

**Nevada Sustainable Transportation Funding Alternatives Study
Advisory Working Group Meeting #2**

Meeting Minutes

August 10, 2021

9 AM – 4:00 PM

Meeting Locations:

NDOT Headquarters
1263 South Stewart Street,
3rd Floor Conference Room
Carson City, Nevada 89712

NDOT District Office Conference Room
Building B
123 East Washington Avenue
Las Vegas, Nevada 89101

1. Welcome, Introduction of New Members, Call to Order.

Chair Valentine welcomed all AWG members and their alternates attending in both Carson City and Las Vegas locations. No new AWG members were noted since the July kickoff meeting. Chair Valentine declared a quorum and called the meeting to order.

2. Public Comment.

There were no public comments regarding items on the agenda.

3. Recap of Prior Meeting and Preview of Today's Meeting.

Jeff Doyle, project leader for the consulting team, recapped the July 13, 2021, meeting and provided an overview of the day's agenda.

4. Overview of Transportation Revenue Sources and Uses in Nevada.

Travis Dunn of the consulting team provided an overview of the transportation-related revenues used in Nevada.

Paul Enos with the Nevada Trucking Association stated that less than 300 entities collect taxes on fuel, and that this number represents the number of fuel suppliers. Responsibility for auditing 300 is obviously less than auditing all vehicle owners nationwide.

Kathleen Taylor with the Nevada Women's Business Center asked if any studies or pilot programs have taken place examining the feasibility of transitioning from a fuel-based type of revenue system in light of the growth in electric, hybrid and more fuel-efficient gas vehicles. How do these trends in passenger vehicles impact the revenue stream for transportation infrastructures?

Mr. Dunn, with the consulting team, replied that yes, there have been many studies and pilot tests conducted to assess both impacts and alternatives to the gas tax. This topic will be explored in more depth at upcoming AWG meetings.

5. Transportation Funding Challenges in Nevada's Regions.

Each of the MPOs represented on the AWG were invited to give presentations on the transportation needs and challenges in their respective regions.

Bill Thomas, Executive Director of the RTC of Washoe, gave a presentation on his region's needs and challenges.

Paul Enos asked about the amount of sales tax revenue used for transit service, and whether that amount reflects an increased funding level due to COVID, or if the amount reflects typical funding levels. Mr. Thomas replied that yes, the amount is consistent with the historical average of about 8%.

Mr. Enos asked about fuel consumption and VMT data, and whether Washoe county has seen any uptick with COVID-related restrictions being eased. Mr. Thomas replied that fuel consumption and VMT appear to be recovering some, but whether they return to previous levels is questionable. Mr. Thomas further stated that lower fuel consumption is a desirable consequence of other policy objectives, and that new transportation funding sources must be found.

Paul Enos asked about RTC Washoe's demand transit service – is it still moving forward? How do costs compare to fixed route and defined schedule?

Mr. Thomas referenced slide 38 of his presentation and described the FlexRIDE program and its success.

Ann Silver, Reno/Sparks Chamber of Commerce, asked if more people are going back to the office, whether the FlexRIDE model will work. Or will it be targeted only for specific segments and therefore not help the average commuter?

Mr. Thomas described FlexRIDE as being more like a shared ride service (e.g., Uber) and less like a traditional bus. Since rides must be scheduled in advance, the real test will be how many people will be willing to wait 15 minutes for their ride to appear, compared to being able to jump in a car and just go.

Paul Enos asked whether FlexRIDE was cost effective, compared to fixed route service. Mr. Thomas stated that FlexRIDE saves 55% to 75% of cost of fixed route service.

Mr. Thomas concluded by stating that his region is very supportive of electric vehicles (EVs) but they want to find a way to accelerate the transition to EVs without breaking the rest of the transportation funding system that is working well.

Chair Virginia Valentine asked whether exemptions are granted to state and local governments on fuel taxes – state, local, and federal. The question was noted for further research.

MJ Maynard, CEO of the RTC Southern Nevada, presented an overview of the RTC of Southern Nevada then highlighted the transportation needs and challenges in her region.

A question was asked whether 30% farebox recovery is correct? Ms. Maynard replied that it was indeed correct, pointing to slide 48 of her presentation.

Paul Enos stated that it appears similar sized cities that Las Vegas-area transit uses as benchmarks have higher costs due to rail systems (heavy or light). Ms. Maynard replied that the transit system costs shown for peer systems include bus costs only; these numbers do not include any rail components, so the comparisons are “apples to apples.”

Concluding her presentation, Ms. Maynard cited long-term funding, climate and sustainability goals; and community needs as three of the top challenges but also opportunities.

Kathleen Taylor commented on the funding issues RTC of Southern Nevada is facing and asked for some historical perspective on how these challenges were discussed/ decided upon.

Ms. Maynard replied that on the transit side, her agency must manage to the budget; she described several measures that were put in place when the great recession hit 2008, including cutting transit service; exploring ways to cut contracts; freezing wages; etc. She further shared that the executive team are beginning conversations with their board about how they might address the constant funding shortfalls projected over the next several years.

Kristina Swallow, Director of the Nevada Department of Transportation, commented that prior policies and decisions that have been made related to land use have also impacted the transit challenges. Although sustainable funding for the state highway account is the primary charge, the secondary charge is to consider urban transit needs, which ultimately leads to a larger exploration of the role that land use policies and decisions are having on the sustainability of the system as a whole. We will explore that later in this project.

Bill Wellman, representing the Nevada Contractors Association of Northern Nevada, asked how project risks are addressed.

Julie Butler, Director of the Nevada Department of Motor Vehicles, commented on the intersection between transportation and affordable housing, noting that many families have no realistic choice about how far away they must live. This presents a challenge for providing transit services to these areas.

Kristina Swallow agreed with the need to consider affordable housing in the assessment of transportation and need for car ownership.

Paul Enos agreed with Julie Butler, noting that difficult decisions have to be made about new housing developments and the burden these local government decisions are placing on state highway system.

Lucia Maloney, Planning Director for the Carson City MPO, presented their needs and challenges. The primary focus in the region has been on maintenance and complete streets programs. The MPO recently assessed potential revenue options, including user pays; assessments; and sales/ services taxes.

Ann Silver, asked whether the demographics of an aging population of Carson City might explain the reason for a large (65%) rejection vote on a recent funding initiative?

Ms. Maloney responded that demographics may have been a factor but heard over last few years of discussion that low public approval rates have less to do with demographics and more to do with messaging.

Paul Enos noted that the Carson Bypass is a good example of an investment in a state road that has had positive local impacts; Carson City is to be commended for their supporting role.

Kathleen Taylor asked if the potential role of digital currency has been considered in the transportation future. It was agreed that this would be noted in the “issues registry” for future consideration.

Chair Virginia Valentine asked whether Carson City has considered whether fuel arbitrage is an issue – where drivers intentionally choose to purchase gasoline in an area adjacent to Carson City just to avoid paying the added cost from fuel tax indexing?

MJ Maynard commented that border cities do believe there is an impact from differential rates between counties, although this has not been quantified.

Bill Wellman shared that in 2013 while considering county fuel tax indexing, this conversation came up. There were questions about how big the impact really was.

Kristina Swallow suggested that this issue be explored by the consulting team.

Julie Regan, Transportation Planning Director for the Tahoe Regional Planning Agency, described her agency’s role in transportation. Ms. Regan described the unique structure of the TRPA legally (bi-state compact) and also from a resource planning/management perspective.

Much of the TRPA’s attention has been helping address climate goals and equity issues in transportation.

Chair Virginia Valentine asked how TRPA is impacted by climate policy. Ms. Regan responded that the region has its own climate initiative in the basin but that the TRPA itself is a creature of the two states (California and Nevada), so the climate policies of both states come into play.

6. Overview of Federal Funding for Transportation.

Felicia Denney, Assistant Director of Administration for NDOT, described how Nevada receives transportation funding from the federal government, how the funds are spent, and historical levels of funding.

Brad Crowell, Director of the Nevada Office of Conservation & Natural Resources asked whether the state approves or refines the expenditure of federal transportation dollars.

Ms. Denney responded that the legislature, the state transportation board, and the planning documents (TIPs and STIPs) all must be in alignment for the expenditure of federal funds.

A follow-up question was asked about how NDOT compares to other states – is Nevada more or less restrictive than other states?

Sondra Rosenberg, Director of Planning and NDOT, responded that each state varies. Not all state DOTs have transportation boards with this authority. Some state DOTs must have projects approved at legislative level. But overall, NDOT has more flexibility than most states.

A question was asked about how difficult it would be for NDOT to change the formula used to allocate funds to states so that NDOT might receive more federal funding.

Kristina Swallow noted the difficulty with trying to change federal formula funding equations. She mentioned prior analysis conducted, where under all scenarios, the state of Texas came away with more money. She also noted that there is no guarantee that if the federal funding formula is changed, that Nevada would be better off; in fact, Nevada already has a favorable matching ratio of 95% federal funds, 5% state matching funds under the formula that exists today.

7. Transportation Funding Challenges for the State-managed System.

Kristina Swallow, Director of the Nevada DOT, presented the needs and funding challenges facing the state highway system and other state-interest transportation components.

Craig Madole, representing AGC of Northern Nevada, asked whether the GST revenue was diverted to the general fund, or whether some portion of it was accessible to the state highway fund. Ms. Swallow responded that the slides show what NDOT actually received. Felicia Denney of NDOT added that the allocation has changed periodically, depending on the economic situation of the state general fund, but that in the 2022-23 period the state highway fund is expected to receive about 75% of the GST revenue.

A question was asked about how much GST funding went to the general fund since the pandemic. Ms. Swallow replied that \$64M went to the general fund, and this was a legislative decision.

MJ Maynard said she appreciated NDOT's recognition that equity must be part of any funding criteria for future revenue sources. Ms. Swallow added that the current fuel tax system presents equity challenges and is very regressive, which is a big reason why we are undertaking this project.

Kathleen Taylor asked whether federal funding is also constitutionally restricted, or whether it could be made more flexible. Ms. Swallow answered that only the state fuel tax revenues are constitutionally protected, not the federal funds. A discussion ensued around how non-highway needs might be met from current revenue sources. A question was raised whether the state legislature could cut NDOT funding for roadways and divert it to the general fund. Felicia Denney replied that NDOT currently receives no general fund revenue to support transportation, so outside of the GST revenue, there is nothing remaining for the general fund to "take back."

A question was asked whether electricity, when used to recharge an electric vehicle, would fall under the definition of a "motor fuel" for purposes of the constitutional limitation on revenue expenditures. Jeff Doyle, with the consulting team, replied that legal flexibility of the potential revenue mechanisms will be analyzed and presented to the AWG at a later meeting, including treatment of electricity taxation for transportation purposes.

Brad Crowell noted that there have been large increases in the number of vehicle registrations, driver license issuances, and overall state vehicle miles traveled (VMT). He asked whether the VMT data included commercial trucking and visitor miles traveled. Ms. Swallow responded that the VMT data includes all of these segments.

The discussion returned to the state constitutional restrictions on the expenditure of motor fuel taxes and certain transportation-related fees. Kathleen Taylor asked whether it would just be easier to change the constitutional provision than to search for new, flexible funding mechanisms. Ms. Swallow explained the difficulty (procedurally) in changing the state constitution, and that furthermore, making such change could potentially upset stakeholders who have supported increases in the fuel tax/indexing, and also have a ripple effect on other programs, such as the favorable bond ratings the state currently receives due in large part to the gas tax revenue protections. Finally, it was noted that changing the constitutional language does not bring additional funding to the transportation sector – what is needed is additional funding, including flexible funding to support transit.

Bill Thomas suggested that at a future meeting, it would be helpful to have a handout with some basic information on the differences between taxes, fees and charges: the different rules, processes, summary of case law related to use of the revenue, etc. Jeff Doyle agreed

and said the project team will prepare this kind of “cheat sheet” for the AWG’s use during future deliberations.

Marie Steele, Director of Transportation Electrification for NV Energy, referenced a legislative proposal in the most recent session that would have changed the constitutional language to allow broader expenditures.

8. Adopted Statewide Policies: Energy Policy and Carbon Emissions Reduction from the Transportation Sector.

Jeff Doyle, with the consulting team, briefly summarized the distinctions between carbon emissions laws, executive orders, rules, policies, and goals.

Next, Brad Crowell, Director of the Nevada Department of Conservation and Natural Resources, gave a presentation on the state’s climate and carbon emissions reduction goals.

Crag Madole asked why the carbon reduction strategies are aimed only at surface transportation – why is there no attention on air travel? Mr. Crowell replied that air emissions are more complicated and harder for state-led carbon reduction efforts. The state is focusing on things that are within their sole jurisdiction, like electrifying the ground equipment at airports.

Paul Enos asked Mr. Crowell to comment on various metrics that could be used to measure progress. Mr. Crowell replied that some metrics are easier to define than others. The focus is on policies we can implement, to help get the state to the targeted emissions on the timeline needed. Ensuring equitable approaches is difficult but necessary. The federal government is developing frameworks for environmental justice and equity that Nevada can consider for adoption. Sprawl can’t be prevented but it can become “smart sprawl,” developed in a manner that suits Nevada.

Bill Thomas asked about the VW settlement funds. Mr. Crowell responded that Nevada was allocated \$25 million that has been dispensed since 2018 through competitive grant cycles. A new cycle is approaching in October, with \$10.2 million remaining to allocate.

Jayce Farmer, professor of public policy at UNLV, asked whether any of the VW settlement money was allocated to counties and cities (local government). Mr. Crowell said that since these are competitive grants, local governments can also be applicants.

Kathleen Taylor asked whether there are best practices Nevada can adopt from other jurisdictions working to address the climate challenges. Mr. Crowell responded that being a member of the U.S. Climate Alliance allows Nevada to share and learn best practices from 25 other states – many of which have similar geography and population make-ups. However, we need to be wary of pushing a national policy that doesn’t work in Nevada. Solutions must be Nevada-specific to match our unique needs.

Greg Lovato, Administrator for Nevada's Division of Environmental Protection, presented several slides. After presenting information related to electrification of the vehicle fleet, Bill Thomas asked about tradeoffs between encouraging adoption of more hybrid vehicles instead of just zero-emission vehicles. Mr. Lovato described how the CAFE standards work, and that there's a role for low-emission vehicles sales as well as zero-emission.

Marie Steele asked whether the recent federal announcement and executive order setting an electric vehicle sales goal would have any impact on Nevada. Mr. Lovato said that this goal does not have any regulatory effect on Nevada right now, but that it could in the future depending on further federal action.

Bill Thomas asked if there has been any discussion about how pricing mechanisms might be used to shift consumer preferences to electric vehicles, considering the hundreds of millions of tons of carbon emissions that must be reduced.

Mr. Crowell replied that this has not been explicitly discussed, but obviously pricing is a potential tool. David Bobzien, Director of the Governor's Office of Energy, added that adjustments to fuel tax as a mechanism in changing travel behavior has not been discussed. On the other side of the coin, a large federal infrastructure package that provides \$7.5 billion for investment in EV infrastructure may be headed to states. These conversations and policies all need to be in alignment.

David Bobzien then presented the electric vehicle charging infrastructure activities his office has been leading.

The question was asked what the future pricing policy will be for EV charging, if the electricity is free for the first few years. Mr. Bobzien said that they are eager to hear from the public utilities commission on the topic of business models that allow reselling electricity for EV charging. Generally, they have parameters for state-support EV charging stations that include open access, and letting the host site decide the future policies related to collecting fees for recharging. In a second (future) phase, the market can be expected to experiment with various business models and pricing policies. Mr. Lovato added that based on their research, EVs will still be significantly less expensive to operate than gas vehicles, even if EVs must pay for any public charging.

Kathleen Taylor asked if there are plans for how to deal with recycling or disposing of depleted EV batteries so that a junk pile of abandoned EVs does materialize. Mr. Lovato replied that it's unlikely that EVs would be abandoned due to battery depletion. Sustainable materials management is important. Mr. Bobzien added that as an auto manufacturing state, there are many entrepreneurial opportunities around recycling precious materials from EV batteries.

9. Review and Possible Action: Description of the Transportation Revenue Challenge.

Jeff Doyle, with the consulting team, presented a draft transportation revenue challenge statement, which will operate as the AWG's charter. He explained how the draft statement was derived directly from AB 413, the legislation that directed formation of the AWG and study of sustainable transportation funding mechanisms.

After presenting the draft statement to the group, discussion ensued regarding the precise wording. A question was asked whether "sustainable funding" related to the gas tax only. Chair Virginia Valentine noted that extending this concept beyond the state highway fund goes further than the legislative language. Assemblywoman Michele Monroe-Moreno, who was prime sponsor of AB 413 creating this AWG, stated that even if the language around sustainable revenue source was specific to the state highway fund, it is important to consider the funding needs of all modes.

Craig Madole stated that the primary purpose of the group is to examine the sustainability of the highway fund. Doug Busselman of the Nevada Farm Bureau Federation proposed to reverse the order of phrases in the draft statement so that this primary purpose appears first rather than later in the paragraph.

Julie Butler, Director of the Nevada Department of Motor Vehicles, pointed out that the end product – a final report with recommendations to the legislature – was not included in the challenge statement. All agreed to add that clarification.

MJ Maynard noted that most transit agencies receive funding from multiple revenue streams, but that does not mean all of the revenues are flexible in their use. Consideration of the need to help transit agencies with converting to electric fleets would be very helpful.

A question was asked whether the state highway fund itself was restricted, or whether the restrictions related to the specific revenue sources that are deposited into the fund. Sondra Rosenberg clarified that the constitutional restriction is on the revenue source, not the specific account the revenue is deposited into even if that account – the state highway fund – is used strictly for highway-related purposes. For example, other non-restricted revenues could be legally deposited into the state highway fund. The Attorney General's Office agrees with this interpretation.

Craig Madole moved to adopt the revised transportation revenue challenge statement.

"An examination of the financial sustainability of the State Highway Fund must be undertaken and the recommendations must be included in the final report due to the Legislature by December 31, 2022. This must include an assessment of at least two alternative transportation funding approaches that have been identified.

Consistent with AB 413, new approaches to multimodal transportation funding for all users must take into account the need to improve social equity, user equity, and reduce GHG emissions. Finally, the role that land use and smart growth strategies can play must be considered.”

Motion: move to adopt the transportation revenue challenge statement, as revised by the AWG.

By: AWG Member Craig Madole

Vote: Passed Unanimously.

10. Public Comment.

There were no public comments.

11. Adjournment.

Chair Virginia Valentine adjourned the meeting.