

Chapter 3

Analysis of Selected Measures

Alameda County's Measure B (approved November 2000)

Background

Alameda County in California – spanning from the eastern shore of the San Francisco Bay and the City of Oakland eastwards towards the Central Valley – has a diversity of transportation needs and issues. The county has enjoyed the benefit of one-half percent of the county's sales tax that has been dedicated to transportation projects and services since the voters approved an initial 15-year sales tax in 1986. Aiming to renew the county "half-cent" sales tax before it expired, officials drew up a 15-year reauthorization measure and quickly placed it on the ballot in November 1998. Yet community-based organizations and environmental groups objected to the speed with which the measure was drawn up, as well as to the inadequate funding for public transit and other community-oriented transportation services that they wanted for seniors and people with disabilities in particular. The groups officially opposed the measure, and the 1998 renewal effort failed at the polls.

Immediately after the failure of the sales tax renewal, officials sat down with both supporters and opponents of the measure. Intense negotiations ensued until a compromise was finally brokered by the Alameda County Transportation Authority with the help of the Bay Area Transportation and Land Use Coalition, a coalition of area community, environmental and social equity groups. New funding categories were added to a revised measure and locked in for bicycle and pedestrian safety projects, paratransit services for seniors and people with disabilities, and increased night and weekend public transit services.

Groups representing the homeless and the working poor featured prominently in the negotiations over spending categories and percentages. Social justice advocates argued persuasively that if they were going to support a regressive tax that their clients would have to pay as a significant portion of their overall income, then the tax should support transportation services that would help connect low income individuals with jobs and services. Officials with the Alameda County Transportation Authority accepted the requests of many social justice and environmental organization in return for their active support of the tax measure. More than \$186 million was shifted into new projects and programs that would address a wider range of transportation solutions focused on a balance of mass transit, paratransit, road repairs, highway construction and bicycle and pedestrian safety measures. For one of the first times in the state history of local tax measures, a broad and diverse coalition actively supported a transportation tax measure – from road construction interests to environmental groups to homeless advocates – and the public took notice. At the polls in November 2000, 81.5 percent of Alameda County voters approved the new Measure B, reauthorizing the half cent for transportation purposes countywide. The story of Measure B provides one of the best examples of how public participation and stakeholder negotiations can build a broad base of support for a successful transportation funding measure.

Where Will the Revenue Come From?

Measure B reauthorizes a half percent sales tax county-wide in Alameda County that is funded as part of the county's sales and use tax. Retail sales of tangible personal property in California are generally subject to sales tax.¹⁹ County sales tax rates vary by county and city – local sales tax rates are added onto the base statewide sales tax rate of 7.25 percent. Alameda County's sales tax rate is 8.25 percent. The half percent for transportation purposes will generate roughly \$1.2 billion over the life of the twenty year measure. A half percent sales tax for transportation purposes was originally authorized by county voters in 1986; the 2000 renewal of the tax allows it to extend through 2022. Even though the sales tax is regressive, it should be noted that Measure B dedicates a substantial share of its expenditures to projects and programs that particularly benefit lower income individuals and families.

How Will the Revenues Be Spent?

Alameda County’s Measure B renewal provided funding for one of the more diverse local transportation funding measures ever. This includes guaranteed funding for paratransit (11 percent), mass transit operations (22 percent), local street and road repairs (22 percent) and bicycle and pedestrian safety measures (five percent). Still, several of the individual projects for both highway and transit expansion were criticized as unneeded and a result of the “pork barrel” politics that often drives the development of many ballot measures. The breakdown of the funding categories – in addition to the fact that they were locked in by program rather than vague and unspecific – was crucial in winning support of the many interest groups involved in the development of the 2000 measure. Measure B also provides funding incentives for transit-oriented development, a visionary component that, though small, attempts to address the inherent problems of land use in tackling the problems of transportation.

What Provisions for Oversight and Accountability Have Been Established?

One of the many innovative features in Alameda County’s Measure B is the plan’s emphasis on accountability. Measure B included provisions for both a citizen advisory committee as well as a “citizen’s watchdog committee.” The watchdog committee contains citizen appointments made by local cities and county supervisors, as well as one representative each from the local League of Women Voters, the countywide taxpayers association, the local bicycle club, local business interests, disability groups and environmental interests. The watchdog committee reports directly to the public rather than the taxing authority, and is charged with issuing at least one report a year demonstrating progress on the expenditure of funds and completion of projects and services. The taxing authority is also audited annually by professional auditors.

Table 4. Comparison of Alameda County, California’s 1998 Plan and 2000 Plan

Category	approval)		voters)	
	Funds (millions)	Percent of Total	Funds (millions)	Percent of Total
Transit Operations	\$217	18.80%	\$312	22.00%
Paratransit	\$105	9.00%	\$149	10.50%
“Non-Motorized” Bike-Ped	\$27*	2.30%	\$71	5.00%
Transit-Oriented Development	N/A	0%	\$3	0.20%
Local Transportation	\$263	22.70%	\$318	22.30%
Capital Projects	\$547*	47.20%	\$569	40.00%
Total	\$1,159**	100%	\$1,421**	100%

How Do Proposed Projects Relate to Existing Plans and Processes?

One of the few downsides to Measure B is an inherent difficulty in many of the local funding measures both in California and around the country – that the plans that are drawn up for the purposes of winning voter support don’t always overlap or integrate well with existing transportation plans that are developed by multi-county regional transportation agencies or metropolitan planning organizations (MPOs). As metropolitan areas continue to grow, transportation needs must be planned for at the regional level, often including multiple counties.

The good news is that federal law has recognized the regional nature of transportation problems and has required the careful and considered development of regional transportation plans that seek to achieve a regional consensus. These plans are also developed within a constrained budget that prevents the assembling of “wish lists” and requires local elected officials to negotiate over funding ahead of time, avoiding over-promising major projects. Yet local transportation funding measures can sometimes usurp these regional plans by ignoring carefully crafted regional compromises and plans. Alameda County’s Measure B avoided most of these problems by choosing a majority of projects from the already approved regional transportation plan. The Measure also successfully avoided triggering problems with air quality plans by selecting projects that heavily favored cleaner air such as mass transit, bicycling and walking.

Is the Proposed Initiative at the Appropriate Level of Government?

Measure B provides funding for transportation projects and services at the county level in Alameda County. While there are some advantages to developing transportation programs at a very local level, transportation projects and programs in the San Francisco Bay Area are perhaps better developed by the nine-county Metropolitan Transportation Commission (MTC). As transportation issues become more and more regional, multi-county approaches that draw heavily on already approved regional transportation plans are the key to successful planning. Transportation no longer follows the traditional political boundaries of cities or counties, yet the authority to raise revenues – particularly through taxation – is still only granted to traditional levels of government. MTC is one of the few regional transportation agencies in the country that recently won approval from the California state legislature to levy a unique regional gasoline tax that would cover all nine counties in the Bay Area. While the agency has yet to go to voters to ask for approval of a regional tax, the idea is an innovative one whose time has come.

Missouri State's Proposition B

Background

On August 6th, by a nearly 3-1 margin, Missouri voters rejected a transportation measure known as Proposition B that proposed sales, use and fuel tax hikes to pay for additional spending in its state transportation program as well as for local efforts to mitigate cuts in public transit services, particularly in the state's two largest metropolitan areas. The measure would have raised more than \$500 million annually, with most of the revenues directed toward the state's road fund, which has generally focused on expanding the state's highway network.

It was a stunning defeat by any measure, with many political pundits and newspapers explaining the defeat of the measure was due to "angry voters" in the wake of the many corporate accountability scandals, suggesting that the Missouri vote may presage other elections this fall. The broader national political climate at the time of the vote was obviously a factor. It is more likely, however, that the result was due to a complicated confluence of events, many of which were homegrown.

The referendum was the product of a concerted effort by highway users, road contractors, and other highway and business interests who had been pressing state legislators and the Governor to increase revenues to the state road fund and the Missouri Department of Transportation (MoDOT). These interests, particularly, understand that revenues into the state road fund have not kept pace with the state's commitments to new highway capacity and other projects, forcing the state to increase its borrowing over the last few years to prop up the fund's spending levels. Most of the unfulfilled highway building promises came from two earlier tax campaigns, in 1987 and 1992. These ill-advised and unrealistic commitments by MoDOT were eroding financials of the state's road fund, leading to postponement of needed preservation activities, and severely damaging MoDOT's reputation and credibility.

In an effort to mend its public credibility, MoDOT began issuing bonds in 2001 to increase the size of its highway construction program. In 2002, MoDOT had the largest construction program in its history, with ambitious construction projects highly visible across the state. Ironically, this effort to build credibility simply led voters to question the need for higher taxes to support an already prosperous agency. Further, the Missouri General Assembly, at the same time as it was voting to put Proposition B on the ballot, was making unprecedented cuts elsewhere in the state's budget, many affecting essential public services. At the outset, Proposition B faced a formidable challenge to reverse some deep-seated voter beliefs about MoDOT and the state's financial security.

The referendum's proposed tax increases – principally a half-cent increase in the statewide sales tax and a four cents per gallon increase in the state motor fuel tax – were needed to pay for existing MoDOT commitments and to head off a collapse in future highway spending sometime over the next 2 to 3 years. The referendum was less about paying for a new generation of transportation investments, but rather about securing additional revenues now to pay for previous unfulfilled commitments, some more than a decade old.

More problematic was the design of the package, which was largely shaped by traditional state legislative politics and pressures from highway contractors, truckers, other highway users and business interests, lacking any formal process or involvement by the public to help shape the measure to be brought before the voter. Despite polling information that showed that only a minority of the state's voters supported the tax increases, the enabling legislation moved forward even though history in the state has shown that voter support for tax increases either holds or erodes, but doesn't increase during the campaign. In another miscalculation, Proposition B was placed on the ballot in the primary election, because another statewide revenue measure – a tobacco tax increase known as Proposition A – was slated for the November ballot. It is generally accepted that low turnout elections, such as a primary with a 22 percent turnout, are less than optimal for securing approval of proposed tax increases. Finally, the package did not appear to respond to the needs and interests of many voters. For example, a poll of voters in the St. Louis

region, conducted just before the state's decision to put the referendum before the voters, showed a strong majority support (about 60 percent) for an increase in the sales tax to expand the region's rail transit service, called MetroLink. Yet, transit funding included in Proposition B would have been insufficient to expand MetroLink. Proposition B, the largest tax increase in the state's history, directed most of the new resources to highway investment, including expanded highway capacity. The St. Louis region accounts for about one out of every three voters in Missouri. Interestingly, Proposition B failed by almost identical margins in urban and rural areas of the state.

Another obstacle to voter approval was the lingering perception of prior transportation tax increases. The benefits of the 1992 statewide fuel tax increase (six cents on top of the then 11 cents per gallon) had largely run its course, failing to keep pace with the state's aggressive road expansion efforts, which at one point promised voters that every community of 5,000 or more, and every lake, would be interconnected by a network of 4-lane state highways. In its failed attempt to fulfill promises made in 1992, MoDOT deferred prudent maintenance and preservation expenditures. In making the argument that a new tax was now needed to catch up on necessary road and bridge rehabilitation, MoDOT was caught in a problem of its own making, and many voters perceived the Department as poor managers who were asking to be rewarded for past mistakes. Others faulted MoDOT for stretching the truth about commitments made in 1987 and 1992 and demanded that these promises be fulfilled before raising taxes. While many of the state's political observers and key backers of the referendum pointed to national corporate accountability scandals and angry voters, only a handful placed the issue squarely at the door of MoDOT and the interest groups that supported them who clearly share in the "accountability" problem.

The campaign itself was widely viewed as deceptive, focusing on how the new funds would improve highway safety, in particular providing more money for the state Highway Patrol and building safer roads in rural areas. In fact, as opponents pointed out, the Highway Patrol was not guaranteed more money and far more cost-effective ways of improving safety were neglected, such as better enforcement, primary seat-belt laws, etc.

It is also noteworthy that the proposition did little to tap into the growing positive perception among voters on the future of public transportation in the state, with rising public support in the St. Louis region for MetroLink rail transit service and growing interest in the Kansas City region for a major fixed guideway investment. In previous statewide measures, support in the state's urban counties proved crucial in amassing a majority for statewide tax increases. In fact, the 1987 gas tax was carried by majorities largely in the two metropolitan region who produced 55 percent of the "yes" votes, offsetting disapproval by most of the state's rural counties.

Where Will the Revenue Come From?

If approved by the voters, Proposition B would have increased the state's general sales taxes as well as the sales and use tax on motor vehicles by one-half percent and the state's motor fuel tax by four cents. The new taxes were expected to generate an estimated \$509 million in 2004, with nearly 70 percent of the revenue of the package coming from one-half percent increase in the state sales and use taxes. The four-cent increase in the motor fuel tax was projected to raise the remaining revenues.

Among the criticisms of the package was the disproportionate share of the additional transportation spending, and largely highway improvements at that, to be carried by the increase in taxes paid by the general taxpayer, rather than highway users. It is estimated that the general sales and use tax increases represented the equivalent of an additional 9 cents per gallon in the state's motor fuel tax. Absent general fund taxes, about 13 cents per gallon, not four cents, would be needed if all of the new revenues were raised from highway users. Some voters saw the proposition as one where those who benefit most from the state's highway network, such as the trucking industry and other large businesses, were being shielded from paying their fair share of the costs of the system. Instead, it was perceived that the general taxpayer was being asked to make up the difference. Some believed that this was a cynical attempt by highway advocates to tap into a new source of revenue, conveniently setting aside all those well-worn

arguments that the highway system pays for itself through user fees (as opposed to public transit, which is widely labeled as “subsidized”).

In addition, little attention was given to the distributional effects of the tax. The state’s major metropolitan areas (where the greatest numbers of the state’s poor and the state’s wealth are concentrated) are where the referendum would generate a disproportionate share of the sales and use tax receipts. While it is estimated that about one-third of the motor fuel tax receipts would be generated in the St. Louis metropolitan area, nearly forty percent of the sales and use tax receipts would come from that one region. The proposition was a tax shift away from users of the highway system to the general taxpayer, and placed the burden disproportionately on the urban taxpayer.

How Will the Revenues Be Spent?

Aside from the mode split of 87 percent for highways and 13 percent for multi-modal projects, the referendum did not chart any new direction in the distribution of funding between the state and its local governments and provided no clear assurances about how and where funds would be directed within areas of the state. Finally, the measure did not deal directly with key programmatic challenges before the State of Missouri – and common to other states for that matter – such as addressing clean air attainment problems, rail transit expansion needs, pedestrian and bike safety, and/or increased local decision-making and local empowerment, among others.

In somewhat of a breakthrough for state policy, the measure did not limit all of the new funding to highway expansion and maintenance projects. Missouri is one of many states where statutory or constitutional restrictions prohibit the use of motor fuel or other user tax receipts for anything other than building or maintaining highways. Hence, Proposition B proponents had a ready excuse for proposing a sales tax. Generally, the State of Missouri has not provided state resources to local agencies in support of public transportation services or projects. Proposition B would have set aside about 13 percent of the new revenues (projected to be \$509 million in the first year) for multi-modal projects, most of which was to be provided to public transit. This redirection of state funding practice acknowledged the reality that about 60 percent (or about \$300 million annually) of the total revenues in the referendum would likely have come from the general taxpayer, not directly from highway users. Unlike most states, Missouri state law requires that voters approve most tax increases. Other states have the authority to raise user taxes legislatively, but generally have chosen not to or have simply enabled local taxpayers to raise their taxes (see Commonwealth of Virginia’s referendum, discussed later in this report).

Proposition B broke little new ground in how it distributed funds among state and local agencies, reserving a substantial share of the new revenues for the state’s transportation fund, as current law generally provides. Overall, 75 percent of the revenues from the measure were destined for the state road fund to be used by the Missouri Highway and Transportation Commission. This allocation of a substantial share of the resources to the state was consistent with current practice; if anything, the state would have improved its relative position with the new resources provided by the measure. All of the receipts from the sales tax on motor vehicles would be shared between states and local governments, largely following current practice: 74 percent to the state road fund; 15 percent to the cities’ road fund and 10 percent to the counties’ road fund. The motor fuel tax was distributed: 70 percent to the state fund; 15 percent to the cities’ fund and 15 percent to the counties’ fund. For revenues garnered through non-user fees (60 percent of the total), the state road fund would have benefited the most, as sales tax and use tax funds (non-motor vehicles) were allocated: 78 percent to the state fund; 20 percent for multi-modal projects and 2 percent for incentives for the development and production of ethanol and biodiesel fuels.

Under the referendum, about three out of every four new dollars were destined for the state road fund, with the remaining funds split among multi-modal projects (13 percent); local road funds (11 percent) and ethanol/biodiesel projects (1 percent). Ironically, the measure proposed to deliver a larger share of resources to the one agency, MoDOT, which had been the subject of the most controversy. In contrast, local communities did not make any

progress, and even lost some ground, in shaping state investment priorities. Only one out of every four dollars – less than existing law provides – were slated to return to local areas, be it for local roads or transit projects. It is also important to note that the referendum provided no assurances about “return to source” (i.e. investing funds in the communities where the money comes from) and made no other commitments to spend funds within communities or regions.

Moreover, under the measure, the state would continue to allocate the lion’s share of all funding. This approach – large sums for unspecified or certainly unclear purposes – challenged the voter to trust MoDOT that specific outcomes, improved performance and accountability would simply materialize, an expectation that was clearly at odds with their actual experience. Such an approach stands in stark contrast to local areas, largely urban counties, that have had success in securing voter approval of ballot measures by committing new funds to politically accountable decision-makers and allocation processes that are publicly determined and readily transparent.

Finally, the design of the referendum offered voters no clear information on what the biggest tax increase in the state’s history would buy. There was no attempt to deliver a program that responded to important local priorities, whether rail transit expansion, clean air, bridge repair, or community and rural road safety. For example, the two largest areas of the state, representing more than one-half of the state’s population, have been challenged by air quality problems for some time. This important public health concern was ignored in the design of the referendum and in the public debate on the measure.

Proponents of the measure focused all of their attention on highway facility needs, leading with the claim that the referendum would improve all of the state’s Interstates up to good condition, not a strong argument when general tax revenues, not user fees, are carrying most of the revenues. Proponents also promised rehabilitation of 14,000 bridges, which may not have been as persuasive, particularly in a state that spent only 70 percent of its federal bridge rehabilitation funds during the period 1992-2001. It also again promised to accelerate spending on a number of pending highway expansion projects, some of which were relatively large investments. In contrast, other referenda have proved successful when the funds were breaking new ground, such as starting a light rail transit system, or when pledged to specific programmatic needs, such as the successful Alameda County referendum, which is discussed further in this report.

What Provisions for Oversight and Accountability Have Been Established?

Perhaps the weakest aspect of the referendum was its lack of accountability provisions. In retrospect, strengthened commitments by the state in this area were needed to reassure voters that the measure was not simply pouring more money into a state highway bureaucracy without any assured outcome. In exit polling on the referendum, those who voted against the measure cited the issue of accountability most often. In fact, the only significant feature of Proposition B that spoke directly to voter concerns in this area was a provision that established an independent auditor function within MoDOT to oversee the agency’s use of road funds. Proponents of the measure clearly underestimated voter concerns here, choosing not to include other processes that would have brought the public and others more fully into shaping the use and allocation of the resources.

The referendum did not directly address voter concerns about financial transparency. A central theme of the 1992 tax increase was that the revenues would be used to fund a major highway expansion effort, a program that was subsequently abandoned after six years when it became obvious that revenues were insufficient to deliver promised projects. Given this history, it is surprising that the new package, particularly the state level funds, were again committed so extensively to road-building, without offering voters any safeguards to make sure that MoDOT would keep its promises this time. To remind voters about the connections to the past, the Missouri General Assembly also eliminated the scheduled sunset (2008) on the 1992 motor fuel tax increase. In the end, inattention to financial and other accountability issues seriously damaged prospects for voter approval of Proposition B.

How Do Proposed Projects Relate to Existing Plans and Processes?

The additional resources were largely expected to accelerate projects that were already in the state's plan, essentially moving a number of planned projects forward in the construction cycle. Reports following the defeat of the referendum indicated that projects slated for completion within ten years given the additional revenues are now expected to slip back to 25 years. The biggest issue raised by the failure of the referendum is how the state will revamp its long-term plan as debt-financed spending is exhausted, payments for debt service accelerate, and projected revenues do not keep pace with needed expenditures, primarily for road and bridge preservation.

Is the Proposed Initiative at the Appropriate Level of Government?

The Missouri referendum might be a bellwether for the future, signaling the challenges before state transportation departments in convincing voters to embrace new taxes for largely unspecified spending plans consisting predominantly of major highway investments. It also suggests that while local and regional voters often approve sales tax and other general fund commitments to transportation improvements, most of which have been directed toward public transportation, these successes may not readily transfer to state transportation agencies. Clearly, shifting the future tax burden away from highway users, shielding them from paying the full costs of Interstate and major state highways improvements, proved problematic. The level of voter opposition suggests that an entirely different formulation of how revenues are distributed among governments and among modes, including broader accountability features linked to new revenues, will be needed in the future.

It is probable that had local areas shared more directly in the allocation of these resources, this would have improved prospects for passage. It is also clear that a traditional highway formulation, even in a state like Missouri, may no longer satisfy the many concerns of the voter. One has to wonder how increased commitments to investments for improved air quality or in expanded transit capacities, such as St. Louis' MetroLink system and to challenge the Kansas City region and their stalled rail transit efforts, would have changed the vote. More commitments to special needs transportation – rural transit, and specialized transportation for seniors and persons with disabilities – or improved pedestrian and bicycle access might have been important elements in a broader package. The level of opposition to Proposition B suggests that a more diverse funding package would have fared better with the voter.

The People's Transportation Plan (Miami Dade Transit Sales Tax)

Background

Like most major cities in the U.S., Miami-Dade is experiencing severe traffic congestion. According to the Texas Transportation Institute, Miami had the fifth worst (tied with Seattle) traffic congestion among the 75 metro areas included in TTI's study of 2000 data. In response to the worsening traffic, an extensive grassroots campaign to improve transit service, and because of the controversies experienced in the last transit tax referendum proposal,²⁰ Miami-Dade's Mayor Alex Penelas launched "One Hundred Opportunities to be Heard" in March 2002. The campaign has so far included more than 80 public outreach meetings, including a televised townhall session, numerous radio call-in shows, and a series of civic and business presentations throughout the county with the goal of soliciting community input on transportation issues. The campaign has also included both a Municipal Mayors and a Community Council Transportation Roundtable, two transportation summits attended by more than 2,000 people, and a website (<http://www.trafficrelief.com>) aimed at collecting suggestions from the public: the website has received almost 100,000 hits since it was launched.

This extensive public outreach process culminated in the People's Transportation Plan (the Plan), which seeks an increase in the sales tax of one-half penny to pay for an expanded rail transit system and bus service improvements. Central to the Plan is the creation of a Citizens' Independent Transportation Trust. The Trust will be a carefully selected group of citizens who will function as a truly independent decision-making body, separate from government, with significant powers over the use and expenditure of the surtax proceeds.

Where Will the Revenue Come From?

If approved by voters on November 5th, the referendum will impose a one-half penny increase on the sales tax for all transactions except those involving certain medicines and food items. The new tax would generate about \$150 million annually and, because it establishes a dedicated local funding source for transit, would help leverage millions more in federal funds. The Plan assumes a federal match of 50 percent for "New Starts" rail expansion projects.

As a sales tax, Miami-Dade's surtax for transit is subject to some criticisms. The sales tax may disproportionately impact lower-income households. While food and certain medicines are excluded from the tax so as not to raise the cost of basic needs, lower-income households will nevertheless contribute a larger portion of their family budgets to the tax. However, because South Florida has a largely tourism-based economy, much of the tax will be paid by tourists to the area. Miami-Dade County estimates show that as much as 40 percent of the revenues for the Plan will be paid by tourists.

More importantly, the Plan is expected to greatly benefit lower-income households and individuals by providing improved and expanded transit service. A 2001 study by STPP and the Center for Neighborhood Technology found that the poorest one-fifth of families in the U.S. spend nearly 40 percent of their income on transportation.²¹ In metro areas without adequate transit service, where families must own a vehicle in order to get to work, to school, to the doctor, or to grocery stores and shops, transportation expenditures take up even more of the family budget. By providing an alternative to driving a private vehicle to meet these daily needs, the Plan may actually reduce the burden transportation expenditures place on lower-income families. For this reason, the Plan has received the endorsement of grassroots organizations working to improve conditions for lower-income families and individuals.

A second criticism of the Plan is that like all general sales taxes, the surtax for transit is not a user-fee: the proceeds being raised are not generated from the use of the service to be supported by those revenues. Anti-tax advocates contend that only the users of a service, rather than the larger population, should be taxed to support that service. Further, proponents of user-fees as an alternative to sales taxes argue that by making users pay the full social and environmental cost of an activity, the tax may discourage the unnecessary consumption of a good or activity.

While both of these arguments are theoretically valid, there are few alternatives open to finance a transit program. Increasing gasoline taxes to support transit systems typically meets strong resistance, as Miami-Dade has experienced. Property taxes are a viable option, but because those taxes are collected on a periodic (typically quarterly or biannually) basis, the perceived impact on a family's budget is greater than a sales tax which is collected at every purchase in small increments. Finally, because transit's benefits extend beyond just bus and train riders – by making the roads less congested for drivers and providing a less environmentally-harmful alternative to driving – a sales tax may be the most appropriate financing mechanism.

How Will the Revenues Be Spent?

The one-half penny surtax for transit will fund improvements to the existing bus system, a quintupling of the rail system, and some road and highway improvements. All told, the tax will pay for a \$17 billion overhaul of Miami-Dade's transit system. Specific capital expenditures and operating directives account for just over half of the revenue expected to be raised through 2025. That project list, which is included in the ordinance authorizing the tax referendum, may be changed or added to, however, with the consent of the Citizens' Independent Transportation Trust (see **What Provisions for Oversight and Accountability Have Been Established?** for more about the Trust) and the County Commission. The project list may also be changed as a result of the MPO process as mandated by federal and state law.

The specifically identified projects include an almost doubling of the bus fleet, increases in both the locations served, and the hours of operation, an increase in the frequency of service for both peak and non-peak periods, and an improvement in public information about bus service. On the rail side, the sales tax will fund a 9.5-mile North Corridor, and a 17.2-mile East-West Corridor. The project list also identifies several other potential rail expansions which have not yet completed the necessary federal, state, and local planning process: a 3.1-mile Earlington Heights/Airport Connector, 5.1-mile Baylink, 15-mile Kendall Corridor, 13.6-mile Northeast Corridor, 21-mile Rail Extension to Florida City, and 4.5-mile Douglas Road Extension.

The ordinance also includes proposed neighborhood and municipal improvements, but does not identify specific projects or programs. An agreement brokered with the Miami-Dade League of Cities will allow 20 percent of the tax revenues to be spent by municipalities on transit-related projects. Those funds will be distributed to the county's 31 municipalities based on population. The plan also proposes spending an unspecified amount on neighborhood improvements such as the modification of intersections, resurfacing of local and arterial roads, installation of school flashers and enhancement of greenways and bikeways. Mayor Penelas has advocated that funds be spent to repair some 9,000 sidewalks within one-quarter mile of a bus stop or other transit link.

Finally, the measure will also provide funding for some highway and road improvements such as upgrading the traffic signalization system, constructing major ingress/egress improvements in downtown Miami, completing roadway construction projects already in progress, funding grade separations of intersections, and funding the preliminary engineering and design study for I-395.

These programs, along with approximately \$6 billion identified by city officials for the upkeep and operation of the transit system, will make up the balance of the \$17 billion program. While obviously focused on transit, the proposed plan also includes significant funding for roadway improvements, bikeways, and pedestrian facilities. The plan also contains provisions for coordinating pedestrian facilities with proposed or existing transit stops, thereby helping to create more walkable, transit-oriented neighborhoods. In sum, the tax plan as proposed meets most of the goals established for the appropriate use of funds: it is well-rounded and includes provisions for the long-term maintenance and operations of the program.

The only obvious omission is the failure to explicitly tie investments to land use development. However, the plan does move towards achieving this with its provision for linking pedestrian facilities to transit stops. Further, Miami-Dade County benefits from several existing processes coordinating land use and transportation. These include the consideration of transit service during local planning and zoning reviews (subject to Impact Fees for permitting), as well as a special approval process for large-scale developments or “Developments of Regional Impact.” Miami-Dade County also created opportunities for higher density and transit-oriented developments along the existing Metrorail, with a 1978 ordinance that created the “Rapid Transit Zone.”

A further concern is that many of the projects listed are not clearly defined, or designed. Some may not even be feasible when right-of-way, land use, and land acquisition issues are considered. However, should it be decided that projects cannot be built, the measure provides for the Plan to be revised through the Citizens Independent Transportation Trust.

What Provisions for Oversight and Accountability Have Been Established?

Perhaps the most interesting element of the proposed surtax for transit is that its passage will usher in a Citizens’ Independent Transportation Trust (Trust). Mayor Penelas has called the Trust “the most important component of this plan.” The Trust will be composed of 15 members, one appointed by the Mayor, one appointed by the Miami-Dade League of Cities, and one from each of the 13 commission districts, nominated by the Trust’s Nominating Committee, which itself is composed largely of city officials and civic leaders from the grassroots and advocacy community.

The Trust will have responsibility for overseeing the implementation of the transportation projects identified in the People’s Transportation Plan, and any other projects funded by the surtax for transit. The Trust is also charged with assuring compliance with applicable federal and state requirements, as well as limitations imposed in the levy such as the requirement that not more than five percent of raised revenues be spent on administrative expenses. Essentially, the Trust has the responsibility to assure the public that city officials follow both the spirit and the letter of the Plan, and spend the taxpayers’ dollars according to what the voters want.

How Do Proposed Projects Relate to Existing Plans and Processes?

The People’s Transportation Plan includes several clauses explicitly tying it to existing plans and processes. The Plan recognizes that federal and state law mandate that projects conform to an existing metropolitan planning process and that the list may need to be amended to address findings of that process. As such, the surtax for transit ordinance includes specific language permitting changes in the project list necessary to conform to the MPO process.



The plan also addresses the temptation to use the new dedicated source of local funding as an excuse to cut local and state contributions to Miami-Dade transportation needs. The transit surtax is intended to serve as supplemental, rather than replacement funding for Miami-Dade's transit system. To prevent the state and local commissions from cutting their funding, the ordinance includes two "maintenance of effort" clauses, requiring that general fund support not fall below current levels.

Is the Proposed Initiative at the Appropriate Level of Government?

The Plan is a local, rather than regional transportation financing measure. Only the voters of Miami-Dade County will have the opportunity to vote on the proposed tax, and most of the improvements identified are specific to that county. In fact, several of the proposed rail extensions run right up to, and end at the adjacent county line (Broward County). The Plan does call for expansion of the existing bus service into Broward County, but extension of the rail line in that neighboring county will be the responsibility of Broward County. Although there is significant commuting between the Tri-County area (Miami-Dade, Broward, and Palm Beach), it appears each individual county will have to formulate individual plans for transit improvements and funding.

Fortunately, however, plans to form a regional transportation agency are in the works. Palm Beach, Broward and Miami-Dade will ask the Florida legislature next year to transform Tri-Rail, which currently administers the commuter rail line, into the South Florida Regional Transportation Authority. The new agency would oversee and coordinate regional bus and rail service in South Florida. If approved, the agency would impose a \$2 fee on all vehicle registrations and renewals, generating about \$8.3 million a year. That money could be used to improve county bus service on east-west roads that feed Tri-Rail's existing commuter rail service. The tag surcharge would also be critical to winning federal matching funds and could be supplemented by bond issues - a right already granted Tri-Rail that would carry over to the expanded authority.

Most importantly, however, the creation of a regional transportation authority presents an opportunity to plan future investments and projects cooperatively and streamline the administration of the region's transportation system. This new framework may help ensure that investments made possible by Miami-Dade County's People's Transportation Plan will be coordinated with other regional transportation priorities.

Further, as a local sales tax, the surtax for transit may create a situation in which funds are inequitably distributed based on the ability of the population to afford the levying of additional taxes. Other counties in the State will continue to lose out in their bids for funding - as Miami-Dade has to this point experienced - since the availability of matching funds is given more weight in the decision to fund projects. This is particularly problematic for transportation funding which may be used to leverage additional federal funds. Supporters of the surtax for transit have been frank about the opportunity to use proceeds from the tax to leverage both federal and state funds.

Further, because the proposed sales tax is largely dedicated to improving and expanding the metropolitan transit system, setting that tax at the local level is the only practical way to get the tax approved by the voters. Florida voters living outside of the region served by the transit system would be unlikely to support a tax which would not directly benefit them.

Northern Virginia's Regional Sales Tax Referendum

Background

Encompassing 16 local jurisdictions in two states and the District of Columbia, the metropolitan Washington, DC region is governed by perhaps the most complicated structure in the country. To address the regional nature of travel patterns and transportation needs, the local and state governments of the metropolitan area created the National Capital Region Transportation Planning Board (TPB) in 1965. The move was prompted by federal highway legislation which required the establishment of a “continuing, comprehensive and coordinated” transportation planning process in every urbanized area in the U.S. The TPB was later designated a Metropolitan Planning Organization (MPO) and assumed responsibility under ISTEA for ensuring that transportation projects addressed regional needs.

The TPB does not exercise direct control over transportation funding, nor does it implement projects. However, the TPB is responsible for a number of activities which promote an integrated approach to transportation development. Most important among its roles is ensuring compliance with federal laws and requirements, such as completion of a fiscally-constrained long range transportation plan, and a shorter-term transportation improvement program. In completing those documents, the TPB leads the planning process required to demonstrate that the region has the fiscal capacity to build the projects identified, and that the list of projects will conform to the Clean Air Act. The TPB also provides a regional transportation policy framework and forum for coordination, and lastly, technical resources for decision-making.

The Transportation Coordinating Council (TCC) of Northern Virginia was until recently an advisory group of state and locally-elected officials that served as a Northern Virginia caucus to recommend regional transportation priorities. While the TCC had no authority to raise or distribute funds or to implement projects, it had been effective in influencing the state's transportation priorities for the region.²²

In 2002 the Virginia General Assembly created the Northern Virginia Transportation Authority (NVTA) to replace the TCC. The NVTA is vested with much broader powers than the TCC, including the authority to issue bonds, oversee regional transit and congestion-mitigating programs (i.e. ridesharing), recommend transportation priorities to the federal government and the state, apply for funds from any source, and oversee transportation projects. The NVTA also has responsibility over long range planning, “both financially constrained and unconstrained,”²³ and the power to construct, operate or acquire transportation facilities, as well as the power to acquire land. Despite giving NVTA broad powers, the NVTA legislation does not provide any performance goals, fiscal obligations, or planning requirements (see below, **What Provisions for Oversight and Accountability Have Been Established?**).

Where Will the Revenue Come From?

In the Washington, DC region, the greatest share of transportation funds (42 percent) comes from the states and the District of Columbia. The federal government also provides significant funding, comprising 27 percent of total revenues. Transit fares contribute an additional 17 percent to revenues, and tolls add one percent. Local governments, through sales taxes, property taxes, bonds and other financing mechanisms provide about 13 percent to transportation revenues in the region. In Northern Virginia, state policy-makers are looking to shift that distribution of revenue sources, by putting a much greater burden on the local tax base to provide funds for new facility construction, including Interstate highways and other facilities that are traditional state and federal responsibilities.

Subsequent to the creation of the NVTA, the Virginia legislature passed legislation authorizing the NVTA to issue \$2.8 billion in bonds to finance all or part of 23 generally identified projects. The same law mandates a voter

referendum in the counties and cities represented by the NVTA, asking voters to approve a one-half percent sales tax to finance the bond issue and raise up to an additional \$2.2 billion in cash.

As a sales tax, the proposed referendum suffers from two of the potential problems identified in the above evaluation criteria. First, like all sales taxes, the proposed one-half percent sales tax is regressive, meaning that lower-income families (including the poor, lower middle class, senior citizens and retirees) in the region will devote a larger proportion of their budget to the tax than wealthier families. Various experts calculate that the tax could cost families between an average of \$4,100 and \$7,400 over the next 20 years.

Secondly, because the sales tax is a non-user fee, residents who receive no benefit from the proposed projects will have to contribute to the tax. Conversely, as many of the projects listed are major highways and even Interstate improvements, many of those enjoying the benefits paid for by the tax (e.g. interstate trucking companies) will not contribute to the new revenue stream.

Because individuals are not paying directly for their use of those expanded and new highways and improved transit service there is no incentive to use them efficiently (e.g. utility rate structuring charges only users, and charges them more at congested peak hours on the electrical grid; this model of economic efficiency has generally not taken hold in the transportation sector). In fact, since the cost of providing those expansions is distributed across every family in the region, individuals have a strong incentive to use the highways and transit system. Together with induced travel (see below), this may have the effect of filling up the newly expanded system well before its time. Furthermore, the local sales tax increase,

by creating a dedicated local funding stream, may have the effect of excusing jurisdictions from following through on already promised funds. For instance, the referendum proposes to dedicate \$350 million out of the \$2.8 billion bond issue to Dulles Corridor Transit. However, according to the Chairman of the Dulles Corridor Rail Association, the financing plan for rail to Dulles does not hinge on the passage of the sales tax increase. If the tax is approved it will replace, not add to, funds raised from taxes on commercial landowners along the route.

Finally, the proposed sales tax has raised concerns because it lacks a sunset clause. The sales tax will remain in place until both the bonds are repaid and the projects are completed. Depending on the schedule and timing of the NVTA bond issuance, and because many of the projects are loosely defined highway corridors, it is conceivable that the NVTA could be paying back bonds for 40 years or more – in essence, for the foreseeable future. An analysis based on the financing scenario presented to the Virginia General Assembly found that the sales tax could continue for at least 40 years, producing an additional \$11 billion in unearmarked revenues.²⁴

How Will the Revenues Be Spent?

Northern Virginia's proposed one-half percent sales tax is expected to raise \$5 billion over the next 20 years – and possibly much more thereafter. Of that \$5 billion, \$2.8 billion is dedicated to roughly outlined projects and programs such as “Dulles Corridor Transit” at \$350 million, “I-66 Improvements and Rail Extension (I-495 to Route 15)” at \$300 million, and “I-495 Improvements and Transit Improvements,” (where “transit” is used to describe HOV lanes) at \$200 million.



The remainder of the expected \$5 billion plus in proceeds is essentially left un-assigned to a specific project or program. The legislation specifies that those additional funds must first be used to pay the expenses of the NVT. Up to 15 percent of the remaining funds may be spent on transit operational costs. The remaining 85 percent can be spent on any transportation project at the discretion of the NVT. This is seen as a significant problem and amounts to a traditional “trust us” approach that gives voters little assurance of how and where the remainder of their money will be spent. While providing flexibility is important, the referendum could have provided far more specificity in terms of project categories, e.g. highway expansion, public transit, pedestrian safety. Specific categories give both voters and interest groups a much clearer idea of where their tax dollars will be spent, and was used successfully in Alameda County’s Measure B to win broad public trust and voter support.

On its face, the proposed distribution of revenues would seem to be fairly well-balanced among different transportation modes. Yet the referendum is unusual in that it counts high occupancy vehicle lanes (HOV) as public transit. Because those HOV lanes are reserved for carpools during only 3 hours of every day, they may be used as general-purpose lanes for most of the day.

Proponents of the referendum argue that 41 percent of the bond funds allocated to specific projects will go to transit improvements, exclusive of HOV. However, when the entire \$5 billion in expected revenues from the sales tax is considered, the maximum share going to transit is less than 30 percent (assuming that fully 15 percent of remaining funds are spent on transit operational costs), and is likely to be even lower. Furthermore, no funding is provided for bicycle or pedestrian facilities. Nor is any funding tied to improvements in coordinated land use. The proposed projects may prove ineffective in the absence of complementary land use planning. New roadway capacity expansion projects may soon fill up with induced traffic caused by new development the investment will trigger, unless land use planning can be better planned and coordinated along the corridor. In the same way, transit improvements which are only served by park-and-ride lots will not have the same air quality benefits or ridership levels as those which include transit oriented development (TOD).

Finally, of the \$2.8 billion raised by the bond issue, no funds are specifically allocated to the long-term maintenance or operation of the proposed facilities. Nearly all of the projects listed are described as “Improvements.” This vague term may be construed as routine maintenance work. However, the high dollar amounts assigned to the improvement projects indicate that, in this case, improvement means capacity expansion. A policy such as this one seems irresponsible, especially in times of dire fiscal constraints such as the Commonwealth of Virginia is currently facing.

What Provisions for Oversight and Accountability Have Been Established?

The legislation creating the NVT gives a nod to performance-based criteria by stating that its “policies and priorities shall be guided by performance-based criteria such as the ability to improve travel times, reduce delays, connect regional activity centers, improve safety, improve air quality, and move the most people in the most cost-effective manner.”²⁵ However, both the legislation and the ballot initiative lack detailed quantitative performance measures by which the proposed projects can be evaluated based on the above goals. Without any performance measures, much less quantitative performance measures, the proposed projects and programs are the antithesis of performance-based planning, and voters are being asked to increase the sales tax without any assurance that this increased funding will actually improve the situation.

In fact, as noted, in the absence of coordinated land use development, critics argue that the proposed package of projects will exacerbate congestion, air pollution, and perhaps even safety concerns (expanding roadways to allow for higher travel speeds may result in fewer minor accidents, but it often leads to a greater number of deadly traffic crashes²⁶). Once again, because the package includes no provision for quantitative performance measures, there is no way to evaluate the proposed projects’ effectiveness at meeting their stated goals.

While \$2.8 billion may appear substantial to most voters, it would not fund the full cost of the projects described. The ballot measure fails to provide information about the projected cost to complete each project. However, based on the scope of the projects listed, the \$2.8 billion bond issue will be merely a down-payment on an expensive (some analysts estimate the total cost as \$20 to \$25 billion) highway and transit expansion program. Voters must consider where additional funds needed to complete the proposed projects may come from. An obvious source is the \$2.2 billion excess which will be raised from the one-half percent sales tax. However, many analysts believe even this may not be enough; will state or federal funds make up the shortfall, or will Northern Virginia voters be asked to approve additional taxes? In light of other pressing regional needs such as more funding for education, will Northern Virginia voters be asked to choose between raising taxes for schools and raising taxes to finish road and transit projects?

The lack of total estimated costs, coupled with the failure to allocate funds to the maintenance of the program after completion perpetuates the patterns that resulted in the collapse of the Virginia Department of Transportation's (VDOT) financial management systems in 2002. The Washington Post recently reported (October 20, 2002, "VDOT Crisis Worsened Even as Gilmore Boasted") that over-commitments for new construction and unbudgeted cost overruns contributed to the depletion of maintenance funds, placing existing facilities at risk.

Due to VDOT's financial crisis, Governor Warner requested state's Auditor of Public Accounts to audit the agency. The nearly 130-page audit found, among other things, that:

The Virginia Department of Transportation's recent cash shortages resulted from a lack of cash and project management, and not matching construction projects in the Six Year Program to available resources. Transportation does not have a systematic way to identify its maintenance needs, and therefore cannot reasonably determine or quantify these maintenance needs.²⁷

Despite VDOT's apparent accountability lapses, it is likely that the job of implementing and constructing many if not most of the proposed projects will fall to the department because the newly-created NVTa has no experience with large-scale transportation construction. Virginia is one of the few states where the Department of Transportation is responsible for the construction and maintenance of most public streets and roads, including local roads. Voters must question the wisdom of asking a now nearly bankrupt agency to properly and effectively manage additional tax dollars for new construction projects, especially when insufficient funds exist to maintain the current system.

Finally, the referendum, and the bill which authorized the NVTa, provide little opportunity for citizen oversight. The NVTa is designated as the body responsible for overseeing the construction and implementation of the proposed projects and programs and for "on the basis of a regional consensus, whenever possible, setting regional transportation policies and priorities."²⁸ However, of the 16-member NVTa, there are two members appointed by the Governor as "citizen representatives." Of those two, one must be a member of the Commonwealth Transportation Board – the Governor-appointed board that makes decisions about transportation statewide – and the other must have significant experience in transportation planning, finance, engineering, construction, or management. County and city officials, members of the House of Delegates, and a member of the Senate comprise the remaining 14 seats. This is a critical shortcoming in the proposed referendum, as everyday citizens are excluded from the transportation planning process. Initial meetings of the NVTa have been characterized by the absence of effective public notice and the failure to solicit or provide for public comment.

How Do Proposed Projects Relate to Existing Plans and Processes?

Because many of the projects identified in the legislation have not been reviewed as part of the regional transportation planning process coordinated by the TPB, they have not been considered for their air quality impacts. VDOT's recent "cash shortage" has forced the department to cut \$3 billion and 111 projects comprising over 100 lane miles

of roads from its 6 year transportation program. Cutting those projects had the unexpected consequence of suddenly bringing Northern Virginia into air quality conformity. However, the projects proposed in the upcoming referendum will almost certainly increase driving and push the region back out of conformity.²⁹ Beyond the obvious negative health impacts and harm to the region's economic competitiveness of seriously degraded air quality, a conformity lapse could restrict the amount of federal funds available to the state, and the region.

To avoid losing federal funds, the TPB will be forced to consider other means to achieve conformity. It is unlikely, given their political support, that the projects identified in the legislation could be amended through the regional planning process. As a result, other regional projects may have to be scaled back or cut outright. At the same time, other jurisdictions may be asked to fund transportation demand management and other programs which reduce air pollution. Obviously, this would put an unfair burden on the District of Columbia and the state of Maryland to offset the additional pollution generated by Northern Virginia's proposed projects.

Is the Proposed Initiative at the Appropriate Level of Government?

Interestingly, the Northern Virginia sales tax referendum more closely resembles a state-level ballot measure than a regional one. With its enormous scope and emphasis on improving highways - which have traditionally been the responsibility of the states - the proposed measure shares many commonalities with both Washington State's Referendum 51 and Missouri State's Proposition B (described in this report). In this way, the NVTA is acting more like a state than a region.

ISTEA gave MPOs increased authority to plan transportation projects, in an effort to ensure that the transportation infrastructure would reflect regional needs and land use patterns. The newly created NVTA does not correspond to the MPO. By law, it is authorized to consider only the transportation needs of the 9 counties and cities in northern Virginia that it represents. While better than proposing a measure city by city, the subregional nature of the measure means that the NVTA need not consider the transportation priorities of other jurisdictions in the larger metro area. By ignoring the regional nature of transportation patterns, many believe that the NVTA jeopardizes the spirit of ISTEA.

Washington State's Referendum 51

Background

Like many rapidly growing states, Washington state suffers from severe traffic congestion. Recently, transit has begun to see increased support as the public begins to recognize that the state cannot build its way out of congestion. Unfortunately, the recognition of the need for improved public transit service coincided with a successful initiative to reduce the graduated motor vehicle excise tax (MVET) to a flat rate of \$30 per year. The state's Supreme Court ruled this initiative unconstitutional, but legislators, arguing that the "voters had spoken," passed legislation reducing the MVET to the \$30 rate the voters had approved. New legislation the following year repealed the local transit properties' legal authority to receive any of the MVET revenues.

With the loss of MVET revenues, Washington state's public transit operators are struggling to find funds to maintain existing services. This is evidenced by the five separate ballot measures in 2002 seeking to increase sales taxes to raise revenue for transit operations or projects. Of the four which have already been voted on, three passed easily. The fourth, to provide funds for Spokane Transit, failed by a slight margin.

Meanwhile, as both voters and public opinion polls show support for better and more extensive transit service, the largest package on the ballot this November contains little in the way of significant new funding to expand public transportation services. Referendum 51, at \$7.8 billion, is the most expensive public works project on the ballot in the state's history. Like the five transit-related sales tax measures, Referendum 51 was born out of policy makers' concerns over shrinking budgets.

Where Will the Revenue Come From?

Referendum 51, the "State Package," purports to raise the gasoline tax by 9 cents. The proposed increase would raise the state gas tax to 32 cents, a jump of nearly 40 percent. If approved, Washington's state gas tax would be the highest in the country; only Rhode Island, with a 29 cent state gasoline tax, comes even close. The referendum also seeks a 30 percent increase in the truck weight fee and a one percent tax on the sale of new and used cars. Additionally, after 2005, the sales tax from highway construction projects (not from transit construction projects) would be earmarked under Referendum 51 for funding highway and transit.

Under Referendum 51, the proposed financing mechanisms are user-fees. As such, the beneficiaries of the projects are the same people paying for those projects. In theory, by fixing the tax to quantity of gasoline consumed (a surrogate for the number of miles driven), the more one benefits from the projects, the more one pays. Even interstate truckers are asked to pay their share through the increase in truck weight fees. And regardless of how much an individual or family drives, the greater number of vehicles they own, the more they'll pay under the new one percent sales tax on new or used cars.

The user fees, such as gas taxes, can act as an incentive to use the transportation network more efficiently. However, the 9 cent increase in the gas tax proposed under Referendum 51 is not so burdensome that it will radically change the average individual's behavior.

Finally, Referendum 51 provides initial funding for a list of 80 projects that critics argue it cannot come close to finishing. The final cost of many projects cannot be determined, but estimates conducted by transportation analysts show that the state will need an additional \$11 to \$32 billion just to finish the seven largest projects started by Referendum 51. Like the sales tax proposed for Northern Virginia and a similar legislative funding measure in California in 2000, Referendum 51 is but a small down payment on all 80 of the road projects it funds, and Washingtonians will likely be asked to approve additional tax increases to fund their completion. In fact, if Referendum 51 is approved by voters this November, experts expect that those same voters may be asked to approve as

many as four more tax increases, each the same magnitude as Referendum 51, just to finish the seven largest projects.

How Will the Revenues Be Spent?

Referendum 51 is expected to generate \$7.8 billion for transportation projects and programs over the next 10 years, making it the most expensive public works on the ballot in state history. Referendum 51 earmarks that entire \$7.8 billion in expected proceeds for a package of projects and programs emphasizing the expansion of roads.

Proponents of Referendum 51 contend that with \$1.2 billion, or 15 percent of the total package dedicated to “choices,” the initiative offers voters a balanced proposal to address traffic congestion. The package includes approximately \$700 million for transit agencies over the next 10 years, about \$250 million in capital funds for rail track, \$100 million for trip reduction programs, \$104 million for passenger-only ferry and terminal improvements, and about \$45 million each for vanpools and park & ride lots. While this is not an insignificant funding package, it is a merely an attempt to restore \$250 million in annual revenues lost when legislators approved a repeal of the car tax in 1999. In that sense, Referendum 51 will not provide funds to add transit or train service, but will merely help bring service back to pre-1999 levels. Even were this not the case, allocating just 15 percent state-wide (and just seven percent of county-wide funds in Seattle’s King County) of the total expected revenues to transit and trains will do little to substantially improve service and offer commuters a viable alternative to driving. The Washington State Blue Ribbon Commission on Transportation recommended that one-third of the proceeds should be dedicated to “choices,” including trains, transit and ferry service, and trip reduction measures.

Referendum 51 designates less than ten percent of funds for safety and maintenance projects. This includes a portion of the funds required for replacing the aging Alaskan Way Viaduct (\$450 million towards a \$5 to \$11 billion project), a fraction of the cost of replacing the deficient SR-520 bridge over Lake Washington (\$100 million towards a \$5 to \$8 billion project), and \$102 million in other safety projects. Additionally, Referendum 51 allocates \$6 million to preservation projects, and \$26 million to environmental retrofit projects.

With a heavy emphasis on capital expansion and new construction, Referendum 51 includes no provision for ensuring that these investments will last. Funds for on-going maintenance and repair of the newly built or expanded roadways are conspicuously missing. In fact, given the extent of the proposed projects, analysts worry that the state will be forced to divert funds away from maintenance of the current system and towards new construction. With construction expected to drag out over several decades, Referendum 51 could send the state’s roads, highways, and bridges into severe disrepair.

The vast majority of the \$7.8 billion in expected proceeds from Referendum 51’s increase in the state gasoline tax, increase in the truck weight fee and one percent sales tax on new and used vehicles, about \$5 billion, will go to expand roadway capacity. Referendum 51 contains funding for 34 projects that would add general-purpose highway capacity. The biggest of those projects is the \$1.8 billion allocated to widen I-405. Additionally, Referendum 51 proposes to fund further planning for the “Cross Base” highway in Pierce County, and expand I-90 through Spokane to 19 lanes. Altogether, the social, financial and environmental impacts of the proposed package have not been properly estimated or quantified. Critics argue that even the referendum’s purported goal of alleviating traffic congestion isn’t supported by any quantifiable analysis or statistical measures.

Research shows that general purpose additions may actually worsen traffic in two ways. First, construction usually requires one or two lane closures for extended periods, reducing capacity and increasing gridlock and air pollution. The time lost during this construction period may never be recovered after completion.³⁰ Second, because of the phenomenon of induced travel, much of the new road capacity may be quickly filled by additional traffic as drivers shift from other routes, other modes, other hours, or simply choose to make more trips.³¹

Approximately half the general-purpose projects are wholly or partially outside urban growth boundaries. Adding highway capacity outside the urban growth boundary could easily encourage new business and housing developments to locate on cheaper “greenfield” land on the urban fringe. That lower-density, scattered development may cause even more of the traffic congestion the proposed highway capacity expansions are intended to alleviate.

The group of proposed projects funded under Referendum 51 may also cause irreparable damage to the natural environment. According to WSDOT, I-405 widening would impact 209 riparian corridors and 168 wetlands. The expansion of the Cross Base highway would cut through the core habitat of an endangered species, the Washington gray squirrel. The National Marine Fisheries Services is also concerned about the “indirect” impacts of highway widening projects. “Indirect” impacts result from additional low-density, auto-oriented business and residential development stimulated by additional single occupancy vehicle capacity. I-405 expansion alone would add 600 acres of new impervious surface, all in threatened salmon-bearing creek basins. Dozens of other new projects would add several hundred more acres of impervious surface, allowing highly-polluted urban and agricultural run-off to flow directly into sensitive creeks, streams and rivers. A recent study by the Pew Oceans Commission found that significant degradation of streams, creeks, rivers, lakes, wetlands, and estuaries may occur when as little as ten percent of the watershed is covered by impervious surfaces.

Despite the serious impacts on the natural environment that could arise from projects funded through Referendum 51, all of the proposed projects are subject to a 2001 Washington state “streamlining” law which is moving to delegate federal and state environmental permitting procedures to WSDOT, to assist in expediting project delivery. The projects proposed under Referendum 51 will be the first true test of this law. Opponents fear that the law will allow WSDOT to avoid National Environmental Policy Act (NEPA), Clean Air Act (CAA), Endangered Species Act (ESA) and other important environmental protection requirements.

Finally, the highway capacity expansion projects proposed under Referendum 51 would irreversibly damage the social fabric of several neighborhoods. The new freeway project, SR 395 and the I-90 interchange in Spokane would take 400 family homes in an historic neighborhood, while widening I-405 could require the condemnation of about \$1.4 billion worth of the adjacent 1,400 residential and commercial properties throughout the corridor.

Referendum 51’s opponents have put forward the Washington Mobility Strategy as an alternative to the ballot measure. Their proposed strategy would raise \$7.5 billion from a 6.5 percent sales tax on gas (which is not subject to the same constitutional prohibition against spending receipts on transit as the gasoline excise tax), a 30 percent increase in truck weight fees, a one percent surcharge on new and used vehicles, a 3 cent gas tax increase, and tolls. In contrast to Referendum 51, the Mobility Strategy would allocate 45 percent (or \$3.4 billion) of the funds raised to safety and maintenance, including \$600 million to address all of the state’s Top 10 “high-accident locations” as defined by the state Department of Transportation. The proposed Mobility Strategy identifies the highest priority road and public transportation projects and funds them to a level that ensures completion, whereas Referendum 51 provides just a down-payment on the projects it lists. Finally, the Mobility Strategy doubles R-51’s spending on transit, devoting a third of the money raised to transportation choices, in line with the recommendation of the governor’s Blue Ribbon Commission on Transportation.

What Provisions for Oversight and Accountability Have Been Established?

The legislation authorizing Referendum 51 also establishes a bi-partisan legislative transportation accountability committee composed of members of the Washington state legislature. This newly created body will assume all of the duties of the legislative transportation committee it replaces, and additionally, in conjunction with an independent transportation accountability board, will report to the public on how tax dollars are spent on the projects identified in the legislation. The committee must further submit an annual report to the governor on the progress WSDOT is making on each project. Finally, the committee is charged with making necessary policy recommenda-

tions (and in particular, innovative project delivery strategies), providing oversight, assuring accountability, and promoting efficiency measures.

A complementary transportation accountability board, composed of experts nominated by the governor and appointed by the legislative transportation accountability committee is also created by the legislation.

The same legislation mandates WSDOT to submit a comprehensive quarterly audit on each of the transportation projects identified under Referendum 51. This “transportation accountability audit” will include a project status update, fiscal assessment, and a detailed explanation for any significant deviation from either the estimated project cost or date of completion. The audit will also report on mitigation efforts to relieve both traffic and environmental impacts, workforce effectiveness, and the outlook for the upcoming year. After a period of review by the transportation accountability committee and the transportation accountability board, the report will be made available to the public.

Unfortunately, the proposal suffers from some critical omissions. The legislation fails to provide an opportunity for the general public to participate in the monitoring of WSDOT. The responsibility for ensuring that WSDOT spends the public’s money efficiently and effectively falls largely to the state legislature and the governor. And since Referendum 51 has been initiated by the legislature and the governor, those bodies have an interest in seeing that WSDOT receives a favorable review.

Furthermore, the transportation accountability audit does not establish objective, quantifiable performance measures by which projects and programs can be tested for their effectiveness. Referendum 51 was established under the premise of working to relieve congestion. However the authorizing legislation includes no provision for measuring improvements to traffic congestion.

Finally, because the oversight and accountability provisions established occur after project selection rather than before project selection, there is no opportunity for auditors to evaluate the proposed projects against a set of alternatives. As such, the audits will serve to ensure that the projects stay on-time and on-budget, but will not consider whether the projects are most effectively meeting the mobility needs of Washington residents.

How Do Proposed Projects Relate to Existing Plans and Processes?

There appears to be little relation of the projects proposed under Referendum 51 to existing plans or processes. In selecting the list of projects, the legislature failed to confer with existing regional transportation plans and priorities in the Puget Sound Regional Council’s Destination 2030 Plan (the four county long-range Puget Sound transportation plan). That plan was developed in an effort to comply with the requirements of ISTEPA and TEA-21 for the express purpose of providing a coordinated and comprehensive transportation system. The legislature also failed to heed WSDOT’s advice on project priorities. As a result, the project list bears no relation to existing priorities and needs. Indeed, critics charge that the project list appears to be politically motivated (a consistent problem with voter-approved measures in general), with the projects selected on the basis of their ability to garner legislative and voter approval of Referendum 51.

Is the Proposed Initiative at the Appropriate Level of Government?

A state-level financing mechanism has the potential to permit a more equitable and comprehensive distribution of funds. Unlike a local option transportation tax, which may only be spent in the region in which the funds were raised, a state-level tax or fee may be spent where the need is greatest. Of course, in order to be politically feasible, voters in the most populous areas of a state must perceive that they are getting their “fair share” of the revenues to be raised. Hence, Referendum 51 proposes to spend the largest portion of its proceeds on widening I-405, a suburban Seattle bypass. Similarly, with the funds earmarked for some 80 projects across the state, Referendum 51

provides something for just about every legislator.

On the other hand, Referendum 51 may bypass the metropolitan planning process promoted by the federal transportation laws ISTEA and TEA-21. The priorities established under Referendum 51 are not driven by the systematic and coordinated planning process created to ensure that the most regionally-appropriate transportation projects and programs will be selected. Rather, the list of projects is politically motivated, with every legislator given something to bring home to his or her constituents, regardless of how it might fit in the context of the current transportation system.