

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

TRANSPORTATION COMMITTEE

Monday, November 28, 2005
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator David O'Connell, Chairman, called the meeting to order at 9:10 a.m.

Members present: Senator David O'Connell; Representatives LeRoy G. Bernstein, Arlo E. Schmidt, Dorvan Solberg, Elwood Thorpe, Mike Timm, Don Vigesaa, Robin Weisz

Members absent: Senators Dennis Bercier, Thomas L. Trenbeath; Representatives Kathy Hawken, Craig Headland, Todd Porter, Clara Sue Price

Others present: See attached appendix

It was moved by Representative Timm, seconded by Representative Solberg, 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 under SAFETEA-LU, the roadways as dams projects, the budget shortfall for state match, recent bid openings, and questions asked at the last meeting relating to fuel cost adjustments for contractors and subcontractors of highway projects, the economic impact of additional federal aid, and the process for reporting deer crashes. He said the projected shortfall of \$10.6 million has been reduced to \$4.1 million. He said the reasons for the reduction were that there are not any state highways that were roadways as dams projects this biennium and that there was less federal funding than expected. He said the department is not concerned with the shortfall at this time. A copy of his testimony is on file in the Legislative Council office.

In response to a question from Representative Timm, Mr. Sprynczynatyk said the department has not accepted bids that have been 15 to 20 percent higher than the engineer's estimate. He said the department is reviewing the bids and if the bids accurately represent the market, the department will accept the bids.

In response to a question from Representative Weisz, Mr. Sprynczynatyk said the engineers' estimates were published in September and were based on May through July information. He said since that time, prices have increased for raw materials and labor.

In response to a question from Senator O'Connell, Mr. Sprynczynatyk said there was not a bid for the Liberty Memorial Bridge. He said there has been a steady decline in the number of bids over the past few years. He said there are fewer and larger contractors. He said the department receives on average three to four bids for a project, whereas the department used to receive six to seven bids.

In response to a question from Representative Timm, Mr. Sprynczynatyk said there has been an increase in the number of states that pay more in through fuels tax than they receive from the federal government in highway funding. He said in SAFETEA-LU some states wanted to be guaranteed at least a 95 percent return. He said the minimum guarantee under SAFETEA-LU is 92.5 percent over the life of the bill. He said rural states are protected as to the money they receive in that it will not be less in the future. He said most states have additional funding for purely state projects, unlike North Dakota.

DRIVING WITHOUT LIABILITY INSURANCE STUDY

At the request of Chairman O'Connell, committee counsel presented a memorandum entitled [Criminal Procedure for Driving Without Liability Insurance](#). The memorandum contains a flowchart of what happens when a person does not have satisfactory proof of insurance.

Mr. Keith Magnusson, Deputy Director for Driver and Vehicle Services, Department of Transportation, presented information on uninsured drivers. He said under North Dakota Century Code (NDCC) Section 39-16.1-20.1, the department is prohibited from returning a license for any reason without a verified statement confirming insurance coverage. He said the department is more actively enforcing this provision.

At the request of Chairman O'Connell, committee counsel presented a background memorandum entitled [State Efforts to Address Uninsured Motorists](#).

Lieutenant Kelly J. Rodgers, Highway Patrol, provided information on uninsured motorists. He said under NDCC Section 39-08-20, a person may not drive a motor vehicle without a valid policy of liability insurance.

In response to a question from Senator O'Connell, Lieutenant Rodgers said the 20-day period to provide proof of adequate liability insurance does not work well. He said driving without liability insurance should be decriminalized. He said decriminalization would be less burdensome on law enforcement and the courts. He said judges should be given some authority to lower the \$150 minimum fine, especially if the offender purchases insurance for the future.

In response to a question from Senator O'Connell, Lieutenant Rodgers said providing proof of insurance at the time of registration would not work well because a person may purchase insurance one day and cancel it the next.

Ms. Lynn Heinert, Department of Transportation, provided information on individuals convicted of driving without liability insurance. She said there is usually a six-month period after a change in the law relating to uninsured drivers in which the number of individuals driving without liability insurance decreases. She said after this six-month period, any decrease is lost and the increase in the number of drivers continues as if there were never a change. She said approximately 50 percent of individuals convicted for driving without liability insurance have previously had a license suspension. She said the current number of individuals convicted of driving without liability insurance is approximately 3,700 per year. She said if the present trend continues, there will be approximately 5,200 individuals convicted in 2009.

Mr. Magnusson said insurance verification systems do not work well at present. He said the best systems are 30 days behind in providing accurate information. He said this produces mailings to individuals who have a valid reason for not having insurance with a particular company.

Mr. Pat Ward, Association of North Dakota Insurers, presented written testimony on the costs of liability insurance. He said a doubling of liability limits would result in approximately a 15 percent increase in insurance rates. A copy of his testimony is on file in the Legislative Council office.

Committee counsel provided a handout of state average expenditures for insurance as reported by the National Association of Insurance Commissioners. A copy of the handout is on file in the Legislative Council office.

In response to a question from Representative Schmidt, Mr. Ward said although the basic rate for liability insurance is \$193 and the fine for driving without insurance is \$150, the individuals that drive without liability insurance have other costs besides the fine, including high-risk insurance. However, he said, individuals driving without liability insurance would most likely pay much more than the average cost if they had insurance. He said this state has a low number of uninsured drivers. He said this state should strengthen enforcement. He said although this

state has high mandated coverages, this state has the lowest insurance rates in the nation.

In response to a question from Representative Timm, Mr. Ward said the basic policy is for six months.

Mr. Kent Olson, North Dakota Professional Insurance Agents, provided information on changes in the law to address uninsured motorists. He said the minimum fines were adopted by the Legislative Assembly at the urging of the North Dakota Professional Insurance Agents because judges were routinely suspending the fine and applying court costs. He said the problem with proof of insurance cards is that a person can cancel insurance or change companies. He said his association supports the 20 days to provide proof of adequate insurance because it is difficult for businesses to have the correct card in the correct vehicle. He said without the 20 days individuals with insurance would be punished the same as people without liability insurance. He said his association supports the mandatory fines and even increasing those fines. He said one solution may be for a fund for property damages similar to the unsatisfied judgment fund for bodily injury. He said an increased fine could fund unpaid property damages.

In response to a question from Representative Schmidt, Mr. Olson said insurers ask for a Social Security number because that number is used in credit reports. He said insurers protect the personal information of customers.

Mr. Larry Maslowski, Insurance Department, provided a handout entitled *A Consumer's Guide to Automobile Insurance*. A copy of the handout is on file in the Legislative Council office.

Representative Weisz said this state has a low rate of uninsured motorists and 50 percent of those motorists had previously had their licenses suspended. He said there is a core group that is not going to change regardless of any changes in the law and that the committee should be careful of any changes because of the relative success of this state's laws in having a low number of uninsured motorists.

COST-SHIFTING IN AUTOMOBILE CRASHES STUDY

At the request of Chairman O'Connell, committee counsel presented a memorandum entitled [No-Fault Insurance in Other States](#).

Mr. Arnold Thomas, North Dakota Healthcare Association, provided written testimony on the repeal of no-fault in Colorado and the effect on hospitals. A copy of his testimony is on file in the Legislative Council office.

In response to a question from Representative Timm, Mr. Thomas said his association supports the retention of mandatory no-fault insurance.

In response to a question from Representative Timm, committee counsel said the repeal of no-fault insurance is being discussed because the study is about cost-shifting of medical costs of individuals injured in automobile crashes. He said no-fault insurance is the primary payer of medical costs in automobile crashes. As such, he said, there would be a great shift of medical costs on the repeal of mandatory no-fault insurance.

In response to a question from Senator O'Connell, Mr. Thomas said the repeal of no-fault would have consequences to large institutions with trauma centers.

Representative Weisz said he discussed the repeal of no-fault with a legislator in Colorado and the legislator in Colorado said the cost-shift in Colorado was from a payer to no payer.

Mr. Ward presented written testimony on no-fault insurance. He said the major issue for insurers is

excessive treatments by chiropractors and massage therapists. A copy of his testimony is on file in the Legislative Council office.

In response to a question from Representative Solberg, Mr. Ward said there are certain chiropractors that overtreat. He said the cause for this may be that consumers like chiropractic care and are motivated to attribute any ache or pain to an automobile accident.

No further business appearing before the committee, Chairman O'Connell adjourned the meeting at 12:05 p.m.

Timothy J. Dawson
Committee Counsel

[ATTACH:1](#)