TRANSPORTATION FUNDING DISTRIBUTIONS TO POLITICAL SUBDIVISIONS - BACKGROUND MEMORANDUM

Section 41 of Senate Bill No. 2015 (Appendix A) directs the Legislative Management to study special transportation funding distributions to political subdivisions. The study is to include a review of the distribution methods including the feasibility and desirability of using Upper Great Plains Transportation Institute needs studies, county major collector miles, or a combination of both, if there are future special transportation funding distributions to political subdivisions, and the study must review options to ensure counties are reporting information consistently. The Legislative Management shall consider methods to ensure that road projects in each county are properly coordinated with state road projects and projects in adjacent counties. The study must also review the use of special transportation funding in comparison to the Legislative Assembly's intent.

LEGISLATIVE HISTORY

2011

The 2011 Legislative Assembly provided $215 million for special transportation distributions to political subdivisions. The following information details the distributions provided in 2011 House Bill No. 1012 and 2011 Senate Bill No. 2371.

Section 5 of 2011 House Bill No. 1012 provided $35 million from the general fund for distributions for the 2009-11 biennium to non-oil-producing counties, which was defined as a county that did not receive an allocation of funding under North Dakota Century Code Section 57-51-15 during state fiscal year 2010 or a county that received a total allocation under Section 57-51-15 of less than $500,000 for state fiscal year 2010. The bill required the distributions as follows:

1. Eighty percent to non-oil-producing counties and cities pursuant to Section 54-27-19(4). Section 54-27-19(4) requires allocations to be proportional to the number of vehicle registrations credited to each county. Each county must be credited with the certificates of title of vehicles registered by residents of the county. The State Treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share.
2. Twenty percent to counties and townships in non-oil-producing counties pursuant to Section 54-27-19.1. Organized townships were not required to provide matching funds to receive distributions under the section. Section 54-27-19.1 requires allocations to be based on the length of township roads in each county compared to the length of all township roads in the state.

Section 6 of 2011 House Bill No. 1012 provided $25 million from the general fund for distributions to non-oil-producing counties, which was defined as a county that did not receive an allocation of funding under Section 57-51-15 during state fiscal year 2011 or a county that received a total allocation under Section 57-51-15 of less than $500,000 for state fiscal year 2011. The bill required the distributions as follows:

1. Eighty percent to non-oil-producing counties and cities pursuant to Section 54-27-19(4). Section 54-27-19(4) requires allocations to be proportional to the number of vehicle registrations credited to each county. Each county must be credited with the certificates of title of vehicles registered by residents of the county. The State Treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share.
2. Twenty percent to counties and townships in non-oil-producing counties pursuant to Section 54-27-19.1. Organized townships were not required to provide matching funds to receive distributions under the section. Section 54-27-19.1 requires allocations to be based on the length of township roads in each county compared to the length of all township roads in the state.

Section 10 of 2011 House Bill No. 1012 provided $142 million from the general fund to rehabilitate or reconstruct county and township paved and unpaved roads. Funding allocations to counties were to be made by the Department of Transportation based on the needs assessment study conducted by the Upper Great Plains Transportation Institute, titled *Additional Road Investments Needed to Support Oil and Gas Production and Distribution in North Dakota*, dated December 9, 2010.

Section 27 of 2011 Senate Bill No. 2371 provided $23 million from the general fund for distributions to political subdivisions in non-oil-producing counties, which was defined as a county that did not receive an allocation of funding under Section 57-51-15 during state fiscal year 2011 or a county that received a total allocation under Section 57-51-15 of less than $500,000 for state fiscal year 2011. The bill required the distributions as follows:

1. $6.8 million to non-oil-producing counties and cities pursuant to Section 54-27-19(4).
2. $1.7 million to counties and townships in non-oil-producing counties pursuant to Section 54-27-19.1. Organized townships were not required to provide matching funds to receive distributions under the section.
3. $14.5 million to counties and townships in non-oil-producing counties through a distribution of $10,000 to each organized township and a distribution of $10,000 for each unorganized township to the county in which the unorganized township is located. If funds remained after the distributions provided under the subsection, the State Treasurer was to distribute 80 percent to counties and cities pursuant to the method provided in subsection 1 of this section and 20 percent to counties and townships pursuant to the method provided in subsection 2 of this section.

2013

The 2013 Legislative Assembly provided $388.76 million for special transportation distributions to political subdivisions. The following information details the distributions provided in 2013 House Bill No. 1358 and 2013 Senate Bill No. 2176.

Section 5 of 2013 House Bill No. 1358 provided $160 million from the general fund for distributions to oil-producing counties, which was defined as a county that received $5 million or more of allocations under Section 57-51-15(2) in the state fiscal year ending June 30, 2012, for the 2013-15 biennium. The bill required the distributions as follows:

1. The funds must be used to rehabilitate or reconstruct county paved and unpaved roads and bridges needed to support oil and gas production and distribution in North Dakota.
   a. Funding allocations to counties were to be made by the Department of Transportation based on data supplied by the Upper Great Plains Transportation Institute.
   b. Counties identified in the data supplied by the Upper Great Plains Transportation Institute which received $5 million or more of allocations under Section 57-51-15(2) for the state fiscal year ending June 30, 2012, were eligible for the funding.

Section 6 of 2013 House Bill No. 1358 provided $120 million from the general fund for distributions to counties, that did not receive $5 million or more of allocations under Section 57-51-15(2) in the state fiscal year ending June 30, 2012, for the 2013-15 biennium. The bill required the distributions as follows:

1. The funds must be used to rehabilitate or reconstruct county paved and unpaved roads and bridges needed to support economic activity in North Dakota.
   a. Allocations among eligible counties were based on the miles of roads defined by the Department of Transportation as county major collector roadways in each county.
   b. The Department of Transportation was authorized to use data supplied by the Upper Great Plains Transportation Institute in determining the projects to receive funding.

Section 7 of 2013 House Bill No. 1358 provided $8.76 million from the general fund for allocations to benefit townships in oil-producing counties, which was defined as a county that received an allocation of funding under Section 57-51-15 of more than $500,000 but less than $5 million in the state fiscal year ending June 30, 2012. The bill required a distribution of $15,000 each year to each organized township and a distribution of $15,000 each year for each unorganized township to the county in which the unorganized township was located.

Section 2 of 2013 Senate Bill No. 2176 provided $100 million from the general fund for distributions to political subdivisions in non-oil-producing counties, which was defined as a county that received no allocation of funding or a total allocation under Section 57-51-15 of less than $500,000 for state fiscal year 2012. The bill required the distributions as follows:

1. $64 million to non-oil-producing counties and cities pursuant to Section 54-27-19(4).
2. $16 million to counties and townships in non-oil-producing counties pursuant to Section 54-27-19.1. Organized townships were not required to provide matching funds to receive distributions under the section.
3. $20 million to counties and townships in non-oil-producing counties through a distribution of $15,000 to each organized township and a distribution of $15,000 for each unorganized township to the county in which the unorganized township is located. Any funds remain after the distributions provided under the

subsection, the State Treasurer distributed 80 percent of the remaining funds to counties and cities pursuant to the method provided in subsection 1 of this section and distributed 20 percent of the remaining funds to counties and townships pursuant to the method provided in subsection 2 of this section.

2015

The 2015 Legislative Assembly provided $464 million for special transportation distributions to political subdivisions, of which $224 million is for distributions to non-oil-producing counties and $240 million are for distributions to oil-producing counties. The following information details the distributions provided in House Bill No. 1176 and Senate Bill No. 2103.

Section 4 of House Bill No. 1176 (Appendix B) provided $112 million from the general fund for distributions to non-oil-producing counties, which was defined as the 43 counties that received no allocation of funding or a total allocation under Section 57-51-15(2) of less than $5 million for the period beginning September 1, 2013, and ending August 31, 2014. The bill required that one-half of the distributions must be based on county major collector roadway miles as defined by the Department of Transportation. The distribution to each non-oil-producing county based on county major collector roadway miles must be proportional to each non-oil-producing county's total county major collector roadway miles relative to the combined total of county major collector roadway miles of all the eligible non-oil-producing counties as defined by the bill. The bill required that the remaining one-half of the distributions must be based on the most recent data compiled by the Upper Great Plains Transportation Institute regarding North Dakota's county, township, and tribal road and bridge infrastructure needs. The distribution to each non-oil-producing county based on total estimated road and bridge investment needs must be proportional to each eligible non-oil-producing county's total estimated road and bridge investment needs for the years 2015 to 2034 identified by the Upper Great Plains Transportation Institute relative to the combined total estimated road and bridge investment needs for the years 2015 to 2034 identified by the Upper Great Plains Transportation Institute of all the eligible non-oil-producing counties as defined by the bill.

Section 2 of Senate Bill No. 2103 (Appendix C) provided $352 million from the strategic investment and improvements fund for special transportation distributions to political subdivisions, of which $112 million for distributions to non-oil-producing counties and $240 million to oil-producing counties, as follows:

- $112 million for non-oil-producing counties, which are defined as the 43 counties that received no allocation of funding or a total allocation under Section 57-51-15(2) of less than $5 million for the period beginning September 1, 2013, and ending August 31, 2014. The bill required that the distributions must be based on county major collector roadway miles as defined by the Department of Transportation. The distribution to each non-oil-producing county based on county major collector roadway miles must be proportional to each non-oil-producing county's total county major collector roadway miles relative to the combined total of county major collector roadway miles of all the eligible non-oil-producing counties as defined by the bill.
- $240 million for oil-producing counties, which are defined as the 10 counties that received the highest total allocations under Section 57-51-15(2) for the period beginning September 1, 2013, and ending August 31, 2014. The bill required that the distributions must be based on the most recent data compiled by the Upper Great Plains Transportation Institute regarding North Dakota's county, township, and tribal road and bridge infrastructure needs. The distribution to each oil-producing county must be proportional to each oil-producing county's total estimated road and bridge investment needs for the years 2015 to 2034, identified by the Upper Great Plains Transportation Institute relative to the combined total estimated road and bridge investment needs for the years 2015 to 2034, identified by the Upper Great Plains Transportation Institute of all the eligible oil-producing counties under the bill. Each county's total estimated road and bridge investment needs include unpaved and paved road and bridge needs.

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

The November 2014 *Infrastructure Needs: North Dakota's County, Township and Tribal Roads and Bridges: 2015-2034* final report is the third in a series of studies. In 2010 under the direction of the Governor, the Upper Great Plains Transportation Institute estimated the additional county and local road investment needs in western North Dakota as a result of rapid growth in oil production. The oil study was followed by an analysis of the roadway investments needed to facilitate agricultural logistics. The results of both studies were presented to the Legislative Assembly in January of 2011.

In 2011 Senate Bill No. 2325, the Legislative Assembly appropriated $350,000 from the oil and gas impact grant fund to the Upper Great Plains Transportation Institute to estimate county, township, and tribal road and bridge investment needs across the state.

The 2010 study was based on forecasts of increased agricultural production and the addition of 21,500 oil wells over the study timeframe. However, the forecasts quickly became outdated, necessitating a second statewide study in 2012, the results of which were presented to interim legislative committees in advance of the 2013 legislative session. The 2012 study reflected higher agricultural and energy production forecasts, including the addition of 46,000 new oil wells. At the request of the Legislative Assembly, county and township bridge investment needs were included in the 2012 study.

The 2013 Legislative Assembly included $1.25 million in one-time funding in 2013 Senate Bill No. 2020, for the Upper Great Plains Transportation Institute to be used as matching funds for federal grants to assist in transportation studies, which provided funding to update the 2011-12 interim transportation infrastructure needs study during the 2013-14 interim.

The current (2014) study is based on the latest forecasts of agricultural and energy production and road construction prices. Specifically, it reflects the addition of 60,000 new wells, higher input and construction costs, and the latest traffic and roadway condition data available. All data used in this study had been collected during 2013. Investment needs were forecast for a 20-year time period, starting with the 2015-2017 biennium.

Study Process

The study process began with data collection, which included oil, agricultural production, and manufacturing assumptions collected from various federal and state agencies. The Upper Great Plains Transportation Institute also conducted a survey of counties and townships in order to determine unpaved road needs throughout the state. Pavement and traffic data were collected with the assistance of the Department of Transportation, to identify current pavement, bridge and traffic conditions and update the 2011-13 traffic models that were developed for the 2011-13 study. An estimate of future road and bridge needs was developed based on the data collected.

County Survey for Unpaved Road Needs

Concerns regarding the accuracy and variances in costs among counties were raised during the 2015 legislative session in regards to the Upper Great Plains Transportation Institute unpaved road needs for each county. The Upper Great Plains Transportation Institute collected data regarding unpaved roads by sending surveys to counties and townships to determine costs and practices associated with improving and maintaining unpaved roads throughout the state. The Upper Great Plains Transportation Institute received 52 of the 53 surveys sent to counties and noted that costs provided in the county and township surveys may not be comparable because each county and township has developed different maintenance plans along with experiencing differences in cost due to type and availability of materials. The following are variances that were reported by a representative of the Upper Great Plains Transportation Institute:

- Initial Price (Average gravel/scoria cost with crushing & royalties) – Due to gravel/scoria availability, prices varied significantly from county to county. Many counties have substantial gravel supplies, while others have little to none. Moreover, competition for industrial use of aggregate varies by county. These factors appeared to have had a large impact on the price of aggregate.
- Specifications – These costs are reflected in the initial price and road maintenance practices. A wide array of specifications is used for gradation (sizing), Plasticity Index (PI – requirement for clay binder) and fractured face material.
- Distance of Haul – Due to the availability of aggregate, the haul distance from pit to road varies by county. In certain counties, the cost of transportation more than exceeded the cost of the aggregate itself.
- Placement Techniques – County practices for application influence the final cost of gravel application. On some roads, windrows, blades, water and rollers are part of the application process. On others, placement may involve application directly from the aggregate truck. Each of these practices results in differing application costs. Some counties contract gravel hauling or have contractors supplement the county trucks during gravel hauling operations.
- Blading Frequency – Counties apply differing maintenance practices and blading frequencies.
- Re-graveling Frequency – Counties apply different re-graveling frequencies depending on the thickness of gravel applied and the specifications of the gravel used.

COUNTY MAJOR COLLECTOR MILES

The county major collector system is a network of county roads, which has been identified by the county, and approved by the Department of Transportation and the federal Highway Administration. The county major collector system serves as a network of county roads in the collector network typically connecting with state highways. This network is sometimes called the farm-to-market system. Any route designated to be on the county major collector system must be functionally classified as a major collector. Reasonable changes can be made to this system if a route is a major collector and the proposed change fits logically into the existing county network.

PROPOSED STUDY PLAN

The following is a proposed study plan for the committee's consideration:

1. Survey all North Dakota counties requesting information regarding what each county identified as 2013-15 and 2015-17 infrastructure needs, each county's understanding of how the special transportation funding provided by the 2013 and 2015 Legislative Assemblies met those needs, and on each county's use of the funding provided.
2. Receive information from the Department of Transportation regarding the history of county major collector miles, the process by which roads are added and removed from the system, and how well counties coordinate their projects with state road projects.
3. Receive information from the Upper Great Plains Transportation Institute regarding its study of North Dakota's county, township, and tribal road and bridge infrastructure needs.
4. Receive information from all or select counties regarding the county's methods and ability to report information to the Department of Transportation or the Upper Great Plains Transportation Institute regarding the county's road needs, what the county identified as their needs, how well funding provided by the 2013 and 2015 Legislative Assemblies addressed the needs identified, the county's process of coordinating road projects with state and adjacent county projects, and on the use of the funding provided.
5. Determine if the funding is being used as the Legislative Assembly intended and consider methods to ensure the road projects in each county are properly coordinated with state road projects and adjacent county projects.
6. Develop recommendations and any necessary legislation to implement.
7. Prepare a final report.

ATTACH:3