



Legislative Research Council

MINUTES

South Dakota Long-term Highway Needs and Department of Transportation Agency Review

Second Meeting
2009 Interim
August 19 and 20, 2009

Room 414
State Capitol Building
Pierre, South Dakota

Wednesday, August 19, 2009

The second meeting of the South Dakota Long-term Highway Needs and Department of Transportation Agency Review Committee was called to order by the Chair, Representative Shantel Krebs, at 9:04 a.m. (CDT) in Room 414 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Dan Ahlers, Art Fryslie, Pam Merchant, and Mike Vehle (Vice Chair); and Representatives Justin Cronin, Elaine Elliott, Shantel Krebs (Chair), Gerald Lange, Larry Lucas, Ed McLaughlin, J.E. "Jim" Putnam, Manny Steele, Steve Street, and Mike Verchio. Senator Dave Knudson and Representatives Kent Juhnke and Kim Vanneman were excused.

Staff members present included: Dave Ortbahn, Principal Research Analyst; Aaron Olson, Senior Fiscal Analyst; and Lisa Shafer, Legislative Secretary.

(NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.state.sd.us> under "Interim Information – Minutes and Agendas.")

Approval of Minutes

REPRESENTATIVE LUCAS MOVED, SECONDED BY REPRESENTATIVE PUTNAM, TO APPROVE THE MINUTES FROM THE FIRST MEETING ON JUNE 23 AND 24, 2009. The motion prevailed unanimously on a voice vote.

Remarks from the Chair

Representative Shantel Krebs informed the committee that the Executive Board approved the request allowing the South Dakota Long-term Highway Needs and Department of Transportation Agency Review Committee to have one more meeting day. This would bring the total number of meetings to 6 days. There will be one more two-day meeting in October.

Remarks from the Vice-Chair

Senator Mike Vehle thanked the committee members, departments, and media for their commitment to an important topic that will have an economic impact on the future of the state. The committee needs to move forward with all points in agreement to help keep the roads in excellent condition.

Remarks from the Staff

Mr. Dave Ortbahn said that the primary focus of today's meeting will be the Department of Transportation (DOT) agency review. There will be follow-up from the last meeting and the members will have an opportunity to ask further questions of the department. The DOT staff will be explaining the statutes governing the department that have been reviewed and be mentioning possible statutory changes. The meeting tomorrow will primarily be focused on the state's highway funding needs.

Department of Transportation Follow-up Presentation

Mr. Darin Bergquist, Secretary for the Department of Transportation, distributed to the committee a handout listing the department's responses to the committee's questions (Document #1).

The Federal Highway Trust Fund was declining in its balance. In August, Congress acted to prevent the fund from being depleted and to remain solvent to meet the federal funding commitments. Congress transferred \$7 billion in general funds to the Federal Highway Trust Fund to keep it solvent to the end of the federal fiscal year.

The existing federal highway program, called SAFETEA-LU, expires in September 2009. Congress is looking at extending the current program. To continue funding the program at the current level for one additional year would require \$8 billion in additional revenue.

The staffing levels utilized by the DOT over the last 20 years are shown on slide 4 of Document #1. The FTEs utilized peaked in 1994. A reorganization in 1997-1999 substantially decreased the number of FTEs. Last year, DOT used 999 FTE; which is a decrease of 50 FTEs from FY03.

The Division of Operations has four regional offices – Mitchell, Aberdeen, Pierre, and Rapid City. The regional offices are divided into three area offices. The location of the offices was determined to provide uniform coverage of the highways across the state.

In response to Senator Vehle's question pertaining to efficiencies by utilizing people in both region and area offices, Secretary Bergquist said that there is limited opportunity to become more efficient because the two offices have different roles.

Secretary Bergquist told the committee that currently there are 3,099 billboards that require permits in the state. For FY09, the state generated \$50,415 in revenues from billboard fees. It cost the state \$95,281 to administer the program in FY09. The DOT is considering increasing the program fees to cover the entire administrative cost of the program.

Representative J. E. "Jim" Putnam asked if there is a limitation for billboards based on closeness to roads. Secretary Bergquist said that South Dakota meets the minimum federal regulation requirements for billboards. More information on the state law regulating billboards will be provided to the committee.

Representative Manny Steele asked about the penalty for illegal billboards. Secretary Bergquist said that there are two categories for billboards that don't comply with the federal regulations. The first category applies to signs that existed before the regulations were enacted. Those billboards were grandfathered in. Those billboards could only be maintained and not replaced. The second category of billboards that don't comply with the federal regulations are to be removed by the owner. The DOT demands the removal and if needed a court order is obtained. There is no fine mechanism or penalty.

In response to **Representative Justin Cronin's** question about billboards on people's farms, Secretary Bergquist said that people are able to post a sign on the premises for their business and a permit is not required for that sign. The DOT does not regulate the location of billboards. The restrictions on billboard locations are provided in state statute. He will provide more information to the committee on these restrictions in state law.

Secretary Bergquist distributed a map showing the rest areas maintained by the state. In the last four to five years, the DOT has closed about 25 rest areas. Some of the reasons for the closure include: not being well maintained, vandalism, little use, and inability to find a local entity to take ownership. All maintenance of the road parks off the interstate system is performed by the DOT staff. Maintenance on interstate rest areas is a combination of DOT staff and Department of Tourism and State Development contracted caretakers. The contracted work for the rest areas is about \$1.2 million annually.

Representative Larry Lucas asked about the land at the roadside parks. Secretary Bergquist said that most of the land acquired was through easements. After the rest area was closed and the area cleaned up, the easement would be abandoned or revert back to the person who the department bought the easement from.

Senator Pam Merchant requested a list of the new technology and materials available to improve the longevity of the highways.

Review of Department of Transportation Statutes

Mr. Ortbahn told the members that one aspect of an agency review is to clean-up the statutes that the DOT administers. The purpose is to address statutes that have not been addressed for many years. The committee will review the statutes for duplications, obsolete terms, clarification, simplification, and style and form revisions, and to gender neutralize language in the statutes. A draft non-controversial clean-up bill will be prepared and mailed to the members by mid-September to allow the committee time for review before the final meeting.

Mr. Bill Nevin, Assistant Attorney General with the Department of Transportation, distributed a summary of the DOT's statutes entitled "Department of Transportation Functions and Duties" (**Document #3**). He said that there are 35 chapters for DOT in the South Dakota Codified Laws located in 5 different titles that are governed and administered by the DOT.

Mr. Nevin said that the DOT is in the process of having the department offices, which would be impacted by any changes, to review the statutes. This is to help improve the performance of the DOT abilities. He provided examples of areas of the statute that could be revised. At the

next meeting, the department may have some proposed legislation to address some of the issues.

Mr. Kevin Tveidt, Deputy Secretary for the Department of Transportation, and **Mr. Bruce Lindholm**, Program Manager, Division of Finance and Management, Department of Transportation, distributed a handout addressing the aeronautics law review (**Document #4**). Mr. Tveidt said that aeronautics was separate division until 1979 when the division was consolidated and placed within the DOT. Aeronautics is included under the Division of Finance and Management.

Mr. Tveidt stated that the federal government provides 95% of the funding for aeronautics projects. The remaining 5% is divided by the state (2%) and local government (3%).

Senator Vehle asked about the state funds. Mr. Tveidt responded that the state funding for aeronautics has three revenue sources – 6 cents tax on aviation fuels, 4 cents tax on jet fuel, and registration fees – an annual registration fee based on the weight and age of the aircraft and an original aircraft registration tax.

In response to Representative Krebs question, Mr. Tveidt stated that the state generates about \$1.4 million annually for the aeronautics fund. About half of the revenue is from the fuel tax.

Mr. Tveidt said, in response to Senator Vehle's question, that the jet and aviation taxes and fees have never been adjusted. The taxes and fees have been the same since they were imposed.

Many of the aeronautics laws are antiquated and date back to the late 1930's. In some instances, the law no longer reflects the current practice. Laws pertaining to aeronautics are contained in SDCL Chapters 50-1 through 50-14.

Mr. Tveidt provided some examples of aeronautics laws that need review and possible amendments or repeal. In general, many current laws establish programs that are no longer used or provide authority to the Aeronautics Commission, whose authority has been subsequently preempted by the Federal Aviation Administration (FAA). Draft legislation to address some of the issues will be provided to the committee at the next meeting.

Senator Vehle asked about a method to determine the needs of the airports. Mr. Lindholm responded that each airport is required to have a pavement management system evaluation performed by the state every two years to qualify for federal grants. Most airport pavements are in good or better condition. The state has 74 public approved airports (airports that are approved for public use based on runway width and length).

Senator Vehle asked if the available funding is meeting the needs of the airports. Mr. Lindholm stated that the funding was adequate in prior years. Due to construction costs, the department now has to reevaluate smaller and less busy airports to determine if those runways should be reconstructed.

Representative Cronin requested a comparison of the jet and aviation fuel taxes for South Dakota to the surrounding states.

Senator Vehle requested the department provide information showing the amount of revenue generated for each cent increase for the jet and aviation fuel tax.

The committee recessed at 11:12 a.m. to tour the Department of Transportation materials lab and reconvened at 1:21 p.m.

Public Testimony Regarding the Department of Transportation Agency Review

Mr. Skip Vanderhule, South Dakota Aeronautics Commission, told the committee that the current state law is missing two items. The first issue missed is meteorological (MET) towers. MET towers are used to gather wind data necessary for site evaluation and development of wind energy projects. These towers fall inches below the federal regulation of 200 feet, and therefore are not required to have safety lights. Mr. Vanderhule said that Wyoming has instituted a simple recording system on the internet.

The second issue with the current legislation is federal preemption. Many of the state statutes regarding aviation have been preempted by the federal government.

In response to committee questions, Mr. Vanderhule said that MET towers are 200 meters (197 ½ ft.). There are no restrictions on towers that are below 200 ft. however, federal restrictions on height are lower if the tower is close to an airport.

Ms. Gail Boddicker, American Council of Engineering Companies (ACEC), informed the committee that 34 South Dakota firms belong to the ACEC. She said that the ACEC and the DOT have similar goals to protect public welfare and provide safe and efficient water and transit system. She told the committee that one way to maximize state development is to outsource to the private sector. This would be a substantial savings to the taxpayers. Contracting out also provides expediency and efficiency when DOT staff is not available.

Mr. Alan Hanks, Mayor of Rapid City, reminded the members that the one of the questions the committee needs to addresses is how to continue to fund the highway infrastructure. Hybrids and electrical cars are a declining revenue source for the state. At the same time, the cost for construction and maintenance is increasing. The infrastructure may survive another year or two, but then deterioration will start to occur. Mayor Hanks suggested that the committee look at the amount per gallon in fuel tax. The state should look at sliding scale or percentage for the fuel tax.

Mr. Larry Engbrecht, American Concrete Association, said that the DOT does a good job providing answers to questions and he is proud to work with the department. The DOT does a wonderful job informing constituents about the funding and where the funds go. The lack of funding this year and the federal stimulus money creates an unstable funding base for the department. The DOT needs to have financial stability for long-range future planning.

Mr. Ron Baumgart, River Cities Public Transit, informed the committee that the River Cities Public Transit in Pierre received the Community Transit Association of America award for rural

transit in 2006. He noted that the award would not have occurred without the local support and commitment from DOT. He said that the department does an excellent job providing public transportation in the state and has no suggestions on efficiencies.

Ms. Brenda Schweitzer, Brookings Area Transit, stated the DOT staff works hard and provides efficient service. The Brookings public transportation program is one of 25 in the state. Over 1,813,945 rural level rides (communities under 50,000 in population) and 1,572,492 rides under the urban program in South Dakota.

Ms. Gail Brock, South Dakota Association of Towns and Townships, complimented her working relationship with the DOT. Secretary Bergquist is a team player and addresses all aspects of the issue by including the towns and townships in the discussions. She commended the secretary and his staff for a job well done with the state transportation system.

Mr. Dick Howard, South Dakota Association of Towns and Townships, stated that Secretary Bergquist is doing a good job. He inherited a difficult position from which serious and necessary cuts were made. The DOT is run efficiently, is operating strong, and is very responsive to local government problems. Mr. Howard stated his appreciation for the local road and bridge survey completed by Mr. Dave Huft.

Mr. Greg Stach, owner of Kolberg Pioneer in Yankton, appreciates the 65 mile per hour speed limit in the state and the winter road maintenance. He wished the DOT had more funds because his business has not been helped by the federal stimulus money. Mr. Stach said that the state needs to increase revenues, and suggested a phased-in gas tax increase.

Mr. Bob Wilcox, South Dakota Association of County Commissioners, echoed the previous testimony regarding the work and performance by the DOT staff. The department shows compassion, professionalism, expertise, and leadership to the local government entities.

Representative Krebs addressed the public testimony letters mailed to the committee members and two additional letters that were received after the mailing (**Documents #6 and #7**).

Secretary Bergquist commented on a letter received from Mr. Mike Cooper in Sioux Falls. Secretary Bergquist does not understand all the comments made in the letter. He intends to meet with the City of Sioux Falls to address some of the issues and will report back to the committee.

The committee recessed at 3:09 p.m. and reconvened at 3:24 p.m.

Senator Vehle requested information pertaining weight damage to roads in relation to the amount of taxes paid.

Highway Needs and Funding for Highway Needs

Secretary Bergquist distributed a handout entitled "Long-term Highway Needs & Funding: Department of Transportation" (**Document #8**).

For FY2009, the state motor fuel tax revenue was \$116.1 million. That is \$5 million less than FY2008 and \$8 million less than FY2005 when the state had the highest amount of revenue collected (\$124.1 million). The motor fuel tax revenue remitted in July of FY2010 was \$2.39 million less than remitted in July of FY2009.

The state is down \$6.2 million in motor vehicle excise tax since FY2008. Revenue from the motor vehicle excise tax is down \$830,000 for the month of July FY2010 compared to the month of July FY2009. From last year, the state is down about \$11 million in revenue generated from the motor vehicle excise tax and the state motor fuel tax compared to the budget for FY2010. The revenue from the motor fuel tax and the motor vehicle excise tax for July of FY2010 is \$3 million less compared to July of FY2009.

The motor fuel tax and the motor vehicle excise tax make up about 85% of the revenues for the state highway fund. Although the revenues from the two taxes were down substantially for FY2009, total revenues were down only \$1.12 million. This is due a variety of one-time monies that entered the state and covered the difference. The state ended up with \$202.5 million in the state highway fund. It is projected that fund balance for FY2010 will be \$10 million less.

Secretary Bergquist said that the operations material cost for road construction and maintenance has about doubled in the past five years.

The cost per mile for winter road maintenance in South Dakota is just under \$2,000; which is competitive to the surrounding states. In North Dakota, the cost per mile for winter road maintenance is slightly over \$1,000. The two states are very similar in maintenance. However, North Dakota provides less hours of winter road maintenance each day than South Dakota does.

Slide 8 of Document #8 shows the impact in inflation of the 22 cent gas tax since 1999. When inflation for the cost of highway construction is factored in, the gas tax would need to be raised to 36 cent to have the same purchasing power as in 1999. The gas tax of 22 cent in 1999 is equivalent to today's purchasing power of 13.5 cents.

The state is no longer doing 100% state funded construction projects. The DOT is focusing on pavement preservation. The department is also reducing spending internally. Internal reductions include:

- Reducing equipment expenses by \$4 million in FY08 and \$1.2 million in FY09 as compared to the FY07 budget;
- Reducing the buildings and improvements expenses by \$1.8 million in FY08;
- A 10% across-the-board cuts in FY08, FY09, and FY10; and
- Placing limitations on travel.

Secretary Bergquist stated his concern that the DOT is getting behind on buildings and equipment maintenance with the funding cuts. The department implemented an EMS system that provides direction to replace/repair equipment based on maintenance and repair (M&R), replacement cost, use, etc.

The department reduced expenses with the reduction and/or suspension of programs. Some of the budget cuts include:

- The suspension of the 90/10 swap program – approximately \$15 million in expenditures annually;
- Reduced the amount diverted to the Department of Game, Fish, and Parks (GF&P) for the park roads from \$2 million annually to \$500,000 annually; and
- Reduced the Economic Development Grants program from \$3.5 million to \$1 million annually.

In response to Representative Steele's question, Secretary Bergquist said that for the 90/10 swap program was a great project for all involved when it was financially feasible. For every dollar in federal fund authority that the local government entity gave to the state, the state in turn gave \$0.90 in state highway funds to the local government entity to use on local roads.

Secretary Bergquist told the committee that the DOT initiated a survey to all the other states in regards to the transportation funding challenges occurring in the other states and any corrective actions being taken. Thirty-nine states responded to the survey. There was a variety of different level of service reductions. The most common reduction was in the mowing of right-of-ways.

Representative Steels asked about the mowing of right-of-ways. Secretary Bergquist responded that the state allows an adjacent farmer to mow and bale along interstate and other state highways. There is no charge for mowing non-interstate roads. There is a competitive bid process for the right to mow right-of-ways along an interstate highway. A minimum \$20 per mile bid is required, and the state generates little revenue. Due to safety concerns, the state is moving away from mowing of the interstate medians.

Representative Krebs asked about leasing mowing equipment. **Mr. Greg Fuller**, Director of Operations for the Department of Transportation, told the members that the agreements vary from year to year. The DOT receives leasing quotes for tractors and compares the quotes to the price of purchasing a tractor. Leasing has been done more in some areas because citizens own the equipment and are willing to provide the service at a cost that is more economical than purchasing. A concern arises if the citizens stop providing economical leases. Then the state would need to buy tractors.

Secretary Bergquist commented on the federal "Cash for Clunkers" program. He said that the program will be a short-term spike in additional motor vehicle excise tax, but will have a long-term negative effect on the motor fuel tax. The state has not seen a decline in vehicle miles traveled, but rather a decrease in the amount of gas purchased.

The committee recessed at 4:26 p.m. and reconvened at 8:32 a.m. on Thursday, August 20, 2009.

Thursday, August 20, 2009

A quorum was determined with the following members answering the roll call: Senators Dan Ahlers, Art Frysliie, Dave Knudson, Pam Merchant, and Mike Vehle (Vice Chair); and Representatives Justin Cronin, Elaine Elliott, Shantel Krebs (Chair), Gerald Lange, Larry Lucas, Ed McLaughlin, J.E. "Jim" Putnam, Manny Steele, Steve Street, and Mike Verchio. Representatives Kent Juhnke and Kim Vanneman were excused.

Highway Needs and Funding for Highway Needs (Continued)

Mr. Joel Jundt, Director of Planning and Engineering, distributed a handout entitled "Long-term Highway Needs and Department of Transportation Agency Review" (**Document #9**).

Mr. Jundt told the committee that highway construction and preservation are a part of scheduled activities and are treatments to extend the life and integrity of the pavement.

Mr. Jundt said that highway maintenance is performed in response to the development of a highway deficiency and is generally reactive and not proactive. To maintain the roads in the current condition, the average cost per mile is: \$809 for excellent condition, \$1,721 for good condition, \$2,362 for fair condition, and \$1,655 for poor condition. The more deteriorated the pavement becomes, the more it costs to maintain the road.

The pavement management system helps to determine the best treatment for the road to extend the life of the road. Treatments are time sensitive. Waiting may make the treatment no longer beneficial. When treatments are performed consistently during the lifetime of the highway, then the highway will last longer.

The average age of state bridges is between 40 and 50 years. The structures will need to be replaced in the future. The DOT is finding new ways to increase the design age of the bridge structure to increase the average usage to 75 years.

Over the past ten years, the department has been able to improve the overall conditions of the state roads. It is projected that by 2020 the roads will deteriorate with the current funding levels and maintenance levels.

Mr. Jundt said that all roads are important to the entire transportation system because each has a specific purpose. The highest mobile route is the interstate system. Because of the limited access points, vehicles are able to drive at higher speeds.

Representative Lucas requested a listing of all highways and roads by functionality (interstate, major arterial, minor arterial, state secondary) with roads numbers.

There are 7,848 miles on the state system. Annually, 8.5 billion miles of travel occur on South Dakota roads. The state system handles 68.7% of the vehicles miles traveled in the state.

About 76% of the heavy truck miles traveled occurs on the state highway system. The maps on slide 16 of Document #9 show the projected increase of daily truck traffic on the state

highway system. It is projected there will be a 1% to 2% increase every year in the amount of truck traffic on the interstates.

Representative Lucas asked about truck traffic moving south if the Heartland Express is completed. Mr. Jundt said that not all trucks utilized the expressway in Nebraska because it is a 2-lane road. There is debate as to whether the road will be changed to a 4-lane or a super 2-lane in Nebraska.

Senator Dave Knudson requested the actual and projected truck traffic count on the state system. Mr. Jundt said that DOT has traffic counts on all roads and highways. The information will be provided to the committee.

Trucks have a much larger effect on the roads than cars. The amount of road wear done by one legal truck is equivalent to 9,600 cars. The roads need to be designed for the heavier truck traffic. Currently, the interstates carry about 90% of the tourist traffic and 75% of the truck traffic in the state.

Representative Putnam and **Representative Steve Street** asked about the comparison of 1 truck to 9,600 cars. **Mr. Dave Huft**, Office of Research with the Department of Transportation, said that the comparison came from research performed in Illinois the late 1950's. Roads were driven by heavy trucks and regular vehicles to destruction. The research was performed over a four year period, across all seasons, and on a variety of pavements.

Mr. Jundt informed the committee that the DOT works with each local entity to help classify and map each road in the county. The DOT has maps for all 66 counties showing the functional classification of each road. These maps are available on the LRC website.

The state trunk highway system was established in 1939 and modified in 1999. As the use and function of the highway system changes, roads can be removed from the state highway system. However, a road cannot be removed unless there is a local entity willing to take ownership and provide maintenance. Currently, there are 703.6 miles of non-state significant roads on the state system.

Secretary Bergquist distributed a handout entitled "Effects of Winter on South Dakota Highways" (**Document #10**).

Review of Local Roads Needs Study

Mr. Huft distributed to the committee a handout entitled "South Dakota 2008 Local Roads Needs Study Interim Report" (**Document #11**). To create data for the 2008 interim committee on South Dakota Highway Needs and Financing, a survey was sent to get obtain an assessment of the local roads conditions.

There are four distinct systems for local roads in South Dakota: (1) county, (2) townships, (3) county secondary – those roads which would be townships roads if there was an organized township, and (4) city.

The results of the survey show that there is a small number of items that consume a vast amount of the local government entities' budget. Road resurfacing is the biggest expense for all local entities; consuming about 60-70% of the budget.

Mr. Huft said that from 1998 to 2008, the cost for highway construction rose significantly. Although the revenues expended are fairly consistent, the buying power has decreased over 40%.

Representative Steele requested information showing the townships in each county. Ms. Gail Brock said that she will provide the committee a map of the townships.

Local entities responded that the best opportunities for efficiency include joint operations, shared facilities, innovative materials, and improved purchasing and contracting methods. Relaxed standards are not seen as an effective means towards efficiency. The biggest deficiencies were perceived to be in road surfacing, system upgrades, and major structures.

Mr. Huft told the members that the level of highway funding affecting the liability risk depended on the jurisdiction. Over half of the respondents said that the liability risk was significant and increasing. Most said that a shortage of funding was posing a liability threat to the local government.

Mr. Huft said that one survey question asked the entities about advanced knowledge of needed system upgrades and expansion. The responses varied according to the governmental level, but people are seeing an accelerating demand for system upgrades. Most entities are not able to do long-term planning for maintenance and repair. More than 90% responded that they have less than two years notice. This lack of advanced knowledge limits efficiency.

An example of a rural road in Deuel County that deteriorated quickly after a large dairy farm was constructed in that area was presented to the committee. Approximately \$40,000 of local funds have been spent for roads improvements thus far for one mile of road.

Some perceived opportunities for additional funding are from vehicle registration fees, wheel tax, property tax, and cost sharing by developers.

Currently, there are 1,100 county bridges that are posted for weight restrictions. Another 139 are recommended to be posted for weight restrictions. There are 8 county bridges that are recommended to be closed based on structural deficiencies.

About 72% of all the bridges in the state are owned by the local government entities. This is 40% of all the deck area in the state. Almost one-third of the bridges are over 70 years old. Currently, two-thirds of the local bridges need repair. In order for the state to achieve the target condition on the major structures on the local road system, the counties need an additional \$24.3 million, and the cities need an additional \$700,000.

The local road systems carry 30% of all vehicle miles traveled and 24% of all truck miles traveled. The amount traveled on secondary and township roads is low.

Mr. Huft said that the improvement of road surface conditions in the local government entities from 1998 to 2008 did not match the target conditions.

Based on the analysis, the balanced investment strategy is the best approach to maintaining the annual road surface needs. The balanced investment strategy invests 25% of capital expenditure in rehabilitation of roads in good condition, 25% in roads in fair condition, and 50% in roads in poor condition. It would require \$137 million to maintain the roads in the current condition and \$156 million to achieve the target condition based on the balanced invest strategy. If the worst-first approached is applied to the roads, it would require \$182 million to maintain the current condition and \$214 million to achieve target condition.

The annual road surface and bridge needs for all local government entities totals \$180.7 million. The current estimated expenditures total \$99.7 million. This leaves a shortfall of \$81 million to obtain the target condition. It would require an additional \$50 million to maintain the local entities' road system at current conditions.

Senator Pam Merchant asked if the cost to reach the target condition includes the use of new technology. Mr. Huft responded that new technology was not included. The target condition was designed to show the cost to eliminate the poor category roads in the state and achieve a maintainable distribution of the funds.

Senator Merchant requested that the DOT provide a number as to what the department would like to have for research and development each year.

In response to Representative Putnam's question, Mr. Huft said that the DOT has information on the federal pass through grants and state funded grants that go to local programs. The information will be provided to the committee.

The committee recessed at 10:05 a.m. and reconvened at 10:16 a.m.

Local Highway Needs for Agricultural and Economic Development

Mr. Bill Even, Secretary for the Department of Agriculture, updated the committee on the local road needs for agriculture and rural development. Agriculture is an important business in South Dakota. There is an annual economic impact of \$21.3 billion from agriculture. About one-third of the state is based on ag.

Agricultural industries employ 173,101 people. About 40% of all the jobs in South Dakota are connected to the agricultural industry. The ag industry generates \$645 million in tax revenues; which is about 50% of the state's total tax collection.

Currently, there are 74,788 total miles of farm to market roads in the state. This is comprised of 7,841 miles of state highways, 23,630 miles of county roads, 11,680 miles of county secondary roads, and 31,637 miles of townships roads.

Secretary Even said that the agricultural industry has changed dramatically over the past 80 years. The means of transporting crops to market have changed also. Today's semi tractors with pups are capable of hauling more than 1,300 bushels. The issue is not overweight

enforcement, but that the old roads are not suitable to handle the weight of today's transportation.

South Dakota's agricultural productivity has soared dramatically on the same amount of land and same roads built by our grandfathers. The yields for corn, wheat, and soybean have almost doubled since the 1960's.

The 21st century field-to-farm market roads will be crucial to the economic future of the state. Growth is important. The benefits need to exceed the costs of growth.

Secretary Even stated that the issue is bigger than just agricultural needs. The issue includes rural residents, city workers that commute from farms, value-added ag business, and production agriculture because they all use the county and township roads. Currently, 25% of the state's farmers commute more than 200 days per year to city jobs and 42% of farmers work at least part-time off the farm.

One of the aspects of the issue is to balance general public funding for public road use while tying in the funding from heavy users.

Today's farms, ranches, and city businesses operate in a global environment that transcends township, county, city, and state jurisdictional and political boundaries. The rural road needs transcend the same boundaries. The band-aid fixes help relieve specific pressure points for the short-term, but South Dakota roads require a comprehensive long-term solution that recognizes the 21st century needs and costs. The state needs a mechanism to obtain the money to fix the roads and continue the economic growth. Both the short-term and long-term solutions need to be addresses in the solution to create a balance approach.

In response to Senator Merchant's question, Secretary Bergquist said that the purpose of the economic development grants was to provide local government entities financial assistance to construct or upgrade roads to provide access to businesses, elevators, or industrial parks.

Secretary Even said, in response to a question posed by Representative Lucas, that the departments encourage people to use the roads that are rated to handle the weight. However, the other roads get used because the crops need to get from the field to the farm and to the market.

Division of Motor Vehicles Response to Information Requests

Ms. Debra Hillmer, Director of the Division of Motor Vehicles with the Department of Revenue and Regulation, distributed to the committee a presentation entitled "Presentation to Highway Funding Committee" (**Document #12**).

The state should try to implement a fair and equitable revenue system. There needs to be three parts to the funding issue: tax assessed to the purchase of a vehicle when one acquires ownership, the fee for the privilege to use the roads, and a tax based on the use of the roads. Ms. Hillmer said the every state and the federal government is struggling with determining how alternative fuel vehicles will help support the infrastructure. There will be a bigger push as more alternative vehicles appear on the roads.

Ms. Hillmer said that in the future there will be a tax on the vehicle miles traveled. When a person registers the vehicle, a fee will be assessed. This type of tax will need to occur on a national level and not individually by states due to mobility issues. There are alternative fee options based on miles traveled that include a flat fee or per cent fee on each mile traveled.

Page 4 of Document #12 shows a comparison of the license fees for passenger vehicles and pickups in South Dakota and in surrounding states. South Dakota has the lowest licensing fees compared to the surrounding states. Ms. Hillmer noted that all vehicles over five years old in South Dakota receive a 30% discount. Currently, about 77% of the vehicles registered in the state are older than five years.

Ms. Hillmer said that the new registration system allows the department to separate travel trailers from other trailers. South Dakota is fairly consistent with the surrounding states in a comparison of registration fees for travel trailer vehicles.

Fees for farm vehicles are about 20% of what the fees would be for a comparable commercial vehicle. However, both vehicles carry about the same weight on the roads. Ms. Hillmer provided an example of a 2008 Freightliner with 40 ton on the highways would pay \$393 by the farmer and \$1,459 by the commercial contractor.

In response to Senator Knudson's question, license fees are determined by age and weight. First the fee is determined by weight. Then farm vehicles over five years receive a 30% break and commercial vehicles over five years receive a 10% break.

Page 7 of Document #12 shows the number and percentage of vehicles registered in the state by vehicle type. There are 750,039 (69%) cars, pickups, and vans registered, and 159,308 (15%) trailers registered. Ms. Hillmer noted that owners of noncommercial gross and commercial vehicles pay a one-time fee for trailers because the fees are on the power unit and not the trailer.

Ms. Hillmer informed the committee that the vehicle population has gotten older. About 77% of the vehicle population in South Dakota is older than five years. About 47% of the noncommercial gross vehicles are older than 25 years.

Most cars, pickups, and vans in the state (61%) weigh between 2,001-4,000 pounds. Most noncommercial gross vehicles weigh between 13-26 tons. Ms. Hillmer noted that any vehicle over 13 tons is required to have a CDL to operate. Vehicles that are over 27 tons are required to register for the federal heavy use tax.

Out of the 11,000 vehicles registered in the state that are over 27 tons, about 85% applied for the 7,500 miles or less traveled agriculture exemption. This is an honor system application exemption for farmers whose vehicles travel 7,500 miles or less annually.

Senator Vehle asked if the citizen's are audited. Ms. Hillmer said that the federal government does not audit this practice. The Department of Revenue and Regulation (DRR) is trying to streamline this process by going paperless. The process would be expedited by the states

collecting the tax and distributing the funds. Ms. Hillmer stated that this concept is still being discussed.

Ms. Hillmer discussed the history of the vehicle rental tax. The change in the rental tax was supposed to be revenue neutral. Currently, South Dakota is losing revenues from these types of vehicles.

Representative Krebs requested the department provide information showing the revenue generated if that vehicle rental tax was increased.

If all counties assessed a wheel tax at \$4 per wheel, the revenue generated would be approximately \$16 million. The counties with the wheel tax implemented currently collect \$9.5 million.

Slides 13 and 14 of Document #12 list some possible funding options. Ms. Hillmer said that the DRR is not advocating any of the increases, but rather providing a list of options. Some of the increased funding options include:

- Increase the motor fuel excise tax;
- Index the fuel tax;
- Implement a tax on dyed diesel;
- Increase the vehicle excise tax;
- Increase the vehicle registration fees;
- Remove the older vehicle registration exemption;
- Implement an ad valorem tax;
- Increase the wheel tax.

Public Testimony Regarding Long-term Highway Needs

Mr. Dan Teen, Township Supervisor for Waverly Township, told the committee that the annual meeting for the townships is first Tuesday in March. The meeting addresses funding issues and develops a highway plan. Mr. Teen noted that the public get a vote at the meetings.

Mr. Dick Howard said that there are needs on the local government roads. The rural roads are the lifeline for the agricultural community. The rural roads also provide mail routes, school routes, access for hunters and fishermen, etc. He said that the current distribution to the local government entities is fine. However, the vehicle registration fees can be increased to be similar to the surrounding states. The commercial rates and noncommercial rates could be adjusted.

Mr. Jim Soukup, Owner of Soukup Construction in Sioux Falls, provided the committee some statistics from 2007: 41,000 jobs were associated with nonresidential construction, employees earn about \$35,900 (about 16% more than the state average), and a \$1.8 billion economic impact that year. Despite the federal stimulus money the state, there was a decrease of 4.7% in construction employment in June 2009; which resulted in 1,100 fewer construction jobs in the state. Mr. Soukup said that he usually employs 88 people, but had to lay-off people due to the lack of work this summer.

Mr. Nathan Reede, President of Upper Plains Contracting in Aberdeen, said that he has a concrete paving and asphalt recycling company in South Dakota. The DOT is a primary value added business partner. His company is currently in preservation and survival mode. With the current highway funding, several contractors have gone outside the state borders for work.

The economic stimulus package has provided more concrete paving jobs. But this is a short-term solution, because there will be a 25%-30% reduction in work next year. He encouraged the committee to find a long-term solution to the issue.

Ms. Julie Johnson, Absolutely Aberdeen and Prairie Vision, said that a four-lane road to the community can change the face of the area's economy. Recently, Aberdeen has received a molded fiber glass company and a beef packing plant. The packing plant will generate enormous truck traffic in the region.

Ms. Johnson said that the roads in Brown County are supersaturated with water. This complicates all road needs. This is affecting travel to work, crops to field, farm, and market, etc. Brown County is currently using all economic development tools.

Other topics Ms. Johnson commented on include;

- The industrial park assess grant program being a major component to the economic growth in the area. Many projects will not occur until that program is restored;
- The need to broaden the SDCL Special District Law;
- Finding other methods to have the road ditches mowed other than having the counties pay because it is a significant expense.

Representative Lucas asked about federal disaster relief for the flooding in Brown County. Ms. Johnson responded that FEMA was evaluating the township roads this week and county roads will be looked at later. Although the county was included in the President's disaster relief package, it takes awhile to figure out everything.

Mr. Myron Rau, South Dakota Trucking Association and South Dakota Auto Dealers Association, said that 80% of all rural communities rely completely on trucks to provide products and services to the area. Trucks are a necessary evil because they are a very important part of the state's economy.

The Cash for Clunkers program brought in additional excise tax that the state was not planning. However, there is a problem with future sales of vehicles. People will be getting rid of old vehicles and will probably drive the new one for many years. Mr. Rau is not certain if raising the vehicle excise tax will generate the taxes needed.

Mr. Rau suggested that the committee address the noncommercial license plate fee first. He commented on the timing for an increase on the motor vehicle excise tax. He said that auto dealer will have a tough time for another year or two, and if there is a delay it will not be as devastating for the group.

Mr. Rau said that he has an article that refutes the damage caused by 9,600 cars to one truck. He will provide the information to the committee.

Mr. Bob Wilcox said that the South Dakota Association of County Commissioners view some challenges and will be taking the same joint view during session.

The committee recessed at 12:41 p.m. and reconvened at 1:33 p.m.

Highway Needs and Funding for Highway Needs (Continued)

Secretary Bergquist said that slide 18 of Document #8 is a review of the state highway funding needs. South Dakota needs an additional \$128.8 million to meeting all the transportation needs.

The department recently finished statewide STIP hearings and created a five-year plan based on the comments from the public hearings. There were two common themes at the STIP hearings – the improvement/reconstruction of certain segments of the highway that are considered to be narrow or with no shoulders and the request to expand certain segments of the highway system. All of the requests are not included in the additional funding needs identified by the department.

For FY2010, it is estimated that the state will use \$50.5 million in state funds to match federal funds. If the state does not have enough federal funds to complete necessary projects, the only method is to have 100% state funded projects. There were no 100% state funded projects in FY2009 and no state funded construction is planned in the future until the funding situation is resolved.

Federal funds cannot be used for administrative costs, field operations, and capital assets. An additional \$44.1 million would be needed to restore the state funded programs (90-10 swap program, ROW, economic development grants, and GF&P roads). If the \$17.7 million for the state match for federal funding was included, the state would need \$61.8 million to provide enough funding to meet current highway funding needs.

In response to a question posed by Representative's Krebs, Secretary Bergquist said that the Coalition of Rural States is a nationally known five-state coalition including North Dakota, South Dakota, Wyoming, Minnesota, and Idaho. The five Midwestern states have similar interests and can vote as a block in the U.S. Senate to best represent these interests.

Representative Gerald Lange asked about bonding. Secretary Bergquist said that there are many bonding options available – conventional bonding and special transportation bonds (GARVEE Bonds). He believes that bonding is only appropriate when there is a significant issue that needs to be immediately addressed and the state does not have time to save.

Committee Discussion

Representative Krebs informed the committee that she spoke with the Governor's office and his position on the issue has not changed since session. Any proposal to increase transportation funding needs to include both the state and local governments.

Representative Mike Verchio requested information on the construction costs of culverts versus bridges.

The committee discussed possible options to generate additional revenue for transportation needs. Some of the options include:

- Set fees for needs in 5 years;
- Aviation fees;
- Aviation fuel tax;
- Aviation tax on original aircraft sale;
- Increase vehicle registration fees - \$44 to \$93;
- Increase vehicle excise tax – 1%;
- Increase gas tax – 10 cents;
- Billboard inspections fees;
- Fee for alternative powered vehicles;
- Review money going to GF&P;
- Rental tax- gross receipts;
- Wheel tax;
- Bonding;
- Ad valorem tax;
- Increase snowmobile fees;
- Increase boat fees;
- Increase moped fees;
- Increase license plate fees;
- Remove old car exemption;
- Increase trailer fees;
- Increase motor home fees;
- Increase gas tax as a percent – 5 year sunset;
- Prioritize road system- what is essential? State & Local;
- Increase flexibility for local government spending-local control; and
- Provide for transportation districts-in statute.

In order to maintain status quo, the total highway funding needed is \$241 million, comprised of \$160 in state needs and \$81 in local needs. This includes the cost to reinstate all the state funded programs that have been cut or reduced.

Senator Ahlers requested information showing the amount generated if all the exemptions to registration fees and excise taxes were removed.

Senator Merchant requested to see the amount of revenue generated from increasing the motor vehicle excise tax by 1% for all vehicles over \$30,000.

Representative Lucas suggested that a letter be sent to all the interested parties explaining the changes.

Representative Street suggested that a public forum be held at the state fair with all the committee members present to address any questions and concerns of the public.

Senator Merchant suggested that the department provide a summary of talking points including the amount of need, reasons for the change, and other options to generate revenue. Representative Putnam asked that actual gas tax by state and the actual gas price be included in the summary.

Omnibus bill

After a lengthy committee discussion, it was decided that the following would be included in an omnibus funding bill:

- Increase gas tax by 10 cents - (generate \$57 million);
- Increase vehicle registration fees - \$44 to \$93 - (generate \$48 million);
- Increase vehicle excise tax – 1% - (generate \$19 million); and
- Increase age to 10 yrs for commercial and noncommercial vehicles – (generate \$14 million).

Other Bills

Representative Krebs requested that the DOT provide the committee information on increases in taxes and fees to increase the aviation fund.

Representative Krebs requested that the DOT list the billboard fee increases needed to obtain the \$44,000 needed to cover the operational costs for the program.

The committee requested that the Division of Motor Vehicles provide the amount of rental tax gross receipts needed to cover the loss of 3% excise tax on rental vehicles.

Senator Vehle requested that the DOT provide the amount of revenue generated with the implementation of a \$1 statewide wheel tax on all wheels.

Mr. Wilcox said that he will poll his members about the statewide wheel tax and discuss the concept of lifting the \$4 per wheel maximum.

Senator Ahlers requested draft legislation to remove the diversion of motor fuel tax for boats and snowmobiles.

The committee requested that the department provide more information as to revenues that could be raised with a fee on mopeds. The information should include the revenue generated and the fee increases.

The committee requested a possible fee increases and the amount of revenue that would be generated for both motor homes and trailers.

Senator Vehle asked about the clarification of road districts. Secretary Bergquist responded that the state already has road districts what has been suggested is transportation districts. Information will be provided to the committee at the next meeting.

Additional Information

Distributed to the committee was a handout showing the townships in the state entitled "South Dakota Townships" (**Document #13**).

Next Meeting

The future meetings of the Long-term Highway Needs and Department of Transportation Agency Review Committee were scheduled for October 13 and 14, 2009.

Adjourn

SENATOR VEHLE MOVED, SECONDED BY REPRESENTATIVE STEELE, THAT THE COMMITTEE ADJOURN. The motion passed unanimously on a voice vote.

The committee adjourned at 4:32 p.m.



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