

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

TRANSPORTATION COMMITTEE

Thursday, June 29, 2006
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Robin Weisz, Vice Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives LeRoy G. Bernstein, Kathy Hawken, Todd Porter, Clara Sue Price, Arlo E. Schmidt, Dorvan Solberg, Elwood Thorpe, Mike Timm, Don Vigesaa, Robin Weisz

Members absent: Senators David O'Connell, Dennis Bercier, Thomas L. Trenbeath; Representative Craig Headland

Others present: See attached appendix

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

REAL ID ACT OF 2005

Mr. Keith Magnusson, Director, Driver and Vehicle Services, Department of Transportation, presented information on the REAL ID Act of 2005. A copy of his testimony is on file in the Legislative Council office.

In response to a question from Representative Solberg, Mr. Magnusson said the REAL ID Act was added as an amendment to another bill and was not debated. He said the Department of Homeland Security will write the rules relating to the Act and proposed rules may be out this fall. He said he does not expect final rules to be out until early next year.

In response to a question from Representative Timm, Mr. Magnusson said a REAL ID Act compliant identification will be required for any federal official purpose, including boarding federally regulated commercial aircraft.

In response to a question from Representative Porter, Mr. Magnusson said no states have opted out of the REAL ID Act. He said the House of Representatives in New Hampshire passed a resolution not to follow the REAL ID Act. He said the Senate tabled the resolution. He said other states are considering whether to comply with the Act. He said the position of the department is to follow the Act unless told not to by the Governor or the Legislative Assembly. He said the penalty for not following the REAL ID Act is that this state's driver's licenses would not be recognized for federal purposes.

In response to a question from Representative Porter, Mr. Magnusson said the REAL ID Act is good for safety, but is costly. He said the safety features require uniformity for effectiveness.

In response to a question from Representative Bernstein, Mr. Magnusson said the REAL ID Act applies to nondriver identification cards as well as driver's licenses.

In response to a question from Representative Weisz, Mr. Magnusson said a REAL ID Act compliant license may be good enough to enter Canada; however, the present request for proposals requires that the identification required to cross the border include a chip that may be read from 35 feet.

In response to a question from Representative Weisz, Mr. Magnusson said it will cost \$14 million to implement the REAL ID Act on top of the cost of recent changes in driver's licenses. He said the new licenses comply with the standards of the American Motor Vehicle Association. He said \$14 million is an educated guess. He said \$6 million of the cost is attributable to the need for a new computer because the present mainframe system will not handle the changes required by the REAL ID Act.

In response to a question from Representative Solberg, Mr. Magnusson said new licenses began being issued approximately one month ago. He said the issuance of new licenses will be phased in over four years. He said the old licenses will be good until the licenses need to be renewed. He said the new licenses provide more security and have a new appearance. He said the new licenses do not contain an individual's weight or hair color. He said these descriptions are not included in national standards anymore.

In response to a question from Representative Schmidt, Mr. Magnusson said the department is attempting to get federal funding for the REAL ID Act. He said the cost to North Dakota is relatively inexpensive as compared to other states; for example, Virginia estimates the cost at \$120 million.

Representative Schmidt said if there is no federal funding, a state should refuse to follow the requirements of the REAL ID Act.

HIGHWAY FUNDING STUDY

Mr. Tom Freier, Deputy Director, Department of Transportation, presented testimony on federal funding, state revenues, the inflationary impact to the construction program, the potential future cost to highways in the Devils Lake area, and staffing problems. A copy of his testimony is on file in the Legislative Council office.

Mr. Grant Levi, Deputy Director for Engineering, Department of Transportation, answered questions for the committee. In response to a question from Representative Thorpe, Mr. Levi said the Broadway project in Minot received environmental approval one month ago. He said the major impediment to completing the project is the relocation of present businesses. He said the city section of the project will not be done in 2007 because of right-of-way issues and relocating six businesses, including an apartment building. He said relocation takes time because it may require a replacement building being built first.

In response to a question from Representative Porter, Mr. Freier said the department utilizes every tool available to retain employees, including recruitment bonuses, performance bonuses, and scholarship programs. He said the department is looking at improving the perception of state employment. He said there is the perception that state employment is not stable and has low pay. He said the department is having particular problems retaining equipment operators, engineers, and engineer technicians. He said an incentive based upon a project or job may be the sort of compensation needed to retain and hire engineers and engineer technicians.

In response to a question from Representative Vigesaa, Mr. Freier said every project scheduled is needed and some have not been done because of high bids. He said there needs to be a change in funding on a state or federal level. Presently, he said, this state does not fund any state projects. He said many states do have projects funded above federal match projects.

REPORT FROM UPPER GREAT PLAINS TRANSPORTATION INSTITUTE ON TRANSPORTATION INFRASTRUCTURE

At the request of Vice Chairman Weisz, committee counsel presented a background memorandum entitled *Report on Improvements in Transportation Infrastructure by the Upper Great Plains Transportation Institute - Background Information*.

Mr. Denver Tolliver, Assistant Director, and Mr. Alan Dybing, Assistant Research Fellow, Upper Great Plains Transportation Institute, presented a report on how improvement to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development. A copy of their presentation and report is on file in the Legislative Council office.

In response to a question from Representative Timm, Mr. Tolliver said the figures in the study are based on 2005 construction costs and actual construction costs are greater now. He said the cost to travelers has also increased with the increase in construction costs because of the increase in the price of petroleum products.

In response to a question from Representative Porter, Mr. Tolliver said the state highways are presently at a 114 roughness index.

In response to a question from Representative Timm, Mr. Tolliver said presently the state has approximately 90 percent of the funds available that the state needs to ideally have available. He said when the presentation refers to full funding needs, it refers to what would need to be ideally available, not what is presently available.

In response to a question from Representative Solberg, Mr. Dybing said the presentation includes regional railroads within the term branch lines. He said the study simulates the effect of closing branch lines on highway activity.

In response to a question from Representative Weisz, Mr. Dybing said there are approximately 2,271 miles of branch line in this state.

Mr. Gary R. Ness, Director, Aeronautics Commission, answered questions for the committee. In response to a question from Representative Timm, Mr. Ness said he is more concerned with the bankruptcy of Mesaba than the bankruptcy of Northwest Airlines or the recent bankruptcy of United Airlines because Mesaba serves small communities like Devils Lake and Jamestown. He said travel on airlines is up 5 to 6 percent in this state and United has added flights to Salt Lake City and Chicago. He said if Northwest reduces the size of airplanes to a fleet that handles 75 to 100 passengers per airplane, historically this will result in more flights. He said smaller airplanes with more flights is a positive development.

In response to a question from Representative Hawken, Mr. Ness said there is typically a rumor before each legislative session to the effect that there will be a move for local regional air service between Fargo and Bismarck. He said this has not been developed because it is too costly.

DRIVING WITHOUT LIABILITY INSURANCE BILL DRAFTS

At the request of Vice Chairman Weisz, committee counsel presented a bill draft [\[70053.02\]](#) to provide for an administrative procedure for driving without liability insurance and a bill draft [\[70123.01\]](#) to change the citation procedure for driving without liability insurance.

Representative Porter said this state does not have a law that provides for the confiscation of license plates of individuals who have driven without liability insurance. He said the vehicle of the insured should be addressed by legislation. He said the law should provide for the confiscation of license plates for a second offense.

Representative Weisz said there may be enforcement issues in confiscating license plates.

In response to a question from Representative Timm, Representative Porter said although an individual's insurance policy may cover that individual

in another person's uninsured vehicle, coverage is dependent upon the insurance policy. He said he knows an individual who had insurance but was not covered for driving an uninsured vehicle of another and was cited for driving without liability insurance.

Mr. Kent Olson, North Dakota Professional Insurance Agents, Bismarck, provided testimony on the bill draft. He said policies vary and generally a personal or standard policy will transfer to the driver in an uninsured vehicle. He said typically a commercial policy will not transfer unless additional riders are purchased.

Lt. Kelly J. Rodgers, Highway Patrol, provided testimony on the bill draft. He said the violator should be the owner as a condition of the license plates being confiscated. He said there are self-issue permits that may create administrative problems with a blanket confiscation.

Representative Porter agreed that the confiscation should apply to the primary owner driving the motor vehicle without liability insurance.

In response to a question from Representative Weisz, Mr. Magnusson said in the administrative context, the department would have to ask the person to return the license plates for confiscation. He said the Highway Patrol may go after the license plates in especially bad situations. He said the amendment requires more study and there are many fact scenarios which need to be addressed to make the amendment clear.

Representative Porter said it would be better for the committee to attach the amendment and have it removed during the legislative session instead of bringing forth the amendment later in the legislative session. He said the former manner provides that the issue is guaranteed to be reviewed by the Legislative Assembly.

In response to a question from committee counsel, Mr. Magnusson said presently the registration stays on the vehicle when an individual is convicted of driving without liability insurance.

In response to a question from Representative Porter, Mr. Magnusson said the driver's license system and registration system are somewhat mutually exclusive and it would be difficult to program a suspension of registration for an individual convicted of not having liability insurance.

Representative Porter said the department should coordinate the information systems and should require proof of insurance after a conviction of driving without liability insurance so that the validity of the registration can be reviewed by the department.

In response to a question from Representative Hawken, Lt. Rodgers said typically law enforcement asks for a driver's license, registration, and proof of insurance when an individual is stopped for a traffic violation. He said the registration may not be asked

for because the tag on the plate provides proof of current registration. He said law enforcement can view the validity of the registration and the license on computer.

Representative Thorpe said the idea of license plate confiscation for driving without liability insurance has merit and deserves study. He said he would not vote for the amendment but would recommend a separate bill be introduced in the next legislative session. He said this would be a better vehicle and would guarantee the issue was addressed by the Legislative Assembly.

It was moved by Representative Porter, seconded by Representative Hawken, and carried on a roll call vote that both bill drafts be amended to include license plate confiscation for a second offense of driving without liability insurance. Voting in favor of the motion were Representatives Hawken, Headland, Porter, Price, Timm, Vigesaa, and Weisz. Voting against the motion were Representatives Schmidt, Solberg, and Thorpe.

It was moved by Representative Porter, seconded by Representative Price, and carried on a roll call vote that the bill draft, as amended, relating to an administrative procedure for driving without liability insurance be approved and recommended to the Legislative Council. Voting in favor of the motion were Representatives Hawken, Porter, Schmidt, Solberg, Thorpe, Timm, and Vigesaa. Voting against the motion were Representatives Price and Weisz.

It was moved by Representative Porter, seconded by Representative Price, and carried on a roll call vote that the bill draft, as amended, relating to the change in citation for procedure for driving without liability insurance be approved and recommended to the Legislative Council. Voting in favor of the motion were Representatives Hawken, Porter, Price, Schmidt, Solberg, Thorpe, Timm, Vigesaa, and Weisz. There were no negative votes.

It was moved by Representative Vigesaa, seconded by Representative Timm, and carried that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the committee and to present the report and the recommended bill drafts to the Legislative Council.

No further business appearing, Vice Chairman Weisz adjourned the meeting at 12:25 p.m.

Timothy J. Dawson
Committee Counsel

[ATTACH:1](#)