

# ROLLING ALONG

SPRING 2021

NORTH DAKOTA MOTOR CARRIERS ASSOCIATION PUBLICATION

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The North Dakota Motor Carriers Association has been publishing the Rolling Along magazine since 1948. Each issue provides members with information concerning their association and the issues impacting the trucking industry.



Rolling Along is published quarterly (April, July, October and January) by the North Dakota Motor Carriers Association. Statements of fact and opinion are the responsibility of the authors alone and do not imply an opinion on the part of the officers, members or staff of the North Dakota Motor Carriers Association.

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# MESSAGE FROM THE PRESIDENT



PAT SEVERSON

## HELLO MEMBERS,

Spring is here and summer is knocking on our doors.

For many, it is difficult to believe that it's been a year since the global pandemic hit America, closing businesses, stalling commerce and keeping people home. For front-line workers, like truck drivers, the pandemic has only intensified their work, and one year may seem like two. Truck drivers are in harm's way every day in the middle of a devastating viral disease.

As we enter year two of the pandemic, truck drivers will continue to load up and transport the Covid-19 vaccines, PPE, and hand sanitizer to America's stores along with consumers' favorite items such as smartphones, puzzles, personal grooming products, beverages, and snacks to their homes. It's times like these, I feel especially proud to be a part of the trucking industry and working alongside America's professional truck drivers, our country's unsung heroes.

With that being said, it is more important now than before to search out and visit with trucking and trucking-related businesses about the importance of NDMCA and the work that we do. Please continue to share this important message with all.

The association is always actively looking for individuals who desire to be more involved in the industry and the continued success of the NDMCA. We know that those people exist and might be sitting right in your office. I encourage our members to get their employees involved with the activities and events that the association has to offer. It is rewarding for me to see many of our current board members grow as they become more involved and help to lead this organization.

Since this a legislative year, NDMCA has been busy monitoring the legislative session. With only a few weeks remaining, legislators will be finishing up the work that they have not completed. To learn more about what has been happening this session, please turn to page 13. You can also read our weekly recaps at [www.ndmca.org](http://www.ndmca.org) by clicking on the "67th Legislative Session" on the top right.

Lastly, I am pleased to announce that we are planning to hold this year's Truck Driving Championship on June 5th in Fargo. Please continue to promote this annual event and encourage your drivers to participate. The deadline to register is May 1st and we need a commitment of 20 drivers by this date to proceed in planning. Registration and eligibility requirements can be found on our website.

Thank you again for all that you do. Have a great summer and stay safe.

PAT

## VISION CAMPAIGN

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## INDUSTRY NEWS

### JON EISEN BECOMES DIRECTOR OF ATA-AFFILIATED IMCC

*The following article originally appeared in Transport Topics, April 5, 2021*

#### American Trucking Associations has hired Jon Eisen to serve as director of the Intermodal Motor Carriers Conference.



An ATA-affiliated conference, IMCC is open to all ATA member companies specializing in the intermodal transportation of property, companies involved in businesses and services that support intermodal transportation and state associations affiliated with ATA.

“Trucking is an industry that creates connection, and nowhere is that more evident than in the intermodal sector,” ATA President Chris Spear said. “We’re happy to bring Jon in to lead the IMCC at this critical time for the industry and economy. He has a rich background in government affairs that will be a tremendous asset for our federation and our industry.”

Eisen joined ATA from the International Foodservice Distributors Association, where he most recently served as senior vice president of government relations.

“Intermodal transportation is a critical point in our economy, connecting our ports to our highways and railways, and this is a critical time to be a part of this sector,” said Eisen. “There are a number of challenges these carriers face, from chassis choice to infrastructure needs, and I’m pleased to be joining IMCC to help solve them.”

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## DESCRIPTION OF PROPOSED 2021 NDMCA BYLAWS CHANGES

At the February Governance Committee meeting a series of bylaws amendments were tentatively approved. As required by Article X of the bylaws, proposed amendments must be approved by two-thirds vote of the Board of Directors at the annual meeting of the Association, provided notice of the substance of the proposed amendments is provided to the membership no less than 60 days prior to the meeting.

**If you have questions about the proposed amendments, contact Kacey Heidrich at 701-223-2700.**

### SUBSTANCE OF AMENDMENTS

1. **Add the word “Immediate” to “Past President.”** This change is the current term that is used to refer to the outgoing President.
2. **Change “Honorary Member” to “Honorary Director.”** This change would better define that this position is on the Board of Directors.
3. **Change “shall” to “may” in Article IV section 12.** This change would give the board the discretion to leave a vacated board seat unfilled until the annual meeting as long as the minimum number of directors is met.
4. **Change “Executive Vice President” to “North Dakota Motor Carriers Association office” in Article V, section 4.** This change better defines the current practice.
5. **Move Article VI, section 3 as a subsection of section 1.**
6. **Change “Executive Vice President” to “Executive Staff” in Article VI, sections 4 and 5.** This change will reflect that NDMCA office staff can perform these duties which is the current practice now.
7. **Correct the number of appointed directors and remove the term at large members from Article V11, section1.** This change better defines the current practice and who can be appointed by the President. The structure of the Executive Board is 9 committee members. The President has the authority to appoint any 2 members of the Board of Directors.
8. **Change the notice to members from “60” to “30” days under Article X.** This change will make the bylaws for the Foundation and Association consistent. It also allows the notice to members to be printed in the Rolling Along magazine closest to the annual meeting.



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## NEW RESEARCH DOCUMENTS THE REALITIES OF A NATIONAL VEHICLE MILES TRAVELED TAX

American Transportation Research Institute, March 17, 2021



Arlington, Virginia – The American Transportation Research Institute released a new report detailing the costs of deploying and operating a national vehicle miles traveled (VMT) tax. This study was identified as a top research priority by ATRI’s Research Advisory Committee in 2020.

With a goal of understanding the opportunities and challenges of a federal system, the research first explored the technical and administrative requirements of charging every U.S. driver for miles driven. Next the costs of operating a VMT tax program were calculated, including those associated with technology, data communications and account management.

It was found that replacing the federal fuel tax with a VMT tax that is assessed on 272 million private vehicles could result in collection costs of more than \$20 billion annually – or 300 times higher than the federal fuel tax. The central reason for this large increase in costs is the shift in collection points – from a couple hundred fuel terminal operators to every registered motor vehicle in the U.S.

“It’s clear that a VMT tax is a far more complicated and costly replacement for the fuel tax than many had anticipated,” said James Burg Trucking Company President and CEO Jim Burg. “If a system like this is going to work for everyone, many years of thoughtful planning and federal leadership are needed.”

Additionally, the report found that hardware costs alone would have an initial price tag of \$13.6 billion and require ongoing replacement, telecommunications costs would be approximately \$13 billion annually, and account administration would be an additional \$4.3 billion each year. On top of these costs, credit card transactions for electronic payment and even the shipping costs for the hardware could each cost more than \$1 billion.

“With policymakers preparing to lay out a vision for the future of America’s infrastructure, ATRI’s analysis could not come at a more critical time,” said ATA President and CEO Chris Spear. “Most experts agree that some sort of VMT system is a part of that future, and ATRI’s report makes clear that implementing it will take thoughtful leadership, cooperation from stakeholders and a strong plan to transition away from current funding streams.”

**For access to the full report, please visit ATRI’s website at [TruckingResearch.org](http://TruckingResearch.org).**

*ATRI is the trucking industry’s 501c3 not-for-profit research organization. It is engaged in critical research relating to freight transportation’s essential role in maintaining a safe, secure and efficient transportation system.*

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## IS THE INDEPENDENT OWNER-OPERATOR MODEL UNDER ATTACK AGAIN? THE PRO ACT AND WHAT IT MEANS FOR THE TRANSPORTATION INDUSTRY

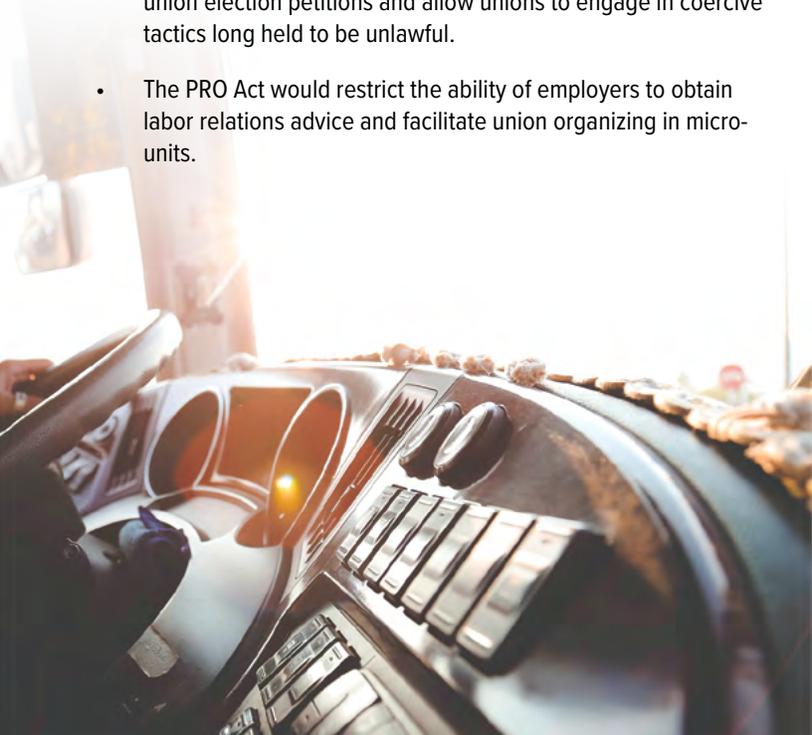
Over the past several years, the transportation industry experienced a relative reprieve from heightened federal regulation and oversight of the Obama Administration. The industry always knew that the reprieve would not last forever. A primary area of concern has been the potential for a renewed assault on the owner-operator model. Unfortunately, the industry's concerns are proving to be well-founded. The Biden Administration and U.S. Congress have unapologetically signaled their intent to continue the assault on the industry and the owner-operator model.

**On February 4, 2021, the United States House of Representatives, with the strong support of President Biden, introduced the Protecting the Right to Organize Act of 2021, referred to as the PRO Act. The PRO Act is geared to radically overhaul the National Labor Relations Act (NLRA) and related laws. The following summarizes some of the more concerning features of the PRO Act:**

- Many states, including North Dakota, have “right to work” laws which determine whether employees can be required to join a union or keep a job. The PRO Act would effectively overturn state “right to work” laws.
- Certain states, California, the most infamous of which with Assembly Bill 5 (AB5), have adopted the “ABC Test” to determine independent contract status. Application of the ABC Test to the transportation industry effectively nullifies the owner-operator model. The PRO Act would federally codify the ABC Test to deem independent owner-operators as “employees” covered by the NLRA.
- The PRO Act would limit the ability of employers to contest union election petitions and allow unions to engage in coercive tactics long held to be unlawful.
- The PRO Act would restrict the ability of employers to obtain labor relations advice and facilitate union organizing in micro-units.
- The PRO Act would change the definition of “joint employment” and force businesses to alter their structures or face liability.
- The PRO Act would give employees the right to utilize employer electronic systems and property to organize and engage in protected organizing activity.
- The PRO Act would force parties into collective bargaining agreements via interest arbitration and expand penalties for violations of the NLRA.
- The PRO Act can, and likely will, change as it weaves its way through congress, then on to President Biden’s desk. But it likely is not going away any time soon. So, what can be done?

Now, more than ever, it will be incredibly important for the transportation industry to organize and make its collective voice heard in Washington, DC. The industry must educate lawmakers and explain how transportation is different. Owner-operators, in particular, are a cornerstone of the industry. It is a tradition-based model, long supported by carriers and independent owner-operators alike. The radical changes embraced by the PRO Act would not just upend the transportation industry, but the totality of commerce in the United States. The transportation industry must make its voice heard to counter the dangers of the PRO Act.

If you have any questions regarding employment, owner-operator or labor issues, feel free to call or e-mail Jason Engkjer at 612-305-1414 and [jee@dewittllp.com](mailto:jee@dewittllp.com), or John Duncan Varda at 608-252-9311 and [jdv@dewittllp.com](mailto:jdv@dewittllp.com).



## TRUCK PARKING LEGISLATION INTRODUCED IN US HOUSE

The following article originally appeared in *Transport Topics*, March 30, 2021, Eugene Mulero

A bill designed to facilitate access to parking around the country for commercial vehicles was recently introduced in the U.S. House of Representatives.



Trucks parked at a truck stop. (Peggy Smith/Transport Topics)

The Truck Parking Safety Improvement Act aims to ameliorate a shortage of available parking nationwide. For years, several transportation policymakers on Capitol Hill have raised concerns about a lack of adequate parking for trucks.

“I grew up in a family trucking business and spent years driving over the road,” Rep. Mike Bost (R-Ill.), the bill’s sponsor and a member of the Transportation and Infrastructure Committee, said March 29. “Since then, we’ve seen the need for more trucks and drivers increase significantly, especially during the COVID-19 pandemic when trucking helped to keep our economy going. However, the number of truck parking spaces hasn’t kept pace.”

That means that drivers are forced to park in unsafe locations, which puts both them and other motorists at risk, added Bost, whose legislative version offered in the previous session of Congress did not reach the president’s desk for enactment. “Creating sufficient parking options for long-haul truckers will not only help keep truckers safe during their rest breaks but will also mean safer roads for everyone.”

Rep. Angie Craig (D-Minn.), a co-sponsor, added: “Without adequate parking, truck drivers are forced to pull to the side of the road or continue driving, both of which are risky.”

Specifically, the legislation would dedicate funding from the U.S. Department of Transportation for state agencies to amplify facilities that provide parking for trucks. The bill would authorize

\$125 million for fiscal 2022, with incremental funding increases through fiscal 2026. The legislation also would require state and federal officials to produce a report for Congress on the legislation’s impact on the freight industry.

Other co-sponsors of the bill include Reps. John Garamendi (D-Calif.), Dusty Johnson (R-S.D.), Pete Stauber (R-Minn.) and Susan Wild (D-Pa.).

The legislation is expected to be considered during the House transportation panel’s debate of a multi-year highway policy measure. That multi-year bill would update a 2015 national highway law that expires in September.

In February, Rep. Peter DeFazio (D-Ore.), the transportation committee’s chairman, acknowledged concerns associated with a lack of proper parking facilities for truck drivers. He expressed commitment for examining provisions designed to enhance parking nationwide for commercial drivers. He told colleagues at the time, “We would meaningfully address that issue.”

Stakeholders, which have sounded the alarm about the lack of parking for several years, said they welcomed the measure. They have argued that expanding parking for truckers would improve the flow of freight for many parts of the country, and increase the safety of motorists.

“The severe shortage of safe parking presents truckers with an untenable dilemma: Either keep driving when they are fatigued and possibly in violation of their federal hours-of-service requirement, or park in unsafe, sometimes illegal locations such as a roadside shoulder,” said American Trucking Associations President Chris Spear.

“The health and well-being of our drivers, the safety of the motoring public and the sustainability of our supply chain all depend on Congress addressing this issue with adequate funding in a surface transportation [policy] bill,” Spear added.

“Truckers often wonder if anyone in Washington is listening,” said Owner-Operator Independent Drivers Association President Todd Spencer, in a statement accompanying the bill’s announcement. “The introduction of the Truck Parking Safety Improvement Act shows that not only are some members of Congress listening, but lawmakers from across the political spectrum are willing to step up and address one of the greatest concerns for professional drivers: the national shortage of safe truck parking.”

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## NEW BSC PROGRAM TRAINS STUDENTS FOR A CDL

After just three weeks in Bismarck State College's new Commercial Driver's License (CDL) program, Michael Batts was ready to take his road test and obtain a Class A Commercial Driver's License.

"I was employed in the earth works industry," Batts says, noting the need for heavy equipment and machinery to be transported between locations. His time in the CDL program was a career choice. "This was an opportunity to expand my qualifications for the industry."

The CDL program is one of the latest certificate programs BSC has introduced as part of the college's new polytechnic mission. "It is a short-term training program that leads to a high-demand, high-wage career path," says BSC Dean of Continuing Education Sara Vollmer.

A CDL license can lead to a job in the trucking industry or supplement career paths such as electrical lineworkers, energy technicians and construction workers. "There are more job openings in North Dakota than there are people to fill those jobs," Vollmer says.

Batts was the first student to receive his CDL after completing the program at BSC, and he has already been offered several new career opportunities with several respected transport companies. He says that completing BSC's program has vastly improved his work opportunities, going from entry-level jobs to more advanced positions with salaries of up to \$65K.

Courses begin with truck driving safety, techniques and North Dakota driving laws. Then students use an advanced driving simulator before getting behind the wheel with an instructor. With this hands-

*BSC Commercial Driver's License (CDL) student Michael Batts [L] and CDL trainer Troy Westby [R]*



*BSC TrainND Manager Brian Ellersick [L] and CDL trainer Troy Westby [R]*

on experience and one-on-one training, Batts felt confident going into his road test, which he easily passed. "The DMV tester noticed my level of preparedness and made several positive comments regarding the pre-trip inspection and the driving skills I had acquired."

The startup funding for the CDL program came from a North Dakota Department of Commerce \$100K grant from CARES Act funding to develop workforce training programs that give displaced workers an opportunity to develop the technical skills necessary to find rewarding employment in North Dakota. NextEra Energy matched this grant with an additional donation of \$100K.

These investments gave BSC the resources, equipment and curriculum needed to launch the CDL program. "BSC spared no expense in purchasing equipment for the students to learn and test in," Batts says.

The demand for CDL-holding workers is significantly higher than it was even a year ago. According to Vollmer, part of this necessity has to do with COVID-19. "With the strong demand of online shopping during the pandemic, the need for trucking goods has increased significantly. The trucking industry is seeing a lot of demand to move those products."

But the need for more truck drivers isn't going away anytime soon. "The demand for a CDL program in Bismarck has been present for a long time," Vollmer says. "With the work of several departments to secure the ND Department of Commerce grant, BSC was able to step up to create a program to help fulfill a need of workers in this high-demand occupation."

The CDL program is a three-week, 120-hour course with a maximum class size of four students. Multiple courses are offered at various times and dates to provide flexible options for future truck drivers. Registration information and requirements are available at [bismarckstate.edu/drive](http://bismarckstate.edu/drive).



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# **2021 NDMCA SAFETY AWARDS**

Each year the North Dakota Motor Carriers Association gathers at our annual convention to give special recognition to industry professionals who go above and beyond and show an unwavering commitment to safety. Awards given in 2021 are in recognition for achievements in the previous year. NDMCA offers awards in the following categories:

- **Fleet Safety Awards**
- **Service Technician of the Year**
- **Service Manager of the Year**
- **Safety Professional of the Year**
- **Driver of the Year**

## **WHO WILL YOU NOMINATE?**

Nomination forms can be found online at [www.ndmca.org](http://www.ndmca.org) and be submitted by email or by mail.

**Nomination forms must be submitted to NDMCA  
by the close of business on Tuesday, June 15th, 2021.**

Nominations are reviewed by an independent committee. Not all awards will be given each year as they are dependent on the quality of the nominations submitted.





The 67th Legislative Assembly is beginning to wrap up their work, with the goal to finish sometime in the end of April. The legislature would like to save some days of their 80-day allowance to later reconvene to appropriate the Federal Funds from the American Rescue Plan and to approve redistricting with new data from the Census. The North Dakota Motor Carriers Association's focus this session is on three primary policy areas: infrastructure funding, truck size and weight, and general transportation and business policy issues. Below is a list of the primary bills NDMCA advocated on this session.

## Infrastructure Funding

HB 1380 is labeled the Legacy Fund streams bill because it dedicates funding from Legacy Fund earnings to specific areas. One of those dedicated streams will be into the North Dakota Highway Tax Distribution Fund. The percentage of funding would be equivalent to roughly a 5 cents per gallon fuel tax increase. The Highway Tax Distribution Fund is used towards state and local road and bridge improvements. This bill passed the House of Representatives and is working its way through the Senate.

HB 1431 is a \$680 million infrastructure bonding package that includes funding for water projects, roads, and bridges. The bill places \$50 million into the infrastructure revolving loan fund to help with county, city, and township infrastructure. Also included is \$70 million in bonding authority for improvements to state roads and bridges. The bill passed the House of Representatives and Senate with no amendments and is on its way to the Governor for signature.

HB 1464 would have implemented a 3 cent per gallon gas tax increase. Gas tax funds are deposited into the Highway Tax Distribution Fund for road and bridge infrastructure improvements. NDMCA's opposition is because there are funds available for infrastructure in HB 1380 and HB 1431 and at this time a tax increase is not needed. The bill passed the House of Representatives but failed the Senate.

SB 2012 is the North Dakota Department of Transportation bill. This agency's budget is around \$1.5 billion, which is all special and federal fund authority. This agency oversees state infrastructure projects and administers many licensing programs that the industry relies on. This bill passed the House of Representatives and the Senate. It may go to conference committee to sort out the amendments if the Senate does not concur with the House amendments.

## Truck Size and Weight

SB 2026 is a long combination vehicle study and pilot project. This bill started as a road train pilot project with issuance of an executive order from the Governor. As amended the bill allows NDDOT and local governments to coordinate and allow pilot projects where these configurations can be operated. During this time NDDOT will generate a report on the efficacy of the pilot projects. The House of Representatives and Senate passed different versions of this bill and will likely go to a conference committee to sort out the differences.

## General Transportation and Business Policy

HB 1420 is the legalization of adult use recreational marijuana. The bill as written would have allowed North Dakotans to purchase, consume, and possess small amounts of marijuana for recreational use. The purpose of this bill was to prevent an effort to legalize recreational marijuana through a constitutional or statutory initiated measure. Protections for employers were amended into the bill that would allow employers to conform to federal regulations and continue their drug free workplace policies. This bill passed the House of Representatives but failed in the Senate. The Senate tried to bring forward a delayed bill to give a measure for the citizens to vote on, but that initiative also failed. North Dakotans will likely have a measure to vote on to legalize recreational marijuana in 2022.

SB 2109 aims to combat human trafficking by permanently disqualifying an individual from holding a commercial driver's license if convicted of a human trafficking felony. The bill passed in the Senate and House of Representatives unanimously and has been signed by the Governor.

SB 2121 is a bill that would turn a seatbelt violation from a secondary offense to a primary offense for passenger vehicles. The Federal Motor Carriers Safety Administration already requires truck drivers and passengers to wear their seatbelts. Although this bill does not directly affect the trucking industry, NDMCA is a strong advocate for safety on our roadways. The Senate passed this bill, but it failed in the House of Representatives.

This is just a brief snapshot of the bills that NDMCA was monitoring and advocating on. [Visit the NDMCA bill tracker at www.NDMCA.org](http://www.NDMCA.org) to see the up-to-date status on these bills and learn about all the bills that are important to the trucking industry.

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