



POLICY BRIEF

Citizens' Guide to Initiative 1125

by Mike Ennis
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I-1125 asks voters to decide on eight questions:

1. Should toll revenue collected from motorists be used for non-transportation purposes?
2. Should road lanes funded by gas taxes and tolls be used for non-highway purposes?
3. Should toll revenue collected from motorists be restricted to highway purposes only?
4. Should tolls only be used for construction of a new road, or may tolls be used for ongoing maintenance and operations?
5. Should toll revenue be restricted to the roadway from which it was collected, or may toll revenue be used for other roads in other areas across the state?
6. Should elected legislators set toll rates, or may they delegate that authority to an unelected commission?
7. Should toll rates be constant, or may they change based on certain criteria like time-of-day or traffic volumes?
8. Should toll revenue collected from the I-90 bridge across Lake Washington be restricted to funding improvements to I-90, or may the new revenue be used to fund other roads, like the proposed SR-520 bridge replacement?

Introduction

In November, voters will have a chance to consider Initiative 1125. I-1125 is known as the “Protect Gas Taxes and Toll Revenues Act – Protect the 18th Amendment to Washington’s Constitution.”

I-1125 contains eight provisions that would affect how Washington officials collect and spend revenue from highway tolls.

Washington motorists have a lot of experience with tolls, which have been used to fund 14 bridges, including those across the Tacoma Narrows, the State Route (SR) 520 floating bridge and the Interstate 90 floating bridge.¹ Generally, a toll was implemented and collected to pay for the capital cost of constructing the facility and once the debt was paid off the tolls were removed, which in some cases was earlier than first estimated. Washington officials have referred to this traditional type of toll policy as “pay as you go.”²

Recently, however, officials have proposed a new approach that not only generates revenue, but also attempts to control driver behavior. Commonly known as congestion pricing, officials would charge motorists a fee to access certain lanes. The fees would change based on the time of day or traffic volumes. The toll would be permanent and officials would guarantee a congestion-free commute for those motorists who choose to pay the toll.

Washington officials have already implemented a congestion pricing pilot project on SR-167 south of Renton, and the state legislature approved a bill in 2011 to implement similar tollways on the north end of I-405 between Bellevue and Lynnwood. Washington State Department of Transportation (WSDOT) officials also have plans to put tolls on the entire length of the SR-167/I-405 corridor, and parts of I-5 in the Puget Sound region. Tolls will also start soon on the existing SR-520 bridge across Lake Washington, and officials are thinking about imposing tolls on the existing I-90 bridge, the proposed Columbia River Bridge in Vancouver and the tunnel replacement of the Alaskan Way Viaduct through Seattle. The Puget Sound Regional Council (PSRC) also assumed in their most recent long range Transportation 2040 plan every primary and secondary roadway in the Puget Sound region would eventually have tolls.

This newly aggressive approach to using widespread roadway tolls has given rise to many questions about fairness, mobility and how the new revenue

¹ “Tacoma Narrows Bridge Connections, Washington’s History with Toll Collections,” Washington State Department of Transportation, September, 2011, at www.wsdot.wa.gov/tnbhistory/Connections/connections6.htm.

² Ibid.

would be spent. I-1125 asks voters to decide on eight of these questions. These eight questions are:

1. Should toll revenue collected from motorists be used for non-transportation purposes?
2. Should road lanes funded by gas taxes and tolls be used for non-highway purposes?
3. Should toll revenue collected from motorists be restricted to highway purposes only?
4. Should tolls only be used for construction of a new road, or may tolls be used for ongoing maintenance and operations?
5. Should toll revenue be restricted to the roadway from which it was collected, or may toll revenue be used for other roads in other areas across the state?
6. Should elected legislators set toll rates, or may they delegate that authority to an unelected commission?
7. Should toll rates be constant, or may they change based on certain criteria like time-of-day or traffic volumes?
8. Should toll revenue collected from the I-90 bridge across Lake Washington be restricted to funding improvements to I-90, or may the new revenue be used to fund other roads, like the proposed SR-520 bridge replacement?

It is important to note that I-1125 does not prohibit the use of tolls. In its broadest sense, the initiative preserves the ability of officials to use tolls in the same way they always have, on a “pay as you go” basis.

The official ballot title says:³

Initiative Measure No. 1125 concerns state expenditures on transportation.

This measure would prohibit the use of motor vehicle fund revenue and vehicle toll revenue for non-transportation purposes, and require that road and bridge tolls be set by the legislature and be project-specific.

Should this measure be enacted into law? Yes [] No []

The official ballot summary says:⁴

This measure would prohibit motor vehicle fund revenue and vehicle toll revenue from being used for non-transportation purposes. It would prohibit non-highway use of state highway lanes funded by gas taxes or vehicle tolls. It would require the legislature to set tolls, and would provide that a toll on a particular road or bridge, including the Interstate 90 floating bridge, could be used only for construction, operation, or maintenance of that particular road or bridge.

Astute readers may notice a mistake in the ballot summary. The last sentence says tolls may only be used for “construction, operating, or maintenance” of a road or bridge. However, one of the eight provisions found in the actual text of I-1125 expressly states that tolls may only be used for capital purposes and the tolls would end once the project’s construction is paid for.

³ “Elections and Voting, Proposed Initiatives to the People 2011,” Washington State Secretary of State, September 2011, at www.sos.wa.gov/elections/initiatives/people.aspx.

⁴ Ibid.

Despite the mistake in the ballot summary, I-1125 would prevent officials from using toll revenue for ongoing maintenance or operations of a road or bridge.

The following guide provides a fuller explanation of the eight questions voters will need to answer when voting on I-1125.

1. Should toll revenue collected from motorists be used for non-transportation purposes?

The initiative says: “State government, the department of transportation, and other agencies may not transfer revenues in the motor vehicle fund or any toll fund to the general fund or other funds and used for non-transportation purposes.”

Supporters say: Toll revenue should be restricted to transportation purposes only. Using tolls for other purposes transforms a limited user fee into a general tax.

Opponents say: The restriction prevents lawmakers from having the flexibility to use a reliable funding source like toll revenue for other public purposes.

This provision would restate that tolls and other transportation taxes and fees deposited in the Motor Vehicle Fund (MVF) are limited to transportation purposes only.

Until recently, officials have traditionally placed toll revenue into the MVF. Money in the MVF is automatically protected by the 18th Amendment of the Washington Constitution and limited to highway purposes only.

With the SR-520 replacement bridge and SR-167 HOT lane project, however, officials began creating separate toll accounts outside the MVF. Depositing toll revenue in any account not within the MVF could be interpreted as the first step toward skirting the 18th Amendment restriction on the use of highway taxes and fees.

I-1125 addresses this issue by not only restating how money in the MVF can be spent, but also by extending some of the same protections to toll revenue and any toll funds, regardless of the account in which tolls are deposited.

In 2008, the legislature adopted a statewide tolling policy and defined the areas where toll revenue can be spent. The policy says tolls can be used to pay for operating costs of the tolled facility, debt interest on the tolled facility, public transit on the tolled facility, and any other improvements to the tolled facility.

This tolling policy generally restricts toll revenues to the tolled facility (under a “corridor” concept as explained later), but it does leave open the possibility that such revenue could be spent on non-transportation purposes.

While I-1125 does not define what a transportation purpose is, another provision of the initiative limits toll revenue spending so it is consistent with the 18th Amendment of the Washington Constitution. As explained later in this paper, the 18th Amendment is more restrictive and limits toll revenues to highway purposes only.

The MVF condition of this provision is redundant because revenue deposited into that account is already subject to the 18th Amendment, which again provides a more restrictive protection than merely limiting the funds to a more broadly defined use like “transportation purposes.”

Despite the technicalities of this provision, protecting the connection between a user fee and how it is spent is an intuitive and widely accepted concept. It is also likely an overriding theme that voters will find popular in I-1125. Even if parts of this provision are redundant, voters may still feel compelled to at least symbolically restate their desire to restrict the use of transportation taxes and fees to highway purposes only.

2. Should road lanes funded by gas taxes and tolls be used for non-highway purposes?

The initiative says: “State government, the department of transportation, and other agencies may not transfer or use gas-tax-funded or toll-funded lanes on state highways for non-highway purposes.”

Supporters say: This would prevent Sound Transit from replacing the center highway lanes on Interstate 90 with light rail. I-90 is a major freight distribution corridor that affects every corner of our state. I-1125 would allow voters statewide to evaluate Sound Transit’s plans to take over those lanes on an interstate highway.

Opponents say: Voters in the Sound Transit district already approved light rail across the bridge and people who live in Spokane, Vancouver or Bellingham should not have a say about what happens to the center lanes on I-90 across Lake Washington.

This provision would prevent agencies from taking state highway lanes funded with gas taxes or tolls and using them for non-highway purposes.

Gas tax revenue is already protected for highway purposes. This means gas taxes paid by drivers cannot be used to subsidize non-highway projects, like light rail. However, in the central Puget Sound region, officials from Sound Transit are trying to gain control of the center lanes on I-90, which were partly funded with gas tax revenue, and build light rail. They argue that once a road has been constructed, despite whether gas taxes were used to pay for it, the lanes can be transferred (perhaps with reimbursement), stripped of their 18th Amendment protections, and then be used for non-highway purposes. This issue is currently under review in the courts.

Supporters say that if I-1125 passes, Sound Transit officials would not be able to take the center lanes on I-90 for light rail. Sound Transit officials will undoubtedly challenge this issue, but the intent at least of this particular provision is clearly aimed at Sound Transit officials’ desire to replace road lanes with light rail.

This provision is also an opportunity for voters statewide to consider the effect of replacing highway lanes with light rail across one of the most significant east-west freight corridors in Washington.

Supporters say that if I-1125 passes, Sound Transit officials would not be able to take the center lanes on I-90 for light rail.

According to the State Department of Transportation Center Roadway Study on I-90, Sound Transit's plan to replace the center lanes with light rail on Interstate 90 will reduce overall vehicle capacity on the bridge by 15 percent during the morning peak commute and eight percent during the afternoon peak.⁵ Light rail would increase vehicle delay on the bridge by 27 percent during the morning peak drive and 24 percent during the afternoon peak.⁶ Light rail would cause average westbound vehicle speeds to fall 21 percent during the morning peak commute and eastbound drivers in the afternoon would see a 17 percent decrease.⁷ Freight vehicle travel times would suffer the most. During the morning peak drive, the number of freight trucks able to cross into Seattle would drop 24 percent.⁸ Leaving Seattle during the afternoon peak drive, trucks would see a 19 percent reduction in capacity.⁹

Sound Transit officials claim they are not reducing roadway capacity because they are adding two new HOV lanes in the outer roadway, and thus they imply that traffic congestion will not get worse.

This is absolutely wrong. Sound Transit officials' plan to replace the center lanes on I-90 with light rail would sharply reduce lane capacity.

During the peak commute, drivers currently have a total of five lanes (three general purpose lanes and two HOV lanes). Removing the center lanes and only adding a single HOV lane in each direction on the outer roadway would only provide four lanes in the peak direction. This is a 20 percent reduction in lane capacity during peak drive times. It is also the reason why WSDOT officials found increased delay in their traffic analysis of replacing the center lanes on I-90 with light rail.

Replacing the center lanes on I-90 with light rail would negatively affect mobility and hurt the economy across Washington. I-1125 will allow voters statewide to weigh in on this issue.

3. Should toll revenue collected from motorists be restricted to highway purposes only?

The initiative says: "Toll revenue may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution."

Supporters say: Similar to gas taxes, tolls collected from drivers should not be used to fund non-highway projects or services. Tolls are already protected by the 18th Amendment, but lawmakers are considering or have already taken steps to skirt the limitations. Using tolls for other purposes transforms a limited user-fee into a general tax.

Opponents say: Tolls should be used to fund other purposes, like public transit.

⁵ "Interstate 90 Center Roadway Study," Washington State Department of Transportation, July 2006, at www.wsdot.wa.gov/NR/rdonlyres/2D30E991-6159-4F2A-A84B-284622643B79/0/I90CenterRoadwayStudy.pdf.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

According to the Washington State Good Roads Association, more than \$10 million of gas taxes was diverted to other purposes in the ten years between 1933 and 1943.

This provision would create a statutory protection for tolls, consistent with the 18th Amendment of the Washington State Constitution, which limits the use of toll revenue to highway purposes only. A statutory protection is less restrictive than a constitutional amendment and the legislature can change it after two years, if I-1125 passes.

In 1921, officials implemented Washington's first gas tax: one cent per gallon. With this new revenue stream, state leaders were able to build, operate, maintain and expand Washington's highway network. And as the state's transportation infrastructure increased, so did the tax. Today, Washington's gas tax is 37.5 cents per gallon.

Nationally and in Washington state, the highway system was constructed largely on the philosophy that users would pay. This user-fee theory successfully built 7,000 miles of roadway and allows Washingtonians to drive nearly 60 billion miles per year, producing industrial growth, mobility, economic freedom and a higher quality of life for everyone.

Seventy years ago, as they often do today, politicians saw "opportunities" in a new and stable revenue stream, and they began to divert gas tax collections to programs and services not related to roads and highways.

According to the Washington State Good Roads Association (WSGRA), more than \$10 million of gas taxes was diverted to other purposes in the ten years between 1933 and 1943.¹⁰

This gave rise to a popular, statewide effort to protect motor vehicle fuel taxes for their intended purpose. In 1944, Washington voters passed the 18th Amendment to the state constitution, which limits the use of gas tax revenue exclusively to roads and highways.

To gather support for the constitutional amendment, the WSGRA hit on the natural attractiveness of a user-fee system by stating, "Several hundred miles of good, paved, safe highway would have been built to save money in motor vehicle operation had this special motor tax money been used as it was intended. These were highways and streets we paid for, but didn't get!"¹¹

The measure passed and since then gas tax revenues have been restricted solely to "highway purposes."

People intuitively have positive feelings in support of public programs and services funded through user fees. Roadway tolls are no exception. When tolls are used to pay for a piece of infrastructure, like a bridge or highway, drivers naturally understand and generally support the added costs of performing the activity. Likewise, but to a lesser extent, when tolls are used to manage congestion and the revenue is returned to the roadway where it was collected, users generally agree to pay.

For the payer, tolls fund a visible product that results in a tangible benefit.

However, as Washington's early experience with gas taxes illustrates,

¹⁰ Washington State Voter's Pamphlet, Washington Secretary of State's Office, November 1944, 47, at www.sos.wa.gov/library/docs/OSOS/voterspamphlet/voterspamphlet_1944_2006_002278.pdf.

¹¹ Ibid.

the public becomes less accepting when the fees are diverted to other purposes. People naturally see the diversion of toll revenue as unfair.

To their credit, legislative leaders in Olympia tried to address these fairness issues in 2008 by implementing a statewide tolling policy. Among other provisions, the policy statutorily defines how toll revenue can be used. According to the law, the use of toll revenue is limited to operating costs, debt and any other project or improvement on the tolled facility.

However, the policy also allows toll revenue to be used for “the operations of conveyances of people or goods.” This clause allows tolls, which are paid by motorists, to be used to fund an activity of a different user group, public transportation.

In 1969, the Washington State Supreme Court ruled in *O’Connell v. Slavin*, that public transportation is not a “highway purpose” as defined in the 18th Amendment. The Court ruled that public transportation is

not a “way” at all, but is a number of buses, trains, or other carriers each holding a number of passengers, which may travel upon the highways or may travel upon rails or water, or through the air, and which are owned and operated, either publicly or privately, for the transportation of the public. The mere fact that these vehicles may travel over the highways, or that, as the appellant points out, may relieve the highways of vehicular traffic, does not make their construction, ownership, operation, or planning a highway purpose, within the meaning of the constitutional provision.¹²

Public transportation is important, especially in dense urban areas, but according to the Washington State Supreme Court, it is not a highway purpose, and therefore should not be funded with vehicle-related taxes and fees, like tolls, which are paid by drivers.

The state already cannot keep pace with funding its current and future transportation infrastructure needs. Public transit is a local function with its own public tax support. Any new transportation revenue source at the state level should be used to pay for existing obligations or to expand highway capacity; it should not be diverted to new commitments, such as public transit.

Protecting toll revenue for highway purposes ensures fair and equitable treatment for toll payers, guarantees a sensible connection between the fee charged and what it is used to pay for, and contributes financially to the state’s unmet transportation obligations.

4. Should tolls only be used for construction of a new road, or may tolls be used for ongoing maintenance and operations?

The initiative says: “Tolls must end after the cost of the project is paid.”

Supporters say: This is the way Washington has used tolls in the past and it has a successful track record, able to fund complex and expensive transportation infrastructure with a history of paying off the debt early. Ongoing maintenance costs can be funded through existing gas taxes or other vehicle-related fees.

Public transportation is important, especially in dense urban areas, but according to the Washington State Supreme Court, it is not a highway purpose, and therefore should not be funded with vehicle-related taxes and fees, like tolls, which are paid by drivers.

¹² Ibid. Section 560.

Opponents say: Highways require ongoing maintenance costs that current revenue sources such as the gas tax and traditional tolling methods are not fully covering.

This provision would only allow tolls to be in place to pay for the construction and financing of a new piece of road infrastructure, and the tolls would disappear once the capital expenses are paid off. In other words, it would prohibit officials from using toll revenue to pay for ongoing maintenance and operations of a road or bridge.

Limiting toll revenue to capital expenditures is commonly how tolls have been used in most other states, including Washington.

Generally, this provision may not prevent state officials from continuing their plans to toll SR-167 and I-405, as long as the revenue is used to improve those roads. For example, under I-1125 and subject to its other provisions, WSDOT officials could still implement tolls on I-405 to fund the recommended improvement identified in the I-405 Master Plan.

Officials would also still be able to implement tolls on projects like the SR-520 bridge replacement, the new Columbia River Crossing in Vancouver and the Viaduct tunnel replacement in Seattle. But according to this provision, the tolls would have to end once the capital expenses are paid.

5. Should toll revenue be restricted to the roadway from which it was collected, or may toll revenue be used for other roads in other areas?

The initiative says: “Except for Washington state ferries toll facilities, revenue from tolls or charges on a highway, freeway, road, bridge, or street may only be used for the cost of construction and capital improvements to that particular highway, freeway, road, bridge, or street...”

Supporters say: Restricting toll revenue to the actual facility from which it is collected ensures funding for improvements to that facility, which directly benefits the drivers who paid the toll. Funding road improvements from tolls collected from drivers on other roads is unfair.

Opponents say: Such restrictions limit the ability of lawmakers to fund needed improvements that may not have a funding source.

This provision would limit toll revenue to be used exclusively on the road from which it was collected.

Most state transportation taxes and fees are less restricted and can be spent statewide. For example, gas taxes collected from drivers in Spokane may be used on transportation-related projects anywhere around the state. For the most part, these revenues are simply deposited in the Motor Vehicle Fund or the general transportation budget and allocated by the legislature.

In 2008, legislative leaders adopted a statewide tolling policy and imposed a spending limitation based on a corridor concept. This means toll revenue could only be spent within the corridor from which it was collected. In other words, tolls collected on the I-90 bridge, I-5, I-405 and SR-522 through

Regardless of the interconnected relationship between roads within a corridor, drivers who pay tolls on I-90, for example, may not perceive a benefit if their money is spent on a project on SR-522 in Bothell, nearly twenty miles away.

Bothell, for example, could be spent on SR-520 because they are considered to be within the same corridor.

Limiting toll revenue through the current corridor concept is slightly more restrictive than how most transportation taxes and fees are distributed because it requires tolls to be spent on projects within the same corridor from which it was collected.

The determination on which roads qualify as part of a particular “corridor,” however, is ambiguous and undefined. In the most extreme example, the current statewide tolling policy does not necessarily prohibit toll revenue collected in Tacoma from being used on projects in Seattle, as long as the legislature somehow determines the projects are considered to be in the same “corridor.”

This presents a problem of fairness.

Regardless of the interconnected relationship between roads within a corridor, drivers who pay tolls on I-90, for example, may not perceive a benefit if their money is spent on a project on SR-522 in Bothell, nearly twenty miles away.

I-1125 would do away with the state’s current “corridor” concept and apply a more restrictive spending protection on toll revenues. Under I-1125, toll revenue could only be spent directly on the roadway from which it is collected. So tolls on I-405 or I-90 could not be spent on SR-520, SR-522 or on any other roadway.

6. Should elected legislators set toll rates, or may they delegate that authority to an unelected commission?

The initiative says: “As required by RCW 43.135.055 as amended by Initiative Measure No. 1053, only the legislature may authorize the imposition of tolls on eligible toll facilities.”

Supporters say: This reinforces a portion of a previous statewide initiative (I-1053) that voters approved in 2010, which lawmakers found a way around. Toll rates should be set by an elected, political body that is directly accountable to voters.

Opponents say: Voters did not understand what they were voting on with I-1053. Toll rates should be set by experts not politicians. Lawmakers are subject to political pressures and such volatility would negatively impact the state’s ability to sell debt with competitive interest rates. This volatility would also kill the potential for using public-private partnerships to fund a transportation project.

This provision would require the Washington State Legislature to set toll rates. Currently, lawmakers have delegated the authority to set toll rates to the Washington Transportation Commission (WTC), which is an unelected body appointed by the governor.

Requiring an elected legislature to set toll rates does allow citizens to

have direct accountability over the process through elections. WTC officials on the other hand, are appointed and do not answer directly to the public.

The Washington State Treasurer, Jim McIntire criticizes such a move because he says the uncertainty created by an elected body setting toll rates would scare away bondholders, increase risk and lead to higher interest rates.

This logic however, assumes that an appointed body, or WTC officials in this case, is immune from political pressures and they would *always* raise toll rates when the issue is before them.

This is not always true, since WTC officials have succumbed to political pressures in the past.

In 2010, the state treasurer, including the governor and others, recommended the toll rates on the Tacoma Narrows Bridge be increased for financial reasons. There were some vocal lawmakers and citizens who publicly opposed the rate increase. Despite the official recommendations to do so, WTC officials acceded to public demands and did not raise rates.

The following excerpt is from a recent *News Tribune* article in Tacoma:

The decision-making process for new toll rates starts this fall, allowing any increases by the state Transportation Commission to take effect next spring or summer.

This year, for the first time since the second span opened in 2007, spending surpassed revenue. To cover the imbalance, the transportation panel used the money it had socked away over the past few years – but if projections hold, that financial cushion will be depleted by 2013.

None of that is unexpected. Commission members knew the red ink was coming during the last go-around, when it heeded tollpayers' pleas and chose not to raise tolls. This time, expect rates to go up.¹³

Like the legislature, the WTC is made up of citizen members; it is not necessarily a group of transportation or financial experts. WTC officials are subject to political pressures and they do not operate in a vacuum as some claim. They even routinely seek public input in the decision-making process. The only difference is WTC officials are appointed, not elected, and therefore they lack direct accountability to the public.

Toll bonds can also contain a triple backed pledge, which means state officials use three taxing sources to promise investors their money is safe. These include, 1) toll revenues, 2) gas tax revenues and, 3) the full faith and credit of the state (through the General Fund). Using triple backed bonds to protect investors provides a more meaningful defense against higher interest rates than does the question of what entity sets toll rates.

Using state-issued, triple backed bonds, however, eliminates some of the incentives that attract officials to private sector financing in transportation funding.

¹³ "Toll payers at bridges might face increases," Jordan Schrader, *The News Tribune* (Tacoma), June 2011, at www.thenewstribune.com/2011/06/04/v-lite/1693277/tacoma-narrows-bridge-toll-increase.html, emphasis added.

Known as public-private partnerships (PPPs), private companies invest in building public transportation infrastructure because of the potential revenue they will receive from tolls. In exchange for allowing the private investment, taxpayers receive several public benefits, including shifting much of the financial risk from the government to the private sector.

Washington state's experience with PPPs has been limited to the design/build format, which is an extremely passive approach and underutilizes the potential public benefits of tapping private investment. Washington state does allow PPPs by statute, but the law contains provisions that prevent the more effective varieties from forming. Currently, the most significant obstacle is the requirement that debt must be issued by the state treasurer. This restriction prevents taxpayers from shifting risk to the private sector and eliminates one of the main benefits of using PPPs.

I-1125 would not have any immediate or direct impact on PPPs because of the preexisting restriction that debt must be issued by the state. However, there is always the hope that Washington lawmakers would change the PPP law and allow a more aggressive approach to tapping into private sector funding for public projects. If the legislature ever decides to pursue reform of the PPP statute in the future, I-1125, if enacted, may have the unintended consequence of still keeping the more effective varieties of PPPs from forming.

If officials feel they must use triple backed debt, or any debt issued by the state, because they are worried about higher interest rates caused by this particular provision in I-1125, the cost of debt obligations and the risk of default would remain with the taxpayer, and the financial risk could not be shifted to the private sector through a PPP. This would represent a lost opportunity for the public to gain maximum benefit from attracting private financing to help build future public projects.

7. Should toll rates be constant, or may they change based on certain criteria like time of day or traffic volumes?

The initiative says: "Toll rates must be uniform and consistent and may not include variable pricing."

Supporters say: Flat toll rates are fair to everyone and do not discriminate. Congestion pricing means only toll payers benefit, while non-toll payers suffer in higher traffic congestion. Officials should provide road infrastructure that benefits everyone, not just those who are able or willing to pay. I-1125 does not prevent tolling on State Route 520.

Opponents say: Variable pricing is a market approach to managing limited road supply and it reduces congestion. Variable tolls also create revenue for additional transportation projects, like partly funding the replacement of SR-520.

This provision would require toll rates to be flat and consistent, and they would not change with traffic volumes or time-of-day pricing models.

Recently, Washington state officials have widely accepted congestion pricing and are working toward implementing the concept on many new road

projects, including SR-167, I-405, SR-520 and possibly the I-90 floating bridge, the Columbia River bridge in Vancouver, the Viaduct replacement tunnel in Seattle, and parts of I-5 through the Puget Sound region.

A key component to congestion pricing is variable tolls. This means toll rates change based on certain criteria. On the SR-167 HOT lane pilot project for example, toll rates rise and fall with traffic volumes. I-1125 would mandate toll rates to a constant price that would not change, which is generally the way tolls have traditionally been used in Washington state.

Prohibiting variable tolls would limit how Washington state transportation officials could use pricing roadways to manage demand and create new revenue. Most immediately, it would likely halt the HOT lane pilot project on SR-167 and the upcoming tollways on I-405.

It would also likely force WSDOT officials to implement a single, flat toll rate on SR-520, instead of the currently planned variable charges. Implementing a flat toll rate on SR-520 may jeopardize \$127 million in federal Urban Partnership funds, which WSDOT officials accepted with the condition the project would include variable tolls. If officials use a flat rate instead, questions arise about whether the federal funds would have to be paid back. In any case, additional funding still needs to be identified because the overall SR-520 project still has a \$2 billion funding shortfall.

Prohibiting variable tolls would limit how Washington state transportation officials could use pricing roadways to manage demand and create new revenue.

Congestion pricing is a relatively new concept in the United States but it has been used widely in other parts of the world. Some transportation policy experts believe charging drivers a variable fee for their use of a public (or private) roadway is a fair and equitable way to manage demand and raise new revenue.

8. Should toll revenue collected from the I-90 bridge across Lake Washington be restricted to funding improvements to I-90, or may the new revenue be used to fund other roads, like the proposed SR-520 bridge replacement?

The initiative says: “Toll revenue imposed and collected on the Interstate 90 floating bridge must be used exclusively for toll facilities and capital improvements to Interstate 90 and may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.”

Supporters say: Imposing tolls on drivers on I-90, which is already paid for, to help fund a new SR-520 is unfair. I-1125 does not prevent tolls on I-90 or SR-520.

Opponents say: Lawmakers have not identified sources to fully fund SR-520 and preventing toll revenue from being collected on I-90 would stop the project from moving forward.

This provision is specific to the I-90 floating bridge across Lake Washington between Bellevue/Mercer Island and Seattle and simply restates two previous requirements found in I-1125: toll revenue must be spent on the facility from which it is collected, and toll revenue must be limited to highway purposes.

Officials have publically discussed plans to impose tolls on the existing I-90 floating bridge to help pay for the replacement of the SR-520 floating bridge. Officials argue that imposing tolls only on SR-520 will cause traffic to shift to other roadways including the I-90 bridge. This could lead to higher traffic congestion along the I-90 corridor between Bellevue and Seattle, and reduce the revenue potential of tolls on SR-520.

On the other hand, many motorists think it is unfair to, first, impose tolls on a roadway that has already been paid for with gas taxes and, second, to use the toll revenue they just paid on I-90 to fund a different road they may never use.

I-1125 would not prohibit tolls on I-90, but it would restrict the new revenue to highway purposes and to paying for improvements only on I-90.

Conclusion

Voters will no doubt answer each of the eight questions in I-1125 differently and most will likely not agree with all eight provisions. Some voters may support protecting toll revenue for highway purposes, but disagree with limiting tolls to capital expenses. Other voters may even assign different weights to each of the questions, finding some provisions more important than others.

WPC's *Citizens' Guide to I-1125* is meant to help voters understand what is being asked and to offer some perspective on what each question means. In the end, voters will have to decide for themselves what provisions of I-1125 they agree with and whether these provisions are important enough to offset those they oppose.

The following is a summary of the eight provisions in I-1125

1. Should toll revenue collected from motorists be used for non-transportation purposes?

The initiative says: “State government, the department of transportation, and other agencies may not transfer revenues in the motor vehicle fund or any toll fund to the general fund or other funds and used for non-transportation purposes.”

Supporters say: Toll revenue should be restricted to transportation purposes only. Using tolls for other purposes transforms a limited user fee into a general tax.

Opponents say: The restriction prevents lawmakers from having the flexibility to use a reliable funding source like toll revenue for other public purposes.

2. Should road lanes funded by gas taxes and tolls be used for non-highway purposes?

The initiative says: “State government, the department of transportation, and other agencies may not transfer or use gas-tax-funded or toll-funded lanes on state highways for non-highway purposes.”

Supporters say: This would prevent Sound Transit from replacing the center highway lanes on Interstate 90 with light rail. I-90 is a major freight distribution corridor that affects every corner of our state. I-1125 would allow voters statewide to evaluate Sound Transit’s plans to take over those lanes on an interstate highway.

Opponents say: Voters in the Sound Transit district already approved light rail across the bridge and people who live in Spokane, Vancouver or Bellingham should not have a say about what happens to the center lanes on I-90 across Lake Washington.

3. Should toll revenue collected from motorists be restricted to highway purposes only?

The initiative says: “Toll revenue may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.”

Supporters say: Similar to gas taxes, tolls collected from drivers should not be used to fund non-highway projects or services. Tolls are already protected by the 18th Amendment, but lawmakers are considering or have already taken steps to skirt the limitations. Using tolls for other purposes transforms a limited user fee into a general tax.

Opponents say: Tolls should be used to fund other purposes, like public transit.

4. Should tolls only be used for construction of a new road, or may tolls be used for ongoing maintenance and operations?

The initiative says: “Tolls must end after the cost of the project is paid.”

Supporters say: This is the way Washington has used tolls in the past and it has a successful track record, able to fund complex and expensive transportation infrastructure with a history of paying off the debt early. Ongoing maintenance costs can be funded through existing gas taxes or other vehicle related fees.

Opponents say: Highways require ongoing maintenance costs that current revenue sources such as the gas tax and traditional tolling methods are not fully covering.

5. Should toll revenue be restricted to the roadway from which it was collected, or may toll revenue be used for other roads in other areas?

The initiative says: “Except for Washington state ferries toll facilities, revenue from tolls or charges on a highway, freeway, road, bridge, or street may only be used for the cost of construction and capital improvements to that particular highway, freeway, road, bridge, or street...”

Supporters say: Restricting toll revenue to the actual facility from which it is collected ensures funding for improvements to that facility, which directly benefits the drivers who paid the toll. Funding road improvements from tolls collected from drivers on other roads is unfair.

Opponents say: Such restrictions limit the ability of lawmakers to fund needed improvements that may not have a funding source.

6. Should elected legislators set toll rates, or may they delegate that authority to an unelected commission?

The initiative says: “As required by RCW 43.135.055 as amended by Initiative Measure No. 1053, only the legislature may authorize the imposition of tolls on eligible toll facilities.”

Supporters say: This reinforces a portion of a previous statewide initiative (I-1053) that voters approved in 2010, which lawmakers found a way around. Toll rates should be set by an elected, political body that is directly accountable to voters.

Opponents say: Voters did not understand what they were voting on with I-1053. Toll rates should be set by experts not politicians. Lawmakers are subject to political pressures and such volatility would negatively impact the state’s ability to sell debt with competitive interest rates. This volatility would also kill the potential for using public-private partnerships to fund a transportation project.

7. Should toll rates be constant, or may they change based on certain criteria like time of day or traffic volumes?

The initiative says: “Toll rates must be uniform and consistent and may not include variable pricing.”

Supporters say: Flat toll rates are fair to everyone and do not discriminate. Congestion pricing means only toll payers benefit, while non-toll payers suffer in higher traffic congestion. Officials should provide road infrastructure that benefits everyone, not just those who are able or willing to pay. I-1125 does not prevent tolling on State Route 520.

Opponents say: Variable pricing is a market approach to managing limited road supply and it reduces congestion. Variable tolls also create revenue for additional transportation projects, like partly funding the replacement of SR-520.

8. Should toll revenue collected from the I-90 bridge across Lake Washington be restricted to funding improvements to I-90, or may the new revenue be used to fund other roads, like the proposed SR-520 bridge replacement?

The initiative says: “Toll revenue imposed and collected on the Interstate 90 floating bridge must be used exclusively for toll facilities and capital improvements to Interstate 90 and may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.”

Supporters say: Imposing tolls on drivers on I-90, which is already paid for, to help fund a new SR-520 is unfair. I-1125 does not prevent tolls on I-90 or SR-520.

Opponents say: Lawmakers have not identified sources to fully fund SR-520 and preventing toll revenue from being collected on I-90 would stop the project from moving forward.

About the Author

Michael Ennis is Director of the Center for Transportation at Washington Policy Center. He is the author of numerous studies on transportation policy issues, including WPC's *Five Principles of Responsible Transportation Policy*. He appears regularly in print and broadcast media across Washington and policymakers on both sides of the aisle in Olympia seek his input and legislative testimony.



Before joining WPC, Michael worked for the Washington state Senate and House of Representatives and was formerly a staff assistant for U.S. Senator Slade Gorton. Michael served in the U.S. Army with the 2nd Ranger Battalion and has been active in local government affairs. He earned his Bachelor's degree from the University of Washington where he studied Political Science. He also earned his Master's of Public Administration degree from the Daniel J. Evans School of Public Affairs at the University of Washington.

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