

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

TRANSPORTATION COMMITTEE

Thursday, November 12, 2015
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Dan Ruby, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Dan Ruby, Bert Anderson, Mike Brandenburg, Ben Hanson, Karen Karls, William E. Kretschmar, Lisa Meier, Mike Schatz; Senators Robert Erbele, Dave Oehlke, David S. Rust, George Sinner

Members absent: Senators Jerry Klein, Joe Miller, and David O'Connell

Others present: See [Appendix A](#)

It was moved by Senator Rust, seconded by Representative Karls, and carried on a voice vote that the minutes of the August 20, 2015, meeting be approved as distributed.

**UPPER GREAT PLAINS TRANSPORTATION INSTITUTE
CHANGE OF ADMINISTRATIVE AUTHORITY STUDY**

Mr. Grant Levi, Director, Department of Transportation (DOT), presented information ([Appendix B](#)) relating to the study of changing administrative authority of the Upper Great Plains Transportation Institute (UGPTI) from North Dakota State University (NDSU) to DOT. Mr. Levi said DOT does not believe any efficiencies or benefits would be gained by changing the current working relationship between DOT and UGPTI.

Representative Brandenburg expressed concern regarding differences in information received from counties by DOT and UGPTI. Representative Brandenburg suggested DOT and UGPTI set consistent guidelines for counties and other entities to use when providing information for studies, which would allow for a better comparison of transportation needs between the entities.

In response to a comment from Representative Brandenburg, Mr. Levi said DOT and UGPTI discussed the need for consistency in reporting at the last meeting with the counties regarding UGPTI transportation needs study.

In response to a question from Chairman Ruby, Mr. Levi said UGPTI has access to grant funding because it is under the administration of NDSU. He said these grant opportunities would not be available if it was a part of DOT.

Dr. Dean Bresciani, President, NDSU, presented information ([Appendix C](#)) relating to the UGPTI change of administrative authority study. Dr. Bresciani said NDSU supports maintaining the administrative authority for UGPTI under NDSU. He does not believe any productivity or efficiency gains would result from administrative authority realignment.

Mr. Brian Kalk, Commissioner, Public Service Commission (PSC), commented on the study. He said that PSC works with UGPTI on studying shipments of agricultural commodities. He said PSC would like to explore working with UGPTI regarding studying pipeline and power line safety. He said PSC believes the independence of UGPTI is very important and the administrative authority of UGPTI should remain with NDSU.

In response to a question from Chairman Ruby, Mr. Kalk said the research universities could provide valuable research to improve pipeline and other transmission line safety. He said UGPTI could potentially determine the impact on truck traffic by improving transmission pipelines and railroads.

Senator Oehlke said that the issue of inconsistent reporting by counties appears to be a communications problem, not an administrative authority problem.

Senator Rust said that all testimony regarding the change in administrative authority of UGPTI has been supportive of maintaining the authority with NDSU. He said the separation of UGPTI and DOT is beneficial for the independence of the studies conducted by UGPTI.

Representative Hanson suggested continuing to gather information on the study. He said substantial time remains in the interim and additional information may become available.

Representative Kretschmar said although the committee has spent a relatively short amount of time on this study, if new information does become available the committee could reconsider its recommendation.

In response to Representative Kretschmar and Representative Hanson's concerns, Chairman Ruby said if new information becomes available, the committee may reconsider its action and continue the study.

It was moved by Senator Oehlke, seconded by Senator Rust, and carried on a roll call vote that the committee recommends UGPTI continue under the administrative authority of NDSU and that it not be changed to DOT. Representatives Ruby, Anderson, Brandenburg, Karls, Kretschmar, Meier, and Schatz and Senators Oehlke, Erbele, and Rust voted "aye." Representative Hanson and Senator Sinner voted "nay."

SPECIAL TRANSPORTATION FUNDING DISTRIBUTIONS TO POLITICAL SUBDIVISIONS STUDY

Mr. Levi presented information ([Appendix D](#)) relating to the history of county major collector roadway miles in the state. Mr. Levi said adding and removing county major collector roadway miles is done at the request of each county through DOT. He said DOT reviews the request and if it approves the request, submits it to the Federal Highway Administration for final approval or denial.

In response to a question from Representative Meier, Mr. Levi said the process to change the county major collector roadway miles for a county generally takes approximately two weeks.

In response to a question from Representative Kretschmar, Mr. Levi said the state has approximately 10,800 county major collector roadway miles.

In response to a question from Chairman Ruby, Mr. Levi said new county major collector roadway miles requests are typically county minor collector roads being upgraded to county major collector roadway miles roads and occasionally a township road request.

In response to a question from Chairman Ruby, Mr. Levi said one of the areas of emphasis regarding funding provided in 2015 Senate Bill No. 2103 is route connectivity or routes connecting a major state highway to a major county route. He said 2015 House Bill No. 1176 allowed funding to be used for roads which connect major traffic generators or areas needing improved safety.

In response to a question from Representative Karls, Mr. Levi said funding from 2015 House Bill No. 1176 could potentially be used to improve a road to a major county gravel pit if it is a commercial gravel pit, the county had resources available for the project, and the county made the route a priority.

In response to a question from Chairman Ruby, Mr. Levi said funding from 2015 House Bill No. 1176 is not available for road maintenance, but improving a road with three inches of gravel or more would not be considered maintenance and be eligible for funding.

In response to a question from Chairman Ruby, Mr. Levi said funding which was made available specifically for townships during the 2015 legislative session allowed the townships to utilize the funds for maintenance or improvements.

Mr. Denver Tolliver, Director, UGPTI, presented information ([Appendix E](#)) on the status of UGPTI's study of county and township road and bridge investment needs. Mr. Tolliver said the infrastructure needs study is projected to be completed by October 1, 2016. He said the 2015 Legislative Assembly also provided funding for an asset management initiative, which is expected to be operational by December 1, 2015.

In response to a question from Representative Brandenburg, Mr. Tolliver said when estimating total costs, each county will report as specifically as it can regarding its transportation needs. He said the needs are based on the county's method for maintenance, repairs, and replacement in order to present an accurate statewide total of transportation needs.

In response to a question from Representative Brandenburg, Mr. Tolliver said although there is no deadline for the townships to respond, UGPTI will followup with the townships before the database is finalized early in 2016.

In response to a question from Senator Oehlke, Mr. Tolliver said UGPTI sends correspondence to counties and townships through the North Dakota Township Officers Association and North Dakota Association of Counties.

In response to a question from Representative Hanson, Mr. Tim Horner, Program Director, UGPTI, said UGPTI sent paper maps to all counties and had them identify jurisdictional breaks within each county. Mr. Horner said the entity that maintains the road is not necessarily the entity which owns the road. He said information identifying the responsible party for each road is currently not available.

In response to a question from Representative Meier, Mr. Horner said the weight limit for a bridge needs is only posted if the weight restriction is below normal load capacity. He said bridge restrictions are determined by DOT and each county based on inspections and signed accordingly. He said the postings are not available online for all counties, but state restrictions are.

In response to a question from Representative Schatz, Mr. Tolliver said any information regarding the reporting of vehicles breaking through bridge decks would likely be recorded by DOT or the Highway Patrol.

In response to a question from Representative Brandenburg, Mr. Tolliver said UGPTI is working to expand its bridge analysis to include structures which are less than 20 feet in length. He said a significant number of bridges are less than 20 feet in length and UGPTI is attempting to collect that data. He said UGPTI attempts to capture some of the maintenance and repair costs of culverts in the normalized maintenance costs.

In response to a question from Representative Brandenburg, Mr. Horner said the Federal Highway Administration defines a bridge as being 20 feet or more in length for the National Bridge Inventory. He said all other bridges or culverts are considered minor structures and complete data is not available on the minor structures. He said UGPTI is attempting to capture that data in each county's "Local Roads Asset Inventory Toolkit" which is part of the asset management initiative.

At the request of Chairman Ruby, the Legislative Council staff presented a draft of a survey which would be distributed to all counties in the state, entitled [-DRAFT- Survey of County Road and Bridge Transportation Needs](#).

At the request of Chairman Ruby, members of the Transportation Committee recommended the following potential changes to the survey or survey process:

- Provide a report of the counties that respond to the survey;
- Provide a regional comparison of the data received;
- Provide definitions or criteria with the survey to focus the information provided by each county;
- Gather data on the load capacity of roads being constructed by the counties; and
- Review information available from the Tax Department, DOT, and UGPTI to potentially reduce the information that counties would need to provide in the survey.

REQUIRED MOTOR VEHICLE INSURANCE STUDY

Mr. Mike Andring, Property Casualty Actuary, Insurance Department, provided testimony ([Appendix F](#)) on the estimated impact on auto insurance premiums if personal injury protection were not required as a mandatory coverage. Mr. Andring said that based on the department's analysis the premium attributable to personal injury protection coverage is approximately 7 percent of the total auto insurance premium. He said the estimate is based on the top 20 insurance carriers which accounted for nearly 80 percent of the market in 2014.

At the request of Chairman Ruby, Mr. Andring said the Insurance Department will survey insurance providers to determine the percentage of the provider's customers that select the minimum amount of vehicle insurance.

In response to a question from Chairman Ruby, Senator Oehlke said personal injury protection coverage was increased during the 1985 legislative session from \$15,000 per person to \$30,000 per person. He said property damage was increased from \$10,000 to \$25,000.

Senator Oehlke expressed concern that increasing the minimum required amount of motor vehicle insurance will result in more uninsured motorists than improving overall coverage.

In response to Senator Sinner, Mr. Andring said North Dakota's cost of motor vehicle insurance is average compared to the rest of the United States.

UNIFORM TRUCK PERMITTING STUDY

Mr. Ron Ness, President, North Dakota Petroleum Council, presented information regarding the uniform truck permitting study. Mr. Ness said the oil-producing counties have been operating a uniform truck permitting system for several years successfully. He said townships and counties have imposed permitting requirements especially during the freeze/thaw cycle that are beyond the uniform truck permitting system developed by the North Dakota Association of Oil and Gas Producing Counties. He said the lack of consistency among counties has increased and companies spend a significant amount of time applying and waiting for county and township permits. He said the North Dakota Petroleum Council is in discussion with the counties to create consistency in the permitting process among the oil-producing counties.

In response to a question from Senator Oehlke, Mr. Ness said the tribal entities have separate permitting processes and the possibility to create a uniform truck permitting process which includes those entities is not likely.

Mr. Arik Spencer, Executive Vice President, North Dakota Motor Carriers Association, provided testimony ([Appendix G](#)) regarding the uniform truck permitting study. Mr. Spencer said there is consensus in support of a single point to access permits among members. He expressed concern regarding the high costs of some county and township permits. He said North Dakota Century Code Section 39-12-02 sets a minimum fee for overweight vehicles, however, he said the Century Code does not set a maximum fee.

In response to a question from Representative Brandenburg, Mr. Spencer said a company was transporting wind turbines into North Dakota from out of state and found North Dakota's permitting process difficult and the permit costs excessive.

Mr. Terry Traynor, Assistant Director of Policy and Programs, North Dakota Association of Counties, provided testimony ([Appendix H](#)) regarding truck size and weight regulation. Mr. Traynor said counties are responsible for almost 24,000 miles of roads and have responsibility for 47,000 miles of township roads. He said counties maintain 3,505 bridges more than 20 feet in length and an undetermined number of smaller structures. He said counties have relied on the statutory 80,000 pound gross vehicle weight limitation of state law and periodic enforcement by the Highway Patrol. He said a more dynamic overload permit process should be developed to meet counties' changing load limits.

Mr. Traynor asked the committee to consider legislation to remove a sunset clause established by the 2013 Legislative Assembly in Senate Bill No. 2025 allowing the jurisdiction responsible for maintaining the road to receive civil settlements assessed to compensate for damage done by an overweight vehicle.

TRUCK SIZE AND WEIGHT HARMONIZATION STUDY

Mr. Ron Henke, Deputy Director for Engineering, DOT, provided testimony ([Appendix I](#)) on the status of DOT truck size and weight study. Mr. Henke said DOT is working with UGPTI and several other agencies to develop the scope of the study with another meeting to occur in November.

In response to a question from Representative Brandenburg, Mr. Henke said South Dakota weight restriction is approximately 131,000 pounds gross vehicle weight, Montana is similar to South Dakota, but Minnesota's limit is 80,000 pounds gross vehicle weight across the state. He said the federal interstate is limited to 80,000 pounds gross vehicle weight.

Representative Brandenburg expressed concern regarding the difference in weight restrictions in North Dakota allowing up to 105,500 pounds gross vehicle weight and South Dakota allowing 131,000 pounds gross vehicle weight. He said the difference makes it more difficult to transport loads between these states. Mr. Henke said these issues will be addressed in the study.

OTHER DUTIES OF THE TRANSPORTATION COMMITTEE

Mr. Henke provided testimony ([Appendix J](#)) regarding transportation network company reporting, its study of state funding distributions and allocations to public transportation providers, and the department's updated North Dakota state rail plan.

Transportation Network Companies

Mr. Henke said transportation network companies are required to report the following information to DOT: a list of political subdivisions in which the transportation network company operates, the number of accidents that were reported to the transportation network company during the passenger on-board stage, and the number and types of traffic violations and other violations that were reported to the transportation network company during the passenger on-board stage. He said the reports are due on June 15 and December 15 of each year.

Study of State Funding Distributions and Allocations to Public Transportation Providers

Mr. Henke said DOT is studying state aid funding distributions and allocations to public transportation providers. He said DOT is conducting the study and has compiled the necessary transit-related data. He said the study is anticipated to be completed by June 30, 2016.

In response to a question from Chairman Ruby, Mr. Henke said DOT is reviewing revenue sources, the use of the funding, and funding distributions. He said the study does not specifically include a review of voids in transportation needs of veterans.

North Dakota State Rail Plan

Mr. Henke said DOT is updating its state rail plan in partnership with PSC, the Department of Commerce, the Department of Emergency Service, the North Dakota Pipeline Authority, and UGPTI. He said the intent of the state rail plan is to provide guidance for the rail systems and services utilized by North Dakota passengers and freight shippers. He said the plan will provide an assessment of the rail system offering recommendations for policies, programs, processes, and projects that will improve rail-related safety and service. He said WSP Parsons Brinckerhoff is the consultant selected to assist with developing the plan and the plan is anticipated to be completed in fall of 2016.

In response to a question from Chairman Ruby, Mr. Tolliver said PSC has hired a track inspector who previously worked with the Burlington Northern Santa Fe Railroad. He said the inspector is currently working with the Chief Track Inspector of the Federal Railroad Administration. He said the inspector has completed training, and has the same authority as a federal railroad inspector.

In response to a question from Chairman Ruby, Mr. Tolliver said the steering committee for the rail road plan has not yet completed the overall focus, but he anticipates the plan will focus on safety, the role of the railroad in the transportation network, services the railroad can provide, traffic flow, and improvements to the system. He said he also anticipates the plan will consider railroad needs for both main rail lines and short-line railroads and emergency service planning.

In response to a question from Senator Sinner, Mr. Tolliver said the state rail plan will consider safety, which would include train speeds.

In response to a question from Senator Sinner, Mr. Tolliver said the railroad inspectors walk and visually inspect the track, and a rail car electronically inspects the track.

In response to a question from Senator Oehlke, Mr. Tolliver said the state rail plan will include recommendations and any necessary legislative action.

In response to a question from Representative Brandenburg, Mr. Tolliver said one railcar can transport as much as three or four trucks resulting in fewer trucks on the road network.

In response to a question from Chairman Ruby, Mr. Henke said DOT hopes to complete the state railroad plan in time to present it to the Transportation Committee.

Senator Sinner suggested and Chairman Ruby requested the Legislative Council to provide information on current fuel tax revenue.

It was moved by Senator Erbele, seconded by Representative Hanson, and carried on a voice vote that the meeting be adjourned.

No further business appearing, Chairman Ruby adjourned the meeting at 2:09 p.m.

Chris Kadmas
Fiscal Analyst

ATTACH:10