



# WA Transportation Commission: Per-mile tax should be constitutionally protected for highways only

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The Washington State Transportation Commission (WSTC), which has led the effort to study, test and report back to the legislature on the feasibility of a Road Usage Charge (RUC) in Washington State, agrees that the money drivers would pay should be protected for highway spending only.

If implemented, a Road Usage Charge (also called a mileage-based user fee, per-mile charge, vehicle miles traveled tax, and mileage tax), would require drivers to pay a tax on every mile they drive, rather than on every gallon of gas they purchase at the pump.

The Commission met this week to assess the RUC and discuss preliminary recommendations and action items. They will vote on final recommendations to the legislature in December. The video of their discussion can be viewed on TVW.

Although the Commission listed 14 preliminary recommendations, they voted to add a 15th as several commissioners mentioned that the most common concern they heard from people was how the money would be spent. WPC expressed this concern in 2017, as a RUC that is not constitutionally protected by the state's 18th amendment for highway purposes only is not a "gas tax replacement," but another general tax and political tool.

The Commission correctly reasoned that since they were tasked with replacing the state's gas tax, the new revenue source should replicate the features of a gas tax.

From the report:

*"To more closely replicate the features of the gas tax it would eventually replace, the RUC should be designed, implemented and the proceeds expended subject to Amendment 18 of the Washington State Constitution. If intended to replace the current gas tax, RUC would most closely replicate the gas tax's advantages as a funding mechanism if RUC is made subject to Amendment 18."*

The Commission indicated they will provide analysis to the legislature on "fiscal, legal and policy implications of reducing or repealing the state's gas tax and replacing it with RUC." They will also "provide the legislature with various options for how RUC could be designed and implemented in a manner that places the revenue under Amendment 18 provisions of the Washington State Constitution."

The Commission's Executive Director noted, "When the day comes – maybe there is sufficient revenue to consider other sharings or opportunities. The legislature can't bind future legislatures. There's always an opportunity for future decisionmakers to adjust policies. They do it all the time." In other words, nothing is set in stone, and a future legislature could decide to change how RUC money is spent.

Getting constitutional protection for a RUC to begin with, or to change that protection in the future, is a "heavy lift," some of the attendees said.

I agree – but it would only be a "heavy lift" if the real reason for implementing the RUC is to secure a general tax and flexible revenue stream that can be used for expenses unrelated to roads, such as transit.

Other preliminary recommendations from the report include:

- Implementation options that allow RUC to gradually scale up, offering drivers an opportunity to try the system and recommend further improvements while RUC is still in an early-implementation stage.
- Additional research to be conducted...on differential RUC rates based on driver, vehicle, or infrastructure characteristics.
- Existing delivery mechanisms (e.g., public-private partnerships) be considered to most efficiently develop a RUC system that reduces the cost of collections.
- State agency vehicles be utilized as test subjects for privacy protection testing.
- Specific changes in Washington statutes that protect personal privacy in a RUC program. (Current state law doesn't exempt RUC data from public disclosure laws. The WSTC states that, "At minimum, RUC mileage data should be granted similar privacy protections that currently exist for the state's tolling program, where information related to roadway use and payments are exempt from public disclosure.")

These recommendations can be found on slides 29 and 30 of the presentation.

The Road Usage Charge cannot replace the gas tax fully until outstanding bonds that pledged the gas tax are "paid off or restructured." The earliest that would be, according to the Commission, is in 10 years. The latest – 25 years. The Commission views keeping the gas tax on the books as an advantage because they can continue to charge out of state drivers, and also ensure that drivers in Washington who dislike a RUC cannot evade payment.

This means the transition from a RUC to a gas tax would likely be long and complicated. I hope policymakers use that time to develop a thoughtful plan on how to reduce transportation costs, and be more responsible with the money we currently pay.

The WSTC's recommendation to protect a per-mile charge to exclusively fund our critical road system, the way the gas tax does, is a step in the right direction.

Should this recommendation be moved forward in December, and should a RUC ever be implemented, it'll be up to a future legislature to agree upon constitutional protection for the revenue, and to keep it in place over time. This is another challenge altogether.



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