



AGRICULTURE AND TRANSPORTATION COMMITTEE

Thursday, July 30, 2020
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Dennis Johnson, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Dennis Johnson, Mike Brandenburg, Jay Fisher, Craig Johnson, Dwight Kiefert, Dan Ruby, Kathy Skroch, Wayne A. Trottier, Greg Westlind; Senators Jim Dotzenrod, Kathy Hogan, Oley Larsen, Randy D. Lemm, Larry Luick, Janne Myrdal, Terry M. Wanzek

Member absent: Representative Tracy Boe

Others present: Representative Karen M. Rohr, Mandan, member of the Legislative Management
See [Appendix A](#) for additional persons present.

It was moved by Senator Wanzek, seconded by Senator Myrdal, and carried on a voice vote that the minutes of the December 12, 2019, meeting be approved as distributed.

REPORTS

Chairman Johnson called on Mr. Doug Goehring, Agriculture Commissioner, for a report ([Appendix B](#)) on the Federal Environmental Law Impact Review Committee.

In response to questions from Senator Larsen, Mr. Goehring said grants awarded from the federal environmental law impact review fund for studies on endangered species did not include grants to study migratory bird strikes on windmills in the state. He said he is unaware of studies being conducted on migratory bird strikes; however, if such studies are being conducted, the studies likely would be conducted through the Fish and Wildlife Service or the Department of the Interior. He said the Federal Environmental Law Impact Review Committee grants are focused on four species, including bats, but the study is not researching information related to the impact on windmills.

In response to questions from Representative Rohr, Mr. Goehring said removing a species from the endangered species list requires petitioning the Department of the Interior followed by an act of Congress. He said only two species have been removed from the list. He said the grants from the federal environmental law impact review fund study species that have been petitioned to be put on the endangered species list in North Dakota.

Chairman Johnson called on Mr. Mark Birdsall, Chairman, State Board of Agricultural Research and Education, and Mr. Greg Lardy, Vice President for Agricultural Affairs, North Dakota State University, for a report ([Appendix C](#)) on the annual evaluation of research activities and expenditures of the State Board of Agricultural Research and Education (SBARE).

Mr. Birdsall said the North Dakota State University (NDSU) Extension Service and Experiment Station are complying with the Governor's 15 percent budget reduction request. He said SBARE is undertaking initiatives in big data and livestock. He said the big data initiative is a top-ranked priority to develop the capability to collect, manage, and analyze large data sets. He said the livestock initiative is focusing on the need for livestock production expansion in the state.

Mr. Lardy said the extension service and experiment station are making Coronavirus (COVID-19) related adjustments to provide services and incorporate social distancing. He said NDSU field days are offered completely online now.

In response to a question from Chairman Johnson, Mr. Lardy said there are some advantages to virtual meetings over face-to-face meetings, including savings on travel expenses and the ability to reach new audiences.

In response to a question from Senator Myrdal, Mr. Lardy said NDSU continues to conduct 4-H programming despite the virus. He said with fairs and other events being canceled, adjustments have been made to move toward a more virtual format.

Chairman Johnson called on Mr. Karl Rockeman, Director, Division of Water Quality, Department of Environmental Quality, for a report ([Appendix D](#)) on animal feeding operation permit applications.

Chairman Johnson called on Mr. Steve Salwei, Director, Office of Transportation Programs, Department of Transportation, for a report ([Appendix E](#)) regarding the department's study of public transportation services within the state.

In response to a question from Representative Rohr, Mr. Salwei said rural ridership providers are considered on-demand. The providers only give rides when a rural-based citizen calls and requests a ride. He said urban providers have a fixed route system they drive on a regular basis.

In response to a question from Senator Luick, Mr. Salwei said the study did not account for the cost per mile for ridership because each provider is operated independently and has a different fee structure with variables affecting the expenses associated with providing the service.

In response to a question from Representative Rohr, Mr. Salwei said he would provide the committee a copy of the survey riders completed as a part of the study.

In response to a question from Senator Wanzek, Mr. Salwei said approximately \$17 million of federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding was allocated to the state for public transportation. He said the funds must be used for operational expenses related primarily to fuel and maintenance of the existing transportation service vehicles.

Mr. Dustin Assel, Counsel, Legislative Council, distributed a report (Appendices [E](#) and [G](#)) prepared by transportation network companies regarding information collected pursuant to North Dakota Century Code Section 39-34-05.

AGRICULTURAL ISSUES STUDY

Chairman Johnson called on Mr. Assel to review a bill draft [[21.0032.01000](#)] regarding changes to Title 60 as recommended by the Department of Agriculture.

Mr. Goehring said he recommends the bill draft be revised to create a bond fund and to allow grain licensees to pay an assessment in lieu of a bond. He said the revision could include assessment rates that vary depending on the amount of sales involved. He said for example, grain sales of up to \$10 million could be assessed at a rate of 0.0005 percent, up to a maximum of \$5,000. He said sales over \$100 million could be assessed at a rate of 0.000175 percent, up to a maximum of \$17,500. He said he recommends a cap on the fund be set at \$16 million with a \$10 million assessment trigger. He said the fund also would cover claims against brokers. He said he recommends a maximum payout amount under the fund of 80 percent of a claim amount up to \$500,000, for a maximum potential payout of \$400,000 and updating the insolvency provisions to remove district court approval to establish a trust fund in the event of insolvencies. He said in the event of an insolvency, he recommends first looking to recoup money from the grain proceeds and inventory, then from a bond if there is one in place, and finally from the bond fund.

Mr. Goehring said he recommends addressing, in law, bonds for deferred payment contracts for the purchase of grain. He said producers do have the option to purchase bonding coverage for deferred payments. He said stakeholders in the state do not necessarily support the idea of requiring custodial accounts. He said there also is the possibility of producers obtaining accounts receivable insurance to protect against nonpayment risk due to bankruptcy or insolvency.

In response to questions from Senator Luick, Mr. Shaun Quissell, Director, Grain and Livestock Licensing Division, Department of Agriculture, said for credit-sale contracts, payment is 30 days after delivery of the grain. He said if a producer delivers grain and does not get paid 30 days from the date the first load of grain is delivered, the transaction is considered a credit-sale. He said the department looks at the language in the written contract to verify. He said roving grain buyer reports are submitted to the department electronically every month.

In response to a question from Senator Hogan, Mr. Quissell said the department sends unlicensed grain buyers cease and desist letters informing the buyers they must go through the licensing process to operate in the state. He said the department does not have the ability to force buyers to go through the licensing process. He said the commissioner's ability to issue fines through language added in the bill draft will provide the commissioner some authority in demanding buyers obtain a license to conduct business in the state.

Chairman Johnson called on Mr. Stu Letcher, Executive Vice President, North Dakota Grain Dealers Association, for a presentation ([Appendix H](#)) regarding recommendations to the bill draft [[21.0032.01000](#)]. Mr. Letcher said he recommends revising the bill draft to address facility-based grain buyers under Chapter 60-02. He said he recommends addressing grain brokers, processors, roving grain buyers, and all other types of grain buyers under Chapter 60-02.1. He said facility-based grain buyers currently are addressed in Chapter 60-02.1. However, he said, facility-based grain buyers are grain elevators that have a federal grain warehouse license. He said facility-based grain buyers should be addressed in the chapter on grain warehouses, Chapter 60-02. He said all other nonwarehouse grain buyers should be covered under Chapter 60-02.1. He said grain processors should be moved from Chapter 60-02 to Chapter 60-02.1. He said he recommends adding a license requirement that an applicant must be a responsible person with a good business reputation. He said similar language exists in the bill draft, but he recommends adding several criteria. He said the language proposed in his presentation mirrors the requirement in the federal code for federal grain warehouse licenses.

In response to a question from Senator Myrdal, Mr. Letcher said he would like to include language in the bill draft that if a grain broker knew or should have known the transactions the broker is brokering are risky or questionable, the broker's bond also can be captured if there is an insolvency. He said brokers are an invaluable tool in the grain industry, but they also should have some accountability under the law for the transactions they broker.

In response to a question from Representative Trottier, Mr. Letcher said credit-sale contracts, including deferred payment contracts, originated as grain marketing tools in the 1980s and 1990s. He said deferred payment contracts are subject to the credit-sale contract indemnity fund. He said the trust fund developed for cash grain claimants allows for receipt holders liens to be placed and places the holder of the lien in front of the banks. He said he is unsure if deferred payment contracts should be moved, which would make the contracts subject to the trust fund that was created for cash grain claimants.

Chairman Johnson called on Mr. Goehring for a presentation ([Appendix I](#)) regarding private insurance products for agricultural commodities producers.

In response to questions from Chairman Johnson, Mr. Goehring said insurance for agricultural commodities would require a producer to have a list of everyone with whom the producer does business and for which the producer wants insurance coverage. He said the insurance provider then would need to obtain the financial records of those businesses to determine the financial viability of the businesses and determine the premium for the insurance depending on what the insurance is intended to cover. He said he anticipates the insurance premium being higher if the producer wants many commodities through many different businesses covered or if the businesses are unwilling to share financial records with the insurance provider. He said private insurance products for agricultural commodities exist, but he is unaware if the products are offered to or used by farmers.

In response to a question from Representative Trottier, Mr. Goehring said agricultural commodity insurance products essentially would be insurance for doing business with a certain company, based on the financial viability of the company, regardless of the commodity that is the basis for the business relationship.

In response to questions from Senator Wanzek, Mr. Goehring said accounts receivable insurance only would provide protection in the event of a bankruptcy or insolvency. He said the insurance would not provide coverage if there was a failure or refusal to pay that did not involve a bankruptcy or insolvency.

CENTRAL INDEXING SYSTEM STUDY

Chairman Johnson called on Mr. Letcher for a presentation regarding a proposed enhancement of the central indexing system to provide notice to originating lenders when a priority lien has been filed with the Secretary of State's office. Mr. Letcher said the grain dealers and individuals who work in the grain industry would appreciate an enhancement to the central indexing system to provide notice to originating lenders when a priority lien is filed in the system.

Chairman Johnson called on Mr. Jim Silrum, Deputy Secretary of State, for a presentation ([Appendix J](#)) regarding the committee's study of the central indexing system. Mr. Silrum said his presentation includes a rudimentary mock-up version of a possible email notice that could be sent to lenders when a priority lien is filed in the central indexing system, if the system is enhanced. He said the Secretary of State's office has the funds available to enhance the system.

In response to questions from Senator Luick, Mr. Silrum said mechanic's liens are filed in the central indexing system through the Secretary of State's office. He said mechanic's liens are super priority liens that are given priority over other liens filed previously on the same collateral. He said state law and the courts determine the priority on liens and the order in which persons get paid.

In response to questions from Representative Skroch, Mr. Silrum said information in the central indexing system is an open record and may be searched. He said certain information is withheld from search results, such as a debtor's Social Security number. He said the Secretary of State's office pays a large amount of money each year to the Information Technology Department to ensure the safety and security of the system and the information included in the system.

In response to a question from Chairman Johnson, Mr. Silrum said no action needs to be taken by the interim committee to begin the enhancement of the system. He said because the enhancement is a technology system enhancement, it will take some time to implement the necessary changes to the system. He said the Secretary of State's office is ready to begin the process of enhancing the system if stakeholders indicate the enhancements are desired and will be appreciated. He said the Secretary of State's office does not want to spend money unnecessarily if the enhancements are not wanted by the stakeholders.

ELECTRICAL VEHICLE INFRASTRUCTURE STUDY

Chairman Johnson called on Mr. Salwei for a presentation ([Appendix K](#)) regarding an update on the electric vehicle infrastructure coalition, plans moving forward, and recommendations.

In response to a question from Senator Luick, Mr. Salwei said the annual fee for a completely electric vehicle is \$120, a hybrid vehicle fee is \$50, and an electric motorcycle is \$20.

In response to a question from Senator Myrdal, Mr. Salwei said he anticipates charging stations in the future being privately owned and publicly available, much like gas stations.

In response to a question from Representative Kiefert, Mr. Salwei said the Volkswagen trust settlement money was for alternative fuel sources, not only for electric vehicles. He said an individual could have applied for a grant to install a compressed natural gas fueling station in the state.

ROAD TRAIN STUDY

Chairman Johnson called on Mr. Assel to present a concurrent resolution draft [[21.3005.01000](#)] urging Congress to amend cargo carrying truck length and weight restrictions on state highways and interstates that are a part of the National Network to allow North Dakota to conduct a road train pilot program.

In response to questions from Senator Hogan, Senator Luick said other states have indicated an interest in participating in a road train pilot program, but no action has been taken. He said the state could implement a road train pilot program without sending a resolution to Congress, but without changes at the federal level a pilot program only could be operated on state and local roadways.

In response to a question from Representative Skroch, Senator Luick said requiring a pilot car to accompany a road train vehicle would defeat the purpose of a road train pilot program.

Senator Luick said he would request revisions to the resolution on Page 2, Line 3, to allow road trains to exceed overall length and total gross vehicle weight limitations, but not exceed current statutory axle load limitations. He said on Page 2, Line 6, he would request the language be revised to allow trucks to exceed federal truck length and total gross vehicle weight limitations.

Mr. Assel distributed written comments ([Appendix L](#)) submitted by the Industrial Commission regarding the road train pilot program study.

It was moved by Representative Brandenburg, seconded by Representative Skroch, and carried on a roll call vote that the concurrent resolution [[21.3005.01000](#)] relating to truck length and weight limitations be revised on Page 2, Line 3, to insert "total gross vehicle" after the first "and"; on Page 2, Line 3, insert ", but not exceed current statutory axle load limitations" after "limitations"; and on Page 2, Line 6, insert "total gross vehicle" after "and". Representatives D. Johnson, Brandenburg, Fisher, C. Johnson, Ruby, Skroch, Trottier, and Westlind and Senators Dotzenrod, Hogan, Larsen, Lemm, Luick, Myrdal, and Wanzek voted "aye." No negative votes were cast.

It was moved by Senator Wanzek, seconded by Senator Larsen, and carried on a roll call vote that the concurrent resolution [\[21.3005.01000\]](#) relating to urging Congress to temporarily amend cargo carrying truck length and weight restrictions on state highways and interstates that are a part of the National Network to allow North Dakota and surrounding states to conduct a road train pilot program and to permanently amend the restrictions to allow road trains on the National Network highways and interstates if the pilot program is successful, as revised, be approved and recommended to the Legislative Management. Representatives D. Johnson, Brandenburg, Fisher, C. Johnson, Ruby, Skroch, Trottier, and Westlind and Senators Dotzenrod, Hogan, Larsen, Lemm, Luick, Myrdal, and Wanzek voted "aye." No negative votes were cast.

Senator Larsen presented a bill draft [\[21.0175.01000\]](#) relating to the governor's authority to exceed size and weight limitations on motor vehicles. Senator Larsen said he presented the bill draft for committee consideration because if the resolution is adopted by the Legislative Assembly, there is no law allowing individuals who wish to drive road trains in the state to do so. He said the bill draft would allow the governor to make certain changes and allow road trains meeting certain criteria to be operated in the state.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Representative Ruby said he would like a bill drafted for committee consideration at the next meeting to repeal the statutory requirement for reports by the transportation network companies. He said nothing is done with the information and the reports are unnecessary.

Chairman Johnson requested the Legislative Council staff work with representatives of the Department of Agriculture and the North Dakota Grain Dealers Association to revise bill draft [\[21.0032.01000\]](#) regarding changes to Title 60 for further consideration at the next meeting.

No further business appearing, Chairman Johnson adjourned the meeting at 3:30 p.m.

Dustin Assel
Counsel

ATTACH:12