

MILEAGE BASED TRANSPORTATION FUNDING TASK FORCE

Minutes of the 1st Meeting of the 2019 Interim

August 19, 2019

Call to Order and Roll Call

The 1st meeting of the Mileage Based Transportation Funding Task Force was held on Monday, August 19, 2019, at 1:30 PM, in Room 149 of the Capitol Annex. Representative Ken Upchurch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Gerald A. Neal and Albert Robinson; Representatives Terri Branham Clark and Sal Santoro; Jason Siwula, and Bryan Sunderland.

Guests:

LRC Staff: John Snyder, Brandon White, Dana Fugazzi, and Christina Williams

Presentation on road user charges

John Snyder, Committee Staff Administrator, Transportation Committee, Legislative Research Commission presented an overview of road use charges. Road use charges (RUCs) are a transportation funding mechanism that attempts to tie transportation taxes more closely to the actual use of a vehicle. Most state transportation funding comes from motor fuel taxes. 22 states, including Kentucky, have a variable tax on motor fuel. Kentucky's current gasoline tax rate of 26 cents per gallon is at the statutory minimum and has not changed since 2015. Twenty-one states impose a registration fee on electric or hybrid vehicles to replace the lost motor fuel tax revenue on these vehicles. Such a fee has been proposed in Kentucky, but not adopted. Theoretically a RUC system would eliminate the need for a fuel tax. However, in practice, only one state (Oregon) has a permanent RUC program, which is limited in enrollment. The most recent federal highway funding bill created the Surface Transportation System Funding Alternatives (STSFA), which gives grants to states to explore alternative funding mechanisms to the traditional funding method of fuel taxes. A RUC system brings numerous questions as to the manner in which the system will be designed and implemented, and these questions will eventually form the basis for the Task Force's work plan. The Task Force has the opportunity to hear from several entities who have been impressed in the issue for some time to draw upon those experiences.

Mr. Snyder explained a Road-use charge (RUC), sometimes referred to as a mileage-based user fee (MBUF) or vehicle miles traveled (VMT) fee, is a transportation funding mechanism that attempts to align transportation taxes to the actual use of the roadways by a driver, as compared to motor fuel taxes.

Mr. Snyder stated all states currently use motor fuels taxes as the major funding source for transportation funding. Similarly, the Federal Highway Trust Fund is funded primarily through the 18.4 cents per gallon federal gas tax. In terms of more innovative financial options involving general highway use, states have generally instituted one of two approaches to increasing revenues: variable rate fuel taxes or electric and hybrid vehicle user fees.

Variable Rate Fuel Taxes

Mr. Snyder stated that according to the Institute on Taxation and Economic Policy, 2019, Kentucky is one of 22 states that levy a variable tax on motor fuels. Other states, as well the federal government, employ a fixed per gallon tax. Kentucky's current tax on gasoline of 26 cents per gallon consists of three parts:

- 1.) A 5 cent per gallon (cpg) supplemental highway user fee;
- 2.) A variable portion based on 9% of the average wholesale price (AWP) of gasoline for the previous year. By statute (KRS 138.210), the minimum AWP for gasoline is \$2.177 per gallon, 9% of that price amounts to 19.6 cpg; and
- 3.) A separate 1.4 cpg user fee is charged on each gallon of fuel sold in the state with the proceeds earmarked for the Petroleum Storage Tank Environmental Assistance Fund (KRS 224.60-140).

Mr. Snyder provided a chart that showed the historical trend in Kentucky's motor fuel tax from 2004, when the first statutory adjustment based on an increase in the AWP of gasoline occurred, to the present where the state is back to a newly defined statutory minimum gas tax.

Electric and Hybrid Vehicle Fees

Mr. Snyder stated according to data from NCSL, 21 states imposed registration fees on some combination of electric or hybrid vehicles to replace tax revenue not captured on these vehicles from a traditional fuel tax. The fees range from \$50 to \$200 annually. Although Kentucky does not charge a fee for electric or hybrid vehicles, several bills have been introduced over the past several sessions that would establish such a fee, most currently in 2019 (HB 517), which would have established a base fee of \$175, to be adjusted in conjunction with any increases in the motor fuels tax.

Road User Charges – A Different Approach

Mr. Snyder explained that unlike adjustable fuel taxes, which attempt to allow a cents per gallon fuel tax to keep up with inflation, or an electric vehicle fee, which attempts to replace the fuel tax revenue which would ordinarily be garnered from a vehicle's use, RUCs go one step further. These fees have the potential to eliminate the need for a gas tax altogether by charging drivers on a per-mile-driven basis. Proponents see this as a way to increase transportation revenues even as the move to more fuel efficient vehicles portend a future where traditional motor fuel purchases decrease and vehicle miles traveled increases.

Mr. Snyder stated for all its potential promise, there has not been much in the way of actual implementation of a RUC program beyond pilot programs. The lone exception is Oregon, which has established the voluntary, permanent, OReGo program, which is the only program in the country to implement actual financial transactions. The OReGo program is currently limited to 5,000 participants, but only has less than 2,000 registered users. Information provided by the Oregon Department of Transportation cites three states that have completed pilot programs (CA, CO, and MN) and four states where pilots are being planned (MO, PA, UT, and WA).

In addition, there are two multi-state coalitions that have been developed to explore interoperability of a RUC system between states: the I-95 Corridor Coalition, which includes 16 states and the District of Columbia along the Eastern Seaboard, and RUC West, which covers 13 states west of the Mississippi River stretching from Texas to Washington.

Federal Initiatives

Mr. Snyder explained that the 2015 Federal FAST Act created the Surface Transportation System Funding Alternatives (STSFA) program, a new state-based pilot program that allows a state or group of states to receive federal funding to demonstrate alternative funding mechanisms that employ user fees to maintain the solvency of the highway trust fund. Money is to be used to test the design, acceptance and implementation of such an alternative as well as for outreach to increase public awareness on the need for alternative funding. The program is funded at \$15 million in 2016 and \$20 million thereafter through 2020. The most recent round of funding awarded was for FY 2018, for which the award winners were announced in February 2019. The FY 2019 and FY 2020 awards have not been announced at the time of this paper.

The program provides funding to states to help them develop alternatives to the gas tax that utilize a user fee structure to help fund the nation's systems of highways, roads, bridges and mass transit through the Federal Highway Trust Fund. To date, 22 grants have been awarded to either states or groups of states for projects that include implementing a mileage fee or road user fee, registration fees for alternative fuel vehicles, and security and privacy issues concerning the collection of data through a road user fee. Both Oregon

(OReGO) and California (California Road Charge Pilot Program) have received federal funds every cycle to further develop their road user charge programs which charge drivers based upon the number of miles driven. For those states that receive an award, the Federal Highway Administration (FHWA) anticipates substantial federal involvement with STSFA recipients during the course of these projects, which will include oversight, technical assistance, and guidance to the awardee.

Questions and Challenges

Mr. Snyder explained that like most innovations, the implementation of a road user charge system poses many questions and issues for policymakers and administrators, both in the design and implementation stages. The following questions are among the most commonly asked when discussing a RUC system, and the Task Force may wish to incorporate them as a part of its work plan:

- What will the rate be?
- Will there be variable rates based on the type or size of vehicle?
- Will the rate be indexed, and if so, how?
- How are miles driven reported?
- How are miles driven verified?
- Will the system require the use of a GPS or similar device?
- How will road user fees be collected?
- What involvement will third party vendors have in the reporting or collection process?
- Depending on the reporting requirements what privacy concerns exist?
- How are allowances made for fuel tax paid for vehicles using RUC system?
- How will out of state travel be accounted for?
- Are there concerns that moving fee collection away from the wholesale fuel level and away from the purchase of a product result in evasion?

Testimony and Data Sources

Mr. Snyder stated that the Task Force may consider hearing from the following entities, either through meeting testimony or interviews conducted with staff:

- Oregon – With the OReGo program being the only permanent, albeit limited, RUC program in the country, the Task Force would certainly be well served to hear from a state who has been through taking a program live.
- Other states – The Task Force could hear from other states who have implemented pilot programs and studies to gauge their experiences and findings.
- Kentucky Agencies – Although the Department of Revenue and the Transportation Cabinet have representatives on this task force, it may be beneficial to hear testimony from representatives to those agencies to hear input on these questions.
- Multi-state coalitions -- A RUC system will have a hard time operating a vacuum ignoring the realities of interstate travel. While Oregon has one major interstate

that travels both into and out of the state (I-5). Kentucky has four (I-24, I-64, I-65, and I-75).

In response to a question asked by Representative Sal Santoro concerning the OreGo Program in Oregon, Mr. Snyder stated that the program has only been implemented for two to three years and it is a voluntary program. He added that is limited to potentially 5,000 individuals. At last count there were approximately 1,800 individuals enrolled in the program, and there have not been more than 2,000 individuals enrolled at any given time. Oregon has a gas tax of 34 cents per gallon and they charge 1.7 cents per mile.

Senator Higdon stated he has heard of recommendations for the road usage charge to be broken down by battery size. He stated that a recommendation was made to him in lieu of assessing a fee, that a surcharge on electric bills is placed. Another recommendation was assessing the charge according to miles driven, which could require a third party vendor to implement. He added the use of a third party vendor could be costly. Senator Higdon also raised the issue of ride sharing companies such as Lyft and Uber and how road user charges would be assessed to them.

Chairman Upchurch stated this issue will be a long-term issue and that Kentucky will need to have plans in place for the advancement of technology.

Mr. Sunderland stated that not only does the issue of a road user charge need to be addressed due to the increase in electric vehicles, but also because of the increase in fuel efficiency standards of existing vehicles. He added studying the correlation between historical gas tax rates as well as fuel efficiency standards would be helpful in addressing the issue.

Senator Robinson stated Kentucky will have a difficult time capturing gas taxes or user fees due to the amount of out of state traffic that will pass through Kentucky. He suggested a federal or at the very least, a regional solution to this issue.

With no further business to come before the task force, Chairman Upchurch adjourned the meeting at 2:00 P.M.

