

Minnesota Distance-Based User Fee Technical Advisory Committee Meeting Minutes

Friday April 23rd 11-12:30 pm

Via Zoom

Start: 11:03

Adjourn 12:44

Attendees:

TAC Members:

Scott Peterson

Dawn Hood

Bill Dossett

Emily Murray

Paul Weinberger

Kathleen Mayell

Glen Kleven

Margaret Donahoe

Brendan Jordan

Core Team Members:

Ken Buckeye

Camila A Fonseca Sarmiento

Meredith J Benesh

Raihana Zeerak

Lee Munnich

Ray Starr

Serge Phillips

Markell Moffett

Frank Douma

Zhirong J Zhao

Mike Warren

Chris Berrens

Adeel Z Lari

Tim Sexton

Phone user - I believe this was Joe Loveland. I'm double checking with him.

Jeanne Aamodt

Minutes:

- Opening remarks - Scott Peterson
 - Please respond to request for interview from WSP
 - Thank you for reviewing all the materials shared!
 - Overview of federal transportation landscape
 - Increase of corporate taxes
 - No fuel tax proposal in the new transportation bill
 - Dems are moving this bill along quickly, so we'll see what happens!
 - At the end of the meeting we'd like to hear your perspective on how this information might affect your organization
- Guidelines and announcements - Lee Munnich
 - Mute audio when not speaking
 - TAC - have video on, team members have video off in order to mimic an in person meeting
 - Use hand raise icon to ask a question, or hop in with audio. Use the chat box
 - June 14th Roundtable
 - Part of a series for this project
 - Invites transportation thinkers, legislators to come together
 - In conjunction with MBUFA
 - Transition to user based fees - where do we go from here?
 - This demo project finishes up in June, but the interest in this topic will continue!
 - Two panels
 - Local team - what have we learned and discussion related to that
 - Policy perspective - more nationally focused
 - We will be sending out a notice of the meeting - we'd love to have the TAC attend and involved
- Review of Agenda - Ken Buckeye
- Updates - Ken Buckeye
 - Oped in pioneer press yesterday
 - Ian murray - competitive enterprise...
 - Give it a read if you're interested!
 - The president's proposal really incentivizes EV development
 - Manufacturers seem to be all in in their development of EVs
 - Committee Hearing
 - Senator Karper presiding
 - All users should contribute to the system
 - Focused on the surface alternatives under the FAST act
 - Five speakers
 - Joe Kyle - congressional budget office
 - 10 years of shortfalls in hwy trust fund, will continue without any action

- Jeff Basso - MBUFA
- Chris Hendron - eastern corridor alliance
 - Public doesn't know we're facing a transportation conundrum
 - We'll have the motor fuel tax around for a long time before we transition to a DBF
- Preserving user pays approach is fair
- EV transition will happen quicker than we expect
- Doug Shinkle - state legislatures
 - Interviewed states on their experience
 - Two states have adopted - OR and UT
 - Virginia will adopt in 2022
 - Takeaways - DBFs are fair
- How do we do this at a national level?
 - More demos!
 - National trial may be necessary
- Stumbling point - how do we set rates?
- The complexity of the issue was really avoided
- What do the panelists agree on?
 - More demonstrations and a national trial
- It was a great hearing! Link is on the second page of the agenda
- If you want to provide comments to senate, you can until May 12th
- Project Update - Markell Moffett - WSP
 - The demonstration is complete!
 - 12 months of data collection with 2 mobility providers
 - Data collection is complete and we are moving forward
 - The numbers
 - Available on website as well
 - 64 vehicles participating in
 - 500,000 miles
 - 18000 gall of fuel purchase
 - \$6884 net fee assessed
 - Uptick in miles during the warmer months, lower miles at the beginning due to pandemic
 - MnDOT operations fleet was also involved
 - Range of vehicle types in this fleet
 - Consistent and cyclice data - repeatable, maintenance type vehicle use
 - Little vmt on weekends, high during the week
 - Learnings
 - Supports project goals and objectives
 - Stable data set to be used to look at scalability
 - Large range of vehicle types for scalability

- Technology installed in vehicles allows for ease of collection, reduce evasions, reduce overheads and costs
 - Evasion is a high cost
 - Reduces manual activities
 - Technology is transferable
 - A demonstration of firsts!
 - C/AV data collection
 - Shared mobility fleets
 - Financial and operational audits
 - Directly from onboard vehicle telematics
 - Project deliverables - Mike Warren - WSP
 - Mock Audit
 - Coordination between Mndot and DOR
 - Any real word scenarios requires auditability
 - Demonstrated traceability from vehicle to reporting and fee collection
 - Audited across four months
 - Of the 64 vehicles included, there was one error!
 - Hourcar vehicle stopped reporting mileage, they were then able to fix this error
 - First time collecting data off an embedded telematics device, not just a plug-on
 - Rate setting framework
 - Developed process for how to set this per-mile rate
 - Other states have done a more “back of the napkin” approach. We did it more scientifically
 - This was sent to TAC for review
 - Process
 - HHH, WSP, and MnDOT all got together
 - How do we want this process to look?
 - Process
 - ID revenue goals
 - Determine basic calc methods
 - Segment vehicle fleet for assessment
 - Refine calculation methods based on fleet segmentation
 - Are there certain communities or motorists we wouldn’t want to assess a fee on?
 - Assign base rate
 - Assess potential for achieving goals
 - This is the first of its kind! The version we sent to you is in-process.HHH and WSP will continue work on this
 - Rate setting considerations
 - Revenue position - neutral, augmenting, etc
 - Vehicle segmentation - weight, emissions, etc

- Potential rate adjustments - for certain populations? Motorists?
 - Final demonstration report
 - Tells the story of this team for the past four years
 - Genesis of the demo through the demo
 - This is a DRAFT form - This will be sent for your review
 - Please give it a critical review and offer comments
 - What should be included that isn't?
 - Look at it from the lens of your org and your constituents
 - Focus on sections 6, 7, and 8
 - Sections 1-5 are really focused on the past and now, 6,7,8 are focused on the future
 - All comments back by May 23rd, please!
 - Captures perspectives from interviews - if you have more to say, please share it with us!
 - There will be an executive summary and presentation to follow
- Review of Previous TAC Survey Results - Meredith Benesh
 - Three themes on Rural/Urban equity
 - 1.DBFs are inequitable due to:
 - Greater travel distance in rural areas
 - Regional income disparities
 - Fewer mode choices in rural areas
 - 2.DBF system has the potential to be equitable as it is based on miles traveled rather than based on the vehicle fuel efficiency
 - 3.Depends on the fee structure
 - Rate Tailoring
 - Six respondents believe the rate should be the same for all road users
 - Four believe there should be other adjustments to the fee
 - Based on type of vehicle and anticipated congestion
 - Rebate or other reduction in fees for low-income residents
 - Five respondents believe it should be tailored to user groups
 - One respondent believes it would depend on the administrative costs
 - Administrative Costs
 - Most respondents feel administrative costs should be considered in the DBF rate
 - One respondent feels the high administrative costs is an effective argument against a DBF approach
 - Ideas to reduce administrative costs of a DBF
 - Self-reporting system
 - Prepaid system
 - Use of existing technology
 - Implementing a simple system

- Integration of DBF with other systems (vehicle registration, vehicle insurance payments)
 - The majority of the respondents feel that vehicle type and traffic congestion should be considered in the design of a DBF to address rural/urban equity concerns. Few respondents believe that the geographic location of a trip and availability of transportation options should be considered in a DBF design. Conversely, most of the respondents believe that trip purpose should not be considered at all in the design of a DBF, followed by the geographic location of vehicle registration.
 - How to handle out-of-state miles
 - Not charging a fee
 - Charging a fee in the state where the driving occurs
 - Charging the fee where the vehicle is registered
- Privacy Memo and discussion - Frank Douma
 - Data privacy is a critical issue of a DBF
 - Carsharing customers who were surveyed were hesitant about data privacy under a DBF if info is being shared
 - What to do when there is a data breach?
 - Common assumption - if you have data, someone else will get it
 - This provides concerns among people who are sharing their data
 - Privacy concerns can make or break policy progress
 - Data privacy v. Data security
 - Related, but not the same
 - Security - protect collected data from unauthorized use
 - E.g. intersection traffic control monitoring device. Doesn't have any personal information, but you still want to protect it! Otherwise intersection could get compromised
 - Privacy - concerns personally identifiable information (PII)
 - Whether data collection is appropriate
 - Once collected, whether data is used for appropriate purposes
 - Appropriateness can be set by law or contract
 - Why does privacy matter?
 - Public policy and public opinion can restrain data use and collection because of privacy concerns
 - E.g. leaking of drivers license information - people would no longer trust the state
 - Can also happen in the private sector - cambridge analytica
 - Privacy concerns may limit the deployment of otherwise socially beneficial technologies
 - Lessons for history
 - Public perception matters as much as legal reality

- Thinking about privacy considerations at the outset of a program or a project can help avoid issues and concerns in the future
- What are some of the key questions and ways to move forward with data considerations?
 - What kind of data needs to be collected?
 - If there is no PII, then not much to be concerned about
 - If there is PII...
 - Public institution is treated very differently from private sector
 - Once public agency touches the data, it becomes public data
 - E.g. law enforcement accessing data is very concerning to some folks
 - If a private institution is collecting it, it can be very hard for public to access it. There needs to be a warrant.
 - E.g. iphone hacking in San Bernadino, CA terrorist attack
 - How does consent work?
 - Opt-ins or opt-outs
 - I agree to let you collect this data in order to receive this benefit
 - E.g. apps on your phone
 - Might not actually be very informed consent
 - DBFs do deal somewhat with identity! So we are in the orange to red zone on the graphic
 - Right to Privacy
 - No single legal source or law on this matter
 - Transportation data privacy
 - Katz test (1967)
 - One can expect their data to be private
 - Society recognizes that expectation as reasonable
 - US v Knotts (1983)
 - A person traveling in a car on public thoroughfare has NO REASONABLE expectation of privacy
 - This might not fit our current perception of this issue, especially considering advent of new technology, smart phones
 - City of Ontario v Quon (2010)
 - Pagers
 - Tech and its meaning in society change too rapidly to define public perception on the matter
 - SC reluctant to make new privacy rules
 - US v Jones (2010)
 - GPS unit attached to suspects car for a month
 - ruling : police needed a warrant to do this!
 - Justices did not agree on the rationale/test

- This case still did not change the public perception of privacy
- Riley v CA (2014)
 - Data from mobile phone is protected!
 - Police need a warrant to do this
 - Phone = “minicomputer”
 - Does transportation/location data fit this definition of “minicomputer”?
- Carpenter v US (2018)
 - Location data from cell phone towers
 - Court - this is a lot more data than we’ve ever seen!
 - Police still need a warrant
- Bringing this back to DBFs...
 - Folks who are participating are opting in in the case of carsharing customers and MnDOT employees
 - Private company is holding on to the PII of the user
 - It would be difficult for law enforcement to obtain this data
 - How broadly could this go?
 - Who owns this data?
 - auto manufacturer?
 - If users receives benefit from manufactures data use, do they have right to sue?
 - Political question
 - Does a vehicle purchaser even know or even care that data is being collected? Do we accept this as a society?
- Discussion -
 - Ken - are there any court cases establishing ownership of data with OEMs?
 - Frank - no precedent of this
 - Law School Question: From an op-tin/consent perspective, OEMs are doing what they can to protect their interests. Purchaser signed over right to use this data when they bought the car. This could be challenged in the future though
 - Scott - In the EU, there are sites that ask about the use of data before accessing a website. Is there any option for OEMs to notify drivers similar to this EU approach - at least a notice
 - Frank - GDPR from the EU requires the “cookies” question on websites for example
 - CA has similar laws - CCPA
 - This law exempts public transportation data
 - WA has a similar and Elkins has proposed a similar bill here in MN

- Very possible there could be legislation on this in the future and OEMs could do stuff to get ahead of this, such as being open about how data is being used
 - This is how we get those really long privacy notices once a year, for example
 - Dawn - what is the risk that we move down this DBF path and establish our practices, but then the court challenges the use of data? How do we mitigate this risk?
 - Frank - the current practice of just having people sign over their data when they buy a car is not necessarily an equitable practice. The courts could tell them to stop doing this.
 - It could be decided that folks get such great benefit from how this data is being used - the ruling could be much more narrow and folk's information could still remain public
 - Bill - having done this research - will we end up a system where the government collects the data or will the private sector collect under some regulations set by the government?
 - Frank's opinion - data is collected and handled by the private sector
 - More trust by the public under this scenario
 - Unlikely that the government will be the first collector, the public perception of this is not great
 - Ken - parallels with right to repair laws
 - OEMs have to make certain info available to consumers in order to repair their vehicle
 - Does Frank have any thoughts on this?
 - Frank - Speculates that legislative action would be likely. If someone wanted to know what data is being held about them, they could request this.
 - Frank is unsure how this court case might turn out
 - Would depend on how they signed the data over, what was collected
- General Response and Discussion of the project - Scott
 - What is your perspective as organization representatives and from your individual backgrounds? How can we move forward? If everyone could step up and provide any observations, that would be helpful to us!
 - Bill Dossett - Feels like we've hit a new phase in this. Things are getting much more concrete than they were at the beginning of this process. Biden's infrastructure proposal really drives this forward. We've covered a lot of considerations. But there is one we haven't

- We should abandon this “gradual” approach and recognize that this is a radical change! Especially in terms of climate change
- Frank Douma - we seem to be getting to a point where some of the details are crystallizing. Government won't be the main collector or administrator of collecting DBF information
- Meredith Benesh - is a DBF for addressing revenue issues or is it about augmenting the transportation system?
- Markell - This was an exciting demonstration! And thank you for your feedback and participation
- Lee Munnich - do we continue a user based system or do we move to general fund approach?
- Serge Phillips - demonstration was very important in the national picture. How is the money derived from a user pays system used? Just roads and bridges? Or some of the new programs Biden's legislation proposes. There is a cause for optimism with the new administration! Openness to multimodal transportation and greenhouse gas reductions. E.g. adding climate change and equity to all FHWA needs statements for projects
- Margaret - has been very impressed by all the work that has been done. This shows how complicated the issue is! From her member's perspective - what do you gain? But also what do you lose? E.g. the constitutional dedication of transportation revenues. Something that would be helpful - what exactly is the scope of the problem? What is the dollar amount of revenue loss for cars no longer paying the fuel tax. She acknowledges that this is difficult to project, but it is hard to judge a new system when you don't know the scope of the problem. It is going to be politically complicated. What exactly are we trying to accomplish? Just that the highway fund does not lose money? Or are we trying to do bigger things?
 - Response from Chris Berrens: Margaret our chief economist has been conducting an ongoing EV adoption sensitivity analysis for the DOT. We could get you a copy of that analysis.
- Glen - from DORs point of view - have tried to stay out of the policy discussion, though it has been interesting to listen to. His constant message - have to create a system that is easy to teach, easy for the tax payer to comply with, and easy to audit. The audit document WSP put together is really excellent! The more variables you put into this program, the harder it is to get the tax payer to comply. Currently the gas tax system is seamless for the consumer because it is collected at the wholesale level - e.g. 8 ppl collect 800-900 million dollars a year in fuel tax revenue
- Kathleen Mayell - the decisions will happen at a higher level than the city, but this has been helpful to be a part of. Will help support city goals related to climate and VMT. Could bring behavior change in a way that still funds our

- system. Is this an incremental or a more systemic change? Let's consider the merits of both these approaches. What are the ultimate goals of this program
- Brendan - an interesting program to be a part of! We're still reinforcing this myth that EVs are a large contributor to reduction in revenue, when really it is increasing fuel efficiency of all vehicles. Also remember that EVs pay a fee. We need to work on the politics of this issue - what are the interest groups' perceptions on this?
 - If we didn't get your comments, please send to Ken so they can be included in the record of the meeting!

Table 1. Summary of TAC Member's Questions Regarding Moving Forward with a DBF

TAC Member	Question	Response
Margaret Donahue	What exactly is the scope of the problem? What is the dollar amount of revenue loss for cars no longer paying the fuel tax. She acknowledges that this is difficult to project, but it is hard to judge a new system when you don't know the scope of the problem.	
Margaret Donahue	What exactly are we trying to accomplish? Just that the highway fund does not lose money? Or are we trying to do bigger things?	
Kathleen Mayell	Is this an incremental or a more systemic change? Let's consider the merits of both these approaches.	
Kathleen Mayell	What are the ultimate goals of this program - revenue generation or larger impacts to the transportation system?	
Brendan Jordan	We need to work on the politics of this issue - what are the	

TAC Member	Question	Response
	interest groups' perceptions on this?	

- Closing - Ken
 - Sending out draft final report - please review and send comments
 - Last TAC meeting is in June - determining a date for this via poll
 - Roundtable on June 14th
 - Please fill out the survey!
 - Please respond to request from interview from WSP
 - We will continue to monitor the work of congress
 - Thank you for a provocative meeting and discussion!
 - Thanks for facilitating, Scott!

- The majority of the respondents feel that vehicle type and traffic congestion should be considered in the design of a DBF to address rural/urban equity concerns. Few respondents believe that the geographic location of a trip and availability of transportation options should be considered in a DBF design. Conversely, most of the respondents believe that trip purpose should not be considered at all in the design of a DBF, followed by the geographic location of vehicle registration.