

THE INFRASTRUCTURE INVESTMENT AND JOBS ACT IN NEVADA:

A COMPELLING OPPORTUNITY FOR COMPREHENSIVE STRATEGIC PLANNING

BY MATT MORRIS, ESQ.

By most accounts, the federal Infrastructure Investment and Jobs Act (IIJA)¹ is a historic piece of legislation with the potential to dramatically advance innovation that is critical to resource conservation, climate change mitigation, and environmental stewardship. For Nevada, IIJA presents a “once-in-a-generation”² opportunity to allocate billions of dollars in modernizing the state’s infrastructure and making meaningful progress toward clean energy development and achieving the state’s environmental protection goals.

To fully realize IIJA’s potentially sweeping benefits, Nevada must be ready to use every available policy tool in our proverbial toolbox. Strategic planning is a vital, but underutilized tool that will be essential to Nevada’s efforts to maximize IIJA’s investment and modernization opportunities. Comprehensive and systematic strategic planning efforts around IIJA investment decisions will ensure that state and local allocations of IIJA dollars advance measurable, performance-based outcomes to protect the environment, create new jobs in innovative sectors, and mitigate the impacts of a rapidly changing climate.

Strategic plans help facilitate regulatory decision-making and policy implementation that is informed by specific, measurable goals and objectives, that in turn define the most effective strategies for achieving desired results. “Through strategic planning, regulators can rethink the purpose of their rulemaking, enforcement, outreach, monitoring, and other activities, and try to fit them together into a coherent program in service of goals they may have latitude to set and refine.”³

IIJA includes an estimated \$1.2 trillion nationwide investment over several years for addressing transportation, clean water, renewable energy, environmental remediation, and related infrastructure needs. These long-term investments are precisely the kinds of programs that require comprehensive, performance-based strategic planning to successfully implement.

IIJA’s formula-funded investments alone will bring approximately \$2.7 billion over five years to modernize Nevada’s highways and bridges, \$18 million for Nevada’s highway safety traffic programs, and \$38 million to support the state’s expansion of its electric vehicle (EV) charging network. Given the transportation sector’s role



in greenhouse gas emissions, IJJA's transportation infrastructure funding alone could have a profoundly positive impact on environmental protection and conservation in Nevada, so long as these investments are part of a strategic effort to advance environmental goals.

Maximizing IJJA's funding opportunities in a way that promotes resource conservation and environmental protection goals will require strategic decision-making that promotes long-term policy priorities. Strategic planning in the public sector is essential in helping regulatory agencies "create public value through meeting their mandates and fulfilling their missions," and helps to guide "meritorious ideas for mission, goals, strategies, actions, and other strategic interventions" while "build[ing] capacity for ongoing implementation, learning, and strategic change."⁴ Comprehensive and collaborative strategic planning will help ensure that Nevada's public agencies apply IJJA funding toward meaningful progress in preserving scarce natural resources, and promote accountability in evaluating whether Nevada's investment decisions ultimately support desired outcomes.

A variety of models exist for Nevada's policymakers to consider in developing a strategic planning framework around IJJA implementation. At the federal level, strategic planning has been required by statute since 1993, when Congress passed the Government Performance and Results Act (GPRA).⁵

Despite several amendments since its passage, GPRA's core strategic planning requirements remain in effect.⁶ Under 5 U.S.C. § 306(a)-(f), most federal agencies must develop a strategic plan articulating an overarching mission and core functions, identifying specific goals and objectives, describing how the agency's goals and objectives will be achieved, and identifying potential challenges associated with implementing the strategic plan. Fundamentally, these requirements are meant to ensure that federal agencies are accountable for their stewardship of public resources, and that their decisions promote outcomes reflecting public values on important issues.

In Nevada, several statutory provisions explicitly incorporate strategic planning as a response to public policy challenges. For example, the Legislature in 2017 required the Advisory Committee on Problem Gambling to develop strategic plans to prevent and treat problem gambling, and directed the newly created Nevada Office of Cyber Defense Coordination to prepare a strategic plan for preventing and responding to cybersecurity threats.⁷ The Legislature has also formalized strategic plan requirements relating to the growing problem of sex trafficking, and to improve the delivery of broadband services to schools, libraries, and health-care providers.⁸

Similar strategic plan requirements have been enacted to address the problem of homelessness, to expand services for persons with disabilities, to enhance

regional tourism, and to promote student achievement and academic proficiency.⁹

These provisions illustrate the Legislature's recognition that formalized, systematic strategic planning can be essential in responding to pressing challenges and holding agencies accountable for making informed decisions that advance particular policy priorities. But Nevada has yet to formalize a similar strategic plan requirement specific to resource conservation, climate change mitigation, or environmental stewardship. To be sure, some Nevada agencies have developed impressive strategic planning documents that address these issues, but such efforts are not required by statute. Much more can be done to formally encourage public agencies to collaborate on systematic strategic planning on environmental and resource conservation issues specifically in the context of IJJA.

Given IJJA's historic new funding opportunities, Nevada can and should do more to formalize public strategic planning efforts that identify measurable objectives, outline specific benchmarks to evaluate infrastructure investment decisions, and connect those decisions to the state's broader priorities on conservation and environmental protection goals.

IJJA's \$8 billion investment in a program for regional clean hydrogen hubs is one example that will require a comprehensive strategic planning

CONTINUED ON PAGE 11



THE INFRASTRUCTURE INVESTMENT AND JOBS ACT IN NEVADA



framework. The clean hydrogen hub program will support the development of at least four regional clean hydrogen hubs, with proposal solicitations beginning by May 2022.¹⁰ IJJA’s \$8 billion hydrogen hub grant program is part of a broader “crosscutting research and development” strategy meant to “accelerate research, development[,] and deployment of hydrogen from clean energy sources,” and “develop a robust clean hydrogen supply chain and workforce[.]” The program is meant to accelerate commercialization of clean hydrogen production, processing, delivery, storage and end-use, with at least four regional hubs to be selected by May 2023.

Competing for regional clean hydrogen hub funding will require a strategic and collaborative approach that includes participation from diverse groups of stakeholders. The bill’s definition of “regional clean hydrogen hub” as “a network of clean hydrogen producers, potential clean hydrogen consumers, and connective infrastructure located in close proximity,” inherently contemplates a strategic approach with multiple contributing team members playing important roles in project development.

The program’s ambitious stated policy outcomes similarly contemplate comprehensive strategic planning engagement. The program is meant to aid in developing clean hydrogen production standards, demonstrate clean hydrogen production, delivery, storage,

and end-use, and promote a national clean hydrogen network that facilitates a clean hydrogen economy. Hubs will be selected based on a number of criteria involving geographic diversity, as well as potential to create workforce development and skills training opportunities. Successful proposals will require a strategic framework that incorporates diverse perspectives, interests, and expertise in advancing shared priorities.

As one of the nation’s leading states in renewable energy generation, particularly from solar and geothermal sources, Nevada is well-positioned to compete for regional hydrogen hub funding and attract the significant IJJA investments that will promote development of clean hydrogen technology. But to maximize the state’s chances for success, policymakers and private sector stakeholders should collaborate in a comprehensive strategic planning effort to develop a competitive proposal. Such efforts should articulate Nevada’s long-term clean energy goals, identify core values reflecting the public interest relative to environmental protection and resource conservation, and integrate these components into a strategic plan for developing clean hydrogen technologies. This program is just one of several potential opportunities for comprehensive strategic planning under IJJA.

There isn’t anything particularly novel about the strategic planning

process. For decades, federal and state agencies have recognized the importance of strategic planning in advancing policy goals and objectives. With IJJA’s historic investment opportunities, and with the challenges associated with a worsening drought, a rapidly changing climate, and related issues, the time is now for Nevada’s policymakers and private sector stakeholders to leverage strategic planning as an effective problem-solving mechanism in a shared effort to achieve important environmental and resource conservation objectives.

ENDNOTES:

1. P.L. 117-58 (Nov. 15, 2021).
2. See *generally* Exec. Order No. 14052, 86 F.R. 64335 (Nov. 15, 2021).
3. Adam Finkel, Daniel Walters, et al., “Planning for Excellence: Insights from an Int’l. Review of Regulators’ Strategic Plans,” 35 *Pace Envtl. L. Rev.* 241 (Spring 2018), at 248.
4. John Bryson, “Strategic Planning for Public and Nonprofit Org’s.,” (5th Ed., 2018), at 33.
5. P.L. 103-62, 107 Stat. 285 (Aug. 3, 1993).
6. 5 U.S.C. § 306(a)-(f).
7. NRS 458A.080(1)-(2); NRS 480.930(1)-(5).
8. NRS 439.539; NRS 408.55028.
9. NRS 232.4983(1); NRS 427A.1217(2)(f); NRS 244A.920; NRS 385.112.
10. See *generally* Infrastructure Investment and Jobs Act, H.R. 3684 (PL 117-58, Nov. 15, 2021) (“IJJA”), Div. D, Title III, Sub. B, Sec. 40314 (amending the Energy Policy Act (42 U.S.C. 16151, et seq.)).

MATT MORRIS

served as legislative director to former Nevada Governor Brian Sandoval. As an associate attorney with Holland and Hart’s Energy, Environment, and Natural Resources group, Morris focuses on government affairs, administrative law, and strategic planning. He is a graduate of UNLV’s William S. Boyd School of Law.

