



**Date:** July 2, 2021

**To:** Governor Kate Brown

**CC:** Oregon Transportation Commission

**From:** Joe Cortright, No More Freeways  
Aaron Brown, No More Freeways

**Subject:** **Want to be remembered as a climate champion? Veto HB 3055, the ODOT freeway-widening slush fund. Climate leaders don't widen freeways.**

*“Some highway engineers have a mentality ... that would run an eight-lane freeway through the Taj Mahal. That is our problem.”*

*- Governor Tom McCall*

No More Freeways, a coalition of community advocates and organizations urges you to veto HB 3055.

This legislation would recklessly authorize the Oregon Department of Transportation (ODOT) to incur billions of dollars of debt to expand Portland area freeways. This legislation makes no sense from a financial, environmental, or moral perspective.

As we testified to the Legislature when it was considering this legislation<sup>1</sup>, HB 3055 provides for the unconditional pledge of any monies available to the Oregon Department of Transportation to repay toll backed bonds. This means that when toll revenues are insufficient to pay the cost of a project, ODOT would be obligated to take any monies it had (state gas tax revenues, vehicle registration fees, and also federal grant monies) and use them to repay bondholders. This bill essentially puts bond holders first in line for all transportation funds, jeopardizing the state's ability to assure that funding will be available for road maintenance, and making other projects statewide stand in line behind toll backed roads.

This is alarming for two major reasons: First, ODOT has no contemporary experience in collecting or even accurately forecasting toll revenues. Second, ODOT has routinely experienced massive cost overruns on its largest construction projects.

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<sup>1</sup> We've attached last week's letter to the legislature in this correspondence; it's also available on the No More Freeways website: <https://nomorefreewayspx.files.wordpress.com/2021/06/062421-nmf-opposition-to-hb-3055b.pdf>



As the attached testimony documents, accurately forecasting toll revenues is difficult, and it is common for revenues to fall far short of forecasts, even in places where tolling is well-established.

Coming as it does after a week of record setting temperatures in Oregon. With an astonishing high of 117 degrees in the state capitol on Monday, we should all be acutely aware of the need to tackle climate change. Last week's climate disaster claimed the lives of literally hundreds across the Pacific Northwest, and it's up to you as Governor to determine how quickly Oregon decarbonizes, and how many more climate disasters are in our immediate and long term future.

Oregon's largest source of greenhouse gas emissions is transportation, and automobiles are the largest source of transportation emissions. While we have made progress in other areas--including clean electricity, thanks to the recent passage of HB 2021--ODOT's efforts to reduce greenhouse gases from driving have been an utter failure. Independent estimates show greenhouse gases from driving have increased by 1,000 pounds per person in the Portland area over the past five years. Building more road capacity only encourages more driving, and the oversized toll-facilities ODOT proposes to build will make the state financially dependent on encouraging even more traffic to be assured it has the revenue to repay bondholders. In light of our climate crisis, on full display this last weekend, this is perverse.

In her comments explaining her vote against this bill, House Speaker Tina Kotek specifically warned against the failure of HB 3055 to include any policy direction or incentives for ODOT to "right-size" toll-based projects.

ODOT's half-hearted efforts to implement congestion pricing, enacted by the legislature four years ago, show that it is more interested in building giant roadways than implementing congestion pricing or solving congestion. **ODOT simply ignored your December 2019 direction** to evaluate road pricing as an alternative to the Rose Quarter project. ODOT's own consultants have said that the project is grossly oversized, and that the same congestion relief could be provided at essentially no cost by implementing pricing on I-5 rather than widening the freeway.

The cruel irony of HB 3055 is that it would dramatically worsen our state's carbon footprint, make us financially beholden to financial markets to generate traffic to repay bonds, and send the bill for this destructive and unneeded capacity to future generations of Oregonians, while undercutting the financial stability of the state transportation system.

There is undoubtedly a need to invest in infrastructure to alleviate traffic congestion as we (hopefully) leave the pandemic in the rearview. ODOT's freeway expansions, like every single freeway expansion anywhere in North America, will not solve congestion whatsoever. The *Portland Mercury* reported in 2018 that ODOT's own



consultants admitted that the proposed Rose Quarter Freeway Expansion won't make any meaningful impact on recurring traffic congestion.<sup>2</sup>

There is undeniably a need for economic stimulus and job creation as our state recovers from the pandemic-induced recession, and this reality makes it an excellent time to invest in our state by building infrastructure. However, according to a report put out by Transportation for America, the state could create as many as 70% more jobs by investing in road maintenance, as well as biking, walking, and transit investments, instead of freeway widening.<sup>3</sup>

We urgently need to address the state's horrific epidemic of traffic violence, with over 400 Oregonians dying every year on our streets. ODOT's urban freeways, however, are among the most safe facilities we have - and the agency is responsible for decades of divestment on orphan highways like TV Highway, McLoughlin Boulevard, SE Powell and N/NE Lombard that are the location of the overwhelming majority of traffic fatalities in the Portland region. We are grateful that ODOT and the legislature, prodded by advocates at Oregon Walks and Representative Khanh Pham, finally found money to fix 82nd Avenue; we posit that fixing these other lethal orphan highways is a morally and economically more pressing responsibility than giving ODOT a blank check to widen freeways proposed in Clackamas County.

Finally, with the state bracing for unfathomably grim wildfires this summer, as well as increased flooding, rising oceans and droughts in the years to come, it's unconscionable to give ODOT a blank check to spend all of their money on freeways that will only cause more carbon emissions. ODOT could be spending hundreds of millions of dollars on passenger rail, frequent bus service, light rail, sidewalks, bike lanes, intercity buses, transit electrification - all of which would address congestion for our growing state and create more jobs while lowering transportation-based carbon emissions. To build the Green New Deal, we must retire the Grey Old Deal.

Current and future generations of Oregonians are counting on your uncompromising leadership in protecting their future. **This is a bill that warrants your veto pen.** In addition, it may well be the case that HB 3055 is in effect an "appropriation" bill. Section 148, which pledges both future state and federal revenues

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<sup>2</sup> "A New Report Shows Highway Widening Won't Solve Portland's Congestion Woes" *Portland Mercury*, March 3 2018:

<https://www.portlandmercury.com/news/2018/03/07/19724128/a-new-report-shows-highway-widening-wont-solve-portlands-congestion-woes>

During the 2019 public comment period for the Rose Quarter Freeway Expansion, No More Freeways commissioned our own independent analysis of ODOT's traffic projections for the project, and found numerous glaring mistakes. You can read about these technical details here:

[https://nomorefreewayspx.files.wordpress.com/2019/04/nmf\\_technical\\_memo-1.pdf](https://nomorefreewayspx.files.wordpress.com/2019/04/nmf_technical_memo-1.pdf)

<sup>3</sup> Transportation for America's 2021 report on job creation and transportation infrastructure can be read here:

<https://t4america.org/2021/03/15/road-and-public-transit-maintenance-creates-more-jobs-than-building-new-highways/>



to repay bondholders in effect constitutes the appropriation of these funds. Once ODOT issues bonds with this pledge in place, the state will be legally bound to deliver those monies to bondholders, making this effectively an appropriation of these funds. You may be able, as you have with other legislation (such as HB 4304 of the 2020 legislative session) to line item veto these intrinsically financial provisions of this bill. We urge you to consult with your legal counsel on this matter, to avoid postponing until next year the passage of the otherwise beneficial and unobjectionable details included in the rest of the omnibus legislation.

Attachment: Testimony on HB 3055



**Date:** June 24, 2021

**To:** Speaker Tina Kotek  
Oregon House of Representatives  
Oregon Senate

**CC:** Governor Kate Brown  
Oregon Transportation Commission

**From:** Joe Cortright, No More Freeways  
Aaron Brown, No More Freeways  
Doug Allen, No More Freeways

**Subject:** **Vote NO on HB 3055B - “Pave Now, Pay Later” is abysmal transportation, climate, and financial policy for Oregon**

**No More Freeways strongly urges a “No” vote on HB 3055B.** While it is billed as a minor clean-up of transportation statutes, it actually authorizes virtually unlimited toll-backed borrowing for Portland area freeway projects that would endanger the financial stability of the Oregon Transportation system.

HB 3055 allows the Oregon Department of Transportation (ODOT) to pledge, without limitation, all of its future revenues from state taxes and federal grants, to the repayment of bonds issued to pay the cost of toll funded highway expansion projects. If tolls are insufficient, ODOT would be required to take money from every other available source, including state and federal funds for road maintenance around the state, and use it to satisfy bond obligations.

Once bonds are issued, the legislature has essentially no control over ODOT’s spending or finances.

ODOT’s track record in controlling costs of megaproject is a litany of disasters: The Highway 20 Pioneer Mountain Eddyville project was \$300 million over budget; the I-5 Rose Quarter Project has increased in cost from \$450 million in 2017 to \$795 million now, and almost certainly will continue to grow.



ODOT has zero experience forecasting – or collecting toll—revenues. If it overestimates revenue, it will have to make up the difference by taking funds from other programs.

What’s proposed in HB 3055B is a substantial departure from the congestion management emphasis of HB 2017 (of 2017) and the financial structures put in place would significantly increase financial risks to the state.

**HB 3055B would best be titled the “Pave Now, Pay Later” Act.** The legislation would authorize ODOT to issue huge amounts of debt for freeway expansion projects secured in part by toll revenues, but also allow ODOT to pledge a wide range of other revenues as well.

Section 148 authorizes ODOT to pledge federal revenues and “any monies legally available” to the department to repay these nominal toll-backed bonds.

Section 155 also authorizes General Obligation bonds for the “permanent road” portion of any tolled project (which presumably includes all, or nearly all of the cost of a tolled freeway expansion).

HB 3055B also authorizes bonding of “capitalized interest”—what this means in practice is that ODOT could issue additional debt to cover borrowing during a period of time when it isn’t tolling a facility, adding to project costs.

Together, these provisions mean that ODOT can commence construction of any number of expensive freeway expansion projects (the I-5 Rose Quarter project, I-205, the I-5 Bridge/CRC revival, the Boone Bridge and others) and toll them only later, after the projects are complete.

In the event that toll revenues from these projects don’t cover the cost of debt service on issued bonds, ODOT would be obligated to make these debt service payments from other sources of revenue it pledges, including state gas tax funds, future federal funds and “any monies legally available” to the department.

In the March 16 hearing of the Transportation Committee discussing the meaning of these sections (then proposed as amendments to HB 3055), Senator Findley asked whether the -5 amendments to reduce the availability of funds for regions outside region 1 (Portland). ODOT Director Strickler said that “. . . we do not anticipate . . .” that will



happen. This is a facile and misleading answer: If ODOT experiences cost overruns on a project and/or realizes less toll revenue than projected—whether it anticipates this or not—it would be legally obligated to use other ODOT revenues to repay the bonds. Nothing in the HB3055B insulates other parts of the state from this obligation.

Legislators should make no mistake: Once bonds are issued under the -5 amendments, **repayment of debt takes precedence over all other uses of any pledged funds**. Consequently, a financial shortfall on a bond-financed tolled highway would require the reduction of expenditures on road maintenance or other transportation projects anywhere in the state.

Whether shortfalls materialize depend entirely on ODOT's ability to accurately forecast and manage both project costs and future toll revenues. The agency's record in managing costs, particularly on large projects is abysmal. The agency also has zero experience in forecasting tolled revenues. ODOT's profound weakness in both of these areas is a significant financial red flag.

## Cost Overruns

ODOT has a demonstrated track record of consistent 200 percent and higher cost overruns on major projects. Here's a list covering the past two decades:

Project (Year of Original Estimate)	Estimated Cost		Overrun
	Original	Latest	
Newberg Dundee Bypass (2003)	222,000,000	752,000,000	239%
US 20 Pioneer Mountain/Eddyville (2003)	110,000,000	360,000,000	227%
South Medford Interchange (1999)	30,000,000	96,000,000	220%
99E Grand Avenue Viaduct (2002)	31,200,000	91,800,000	194%
I-5 Woodburn Interchange (2006)	25,000,000	68,000,000	172%

ODOT continues to under-estimate costs on current project, as well. The cost of the I-5 Rose Quarter freeway widening has already ballooned from \$450 million in 2017 to as much as \$795 million now. The "financial gap" estimates presented by ODOT to this committee for the I-5 bridge replacement project contained a math error that understated the project's maximum funding shortfall by \$1.1 billion. ODOT has raised the state's expected contribution for this project by \$150 million in just the past three months.



This is an agency that routinely blows through its cost estimates. In the context of HB 3055, this means that cost overruns (which are independent of toll revenue forecasts) lead directly to a liability for the state to repay issued debt out of other sources of revenue, i.e. pledges of state gas tax money and federal funds that would otherwise be available for maintenance and other projects statewide.

## **Toll Revenue Forecasts**

The second great risk comes from ODOT's lack of ability to accurately predict toll revenues.

ODOT's only substantive experience with a potentially toll-backed project is the proposed Columbia River Crossing (CRC). For years, ODOT and WSDOT advanced the project with internally generated promotional forecasts suggesting the CRC would carry 180,000 cars a day, and could generate boatloads of revenue with relatively low tolls. The agency delayed for years undertaking an "Investment Grade" toll revenue analysis (an independent financial analysis demanded by bond markets). When they finally commissioned this independent analysis, they found that the project would require much higher tolls (\$3.25 peak each way for cars, \$13 for large trucks) than ODOT originally forecast. This high level of tolls, in turn, was determined by the department's consultants (CDM Smith) to result in a permanently lower level of traffic on a new tolled I-5 crossing (roughly 80,000 vehicles per day, compared to a current level of 125,000 per day).

In actual practice, tolled roadways have much lower levels of traffic than un-tolled roadways. In Louisville, Kentucky, the states of Indiana and Kentucky built the equivalent of the Columbia River Crossing. They doubled the size of the I-65 freeway crossing the Ohio River from 6 lanes to 12, and a year after opening the new \$1.3 billion span, implemented tolls (which for regular commuters average \$1 each way). Traffic on the bridge fell from more than 120,000 vehicles per day to 70,000.

Both of these examples show why using tolls to manage traffic, rather than to retroactively finance freeway expansion is the only fiscally prudent policy. The "pave first, pay later" approach leads to the construction of excess capacity that goes unused, burdens travelers with paying for this un-used capacity, and diverts real resources from maintenance and other worthwhile projects.



It's apparent that ODOT has been dragging its feet on congestion pricing. In the four years since the passage of HB 2017, they've done almost nothing to accelerate the implementation of congestion pricing.

The agency's own consultants have testified publicly that congestion pricing *alone* could deliver exactly the same reduction in traffic as the proposed \$800 million I-5 Rose Quarter freeway widening project. Yet ODOT has explicitly deleted any consideration of congestion pricing from its analysis of the Rose Quarter project and has ignored Governor Brown's December 2019 order to include congestion pricing in its Rose Quarter environmental analysis. (On December 16, 2019, the Governor wrote: "as you move toward a decision on an environmental review path I would like you to include a full review of congestion pricing and how its implementation would impact the Rose Quarter." ODOT did not conduct such a review, and in fact concluded its environmental review in November, 2020, with a statement saying it specifically *excluded* any consideration of congestion pricing from its environmental review." This agency has demonstrated that it has no intent or desire to use pricing as a means to manage congestion.

What this legislation does is to authorize ODOT to issue vast amounts of debt and start many projects of dubious need and value. It will then, only after projects are built or building, then implement tolling. And if (and likely when) toll revenues aren't adequate to cover the cost of debt service, it will end up having to divert its other revenues (federal grants and state gas taxes and other revenue) to repaying these supposedly "toll-backed" bonds. Projects backed by bonds issued under HB 3055 would be forever first in line to get ODOT revenues, no matter how large their cost overruns, and no matter how badly toll revenues fall short of ODOT estimates.

HB 3055B should be amended to provide for a "toll first, build later" strategy. If you are truly serious about managing congestion, then the first step is to reflect back to road users a fraction of the actual cost of providing the roadway capacity that they are using. There's very good evidence that even modest levels of peak hour tolling would lead to reduced traffic, as people adjust the timing, mode, and path of their trips. Importantly: because peak hour tolling would eliminate or at least reduce the need for expanding freeway capacity, the level of tolls could be much lower than the "pave now, pay later" approach that is set up in HB3055B. In addition, implementing tolling first will establish a reliable baseline for knowing the actual level of revenues a roadway will provide, enabling ODOT to "right-size" whatever investment it makes to reflect the actual economic value the road produces.



**HB 3055B is, effectively, a running leap off a very high fiscal cliff.** Given ODOT's chronic cost overruns, its complete inexperience in accurately forecasting toll revenues, and its unwillingness to first use value pricing to manage congestion before squandering hundreds of millions or billions on un-needed road capacity, the Legislature would be well advised to look before it leaps.

Finally, there is no doubt an overwhelming desire to make investments in transportation infrastructure that puts Oregonians back to work as economic recovery, that improves our transportation system by reducing congestion and making our streets safer, and investing in infrastructure that lowers our carbon emissions. The two massive freeway expansions proposed to be funded by HB 3055 would do none of those things. 70% more jobs are created by investing in transit and road maintenance projects instead of further freeway expansion, freeway expansions fundamentally don't address congestion, and the state's most dangerous roads are in fact owned by ODOT but suffer from decades of disinvestment due to ODOT's negligence in maintenance and upkeep. No More Freeways strongly encourages legislators to demand that ODOT fix up the numerous orphan highways around the state including TV Highway, McLoughlin, SW Barbur and Lombard before giving the agency a blank check to expand fossil fuel infrastructure. With an historic and potentially heat wave about to hit the state this weekend, and the fact that 40% of Oregon's carbon emissions are from transportation, a yes vote on HB 3055 that includes this blank check for further freeway expansion is nothing short of committing climate arson and pledging to participate in making the wildfires currently burning around the state only grow larger in the years ahead.