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# Citizens’ Guide to Initiative 985

*The Reduce Traffic Congestion Act of 2008*

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## 1. Introduction

On the ballot this November will be Initiative 985 (I-985), the Reduce Traffic Congestion Act of 2008. The measure is sponsored by Tim Eyman and is an effort to implement some of the recommendations made in a recent performance audit conducted by the Washington State Auditor's Office (SAO).

The SAO audit made dozens of transportation related recommendations to the Washington State Department of Transportation (WSDOT) and to the legislature.

While WSDOT has been responsive in implementing most of the Auditor's technical and administrative recommendations, the legislature has largely ignored the policy issues.<sup>1</sup> For example, the audit found that traffic congestion relief is not an official priority in Washington State. During the 2008 legislative session, two bills were proposed that would have elevated congestion relief in the list of state priorities, but neither received a hearing.

In its own way, I-985 expands on some of the SAO audit recommendations, provides funding for transportation infrastructure, and asks the voting public if this is the formula it wants to make traffic relief a priority.

### Key Findings

- I-985 would not raise taxes and would generate about \$1.7 billion for transportation infrastructure every ten years.
- I-985 would increase the projected statewide budget deficit by about \$290 million during the next two year budget cycle and about \$284 million in the 2011-13 biennium.
- I-985 would reduce the state's reliance on the fuel tax for transportation infrastructure.
- I-985 would shift the state's current policy back toward one that ties public spending to traffic congestion relief.
- I-985 would open HOV lanes during non-peak hours, which would reduce overall delay, because more drivers would be able to pass through the system. It may also increase congestion on sensitive direct access lanes and ramps.
- Opening HOV lanes during non-peak hours would also increase travel times for buses and cost transit agencies higher fuel and labor expenses and the loss of up to \$20 million in federal grant money.
- I-985 would expand the emergency roadside assistance program and could reduce minor accident clearance times by nearly 10 percent.
- I-985 would synchronize most traffic signals and reduce travel times up to 20 percent on major arterials and up to 7 percent overall.
- I-985 would protect toll revenues in the same way the Washington State Constitution protects gas tax revenues.

<sup>1</sup> Status Report: Implementation of State Auditor I-900 Recommendations to the Legislature, Joint Legislative Audit and Review Committee (JLARC), June 2008. Report available online at: <http://www.leg.wa.gov/reports/SAO/2008%20Report%20Legislative%20Implementation%20of%20SAO%20Audit%20Recommendations.pdf>.

## 2. Program Changes at a Glance

Initiative 985 would make substantive changes in several state programs, including the High Occupancy Vehicle (HOV) system, traffic light synchronization, emergency roadside assistance, half percent for public art program and tolling. Initiative 985 would also create and fund a Reduce Traffic Congestion Account, which would then be used to pay for projects that reduce traffic congestion. This account and its funding sources are explained in further detail later in this report.

### I. Opens carpool lanes during non-peak times

In one of the more controversial provisions, Initiative 985 would require that all car pool lanes across the state be opened to all traffic during non-peak hours. This means car pool lanes would only be restricted for six hours per weekday, Monday through Friday, 6:00 a.m. to 9:00 a.m. and 3:00 p.m. to 6:00 p.m. They would remain open on weekends, from 6:00 p.m. Friday evening to 6:00 a.m. Monday morning.

The initiative would also change how High Occupancy Toll (HOT) lanes are used. Currently, under the HOT lane pilot project on Highway 167, tolls are charged twenty-four hours a day. Initiative 985 would restrict tolling to only during peak hours, Monday through Friday 6:00 a.m. to 9:00 a.m. and 3:00 p.m. to 6:00 p.m. Outside the peak hours, the HOT lane would be open to all drivers.

### Analysis

With its initial fiscal note, The Office of Financial Management (OFM) estimated that the cost to open carpool lanes during non-peak hours would be about \$239 million over the next five years.<sup>2</sup> But some of the OFM's analysis overestimated these costs.

The OFM claimed that local transit agencies would incur costs (about \$15 million over five years) due to the loss of what amounts to a dedicated transit lane on the freeway system.<sup>3</sup> While the effect on the transit agencies is probably correct, the OFM fiscal analysis went on to assume these costs would be covered from the new Reduce Traffic Congestion Account, which would be created and funded by Initiative 985.

Initiative 985 would cover costs related to the physical act of opening HOV lanes during nonpeak hours.

But the cost to transit agencies or any other group or individual is incidental and not associated with the physical action of opening the HOV lanes. If you accepted the OFM logic, then the state would have to compensate every consumer of the HOV system. There is no language within the initiative that says it would cover secondary impacts.

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<sup>2</sup> Fiscal Analysis for Initiative 985, Office of Financial Management, July 31, 2008.

<sup>3</sup> Ibid.

The OFM did revise their fiscal note, which continues to highlight the costs but removes the assumption that transit agencies would be reimbursed through the Reduce Traffic Congestion Account.<sup>4</sup> The updated five year cost to open the carpool lanes is now \$224 million.<sup>5</sup>

The OFM also claims that transit agencies would lose about \$20 million over five years in federal funds if carpool lanes are opened during non-peak periods.<sup>6</sup> The local division of the Federal Transit Administration confirms that they award federal funds to transit agencies based on the amount of vehicle miles driven on fixed guideways, including HOV lanes.<sup>7</sup> If carpool lanes are opened during non-peak hours, then the amount of FTA funds awarded would fall. There is no language within the initiative however, that says these secondary costs would be reimbursed by the Reduce Traffic Congestion Account. So the financial loss would have to be absorbed by each transit agency.

Most of the OFM's estimates for opening carpool lanes are short-term or one-time expenses. They include signage and changes to variable speed limit and lane use control systems. These costs would be paid from the Reduce Traffic Congestion Account.

Opening the HOV lanes during non-peak hours would have both positive and negative impacts on traffic.

The initiative does not differentiate between the different types of HOV lanes within a transportation system. Direct access lanes that allow carpool and transit vehicles quick right of way to transit stations and Park and Ride lots are usually narrower and very sensitive to traffic volumes. Turning them into general purpose lanes would likely increase congestion on those corridors and lower the incentives for drivers to carpool or take transit.

Opening HOV lanes does increase road capacity for drivers of single occupant vehicles (SOV), which opponents say would just fill up again during an extended peak period or a traffic incident. While this may occur in some cases, the vehicle throughput would still increase because of the additional capacity. This effect would reduce overall delay because more drivers are able to pass through the system.

## **II. Expands traffic light synchronization**

Initiative 985 would require the state and all cities and counties to synchronize the traffic lights within their jurisdictions on all "routes of regional and local significance and major and secondary arterials." The synchronization would have to be made in order to optimize

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<sup>4</sup> Revised Fiscal Analysis for Initiative 985, Office of Financial Management, August 13, 2008.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> More to HOV options than opening lanes; signs, publicity could cost \$2 million, *Seattle Times*, May 2002. Article available online at: <http://community.seattletimes.nwsourc.com/archive/?date=20020525&slug=hov24m>.

traffic flow. The initiative would also provide full funding from the Reduce Traffic Congestion Account and would include all synchronizations made since January 1, 2008.

Initiative 985 would also require the state auditor to identify the best ways to synchronize traffic lights that optimize traffic flow and to monitor progress and make reports to the public on a “regular basis.”

## **Analysis**

Expanding the synchronization of traffic signals is one of the recommendations in the SAO congestion relief audit.<sup>8</sup>

There are about 4,500 traffic lights across the state that would be synchronized under Initiative 985, at a cost of about \$41.9 million.<sup>9</sup> After the initial costs, the 4,500 lights would need to be resynchronized up to every three years for about \$23.9 million.<sup>10</sup> It is important to note that this requirement is not an unfunded mandate. According to the initiative, these costs would be paid from the new Reduce Traffic Congestion Account.

Initiative 985 does not define a time requirement, but the Office of Financial Management assumes half of the intersections would be completed in 2009 and the other half in 2010.<sup>11</sup>

Synchronizing traffic lights would reduce traffic congestion. The State Auditor found that timing traffic lights on major arterials could reduce travel times up to twenty percent and up to seven percent overall.<sup>12</sup> The city of Seattle recently synchronized many of its traffic lights and estimates that congestion was reduced by 40 percent on three of the city’s major arterials.<sup>13</sup>

## **III. Expands emergency roadside assistance**

Initiative 985 would expand emergency roadside assistance by mandating increased funding to the WSDOT and other governmental entities. The increased funding would come from the Reduce Traffic Congestion Account and be allocated through the legislative process. The initiative would also require the state auditor to identify the best ways to optimize traffic flow through emergency roadside assistance and to monitor progress and make reports to the public on a “regular basis.”

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<sup>8</sup> Ibid.

<sup>9</sup> Revised Fiscal Analysis for Initiative 985, Office of Financial Management, August 13, 2008.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Performance Audit Report, WSDOT Managing and Reducing Congestion in Puget Sound, Washington State Auditor’s Office, October 2007. Available online at:

<http://www.sao.wa.gov/Reports/AuditReports/AuditReportFiles/ar1000006.pdf>.

<sup>13</sup> Getting signals in sync will help traffic flow, *Seattle Times*, May 2008. Available online at: [http://seattletimes.nwsourc.com/html/localnews/2004415547\\_lights15.html](http://seattletimes.nwsourc.com/html/localnews/2004415547_lights15.html).

## Analysis

Expanding the emergency roadside assistance program is one of the recommendations in the SAO congestion relief audit.<sup>14</sup>

Initiative 985 does not identify how much the roadside assistance program should be expanded nor does it define a timeline. It appears these decisions would be influenced by the Auditor's recommendations and ultimately left to the state legislature.

Currently, the state manages about 47 emergency roadside assistance trucks statewide and they respond to about 48,000 incidences per year.<sup>15</sup> The program is able to reduce the clearance times on minor accidents by about 50 percent.<sup>16</sup>

OFM estimates the cost to add 10 roadside assistance vehicles and 10 full time responders, and 16 state patrol staff to process the increased investigations is about \$3.1 million per year.<sup>17</sup> This expansion would enable the roadside assistance program to respond to an additional 8,990 incidences per year.<sup>18</sup> That is about a 20 percent increase over what is currently done today.

Expanding the emergency roadside assistance program would reduce traffic congestion. The State Auditor found that non-recurrent congestion or incidences (accidents, weather, or special events) account for nearly half of all peak time delay.<sup>19</sup> Nationally, traffic accidents account for about 25 percent of congestion.<sup>20</sup> Using the WSDOT's current ratio of annual responses to clearance times on minor accidents shows that expanding the emergency roadside assistance program by 20 percent would further reduce clearance times by nearly 10 percent.<sup>21</sup>

## IV. Eliminates half percent earmark for public art on transportation projects

Established in 1974, the ½ of 1% for Art Program requires state agencies, including public schools, colleges and universities, to increase the cost of any new construction by half a percent to pay for public art. The program is managed by the State Arts Commission.

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<sup>14</sup> Performance Audit Report, WSDOT Managing and Reducing Congestion in Puget Sound, Washington State Auditor's Office, October 2007. Available online at:

<http://www.sao.wa.gov/Reports/AuditReports/AuditReportFiles/ar1000006.pdf>.

<sup>15</sup> Performance Audit Report, WSDOT Managing and Reducing Congestion in Puget Sound, Washington State Auditor's Office, October 2007. Available online at:

<http://www.sao.wa.gov/Reports/AuditReports/AuditReportFiles/ar1000006.pdf>.

<sup>16</sup> Ibid.

<sup>17</sup> Revised Fiscal Analysis for Initiative 985, Office of Financial Management, August 13, 2008.

<sup>18</sup> Ibid.

<sup>19</sup> Performance Audit Report, WSDOT Managing and Reducing Congestion in Puget Sound, Washington State Auditor's Office, October 2007. Available online at:

<http://www.sao.wa.gov/Reports/AuditReports/AuditReportFiles/ar1000006.pdf>.

<sup>20</sup> Ibid.

<sup>21</sup> Based on WSDOT's current ratio of annual responses to the percentage reduction in clearance times. Every 960 responses roughly equal a 1 percent reduction in clearance times.

Initiative 985 would eliminate the half percent for public art requirement on any transportation related public works projects. All other state construction projects would continue to apply the ½ of 1% for Art Program. The initiative instead would replace the half percent for public art on transportation projects with a half percent for traffic congestion relief.

## **Analysis**

According to state law, all highway projects are already exempt from the half percent for Art Program. But state money used for ferry terminals or other transportation infrastructure does qualify and the OFM estimates the State Arts Commission would “lose” about \$100,000 per year.<sup>22</sup> This represents about 3.2 percent of the Arts Commission’s 2005-07 biennial budget.<sup>23</sup>

Also, Initiative 985 would not bar agencies from spending transportation money on public art. The initiative would simply remove the requirement. If policymakers wanted to add a half percent to the cost of a transportation project by diverting money to public art, they will still be able to if Initiative 985 passes.

## **V. Protects toll revenue**

Initiative 985 would require all money collected through tolls to be used on construction, operations, or maintenance of toll facilities. The initiative would also allow toll revenue to be used for new capital improvements on highways, freeways, roads, bridges and streets. Any revenue that is in excess of these uses would be deposited into the Reduce Traffic Congestion Account and subject to the guidelines established from this measure.

## **Analysis**

Initiative 985 would restrict excess toll revenues to be used only on roads and highways in the same way the 18th Amendment to the Washington State Constitution protects gas tax revenues for roads and highways.

During the 2008 Legislative Session, the legislature passed HB 1773, which defined the official tolling policy for Washington State.<sup>24</sup> Both Initiative 985 and HB 1773 are similar in how they control tolling revenue except for one key distinction. Current law (HB 1773) allows toll revenue to be used on transit services on the tolled facility. Initiative 985 would not. The initiative would direct toll revenue for road and highway purposes only.

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<sup>22</sup> Revised Fiscal Analysis for Initiative 985, Office of Financial Management, August 13, 2008.

<sup>23</sup> Office of Financial Management. The 2005-07 expenditure authority was \$6,185,000. Available online at: <http://www.ofm.wa.gov/budget07/recsum/387.pdf>.

<sup>24</sup> House Bill 1773, Washington State Legislature, 2008. Bill summary available online at: <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=1773&year=2007>.

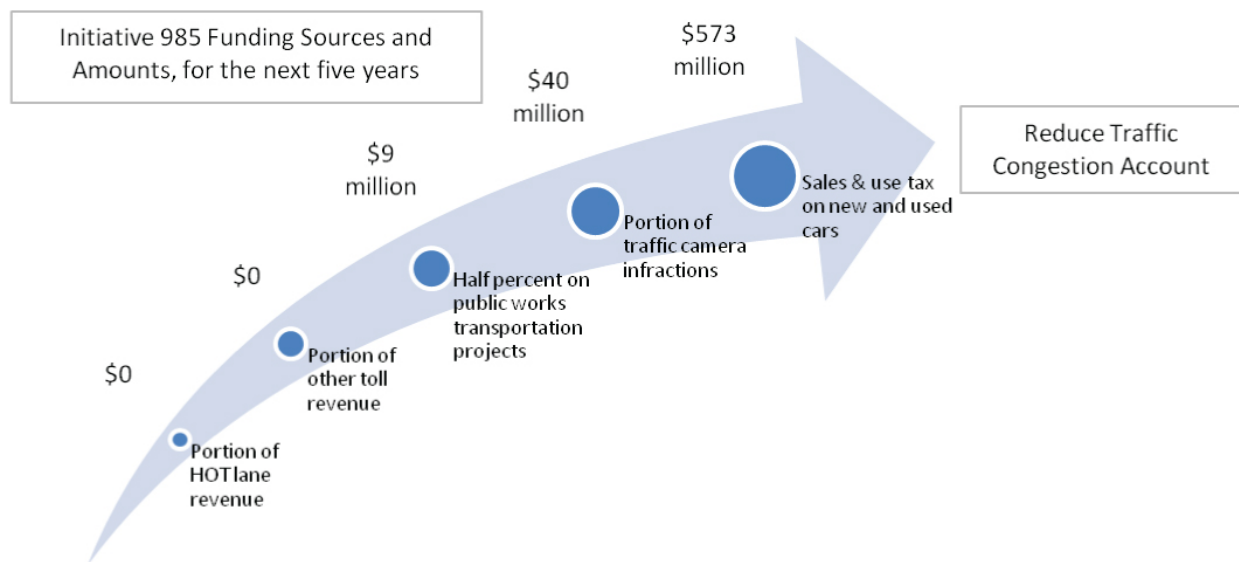
In the short term, since the initiative limits toll revenue to cover operations, maintenance and construction of a toll facility, there would probably be little to no excess toll money until the debt on the facility is paid for. In the long term, once the debt is retired, Initiative 985 would allow toll revenue to be used for capital improvements to highways, freeways, roads and bridges and streets. But since the statewide need for these types of improvements will likely always be greater than the available money, there would not be any left for deposit in the Reduce Traffic Congestion Account.

### 3. Revenue Sources

To fund the Reduce Traffic Congestion Account, the initiative proposes six revenue sources:

1. Portion of the existing sales tax
2. Portion of the existing use tax
3. Portion of HOT lane revenue
4. Portion of toll revenue
5. Half percent on public works transportation related projects
6. Portion of money collected from traffic camera infractions

The OFM estimates that these sources would generate about \$622.5 million for the Reduce Traffic Congestion Account within five years.<sup>25</sup> The following chart graphically illustrates the account's funding sources and projected amounts over the next five years.



<sup>25</sup> Revised Fiscal Analysis for Initiative 985, Office of Financial Management, August 13, 2008.



## **I. Sales & use tax on new and used car transactions**

The largest revenue source for the new Reduce Traffic Congestion Account would be 15 percent from the current collection of sales and use taxes on used and new vehicle transactions. The OFM estimates it would provide about \$119 million per year beginning in 2009.<sup>26</sup>

In Washington State, transportation projects have been traditionally funded through the transportation budget. It is largely independent of the general fund and has its own dedicated funding sources. Using general fund dollars for transportation would break tradition, but it would not be unusual. Thirty-one states currently use general fund dollars to pay for transportation programs and services.<sup>27</sup>

The Senate Ways and Means Committee staff recently projected a \$2.7 billion state general fund budget deficit for the upcoming 2009-11 biennium, because increases in tax revenue are failing to keep pace with the legislature's higher rate of spending.<sup>28</sup> Diverting 15 percent of state sales and use taxes from used and new car sales would draw from the general fund and increase the projected deficit by about \$290 million for the upcoming two-year budget cycle.

By using general fund dollars to supplement existing transportation funding, Initiative 985 significantly increases the priority for traffic congestion relief across the state.

## **II. Toll revenue**

As mentioned, there would likely not be any toll revenue available for the Reduce Traffic Congestion Account. In fact, the OFM fiscal note on Initiative 985 assumes zero toll revenue would be generated for the account.<sup>29</sup> However, since the initiative limits toll revenue similar to the way the Reduce Traffic Congestion Account limits its expenditures, meaning all the money must be allocated toward projects that reduce congestion, the effect is the same.

## **III. Half percent on transportation projects**

Initiative 985 would replace the half percent for public art on transportation projects with a half percent for congestion relief. Every state agency would be required to set aside a half percent on costs for all public works transportation related projects. The money would be deposited in the Reduce Traffic Congestion Account. This revenue source will vary greatly as

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<sup>26</sup> Ibid.

<sup>27</sup> Revenues used by states for state-administered highways, Federal Highway Administration, 2006. Report available online at: <http://www.fhwa.dot.gov/policy/ohim/hs06/pdf/sf3.pdf>.

<sup>28</sup> Senate Ways and Means Committee staff. Report available online at: <http://www.leg.wa.gov/documents/Senate/SCS/WM/SwmWebsite/Balance%20Sheets/June%202008%20Six%20Year%20Outlook.pdf>.

<sup>29</sup> Revised Fiscal Analysis for Initiative 985, Office of Financial Management, August 13, 2008.

different agencies spend on various transportation related projects. The OFM estimates that over the next five years, about \$8.8 million would be produced for the Reduce Traffic Congestion Account.<sup>30</sup>

By replacing the half percent for public art with a half percent for congestion relief, Initiative 985 makes the case that if policymakers are going to artificially increase transportation construction projects, the revenue should go toward traffic relief rather than art.

#### **IV. Traffic camera infractions**

In Washington, local governments have the authority to enforce traffic laws by using cameras, typically to catch red light and speed violations. Initiative 985 would require local jurisdictions that enforce traffic laws through these cameras to dedicate a portion of the revenue made from infractions to the Reduce Traffic Congestion Account. There are currently 12 cities that enforce traffic laws through cameras, and the OFM estimates this provision will generate about \$6.65 million a year for the Reduce Traffic Congestion Account.<sup>31</sup>

State earmarks for traffic camera infraction revenue is not unprecedented in Washington. In fact, the state already takes about \$25 per infraction from local governments that enforce traffic laws through camera programs.<sup>32</sup> But generally there is enough left over for cities to cover the program's operations and maintenance costs and to supplement other public safety services. Initiative 985 would require cities to divert all traffic camera revenue, except the \$25 that already goes to the state, to the Reduce Traffic Congestion Account.

City officials are likely to claim this would create a funding hole in their budgets, which would have to be filled from other revenue sources. Yet, cities should have never planned on revenue in the first place, because their entire objective is to reduce traffic violations to zero, which would also eliminate revenue. As a result, governments, including the state, should never rely on traffic camera safety programs to pay for themselves or to cover other important public services.

#### **4. Reduce Traffic Congestion Account**

Initiative 985 would create and fund an account that could only be used for projects that measurably reduce traffic congestion. As described earlier, the account has six funding sources and according to the initiative, the money would only be appropriated through the legislative process and limited to:

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<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Revised Code of Washington, RCW 46.63.110. Available online at: <http://apps.leg.wa.gov/RCW/default.aspx?cite=46.63.110>.

1. The costs of opening of carpool lanes during non-peak hours, as required by Initiative 985.
2. The costs of synchronizing traffic lights, as required by Initiative 985.
3. Expanding emergency roadside assistance, as required by Initiative 985.
4. The costs incurred by the state auditor in complying with the initiative.

The legislature could then allocate the remaining dollars toward projects that reduce congestion. The initiative defines congestion relief as “reducing vehicle delay times” and “improving traffic flow” for all vehicles. It goes further by identifying areas that are not eligible to receive money from the Reduce Traffic Congestion Account. These include: creating, maintaining, or operating bike paths or lanes, wildlife crossings, landscaping, park and ride lots, ferries, trolleys, buses, monorail, light rail, heavy rail.

The initiative would also require the state auditor to monitor compliance with the revenue and expenditure rules and report to the public on a “regular basis.”

### Analysis

In perhaps its most compelling relationship to the SAO audit recommendations, Initiative 985 attempts to make traffic relief a priority, not just by stating it as a policy goal, but by providing a process to achieve it.

The Office of Financial Management (OFM) estimates that over five years, \$622.5 million would be generated for the Reduce Traffic Congestion Account.<sup>33</sup> The following table shows the amounts estimated by the OFM.<sup>34</sup>

2007-09	2009-11	2011-13	Five Year Total
\$65,496,998	\$256,270,503	\$300,805,271	\$622,572,772

OFM also estimates that over the same time period, it would cost the state about \$309.6 million to implement the various components of Initiative 985.<sup>35</sup> This would leave about \$313 million, which according to the language in the initiative, would be available for congestion relief projects.

Most of the cost to implement Initiative 985 would occur in the early years and once completed would only need general operating and maintenance (O&M) support; thus, significantly increasing the annual revenue available for the legislature to spend per the guidelines in the initiative. Once all of these startup costs are completed (OFM estimates within five years), the O&M costs would be about \$11.4 million per year.<sup>36</sup>

<sup>33</sup> Revised Fiscal Analysis for Initiative 985, Office of Financial Management, August 13, 2008.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Based on projections from OFM’s fiscal note: Prorated annual traffic light synchronization costs - \$7.96 million,

Based on the average annual growth of sales and use tax revenue on new and used cars, the total annual revenue stream to the Reduce Traffic Congestion Account would be about \$168 million within five years. After subtracting yearly O&M costs, the annual revenue stream would be about \$157 million.

Revenue from tax collections on used and new cars, traffic camera infractions and half percent of transportation projects fluctuate greatly from year to year. Assuming a generous contingency of about 25 percent, and subtracting annual O&M costs guarantees a dedicated annual revenue stream of about \$118 million by 2013.

Much like the revenue from the fuel tax increases in 2003 and 2005, the state could leverage the money through bonding. The Office of the State Treasurer estimates that based on today's interest rates, a revenue stream of \$118 million would yield a "leverage factor" of about 14.4.<sup>37</sup> This means the state could bond the Reduce Traffic Congestion revenue stream and produce about \$1.7 billion by 2013.

Further, collections from sales and use taxes on new and used car sales grow an average of 6.5 percent a year and doubles about every 10 years.<sup>38</sup> Therefore, the state could continue to bond a new \$118 million stream of revenue and secure about \$1.7 billion in new spending every decade.

## 5. Conclusion

Today, reducing traffic congestion is not a priority for public officials in Washington State. There is currently no stated policy goal or financial relationship to congestion relief. Initiative 985 would seismically shift the State's current policy back toward one that ties spending to a specific performance goal, traffic congestion relief.

While Initiative 985 does implement some of the SAO audit recommendations, it also virtually ignores or contradicts others. For example, the audit urges expanding the HOT lane system as a way to manage demand, but the initiative opens carpool lanes and prevents tolls from being charged during non-peak hours, which essentially eliminates the benefits of a HOT lane system for 18 hours per day. Initiative 985 also does not address governance reform, Commute Trip Reduction programs or using Public/Private Partnerships, all of which are recommended by the SAO congestion audit.

Critics will argue there are many flaws in Initiative 985. In the short term, it would widen the budget deficit. It would make public transit less efficient. It would shift money from local governments and public art. It would micromanage the budget.

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Annual Emergency Roadside Assistance costs - \$3.1 million, Annual costs to Auditor and WSDOT - \$350,000

<sup>37</sup> Based on interviews with the Department of Revenue and the Office of the State Treasurer. Assumes level debt service for 25 years at 4.75%.

<sup>38</sup> Based on historical sales and use tax data from the Department of Revenue.

Supporters would say these objections are reason to support Initiative 985. The Initiative would reprioritize congestion relief in Washington and generate \$1.7 billion every decade for transportation infrastructure, without raising taxes. By using revenues from the sale of new and used cars, Initiative 985 would also reduce the State's dependence on the gas tax, which is growing more unreliable every year.

## About the Author



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