

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### TRANSPORTATION COMMITTEE

Tuesday, March 7, 2006  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator David O'Connell, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators David O'Connell, Dennis Bercier; Representatives Kathy Hawken, Craig Headland, Todd Porter, Clara Sue Price, Arlo E. Schmidt, Elwood Thorpe, Mike Timm, Don Vigesaa, Robin Weisz

**Members absent:** Senator Thomas L. Trenbeath; Representatives LeRoy G. Bernstein, Dorvan Solberg

**Others present:** See attached appendix

**It was moved by Representative Porter, seconded by Representative Schmidt, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.**

#### HIGHWAY FUND STUDY

Mr. David A. Sprynczynatyk, Director, Department of Transportation, provided written testimony on federal funding; the impact of construction cost inflation; a comparison of five states on the topics of revenue, distribution, and staffing; load restriction revisions; the REAL ID Act of 2005; the value assigned to deer involved in automobile crashes; the status of the Liberty Memorial Bridge; and the implementation of energy conservation programs.

Mr. Sprynczynatyk said federal formula funding is estimated to be \$410 million versus the budgeted amount of \$407 million. He said this will result in a match needed by this state of \$.6 million. He said the legislative appropriation had left the department \$2.5 million short of the necessary match and with the \$.6 million, the current projected shortfall is \$3.1 million. He said the increase in bids of 15 to 20 percent has shown no reduction to previous pricing structures. He said North Dakota has fewer employees per mile of road than any other state. He said the REAL ID Act will require approximately \$6 million to comply with the requirements of the Act by 2008. He said the department will continue the practice of placing the value of deer on an accident report so that the department may maintain valid statistics. He said the repairs on the Liberty Memorial Bridge will be done by mid-April. He said the repairs are temporary and are planned to last until the new bridge is open. He said the closure of the bridge has affected approximately 15,000 cars per day. He said if those cars have to drive at least two additional miles because of the closure, then an extra 30,000 miles are being driven a day. He said the cost of these

extra miles is at least \$10,000 per day. He said the cost of the repairs should be between \$300,000 and \$400,000. A copy of his testimony is on file in the Legislative Council office.

In response to a question from Representative Timm, Mr. Sprynczynatyk said Congress did not provide any funding for the implementation of the REAL ID Act.

In response to a question from Representative Porter, Mr. Sprynczynatyk said the major cost of the REAL ID Act is developing a national data base and access to the data base. He said other costs include authenticating the identity of individuals applying for identification. He said the purpose of the REAL ID Act is to allow computers to work together among the states to retrieve motor vehicle and birth certificate information.

In response to a question from Representative Porter, Mr. Sprynczynatyk said under the REAL ID Act it will become more possible to share pictures among different licenses and identifications.

In response to a question from Representative Hawken, Mr. Sprynczynatyk said there is time to lobby for funding for the implementation of the REAL ID Act because the rules to be adopted under the Act have not been promulgated.

In response to a question from Senator O'Connell, Mr. Sprynczynatyk said under the REAL ID Act the state driver's license will become a national identification that is accessible by all the states.

In response to a question from Representative Vigesaa, Mr. Sprynczynatyk said whether an identification issued under the REAL ID Act removes the need for a passport to enter Canada is an open issue.

In response to a question from Representative Schmidt, Mr. Sprynczynatyk said the REAL ID Act of 2005 was passed in September 2005. He said noncompliance does not result in the loss of funding but will result in the citizens of the noncompliant state not being able to use their identification for federal purposes, e.g., boarding a plane.

In response to a question from Senator O'Connell, Mr. Sprynczynatyk said the south columns on the Liberty Memorial Bridge have more damage because of exposure to the sun. He said this exposure creates a freeze and thaw cycle. He said the department hypothesized that the middle two columns are more damaged than the outer columns because of stress when the bearings on the bridge froze.

In response to a question from Representative Porter, Mr. Sprynczynatyk said the department is considering road restrictions on the Liberty Memorial Bridge; however, the hope is not to have a limit. He said contractors want the bridge open so that they may transfer materials. He said the department will closely monitor the situation.

In response to a question from Representative Weisz, Mr. Sprynczynatyk said bridges are monitored on a monthly basis and are thoroughly inspected every two years. He said the last thorough inspection of the Liberty Memorial Bridge was in late 2003 or early 2004. He said there were no indications of damage at that time. He said in January of this year during the thorough inspection, the department discovered the problems. He said the problems were manifested on the outside of the columns between 2004 and 2006. These outside flaws warranted further testing that revealed the internal problems.

In response to a question from Representative Vigesaa, Mr. Sprynczynatyk said the department has 59 certified bridge inspectors to inspect approximately 5,300 bridges.

In response to a question from Representative Schmidt, Mr. Sprynczynatyk said townships receive one cent of the fuels tax for roads. He said how state money is distributed among townships, cities, counties, and the state is a legislative determination.

In response to a question from Representative Timm, Mr. Sprynczynatyk said this state having a higher gas tax than Minnesota has not appeared to have resulted in people going to Minnesota to avoid the tax. He said the lower cigarette taxes in this state tend to bring people in from Minnesota, who then buy fuel as well as cigarettes. He said the relationship between gas tax and gas price is a mystery. He said the gas tax in Montana is four cents more than in this state; however, last weekend the price for gas was 14 cents less than in this state.

In response to a question from Representative Vigesaa, Mr. Sprynczynatyk said projected revenue is on course. He said motor vehicle registration collections do not vary because the number of vehicles is fairly constant. He said there is some variability as to the fuels tax. He said the projections for the fuels tax are very close to collections. He said there have been fewer miles driven in this state but the revenue has been fairly stable. He said the revenue may increase as people drive more as they become accustomed to higher gas prices. He said special fuels taxes are a percentage of the price so there has been an increase.

In response to a question from Representative Porter, Mr. Sprynczynatyk said the exemption for E85 fuel will end soon. He said the exemption was projected to expire in the first quarter of 2006.

At the request of Chairman O'Connell, committee counsel presented a memorandum entitled [Taxation of Coal, Oil, and Gas and Highway Funding](#).

Representative Thorpe said the state does not share in impact funding for state roads. He said

registration fees and fuels taxes have been increased. He said the oil and gas industry wants good roads and heavily uses the roads and therefore should share in the expense. He said increased funding may be able to be provided through the shifting of present taxes or through a slight increase.

Representative Timm said although more money for roads is always an issue, it may not be a wise precedent to divert taxes collected from the oil and gas industry.

In response to a question from Representative Thorpe, Mr. Sprynczynatyk said state highways are impacted by the oil and gas industry and the department is developing a report that will estimate this impact. He said the report will focus on the western part of the state. He said out of the ordinary damage is done to the roads in the west because of certain equipment that is moved for oil rigs. He said the roads are not designed for this type of wear and tear.

## DRIVING WITHOUT LIABILITY INSURANCE BILL DRAFT

At the request of Chairman O'Connell, committee counsel presented a bill draft [\[70053.0100\]](#) that changes driving without liability insurance from a criminal to an administrative penalty.

In response to a question from Representative Timm, committee counsel said the bill draft does not require a person to carry proof of liability insurance. He said the bill draft prohibits a person from driving without liability insurance.

In response to a question from Representative Headland, committee counsel said the bill draft removes an administrative burden from law enforcement who issues a warning ticket, waits 20 days for the driver to provide satisfactory proof, and upon no proof has to file a long-form criminal complaint. He said under the bill draft the law enforcement officer would issue a citation and the driver would have to provide proof of insurance to the court before or at the hearing on the offense.

In response to a question from Representative Price, committee counsel said although the bill draft may not have any effect on the number of uninsured drivers, the bill draft will provide administrative efficiencies.

Representative Weisz said there may not be a law that can affect the core group of people that drive without liability insurance. He said this group will drive without liability insurance no matter what the consequence.

Representative Price said requiring proof of insurance to be issued by insurance companies to customers is a good idea. She said she is against lessening the fine or fee. She said shifting the administration from law enforcement to the court appears to provide administrative efficiencies.

Representative Hawken said the fee should stay the same and mandatory.

Mr. Keith Magnusson, Director, Driver and Vehicle Services, Department of Transportation, answered questions on the bill draft. In response to a question from Representative Porter, Mr. Magnusson said the license of a person who does not pay the fee for a noncriminal offense is suspended.

Mr. Magnusson said the procedure of law enforcement having to wait 20 days and then go find the violator is not an effective process. He said the proof of liability insurance issued by an insurer would be more useful if it had a bar code. He said the fee should not be lowered and should be mandatory. He said the department would like to see a penalty or incentive for not having proof of insurance in the automobile.

Mr. Kent Olson, North Dakota Professional Insurance Agents, provided testimony on the bill draft. He said there should be a minimum, mandatory fee. He said the language should parrot the previous criminal language.

In response to a question from Senator O'Connell, Mr. Olson said the cost of liability insurance is approximately \$125 per six months for basic coverage for a second car with a middle-aged driver with a clean record.

In response to a question from Representative Porter, Mr. Olson said the assigned risk pool has had 12 assignments and the rates of the assigned risk pool are two to three times higher than in the market.

In response to a question from Representative Timm, Mr. Olson said he does not know of any insurance company that does not provide proof of insurance.

Ms. Lynn Heinert, Department of Transportation, answered a question on the bill draft. In response to a question from Representative Timm, Ms. Heinert said Minnesota requires proof of insurance and has a fine for not having proof in the motor vehicle.

Mr. Pat Ward, Association of North Dakota Insurers, presented testimony on the bill draft. He said Minnesota requires a person to produce proof of insurance and has a mandatory penalty that is a misdemeanor if the person does not have proof. He said previous testimony by a representative of the Highway Patrol indicated that there should be flexibility in the fee so people who cannot afford to buy insurance may buy insurance instead of paying the fee. He said the committee may want to have the penalty be the cost of insurance but waive the fee if the person purchases insurance. He said he supports the change in the procedure for issuing a citation under the bill draft.

In response to a question from Representative Vigesaa, Mr. Ward said under the bill draft a court would be able to suspend the fee.

In response to a question from Representative Vigesaa, committee counsel said the "up to" language could be interpreted to provide certain political subdivisions authority to lower the fee as well as the judge.

In response to a question from Representative Vigesaa, Mr. Ward said crimes are listed in the paper and this may be a deterrent.

Representative Schmidt said the citizens of this state want uninsured drivers off the road. He said all violators should be punished the same.

No further business appearing before the committee, Chairman O'Connell adjourned the meeting at 11:40 a.m.

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Timothy J. Dawson  
Committee Counsel

[ATTACH:1](#)