

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

TRANSPORTATION COMMITTEE

Monday, September 19, 2005
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator David O'Connell, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators David O'Connell, Thomas L. Trenbeath; Representatives LeRoy G. Bernstein, Todd Porter, Clara Sue Price, Arlo E. Schmidt, Dorvan Solberg, Elwood Thorpe, Mike Timm, Don Vigesaa, Robin Weisz

Members absent: Senator Dennis Bercier; Representatives Kathy Hawken, Craig Headland

Others present: See attached appendix

At the request of Chairman O'Connell, Mr. Jay E. Buringrud, Assistant Director, Legislative Council, reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council](#).

DRIVING WITHOUT LIABILITY INSURANCE STUDY

At the request of Chairman O'Connell, committee counsel presented a background memorandum entitled [Effectiveness of Financial Responsibility Requirements for Driving Without Liability Insurance Study - Background Memorandum](#).

Mr. John Val Emter provided testimony on the study. He said he is against uninsured motorist coverage. He said he should not have to pay for someone else's negligence. He said all the fines from individuals convicted of driving without liability insurance should be used to help the people that pay for insurance and are injured by individuals without liability insurance. He said his liability insurance costs \$90 every six months.

Ms. Marsha Lembke, Director, Drivers License and Traffic Safety Division, Department of Transportation, provided testimony on the study. She said the Department of Transportation is working with a task force that consists of insurance industry representatives and the Insurance Department to address individuals driving without liability insurance. She said it is difficult to measure the number of individuals driving without liability insurance because the statistics only relate to those individuals who are caught driving without liability insurance. She said the department is investigating a notification system by which the department is informed of canceled or terminated insurance policies.

In response to a question from Senator Trenbeath, Ms. Lembke said the statistics the department collects

on individuals driving without liability insurance do not show any correlation between changes in the law and convictions; however, she said she suspects economics is the major factor in determining whether individuals purchase liability insurance.

In response to a question from Representative Timm, Ms. Lembke said more people would not have liability insurance if the price of the insurance increased.

In response to a question from Representative Porter, Ms. Lembke said the department is investigating a national system by which the department is notified of cancellations or terminations of mandated coverages so that the department may address driving without liability insurance during the registration renewal process. She said most insurance companies do not want to have 50 systems in 50 states.

In response to a question from Representative Timm, Ms. Lembke said although in the past an individual had to list that individual's insurance policy number on the registration renewal form, that individual still states to the department that that individual has insurance when the registration renewal application is signed. She said listing the policy number is not effective as a means of enforcement because an individual can cancel the policy a month after stating that the individual has insurance. She said there may be a high cost to monitoring insurance on drivers.

Mr. Pat Ward, representing Nodak Mutual Insurance Company and Dakota Fire Insurance Company, presented testimony on the study. He said in North Dakota approximately 7 percent of the motorists are uninsured. He said this is a low percentage nationally. He said this may be attributable to the fact that this state has the lowest, or near the lowest, cost of liability insurance in the nation. In general, he said, liability insurance costs between \$80 and \$100 for a six-month period. He said this amount does not include mandatory no-fault and uninsured and underinsured motorist coverages. If the coverage of liability insurance were doubled, he said, the cost would increase but would not double. He said an increased cost would create an additional barrier to purchasing insurance. He said the vast majority of automobile accidents fall well within the range of mandatory liability coverage limits. He said the cost for a driver

to raise the limits on liability and uninsured and underinsured motorist coverage is inexpensive. He said the committee may desire to focus on increasing criminal penalties for driving without liability insurance, especially on individuals with records of prior bad acts. He said Minnesota used to verify insurance for every driver; however, that state now does random checks. He said Colorado had high-cost mandated insurance and some studies show that approximately two-thirds of the driving public was driving without insurance.

Representative Schmidt said the percentage of drivers driving without liability insurance is relatively a small percentage of drivers.

Lieutenant Kelly J. Rodgers, Highway Patrol, provided testimony on the study. He said when an individual is stopped for another offense, law enforcement officers may ask for proof of liability insurance. He said generally law enforcement officers do ask for proof of liability insurance. He said if a driver does not have liability insurance, the driver has 20 days to provide proof. He said this provision of law is administratively burdensome. He said a civil citation would be easier than a criminal citation for driving without liability insurance. Ms. Lembke said citations usually are recorded by the department within three weeks of issuance.

In response to a question from Representative Thorpe, Lieutenant Rodgers said the computer in the patrol car does not have information on the status of liability insurance for a driver.

Senator Trenbeath said he does not favor mandatory insurance.

COST-SHIFTING IN AUTOMOBILE CRASHES STUDY

At the request of Chairman O'Connell, committee counsel presented a background memorandum entitled [Cost-Shifting of Medical Costs in Automobile Crashes Study - Background Memorandum](#).

In response to a question from Senator Trenbeath, Mr. Ward said historically the Legislative Assembly has not supported the repeal of no-fault insurance. He said it is worthwhile to review the effects of the repeal of no-fault in Colorado. He said most insurers think the repeal in Colorado is working well; however, medical care providers probably think it is not working well.

In response to a question from Representative Schmidt, Mr. Ward said no-fault coverage is for an individual's own medical expenses. He said no-fault coverage does not depend on whether the other individual has insurance. He said medical expenses are paid for by no-fault coverage for the first \$10,000, then benefits are coordinated with health insurance. He said no-fault insurance pays benefits up to \$30,000. He said the other driver that is at fault is liable for other damages, e.g., noneconomic loss. He said a person with no-fault insurance may sue the

other at-fault driver for medical expenses exceeding \$30,000.

Representative Schmidt said if no-fault insurance is repealed, health care insurance premiums will increase.

In response to a question from Representative Timm, Mr. Ward said no-fault insurance is a mandated insurance that is automatically included in a policy for an automobile. He said no-fault insurance is not liability insurance.

HIGHWAY FUNDING STUDY

At the request of Chairman O'Connell, committee counsel presented a background memorandum entitled [Federal Highway Appropriations and State Matching Requirements Study - Background Information](#).

Mr. Tim Horner, Director of Transportation Programs, Department of Transportation, answered questions regarding the study. In response to a question from Representative Timm, Mr. Horner said the amount the Department of Transportation can match in excess of specific appropriations is limited to funds received through the Emergency Commission for emergency relief.

In response to a question from Representative Schmidt, Mr. Horner said contracts for highway construction with the department have a special provision for changing the amount paid based on diesel fuel prices.

In response to a question from Representative Weisz, Mr. Horner said the increase in diesel fuel costs will affect the cost of projects by less than 5 percent.

Mr. Tom Freier, Deputy Director, Business Support, Department of Transportation, answered questions relating to the study. In response to a question from Representative Timm, Mr. Freier said the Legislative Assembly has been clear in the past that the department should access all available federal funds.

In response to a question from Senator O'Connell, Mr. Freier said 25 percent of conventional federal funds is shared with cities and counties. He said there are other potential funding sources for the federal highway trust fund besides gas tax. He said a gas tax may not be viable if other fuel sources are used at high enough levels. He said other sources of funds may include tolls, concessions, design/build, and bonds.

In response to a question from Senator O'Connell, Mr. Freier said Oregon is piloting a program to implement a per mile tax. He said the difficult part of implementing a per mile tax is that the taxing authority needs to have a computer in the automobile measure the miles driven and the state in which the miles are driven.

**REPORT FROM UPPER GREAT
PLAINS TRANSPORTATION
INSTITUTE ON TRANSPORTATION
INFRASTRUCTURE**

At the request of Chairman O'Connell, committee counsel presented a background memorandum entitled [Report on Improvements in Transportation Infrastructure by the Upper Great Plains Transportation Institute - Background Information.](#)

MISCELLANEOUS

In response to a question from Senator O'Connell, Mr. Horner said the inclusion of the value of a deer that is killed as part of an accident on the accident report form is not needed by the department for crash data analysis.

Mr. Roger Rostvet, Deputy Director, Game and Fish Department, answered questions on the value of deer on accident reports. In response to a question from Senator O'Connell, he said the Game and Fish Department may recover civil damages for game taken illegally or through gross negligence. He said administrative rules have placed a value on this game and deer are valued at \$300. He said this information

is of no value to the Game and Fish Department as part of an accident investigation.

In response to a question from Representative Solberg, Mr. Rostvet said if an individual kills a deer in an automobile accident, the individual does not have to pay for the deer unless the person was grossly negligent.

Senator O'Connell said some of the public thinks the Game and Fish Department should pay for the damage a deer causes to a vehicle and any hint that the individual or insurance is paying for the deer angers many constituents.

In response to a question from Representative Schmidt, Ms. Lembke said an accident over \$1,000 goes on an individual's driving record.

Representative Schmidt said insurance rates should not be raised because a deer ran into a motor vehicle.

No further business appearing, Chairman O'Connell adjourned the meeting at 11:50 a.m.

Timothy J. Dawson
Committee Counsel

[ATTACH:1](#)