TESTIMONY OF

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REGARDING

# Running on Empty: The Highway Trust Fund

BEFORE THE

## Subcommittee on Highways and Transit of the Committee on Transportation and Infrastructure of the United States House of Representatives

ON

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## INTRODUCTION

Chair Crawford, Ranking Member Norton, and Members of the Subcommittee, thank you for the opportunity to appear today at this important hearing on the federal Highway Trust Fund (HTF).

My name is Kris Strickler, and I serve as Director of the Oregon Department of Transportation (ODOT) and on the Board of Directors of the American Association of State Highway and Transportation Officials (AASHTO). Today, it is my honor to testify on behalf of AASHTO, which represents the state departments of transportation (state DOTs) of all 50 states, the District of Columbia, and Puerto Rico.

I would like to extend AASHTO and ODOT's utmost gratitude to you and your colleagues on the House Transportation and Infrastructure Subcommittee on Highways and Transit (the Subcommittee) for your dedicated and tireless leadership on surface transportation policy that ultimately led to the enactment of the Infrastructure Investment and Jobs Act (IIJA). Stable and long-term policy and funding provided through a robust multi-year federal surface transportation bill remains crucial to the work of every single state DOT to meet its goal of improving safety, mobility, and access for everyone, which is articulated in AASHTO's 2021-2026 Strategic Plan[1].

At ODOT, our mission is to provide a safe and reliable transportation system that connects people and helps Oregon's communities and economy thrive. ODOT's 4,700 employees work every day to achieve this mission. Our priorities are to provide a modern transportation system, advance equity, and secure sufficient and reliable funding to accomplish these goals. This third goal aligns well with the subject of today's hearing. Today I will focus my testimony on the challenges that ODOT and all transportation agencies face as we see the HTF running on empty while state and local funding from the gas tax fades as well.

Today's hearing is an example of Congress' important oversight responsibility. This Subcommittee understands the foundational role the HTF plays in addressing this nation's transportation investment needs. As the owners and operators of transportation infrastructure in every corner of the country, AASHTO and the state DOTs appreciate the opportunity to offer our perspective on this vital issue.

## IMPORTANCE OF THE HIGHWAY TRUST FUND

In 1956, Congress created the HTF as part of the Highway Revenue Act of that year. It serves today as the primary mechanism by which the federal government provides resources to states, local governments, and transit agencies for highway and transit investments. The sources of revenue into the HTF fall into two separate categories—motor vehicle fuel taxes on gasoline

[1] 2021-2026 AASHTO Strategic Plan: https://www.aashtoplan.com/

(18.4 cents per gallon) and diesel (24.4 cents per gallon) and various fees related to heavy truck use. Motor fuel taxes account for the vast majority of revenue into the HTF, at approximately 90 percent of HTF receipts. Other revenues (not based on motor fuel consumption) account for only about 10 percent of HTF receipts.

The HTF has several key policy features from its inception 67 years ago. It is based upon the important "user pays" principle, which ensures federal highway users pay for the roads. It also ensures these user fees are used for transportation purposes—as regularly defined and updated by Congress—through the application of "budgetary firewalls" that prevent the diversion of revenues to non-transportation activities. The historical predictability and reliability of annual HTF revenues supporting multiyear capital investments has enabled this federal surface transportation funding program to serve as the ideal means for supporting state DOTs, local governments, and transit agencies throughout the country.

Resources from the HTF are provided in the form of contract authority, a unique federal budgeting mechanism that allows for the obligation of funds without the need for an annual appropriation. Instead, the appropriations process provides the authority to liquidate (i.e., pay) these obligations.

Federal surface transportation authorization legislation provides contract authority on a multiyear basis, with the IIJA providing it for five years from fiscal year 2022 through FY 2026. Providing annual contract authority levels at the beginning of the five-year authorization timeline allows state DOTs to plan and manage their program of transportation projects, giving them the much-needed certainty and stability to effectively and efficiently fund transportation investments.

While the HTF provided stable, reliable, and substantial highway and transit funding for decades, this is no longer the case. Since 2008, the HTF has been sustained through a series of General Fund transfers. With the transfer of $118 billion into the HTF to pay for the IIJA, the total amount transferred now stands at over $275 billion. While state DOTs are grateful for past efforts to supplement the HTF with general fund transfers, this is not a viable long-term solution upon expiration of the IIJA and it leaves states uncertain about how to plan for projects just three years from now.

According to the May 2023 Congressional Budget Office (CBO) baseline, annual HTF spending is estimated to exceed receipts by about $24 billion in FY 2028. If Congress were to reauthorize federal transportation programs for five years after the expiration of the IIJA just to maintain current investment levels from HTF adjusted for inflation, CBO estimates the gap between revenue into the HTF and expenditures from it would be roughly a staggering $150 billion.

The funding provided from the IIJA continues to play a critical role in allowing every state and community across the country to address their immediate and longstanding transportation needs. State DOTs and their partners in the transportation industry do everything in their power to deliver needed priority projects as quickly as possible, but due to the nature of large capital programs, many of the projects take several years to complete. We cannot emphasize enough the need for stable and predictable funding from the HTF that makes it possible for state DOTs to plan for large projects that need a reliable flow of funding over multiple years. These projects are what connect people, enhance quality of life, and stimulate economic growth in each community where they are built.

In Oregon, multiyear federal surface transportation authorization bills have allowed us to address a wide variety of surface transportation needs across the state. Federal funding is helping us invest in projects that address key safety issues on our highway system, like the new roundabout we recently opened at the intersection of OR-213 and Toliver Road near the city of Molalla. Prior to this project, this section of highway was among the most dangerous in the state with dozens of injury crashes occurring over a recent ten-year period. Federal funds have allowed us to construct a proven solution that will significantly reduce speeds and serious crashes.

We also rely on federal funding for the basic preservation of our transportation system. Indeed, federal funds help us preserve the good state of repair of rural highways and interstates alike. Repaving I-105 in Eugene is a recent example of the sort of nuts-and-bolts preservation work for which we rely on federal funding. Similarly, we are currently working to repave OR-99E in Canby. This project will not only resurface the roadway, but it will also add features to help residents get around more safely when biking, walking taking transit or using mobility devices.

Federal funds also help us make our transportation system more resilient to natural disasters and the impacts of extreme weather events. We are currently designing a project on OR-58 in the Cascade Range that will address loose talus slopes above the Salt Creek Tunnel. In the event of an earthquake, this unstable slope could fail, potentially blocking this key lifeline highway and trapping motorists inside the tunnel.

ODOT works with rural communities around the state that rely on federal formula dollars from the Federal Transit Administration to help move citizens – particularly seniors for whom transit service is critical to being able to age in place while accessing medical care. Transit agencies in our larger cities are similarly reliant on federal transit dollars to help workers access jobs. Whether it’s a new sidewalk or protected bike lane, a new bridge or simply a nice smooth section of new asphalt, it’s clear that a strong federal-state partnership is critical to getting this important work done.

## THE IMPACT OF INFLATION ON THE PURCHASING POWER OF THE HIGHWAY TRUST FUND

The purchasing power of HTF revenues has declined substantially over the years. Federal fuel taxes are flat, per-gallon excise taxes that have not been adjusted since 1993 and have, therefore, lost more than half of their value over the last 30 years. The loss of this purchasing power is especially stark when compared to the cost of other basic goods and services during the same period.

Table 1: Sample of Nominal Price Changes Relative to Federal Gas Tax

| Item | Desciption | 1993 | 2022 | Percent Change |
|---|---|---|---|---|
| College Tuition | Average Tuition for In-State Student at 4-year Public University | $ 1,908 | $ 10,940 | **463%** |
| House | Median Home Price Q4 | $ 118,000 | $ 479,500 | **306%** |
| Healthcare | National Expenditure Per Capita | $ 3,402 | $ 12,914 | **280%** |
| Gas | Per Gallon | $ 1.08 | $ 4.06 | **276%** |
| Movie Ticket | Average Ticket Price | $ 4.14 | $ 10.53 | **154%** |
| Bread | Per Pound of White Bread | $ 0.75 | $ 1.87 | **149%** |
| Beef | Per Pound of Ground Beef | $ 1.97 | $ 4.84 | **146%** |
| Income | National Median Household | $ 31,241 | $ 74,580 | **139%** |
| Stamp | One First-Class Stamp | $ 0.29 | $ 0.60 | **107%** |
| Electricity | Per kWh | $ 0.09 | $ 0.17 | **82%** |
| Federal Gas Tax | Per Gallon | $ 0.18 | $ 0.18 | **0%** |

Sources: Federal Reserve Bank of St. Louis, US Bureau of Labor Statistics, US Census Bureau, Centers for Medicare & Medicaid Services College Data, US Energy Information Administration, National Association of Theatre Owners, US Postal Service

## OPTIONS FOR ADDRESSING THE FUTURE HIGHWAY TRUST FUND FUNDING GAP

Should Congress wish to address the HTF revenue gap, which AASHTO would strongly urge you to do, there is no shortage of technically feasible tax and user fee options that Congress could consider to provide additional HTF receipts. Three broad categories of revenue for the HTF exist:

- Raising the rate of taxation or fee rates of existing federal revenue streams into the HTF: Examples include motor fuel taxes on gasoline and diesel (including indexing), user fee on heavy vehicles, and sales tax on trucks, trailers, and truck tires;
- Identifying and creating new federal revenue sources for the HTF, and;
- Redirecting current revenues (and possibly increasing the rates) from other federal sources into the HTF: Examples include customs duties, income taxes, and other revenues from the general fund.

The following is a matrix that demonstrates the breadth of potential HTF revenue mechanisms, including a column that shows an illustrative rate or percentage increase and the associated revenue yield estimated.

Matrix of Illustrative Surface Transportation Revenue Options

| Existing Highway Trust Fund Funding Mechanisms | Illustrative Rate or Percentage Increase | Definition of Mechanism/Increase | $ in Billions | |
|---|---|---|---|---|
| | | | Assumed 2018 Yield* | Total Forecast Yield 2019–2023 |
| **Existing HTF Funding Mechanisms** | | | | |
| Diesel Excise Tax | 20.0¢ | ¢/gal increase in current rate | $8.8 | $42.2 |
| Gasoline Excise Tax | 15.0¢ | ¢/gal increase in current rate | $21.8 | $102.1 |
| Motor Fuel Tax Indexing of Current Rate to CPI (Diesel) | -- | ¢/gal excise tax | | $3.7 |
| Motor Fuel Tax Indexing of Current Rate to CPI (Gas) | -- | ¢/gal excise tax | | $8.8 |
| Truck and Trailer Sales Tax | 20.0% | increase in current revenues, structure not defined | $0.6 | $4.2 |
| Truck Tire Tax | 20.0% | increase in current revenues, structure not defined | $0.1 | $0.5 |
| Heavy Vehicle Use Tax | 20.0% | increase in current revenues, structure not defined | $0.2 | $1.2 |
| **Other Existing Taxes** | | | | |
| Minerals Related Receipts | 25.0% | increase in/reallocation of current revenues, structure not defined | $0.6 | $3.4 |
| Harbor Maintenance Tax | 25.0% | increase in/reallocation of current revenues, structure not defined | $0.4 | $1.9 |
| Customs Revenues | 5.0% | increase in/reallocation of current revenues, structure not defined | $1.9 | $10.3 |
| Income Tax - Personal | 0.5% | increase in/reallocation of current revenues, structure not defined | $5.3 | $28.4 |
| Income Tax - Business | 1.0% | increase in/reallocation of current revenues, structure not defined | $1.7 | $8.9 |
| **License and Registration Fees** | | | | |
| Drivers License Surcharge | $5.00 | dollar assessed annually | $1.1 | $6.1 |
| Registration Fee (Electric Light Duty Vehicles) | $100.00 | dollar assessed annually | $0.0 | $0.2 |
| Registration Fee (Hybrid Light Duty Vehicles) | $50.00 | dollar assessed annually | $0.2 | $1.3 |
| Registration Fee (Light Duty Vehicles) | $5.00 | dollar assessed annually | $1.3 | $6.8 |
| Registration Fee (Trucks) | $100.00 | dollar assessed annually | $1.2 | $6.3 |
| Registration Fee (All vehicles) | $5.00 | dollar assessed annually | $1.3 | $7.1 |
| **Weight and Distance Based Fees** | | | | |
| Freight Charge—Ton (Truck Only) | 10.0¢ | ¢/ton of domestic shipments | $1.1 | $5.8 |
| Freight Charge—Ton (All Modes) | 10.0¢ | ¢/ton of domestic shipments | $1.3 | $7.1 |
| Freight Charge—Ton-Mile (Truck Only) | 0.5¢ | ¢/ton-mile of domestic shipments | $10.1 | $54.2 |
| Freight Charge - Ton-Mile (All Modes) | 0.5¢ | ¢/ton-mile of domestic shipments | $21.6 | $115.9 |
| Transit Passenger Miles Traveled Fee | 1.0¢ | ¢/ passenger mile traveled on all transit modes | $0.6 | $3.2 |
| Vehicle Miles Traveled Fee (Light Duty Vehicles) | 1.0¢ | ¢/LDV vehicle mile traveled on all roads | $29.1 | $155.7 |
| Vehicle Miles Traveled Fee (Trucks) | 1.0¢ | ¢/truck vehicle mile traveled on all roads | $2.9 | $15.7 |
| Vehicle Miles Traveled Fee (All Vehicles) | 1.0¢ | ¢/ vehicle mile traveled on all roads | $32.0 | $171.5 |
| **Sales Taxes on Transportation Related Economic Activity** | | | | |
| Freight Bill - Truck Only | 0.5% | percent of gross freight revenues (primary shipments only) | $3.8 | $20.2 |
| Freight Bill - All Modes | 0.5% | percent of gross freight revenues (primary shipments only) | $4.6 | $24.8 |
| Sales Tax on New Light Duty Vehicles | 1.0% | percent of sales | $2.8 | $14.9 |
| Sales Tax on New and Used Light Duty Vehicles | 1.0% | percent of sales | $4.2 | $22.4 |
| Sales Tax on Auto-related Parts & Services | 1.0% | percent of sales | $2.7 | $14.4 |
| Sales Tax on Diesel | 2.0% | percent of sales (excluding excise taxes) | $1.5 | $7.9 |
| Sales Tax on Gas | 2.0% | percent of sales (excluding excise taxes) | $5.2 | $28.0 |
| Tire Tax (Light Duty Vehicles) | 1.0% | of sales of LDV tires | $0.3 | $1.4 |
| Sales Tax on Bicycles | 1.0% | percent of sales | $0.1 | $0.3 |
| **Other Excise Taxes** | | | | |
| Container Tax | $15.00 | dollar per TEU | $0.7 | $4.0 |
| Imported Oil Tax | $2.50 | dollar/ barrel | $4.5 | $23.9 |

** Assumed yield in 2018 or the latest year data is available.*

## STATE INNOVATIONS TO ADDRESS TRANSPORTATION FUNDING SHORTAGES

Just as the HTF relies primarily on the fuels tax, states have long derived a large portion of their road funding from the gas tax. However, the gas tax continues to be eroded due to inflation along with the growing use of fuel-efficient vehicles. In Oregon, we project our fuel tax revenue will peak next year and decline every year after that. With this handwriting on the wall, states have been working to bridge this ever-widening funding gap.

Since 2016, over two-thirds of all states and the District of Columbia have enacted legislation to increase their transportation revenues. These actions have included raising the rates of existing transportation taxes or fees; indexing revenues so they automatically track with inflation or rising construction costs; and establishing a wide variety of new revenue sources. AASHTO's Transportation Governance and Finance report (3rd edition), published in 2022, found over 100 sources of revenue in place at the state level just to support roads and bridges.[2]

The federal government is a critical partner in addressing transportation and it should be noted that federal transportation funding does not displace or discourage state and local investment. In fact, as evidenced by significant transportation infrastructure investment needs, further strengthening and reaffirmation of the federally assisted, state-implemented foundation of the national program is even more critical now than in the past.

## ROAD USAGE CHARGES AS AN ALTERNATIVE TO THE GASOLINE TAX

As the revenue yield from fuel taxes has decreased, interest has grown in the potential of a user-pays approach that charges people based on how many miles they drive rather than how much fuel they buy. This modernization would unlink transportation revenues from fuel consumption and instead would link revenue to the use and travel on the transportation system. Many terms are used for this type of user-pays system including a vehicle miles traveled (VMT) fee, a mileage-based user fee (MBUF), and a road usage charge (RUC).

Recognizing the need for further demonstration, research, and testing of road usage charging models, in 2015 Congress established the Surface Transportation Systems Funding Alternatives (STSFA) program in the Fixing America's Surface Transportation (FAST) Act. At this juncture, 51 RUC-related pilots and studies in a number of states have been funded through the STSFA program. In addition, multistate and regional pilots on the East and West Coasts were completed with STSFA support. These pilots have garnered findings and lessons learned on topics such as reporting methods, account management, public acceptance, interoperability, and impact on commercial vehicles, which will help inform the future of any mileage-based system.

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[2] Transportation Governance and Finance: A 50-State Review of State Legislatures and Departments of Transportation, 3rd Edition | AASHTO Store

The IIJA continued the exploration of road usage charges through two programs: 1) the Strategic Innovation for Revenue Collection, a 5-year, $75 million grant program for states, local governments, and metropolitan planning organizations to further study user-based funding models and 2) the National Motor Vehicle Per-Mile User Fee Pilot, providing $50 million to conduct a national RUC pilot for up to 1,000 participants in each of the 50 states, the District of Columbia, and Puerto Rico. The establishment of the Federal System Funding Alternative Advisory Board will provide practical state DOT perspectives to inform the pilot.

Oregon was the first state to create a gas tax more than a century ago, and we were once again at the forefront of road usage charging, launching the nation's first pilot project in 2006 and the first operational RUC program, OReGO, in 2015. The program demonstrates a new way to fund road maintenance, preservation, and improvements. Volunteers—no one is required to join the program—pay a per-mile charge for the miles they drive and receive a credit for fuel taxes paid at the pump. In 2017, the Oregon Legislature established supplemental registration fees for hybrid and electric vehicles to ensure highly efficient vehicles that use little or no gas contribute their fair share for the use of the state's transportation system. Hybrids and electric vehicles that choose to join OReGO don't have to pay these supplemental registration fees because the OReGO system is based on road usage rather than fuel consumption.

Concerns have been raised about the equity of road usage charges compared to fuel taxes. The perception has been that RUC is unfair to rural residents. States that have examined this issue have found that while rural residents tend to drive longer distances, they use less fuel-efficient vehicles to do so and thus pay more in gas tax—both in total and per mile – than urban residents. Rural residents likely wouldn't pay much more than they do under a gas tax, while urban residents—who tend to drive more efficient vehicles—would likely pay a little more. A RUC is a fair way to ensure that all vehicles—including those that use little or no gas and thus pay little or no gas tax—pay for their use of the roads.

Participant privacy is a critical component of Oregon's program. Privacy is protected in the following ways:

- ODOT never receives location data on any vehicle; we receive aggregated and anonymized data only that tells us how many miles each vehicle drove in the state.
- Volunteers can choose a GPS-based option so they don't have to pay for out of state miles; or, they can choose a non-GPS-based option, in which case all miles driven are presumably driven in Oregon.
- Private sector account managers—not ODOT—are responsible for collecting the data and processing the individual transactions.
- Account managers are required by statute to destroy personally identifiable data within 30 days of account settlement, either payment or dispute resolution.
- Law enforcement must obtain a warrant to access the data.

ODOT has also developed options for reporting miles manually and proposed an "opt out" fee that could be implemented in any road usage charge program that people are required to pay.

As the vehicle fleet becomes increasingly efficient and electrified, Oregon is continuing to implement improvements and enhancements to the OReGO program while also engaging the community and conducting education campaigns to help the public understand the need to fix the basic flaws in our revenue collection systems.

## CONCLUSION

The current trajectory of the HTF—the backbone of the federal transportation surface transportation program—remains unsustainable. Given its foundational role in funding highway and transit investments in every corner of the country, AASHTO looks forward to assisting you and the rest of your House colleagues in finding and implementing a viable set of revenue options for the HTF to ensure continued investment in our future through transportation.

Thank you for the opportunity to provide testimony at this hearing.