures.

Right size. ODOT's Portland area highway projects call for super-sizing the I-5 bridge, the Rose Quarter, and I-205. ODOT's own studies, and experience in other states, including Washington, show that with even modest levels of tolls, additional capacity is likely to go under-utilized. Projects need to be "right-sized" before they are built so that we don't end up wasting billions on capacity that isn't used.

Look before you leap. ODOT is on the verge of making multi-billion-dollar commitments that will be consequential for future generations of Oregonians--and future Governors. Some commitments, like starting a multi-billion-dollar bridge, or pledging all our transportation revenue to retire un-tested toll-backed bonds, are effectively irreversible. You can insist on a careful independent review of the engineering, planning and financial issues raised by these projects, just as Governors Kulongoski and Gregoire did for the CRC. It's especially important to have a completed "investment grade analysis" of toll revenues before committing to these projects.