

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### PUBLIC SAFETY AND TRANSPORTATION COMMITTEE

Thursday, September 23, 2010  
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, Dwight Cook, Gary A. Lee, Elroy N. Lindaas, George Nodland; Representatives Edmund Gruchalla, Bob Hunskor, Jerry Kelsh, James Kerzman, Matthew M. Klein, William E. Kretschmar, Michael R. Nathe, Todd Porter, Arlo Schmidt, Elwood Thorpe, Gerry Uglen, Robin Weisz

**Members absent:** Senator Richard Marcellais; Representatives Bob Martinson, Don Vigesaa

**Others present:** Timothy J. Dawson, Sara E. Chamberlin; Legislative Council, Bismarck

See [Appendix A](#) for additional persons present.

**It was moved by Representative Klein, seconded by Representative Kerzman, and carried on a voice vote that the minutes of the August 4, 2010, meeting be approved as distributed.**

#### STUDY OF HIGHWAY CONSTRUCTION FUNDING

Mr. Francis Ziegler, Director, Department of Transportation, presented information ([Appendix B](#)) regarding overweight vehicles and associated permit fees. He said damage caused to highways by overweight vehicles is exponential. He said a 36,000-pound axle weight does 24 times as much damage to roadways as an 18,000-pound axle weight. He said a 20,000-pound truck axle consumes 1,000 times as much pavement life as a 2,000-pound automobile axle.

Mr. Ziegler said the Highway Patrol issues permits to allow overweight vehicles to travel on state and federal highways. He said extraordinary road use fees charged on an overweight vehicle operating without the proper permit typically do not provide for the cost of the damage caused to the roadway. He provided the following schedule detailing extraordinary road use fees charged on overweight vehicles in North Dakota and adjacent states:

Excess Vehicle Weight	North Dakota	South Dakota	Minnesota	Montana
1,000 pounds	\$20	\$50	\$10	\$30
5,000 pounds	\$220	\$1,125	\$310	\$125
10,000 pounds	\$655	\$3,750	\$1,210	\$250
20,000 pounds	\$3,000	\$15,000	\$3,210	\$600
30,000 pounds	\$6,000	\$22,500	\$5,210	\$2,000

In response to a question from Representative Kerzman, Mr. Ziegler said reducing the maximum allowable speed of overweight vehicles may have an adverse effect. He said reducing the speed below a certain point causes more stress to the roadway than if the overweight vehicle traveled at normal highway speeds.

In response to a question from Senator Lee, Mr. Ziegler said roads are designed to include a safety factor for the effect of overweight vehicles.

In response to a question from Representative Kerzman, Mr. Ziegler said the Department of Transportation has been reviewing options for the use of concrete overlays on existing pavement surfaces. He said the use of concrete overlays on busy two-lane highways may not be feasible due to the amount of time the concrete needs to cure prior to vehicles being allowed to drive on it.

The Legislative Council staff distributed a memorandum entitled [Public Safety and Transportation Committee - Bill Drafts Relating to the Study of Highway Construction Funding](#). He said the memorandum provides information regarding committee action and the fiscal impact of bill drafts under consideration as part of the committee's study of highway construction funding.

Mr. Timothy J. Dawson, Counsel, Legislative Council, presented a bill draft [[10180.0100](#)] regarding the allocation of extraordinary road use fees. He said the bill draft provides that extraordinary road use fees resulting from an overweight vehicle violation occurring on a nonstate or nonfederal highway are deposited in the general fund of the county where the violation occurred. He said extraordinary road use fees for violations occurring on a state or federal highway would continue to be deposited in the state highway fund.

Representative Kelsh said he supports the bill draft. He said extraordinary road use fees should be allocated to a local jurisdiction if the violation occurs on a local road.

**It was moved by Representative Kerzman, seconded by Representative Kelsh, and carried on a roll call vote that the bill draft relating to the allocation of extraordinary road use fees be approved and recommended to the Legislative Management.** Senators Cook, Lee, Lindaas, and Nodland and Representatives Kerzman, Hunskor, Kelsh, Kretschmar, Nathe, Schmidt, Thorpe, and Uglen voted "aye." Senator O'Connell and

Representatives Gruchalla, Klein, Porter, and Weisz voted "nay."

Mr. Dawson presented a bill draft [10048.0100] regarding overweight vehicle permits issued by home rule counties. He said the bill draft provides that a violation of an overweight vehicle permit issued under a county home rule ordinance is considered a violation of state law.

Representative Schmidt said he supports the bill draft.

Senator Nodland said many counties currently have a permitting system for overweight vehicles.

In response to a question from Representative Porter, Senator Nodland said several counties affected by oil and gas development have created a uniform overweight vehicle permit program. He said the program allows an overweight vehicle to obtain one permit to travel on county roads in all counties that participate in the program.

**It was moved by Representative Schmidt, seconded by Senator Nodland, and carried on a roll call vote that the bill draft relating to violations of home rule county overweight vehicle ordinances be approved and recommended to the Legislative Management.** Senators O'Connell, Cook, Lee, Lindaas, and Nodland and Representatives Gruchalla, Hunskor, Kelsh, Kerzman, Klein, Kretschmar, Nathe, Porter, Schmidt, Thorpe, Uglem, and Weisz voted "aye." No negative votes were cast.

Mr. Terry Traynor, Assistant Director, North Dakota Association of Counties, said he does not support the bill draft regarding violations of overweight vehicle ordinances in home rule counties. He said the bill draft is contrary to the reasons for allowing a county to enact a home rule ordinance.

In response to a question from Representative Kerzman, Mr. Traynor said a recent Supreme Court case provided that a home rule city or county cannot establish penalties for home rule ordinances that are greater than penalties provided in state law.

The Legislative Council staff presented a bill draft [10082.0100] regarding oil impact-related infrastructure development grants. He said the bill draft creates a grant program for taxing districts affected by oil and gas development. The grants require matching funds from the local taxing district as well as matching funds from a private sector participant. The bill draft provides the grant program with a \$100 million appropriation from the permanent oil tax trust fund and requires the grants to be distributed in the 2011-13, 2013-15, and 2015-17 bienniums.

Representative Kerzman expressed concern with the requirement that matching funds be provided from a private sector participant.

Representative Porter said the private sector matching funds requirement ensures that the private sector will be a partner in infrastructure projects.

Senator Nodland said many oil companies in the Dickinson area are supportive of providing funding to develop infrastructure.

Representative Klein said the grant program would be beneficial in the development of housing and other infrastructure needs.

Senator Cook expressed concern with providing funding for housing development. He said the demand for housing should be sufficient enough to encourage the private sector to develop housing.

**It was moved by Representative Kerzman, seconded by Senator Nodland, and carried on a roll call vote that the bill draft relating to oil impact infrastructure grants be approved and recommended to the Legislative Management.** Senators O'Connell, Lindaas, and Nodland and Representatives Hunskor, Kelsh, Kerzman, Klein, Kretschmar, Nathe, Porter, and Thorpe voted "aye." Senators Cook and Lee and Representatives Gruchalla, Schmidt, Uglem, and Weisz voted "nay."

The Legislative Council staff presented a bill draft [10104.0200] regarding the allocation of motor vehicle excise taxes. He said the bill draft provides that after June 30, 2011, motor vehicle excise tax collections, after distributions to the state aid distribution fund, are to be deposited in the highway tax distribution fund. Current statute provides that after June 30, 2011, motor vehicle excise tax collections, after distributions to the state aid distribution fund, are to be deposited in the general fund.

Representative Thorpe said he supports the bill draft. He said it is important to have a consistent source of revenue for transportation purposes.

In response to a question from Senator Nodland, the Legislative Council staff said motor vehicle excise tax collections were allocated entirely to the general fund from 1989 to 2007 and split between the general fund and state highway fund during the 2007-09 and 2009-11 bienniums.

Representative Weisz said he supports the allocation of motor vehicle excise tax collections for transportation purposes.

Mr. Traynor presented testimony ([Appendix C](#)) regarding the bill draft to change the allocation of motor vehicle excise tax collections. He expressed support for the bill draft and said the allocation of funds for transportation purposes is needed to address transportation infrastructure concerns in the state.

Mr. Scott Rising, Legislative Director, North Dakota Soybean Growers Association, said he supports the bill draft. He said the current transportation infrastructure is being used more than anticipated, and additional funding is needed to maintain roadways.

Mr. Larry Syverson, President, North Dakota Township Officers Association, Mayville, provided comments regarding the bill draft. He said the bill draft addresses the need for additional funding to maintain rural roadways in the state.

**It was moved by Representative Klein, seconded by Representative Weisz, and carried on a roll call vote that the bill draft relating to the allocation of motor vehicle excise taxes be approved and recommended to the Legislative Management.** Senators O'Connell, Lee, Lindaas, and Nodland and Representatives Gruchalla, Hunskor, Kelsh, Kerzman, Klein, Kretschmar, Nathe, Schmidt, Thorpe, Uglem, and Weisz voted "aye." Senator Cook and Representative Porter voted "nay."

The Legislative Council staff presented a bill draft [\[10105.0100\]](#) to provide for transfers from the permanent oil tax trust fund for transportation purposes. He said the bill draft provides for a \$50 million transfer from the permanent oil tax trust fund to the highway tax distribution fund and an additional \$50 million transfer from the permanent oil tax trust fund to the state highway fund. The bill draft also appropriates the \$50 million transfer to the state highway fund to the Department of Transportation for the construction and maintenance of state highways in counties affected by oil and gas development.

Representative Kelsh said he does not support the provision of the bill draft to appropriate funds specifically for areas affected by oil and gas development. He said all areas of the state have transportation infrastructure needs.

Representative Uglem said he supports additional funding for transportation but is concerned with specifying where the funding is to be used.

Senator Lee said additional time may be needed in order to evaluate the effect of funding changes enacted by the 2009 Legislative Assembly for areas affected by oil and gas development.

Representative Thorpe suggested removing the language in the bill draft that requires certain funding to be used for roadways in areas affected by oil and gas development.

**It was moved by Representative Schmidt and seconded by Senator Lindaas to amend the bill draft to increase the transfers to the highway tax distribution fund and state highway fund to \$100 million each and to remove the language in the bill draft that appropriates funding specifically for roadway projects in areas affected by oil and gas development. The motion failed on a voice vote.**

Senator Cook said additional reporting requirements were enacted by the 2009 Legislative Assembly for political subdivisions that receive oil and gas production tax allocations. He said the reports should be reviewed prior to making decisions to determine how much funding is needed for transportation projects in areas affected by oil and gas development.

**It was moved by Representative Kelsh, seconded by Representative Gruchalla, and carried on a roll call vote that the bill draft to provide transfers from the permanent oil tax trust fund for transportation funding purposes not be approved.** Senators O'Connell, Cook, Lee, Lindaas,

and Nodland and Representatives Gruchalla, Hunskor, Kelsh, Kerzman, Klein, Kretschmar, Nathe, Porter, Schmidt, Uglem, and Weisz voted "aye." Representative Thorpe voted "nay."

## **STUDY OF 911 SERVICES AND INFRASTRUCTURE**

Mr. Mike Lynk, Director, Division of State Radio, Department of Emergency Services, presented information ([Appendix D](#)) regarding emergency communications. He said the Emergency Services Communications Coordinating Committee has been reviewing options for implementing Next Generation 911 in the state. However, he said, federal rules have not been developed for Next Generation 911 so it is difficult to develop state standards for implementation.

Mr. Lynk said a study was conducted to determine service coverage gaps for State Radio communications. He said current mobile radio coverage along state highway corridors is approximately 90 percent to 95 percent while handheld radio coverage is approximately 55 percent.

Mr. Lynk said the Department of Emergency Services entered an agreement with the Department of Transportation to construct a new State Radio tower site near Wales. He said the project is expected to be completed by November 2010.

In response to a question from Representative Kelsh, Mr. Lynk said terrain features, such as hills and valleys, have a significant impact on radio coverage. He said the terrain in western North Dakota creates additional coverage gaps.

In response to a question from Representative Porter, Mr. Lynk said the Department of Emergency Services is reviewing options to implement six additional State Radio tower sites over the next four years. He said equipment upgrades at State Radio headquarters will be needed to support the additional towers.

The Legislative Council staff presented a bill draft [\[10106.0200\]](#) to provide funding for the operational costs of providing access to the state message switch for entities that utilize wireless access for mobile data systems and to increase fees charged for the use of the law enforcement teletype system. He said the bill draft provides that the Department of Emergency Services may not charge fees to local law enforcement agencies that use private commercial methods to access the state message switch. The bill draft also changes the fees charged to local law enforcement agencies that use the law enforcement teletype system. Current statute provides that fees charged to local law enforcement agencies for the teletype system are to represent 50 percent of the costs of operating the system.

**It was moved by Representative Porter, seconded by Representative Thorpe, and carried on a voice vote to amend the bill draft to include a \$5.5 million general fund appropriation to the Department of Emergency Services for the**

**construction of up to 12 new State Radio towers and related equipment needed at State Radio headquarters with an emphasis placed on forming partnerships to use existing towers and infrastructure when feasible for the new tower sites.**

In response to a question from Senator Cook, Mr. Lynk said funding for new State Radio tower sites will also be included in the Department of Emergency Services 2011-13 budget request.

**It was moved by Representative Porter, seconded by Representative Kerzman, and carried on a roll call vote that the bill draft, as amended, relating to State Radio fees and infrastructure be approved and recommended to the Legislative Management.** Senators O'Connell, Cook, Lee, Lindaas, and Nodland and Representatives Gruchalla, Hunskor, Kelsh, Kerzman, Klein, Kretschmar, Nathe, Porter, Schmidt, Thorpe, Uglen, and Weisz voted "aye." No negative votes were cast.

The Legislative Council staff presented a bill draft [[10150.0100](#)] for changes to the operating standards for emergency communications. He said the bill draft provides changes in emergency communications operating standards as recommended by the Emergency Services Communications Coordinating Committee.

Mr. Jerry Bergquist, Chairman, Emergency Services Communications Coordinating Committee, provided comments regarding the bill draft. He said the Emergency Services Communications Coordinating Committee held several meetings to determine the changes that are needed for emergency communications operating standards. He said the recommended changes make the standards and guidelines easier to understand with emphasis placed on standardizing public safety answering point operations. He said some of the recommended changes do not become effective until a later date to allow time for local public safety answering points to make necessary budget and personnel adjustments.

In response to a question from Senator Lee, Mr. Bergquist said the recommended changes encourage the consolidation of public safety answering points.

In response to a question from Representative Gruchalla, Mr. Bergquist said three public safety answering points would be affected by the recommended change to require at least one public safety communications specialist be on duty at all times and dedicated only to emergency communications duties.

In response to a question from Representative Nathe, Mr. Bergquist said federal regulations provide certain requirements for public safety answering point employees. He said individuals convicted of certain crimes are not allowed to be employed by a public safety answering point.

**It was moved by Representative Kerzman, seconded by Representative Klein, and carried on a roll call vote that the bill draft to provide**

**changes to the operating standards of emergency communications be approved and recommended to the Legislative Management.**

Senators O'Connell, Cook, Lee, Lindaas, and Nodland and Representatives Gruchalla, Hunskor, Kelsh, Kerzman, Klein, Kretschmar, Nathe, Porter, Schmidt, Thorpe, Uglen, and Weisz voted "aye." No negative votes were cast.

The committee recessed for lunch at 11:45 a.m. and reconvened at 1:00 p.m.

Mr. Tom Nehring, Director, Division of Emergency Medical Services and Trauma, State Department of Health, presented information ([Appendix E](#)) regarding the emergency medical services staffing grant program and the rural emergency medical services improvement project. He said 39 ambulance services were awarded an emergency medical services staffing grant in 2010. He said the grants ranged from \$2,000 to \$45,000 with an average grant award of \$28,750.

Mr. Nehring said the rural emergency medical services improvement grant to study rural emergency medical services issues was awarded to SafeTech Solutions. He said eight 1-day summits were held by SafeTech Solutions to receive input from local ambulance services regarding rural emergency medical services challenges. He said additional information is being compiled, and a final report, including recommendations for changes, is expected to be released in June 2011.

In response to a question from Senator Lindaas, Mr. Nehring said the 2009 Legislative Assembly provided funding to the State Department of Health to obtain a consultant to study rural emergency medical services issues in the state.

Ms. Sara E. Chamberlin, Fiscal Analyst, Legislative Council, presented a bill draft [[10081.0300](#)] regarding a statewide funding plan for emergency medical services. She said the bill draft requires the State Department of Health to establish a strategic plan for emergency medical services and to provide financial assistance for ambulance services in accordance with the strategic plan. She said the bill draft provides a \$12 million appropriation from the insurance tax distribution fund to the State Department of Health to provide financial assistance to ambulance services.

Representative Porter distributed a bill draft [[10226.0100](#)] that incorporates several amendments into the emergency medical services funding bill draft. He said the amended bill draft clarifies the method to distribute funding to ambulance services.

Mr. Mark Weber, Past President, North Dakota EMS Association, Rugby, provided comments regarding the amended bill draft. He expressed support for the bill draft and said it would address several issues affecting rural emergency medical services.

Mr. Tim Meyer, Quality Resource Manager, F-M Ambulance Service, Fargo, provided testimony ([Appendix F](#)) regarding emergency medical services funding. He said establishing ambulance operations

areas will ensure that ambulance services do not compete with each other and will provide reasonable emergency medical services coverage for most areas of the state.

In response to a question from Representative Kerzman, Representative Porter said the amended bill draft anticipates state funding will be continued in future bienniums. He said the amount of funding required in future bienniums will be adjusted based on actual amounts needed.

In response to a question from Senator Lee, Mr. Nehring said attempts would be made to reestablish an ambulance service if one discontinues operations.

Ms. Marnie Olson, Maddock Ambulance Service, Maddock, provided comments regarding rural emergency medical services funding. She said the current emergency medical services staffing grant program has been beneficial to rural ambulance services. She said the grant allows a rural ambulance service to pay for staff costs during times when volunteer help is not available.

Ms. Tami Wentz, Rolette Ambulance Service, Rolette, expressed support for the rural emergency medical services staffing grant program. She said financial assistance for rural emergency medical services operations should be continued.

**It was moved by Representative Kerzman, seconded by Representative Uglen, and carried on a roll call vote that the bill draft, as amended, relating to funding for rural emergency medical services be approved and recommended to the Legislative Management.** Senators O'Connell, Cook, Lee, Lindaas, and Nodland and Representatives Gruchalla, Hunskor, Kelsh, Kerzman, Klein, Kretschmar, Nathe, Porter, Schmidt, Thorpe, Uglen, and Weisz voted "aye." No negative votes were cast.

## OTHER COMMITTEE RESPONSIBILITIES

The legislative budget analyst and auditor distributed information ([Appendix G](#)) regarding emergency disaster relief grants. He said

2009 Senate Bill No. 2012 provided a transfer of \$43 million to the state disaster relief fund. He said of the total amount, \$20 million was designated for emergency snow removal grants, and \$23 million was designated for emergency disaster relief grants to provide assistance to political subdivisions with the local match required to receive federal emergency relief funding.

In response to a question from Representative Nathe, the legislative budget analyst and auditor said any disaster relief funding that is not used during the 2009-11 biennium will remain in the state disaster relief fund. He said legislative action will be required to spend any of the unused funds.

**It was moved by Representative Thorpe, seconded by Senator Lindaas, and carried on a voice vote 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 recommended bill drafts to the Legislative Management.**

Chairman O'Connell thanked the members of the committee for their work during the interim. He said the committee will not meet again unless a significant issue arises that requires committee action.

**It was moved by Representative Schmidt, seconded by Representative Kerzman, and carried on a voice vote that the meeting be adjourned subject to the call of the chair.**

No further business appearing, Chairman O'Connell adjourned the meeting at 2:15 p.m.

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Brady A. Larson  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:7