

The attached table is for discussion. It relates to the program by program analysis of transportation programs by the Department of Justice. It is a partial listing of the programs and statutes reviewed by DOJ. It contains only programs or specific statutes where there may be an issue identified by DOJ relating to the use of State Highway Funds.

The information in columns “Category,” “Financial Impact,” and “Possible Remedy” has been developed by Oregon Department of Transportation staff. “Category” places the program or statute in broad areas. “Financial Impact” estimates the expenditures or revenues associated with the program or statute. “Possible Remedy” is the transportation staff recommendation to resolve the issue identified by DOJ.

The information in the “Description” column is a summary of DOJ’s analysis of a program or statute. Each program analysis includes possible ways to resolve the issues identified. Please note that DOJ has not provided a comprehensive or definitive list of solutions for each program or statute.

Item # / Category	Description	Financial Impact	Possible Remedy
Item 1 DMV Fees	<b>ID cards</b> – ID cards do not primarily and directly facilitate motorized vehicle travel. The ID card program is not a permissible use of State Highway Fund (SHF) money. The ID card program must be supported by fees for ID cards (currently \$26) or a non-road related funding source.	Direct DMV program cost estimated to be \$5.7 million. The current fee raises \$4.9 million, leaving a gap of \$0.8 million.	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>Amend HB 2139, the DMV fee bill, to increase the fee for an ID card.</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>Monitor cost/revenue for ID card program to ensure that SHF are not used to support the program.</li> </ul>
Item 2 DMV Fees	<b>Vehicle Dealer</b> – Vehicle dealers act as agents of DMV, completing registration and title documents. DMV’s vehicle dealer program provides for civil sanctions, not related to suspension or revocation of dealer license. Dept. of Justice advises that SHF money cannot be used to enforce or collect civil penalties unless these penalties are in combination with suspension or revocation actions.	Direct DMV program cost estimated to be \$2.5 million based on DMV fee study data for 1997-99. Fees and penalty payments raise \$1.0, leaving a gap of \$1.5 million.	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>Support HB 2139, the DMV fee bill, to increase fees vehicle dealer services to fully support vehicle dealer program cost.</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>Monitor cost/revenue for vehicle dealer program to ensure that SHF are not used to support the program.</li> </ul>
Item 3 DMV Fees	<p><b>Snowmobile program</b> – 802.110(7) authorizes the use of snowmobile registration fees to finance the cost of enforcement and the cost of issuing operators permits, including safety education program. Enforcement is not a permissible use of SHF.</p> <p>Snowmobiles generally cannot use public</p>	<p>No impact - Snowmobile registration fees amount to \$181,000 during 2001-03, or 3% of snowmobile program funds.</p> <p>None of this money</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>Repeal wording in ORS 802.110(7)(b) that authorizes use of revenue from snowmobile registration fees for enforcement.</li> </ul> <p><b>Administrative:</b></p>

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	roads. SHF can finance the cost of issuing a snowmobile operators permit, including the safety education program. The use of SHF money could be further protected.	is used to pay for enforcement activities.	<ul style="list-style-type: none"> <li>• Monitor cost of snowmobile registration and licensing programs to ensure DMV cost is paid by fees.</li> </ul>
Item 4 Driver Regulation	<p><b>Financial Responsibility Determinations</b> – Cost of maintaining the database exclusively for enforcement activities is not a permissible use of SHF.</p> <p>Fix:</p> <ul style="list-style-type: none"> <li>□ Monitor the information in the database and take appropriate license suspension and vehicle registration cancellation actions.</li> </ul>		Administrative
Item 5 Driver Programs	<p><b>Student Driver Training Fund Student Driver Training / Traffic Safety Education Program</b></p> <p>Payment of a Student Driving Training Fund fee is required to obtain a drivers license. As such, the fee is an excise on the operation of a motor vehicle and revenue for the SHF.</p> <p>The Student Driving Training program is a tuition reimbursement program financed by the Fund. It is a permissible use of SHF money, provided that tuition reimbursements are not made for persons who are not eligible for a provisional drivers license at the time they complete the student driver training course.</p>	<p>Revenue from fee is \$6.3 million for 2001-03.</p> <p>DMV estimates that collections and transfer cost amounts to more than \$10,000.</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• No Change Required</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Amend OAR 737-015-0100, the Student Driver Training program, to reimburse schools for students who use certificates to obtain a provisional license.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Restructure Student Driver Training program to reimburse schools only for that portion of expense that relates to in-vehicle instruction.</li> </ul>

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Item 6 DMV Fees	<b>Commercial Driver Training Schools &amp; Instructors</b> – Certification of training schools and instructors is a business regulation program. It does not primarily and directly facilitate motorized vehicle travel. The program, including its administrative cost, is not a permissible use of SHF money.	Direct DMV program cost estimated to be \$69,000, based on DMV fee study data for 1997-99. Existing fees raise \$7,000, leaving a \$62,000 gap.	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>Support HB 2135 to allow DMV to waive knowledge test if the person passes a test approved by the department that is administered in conjunction with a certified drive school course. Certify only drive schools and instructors that use the department’s approved course curriculum.</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>Monitor cost/revenue for program to ensure that SHF are not used to support it.</li> </ul>
Item 7 General Government Programs	<b>Motor Vehicle Accident Fund</b> – Payment of a \$4.00 Motor Vehicle Accident Fund fee is required to obtain a drivers license. The Dept. of Justice concludes that the fee is an excise on the operation of a motor vehicle and revenue for the SHF, reversing its long-standing advice that this was a regulatory fee. The use of Motor Vehicle Accident Fund	Revenue is transferred to Adult and Family Services. ABIS shows \$9,900,260 transfer for 2001-03.  DMV estimates the	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>Repeal Motor Vehicle Accident Fund fee</li> <li>Find a non-road related revenue source in collaboration with Dept. of Human Services, Dept of Consumer and Business Services and</li> </ul>

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	money (payment of medical expense for indigent injured in traffic accidents) is not a permissible use of SHF.	cost of collection and transfer to be less than \$10,000	the health services community.  <b>Administrative</b> <ul style="list-style-type: none"> <li>• None needed</li> </ul>
Item 8 Driver Programs	<b>Safety Education Fund and Oregon Student Safety on the Move (OSSOM)</b> – Payment of a Safety Education Fund fee is required to obtain a drivers license. As such, the fee is an excise on the operation of a motor vehicle and revenue for the SHF. The use of Safety Education Fund money (financing for the OSSOM program – a safety education program) does not directly facilitate motorized vehicle travel.	Revenue transfer amounts to \$0.5 million for 2001-03.  DMV estimates that collections and transfer cost amounts to more than \$10,000.	<b>Statutory:</b> <ul style="list-style-type: none"> <li>• Support OSU/OSSOM effort to seek permissible funding for longer term.</li> </ul> <b>Administrative:</b> <ul style="list-style-type: none"> <li>• Terminate transfer of Safety Education Fund fee revenue to OSSOM.</li> <li>• Fund OSSOM for short-term (3 months) with federal safety money.</li> <li>• Make alternative use of fee revenue.</li> </ul>
Item 9 Driver Programs	<b>Motorcycle Safety Subaccount</b> – The Motorcycle Safety Fee is a regulatory fee paid by applicants for a motorcycle operators permit. The fee supports the motorcycle safety program. However, SHF money cannot be used to collect the fee.	Revenue from the fee amounts to \$2.1 million for 2001-03.  DMV estimates the cost of collection and transfer to be less than \$10,000.	<b>Statutory:</b> <ul style="list-style-type: none"> <li>• Support HB 2135 to allow DMV to waive the knowledge test when a person passes a test approved by the department and administered in conjunction with a motorcycle education course approved by the department.</li> </ul>

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			<p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Ensure that only money in the Motorcycle Safety Subaccount is used to support program cost, including program's administrative cost.</li> </ul>
Item 10 DMV Fees	<p><b>Title &amp; Registration of Manufactured Structures</b> – Some manufactured structures are mobile homes as that term was understood in 1979; some are not. Highway Funds can be used to finance collections cost to the extent that structures are, or were used as, mobile homes. Highway Funds cannot be used to finance collections cost if the structures are not, nor were ever, vehicles.</p>	Direct DMV program cost estimated to be \$0.6 million.	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>• Support HB 2139, the DMV fee bill, to create a new fee for manufactured structures to fully support program cost.</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>• Monitor cost/revenue to ensure that SHF are not used to the cost of titling manufactured structures.</li> <li>• Monitor cost to ensure that administrative costs are fully recovered from funds transferred to State Parks &amp; Rec.</li> </ul>
Item 11 Driver Programs	<p><b>Driver Improvement Program</b> – The Driver Improvement Program uses a mult-step, progressive discipline process. DMV issues advisory and warning letters before suspending driving privileges. Actions that do not restrict driving privileges do not primarily and directly facilitate motor vehicle travel.</p>	<p>Direct DMV program cost estimated to be \$266,000.</p> <p>Estimate does not include indirect and administrative costs.</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• No Change Required</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Revise administrative rule to: <ul style="list-style-type: none"> <li>➢ Eliminate step one (advisory letter).</li> <li>➢ Use warning letter to restrict driving privileges using graduated licensing restrictions for provisional license</li> </ul> </li> </ul>

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			<p>holders as a model or, alternatively, suspend driving privileges, stayed during the probationary period, where suspension goes into effect if the person continues to have accidents or convictions.</p> <ul style="list-style-type: none"> <li>➤ Convert “driver counseling” into a meeting with the person to gather information to determine if restrictions could be removed or should be increased or, alternatively, if other actions are necessary for person to retain driving privileges.</li> </ul>
Item 12 Driver Programs	<p><b>Provisional License Suspensions (Driver Improvement)</b> – Provisional drivers (under 18 years of age) also have a mult-step, progressive discipline process. DMV interviews provisional drivers and issues warning letters before suspending driving privileges. The Dept of Justice advises that actions, like warning or advisory letters, that do not suspend or restrict driving privileges do not primarily and directly facilitate motorized vehicle travel. Such actions are not eligible for support by the SHF.</p>	<p>Direct DMV program cost is estimated to be \$493,000.</p> <p>Estimate does not include indirect and administrative costs.</p>	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>• Support SB 298 to repeal ORS 809.405 and authorize department to set-up program by administrative rule.</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>• Revise the administrative rule as outlined for adult driver improvement program.</li> <li>• Apply more stringent criteria to drivers under 18 years of age.</li> </ul>
Item 13 DMV Fees	<p><b>Licensing and Regulation of Vehicle Wreckers</b> – This is a business regulation program. It does not primarily and directly facilitate motorized vehicle travel. The program is not a permissible use of SHF money.</p>	<p>Direct DMV program cost estimated to be \$286,000, based on DMV fee study data from 1997-99. Current fees raise \$33,000, leaving a \$253,000 gap.</p>	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>• Support HB 2139, the DMV fee bill, to increase licensing fees for vehicle wreckers to fully support program cost.</li> </ul> <p><b>Administrative</b></p>

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			<ul style="list-style-type: none"> <li>• Monitor cost/revenue for vehicle wrecker program to ensure that SHF are not used to support its cost.</li> </ul>
Item 14 Public Information	<p><b>Publication of the Motor Vehicle Code</b> – ORS 802.050 requires ODOT to publish and distribute the Oregon Motor Vehicle Code. Code books are distributed to schools and government officials who are not involved in the administration of highway programs, among others. The distribution of code books to those not involved in the administration of highways programs is not a permissible use of SHF money.</p>	<p>Direct DMV program cost estimated to be \$75,000.</p> <p>Estimate does not include indirect and administrative costs.</p>	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>• Seek authority to charge for distribution</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>• Charge for publication beyond those who assist with the administration of motor vehicle programs.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Seek General Fund appropriation to support distribution of Motor Vehicle Code to persons beyond those who assist with the administration of motor vehicle programs.</li> </ul>
Item 15 Driver Programs	<p><b>Accident Prevention Rules / Approval of Course Curriculum</b> – ORS 742.490 requires insurers to reduce insurance premiums to those people over 55 who have taken an approved accident prevention course. ORS 802.075 requires ODOT to review and approve</p>	<p>DMV program cost estimated to be less than \$10,000.</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• Amend ORS 802.075 to give DCBS oversight responsibility because DCBS regulates insurers and policy rates.</li> </ul>

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	the course curricula. This activity does not primarily and directly facilitate motorized vehicle travel. It should be funded by money other than SHF money.		<b>Administrative:</b> (alternative) <ul style="list-style-type: none"> <li>• Seek General Fund appropriation to finance this function.</li> </ul>
Item 16 General Government Programs	<b>Anatomical Donor Designation on Driver License and Identification Card</b> – Under ORS 807.110, a person may indicate that he or she is an anatomical donor on the drivers license. Drivers licenses and ID cards carry an indication that the person is a donor. The designation program does not primarily and directly facilitate motorized vehicle travel.	Direct DMV program cost for designation as “Donor” estimated to be \$17,000.  Estimate does not include indirect and administrative cost.	<b>Statutory:</b> <ul style="list-style-type: none"> <li>• No change required.</li> </ul> <b>Administrative:</b> <ul style="list-style-type: none"> <li>• Identify non-SHF source: the balance of gas tax revenue attributable to non-highway uses.</li> </ul>
Item 17 General Government Programs	<b>Designation of Emancipated Minor Status on Driver License or ID Card</b> – Under ORS 807.110, the status of a person as an emancipated minor must be indicated on a drivers license or ID card.  ODOT may use SHF money to indicate emancipated minor status on a driver license. However, the portion of the cost that relates to designation of ID cards does not primarily and directly facilitate motorized vehicle travel.	Direct DMV programs estimated to be less than \$10,000.  Estimate is uncertain due to very low volumes.	<b>Statutory:</b> <ul style="list-style-type: none"> <li>• No change required.</li> </ul> <b>Administrative:</b> <ul style="list-style-type: none"> <li>• Monitor transaction volume as relates to drivers license</li> <li>• Set ID card fee to recover ID program cost. See ID Cards – item #1.</li> </ul>

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Item 18 Driver Programs	<p><b>Habitual Offender Advisory Notice and Meeting</b> – DMV must revoke a person’s driving privileges if the person is convicted of three or more traffic crimes or twenty traffic offenses in five years. DMV offers a person who accumulates two traffic crime convictions or 19 traffic offenses within a five year period the opportunity to meet with a DMV representative. This offer is made by mail. The Dept of Justice advises that actions, like warning or advisory letters, that do not suspend or restrict driving privileges do not primarily and directly facilitate motorized vehicle travel. Such actions are not eligible for support by the SHF.</p>	<p>Direct DMV program cost estimated to be more than \$10,000.</p> <p>Estimate does not include indirect and administrative costs.</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>Amend ORS 809.610 to allow (not require) DMV to offer a meeting to gather information to determine if restrictions could be removed or should be increased or if other actions would be need to allow a person to retain driving privileges.</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>Use warning letter to restrict driving privileges using graduated licensing restrictions for provisional license holders as a model or, alternatively, suspend driving privileges, stayed during the probationary period, where suspension goes into effect if the person continues to have</li> </ul>

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			convictions.
Item 19 Driver Programs	<p><b>Commercial Driver License Warning Letter</b> – DMV must revoke a person’s commercial driving license if the person is convicted of two or more serious traffic violations within a three year period. As a courtesy, DMV sends a person has been convicted of one serious violation a letter to advise the person that subsequent convictions will result in a suspension of the commercial license. DOJ advises that actions, like warning or advisory letters, that do not suspend or restrict driving privileges do not primarily and directly facilitate motorized vehicle travel. Such actions are not eligible for support by the SHF.</p>	<p>Direct DMV program cost estimated to be more than \$10,000.</p> <p>Estimate does not include indirect and administrative costs.</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• No change needed.</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Discontinue warning letters</li> </ul>
Item 20 Motor Carrier Fees	<p><b>International Fuel Tax Agreement (IFTA)</b> – Oregon collects fees from Oregon-based interstate carriers for distribution to other states under the IFTA program. The carriers pay a \$150 annual fee to defray program cost. The IFTA program exists for the convenience of the Oregon-based interstate carriers. It does not primarily and directly facilitate motorized travel in Oregon because it does not address carriers’ ability to use Oregon highways.</p>	<p>IFTA program costs about \$1.4 million annually. It requires about 13.5 FTE.</p> <p>About 3,425 Oregon based carriers participated in the program in 1999.</p>	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>• Amend ORS 825.555 to delete the \$150 annual fee and to require the fee to be set by administrative rule to recover IFTA program cost.</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>• Adopt administrative rule that sets the IFTA fee. A fee of about \$400 annually for all carriers would recover program cost. The fee could also be structured by fleet size.</li> </ul>
Item 21 Motor	<p><b>Motor Carrier Safety</b> – Highway Funds can be used to finance portions of the motor carrier safety program.</p>		<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>• Amend ORS 825.137 to remove the word</li> </ul>

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Carrier	<p>Radioactive Material Inspections and Physical Waivers (Drivers) aspects of the safety program are determined to primarily and directly facilitate motorized vehicle travel. Other portions of the program (Post Accident Investigation, On-Road Inspection, Compliance Reviews (Terminal Audits, and Hazardous Materials – Special Inspections / Audits Of Carriers)) should be revised to ensure a direct relationship to authority to use the road, even on a first violation.</p> <p>Other portions of the program (New Carrier Education Class, the safety hotline, and Hazardous Material Shippers audits) do not directly facilitate motorized vehicle travel.</p>		<p>“repeatedly,” allowing suspension or cancellation of operating authority on a first offense.</p> <ul style="list-style-type: none"> <li>• Amend ORS 823.061 and 823.063 to transfer oversight authority for hazmat shippers to the Oregon State Fire Marshal’s Office. This also affects hazardous materials shipped by rail.</li> <li>• Support HB 2238 that repeals New Carrier Education requirement (ORS 825.400 to 825.404).</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>• Revise administrative rules (assuming passage of statutory revision) to reflect that authority may be suspended on first violation.</li> <li>• Fund safety hotline with federal MCSAP money, offer the hotline telephone number to the trucking industry, or discontinue the hotline.</li> <li>• Monitor cost of external requests for research and analysis program to ensure that public records fees (OAR 731-001-0025) recover cost.</li> </ul>
Item 22	<b>Motor Carrier Enforcement / Civil Complaints</b> – Reviews of paper work		<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>• Amend ORS 825.137 to</li> </ul>

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Motor Carrier	may lead to fines and penalties for first time offenders, but do not directly relate to the right to use the road.		<p>remove the word “repeatedly,” allowing suspension or cancellation of operating authority on a first offense.</p> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>• Revise administrative rules (assuming passage of statutory revision) to reflect that authority may be suspended on first violation.</li> </ul>
Item 23 Motor Carrier	<b>Motor Carrier Economic Regulation</b> – Oregon retains economic regulation of households goods and intercity passenger carriers. The aspects of the program concerning market entry relate to a carrier’s ability to operate in Oregon and are allowable SHF expenses. Those aspects that relate to consumer protection and civil penalties for first time violation do not primarily and directly facilitate motorized travel.	MCTD estimates that about 1.6 FTE spread across 6 positions are devoted to economic regulation.	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>• Amend ORS 825.137 to remove the word “repeatedly,” allowing suspension or cancellation of operating authority on a first offense.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Complete process of economic deregulation of commercial carriers. Repeal ORS 825.110 to 825.117 and other statutes related to economic regulation. Amend additional statutes to conform.</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>• No change required.</li> </ul>
Item 24 Motor Carrier	<b>Oregon Motorist Information Act – Sign Permits</b> – ORS 377.700 to 377.830 implements the federal mandate to regulate advertising signs that are visible from highways.		<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• Amend ORS 377.729 to authorize setting permit fees for outdoor advertising signs by administrative rule.</li> </ul>

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	<p>The regulation of signs that located within highway rights-of-way is a permissible use of SHF money. However, the regulation of signs outside the right-of-way is not a permissible use. It does not primarily and directly facilitate motorized travel.</p>		<ul style="list-style-type: none"> <li>Amend ORS 377.730 to authorize setting permit fees for outdoor advertising companies by administrative rule.</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>Modify outdoor advertising permit fees to recover cost of the program.</li> </ul>
<p>Item 25 Highway</p>	<p><b>Intergovernmental Highway Cooperation (Federal Funds)</b> – ORS 366.705 to 366.775 authorizes ODOT to receive and disburse federal funds. ORS 366.705 states that the state of Oregon “... accepts the provisions and benefits of any Act of Congress having for its purpose the construction, improvement, or maintenance of public roads or highways....”</p> <p>Federal funds can be used to finance activities that are themselves eligible uses of SHF moneys.</p> <p>Federal funds may also finance projects or activities that are not themselves eligible uses of SHF moneys. ODOT may accept these funds, if the department ensures that activities that are not eligible for SHF moneys are financed from non-dedicated sources.</p> <p>In addition, Oregon must meet certain federal requirements in order to qualify for receipt of federal funds. DOJ finds that activities (e.g., sign, junkyard, or scenic area regulation) needed to meet some federal requirements may not be</p>	<p>Loss of up to 10 percent of certain federal fund categories (\$41 million in federal funds per biennium).</p> <p>ODOT has procedures in place to ensure that no SHF money is used as federal-aid match when the project would not be an eligible use of SHF money.</p>	<p><b>See specific issues:</b></p> <ul style="list-style-type: none"> <li>Oregon Motorist Information Act – item #24</li> <li>Junkyards – item #26</li> <li>Scenic Areas – item #27</li> <li>Removal of Advertising Structures and Unlawful Signs – item #28</li> </ul>

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	eligible uses of SHF money.		
Item 26 Highway Regulation	<p><b>Junkyards</b> – ORS 377.605 to 377.645 prohibits junkyards located within 1,000 feet of a highway. Statutes respond to federal mandate in 23 USC 136.</p> <p>Regulation of junkyards does not primarily and directly facilitate motorized vehicle travel. The cost associated with this regulation is not a permissible use of SHF.</p>	<p>No Impact – No work has been done in recent years to deal with junkyards.</p> <p>State could be subject to a penalty amounting to \$41 million per biennium ... 10% of certain federal-aid categories.</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• No change required</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Identify a non-SHF funding source, possibly fees paid by junkyard and/or sign owners, to meet any cost to may arise in the future.</li> </ul>
Item 27 Highway Regulation	<p><b>Scenic Areas (Junkyards and Signs)</b> – ORS 377.505 to 377.545 prohibit signs and junkyards visible from public highways in scenic areas. ODOT may use SHF money to manage property within highway rights-of-way.</p> <p>Regulatory activities to preserve aesthetic values, including permitting processes, that affect property outside the highway right-of-way do not primarily and directly facilitate motorized vehicle travel. It is not a permissible use of SHF.</p>	<p>About \$50,000 per biennium.</p> <p>State could be subject to a penalty amounting to \$41 million per biennium ... 10% of certain federal-aid categories.</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• Repeal ORS 377.545 requiring the cost of administration to be paid from SHF.</li> <li>• Amend ORS 377.729 to authorize setting permit fees for outdoor advertising signs by administrative rule.</li> <li>• Amend ORS 377.730 to authorize setting permit fees for outdoor advertising companies by administrative rule.</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Modify outdoor advertising permit fees (OAR 734-060-0025) to recover cost of the program.</li> </ul>
Item 28	<b>Removal of Advertising Structures and Unlawful Signs</b> – ORS 366.455	About \$300,000 per biennium.	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• Amend ORS 366.455 to</li> </ul>

Item # / Category	Description	Financial Impact	Possible Remedy
High way Regulation	<p>authorizes the department to remove any unlawfully placed advertising sign or structure from highway rights-of-way or adjoining private property.</p> <p>Removal of signs located outside the right-of-way would be a permissible use of SHF when removal is motivated by considerations (i.e., visual obstruction) affecting motorized vehicle travel.</p> <p>Removal of advertising signs, etc. located <u>outside</u> the highway right-of-way to preserve aesthetic values does not primarily and directly facilitate motorized vehicle travel. The activities are not a permissible use of SHF.</p>	<p>State could be subject to a penalty amounting to \$41 million per biennium ... 10% of certain federal-aid categories.</p>	<p>remove language concerning signs on private property adjoining state right-of-way.</p> <ul style="list-style-type: none"> <li>• Amend ORS 377.729 to authorize setting permit fees for outdoor advertising signs by administrative rule.</li> <li>• Amend ORS 377.730 to authorize setting permit fees for outdoor advertising companies by administrative rule.</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Modify outdoor advertising permit fees to recover cost of the program.</li> </ul> <p>See Oregon Motorist Information Act – item #23</p>
Item 29 High way	<p><b>Historic and Scenic Highways</b> – Scenic or historic preservation of highways or rights-of-way under ORS 377.100 to 377.105 is a permissible use of SHF money.</p> <p>Scenic or historic preservation activities not directly related to highways or highway rights-of-way do not primarily and directly facilitate motorized vehicle travel. These activities are not a</p>	<p>No impact</p>	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>• No change required.</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>• No change required –</li> </ul> <p>ORS 377.100 to 377.105 require ODOT to study and take into account historic, scenic, and cultural values of the highway system. The</p>

Item # / Category	Description	Financial Impact	Possible Remedy
	permissible use of SHF money.		<p>activities authorized by ORS 377.100 to 377.105 relate to highways, highway structures, and features of the system.</p> <p>ODOT is not conducting scenic or preservation activities under these statutes outside the highway rights-of-way.</p>
Item 30 High way	<p><b>Historic Columbia River Highway</b> – Maintenance of a segment of historic highway <u>that is not open to traffic</u>, trails, footpaths, visitor center, etc. and Advisory Committee activities that relation to those items are not a permissible use of SHF and appear to be funded with non-dedicated moneys. Scenic or historic preservation of highways or rights-of-way is permissible.</p>	<p>Small but undetermined impact.</p> <p>While non-highway related projects are funded with non-SHF money, staff participate in committee and related meetings and in the overall program</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• No change required.</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Adopt policy that staff not participate in meetings or other activities that do not have a clear relationship to the highway.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Identify non-SHF funding source.</li> </ul>
Item 31 High way	<p><b>Scenic Byway Program</b> – Designation of scenic routes and placement of tour signs does not primarily and directly facilitate motorized vehicle travel. These activities are not permissible uses of SHF. Highway improvements, directional signs, and maintenance of the highways or rights-of-way are permissible uses.</p>	<p>No Impact – Program developed following DOJ advice. ODOT, State Parks &amp; Rec Dept., and State Tourism manage Scenic Byway Program.</p> <p>Non-dedicated sources provide</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• No change required</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Continue shared management of Scenic Byway program under OAR 734-032-000.</li> </ul>

Item # / Category	Description	Financial Impact	Possible Remedy
		<p>matching grant funds for non-road projects.</p> <p>ODOT manages projects that are road related; other agencies manage projects that are not road related. ODOT management expense amounts to \$344,000 per biennium.</p>	
Item 32 Parks Access	<p><b>Construction of Trails and Bridle Paths to the Pacific Shore</b> – ORS 376.605 authorizes ODOT to construct trails and bridle paths connecting streets, roads and public parks with the Pacific Ocean. This program does not primarily and directly facilitate motorized vehicle travel. It is not a permissible use of SHF moneys.</p>	No Impact – ODOT does not have a program as authorized by this statute.	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>Amend ORS 376.605 to transfer this responsibility to Department of Parks and Recreation or Division of State Lands.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>Repeal ORS 376.605.</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>No change required.</li> </ul>
Item 33 Parks Access	<p><b>Footpaths and Bike Trails</b> – ORS 366.514 requires that at least one percent of State Highway Funds be used for footpaths and bicycle trails along side highways, roads and streets. AG opinions restrict permissible use to paths, sidewalks, and trails within the right-of-way.</p> <p>ORS 366.514 allows expenditure for footpaths and trails in parks and recreation areas. If located outside a right-of-way, such paths and trails do not</p>	No Impact – ODOT, counties, and cities follow the AG interpretation.	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>Amend ORS 366.514 to delete reference to “parks and recreation areas” and insert reference to “roadside rest areas” for clarity.</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>No change required.</li> </ul>

Item # / Category	Description	Financial Impact	Possible Remedy
	primarily and directly facilitate motorized vehicle travel and are not a permissible use of SHF moneys.		
Item 34 Highway	<b>Acquisition of Land Adjoining Right-of-Way</b> – ODOT is authorized by ORS 366.330 to purchase land adjacent to land that is itself purchased to become highway right-of-way. This provision allows ODOT to move structures when doing so speeds up the right-of-way acquisition process. ORS 366.330 does not state either the rationale behind the provision or any criteria governing when it should be used.	No Impact –	<b>Statutory:</b> <ul style="list-style-type: none"> <li>• No change required. DOJ suggests statutory criteria governing this provision.</li> </ul> <b>Administrative:</b> <ul style="list-style-type: none"> <li>• No change required.</li> </ul>
Item 35 Highway Permits	<b>Destruction or Removal of Trees on State Highways</b> – A person must apply for and obtain a permit under ORS 377.030 to 377.050 to remove a tree located on highway right of way. This provision benefits adjacent property owners. It does not primarily and directly facilitate motorized vehicle travel. It is not a permissible use of SHF moneys.  The department may remove trees on the right-of-way as part of maintenance or for safety reasons.	\$100 per year – ODOT issues about a half dozen such permits each year.	<b>Statutory:</b> <ul style="list-style-type: none"> <li>• Amend ORS 377.030 to authorize a fee for these permits.</li> </ul> <b>Administrative:</b> <ul style="list-style-type: none"> <li>• Identify non-SHF source: the balance of gas tax revenue attributable to non-highway uses.</li> </ul>
Item	<b>Furnishing of Information to Gas</b>	Less than \$5,000	<b>Statutory:</b>

Item # / Category	Description	Financial Impact	Possible Remedy
36 Public Information	<p><b>Stations</b> – ORS 646.932 requires ODOT to provide information to gas stations about the federal, state, and local tax rates per gallon.</p> <p>This provision does not primarily and directly facilitate motorized vehicle travel. It is not a permissible use of SHF moneys.</p>	<p>per biennium.</p> <p>ODOT makes flyers available to Dept. of Agriculture which mails to station owners / operators. ODOT also maintains information on its website.</p> <p>There are about 2,300 stations owned by 1,700 persons.</p>	<ul style="list-style-type: none"> <li>• No Change Required</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Maintain data on fuel tax rates on ODOT website and in <i>Key Facts</i> publication as information available to the public.</li> <li>• Identify non-SHF source: the balance of gas tax revenue attributable to non-highway uses.</li> </ul>
Item 37 Highway Permits	<p><b>Relocation of Utilities &amp; Miscellaneous Facilities and Operations</b> – ORS 758.010 allows utilities to place their facilities along public roads and across state-owned lands free of charge. ODOT reviews permit applications and inspects installations when utilities come onto the right-of-way to work. When facilities must be moved as part of a project, the utilities pay the cost of relocation.</p> <p>ODOT's permitting and inspection process itself does not primarily and directly facilitate motorized vehicle travel. It is not a permissible use of SHF moneys.</p>	<p>About \$6 million per biennium.</p> <p>Estimate includes most District Permit Specialist time, about 2/3 of Region Utility Specialists, and about \$500,000 for design activities related to the location of utilities.</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>• Amend ORS 758.010 to allow road authorities to recover the cost of administering, coordinating and designing for utilities located on highway, road and street rights-of-way.</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Amend OARs to set permit fee pursuant to the revised statute.</li> </ul>

Item # / Category	Description	Financial Impact	Possible Remedy
Item 38 Hwy – Fees	<p><b>Special Event Permits</b> – ORS 810.020, 810.030, and 810.090 allow road authorities to regulate uses of highways, roads and streets. ODOT requires special event organizers to apply for and obtain a permit when their event (e.g., a parade or bicycle race) uses the highway. The organizers pay the cost of any traffic control related to their events because the events usually do not relate motorized vehicle travel.</p> <p>The permit process does not primarily and directly facilitate motorized vehicle travel. It is not a permissible use of SHF moneys.</p>	\$7,500 – ODOT issues about 75 parade permits each year.	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>Seek statutory authority to establish fees for miscellaneous services related to highways and highway rights-of-way.</li> </ul> <p><b>Administrative</b></p> <ul style="list-style-type: none"> <li>Identify non-SHF source: the balance of gas tax revenue attributable to non-highway uses.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>Adopt administrative rule to recover cost.</li> </ul>
Item 39 High way Permits	<p><b>Permits to Use ODOT Property</b> – ODOT is authorized to permit use of state-owned property that would not otherwise be leased. OAR 734-050-0105 contains a schedule of permit fees for the use of such property.</p> <p>The permitting process does not primarily and directly facilitate motorized vehicle travel. It must be self-supporting.</p>	No Impact – Current fees likely recover the cost of issuing and administering permits.	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>No change required</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>Monitor cost of providing this service and adjust OAR 734-050-0105 accordingly.</li> </ul>
Item 40 High way	<b>Transportation and Land Use</b> – The Transportation Growth Management (TGM) program addresses transportation issues that arise under the statewide	No Impact – ODOT limits its participation in the livability initiative	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>No change required.</li> </ul> <p><b>Administrative:</b></p>

Item # / Category	Description	Financial Impact	Possible Remedy
	<p>planning process. TGM planning activities are appropriate uses of SHF because they relate sufficiently to road construction, maintenance, etc. To the extent that the livability initiative's objectives also relate to road construction, maintenance, etc., they too are appropriate uses of SHF. However, the livability initiative may be too general to qualify for SHF moneys.</p>	<p>to road related issues.</p>	<ul style="list-style-type: none"> <li>• No change required.</li> </ul>
<p>Item 41 Highway</p>	<p><b>Project Development Review</b> – The development beyond the highway right-of-way boundaries can affect the operation of the road. So reviews are appropriately financed with SHF money. However, the more removed a development is from the highway, the less the development may affect the highway.</p>	<p>No Impact</p>	<p><b>Statutory:</b> No change required.</p> <p><b>Administrative:</b> No change required.</p>
<p>Item 42 Highway</p>	<p><b>State Research Program</b> – Research that relates to the highway program is an appropriate use of SHF moneys. While the research program is not now studying unrelated areas, it could conduct studies in areas not related to the highway program.</p>	<p>No Impact – Non-dedicated sources provide funding for non-road related research projects. In addition, research staff directly charges projects.</p> <p>T2 occasionally offers general public works courses.</p>	<p><b>Statutory:</b> No change required.</p> <p><b>Administrative:</b> No change required.</p>
<p>Item 43 Highway</p>	<p><b>Highway Design Elements</b> – Road construction includes installation of additional features such as lighting, signage, sound walls, guardrails, etc.</p>	<p>Cannot determine impact.</p> <p>Most work is done</p>	<p><b>Statutory</b></p> <ul style="list-style-type: none"> <li>• No change required.</li> </ul> <p><b>Administrative</b></p>

Item # / Category	Description	Financial Impact	Possible Remedy
	Street furniture (benches or transit shelters) that are not either a functional part of highway construction or required as a condition of highway construction must not be funded with SHF moneys.	due to a requirement made by, or agreement with, local government as part of project development.	<ul style="list-style-type: none"> <li>Develop policy to prohibit impermissible design elements unless required by law or by a local rule as a condition of a construction permit.</li> </ul> OR <ul style="list-style-type: none"> <li>Identify alternative funding sources.</li> </ul>
Item 44 High way	<b>Federal Enhancement Program</b> – The Transportation Enhancement Program is a federal set-aside. About two-thirds of the types of projects eligible for enhancement funding are road-related; about one-third are not. SHF money is used to match road-related projects, but does not provide matching funds for projects that are not road-related. In addition, a proportionate amount of SHF money may be used to fund the administrative cost of the enhancement program. The balance of the administrative cost relating to non-road related projects much be funded with non-dedicated money.	Administration of the non-highway related portion of the Enhancement Program is estimated to be about \$40,000.	<b>Statutory</b> <ul style="list-style-type: none"> <li>No change required.</li> </ul> <b>Administrative</b> <ul style="list-style-type: none"> <li>Ensure that match for non-highway enhancement projects is provided by sources other than the SHF.</li> <li>Seek authority to use federal enhancement program funds or some source other than SHF to administer non-highway portion of the program.</li> </ul>
Item 45 Non-High way Programs	<b>Rail Division</b> – Portions of the rail crossing program and rail safety program are financed with SHF money. The “Operation Life Saver” component of the crossing program addresses pedestrian safety in addition to motor vehicle safety. In addition, the department seeks fines and civil penalties when a railroad blocks a crossing for an excessive period of time.		<b>Statutory</b> <ul style="list-style-type: none"> <li>No change required.</li> </ul> <b>Administrative</b> <ul style="list-style-type: none"> <li>Monitor rail crossing safety program to ensure that only the SHF eligible portion of the rail crossing safety program are finance with SHF money.</li> </ul>
Item 46 Non-	<b>Transit Division</b> – The transportation demand management program is financed with SHF matching funds. The		<b>Statutory:</b> <ul style="list-style-type: none"> <li>No change required</li> </ul>

Item # / Category	Description	Financial Impact	Possible Remedy
Highway Programs	<p>TDM program coordinates the siting and construction of park and ride lots. In addition, the TDM program develops rideshare (carpool and vanpool), telecommuting, and other alternatives to single occupancy autos. The portions of the TDM program that do not relate directly to the highway itself (rideshare, telecommuting and alternative transportation) do not primarily and directly facilitate motorized vehicle travel. SHF money may contribute matching funds in proportion to the activities that relate to the highway; the balance of the matching funds must come from non-dedicated sources.</p>		<p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>Request or revise transit division budget to ensure that non-SHF are identified as match for portions of the TDM program that are not eligible for SHF.</li> </ul>
Item 47 Highway	<p><b>Disadvantaged Business Enterprise Program</b> – The State must have a disadvantaged business enterprise program (DBE) as a condition of receipt of funds from USDOT. One component of the DBE program is the certification of minority and women owned business. The state’s Emerging Small Business program performs this function for ODOT and other state and local agencies. However, the certification program includes many firms that do not engage in highway construction activities or perform functions that do not support an eligible use of SHF.</p> <p>The portion of the Emerging Small Business program that certifies firms not involved in SHF activities is not an eligible use of SHF moneys.</p>	<p>About \$600,000 per biennium.</p> <p>ODOT’s cost would drop from \$1.2 million to about \$600,000.</p>	<p><b>Statutory:</b></p> <ul style="list-style-type: none"> <li>Introduce bill to require other agencies to pay proportional cost of DBE certification program.</li> </ul> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>No change required.</li> </ul>

Item # / Category	Description	Financial Impact	Possible Remedy
Item 48 Safety	<p><b>Transportation Safety Division Administrative Expenses –</b>  Transportation Safety Division (TSD) organizes, plans, coordinates, conducts and promotes various safety programs around the state. Major components of the safety program (Safety Education Fund, Oregon Student Safety on the Move, and Accident Prevent Rules) do not primarily and directly facilitate motorized vehicle travel. SHF money may be used to finance TSD's administrative expense only in proportion to the amount of highway related safety programs it handles. The balance of the administrative expense must be financed from non-dedicated sources.</p>	<p>TSD Administration is \$3.6 million for 2001-03.</p> <p>About 16.5% or \$525,000 is from money transferred from DMV.</p>	<p><b>Statutory:</b>  No Change Required</p> <p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>• Evaluate TSD program to determine the proportion of its administration that may be funded using SHF money.</li> <li>• Seek appropriation of non-dedicated funds for portion of administrative cost not financed by SHF or federal money.</li> </ul>

Issue Requiring Further Discussion / Stakeholder Involvement

- ❖ Motor Vehicle Accident Fund
- ❖ Footpaths and Bike Trails
- ❖ Oregon Student Safety On the Move
- ❖ International Fuel Tax Agreement
- ❖ New Carrier Education
- ❖ Motor Carrier Safety
- ❖ Economic Deregulation
- ❖ Relocation of Utilities
- ❖ Disadvantage Business Enterprise
- ❖ HAZMAT Shippers

Issues that can be addressed within existing ODOT bills

- ❖ DMV Fee Bill – HB 2139
  - ID Card / Designation of Emancipated Minor on ID Card – amendment needed
  - Vehicle Dealers
  - Title / Registration of Manufactured Structures
  - Licensing and Regulation of Auto Wreckers
  
- ❖ Drivers Licensing – HB 2135
  - Commercial Drivers Training Schools
  - Motorcycle Safety Subaccount
  
- ❖ Provisional Drivers Licensing – SB 298
  - Provisional License Suspension
  
- ❖ Weight-Mile Tax Simplification – HB 2238
  - New Carrier Education

## Issues that require new bills

- ❖ Snowmobile Program – ORS 802.110(7)(b)
- ❖ Motor Vehicle Accident Fund
- ❖ Safety Education Fund (OSSOM)
- ❖ Publication of the Motor Vehicle Code – ORS 802.050
- ❖ Accident Prevention Courses – ORS 802.075
- ❖ Habitual Offender Program – ORS 809.610
- ❖ IFTA Fee – ORS 825.555
  
- ❖ Motor Carrier Safety – ORS 825.137
- ❖ Motor Carrier Enforcement - ditto
- ❖ Economic Regulation – ditto
  
- ❖ HAZMAT Shippers – ORS 823.061
  
- ❖ Oregon Motorist Information Act – Generally ORS 377.729 – 377.730, fees
- ❖ Junkyards
- ❖ Scenic Areas (Junkyards / Signs) – specific issue, ORS 377.545
- ❖ Removal of Advertising Structures – specific issue, ORS 366.455
  
- ❖ Trails and Bridle Paths – ORS 376.605
- ❖ Footpaths & Bike Trails – ORS 366.514, tho we may be able to write admin interpretation
- ❖ Relocation of Utilities – ORS 758.010
- ❖ Disadvantaged Business Enterprise

- ❖ Issues that may be resolved by identifying non-highway gas tax revenue / unclaimed refunds of gas tax
  - Anatomical Donor Designation
  - Special Event Permits
  - Furnishing Info to Gas Stations
  - Removal/Destruction of Trees – ORS 377.030
  
- ❖ Issue that may be resolved by using federal funds:
  - Transportation Enhancement Program Administration

Additional rate analysis by Financial Services Branch needed:

- ❖ To set IFTA fee – current estimate is \$400
- ❖ To set fee to recover cost of consumer protection portion of economic regulation
  
- ❖ To review current fees for Oregon Motorist Information Act – ORS 377.729 & 377.730
- ❖ To review fees for the use of ODOT property – administrative rule

Additional revenue analysis by Financial Service Branch is needed to determine the amount of gas tax revenue that is attributable to non-highway uses other than airplanes (transferred to Aero), ATV (transferred to ATV fund), Snowmobiles (transferred to Snowmobile fund) and boats (transferred to State Marine Board).