

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

TRANSPORTATION COMMITTEE

Thursday, August 20, 2015
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Dan Ruby, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Dan Ruby, Bert Anderson, Mike Brandenburg, Ben Hanson, Karen Karls, William E. Kretschmar, Lisa Meier, Mike Schatz; Senators Jerry Klein, David O'Connell, Dave Oehlke, David S. Rust

Members absent: Senators Robert Erbele, Joe Miller, George Sinner

Others present: See [Appendix A](#)

At the request of Chairman Ruby, the Legislative Council staff reviewed the [Supplementary Rules of Operation and Procedure of the Legislative Management](#).

UNIFORM TRUCK PERMITTING STUDY

At the request of Chairman Ruby, the Legislative Council staff presented a background memorandum entitled [Uniform Truck Permitting Study - Background Memorandum](#).

Captain Eldon Mehrer, Motor Carrier Division Commander, North Dakota Highway Patrol, provided written testimony ([Appendix B](#)) on the Highway Patrol's e-permit system. He said in the past 5 years, the number of permits have increased by approximately 50,000 permits per year. He said 97 percent of all permits are initiated and purchased online, of which 87 percent of the routed oversize or overweight permits are issued without Highway Patrol involvement through the e-permit system. He also said the current e-permit system can be modified to incorporate county permitting by utilizing the existing infrastructure.

In response to a question from Representative Kretschmar, Captain Mehrer said the current routing system can automatically issue permits for requests under 250,000 pounds gross vehicle weight (GVW) along with some axle limitations. Permit requests that exceed 250,000 pounds are forwarded to Highway Patrol staff who review the permits for approval.

In response to a question from Representative Kretschmar, Captain Mehrer said in some cases when vehicles exceed the 250,000 pound GVW limit there is an additional fee of \$5 per ton per mile applied. Also, he said, during spring load restrictions, the additional fees are applied more frequently and in most cases when the vehicle is under the 250,000 pound GVW limit, the standard \$20 permit fee plus the \$35 service fee applies.

In response to a question from Chairman Ruby, Captain Mehrer said the base fee is \$20 and vehicles exceeding the threshold may be charged anywhere from \$1 per ton per mile to \$5 per ton per mile. He said the system automatically calculates the fees and the total amount due along with a detail of the fees for the customer's review before the permit purchase is completed. He said the customer may review the application with the Highway Patrol to determine an alternate route.

In response to a question from Senator Rust, Captain Mehrer said the majority of comments from the transportation industry are positive. He said some customers have had difficulty navigating the system in order to properly input the necessary data to obtain a permit. He said the Highway Patrol has increased training for the transportation industry to improve e-permit applications and the customers' familiarity with the system.

In response to a question from Senator Oehlke, Captain Mehrer said a preliminary estimate of the cost to expand the current e-permit system to include county permits is \$2.8 million. He said the preliminary estimate does not include costs counties may incur.

Senator O'Connell commented that since the e-permit system has been in operation he has received significantly fewer complaints regarding the amount of time required to obtain oversize and overweight permits.

In response to a question from Chairman Ruby, Captain Mehrer said counties would pay the state for the use of the system. He said the enhanced system would need to designate fee collections by county. He also said each e-permit includes a \$15 service fee which is applied to routeable permits only. Captain Mehrer said the balance of the motor carrier electronic permit transaction fund is \$4.7 million and in 2014, \$3.4 million was collected in service fees. He said the fund is designated for the maintenance and operation of the e-permit system.

Ms. Janet Sanford, North Dakota Association of Oil and Gas Producing Counties, presented information ([Appendix C](#)) on the North Dakota Association of Oil and Gas Producing Counties and the association's permit system. She said 17 counties have entered into agreements and participate in the permit system. She said the agreements are reviewed and approved by the member-county commissioners every four years.

In response to a question from Senator Oehlke, Ms. Sanford said she does not believe the association has spent \$2.5 million on its system. She said a \$4 fee is charged per permit for the maintenance and operation of the system. In response to a followup question from Senator Oehlke, Ms. Sanford said the association would prefer to continue to operate its system but would consider collaborating with the state in the development of a statewide system.

In response to a question from Chairman Ruby, Ms. Sanford said self permits will likely be discontinued. She said self permits are submitted after the load has completed its movement and this does not allow a county to review a route and change the route if necessary. She also said typically the self permit system is used for small loads. In response to a followup question from Chairman Ruby, Ms. Sanford said counties outside of the association have asked to join the association's permitting system. She said the association would consider making its system available for statewide use.

In response to a question from Representative Meier, Ms. Sanford said in 2011-12, 94,000 permits were issued with permit issuance increasing in 2012-13 to 116,758 permits, a reduction in 2013-14 to 100,000 permits and again increasing in 2014-15 to 102,500 permits.

In response to a question from Representative Brandenburg, Ms. Sanford said township road permitting has been difficult because each township has a different process for permits. She said at the request of the transportation industry, the association sent out a request to include townships. She said some townships elected to participate and some declined. In addition, she said a few cities have asked to participate and have been added to the association's permitting system.

In response to a question from Senator Klein, Ms. Sanford said each county is responsible for enforcing permitting and road restrictions. She said the association does not have any statistics regarding counties' enforcement of the permits or restrictions.

The Legislative Council staff presented the following proposed study plan:

- Receive information from the North Dakota Association of Oil and Gas Producing Counties regarding the uniform county restricted road permit, the procedures for requesting and submitting the permit, and the system by which the permit is obtained;
- Receive information from the board of county commissioners regarding permits or fees assessed to individuals and trucking companies for use of county roads;
- Receive information from the Highway Patrol regarding their online electronic truck permitting and routing system;
- Receive information from representatives of the North Dakota Petroleum Council and other local authorities and interested persons regarding required permits and fees for use of county and state highways;
- Develop recommendations and prepare any necessary legislation; and
- Prepare a final report.

It was moved by Senator O'Connell, seconded by Representative Meier, and carried on a voice vote that the proposed study plan as outlined by the Legislative Council staff be approved.

TRUCK SIZE AND WEIGHT HARMONIZATION STUDY

At the request of Chairman Ruby, the Legislative Council staff presented a background memorandum entitled <http://www.legis.nd.gov/files/resource/committee-memorandum/17.9015.01000.pdf>.

Mr. Ron Henke, Deputy Director for Engineering, Department of Transportation, provided written testimony ([Appendix D](#)) on the scope of the Department of Transportation's (DOT) truck size and weight study. He said the purpose of the study is to assess the potential benefits and impacts of harmonizing truck size and weight regulations between North Dakota and several surrounding states. He said the study will encompass an agreed upon set of scenarios, including one in which changes are made that would allow the operation of 129,000 pound GVW double trailer trucks.

In response to a question from Chairman Ruby, Mr. Henke said the May 2016 delivery date for the final report was determined through discussions with the Upper Great Plains Transportation Institute (UGPTI). He said the May 2016 deadline should be achievable.

In response to a question from Senator Klein, Mr. Henke said DOT will review the Idaho transportation study and utilize all relevant data, along with other studies available, but said DOT will analyze the information to determine if it is valid and relevant. In response to a followup question from Senator Klein, Mr. Henke said the 129,000 pound GVW limit appears to be appropriate when considering surrounding states' weight restrictions. He said some restrictions are included in federal law for interstates that would need federal action to change. He said DOT's main concern is not with the weight of the truck at 129,000 pounds GVW, but how the load is distributed among the truck's axles.

In response to a question from Senator Rust, Mr. Henke said allowing for 129,000 pounds GVW will require an increase in the number of axles to allow for a properly loaded truck.

Mr. Jay Hicks, Co-Executive Director, Western States Transportation Alliance, presented information ([Appendix E](#)) on the Western States Transportation Alliance (WSTA). He said the primary goal of WSTA is to create uniform commercial vehicle regulations in the western United States. Mr. Hicks said WSTA has a compact to harmonize commercial vehicle weight and size limits for longer combination vehicles with 8 of the 10 members of the alliance and 6 non-WSTA states. Mr. Hicks also said Arizona and Oregon are two members of WSTA not currently a part of the compact.

In response to a question from Senator O'Connell, Mr. Hicks said North Dakota and three other states in the western United States allow triple trailers.

In response to a question from Senator Rust, Mr. Hicks said Oregon opted out of the compact because it already allows increased weights above the 129,000 pound GVW limit and Oregon has concerns that some of the changes the compact is pursuing may have a negative impact on its existing laws.

In response to a question from Senator Oehlke, Mr. Hicks said Arizona opted out of the compact because it has passed legislation which has moved Arizona's regulations towards WSTA's goals; however, in the past few years Arizona has continued to be a member.

In response to a question from Representative Kretschmar, Mr. Hicks said the compact members have had dialogue regarding taxation, but have not addressed any type of uniform taxation policy. Mr. Hicks also said WSTA does address gas taxes. He said Utah and Wyoming have recently increased gas taxes to address revenue issues.

In response to a question from Chairman Ruby, Mr. Hicks said Congress would need to pass legislation to change current weight restrictions imposed on the interstate system, along with other states changing laws to meet WSTA's 129,000 pound GVW goal for unified truck size and weight regulations in the western United States. The federal standard for GVW limit on the interstate is 80,000 pounds and North Dakota's GVW limit on the interstate is grandfathered to allow 105,500 pounds.

In response to a question from Senator Rust, Mr. Hicks said WSTA has not estimated the effect on gas tax revenues resulting from increasing weight restrictions to 129,000 pounds GVW.

Representative Brandenburg believes fuel use by trucks hauling loads at the 129,000 pound GVW limit would increase and the state could potentially see a reduction in damage and repair costs to roads because of the reduction in the number of trucks on the road.

Chairman Ruby commented that there could potentially be an increase in revenue from registration fees for trailers and other equipment, which would be necessary to legally haul loads at 129,000 pounds GVW.

The Legislative Council staff presented the following proposed study plan:

- Receive information from DOT regarding plans for a collaborative study with UGPTI of the impacts in this state of harmonizing truck size and weight regulations with states in WSTA regarding standard commercial truck envelope limits of 129,000 pounds gross vehicle combination weight or 100 foot cargo carrying length and potential implications;
- Review the study conducted by the Idaho Transportation Department regarding the effect of increasing the legal truck weights on Idaho state highways for trucks configured to increase GVW limits from 105,500 pounds to 129,000 pounds, which was conducted over a combined period of 13 years;
- Receive a report from DOT regarding the results of its study of truck size and weight harmonization and review the department's recommendations;
- Receive information from the Highway Patrol regarding truck size and weight regulation in North Dakota and what potential impacts may result from changes to current truck size and weight regulations;
- Receive input from users of North Dakota highways, including the North Dakota Petroleum Council, North Dakota Motor Carriers Association, North Dakota Association of Oil and Gas Producing Counties, and agriculture-related organizations;
- Develop recommendations and prepare any necessary legislation; and
- Prepare a final report.

It was moved by Representative Schatz, seconded by Senator O'Connell, and carried on a voice vote that the proposed study plan as outlined by the Legislative Council staff be approved.

REQUIRED MOTOR VEHICLE INSURANCE STUDY

At the request of Chairman Ruby, the Legislative Council staff presented a background memorandum entitled [Required Motor Vehicle Insurance Study - Background Memorandum](#).

Ms. Chrystal Bartuska, Product Filing Division Director, Insurance Department, provided written testimony ([Appendix F](#)) on North Dakota's requirements regarding required liability limits associated with automobile insurance and basic no-fault benefit limits. Ms. Bartuska said North Dakota has four types of required automobile insurance coverage--liability, uninsured motorist, under-insured motorist, and basic no-fault, commonly referred to as personal injury protection (PIP). Ms. Bartuska said the state requirements are only minimum coverage requirements and customers have the option to purchase additional coverages.

In response to a question from Chairman Ruby, Ms. Bartuska said depending on the accident and whether an individual is injured by an insured, under-insured, or uninsured motorist, it will change which coverage limits apply.

Senator Oehlke said an individual's basic no-fault insurance or PIP would pay an individual first along with any occupants of the vehicle and if the other motorist is at fault and expenses exceed \$2,500, the victim can try to recover costs from the insurance of the motorist at fault through litigation. He said an individual can use all of the PIP coverage and depending on whether or not the at-fault motorist is under-insured or uninsured the individual, may be able to recover from the individual's own insurance.

Chairman Ruby said a motorist may choose to purchase additional coverage. He said the committee needs to determine the appropriate amount of minimum coverage required.

In response to a question from Senator Rust, Ms. Bartuska said once insurance limits are exceeded, the victim may attempt to recover from the motorist at fault through litigation.

In response to a question from Representative Brandenburg, Ms. Bartuska said comprehensive and collision coverage is a separate insurance which covers damages to property. She said the requirements in statute relate to bodily injury.

Mr. Patrick Ward, Association of North Dakota Insurers, provided written testimony ([Appendix G](#)) on the study and basic no-fault insurance, commonly referred to as PIP. Mr. Ward said North Dakota is currently one of the lowest premium auto insurance states and is ranked 45th of the 50 states. Mr. Ward said the insurance industry has learned through experience that no-fault insurance is not an economical way to provide medical, wage loss, or other benefits.

In response to a question from Representative Meier, Mr. Ward said studies estimate 7 to 15 percent of North Dakota drivers are uninsured and there will always be drivers that choose not to purchase insurance.

In response to a question from Senator Klein, Mr. Ward said the Legislative Assembly determines the required minimum coverages. He said the cost of insurance to consumers will increase if minimums are increased. Mr. Ward said 38 states have decided no-fault insurance is not necessary and any individual wanting the PIP coverage may purchase it based on each individual's financial situation.

In response to a question from Senator Klein, Mr. Ward said he does not have information regarding the number of individuals who only buy the minimum amount of no-fault insurance, but he can try to obtain that information for the committee. Mr. Ward said one company has provided information that approximately 20 percent of premiums paid are for no-fault insurance. He said a study conducted a few years ago provided that in connection with medical expenses, the average payout was \$3,500 and the average payout last year was over \$6,000, which is primarily attributed to increased medical costs. Mr. Ward said individuals who purchase minimum coverage insurance are the individuals who can least afford the costs associated with insurance and an increase in the minimum could potentially increase the number of uninsured motorists in North Dakota.

Representative Oehlke commented that when no-fault insurance was initially instituted, there was likely a larger number of individuals who did not have health insurance. Now, he said under the federal Affordable Care Act, individuals are required to have medical insurance, which takes effect when the individual's PIP coverage is exhausted. Mr. Ward said health insurance companies are better suited to handle medical expenses than vehicle insurance companies.

In response to a question from Chairman Ruby, Mr. Ward said in North Dakota, once expenses have exceeded \$2,500 an individual has the right to sue the driver who caused the accident in order to recover damages and that driver's liability coverage or personal assets are subject to the lawsuit.

In response to a question from Senator Klein, Mr. Ward said 12 states require no-fault insurance and the insurance industry in North Dakota is comfortable with the current minimum requirements based on the current cost of insurance for customers.

In response to a question from Senator Rust, Mr. Ward said the average cost to insure a vehicle in North Dakota is approximately \$700. He said the cost of insurance would decrease if the no-fault insurance requirement was removed from statute, but it may not be reduced by 20 percent.

Senator Oehlke said Colorado eliminated the no-fault insurance requirement a few years ago. He said Colorado transitioned to an optional program that allows motorists to purchase medical payments coverage ranging from \$5,000 to \$15,000.

Mr. Steve Becher, Executive Director, Professional Insurance Agents of North Dakota, provided written testimony ([Appendix H](#)), which was presented by Mr. Jeff Evink on the study and basic no-fault insurance, commonly referred to as PIP. Mr. Evink said 13 states require PIP and 37 states offer med pay which only covers medical expenses and excludes work loss and funeral cost compensation.

In response to a question from Senator Klein, Mr. Evink said North Dakota requires \$30,000 minimum coverage for no-fault insurance and customers can purchase an additional \$80,000 of coverage for a total of \$110,000 of no-fault coverage.

In response to a question from Senator Rust, Mr. Evink said automobile insurance in North Dakota is relatively inexpensive in comparison to other states. He does not recommend any change, especially since customers have the option to purchase additional coverage.

In response to a question from Chairman Ruby, Mr. Evink said the industry has not discussed increasing property damage coverage as an offset for eliminating no-fault, and changing to a med pay option could possibly offset increasing insurance costs for customers.

The Legislative Council staff presented the following proposed study plan:

- Receive information from the Insurance Commissioner regarding the legislative history of changes to each type of insurance related to this study;
- Receive information from the Association of North Dakota Insurers, the North Dakota Domestic Insurers, and Professional Insurance Agents of North Dakota regarding required motor vehicle insurance and required motor vehicle insurance limits;

- Review the information received along with the limits imposed on required motor vehicle insurance;
- Develop recommendations and prepare any legislation necessary to implement the recommendations; and
- Prepare a final report.

It was moved by Representative Anderson, seconded by Representative Karls, and carried on a voice vote that the proposed study plan as outlined by the Legislative Council staff be approved.

SPECIAL TRANSPORTATION FUNDING DISTRIBUTIONS TO POLITICAL SUBDIVISIONS STUDY

At the request of Chairman Ruby, the Legislative Council staff presented a background memorandum entitled [*Transportation Funding Distributions to Political Subdivisions - Background Memorandum*](#).

Mr. Darcy Rosendahl, Deputy Director for Business Support, Department of Transportation, provided written testimony ([Appendix I](#)) on special transportation funding distributions to political subdivisions. Mr. Rosendahl said all 53 counties have submitted approved projects for the counties' allocations provided in 2015 Senate Bill No. 2103 and 33 of the 43 eligible counties have submitted approved projects for the counties' allocations provided in 2015 House Bill No. 1176.

In response to a question from Chairman Ruby, Mr. Rosendahl said chip seals, patching, graveling, and overlays under three inches are considered routine maintenance.

In response to a question from Chairman Ruby, Representative Brandenburg said townships in non-oil-producing counties will receive \$15,000 during the 2015-17 biennium to be distributed by the State Treasurer and townships in oil-producing counties receive funding allocations through the oil tax distribution formula.

Mr. Denver Tolliver, Director, Upper Great Plains Transportation Institute, presented information ([Appendix J](#)) on UGPTI's study of county and township road and bridge investment needs.

In response to a question from Chairman Ruby, Mr. Tolliver said the study included state, county, and township roads and bridges.

In response to a question from Representative Brandenburg, Mr. Tolliver said UGPTI is conducting a new survey of counties to gather more detail from the counties relating to county road repair and maintenance processes. He said the purpose is to develop a standard which will be used to provide a consistent comparison of each county's needs. Mr. Tolliver said UGPTI will make the survey results available to the Transportation Committee when available.

The Legislative Council staff presented the following proposed study plan:

- Survey all North Dakota counties requesting information regarding what each county identified as 2013-15 and 2015-17 infrastructure needs, each county's understanding of how the special transportation funding provided by the 2013 and 2015 Legislative Assemblies met those needs, and on each county's use of the funding provided;
- Receive information from DOT regarding the history of county major collector roadway miles, the process by which roads are added and removed from the system, and how well counties coordinate their projects with state road projects;
- Receive information from UGPTI regarding its study of North Dakota's county, township, and tribal road and bridge infrastructure needs;
- Receive information from all or select counties regarding the county's methods and ability to report information to DOT or UGPTI regarding the county's road needs, what the county identified as their needs, how well funding provided by the 2013 and 2015 Legislative Assemblies addressed the needs identified, the county's process of coordinating road projects with state and adjacent county projects, and on the use of the funding provided;
- Determine if the funding is being used as the Legislative Assembly intended and consider methods to ensure the road projects in each county are properly coordinated with state road projects and adjacent county projects;
- Develop recommendations and any necessary legislation to implement; and

- Prepare a final report.

It was moved by Senator O'Connell, seconded by Senator Klein, and carried on a voice vote that the proposed study plan as outlined by the Legislative Council staff be approved.

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE CHANGE OF ADMINISTRATIVE AUTHORITY STUDY

At the request of Chairman Ruby, the Legislative Council staff presented a background memorandum entitled [Upper Great Plains Transportation Institute Change of Administrative Authority Study - Background Memorandum](#).

Mr. Denver Tolliver, Director, Upper Great Plains Transportation Institute, presented information ([Appendix K](#)) relating to the study of changing administrative authority of UGPTI from North Dakota State University (NDSU) to DOT. Mr. Tolliver said NDSU provides approximately 11,392 square feet of office space at no cost to UGPTI along with critical grant support services and matching funds for federal grants.

In response to a question from Senator Klein, Mr. Tolliver said UGPTI and DOT have separate missions, but they do collaborate with research, technical assistance, and training. Mr. Tolliver said UGPTI and DOT have a strategic meeting annually and are currently discussing each agency's role to obtain the best benefit for the state.

In response to a question from Chairman Ruby, Mr. Tolliver said both UGPTI and DOT would maintain objectivity if the administrative authority for UGPTI was transferred to DOT. Mr. Tolliver also said the primary benefit of maintaining administrative authority with NDSU is the grant management and academic environment.

In response to a question from Chairman Ruby, Mr. Tolliver said he was not aware of any grants the state does not receive or is not able to receive because the agency is not administered by DOT.

In response to a question from Representative Meier, Mr. Tolliver said UGPTI receives the majority of its funding from federal funding. He said UGPTI averages \$10 million per biennium in federal funds but it does fluctuate based on congressional action. In response to a followup question from Representative Meier, Mr. Tolliver said UGPTI receives state funding and for the 2015-17 biennium of \$4.8 million, which includes one-time funding of \$750,000.

In response to a question from Chairman Ruby, Mr. Tolliver said stipends for graduate students are provided primarily through federal grants and none of the agency's base general fund support is used for student stipends.

Mr. Russ Hanson, Executive Vice President, Association of General Contractors of North Dakota, testified that he is the chairman of the advisory council for UGPTI and the council believes the administrative authority of UGPTI should remain with NDSU.

Mr. Mark Johnson, Executive Director, North Dakota Association of Counties, said counties appreciate the research-based information provided by UGPTI and do not believe an administrative change is necessary. Mr. Johnson said the academic environment at NDSU allows UGPTI to offer an academic graduate program which is a benefit to the student and the studies UGPTI conducts.

Ms. Bonnie Staiger, Executive Director, American Council of Engineering Companies, testified that the council is in support of UGPTI administrative authority remaining with NDSU.

Mr. Arik Spencer, Executive Vice President, North Dakota Motor Carriers Association, testified that the association is in support of UGPTI administrative authority remaining with NDSU.

Mr. Larry Syverson, Executive Secretary/Director, North Dakota Township Officers Association, testified that the association is in support of UGPTI administrative authority remaining with NDSU.

The Legislative Council presented the following proposed study plan:

- Receive information from UGPTI regarding potential efficiencies, potential issues, and current services or benefits provided to UGPTI by NDSU;
- Receive information from NDSU regarding potential efficiencies, potential issues, and current services or benefits provided to UGPTI by NDSU;
- Receive information from DOT regarding potential efficiencies, potential issues, and benefits that could be provided to UGPTI by DOT;

- Determine the potential effect, if any, on programs and grant availability if the institute is administered by DOT rather than NDSU;
- Develop recommendations and any necessary legislation; and
- Prepare a final report.

It was moved by Senator O'Connell, seconded by Representative Brandenburg, and carried on a voice vote that the proposed study plan as outlined by the Legislative Council staff be approved.

OTHER DUTIES OF THE TRANSPORTATION COMMITTEE

At the request of Chairman Ruby, the Legislative Council staff presented a background memorandum entitled [Other Duties of the Transportation Committee - Background Memorandum](#).

Other duties of the Transportation Committee include:

- Receive a report from DOT regarding information collected from transportation network companies during each biennium, pursuant to North Dakota Century Code Section 39-34-05;
- Receive a report from DOT by June 30, 2016, pursuant to Section 12 of 2015 House Bill No.1012, regarding its study of state funding distributions and allocations to public transportation providers; and
- Receive a report from DOT, pursuant to Section 18 of 2015 House Bill No. 1012, regarding the department's updated North Dakota state rail plan.

In response to a question from Representative Hanson, Representative Brandenburg said railroad safety was addressed in three different budgets--Adjutant General, DOT, and the Public Service Commission. He said the Adjutant General received funding for railroad accident training for fire departments, DOT receives federal funding for railroad crossings, and the Public Service Commission has started a pilot program for railroad track inspectors.

It was moved by Senator Rust, seconded by Senator Klein, and carried on a voice vote that the meeting be adjourned. No further business appearing, Chairman Ruby adjourned the meeting at 2:45 p.m.

Chris Kadmas
Fiscal Analyst

ATTACH:11