

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**TRANSPORTATION COMMITTEE**

Tuesday, February 23, 2016  
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, Karen Karls, William E. Kretschmar, Lisa Meier, Mike Schatz; Senators Robert Erbele, Jerry Klein, Joe Miller, David O'Connell, Dave Oehlke, David S. Rust, George Sinner

**Members absent:** Representatives Mike Brandenburg and Ben Hanson

**Others present:** See [Appendix A](#)

**It was moved by Senator O'Connell, seconded by Senator Klein, and carried on a voice vote that the minutes of the November 12, 2015, meeting be approved as distributed.**

**SPECIAL TRANSPORTATION FUNDING DISTRIBUTIONS  
TO POLITICAL SUBDIVISIONS STUDY**

At the request of Chairman Ruby, the Legislative Council staff presented *2014 Transportation Funding Report for the following counties: [Benson](#), [Bowman](#), [McKenzie](#), [Richland](#), and [Rolette](#)*. The Legislative Council staff said the report provides county transportation funding sources and expenditures by type.

At the request of Chairman Ruby, the Legislative Council staff presented a memorandum regarding a summary of recommendations presented to the committee to date entitled [Summary of Transportation Committee Minutes Regarding Recommendations for the Special Transportation Funding Distribution Study](#).

In response to a question from Senator Klein, the Legislative Council staff said flood-related funding utilized for road construction or repair should be reported on the transportation funding report.

In response to a question from Chairman Ruby, the Legislative Council staff said the intent of reviewing the transportation reports submitted to the Tax Department is to identify whether or not the information can be utilized in place of sending surveys to all 53 North Dakota counties. He said the intent is to review the information included on the report to determine if the level of detail is sufficient to allow the committee to select counties to present information, from the counties' perspective, regarding information in the report and the extent to which funding provided by the Legislative Assembly is meeting its transportation needs.

In response to a question from Senator Sinner, Mr. Kevin Schatz, Supervisor of the Motor Fuels and Oil and Gas Tax Division, Tax Department, said the annual transportation funding report was designed from a federal questionnaire required for the Department of Transportation. He said the Tax Department is only required to collect the data and as there is no penalty for not filing the report.

At the request of Senator O'Connell, Chairman Ruby requested the Legislative Council staff to provide information regarding counties that may receive less than \$5 million of oil and gas tax revenue allocations for fiscal year 2016.

Chairman Ruby requested the Legislative Council staff prepare an analysis of the transportation reports submitted for the counties near Bismarck and invite representatives from these counties to present information regarding their process in completing and submitting the reports and details regarding the information in the 2014 reports.

**REQUIRED MOTOR VEHICLE INSURANCE STUDY**

At the request of Chairman Ruby, the Legislative Council staff presented a memorandum regarding a summary of recommendations presented to the committee to date entitled [Summary of Transportation Committee Minutes Regarding Recommendations for the Required Motor Vehicle Insurance Study](#).

In response to a question from Chairman Ruby, Senator Oehlke said the personal injury protection (PIP) minimum requirement in North Dakota is \$30,000 per individual at the time of loss, which provides coverage for medical-related expenses, loss of wages, and funeral expenses. He said an individual's PIP coverage insures each individual in the vehicle. He said the average cost of PIP is approximately \$12 to \$16 every 6 months, but the cost for high-risk drivers will be more.

In response to a question from Chairman Ruby, Senator Oehlke said an individual's liability coverage insures the passengers in the other vehicle if the accident was the individual's fault and the damages exceed \$2,500. He said the PIP coverage is the primary coverage until it is expended.

Mr. Patrick Ward, Association of North Dakota Insurers, said individuals have the option of purchasing additional coverage and the industry does not believe any changes are necessary regarding required motor vehicle insurance in North Dakota.

### **UNIFORM TRUCK PERMITTING STUDY**

At the request of Chairman Ruby, the Legislative Council staff presented a memorandum regarding a summary of recommendations presented to the committee to date entitled [Summary of Transportation Committee Minutes Regarding Recommendations for the Uniform Truck Permitting Study](#).

Chairman Ruby distributed bill draft [17.0033.01000] regarding North Dakota Century Code Section 39-12-20. The bill draft removes the sunset clause regarding the deposit of proceeds from truck size, weight, and other violations which did not occur on an interstate or state highway.

In response to questions from Senators Klein and Rust, Chairman Ruby said the opposition would be concerned with overaggressive enforcement to increase revenues generated from violations.

In response to a question from Senator Rust, the Legislative Budget Analyst and Auditor said the 2013 legislative session fiscal note indicated a loss of revenue to the state in the amount of \$1,260,000.

In response to a question from Representative Schatz, Chairman Ruby said allowing the counties to retain the revenues from violations, allows the counties to utilize those revenues for the repair, maintenance and replacement of those roads, and the counties may be more inclined to increase enforcement to protect those roads since it benefits from those revenues.

In response to a question from Senator Klein, Chairman Ruby said Section 39-12-20 relates only to fees from oversize and weight violations and does not pertain to revenues from any other type of violation.

Mr. Mark Johnson, Executive Director, North Dakota Association of Counties, said current law allows the fees to go to the county in which the violation occurred and the bill draft will eliminate the expiration date for this section and will allow current law to continue.

### **DEPARTMENT OF TRANSPORTATION BUDGET UPDATE**

Mr. Grant Levi, Director, Department of Transportation, provided testimony ([Appendix B](#)) regarding the effect on the Department of Transportation's (DOT) 2015-17 budget due to the 4.05 percent general fund budget allotment and reduced highway fund revenues. Because of the budget allotment, he said, the DOT's general fund appropriation will be reduced by \$26.6 million affecting road construction projects, and allocations to counties and transit providers. He said the DOT's new highway fund revenue forecast is projecting a 13 percent decrease from the original 2015-17 biennium projection due primarily to reduced fuel tax collections.

In response to a question from Senator Klein, Mr. Levi said DOT has been experiencing some cost savings because of reduced oil prices and increased competition during the bidding process helping to reduce overall construction costs.

In response to a question from Senator Rust, Mr. Levi said the changes to the construction of Highway 42 near Crosby will allow gross vehicle weight of 105,500 pounds with the exception of during spring thaw. He said the change from replacement to an overlay allows for reduced construction costs for the road at the loss of a year round gross vehicle weight limit of 105,500 pounds.

In response to a question from Chairman Ruby, Mr. Levi said all of the funding provided in 2015 Senate Bill No. 2103 was committed for projects, but those projects will take some time to complete and the funding will be continued into the next biennium.

In response to a question from Senator Sinner, Mr. Levi said DOT had been experiencing increased road construction costs of 11 to 12 percent per year. He said in its most recent bid opening actual bids were 8 to 10 percent less than the engineer's estimate. He said DOT has been rebidding projects because of the increased competition in bidding.

### **TRUCK SIZE AND WEIGHT HARMONIZATION STUDY**

Ms. Jackie Darr, Permit Supervisor, North Dakota Highway Patrol, provided testimony ([Appendix C](#)) regarding the harmonization of the inner and outer bridge calculation between the state highways and interstate system. She said state law requires the use of the outer bridge formula when calculating the weight of a truck to determine legal load limits on state highways and the inner and outer bridge formula to determine legal load limits on the interstate.

In response to a question from Senator O'Connell, Mr. Brad Darr, State Maintenance Engineer, Department of Transportation, said North Dakota has not completed a study regarding the impact the speed of a truck has on the road on which it is traveling. He said South Dakota has completed a study that determined reducing the speed of trucks did not result in less damage to the roadway.

Captain Eldon Mehrer, Permit Supervisor, North Dakota Highway Patrol, provided testimony ([Appendix D](#)) regarding commercial motor vehicle prescreening technology. He said the Highway Patrol is in the process of reviewing vendors to use prescreening technology to potentially allow trucks to bypass weigh stations. He said the prescreening technology would allow law enforcement to better utilize its time by checking trucks with a higher risk of violation.

In response to a question from Representative Meier, Captain Mehrer said the state would not incur any cost for the implementation of the weigh station bypass technology. He said the vendors provide the equipment at no charge to the state. He said the vendors charge the users for the use and ability to potentially bypass weigh stations. He said Montana, South Dakota, Minnesota, and provinces in Canada utilize weigh station bypass technology.

In response to a question from Senator Oehlke, Captain Mehrer said the Highway Patrol would contact the vendor to setup geofencing for areas it intends to use as weigh areas.

In response to a question from Chairman Ruby, Captain Mehrer said the Highway Patrol could contract with several vendors in order to maximize the number of trucks that could potentially use the weigh station bypass technology.

Mr. Arik Spencer, Executive Vice President, North Dakota Motor Carriers Association, provided testimony ([Appendix E](#)) regarding the use of prescreening technology to potentially allow trucks meeting specific criteria to bypass weigh stations. He said the commercial trucking industry supports North Dakota utilizing bypass technology.

Mr. Brian Heath, President, Drivewyze, provided testimony ([Appendix F](#)) regarding its prescreening technology to potentially allow trucks which meet specific criteria to bypass weigh stations. He said weigh station bypass technology allows carriers with a history of compliance to save time and money by bypassing weigh stations, and it allows law enforcement to focus its time on problem carriers.

In response to a question from Chairman Ruby, Mr. Heath said if a driver receives a red light when approaching a weigh station, it does not mean the driver or vehicle is not compliant but it does mean the vehicle must stop at the weigh station.

In response to a question from Representative Karls, Mr. Heath said the system utilizes cell phone technology and if the system loses its signal, the default when approaching a weigh station is a red light and the truck must stop at the weigh station.

In response to a question from Senator Oehlke, Mr. Heath said the Highway Patrol can utilize the current technology in its vehicles for the Drivewyze system.

**It was moved by Senator Klein, seconded by Senator Rust, and carried on a voice vote that the meeting be adjourned.**

No further business appearing, Chairman Ruby adjourned the meeting at 3:16 p.m.

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Chris Kadmas  
Fiscal Analyst

ATTACH:6