

Nevada Sustainable Transportation Funding Alternatives Study

Advisory Working Group Meeting #7

Meeting Minutes

April 12, 2022

9 AM – 4:00 PM

Meeting Location:

Association of General Contractors (AGC – North)
5400 Mill St.
Reno, Nevada 89502

1. Welcome, Call to Order.

Chair Valentine welcomed all AWG members and their alternates attending. Chair Valentine declared a quorum and called the meeting to order.

2. Public Comment

There were no public comments regarding the items on the agenda.

3. Approval of the Minutes from March 8, 2022.

The minutes from the previous AWG meeting were approved unanimously.

4. Preview of Today's Meeting and June's meeting.

Justine Sydello of the CDM Smith consulting team provided an overview of the work done by the consulting team since the last meeting and a preview of future meeting topics. Travis Dunn of the CDM Smith consulting team reviewed the approach to framing the AWG's findings, conclusions, and recommendations.

5. Discussion of two questions from the CDM Smith consulting team's research

Ms. Sydello reviewed six questions from the March meeting that the consulting team has been researching, four of which will involve additional material presented at future meetings. Regarding the question regarding how many states without constitutional restrictions on fuel tax revenues apply them to transit, Paul Enos stated that it is also important to consider the other priorities to which flexible revenue might be directed. Virginia Valentine added that, for comparison to other states, the AWG should consider whether those states have sales tax, state income tax to determine whether they have taxes or fees in addition to those in Nevada. M.J. Maynard responded that usually, if a state provides funding for urban transit, it is also providing the service.

In response to a summary of examples of transportation public-private partnerships involving technology firms, asked whether there is a way to consider this framework as it relates to providing recommendations for other revenue streams that align with technology. Mr. Dunn responded by

asking the group has thoughts about how to leverage technology, specifically any fees that would benefit from technology partnerships. Ms. Sydello added that development agreements could come into play when the discussion turns to land use agreements. Paul Enos wondered who owns the data collected from vehicle owners. Mr. Dunn responded that the issue is not fully resolved, but policymakers can stipulate specific data privacy protections.

6. Discussion of the shortlist of six revenue mechanisms selected by the AWG at the March meeting

Mr. Dunn presented each the six revenue mechanisms selected for further analysis, with discussion of each one by the members.

Increasing the rate of flat per-gallon excise tax

Ms. Taylor made a statement of concern to request that the AWG consider the consumer's point of view given the high price of gasoline. Mr. Crowell pointed out that the biggest driver of gas prices is not taxes. He wondered if other states have transparent models that allow consumers to see the portion of purchases that is fuel versus tax. Ms. Ely-Mendes stated the need to explain to the public where the tax dollars are going. Since tribal budgets are very limited and do not include transportation service, many tribal roads are unmaintained. She added that true sovereignty comes from financial stability and that partnerships might help with that stability.

Indexing of the fuel tax rate

Mr. Wellman stated that fuel indexing was at the top of the AWG's list for both the near- and long-term because it is more widely understood and tangible than other options. He continued that Clark County indexing is based on a 10-year rolling average historical inflation. He maintained that the AWG should advocate a flat tax increase followed closely by indexing of the tax.

Value-based rate of the GST

Mr. Enos stated that the GST contribution to road funding is very flexible and have been frequently allocated to the general fund. Ms. Valentine explained that, in 2001, the country was emerging from the Great Recession, and many flexible revenue sources like were put toward general funding to satisfy general obligations.

Fee on delivered retail goods

Mr. Enos clarified that the parcel delivery fee would only be applied on the final delivery to consumers. Mr. Madole stated that it wouldn't matter who shipped the product; the tax would be on the consumer and collected by the retailer. Mr. Dunn explained that the simplest way to implement the fee would be at the retail level, but an open question is whether retailers are required to transparently pass the cost on to consumers.

Mr. Busselman asked whether the fee would apply if he picked up the goods, and the answer is no. Ms. Valentine asked how this would be different than the sales tax. Ms. Swallow explained that

Colorado has adopted a package delivery fee but is still working out the details. Mr. Farmer and Ms. Taylor clarified that the fee would be imposed on retailer, regardless of who makes the delivery. The fee would apply per delivery, not per item. Ms. Valentine wondered if some items would be exempt. Things like medicines should be exempt, but they are delivered by commercial enterprises using the roadways. Mr. Enos wants to be very clear on what is being taxed: if the good is being taxed, then sales & use tax exemptions might come into play; if the delivery service is being taxed, then avoidance becomes possible by using USPS.

Dan from RTC Washoe suggested that future technology should be considered, such as drone delivery. Mr. Davis stated that the AWG is trying to determine what accounts for a significant portion of traffic. Package delivery fees may not do that, as there is not much impact. Mr. Enos responded that ATRI conducted research that showed a 17% increase in urban miles for last mile delivery due to ecommerce. Ms. Butler recalled one criticism of Amazon was that they used USPS for last mile to save money but passed that cost on the government.

Ms. Swallow stated that when this group met in March, the needs were segregated into near-, mid-, long-term, as well as substantial and ancillary amounts. This package delivery fee may not be a major driver of revenue, but it might help to meet policy objectives and offer minor revenue help. Mr. Dunn asked the group whether this item needs additional research, specifically whether a tax on the retailer on delivery of goods conflicts with the sales and use statutes. The group affirmed this need.

Mr. Gomez reminded the group that it agreed in the past meetings to not call these taxes since legislation for new taxes is difficult. He then wondered about the size of the gap in transportation funding. Ms. Swallow responded that the backlog gap of over \$500M per year for state highway network does not include any additional needs for urban transit. Mr. Desai asked whether the last mile money is directed to cities and counties in Colorado. Mr. Dunn responded that 71.1% will flow to the Highway User tax fund and 28.9% will flow to the state multimodal transportation fund. In response to questions about the implementation of Colorado's fee, Mr. Dunn replied that although the Colorado fee has been enacted, it is not yet implemented. The amount of the fee is 27 cents, not indexed, which is probably not enough to affect behavior.

After discussion, the group agreed that further discussions are needed about the impact of this fee and where the funds would be used. It was noted that the \$500M backlog does not include local needs. Mr. Busselman asked whether the capacity currently exists to get \$500M in work completed. Ms. Swallow explained that operations would need to be ramped up. Additionally, the backlog includes the fact that necessary projects are getting increasingly expensive. Ms. Taylor wondered whether the projects in backlog were due to a workforce development issue, a lack of contractors or funding. Ms. Swallow responded that it is the funding.

Basic vehicle registration fee

Mr. Busselman observed that the only two near-term options that will capture fees from electric vehicles are those that apply directly to the vehicle-this fee and the GST.

Road usage charge

Ms. Butler stated that when the odometer collections started, many DMV customers expressed concern, but the concerns have dissipated now that the program is underway; some people still refuse to provide odometer readings. DMV staff estimate that about 18% of the overall vehicle fleet has not been reporting odometer readings. In addition, since odometer recording at emissions testing sites is made by manual entry, errors are made. Ms. Smith-Lamb added that the accuracy of self-reported odometer mileage is based on the honor system. The state is not certain of the accuracy of the data.

Ms. Maynard stated that the AWG might want to examine social equity for this option. Without public transit, users must use the roads and drive their cars. Mr. Dunn added that electric vehicles are also exempt. Ms. Sydello reminded the group that this option would not start for 7 years. The group was discussing manual options, but there are many technological solutions. Ms. Valentine commented that this seems like a mid- to long-term solution and suggested an approach whereby consumers are charged a minimum amount but can pay less if they show proof. Mr. Dunn responded that Oregon's program is the opposite: those who do not report miles pay a higher fee. If you don't set the standard payment at a higher level, there is no incentive for those with higher miles to report

Mr. Davis asked whether the RUC is designed to replace the gas tax. Mr. Dunn explained that is a policy choice. In states with RUC programs, the long-term plan is to replace the gas tax, although they have transition plans that do this gradually in a variety of ways. Mr. Enos noted that the average age of cars is going up due to higher prices.

Mr. Busselman asked about Vehcon. Mr. Dunn responded that Vehcon is a technology company that offers odometer photo upload with verification as a low-cost method of collecting odometer mileage data.

Mr. Crowell commented that California has announced emissions free vehicles by 2035 and has started rulemaking for this policy. He assumed they are having meetings about revenue replacement. Washington is close behind. Mr. Dunn responded that Washington has a target of 2030 and that both states are studying RUC, and both states have flat fees on EVs as a bridge.

Ms. Swallow stated that a plug-in device with GSP would reveal off-road and out-of-state travel, although there is currently no distinction with gas tax for light duty vehicles. She added that another benefit to GPS enabled devices would be the potential for congestion pricing, which could be implemented in the long term. The photo odometer technology could address some of the equity issues since people could pay the fee on a quarterly basis and the payments would be spread out. This option might be more costly if the photos are uploaded more frequently. Mr. Wellman responded that cars today do not know which state it is in. Nevada does not currently get fuel tax from light duty vehicles who fuel out of state and drive our roads. In a perfect world, maybe out of

state miles should be tracked, but all states would need to do so. In 2015 when FRI approved, the current governor mandated that we create a bill to offset electric vehicles.

We proposed a bill that for EVs offered a fixed fee and VMT. The rate charged was the average rate. Now, it sounds like we are going to kick the can down the road seven more years. In 2015, TESLA got that bill thwarted because we needed to have a plan. TESLA's suggestion was to wait until 2023. With the current discussion we wouldn't have RUC for eight more years. This group has an opportunity to make recommendations to help push something through. FRI is the Band Aid. Let's not delay it for seven more years. As a state, we have already done that.

Mr. Guthreau commented that he believed the group had already eliminated the concept of congestion pricing. Ms. Swallow stated that, while tolling is not an option, the technology with GPS could allow congestion pricing. However, there would still be challenges with state laws.

Mr. Enos commented that he always thinks about how a taxpayer would feel. If he must pay more for less, such as sitting in traffic longer, not being able to get to where he wants to go, while paying more, you've lost him. He questioned whether the AWG has concerns with acceptability to general taxpayer. Ms. Swallow responded that Nevada would not implement congestion pricing now, due to state statutes issues, however using technology for congestion pricing would clear the roads, which would improve equity. Ms. Valentine agreed with Mr. Wellman, stating that she didn't know how long the state could kick it down the road. She then stated that this is a topic to be addressed when the revenue mechanisms are prioritized.

Mr. Dunn explained the basic functions of RUC, in simple terms. Collecting miles driven is the only new item for RUC. As for the collection of the fees, there are costs associated with that in terms of credit/debit fees, which many states pass on. Ms. Butler stated that the Legislature has directed the DMV to start passing these fees on to consumers. Mr. Dunn added that there are less expensive ways to collect fees. Bank transfers, for example, bear no cost. If the DMV has a role in collecting fees and is not passing it on to consumers, there must be a recognition that there will be a cost of collection.

Ms. Butler was asked to explain what the legislature has mandated in terms of collecting those fees. Ms. Butler explained that credit card merchant fees have been the cost of doing business. Last year, those fees amounted to \$10M. Last legislative session, the DMV was directed to eventually pass those costs on to consumers. The DMV informed the Legislature that it would take an inordinate amount of effort to make the change on the old, fragile IT system. The capability will be in the new system and the fee will be service fee.

7. Discussion of two sample groupings of mechanisms

After a brief break, Mr. Dunn reviewed two sample grouping of mechanisms with illustrative rates to show how mechanisms can be combined and answered technical questions. Ms. K. Taylor asked whether it is possible to add a Sample C that addresses private sector engagement.

Ms. Swallow responded that the charge from AB 413 was to look for sustainable funding sources to address the gap in funding from erosion of the largest source of funding.

Mr. Davis asked why the gas tax would not just be turned off in a transition to road usage charging. Mr. Dunn responded that the gas tax can ensure those who evade vehicle registration still pay as well as out of state drivers. Mr. Davis maintained that it seems complicated to maintain two mechanisms. Ms. Swallow responded that it would likely only be for a transitional period.

8. Lunch exercise

Ms. Sydello introduced the lunch exercise, inviting AWG members to consider mechanisms they would like to see advanced, opportunities for improvement, and additional questions or considerations.

9. Identification of preferred revenue mechanism options and related issues

Ms. Sydello opened the facilitated session seeking inputs on preferred revenue options, enhancements, and issues that must be addressed.

Kyle Davis asked if the group is taking the political feasibility of these options into consideration. Ms. Valentine responded that the lawmakers could provide their input on feasibility. Ms. Swallow stated that the AWG must consider the fact that any recommendations will need to pass out of the Legislature with a 2/3 affirmative vote.

Mr. Desai commented that the AWG has not identified a specific near-term option for EVs to contribute for road usage. Ms. Swallow responded that the increase in the basic vehicle registration fee provides an opportunity to address EVs payments. Ms. Taylor added that the packages recommended by the AWG to the Legislators will be conversational pieces, but we don't want to kick the can down the road or there will not be a road to kick it down. Mr. Enos reminded the group they had removed a tax on electricity at public charging stations.

Ms. Butler added that the cost of implementing recommendations could be a factor in the final recommendations. Mr. Enos acknowledged that transparency is important but doesn't seem worth the hassle. Ms. Taylor responded that she believes transparency is important because people want to know what they are being charged for and where it is going. M.J. Maynard question the political viability of a tax increase and indexing at the same time. Mr. Davis stated that he believes transparency is important, in general, but not for gas tax because everyone knows about it.

Mr. Madole added that whatever the group recommends must be capable of servicing outstanding bonds through 2039. Mr. Enos stated that the same is true of counties. Ms. Swallow stated if we had indexed the state gas tax since 1993 it would have doubled.

10. FRI discussion

Mr. Wellman stated that the AWG should show the benefits of the recommendations to ensure that they are palatable to the Legislature. He also feels that FRI should be completed before these supplemental fees are added. Mr. Desai agreed that FRI should be finished first, then talk about consistency across the state. The statewide consistency may not be a near-term goal. Mr. Wellman asserted that the key is protecting what we've got by focusing on FRI in the near-term. Ms. Swallow stated that the AWG needs a deep dive analysis of FRI, including what is paid by counties and by state through the proportional index sharing. Mr. Busselman explained that the 10-year rolling average was used to cover years when the rate is negative, and that FRI protects what we have today.

11. Discussion of other items

Kathleen Taylor asked whether the AWG could propose a Package C that addresses \$500M backlog. Ms. Swallow stated that the recommendations should address the structural backlog, rates, a phase-in plan, and hopefully the long-term need for inflation adjustment. Mr. Busselman wondered if a logic exists for shutting off gas tax when price hits a certain level to protect the consumers. Mr. Wellman and Mr. Busselman continued to discuss the impact of and caps on indexing.

12. Delivered Goods Fee

Mr. Desai wondered how the fee would be divided between local and state needs. He also wondered if this option is truly near-term, as it seems more like a mid- to long-term option.

Mr. Enos asked how the revenue was estimated. Mr. Dunn responded that it was based on a comparative analysis of Colorado's law. Ms. Silver stated that she believes the Chambers of Commerce would oppose this fee due to the impact on small businesses that increasingly rely on deliveries. Mr. Enos believes that the Nevada Trucking Association would, as well.

13. GST adjustments

Mr. Enos noted that the GST is frequently used for purposes other than transportation. Mr. Madole added some detail to the GST history, regarding the vehicle depreciation methods. Mr. Desai expressed the opinion that this is one way for EVs to pay their fair share in the near term. He continued that perhaps the increased GST can be dedicated to transit services.

Ms. Swallow clarified that the proposed mechanism would increase the rates and attempt to protect the funding for transportation. Mr. Busselman asked whether there be value in having every EV automatically go to the transportation fund to pay their share of infrastructure funding. Given the lack of constitutional protections, it was noted this is easier to achieve through flat fees or distance-based fees.

14. Vehicle Registration Fees

Mr. Wellman recounted the history of bills that would have established flat fees on EVs in the recent past. He suggested that everyone pay \$100 more and EVs pay \$300 more on top of that. Ms. Valentine answered that she doesn't see why it's not logical to have electrical vehicle pay when they aren't paying in fuel tax. Mr. Wellman suggested that EV owners think they are singled out differently than regular registration.

Ms. Swallow explained that with the road usage charge, vehicle owners account for how much they're using the system, whereas with a flat fee, they don't. Mr. Wellman responded that with the existing system, no one pays the same amount due to diverse MPGs. He urged the AWG to recommend a mechanism that accounts for how and where the vehicle is driven.

Ms. Maynard expressed curiosity about the data behind the statement that EV drivers drive less. Ms. Sydello explained that data in other states showed this in the early years but that it is changing as range improves.

Ms. Silver argue that a registration fee seems to be the only way to introduce equity to the general population. She believes by staying at a high level for recommendations, the AWG can determine what to recommend encouraging EV use while having them pay their fair share. Ms. Valentine expressed it is important to separate road usage and the costs that come with that, and the need for everyone to pay for their share, from environmental factors of different vehicle types.

15. Guiding Principles and direction

Ms. Silver suggested that the group needs to understand that any solution will not be perfectly equitable. Kathleen Taylor expressed hope it would not be an "or", but rather an "and" situation. Mr. Davis pointed out that even without electrification, the overall fuel economy is going up, creating a road funding problem.

Mr. Busselman asked if RUC be applied only to electric vehicles? Mr. Desai stated that this is a near-term mechanism, but eventually replaced by the distance-based charge. Ms. Steele asked why couldn't you just go to the RUC first because when you first buy a car you must report the mileage? She shared her concern that registration was expensive either way and further wondered why moving to RUC now is not possible? Ms. Butler stated that she likes the option of a flat fee or the RUC because with self-reporting, they would have the option of paying a flat fee or using an app on your phone/plug in device in your car. She added that the public already knows 'Big Brother' access to so much information.

Ms. Steele speculated that the nature of EV purchases has changed. Initially, EVs were a second car. Now they are the primary car. The lack of a registration fee was an incentive to buy because the price point was different in the early adopter phase. Now, there will be many more the light duty EVs on the road but Medium- or heavy-duty vehicles will evolve less quickly.

Mr. Enos wondered how many miles per kWh kilowatt hours an EV gets, but recognized it varies. It takes 2-3.5 kilowatt hours per mile to move an 80,000-w rig go. Maureen noted that her office models the average lightweight EVs at 3.3 miles per kwh. She also noted that battery efficiency is improving, and efficiency is getting better. If the fee is based on the efficiency of the battery, older cars are penalized. Mr. Dunn added that the mile/kwh range for passenger vehicles ranges from one to four. Mr. Enos stated a preference for the elegance of a utility-type tax to keep the tax at the distributor level and wait for smart meter technology to catch up. The solution is to charge by kwh.

Ms. Swallow one option: implementing Julie's charge of a \$331 registration fee (or \$450 depending on percentile). Then, like Utah, transition all vehicles in. This would address the problem today and the long-term transition for all vehicles. Should older or newer vehicles pay differently to use the same amount of space? Mr. Enos pointed out that the issue is not just about space, but also about how much fuel a car consumes. He stated that the fuel tax system is the best of all tax systems. He values it because it is easy to audit; it is invisible because users do not think about it. He would love to see a system modeled after that for electric vehicles.

Craig Madole stated that there is uncertainty as to whether hydrogen fuel cells will ever be a viable solution. If the AWG only solves the issue for electricity, we may have to address different problems such as hydrogen in the future. Mr. Enos stated that there is a diesel gallon equivalent for hydrogen as well, so it could be collected as the gas tax is. Moreover, it would be based on a diesel gallon equivalent to keep the elegance and the beauty of the current system.

Mr. Crowell stated that he is not confident the current system is sufficiently broken yet to transition to a new RUC funding system. The current system can be adapted to whatever technology is available because the existing incentives in the system work and those who use more fuel and pollute more pay more, creating the incentives for people to purchase more efficient and zero emissions vehicles.

Mr. Busselman asked whether there would be an EV carve out for registration fees or RUC. Ms. Sydello stated that the idea was for RUC to only apply to EVs initially. Ms. Butler stated that the proposal be a plan to collect from EV's initially, then the long-term would involve a transition. Alternatively, RUC could be collected from EV's, while continuing to collect fuel taxes. Mr. Martinovich stated her concern about the effect of phasing out fuel taxes on all of the other fuel-related charges. The recommendation could be to change the one cent motor vehicle motor fuel tax to 1 cent electric. The AWG needs to keep that trickle-down effect in mind.

Ms. Maynard stated that a plan needs to incorporate the possible use of hydrogen fuel cells or battery EVs.

Mr. Enos stated that the AWG should make recommendations to policy makers that will not result in constituents getting less from a tax increase. 97 cents of every dollar collected through fuel tax goes back to the roads or pays for the DMV or the highway patrol. It is an extremely efficient tax to collect. Mr. Enos stated that the AWG should not recommend a tax package to get rid of an elegant

and efficient system, only to be replaced by a less efficient system. Mr. Enos thinks an appropriate collection rate is three cents per dollar.

Ms. Sydello suggested that the consulting team will be in touch soon in terms of our next steps to allow the AWG all the time needed to review the draft recommendations.

Ms. Silver stated that the public does not know that NDOT is \$500 million in the hole and that the AWG must explain the gap and the need to increase revenue. 500 million is a lot of money to be in the hole and the average person needs to understand that if they want better roads, more efficient transportation, and mass transit, they will have to pay for it. These changes must be sold to people as an alternative to an income tax because that is the one thing all want to avoid.

16. Transparency about the backlog

Kathleen Taylor questioned how transparent the state should be: What kind of response would that entail from the public if they knew about the \$500 million backlog? Would that explaining to the public really help our efforts? Ms. Swallow said the DOT has had those discussions. The alternative is the inability to deliver the system that everybody wants. The status quo can be maintained, but no growth can be supported without additional revenues. Transparency will help us have an open conversation and the AWG should help with that message. No taxpayer will argue that they pay too little in taxes; however, most people are rational about things that are needed.

Mr. Martinovich responded that the message should start with transparency and the bluntness about funding issues sometimes gets us there. We need to express the urgency and honesty about some roads never being fixed without funding is difficult, but useful.

17. Land Use Discussion

Andrew McLean gave a presentation on land use policy development efforts from other states and concluded with a list of best practices for consideration in Nevada.

Ms. Maynard observed that this topic would be more appropriate for study with local partners, not exclusively at the state level. Ms. Swallow stated that AWG's charge requires the group to look at the role land use plays and make recommendations around that, but that the AWG's recommendation may be to convene a different group since we do not live and breathe in this space.

Mr. Busselman asked if the AWG could recommend the idea of requiring a local land use impact assessment on state transportation assets because while planning is a local issue, there can be financial consequences on state assets. Ms. Valentine stated that, in Clark County, public facilities fees assessments for large developments are conducted but recommended the AWG stay at a high level on planned use. Mr. Enos stated that AWG could discuss a mechanism to ensure that, if a state asset is impacted, there is a revenue share or a buy-in from the benefiting local entity.

Ms. Swallow shared that land use is a complicated issue and that the AWG might want to recommend a commission with different composition be assembled to review land use. The consulting team has enough data out there to say land use has an impact on transportation and enough information to detail how land use decisions and transportation go hand in hand for the report.

Andrew outlined the areas of study that might be included in that purpose, including a list of potential organizations that could provide members for a potential land use commission.

Ann shared that many of land use impact provisions are already being conducted and not working. Development is inextricably connected to transportation, and we shouldn't be reinventing the wheel. To better understand unintended consequences of this growth, one recommendation may be to pause all growth.

Mr. Enos commented that he believed the group talked about doing some deep dives into the fuel tax index and how that works. He asked how much revenue from Washoe County RTC is going to help the state network to mitigate some of those impacts?

Ms. Maynard stated that it would be helpful to evaluate the other tax initiatives on the ballot and requested a timeline of ballot proposals.

Ms. Swallow stated that one other thing to consider is that everybody across the nation is struggling with the same issues and there are examples from other states to look to. If a land use commission is recommended, we can define the areas of focus, including studying examples from other states.

18. Public comment period

Scott Fullerton of Northern Nevada made public comment. Comments from Sarah Marks of Henderson were read into the record.

19. Adjournment

Ms. Valentine thanked the public for the comments and adjourned the meeting.