

**2013 SENATE TRANSPORTATION**

**SB 2119**

# 2013 SENATE STANDING COMMITTEE MINUTES

**Senate Transportation Committee**  
Lewis and Clark Room, State Capitol

Senate Bill 2119  
January 17, 2013  
Recording job number 17328

Conference Committee

*Down & Perry*

## **Explanation or reason for introduction of bill/resolution:**

To amend and reenact subsection 3 of section 39-04.2-01 and section 54-44.4-13 of the North Dakota Century Code relating to cooperative purchasing and public transportation; and to declare an emergency.

## **Minutes:**

Attached testimony: 1

Chairman Oehlke opened hearing on Senate Bill 2119

**Paul Benning** Local Government Division Engineer for the North Dakota Department of Transportation (DOT) In favor of this bill. Its intent is to modify state law by identifying tribal agencies as transit providers so they can be covered under the state's procurement process for purchasing transit vehicles. See attached testimony 1

**Senator Flakoll** Will this bill change their ability to take vehicles from the state motor pool? Will it affect the school district tribal boundaries?

**Paul Benning** No it will not

**Chairman Oehlke** When a political subdivision wants to purchase a vehicle under the state procurement plan do they do it through the state or directly through whoever got the bid? Any issues or problems? Is there a definition of a transit vehicle?

**Paul Benning**: Through the state. There are no issues that we are aware of. There is no definition of a transit vehicle it can be any size or type as long as it is ADA accessible, in other words accessible to the elderly and the disabled.

No additional testimony in favor. No testimony against the bill. **Chairman Oehlke** closed the hearing. **Senator Sinner** moved do pass. **Senator Axness** seconded

Roll call vote yes 7 no 0 absent 0

**Carrier Senator Sinner**



**REPORT OF STANDING COMMITTEE**

**SB 2119: Transportation Committee (Sen. Oehlke, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2119 was placed on the Eleventh order on the calendar.

**2013 HOUSE TRANSPORTATION**

**SB 2119**

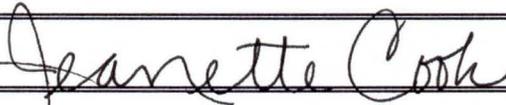
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee  
Fort Totten Room, State Capitol

SB 2119  
03-15-13  
Job # 19989

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A bill relating to cooperative purchasing and public transportation; and to declare an emergency.

## Minutes:

Attachment 1-2

**Chairman Ruby** opened the hearing on SB 2119.

**Sherry Neas, Director of the Office of Management and Budget Central Services Division**, introduced SB 2119 and provided written testimony. Sherry stated that OMB supports this bill. See attachment #1. (4:45)

**Representative Drovdal:** What were the two agencies that were not included?

**Sherry Neas:** The tribal and non-profit agencies were not included under current law.

**Vice Chairman Owens:** This bill doesn't only give you the ability to cooperatively contract, but due to the change in Section I, it also makes tribal agencies eligible for state funding for public transportation funds. Is that correct?

**Sherry Neas:** I will defer that to the Department of Transportation representative.

**Chairman Ruby:** You mentioned the need for the emergency clause. Wouldn't they be able to use the funds to purchase a vehicle if we don't put that in, or wouldn't they be able to purchase it through OMB's process?

**Sherry Neas:** Under the federal grant program we found that the federal grant program does facilitate the tribal entities receiving the grant dollars. North Dakota has tribal entities that are transportation providers, but our cooperative purchasing law doesn't allow the tribal entities or the non-profits to participate in our state contracts. That is why the emergency commission would let them use the contract. If we don't do this, every transportation provider that is a tribal entity or a non-profit would have to do their own procurement. They wouldn't be able to take advantage of that leveraging, and take advantage using the Department of Transportation to put together the specs and make sure that we are complying with the procurement requirements.

**Representative Fransvog:** Does it allow the entities to make changes in the specs, like busses, for example? Can they change the specs to fit their own needs?

**Sherry Neas:** I will defer that to the Department of Transportation. A good procurement process always starts with identifying what the needs are of the entities that are going to participate. We currently do state contracts for vehicles that are made available to other political subs, and a lot of time we build options into our specifications. We will develop this program jointly with OMB and the Department of Transportation. We will also need to communicate with the grant recipients. (8:40)

**Steve Salwei, Transportation Programs Director, North Dakota Department of Transportation,** spoke in support of SB 2119. Written testimony was provided. See attachment #2.

**Representative Weisz:** When the vehicles are purchased approximately how much does a provider save with a purchasing contract versus going out and buying it on their own?

**Steve Salwei:** I don't have the amount of cost savings associated with this. I assume that there would be a cost savings. There is also the side of procuring vehicles.... When you are purchasing transit vehicles, they are funded under two parts. They are funded under a federal grant through FTA, and through state aid which is usually used as matching components. When federal dollars are utilized, the local transit providers are not as up to speed on all of the requirements, so sometimes little areas get missed. When the auditors come in and audit, we end up with an audit finding because we didn't include the Buy America for the (inaudible) purposes. There is also follow up paperwork that needs to be signed. By buying through the state procurement process we make sure that all of the rules and regulations are followed.

**Representative Fransvog:** Do you put together a generic spec, and then each of the political subdivisions that are going to be buying busses would use that?

**Steve Salwei:** You would have a generic spec for a starting point, but you can always build on those. If a transit provider has a special need that has to be incorporated in. We can build that into the specs. Many times there are multiple vehicles that have the same specs.

**Representative Fransvog:** Is this something new, or is it something that you have always done?

**Steve Salwei:** Currently, the tribal agencies have to spec and procure their own vehicles because they can't go through the state procurement contract.

**Representative Gruchella:** Is this just for the vehicles that are owned by the tribes?

**Steve Salwei:** These are vehicles that are for the public transit providers that are funded through the state.

**Chairman Ruby:** By making this change are we opening up any anything else for tribal agencies or other transit providers to be involved in any other area than we are talking about here with the procurement of vehicles? Will it be for all supplies?

**Steve Salwei:** I will defer that back to Sherry.

**Sherry Neas:** There are two parts to it. Under the Public Transportation Provider, Section 5 on page 2, there is a qualifier in that it is public transportation providers that are determined to be eligible by the Department of Transportation under that chapter. It would be open to whatever is eligible under the Department of Transportation and the federal transportation program. For example, one of the state term contracts that we are contemplating, if this bill is successful, is routing software that will be made available to these same providers. It would still be contracts related to public transportation grant dollars. On the tribal side it does open it up more broadly. Tribal entities would be eligible for other state term contracts.

There was no further testimony in support of SB 2119.  
There was no further testimony on SB 2119.  
The hearing was closed on SB 2119.

**Representative Drovdal moved a DO PASS on SB 2119.**

**Representative Sukut seconded the motion. Aye 12 Nay 1 Absent 1 The motion passed.**

**Representative Drovdal will carry SB 2119.**

Date: 3-15-13  
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2119**

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt  
 Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Drovdal Seconded By Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Lois Delmore	✓	
Vice Chairman Mark Owens	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Kylie Oversen	✓	
Rep. David Drovdal	✓				
Rep. Robert Frantsvog		✓			
Rep. Brenda Heller	✓				
Rep. Curtiss Kreun	A				
Rep. Mike Schatz	✓				
Rep. Gary Sukut	✓				
Rep. Don Vigesaa	✓				
Rep. Robin Weisz	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Drovdal

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2119: Transportation Committee (Rep. Ruby, Chairman)** recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2119 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**SB 2119**

**SENATE TRANSPORTATION COMMITTEE  
January 17, 2013**

**North Dakota Department of Transportation  
Paul Benning, Local Government Engineer**

**SB 2119**

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Mr. Chairman and members of the committee, I'm Paul Benning and I serve as the Local Government Division Engineer for the North Dakota Department of Transportation (DOT). I'm here today to support SB 2119. As part of my testimony today, I will explain the need for the changes in state law.

Presently, state law defines "Transportation Provider" as a political subdivision, or any nonprofit corporation that provides transportation to the public.

The current subsection 3 of section 39-04.2-01 of the North Dakota Century Code does not identify tribal agencies as transit providers. As a result we believe it is necessary to modify state law by identifying tribal agencies as transit providers as well.

Tribal agencies have always been eligible in the past to receive State Aid for Public Transit Funds. However, because the tribal agencies were not identified as "Transportation Providers," they could not procure vehicles through the state contract.

This amendment will allow tribal agencies to be identified as transit providers and be covered under the state's procurement process for purchasing transit vehicles.

Mr. Chairman, this concludes my testimony and I will be happy to answer any questions the committee may have.

2119  
SB ~~219~~ Cooperative Purchasing and Public Transportation

House Transportation Committee  
Chairman Dan Ruby

Chairman Ruby and members of the committee, my name is Sherry Neas, Director of the Office of Management and Budget (OMB) Central Services Division. OMB supports this bill.

Last year, the OMB State Procurement Office and the North Dakota Department of Transportation (NDDOT) began researching the possibility of establishing a state contract to purchase public transit vehicles with federal and state grant dollars.

- OMB has authority under current law to establish cooperative purchasing contracts that benefit North Dakota state agencies, political subdivisions, public schools, and nonprofits established on behalf of government entities.
- The North Dakota Department of Transportation (NDDOT) administers a public transportation program that provides federal and state funds to public transportation providers.

We found that state laws would need to be amended. This legislation is the result of collaboration between OMB, NDDOT, and the Indian Affairs Commission.

- Section 1 of the bill amends the definition of "Transportation provider" in N.D.C.C. Chapter 39-04.2 to include "tribal agency."
- Section 2 of the bill amends the cooperative purchasing law in N.D.C.C. Section 54-44.4-13 to create authority for OMB to coordinate with NDDOT to establish or participate in contracts that may be made available to public transportation providers.
- Section 2 also enables OMB to make cooperative purchasing contracts available to tribal agencies. This change is very important because it will enable tribal entities to participate in all current and future cooperative purchasing contracts established by OMB.
- Section 3, the emergency provision, is included because there are North Dakota public transportation providers with federal grant dollars that need to be spent as soon as possible.

The concept is very practical: NDDOT and OMB will coordinate to establish state contracts for public transit vehicles that meet the needs to public transportation providers. The procurement process will comply with state laws and the requirements of the federal transportation grant program. North Dakota public transportation providers who receive federal and state grant dollars can then purchase their public transit vehicles from the state contracts.

This concludes my testimony, and I would be happy to answer any questions you may have.

Sherry Neas  
701-328-1726 or 701-426-2841  
[sneas@nd.gov](mailto:sneas@nd.gov)

**HOUSE TRANSPORTATION COMMITTEE**

**March 15, 2013**

**9:00 a.m., Fort Totten Room**

**North Dakota Department of Transportation  
Steve Salwei, Transportation Programs Director**

**SB2119**

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Mr. Chairman and members of the committee, I'm Steve Salwei and I serve as the Transportation Programs Director for the North Dakota Department of Transportation (DOT). I'm here today to support SB2119. Presently, state law defines "Transportation Provider" as a political subdivision, or any nonprofit corporation that provides transportation to the public.

The current subsection 3 of section 39-04.2-01 of the North Dakota Century Code does not identify tribal agencies as a transit provider. As a result, we believe it is necessary to modify state law by identifying tribal agencies as transit providers as well.

Tribal agencies have always been eligible to receive State Aid for Public Transit Funds. However, because the tribal agencies were not identified as "Transportation Providers," they could not procure vehicles through the state contract.

This amendment will allow tribal agencies to be identified as transit providers and be covered under the state's procurement process for purchasing transit vehicles.

Mr. Chairman, this concludes my testimony and I will be happy to answer any questions the committee may have.