

# GRASS ROOTS REPORT



FALL 2018

*The Official Newsletter of the ND Township Officers Association*

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## Proposal Gives Promise of Funding for Townships

*By Larry Syverson*

A bill is being prepared that will change the flow of funds from the Oil and Gas Gross Production Tax to the counties, cities, schools, airports and Townships. Senator Rich Wardner (Dickinson) described the proposal to the Energy Development and Transmission Committee recently.

The bill would make several changes to the formula under which the funds are automatically distributed. Most notable to us will be a change for the Townships in the counties that receive more than 5 million dollars of O & G Gross Production tax. They will receive 4% of their county's distribution of the tax generated in that county. The payments will be prorated based on Township road miles within the county.

The existing formula gives Townships in the over \$5M counties 3% of the county distribution based on Township miles and 3% went into a pool which was divided equally between all the Townships in those counties. The 3% pool would be eliminated; the new 4% would stay within each producing county. The change would likely take place for the first distribution after the end of the current biennium June 30, 2019. The timing of these payments will continue as they

have been done in the past.

The other change for Townships comes in the "Bucket List" which distributes the state share of the Gross Production and Extraction Taxes. (For this discussion "Non-Oil" also includes any county that receives less than \$5 million of O & G Gross Production Tax). Two new "buckets" are added to the list, they will fill equally after the buckets above them have filled. One is called "Municipal Infrastructure Fund" this will be for all cities of the non-oil counties; it will be capped at \$115 million. The other bucket is "County/Township Infrastructure Fund" also capped at \$115 million, of which \$15 million would be distributed in equal grants to each 'congressional township' within the non-oil counties. The rest of the fund (\$100M) would be for the non-oil counties based on the Upper Great Plains Transportation Institute "Transportation Needs Study".

The goal here is that each congressional township receives \$10,000; but that would actually require \$16.1 million. Senator Wardner indicated that adjustments could be made to the fund cap so each township would get the intended amount. Of the two Infrastructure Funds, Senator Wardner said they are for "streets,

sewer, gutter, repairing water lines, roads and repairing roads and streets. This money is not for buildings, playgrounds, swimming pools or any other feel good project!!!!"

The biggest news about this proposal is that it is no longer called "One Time Funding", it is the intent of the legislative leadership that this be an ongoing thing, that as long as the buckets are refilled by the oil taxes the cities, counties and townships should be able to count on these funds being there and paid out every two years. These two Infrastructure Fund buckets will not fill until well into the coming biennium, so don't look for the money until early 2021.

\$115 million coming to the counties and townships every two years will do a great deal to repair and maintain rural transportation and it will reduce the load on property tax for those needs. We appreciate this plan and the work Senator Wardner and other legislators have done putting it together. We also appreciate the work Upper Great Plains Transportation Institute has done in defining and documenting the investment that transportation infrastructure needs to keep ND productive.

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## President's Comments



Hello everyone,

Weather extremes seem to be the rule of late. Long hot dry spell was good for getting early maturing crops harvested but is raising havoc with later crops and pastures that need some moisture in late July and August.

Multi state conference in Duluth went well with a good representation of NDTOA board members attending. Minnesota association did a great job hosting and had a very good lineup of speakers and interesting tours to keep everyone busy.

I would like to urge the few organized townships in the state that are not dues paying members of NDTOA to step up and help carry the load. The transportation funding each township has been receiving from the state since the early 1980's was obtained through the efforts of NDTOA. This alone is well worth the cost of the membership dues. There are many other benefits provided to townships that may have never been realized without the cooperation and efforts put forth by township officers across the state in organizing and keeping the association strong.

With all the ups and downs of the state economy and the political process, it is very time consuming and costly just to maintain what we have obtained in the past, let alone what it takes to bring new ideas to fruition. As you may have read in the news, there is new discussion on the possibility of some permanent or more consistent special transportation funding to the townships from the state level. As this discussion develops, you can be assured NDTOA will be involved as much as possible, but it will also mean additional time and expense to be involved in this process. It can become a numbers

game, the more townships we can say are supporting our efforts, the better the chances are of getting favorable results.

Don't put off or forget getting your sign program in place and doing your sign inspections. Many of you have heard presentations by Mark Verke of NDIRF and have seen pictures he has taken of signs that need replacing due to deterioration and even some that could be removed because they are not needed. It all amounts to reducing the liability to the township should an accident happen.

We have had queries if the township should have warning signs for over-width farm equipment creating dangerous situations, especially in hilly terrain. If you have these dangerous areas, you may want to consider some type of warning sign. NDLTAP may be able to help with recommendations on what could be done. Keep in mind that implements of husbandry are pretty much exempt from over-width rules. On the other hand, going down the road with combine headers in excess of 40 feet without a pilot vehicle is somewhat abusing this privilege. One or two serious accidents could very well cause the rules to be tightened considerably on this exemption.

Let's do our jobs diligently and keep our form of Grassroots Government alive and well.



**WORKING FOR YOU!**

# The Country Lawyer

by Thomas R. Moe, Attorney-at-Law



Greetings!

It's September as I write this, and I'm wondering where the summer went—seems like the older we get, the faster the calendar moves!

We had a great meeting of the Multi-state association of Towns and Townships in Duluth this last July.

I'm sure the other contributors to this newsletter have also reported to you about the gathering. I always enjoy meeting and interacting with my attorney counterparts from the other States.

Thank you to the ND Association for allowing me to attend! I was especially interested to hear about the new cell tower technology that is coming soon, and how it will affect our rural areas and our zoning efforts.

It doesn't sound like there will be larger tower structures, but rather a lot of smaller ones, but nevertheless, townships will want to be involved in the siting of those cell units within the township.

I've had several inquiries about township zoning. It seems that there are more and more requests by landowners and rural homeowners to do differing things with their property.

Townships that are not zoned need to get involved. "Letting the County do the zoning for us" probably isn't going to work for us much longer, not only because many counties simply want to drop that responsibility, but also because courts have said that zoning is supposed to be done as locally as possible, and that means townships.

Besides, large business concerns can take advantage of our loosely enforced land use provisions, and townships end up with development projects which our residents don't want.

The November elections are also fast approaching, and I hope that township officers will make sure to attend the various candidate forums and debates that are held in the legislative districts.

This is a good time to introduce yourselves to those who will represent us at the next session starting in January in Bismarck. This is especially important for those who live in urban districts, where sometimes just a portion of a township may also be part of the overall "city" district.

A lot of those urban legislators don't realize they need to be cognizant of rural and township issues, too, because they also have constituents who live out in the country! Your job is to go and meet and greet them and let them know who you are.

If it's September, it also means harvest will be ending soon, and fall tillage begins. That also means that 'field scraper' time has arrived as well, so be especially vigilant for those operators that insist on cleaning road ditches without permission.

You probably know in advance who the usual offenders are, so be pro-active and notify them even before they start fall's work--that they need to get prior township approval before doing any work.

The key is not to allow shoddy work to be done in and around our

roadways. We don't need drop-offs at the side of the road after the drain work is done—because townships could be ultimately liable for injuries, because the township didn't supervise the work, nor did it demand that repairs be made.

It's not too early to get a road sign survey done, either. Use the forms provided by the Insurance Reserve office, or just use a notebook to document your inspection trip.

Watch for sign reflectivity, and get a replacement schedule going for those signs that no longer can be seen at night.

The annual State convention is also on the horizon; there will be more info on that in the November edition of the Grassroots. But get December 2-4 marked down on the calendar now, so you block that timeframe out for your township officer duties. I'll expect to see you there!

Following are a few questions I've received in the office. Have a safe Fall! TRM

**Question:** We had a wind tower company ask us for a permit. We are zoned 'agricultural', so I don't think we can do anything, because we are not zoned for that—correct?

**Answer:** Many townships believe that because they are "agricultural" then zoning doesn't apply to them. If a township is zoned 'agricultural'—then it is indeed "zoned"! Which means that building permits, set back restrictions, and land use controls are indeed in

# The Country Lawyer cont'd

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effect. The township supervisors are to act as a zoning board, and meetings need to be held when a landowner is contemplating building something.

Yes, even farm shops, grain storage units, livestock barns, houses, etc. all should require permitting, even though a township is just 'agricultural'!

Obviously, permits for those farm buildings should be easily obtained, but there is an interest that the new building is not built too close to the road right-of-way, as an example. Zoning helps to control that..

In this instance, the wind tower company is right to check with you about a permit. Part of their checklist is to show that they had local government approval. If you have no objections to their project, or even if your township is indeed not zoned, maybe only a letter from the township which states "no objections" may suffice for their requirements.

**Question:** The railroad wants us to take out a crossing over their line. It's on a section line, but it is just a prairie trail. Do we have to take it out?

**Answer:** The magic words you stated is that it is a section line. As long as the township wants to keep the section line open, then the railroad has no choice.

However, if you do decide to close the road because of its low use, I would suggest a written agreement with the railroad that they will agree to re-open the crossing if needed by the township in the future.

If abandonment of the section line is contemplated (meaning the

right of way on either side is given back to the adjacent landowner(s)—a practice which NDTOA discourages) then the county commissioners make that call, after a hearing at which all interested parties can participate and be heard.

**Question:** We have had constant requests to meet with a landowner who always seems to have a complaint—you know the type! He always wants to meet with us on weekends or evenings. We got tired of meeting with him and hearing the same thing, so we just ignore his request to have any further meetings. Can we do that?

**Answer:** Probably not. I'm assuming you mean township supervisor meetings, rather than the annual March meeting for all residents. Supervisors are indeed public officials, and as such, should make reasonable efforts to be available to constituents.

Interestingly, I've received several calls from residents, who unfortunately, tell me they can't ever get to talk to their supervisors—I don't think your complainant is one of the folks who have called me, but it brings up the point that we should be reasonably responsive to our residents' concerns.

You may want to consider scheduling monthly meetings at a time convenient to the supervisors. When you get a request for a session with you, the monthly schedule is noted, and if the complainant doesn't show up, then you are off the hook.

And, under Roberts Rules, the chairman can cut the arguments off after a short time and get on to other business. Your minutes will

show that the resident was allotted some time, but didn't attend.

Incidentally, I know of several townships whose supervisors are meeting monthly because it makes it easier to give notice to the county auditor—i.e. "supervisors meet the second Wednesday", or "supervisors meet the 15<sup>th</sup> of each month" etc. and, they are finding that by handling business on a more regular basis the meetings are shorter and they can keep better track of monthly bills, etc.

Interestingly, our public political subdivision counterparts—city councils, school boards, county commissions, park districts, etc., all meet monthly and have been doing so for years.

It's probably time for our busier and more active townships to think seriously about getting together more often. And, those citizens out there that want to register a complaint with the township can no longer complain that there is no opportunity to meet with you!

**Question:** We want to sell our township hall. Where do I find the rules for the sale?

**Answer:** See Section 58-03-16 of the Century Code in our NDTOA handbook, or online at [www.ndtoa.com](http://www.ndtoa.com)

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# Truck Permit Panel to Open WDEA Annual Meeting

This year's annual meeting of the Western Dakota Energy Association will open with an update on enhancements to WDEA's LoadPass truck permit system, to be followed by a panel discussion of issues associated with permitting the movement of oversize loads on county and township roads.

The two-day gathering will begin with a report on recent LoadPass enhancements including development of a routable map and incorporation of road restrictions into the permitting system. Attendees will also receive an update on the recent addition of some non-oil counties to the permit system.

The LoadPass presentation will be followed by a panel discussion moderated by Ron Ness, president of the North Dakota Petroleum Council. Panel members will include Mountrail County Commissioner Trudy Ruland, who is also a WDEA board member; Tom Wheeler, Northwest District Director for NDTOA, Ray; Daryl Anderson, Ham's Well Service, Westhope; and Joel Wilt, NDDOT District Engineer, Williston.

Opening day presentations will also include an update on natural gas capture and flaring, followed by speakers from midstream companies Oasis, ONEOK and Crestwood, who will describe their investments in gas processing and pipeline infrastructure.

The meeting will be held November 7-8 at 4 Bears Casino and Lodge in New Town. If you are interested please contact WDEA for the agenda and meeting registration details.

Geoff Simon, Executive Director; 701-527-1832; geoff@ndenergy.org



**CHECK OUT THE NEW FEATURE  
ON OUR WEBSITE...**

**[www.ndtoa.com](http://www.ndtoa.com)**

**HOT TOPIC BUTTON**

## Treasurer's Report



by Barb Knutson

Where has summer gone? Seems we were just waiting for it to warm up, now this. Summer has been busy and now we are coming down to the end of the fiscal year which ends October 31. It is our hope that any townships that have not paid dues for the year will do so at this time so they can be credited to the correct year.

Mailing list is a work in progress at all times, but want to thank those that have sent the names in of all officers with names, address, phone number and email if you have it. Cell phones are helpful too.

When there is no longer a land line, it makes it real hard to check addresses in any manner since we have to use the plus 4 numbers to mail newsletters by bulk mail.

We have been getting quite a few of the newsletters back as unable to deliver as addressed. Sometimes it is as simple as having built a new house in same yard and I get it back, so if you would all please check the newsletters you get and make sure your name and address are correct, I'd sure appreciate that.

Make sure you are reserving the 3<sup>rd</sup> and 4<sup>th</sup> of December for the annual meeting in Bismarck. It is a great place to bring your questions and to learn from the speakers that are asked to present for our education and benefit. Watch for more particulars in *GrassRoots Report*.

Hope all is well and that harvest is going good. Thanks for all you do as township officers because it is important!

# Gravel Road Surfacing

The North Dakota DOT maintains only PAVED ROADS. As such, the DOT uses gravel for pavement base and shoulder material. They typically specify:

**CI 5 Gravel** – drainable base material that is placed beneath a paved surface. Water that passes through pavement cracks enters the CI 5 base. Since the CI 5 base has limited fine material, water easily drains to the outer edge of the roadway rather than progressing down into the subgrade. By keeping the subgrade (i.e., natural soil foundation) dry the NDDOT maximizes the roadway's load carrying capacity.

**CI 13 Gravel** – shouldering material for highways. CI 13 shoulder material is essentially a CI 5 material with more fine material allowed (i.e., a dirty CI 5). The fine material provides a reduction in water passage and allows sensible utilization of pit materials.

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**Local roadway gravel surfacing** requires modifications to the typical pavement base and shouldering gravel. Gravel without binder leads to wash boarding, dust, and float – all critical safety risks. By adding a binder we can create a quality gravel surfacing material for local gravel roads.

Quality gravel surfacing includes a binder material to hold the stone and sand together. Clay is a natural binder that can bind the stone and sand into a gravel matrix. Generally, fines may be clay or silt. Clay has good binder properties, silt does not. Clay has good engineering strength properties, silt does not. A gradation test tells us the amount of rock, sand and fines. A PI test (Plasticity Index – clay value) – this tells us how cohesive or 'sticky' the fine material is and as such how well it will perform to hold the rock and sand together. Combined, the tests help tell us how well the gravel will function as a surfacing material. See spec info below.

Specifying and testing gravel are key to insuring that you get the correct gravel for your gravel road driving surface.

- 1) **Do you specify** the gravel surfacing that you purchase?

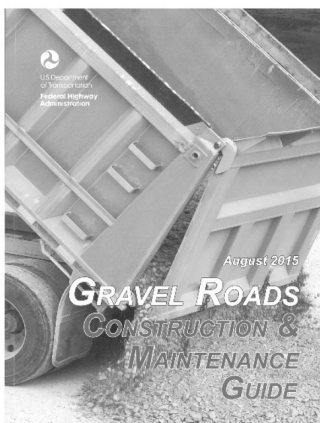
Gradation – y/n

PI (clay) – y/n

- 2) **Do you test** the gravel surfacing as part of your quality assurance/payment plan?

Gradation – y/n

PI (clay) – y/n



*See chart on top of page 7*

Sieve Size	NDDOT CI 13	Montana Gravel Surfacing	SD & FHWA Gravel Roads Manual	Sample County Spec	Proposed ND Gravel Surfacing
3"					
1-1/2"					
1"	100	100		100	100
3/4"	70-100	80-90	100	90-100	70-100
1/2"		60-80			
3/8"				50-90	
No. 4	38-75	50-70	38-75	35-80	38-75
No. 8	22-62	37-60	37-67		22-62
No. 10				20-70	
No. 30	12-45				12-45
No. 40		13-35	13-35	10-40	
No. 200	7-15	4-18	4-15	8-15	7-15
PI		4-12	4-12	4-12	4-12
Shale (max %)	12.0				12.0
LA Abrasion (max %)	50				50
NDDOT 4, Fractured Faces	10				10

Dale C. Heglund, PE/PLS, NDLTAP Program Director -701-318-6893, [dale.heglund@ndsu.edu](mailto:dale.heglund@ndsu.edu)

Check out the gravel resource page at [www.ndltap.org](http://www.ndltap.org).

## “You Show Us” Program

By Leanna Emmer, NDLTAP

You Show Us what? Every year local government entities are encouraged to submit innovations to NDLTAP’s “You Show Us” contest.

The innovations implemented in road transportation shops range from tool development to equipment modifications to processes that reduce costs, increase safety, and improvement the quality of transportation.

Each submission includes photos, a detailed schematic, a detailed list of items used to create the innovation, and a video.

One of the incredible North Dakota innovations that placed in the 2018 contest is the “**Burke County Sign Retro-Reflectivity Assessment Tool.**” A sign’s retro-reflectivity is a critical safety component for the traveling public; providing drivers the means to see traffic signs.

This factor is most helpful at night and during inclement weather.

A road sign’s retro-reflectivity decreases as a sign ages due to exposure to the weather and elements.

With driver safety a focus items, Kenny Tetrault and Connie Howell, Burke County Road Crew, invented

a method to access their signs.

By adding a ‘new’ daytime inspection test method to their sign inventory, they were able to save time and money and verify public safety. Innovation is local!



Check out the “Sign Retro-Reflectivity Assessment Tool” and other local innovation winners on the NDLTAP website, <https://www.ndltap.org/events/showus/>



# Grass Roots Report

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### NOTICE TO COUNTY COMMISSIONERS

**If your county includes unorganized townships:**

Is your county paying dues for each unorganized township?

The per mile funding each township gets is a result of NDTOA effort.

If your county doesn't pay dues, someone else is paying your freight!

Your county has benefited from NDTOA for many years.

**Have you calculated the benefit your county has received from the efforts of NDTOA?**



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