

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**TRANSPORTATION COMMITTEE**

Wednesday, July 21, 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, Mike Brandenburg, Ben Hanson, 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:** None

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

**It was moved by Senator O'Connell, seconded by Senator Rust, and carried on a voice vote that the minutes of the February 23, 2016, meeting be approved as distributed.**

**DEPARTMENT OF TRANSPORTATION UPDATE**

Mr. Grant Levi, Director, Department of Transportation, provided testimony ([Appendix B](#)) regarding estimated and actual motor vehicle fuels taxes and registration fee collections and the status of road construction projects for the 2016 construction season. He said the annual amount generated from a one-cent gas tax has decreased from \$8.7 million per year in 2015 to \$7.6 million per year in 2016 and the Department of Transportation (DOT) is projecting an annual amount of \$7.4 million per year for the 2017-19 biennium. He said the highway tax distribution funding to counties has declined from \$70.3 million in fiscal year 2015 to \$60.1 million in 2016. He said city allocations have declined from \$40 million in fiscal year 2015 to \$34 million in 2016. He said DOT currently has 188 contracts for road projects and has experienced an 18 percent savings from bids less than the engineer's original estimates. He said the 2016 construction program included \$680 million of road projects. He said after the 4.05 percent budget allotment and reductions in user revenues, the 2016 construction program has been reduced to \$580 million.

In response to a question from Senator O'Connell, Mr. Levi said the overall match requirement for projects eligible for federal funds is generally 20 percent for reconstruction projects and 10 percent for safety-related projects.

In response to a question from Senator Klein, Mr. Levi said the nation is experiencing declining revenue from gas and diesel taxes because of the increase in the efficiency of vehicles and a reduction in travel. Mr. Levi said the surrounding states are experiencing similar revenue reductions. He said other states have increased user fees to offset the decline in usage. He said Minnesota imposes a gasoline tax of 28.6 cents per gallon, Montana imposes 27.7 cents per gallon, South Dakota imposes 30 cents per gallon, the national average is 28.2 cents per gallon, and North Dakota imposes 23 cents per gallon.

In response to a question from Senator Klein, Mr. Levi said surrounding states vehicle registration fees vary significantly. Mr. Levi said the registration fee for a typical vehicle in Minnesota will cost \$261, while registration fees for the same vehicle in Montana will cost \$217, the cost in South Dakota will be \$72 dollars, and the cost in North Dakota will be \$93. He said registration fees for a 44,000 pound farm truck will cost \$149 in North Dakota, while in South Dakota the registration fee would be \$357.

In response to a question from Representative Meier, Mr. Levi said the last time the gas tax increased in North Dakota was 2005. Mr. Levi said the increase to the gas tax during the 2005 legislative session was necessary to generate enough revenue to match federal funding available to North Dakota.

In response to a question from Chairman Ruby, Mr. Levi said the last time vehicle registration fees changed was in 2007 when some minor changes were made.

In response to a question from Representative Brandenburg, Mr. Levi said the permits have been obtained to complete the road project on Highway 85 between Watford City and Williston and construction is proceeding. Mr. Levi said construction on the bridge project between the two cities is experiencing some delays. He said DOT is working to obtain environmental approval to complete Highway 85 from Interstate 94 to Watford City. He said the goal is to have the environmental approval completed by the fall of 2017. He said the department must comply with the federal environmental process to proceed with the Long X Bridge project.

In response to a question from Chairman Ruby, Mr. Levi said if the Long X Bridge project had all required federal approvals, the state would need \$50 million to \$60 million of funding to complete the project. Mr. Levi said the state receives \$150 million to \$170 million in federal funding for rural state highways annually.

### TRUCK SIZE AND WEIGHT HARMONIZATION STUDY

Mr. Levi provided testimony ([Appendix B](#)) regarding DOT's truck size and weight harmonization study in collaboration with the Upper Great Plains Transportation Institute. He said the Upper Great Plains Transportation Institute is conducting the study, which is currently reviewing the impact of changing the gross vehicle weight (GVW) limit from 105,500 pounds to 129,000 pounds. He said the bridge review is a slow process because each bridge needs to be reviewed individually. He said the study is anticipated to be completed for presentation to the 65<sup>th</sup> Legislative Assembly.

Mr. Tim Horner, Program Director, Upper Great Plains Transportation Institute, provided testimony ([Appendix B](#)) regarding the truck size and weight harmonization study. He said a steering committee was created for the study which includes 13 members from various agencies and entities which represent political subdivisions. He said findings to date include the need to update software, websites, and printed materials at a cost of between \$102,000 and \$165,000, a reduction in revenue of \$6,200 because of the elimination of the long-combination vehicle permit, inadequate roadway intersection geometry to accommodate longer trucks that require a larger turning radius, which could cost \$130 million to \$306 million statewide to correct. He said shipper costs are estimated to be reduced by \$140 million to \$285 million annually. He said it is expected to reduce overall truck vehicle miles of travel for divisible loads of applicable commodities by 31 to 36 percent. He said the total truck vehicle miles of travel impact is still being reviewed.

In response to a question from Chairman Ruby, Mr. Horner said the amount of weight on each axle on a truck at 129,000 pounds GVW could be less than a truck loaded at 80,000 pounds GVW because of the additional axles required. Mr. Horner said the bridges can be posted for a particular weight, which would dictate the weight limit of the road on which the bridge is located. He said although South Dakota does not restrict the weight of a load, it does have a length limit which limits the maximum load.

In response to a question from Chairman Ruby, Mr. Horner said a five-axle semi pulling a pup trailer requires the largest turning radius creating a need to improve inadequate city and county intersections.

In response to a question from Senator Oehlke, Mr. Horner said farmers are required to have a commercial drivers license when operating a five-axle semi with a pup trailer.

In response to a question from Representative Brandenburg, Mr. Horner said a truck entering North Dakota from South Dakota carrying a divisible load, such as grain greater than 105,500 pounds GVW, would not be able to obtain an overweight permit in North Dakota.

In response to a question from Representative Brandenburg, Ms. Leanna Emmer, Circuit Rider, Upper Great Plains Transportation Institute, said South Dakota vehicle length laws are significantly different than North Dakota laws. Ms. Emmer said a two-trailer combination length is allowed up to 81.5 feet long and any length beyond that requires a commercial driver's license combination permit and are restricted to the national network system in South Dakota. She said although South Dakota does not have any legal GVW limits, it does restrict GVW for vehicles requiring a commercial driver's license combination permit.

In response to a question from Representative Brandenburg, Mr. Levi said one of the major reasons for the study is due to the difficulty of moving commerce across states with different requirements.

In response to a question from Senator Klein, Mr. Levi said the state will need to address law changes that may be necessary due to the introduction of autonomous vehicles.

In response to a question from Chairman Ruby, Mr. Levi said the federal government would need to make changes regarding allowable GVW limits on the federal interstate system to accommodate the 129,000 GVW considered in this study.

## 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 a question from Senator Oehlke, Mr. Terry Traynor, Assistant Director of Policy and Programs, North Dakota Association of Counties, said the state constitution requires criminal fines for overweight violations to be used for the benefit of common schools, regardless of where the violation occurred. Mr. Traynor said the civil penalty associated with this type of violation is deposited in the general fund in the jurisdiction in which the violation occurred and must be used for the support of the road system of that jurisdiction.

In response to a question from Representative Brandenburg, Mr. Traynor said prior to 2013, proceeds from the civil penalty had been deposited in the general fund in the jurisdiction in which the violation occurred and an Attorney General's opinion regarding the civil penalties indicated that state law required these funds to be deposited into the state highway fund. Mr. Traynor said the 2013 Legislative Assembly approved a bill providing that these funds again be deposited in the general fund of the jurisdiction in which the violation occurred. He said the bill has an expiration date of June 30, 2017.

**It was moved by Senator Oehlke, seconded by Representative Meier, and carried on a roll call vote that the bill draft [17.0033.01000] be approved and recommended to the Legislative Management.** Representatives Ruby, Anderson, Brandenburg, Hanson, Karls, Krestschmar, and Meier and Senators Oehlke, Erbele, Klein, Miller, Rust, and Sinner voted "aye." Representative Schatz and Senator O'Connell voted "nay."

## SPECIAL TRANSPORTATION FUNDING DISTRIBUTIONS TO POLITICAL SUBDIVISIONS STUDY

Representatives of the following counties presented information regarding annual reports on transportation funding and expenditures submitted to the Tax Commissioner pursuant to Section 54-27-26 and on the use of special transportation funding provided by the 2015 Legislative Assembly in House Bill No. 1176 and Senate Bill No. 2103:

- Burleigh
- Emmons
- Kidder
- McLean
- Oliver
- Sheridan

Mr. Marcus J. Hall, County Engineer, Burleigh County Highway Department, provided testimony ([Appendix C](#)) regarding its annual reports on transportation funding and expenditures submitted to the Tax Commissioner pursuant to Section 54-27-26 and the use of special transportation funding provided by the 2015 Legislative Assembly in House Bill No. 1176 and Senate Bill No. 2103. He said the state's reporting requirement can be time consuming to convert information contained in the county's reports onto the state form. He said Burleigh County utilized \$3,776,247 provided to the county from Senate Bill No. 2103 for Lincoln Road phase one (\$2,770,203 in 2015) and phase two (\$1,006,044 in 2016). He said the county utilized \$839,274 provided to the county from House Bill No. 1176 for Lincoln phase two (\$396,065) and a roundabout on Highway 10 and 66<sup>th</sup> Street (\$443,209). He said the county plans on using \$3,281,447 on the 71<sup>st</sup> Avenue and Centennial Road to the 66<sup>th</sup> Street road project.

In response to a question from Representative Meier, Mr. Hall said the unused funds will remain in the highway fund for use on future road projects.

In response to a question from Chairman Ruby, Mr. Hall said it may be more appropriated for DOT to compile information on county road expenditures rather than the Tax Department. Mr. Hall suggested political subdivisions be given more flexibility regarding the use of special funding provided for road projects.

Representative Brandenburg commented that the Legislative Assembly's intent for the special funding was to repair damaged county roads.

Ms. Marlys Ohlhauser, County Auditor and Treasurer, Emmons County, provided testimony ([Appendix D](#)) regarding its annual reports on transportation funding and expenditures submitted to the Tax Commissioner and the use of special transportation funding provided by the Legislative Assembly in House Bill No. 1176 and Senate Bill No. 2103. She said the report is not difficult to complete because the information is readily available in the county's annual financial report. She said the county is using \$1,185,244 of the \$1,324,282 available from House Bill No. 1176 for three road culvert projects. She said the county is using \$1,167,976 of the \$2,169,557 available from Senate Bill No. 2103 for grading and aggregate surfacing on a farm to Market Road by Kintyre. She said the county is planning on using the remaining funds from both bills to grade and surface another farm to Market Road southwest of Linton.

In response to a question from Chairman Ruby, Ms. Ohlhauser said one of the new culverts will replace a small bridge as a lower cost alternative.

In response to a question from Senator Miller, Ms. Ohlhauser said as an alternative, the county could provide either its annual audited financial statements or the annual road fund financial statements rather than completing the report.

In response to a question from Senator Sinner, Ms. Ohlhauser said the county uses an accounting software program called Dakota Programs. Ms. Ohlhauser said each county may use different software, depending on its needs. She said the software allows conversion to an Microsoft Excel format.

In response to a question from Senator Oehlke, Ms. Ohlhauser said snow removal is budgeted in the county's emergency fund. Ms. Ohlhauser said the county commissioners must declare an emergency to utilize that funding for snow removal.

In response to a question from Chairman Ruby, Ms. Ohlhauser said Emmons County has one organized township and the remainder are unorganized townships. Ms. Ohlhauser said the county has used the special transportation funding for unorganized townships to purchase gravel.

Ms. Jean Schoenhard, County Auditor, Kidder County, provided testimony ([Appendix E](#)) regarding its annual reports on transportation funding and expenditures submitted to the Tax Commissioner and the use of special transportation funding provided by the 2015 Legislative Assembly in House Bill No. 1176 and Senate Bill No. 2103. She said completing the annual report can be difficult and time consuming. She said Kidder County has two full-time employees to address all administrative tasks necessary for Kidder County. She said the county is required to prepare audited financial statements annually and it would be more efficient to provide those to the Tax Department rather than completing the report. She said Kidder County completed an 11-mile overlay paving project on one of the county's county major collector roads, and it plans to complete a grade raise on another county major collector road along with some other small repair projects.

Mr. Leslie D. Korgel, County Auditor, McLean County, provided testimony ([Appendix F](#)) regarding its annual reports on transportation funding and expenditures submitted to the Tax Commissioner and the use of special transportation funding provided by the 2015 Legislative Assembly in House Bill No. 1176 and Senate Bill No. 2103. He said a difficulty encountered while completing the annual transportation report is converting the information from the county's account line items into the line items provided in the report. He said he may include expenditures relating to a road project in the maintenance expenditures line when an other county may include that expenditure in the capital outlay line. He said the county used funding provided in House Bill No. 1176 and Senate Bill No. 2103 to increase the GVW limit from 80,000 pounds to 105,500 pounds on 132 miles of road.

In response to a question from Chairman Ruby, Mr. Korgel said counties are required by state law to submit a revenue and expenditure report. Mr. Korgel said counties use the same categories, but some counties will have additional categories such as mass transit. He said the report does not detail normal highway maintenance.

Ms. Judith Hintz, County Auditor, Oliver County, provided testimony ([Appendix G](#)) regarding its annual reports on transportation funding and expenditures submitted to the Tax Commissioner and the use of special transportation funding provided by the 2015 Legislative Assembly in House Bill No. 1176 and Senate Bill No. 2103. She said she details all costs by category when preparing the transportation report submitted to the Tax Commissioner annually. She said Oliver County uses Software Innovations, which provides more of the expenditure detail. She said the county is using funding provided in House Bill No. 1176 (\$1,126,888) and Senate Bill No. 2103 (\$1,379,586) for preliminary engineering costs and to complete 10.5 miles of road work on a county major collector road in the county.

In response to a question from Senator Oehlke, Ms. Hintz said the North Dakota County Auditors Association could discuss the possibility of creating a uniform report, which could be provided to legislators. Ms. Hintz said each county auditor is interpreting the instructions differently so similar expenditure items may be reported in different categories.

Ms. Shirley Murray, County Auditor, Sheridan County, provided testimony ([Appendix H](#)) regarding its annual reports on transportation funding and expenditures submitted to the Tax Commissioner and the use of special transportation funding provided by the 2015 Legislative Assembly in House Bill No. 1176 and Senate Bill No. 2103. She said she details all costs by category to include those amounts on the transportation report submitted to the Tax Commissioner. She said the deadline for the annual transportation report is April 1 of each year; however, she said, the county does not typically receive information from the organized townships until the middle of May. She said the county will use the \$1,128,975 in funding received from House Bill No. 1176 to complete the road pavement project near McClusky, and the county will use the funding provided in Senate Bill No. 2103 to finish another 4.2 miles of road paving near McClusky.

Mr. Chris Brungardt, Public Works Director, City of West Fargo, presented information ([Appendix I](#)) regarding the city's Sheyenne Street project. He said the city has spent over \$340 million of local funds on road projects in the last 10 years, primarily in the form of special assessments, which range from \$40,000 to \$65,000 for new homes.

In response to a question from Representative Meier, Mr. Brungardt said the city is working with DOT to complete required studies and to obtain federal funding for the project. Mr. Brungardt said the city began working with DOT on the project in 2012.

In response to a question from Chairman Ruby, Mr. Brungardt said the road is not part of the state highway system, but there is an interchange which qualifies for federal funding through the urban transportation fund.

In response to a question from Senator Sinner, Mr. Brungardt said Cass County is not providing any funding for the project because the road was transferred to the City of West Fargo 6 years ago.

In response to a question from Senator Oehlke, Ms. Tina Fisk, City Administrator, City of West Fargo, said the city has considered requiring developers pay for the costs of water, sewer, sidewalks, and lights in new developments, but to be feasible, the City of Fargo would also need to follow the same requirements.

In response to a question from Representative Meier, Ms. Fisk said the city is currently expanding three schools and has plans for constructing two new schools.

In response to a question from Representative Brandenburg, Mr. Brungardt said the City of West Fargo needs \$26 million of funding assistance for the Sheyenne Road project.

Mr. Jeremy Gorden, Transportation Division Engineer, City of Fargo, provided written testimony ([Appendix J](#)) regarding road projects for the City of Fargo.

### **OTHER DUTIES OF THE TRANSPORTATION COMMITTEE**

The Department of Transportation submitted the following reports to the Legislative Council which were distributed to the committee:

- Study of state funding distributions and allocations to public transportation providers ([Appendix K](#)), pursuant to Section 12 of 2015 House Bill No. 1012
- Information collected from transportation network companies ([Appendix L](#)), pursuant to Section 39-34-05

### **COMMITTEE DISCUSSION**

Senator Rust suggested a uniform accounting program be utilized by the counties similar to the common accounting program used by schools.

Senator Miller said it appears the information contained in the annual transportation reports submitted to the Tax Commissioner is not consistent among counties and does not provide uniform information of each county's needs. He suggested making changes to improve the report.

The Legislative Budget Analyst and Auditor said the original intent of the transportation report was to obtain consistent information relating to county road funding and uses. He said the Legislative Council will discuss with the North Dakota Association of Counties and the Information Technology Department options to establish a common accounting software or reporting system for counties and options for more uniform reporting.

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

No further business appearing, Chairman Ruby adjourned the meeting at 3:10 p.m.

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Chris Kadmas  
Fiscal Analyst

ATTACH:12