

Multnomah County Commission

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JULY 31, 2008

Multnomah County Commission

  
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JULY 31, 2008



Multnomah County Oregon

# Board of Commissioners & Agenda

connecting citizens with information and services

## BOARD OF COMMISSIONERS

### Ted Wheeler, Chair

501 SE Hawthorne Boulevard, Suite 600  
Portland, Or 97214

Phone: (503) 988-3308 FAX (503) 988-3093

Email: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

### Maria Rojo de Steffey, Commission Dist. 1

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### Lisa Naito, Commission Dist. 3

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### Lonnie Roberts, Commission Dist. 4

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## JULY 29 & 31, 2008 BOARD MEETINGS FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:00 a.m. Tuesday Executive Session
Pg 2	10:00 a.m. Tuesday VERA Institute Research Assessing Effectiveness of Intermediate Sanctions in Multnomah County
Pg 3	9:30 a.m. Thursday Opportunity for Public Comment on Non-Agenda Matters
Pg 3	10:10 a.m. Thursday Cascadia Transition Plan
Pg 4	10:55 a.m. Thursday Resolution Supporting a Proposal by the Multnomah Youth Commission to Establish Fareless Public Transportation for 6th to 12th Grade Students in Multnomah County
Pg 4	11:05 a.m. Thursday Order Adopting a Policy Requiring the Nutrition Labeling of Food Items at Chain Restaurants
Pg 2	11:50 a.m. Thursday Opportunity for Board Comment on Non-Agenda Matters

Thursday meetings of the Multnomah County Board of Commissioners are cable-cast live and taped and may be seen by Cable subscribers in Multnomah County at the following times:

Thursday, 9:30 AM, (LIVE) Channel 30  
Saturday, 10:00 AM, Channel 29  
Sunday, 11:00 AM, Channel 30  
Tuesday, 8:15 PM, Channel 29

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Tuesday, July 29, 2008 - 9:00 AM  
Multnomah Building, Sixth Floor Commissioners Conference Room 635  
501 SE Hawthorne Boulevard, Portland

## **EXECUTIVE SESSION**

- E-1 The Multnomah County Board of Commissioners will meet in Executive Session Pursuant to ORS 192.660(2)(d),(e) and/or (h). Only Representatives of the News Media and Designated Staff are allowed to attend. News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Session. No Final Decision will be made in the Session. Presented by County Attorney Agnes Sowle. 15-55 MINUTES REQUESTED.
- 

Tuesday, July 29, 2008 - 10:00 AM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## **BOARD BRIEFINGS**

- B-1 VERA Institute Research Assessing the Effectiveness of Intermediate Sanctions in Multnomah County, Oregon. Presented by VERA Institute Representative. 45 MINUTES REQUESTED.
- B-2 Commission on Children, Families and Children Biennial Self-Assessment. Presented by Wendy Lebow, Carla Piluso and Jonath Colon. 15 MINUTES REQUESTED.
- 

Thursday, July 31, 2008 - 9:30 AM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## **REGULAR MEETING**

### **CONSENT CALENDAR - 9:30 AM** **DEPARTMENT OF HEALTH**

- C-1 Budget Modification HD-02 Authorizing Two Position Reclassifications within the Community Health Services Division of the Health Department as Determined by the Class/Comp Unit of Central Human Resources

**DEPARTMENT OF COUNTY MANAGEMENT**

- C-2 Budget Modification DCM-01 Reclassifying One Position in Assessment and Taxation as Determined by the Class/Comp Unit of Central Human Resources

**REGULAR AGENDA**

**PUBLIC COMMENT - 9:30 AM**

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

**AUDITOR'S OFFICE – 9:30 AM**

- R-1 **9:30 A.M. TIME CERTAIN:** Audit of Aging and Disability Services Medicaid Long-term Care Program. Presented by LaVonne Griffin-Valade. 30 MINUTES REQUESTED.

**DEPARTMENT OF COMMUNITY SERVICES – 10:00 AM**

- R-2 RESOLUTION Approving the 2010-13 Metropolitan Transportation Improvement Project List

**DEPARTMENT OF COUNTY MANAGEMENT – 10:05 AM**

- R-3 NOTICE OF INTENT to Apply for Homeland Security Grant Program Funds in the Amount of \$312,000

**DEPARTMENT OF COUNTY HUMAN SERVICES – 10:10 AM**

- R-4 Briefing on Cascadia Transition Plan. Presented by Joanne Fuller. 20 MINUTES REQUESTED.

**NON-DEPARTMENTAL – 10:30 AM**

- R-5 RESOLUTION Creating a Contract Compliance Advisory Committee
- R-6 First Reading of an ORDINANCE Amending Multnomah County Code Chapter 7.450 et seq. Relating to Art Acquisition and Approving Regional Arts and Culture Council Contract Renewal

R-7 RESOLUTION Supporting a Proposal by the Multnomah County Youth Commission to Establish Fareless Public Transportation for All 6th to 12th Grade Students in Multnomah County

**MULTNOMAH COUNTY BOARD OF HEALTH – 11:05 AM**

(Recess as the Multnomah County Board of Commissioners and convene as the Multnomah County Board of Health)

R-8 ORDER Adopting a Policy Requiring the Nutrition Labeling of Food Items at Chain Restaurants and Directing the County Department of Health to Promulgate Rules and Regulations to Implement the Policy

(Adjourn as the Multnomah County Board of Health and reconvene as Multnomah County Board of Commissioners)

**BOARD COMMENT – 11:50 AM**

Opportunity (as time allows) for Commissioners to provide informational comments to Board and public on non-agenda items of interest or to discuss legislative issues.



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST** (Budget Modification)

APPROVED : MULTNOMAH COUNTY  
 BOARD OF COMMISSIONERS  
 AGENDA # C-1 DATE 07-31-08  
 DEBORAH L. BOGSTAD, BOARD CLERK

**Board Clerk Use Only**

**Meeting Date:** 07/31/08  
**Agenda Item #:** C-1  
**Est. Start Time:** 9:30 AM  
**Date Submitted:** 07/08/08

**BUDGET MODIFICATION: HD-09-02**

**Budget Modification HD-02 Authorizing Two Position Reclassifications within  
 Agenda the Community Health Services Division of the Health Department as  
 Title: Determined by the Class/Comp Unit of Central Human Resources**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Requested Meeting Date:** July 31, 2008      **Amount of Time Needed:** 5 Minutes  
**Department:** Health Department      **Division:** Community Health Services  
**Contact(s):** Lester A. Walker Budget & Finance Manager  
**Phone:** (503) 988-3663      **Ext.** 26457      **I/O Address:** 167/2/210  
**Presenter(s):** N/A (Consent Agenda)

**General Information**

**1. What action are you requesting from the Board?**

Approval of two staff adjustments resulting from the re-classification of an existing position. This change will not increase the Health Departments total FTE nor will there be any financial impact on the budget.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

1. Reclassify a 1.0 Health Educator to a 1.0 Program Development Specialist Senior in the Community Health Services division of the Health Department. Class Comp approved reclassification effective 6/30/2008 (reclass # 995). The change will have no financial impact.
2. Reclassify a 1.0 Community Health Specialist 2 to a 1.0 Health Educator in the Community Health Services division of the Health Department. Class Comp approved reclassification effective 6/30/2008 (reclass # 996). The change will have no financial impact.

**3. Explain the fiscal impact (current year and ongoing).**

There is no fiscal impact.

**4. Explain any legal and/or policy issues involved.**

N/A

**5. Explain any citizen and/or other government participation that has or will take place.**

N/A

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## ATTACHMENT A

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### **Budget Modification**

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If the request is a **Budget Modification**, please answer **all** of the following in detail:

- **What revenue is being changed and why?**  
No change in revenues
- **What budgets are increased/decreased?**  
The Health Department's FTE budget will not change for FY09.  
There is no financial impact from this change.
- **What do the changes accomplish?**  
Change of classification of positions 712253 and 711728 to better fit the duties of those positions within the Health Department as determined by the Class/Comp Unit of Central Human Resources.
- **Do any personnel actions result from this budget modification? Explain.**
  1. Reclassify a 1.0 Health Educator to a 1.0 Program Development Specialist Senior in the Community Health Services division of the Health Department.
  2. Reclassify a 1.0 Community Health Specialist 2 to a 1.0 Health Educator in the Community Health Services division of the Health Department.
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**  
N/A
- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**  
N/A
- **If a grant, what period does the grant cover?**  
N/A
- **If a grant, when the grant expires, what are funding plans?**  
N/A

<p><i>NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense &amp; Revenues Worksheet and/or a Budget Modification Personnel Worksheet.</i></p>
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**ATTACHMENT B**

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**BUDGET MODIFICATION: HD-09-02**

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**Required Signatures**

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**Elected Official or  
Department/  
Agency Director:**

*Lillian Shirley*

---

**Date: 07/07/08**

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**Budget Analyst:**

*Angela Burdine*

---

**Date: 07/08/08**

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**Department HR:**

*Kathleen Heller*

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**Date: 07/07/08**

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**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST** (Budget Modification)

APPROVED : MULTNOMAH COUNTY  
 BOARD OF COMMISSIONERS  
 AGENDA # C-2 DATE 07.31.08  
 DEBORAH L. BOGSTAD, BOARD CLERK

**Board Clerk Use Only**

Meeting Date: 07/31/08  
 Agenda Item #: C-2  
 Est. Start Time: 9:30 AM  
 Date Submitted: 07/15/08

**BUDGET MODIFICATION: DCM - 01**

**Agenda Title: Budget Modification DCM-01 Reclassifying One Position in Assessment and Taxation as Determined by the Class/Comp Unit of Central Human Resources**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Requested Meeting Date:</b>	<u>July 31, 2008</u>	<b>Amount of Time Needed:</b>	<u>Consent</u>
<b>Department:</b>	<u>County Management</u>	<b>Division:</b>	<u>Director's Office</u>
<b>Contact(s):</b>	<u>Bob Thomas</u>		
<b>Phone:</b>	<u>(503) 988-4283</u>	<b>Ext.</b>	<u>84283</u>
<b>Presenter(s):</b>	<u>Consent</u>	<b>I/O Address:</b>	<u>503/531</u>

**General Information**

**1. What action are you requesting from the Board?**

The department is requesting Board approval of a budget modification reclassifying one position in the Assessment & Taxation Division as determined by the Class/Comp Unit of Central Human Resources.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The Department of County Management is asking the Board to approve the reclassification of the following position:

**Assessment & Taxation**

Position Title (Old)	Position Title (New)	Position Number	FTE
Administrative Analyst, Sr	Management Assistant	703936	No change

This position provides management support and assistance to the Assessment & Taxation Division director. This position manages administrative support functions for the division; assists division

managers and other management staff with personnel matters, labor relation issues and recommends actions; represents the division director at meetings both at the County and with outside agencies; and facilitates development and implementation strategies for division policies, goals and projects. Upon review of these duties, Central Class/Comp has reclassified the job level of this position to Management Assistant.

**3. Explain the fiscal impact (current year and ongoing).**

No overall fiscal impact for the current year, funds are budgeted to cover these changes. Overall personal service increases due to this reclassification is \$11,941 for FY 2009, with balancing decreases in materials and services. Future budget requests will include costs for cost of living or merit increases, as appropriate.

**4. Explain any legal and/or policy issues involved.**

NA

**5. Explain any citizen and/or other government participation that has or will take place.**

NA

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# ATTACHMENT A

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## Budget Modification

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If the request is a Budget Modification, please answer all of the following in detail:

- **What revenue is being changed and why?**

Risk Management Fund service reimbursement is increased by \$573.

- **What budgets are increased/decreased?**

Risk Management Fund is increased by \$573.

- **What do the changes accomplish?**

Position reclassification as described in section 2.

- **Do any personnel actions result from this budget modification? Explain.**

Position reclassification as described in section 2

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

Not applicable to this action.

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

NA

- **If a grant, what period does the grant cover?**

NA

- **If a grant, when the grant expires, what are funding plans?**

NA

*NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.*

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## ATTACHMENT B

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**BUDGET MODIFICATION: DCM - 01**

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### Required Signatures

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**Elected Official or  
Department/  
Agency Director:**

*Carol M. Ford*

---

**Date:** 07-15-08

**Budget Analyst:**

*Christy*

---

**Date:** 07-14-08

**Department HR:**

*Amy Rippon*

---

**Date:** 07-15-08

**Countywide HR:**

*Jeri E. Dot*

---

**Date:** 07-15-08

Budget Modification ID: **DCM-01**

### EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with SAP.

Budget/Fiscal Year: 2009

Line No.	Fund Center	Fund Code	Program #	Func. Area	Internal Order	Accounting Unit		Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
						Cost Center	WBS Element						
1	72-30	1000	72030	0020		706201		60000	226,046	234,860	8,814		Increase Base Pay
2	72-30	1000	72030	0020		706201		60130	66,624	69,178	2,554		Increase Salary Related
3	72-30	1000	72030	0020		706201		60140	47,537	48,110	573		Increase Insurance Benefits
4	72-30	1000	72030	0020		706400		60240	12,000	10,000	(2,000)		Decrease Supplies
5	72-30	1000	72030	0020		706202		60240	11,500	9,000	(2,500)		Decrease Supplies
6	72-30	1000	72030	0020		706203		60240	30,000	25,559	(4,441)		Decrease Supplies
7	72-30	1000	72030	0020		706204		60240	15,000	12,000	(3,000)	0	Decrease Supplies
8										0			
9	72-10	3500	72014	0020		705210		50316		(573)	(573)		Increase Serv Reimb Rev
10	72-10	3500	72014	0020		705210		60330		573	573	0	Increase Offsetting Expend
11										0			
12										0			
13										0			
14										0			
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25										0			
26										0			
27										0			
28										0			
29										0			
											0	0	Total - Page 1
											0	0	GRAND TOTAL

**ANNUALIZED PERSONNEL CHANGE**

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

							ANNUALIZED			
Fund	Job #	HR Org	CC/WBS/IO	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1000	9005	64584	706201	Administrative Analyst Sr	703936	(1.00)	(66,428)	(19,244)	(15,266)	(100,938)
1000	9710	64584	706201	Management Assistant	703936	1.00	75,242	21,798	15,839	112,879
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
										0
<b>TOTAL ANNUALIZED CHANGES</b>						<b>0.00</b>	<b>8,814</b>	<b>2,554</b>	<b>573</b>	<b>11,941</b>

**CURRENT YEAR PERSONNEL DOLLAR CHANGE**

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

							CURRENT YEAR			
Fund	Job #	HR Org	CC/WBS/IO	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1000	9005	64584	706201	Administrative Analyst Sr	703936	(1.00)	(66,428)	(19,244)	(15,266)	(100,938)
1000	9710	64584	706201	Management Assistant	703936	1.00	75,242	21,798	15,839	112,879
										0
										0
										0
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										0
										0
										0
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										0
										0
										0
										0
										0
<b>TOTAL CURRENT FY CHANGES</b>						<b>0.00</b>	<b>8,814</b>	<b>2,554</b>	<b>573</b>	<b>11,941</b>

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 7.31.08  
8/1/08

SUBJECT: ACCOUNTABILITY

AGENDA NUMBER OR TOPIC: Public Comment

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: DAVID McDONALD

ADDRESS: 2225 N. EMERSON

CITY/STATE/ZIP: PORTLAND, OR, 97217

PHONE: \_\_\_\_\_

DAYS: 285-1242

EVENINGS: \_\_\_\_\_

EMAIL: dawgoregon@aol.com

FAX: \_\_\_\_\_

SPECIFIC ISSUE: DEVELOPMENTAL DISABILITY

WRITTEN TESTIMONY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

**Meeting Date:** 07/31/08  
**Agenda Item #:** R-1  
**Est. Start Time:** 9:30 AM  
**Date Submitted:** 07/23/08

**Agenda Title:** **Board Briefing on the Audit of Aging and Disability Services' Medicaid Long-term Care Program**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Requested Meeting Date:** July 31, 2008      **Amount of Time Needed:** 30 minutes  
**Department:** Non Departmental      **Division:** Auditors Office  
**Contact(s):** Judy Rosenberger  
**Phone:** 503 988-3320      **Ext.** 83320      **I/O Address:** 503/601  
**Presenter(s):** LaVonne Griffin-Valade, Judith DeVilliers, Fran Davison, Kathryn Nichols, and special intern, Susan Luce.

**General Information**

**1. What action are you requesting from the Board?**

Board Briefing

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The Auditor's Office will brief the Board on the audit of Aging & Disability Services' Medicaid Long-term Care Program which serves very low-income seniors and disabled adults eligible for nursing home care. The purpose of the audit was provide managers and the Board with a descriptive profile of clients, costs, and services, as well as determine whether the county is equipped to meet the increasing demand for services in the future.

**3. Explain the fiscal impact (current year and ongoing).**

**4. Explain any legal and/or policy issues involved.**

**5. Explain any citizen and/or other government participation that has or will take place.**

**Required Signature**

**Elected Official or  
 Department/  
 Agency Director:**

*LaVonne Griffin-Valade*

**Date:** July 23, 2008



**LaVonne Griffin-Valade  
Multnomah County Auditor**

501 SE Hawthorne, Room 601  
Portland, Oregon 97214  
(503) 988-3320  
www.co.multnomah.or.us/auditor

**Audit Staff**  
**Fran Davison**  
**Judith DeVilliers**  
**Susan Luce**  
**Kathryn Nichols**

## Aging & Disabilities Services: Medicaid Long-term Care Program July 2008

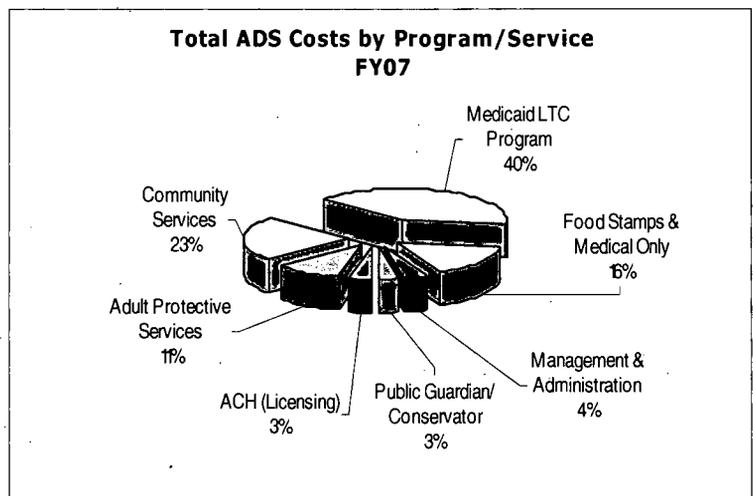
### Objectives:

- profile clients, costs, and services
- determine whether the Program is equipped to meet the increasing demand

**Scope:** limited to the Medicaid Long-term Care (LTC) Program which provides on-going case management and long-term care services to very low-income seniors (65+) and very low-income physically disabled adults (18+) who qualify for Medicaid

### Medicaid LTC Program Overview:

- long-term care options to nursing home care:
  - In-home care
  - Adult foster care
  - Assisted living facilities
  - Residential care facilities
  - Specialized living facilities
- FY07 costs = \$14 million for case management linking to options and other services
- 7,023 unduplicated clients in FY07
- 15,264 unduplicated clients in the five years FY03 through FY07
  - 29% received in-home care during all of the months they were served
- Average cost-per-client for in-home care in FY07 = \$7600; \$32,500 for nursing home care per client



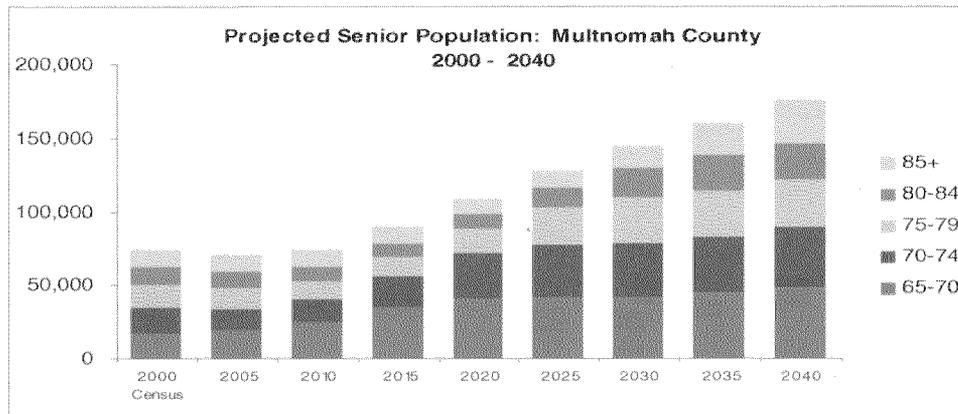
### Findings:

- Dedicated staff link thousands of vulnerable residents to crucial and cost-effective services.
- The Program has faced a number of hurdles as a result of reductions in Medicaid funding
- We worked with ADS and the state to obtain 5 years of data, and using available data, we analyzed several service and demographic trends. We found areas which need improvement and believe ADS is well-positioned to implement changes, particularly when data are available:
  - Increasing the reliability and use of data – *Program hired an analyst since the audit*
  - Improving caseload counts and balancing caseloads – *ADS owns this data system*
  - Using data to plan for service needs – *department leadership is committed to this*
- Case managers reinforced the audit finding that data systems need to be streamlined and improved. In particular, they talked about having to enter data in multiple fields, screens, and reports in 3 different state systems, a couple of which are antiquated.
- The report includes discussion of care options, demographic information related to those options, and client profiles to bring a human face to some important client issues.

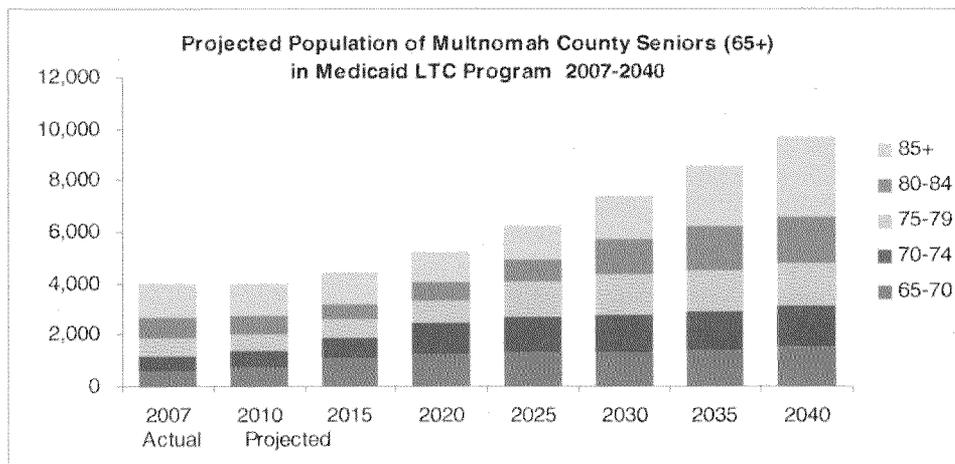
**Recommendations:** As ADS and the state look to the future to find ways to provide services to an increasing number of seniors and people with disabilities, we recommend that they make it a priority to develop more streamlined information systems.

- I. We recommend that ADS work with the state to develop a solution for discrepancies in reports.
- II. We recommend that ADS work with county IT to develop an online Branch Monthly Activities Reporting (BMAR) system and develop guidelines so that data are more consistently reported.
- III. We recommend that ADS find ways to classify and collect data on clients with mental health and behavioral challenges.
- IV. We recommend that ADS consider expanding the county's capacity to serve the growing number of minority clients and those with limited English proficiency, with particular attention to community-based facilities for ethnic minorities and other potentially underserved populations.
- V. We recommend that ADS work with the state to ensure that the infrastructure supporting home care workers is equipped for the increased demand for their services in the future.

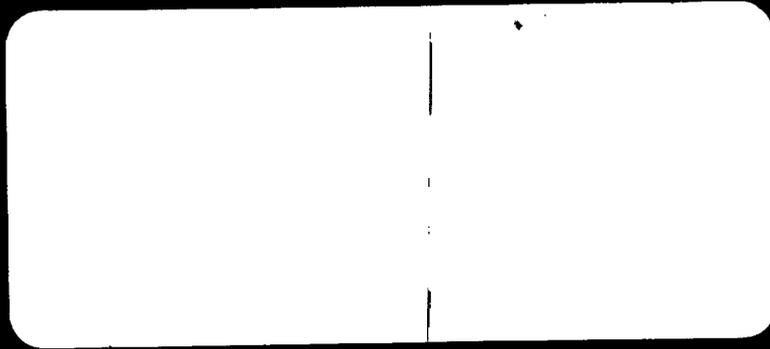
**Why this all matters:** ADS will need adequate data to better manage clients and services, as well as plan effectively for the future. To help illustrate this point, the first chart shows that the demographic wave of seniors is projected to hit Multnomah County about 2015 – only 7 years from now. The second chart indicates how the demographic changes would play out if the existing demand-for-service rates hold.



Source: Auditor's analysis of projections from the Oregon Office of Economic Analysis  
Projections do not include people age 18 – 64 with disabilities



Source: Auditor's analysis of projections from the Oregon Office of Economic Analysis  
Projections do not include adults age 18 – 64 with disabilities



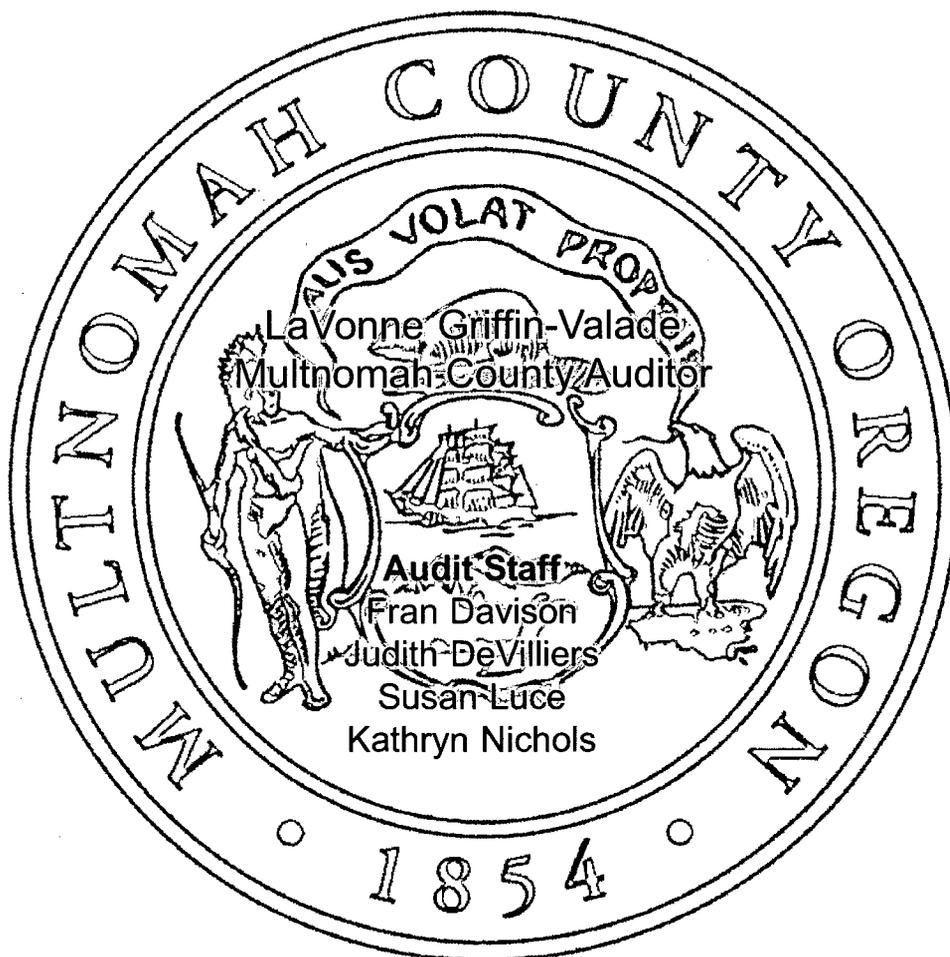
MULTNOMAH COUNTY AUDITOR  
PORTLAND, OREGON

Aging & Disability Services Division:  
Medicaid Long-term Care Program Audit

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July 2008



We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



# LaVonne Griffin-Valade Multnomah County Auditor

501 SE Hawthorne Room 601  
Portland, Oregon 97214  
Phone: (503) 988-3320

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## MEMORANDUM

Date: July 31, 2008

To: Ted Wheeler, Multnomah County Chair  
Maria Rojo de Steffey, Commissioner, District 1  
Jeff Cogen, Commissioner, District 2  
Lisa Naito, Commissioner, District 3  
Lonnie Roberts, Commissioner, District 4

From: LaVonne Griffin-Valade, County Auditor 

Subject: Audit of Aging & Disabilities Services Medicaid Long-term Care Program

The attached report details our examination of the Medicaid Long-term Care Program which is managed by Aging & Disability Services (ADS), a division of the Department of County Human Services. This audit brings together data from multiple state and county sources with the objective of analyzing costs and determining if ADS is prepared to meet the increasing demand for services in the future.

In FY07, the Medicaid Long-term Care Program served more than 7,000 very low-income seniors and physically disabled adults. Over the next few decades, that number is projected to increase dramatically. The report details our analyses of demographic and service trends, provides an assessment of current data systems, and makes specific recommendations for using data more effectively to manage resources and plan for the ongoing and future needs of clients.

The report also reflects the many discussions we had with managers and staff, who helped us to gain an in-depth understanding of complex funding and service requirements, as well as the reality of serving these needy clients. We were impressed with the knowledge and professionalism of staff members we encountered.

We plan to conduct a formal follow-up to this report within the next 18 months to two years. We would like to again acknowledge the cooperation we received from ADS staff throughout the audit.

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## Executive Summary

This audit of the Aging & Disability Services (ADS) Division examined the Medicaid Long-term Care (LTC) Program which serves very low-income seniors and disabled adults eligible for nursing home care. The goal of the Program is to provide clients with alternatives to nursing facilities so they are able to maintain some level of independence and live in their own homes or community-based settings for as long as possible.

Our review shows that the dedicated staff in the county's Medicaid LTC Program link thousands of vulnerable residents to crucial and cost-effective services each year. The Program has faced a number of hurdles in recent years as a result of funding reductions and the tightening of eligibility requirements. By and large, this has meant that some needy clients who once received more extensive services, no longer qualify for certain Program offerings, if they qualify for services at all. This has forced ADS to make difficult choices in their approach to serving this particularly vulnerable population. Our observations, analyses, and recommendations for improvement should be viewed in that context.

Our report includes discussion of placement options, placement trends, and demographic information about the Program population. For example, between July 1, 2002 and June 30, 2007, the Program served 15,264 individuals. Of those clients, 29% received in-home care during all the months they were served. That represents important success on the part of the Program. In monetary terms alone, the average cost-per-client of providing in-home care in Fiscal Year 2007 (FY07) was about \$7,600, compared to the average cost of about \$32,500 per client cared for in a nursing facility.

Our analysis further indicates caseload differences among the five branch offices responsible for case management of Program clients. The West Branch serves a higher percentage of younger, disabled clients than any other branch; the North/Northeast Branch works with the highest percentage of minority clients; and the East Branch serves the highest number of clients needing more assistance with basic daily living needs.

We examined new client intake and caseload trends and found that intakes and caseload numbers have declined in recent years, with the changes in the state's policy regarding eligibility. It is worth noting that the number of clients served is expected to grow considerably in the future with the rapidly expanding senior population. Responding to the expected increases in the demand for long-term care will require realignment in Program efforts. Further, ADS management reports that the acuity level of clients appears to have increased.

We found that ADS improved its compliance with requirements to determine eligibility within 45 days of intake and to complete annual assessments. However, we also identified problems with the quality and use of data. We found that ADS does not have ready access to the consistent and reliable information needed to manage the Program. In particular, data on clients' disabilities and mental health needs is limited. This effectively means that ADS cannot accurately describe its client population and workload, or strategically plan for service delivery. This is a problem of some significance because accurate and timely data would assist with more effective resource deployment and provide assurance that client needs are being met.

In addition, ADS cannot adequately track clients who participate in its Medicaid LTC Program. Although the data systems available to ADS are not designed to track clients, we were able to merge data and analyze client experiences over time. For instance, we saw that placement of younger, disabled clients in nursing homes has increased over the time period reviewed, despite the overall decline in the number of people with disabilities served by the Program. Under-

standing this and other client trend information is important because the increased movement of just a few clients to nursing home care can rapidly raise Program costs.

ADS also does not have a good system for assigning new cases to case managers, they lack consistent reporting practices for monitoring monthly activities, and they could better utilize available data to evaluate the efficiency and effectiveness of intake processes. The result is that caseloads vary within and across branches. However, ADS has limited mechanisms for evaluating client contacts or outcomes, understanding the differences in caseloads, or making adjustments to ensure that caseloads are balanced and appropriate.

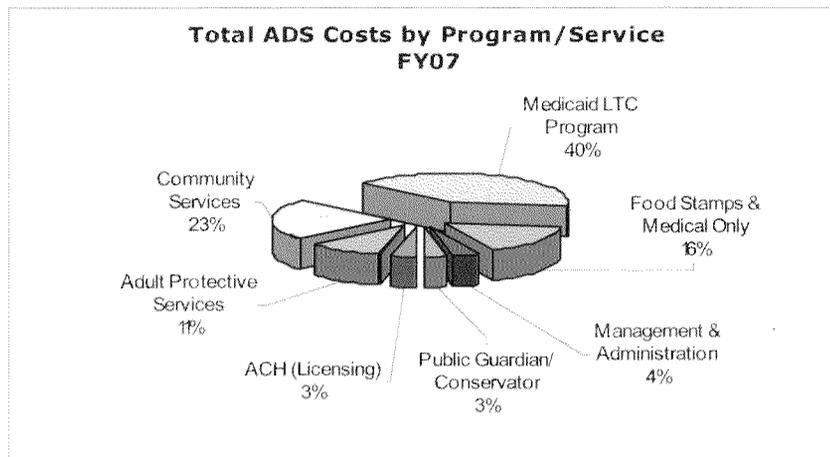
Audit recommendations are focused primarily on problems with the reliability and use of data in management decisions. In particular, we recommend that ADS work with the state to solve discrepancies in statistical reports. We recommend that ADS work with the county's Information Technology Division to develop an online monthly reporting system and guidelines for more consistent reporting. We also recommend that ADS consider expanding the capacity to serve the growing number of minority clients and those with limited English proficiency. Finally, ADS should work with the state to ensure that there is an infrastructure to support home care workers and to prepare for future demand for their services.

Over the course of this audit, we had the opportunity to meet with case managers and other staff and observe them as they carried out their work. Doing so provided us with tremendous insight about the issues they face in meeting Program responsibilities and service goals. Case managers also assisted us in developing the nine brief client profiles that can be found throughout the "Audit Results: Community Continuum of Care Options" section of the report. We saw it as valuable to place these profiles in the context of our analyses. Not only because doing so brings greater awareness of the real people receiving Program services and the equally real challenges facing ADS staff and managers, but because it enriches our analyses.

## Background

The mission of the Aging & Disabilities Services (ADS) Division is to enable older adults and people with physical disabilities to live as independently as possible. ADS provides a range of services in the community to meet the diverse needs and preferences of their clients. ADS service units include the following: the Medicaid Long-term Care (LTC) Program; Community Services; Adult Protective Services; Adult Care Home Program (ACHP) licensing; and the Public Guardian/Conservator Program. ADS also assists senior and disabled clients who are only eligible for food stamps and medical programs with accessing community resources. Exhibit 1 shows the percentage of total ADS costs by program area, as well as costs assigned to management and administration.

Exhibit 1

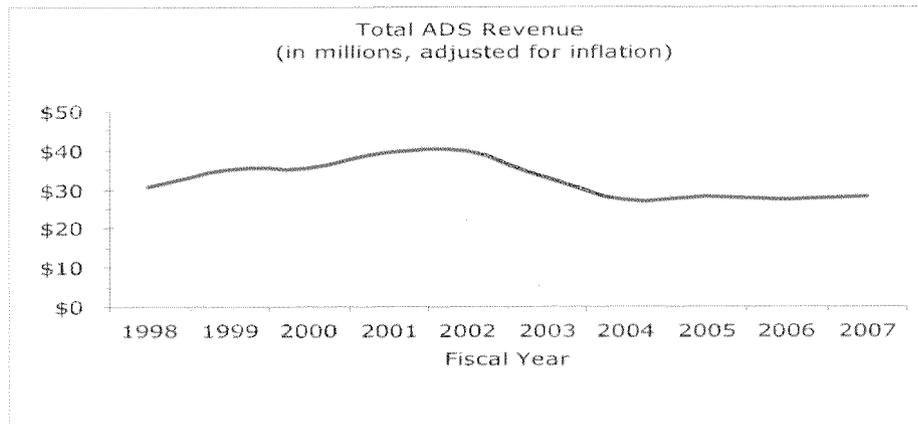


Source: Auditor's analysis of county financial reports

Our audit of ADS focused on the Medicaid LTC Program which authorizes federal Medicaid spending for long-term care alternatives to nursing home placement. For more than 25 years, Oregon's nationally recognized approach to Medicaid long-term care services has allowed seniors and people with disabilities to live primarily in their homes and community-based facilities rather than in institutions, such as nursing facilities.

Exhibit 2 shows actual revenues for ADS over the past ten years, a period that includes significant funding and service level changes in the Medicaid LTC Program. The initial cuts that occurred during FY03 and FY04 eliminated Program services to clients requiring the least amount of assistance. Some of the services affected by these cuts were temporarily restored or replaced by other programs funded in part by the county's temporary personal income tax (ITAX), which was in effect from FY04 through FY06.

**Exhibit 2**



Source: Auditor's analysis of county financial reports

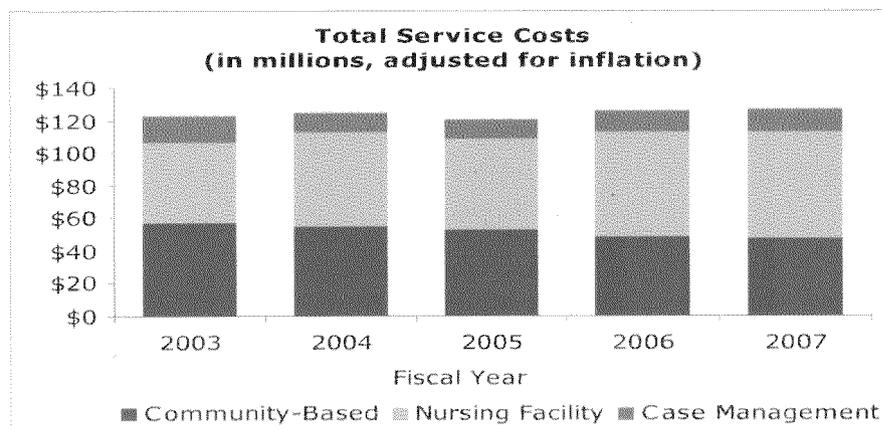
**Medicaid LTC Program Overview**

In Multnomah County, the Medicaid LTC Program provides case management to link clients with services. During Fiscal Year 2007 (FY07), the Program served a total of 7,023 unduplicated clients. Clients served are very low-income seniors age 65 and older and adults with disabilities who meet Medicaid guidelines for nursing home placement. ADS provided long-term care case management services for seniors through an intergovernmental agreement with the State of Oregon since 1986 and began serving people with physical disabilities in 1998.

Medicaid LTC Program case management is provided by 144 employees who work out of five branch office locations throughout the community. Most of these offices are co-located with senior centers where other ADS services are available to all seniors in the county. Most costs for case management are reimbursed by the state, primarily from federal Medicaid dollars. County General Fund monies provide local match dollars (Medicaid reimburses about \$2 for every \$1 of General Fund match). In FY07, the local match was approximately \$1.8 million.

Exhibit 3 shows the total service costs for Medicaid LTC Program clients. Nursing facility and community alternative costs are directly incurred by the state. Total service costs for Program clients were \$127 million in FY07, including \$14 million for case management.

**Exhibit 3**



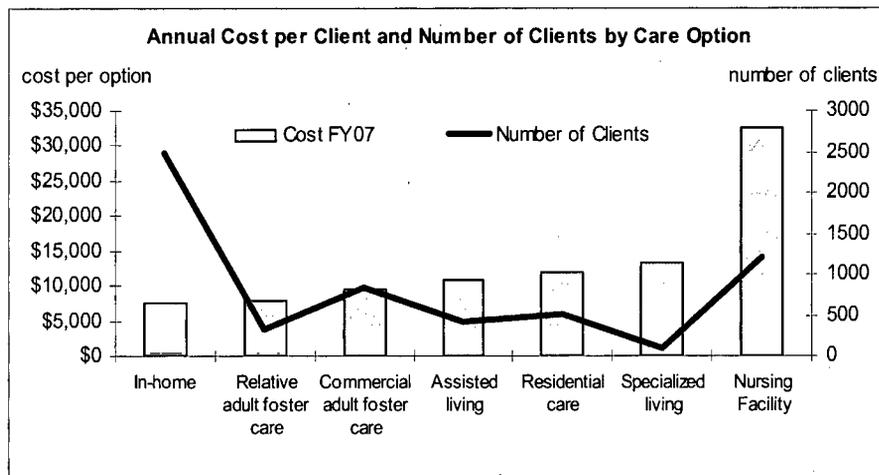
Source: Auditor's analysis of state claims data and estimated case management costs

### Medicaid waiver services

Oregon received a "waiver" from federal Medicaid long-term care program requirements that allows clients to be placed in settings other than nursing facilities. Care alternatives under the state's Medicaid waiver include in-home care, adult foster care (both commercial and relative), assisted living facilities, residential care facilities, and specialized living facilities. Most of these facilities are licensed to accept both Medicaid and private-pay clients. Other services include home-delivered meals, adult day care services, and non-medical transportation.

Overall, about 42% of all ADS long-term care clients (including those in nursing facilities) receive in-home services. About 37% are served in community-based facilities, and only 21% are served in nursing facilities. Using information from county and state records, we were able to calculate the average cost per client receiving care in community alternatives compared to those in nursing homes. The following chart compares client numbers and costs for long-term care in FY07 for each of the long-term care alternatives.

Exhibit 4



Source: Auditor's analysis of Oregon ACCESS data and state claims data

Medicaid LTC case managers link each client with services based on the amount of assistance needed, their individual choices and preferences, and whether help may be available from family, friends, or neighbors. The state requires case managers to perform a number of functions:

- determine financial and service eligibility within 45 days of initial client contact;
- assess individual care needs and develop a plan of care at least annually, or as needs change;
- implement the plan ensuring the least restrictive, most cost effective placement;
- authorize services to be provided;
- authorize payment and compute applicable client contributions;
- provide ongoing monitoring and assistance to the client as needed or requested; and
- maintain documentation that supports the service eligibility decision.

**Program qualification requirements: client needs, income, and age**

- Client needs – Needs are defined by a set of “activities for daily living” (*ADLs*) which are categorized into a set of “service priority levels” (*SPLs*). These establish initial eligibility and help case managers identify the type of care and services an individual needs. Half of Medicaid LTC clients in service in June 2007 were classified in the highest need category and required full assistance for most *ADLs*. About 41% required substantial assistance in one or more of the *ADLs*, and only 9% require minimal assistance. Exhibit 5 explains the categories of *SPLs* and the *ADLs* that define the various categories.

**Exhibit 5**

	<b>SERVICE PRIORITY LEVEL</b>	<b>Description of Client Impairment and Need</b>
<b>Full Assistance</b>	Level 1	Full assistance in all major activities of daily living. Requires hands-on care throughout the day.
	Level 2	Full assistance in mobility, eating and cognition. Does not require help with toileting.
	Level 3	Full assistance in at least one of the following: mobility, eating, or cognition.
	Level 4	Full assistance in toileting.
<b>Substantial Assistance</b>	Level 5	Substantial assistance with mobility and eating. Some assistance with toileting.
	Level 6	Substantial assistance with mobility and eating.
	Level 7	Substantial assistance with mobility and some assistance with toileting.
	Level 8	Some assistance with mobility, eating, and toileting.
	Level 10	Substantial assistance with mobility.
<b>Minimal Assistance</b>	Level 9	Some assistance with eating and toileting.
	Level 11	Some assistance with toileting and ambulation.
	Level 12	Some assistance with eating and ambulation.
	Level 13	Some assistance with toileting.

Source: State of Oregon, Department of Human Services, Seniors and People with Disabilities Division

Note: Service priority levels 14 through 17 were discontinued by the state in 2003.

- Income and resources – According to the state’s “Client Data Book,” 54% receive Supplemental Security Income (SSI), which is \$624 per month. The remaining clients have incomes over this amount (but under \$1870 per month). Those with incomes over the SSI amount are required to pay for some of their care, based on their ability to pay.
- Client ages – To qualify for the Program, an individual must be a senior age 65 and over or an adult with disabilities under the age of 65. About two-thirds of Program clients are seniors, and one-third are people with disabilities under the age of 65. There are some

significant differences between the seniors and the younger disabled population served by the Program.

- While women make up 70% of the seniors, they are 54% of the younger disabled population.
- Those of Asian descent make up 3% of the younger disabled clients, but are 11% of the senior population.
- African Americans make up 14% of the younger disabled population, but are 8% of the senior population.
- A much larger percentage of clients with disabilities (93%) are English speakers, compared to 75% of the senior clients.
- The service priority level profiles of these two sub populations are very similar.

## **Scope and Methodology**

The objectives of this audit were: a) to provide Program managers, the public, and the Board of County Commissioners with a descriptive profile of clients, costs, and services; and b) to determine whether the Program is equipped to meet the increasing demand for these services in the future.

Our audit scope was limited to the Medicaid Long-term Care (LTC) Program administered by the Aging & Disability Services (ADS) Division. The Program provides on-going case management and long-term care services to clients who met both the financial and functional criteria for nursing home placement under Oregon's Medicaid waiver for long-term care. Although Medicaid clients placed in nursing homes are not technically served under the waiver, we included them to get a comparative perspective on costs and services. Because of data limitations, we were not able to include in our scope clients not eligible for case management services under the Medicaid waiver but who received "State Personal Care" services, or those case managed through Oregon Project Independence. The audit also excluded clients eligible only for medical services and food stamps under Medicaid.

Our analysis of Medicaid LTC Program clients, services, and costs was based on five years of data obtained from both the state and the county. See Appendix A for the detailed methodology. We also interviewed Program staff including managers, supervisors, case managers, and office and case management assistants who provided us with information about their clients, issues, and problems. They assisted with the development of a sample of individual client profiles.

We assessed the Program based on its stated goals and good public management principles. Program goals and criteria for the audit were identified in our review of county, state, and federal laws, rules, contracts, policies, and procedures. We also reviewed reports, research studies, and performance audits, and we have included a selected bibliography in Appendix B.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **Audit Results: Review of Quantitative Data**

We worked with both the state and the Aging & Disabilities Services (ADS) Division to obtain five years of data and information for the Medicaid Long-term Care (LTC) Program. Using available data, we analyzed a number of service and demographic trends. We identified the following areas for improvement: increasing the reliability and use of data; improving caseload counts; balancing caseloads; and using data to plan for service needs.

### ***Increase Reliability and Use of Data***

#### **Better information could guide the deployment of resources**

We calculated a total of 15,264 unduplicated clients served by the county's Medicaid LTC Program between July 1, 2002 and June 30, 2007. About 4,400 were served for more than three years (30%), and about 1,800 were served continuously for all five years (12%). These statistics suggest a relatively stable service population. Further, clients very rarely transferred to a different branch for case management, with about 80% of clients over the five-year period being served at the same branch.

These data are relevant to the management of the Medicaid LTC Program and deployment of resources. For example, some important trends emerged from our analysis of a snapshot of clients receiving service on June 30, 2007. Looking retrospectively at five years of services in the Program, we found the following:

- Clients managed out of the West and North/Northeast (N/NE) Branches spent a higher percentage of Program months receiving in-home care, the least costly and least restrictive of settings.
- Females spent slightly more time in their homes, while males were slightly more likely to be placed in a nursing facility.
- English-speaking clients spent 26% of Program service months in nursing homes, while nursing home percentages were much lower for all other non-English speaking groups. Eastern European-language speakers spent the highest percentage of time in an in-home placement.
- Because seniors were less likely than the disabled to stay in their homes, the total five-year cost for seniors was higher on average.
- Clients who were married or separated had the highest in-home care rates, while those who were not married were more likely to be placed in a nursing home, resulting in higher monthly costs.

#### **Data often not available, consistent, or reliable**

Some important information was not available, or we found it to be inconsistent, unreliable, or difficult to extract from state data systems. ADS must rely on the regular management reports generated by the systems the state uses to maintain client and claims data. These mainframe-based systems were originally developed in the 1970s, and the reports they generate are not well documented or understood. ADS management also indicated that these systems were designed to facilitate reporting to the federal government, not as tools to manage programs more effectively.

ADS has initiated efforts to address data quality, but with limited success. Additional management data on clients and their needs are available through monthly client files extracted from Oregon ACCESS – the system used to determine eligibility and develop case plans. Also, since 2003, the county's Information Technology (IT) Division has worked with ADS to create a

range of monthly reports that can be generated by management or line staff. While these reports provide ADS the flexibility to create their own management information, critical data regarding client disabilities and mental health issues are maintained in narrative form only, restricting the level of analysis staff can perform.

ADS has recognized the limitations of current data systems and has initiated a series of planning efforts to develop solutions. While some important improvements have been achieved through these efforts, including the development of well-documented and detailed monthly reports, we found a number of inconsistencies and reliability problems. Also, ADS continues to be unable to identify critical client needs, analyze data on clients in conjunction with service and cost data, or generate basic unduplicated annual counts of clients served due to its reliance on state data systems.

As ADS and the state look to find ways to provide services to an increasing number of seniors and persons with disabilities, we recommend that they make it a priority to develop more streamlined information systems that provide the county with better data to manage clients and services and plan effectively for the future.

#### **Data not available to describe client need**

We asked both county IT staff and state analysts to provide us with data on clients' disabilities, as well as their physical diagnoses and mental health needs. We found that while Program case managers may record some of this information in the narrative sections of the Oregon ACCESS system, such data cannot be extracted for management analysis.

One example of missing information which is essential for management and planning is data on client mental health issues. Many case managers reported increasing numbers of clients with mental health and behavioral problems, and indicated that these clients are the most labor intensive. These issues are also discussed in state and national reports. For example, national census-based estimates indicate that about 62% of the current disabled population suffers from physical disabilities, and about 39% suffer from mental disabilities. However, ADS was not able to provide us with data on specific client disabilities in its service population.

#### **Client tracking needs improvement**

Neither the state nor ADS has the capacity to examine the ways in which clients age in the Medicaid LTC Program, since data systems are not designed to track clients. We were able to merge our data on claims over a five-year period with client snapshot files to provide a unique analysis of clients' experiences in the Program over time.

Our analysis shows that younger disabled clients have seen increases in nursing home placement rates over time. Despite a 15% decline in the total number of disabled clients served since FY03, the number of younger disabled clients in nursing facilities increased from 309 in June of 2003 to 344 in June of 2007. Increased movement of a few clients to nursing homes from care settings that allow for greater independence has the potential to raise Medicaid LTC Program costs very quickly. However, we found that data were not available to document client movement, including the extent to which clients move in and out various Program services.

We found that 29% of the clients served over the five-year period spent all of the months served in the Medicaid LTC Program receiving in-home care. This finding suggests that there is stability in long-term placements and that services may be working reasonably well, since the typical client, once placed at home, is likely to remain in that setting. However, another 27% of the

clients served spent all of the months in service in a nursing facility. This suggests that ADS is doing less well at transitioning clients out of nursing homes, once they are placed there.

We identified 2,408 Medicaid LTC Program clients who were receiving services in both July of 2002 and June of 2007, or 16% of the total served over the five-year period. Exhibit 6 compares their care placements at the beginning and end of the five-year period. For example, we found that 84% of the clients living in their own homes in 2002 and still receiving services in 2007 had remained in that placement. About 12% had been transferred to a community-based facility and about 5% had been transferred to a nursing facility. About 84% of the clients placed in foster homes in 2002 and still receiving services in 2007 were still in that placement, and only 5% had been transferred to nursing facilities.

**Exhibit 6**

<b>2007 Placements as % of 2002 Placements</b>	<b>Clients 2002</b>	<b>In-Home 2007</b>	<b>Foster Home 2007</b>	<b>Assisted Living 2007</b>	<b>Residential Care 2007</b>	<b>Specialized Living 2007</b>	<b>Nursing Home 2007</b>
In-home Care 2002	1,419	84%	8%	2%	1%	1%	5%
Adult Foster Home 2002	424	6%	84%	1%	3%	1%	5%
Assisted Living 2002	93	4%	6%	62%	5%	1%	20%
Residential Care 2002	133	3%	13%	4%	60%	1%	20%
Specialized Living 2002	61	13%	8%	3%	3%	67%	5%
Nursing Home 2002	278	3%	3%	1%	2%	0%	91%

Source: Auditor's analysis of state claims data -- placements based on last claim for each month

The remaining community-based facilities statistics in Figure 6 above show somewhat less client continuity. About 20% of those in residential care and assisted living facilities in 2002 had been transferred to nursing facilities by June of 2007. About 13% of those in specialized living facilities in 2002 were placed at home in 2007.

Nursing facility placements are the most stable of all, suggesting again that transitioning clients from nursing facilities once placed there is difficult. Only 3% of those in nursing homes in 2002 were placed at home in 2007. About 6% were transferred to community-based facilities.

**Staffing for data and research was limited**

Because of staff turnover in recent years and pressure to preserve limited resources for client services, ADS did not fully staff its data and research function. During our audit, one analyst was primarily responsible for preparation of the annual Local Area on Aging Plan, and another newly hired analyst spent limited time on Medicaid LTC Program caseload reports. The Division had funds in its budget to support an additional senior research analyst, but that position was not filled until after the audit was completed. We are hopeful that the weaknesses we identified around using data more effectively will now be addressed through the hiring of a research analyst specifically dedicated to the Program.

## **Improve Caseload Counts**

### **Funding is based on state caseload standards**

The state allocates funding for case management staff and associated costs to ADS for the Medicaid LTC Program using a formula based on client counts and state caseload standards. State caseload standards vary by type of client placement with the lowest caseloads for in-home and foster care clients, followed by clients in community-based facilities, and higher caseloads for those in nursing homes.

Some counties in Oregon have the intake and ongoing case management functions handled by the same staff. However, ADS uses a higher level position to conduct intake, do initial case planning, and provide comprehensive assessment and care planning. Intake workers in the Medicaid LTC Program are expected to complete 15 intakes per month. This allows ongoing case managers to focus primarily on the necessary case management tasks that are performed after clients have been placed and stabilized. As a result, ADS maintains higher caseload standards than the state for its ongoing case managers. These higher caseload standards have also allowed ADS to "carve out" service intake and screening positions that are not specifically funded by the state.

**Exhibit 7**

<b>Caseload Standards by Type of Client Placement (# of clients per case manager)</b>	<b>State Standard</b>	<b>ADS Standard</b>
In-Home	66	86
Adult Foster Care	76	99
Specialized Living Facility	69	125
Residential Care Facility	96	125
Assisted Living Facility	98	125
Providence Elder Place	100	100
State Personal Care	69	95
Nursing Facility	120	163

Source: ADS Program Information

Historically, the state has not fully funded counties providing Medicaid long-term care services. In 2003 for example, ADS received 82% of state estimated Program costs based on state personnel costs. ADS managers have long argued that this method of funding represents an "equity gap" that is more pronounced in Multnomah County, where the costs of personnel, facilities, and overhead (such as IT support) are generally higher than they are in other counties.

Beginning in July of 2007, ADS began receiving 90% of estimated state long-term care costs, and with its General Fund match, expects to be closer to being fully funded. Exhibit 8 illustrates that these changes have effectively increased the revenues for case management on a per client basis and reduced the ratio of clients served to case management staff. State Personal Care Program clients were not included in the client count, but the number of full-time equivalent employees (FTE) and costs allocated to that small program are included. As a result, costs per client may be slightly overstated.

**Exhibit 8**

<b>Medicaid LTC Program Funding and Caseload Trends</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>FY06</b>	<b>FY07</b>	<b>5-Year % Change</b>
Estimated Case Management Costs (in millions)	\$16.1	\$11.4	\$12.0	\$12.9	\$14.0	-15%
Budgeted Case Management FTE	106	86	91	89	90	-17%
Annual Unduplicated Clients Served	9,350	8,005	7,746	7,261	7,023	-33%
Total Case Management Cost per Client	\$1,724	\$1,423	\$1,550	\$1,775	\$1,991	13%
Unduplicated Clients per Budgeted Case Management FTE	88	93	85	82	78	-14%

Source: Case management costs estimated by Auditors based on ADS estimates of FTEs allocated to the Medicaid LTC Program. Unduplicated client counts based on Auditor's analysis of state claims data. All costs adjusted for inflation.

**Errors in state reports result in inaccuracies in caseload counts**

In the course of our audit work, we found that the caseload counts used by ADS to justify staffing levels have been inflated by errors in state reports. The state reports effectively double-count clients receiving state Personal Care Program services. These clients are not technically eligible for the Medicaid LTC Program, but are included in the counts of in-home clients. As of June 30, 2007, there were about 376 state Personal Care Program clients also case managed by ADS. Some of this error may be offset by the fact that some clients placed in specialized living facilities and case managed by the Medicaid LTC Program are not included in the state's report. As of June 30, 2007, there were about 67 such clients. ADS should work with the state to determine an appropriate solution to address these discrepancies.

**Balance Caseloads**

**Better use of data may help manage caseloads**

We found significant differences in the demographics of Medicaid LTC Program clients case managed out of the five branch offices. The West Branch case managed the highest percentage of younger disabled clients (42% of the branch caseload), but had a lower percentage of senior clients, especially seniors 85 years of age and older. The North/Northeast (N/NE) Branch case managed the highest percentage of minority clients (48%), but the lowest percentage of those with limited English proficiency (10%). The East Branch case managed the lowest percentage of minority clients (14%) and Mid County Branch case managed the highest percentage of those with limited English proficiency (32%), with high numbers of clients of Asian and Eastern European heritage. The East Branch case managed the highest percentage of high need clients (50%), while the West (34%) and N/NE (30%) Branches case managed relatively fewer high need clients.

Branch differences – including the Nursing Facility Branch which handles only clients placed in nursing facilities – are summarized in Exhibit 9:

**Exhibit 9**

Client Characteristic June 30, 2007	SE Branch	West Branch	N/NE Branch	Mid County Branch	East Branch	Nursing Facility Branch
Disabled <65	33%	42%	36%	30%	36%	28%
Seniors 65+	67%	58%	64%	70%	64%	72%
Seniors 85+	21%	15%	19%	19%	20%	30%
Minority Clients	21%	21%	48%	15%	24%	14%
Limited English Proficient	21%	25%	10%	32%	18%	5%
Full Assistance Required*	44%	34%	30%	44%	50%	79%

Source: Auditor's Office analysis of Oregon ACCESS extract files

**Improved data would help balance caseload assignments**

ADS does not have an automated or consistent system for assigning new cases to case managers to ensure that workloads are equitably distributed across staff within branches or across branches. We found that systems for allocating cases are loose, not documented, and vary by branch office. Although ADS has plans to move to facility-based caseloads in all branches, the plan has not been implemented system-wide. The Branch Monthly Activity Reporting (BMAR) system allows branch managers to track the caseloads of individual staff members based on ADS standards, but we found that only the Mid County, N/NE, and West Branches use this tool to manage caseloads. Based on all these conditions, we expected to see caseload imbalances reflected in our data analysis.

When we adjusted caseloads to take into account ADS' caseload standards, we found that as of June 2007, Program caseloads in all branches except the Nursing Facility Branch were at about 81% of ADS' caseload standard. Consistent with the results in Exhibit 8 but using a different methodology, we found that actual caseloads for ongoing case managers had decreased from a high of 98 clients per case manager in June of 2003 to about 87 clients per case manager in June of 2007. Some of these reductions may be offset by shifts in clients no longer eligible for Medicaid LTC Program services to state Personal Care Program services.

We found that caseloads varied both within and across branches. Because the Medicaid LTC Program does not evaluate client contacts or outcomes, we were unable to assess whether branches with relatively higher caseloads – such as the Mid County and East Branches – were more efficient and productive or whether case managers in those branches were spending less time with clients. Management indicated that managers review caseload staffing reports quarterly.

**Exhibit 10**

<b>Actual Caseloads as a % of ADS Standards: June 30, 2007</b>	
Southeast Branch	78%
West Branch	75%
N/NE Branch	74%
Mid County Branch	83%
East Branch	87%
Sub Total for Above Branches	81%
Nursing Facility Branch	103%
<b>Total</b>	<b>83%</b>

Source: Auditor's analysis of Oregon ACCESS files and payroll data

**Consistent reporting guidelines are needed if data are to be useful**

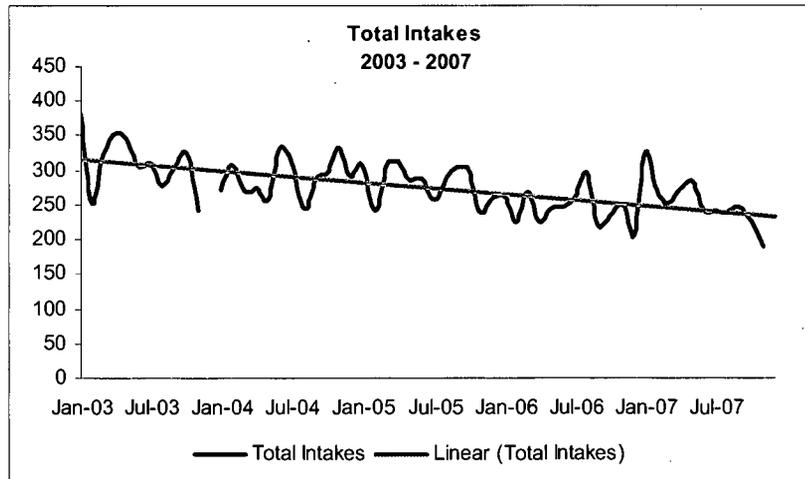
ADS has a potentially useful source of management data on its LTC Program in the BMAR system. On a monthly basis, each branch reports the number of new and pending referrals for service, as well as referral dispositions. However, we found that recording of these activities is inconsistent among branches, with some branches submitting manual counts, while others use electronic reports.

We recommend that ADS develop an online reporting system for branches to use to report monthly activities, as well as develop guidelines so that data are more consistently reported. We also recommend that ADS management require that all branches use consistent methodology to track workload through the BMAR system. Once data are more reliably and consistently reported, they can be used to better assign and monitor client caseloads.

**BMAR system could be used to analyze intake process**

We found that ADS could better utilize BMAR system data to monitor the efficiency and effectiveness of its intake processes. Medicaid LTC caseloads are driven primarily by initial determinations about who is eligible for services. Most clients, once eligible, receive services for many years and often until their deaths. With fewer seniors eligible for services over the five years reviewed, ADS saw steady declines in monthly intakes.

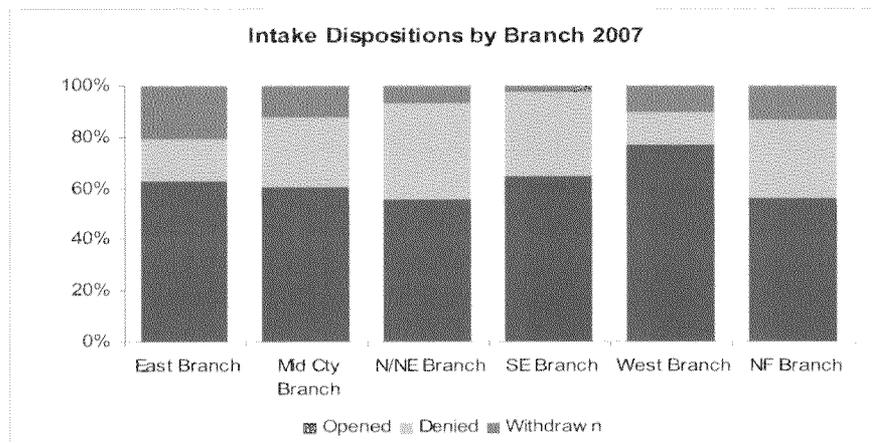
**Exhibit 11**



Source: Auditor's analysis of BMAR system data

We found that intake dispositions varied from branch to branch, perhaps reflecting differences between the various branches. The N/NE Branch had the highest denial rate and was also the branch with the lowest caseloads. The West Branch opened the highest percentage of new cases, likely because many of its new intakes involved younger disabled clients who were "presumptively eligible" for Medicaid LTC services because of their physical disabilities.

**Exhibit 12**



Source: Auditor's analysis of BMAR system data

**ADS complies with intake and annual assessment requirements**

ADS is required to complete eligibility determination within 45 days of client intake, although state rules allow exceptions when more time is needed due to client circumstances. BMAR system data on compliance with this timeline was available beginning in FY2005. We found that ADS' intake case managers improved in their compliance with this standard. In FY05, 26% of the pending intakes were more than 45 days old, compared to 18% in FY07.

ADS case managers are also required to complete annual assessments on all Medicaid long-term care clients. The state's Medicaid payment system is designed to withhold payments to care providers if these assessments are not completed on a timely basis. Our analysis of Oregon ACCESS data indicated that ADS staff members were completing assessments as required. In the four years for which data were available, we identified a very small percentage of cases (1-2%) in which more than 12 months elapsed between assessments.

***Using Data to Plan for Service Needs***

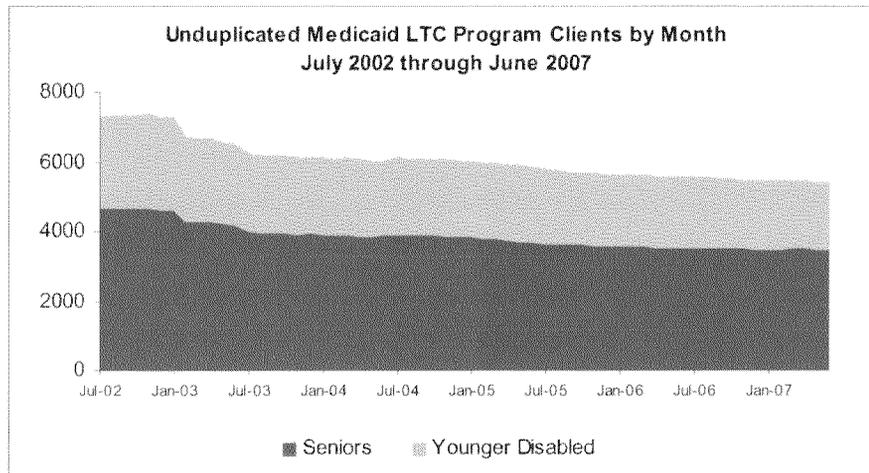
Planning effectively for the future requires good information on clients, services, and costs. It also requires a solid understanding of past and present trends which are driven by client demographics and federal and state policies. We reviewed recent trends in the number of clients and types of services, as well as short and long-term demographic projections for Multnomah County. We found that ADS does not have adequate information to plan for and manage future changes.

**Five years of service reductions following changes in eligibility**

Up until early 2003, the Medicaid LTC Program served anyone with "service priority levels" (*SPLs*) from 1 through 17 – refer to Exhibit 5, page 8. Due to budget cuts in 2003, the state terminated long-term care services for those with *SPLs* from 12 to 17. Effective July 2004, services were restored for clients with *SPLs* of 12 and 13. Since these changes were enacted, clients needing limited assistance in eating, ambulation (moving from place to place), or bathing/dressing have not been eligible for Program services. In addition, the state also tightened up the definitions and criteria used to determine eligibility.

The impact of these changes in the eligibility criteria is illustrated in Exhibit 13, with sharp declines from July 2002 to July 2003. During initial implementation of the new policies in FY03, about 1,100 clients with relatively lower-level needs were terminated from services and the total Program caseload dropped from about 7,300 to 6,200.

**Exhibit 13**



Source: Auditor analysis of state claims data

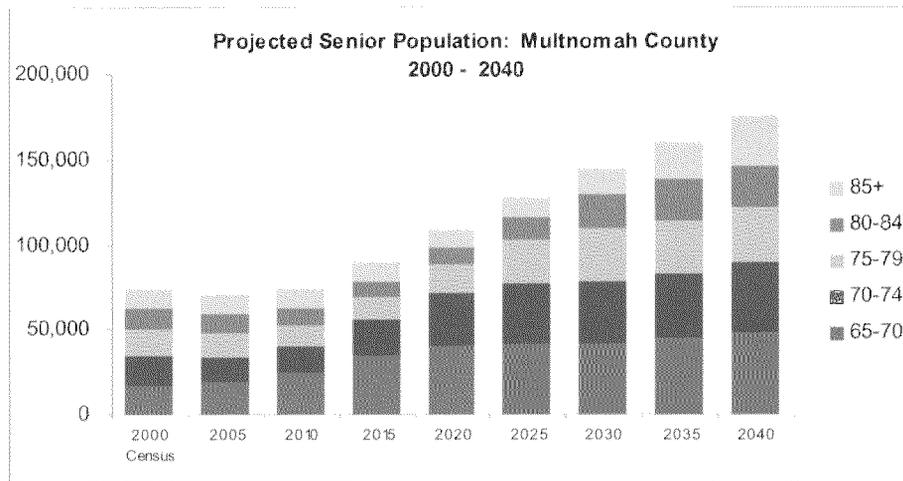
Caseloads continued to decline among senior and disabled populations equally, although ADS management indicated that there was a significant increase in the level of acuity and client need. Our analyses of available data showed there were very few changes in the types of clients served or the mix of care placements since the policy change was implemented. However, a larger portion of clients now served by the Medicaid LTC Program require higher levels of care.

**Management challenge: planning for future increases in demand**

In 2006, the Governor’s Commission on Senior Services issued a report on the future of long-term care in Oregon. The report called attention to the approaching “demographic tidal wave” which is expected to nearly double the population of seniors over the age of 65 by the year 2030, both nationally and in Oregon. The report also concluded that as the population ages, “the burgeoning number of seniors and people with disabilities needing long term care could easily overwhelm Oregon’s capacity to pay for needed services as currently structured.” County ADS managers are working with state partners on a long-term planning effort. However, in the short term, the state projects that ongoing declines in the long-term care caseloads are expected to continue at least through the end of the FY11.

We analyzed available demographic projections for Multnomah County produced by the Oregon Office of Economic Analysis to better understand what the future may hold for the county’s Medicaid LTC Program. As Exhibit 14 shows, the demographic wave of seniors is not projected to hit Multnomah County until 2015. Census data indicate that about 12% of Oregon’s population aged 16 - 64 has a disability. Given that prevalence, we estimate that only about 3% of the county’s disabled adults currently receive long-term care services through ADS programs. For clarification, it should be noted that additional clients under 65 with developmental disabilities or mental health diagnoses are case managed by other county programs.

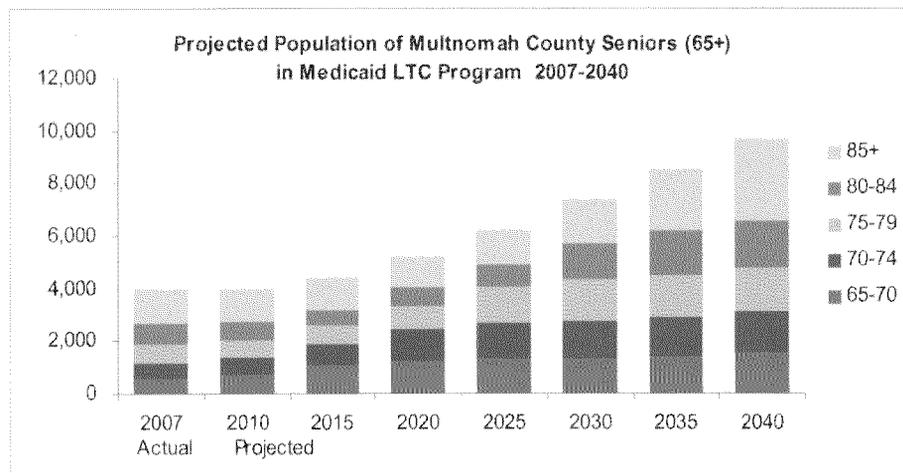
**Exhibit 14**



Source: Auditor's analysis of projections from the Oregon Office of Economic Analysis  
 Projections do not include people age 18 – 64 with disabilities

Exhibit 15 indicates how these demographic increases would play out if the existing demand-for-service rates hold. For example, currently about 6% of the seniors 65 and older in Multnomah County are served in the Medicaid LTC Program. The service rate for the youngest seniors (65-69 years old) is about 3%, compared to 11% for those 85 and older. What is most notable is that in the short term, the greatest increases will occur among the youngest seniors who are most likely to remain in their homes while receiving long-term care services. Thus the immediate issue will be to ensure that the infrastructure supporting the home care workers caring for ADS clients is adequate given the increased demands for their services in the near future. Growth in the oldest group of seniors (85+) who are most likely to require more expensive nursing home care is not projected to occur until after 2025.

**Exhibit 15**



Source: Auditor's analysis of projections from the Oregon Office of Economic Analysis  
 Projections do not include adults age 18 – 64 with disabilities

## **Audit Results: Community Continuum of Care Options**

The community continuum of care alternatives for seniors and people with disabilities allows for individual choice and preference and provides for their health and safety. Case managers link clients to these alternatives to nursing home care and other community resources, particularly when clients lack the assistance of friends and family.

We interviewed 26 case managers to get a better perspective on the issues facing them and their clients. Case managers confirmed that client caseload size has decreased over the last few years but felt administrative time had increased, restricting their ability to spend time with clients. They also raised concerns about the health and well-being of those who do not qualify for the Medicaid LTC Program, but continue to have unmet needs. Some case managers indicated that preventive care services, which currently are not available, would save dollars and improve the quality of lives in the long run.

While they generally like using the Oregon ACCESS data system, case managers reinforced our finding that current data systems need streamlining and improvements. They indicated they spend more time than necessary and often enter the same data in many different fields, screens, and reports. Some complained that the state's computer systems are antiquated and that they have to enter the same information into three different systems.

Case managers highlighted additional issues that were also identified in numerous state and federal reports. These include the increasing need for housing and mental health services for this population, concerns about the numbers and quality of home care workers, and cultural/language needs for the diverse and changing population. Some case managers also mentioned the need for more training, especially for handling clients suffering with mental health and behavioral problems.

In addition to the demographic data we reviewed, case managers provided us with case profiles of a few individual clients. These case profiles bring a human face to some important client issues that are not currently tracked by management in the long-term care data systems. The profiles, presented throughout the discussion of care settings that follows, are meant to be illustrative and may not be representative or typical of the clients in each setting.

### ***In-home Care***

In-home care services allow clients to live in their own homes with the support of home care workers who assist clients with "activities of daily living" (*ADLs*). This option is generally the least expensive and allows the client the most independence. In FY07, 42% of Program clients received in-home care.

Four categories of home care worker assistance is available, depending on a given client's needs and preferences. Home care workers can be independent and paid on an hourly basis, or in some cases, they can be hired through an agency. For those clients who require more intensive services, live-in care can be authorized. Finally, a client living with a spouse who is able to provide needed assistance can be authorized to have his or her spouse paid to serve as the home care worker.

*J. is in his early 40s and receives in-home dialysis administered by his wife, who is paid under the Oregon Medicaid waiver as a spousal caregiver. He has very complicated medical and psychological problems including diabetes, end-stage renal failure, and hypertension, among other conditions.*

*J. is a father of young children, and he is very frustrated that he requires complete care for all of his health needs and cannot work to support his family. He would not likely thrive emotionally or physically in another care setting because his entire life is centered on his family.*

Medicaid LTC Program case managers authorize the type of home care provider and the maximum number of hours that can be provided. They also approve home care workers' timesheets. Although clients are technically the employers and hire and fire their own home care workers, case managers often must assist clients in finding or replacing home care workers. Case managers indicated that managing issues related to home care workers was akin to having a second caseload.

In 2003, home care workers were unionized under a bargaining contract with the Service Employees International Union (SEIU) which increased wages and provided benefits. Home care workers are registered through the state. Although home care workers must pass a criminal history background check and complete a mandatory half-day orientation, there are no other professional or training requirements, or ongoing licensing or inspections to ensure quality of care.

The Oregon Homecare Commission provides a range of ongoing training opportunities for home care workers who are interested in pursuing them. The Commission has recently developed an online home care worker registry that provides information about a care worker's availability, skills, and training, in addition to the type of clients he or she works with. The registry is also a resource for home care workers seeking employment.

### **Younger and non-English speakers most likely to be placed at home**

As of June 30, 2007 there were about 2,500 Medicaid LTC Program clients receiving in-home care in Multnomah County. Of these, the large majority (60%) lived in an apartment; only about 40% lived in a single-family home. A higher percentage of disabled clients received in-home services (55%) compared to seniors (35%), with about 32% of the disabled clients receiving these services in apartments. The West Branch office had the highest percentage of clients receiving in-home care (66%), and the East Branch had the lowest (43%).

Minority clients had higher in-home placement rates (55%), compared to Caucasian clients (39%). Even more striking were in-home placement rates by language. Among those with limited English proficiency, 65% received in-home care, compared to 36% for English speaking clients. While these differences may reflect client choices, they underscore the need to explore whether there are enough culturally competent facilities for minority and non-English speaking clients, particularly in the areas of the county where those populations tend to live.

In-home placement was significantly correlated with age, with younger clients more likely to be supported at home. For example, 57% of clients under 65 years of age were placed at home, compared to 19% of clients 85 years of age and older. The correlation between *SPLs* and in-home placement was much less linear. While higher-need clients requiring full assistance with multiple activities (*SPLs* of 1-4) were the least likely to be supported at home (22%), those requiring substantial assistance were actually more likely to be placed at home (65%) than those requiring minimal assistance (51%).

*M. is 75, lives on Supplemental Security Income (SSI) of about \$600 per month and has been in the Medicaid LTC Program for over 13 years. She has been diagnosed with fibromyalgia and back problems. She has not been given a mental health diagnosis, but her case manager reports she is an "obsessive hoarder." She refuses to see a doctor and takes no medications. She has family, but will not provide names or phone numbers to her case manager.*

*M. lives in unsanitary conditions in a large subsidized apartment complex and is homebound. She collects clothing out of dumpsters and stacks items around her home. M's smoking is hazardous given the clutter of her home.*

*M. needs assistance remembering events, maintaining awareness, and using good judgment. She can be threatening to others, and recently her home care worker of many years resigned because M. was verbally abusive. Her case manager has been assisting with finding a new home care worker who is suitable and willing to work with M.*

**Cost of in-home care**

Exhibit 16 summarizes annual services and costs for clients receiving in-home care as of June 30, 2007. The average total annual cost for in-home care (including all services) was about \$7,600 per client. About 85% of the clients who received in-home care were assisted by an independent home care worker, for an average of 19 hours per week. Only 8% were provided with a live-in caregiver, and those with the highest need (*SPLs* of 1-4) were most likely to be authorized for live-in care services.

Very few clients placed at home (1%) received care from a paid spouse. Over half of these were cases managed at the East Branch. On average, spouses were paid for 59 hours of care per week. A few clients were also authorized for adult day care, with more than half of these managed by the West Branch. Overall, 11% of the clients with in-home placements received home-delivered meals and 12% were reimbursed for mileage associated with non-medical transportation.

**Exhibit 16**

Annual Service Profile for In-home Clients (FY07)	Number of Clients	% of Total In-home Clients	Average Annual Cost
Total # of In-home Clients	2,489	100%	\$7,640
<b>By type of in-home care:</b>			
Home Care Hourly	2,108	85%	\$6,608
Home Care Agency	107	4%	\$1,800
Home Care Live-In	210	8%	\$12,447
Spousal Pay	28	1%	\$13,890
<b>Other in-home services:</b>			
Adult Day Care	32	1%	\$4,270
Home Delivered Meals	266	11%	\$1,780
Non-Medical Transport	296	12%	\$118

Source: Auditor analysis of Oregon ACCESS data, state claims data, and estimated case management costs

## Adult Foster Care Homes

Adult foster care homes are private homes with 24-hour care in a home-like setting for up to five people. Meals are provided and sleeping rooms and bathrooms may be private or shared. Relative foster care homes can be authorized with family members paid to provide care.

*S. has been in the Medicaid LTC Program for ten years, and he is now 38 years old. He has been placed in relative foster care with his mother and stepfather. He has a brain injury from a drug overdose, and he has no short-term memory or impulse control and needs full assistance with all activities of daily living. There are currently no nursing homes with the staffing capacity to keep him safe without full restraints.*

*S. has two paid caregivers and also needs daily range-of-motion and cognitive therapy to help him maintain functioning. In the home setting, he does not need physical restraints as his caregivers watch him continuously. He has breathing problems, so he needs close monitoring when taking medication, drinking, or eating. He goes to adult day care a few days a week. Although his family has been supportive, the stress of caring for S. is great.*

There are currently 566 commercial adult foster care homes in Multnomah County, of which 65% are for seniors and people with disabilities, along with 345 relative foster homes. Most long-term care facilities in the state are licensed, inspected, and monitored by the Seniors and People with Disabilities (SPD) Division of the Oregon Department of Human Services. However, in Multnomah County, commercial adult foster care homes are inspected, monitored, and licensed locally through the Adult Care Home Program (ACHP), also in ADS.

*R. is a 92-year-old woman whose primary diagnosis is congestive heart failure. She has been in the Medicaid LTC Program for a little over one year. She has about \$1,300 per month in SSI and pension income. She was placed in an adult foster care home, and she also participates in a special program for seniors operated by a local hospital. She has a Program case manager but receives all of her services through the hospital's special program, including medical care, a day center program, physical and occupational therapy, social work support, and monitoring of her heart condition.*

*R. is close to her family and they have assisted her in making choices about placement and care. She was reluctant to move into an adult foster home, and her son was also concerned. But, he now reports that he is pleased with the care his mother receives there and that she is happy and feels like she is part of an extended family. R. has gained some strength in her new care setting. She is working hard to be able to walk again and to regain some flexibility in her shoulders. Her goal is to become as independent as possible.*

In FY2007, there were 1,154 Medicaid LTC Program clients placed in adult foster care homes, making up about 20% of the total caseload. The large majority (72%) were placed in commercial foster homes, with only 28% placed in foster care homes operated by relatives. Although ACHP has worked to expand the capacity of foster care homes licensed to take physically disabled

clients, foster care placement rates were still higher for seniors in the Program (23%), compared to 13% for younger disabled clients.

We found that clients with the highest need levels (*SPLs* of 1-4) were those with the highest foster home placement rates (27%). Over 80% of the Program clients in foster care were case managed at the Mid County and East Branches located in the parts of the county where the majority of these homes are located. Clients of Asian heritage had the highest foster care placement rates (32%) and African Americans the lowest (12%).

*D. is in his early 60's and has lived in a specialized adult foster home for over a year. He was a university professor and published author who developed a degenerative brain disease and requires 24-hour care due to behaviors and risk of self-endangerment. D. is gradually losing his ability to reason, act appropriately on his own behalf, and live independently in the community. He exhibits very challenging behaviors and is frustrated by his own intermittent recognition of his diminished mental capacity.*

*D. enjoys visits from his wife and son and listening to classical music. His family is supportive but struggles to reconcile his current condition with the memory of the vibrant husband and father he once was. His disease is unusual and puzzling, and manifests itself in a frustrating array of cognitive and sensory deficits.*

### **Assisted Living Facilities**

Assisted living facilities are licensed 24-hour care settings for six or more residents in private apartments. There are currently 21 assisted living facilities in Multnomah County that take Medicaid clients. Most units have kitchenettes with a sink, refrigerator, and cooking appliance, as well as wheelchair-accessible bathrooms with showers. Services may include meals, personal care services, medication management and health care monitoring, laundry and housekeeping, and recreational activities.

Only 7% of Program clients opted to live in an assisted living facility in FY07. Assisted living placement rates were highest for clients requiring relatively low levels of assistance (15%). This option was used more frequently for seniors (9%) than for younger disabled clients (4%). Placement rates in assisted living facilities were highest in the N/NE Branch (20%), suggesting that the majority of such facilities licensed with the state and willing to take Medicaid clients may be located in that region of the county. Fewer clients may have qualified for assisted living based on the level of independence generally needed to live in an assisted living facility.

### **Residential Care Facilities**

Residential care facilities are licensed 24-hour care settings which can serve six or more residents in private or shared rooms. There are 45 residential care facilities in Multnomah County ranging in size from six beds to over 100. Residential care facilities and assisted living facilities provide the same level of care with central dining rooms, nurse consultation, housekeeping, and medication monitoring.

There were about 500 clients in residential care facilities, which made up about 9% of Program clients. This placement option was used more extensively for seniors (10%) than for younger disabled clients (6%). About 60% were case managed out of the Mid County and East Branches,

where the majority of these facilities are located. Less than 2% of the clients placed in residential care facilities had limited English language proficiency.

*G. is 69 years and lives in a residential care facility, the RCF. Like many in this facility, G. not only requires assistance with medical and physical issues, but also has a mental health diagnosis that impacts his ability to live independently and care appropriately for himself. G. takes psychotropic medications and needs assistance with bathing, hygiene, dressing, and cognition, along with meal preparation, housekeeping, and laundry.*

*Staff at the RCF develop individual plans, and they work to enable clients to remain at the facility rather than transferring them to a nursing home when their health declines or changes.*

*G. has good rapport with other residents at the RCF, but he has declined involvement in any outpatient programs. He checks in at least once a day with his case manager and also with friends and family who currently live in other parts of the state. He is alert and oriented and has a basic understanding of his mental health and medical needs, although he still requires assistance from staff and others. He has a history of failing in the community when left to his own means and without routine and a structured setting.*

## **Specialized Living Facilities**

Specialized living facilities provide care in a home-like setting for clients with specialized needs, such as quadriplegics or those with brain injuries. Generally, residents are provided with a live-in attendant who provides 24-hour care.

*K-House is a 24-hour specialized living facility designed for those with brain injuries. Usually residents can move around independently, but they need constant cuing and supervision to complete some self-management tasks. Residents each live in their own apartments, and they must be mobile, able to dress themselves, and handle their own grooming and bathroom needs.*

*Residents at K-House are involved in a special program which has them maintain a memory book and use a 3X5 card to track daily information. The typical client is unable to problem solve and has difficulty holding or processing new information. They may recognize a problem but not have the awareness to solve it. They tend to need a high level of structure with constant supervision and cuing. When ready, clients can move into more independent living situations.*

There were only 88 clients in Multnomah County placed in a specialized living facility in FY07. The majority was younger disabled clients (59%), and they were managed out of the Mid County and East Branches. About 72% of these clients had *SPLs* of 1-3, indicating a high level of cognitive impairment.

One specialized living facility is a combination 24-hour care environment in an apartment setting. In order to live on the first floor of the facility, individuals must not have significant night-time needs and be able to direct their own care. The upstairs apartments are for other clients in the

Program who have in-home care providers. Because these facilities are available through subsidized housing, residents pay a reduced rent and are able to receive food stamps.

*J. is 42 and has been in the Medicaid LTC Program since 2002. She is completely wheelchair bound and has a range of physical and mental health diagnoses including spina bifida, obesity, auto-immune disease, asthma, apnea, fibromyalgia, and depression. She lives in a specialized program called the SLF Apartments and needs assistance with bathing and grooming, as well as with housekeeping, laundry, meal preparation, and cognition.*

*If a facility like the SLF Apartments were not available, J. would most likely be in an adult foster home with much older individuals. The care she receives living at the SLF Apartments allows J. to independently reside in a regular apartment complex, but also provides her support when she needs it.*

### **Nursing Facilities**

Nursing facilities are the most expensive and most restrictive of the long-term care options. As of June 30, 2007, there were 1,217 Medicaid LTC Program clients placed in nursing facilities, or 21% of the total caseload. About 79% of these were classified as requiring full assistance based on their **SPLs**.

Nursing facilities can make 24-hour care available to a larger numbers of residents in an institutional setting. There are currently 34 nursing facilities in Multnomah County licensed to accept Medicaid clients. Nursing facilities are often used on a temporary basis for those discharged from hospital care after an accident, surgery, or serious illness until they can return to caring for themselves. For others, nursing facilities may be a long-term placement when clients require both high levels of personal and medical care on a 24-hour basis and cannot be placed in an alternative community-based facility.

Age is correlated with nursing facility placement. While 15% of the seniors in the Program who are 65 - 74 years old are placed in nursing facilities, the rate for seniors 85 and older is 29%.

*H. was recently placed in a nursing facility after several failed attempts to keep him at home. He is 81 years old and was initially referred to the Medicaid LTC Program intake while recovering from a fall in his home. He was provided with home care worker assistance, but he fired his home care worker after two weeks. The home care worker had reported that his house was a fire hazard, so his case manager hired a contract agency to provide care. However, H. refused to allow agency staff into his house.*

*H.'s subsequent problems with home care workers, along with falls and other health issues requiring hospital stays, prompted his case manager to order a psychological evaluation. It was determined that H. was having hallucinations and delusions, and he was discharged to another nursing facility where he currently resides. His case manager visited several months after placement and found that H. had no desire to return home.*

## Recommendations

As ADS and the state look to the future to find ways to provide services to an increasing number of seniors and people with disabilities, we recommend that they make it a priority to develop more streamlined information systems. These should provide ADS with adequate data to better manage clients and services, as well as plan effectively for the future.

- I. We recommend that ADS work with the state to develop a solution for discrepancies in its View Direct reports, particularly those relating to clients receiving state Personal Care Services Program and those placed in specialized living facilities. Such discrepancies may call for modifications to ADS' monthly client reports and caseload reporting for funding allocations.
- II. We recommend that ADS work with county IT to develop an online Branch Monthly Activities Reporting (BMAR) system (including intakes and caseloads) and develop guidelines so that data are more consistently reported.
- III. We recommend that ADS find ways to classify and collect data on clients with mental health and behavioral challenges. These harder-to-serve clients have workload implications for the Program. ADS should explore expanding supports and services for clients with mental health and behavioral issues.
- IV. We recommend that ADS consider expanding the county's capacity to serve the growing number of minority clients and those with limited English proficiency, with particular attention to community-based facilities for ethnic minorities and other potentially underserved populations.
- V. We recommend that ADS work with the state to ensure that the infrastructure supporting home care workers (including registration, training, and monitoring functions) is equipped for the increased demand for their services in the future.

## Responses to Audit





## Ted Wheeler, Multnomah County Chair

501 SE Hawthorne Blvd., Suite 600  
Portland, Oregon 97214  
Phone: (503) 988-3308  
Email: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

To: LaVonne Griffin-Valade, County Auditor

Fm: Ted Wheeler, Multnomah County Chair

Re: Medicaid Long-term Care Program Audit

Dt: July 29, 2008

Thank you for your audit of the Medicaid Long-term Care Program. As you know, Multnomah County is justifiably proud of our efforts to help seniors and people with disabilities to avoid costly nursing home placements.

I enthusiastically endorse your call to make better use of data but note that there are obstacles. First, we rely on statewide data systems and we need the state to make changes in those systems in order to have better data. In addition, budget reductions have forced hard choices and the Department has appropriately prioritized direct service to clients over other important activities. I note that the Division has recently added more analysis capacity and I am confident that they will continue to make progress. It is reassuring to me that your audit confirms that they are moving in the right direction.

Because of the ongoing structural deficit that we face, Multnomah County will continue to be forced to make choices between providing direct services and investing in management systems to deliver services more efficiently. We welcome your input as we wrestle with the tradeoffs between serving clients and collecting data. Working together, I hope that we can develop a better understanding of the costs and benefits of specific potential improvements so that we can prioritize the steps that will yield the best return.

In addition, I will propose to the Board of County Commissioners that we encourage the Oregon Legislature (as part of our legislative advocacy agenda) to support changes to statewide data systems so that those systems can provide more useful information to managers. I hope that you will share your audit findings with state legislators

Thank you for all of your hard work on behalf of the taxpayers of Multnomah County.





Department of County Human Services

**MULTNOMAH COUNTY  
OREGON**

Joanne Fuller, Director

421 SW Oak Street, Suite 620  
Portland, Oregon 97204-1817

**(503) 988-5599 Phone**

**(503) 988-3379 Fax**

**MEMORANDUM**

**TO:** LaVonne Griffin-Valade, Auditor  
Multnomah County

**FROM:** Joanne Fuller, MSW, Director   
Department of County Human Services

**DATE:** July 14, 2008

**SUBJECT:** ADSD Medicaid Long-term Waiver Program Audit Follow Up Response

The Department of County Human Services (DCHS) and the Aging and Disability Services Division (ADSD) acknowledge the time that you and your staff have invested in a review of the ADSD Medicaid Long-term Waiver Program, which serves very low-income seniors and disabled adults eligible for nursing home care. I would like to thank you for your recommendations and appreciate the opportunity to comment on your findings and recommendations.

I have reviewed the audit findings for the Medicaid Long-term Care Program and generally agree with the recommendations, particularly around the need to improve access to and reliability of client related data obtained by the state, as well as the need to enhance our capacity to serve the growing number of minority and limited English speaking clients.

Streamlining and developing information systems has been a priority for ADSD and I agree with recommendations related to improving access, accuracy and reliability of data obtained from state systems for program management. We appreciate the fact that your report supports needed actions that ADSD has already taken to identify and address the needs of our growing minority population. ADSD completed a study to identify service improvements for clients with limited English proficiency earlier this year and has developed a detailed action plan to respond to the findings.

Lastly, while shared program responsibility for various aspects of the Home Care Worker Program and state ownership of our primary data system present challenges for ADSD I concur that there are possibilities to collaborate and strategize with the Oregon Home Care Commission to improve performance in these areas as well.

Thank you for the care you took to complete this study and for taking the time to include the many valuable client profiles. The recommendations in this report will assist us in advancing our goal for improved access and utilization of data, and improving service to our clients. We look forward to reporting on our progress to explore and implement these recommendations.

cc: Mary Shortall, Division Manager- ADSD  
Ted Wheeler, Multnomah County Chair



## List of Exhibits

Exhibit 1: Total ADS Costs by Program Service FY07 .....	page 3
Exhibit 2: Total ADS Revenue (in millions, adjusted for inflation).....	page 4
Exhibit 3: Total Service Costs (in millions, adjusted for inflation).....	page 4
Exhibit 4: Annual Cost per Client and Number of Clients by Care Option.....	page 5
Exhibit 5: Service Priority Level: Description of Client Impairment & Need .....	page 6
Exhibit 6: 2007 Placements as a Percent of 2002 Placements .....	page 11
Exhibit 7: Caseload Standards by Type of Client Placement .....	page 12
Exhibit 8: Medicaid LTC Program Fund and Caseload Trends .....	page 13
Exhibit 9: Client Characteristics by Branch (June 30, 2007).....	page 14
Exhibit 10: Actual Caseload as a Percent of ADS Standards: 6-30-07.....	page 14
Exhibit 11: Total Intakes 2003 – 2007 .....	page 15
Exhibit 12: Intake Dispositions by Branch – 2007 .....	page 16
Exhibit 13: Unduplicated Medicaid LTC Program Clients by Month 7/02 – 6/07 .....	page 17
Exhibit 14: Projected Senior Population: Multnomah County 2000 – 2040 .....	page 18
Exhibit 15: Projected Population of Seniors in Medicaid LTC Program 2007 – 2040.....	page 18
Exhibit 16: Annual Service Profile for In-Home Clients (FY07).....	page 21



## Appendix A - Detailed Methodology

Our analyses of Medicaid LTC Program clients, services and costs were based on computerized data files obtained from both the state and ADS. We obtained from the state Seniors and People with Disabilities (SPD) Division computerized data on all claims filed for Multnomah County clients served under the Oregon's Medicaid long-term care waiver over a five-year period (July 1, 2002 thru June 30, 2007). The state data included claims for nursing facility clients. It also included claims for state Personal Care Program services to clients not eligible for services under the waiver, but these claims records were excluded from most audit analyses. State claims data included a relatively small number of claims classified as nursing facility claims for care in specialized facilities (eg. Pediatric and Post-Hospital Extended Care). We generally excluded these claims from our analysis because the state does not report them in most statistical reports on Medicaid long-term care clients. State claims data did not include clients served in Multnomah County through Providence ElderPlace (a capitated medical and long-term care program funded through Medicaid and Medicare). Because of data limitations we were unable to evaluate non-medical transportation services and costs provided through contracts.

We also obtained five cross-sectional computerized files from county IT on active Medicaid LTC Program clients as of June 30<sup>th</sup> for each of the years 2003 through 2007. These files were generated from extract files from Oregon ACCESS, the state system for documenting client eligibility and developing case plans. Data files provided by IT included multiple records for each client associated with more than one case manager. We used payroll data to flag records associated with Case Manager II positions and Senior Case Managers, since these employees are assigned to provide case management under the waiver. Clients not associated with one of these case managers were not included in our audit analysis. We also excluded clients with *SPLs* over 13 not eligible for services under the Medicaid long-term care waiver, who may have received state Personal Care Program services or case management services under another special program such as Oregon Project Independence. Although the ADS data provided to us did not allow us to identify individual clients served through Providence Elderplace, we believe they were included in any analysis based on ADS data.

Data from both sources were tested extensively and calibrated against current and historical statistics in both state and ADS management reports. Control totals came close to, but never replicated reported totals exactly. We report a few significant deviations in our audit report. Because of differences between the two types of data, state and ADS client totals could not be reconciled. As noted above, some clients were included in one source but not the other. ADS data from the Oregon ACCESS system generally overstates client totals relative to the claims data from the state system, since these extract files include as active the new clients eligible for services whose claims have not yet been processed. Further, ADS staff reported to us that the Oregon ACCESS system does not have good controls for moving clients from active to inactive status, once they are no longer receiving services.

Staff caseloads were evaluated against ADS case manager workload standards based on computerized payroll data for ADS and our client data from the Oregon Access files. Caseload analysis focused on ongoing case managers (Case Manager II positions) and Medicaid waiver clients only. Case managers carrying caseloads of 26 or fewer clients were excluded from these calculations.

In order to assess trends in the intake of new clients, we analyzed ADS' monthly Branch Management Activity Reports (BMAR). To clarify the future demand for long-term care services in Multnomah County, we utilized projections by the Oregon Office of Economic Analysis.

## Appendix B - Selected Bibliography of Long-Term Care Reports and Resources

### Web sites

Each of the following web sites has program descriptions, consumer guides, publications, and links to advocacy and advisory groups and other resources for both senior services and disability services on county, state and federal levels.

- **Network of Care** - Network of Care is a comprehensive, Internet-based resource for the elderly and people with disabilities, as well as their caregivers and service providers. The site is a cooperative project of the Oregon Association of Area Agencies on Aging and Disabilities and the Department of Human Services. Funding for the site is from the Older Americans Act and Oregon Project Independence. <http://networkofcare.org>
- **Multnomah County, Department of Human Services, Aging and Disability Services Division** – At Multnomah County Aging and Disability Services, our mission is to assist older adults and persons with disabilities to live as independently as possible with a range of accessible, quality services that meet their diverse needs and preferences. - <http://www.co.multnomah.or.us/ads>
- **State of Oregon, Department of Human Services, Seniors and People with Disabilities Division** – This Web site is part of our mission to assist older Oregonians to achieve well-being through opportunities for community living, employment and services that promote choice, independence and dignity. - <http://www.oregon.gov/DHS/spwpd>
- **Federal Government – Department of Health and Human Services, Administration on Aging** - Our site is designed to provide a comprehensive overview of a wide variety of topics, programs and services related to aging. Whether you are an older individual, a caregiver, a community service provider, a researcher, or a student, you will find valuable information provided in a user-friendly way. <http://www.aoa.gov/>
- **Federal Government – Department of Health and Human Services, Office on Disability** - The Health and Human Services Office on Disability was created in October 2002 in response to President Bush's New Freedom Initiative (NFI). The office oversees the implementation and coordination of disability programs, policies and special initiatives pertaining to the over 54 million persons with disabilities in the United States. <http://www.hhs.gov/od/>
- **The Eldercare Locator** - a public service of the U.S. Administration on Aging. The Eldercare Locator is the first step to finding resources for older adults in any U.S. community. Just one phone call or Website visit provides an instant connection to resources that enable older persons to live independently in their communities. The service links those who need assistance with state and local area agencies on aging and community-based organizations that serve older adults and their caregivers. <http://www.eldercare.gov/eldercare/Public/Home.asp>
- **California Center for Long-Term Care Integration** – This library has some good studies and resources, although these are dated as the library has not been updated for some time. - <http://www.ltcu.ucla.edu/index.php>

## Consumer Resources

- ***The Resource Directory for Older People*** is designed to help people find the information they need. A cooperative effort of the National Institute on Aging (NIA) and the Administration on Aging (AoA), the directory is intended to serve a wide audience including health and legal professionals, social service providers, librarians, and researchers, as well as older people and their families. The directory contains organizational names, addresses, phone numbers, and fax numbers, as well as email and website addresses.  
[http://www.aoa.gov/eldfam/How\\_to\\_Find/ResourceDirectory/resource\\_directory.asp](http://www.aoa.gov/eldfam/How_to_Find/ResourceDirectory/resource_directory.asp)
- ***Housing Options for Older Adults – A Guide for Making Housing Decisions***, This guide provides pros and cons for living situations from home ownership to various community based care facilities, including nursing homes. For more information on housing options, or on programs or services for older adults, it can be helpful to call the Eldercare Locator at 800.677.1116 or the American Bar Association (ABA) Commission on Law and Aging at 202.662.8690. Additional key resources are indicated throughout this booklet.  
<http://www.eldercare.gov/Eldercare/Public/Home.asp>
- ***The Employer's Guide*** – Most of those who qualify for homecare worker services have not been in the position as an employer. This guide provides information and resources to help with the hiring and managing of a homecare worker as an employer.  
<http://www.oregon.gov/DHS/spd/pubs/index.shtml#brochures>
- ***Home Care Worker Guide*** - This guide is a resource for Homecare Workers (HCWs) in the Client-Employed Provider (CEP) Program. As a HCW you may be involved in providing a wide range of in-home services, including support and assistance with activities of daily living, to enable your employer to continue to live in his or her own home.  
<http://www.oregon.gov/DHS/spd/pubs/index.shtml#brochures>

## Reports

- ***2008-2011 Area Plan Summary*** - Multnomah County Aging and Disability Services. Mission, Vision, and Values; Overview of ADS Programs; Profile of Population ADS serves; ADS's Planning Process; Changes Planned for the Service System; Goals for 2008-2011. Report by Department of County Human Services dated October 2007.  
[www.co.multnomah.or.us/ads/ads20082011\\_areaplan\\_summary.pdf](http://www.co.multnomah.or.us/ads/ads20082011_areaplan_summary.pdf)
- ***Recommendations on the Future of Long-Term Care in Oregon*** – Department of Human Services, Seniors and People with Disabilities, May 2006.  
[www.oregon.gov/DHS/spwpd/ltc/fltc/report1.pdf](http://www.oregon.gov/DHS/spwpd/ltc/fltc/report1.pdf)
- ***The Governors Commission on Senior Services Reports*** – The Governor's Commission on Senior Services is an official state commission made up of volunteers appointed by the governor and two legislators, one from the House and one from the Senate. The following reports and studies from the commission can be found at  
[www.oregon.gov/DHS/spd/adv/gcss/fltc\\_rpt.pdf](http://www.oregon.gov/DHS/spd/adv/gcss/fltc_rpt.pdf)
  - ***Riding the Wave: A call to action***
  - ***A Study of the Mental Health and Addiction Needs of Oregon's Baby Boomers September 2001***
  - ***Services for Ethnic Minority Seniors in Oregon***
  - ***The Quality of In-home Care Services in Oregon's Long Term Care System***

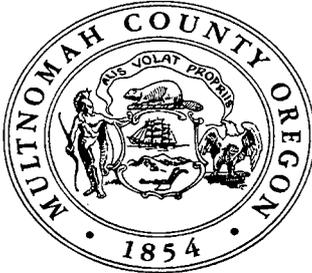
- ***A Profile of Older Americans: 2007*** – Report by Administration on Aging, U.S. Department of Health and Human Services. This is an annual report which provides demographics and projections about older Americans. Principal sources of data for the Profile are the U.S. Bureau of the Census, the National Center on Health Statistics, and the Bureau of Labor Statistics. The Profile incorporates the latest data available but not all items are updated on an annual basis. <http://www.aoa.gov/prof/statistics/profile/profiles.asp>
- ***Family Caregiver Support: State Facts at a Glance*** provides a compendium of information about family caregivers of older Americans and the state-level programs that serve them. These profiles were developed by NASUA in collaboration with the National Conference of State Legislatures, (NCSL) and funded by the U.S. Administration on Aging. The project was designed to educate state legislators about caregiver programs in their state. <http://www.nasua.org/familycaregiver/statefacts.htm>
- ***History of Long Term Care*** – by Karen Stevenson, ElderWeb Publisher. This section of ElderWeb is a comprehensive overview of how our long term care system has evolved by examining the events and decisions that changed the way that we have provided and paid for the care of our elderly over the years. [note: this is a wonderful document – worth the time to review] <http://www.elderweb.com/home/book/export/html/2806>
- ***Creating New Long Term Care Choices for Older Americans - A Synthesis of Findings from a Study of Affordable Housing Plus Services Linkages*** - 2006, American Association of Homes & Services for the Aging and the Institute for the Future of Aging Services. <http://www.futureofaging.org/publications/>
- ***Celebrate Long-Term Living Annual Report 2005*** – U. S. Administration on Aging. This report provides a good background about the Administration on Aging and its programs. [http://www.aoa.gov/about/annual\\_report/2005\\_Final\\_Annual\\_Report.pdf](http://www.aoa.gov/about/annual_report/2005_Final_Annual_Report.pdf)
- ***Using Medicaid to Cover Services for Elderly Persons in Residential Care Settings: State Policy Maker and Stakeholder Views in Six States***, December 2003, U. S. Department of Health and Human Services, Assistant Secretary for Planning and Evaluation, Office of Disability, Aging and Long-Term Care Policy. This report describes how six states use their Medicaid programs to fund residential care services for elderly persons. Oregon is one of the six states covered in the report. <http://aspe.hhs.gov/daltcp/reports/med4rcs.htm>
- ***Money Follows the Person Project - On the Move in Oregon*** - Oregon Department of Human Services, Seniors and People with Disabilities Division, Operational Protocol Submitted: January 29, 2008 . [www.oregon.gov/DHS/spd/mfp/](http://www.oregon.gov/DHS/spd/mfp/)
- ***Global Age-Friendly Cities: A Guide*** – World Health Organization. Portland, Oregon was one of 33 cities throughout the world included in this study of the needs of elderly people living in cities. [http://www.who.int/ageing/age\\_friendly\\_cities/en/index.html](http://www.who.int/ageing/age_friendly_cities/en/index.html)

### **Other Audits**

- ***Washington Medicaid Study*** - by State of Washington, Joint Legislative Audit and Review committee (JLARC), January 7, 2004. Although Medicaid for each state is administered differently, this audit provides some fundamental concepts about Medicaid in state governments. [www.leg.wa.gov/jlarc/](http://www.leg.wa.gov/jlarc/)
- ***The U.s. Governmental Accountability Office*** has a large number of audits, reports and studies which were useful for this audit. Their reports can be found at <http://www.gao.gov/> and searched for by topic or keyword.

## **Audit Criteria Resources**

- State Agreement with County: State of Oregon Intergovernmental Agreement between Multnomah County, Aging and Disability Services and Oregon Department of Human Services, Senior & People with Disabilities (SPD) Division, dated July 1, 2007 – June 30, 2009.
- Federal Government Agreement with State: Application for a Section 1915 © HCBS Waiver submitted by State of Oregon, Department of Human Services. Brief description Oregon Department of Human Services (DHS) requests renewal waiver #0185.90.R2 to continue long-term community-based services for individuals who are aged (age 65 and above) or physically disabled (age 18 or above). These services are administered by DHS, Oregon's single state Medicaid agency, through its Seniors and People with Disabilities (SPD) Division. Effective Date, October 1, 2006.
- *Case Management in Long-Term Care Integration: An Overview of Current Programs and Evaluations* – Written for the California Center for Long-Term Care Integration, November 2001, by Andrew E. Scharlach, Ph. D, Nancy Giunta, M.A., and Kelly Mills-Dick, M.S.W.; University of California, Berkeley, Center for the Advanced Study of Aging Services. <http://cssr.berkeley.edu/aging/> see also <http://www.ltcu.ucla.edu/>



**LaVonne Griffin-Valade  
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Audit Report: *Aging & Disabilities Services:  
Medicaid Long-term Care Program*  
Report #08-05, July 2008  
Audit Team: Judith DeVilliers, Principal Auditor  
Kathryn Nichols, Principal Auditor  
Fran Davison, Senior Auditor  
Susan Luce, Audit Intern

The mission of the Multnomah County Auditor's Office is to ensure that county government is honest, efficient, effective, equitable, and fully accountable to its citizens.

The Multnomah County Auditor's Office launched the **Good Government Hotline** in October 2007 to provide a mechanism for the public and county employees to report concerns about fraud, abuse of position, and waste of resources.

The **Good Government Hotline** is available **24 hours a day, seven days a week**. Go to [GoodGovHotline.com](http://GoodGovHotline.com) or call 1-888-289-6839.



The Multnomah County Auditor's Office received the **2007 Bronze Knighton Award** from the Association of Local Government Auditors for the *Elections Audit* issued in June 2007.



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

**Board Clerk Use Only**

**Meeting Date:** 07/31/08  
**Agenda Item #:** R-2  
**Est. Start Time:** 10:00 AM  
**Date Submitted:** 07/21/08

**Agenda Title: RESOLUTION Approving the 2010-13 Metropolitan Transportation Improvement Project List**

**Date Requested:** July 31, 2008                      **Time Requested:** 5 minutes  
**Department:** Non-Departmental                      **Division:** Land Use & Transportation  
**Contact(s):** Ken Born, Karen Schilling  
**Phone:** 503-988-3043      **Ext.** 29397      **I/O Address:** 455/1  
**Presenter(s):** Ken Born

## General Information

**1. What action are you requesting from the Board?**

Resolution supporting funding applications for the Metropolitan Transportation Improvement Program, 2010-13. At their June 2, 2008 meeting, the East Multnomah County Transportation Committee (EMCTC) recommended submitting funding applications for three (3) East Multnomah County projects.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

By federal regulations, Metro is the designated agency to distribute federal transportation funds to jurisdictions in the Portland metropolitan area. Approximately \$21 million of "regional flexible funds" are available to fund new local transportation projects in the metropolitan region for the 2010-13 funding cycle. East Multnomah County and its cities will be competing with three other sub-regions for these funds, and is limited to three (3) projects which can be applied for, including two (2) construction project applications (one (1) of which needs to be CMAQ eligible) and one (1) planning or project development application.

The following table includes three projects recommended by EMCTC at its June 2008 meeting, including two sponsored by the City of Gresham, and one sponsored by the City of Fairview:

Project	Jurisdiction <sup>1</sup>	Category	Cost
NE 242nd Ave / NE Hogan Road (NE Glisan St/SW Cherry Park Rd to SE	Gresham, Troutdale,	Construction	\$2,520,000

Stark St)	Mult. Co.		
40-mile Loop Trail (Blue Lake Park to Sundial Rd)	<b>Fairview,</b> Port of Portland, Troutdale	CMAQ	\$1,550,000
Powell/Foster Transportation Corridor, Pleasant Valley	<b>Gresham,</b> Mult. Co	Planning/project development	\$222,500
<b>TOTAL</b>			\$4,292,500

Project sponsors are in bold

**3. Explain the fiscal impact (current year and ongoing).**

Funds are for FY 2012-13 and will not have a fiscal impact until then, requiring a local match. Local match will be provided by the sponsor agent or partners. Multnomah County will not be contributing local match for any of these projects.

**4. Explain any legal and/or policy issues involved.**

N/A

**5. Explain any citizen and/or other government participation that has or will take place.**

Metro conducted a solicitation process for local projects beginning in mid-May 2008. The East Multnomah County Transportation Committee (EMCTC) reviewed and endorsed candidate projects for submittal to the 2010-13 Metropolitan Transportation Improvement Program (MTIP) at its June 2, 2008 meeting. Local project applications will be due to Metro on July 15, 2008. Public comments on project applications will occur this fall in preparation for a funding decision in February and March of 2009.

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**Required Signature**

---

**Elected Official or  
Department/  
Agency Director:**



**Date: 07-21-08**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. \_\_\_\_\_

Approving the 2010-13 Metropolitan Transportation Improvement Project List

**The Multnomah County Board of Commissioners Finds:**

- a. Metro administers the 2010-13 Metropolitan Transportation Improvement Project (MTIP). For the MTIP, Metro prepares a Project List that identifies transportation projects and programs that will receive regional flexible funds.
- b. At the direction of the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council, Metro is soliciting for projects to award approximately \$21 million of regional flexible funds.
- c. The objective of the 2010-13 Regional Flexible Fund Allocation Program is to identify which transportation projects and programs will receive funding consistent with allocation, project and program service polices adopted by Metro.
- d. Multnomah County and the Cities of Fairview, Gresham, and Troutdale have transportation capital and development projects that meet the Metro criteria for funding eligibility.
- e. The East Multnomah County Transportation Committee (EMCTC) at its June 2, 2008 meeting recommended the 2010-13 projects listed below for submittal to the Regional Flexible Fund Program:

Project	Description	Jurisdiction <sup>1</sup>	Category	Est. Cost
1. NE 242nd Ave (NE Hogan Road) from NE Glisan (SW Cherry Park Rd) to SE Stark	Construct NE 242nd Ave to principal arterial standards w/ 4 travel lanes, center turn lane/median, sidewalks, and bicycle lanes. Install traffic signal at 23rd St.	<b>Gresham, Troutdale, Mult. Co.</b>	Construction	\$2,520,000
2. 40-mile Loop Trail (Blue Lake Park to Sundial Rd)	Fill in gap in 40-mile Loop Trail from Blue Lake Park to Sundial Road. Install pedestrian crossing signal at Marine Drive.	<b>Fairview, Port of Portland, Troutdale</b>	CMAQ	\$1,550,000
3. Powell/Foster Transportation Corridor, Pleasant Valley	Study possible connection between 172 <sup>nd</sup> at Foster and 174 <sup>th</sup> at Powell to support growth of Pleasant Valley, Happy Valley and Damascus.	<b>Gresham, Mult. Co</b>	Planning/project development	\$222,500
<b>TOTAL</b>				<b>\$4,292,500</b>
<sup>1</sup> Project sponsors are in <b>bold</b>				

- f. If the three projects listed above are approved, the County will not be providing matching funds for any of them.
- g. The County understands that Metro will hold a public hearing to provide for citizen comment and input prior to issuing its decision to award any regional flexible funds for any of the above listed projects.

**The Multnomah County Board of Commissioners Resolves:**

The Board approves the 2010-13 MTIP List recommended by the East Multnomah County Transportation Committee as quoted above in Recital "e" for the 2010-13 Regional Flexible Fund Allocation Program.

ADOPTED this 31st day of July, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

---

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Dept. of Community Services

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 08-111**

Approving the 2010-13 Metropolitan Transportation Improvement Project List

**The Multnomah County Board of Commissioners Finds:**

- a. Metro administers the 2010-13 Metropolitan Transportation Improvement Project (MTIP). For the MTIP, Metro prepares a Project List that identifies transportation projects and programs that will receive regional flexible funds.
- b. At the direction of the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council, Metro is soliciting for projects to award approximately \$21 million of regional flexible funds.
- c. The objective of the 2010-13 Regional Flexible Fund Allocation Program is to identify which transportation projects and programs will receive funding consistent with allocation, project and program service polices adopted by Metro.
- d. Multnomah County and the Cities of Fairview, Gresham, and Troutdale have transportation capital and development projects that meet the Metro criteria for funding eligibility.
- e. The East Multnomah County Transportation Committee (EMCTC) at its June 2, 2008 meeting recommended the 2010-13 projects listed below for submittal to the Regional Flexible Fund Program:

Project	Description	Jurisdiction <sup>1</sup>	Category	Est. Cost
1. NE 242nd Ave (NE Hogan Road) from NE Glisan (SW Cherry Park Rd) to SE Stark	Construct NE 242nd Ave to principal arterial standards w/ 4 travel lanes, center turn lane/median, sidewalks, and bicycle lanes. Install traffic signal at 23rd St.	<b>Gresham, Troutdale, Mult. Co.</b>	Construction	\$2,520,000
2. 40-mile Loop Trail (Blue Lake Park to Sundial Rd)	Fill in gap in 40-mile Loop Trail from Blue Lake Park to Sundial Road. Install pedestrian crossing signal at Marine Drive.	<b>Fairview, Port of Portland, Troutdale</b>	CMAQ	\$1,550,000
3. Powell/Foster Transportation Corridor, Pleasant Valley	Study possible connection between 172 <sup>nd</sup> at Foster and 174 <sup>th</sup> at Powell to support growth of Pleasant Valley, Happy Valley and Damascus.	<b>Gresham, Mult. Co</b>	Planning/project development	\$222,500
<b>TOTAL</b>				<b>\$4,292,500</b>
<sup>1</sup> Project sponsors are in bold				

- f. If the three projects listed above are approved, the County will not be providing matching funds for any of them.
- g. The County understands that Metro will hold a public hearing to provide for citizen comment and input prior to issuing its decision to award any regional flexible funds for any of the above listed projects.

**The Multnomah County Board of Commissioners Resolves:**

The Board approves the 2010-13 MTIP List recommended by the East Multnomah County Transportation Committee as quoted above in Recital "e" for the 2010-13 Regional Flexible Fund Allocation Program.

ADOPTED this 31st day of July, 2008.



**BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON**

Ted Wheeler, Chair

REVIEWED:

**AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON**

By

  
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Dept. of Community Services



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (long form)**

APPROVED : MULTNOMAH COUNTY  
 BOARD OF COMMISSIONERS  
 AGENDA # R-3 DATE 07-31-08  
 DEBORAH L. BÖGSTAD, BOARD CLERK

**Board Clerk Use Only**

**Meeting Date:** 07/31/08  
**Agenda Item #:** R-3  
**Est. Start Time:** 10:05 AM  
**Date Submitted:** 07/21/08

**Agenda Title:** **NOTICE OF INTENT to Apply for Homeland Security Grant Program Funds in the Amount of \$1,141,287**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Requested Meeting Date:** July 31, 2008      **Amount of Time Needed:** 5 minutes  
**Department:** Department of County Management      **Division:** Emergency Management  
**Contact(s):** George Whitney  
**Phone:** 503-988-4580      **Ext.** 84580      **I/O Address:** 503/600  
**Presenter(s):** George Whitney

**General Information**

**1. What action are you requesting from the Board?**

Approval to apply to the State Homeland Security Grant Program.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

Multnomah County is required by ORS 401 to establish an emergency management agency to develop and maintain an emergency management program capable of planning, preparing for and coordinating response to emergencies and disasters that may affect the County or any jurisdiction therein. In order for cities, special districts, County Departments, and Police/Fire organizations to have access to certain federal funding, Multnomah County must submit an application and administer the grant award. Improving county-wide readiness to respond and recover from a disaster is the purpose of applying for these funds.

**3. Explain the fiscal impact (current year and ongoing).**

Emergency Management is applying for \$1,141,287 for the Grant Performance Period of September 1, 2008 through May 31, 2011.

**4. Explain any legal and/or policy issues involved.**

N/A

**5. Explain any citizen and/or other government participation that has or will take place.**

N/A

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## ATTACHMENT A

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### Grant Application/Notice of Intent

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If the request is a Grant Application or Notice of Intent, please answer all of the following in detail:

- **Who is the granting agency?**  
U.S Department of Homeland Security to State of Oregon. Multnomah County would be a sub-grantee.
- **Specify grant (matching, reporting and other) requirements and goals.**  
Projects are funded 100% by grant proceeds. Projects identified in the grant proposal must be completed by the end of the grant performance period.
- **Explain grant funding detail – is this a one time only or long term commitment?**  
This is one time funding for the Grant Performance Period from September 1, 2008 to May 31, 2011.
- **What are the estimated filing timelines?**  
Application is due to the Oregon Office of Emergency Management in Salem, OR, by July 31, 2008.
- **If a grant, what period does the grant cover?**  
Grant performance period covers September 1, 2008 to May 31, 2011.
- **When the grant expires, what are funding plans?**  
Projects are proposed as one-time, limited term projects or equipment procurements.
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**  
The grant allows for 3% administrative costs.

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**Required Signatures**

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**Elected Official or  
Department/  
Agency Director:**

*Carol M. Ford*

---

**Date:** 07/31/08

**Budget Analyst:**

*Debra*

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**Date:** 07/31/08



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST (long form)**

**Board Clerk Use Only**

Meeting Date: 07/31/08  
 Agenda Item #: R-3  
 Est. Start Time: 10:05 AM  
 Date Submitted: 07/21/08

**Agenda Title: NOTICE OF INTENT to Apply for Homeland Security Grant Program Funds in the Amount of \$312,000**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Requested Meeting Date:** July 31, 2008 **Amount of Time Needed:** 5 minutes  
**Department:** Department of County Management **Division:** Emergency Management  
**Contact(s):** George Whitney  
**Phone:** 503-988-4580 **Ext.** 84580 **I/O Address:** 503/600  
**Presenter(s):** George Whitney

**General Information**

**1. What action are you requesting from the Board?**

Approval to apply to the State Homeland Security Grant Program.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

Multnomah County is required by ORS 401 to establish an emergency management agency to develop and maintain an emergency management program capable of planning, preparing for and coordinating response to emergencies and disasters that may affect the County or any jurisdiction therein. In order for cities, special districts, County Departments, and Police/Fire organizations to have access to certain federal funding, Multnomah County must submit an application and administer the grant award. Improving county-wide readiness to respond and recover from a disaster is the purpose of applying for these funds.

**3. Explain the fiscal impact (current year and ongoing).**

Emergency Management is applying for \$312,000 for the Grant Performance Period of September 1, 2008 through May 31, 2011.

**4. Explain any legal and/or policy issues involved.**

N/A

**5. Explain any citizen and/or other government participation that has or will take place.**

N/A

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## ATTACHMENT A

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### Grant Application/Notice of Intent

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If the request is a Grant Application or Notice of Intent, please answer all of the following in detail:

- **Who is the granting agency?**  
U.S Department of Homeland Security to State of Oregon. Multnomah County would be a sub-grantee.
- **Specify grant (matching, reporting and other) requirements and goals.**  
Projects are funded 100% by grant proceeds. Projects identified in the grant proposal must be completed by the end of the grant performance period.
- **Explain grant funding detail – is this a one time only or long term commitment?**  
This is one time funding for the Grant Performance Period from September 1, 2008 to May 31, 2011.
- **What are the estimated filing timelines?**  
Application is due to the Oregon Office of Emergency Management in Salem, OR, by July 31, 2008.
- **If a grant, what period does the grant cover?**  
Grant performance period covers September 1, 2008 to May 31, 2011.
- **When the grant expires, what are funding plans?**  
Projects are proposed as one-time, limited term projects or equipment procurements.
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**  
The grant allows for 3% administrative costs for a total of \$9,360.

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**Required Signatures**

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**Elected Official or  
Department/  
Agency Director:**

*Carol M. Ford*

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**Date: 07/21/08**

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**Budget Analyst:**

*Debra*

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**Date: 07/23/08**

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**BOGSTAD Deborah L**

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**From:** BOGSTAD Deborah L  
**Sent:** Monday, July 28, 2008 10:59 AM  
**To:** WHITNEY George; WILLER Barbara  
**Cc:** MCLELLAN Jana E; MADRIGAL Marissa D  
**Subject:** RE: Board Protocol Question

George any changes to the NOI amount or a substitute NOI would have to be made at the Board meeting on Thursday. I recommend that you give the Board a heads up that you will be doing this so they are aware of the additional funding opportunity. Hope this helps!

**Deb Bogstad, Board Clerk**  
**Multnomah County Commissioners**  
**501 SE Hawthorne Boulevard, Suite 600**  
**Portland, Oregon 97214-3587**  
**(503) 988-3277 phone**  
**(503) 988-3013 fax**  
**deborah.l.bogstad@co.multnomah.or.us**  
**<http://www.co.multnomah.or.us/cc/index.shtml>**

-----Original Message-----

**From:** WHITNEY George  
**Sent:** Friday, July 25, 2008 10:32 AM  
**To:** BOGSTAD Deborah L; WILLER Barbara  
**Cc:** MCLELLAN Jana E; MADRIGAL Marissa D  
**Subject:** Board Protocol Question

Thanks, Deb, for the Board Agenda for next Thursday. I see that we have been calendared for a few minutes to talk about our \$312,000 Homeland Security NOI.

The note below, just received this morning, suggests that counties have 4 business days now to pursue up to an additional \$2,000,000 in regional funding and that we now have an adjusted grant base of \$621,287. We're going to have to adjust our \$312K figure anyway, but if we were able to develop a regional proposal also, could we change the amount of the NOI at the time of the briefing, at some point before Thursday? Realistically, I don't believe that I could firm up any additional regional proposals until next Wednesday evening. Developing consensus for the in-county adjustment will take some time, too. May I ask for guidance from Barbara and Deb on how to best proceed with the Board briefing?

George

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**From:** Deborah A. Harrison [mailto:dharriso@oem.state.or.us]  
**Sent:** Friday, July 25, 2008 9:58 AM  
**To:** 'David F. Cassel'; Kenneth D. Murphy; 'Abby Kershaw'; 'Sneed, John F COL MIL NG ORARNG'  
**Cc:** 'Lonni Nicoll'; MARHEINE Matthew; 'Douglas M. Jimenez'; 'James Adams'; 'Kelly J. Craigmiles'; 'Ian Finseth'; 'Daniel E. Gwin'; 'Sonja Dettwyler-Gwin'; 'Deborah A. Harrison'  
**Subject:** HSGP Funding Distribution Notification

Today the Department of Homeland Security released the FY2008 funding allocations. Oregon did well this year, and as a result, we will be adjusting the county base allocations and the tribal allocation. Additionally, there will be \$2,000,000 set aside for competitive regional projects. Attached is an updated distribution table to replace the table on page 39 in the application instruction booklet.

7/28/2008

This will not change the due date of the grant applications. Applications will still be due to OEM by 5:00 pm, Thursday, July 31, 2008.

Please forward this message to all interested parties.

Thank you

Deborah Harrison  
Oregon Emergency Management  
Grants Coordinator  
PO Box 14370  
Salem, OR 97309-5062  
phone: 503-378-2911 x 22251  
fax: 503-373-7833  
[dharriso@oem.state.or.us](mailto:dharriso@oem.state.or.us)

## Distribution by Population & Region

	Census 2000		Total FY08 40% County Distribution Award \$1,957,760		
Geographic area Oregon	Total population 3,421,399		Total FY08 60% Population Distribution \$2,936,640		
COUNTY	POPULATION	% of POPULATION	POPULATION BASE AWARD	COUNTY BASE AWARD	Total
Baker County	16,741	0.49%	\$ 14,369	\$ 54,382	\$ 68,751
Benton County	78,153	2.28%	\$ 67,080	\$ 54,382	\$ 121,462
Clackamas County	338,391	9.89%	\$ 290,446	\$ 54,382	\$ 344,828
Clatsop County	35,630	1.04%	\$ 30,582	\$ 54,382	\$ 84,964
Columbia County	43,560	1.27%	\$ 37,388	\$ 54,382	\$ 91,770
Coos County	62,779	1.83%	\$ 53,884	\$ 54,382	\$ 108,266
Crook County	19,182	0.56%	\$ 16,464	\$ 54,382	\$ 70,846
Curry County	21,137	0.62%	\$ 18,142	\$ 54,382	\$ 72,524
Deschutes County	115,367	3.37%	\$ 99,021	\$ 54,382	\$ 153,403
Douglas County	100,399	2.93%	\$ 86,174	\$ 54,382	\$ 140,556
Gilliam County	1,915	0.06%	\$ 1,644	\$ 54,382	\$ 56,026
Grant County	7,935	0.23%	\$ 6,811	\$ 54,382	\$ 61,193
Harney County	7,609	0.22%	\$ 6,531	\$ 54,382	\$ 60,913
Hood River County	20,411	0.60%	\$ 17,519	\$ 54,382	\$ 71,901
Jackson County	181,269	5.30%	\$ 155,586	\$ 54,382	\$ 209,968
Jefferson County	19,009	0.56%	\$ 16,316	\$ 54,382	\$ 70,698
Josephine County	75,726	2.21%	\$ 64,997	\$ 54,382	\$ 119,379
Klamath County	63,775	1.86%	\$ 54,739	\$ 54,382	\$ 109,121
Lake County	7,422	0.22%	\$ 6,370	\$ 54,382	\$ 60,752
Lane County	322,959	9.44%	\$ 277,201	\$ 54,382	\$ 331,583
Lincoln County	44,479	1.30%	\$ 38,177	\$ 54,382	\$ 92,559
Linn County	103,069	3.01%	\$ 88,466	\$ 54,382	\$ 142,848
Malheur County	31,615	0.92%	\$ 27,136	\$ 54,382	\$ 81,518
Marion County	284,834	8.33%	\$ 244,477	\$ 54,382	\$ 298,859
Morrow County	10,995	0.32%	\$ 9,437	\$ 54,382	\$ 63,819
Multnomah County	660,486	19.30%	\$ 566,905	\$ 54,382	\$ 621,287
Polk County	62,380	1.82%	\$ 53,542	\$ 54,382	\$ 107,924
Sherman County	1,934	0.06%	\$ 1,660	\$ 54,382	\$ 56,042
Tillamook County	24,262	0.71%	\$ 20,824	\$ 54,382	\$ 75,206
Umatilla County	70,548	2.06%	\$ 60,552	\$ 54,382	\$ 114,934
Union County	24,530	0.72%	\$ 21,054	\$ 54,382	\$ 75,436
Wallowa County	7,226	0.21%	\$ 6,202	\$ 54,382	\$ 60,584
Wasco County	23,791	0.70%	\$ 20,420	\$ 54,382	\$ 74,802
Washington County	445,342	13.02%	\$ 382,244	\$ 54,382	\$ 436,626
Wheeler County	1,547	0.05%	\$ 1,328	\$ 54,382	\$ 55,710
Yamhill County	84,992	2.48%	\$ 72,950	\$ 54,382	\$ 127,332
<b>Total Base Award Distribution</b>		<b>100.00%</b>	<b>\$ 2,936,640</b>	<b>\$ 1,957,752</b>	<b>\$ 4,894,392</b>

Distribution by Region		
Region 1	\$ 890,984	<b>Regional Projects</b> <span style="float: right;"><b>\$2,000,000</b></span>  <b>5% for Tribal</b> <span style="float: right;"><b>\$257,608</b></span>  <b>Total FY08 Allocated 80% Funds</b> <b>(Regional, 5% Tribal, 95% Population and Base)</b> <span style="float: right;"><b>\$7,152,000</b></span>
Region 2	\$ 1,654,682	
Region 3	\$ 982,276	
Region 4	\$ 779,301	
Region 5	\$ 587,149	
<b>Total</b>	<b>\$ 4,894,392</b>	



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

**Meeting Date:** 07/31/08  
**Agenda Item #:** R-4  
**Est. Start Time:** 10:10 AM  
**Date Submitted:** 07/17/08

**Agenda Title:** Briefing on Cascadia Transition Plan

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Requested Meeting Date:** July 31, 2008      **Amount of Time Needed:** 20 minutes  
**Department:** County Human Services      **Division:** Mental Health and Addiction Services  
**Contact(s):** Kathy Tinkle  
**Phone:** (503) 988-3691      **Ext.** 26858      **I/O Address:** 167/6<sup>th</sup> floor  
**Presenter(s):** Joanne Fuller

**General Information**

**1. What action are you requesting from the Board?**

The Department of County Human Services (DCHS) requests to provide the Board of County Commissioners a briefing on the progress to date and the current status of the plan for transition of services provided by Cascadia Behavioral Health (Cascadia).

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

For the past several months DCHS management has been working closely with the State Department of Human Services, Central County Finance, the County Attorney's Office, our community based provider network, mental health and addiction advocates and advisory boards, consumers and Cascadia management to respond to the financial crisis at Cascadia and to take immediate steps to ensure that we maintain a sustainable system of care for the mental health clients of Multnomah County. The "Cascadia Plan" identifies services and sites that will be transferred to alternate providers as well as services and sites that may continue to be provided by Cascadia. As the plan is implemented, changes may be necessary to address issues or problems that were not known at the time of initial agreement on the plan.

**3. Explain the fiscal impact (current year and ongoing).**

In June 2008 the County authorized up to a \$2.5 million to loan to Cascadia which was comprised of \$1 million of State financial assistance and County General Fund contribution of \$1.5 million. Interest on the loan shall be 4% per annum.

**4. Explain any legal and/or policy issues involved.**

On June 16, 2008 the County, the State of Oregon and Cascadia Behavioral Health entered into a Memorandum of Understanding which outlined the purpose and terms of the Cascadia Plan.

**5. Explain any citizen and/or other government participation that has or will take place.**

Our partners at the State Department of Human Services, County Health Department, County Department of Community Justice, our community based provider network, and mental health consumers and advocates have been directly involved in the planning and implementation of this plan.

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**



**Date: 07/17/08**

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**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

**Meeting Date:** 07/31/08  
**Agenda Item #:** R-5  
**Est. Start Time:** 10:30 AM  
**Date Submitted:** 07/24/08

**Agenda Title:** **RESOLUTION Creating a Contract Compliance Advisory Committee and Implementing Processes to Strengthen the County's Oversight of the Financial and Business Stability of its Personal Services and Goods and Non-Personal Services Contractors**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Requested Meeting Date:** July 31, 2008      **Amount of Time Needed:** 15 minutes  
**Department:** Non-Departmental      **Division:** Chair's Office  
**Contact(s):** Jana McLellan  
**Phone:** 503-988-5545      **Ext.** 85545      **I/O Address:** 503/600  
**Presenter(s):** Jana McLellan

**General Information**

**1. What action are you requesting from the Board?**

Approval of a resolution establishing a Contract Compliance Advisory Committee and identifying its charge, directing the Department of County Management to create a risk based model for contract monitoring and directing all county departments to limit exposure to high risk contracts.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

In June 2008, the Multnomah County Auditor released a report on the management of large contracts. The audit identified shortcomings in Multnomah County's current contracting systems. This resolution will initiate a series of specific actions to improve Multnomah County's contracting processes and to increase accountability.

**3. Explain the fiscal impact (current year and ongoing).**

Funding for system review and improvement activities described in the resolution will come from reprioritizing existing budgets. Benefits in future years should include both lower costs and

improved services.

**4. Explain any legal and/or policy issues involved.**

The policy goals are better accountability, cost control and service improvement

**5. Explain any citizen and/or other government participation that has or will take place.**

Citizens with expertise in contracting processes will be appointed to service on the Contract Compliance Advisory Committee. Citizens will be invited to share their views with the Advisory Committee. Best practices of other governments will be studied as part of the Committee's work.

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**Required Signature**

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Elected Official or  
Department/  
Agency Director:



Date: 07-24-08

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BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. \_\_\_\_\_**

Creating a Contract Compliance Advisory Committee and Implementing Processes to Strengthen the County's Oversight of the Financial and Business Stability of its Personal Services and Goods and Non-Personal Services Contractors

**The Multnomah County Board of Commissioners Finds:**

1. ORS 279A.015 declares that it is the policy of the State of Oregon that the State should have a sound and responsive public contracting system that, among other things, promotes the efficient use of local government resources.
2. Multnomah County has administrative rules, PUR-1, CON-1 and FAC-1 that implement this goal in the context of its contracts.
3. In order to achieve the goals reflected in State law and County administrative rules, the County must have an appropriate fiscal and performance monitoring program for its personal services and goods and non-personal services contractors.
4. Given the number of County contracts and current staffing limitations, it is challenging for the County to perform an optimum number and degree of fiscal and contract monitoring and the County is committed to increasing these resources over time.
5. The County recently experienced programmatic and financial risks associated with personal services providers having a disproportionately large percentage of the County's business in a single program area.

**Multnomah County Board of Commissioners Resolves:**

1. A Contract Compliance Advisory Committee (CCAC) is created to recommend to the Board appropriate processes to strengthen the County's oversight of the financial and organizational stability of its contractors. The CCAC will:
  - a. Consist of up to ten members appointed by the Chair and include representatives from communities of color, private sector, hospitals, other governmental jurisdictions, non-profits Boards, and other interested persons from the community;
  - b. Explore avenues for improving the County's financial oversight and performance monitoring of its contracts;
  - c. Develop standards for the proportion of investment to county-wide contract oversight and resources that follow appropriate and best practices in relation to the management and investment of its funds;
  - d. Explore avenues for public solicitation of feedback and community involvement from other stakeholders; and
  - e. Advise the Board on personal services contracts system improvements and the fiscal risk assessment tool as well as highlighting previous audit recommendations already submitted to the Board of County Commissioners by January 31, 2009.
2. In addition to reviewing the County's general practices regarding contractor selection and financial program performance monitoring, the CCAC will advise the Board on how to best ensure that the following best practices are followed by its personal services and goods and non-personal services contractors:
  - a. All boards of the County's contractors must adopt and follow policies and procedures to ensure that the organization manages its funds responsibly and prudently;
  - b. All boards of the County's contractors must review and approve the organization's annual budget and monitor actual performance against the budget;

- c. Each of the County personal services and goods and non-personal services contractors must provide sufficient resources for effective administration of the programs and the effective management of the organization's financial resources;
  - d. Recommend implementation of a county-wide prequalification tool for standards of organizational and financial acumen; and
  - e. Each of the County's contractors must keep complete and accurate financial records and should have a qualified, independent financial expert audit or review them annually in a manner appropriate to the organization's size and scale of operations.
3. The Department of County Management (DCM) shall develop a risk based approach to fiscal site monitoring and a schedule that reflects more intense and frequent fiscal monitoring of contractors who fall in the highest risk categories. Among the factors that DCM should consider in developing its risk model are:
  - a. The extent to which the contractor has an active, fully engaged board of directors;
  - b. The extent of the contractor's reliance on the County's business and the overall number of contracts that contractor has with the County;
  - c. The percentage of the County's business that the contractor is providing in any one program;
  - d. The extent of the contractor's internal controls and the results of prior audits and fiscal reviews;
  - e. The experience, knowledge and stability of the contractor's accounting staff.
4. Contracting departments, to the extent possible and appropriate to the departments' programmatic goals, shall avoid contracting for more than 40% of a particular line of business with a single provider, when the total contracting awards exceed \$1 million. To the extent this goal cannot be met, the following shall occur:
  - a. The contracting department shall request an initial review of the contractor's financial stability and the appropriateness of the organization's financial practices by the DCM;
  - b. The DCM shall recommend to the Chair whether the contracting department's plan is appropriate and shall issue a recommendation that shall be routed with the contract package; and
  - c. To the extent that Chair approves of the contracting department's plan, the DCM will place the contractor in a risk category that reflects the highest degree of review of the contractor's finances.
5. The Chair shall designate a multi-department action team that will implement recommendations made by external auditors, internal staff, and the CCAC. Staff support will be provided by DCM for these efforts. The action team will report to the Chair and will provide monthly updates relating to their progress in implementing the proposals to Department Directors.

ADOPTED this 31st day of July, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Patrick W. Henry, Assistant County Attorney

SUBMITTED BY:  
Ted Wheeler, Multnomah County Chair

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 08-112**

Creating a Contract Compliance Advisory Committee and Implementing Processes to Strengthen the County's Oversight of the Financial and Business Stability of its Personal Services and Goods and Non-Personal Services Contractors

**The Multnomah County Board of Commissioners Finds:**

1. ORS 279A.015 declares that it is the policy of the State of Oregon that the State should have a sound and responsive public contracting system that, among other things, promotes the efficient use of local government resources.
2. Multnomah County has administrative rules, PUR-1, CON-1 and FAC-1 that implement this goal in the context of its contracts.
3. In order to achieve the goals reflected in State law and County administrative rules, the County must have an appropriate fiscal and performance monitoring program for its personal services and goods and non-personal services contractors.
4. Given the number of County contracts and current staffing limitations, it is challenging for the County to perform an optimum number and degree of fiscal and contract monitoring and the County is committed to increasing these resources over time.
5. The County recently experienced programmatic and financial risks associated with personal services providers having a disproportionately large percentage of the County's business in a single program area.

**Multnomah County Board of Commissioners Resolves:**

1. A Contract Compliance Advisory Committee (CCAC) is created to recommend to the Board appropriate processes to strengthen the County's oversight of the financial and organizational stability of its contractors. The CCAC will:
  - a. Consist of up to ten members appointed by the Chair and include representatives from communities of color, private sector, hospitals, other governmental jurisdictions, non-profits Boards, and other interested persons from the community;
  - b. Explore avenues for improving the County's financial oversight and performance monitoring of its contracts;
  - c. Develop standards for the proportion of investment to county-wide contract oversight and resources that follow appropriate and best practices in relation to the management and investment of its funds;
  - d. Explore avenues for public solicitation of feedback and community involvement from other stakeholders; and
  - e. Advise the Board on personal services contracts system improvements and the fiscal risk assessment tool as well as highlighting previous audit recommendations already submitted to the Board of County Commissioners by January 31, 2009.
2. In addition to reviewing the County's general practices regarding contractor selection and financial program performance monitoring, the CCAC will advise the Board on how to best ensure that the following best practices are followed by its personal services and goods and non-personal services contractors:
  - a. All boards of the County's contractors must adopt and follow policies and procedures to ensure that the organization manages its funds responsibly and prudently;
  - b. All boards of the County's contractors must review and approve the organization's annual budget and monitor actual performance against the budget;

- c. Each of the County personal services and goods and non-personal services contractors must provide sufficient resources for effective administration of the programs and the effective management of the organization's financial resources;
  - d. Recommend implementation of a county-wide prequalification tool for standards of organizational and financial acumen; and
  - e. Each of the County's contractors must keep complete and accurate financial records and should have a qualified, independent financial expert audit or review them annually in a manner appropriate to the organization's size and scale of operations.
3. The Department of County Management (DCM) shall develop a risk based approach to fiscal site monitoring and a schedule that reflects more intense and frequent fiscal monitoring of contractors who fall in the highest risk categories. Among the factors that DCM should consider in developing its risk model are:
- a. The extent to which the contractor has an active, fully engaged board of directors;
  - b. The extent of the contractor's reliance on the County's business and the overall number of contracts that contractor has with the County;
  - c. The percentage of the County's business that the contractor is providing in any one program;
  - d. The extent of the contractor's internal controls and the results of prior audits and fiscal reviews;
  - e. The experience, knowledge and stability of the contractor's accounting staff.
4. Contracting departments, to the extent possible and appropriate to the departments' programmatic goals, shall avoid contracting for more than 40% of a particular line of business with a single provider, when the total contracting awards exceed \$1 million. To the extent this goal cannot be met, the following shall occur:
- a. The contracting department shall request an initial review of the contractor's financial stability and the appropriateness of the organization's financial practices by the DCM;
  - b. The DCM shall recommend to the Chair whether the contracting department's plan is appropriate and shall issue a recommendation that shall be routed with the contract package; and
  - c. To the extent that Chair approves of the contracting department's plan, the DCM will place the contractor in a risk category that reflects the highest degree of review of the contractor's finances.
5. The Chair shall designate a multi-department action team that will implement recommendations made by external auditors, internal staff, and the CCAC. Staff support will be provided by DCM for these efforts. The action team will report to the Chair and will provide monthly updates relating to their progress in implementing the proposals to Department Directors.

ADOPTED this 31st day of July, 2008.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Patrick W. Henry, Assistant County Attorney

SUBMITTED BY:  
Ted Wheeler, Multnomah County Chair



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

**Meeting Date:** 07/31/08  
**Agenda Item #:** R-6  
**Est. Start Time:** 10:45 AM  
**Date Submitted:** 06/26/08

**Agenda Title:** **First Reading of an ORDINANCE Amending Multnomah County Code Chapter 7.450 et seq. Relating to Art Acquisition and Approving Regional Arts and Culture Council Contract Renewal**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Requested Meeting Date:** July 31, 2008      **Amount of Time Needed:** 10 minutes  
**Department:** Non-Departmental      **Division:** Commissioner Maria Rojo de Steffey  
**Contact(s):** Matthew Lashua  
**Phone:** 503 988-6796      **Ext.:** 86796      **I/O Address:** 503/600  
**Presenter(s):** Commissioner Maria Rojo de Steffey

**General Information**

**1. What action are you requesting from the Board?**

Approval of First Reading of an Ordinance Amending Multnomah County Code Chapter 7.450 et seq. Relating to Art Acquisition and Approving Regional Arts and Culture Council Contract Renewal.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The Public Art Program was established in 1980. Ordinances provided for the Metropolitan Arts Commission (MAC) management and collection of funds for the Percent for Public Art Programs for Multnomah County, the City of Portland, and Metro. MAC was responsible for selection, acquisition, siting, maintenance, administration, deaccessioning, community education, and registration of Public Art of the City/County Public Art Collection.

MAC restructured into a nonprofit organization, the Regional Arts and Culture Council, in order to implement the Arts Plan 2000+ and Metro Regional Arts Funding Task Force recommendations to

provide cost effective, efficient and flexible services.

The purpose of Multnomah County investment in the arts is to promote access, inclusion and excellence in the arts, to leverage other resources, and to enhance the arts contribution to human services, economic vitality, educational opportunities, neighborhood and community revitalization, economic vitality and overall quality of life.

To reflect the ongoing support for arts in Multnomah County, The Board of County Commissioners updates the following ordinance, raising the percentage for art to 2% and reflecting what type of construction projects trigger the Percent for Public Arts Program.

**3. Explain the fiscal impact (current year and ongoing).**

Construction of a new building where the construction cost exceeds \$1,000,000 will trigger the Percent for Public Arts Program. Two percent of the construction cost of each construction project shall be set aside for the acquisition of art.

**4. Explain any legal and/or policy issues involved.**

**5. Explain any citizen and/or other government participation that has or will take place.**

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**

*Mania Rojas de Jeffrey*

**Date: 06/26/08**

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BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. \_\_\_\_\_

Amending MCC §§7.450 et seq. Relating to Art Acquisition

(Language ~~stricken~~ is deleted; double underlined language is new.)

**The Multnomah County Board of Commissioners Finds:**

- a. The Public Art Program was established in 1980. Ordinances provided for the Metropolitan Arts Commission (MAC) management and collection of funds for the Percent for Public Art Programs for Multnomah County, the City of Portland, and Metro. MAC was responsible for selection, acquisition, siting, maintenance, administration, deaccessioning, community education, and registration of Public Art of the City/County Public Art Collection.
- b. MAC restructured into a nonprofit organization, the Regional Arts and Culture Council, in order to implement the Arts Plan 2000+ and Metro Regional Arts Funding Task Force recommendations to provide cost effective, efficient and flexible services.
- c. The purpose of Multnomah County investment in the arts is to promote access, inclusion and excellence in the arts, to leverage other resources, and to enhance the arts contribution to human services, economic vitality, educational opportunities, neighborhood and community revitalization, economic vitality and overall quality of life.
- d. To reflect the ongoing support for arts in Multnomah County, it is necessary to update the code sections relating to art acquisition to raise the percentage for art to 2% and reflect what type of construction projects trigger the Percent for Public Arts Program.

**Multnomah County Ordains as follows:**

**Section 1.** MCC §7.450 is amended as follows:

***ART ACQUISITION***

**§ 7.450 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

**CONSTRUCTION PROJECT or ALTERATION.** Construction of a new building where the construction cost exceeds \$1,000,000. Construction Project does not include the rehabilitation, renovation or improvement of existing County buildings or to premises leased by the County, rehabilitation, renovation, remodeling or improvement.

**CONSTRUCTION COST.** The actual Actual construction cost of a new building. Construction Cost does not include excluding planning, architectural, engineering, consultant and administrative costs, costs for fees, and permits, testing, inspections, and indirect cost, such as interest paid during construction, advertising and legal fees and all other indirect costs. Construction Cost does not include the cost of furnishings for the new building.

~~**COUNTY BUILDING.** All county buildings except service facilities not normally visited by the public, such as maintenance sheds, bridges and similar structures, and does not include roads.~~

~~MAJOR COUNTY CONSTRUCTION PROJECT. A construction project which involves the construction or alteration of a county building with an estimated construction cost of \$50,000 or more.~~

**Section 2.** MCC §7.451 is amended as follows:

**§ 7.451 POLICY.**

It is the policy of the county that each ~~major county construction project which involves the construction or alteration of county buildings~~ shall have an appropriate display of art integrated into the project in order to provide a more beneficial atmosphere and energizing environment.

**Section 3.** MCC §7.452 is amended as follows:

**§ 7.452 FUNDING.**

(A) ~~One and thirty three one hundredths~~ Two percent of the construction costs of each construction project, capital improvement costs, budgets, development funds and purchase prices listed in § 7.453 of this subchapter shall be set aside for the acquisition of art. The acquired art may be an integral part of the newly acquired building or property attached thereto or be capable of display in other public buildings or on other public property. Siting variances may be granted by the Board.

(B) ~~Thirty three one hundredths percent of~~ The 1.332% set aside in division (A) of this section shall be allocated as follows: 1.26% for art; .54% to dedicated solely for use by the regional arts and culture council Regional Arts and Culture Council for management and administration of the art; and .20% for use by the Regional Arts and Culture Council for the purpose of payment of administration, public education, or maintenance costs of the commission's percent for art program.

**Section 4.** MCC §7.453 is deleted as follows:

~~§ 7.453 FUNDING SOURCES.~~

~~The following shall be subject to the art acquisition policy referred to in § 7.452 of this subchapter:~~

~~(A) Construction cost of a major county construction project involving the construction or alteration of a county building;~~

~~(B) The capital improvement budget in the division of facilities management;~~

~~(C) The purchase price of any building, including the appurtenant land, acquired by the county for use in whole or part by the county.~~

**Section 5.** MCC §7.454 is amended as follows:

**§ 7.454 ADMINISTRATION.**

The Regional Arts and Culture Council ~~regional arts and culture council~~ shall in its discretion administer the provisions of this subchapter relating to art acquisition and display.

**Section 6.** MCC §7.455 is amended as follows:

**§ 7.455 ADOPTION OF GUIDELINES.**

The Regional Arts and Culture Council~~regional arts and culture council~~ shall have the authority:

- (A) To determine the cases in which it would be inappropriate to display art in a county building;
- (B) To identify suitable art objects for county buildings;
- (C) To encourage the preservation of ethnic cultural arts and crafts, including Pacific Northwest Indian arts;
- (D) To facilitate the preservation of art objects and artifacts that may be displaced by a construction project;
- (E) To prescribe a method or methods of competitive selection of art objects for display;
- (F) To prescribe procedures for the selection, acquisition and display of art in county buildings; and
- (G) To set forth any other matter appropriate to the administration of this subchapter.

**Section 7.** MCC §7.456 is amended as follows:

**§ 7.456 REGIONAL ARTS AND CULTURE COUNCIL'S DECISION FINAL.**

The ~~council's~~ decision of the Regional Arts and Culture Council as to the selection, acquisition, allocation and display of art objects shall be final.

FIRST READING: July 31, 2008

SECOND READING AND ADOPTION: August 07, 2008

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By John S. Thomas, Deputy County Attorney

SUBMITTED BY:  
Maria Rojo de Steffey, Commissioner District 1

**07-29-08 SUBSTITUTE**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. \_\_\_\_\_

Amending MCC §§7.450 et seq. Relating to Art Acquisition

(Language ~~stricken~~ is deleted; double underlined language is new.)

**The Multnomah County Board of Commissioners Finds:**

- a. The Public Art Program was established in 1980. Ordinances provided for the Metropolitan Arts Commission (MAC) management and collection of funds for the Percent for Public Art Programs for Multnomah County, the City of Portland, and Metro. MAC was responsible for selection, acquisition, siting, maintenance, administration, deaccessioning, community education, and registration of Public Art of the City/County Public Art Collection.
- b. MAC restructured into a nonprofit organization, the Regional Arts and Culture Council, in order to implement the Arts Plan 2000+ and Metro Regional Arts Funding Task Force recommendations to provide cost effective, efficient and flexible services.
- c. The purpose of Multnomah County investment in the arts is to promote access, inclusion and excellence in the arts, to leverage other resources, and to enhance the arts contribution to human services, economic vitality, educational opportunities, neighborhood and community revitalization, economic vitality and overall quality of life.
- d. To reflect the ongoing support for arts in Multnomah County, it is necessary to update the code sections relating to art acquisition to raise the percentage for art to 2% and reflect what type of construction projects trigger the Percent for Public Arts Program.

**Multnomah County Ordains as follows:**

**Section 1.** MCC §7.450 is amended as follows:

***ART ACQUISITION***

**§ 7.450 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

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**CONSTRUCTION COST.** The actual construction cost of a new building or a rehabilitation, renovation or improvement to an existing County building or premises leased by the County. Construction Cost does not include excluding planning, architectural, engineering, consultant and administrative costs, costs for fees, and permits, testing, inspections, and indirect cost, such as interest paid during construction, advertising and legal fees and all other indirect costs. Construction Cost does not include the cost of furnishings for the new building.

**07-29-08 SUBSTITUTE**

~~COUNTY BUILDING. All county buildings except service facilities not normally visited by the public, such as maintenance sheds, bridges and similar structures, and does not include roads.~~

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(A) ~~One and thirty three one hundredths~~ Two percent of the construction costs of each construction project, capital improvement costs, budgets, development funds and purchase prices listed in § 7.453 of this subchapter shall be set aside for the acquisition of art. The acquired art may be an integral part of the newly acquired building or property attached thereto or be capable of display in other public buildings or on other public property. Siting variances may be granted by the Board.

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~~The following shall be subject to the art acquisition policy referred to in § 7.452 of this subchapter:~~

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**07-29-08 SUBSTITUTE**

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**§ 7.456 REGIONAL ARTS AND CULTURE COUNCIL'S DECISION FINAL.**

The ~~council's decision of the Regional Arts and Culture Council~~ as to the selection, acquisition, allocation and display of art objects shall be final.

FIRST READING: July 31, 2008

SECOND READING AND ADOPTION: August 07, 2008

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By John S. Thomas, Deputy County Attorney

SUBMITTED BY:  
Maria Rojo de Steffey, Commissioner District 1



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

**Meeting Date:** 07/31/08  
**Agenda Item #:** R-7  
**Est. Start Time:** 10:55 AM  
**Date Submitted:** 07/23/08

**Agenda Title:** **RESOLUTION Supporting a Proposal by the Multnomah Youth Commission to Establish Fareless Public Transportation for All 6th through 12th Grade Students in Multnomah County**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Requested Meeting Date:** July 31, 2008      **Amount of Time Needed:** 15 min  
**Department:** Non-Departmental      **Division:** CCFC  
**Contact(s):** Joshua Todd  
**Phone:** 503-988-5839      **Ext.** 85839      **I/O Address:** 167/1/200/CCFC  
**Presenter(s):** Kelly Henderson, Sarah Meyerowitz, Ryan McBee & Joshua Todd

**General Information**

**1. What action are you requesting from the Board?**

Approval of a resolution in support of YouthPass, a youth-led effort to create free access to public transportation for all 6th-12th graders in Multnomah County.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

YouthPass is a program that would give all students, grades 6-12, in Multnomah County access to free public transportation. Students would have a sticker placed on their ID card, which would allow them unlimited access to Tri-Met buses, MAX trains and the Portland Streetcar. Students "earn" their YouthPass sticker by staying enrolled in school and conducting themselves appropriately on Trimet.

The program would be funded through a Business Energy Tax credit offered by the State of Oregon. This same tax credit is being used to fund a very similar program in Lane County. Currently, YouthPass has support from close to 30 community organizations, government agencies, and businesses- including Chair Ted Wheeler. This resolution communicates the support of the other Board of County Commission members and we hope will allow Multnomah County to explore what technical and material support it can provide to help ensure the success of this program.

The City of Portland, Portland Public Schools, TriMet, and the Multnomah Youth Commission have agreed on a pilot of YouthPass that will begin at 2 schools in September of 2008. Support from the Multnomah County Board will help ensure that as the YouthPass pilot is expanded that youth in East County will benefit from this project, not just youth within the boundaries of the City of Portland. Additionally, the Youth Commission is committed to working with the Youth Advisory Board of Washington County and the Youth Action Council of Clackamas County to make YouthPass available Trimet system-wide. The support of the Multnomah County Board will help broker support amongst our regional County Boards.

While YouthPass is not related to a specific program offer this effort has been supported and staffed through the Commission on Children, Families and Community offer #10008A. Additionally, increased access to transportation will greatly benefit many services the County offers including SUN Community Schools (offer # 25145A), School-Based Health Centers (#40024), and Multnomah County Libraries (#80000, #80001, #80002).

**3. Explain the fiscal impact (current year and ongoing).**

YouthPass has no fiscal impact for Multnomah County although many of the clients of Multnomah County will see a positive financial impact from savings in transportation costs.

**4. Explain any legal and/or policy issues involved.**

Adoption of this resolution would not legally bind or encumber Multnomah County. This effort is part of the implementation of "Our Bill of Rights: Children + Youth" which the County board adopted as County policy in May of 2007.

**5. Explain any citizen and/or other government participation that has or will take place.**

YouthPass is a project of the Youth Bill of Rights created by over 3,000 local youth. The Youth Commission has worked with an actively group of a dozen youth to push this proposal and received letters of support from close to 30 community organizations, businesses, government agencies, and elected officials. Currently, the most active partners in this project are the City of Portland through the Office of the Mayor Tom Potter and Mayor-elect Sam Adams, Portland Public Schools, TriMet, and the Multnomah Youth Commission.

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**Required Signature**

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Elected Official or  
Department/  
Agency Director:



Date: 7-23-08

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. \_\_\_\_\_

Supporting a Proposal by the Multnomah Youth Commission to Establish Fareless Public Transportation for All 6th through 12th Grade Students in Multnomah County

**The Multnomah County Board of Commissioners Finds:**

- a) Public school transportation services in Multnomah County are limited and leave many students unserved, and lack of access to transportation is consistently cited as a key barrier to youth attendance at school, after school activities, support programs and work opportunities.
- b) Lack of access to public transportation and hence pro-social and educational activities is especially problematic in East County.
- c) 43% of Portland public school students do not graduate high school on time, as documented in a report by Connected by 25, which also emphasizes the importance of school and community based support programs to increase student success.
- d) The U.S. Department of Transportation estimates that 20 – 25% of morning traffic is due to parents driving their children to school, contributing significantly to traffic congestion and carbon emissions.
- e) The U.S. Environmental Protection Agency estimates that in 2006 20% of all U.S. carbon emissions from fossil fuels are produced by gasoline consumption for personal vehicle use (U.S. Greenhouse Gas Inventory). Additionally, the Union of Concerned Scientists recommends promoting mass transit and alternative transportation as a key strategy to reduce carbon emissions.
- f) The Multnomah County Board adopted “Our Bill of Rights: Children + Youth” on May 22, 2007 and resolved to “refer to the Bill of Rights as a resource and as a tool to identify and evaluate additional mechanisms to support children and youth”.
- g) “Our Bill of Rights: Children + Youth” cites transportation as a needed resource for youth educational success, and states that youth “have the right to be supported in our pursuit of a healthy lifestyle”.
- h) Multnomah County strives to be a leader in sustainability efforts that meet community needs while reducing our impact on the environment.
- i) The Multnomah Youth Commission (MYC), which is comprised of youth from across Multnomah County, serves as the official youth policy advisory body to the County Board (as per Intergovernmental Agreement #0708066).
- j) The Multnomah Youth Commission, working in collaboration with a diverse group of business, non-profit, government, education and transportation leaders, has crafted a proposal for a “YouthPass Program” to create fareless access to TriMet’s public transportation services for all 6th through 12th grade public school students in Portland and Multnomah County, with a pilot project to address this goal to be in place by September 2008.

- k) The Multnomah Youth Commission developed this proposal in consultation with TriMet personnel and presented the proposal to the TriMet Board of Directors on May 28, 2008, along with 27 letters of support from elected officials, school districts and business and non-profit leaders.
- l) Similar programs in cities across the country address multiple positive outcomes, including reducing car traffic around schools; building awareness of public transportation options among youth; reducing carbon emissions; reducing barriers to youth participation in school, enrichment opportunities and employment; and increasing school districts' flexibility for academic programming.
- m) Funding for free youth transit is available through the State of Oregon Department of Energy's Business Energy Tax Credit (BETC) program, which currently funds free public transportation for all 6th through 12th grade students in Lane County.
- n) TriMet has agreed to implement a pilot at two high schools within Portland Public Schools in September and to expand to more schools in January.

**The Multnomah County Board of Commissioners Resolves:**

1. It is in the general interest of the County to pursue fareless access to public transportation for youth, as proposed by the Multnomah Youth Commission.
2. To explore what technical and material support Multnomah County can provide to ensure that the approved pilot moves beyond Portland Public Schools into other areas of the County, especially the school districts of Reynolds, Gresham-Barlow and Corbett which are outside of the City of Portland's boundaries.
3. To engage in quarterly meetings of key stakeholders of the YouthPass project convened through the Office of the Mayor's Youth Engagement Coordinator in order to monitor the success of the YouthPass Program and assure its successful expansion to all schools county-wide.

ADOPTED this 31st day of July 2008

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Stephanie Duvall, Assistant County Attorney

SUBMITTED BY:

Ted Wheeler, Chair, Multnomah County

Page 2 of 2 - Resolution Supporting Proposal by the Multnomah Youth Commission to Establish  
Fareless Public Transportation for All 6th through 12th Grade Students

YouthPass = Free public transit for youth in Portland & Multnomah County



# Why a YouthPass?

Because with YouthPass everybody wins! The YouthPass will help get students to school, after school programs and jobs – that's why it's endorsed by school districts, Big Brothers Big Sisters and the Portland Business Alliance, just to name a few! The program will also conserve energy, cut the number of cars on our streets today, and build a generation of transit users for tomorrow.

## Who would get a YouthPass?

Our goal is to bring the YouthPass to all 6<sup>th</sup> – 12<sup>th</sup> grade students in Portland and Multnomah County by placing a sticker on our student ID cards. We want the City, the County, our school districts and TriMet to work with us toward a September '08 start date for a program to address this goal.

## How would we pay for the program?

The State of Oregon funds free youth transit passes through the Business Energy Tax Credit (BETC) program designed to reduce Oregon's energy consumption. In Lane County this program funds free transit access for all 6<sup>th</sup> - 12<sup>th</sup> graders countywide – "anytime, anywhere." We can bring that benefit to our community!

## Should all youth really get a pass?

The whole community benefits with fewer cars on the road and around schools – and every student can benefit by learning to use public transit. In Lane County, middle-income families have increasingly chosen to use transit rather than drive students to school and other activities. We also know that today thousands of local families struggle to make ends meet whether or not they meet the requirements for the Free & Reduced Lunch program.

# YouthPass

Connecting Youth, Conserving Energy, Cutting Traffic

*...because with YouthPass, everybody wins!*



**MULTNOMAH  
YOUTH COMMISSION**

*Providing a Voice for Youth*

PORTLAND AND MULTNOMAH COUNTY

With questions, or to express support, please contact: [multnomahyouth@gmail.com](mailto:multnomahyouth@gmail.com)



*Students in Lane County have free access to public transportation. Let's bring that benefit to our community!*

## Supporters of YouthPass include:

Mayor Tom Potter • County Chair Ted Wheeler • Mayor Elect Sam Adams • Senator Ginny Burdick • Representative Ben Cannon • Commissioner Dan Saltzman • Commissioner Randy Leonard • Commissioner Nick Fish • METRO Councilor Rex Burkholder • Portland Public School Board • Centennial School District • Reynolds School District • Parkrose School District • Portland Business Alliance • The Hispanic Metropolitan Chamber • Worksystems Inc. • Portland Parks & Recreation • Portland Children's Investment Fund • Oregon Department of Human Services: Child Welfare District 2 • Multnomah County Commission on Children, Families & Community • The Oregon Community Foundation • NAYA • Big Brothers Big Sisters • SOLV • Audubon Society • Portland Impact • New Avenues for Youth • Campfire USA • Black Parent Initiative • Open Meadow Alternative Schools • REAP Inc. • Step It Up, Inc



Office of Mayor Tom Potter  
City of Portland

May 5, 2008

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17th Ave.  
Portland, OR 97202

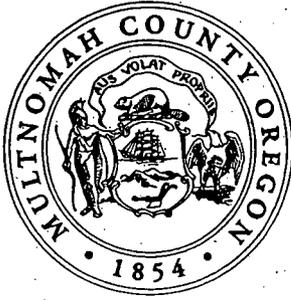
Dear Mr. Hansen:

I'd like to thank you for your work with the **Multnomah Youth Commission** and other community stakeholders to create a fareless "Youth Pass" program for local students. TriMet provides world-class public transportation for our city and this is one more way that you are showing your commitment to serving our community even better.

As you know, the Multnomah Youth Commission has worked with staff from my office to assemble a diverse project team of community stakeholders, including Tom Strader from TriMet, in order to work through the various issues surrounding the program. The project team was pleased to discover a similar program at Lane Transit District, funded through the Oregon Department of Energy's Business Energy Tax Credit (BETC). Based on what they have learned, the Multnomah Youth Commission has created the following proposal, which I fully support:

- Implementation of a program to begin September of 2008
- Pilot program to serve all 6<sup>th</sup> – 12<sup>th</sup> grade students from Portland Public Schools and would expand to other area school districts based on results of the pilot program
- Program to be funded through TriMet's application for a State of Oregon BETC

We know that the benefits for our community could be far reaching, including reducing energy use; reducing car traffic around schools; creating new TriMet riders for today and tomorrow; and lowering a key barrier for youth participation in school, community activities and jobs.



# Ted Wheeler, Multnomah County Chair

501 SE Hawthorne Blvd., Suite 600  
Portland, Oregon 97214  
Phone: (503) 988-3308  
Email: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

May 5, 2008

Mr. Fred Hansen  
Tri-Met General Manager  
4012 SE 17th Avenue  
Portland, OR 97202

Dear Mr. Hansen,

On behalf of Multnomah County, I would like to personally thank you for your leadership, working together with civic and school leaders and youth from the Multnomah Youth Commission, on a project to explore free access to public transportation for local youth.

Following national models, a free youth pass program could address many positive outcomes in our community, including: reducing car traffic around schools; building current and future ridership for Tri-Met; reducing carbon emissions; reducing barriers to youth participation in school, enrichment opportunities and employment; and increasing school districts' flexibility for academic programming. As you know, Multnomah County has provided Tri-Met passes to all its employees, at no cost to the employee, for many years. We have evaluated this program and found it to be a wise investment of our resources. Free Tri-Met passes for youth in Multnomah County will help increase access to educational, recreational, and support services as well as reduce the financial burden on families. Given the increasing cost of gasoline, now is a good time to incent families and their students to reduce their dependence on cars and seek alternative means of transportation.

I appreciate your pursuing the available funding for free youth transportation through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program. The State of Oregon's BETC program currently funds free public transportation for youth in Lane County and I am excited to have the same benefits for our community! I understand the need to establish a program that is sustainable and manageable. I encourage you to continue working toward a September 2008 start date for a pilot program to offer free passes to all 6<sup>th</sup> - 12<sup>th</sup> grade students in the Portland Public Schools district.

Sincerely,

Ted Wheeler  
Multnomah County Chair

**GINNY BURDICK**  
State Senator  
DISTRICT 18  
MULTNOMAH COUNTY  
WASHINGTON COUNTY



Office: Oregon State Senate  
Salem, OR 97301  
(503) 986-1718  
E-mail: sen.ginnyburdick@state.or.us  
District: 4841 SW Dosch Road  
Portland, OR 97239  
(503) 244-1444

## OREGON STATE SENATE

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17th Ave.  
Portland, OR 97202

Dear Mr. Hansen, *Fred,*

Thank you for supporting the Multnomah Youth Commission on a project to explore free access to public transportation for local youth. I am in support of a free youth pass program that can positively affect our local community in a variety of ways.

According to the Multnomah Youth Commission, adopting a free youth pass program that is similar to other national models can effectively encourage use of public transportation. Funding this program through a public/private partnership that uses the Business Energy Tax Credit is a promising example of collaborative efforts to promote environmental stewardship in our community. Thank you for pursuing the available funding for free youth transportation through the BETC program.

The free youth pass program can potentially reduce car traffic around schools, build current and future rider-ship for TriMet, decrease carbon emissions, reduce barriers to youth participation in schools, increase access for employment, and improve flexibility in school districts for academic programming.

Thank you for recognizing TriMet's need to establish a program that is sustainable and manageable. I encourage you to continue working toward a September 2008 start date for a pilot program to offer free passes to all 6<sup>th</sup> - 12<sup>th</sup> grade students in the Portland Public School district. Upon evaluation and a declaration of program success, I would encourage you to expand the free youth pass throughout the city and county in the near future.

Please let me know if there is anything my office can do to assist you in this important project. If at anytime I can provide support do not hesitate to contact me or my legislative assistant, Kendra Rosenberg, at (503) 986-1718.

Sincerely,

A handwritten signature in cursive script that reads "Ginny Burdick".

Senator Ginny Burdick  
District 18



CITY OF

**PORTLAND, OREGON**

**Dan Saltzman, Commissioner**  
1221 SW Fourth Ave., Room 230  
Portland, Oregon 97204  
(503) 823-4151  
Fax: (503) 823-3036  
dsaltzman@ci.portland.or.us

April 29, 2008

Fred Hansen  
General Manager  
**TriMet**  
4012 S.E. 17<sup>th</sup> Avenue  
Portland, OR 97202

Dear Fred;

Thank you for working with the Multnomah Youth Commission on the project to provide free transportation to local school-aged youth.

A free youth pass program could lead to many positive outcomes for our community including reduced air pollution around school campuses and increased enrichment and educational opportunities for youth.

I am pleased to learn of the potential pilot project for Portland Public School youth, and TriMet's pursuit of a state of Oregon Department of Energy's Business Energy Tax Credit (BETC).

Sincerely,

Dan Saltzman

GREAT idea!

RECEIVED  
COUNCILOR REX BURKHOLDER'S OFFICE

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736  
TEL 503 797 1546 | FAX 503 797 1793

08 JUL 23 PM 12:24



METRO

July 20, 2008

Mr. Fred Hansen  
Tri Met General Manager  
4012 SE 17<sup>th</sup> Avenue  
Portland, Oregon 97202

Dear Mr. Hansen:

I would like to thank you for your work and leadership with the Multnomah County Commission and other community stakeholders to create a fareless "Youth Pass" program for local students.

I have been involved in prior discussions about providing a free youth pass program and am excited to hear that progress has been made on such a program. I recently met with members of the Multnomah Youth Commission and was impressed with their commitment to this issue.

With region wide efforts underway to reduce car traffic, increase transit use, and reduce carbon emissions the timing is right to provide a free youth pass program. Providing free transit options to students will help them develop a transit habit, helping to ensure they will be transit users in the future. We provide Tri-Met passes to our employees, at no cost to the employee, and believe in this investment.

I am pleased that you will be pursuing the available funding for this project through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program. I support the implementation on a program in September 2008 and urge you to expand it to not only students in the Portland School district, but to students region wide. Students throughout the Portland Metropolitan region need access to transit and this program will provide them with that access.

Sincerely,

  
Rex Burkholder  
Metro Councilor

NWS

David Wynde  
Board of Education  
Portland Public Schools  
2332 NE 9<sup>th</sup> Avenue  
Portland OR 97212

May 4, 2008

Mr. Fred Hansen  
General Manager  
TriMet  
4012 SE 17th Ave.  
Portland, OR 97202

Dear Fred:

I am writing on behalf of the 46,000 students in Portland Public Schools I am elected to represent, and their families.

Thank you for working with top education and government leaders, and youth from the Multnomah Youth Commission, on a project to explore free access to public transportation for local youth.

We know that many students in PPS choose to attend schools and programs outside their neighborhood. As we embark upon a thorough review of high school programs in the school district, we are carefully considering how to ensure equitable access for all students to the variety of programs offered across the district. Public transport, through a program like the one we're asking TriMet to consider, is a critical step towards this goal of equity of access.

Following national models, a free youth pass program could address many other positive outcomes in our community, including: reducing car traffic around schools; building current and future ridership for TriMet; reducing carbon emissions; reducing barriers to youth participation in school, enrichment opportunities and employment; and increasing school districts' flexibility for academic programming.

After five years on the school board and the budget challenges that we have faced I certainly recognize TriMet's need to establish a program that is sustainable and manageable. I encourage you to continue working toward a **September 2008** start date for a pilot program to offer free passes to **all 6<sup>th</sup> – 12<sup>th</sup> grade students in the Portland Public School district**, with the intention to evaluate program success and expand the program throughout the city and county in the near future.

Thank you for pursuing the available funding for free youth transportation through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program. It is my understanding that the State of Oregon's BETC program currently funds free public transportation for youth in Lane County (<http://www.ltd.org>). It would be very exciting to bring the same benefits to our community!

Sincerely

David Wynde  
sent via email



Reynolds School District #7  
Administration Building  
1204 NE 201<sup>st</sup> Avenue  
Fairview, OR 97024  
503-661-7200 • FAX 503-667-6932

May 5, 2008

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17<sup>th</sup> Ave.  
Portland OR 97202

Dear Mr. Hansen,

It was with pleasure that I heard of your efforts to identify resources to provide free youth passes to Portland Public School students. I am aware of the use of the Department of Energy's Business Energy Tax Credit program in Lane County and eager to see it succeed in our community. I will follow your efforts and the evaluation of the program with interest and with the hope for its expansion to include students in the remainder of the County.

Educators in Multnomah County take pride in their efforts to work as colleagues and partners to serve our students and families. Changes in our communities mean that students increasingly need safe and reliable transportation to access educational, enrichment and employment opportunities. I believe that improved access to transportation will impact opportunities to plan for educational activities outside the school day, will positively impact the neighborhoods around schools and decrease the amount of traffic on the streets of the community.

Thank you for your work with youth and leaders in government and education to develop this program. I hope to see the free passes in place for the 2008-09 school year and look forward to hearing about its success.

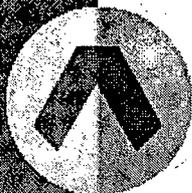
Sincerely,

A handwritten signature in cursive script that reads "Terry Kniesler".

Terry Kniesler

*A great place for learning.*

[www.reynolds.k12.or.us/schools/](http://www.reynolds.k12.or.us/schools/)



# PORTLAND BUSINESS ALLIANCE

*Leading the way*

May 12, 2008

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17th Ave.  
Portland, OR 97202

Dear Fred,

Thank you for working with top education and government leaders, and youth from the Multnomah Youth Commission, on a project to explore the possibility of free or subsidized access to public transportation for local youth. The Portland Business Alliance applauds TriMet's efforts to work with the local community on worthy projects such as these.

Increasing ridership among Portland's young citizens could help promote many positive outcomes in our community, including: reducing car traffic around schools, reducing carbon emissions, finding enrichment opportunities and employment, and increasing school districts' flexibility for academic programming.

Our organization supports your efforts to pursue funding for a pilot project through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program. Utilizing the BETC could be a vital tool to help TriMet establish this program. Other models, such as the Lane County Transportation District, have been successful in using this approach.

We also recognize that there may be a significant financial risk involved in such a project. We urge TriMet to think strategically about any fiscal realities that may be present when attempting to implement this transportation option for Portland's youth. To be successful, the program needs to be economically sustainable and avoid putting TriMet at financial risk.

Sincerely,

Sandra McDonough  
President and CEO

*Greater Portland's Chamber of Commerce*  
200 SW Market St., Suite 1770 • Portland, OR 97201  
Phone 503.224.8684 Fax 503.323.9186  
[www.portlandalliance.com](http://www.portlandalliance.com)



Create a system that anticipates,  
addresses and exceeds the  
workforce needs of our community

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17th Ave.  
Portland, OR 97202

Dear Mr. Hansen,

It is with great thanks and optimism that we are writing this letter of appreciation for your work with top education and government leaders, and youth from the Multnomah Youth Commission, on a project to explore free access to public transportation for local youth.

As indicated by national models, a free youth pass program could address many positive outcomes in our community, including: reducing car traffic, building current and future ridership for TriMet, reducing carbon emissions; reducing barriers to youth participation in school, enrichment opportunities and employment; and increasing school districts' flexibility for academic programming.

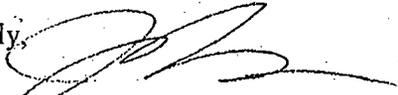
Worksystems, Inc as a regional provider of Youth Workforce Development services across both Multnomah and Washington Counties through 12 community based organizations and alternative schools, believes the adoption of a free youth pass would pay great dividends in increasing the options for youth to participate in our local economy, participate in education and training activities, and improve the transportation options for the emerging pipeline of available youth workers throughout the region.

As an organization that serves as the regional intermediary for the delivery of Workforce Development services we recognize the challenges faced when looking for new resources to fund worthwhile endeavors, we appreciate your efforts in pursuing funding for free youth transportation through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program.

Worksystems, Inc. recognizes TriMet's need to establish a program that is sustainable and manageable. We encourage you to continue working toward a **September 2008** start date for a pilot program to offer free passes to all 6<sup>th</sup> – 12<sup>th</sup> grade students in the Portland Public School district.

Thank you again for your efforts,

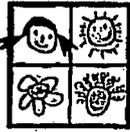
Sincerely,

  
John Gardner  
Senior Project Manager  
Worksystems, Inc  
111 SW 5<sup>th</sup> Avenue Suite 1150  
Portland, OR 97203

[jgardner@worksystems.org](mailto:jgardner@worksystems.org)  
503-478-7354

WORKSYSTEMS, INC.  
111 SW Fifth Ave.  
Suite 1150  
Portland, OR 97204  
503.478.7300 tel  
503.478.7302 fax  
[www.worksystems.org](http://www.worksystems.org)





# portland children's investment fund

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17th Ave.  
Portland, OR 97202

Dear Mr. Hansen:

Thank you for working with top education and government leaders, and youth from the Multnomah Youth Commission, on a project to explore free access to public transportation for local youth. A free youth pass program will help us achieve many positive outcomes in our community, including reducing car traffic around schools, building current and future TriMet riders, reducing carbon emissions, and reducing barriers to youth participation in school and enrichment activities. Many of the after-school programs funded by the Children's Investment Fund have brought to our attention the need for transportation as a pre-condition to children participating in both school and community based after-school programming.

We support your pursuit of funding for this initiative through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program. The State of Oregon's BETC program currently funds free public transportation for youth in Lane County (<http://www.ltd.org>) – and we're excited to bring the same benefits to our community!

We also support your work toward a September 2008 start date for a pilot program to offer free passes to all 6<sup>th</sup> – 12<sup>th</sup> grade students in the Portland Public School district, and an evaluation of the pilot program that looks at usage rates and the geographic distribution of students making use of the program.

Thank you on behalf of all the children served by our programs for your work on this initiative.

Sincerely,

Lisa Pellegrino  
Director  
Portland Children's Investment Fund





Multnomah County Commission  
on Children, Families & Community

421 SW Oak Street, 2<sup>nd</sup> Floor  
Portland, OR 97204  
503.988.4502/fax: 503.988.5538  
www.ourcommission.org



*Making Multnomah County a Great Place to Grow Up and Live*

May 2, 2008

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17th Ave.  
Portland, OR 97202

Dear Mr. Hansen,

First, I want to thank you for your commitment to and support for the project to provide free access to public transportation for local youth.

We know, from national work, that a free youth pass program promises to have a variety of positive impacts in our community, including reducing car traffic around schools, reducing barriers to youth participation in school, and enrichment opportunities and employment, among others.

The Commission on Children, Families and Community (CCFC) in our work with community groups, schools and young people, consistently hears about the transportation barriers encountered by low-income youth and families as they attempt to meet their needs - for work, school, child care, services and recreation. The need is acute currently, as families are squeezed by rising costs in housing, food, gas and health care, while wages remain flat. When youth are provided free access to public transportation, we will see some easing of the financial burden for youth and families.

It is exciting that TriMet, under your leadership, is actively pursuing the available funding for free youth transportation through the Oregon Department of Energy's Business Energy Tax Credit program. The program appears to be an excellent match with our community's critical needs.

Carla Piluso, Chair • Wendy Lebow, Director • Pauline Anderson • Olga Bazhinova • Martee Blaire-Brown  
• Rich Brown • Jeff Cogen • Diane Cohen-Alpert • Jonath Colon • Monica Ford •  
Carolyn Graf • Pam Greenough • Kayse Jarna • Leila Keltner, M.D. • Alissa Keny-Guyer  
• alicia Kersting • Jack MacNichol • Patricia Martinez-Orozco  
• Charles McGee • Natalie Mitchell • Linda Ridings • Emily Ryan • Jay Thiemeyer  
• Keith Vann • David Wang • The Honorable Nan Waller • Michael Ware • Thomas Wright



**Portland**  
 1221 SW Yamhill St., Suite 100  
 Portland, OR 97205-2108  
 503-227-6846 Fax 503-274-7771

**Bend**  
 541-382-1170 Fax 541-382-1215

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**Medford**  
 541-773-8987 Fax 541-245-8796

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 503-779-1927 Fax 503-362-6393

Here for Oregon. Here for Good.

May 2, 2008

Mr. Fred Hansen  
 General Manager, TriMet  
 4012 SE 17th Ave.  
 Portland, OR 97202

Dear Mr. Hansen:

Thank you for your work to date on the collaborative effort to create free access to public transportation for Portland area youth. This project has the potential to extend and improve the efforts of many nonprofit organizations supported by The Oregon Community Foundation.

One of OCF's chief funding priorities is programs serving youth. These cover a continuum including after-school activities such as SEI, Boys and Girls Clubs and Camp Fire; mentoring programs such as Big Brothers/Big sisters and Friends of the Children; community service such as SOLV and Hands On Portland; and other programs as diverse as Youth Employment Institute, New Avenues for Youth, Outside In, or p:ear. We have often heard from our grantees that lack of transportation for youth to events and appointments can be a barrier to their participation. Youth participating in both school and community-based activities would benefit from free access to TriMet's routes to help them participate in these programs, as well as to assist their own families in everyday routines such as shopping or caring for siblings.

We were pleased to learn of the opportunity to secure funding for free youth transportation through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program. The Lane County system using this resource appears to offer a model for a pilot program to offer Portland area youth the same useful benefits. We encourage you to aim toward starting the project by September 2008 and to offer free passes to all 6<sup>th</sup> - 12<sup>th</sup> grade students in the Portland Public School district, and to extend and expand the program if evaluation shows that its goals are being met.

With gratitude and best wishes,

Sincerely,

Jeff Anderson  
 Senior Program Officer

PRESIDENT  
 Gregory A. Chaille

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Linda Moore

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Marty Smith

Hal Snow



Working together for  
this treasure called Oregon

May 16, 2008

Mr. Fred Hansen  
General Manager  
TriMet  
4012 SE 17<sup>th</sup> Avenue  
Portland, OR 97202

ADDRESS 4194 N.E. FLAM YOUNG PARKWAY  
SUITE B  
HILLSBORO, OR 97124  
CALL 503 844 9571, 1 800 333 SOLV  
FAX 503 844 9575  
WEB www.solv.org

Dear Mr. Hansen,

For the past ten years, SOLV has been directly involved in working with Oregon students, K-12, engaging them through the educational strategy of *service-learning*. This has enabled us to provide students with many opportunities to restore, beautify and enhance the environment of their communities - and at the same time, to meet state and school-based academic requirements. We are especially pleased, therefore, that included in a series of new "Essential Skills" to be endorsed next month by Oregon's State Board of Education as high school graduation requirements, is one that calls for students to "demonstrate civic and community engagement".

We have recently learned of a collaboration between the Multnomah Youth Commission, education and government leaders, and TriMet exploring free access to public transportation for all 6<sup>th</sup> - 12<sup>th</sup> grade students in Portland Public Schools. We understand that you are looking at a pilot program that would provide for free youth transportation through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program.

We are writing to give you an example of how such a pilot program would impact us at SOLV and Portland Public Schools students. It has been our experience that **transportation to service sites is the single most significant barrier to student participation with us, and likely with other non-profit organizations that provide opportunities for students to be engaged in projects.** While we can provide schools with curriculum, project planning guidance, and even tools and small grants to offset project expenses, we cannot provide transportation to sites. (In view of the budget constraints in our schools, we have been especially grateful for the generosity of TriMet in providing Portland schools a limited number of free passes for class trips.)

Given the new graduation requirements for civic engagement, Portland's high school students will be seeking significantly more opportunities to participate in projects such as those that SOLV sponsors. The free transportation under consideration would not only enable more students to work with us in bettering their communities, but would also enable these students to meet their new graduation requirements.

Yours very truly,

Susan A. Abravanel  
Education Director

SOLV  
501 1st St  
Portland, OR 97202  
503 844 9571  
www.solv.org  
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**PORTLAND  
IMPACT**

A Community Of Support

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10055 E. Burnside | Portland, OR 97216  
p. 503.988.6000 | f. 503.988.6099

**SE Multicultural Service Center**  
4610 SE Belmont | Portland, OR 97215  
p. 503.988.3660 | f. 503.988.3261

**Brentwood-Darlington Community Center**  
7211 SE 62nd Avenue | Portland, OR 97206  
p. 503.988.5961 | f. 503.988.5946

May 14, 2008

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17th Ave.  
Portland, OR 97202

Dear Mr. Hanson,

Portland Impact would like to thank you for working with top education and government leaders and youth from the Multnomah Youth Commission on a project to explore free access to public transportation for local youth.

Following national models, a free youth pass program could address many positive outcomes in our community, including: reducing car traffic around schools; building current and future ridership for TriMet; reducing carbon emissions; reducing barriers to youth participation in school, enrichment opportunities and employment; and increasing school districts' flexibility for academic programming. Free youth transportation helps people achieve self-sufficiency and to alleviate the effects of poverty within the families of the youth receiving passes. Youth are able to attend before and after-school SUN classes, which promote academic achievement and regular attendance and transform schools into community learning centers.

Thank you for pursuing the available funding for free youth transportation through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program. The State of Oregon's BETC program currently funds free public transportation for youth in Lane County (<http://www.ltd.org>) – and we're excited to bring the same benefits to our community!

Portland Impact recognizes TriMet's need to establish a program that is sustainable and manageable. Please continue working toward a September 2008 start date for a pilot program to offer free passes to all 6<sup>th</sup> – 12<sup>th</sup> grade students in the Portland Public School district (approximately 25,000 students), with the intention to evaluate program success and expand the program throughout the city and county in the near future.

I urge your favorable consideration of this project for strengthening support to youth and their families in our community.

Sincerely,

Susan I. Stoltenberg  
Executive Director



April 24, 2008

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17th Ave.  
Portland, OR 97202

Mr. Hansen,

I am writing to express my appreciation for your work with the Multnomah Youth Commission to explore the possibility of providing free access to public transit for local youth. It is this kind of collaborative and visionary leadership that I most appreciate about Portland and our leaders.

A free youth pass program on public transit would positively impact a myriad of issues and opportunities within our community. As experts in the realm of youth development, we know— anecdotally and empirically—that when youth are meaningfully engaged in the community, stellar outcomes follow (both for those youth and the larger community). However, one of the key hurdles in engaging youth is access and transportation: getting youth to/from our programs, our service-learning projects, our Board meetings, etc. This program would eliminate that hurdle completely. Beyond this, the program would reduce traffic and congestion, lessen the community's carbon footprint, and develop a legion of current and future TriMet users.

We are very hopeful that you will be able to access the available funding for free youth transportation through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program. The State of Oregon's BETC program currently funds free public transportation for youth in Lane County (<http://www.ltd.org>) – and we're excited to bring the same benefits to our community!

In the hope that we can capitalize on this early momentum, I encourage you to move toward a **September 2008** start date for a pilot program to offer free passes to **all 6<sup>th</sup> – 12<sup>th</sup> grade students in the Portland Public School district**. Assuming this program proves to be a success, we hope you will expand the program throughout the city and county in the near future.

With appreciation for your efforts and leadership,

Keith Thomajan  
President & CEO  
Camp Fire USA  
503.224.7800, x. 151  
[kthomajan@portlandcampfire.org](mailto:kthomajan@portlandcampfire.org)



**Administrative Offices**  
7621 North Wabash Avenue  
Portland, Oregon 97217  
503.978.1935  
503.978.1089 Fax  
www.openmeadow.org

**Community Partnerships**  
Michele Taylor  
**Finance Director**  
Karl Souza  
**Development Director**  
Emily Munro  
**Associate Director**  
Karen Belsey  
**Executive Director**  
Andrew Mason

**Middle School**  
7602 North Emerald  
Portland, Oregon 97217  
503.978.0809  
503.978.0858 Fax  
**Program Director**  
Elizabeth Jensen

**STEP UP**  
7602 North Emerald  
Portland, Oregon 97217  
503.488.5162  
503.978.0858 Fax  
**Program Director**  
Hanif Fazal

**High School**  
7654 North Crawford  
Portland, Oregon 97203  
503.285.0508  
503.285.0708 Fax  
**Program Director**  
Rosemary Donnelly

**CRLE (Corps Restoring the  
Urban Environment)**  
7633 North Wabash Avenue  
Portland, Oregon 97217  
503.488.5150  
503.488.5151 Fax  
**Program Director**  
Michael Hoover

**Career Services**  
7633 North Wabash Avenue  
Portland, Oregon 97217  
503.488.5165  
503.488.5151 Fax  
**Program Director**  
Nicholas Knudsen

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17th Ave.  
Portland, OR 97202

April 28, 2008

Dear Mr. Hansen:

Thank you for working with education and government leaders, and youth from the Multnomah Youth Commission, to explore free access to public transportation for local youth. This issue is critical to the educational success for the youth of Open Meadow, 83% of whom are low-income.

A free youth pass program in Portland, modeled after other national best-practice would not only increase the academic opportunities for low-income youth; it would also reduce traffic; build current and future ridership for TriMet; reduce carbon emissions; make it possible to redirect youth development resources currently spent on transportation to programming; and increase school districts' flexibility for academic programming. Independent of this initiative, for cost saving purposes, Open Meadow has been working independently with your staff to explore possible methods to secure half-monthly passes for those months when students are in school for the first half of the month but out of school for the remainder. The majority of Open Meadow youth come to school by walking or using Tri-Met.

Thank you for pursuing funding for free youth transportation through the Oregon Department of Energy's innovative Business Energy Tax Credit (BETC) program.

We urge you to establish a transportation that is sustainable and manageable. This will be an essential feature to an urban education system that promotes equity, access, and quality opportunities for all. Portland deserves this. We can deliver it to our community. And the active participation of Tri-Met is appreciated and essential.

We urge you to set **September 2008** as a start date for a pilot program to offer free passes to all 6<sup>th</sup> – 12<sup>th</sup> grade students in the **Portland Public School district**, with the intention to evaluate program success and expand the program throughout the city and county in the near future.

Thank you for your support and consideration. Please do not hesitate to contact me with questions regarding this request.

Sincerely,

Andrew Mason  
Executive Director

# Step It Up, Inc.

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2218 Lloyd Center Portland, OR 97232-1311

503-284-1640

www.step-it-up.org

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Multnomah County

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Fred Meyer (retired)

Leigh Rappaport  
Program Development  
PGIC

Sprinavasa Bell  
Fund Development  
Cystic Fibrosis Foundation

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Executive Director  
Step It Up, Inc.

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Knowledge Learning Corp.

Susanna Cheek  
Portland Public Schools  
& Student Parent

Rocco DeBrodtt  
Yost Grube Hall Architect

April 28, 2008

Mr. Fred Hansen  
TriMet General Manager  
4012 SE 17th Ave.  
Portland, OR 97202

Dear Mr. Hansen:

Thank for working with top education and government leaders, and youth from the Multnomah Youth Commission, on this project to explore free access to public transportation for local youth. Following national models, a free youth pass program could address many positive outcomes in our community, including: reducing car traffic around schools; building current and future ridership for TriMet; reducing carbon emissions; reducing barriers to youth participation in school, enrichment opportunities and employment; and increasing school districts' flexibility for academic programming.

In addition, free bus passes for the high school students that we connect with professional career field trips and summer internships will save our organization thousands of dollars, which will allow us to serve more students. We provide low-income students with bus passes during July and August to enable freshman and sophomores to participate in summer career exploration activities; and juniors to get to their internship site for work experience, training, and mentoring to meet Oregon's new career-related learning experience graduation requirements. More students participating in these programs means more professional employees to meet the workforce demands when baby boomers retire.

Thank you for pursuing the available funding for free youth transportation through the Oregon Department of Energy's Business Energy Tax Credit (BETC) program. The State of Oregon's BETC program currently funds free public transportation for youth in Lane County (<http://www.ltd.org>) – and we're excited to bring the same benefits to our community in Portland! Low-income youth need free public transportation to succeed!

If TriMet is able to establish a program that is sustainable and manageable, our entire community will benefit greatly. Please continue working toward a September 2008 start date for a pilot program to offer free passes to all 6<sup>th</sup> – 12<sup>th</sup> grade students in the Portland Public School district, with the intention to evaluate program success and expand the program throughout the city and county in the near future. Likely successes from such a program will be more students attending high school regularly, students getting better grades, an increase in the state's graduation rate, and greater numbers of students going to college and helping to improve the Oregon economy. Thank you for pursuing measures to promote such successes. Student success requires commitment from the entire community and TriMet can become a leading force in this endeavor with the BETC program.

Kathy Fong Stephens Sincerely,  
Barney & Worth, Inc.



Linda B. McNeill, MURP  
Executive Director

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 08-113**

Supporting a Proposal by the Multnomah Youth Commission to Establish Fareless Public Transportation for All 6th through 12th Grade Students in Multnomah County

**The Multnomah County Board of Commissioners Finds:**

- a) Public school transportation services in Multnomah County are limited and leave many students unserved, and lack of access to transportation is consistently cited as a key barrier to youth attendance at school, after school activities, support programs and work opportunities.
- b) Lack of access to public transportation and hence pro-social and educational activities is especially problematic in East County.
- c) 43% of Portland public school students do not graduate high school on time, as documented in a report by Connected by 25, which also emphasizes the importance of school and community based support programs to increase student success.
- d) The U.S. Department of Transportation estimates that 20 – 25% of morning traffic is due to parents driving their children to school, contributing significantly to traffic congestion and carbon emissions.
- e) The U.S. Environmental Protection Agency estimates that in 2006 20% of all U.S. carbon emissions from fossil fuels are produced by gasoline consumption for personal vehicle use (U.S. Greenhouse Gas Inventory). Additionally, the Union of Concerned Scientists recommends promoting mass transit and alternative transportation as a key strategy to reduce carbon emissions.
- f) The Multnomah County Board adopted "Our Bill of Rights: Children + Youth" on May 22, 2007 and resolved to "refer to the Bill of Rights as a resource and as a tool to identify and evaluate additional mechanisms to support children and youth".
- g) "Our Bill of Rights: Children + Youth" cites transportation as a needed resource for youth educational success, and states that youth "have the right to be supported in our pursuit of a healthy lifestyle".
- h) Multnomah County strives to be a leader in sustainability efforts that meet community needs while reducing our impact on the environment.
- i) The Multnomah Youth Commission (MYC), which is comprised of youth from across Multnomah County, serves as the official youth policy advisory body to the County Board (as per Intergovernmental Agreement #0708066).
- j) The Multnomah Youth Commission, working in collaboration with a diverse group of business, non-profit, government, education and transportation leaders, has crafted a proposal for a "YouthPass Program" to create fareless access to TriMet's public transportation services for all 6th through 12th grade public school students in Portland and Multnomah County, with a pilot project to address this goal to be in place by September 2008.

- k) The Multnomah Youth Commission developed this proposal in consultation with TriMet personnel and presented the proposal to the TriMet Board of Directors on May 28, 2008, along with 27 letters of support from elected officials, school districts and business and non-profit leaders.
- l) Similar programs in cities across the country address multiple positive outcomes, including reducing car traffic around schools; building awareness of public transportation options among youth; reducing carbon emissions; reducing barriers to youth participation in school, enrichment opportunities and employment; and increasing school districts' flexibility for academic programming.
- m) Funding for free youth transit is available through the State of Oregon Department of Energy's Business Energy Tax Credit (BETC) program, which currently funds free public transportation for all 6th through 12th grade students in Lane County.
- n) TriMet has agreed to implement a pilot at two high schools within Portland Public Schools in September and to expand to more schools in January.

**The Multnomah County Board of Commissioners Resolves:**

1. It is in the general interest of the County to pursue fareless access to public transportation for youth, as proposed by the Multnomah Youth Commission.
2. To explore what technical and material support Multnomah County can provide to ensure that the approved pilot moves beyond Portland Public Schools into other areas of the County, especially the school districts of Reynolds, Gresham-Barlow and Corbett which are outside of the City of Portland's boundaries.
3. To engage in quarterly meetings of key stakeholders of the YouthPass project convened through the Office of the Mayor's Youth Engagement Coordinator in order to monitor the success of the YouthPass Program and assure its successful expansion to all schools county-wide.

ADOPTED this 31st day of July 2008

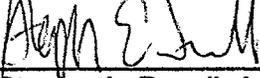


BOARD OF COUNT COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Stephanie Duvall, Assistant County Attorney

SUBMITTED BY:

Ted Wheeler, Chair, Multnomah County



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

**Meeting Date:** 07/31/08  
**Agenda Item #:** R-8  
**Est. Start Time:** 11:05 AM  
**Date Submitted:** 07/1/21/08

**Agenda Title:** **ORDER Adopting a Policy Requiring the Nutrition Labeling of Food Items at Chain Restaurants and Directing the County Department of Health to Promulgate Rules and Regulations to Implement the Policy**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Requested Meeting Date:** July 31, 2008      **Amount of Time Needed:** 40 minutes  
**Department:** Non-Departmental      **Division:** District 2, Commissioner Jeff Cogen  
**Contact(s):** Karol Collymore; Sonia Manhas, Health Department  
**Phone:** 503-988-3674      **Ext.** 86786      **I/O Address:** 503/6  
**Presenter(s):** Commissioner Jeff Cogen, Lillian Shirley, Sonia Manhas, Invited Others

**General Information**

**1. What action are you requesting from the Board?**

Acting in its role as the Multnomah County Board of Health, consider a policy requiring nutrition labeling of food items at chain restaurants and directing the Local Public Health Department to promulgate rules and regulations to implement the policy.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

**Issue:** While there is no single solution to the obesity epidemic, there is increasing evidence and public support for fast food and chain restaurant nutrition labeling as an important tool to enable consumers to make more informed and ultimately healthier decisions when dining out.

**Background.** Increasingly, Multnomah County residents are relying on restaurant meals to feed themselves and their families. Roughly 44% of adults dine at a restaurant at least once a day. Americans spend almost half of their food dollars (46%) on restaurant meals and other food prepared outside their homes, as compared to a 26% in 1970. Increases in Americans' caloric intake over the past two decades are due in part to increases in the frequency of eating out. While it may appear like the public can make their own healthy choices about what to eat while dining out, the reality is that the nutritional quality of restaurant foods and meals varies widely and without nutrition information, it can be difficult to compare options and make informed decisions. Studies show that it is difficult for consumers, including nutrition experts, to estimate portion sizes as well as the calorie and fat content of restaurant foods.

**Overview of Proposal:** The Health Department coordinated a community engagement process to develop the policy proposal that would require chain restaurants with at least fifteen outlets nationwide and who offer substantially the same menu items across outlets to display calorie information on menus and menu boards, and to provide additional nutrition information about carbohydrates, sodium, saturated fat, and trans fat upon request by consumers. Drawing from input from community stakeholders, the policy was informed by the following guiding principles: i) enable point-of-purchase decision-making, ii) avoid undue burden on small business owners, iii) present information in easy to understand ways that do not confuse the consumer, and iv) present information in ways that preserve the design of the menu.

The presentation will include: 1) an overview of the community engagement process, 2) a summary of the policy proposal, and 3) perspectives from community partners.

**3. Explain the fiscal impact (current year and ongoing). (is this question specific to the county?)**

None, existing resources will be allocated to implement policy.

**4. Explain any legal and/or policy issues involved.**

- 1) The Health Department is asking the Board to consider this Policy Order in its role as Board of Health. By acting in this role, Multnomah County has the legal authority to implement and enforce the policy across all regions of the county.
- 2) Consideration of a Policy Order rather than an Ordinance results in a two-step policy making process: 1) the Board of Health votes on the Order. The Order includes a directive to the Health Department to promulgate rules and regulations to carry out and enforce the nutrition labeling policy, and 2) if the Order is approved by the Board, the Health Department then implements a rule-making process to develop implementation and enforcement procedures. The Health Department's presentation will include an overview of the rule-making process, including the process and timeline for public comment.
- 3) The chain restaurant nutrition labeling policy is distinct from food safety code regulations which are governed by state statute (624). The chain restaurant nutrition labeling policy does not impact 624 and will not be enforced through the restaurant inspection process. If approved, implementation and enforcement of the policy would rest with the Health Department's Chronic Disease Prevention Program.

**5. Explain any citizen and/or other government participation that has or will take place.**

The Health Department sought the input of the following community groups to better understand the complexities of a fast food and chain restaurant menu labeling as well as to develop the policy proposal:

1. The Portland Multnomah Food Policy Council
2. The Multnomah County Food Service Advisory Council
3. The Oregon Nutrition Policy Alliance
4. The Oregon Restaurant Association

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**



**Date: July 21, 2008**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
ACTING AS THE MULTNOMAH COUNTY BOARD OF HEALTH

ORDER NO. \_\_\_\_\_

Adopting a Policy Requiring the Nutrition Labeling of Food Items at Chain Restaurants and Directing the County Department of Health to Promulgate Rules and Regulations to Implement the Policy

**The Multnomah County Board of Health Finds:**

- a. The Multnomah County Board of County Commissioners constitutes and is the policymaking body of the Multnomah County Board of Health under ORS 431.410 and 431.415.
- b. The Nutrition Council of Oregon and the Oregon Coalition for Promoting Physical Activity published *A Healthy Active Oregon: Statewide Physical Activity and Nutrition Plan 2007-2012*. (Community Objectives and Strategies III.n):

“Restaurants shall expand and promote options for healthy foods, beverages and meals by providing caloric content and other key nutritional information.”

- c. The analysis of the potential for implementing this strategy in Multnomah County undertaken by the Chronic Disease Prevention Program of the Multnomah County Health Department documented that:
  - (1) Consumers have difficulty making informed choices about food purchases in restaurants because of an absence of relevant nutrient information, as evidenced by the following:
    - An FDA-commissioned report concluded that without access to nutritional information, consumers are not able to assess the caloric content of foods;
    - Multiple studies have shown that restaurant foods contain almost twice the number of calories estimated by consumers, including a study of well-trained nutrition professionals who consistently underestimated the calorie content of restaurant foods by 200 to 600 calories.
  - (2) Obesity is one of the greatest public health challenges facing the nation and the communities of Multnomah County, as evidenced by the following:
    - Nationally, obesity rates have doubled in children and tripled in teenagers over the past twenty years;
    - Fifty percent of overweight children and teenagers remain overweight as adults;
    - Two thirds of adults in Multnomah County are overweight or obese;
    - Obesity-related chronic diseases, including cardiovascular disease, diabetes, hypertension, cancer, and asthma, are the leading causes of death and disability in Oregon and Multnomah County;
    - In 2005, 25% of the years of potential lost in Multnomah County, a measure of premature mortality, were due to chronic diseases caused or escalated by poor eating habits;
    - The indirect and direct costs of adult obesity in America are \$117 billion each year.
  - (3) Americans eat an increasing number of meals outside the home, and such meals are linked to higher calorie intake, as evidenced by the following:

- In 1970, Americans spent just 26% of their food dollars on restaurant meals and other food prepared outside of the home. Today, Americans spend 47.8% of their food dollars on away-from-home foods;
  - About one-third of the calories in an average American's diet come from restaurant or other away from home foods;
  - Between 1972 and 1997, the per-capita number of fast food restaurants doubled, and the per-capita number of full-service restaurants rose by 35%;
  - On average, children and youth aged 11-18 visit fast food outlets twice a week, and children consume nearly twice as many calories from restaurant meals than from home-cooked meals;
  - Restaurant foods are generally higher in those nutrients for which over-consumption is a problem, such as fat and saturated fat, and lower in nutrients required for good health, such as calcium and fiber;
  - Portion sizes are often large at restaurants, and it is not uncommon for a restaurant entrée to provide half a day's calories, saturated and trans fat, or sodium.
- (4) The Federal Nutrition Labeling and Education Act requires food manufacturers to provide nutrition information on nearly all packaged foods but explicitly exempts restaurants from that requirement;
- (5) Competition within the food service industry is healthy and desirable, and the availability of nutrition information can serve as another factor to inform consumer choices, as evidenced by the following:
- Three quarters of American adults report using nutritional labels on packaged foods;
  - Studies have shown that people who use food labels are more likely to eat healthfully;
  - Almost half of consumers report that the information provided on food labels has caused them to change their food purchasing habits or decide between similar foods.
- (6) Nutrition labeling in fast food and chain restaurants is well-supported by the public, as evidenced by the following:
- Six national representative consumer polls found that between 61% and 87% of Americans support nutrition labeling in restaurants;
  - Sixty nine percent of Oregonians support requiring nutritional labeling in fast food and chain restaurants.
- (7) The United States Surgeon General, the Food and Drug Administration, the National Academies' Institute of Medicine, the American Heart Association, the American Diabetes Association, and the American Medical Association have recommended the provision of nutrition information at restaurants as a strategy to address rising obesity rates.
- (8) The current system of voluntary nutritional labeling at restaurants is inadequate. Approximately half of the largest chain restaurants fail to provide any nutritional information about their menu item to customers. Restaurants that do provide such information often do not do so at the point of sale, but rather on websites, tray-liners, on fast-food packages or in brochures that are available only by request.
- (9) Many individual, family, community, and societal factors influence dietary patterns and levels of physical activity. Addressing obesity will require a broad range of interventions, and nutrition labeling is one tool to empower Multnomah County residents to take greater control of their own health and make healthier choices about what they eat.

- d. The Chronic Disease Prevention Program coordinated a multi-phase community engagement process with representatives from the food service, public health, academic, non-profit, and business communities to assess the feasibility of fast food and chain restaurant menu item labeling and develop a policy for recommendation to the Board.
- e. It is the intent of the Multnomah County Board of Health to provide consumers with basic nutrition information and other product information about prepared Foods sold at Chain Restaurants in Multnomah County so that consumers can make informed Food choices.

**The Multnomah County Board of Health Orders:**

1. The Board adopts the attached Chain Restaurant Nutrition Labeling Policy as recommended by the Chronic Disease Prevention Program.
2. The Board directs the County Department of Health to promulgate rules and regulations to carry out and enforce this policy.
3. The Health Department may adopt a schedule of fees to recover expenses of the Department in performing its responsibilities in carrying out this Order.

ADOPTED this 31<sup>st</sup> day of July 2008.

BOARD OF COUNTY COMMISSIONERS  
ACTING AS THE MULTNOMAH COUNTY  
BOARD OF HEALTH

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Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Jacqueline A. Weber, Assistant County Attorney

SUBMITTED BY:

Lillian Shirley, Director of the Department of Health

## ***Chain Restaurant Nutrition Labeling Policy***

**Purpose.** The purpose of this policy is to provide Multnomah County residents with basic nutrition information and other product information about prepared Foods sold at Chain Restaurants. Readily available product disclosures are essential to allow consumers to make informed purchasing decisions about the Food that they, and their children and dependents, eat. Further, product disclosures help foster free market competition based on the true nutritional quality of a Chain Restaurant's products.

**Definitions.** The following words and phrases, whenever used in this policy, shall have the meanings defined in this policy unless the context clearly requires otherwise:

- a) "Chain Restaurant" means a Restaurant within Multnomah County that is part of an affiliation of Restaurants and for which the affiliated Restaurants:
  - (1) Have at least fifteen or more restaurants within the United States;
  - (2) Sell Formula Menu Items that comprise at least eighty percent or more of Menu Items served in at least fifteen restaurants; and
  - (3) Operate under the same apparent brand or substantially the same name, regardless of whether the restaurants are subject to the same ownership or type of ownership.
- b) "Food" means any substance in whatever form used or intended for use in whole or in any part for human consumption such as, for example, meals, snacks, desserts, and beverages of all kinds.
- c) "Food Product" means a discrete item of Food offered for sale or consumption, such as, for example, a hamburger, or offered in conjunction with another discrete item of Food, such as, for example a hamburger sold as part of a meal including french-fries and a soda, but does not include ingredients except ingredients sold separately, such as, for example, a slice of cheese added to a hamburger for an additional charge.
- d) "Food Tag" means any informational label placed in proximity to a Food Product it identifies or characterizes, such as, for example, a label placed next to a cherry pie showing a picture of a cherry and listing the price per slice or a label placed next to a container of pasta in a salad bar with the text, "Pesto Pasta Salad", but does not include a Menu or a Menu Board.
- e) "Menu" means any listing of Food Products offered for sale, including for example a pictorial display, and includes listings intended for consumption on or off the premises, such as a takeout, but does not include a Menu Board.
- f) "Menu Board" means any listing of Food Products offered for sale, including, for example, a pictorial display, that is posted and intended for joint viewing by multiple consumers such as, for example, back-lit marquee signs above a point of sale at fast food outlets or chalk boards listing Food Products for sale; and also

means any listing of Food Products for sale that is posted and intended for viewing by a consumer purchasing Food to go, such as, for example, a drive-through signboard.

- g) “Menu Item” means (1) a Food Product listed on a Menu, Menu Board, or Food Tag, and means (2) a combination of Food Products offered together on a Menu, Menu Board, or Food Tag, such as, for example, a “kids meal” combining a hamburger, french-fries, and a carton of milk.
- h) “Menu Item Variant” means each standardized alternative of a singly listed Menu Item, such as, for example, each different size of the Menu Item (e.g., small, medium, large, etc.), each different flavor of the Menu Item “soda” (e.g. Coke, Sprite, etc), each pizza topping combination (e.g. pepperoni, extra cheese, mushroom, etc), each different type of bagel (e.g. poppy seed, raisin, etc), each ice-cream flavor (e.g. chocolate, vanilla, etc.), or each variation of a “kids meal” (e.g. a hamburger with french fries, a hamburger with apple slices, etc).
- i) “Formula Menu Item” means a Menu Item that is essentially the same between affiliated restaurants and prepared using a consistent standardized recipe.
- j) “Restaurant” means (1) a facility at which any prepared, unprepackaged Food Product is offered for sale for consumption on or off the premises, such as, for example: traditional sit-down restaurants, cafes, coffee stands, cookie stands; delis; bakeries; ice-cream shops; and fast-food outlets; and means (2) any area within a grocery, convenience, or variety store that is a separately owned food facility at which any prepared, un-prepackaged Food Product is offered for sale and consumption on or off the premises, but does not include other areas of a grocery, convenience, or variety store.
- k) “Self-Service Item” means any prepared, un-prepackaged Food that consumers are permitted to procure without assistance of a Restaurant agent or employee, such as, for example, Food displayed at a salad bar or buffet line, but does not include condiments placed on a dining table or on a counter for general use without charge.

**Minimum Product Information.**

- a) Required Product Information. Each Chain Restaurant shall accurately ascertain, at a minimum, the following product information for each Menu Item Variant, as the item is usually prepared and offered for sale:
  - (1) Total calories;
  - (2) Total grams of saturated fat;
  - (3) Total grams of trans fat;
  - (4) Total grams of carbohydrates;
  - (5) Total milligrams of sodium.

- b) **Verifiable and Accurate Information Required.**
- (1) The product information required by this policy shall be based on verifiable and accurate analysis of the Menu Item Variant, which may include the use of nutrient databases, laboratory testing, or other methods of analysis allowed by the Federal Food and Drug Administration for the labeling of packaged foods.
  - (2) A Restaurant is in violation of this policy if the provided product information required by this policy:
    - i. Is not present or is not in the form required by this Policy;
    - ii. Is different from what the Restaurant knows or believes to be the true and accurate information; or
    - iii. Deviates by more than twenty percent (20%) from what actual analysis or other reliable evidence shows to be the average content of a representative sample of the Menu Item Variant.

**General Requirements and Prohibitions.**

- a) Whenever a Restaurant, pursuant to this policy, is required to disclose information to the public, the Restaurant shall round numerical values as follows:
  - (1) For values above 50, the disclosed value shall be rounded to the nearest value evenly divisible by 10 (e.g., 322 is rounded to 320, 435 is rounded to 440, etc);
  - (2) For values equal to or less than 50, the disclosed value shall be rounded to the nearest value evenly divisible by 5 (e.g., 43 is rounded to 45, 21 is rounded to 20, etc.). [these rounding rules are based on those used by the FDA for packaged food]
- b) Each discrete display of a Self-Service Item shall be accompanied by a Food Tag, or the Self-Service Item shall be listed on a Menu Board that is readily visible from the self-service location.
- c) Upon the request by a consumer visiting a Chain Restaurant, the Restaurant shall promptly provide the consumer with a physical, written list of the values for the: total calories; total grams of saturated fat; total grams of trans fat; total grams of carbohydrates; and total milligrams of sodium for all Menu Item Variants. The list, such as a supplemental menu or menu insert, shall be available at each point of sale.

**Product Disclosure Requirements for Menus.**

- a) **Product disclosure on Menus.**
  - (1) Each Chain Restaurant that uses a Menu shall disclose the total calories next to each Menu Item in a size and typeface that is clear and conspicuous, and no less prominent than the price.
  - (2) Each Chain Restaurant that uses a Menu shall include on the Menu in a prominent location and in a clear and conspicuous manner, the following statement: "Recommended limits for a 2,000 calorie daily diet are 20 grams of

saturated fat and 2,300 milligrams of sodium. Additional nutrition information available upon request.”

- b) Product disclosure on Menu Boards.
  - (1) Each Chain Restaurant that uses a Menu Board shall display the total calories next to each Menu Item on the Menu Board in a size and typeface that is clear and conspicuous, and no less prominent than the price.
  - (2) Each Chain Restaurant that uses a Menu Board shall include on the Menu in a prominent location and in a clear and conspicuous manner, the following statement: “Recommended limits for a 2,000 calorie daily diet are 20 grams of saturated fat and 2,300 milligrams of sodium. Additional nutrition information available upon request.”
- c) Product disclosure on Food Tags. Each Chain Restaurant that uses a Food Tag shall display the total calories for each Menu Item represented on the Food Tag in a size and typeface that is clear and conspicuous, and no less prominent than the price.
- d) Disclaimers Permitted. Nothing in this policy prohibits the Restaurant from publishing truthful disclaimers, including on the Menus, Menu Boards, and Food Tags, notifying consumers that there may be small variations in nutritional content across servings, due to differences in preparation, service sizes, ingredients, or custom orders.
- e) Additional nutrition labeling permitted. Nothing in this policy precludes Restaurants from voluntarily providing additional nutrition labeling of Food.

**Variable Items and Combo Meals.** For any Menu Item having more than a single Menu Item Variant (e.g. more than one flavor or more than one size), and for each type of information required (e.g. calories, saturated fat, etc):

- a) If both the highest and lowest value of all the Menu Item Variants are within 10% of the median value, the median value alone may be used whenever this policy requires disclosure of the type of information;
- b) If both the highest and lowest value of all the Menu Items are within 20% of the median value, the range of values may be used whenever this policy requires disclosure of the type of information; and
- c) If neither subsection (a) or (b) applies, each Menu Item Variant must be listed as a separate Menu Item and accompanied by the appropriate ascertained value whenever this policy requires disclosure of the type of information.

**Exclusions and Exemptions.**

- a) Food Items Excluded. This policy does not apply to:

- (1) Condiments placed on the dining table or on counter for general use without charge;
  - (2) Food that is offered for sale for less than sixty (60) days in a calendar year;
  - (3) Alcoholic beverages not listed as Menu Items.
- b) Restaurant Exemptions. The following types of Restaurants are exempted from the requirements of this policy:
- (1) Public and private school cafeterias
  - (2) Licensed health care facilities

**BOGSTAD Deborah L**

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**From:** scottvi@ohsu.edu  
**Sent:** Monday, July 28, 2008 5:04 PM  
**To:** BOGSTAD Deborah L  
**Subject:** Calorie disclosure/menu labeling

I am unable to attend the hearing on Thursday morning, but would like to lend my voice to those advocating for menu labeling for all restaurants in Portland. We have become a nation, and a community of overweight, unhealthy people. I am one of those. Within the last year I faced a health crisis that was directly related to my weight; since then I have made some significant life changes that have resulted in both weight loss and the lowering of my blood pressure. I am about a third of the way to my goal. I have given up eating fast food altogether, and most restaurant food, because I was never sure exactly what I was eating, in terms of both ingredients and calorie contents. I have a busy life, but I have traded the convenience of eating out for having better health. I would eat out more often again if restaurants made it easier for me to make healthy choices by providing me with information about how many calories are in the food they have on their menus. I urge the Commissioners to support the proposition for menu-labeling, for my own health's sake, and for the sake of the health of our community.

Virginia Harris Scott  
8011 N. Foss Avenue  
Portland OR 97203  
503-286-2331 h  
503-230-1202 w  
scottvi@ohsu.edu

7/28/2008

**BOGSTAD Deborah L**

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**From:** Gail Streicker [gstreicker@hotmail.com]  
**Sent:** Tuesday, July 29, 2008 12:29 PM  
**To:** BOGSTAD Deborah L  
**Subject:** calorie counts

To the Multnomah County Commissioners,

I favor the proposal to post calorie counts in certain chain restaurants. Even though my family eats a lot of meals at home, there are times when we don't have the time or energy to cook. It's easy for even normal weight people to pack on the pounds as our metabolism slows in midlife. I know it would help me to stay at a healthy weight and keep my hereditary high cholesterol down if I had immediate access to nutritional information when ordering food.

Thanks very much for your consideration.

Gail Streicker

3122 NE 40th AV  
Portland, OR 97212  
503-284-0456

**BOGSTAD Deborah L**

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**From:** Karin Edwards [rolfer@earthlink.net]  
**Sent:** Tuesday, July 29, 2008 10:39 PM  
**To:** BOGSTAD Deborah L  
**Subject:** written testimony

Mult. Co. Commissioners  
501 SE Hawthorne Blvd, Suite 600  
Portland, OR 97214

Dear Jeff Commissioners,

Please support the chain restaurant labeling initiative.

Recently eating at Burgerville, one of the healthier fast food options, I saw the calorie count of the meal I was eating. That information has significantly impacted my decisions on what to order since then. I realized that burger, fries and shake added up to way more calories than I wanted at a meal, so now I just order one and enjoy it a la carte.

As a health practitioner, I see many Portlanders struggling to maintain their ideal weight, despite being active and health-conscious. It would be quite helpful to have calorie information readily available when ordering. This is a logical step, on par with the labeling of prepared foods that has been standard for so long.

Please vote yes on the upcoming Health Department Initiative.

Thanks!

Sincerely,

Karin Edwards  
Certified Rolfer  
3528 SE 26<sup>th</sup> Ave.  
Portland, OR 97202

7/30/2008

**BOGSTAD Deborah L**

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**From:** Travis Nyberg [tnyberg@cascadehealth.org]  
**Sent:** Thursday, July 31, 2008 11:05 AM  
**To:** District1; BOGSTAD Deborah L  
**Subject:** Calorie counts are one powerful tool to help people manage a healthy weight

Dear Commissioner,

As an Oregon physician, I would have to disagree with your position on this issue. As difficult as it may be to be a pioneer in changing public health policy, fear of change alone is not justification to endorse the status quo.

I do agree that this should be a statewide, and even national policy, but I also know that we as a community and as a government cannot afford to wait to start helping people make better health decisions. The poor health of many in our community, and the looming healthcare crisis coming from the increasing waistline of our young and old is already costing our community, government, and society more than we can afford to pay.

All restaurants already under go health inspection; there should not be significant cost in adding one more item to the checklist for these inspectors. Yes, there may be growing pains in implementing this new policy, but the potential benefits far outweighs these challenges.

Please stop trying to pass the buck on this simple, relatively inexpensive solution, and be the leader you were elected to be.

Thank you,

Dr. Travis Nyberg

-----Original Message-----

**From:** District1 [mailto:district1@co.multnomah.or.us]  
**Sent:** Thursday, July 31, 2008 10:36 AM  
**To:** Travis Nyberg  
**Subject:** RE: Calorie counts are one powerful tool to help people manage a healthy weight

Message from Commissioner Rojo de Steffey:

There are good reasons to be concerned, even alarmed, about the issue of obesity in our community and country.

But menu labeling, the proposed anti-obesity vehicle being considered by the Multnomah County Board of Commissioners for implementation, is imprecise, ill-timed, and insufficiently analyzed before presentation.

First, the imprecision puts Multnomah County out in front of the Oregon Legislature on the issue. Experience has taught me that on most matters with broad regulatory impact it is most effective and

efficient to have a uniform requirement that crosses city and county lines and, at minimum, affects the entire state.

Second, it is presented as a new regulatory responsibility for Multnomah County. It is irresponsible to add regulations at a time when we cannot afford staff to enforce those already on the books. The Board of Commissioners has spent nearly a decade annually cutting budgets and has no reason to be optimistic that any time soon there will be relief from the tough choices we have been confronted with year after year.

Finally, there is no accompanying analysis of the economic impact of the proposed regulation. No one knows what the cost of implementation and enforcement will be. At minimum, these costs should be analyzed and presented together with the request for implementation. It is unlikely that County Health Department staff, already overburdened by the lack of a comprehensive health care policy in this country, can take on additional duties without adding staff or redirecting personnel from other important duties. If implementing a fee-based program to recover expenses associated with this new regulation is expected, the fees to be charged should be known as action on the matter is considered.

The Multnomah County Board of Commissioners has serious issues before us of crises proportion - the Mental Health crises as a result of Cascadia's failings; how to pay for opening the Wapato Jail especially in light of the money we will have to spend on the mental health crises; dealing with the monetary issues brought forth by the East County Justice Center; how to replace the Sellwood Bridge just to name the county's major issues. It is imperative that we direct our attentions toward solving the problems in front of us before we undertake a new initiative that will create an island of regulation in the state, overtax our employees and a narrow band of our business community.

King County, Washington attempted a menu labeling ordinance that ended up costing them tremendous time and money. In fact, they had to amend their ordinance several times. What they finally created was a strong ordinance, working with the restaurateurs, that is a comprehensive nutritional analysis package. Multnomah County should follow suit by working together with the legislature, the restaurateurs and our communities to craft a statewide measure that educates, is fairly implemented and does not overburden. This, I believe is the best solution.

Maria Rojo de Steffey  
Multnomah County Commissioner  
501 SE Hawthorne Blvd. #600  
Portland, Oregon 97214, 503-988-5220

-----Original Message-----

From: Travis Nyberg [mailto:[tnyberg@cascadehealth.org](mailto:tnyberg@cascadehealth.org)]

Sent: Wednesday, July 30, 2008 1:32 PM

To: District1

Subject: Calorie counts are one powerful tool to help people manage a healthy weight

July 30, 2008  
Mult. Co. Commissioner Maria Rojo de Steffey  
501 SE Hawthorne Blvd, Suite 600  
Portland, OR 97214

Dear Maria Rojo de Steffey,

I am writing to urge to you to support the upcoming chain restaurant labeling initiative that the Health Department is bringing to the Board of Commissioners.

American adults now eat more meals at restaurants than at home. However, there is a large gap in access to nutrition information at chain restaurants making it difficult for consumers to make informed choices when eating out. Without clear information, how will consumers know, for example, that a large McDonald's shake has more calories (1160) than a Big Mac (540) and Large Fries (500) put together? Nutrition education programs cannot work unless the public has access to information at the point of decision-making in restaurants.

As obesity rates continue to rise, so does the risk for Type 2 diabetes, hypertension, coronary heart disease, stroke and cancer. "Calorie counts" help consumers take personal responsibility for their health.

Given today's obesity crisis, Oregonians can no longer afford to play a guessing game when choosing their food and beverages. While menu labeling alone will not solve the problem of obesity, it is considered a best practice as part of a comprehensive obesity prevention program, and will play a vital role in the multi-pronged effort to combat the epidemic, leading to lower health care costs.

Please vote yes on the upcoming Health Department Initiative; be a leader for other Oregon counties to follow.

Sincerely

Dr. Travis Nyberg  
369 Sunshine Ave  
Philomath, OR 97370-9448

**BOGSTAD Deborah L**

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**From:** NAITO Lisa H  
**Sent:** Wednesday, July 30, 2008 2:42 PM  
**To:** WHEELER Ted; ROJO DE STEFFEY Maria; COGEN Jeff; ROBERTS Lonnie J; BOGSTAD Deborah L  
**Cc:** #ALL DISTRICT 1; #ALL DISTRICT 2; #ALL DISTRICT 3; #ALL DISTRICT 4  
**Subject:** Nutrition Labeling

**MULTNOMAH COUNTY OREGON**

BOARD OF COUNTY COMMISSIONERS  
 501 S.E. HAWTHORNE BLVD. , Room 600  
 PORTLAND, OREGON 97204  
 (503) 988-5217

LISA NAITO • DISTRICT 3 COMMISSIONER

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**MEMORANDUM**

**TO:** Chair Ted Wheeler  
 Commissioner Maria Rojo de Steffey  
 Commissioner Jeff Cogen  
 Commissioner Lonnie Roberts  
 Board Clerk Deb Bogstad

**FROM:** Lisa Naito  
 Commissioner Dist 3

**DATE:** July 30, 2008

**RE:** Nutrition Labeling

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On Thursday, July 31, I will offer the attached substitute resolution on menu labeling. I agree with the general policy goal of giving consumers information about the food they eat. The issue for me has been the appropriate level of government to provide the regulation and enforcement to accompany this goal.

There are many policy decisions relating to nutrition labeling, including the manner in which information is given to the consumer, the scope of entities covered, the meals and items served in establishments that are covered by the labeling requirements, and costs and methods of enforcement.

King County has grappled with these policy choices several times. I spoke with Commissioner Julia

7/30/2008

Patterson about their experience. King County adopted the first set of rules and regulations on July 19, 2007. The rules and regulations were then substantially amended on March 12, 2008. The number of establishments covered was increased from ten to fifteen. The definitions of "menu," "menu board," "point of ordering," "reasonable basis or reasonable bases," "standard menu item," "standard recipe" and "substantially the same menu item" were changed. A font size for nutritional labeling was specified, other methods of providing nutrition labeling were added and the process for enforcement was changed.

At the same time, the Commissioners adopted new sections providing for approved alternative methods of nutrition labeling to include a menu insert, a menu appendix, a supplemental menu, and electronic kiosks. Alternative methods of nutrition labeling were adopted for chain food establishments that use menu boards. These included approved alternative methods for labeling of calories by a sign adjacent to the menu board or a sign in queue at eye level.

In addition, alternative methods for providing nutrition information other than calories to consumers in a drive-through restaurant were also adopted, as were alternative methods of nutrition labeling for alcoholic beverages, allowing the use of specified average nutritional values and signed statements of exemption. The Commissioners approved alternative methods for nutrition labeling for combination meals. Finally, they created an approval process for an establishment to propose substantially equivalent methods of nutrition labeling so that an establishment could have approval prior to investing in the necessary signage and menu changes.

King County then further amended its rules and regulations again on May 6, 2008. It appears to me that the significant amendment on this date was to change the definition of food establishment, exempt grocery stores including convenience stores, and to exempt movie theaters. At either the March or the May revision of the rules, the menu and board items excluded from labeling were increased from items on the menu for 60 days or less to 90 days or less.

I understand that the policy decisions included in the ordinance proposed to the Board have been recommended to us by a committee with a process that included information from "stakeholders." I value their recommendations, but believe that other counties or the State would make different policy choices relating to scope of covered establishments, menu items and exclusions. This could lead to a patchwork approach, unless a statewide standard is set and our county is in alignment with that standard. Since we are only looking to cover chains of fifteen or more locations, we recognize that the costs to establishments to comply with our regulations can be spread over a large number of locations. A county by county approach would significantly increase the costs to comply. Consider also that many of these large chains are in fact small business owners when they are franchisees. They are employers in our community operating in a tough economic time and often on a slim margin of profitability. It has been estimated that the cost to single owned franchisees could run as high as \$2000. Consistency in standards in the state would more likely lead to the costs of compliance being paid by the franchisor rather than our locally-owned franchisees.

The argument has been put forth that our county should act now to prompt the state to take action on nutrition labeling, based on the example of the smokefree workplace ordinance adopted by our county. This ordinance later became the state standard by action of the State Legislature. Since I was the co-sponsor with then-Commissioner Linn of the County's ordinance, I am well aware of the precedent we set.

First, I had been a champion of smokefree workplace legislation when I was a state legislator. One of the greatest disappointments of my legislative tenure was the failure of that bill on the House floor by a several vote margin. It was only because the state legislature had failed to act on this that I again took

up this cause as a County Commissioner. The goal always was to have statewide legislation.

One of the differences between the smokefree workplace ordinance and our proposed nutrition labeling ordinance is that there were no costs to employers to comply and protect their workers from second-hand smoke, unless they voluntarily wanted to provide an indoor place for smoking with a separate ventilation system. With nutrition labeling, there will be costs of compliance to change menus, boards, provide literature, and determine the caloric and specific contents of their menu items.

The State is actively working on the issue of obesity and is poised to take action on this next session. Last session, Senate President Pro Tempore Margaret Carter was the chief sponsor of Senate Bill 931, a bill that created a task force on obesity prevention. The task force will make recommendations in October of this year for the legislature that will convene in January. I submit that our Board should give the legislature the opportunity to set statewide regulation. If they fail to act, then the County could adopt the appropriate standards next summer with the new Board that will have the responsibility to make all the policy choices and enforce the provisions they adopt.

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## **07/30/08 SUBSTITUTE RESOLUTION**

### **BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR MULTNOMAH COUNTY, OREGON**

#### **RESOLUTION NO. \_\_\_\_\_**

**Recommending Nutrition Labeling in Restaurants as a Legislative Priority and Inclusion of Nutrition Labeling to the State Task Force and the Legislature**

#### **The Multnomah County Board of Commissioners Finds:**

- a. Obesity and chronic diseases are leading public health concerns in Multnomah County and throughout the State of Oregon.
- b. In Oregon, as throughout the nation, obesity rates have increased and reached an epidemic level.
- c. The Nutrition Council of Oregon and the Oregon Coalition for Promoting Physical Activity have overarching goals to prevent obesity and chronic diseases in Oregon:
  - Increase healthy eating and physical activity opportunities for Oregonians through supportive policies and environments;
  - Increase the percentage of Oregonians who meet the recommendations for a healthy diet;
  - Increase the percentage of Oregonians who meet the recommendations for daily physical activity;
  - Increase the percentage of Oregonians who are at a healthy weight.
- d. The Centers for Disease Control and Prevention (CDC) recommend obesity prevention strategies that focus on five highly preventable risk factors; calorie imbalance, insufficient fruit and vegetable consumption, physical inactivity, lack of adequate breastfeeding and increased screen-time and sedentary behaviors. Monitoring portion size and reducing consumption of sweetened beverages can contribute to calorie balance.
- e. Basic nutrition information allows people to make informed decisions about the food they eat and assists people in reducing their calorie intake and other dietary concerns. Consumers have difficulty making informed choices about food purchases in restaurants because of the absence of readily available nutritional information. Nutrition labeling for food and restaurants is well-supported by the public and should be provided at the point of sale.
- f. The United States Surgeon General, the Food and Drug Administration, the National Academies' Institute of Medicine, the American Heart Association have recommended the provision of nutrition information at restaurants as a strategy to address rising obesity rates.

**07/30/08 SUBSTITUTE RESOLUTION**

- g. Consumers throughout the State of Oregon would benefit from nutrition labeling policies. The Legislature passed Senate Bill 931 last session and convened a task force that is to issue a report no later than October 1, 2008 to recommend health care policies for legislation. The State Legislature is scheduled to convene in January of 2009.

**The Multnomah County Board of Commissioners Resolves:**

1. The Board supports nutrition labeling in restaurants as a promising practice relating to obesity and providing consumers information and choices about the food they eat.
2. Restaurants and small businesses, including franchisees of restaurant chains benefit from a uniform statewide standard to minimize costs and ensure compliance.
3. The Board adopts nutrition labeling in restaurants as a legislative priority and recommends inclusion of nutrition labeling to the state task force and the State Legislature.

ADOPTED this 31st day of July, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Agnes Sowle, County Attorney

SUBMITTED BY:

Lisa Naito, Commissioner District 3

#1

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

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Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 07.31.08

SUBJECT: FAST FOOD + CHAIN RESTAURANT NUTRITION  
MENU LABELING PROPOSAL

AGENDA NUMBER OR TOPIC: R8

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: STATE SENATOR MARGARET CARTER

ADDRESS: STATE CAPITOL

CITY/STATE/ZIP: SALEM, OR 97301

PHONE: \_\_\_\_\_ DAYS: \_\_\_\_\_ EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

SPECIFIC ISSUE: R8

WRITTEN TESTIMONY: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#2:

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

**Please complete this form and return to the Board Clerk**

**\*\*\*This form is a public record\*\*\***

**MEETING DATE: July 31, 2008**

**SUBJECT: Nutrition Labeling in Chain Restaurants**

**AGENDA NUMBER OR TOPIC: R-8 Nutrition Labeling**

**FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM**

**NAME: Mel Kohn , Epidemiologist**

**ADDRESS: Portland State Office Building, 800 Oregon Street NE**

**CITY/STATE/ZIP: Portland, OR 97232**

**PHONE: DAYS: 971-673-1071 EVES: \_\_\_\_\_**

**EMAIL: Melvin.A.Kohn@state.or.us**

**FAX: \_\_\_\_\_**

**SPECIFIC ISSUE: \_\_\_\_\_**

**WRITTEN TESTIMONY: Yes**

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#3

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7-31-08

SUBJECT: NUTRITIONAL INFORMATION

AGENDA NUMBER OR TOPIC: R-8

FOR:  AGAINST:  THE ABOVE AGENDA ITEM

NAME: Bill Perry OREGON RESTAURANT ASSN

ADDRESS: 8565 SALISH LANE #120

CITY/STATE/ZIP: WILSONVILLE

PHONE: DAYS: 503 682 4422 EVES: \_\_\_\_\_

EMAIL: bill@ora.org FAX: \_\_\_\_\_

SPECIFIC ISSUE: STATE WIDE SOLUTION

WRITTEN TESTIMONY: yes

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.



Testimony for Multnomah County  
Bill Perry, Oregon Restaurant Association  
July 31, 2008

I have enclosed a letter from the American Dietetic Association on Nutrition Labeling and they outline four specific steps to follow when informing the public about nutrition. I would ask you to consider working with our industry to try and pursue their recommendations on a statewide basis. I would like to start with a specific quote from that letter:

*"Some states and cities are considering legislation that requires certain restaurants and food establishments to provide calorie information on menu boards. To date, ADA has not supported any legislative proposals requiring restaurant calorie labeling. ADA generally praises state and local officials for their attention to this matter, but we urge caution in endorsing restaurant legislation or initiatives in the absence of scientific support to indicate that the action will be effective."*

This is an issue that concerns all of us and it is far bigger than calorie counts and far bigger than Multnomah County. I do appreciate that you are having the discussion and would encourage you to continue your involvement, but even your own health division's Food Service Advisory Committee can not agree on the appropriate first step.

The four steps the ADA recommends are as follows:

**1) Seek partnerships with organizations to determine workable, credible and voluntary guidelines for nutrition information disclosure.**

We are asking for a chance to consider a statewide resolution. There is federal legislation underway that the National Restaurant Association is supporting. We would recommend a cooperative approach with the counties, industry and the state where the regulation of restaurants would go through the state.

**2) Encourage federal legislation to ensure national nutrient databases are regularly updated.**

If the solution covers a larger area, the information will be easier to achieve because more companies and suppliers will be working on it. Hopefully the process will become less expensive and more reliable. We need to evaluate what

information is needed; calories are such a small piece of the healthy living equation.

**3) Encourage federal investment in public education initiatives on nutrition and understanding of information on food package labels.**

We as an industry believe in taking the next logical step: getting the information into restaurants. However, we need to address all aspects of healthy lifestyles including all the nutritional information necessary and educate people on how to use the information. The industry needs to be a partner in a proactive approach, not the first shot out of a rifle in a targeted approach.

**4) Consider the development of a formal position paper on nutrition labeling and related issues.**

The state process laid out in ORS 624 needs to be used to get the impacted parties to work on a solution that can meet the needs of consumers. Polls will tell you that consumers want more information, but different consumers want different information and prefer it in a variety of different ways.

We ask that you please allow the state process to run its course. As an industry we will make every effort possible to try and pass a statewide proposal that will give consumers additional and useful nutritional information in the restaurants before the point of purchase. Thank you for your time and consideration.

List of Enclosures:

1. ADA Letter on Nutritional Labeling
2. State Codes on Foodservice inspections
3. Language from County IGA
4. Brief Description of ORA statewide recommendation
5. UNC Statistics on Health Trends

April 10, 2008

To my fellow American Dietetic Association members:

The average American has access to large quantities of nutrition information, but not of all of that information is helpful to the consumer wanting to make healthful choices. The American Dietetic Association takes its responsibilities seriously — to our members and to the public alike. Therefore, ADA works to ensure that the public gets accurate, complete and usable nutrition information.

An issue has surfaced that offers ADA the opportunity to demonstrate the full extent of our commitment to well-reasoned, science-based policy stances that serve the greater good: proposals calling for the mandatory labeling of restaurant foods for their calorie content.

ADA's labeling principles (see:

[http://www.eatright.org/ada/files/FDA\\_Hearing\\_Presentation.pdf](http://www.eatright.org/ada/files/FDA_Hearing_Presentation.pdf)

slides 10 and 11) are based on the belief that consumer research is critical in determining whether labeling formats and content are understandable and if labels help consumers use such information in the context of their personal diets and individual health concerns. ADA's stance on labeling initiatives is to ensure that labels are based on science, relevant and always matched with support for nutrition education by registered dietitians and dietetic technicians, registered.

Restaurants and other foodservice sites are typically exempt from nutrition labeling regulations unless specific nutrition claims are made. However, some states and cities are considering legislation that requires certain restaurants and food establishments to provide calorie information on menu boards. To date, ADA has not supported any legislative proposals requiring restaurant calorie labeling. ADA generally praises state and local officials for their attention to this matter, but we urge caution in endorsing restaurant legislation or initiatives in the absence of scientific support to indicate that the action will be effective.

The question has arisen: Is this an appropriate stance for the largest organization of food and nutrition professionals? Based on inquiries ADA has received from members, a review of our stance is under way. This letter is intended to clarify ADA's stance, explain how ADA arrived at it and describe the processes involved in the review.

Creation of ADA's Stance on Restaurant Labeling This issue remains a significant one for ADA and its members, and we are continuing to address it on an ongoing basis. ADA's stance is based on two key works: the findings of ADA's restaurant labeling working group and the Keystone Dialogue and its subsequent 2006 report on away-from-home foods.

In April 2004, President Marianne Smith Edge, MS, RD, LD, FADA, appointed a working group to evaluate the benefits and challenges of nutrition disclosure in restaurant and

retail foodservice venues and to advise the Legislative and Public Policy Committee on strategies for evaluating such policy proposals. The working group found little science to support laws mandating labeling in restaurants and concluded that blanket support for such legislation was unwarranted. Absent the science, the group recommended the principles to guide ADA's work on menu labeling.

In terms of public policy, the working group also recommended four specific steps:

- 1) Seek partnerships with organizations to determine workable, credible and voluntary guidelines for nutrition information disclosure.
- 2) Encourage federal legislation to ensure national nutrient databases are regularly updated.
- 3) Encourage federal investment in public education initiatives on nutrition and understanding of information on food package labels.
- 4) Consider the development of a formal position paper on nutrition labeling and related issues.

#### Program of Work

ADA has developed an active program of work in keeping with these recommendations. Consistent with Recommendation 1, ADA participated in a Keystone Dialogue on away-from-home foods and opportunities for preventing overweight and obesity. This policy dialogue brought together the best available science and sought to build consensus recommendations among government, health associations, businesses, academicians and consumer group representatives.

The resulting report, the Keystone Forum on Away-From-Home Foods: Opportunities for Preventing Weight Gain and Obesity, was released in summer 2006, providing recommendations on:

- \* Understanding and influencing consumer behavior, including shifting the emphasis of marketing to lower-calorie foods and reviewing the effectiveness of existing programs.
- \* Increasing the availability of lower-calorie products, menu items and meals, such as promoting portion-sizes and menu items that help consumers manage their energy intake.
- \* Providing consumers with nutrition information, as well as conducting research on how consumers use nutrition information.

Recommendations 2, 3 and 4 also are addressed in ADA's advocacy agenda. For example, a working group on labeling is doing landmark work for ADA in multiple areas of nutrition labeling and plans to complete its work with a comprehensive position paper. As those efforts progress, ADA and volunteer leaders can participate in the public dialogue on restaurant labeling, with a message broader than mandates by themselves: ADA draws the distinction between nutrition information and nutrition education, counseling and services.

#### The Review Process

ADA's public policy work is overseen by the Legislative and Public Policy Committee. Any member may ask the LPPC to consider an issue — or in this case, to reconsider one.

The LPPC will gather emerging science on restaurant menu labeling and consider if nutrition labeling proposals are structured to provide meaningful and usable information to consumers. The committee will consider such questions as:

- \* Do proposals rely on consumer-tested approaches?
- \* Do they provide complementary nutrition education and evaluation?
- \* Is the information relevant to consumer needs and usable by a range of populations?

The LPPC will work in a manner that ensures the discussion is complete and includes the presentation of the science and other information on this complex matter. That will allow the committee to review ADA's stance and make recommendations to the Board of Directors later this year.

#### In Conclusion

ADA rightly prides itself on our reliance on sound science to develop the Association's views on food, nutrition and health matters. Our Association's ability to work actively and constructively on large and small issues alike, to put members in the forefront of public discourse with evidence-based information and to hold to agreed-upon principles makes ADA a destination for those who want the best and most accurate nutrition advice for individuals or the population as a whole.

Being responsible in public policy matters has earned ADA the reputation for credibility and excellence among policy makers. And ADA's approach always positions you, the member, as the trusted expert for food and nutrition advice.

The Board and LPPC look forward to providing you with more information on this important topic in the months to come.

Sincerely,

Connie B. Diekman, MEd, RD, LD, FADA  
ADA President

**State Statute for Food Service Inspections**

**624.073 (5)** The director shall define clearly the criteria and rules for conformance to acceptable food service practices used to determine the restaurant or bed and breakfast facility sanitation score to insure statewide uniformity in the inspection and licensing processes. Critical violations which constitute a potential danger to the public health and critical violations which constitute an imminent or present danger to the public health shall be clearly defined. Minimum acceptable food service standard procedures shall be clearly defined by setting a minimum acceptable sanitation score for a licensed restaurant or bed and breakfast facility.

**624.121.** The Department of Human Services shall appoint a State Food Service Advisory Committee. The committee shall consist of volunteer representatives from a cross section of the food service industry, the general public, appropriate local and state groups, county environmental health specialists and other appropriate state agencies, including the State Department of Agriculture. In addition to such other duties as may be prescribed by the Department of Human Services, the committee, not later than January 1 of each year in which a biennial session of the Legislative Assembly convenes, shall submit to the department and the Legislative Assembly recommendations regarding the implementation of ORS 624.020, 624.060, 624.073, 624.495 and 624.510. [Formerly 624.045]

**624.495 (3)** The department shall consult with groups representing local health officials within the state and statewide restaurant associations in the development of rules adopted under this section and prior to preparing an intergovernmental agreement delegating administration and enforcement of all or part of the foodborne illness prevention program to a local public health authority. [2003 c.309 §3; 2007 c.123 §1]

333-012-0070

Minimum Standards, Program Review and Penalties

(1)(a) The Local Public Health Authority may request approval to implement alternative inspection or enforcement procedures. The Local Public Health Authority must submit a plan that includes expected performance measures and outcomes and the procedure must be included in the annual Intergovernmental Agreement.

(b) The Local Public Health Authority may adopt ordinances on applicable matters provided they are not less stringent than the Oregon Administrative Rules adopted pursuant to ORS Chapters 183, 446, 448 and 624. Any ordinance proposed for adoption on matters applicable to food service operators more stringent than those set forth in ORS 624 and rules adopted thereunder must be approved by the Department and the cost of implementing any ordinance so adopted may not be charged to license fees adopted pursuant to ORS 624.510(2). Notwithstanding the provisions of this subsection, when an emergency exists and delay will result in an immediate danger to public health, Local Public Health Authorities may adopt ordinances without prior Department approval. This subsection does not affect ordinances that are required to be adopted as specified in these rules.

## Nutritional Disclosure

In order to protect the industry from a growing proliferation of local mandates that restaurants include nutritional information on their menus and menu boards, the Oregon Restaurant Association proposes an alternative that maintains the integrity of menus and menu boards, provides meaningful information to consumers, provides restaurateurs flexibility, and protects them from frivolous litigation.

### Proposal

- Requires that nutrition information be available to consumers before point of sale
- Information may be provided in many ways at the choice of the restaurateur including brochures, posters, and packaging.
- Provides legal safe harbor to companies that comply
- Restaurateurs would be allowed reasonable variances in the information, and could use inexpensive means to arrive at their calculations
- Prevents local counties from passing stricter guidelines
- Information is the same as is required for the “top box” on packaged goods under the Nutrition Labeling and Enforcement Act (NLEA), so the information to the consumer is consistent
- Applies to all who offer standard food items for sale including grocery and convenience stores

### Exemptions

- Exempts chains with fewer than 20 locations
- Exempts menu items offered for sale less than 90 days
- Does not require labeling of condiments that are not part of the standard food item

### Benefits

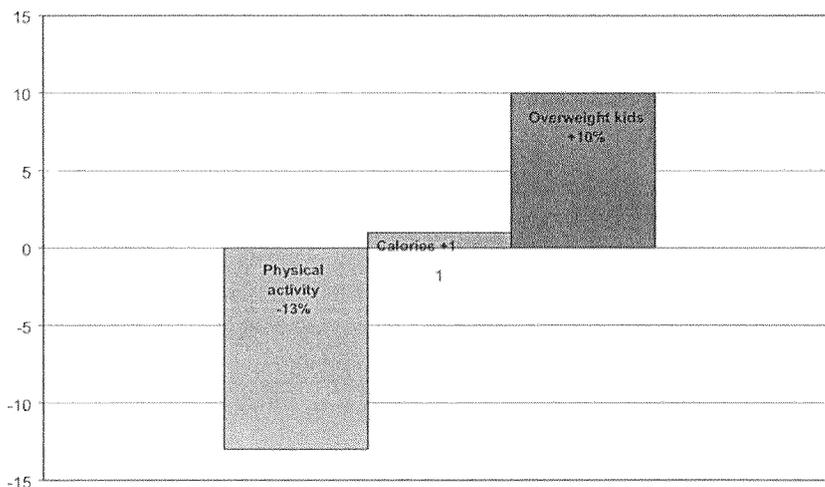
- Would help the industry control the menu labeling debate instead of being controlled by it
- Protects menus and menu boards from an increasing array of information
- Would provide more information to consumers than most menu labeling mandate proposals call for
- Prevents a patchwork of varying local menu labeling mandates
- Protects restaurateurs from frivolous law suits

Program # 708.7

**Health trends in US adolescents over the past 20 years**

**Lisa A Sutherland.** Lineberger Comprehensive Cancer Center, University of North Carolina, CB#7461, Chapel Hill, NC 27713

Over the past twenty years there has been a cornucopia of information presented on the causes and trends in obesity amongst United States adolescents. The goal of this study was to utilize national data sources to compare trends in calorie intake, overweight, and physical activity for US adolescents from 1980-2000. Analyses of data were performed on nationally representative data sets from the United States Department of Agriculture (USDA) for dietary and overweight and the Centers for Disease Control and Prevention (CDC) for physical activity of individuals 12-19 years of age. From 1980 to 2000 obesity increased by ten percent, calorie intake has remained fairly constant (+1%), and physical activity declined thirteen percent. Well diet continues to be the primary focus as the cause of obesity in children; the fact is that calorie intake has remained fairly constant, while physical activity has declined according to data from the CDC Youth Behavioral Risk Survey. Given the decrease in physical education in schools, changes in transportation methods, and popularity of TV, video games, and Internet surfing that contribute to the increased sedentary lifestyles kids lead, it is crucial to find new and creative ways to increase physical activity in adolescents as a first line of defense to combating obesity.



Data Sources:  
Physical activity: Youth Behavior Surveillance System (YRBSS), CDC, NCCDPHP  
Calorie intake: National Health and Nutrition Examination Survey (NHANES II and III)  
Weight: NHANES II and III

#4

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7/31/08

SUBJECT: Menu Labeling

AGENDA NUMBER OR TOPIC: R-8

FOR: \_\_\_\_\_ AGAINST:  THE ABOVE AGENDA ITEM

NAME: DEBE NAGY-NER from Burgerville

ADDRESS: 109 W. 17th St.

CITY/STATE/ZIP: VANCOUVER, WA 98660

PHONE: DAYS: 360-694-1521 EVES: 360-936-6627

EMAIL: deben@burgerville.com FAX: \_\_\_\_\_

SPECIFIC ISSUE: issue should be state mandated

WRITTEN TESTIMONY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#5

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7-31-08

SUBJECT: Notice Information

AGENDA NUMBER OR TOPIC: R-8

FOR: \_\_\_\_\_ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Kevin Bechtel

ADDRESS: 16809 SE 34<sup>th</sup> Way

CITY/STATE/ZIP: Vancouver, WA

PHONE: DAYS: 503-605-4246 EVES: 360-600-2276

EMAIL: kbechtel@sharis.com FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: Attached

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.



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SHARI'S MANAGEMENT CORPORATION

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TO: Multnomah County Board of Commissioners  
FROM: Shari's Management Corporation  
SUBJECT: Nutrition Labeling Policy  
Date: 7/ 31/2008

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MEMORANDUM

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Thank you for the opportunity to express our views on the Nutrition Labeling Policy.

Let me begin by saying that Shari's is in support of the policy conceptually. We are proud to be celebrating our 30<sup>th</sup> Anniversary because we take pride in the fact that we have been listening to our guest's needs and requests on issues such as this.

We are in support of a statewide or national policy as Bill has already addressed. This is an industry issue, our guests are requesting this information and as a service industry we are naturally driven to provide our guests request.

Our goal would be to have a policy, that for our guest's health and well-being, provides accurate information in a consistent manner to avoid confusion. Recognizing the challenges that this may cause some of our independent peers, if this information is for our guests, then it should be a unilateral policy. It is all proportional, as a chain restaurant with locations in multiple states we are posed with the challenge of presenting the correct information for multiple counties. There is a large local independent restaurant whose sales are greater than that of the 5 restaurants that we operate in Multnomah County.

I have been working with the Board of Health for King County since July of 2007 as a stakeholder member. We have been through multiple renditions of defining, interpreting and developing procedures. The project has been both eye opening and a learning experience for all parties because of the complexity of the policy, it is important to provide the information in a clear, concise and understandable manner for our guest. Challenges have been everything from:

- Determining what is a standardize recipe
- Is labeling required for self serve items i.e. buffets and salad bars
- How do we address those modifications to standardize menu items (at Shari's we have over 300 modification options)
- How do we provide the information to a guest that is at a drive thru
- Clarification of whether the policy applies to Marketing material promoting items that are available for longer than 60 days

- Do we need to provide the information on To Go menus?
- What is the value that we provide for combo meals?
- Who will enforce the policy and how will they know what is the correct information.

These are just some of the many questions, which are still being answered from our May 23 meeting.

From one-restaurant chains standpoint. We at Shari's have been providing nutrition information as well as ingredient listing for Food Allergies because our guests have requested the information be available. Because of the complexity of the information we make the information available on our web page. Guests who understand their dietary needs and issues appreciate the fact that they can make informed decisions about their dining choices prior to visiting our restaurants. We currently are upgrading the system to make it more interactive. We receive requests from our guest regarding nutritional information regularly the range is from sodium content to which items are gluten free. How to best provide that information is a priority for our company along with the challenge of addressing how to train staff and guest how to utilize and interpret the information correctly.

Again we support the policy in concept we just believe that a state or national program with parameters for all will insure that we provide our entire industries guest the most accurate and consistent message possible.

Thank you for your time and understanding.

Second please  
#6

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: July 31, 2008

SUBJECT: Menu labeling

AGENDA NUMBER OR TOPIC: Policy on Menu labeling

FOR:  AGAINST:  THE ABOVE AGENDA ITEM

NAME: Steve Novick

ADDRESS: 1453 SE Nehalem #9

CITY/STATE/ZIP: Portland, OR 97202

PHONE: DAYS: 232-8808 EVES: 233-1429

EMAIL: cica@mindspring.com

FAX: \_\_\_\_\_

SPECIFIC ISSUE: moving forward with menu labeling

WRITTEN TESTIMONY:

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
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4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#6 #7

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7/31/08

SUBJECT: Chain restaurant menu labeling

AGENDA NUMBER OR TOPIC: \_\_\_\_\_

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Mary Lou Hennrich

ADDRESS: 7006 SE Salmon St.

CITY/STATE/ZIP: Portland OR 97215

PHONE: DAYS: 503-227-5502 x222 EVES: 503-252-5196

EMAIL: marylou@communityhealthpartnership.org FAX: 503-416-3696

SPECIFIC ISSUE: Support Com. Cozin's order regarding chain restaurant menu labeling.

WRITTEN TESTIMONY: \_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
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COMMUNITY  
HEALTH  
PARTNERSHIP

July 31, 2008

*Oregon's Public Health Institute*

Testimony to Multnomah County Board of Commissioners serving as the Multnomah County Public Health Authority re: Point of ordering menu labeling in chain restaurants

Good Morning Chair Wheeler and Commissioners—

My name is Mary Lou Hennrich and I reside at 7206 S.E. Salmon St. Portland, Oregon. I am currently the Executive Director of Community Health Partnership: Oregon's Public Health Institute. We are an independent, non-profit public health organization committed to improving Oregonians' health through advocacy and support of effective public health policy and activities. Most of you also know that I have worked to improve the health of Multnomah County residents throughout my entire career, many of these years in staff and management roles in your County Health Department and then as the founding director of what is now the largest of the Oregon Health Plans, CareOregon. So, I have worked with you and your predecessors on many significant public health issues over the past 40 years—teen pregnancy and establishment of school based health centers; meeting the needs of newly arriving refugees and protecting the community from infectious diseases; STD control and prevention; child abuse and domestic violence prevention; HIV/AIDS prevention and treatment (back when it was called HTLV-3); access to primary care for the growing numbers of uninsured and at risk populations and many more, too numerous to recite now.

As I reflected back on what has made Multnomah County be recognized as one of the nation's best local health departments for more than 30 years, it has been "leadership" both within the health department, but even more importantly—leadership by individual county commissioners, board chairs and the board as a whole.

Commissioner Gretchen Kafoury and the rest of the board withstood tremendous pressure to establish the first "teen health clinic" that would include essential reproductive health services at Roosevelt High School in 1985. This

clinic was vehemently opposed by a small, but very vocal minority that called me “a devil worshipper” at one late night community meeting and put incredible political pressure on the Commissioners and PPS Superintendent, Matt Prophet to open the clinic without the essential reproductive health services. Did these leaders “cave in?” No...and you know the rest of the story—now more than a dozen school based health centers in MC and more than 50 across the state—and the teen pregnancy rate significantly lower—and...SBHC’s now seen as essential and sought after by most school districts in the state.

HIV/AIDS—a similar story. Multnomah County took bold leadership during the early years of the epidemic and tried approaches that had never been taken—hired recovering IV drug users to do outreach in high risk populations; supported highly controversial needle exchange; went where the at risk population gathered and actively sought out gay community leaders to advise and lead the prevention activities; established a specialized HIV/AIDS clinic, etc. and...as a result, MC has a much lower rate of HIV disease than other jurisdictions of similar population that stood back and waited for “proof” of what would be effective.

The Health Department in its role of monitoring disease rates has continuously recognized infectious diseases before they have become full blown epidemics and implemented innovative screening, prevention and treatment strategies. A rise in syphilis and TB nearly 20 years ago were the impetus to initiate other programs that showed courageous leadership and were considered very bold—compensating prostitutes for coming in to clinic for STD testing and providing street outreach, testing and daily medication observation for homeless Burnside residents having positive TB tests.

Indoor clean air...you know personally, especially Commissioners Naito, Rojo de Steffey and Roberts, about the “tobacco wars” that MC fought and helped lead the state to finally, over the Oregon Restaurant Association’s long time objections, pass statewide legislation to protect ALL workers in ALL places of employment.

I could go on and on, recognizing and commending past and present County leadership on behalf of the public's health, but your time is limited.

When I came to Community Health Partnership in 2003, our Board, which included the past director of MCHD, Billi Odegaard and the current director, Lillian Shirley, I was told that CHP's "first" strategic focus was on "childhood obesity." To be honest, I was a bit disappointed—I was used to more "controversial" public health issues like the ones I mentioned earlier—teen pregnancy prevention, establishing school based health centers, HIV/AIDS prevention, including needle exchange, etc. I initially believed that "overweight children" would be a bit "boring."

Well, after five years learning more about this complex issue and working with local, state and national public health leaders on possible <sup>solutions</sup> I realize that this single issue anything but "boring" and is probably the single most important health issue that will predict not only our individual and community health (and cost of healthcare trying to "fix" all the obese people our society is creating) but our county, state and national economies' health. The chronic diseases that are resulting from overweight and obesity are devastating—diabetes with eventual blindness and circulatory problems that result in need for limb amputations; heart disease and many cancers. How will we be able to maintain workforces in public service and private business that can "see their computer screens and be physically able to stand, walk and get from place to place?"

I believe we are "playing ostrich" on many fronts—putting our heads in the sand and saying, "these public health folks are just using scare tactics." I am hopeful that this Board will not allow this to happen today.

Well, what can we do to stem the rising rates of obesity? I wish there was "one fix—a sliver bullet." But...there isn't. You have heard much testimony this morning about this. We need to take every possible opportunity however to analyze every place where we live, work, learn, pray and play to see what can possibly be done to make these places support each of us to "make the healthy choice the easy choice."

CHP started with schools and we now have a law that requires ALL foods and beverages sold in K-12 public schools meet nutritional standards that will screen out sugared sodas and beverages along with snack foods high in calories, fat, sugar and sodium.

We then looked at where children and their families eat outside of schools and found that increasingly they are eating at restaurants—many of them fast food and other chain “family” restaurants. You have heard data today about the increase in the overall rate of “eating out” and the disproportionate higher percent of low income people eating at fast food chains where calories and fat abound, but are not easily identified.

In analyzing what would “make the healthy choice the easy choice” in these locations, we realized that children and their parents needed basic information BEFORE they made their menu selection and that this information needed to be easy to understand and in a consistent location to make it possible for them to make food choices that support their health. We know that everyone won’t use this information, just as there are people who do not use the price listed on menus to make their choices—but we know that some of us are price sensitive and would be appalled to have a menu that didn’t list it. Why should calories be any different?

With more than 70% of the public supporting calorie disclosure on menus and menu boards at chain restaurants and the only opposition being the Restaurant Association that wants to “keep us in the dark” without this information at point of ordering, I ask you to once again be LEADERS in improving the public's health. Please vote yes and pass the order brought forth by Commissioner Cogen—you have a long legacy of leadership behind you and we look to your continuing it! We look forward to continuing to work with you on the implementation of this and other policy initiatives in the future. Thanks for allowing me to testify this morning.

Mary Lou Hennrich  
Executive Director  
503-227-5502 X 222

#8

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: July 31, 2008

SUBJECT: Meat Labeling

AGENDA NUMBER OR TOPIC: R-8

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Miriam Kohn

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

PHONE: \_\_\_\_\_ DAYS: \_\_\_\_\_ EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: yes

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#9 :

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

**Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\***

**MEETING DATE:** 7/31/08

**SUBJECT:** Fast food & Chain Restaurant Nutrition Labeling

**AGENDA NUMBER OR TOPIC:** R-8

**FOR:** X **AGAINST:** \_\_\_\_\_ **THE ABOVE AGENDA ITEM**

**NAME:** Graciela Limon

**ADDRESS:** 5103 N. Willis

**CITY/STATE/ZIP:** Portland, OR 97203

**PHONE:** \_\_\_\_\_ **DAYS:** \_\_\_\_\_ **EVES:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_ **FAX:** \_\_\_\_\_

**SPECIFIC ISSUE:** Testify in support of the Fast food & Chain Restaurant Nutrition Labeling

**WRITTEN TESTIMONY:** \_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
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**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

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2. Written testimony will be entered into the official record.

# 10

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7/31/08

SUBJECT: Fast food & Chain Restaurant Nutrition Labeling

AGENDA NUMBER OR TOPIC: R-8

FOR: X AGAINST: THE ABOVE AGENDA ITEM

NAME: Ruth Ponce

ADDRESS: 9554 N. Lombard St

CITY/STATE/ZIP: Portland OR 97203

PHONE: DAYS: EVES:

EMAIL: FAX:

SPECIFIC ISSUE: Testify in support of the Fast food & Chain Restaurant Nutrition Labeling

WRITTEN TESTIMONY:

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
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2. Written testimony will be entered into the official record.

#11

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

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**Please complete this form and return to the Board Clerk**

**\*\*\*This form is a public record\*\*\***

**MEETING DATE:** July 31, 2008

**SUBJECT:** Menu labeling

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**AGENDA NUMBER OR TOPIC:** R-8

**FOR:** X **AGAINST:** \_\_\_\_\_ **THE ABOVE AGENDA ITEM**

**NAME:** ALEJANDRO QUERAL

**ADDRESS:** 1200 NW Naito Parkway, Ste. 220

**CITY/STATE/ZIP:** Portland, OR 97211

**PHONE:** \_\_\_\_\_ **DAYS:** 503-595-2278 **EVES:** 503-490-7333

**EMAIL:** alejandro.querel@heart.org **FAX:** 503-233-4464

**SPECIFIC ISSUE:** \_\_\_\_\_

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**WRITTEN TESTIMONY:** Attached

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**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
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2. Written testimony will be entered into the official record.



American Heart Association | American Stroke Association

*Learn and Live.*

Alejandro Queral  
Director, Government Affairs  
American Heart Association

**Public Comments to the Multnomah County Board of Commissioners (Board of Health):  
Nutrition labeling of food items at chain restaurants.**

Good morning. My name is Alejandro Queral. I am the Oregon director of government affairs for the American Heart Association and I am also a resident of Multnomah County. I want to take a moment to thank Commissioner Cogen for his unwavering leadership and encourage the rest of the Board to stand with him on this issue.

The American Heart Association supports providing calorie information on menus and menu boards at the point-of-purchase. We believe this initiative is important for several reasons.

First, the policy would give consumers information about the food they are about to purchase. The information is necessary because Americans are dining out more than ever before. On average, Americans consume about four meals per week at restaurants and spend nearly half of their food dollars eating out. Dining out has become part of our lifestyle, and for many, part of the daily routine. The problem is that foods eaten away from home typically are served in large portion sizes and are higher in energy density compared to food eaten at home. This initiative is about empowering consumers with the tools they need to manage their weight without giving up the convenience and pleasure of eating out.

Second, this initiative is important because research has revealed a positive association between eating out and body weight and body fat. Obesity is a serious problem that has reached epidemic proportions. In our state, nearly 60 percent of adult Oregonians are overweight or obese, and about 25 percent of 8<sup>th</sup> graders are overweight or obese. Because obesity can lead to serious health consequences such as cardiovascular disease and Type-2 diabetes, leaving this issue unaddressed will have serious social and economic repercussions. The Oregon Department of Health estimated that in 2003, the medical costs related to obesity among adults were \$781 million, representing nearly 6 percent of Oregon's total health care bill. While nutrition labeling alone may not resolve the obesity crisis, it will give individuals the freedom to choose those food items that are best for their health.

Third, this policy is important because fast food restaurants are often found in greater concentrations in low-income communities. In East Multnomah County for example, which has one of the highest percentages of people living at or below the poverty line and the second highest proportion of Hispanics in the county, also has one the higher concentrations of fast food and chain restaurants. According to a study conducted by the County Health Department, there is a link between where fast food restaurants are located and poverty rates. Nowhere is this clearer than along Burnside Road in Gresham, which has a high below-poverty rate and a high proportion of fast food restaurants. The high density of fast food restaurants in these neighborhoods likely contributes to the health problems experienced by these communities.

This policy initiative properly balances consumers' right-to-know with the needs and capacity of the restaurant industry. The proposal avoids undue burdens on small businesses as it applies only to major chain restaurants that offer substantially the same menu items across outlets. The

costs of implementing the proposal would be modest, especially when considering the amount of revenue generated by chain restaurants each year and compared to the money spent by the chain restaurant industry on advertising. The proposal is also consistent with regulations adopted in other jurisdictions, thus avoiding confusion and additional costs for restaurant chains.

Finally, I believe that it is no coincidence that more than 70 percent of Multnomah County residents support the initiative. County residents enjoy eating out but also recognize they have a right to know how many calories they are eating. On behalf of the American Heart Association, I encourage you to vote yes and give Multnomah County consumers an opportunity to say no to unhealthy foods. Thank you.

NOT: HERE

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7/31/08

SUBJECT: Fast food & Chain Restaurant Nutrition Labeling

AGENDA NUMBER OR TOPIC: R-8

FOR: X AGAINST: THE ABOVE AGENDA ITEM

NAME: Maribel Ruiz

ADDRESS: 5103 N Willis

CITY/STATE/ZIP: Portland, OR 97203

PHONE: DAYS:

EVES:

EMAIL:

FAX:

SPECIFIC ISSUE: Testify in support of the Fast food & Chain Restaurant Nutrition Labeling

WRITTEN TESTIMONY:

**IF YOU WISH TO ADDRESS THE BOARD:**

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**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

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2. Written testimony will be entered into the official record.

#12.

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: July 31, 2008

SUBJECT: Nutrition Labeling in Chain Restaurants

AGENDA NUMBER OR TOPIC: R-8 Nutrition Labeling

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Mel Rader

ADDRESS: 2127 NW Irving Street, Suite 206

CITY/STATE/ZIP: Portland, OR 97210

PHONE: \_\_\_\_\_ DAYS: 502-227-5502 x225 EVES: 503-449-1037

EMAIL: mel@upstreampublichealth.org

FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: Yes

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
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**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

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2. Written testimony will be entered into the official record.

#13

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE:

7-31-08

SUBJECT: Chain restaurant menu labeling

AGENDA NUMBER OR TOPIC: R-8

FOR:  AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Nancy Becker

ADDRESS: 2417 ne 16<sup>th</sup> ave

CITY/STATE/ZIP: Portland Oregon 97212

PHONE: DAYS: 502 422-2482

EVES: 503-422-2482

EMAIL: beckreck@europa.com

FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: yes

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
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# 15

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: July 31, 2008

SUBJECT: Nutrition Labeling in Chain Restaurants

AGENDA NUMBER OR TOPIC: R-8 Nutrition Labeling

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Chris Kabel

ADDRESS: Northwest Health Foundation, 221 NW 2nd Avenue, Suite 300

CITY/STATE/ZIP: Portland, OR 97209

PHONE: \_\_\_\_\_ DAYS: 503-220-1955 EVES: \_\_\_\_\_

EMAIL: chris@nwhf.org

FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: Yes

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
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#16

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: July 31, 2008

SUBJECT: Nutrition Labeling in Chain Restaurants

AGENDA NUMBER OR TOPIC: R-8 Nutrition Labeling

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Cat Livingston

ADDRESS: 2127 NW Irving Street, Suite 206

CITY/STATE/ZIP: Portland, OR 97210

PHONE: \_\_\_\_\_ DAYS: 503-957-1392 EVES: 503-957-1392

EMAIL: livingsc@ohsu.edu

FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: Yes

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#17

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE:

7-31-08

SUBJECT: Chain restaurant menu labeling

AGENDA NUMBER OR TOPIC: R-8

FOR:  AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Dr William Connor

ADDRESS: Oregon Health Sciences University

CITY/STATE/ZIP: Portland Oregon 97201

PHONE: DAYS: 503 494 2001 EVES: 503-226-2651

EMAIL Connorw@ohsu.edu FAX: \_\_\_\_\_

SPECIFIC ISSUE:  
\_\_\_\_\_  
\_\_\_\_\_

WRITTEN TESTIMONY: no  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

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**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

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2. Written testimony will be entered into the official record.

William E. Connor, MD and Sonja L. Connor, MS, RD, LD  
Oregon Health & Science University  
3181 SW Sam Jackson Park Road  
Portland, OR 97239-2098

July 31, 2008

To: Multnomah County Commissioners

From: William E Connor, MD  
Sonja L. Connor, MS, RD, LD

RE: Testimony in support of nutrition labeling in fast food and other chain restaurants

Approximately half the decline in U.S. deaths from coronary heart disease from 1980 through 2000 resulted from reductions in major risk factors:

- Decreasing blood cholesterol by diet and drugs
- Stopping smoking
- Lowering blood pressure with drugs and by reducing salt intake
- Increasing physical activity.

However, the decrease in deaths was partially offset by increases in deaths from two other risk factors, obesity and diabetes. This information was published in The New England Journal of Medicine in 2007 (volume 356, pages 2388-98).

The situation has worsened since 2000. Obesity and diabetes are of epidemic proportions and must be dealt with as public health issues. An important start is to raise the public awareness of the calorie content of the foods they eat. Because so many meals are consumed outside of the home, it is important to ask restaurants to provide information about the calorie content of the foods that are available for purchase.

We think labeling the calories in foods in restaurants will:

1. Confront the consumer with the numbers. The consumer will have the information to make a lower calorie choice if and when they decide to do so. We know that awareness/education precedes change.
2. Confront the restaurant with the numbers. It is likely to result in more and better choices being offered. At least this is what happened with trans fat, which disappeared from most foods with the requirement to list trans fat on food labels.

Multnomah County has always been on the forefront with social issues. We encourage Multnomah County to continue this tradition by taking a step to address the ever-increasing problem of obesity and diabetes that has now reached epidemic proportions.

Please support nutrition labeling in fast food and other chain restaurants in Multnomah County.

#18

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 7-31-08

SUBJECT: R-8

AGENDA NUMBER OR TOPIC: 1 R-8 Showing nutritional content at chain restaurants

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Jean Bucciarrelli

ADDRESS: 5814 NE 22

CITY/STATE/ZIP: Portland OR 97211

PHONE: DAYS: 503 284-5335 EVES: \_\_\_\_\_

EMAIL: jeanbucc2@earthlink.net FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

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#19

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 7-31-08

SUBJECT: Menu Labeling

AGENDA NUMBER OR TOPIC: Menu Labeling

FOR:  AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Steve Whitson

ADDRESS: 918 NE Skidmore St

CITY/STATE/ZIP: Portland, OR 97211

PHONE: DAYS: 503-224-2363 EVES: \_\_\_\_\_

EMAIL: tomafigos@yahoo.com FAX: \_\_\_\_\_

SPECIFIC ISSUE: Improving Health

WRITTEN TESTIMONY: \_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

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# 20

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 7/31/08

SUBJECT: Restaurant Menu Labeling

AGENDA NUMBER OR TOPIC: R-8

FOR:  AGAINST:  THE ABOVE AGENDA ITEM

NAME: Margaret Valtiat

ADDRESS: 4930 SE 47th Ave.

CITY/STATE/ZIP: Portland OR 97206

PHONE: DAYS: 503 494 7973 EVES: 971 645 7437

EMAIL: jimmm@onsu.edu FAX: 503 494 3169

SPECIFIC ISSUE: Supporting restaurant nutrition labeling  
at point of purchase.

WRITTEN TESTIMONY:

Please see attached.

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
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**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

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## **Margaret Vattiat, RD, LD July 31 2008 Meeting of the Multnomah County Commissioners**

Good morning, my name is Margaret Vattiat and I am a registered dietitian at Oregon Health & Science University. I also sit on the Multnomah County Food Service Advisory Committee and am the Oregon Dietetic Association State Policy Representative. As a newly registered dietitian, I am excited about getting involved in nutrition policy in my community. I feel strongly that nutrition labeling on restaurant menus will help people make informed decisions to build a better diet.

Nutrition information is difficult to estimate. How would anyone know that this large milkshake alone has more calories (1,160) than the hamburger, large fries, and large soda combined (1,060)<sup>1</sup>? Restaurant portions are becoming increasingly larger and often touted as a better value. "Portion distortion" sets the customer up to over eat. Large is the new normal. This 32 ounce soda is actually 4 servings. Research shows that consumers unintentionally eat more calories when faced with larger portions. While one super sized item won't cause obesity, continued consumption of huge portions truly adds up. Portion control is a simple and good tool used in balancing calories eaten and calories burned.

Menu analysis will not be a large cost to restaurants. Many Multnomah County restaurants already have analyzed their menu information. Analysis can be done effectively by using publicly available databases created by the USDA. This proposal simply makes the menu information accessible to consumers by requiring it on the menu board. Having a poster or Website is good, but it is most clear and usable at the point-of-purchase.

No advocate for nutrition labeling is claiming that it will be the solution to obesity or other chronic disease. It is not the silver bullet; obesity prevention is a multi-faceted approach creating an empowering environment for the individual to make a personal choice. Point-of-purchase menu labeling is a tool for consumers - and restaurants. Instead of branding a food or section of the menu as "healthy," the information is left for the customer to decide how many calories they are going to be purchasing.

As a registered dietitian, I respectfully urge you to support Multnomah County's efforts to create a community where healthy food choices are a way of life. Providing nutrition information at point-of-purchase in chain restaurants is a step in the right direction. Thank you.

<sup>1</sup> Source: McDonald's USA Nutrition Facts for Popular Menu Items. Retrieved July 28, 2008:  
[http://www.mcdonalds.com/app\\_controller.nutrition.index1.html](http://www.mcdonalds.com/app_controller.nutrition.index1.html)

#21

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7-31-08

SUBJECT: Menu Labeling

AGENDA NUMBER OR TOPIC: R-8

FOR: \_\_\_\_\_ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Alan Shaffer - Wingstop?

ADDRESS: 4124 SE 82nd Ave #800

CITY/STATE/ZIP: Portland, OR 97266

PHONE: \_\_\_\_\_ DAYS: 503.771.9464

EVES: \_\_\_\_\_

EMAIL: alan@PDXWings.com

FAX: \_\_\_\_\_

SPECIFIC ISSUE: As a restaurant owner I oppose menu labeling

WRITTEN TESTIMONY: Menu labeling as written is unfair. What about high end French restaurants. Why my restaurant, but not my local competitors? If All restaurants have to do it it would be fair, but not as written.

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**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#22

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: July 31, 2008

SUBJECT: Menu Labeling

AGENDA NUMBER OR TOPIC: menu labeling

FOR: \_\_\_\_\_ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Michelle Weber

ADDRESS: 840 Conger Street

CITY/STATE/ZIP: Eugene, OR 97402

PHONE: DAYS: 541-913-3725

EVES: 541-726-7394

EMAIL: mweber@weber-tacobells.com FAX: 541-344-3742

SPECIFIC ISSUE: Issue should be taken up statewide  
and more globally.

WRITTEN TESTIMONY:

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
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#23

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 31 July '08

SUBJECT: MENU LABELING

AGENDA NUMBER OR TOPIC: \_\_\_\_\_

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: EMMA STEEN

ADDRESS: 2304 SW 64<sup>th</sup> Ave

CITY/STATE/ZIP: PORTLAND OR 97221

PHONE: DAYS: 503-292-6849 EVES: 503-292-6849

EMAIL: mmsteen@teleport.com FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: I am a food/nutrition professional, retired. My conviction is that people should be given # of Calories information on menu boards to enable healthier choices when eating out. This is in interest of public health. Making available info on  
is also helpful. *Calories, fat, saturated fat, sodium, carbohydrates*

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#24

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: July 31, 2008

SUBJECT: Menu Labeling

AGENDA NUMBER OR TOPIC: \_\_\_\_\_

FOR:  AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Beth Gebstadt

ADDRESS: 1200 NW Naito Parkway

CITY/STATE/ZIP: Portland OR 97209

PHONE: DAYS: 503-595-2564 EVES: \_\_\_\_\_

EMAIL: beth.gebstadt@heart.org FAX: 503-233-4464

SPECIFIC ISSUE: Environments that provide informed choice

WRITTEN TESTIMONY: I will provide a copy

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

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## **Menu Labeling: Creating Environments for Multnomah County Residents to make informed, healthy choices**

Thank you Chair Wheeler and Commissioners for the opportunity to testify before you today. For the record, my name is Beth Gebstadt, and I am the Oregon State Health Alliance Director for the American Heart Association/American Stroke Association. I am also a mother and a resident of Multnomah County

Today, I would like to discuss the importance of supporting healthy and sustainable environments. Multnomah County has been a leader in promoting healthy environments – which include smoke-free housing options, transportation systems that allow for active commuting, safe parks and neighborhoods to play and walk in and access to healthy food options. Many of these environmental successes have been initiated and supported by our local government, community development agencies, transportation systems, and local businesses (including restaurants). Unfortunately, not all county residents benefit equally from such efforts. Many residents throughout the county live in local neighborhoods that don't have access to environments that provide the infrastructure to make healthy or informed choices. One environmental change that would create such an opportunity for residents throughout the county to make informed nutritional choices is menu labeling. Unlike other changes that require significant investment by local governments, menu labeling would benefit residents throughout the county and across all demographics equally.

Since the 1970s, eating patterns have dramatically changed. Currently approximately ½ of the food dollar is spent eating out, and a 1/3 of all meals are consumed outside of the home. This significant change increases the importance of creating environments where consumers have information about their food choices. Menu labeling is one easy way to provide citizens across the county equal opportunities to make informed choices about the food they eat outside of the home.

This environmental change is critical in light of the obesity epidemic our country is facing. In Multnomah County approximately 60 percent of adults (1.6 million people) are overweight or obese. The alarmingly rapid increases in obesity have dramatically increased the risk for many chronic diseases and conditions, including type 2 diabetes, hypertension, heart disease, stroke and some cancers. I recognize that this effort alone will not solve our obesity epidemic but should be part of a comprehensive plan to change our environments to provide individuals with choices to improve their health. In order to address our weight concerns, individuals need to balance their eating patterns with their activity levels. This is difficult to do if you can't accurately estimate the amount of calories in the food choices in restaurants. Due to this difficulty, consumers have overwhelmingly expressed a desire to have calorie content on menus and menu boards at the point of purchase.

According to a recent Northwest Health Foundation/Community Health Priorities Poll, 73% of Multnomah County residents supported the menu labeling. And in areas that have a higher density of chain and fast food restaurants, such as east county, as many as 85% of the population supports menu labeling.

I believe that most people want the same basic infrastructures that allow them to make healthy choices – such as safe places to walk and ride, smoke-free spaces and access to information about the food they are consuming. Menu labeling is one thing that could help to improve individuals' ability to make informed choices.

Thank you for the opportunity to testify before you today.

NOT HERE

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7/31/08

SUBJECT: NUTRITION LABELING

AGENDA NUMBER OR TOPIC: R-8

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: SHANNON RENTZ

ADDRESS: 3181 SW SAM JACKSON PARK ROAD

CITY/STATE/ZIP: PORTLAND, OR 97239

PHONE: \_\_\_\_\_ DAYS: 504 494 8636 EVES: \_\_\_\_\_

EMAIL: rentzs@ohsu.edu FAX: \_\_\_\_\_

SPECIFIC ISSUE: nutrition labeling – why it is important

WRITTEN TESTIMONY: I will speak about my clinical practice at OHSU, treating patients, and the difficulty they have maintaining their weight without knowing how much they're eating.

**IF YOU WISH TO ADDRESS THE BOARD:**

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**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#25

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 07.31.08

SUBJECT: Menu Labeling

AGENDA NUMBER OR TOPIC: \_\_\_\_\_

FOR: \_\_\_\_\_ AGAINST: X THE ABOVE AGENDA ITEM

NAME: TED HUGHES

ADDRESS: P.O. Box 844

CITY/STATE/ZIP: Salem, OR. - 97308

PHONE: DAYS: 503 3781018 EVES: 503 9492021

EMAIL: GHH8084227 @ AOL.com FAX: 3719062

SPECIFIC ISSUE: Uniformity

WRITTEN TESTIMONY: yes

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
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#26

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 7/31/08

SUBJECT: FOOD MENU LABELING

AGENDA NUMBER OR TOPIC: RESTAURANT NUTRITION DATA

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: JANET GUSS DARWICH, PHD

ADDRESS: 2644 NW THURMAN ST

CITY/STATE/ZIP: PORTLAND OR 97210

PHONE: DAYS: 503 265 8203 EVES: SAME

EMAIL: cyberdelicat@yahoo.com FAX: \_\_\_\_\_

SPECIFIC ISSUE: ~~have~~ constituent concerns to address with  
commissioners

WRITTEN TESTIMONY:

Please support policy to develop menu nutrition information in fast-food outlets; as a Mom and Obesity Research I am aware of the importance + benefit of this key policy!

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#27

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

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Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: July 31, 2008

SUBJECT: Menu labeling

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AGENDA NUMBER OR TOPIC: R-8

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: DARKO SPOLJARIC

ADDRESS: 1200 NW Naito Parkway, Ste. 220

CITY/STATE/ZIP: Portland, OR 97211

PHONE: \_\_\_\_\_ DAYS: 800-452-9445 EVES: \_\_\_\_\_

EMAIL: darko@spoljaric.com FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

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WRITTEN TESTIMONY: \_\_\_\_\_

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**IF YOU WISH TO ADDRESS THE BOARD:**

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# 28

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

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MEETING DATE: 7/31/2008

SUBJECT: Menu Labeling

AGENDA NUMBER OR TOPIC: R-8

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Monica Hunsberger

ADDRESS: 3181 SW Sam Jackson Park Rd.

CITY/STATE/ZIP: Portland, OR 97239 Mail Code EJH 10

PHONE: DAYS: 503-494-0704 EVES: \_\_\_\_\_

EMAIL: hunsberg@ohsu.edu FAX: \_\_\_\_\_

SPECIFIC ISSUE: nutrition labeling- why it is important

WRITTEN TESTIMONY: attached

**IF YOU WISH TO ADDRESS THE BOARD:**

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Good Morning.

My name is Monica Hunsberger and I am a registered dietitian and public health professional. I teach at Oregon Health & Science University in the School of Medicine's Graduate Programs in Human Nutrition Department and serve on the Oregon Dietetic Association board as the Director of Legislative Issues & Governance. Thank you for the opportunity to speak today about the importance of providing Multnomah County residents with point-of-purchase nutritional information.

As a registered dietitian and public health advocate I support menu labeling professionally because consumers have the right to know basic nutritional facts at point-of-purchase.

Personally I support menu labeling because I know how difficult it is to make healthy choices when dining away from home. My husband is in sales and entertainment is expected of him. He dines out several times a week and despite living with an RD and being knowledgeable about healthy food choices it is very difficult to make the best choice for weight loss or weight maintenance. Of course some of you may think that the unhealthy choices are obvious but in truth it is almost impossible to determine which items will be lower in calories when dining without caloric information. Studies have shown that even dietitians often underestimate how many calories dishes contain and I can't dispute this claim.

For example, in reviewing the caloric information provided at P.F. Chang's website one finds that the "Citrus Soy Salmon Lunch Bowl with Brown Rice" provides 1,047 calories. I would suspect that most consumers would believe this menu item to be a "healthy choice" and indeed the ingredients may be healthy but for most of us this item provides far too many calories. The average inactive or moderately active adult needs approximately 1,800-2,500 calories a day. Certainly a person does not need to eat the entire portion offered in the Salmon Lunch Bowl but many will; especially those who have no place to store leftovers. Another popular misconception is that selecting a grilled menu item means it's healthy or at least that the choice is lower in calories when compared with fried items but looking at P.F. Chang's menu; items from the grill range from 900 to 1,400 calories. Again, this is far too many calories for most adults.

To look at another establishment; Applebee's offers a Grilled Steak Caesar Salad without toast which contains 1,200 calories, or about half a person's daily needs. Some consumers might realize Caesar salads tend to be calorie rich but many view a salad as a "healthy choice" or even a compromise from what they'd like to order. Better choices might include the Sizzling Chicken Skillet with Salsa, Dressing, Lettuce & Tortillas or the Grilled Tilapia with Mango Salsa & Rice which provide 320 to 390 calories but without clear nutritional information at the point-of-purchase consumers can't make informed decisions. To illustrate this point further I will share a quote from the July 29<sup>th</sup> Wall Street Journal Online-New York City Health Commissioner, Thomas R Frieden stated, "I actually prefer a roast-beef sandwich to tuna salad and it turns out the tuna has almost twice the calories". The point is, without caloric information even a Registered Dietitian wouldn't know which menu item is better for their personal health goals.

While I don't think menu labeling will solve the obesity crisis, I do believe it is a step that we can take to help residents of Multnomah County make choices that support their dietary goals.

I have three major points I'd like to leave you with today: 1<sup>st</sup> Calorie content is a guessing game and consumers have the right to make informed decisions; 2<sup>nd</sup> all the major health & nutrition organizations support menu labeling-why wouldn't we?; and 3<sup>rd</sup>. the opposition to menu labeling comes mainly from the Oregon Restaurant Association and not from the Multnomah County residents that stand to benefit.

Thank you.

Monica Hunsberger, Multnomah County Resident, District 2 Commissioner Jeff Cogen

#29.

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7/31/08

SUBJECT: Menu labeling regulation

AGENDA NUMBER OR TOPIC: RS

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Steve Weiss

ADDRESS: 2727 SE 16th Ave.

CITY/STATE/ZIP: Portland, OR 97202

PHONE: DAYS: 503-232-5043 EVES: \_\_\_\_\_

EMAIL: stevesoc@teleport.com FAX: \_\_\_\_\_

SPECIFIC ISSUE: Menu labeling

WRITTEN TESTIMONY: \_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

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#30.

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7/31/08

SUBJECT: Menu labeling in Multnomah County

AGENDA NUMBER OR TOPIC: Menu labeling

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Jessica Johnson

ADDRESS: 1115 SE Marion St

CITY/STATE/ZIP: Portland, OR 97202

PHONE: \_\_\_\_\_ DAYS: 503-440-6808 EVES: n/a

EMAIL: johjessi@ohsu.edu FAX: n/a

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: \_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

# 31

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 7/31/08

SUBJECT: Menu-Labeling in Multnomah county

AGENDA NUMBER OR TOPIC: Menu-labeling

FOR:  AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Ashley Throner

ADDRESS: 1040 NW 10th Ave #533

CITY/STATE/ZIP: Portland OR 97209

PHONE: DAYS: 503 494-1930

EVES: 503 830-3107

EMAIL: throwera@onsu.edu

FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: \_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

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2. Written testimony will be entered into the official record.

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 07.31.08

SUBJECT: \_\_\_\_\_

AGENDA NUMBER OR TOPIC: Menu labeling

FOR:  AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Shannon Hennrich

ADDRESS: 7206 SE Salmon St.

CITY/STATE/ZIP: Portland OR 97215

PHONE: \_\_\_\_\_ DAYS: 503-913-4082 EVES: Some

EMAIL: lav2teach2grade@gmail.com FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: \_\_\_\_\_

1. Wanting to make an informed decision
2. If restaurants aren't support of nutrition info  
 what is trouble with putting calories on  
 menu
2. Just went out last night + had this discussion.

**IF YOU WISH TO ADDRESS THE BOARD:**

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2. Written testimony will be entered into the official record.

## What is OREGON doing about obesity?

The table below is derived from the 2007 edition of *F as in Fat*, published by Trust for America's Health ([www.healthyamericans.org](http://www.healthyamericans.org)). The effectiveness or value of any one state approach is not known; the summary below is intended only for comparing a state's activities with others.

OBESITY-RELATED STATE INITIATIVES	OREGON	NATIONAL
Snack and/or soda tax	No	17 states + D.C.
CDC state-based nutrition and physical activity program	Yes	28 states
Federal STEPS grant recipient	No	7 states
Laws that limit liability for obesity and obesity-related health problems	Yes	24 states
OBESITY-RELATED SCHOOL STANDARDS	OREGON	NATIONAL
Physical education requirement <i>(Note: There is variation in whether states enforce these standards)</i>	Yes	50 states + D.C.
Health education requirement <i>(Note: There is variation in whether states enforce these standards)</i>	Yes	48 states + D.C.
Nutritional standards for school meals and snacks that go beyond existing USDA requirements	No	17 states
Nutritional standards for competitive food products sold a la carte, in vending machines, school stores or at bake sales	No	22 states
Limitation (beyond federal requirements) on when and where competitive food products may be sold	No	26 states
BMI or health information collected <i>(Note: There is variation in whether states enforce these standards)</i>	No	16 states
2006 OBESITY-RELATED POLICY OPTIONS	OREGON	NATIONAL
Provision for strengthening of private insurance coverage for obesity prevention or treatment, especially for the morbidly obese (BMI of 40 or higher). Children may or may not be covered.	No	8 states introduced
Legislation or resolutions to create obesity-related task forces, commissions, studies or other special programs	No	19 states introduced

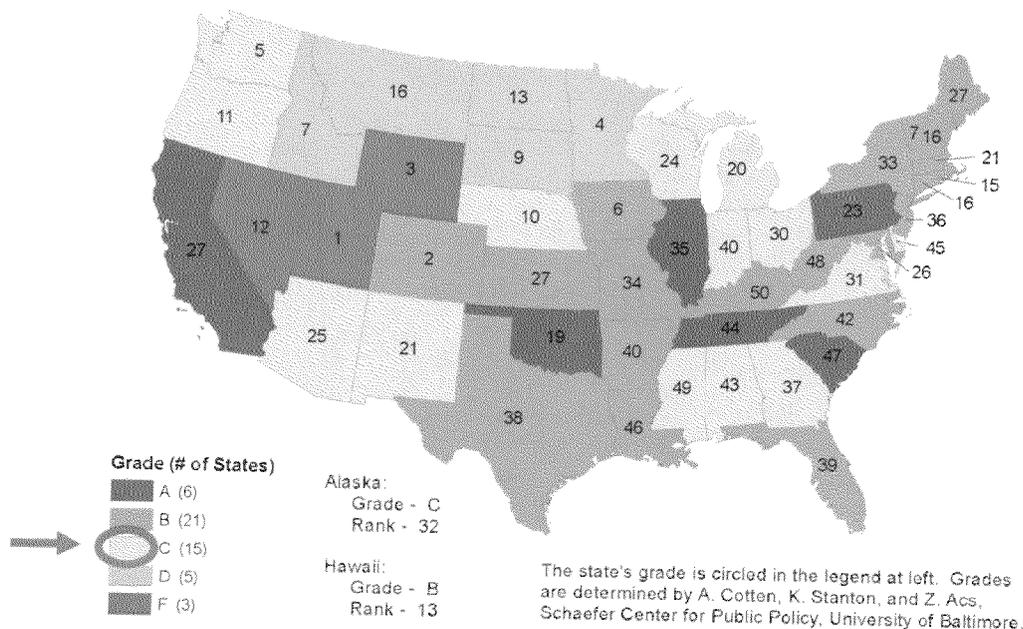
### NOTES:

The federal Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108 - 265) required each local school district participating in the National School Lunch and Breakfast Program to establish a local wellness policy by the beginning of the 2006-2007 school year. To view model school wellness policies, see [www.schoolwellnesspolicies.org/](http://www.schoolwellnesspolicies.org/).

Oregon requires physical education in elementary, middle and high school, although duration and frequency are not specified. One unit of credit of physical education is required for high school graduation (OAR 581-022-1130).

State law prohibits a person from maintaining action for a claim or injury or death caused by a food-related condition against a person involved in the selling of food, unless food is adulterated, misbranded, or violates the Federal Food, Drug, and Cosmetic Act (HB 2591).

## STATE OBESITY PREVALENCE RANKING AND REPORT CARD GRADE FOR CHILDHOOD OBESITY-RELATED ACTIVITIES



Note: The numbers shown in the map above represent the state's ranking on the prevalence of overweight and obesity among children ages 10-17. Utah ranks first with the lowest overweight/obese prevalence, while Kentucky ranks 50<sup>th</sup>. The child obesity report card grade developed for each state is a composite of the state score on five types of childhood obesity-related legislation: (1) Nutrition standards in schools, (2) Vending machine prohibitions in schools, (3) Body mass index measured in school, (4) Recess and physical education requirements, and (5) Obesity programs and education. For more information, see [www.ubalt.edu/experts/obesity/index.html](http://www.ubalt.edu/experts/obesity/index.html).



## How much do you know about the childhood obesity epidemic in OREGON?

### KEY POINTS:

- Approximately 100,000 of 378,000 Oregon children ages 10-17 years (26.5%) are considered overweight or obese according to BMI-for-age standards.
- More than two in five (41.6%) Oregon children in families below the poverty line are obese or overweight.
- Oregon children are more likely than their counterparts nationwide to be physically active for at least 4 days per week, and less likely to spend 2 hours or more in front of a television or computer screen.
- According to the 2006 Pediatric Nutrition Surveillance System (PedNSS), which assesses weight status of children from low-income families participating in WIC, 31.8% of low-income children ages 2 to 5 years in Oregon are overweight or obese.

OVERALL PREVALENCE	OREGON %	NATIONAL %
Percentage of children ages 10-17 years who are overweight or obese	26.5%*	30.6%
State Rank for overweight or obese children (1 is best)	11	
Percentage of children ages 6-17 years who participate in 4 or more days of vigorous physical activity per week	63.8%	59.0%
Percentage of children ages 6-17 years who engage in 2 or more hours of screen time per day (includes TV, videos, computer games, etc.)	40.6%	44.9%
DISPARITIES – ACROSS AND WITHIN STATES	OREGON %	NATIONAL %
% Overweight or Obese by Family Income		
<100% Federal Poverty Level (FPL)	41.6%	39.8%
>400 % FPL	23.8%	22.9%
Income Disparity Ratio	1.75	1.74
State Rank on Income Disparity Ratio (1 is best, 39 is worst)	14	
% Overweight or Obese by Type of Insurance		
Public Insurance	38.9%	39.6%
Private Insurance	23.2%	26.7%
Insurance Disparity Ratio	1.68	1.48
State Rank on Insurance Disparity Ratio (1 is best, 49 is worst)	36	
% Overweight or Obese by Race		
Black, non-Hispanic	NA	41.2%
White, non-Hispanic	25.0%	26.6%
Race Disparity Ratio	NA	1.55
State Rank on Race Disparity Ratio (1 is best, 23 is worst)	NA	
% Overweight or Obese by Hispanic Origin		
Hispanic	41.3%	37.7%
Non-Hispanic	25.3%	29.5%
Hispanic Origin Disparity Ratio	1.63	1.28
State Rank on Hispanic Origin Disparity Ratio (1 is best, 21 is worst)	16	

\* Difference between state and national overall prevalence is statistically significant at the .05 level of significance.

NA – Not Available. Estimates with a relative standard error greater than 30%, or based on an unweighted sample of fewer than 25 children, are considered unreliable and are not reported.

State rankings on disparity ratios include only those states with reliable estimates for both groups.

Data Source: CAHMI/Data Resource Center analysis of the 2003 National Survey of Children's Health.

Developed by the Child Policy Research Center and the Child and Adolescent Health Measurement Initiative/Data Resource Center ([www.childhealthdata.org](http://www.childhealthdata.org)) on behalf of the NICHQ Childhood Obesity Action Network.

### TECHNICAL NOTES:

The 2003 National Survey of Children's Health (NSCH) provides parent-reported information on the health and well-being of children in each state and nationwide. Two important aspects of children's health measured in the survey are physical activity and overweight, which is calculated from the child's height and weight as reported by the parent or guardian. Using survey results and sex-specific BMI-for-age growth charts developed by CDC, the prevalence of children with BMI scores in two separate percentile ranges (85<sup>th</sup> to 95<sup>th</sup> and at or above the 95<sup>th</sup>) can be estimated. Children with BMI between the 85<sup>th</sup> and 95<sup>th</sup> percentiles are classified as overweight; those with a BMI at or above the 95<sup>th</sup> percentile are classified as obese. Childhood and adolescent obesity measures based on parental report may not accurately reflect the true prevalence of overweight and obesity. However, previous research and comparisons of NSCH with data from the National Health and Nutrition Examination Surveys (NHANES) have shown that parental reports are reliable and provide a fairly close correspondence for children 10-17 years (Ogden et al., *Advance Data From Vital and Health Statistics*, 2004).



## Amendment 1

Add public schools to the list of covered establishments and a severability clause.

Delete the words "public and" from the restaurant exemptions.

Add a severability clause as follows "If any provision of this regulation or its application to any person or circumstance is held invalid, the remainder of the regulation or the application of the provision to other persons or circumstances is not affected."

### Policy basis:

The most important places to have nutrition labeling is in our public schools to educate our children is in public schools. Children in grade school can begin to learn about calories and fat content. Certainly middle school and high school age children could benefit from this as well. This is an important addition for the measure to have impact in preventing obesity.

The County has contributed financially to our schools in the past and provided hundreds of millions of dollars for our schools through the ITAX. We continue to support schools with SUN and other programs. The schools should be willing to work with the County to promote our health objectives of better nutrition and preventing obesity.

## Amendment 2

Delete "licensed health care facilities" from the restaurant exemptions.

Add a severability clause listed in Amendment 1.

## Policy

Licensed health care facilities should be the first organizations to promote nutrition labeling and educating their clients about diet and caloric intake.

#### Amendment 4

Change the exclusion of food that is offered for sale under (a) (2) from sixty (60) to ninety (90) days and add ~~“in a calendar year.”~~

#### Policy

We should encourage the use of seasonal and fresh produce and products. The costs of changing menus and information can be costly, so the County should provide for an approach that recognizes establishments may want to provide seasonal menu items in the fall, winter, summer and spring. King County adopted a 90 day requirement.

## Amendment 5

Change the Minimum Product Information required under (b)(1) to delete "The product information required by this policy shall be based on verifiable and accurate analysis of the Menu Item Variant, which may include the use of nutrient databases, laboratory testing, or other methods of analysis allowed by the Federal Food and Drug Administration for the labeling of packaged foods."

Adopt the reasonable basis standard of King County as follows

"The restaurant shall be required to provide information and documentation of the reasonable basis or bases of calorie and nutrient analysis. Reasonable basis or reasonable bases means any reliable and verifiable calorie and nutrient analysis of a menu item, which may include the use of calorie and nutrient databases, cookbooks, laboratory analyses and other reliable and verifiable methods of analysis."

## Policy

Proponents of the ordinance have asserted that it is easy, using computer programs, to determine the calorie and nutrient content of menu items. I don't believe this to be accurate. My office has consulted nutritionists and one of my office staff is a chef and tested the program using his recipes. Accurate information of calorie content and nutrition is in fact complicated to ascertain. We should allow restaurants to use information they have a reasonable basis believe is true.

## Amendment 6

Change definition of Restaurant to Include prepared food in grocery, convenience and variety stores.

Delete (j)(2)

Insert under the definition "Menu Item"

"Menu Item" does not include

1. Unopened prepackaged foods
2. Condiments
3. Unique or location-specific food or meal items offered at fewer than fifteen locations
4. Foods offered in a salad bar, buffet line, cafeteria service or similar self-serve arrangement. "Similar self-serve arrangement" means a food service location where consumers may themselves take foods from a counter, display case or hot or cold holding containers.
5. Foods served by weight or custom-ordered quantity.
6. Customized orders requested by consumers that change the standard menu item.

### Policy:

Grocery Stores with more than 15 locations should be covered with their menus in the same manner as other chains. More and more grocery stores are selling food to go and providing in-store eating. By excluding food served by weight and customized orders, they can be held to the same standards as other establishments.

Filed

Amendment #7

Amend the definition of "Menu" and "Menu Board" to exempt advertising.

Add language as follows

"Menu" does not include printed or pictorial materials posted in establishments for the purpose of marketing.

"Menu Board" does not include printed or pictorial materials posted in establishments for the purpose of marketing.

Policy

This language is contained in King County. The definition of "menu" and "menu board" in our proposed policy would arguably cover all marketing, including ads, such as promotional posters on the premises, or television and other ads off the premises.

## Amendment 8

Provide approved options for establishments that provide menus and menu boards as per the attachment.

### Policy

King County approved alternative methods for menu labeling on the menu and on the board after their experience with an inflexible approach. These include a menu insert, a menu appendix, a supplemental menu, and electronic kiosks. Menu boards, they approved the alternatives of a sign adjacent to the menu board and a sign in queue at eye level. Finally, they provided alternative methods for providing nutrition information other than calories to consumers in a drive through.

Failed

1. Approved alternative methods for nutrition labeling on the menu are:

a. a menu insert. A menu insert shall be placed within each menu or shall be presented by the server with the menu. A menu insert shall provide the nutrition information required by this chapter next to each standard menu item. The nutrition information shall be easily readable and in a font no less than nine point. A menu insert shall list food categories and food items in the same order as these appear on the menu. A menu insert is not required to contain photos or menu item descriptions that appear on the menu;

b. a menu appendix. A menu appendix shall be attached in the back of the menu. A menu appendix shall provide the nutrition information required by this chapter next to each standard menu item. The nutrition information shall be easily readable and in a font no less than nine point. A menu appendix shall list food categories and food

245 items in the same order as these appear on the menu. A menu appendix is not required to  
246 contain photos or menu item descriptions that appear on the menu;

247 c. a supplemental menu. A supplemental menu similar in general appearance  
248 to the menu shall be available at each point of ordering or shall be presented by the server  
249 with the menu. A supplemental menu shall provide the nutrition information required by  
250 this chapter next to each standard menu item. The nutrition labeling shall be easily  
251 readable, in a typeface similar to the menu, and in a font no less than nine point. A

252 supplemental menu shall list food categories and food items in the same order as these  
253 appear on the menu. A supplemental menu is not required to contain photos or menu  
254 item descriptions that appear on the menu; and

255 d. electronic kiosks. An electronic kiosk shall be available at each point of  
256 ordering. An electronic kiosk shall provide the nutrition information required by this  
257 chapter for each standard menu item. The nutrition labeling shall be easily readable and  
258 shall be presented in a manner such that consumers can easily view in one place and  
259 compare nutrition information for similar menu items. An electronic kiosk shall present  
260 food categories and food items in the same order as they appear on the menu.

261 2. Each of the approved alternative methods for nutrition labeling on the menu  
262 shall include, in a clear and conspicuous manner, the following statement: "For a typical  
263 adult who consumes 2,000 calories a day, the recommended limits are 20 grams of  
264 saturated fat and 2,300 milligrams of sodium."

265 3. A chain food establishment that provides a menu and uses an approved  
266 alternative method for nutrition labeling on the menu shall also provide consumers in the

267 establishment who are ordering menu items for carryout with access to nutrition labeling  
268 that is equivalent to that provided for all other consumers.

269 B. Approved alternative methods of nutrition labeling for chain food  
270 establishments that use menu boards. A chain food establishment that uses a menu board  
271 may provide nutrition labeling through one of the approved alternative methods listed in  
272 this subsection in lieu of the placement requirements in ~~\_\_\_\_\_~~

273 1. Approved alternative methods for labeling of calories. A chain food  
274 establishment may use one of the following approved alternative methods in lieu of  
275 posting calorie information on menu boards, but only if the chain food establishment  
276 provides the other nutrition labeling in accordance with the provisions for nutrient  
277 labeling in this chapter.

278 a. a sign adjacent to the menu board. A sign adjacent to the menu board shall  
279 appear on the same wall as the menu board and shall be in the same field of vision as the  
280 menu board viewed by consumers at the point of ordering. A sign adjacent to the menu  
281 board shall provide the calorie labeling required by this chapter next to each standard  
282 menu item. A sign adjacent to the menu board shall be easily readable and shall list food  
283 categories and food items in the same order as these appear on the menu board; and

284 b. a sign in queue at eye level. A sign in queue at eye level shall be no less  
285 than two feet by three feet and shall be in clear view to consumers in queue, whether  
286 standing or in a drive-through, before the point of ordering. A sign in queue shall provide  
287 the calorie labeling required by this chapter next to each standard menu item. A sign in  
288 queue shall be easily readable, in a typeface similar to the menu board, and in a font no  
289 less than forty point.

20           2. Approved alternative method for providing nutrition information other than  
291 calories to consumers in a drive-through. A chain food establishment may provide the  
292 other nutrition labeling to consumers in queue in a drive-through at the first window of  
293 the drive-through or at another location where it is easily accessible to drive-through  
294 consumers in lieu of the requirement in ~~BCR 100.15~~ that it be plainly visible to  
295 consumers at the point of ordering, but only if the chain food establishment provides  
296 calorie labeling to consumers in a drive-through in accordance with the provisions for  
297 calorie labeling in this chapter.

298           C. Other approved alternative methods of nutrition labeling.

299           1. Approved alternative method of nutrition labeling for alcoholic beverages.  
300 An approved alternative method for nutrition labeling of each alcoholic beverage is to  
301 collectively label alcoholic beverages in a clear and prominent position using the average  
302 nutritional values for beers, wines and spirits. Nutrition labeling of alcoholic beverages  
303 collectively shall otherwise be in accordance with the provisions for calorie and nutrient  
304 labeling in this chapter.

305           a. Chain food establishments that collectively label alcoholic beverages shall  
306 use the following average nutritional values:

307           (1) wine – 5 ounces: 122 calories; 4 grams carbohydrate; 7 milligrams  
308 sodium;

309           (2) regular beer – 12 ounces: 153 calories; 13 grams carbohydrate; 14  
310 milligrams sodium;

311           (3) light beer – 12 ounces: 103 calories; 6 grams carbohydrate; 14 milligrams  
312 sodium; and

313 (4) distilled spirits (80 proof gin, rum, vodka, or whiskey) - 1.5 ounces. 96  
314 calories.

315 b. Chain food establishments that collectively label alcoholic beverages may  
316 add to the nutrition labeling the following statement: "Signature drinks or liqueurs with  
317 added ingredients may increase caloric content."

318 2. Approved alternative method of nutrition labeling for combination meals that  
319 are posted on a menu board. A combination meal means a standard menu item that is  
320 comprised of two or more food items with options of food items. Chain food  
321 establishments may use the following approved alternative method of nutrition labeling  
322 for combination meals that are posted on a menu board. An approved alternative method  
323 for nutrition labeling of calories and nutrient values for each possible combination of  
324 food items offered in a combination meal is to provide nutrition labeling for a  
325 combination meal that uses a range of the lowest and highest values of calorie and  
326 nutrient content among all possible combinations of food items offered in a combination  
327 meal. Nutrition labeling using calorie and nutrient ranges shall otherwise be in  
328 accordance with the provisions for calorie and nutrient labeling in this chapter.

Amendment 9

Approval process for proposed substantially equivalent methods of nutrition labeling.

Add language as follows:

“A restaurant may propose a method of nutrition labeling not otherwise provided for in this ordinance with approval from the Health Department of any proposed substantially equivalent method for nutrition labeling.

The proposal shall be submitted in writing and demonstrate how the proposed method is expected to allow for consumers at the point of ordering with information that is routinely and readily available.

The Health Department shall establish standards for approval, a process and ~~procedure~~<sup>provide</sup> written approval before implementation.

### Amendment 3

#### Include a Phasing Out of Artificial Transfat

Add the following provisions:

“Every restaurant shall maintain on the premises the label for any food or food additive that is, or includes, any fat, oil or shortening, for as long as this food or food additive is stored, distributed, or served by, or used in the preparation of food within the restaurant. The label that is described in this section refers to the label that is required by applicable federal and state law to be on the food or food additive at the time of purchase by the food facility.

Commencing January 1, 2010, no oil, shortening or margarine containing artificial trans fat for use in spreads or frying, except for the deep frying of yeast dough or cake batter, may be stored, distributed or served by, or used in the preparation of food within a restaurant.

Commencing January 1, 2011, no food containing artificial trans fat, including oil and shortening that contains artificial trans fat for use in the deep frying of yeast dough or cake batter, may be stored, distributed, or served by, or used in the preparation of any food within a restaurant.

This section shall not apply to food sold or served in a manufacturer's original, sealed package.

For purposes of this section, a food contains artificial trans fat if the food contains vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil, unless the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than .05 grams per serving.

Violation of this provision shall be punishable by a fine of not less than twenty-five dollars (\$25) or more than one thousand dollars (\$1000.)

#### Policy bases

King County, Washington and New York City adopted regulations to phase out artificial trans fat in conjunction with menu labeling as a broader package to prevent obesity. By failing to act with this broader package, Multnomah County appears to support trans fats, by simply requiring it in the required product information. The State of California recently enacted statewide legislation and the proposed amendment is modeled on their state legislation. The health effects of trans fats have been documented to the Board last year. The Health Department has been directed to educate the public about the health

Failed

hazards associated with consuming artificial trans fats. Voluntary efforts have failed to eliminate this hazardous substance and regulation is needed. Residents of Multnomah County are just as deserving of protection from this hazardous substance as are residents of King County, New York and the State of California.

**BOGSTAD Deborah L**

---

**From:** SOWLE Agnes  
**Sent:** Thursday, August 07, 2008 8:06 AM  
**To:** WHEELER Ted  
**Cc:** COGEN Jeff; SCHOLES Rhys; WILLER Barbara; SHIRLEY Lillian M; OXMAN Gary L; MANHAS Sonia X; BOGSTAD Deborah L; KARNES Ana  
**Subject:** RE: confusion...legal opinion

I met with Lillian, Sonia, Dr. Oxman and Jacquie Weber (who advises Health) on Monday to discuss next steps. We all agreed that I would work on the County's official Order and amendments. I watched the broadcast of the meeting to make sure I accurately captured the Board's decisions accurately. Commissioner Naito expressed her intent that the amendments were to *policy*, and several of the amendments specifically identified paragraphs of the policy that was attached to the Order. However, some of the amendments did not easily fit into the policy, so I did not insert them into it. Instead, for those amendments that were passed, I interlineated the oral amendments to those written by Commissioner Naito and handed out during the meeting, noting that they were oral. I attached the written amendments to the policy and the policy to the Order. On the Order, I noted the amendments to the policy were attached to it. This is not as tidy a document as we like to have for our official record, but I believe it is necessary to accurately memorialize the Board's decisions and will make them easily accessible to the public. Deb or Ana will bring you the final document for your signature.

Lillian is correct, the Order directing the department to promulgate rules and regulations is final – and that is the advice I gave to her during the meeting. I understood that the Order would be followed with an Ordinance, much like the process that was followed for the County's workplace and public space anti-smoking ordinance. I was incorrect. However, we all agreed that the department will bring the rules back to the Board (of Health) for adoption, much as the Board does in many other circumstances.

Dr. Oxman drafted procedures and guidelines for rulemaking that, when finalized, will be used by the department to promulgate the rules directed under the Order. The procedures will meet the intent of the policy of the Board of Health as expressed in the Order and attached policy, and will promote public participation. This process will be explained to each of the Commissioners in the next day or two.

Please let me know if you have any questions.

*Agnes Sowle*  
*Multnomah County Attorney*  
*501 SE Hawthorne Blvd., Ste. 500*  
*Portland, OR 97214*  
*(503)988-3138*

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**From:** WHEELER Ted  
**Sent:** Thursday, July 31, 2008 5:44 PM  
**To:** SOWLE Agnes  
**Cc:** COGEN Jeff; SCHOLES Rhys; WILLER Barbara  
**Subject:** confusion...legal opinion

Agnes – there is some confusion out there about what our Board voted to do today. I have just heard from Lillian that the order does NOT come back to the BCC which is contrary to the advice we received at the meeting. Can you please clarify???

8/11/2008

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
ACTING AS THE MULTNOMAH COUNTY BOARD OF HEALTH

**ORDER NO. 08-114**

Adopting a Policy Requiring the Nutrition Labeling of Food Items at Chain Restaurants and Directing the County Department of Health to Promulgate Rules and Regulations to Implement the Policy

**The Multnomah County Board of Health Finds:**

- a. The Multnomah County Board of County Commissioners constitutes and is the policymaking body of the Multnomah County Board of Health under ORS 431.410 and 431.415.
- b. The Nutrition Council of Oregon and the Oregon Coalition for Promoting Physical Activity published *A Healthy Active Oregon: Statewide Physical Activity and Nutrition Plan 2007-2012*. (Community Objectives and Strategies III.n):

“Restaurants shall expand and promote options for healthy foods, beverages and meals by providing caloric content and other key nutritional information.”

- c. The analysis of the potential for implementing this strategy in Multnomah County undertaken by the Chronic Disease Prevention Program of the Multnomah County Health Department documented that:
  - (1) Consumers have difficulty making informed choices about food purchases in restaurants because of an absence of relevant nutrient information, as evidenced by the following:
    - An FDA-commissioned report concluded that without access to nutritional information, consumers are not able to assess the caloric content of foods;
    - Multiple studies have shown that restaurant foods contain almost twice the number of calories estimated by consumers, including a study of well-trained nutrition professionals who consistently underestimated the calorie content of restaurant foods by 200 to 600 calories.
  - (2) Obesity is one of the greatest public health challenges facing the nation and the communities of Multnomah County, as evidenced by the following:
    - Nationally, obesity rates have doubled in children and tripled in teenagers over the past twenty years;
    - Fifty percent of overweight children and teenagers remain overweight as adults;
    - Two thirds of adults in Multnomah County are overweight or obese;
    - Obesity-related chronic diseases, including cardiovascular disease, diabetes, hypertension, cancer, and asthma, are the leading causes of death and disability in Oregon and Multnomah County;
    - In 2005, 25% of the years of potential lost in Multnomah County, a measure of premature mortality, were due to chronic diseases caused or escalated by poor eating habits;
    - The indirect and direct costs of adult obesity in America are \$117 billion each year.
  - (3) Americans eat an increasing number of meals outside the home, and such meals are linked to higher calorie intake, as evidenced by the following:

- In 1970, Americans spent just 26% of their food dollars on restaurant meals and other food prepared outside of the home. Today, Americans spend 47.8% of their food dollars on away-from-home foods;
  - About one-third of the calories in an average American's diet come from restaurant or other away from home foods;
  - Between 1972 and 1997, the per-capita number of fast food restaurants doubled, and the per-capita number of full-service restaurants rose by 35%;
  - On average, children and youth aged 11-18 visit fast food outlets twice a week, and children consume nearly twice as many calories from restaurant meals than from home-cooked meals;
  - Restaurant foods are generally higher in those nutrients for which over-consumption is a problem, such as fat and saturated fat, and lower in nutrients required for good health, such as calcium and fiber;
  - Portion sizes are often large at restaurants, and it is not uncommon for a restaurant entrée to provide half a day's calories, saturated and trans fat, or sodium.
- (4) The Federal Nutrition Labeling and Education Act requires food manufacturers to provide nutrition information on nearly all packaged foods but explicitly exempts restaurants from that requirement;
- (5) Competition within the food service industry is healthy and desirable, and the availability of nutrition information can serve as another factor to inform consumer choices, as evidenced by the following:
- Three quarters of American adults report using nutritional labels on packaged foods;
  - Studies have shown that people who use food labels are more likely to eat healthfully;
  - Almost half of consumers report that the information provided on food labels has caused them to change their food purchasing habits or decide between similar foods.
- (6) Nutrition labeling in fast food and chain restaurants is well-supported by the public, as evidenced by the following:
- Six national representative consumer polls found that between 61% and 87% of Americans support nutrition labeling in restaurants;
  - Sixty nine percent of Oregonians support requiring nutritional labeling in fast food and chain restaurants.
- (7) The United States Surgeon General, the Food and Drug Administration, the National Academies' Institute of Medicine, the American Heart Association, the American Diabetes Association, and the American Medical Association have recommended the provision of nutrition information at restaurants as a strategy to address rising obesity rates.
- (8) The current system of voluntary nutritional labeling at restaurants is inadequate. Approximately half of the largest chain restaurants fail to provide any nutritional information about their menu item to customers. Restaurants that do provide such information often do not do so at the point of sale, but rather on websites, tray-liners, on fast-food packages or in brochures that are available only by request.
- (9) Many individual, family, community, and societal factors influence dietary patterns and levels of physical activity. Addressing obesity will require a broad range of interventions, and nutrition labeling is one tool to empower Multnomah County residents to take greater control of their own health and make healthier choices about what they eat.

- d. The Chronic Disease Prevention Program coordinated a multi-phase community engagement process with representatives from the food service, public health, academic, non-profit, and business communities to assess the feasibility of fast food and chain restaurant menu item labeling and develop a policy for recommendation to the Board.
- e. It is the intent of the Multnomah County Board of Health to provide consumers with basic nutrition information and other product information about prepared Foods sold at Chain Restaurants in Multnomah County so that consumers can make informed Food choices.

**The Multnomah County Board of Health Orders:**

- 1. The Board adopts the attached Chain Restaurant Nutrition Labeling Policy as recommended by the Chronic Disease Prevention Program. [ with Amendments (attached)].
- 2. The Board directs the County Department of Health to promulgate rules and regulations to carry out and enforce this policy.
- 3. The Health Department may adopt a schedule of fees to recover expenses of the Department in performing its responsibilities in carrying out this Order.

ADOPTED this 31st day of July 2008.

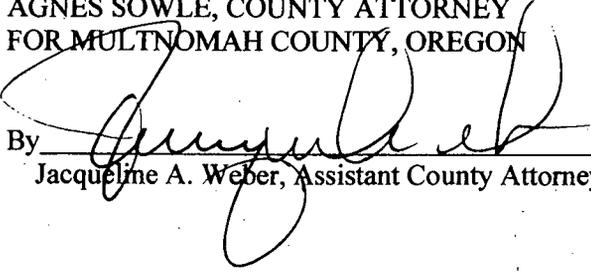


BOARD OF COUNTY COMMISSIONERS  
ACTING AS THE MULTNOMAH COUNTY  
BOARD OF HEALTH

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Jacqueline A. Weber, Assistant County Attorney

SUBMITTED BY:

Lillian Shirley, Director of the Department of Health

## ***Chain Restaurant Nutrition Labeling Policy***

**Purpose.** The purpose of this policy is to provide Multnomah County residents with basic nutrition information and other product information about prepared Foods sold at Chain Restaurants. Readily available product disclosures are essential to allow consumers to make informed purchasing decisions about the Food that they, and their children and dependents, eat. Further, product disclosures help foster free market competition based on the true nutritional quality of a Chain Restaurant's products.

**Definitions.** The following words and phrases, whenever used in this policy, shall have the meanings defined in this policy unless the context clearly requires otherwise:

- a) "Chain Restaurant" means a Restaurant within Multnomah County that is part of an affiliation of Restaurants and for which the affiliated Restaurants:
  - (1) Have at least fifteen or more restaurants within the United States;
  - (2) Sell Formula Menu Items that comprise at least eighty percent or more of Menu Items served in at least fifteen restaurants; and
  - (3) Operate under the same apparent brand or substantially the same name, regardless of whether the restaurants are subject to the same ownership or type of ownership.
- b) "Food" means any substance in whatever form used or intended for use in whole or in any part for human consumption such as, for example, meals, snacks, desserts, and beverages of all kinds.
- c) "Food Product" means a discrete item of Food offered for sale or consumption, such as, for example, a hamburger, or offered in conjunction with another discrete item of Food, such as, for example a hamburger sold as part of a meal including french-fries and a soda, but does not include ingredients except ingredients sold separately, such as, for example, a slice of cheese added to a hamburger for an additional charge.
- d) "Food Tag" means any informational label placed in proximity to a Food Product it identifies or characterizes, such as, for example, a label placed next to a cherry pie showing a picture of a cherry and listing the price per slice or a label placed next to a container of pasta in a salad bar with the text, "Pesto Pasta Salad", but does not include a Menu or a Menu Board.
- e) "Menu" means any listing of Food Products offered for sale, including for example a pictorial display, and includes listings intended for consumption on or off the premises, such as a takeout, but does not include a Menu Board.
- f) "Menu Board" means any listing of Food Products offered for sale, including, for example, a pictorial display, that is posted and intended for joint viewing by multiple consumers such as, for example, back-lit marquee signs above a point of sale at fast food outlets or chalk boards listing Food Products for sale; and also

means any listing of Food Products for sale that is posted and intended for viewing by a consumer purchasing Food to go, such as, for example, a drive-through signboard.

- g) "Menu Item" means (1) a Food Product listed on a Menu, Menu Board, or Food Tag, and means (2) a combination of Food Products offered together on a Menu, Menu Board, or Food Tag, such as, for example, a "kids meal" combining a hamburger, french-fries, and a carton of milk.
- h) "Menu Item Variant" means each standardized alternative of a singly listed Menu Item, such as, for example, each different size of the Menu Item (e.g., small, medium, large, etc.), each different flavor of the Menu Item "soda" (e.g. Coke, Sprite, etc), each pizza topping combination (e.g. pepperoni, extra cheese, mushroom, etc), each different type of bagel (e.g. poppy seed, raisin, etc), each ice-cream flavor (e.g. chocolate, vanilla, etc.), or each variation of a "kids meal" (e.g. a hamburger with french fries, a hamburger with apple slices, etc).
- i) "Formula Menu Item" means a Menu Item that is essentially the same between affiliated restaurants and prepared using a consistent standardized recipe.
- j) "Restaurant" means (1) a facility at which any prepared, unprepackaged Food Product is offered for sale for consumption on or off the premises, such as, for example: traditional sit-down restaurants, cafes, coffee stands, cookie stands; delis; bakeries; ice-cream shops; and fast-food outlets; and means (2) any area within a grocery, convenience, or variety store that is a separately owned food facility at which any prepared, un-prepackaged Food Product is offered for sale and consumption on or off the premises, but does not include other areas of a grocery, convenience, or variety store.
- k) "Self-Service Item" means any prepared, un-prepackaged Food that consumers are permitted to procure without assistance of a Restaurant agent or employee, such as, for example, Food displayed at a salad bar or buffet line, but does not include condiments placed on a dining table or on a counter for general use without charge.

**Minimum Product Information.**

- a) Required Product Information. Each Chain Restaurant shall accurately ascertain, at a minimum, the following product information for each Menu Item Variant, as the item is usually prepared and offered for sale:
  - (1) Total calories;
  - (2) Total grams of saturated fat;
  - (3) Total grams of trans fat;
  - (4) Total grams of carbohydrates;
  - (5) Total milligrams of sodium.

- b) Verifiable and Accurate Information Required.
- (1) The product information required by this policy shall be based on verifiable and accurate analysis of the Menu Item Variant, which may include the use of nutrient databases, laboratory testing, or other methods of analysis allowed by the Federal Food and Drug Administration for the labeling of packaged foods.
  - (2) A Restaurant is in violation of this policy if the provided product information required by this policy:
    - i. Is not present or is not in the form required by this Policy;
    - ii. Is different from what the Restaurant knows or believes to be the true and accurate information; or
    - iii. Deviates by more than twenty percent (20%) from what actual analysis or other reliable evidence shows to be the average content of a representative sample of the Menu Item Variant.

### **General Requirements and Prohibitions.**

- a) Whenever a Restaurant, pursuant to this policy, is required to disclose information to the public, the Restaurant shall round numerical values as follows:
  - (1) For values above 50, the disclosed value shall be rounded to the nearest value evenly divisible by 10 (e.g., 322 is rounded to 320, 435 is rounded to 440, etc.);
  - (2) For values equal to or less than 50, the disclosed value shall be rounded to the nearest value evenly divisible by 5 (e.g., 43 is rounded to 45, 21 is rounded to 20, etc.). [these rounding rules are based on those used by the FDA for packaged food]
- b) Each discrete display of a Self-Service Item shall be accompanied by a Food Tag, or the Self-Service Item shall be listed on a Menu Board that is readily visible from the self-service location.
- c) Upon the request by a consumer visiting a Chain Restaurant, the Restaurant shall promptly provide the consumer with a physical, written list of the values for the: total calories; total grams of saturated fat; total grams of trans fat; total grams of carbohydrates; and total milligrams of sodium for all Menu Item Variants. The list, such as a supplemental menu or menu insert, shall be available at each point of sale.

### **Product Disclosure Requirements for Menus.**

- a) Product disclosure on Menus.
  - (1) Each Chain Restaurant that uses a Menu shall disclose the total calories next to each Menu Item in a size and typeface that is clear and conspicuous, and no less prominent than the price.
  - (2) Each Chain Restaurant that uses a Menu shall include on the Menu in a prominent location and in a clear and conspicuous manner, the following statement: "Recommended limits for a 2,000 calorie daily diet are 20 grams of

saturated fat and 2,300 milligrams of sodium. Additional nutrition information available upon request.”

- b) Product disclosure on Menu Boards.
  - (1) Each Chain Restaurant that uses a Menu Board shall display the total calories next to each Menu Item on the Menu Board in a size and typeface that is clear and conspicuous, and no less prominent than the price.
  - (2) Each Chain Restaurant that uses a Menu Board shall include on the Menu in a prominent location and in a clear and conspicuous manner, the following statement: “Recommended limits for a 2,000 calorie daily diet are 20 grams of saturated fat and 2,300 milligrams of sodium. Additional nutrition information available upon request.”
- c) Product disclosure on Food Tags. Each Chain Restaurant that uses a Food Tag shall display the total calories for each Menu Item represented on the Food Tag in a size and typeface that is clear and conspicuous, and no less prominent than the price.
- d) Disclaimers Permitted. Nothing in this policy prohibits the Restaurant from publishing truthful disclaimers, including on the Menus, Menu Boards, and Food Tags, notifying consumers that there may be small variations in nutritional content across servings, due to differences in preparation, service sizes, ingredients, or custom orders.
- e) Additional nutrition labeling permitted. Nothing in this policy precludes Restaurants from voluntarily providing additional nutrition labeling of Food.

**Variable Items and Combo Meals.** For any Menu Item having more than a single Menu Item Variant (e.g. more than one flavor or more than one size), and for each type of information required (e.g. calories, saturated fat, etc):

- a) If both the highest and lowest value of all the Menu Item Variants are within 10% of the median value, the median value alone may be used whenever this policy requires disclosure of the type of information;
- b) If both the highest and lowest value of all the Menu Items are within 20% of the median value, the range of values may be used whenever this policy requires disclosure of the type of information; and
- c) If neither subsection (a) or (b) applies, each Menu Item Variant must be listed as a separate Menu Item and accompanied by the appropriate ascertained value whenever this policy requires disclosure of the type of information.

**Exclusions and Exemptions.**

- a) Food Items Excluded. This policy does not apply to:

- (1) Condiments placed on the dining table or on counter for general use without charge;
  - (2) Food that is offered for sale for less than sixty (60) days in a calendar year;
  - (3) Alcoholic beverages not listed as Menu Items.
- b) Restaurant Exemptions. The following types of Restaurants are exempted from the requirements of this policy:
- (1) Public and private school cafeterias
  - (2) Licensed health care facilities

Amendment 2 - passed unanimously

Delete "licensed health care facilities" from the restaurant exemptions.

Add a severability clause listed in Amendment 1. ["If any provision of this regulation or its application to any person or circumstance is held invalid, the remainder of the regulation of the application to other persons or circumstances is not effected."] <sup>1</sup>

### Policy

Licensed health care facilities should be the first organizations to promote nutrition labeling and educating their clients about diet and caloric intake.

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<sup>1</sup> The severability clause was read into the record by Commissioner Naito.

#### Amendment 4

Change the exclusion of food that is offered for sale under (a) (2) from sixty (60) to ninety (90) days. ~~and add "in a calendar year."~~<sup>1</sup>

#### Policy

We should encourage the use of seasonal and fresh produce and products. The costs of changing menus and information can be costly, so the County should provide for an approach that recognizes establishments may want to provide seasonal menu items in the fall, winter, summer and spring. King County adopted a 90 day requirement.

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<sup>1</sup> This language was deleted by motion of Commissioner Naito and approved unanimously.

## Amendment 5

Change the Minimum Product Information required under (b)(1) to delete "The product information required by this policy shall be based on verifiable and accurate analysis of the Menu Item Variant, which may include the use of nutrient databases, laboratory testing, or other methods of analysis allowed by the Federal Food and Drug Administration for the labeling of packaged foods."

Adopt the reasonable basis standard of King County as follows

"The restaurant shall be required to provide information and documentation of the reasonable basis or bases of calorie and nutrient analysis. Reasonable basis or reasonable bases means any reliable and verifiable calorie and nutrient analysis of a menu item, which may include the use of calorie and nutrient databases, cookbooks, laboratory analyses and other reliable and verifiable methods of analysis."

## Policy

Proponents of the ordinance have asserted that it is easy, using computer programs, to determine the calorie and nutrient content of menu items. I don't believe this to be accurate. My office has consulted nutritionists and one of my office staff is a chef and tested the program using his recipes. Accurate information of calorie content and nutrition is in fact complicated to ascertain. We should allow restaurants to use information they have a reasonable basis believe is true.

**Amendment #7**

Amend the definition of "Menu" and "Menu Board" to exempt advertising.

Add language as follows

"Menu" does not include printed or pictorial materials posted in establishments for the purpose of marketing.

"Menu Board" does no[t] include printed or pictorial materials posted in establishments for the purpose of marketing.

**Policy**

This language is contained in King County. The definition of "menu" and "menu board" in our proposed policy would arguably cover all marketing, including ads, such as promotional posters on the premises, or television and other ads off the [premises].

Amendment 9

Approval process for proposed substantially equivalent methods of nutrition labeling.

Add language as follows:

“A restaurant may propose a method of nutrition labeling not otherwise provided for in this ordinance with approval from the Health Department of any proposed substantially equivalent method for nutrition labeling.

~~The proposal shall be submitted in writing and demonstrate how the proposed method is expected to allow for consumers at the point of ordering with information that is routinely and readily available.<sup>1</sup>~~

The Health Department shall establish standards for [written] approval, a process and procedure written approval before implementation.

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<sup>1</sup> This paragraph was deleted by motion of Commissioner Naito and approved unanimously.