

**1999 HOUSE TRANSPORTATION**

**HB 1182**

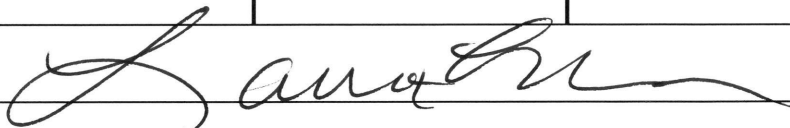
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1182

House Transportation Committee

Conference Committee

Hearing Date January 14, 1999

Tape Number	Side A	Side B	Meter #
1		x	19.0 - 38.2
Committee Clerk Signature 			

Minutes:

CHAIRMAN KEISER OPENED THE HEARING ON HB 1182; A BILL RELATING TO REPORTING OF PHYSICAL OR MENTAL DISORDERS TO THE DEPARTMENT OF TRANSPORTATION, NON DRIVER PHOTO IDENTIFICATION CARDS, MEDICAL ADVICE TO THE DIRECTOR, REPORTING OF CONVICTION, SUSPENSION, OR REVOCATION, OR FAILURE TO APPEAR BY OTHER JURISDICTIONS, HEARINGS ON SUSPENSION OR REVOCATION FOR UNLAWFUL USE OF LICENSES AND TIME FOR HOLDING HEARINGS.

KEITH MAGNUSON, Director, Office of Driver and Vehicle Services, introduced HB 1182.

(See attached testimony).

REP. MAHONEY asked if the Bureau of Indian Affairs sends in a notice for hearings.

KEITH replied that they do not have any real contact with the Tribal Court at all. We are trying to take care of that. We don't know if we could use anything if we got it from them, we are licensing the drivers, not them.

REP. BELTER asked Keith about the definition of other medical professionals. He questioned a list of other people.

KEITH replied that they are talking about physicians, optometrists, nurses, mental health professionals - all aspects.

REP. MEYER asked how the tribal court felt about this.

KEITH said that the Three Affiliated Tribes initiated this. We want to work together with them.

REP. LEMIEUX asked if a point system is used as far as jurisdiction is concerned.

KEITH said that some states use points and some use violations. This particular issue deals only with DUI's.

REP. GRUMBO asked if a state has .08 and has suspended a North Dakota citizen, would the suspension be carried out?

KEITH said that only if it happens in North Dakota can it be carried out.

DR. TIM TELLO, Doctor of Optometry in Bismarck, spoke on behalf of himself. He noted his support as a Doctor for this bill and said that to have the reporting ability was good. The opportunity to report vision findings without incurring liability is very important.

NANCY KOPP, North Dakota Optometry Association testified in support of HB 1182. She stated that the Board of Optometrist favored this bill.

CHAIRMAN KEISER CLOSED THE HEARING ON HB 1182.

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House Transportation Committee

Bill/Resolution Number 1-14 minutes 3

Hearing Date January 14, 1999

GENERAL DISCUSSION TOOK PLACE. CHAIRMAN KEISER, REPRESENTATIVES MAHONEY, BELTER, MEYER, AND KEITH PARTICIPATED.

COMMITTEE ACTION

REP. KEMPENICH moved a DO PASS motion. REP. MAHONEY seconded the motion. The motion carried.

ROLL CALL - 13 YAE, 0 NAE, 2 ABSENT AND NOT VOTING

FLOOR ASSIGNMENT: REP. KEMPENICH

Date: 1/14/99  
Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1182

House Transportation Committee

Subcommittee on \_\_\_\_\_  
or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By Rep Kempenich Seconded By Rep Mahoney

Representatives	Yes	No	Representatives	Yes	No
Representative Keiser, Chair	✓		Representative Thorpe		
Representative Mickelson, V. Ch.	✓				
Representative Belter	✓				
Representative Jensen	✓				
Representative Kelsch	✓				
Representative Kempenich	✓				
Representative Price	✓				
Representative Sveen	✓				
Representative Weisz					
Representative Grumbo	✓				
Representative Lemieux	✓				
Representative Mahoney	✓				
Representative Meyer	✓				
Representative Schmidt	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Kempenich

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
January 14, 1999 12:18 p.m.

Module No: HR-08-0615  
Carrier: Kempenich  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1182: Transportation Committee (Rep. Keiser, Chairman) recommends DO PASS**  
(13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1182 was placed on the  
Eleventh order on the calendar.

**1999 SENATE TRANSPORTATION**

**HB 1182**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1182

Senate Transportation Committee

Conference Committee

Hearing Date February 26, 1999

Tape Number	Side A	Side B	Meter #
1	x		4,782-End
1		x	1-4355
March 11, 1999 - Tape 2	x		5,510-End
2		x	1-1560
March 19, 1999 Tape 1	x		3994-4229
March 23, 1999	x		1,975
March 25, 1999 - Tape 1	x		3,634-End
March 25, 1999 - Tape 1		x	1-2580
March 26, 1999 - Tape 1	x		2,191-4401 4535-End
March 30, 1999	x		182-720
Committee Clerk Signature <i>Alex A. Schaeffer</i>			

Minutes:

SENATOR B. STENEHJEM opened the hearing on HB 1182. Committee members present included: Sens. Bob Stenehjem, R. Schobinger, D. Mutch, D. Cook, D. O'Connell, V.

Thompson, and D. Bercier.

KEITH MAGNUSSON, ND DEPARTMENT OF TRANSPORTATION testified in support of HB1182 (see testimony). He explained each section of the bill.



SENATOR B. STENEHJEM On Section 1, it says all physicians and other medical professionals “may report”. In Subsection 4, it says any physician or medical professional who “fails” to make a report. One part says you may and the other says if you don’t.

KEITH MAGNUSSON Section 4 has been in there a long time but if some reason they fail to make a report they don’t have liability. We’re trying to give the other medical professionals the same protection that the physicians have. We haven’t asked for a mandatory one because we want the cooperation from the medical profession.

SENATOR SCHOBINGER Other medical professionals? Who are we talking about?

KEITH MAGNUSSON We’re trying to keep that pretty broad, nurses, nurse practitioners, mental health officials (he explained Section 2 in his testimony).

SENATOR SCHOBINGER How do they receive notification from other jurisdictions?

KEITH MAGNUSSON We would have to work out the procedures but I think it would be very much like any other state. Their courts would have to convict or suspend someone and then send us the certificate showing the conviction or suspension. Right now if we get them from other states and their laws are like ours, we can take action. We will have some problems with some of the states that are adopting “.08”. If they do that and their certificate comes in and we can’t tell who’s above 1.0 we’re not going to be able to take action.

SENATOR THOMPSON The jurisdictions would apply to all reservations.

KEITH MAGNUSSON It would be with anyone who had a tribal government.

SENATOR B. STENEHJEM If we were allowing someone from another country, on this one we only going to state, but now we’re going internationally.

KEITH MAGNUSSON That is correct. We could take someone from Canada but we would have to make sure their laws are the same as ours when we convict someone.

SENATOR THOMPSON What will we be doing if we want to look at their laws?

KEITH MAGNUSSON It would depend on the situation. We'd have to work it out with, let's say the government of Canada as to what their laws and procedures are (he explained Section 5 and 6).

SENATOR O'CONNELL Can you clarify what an altered driver's is?

KEITH MAGNUSSON If they want alcohol, cigarettes, and some don't even have a license.

SENATOR COOK If someone alters someone else's driver's license and uses it for the intent of buying liquor and they are caught, would that individual lose their driver's license even if they had a good driving record.

KEITH MAGNUSSON That is a criminal offense in North Dakota and they can be prosecuted but if they don't go through the criminal realm they will confiscate the license and sent it to us.

SENATOR COOK Is the intent as part of penalty be that they lose their driving privileges?

KEITH MAGNUSSON We would suspend their license.

SENATOR COOK Would the person who is using the altered driver's license or the person whose driver's license is altered lose the driving privileges?

KEITH MAGNUSSON The one that uses it for fraudulent purposes and if the person whose license was used knew what they were using it for they would probably both lose it.

SENATOR B. STENEHJEM Under this section, we will make it an administrative process for suspending a person's driver's license? Why don't you take them to court or file a complaint?

KEITH MAGNUSSON We can't, we don't have the people to do the research on how they came to us. We would still have to go through the state's attorney and the city's attorney, they would still have to do what they should be doing now. If the criminal system was working, we wouldn't need this.

SENATOR MUTCH Jurisdiction would cover another country, right? A German can drive without having to get a driver's license here.

KEITH MAGNUSSON They can drive for a certain amount of time. We're looking at getting conviction violations from those jurisdictions.

SENATOR MUTCH If it was the Indian tribes why not word that as jurisdiction within the boundaries of the United States?

KEITH MAGNUSSON That could be. (He explained Section 7 in his testimony).

SENATOR SCHOBINGER The hearing used to have to be between 25 and 30 days. Can it extend beyond the 30 days?

KEITH MAGNUSSON The federal law average has to be 30 days. If it is beyond that there have to be compelling circumstances.

SENATOR THOMPSON Do you see any potential for complaints on due process those extra five days?

KEITH MAGNUSSON This won't change anything that is happening now except the hearing officer won't have to make the finding on why it is extended. There is no due process argument because usually this is at the request of the driver or their attorney.

SENATOR COOK On Section 2, the way that is worded right now if that other bill was to pass would someone who is 17 be required to have the “under 21” background or “under 18” background.

KEITH MAGNUSSON If they are under 18 they are required to have the new background that you put in. The other bill amends this if it goes in.

HEIDI HEITKAMP, ND ATTORNEY GENERAL proposed an amendment to this bill. This addresses some of the questions that this committee has already talked about which is how do we treat other jurisdictions and how do we deal with records of certain convictions if they occurred in North Dakota and processed here. Right now we have tribal courts that are prosecuting DUI convictions. The problem is not that we aren't seeing convictions in Tribal courts. The question is what happens to their driver's license? We do not get copies of the convictions in tribal courts. In essence, someone who was convicted of a DUI in tribal court is still driving with a valid driver's license (she gave an example of a case, it is stated in her testimony). Unless we were able to get a tribal court to forward the conviction, we could not initiate that process. Section 4 is an alternative for tribes to implement their implied consent and, until that happens, this is a tool we can use by allowing us to consider DUI conviction forwarded to us by the court or law enforcement officers. We broadened the jurisdiction so that it would include not only tribal courts but also military courts.

SENATOR B. STENEHJEM I realize the problems we have getting information from those jurisdictions. The tribes are issuing their own license plates and in some jurisdictions we have problems getting that. The next thing they may want to put out their own driver's license and what are you going to do on reciprocity if the tribes decide to have their own driver's license.

HEIDI HEITKAMP I am not familiar with any state's tribal authority that issues driver's license and it's a little more complicated than the license plate issue. In many reservations throughout the country they have been issuing license plates for many years. You are faced with a choice. There are people driving with a valid ND driver's license who have numerous convictions for DUI.

SENATOR THOMPSON These proposals don't mandate that they pass that information on it's just an ability so that DOT and law enforcement care share that information. This allows those on the reservation to work with the state.

HEIDI HEITKAMP That is correct. This is simply permissive. It does enable the state to take additional protective steps to prevent drunk driving and prevent someone who has a license but should, by all accounts, not have a license in any jurisdiction.

SENATOR SCHOBINGER The last three lines of the amendment include "act on". Does that include anything other than suspending the driver's license?

HEIDI HEITKAMP It would be whatever is in existing law.

SENATOR COOK Can a tribe set it's own blood alcohol level?

HEIDI HEITKAMP Yes, in fact, one of the proposals of the Three Affiliated Tribes is to lower the blood alcohol level to .08.

SENATOR COOK Does the Highway Patrol have the jurisdiction to make arrest on tribal land?

HEIDI HEITKAMP It's different based on different reservations. Typically, they contact the tribal authorities when they make the stop. Because of the multi-county situation they have in the Three Affiliated Tribes, they have been working on some form of cross deputization.

SENATOR COOK How frequently do we have ND Highway Patrol testifying in a court case for the tribal government?

HEIDI HEITKAMP I would think that it does happen. I'm not sure how often.

SENATOR COOK This goes to your amendment. All we're doing is allowing law enforcement to report convictions. Which law enforcement authorities are these going to be?

HEIDI HEITKAMP The BIA, Military, Tribal and so forth. The solution we are presenting is broader than tribes.

SENATOR COOK This is going to allow more notification to come to the state. Is law enforcement going to be more willing to notify then the courts are?

HEIDI HEITKAMP I believe that is true.

KEITH MAGNUSSON There are some situations where we can accept things from tribal courts and Section is building on it. One of the concerns we did have, right now we take convictions, reports, certificates from courts and from jurisdictions like cities, counties, and states. We don't take them from law enforcement so that would be a new area and that's why we did not want to put it into the bill. That is something we thought should be considered separately from the cleanup clarifications we're trying to do.

SENATOR THOMPSON With this you could accept convictions from a military court?

KEITH MAGNUSSON We can already accept it from military courts but we just have not dealt with law enforcement on this before. We can bank on the courts having certain procedures and due processes but we don't know what law enforcement does.

SENATOR B. STENEHJEM How can you act on what an officer says without a conviction?

KEITH MAGNUSSON Law enforcement like the BIA can send the conviction. They will take the conviction and send it when the court didn't do it.

SENATOR B. STENEHJEM What is the BIA? Are they like the law enforcement?

KEITH MAGNUSSON They are like the law enforcement.

SENATOR B. STENEHJEM What kind of action can we do on something that just a police officer says when he arrested someone?

KEITH MAGNUSSON If we didn't get a conviction forwarded by law enforcement, we wouldn't do anything.

SENATOR THOMPSON What if we have a tribal court judge that decides not to sent the conviction on, but you have BIA that may send that on to you, is that a fair statement?

KEITH MAGNUSSON That is correct. This would allow law enforcement to send it in even if the court decides not to.

NANCY KOPP, ND OPTOMETRIC ASSOCIATION testified in support of HB 1182.

DAVE PESKE, ND MEDICAL ASSOCIATION testified in support of HB 1182.

SENATOR B. STENEHJEM We will close HB 1182.

March 11, 1999 - Tape 2

SENATOR THOMPSON I move to adopt the amendment. They make sure that the law officer can share that information (he gave an example).

SENATOR BERCIER I second. This allows for the law enforcement authorities which are two separate offices, BIA and tribal law enforcement, to take information from those two agencies or the tribal courts.

SENATOR COOK I agree to the federal, military and tribal courts and I understand the problems but adding law enforcement authorities is a brand new concept to DOT receiving information when now they only receive it from the courts. Unfortunately, this may create more problems.

SENATOR MUTCH You're referring to another government?

SENATOR COOK My concern is law enforcement authorities reporting to DOT.

SENATOR THOMPSON I withdraw my motion.

SENATOR BERCIER I withdraw my motion.

SENATOR THOMPSON I move the amendments proposed but on the last line keep "in this state." and remove "or law enforcement authorities."

SENATOR SCHOBINGER The intent of this bill would be to transfer information across state lines. This amendment would only allow it in this state from court to court.

SENATOR THOMPSON The reason for the change from state to jurisdiction is to include the tribal courts.

SENATOR B. STENEHJEM No, it would be anywhere on this globe.

SENATOR BERCIER In my conversation with the Attorney General, it was specific to the jurisdiction as it related to the tribes.

SENATOR SCHOBINGER (He read part of the bill) If an offense was forwarded by military court outside the state-we couldn't receive that. I would put a period after "...courts." on the last line and overstrike everything past that.

SENATOR THOMPSON Putting a period behind "courts" makes it clearer. I withdraw my motion to amend it.

There was discussion.



SENATOR BERCIER The other issue is some tribal courts aren't willing to send tribal records. There is a separation of powers between tribal courts and authorities and tribal courts have the authority to not send these records. We want to allow for the law enforcement or tribal police to forward convictions.

SENATOR SCHOBINGER It opens a whole can of worms. It opens if up for Military Police if they hear of a conviction to forward that information as if it were coming from a reputable court.

SENATOR THOMPSON Maybe we should do what we're talking about here and at a later date see how it has been working.

SENATOR SCHOBINGER You could add tribal law enforcement authorities. There was discussion.

SENATOR B. STENEHJEM Maybe we should add boundaries of U.S. and Canada.

SENATOR B. STENEHJEM We will hold this bill.

March 19, 1999 - Tape 1

SENATOR THOMPSON proposed the amendments for HB 1182. (He explained them).

March 23, 1999-Tape

There was committee discussion.

March 25, 1999 - Tape 1

SENATOR THOMPSON What is the definition of jurisdiction?

KEITH MAGNUSSON The jurisdiction term means sovereign government. It doesn't include law enforcement.

SENATOR SCHOBINGER Explain what we are doing in Section 6.

KEITH MAGNUSSON We are trying to clear up an omission in the law dealing with the fraudulent and altered driver's licenses. Right now, if we get a conviction on a fraudulent driver's license from the court, we have the authority to suspend. We're adding the sections on fraudulent and altered driver's licenses to our hearing section which allows us to have a hearing and suspend. We don't feel comfortable doing anything without a hearing.

SENATOR SCHOBINGER Why are we over striking "state" and inserting jurisdiction throughout the bill?

KEITH MAGNUSSON Primarily, anticipating that we will be working out some things with the Three-Affiliated Tribes and other tribes where they can be sending in convictions or implied consent suspensions which they are not now. They are not a state; we consider them a separate jurisdiction. If we got one for a province, we can include that too.

SENATOR THOMPSON If we had said state or tribal government you wouldn't have been able to include province and that is why you came up with jurisdiction.

KEITH MAGNUSSON That is correct.

SENATOR SCHOBINGER In Section 7, it says the hearing had to be held within 25 days, is that correct?

KEITH MAGNUSSON What the law right now says is the hearing has to be held within 25 days after the issuance of the temporary operator's permit but they allow the hearing officer to extend it to 30 days to accommodate the official scheduling the hearing. That happens very often where it will go past 25 days. If the hearing officer forgets to make a finding in the record then there is the question whether it was done the right way. Our average is about 24 days.

SENATOR SCHOBINGER Why do we need the amendment you're proposing?

KEITH MAGNUSSON We're held to a 30 day limit by the federal law. Our Supreme Court has allowed going over 30 days in very limited cases. Section 7 is something we wouldn't bring into a bill on our own. This is just a clean up bill.

There was committee discussion.

SENATOR SCHOBINGER In moving from state to jurisdiction are we trying to get to Canada, citizens that have a driving record up there and get a driver's license in North Dakota?

KEITH MAGNUSSON We're trying to work with the tribes and, also, we have drivers that go up into Canada and have problems and we want to put them on the record here.

SENATOR COOK Would you give me a list of jurisdictions besides tribes that North Dakota sends driving records to?

KEITH MAGNUSSON All states and provinces.

SENATOR COOK Today, it does not include France but it could?

KEITH MAGNUSSON It could be. But we don't have any agreements with them now.

TIM DAWSON, LEGISLATIVE COUNCIL discussed "jurisdiction" in the Thompson amendments. For clarification, I would place after tribal courts "in this state".

SENATOR SCHOBINGER In the rest of the bill, we are looking at moving to jurisdictions and receiving records from anywhere. Then when we move this amendment, we are basically saying we're only accept those records from the two air bases and the tribes and federal institution in this state. Is there any conflict between the rest of the bill and Section 7 in receiving these records?

TIM DAWSON The other stuff from other states is all big stuff such as revocation, suspension and DUI. This other stuff is points-smaller stuff.

SENATOR O'CONNELL The point system is dealt with in this part of the code.

LYNN HEINERT, SUPERVISOR FOR SUSPENSIONS AND RECORDS testified on the amendments. My concern on this amendment is that it doesn't limit us from the other jurisdiction. I feel when we use jurisdiction in the other parts of the statute that also includes tribal courts and the federal law enforcement agencies. The concern I have receiving violations from law enforcement is that we would end up with a duplicate and double entries on the individual's driving records. I would just as soon stay with receiving it from the courts and jurisdictions and leave law enforcement out of it.

SENATOR B. STENEHJEM When you speak of jurisdiction you are talking about Sections 4 and 5 of the bill. That is where that verbage is used that concerns you. You think we should leave it as the state.

LYNN HEINERT I would like to see it as jurisdiction and then in the next section of the bill I believe jurisdiction would also suffice rather than limiting it to the amendment (she explained where in the bill she would like to see it).

SENATOR B. STENEHJEM This would leave it open to any other place in the world.

LYNN HEINERT Only if we have an agreement with that jurisdiction and their laws are equivalent to North Dakota statute.

SENATOR THOMPSON What will you do with the reservation when the court there decides not to give you a DUI conviction?

LYNN HEINERT We already have courts that don't send convictions. We don't want to duplicate because that would be a disservice to the driver.

SENATOR THOMPSON Isn't the duplication just a bookkeeping matter? The only time a tribal law enforcement agency passes that information on is when the tribal court chooses not to give you that information.

LYNN HEINERT That is an agreement that has to be made between the tribal jurisdiction and the state of North Dakota.

SENATOR SCHOBINGER I have a concern with this on the military bases.

LYNN HEINERT Before we can take action or even place a minor traffic violation on an individual's driving record from another jurisdiction, we have to know that that violation in another jurisdiction has to be equivalent to a violation that the state of North Dakota has (she gave an example). There has to be a criminal conviction; we cannot take an administrative action. There has to be a criminal conviction from another state or jurisdiction equivalent to a North Dakota statute.

MARSHA LEMBKE proposed an amendment. We are proposing these amendments on request from constituents. We've been dealing with this in the past. This is for insulin dependent commercial driver's who already have a CDL. We are not able to authorize anybody to drive according to federal statutes in the commercial area if they have insulin dependence. These amendments would allow us to give them an intrastate waiver, in other words, they could only drive in North Dakota if they are already a commercial driver and they become insulin dependent. This would allow us to monitor them and it would not change any of the law in the other parts. By amending this paragraph into the statute, it is qualified with the state medical waiver program to operate a commercial motor vehicle within the boundaries of this state. That allows us the jurisdiction in North Dakota as you are familiar in many hearings that a CDL is

basically federally mandated. We would not change any of the law in any other parts that says if you have a seizure or a blackout, you still have to go through the check points and be suspended until you are physically well, that's a three year six month period.

SENATOR B. STENEHJEM Shouldn't this be Section 8.?

MARSHA LEMBKE It remains the same section, we are just adding another paragraph to that. There was committee discussion.

KEITH MAGNUSSON It would become Section 7 and what is now Section 7 will become Section 8.

SENATOR B. STENEHJEM Would you like to have an emergency clause added to this?

MARSHA LEMBKE That would be good for us because we know what we'd have to do.

CINDY WORREL, CHIEF EXAMINER FOR DRIVER'S LICENSE DIVISION answered questions.

SENATOR O'CONNELL What do you mean by qualified for state and medical?

CINDY WORREL This verbage is coming out of federal statutes. There was a tolerance statute on the federal CDL that said if a state had a medical waiver program we would not lose federal monies or be out of compliance for CDL. This would be a medical waiver program that our division could develop that would meet federal muster with federal guidance (she gave an example). We need to monitor their condition and part of the monitoring would be to require a medical report every twelve months. This allows our state to develop a specific waiver program for the division.

LEROY ERNST, ND MOTOR CARRIERS ASSOCIATION testified on HB 1182. We would have no problems with this but would want assurance that this is an adequate checking system contained within the legislation relative to the driver being qualified to operate the vehicle.

SENATOR THOMPSON I move the adopt the Marsha Lembke amendment and an emergency clause for the entire bill.

SENATOR O'CONNELL I second.

SENATOR MUTCH Would the medical waiver ease up on the eye problem?

CINDY WORREL This is only for someone who qualifies for a CDL and then later develops the condition.

The amendment was voted on and passed unanimously by a voice vote.

SENATOR THOMPSON I'd like to further amend with my amendments. I'd like the last sentence to read "for the purposes of this chapter, the licensing authority may also receive and act on reports of traffic offense convictions forwarded from other jurisdictions, or by tribal law enforcement agencies in this state."

SENATOR O'CONNELL I second.

SENATOR SCHOBINGER Why don't we take from tribal law enforcement agencies from other states?

SENATOR THOMPSON I don't know if we've had problems there. A BIA law enforcement agent should have the ability if the tribal court does not pass the conviction of a DUI.

SENATOR COOK Does a ND county sheriff has the authority to forward something on a reservation today?

SENATOR THOMPSON No.

SENATOR SCHOBINGER I'm not going to vote for the amended amendment. Senator Bercier mentioned that he was concerned also in his area. I don't see a problem with keeping the federal, military, and tribal courts in this state. But once we get into the international scene I think we're running down the road we don't want to go.

SENATOR THOMPSON You don't want to see jurisdictions in there at all or you don't want to see tribal law enforcement agencies in this state to forward that information.

SENATOR COOK We can get driving records from other states right now but this is trying to get at Canada and it will also get other countries. I don't agree with that. Now we are talking that we can receive them from tribal law enforcement agencies in the state but not from tribal law enforcement in Arizona. Is the law enforcement agency on a reservation different in ND than a law enforcement agency in Arizona?

There was committee discussion.

SENATOR B. STENEHJEM I have the same concerns that Senator Schobinger has. I don't want to give someone the authority to go looking all over the world. I don't have a problem if we change "state" to "state and Canadian province".

SENATOR THOMPSON I would encourage Senator Schobinger to support the amendment and this business of "jurisdiction" we should change it and be consistent from Canada and United States but I think it is the technical word that they use that bothers a number of us.

SENATOR SCHOBINGER That is not what this amendment does. It would change jurisdiction throughout the whole rest of the bill.

SENATOR B. STENEHJEM We all want to do something to address this.

SENATOR THOMPSON I withdraw my motion.



SENATOR O'CONNELL I withdraw my motion.

SENATOR THOMPSON proposed amendments. They will delete the new language in Section 6 of the bill. We're taking out the part that deals with the fraudulent driver's license. On page 3, we are moving to line six "the director may act on the report of a traffic offense conviction of tribal court received from any tribal law enforcement agency".

SENATOR B. STENEHJEM Does this address in-state, other states, U.S., Canada?

SENATOR THOMPSON The term changing from state to jurisdiction, that can include Canada and all of the states in the United States.

There was committee discussion.

SENATOR THOMPSON The term jurisdiction, I don't know if we've given DOT the right to go into Europe.

SENATOR B. STENEHJEM If they do enter into agreements with them in the future, they could fall into this law automatically. We should restrict it to U.S. and Canada and if they want to go outside our area in the future then they should come back to the Legislature.

SENATOR MUTCH Why tie Canada into it?

ANDREW MORAGHAN The Century Code currently defines the term state in 39-01-01 and included in that definition is any province of the dominion of Canada. Canada is already included under the definition of state in the law. You've already got Canada in the mix.

SENATOR B. STENEHJEM If we just put state in there we are covered.

ANDREW MORAGHAN Yes.

SENATOR B. STENEHJEM If we left it at state would that include the tribal areas?

ANDREW MORAGHAN No, but that would be the reason for Senator Thompson's amendments. A tribal court would be covered under the term "jurisdiction" but if you are going to change that back to state a tribal court would be out. This language would permit you to act based upon a tribal court conviction received not from the court by the tribal law enforcement agency. You'd have to tinker with it a little to allow the state to receive from either the tribal court or the tribal law enforcement agency.

SENATOR COOK My hang up is that we are opening a door that allows law enforcement to report to DOT rather than courts. There are chances of duplicate records and reporting.

ANDREW MORAGHAN The tribal law enforcement would only submit those until the time comes when the tribal court starts systematically providing these reports to the DOT. You have a chance for duplication even now.

SENATOR COOK There is a bigger picture having to do with the relationship of the state of North Dakota and the sovereign nation of our tribes. We have some problems but it may be more of a single issue. They are working together to solve this and this legislation could slow down the process.

SENATOR SCHOBINGER We do have an elected representative from that area in Senator Bercier and he is in full support. I will support the "tribal law enforcement" amendment. There was committee discussion.

SENATOR COOK Excluding the first 3 sections, what is the problem?

SENATOR THOMPSON The tribal courts are not reporting the offenses.

SENATOR COOK Is that a big problem?

SENATOR THOMPSON If you live in that area it is a serious problem. We want to allow tribal governments to share that information.

SENATOR B. STENEHJEM They already can but this is going to make them share it.

SENATOR SCHOBINGER If this is what they want on the reservation as Senator Bercier alluded to then we should honor that.

SENATOR COOK What authority do we have to pass any law as it pertains to the tribe? If Senator Mutch got picked up for a DUI in Mexico, would we want to know that in ND? There was committee discussion.

KEITH MAGNUSSON Section 4 and 5 are in there so that it is clear that we can accept these major things like DUI, implied consent and administrative suspensions from tribal courts if they set up systems and want to send them to us. If you are not comfortable with jurisdictions you can go back to state or if you don't want us to accept those you can do away with Section 4 and 5. There is one part of Section 5 that I do want which is on page 4, line 9 "violation of laws in another jurisdiction" if you fail to appear in court, we can suspend you.

SENATOR SCHOBINGER The only way you will receive information is upon conviction.

KEITH MAGNUSSON On conviction or implied consent of administrative suspension.

SENATOR B. STENEHJEM Is my example of tribes and drivers' licenses a distinct possibility?

KEITH MAGNUSSON No tribes are issuing licenses. They probably could but it wouldn't necessarily have to be accepted in ND or any other states.

SENATOR THOMPSON proposed amendments. These were the combination of Keith Magnusson and Andrew Moraghan's amendments.

SENATOR B. STENEHJEM This takes care of the concern of Section 4 and 5.

Page 21  
Senate Transportation Committee  
Bill/Resolution Number Hb1182  
Hearing Date February 26, 1999

SENATOR THOMPSON I move the amendments by Andy Moraghan and Keith Magnusson.

SENATOR O'CONNELL I second

The amendments were adopted by a voice vote.

SENATOR THOMPSON I move the amendment 98250.0104.

SENATOR O'CONNELL I second.

(Senator Thompson explained the amendment).

The amendment was adopted (4 Yeas, 1 Nay and 2 Absent and Not Voting).

SENATOR THOMPSON I want to take on the fraudulent license in Section 6 on page 5.

There was committee discussion.

SENATOR THOMPSON I move to delete Section 6.

SENATOR O'CONNELL I second.

There was committee discussion.

The amendment passed unanimously.

March 30, 1999 - Tape 1

SENATOR THOMPSON I move a Do Pass as Amended.

SENATOR SCHOBINGER I second.

The roll call vote was taken (4 Yeas, 2 Nays and 1 Absent and Not Voting).

Senator Thompson will carry HB 1182.

PROPOSED AMENDMENTS TO HOUSE BILL 1182

Page 1, line 4, after "39-06-33" insert ", subsection 1 of section 39-06.1-10"

Page 3, line 13, after "licensing" insert "or other"

Page 5, after line 25, insert:

**"SECTION 8. AMENDMENT.** Subsection 1 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

1. When a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the licensing authority, the licensing authority shall proceed to enter the proper number of points on the licensee's driving record, unless the number points assigned to the violation are two or less. If the number points assigned to the violation are two or less, the violation and points may not be entered on the driving record but must be recorded separately, and the separate record shall not be available to the public. Points from violations in which the assigned number points are two or less shall be considered a part of the driving record only for purposes of point reduction pursuant to section 39-06.1-13 and for purposes of license suspension. When the driving record shows that the licensee has an accumulated point total of twelve or more points, assigned on the basis of the schedule contained in subsection 3, the authority shall notify the licensee of its intention to suspend the operator's license according to the provisions of section 39-06-33. For the purposes of this chapter, the licensing authority may also receive and act on reports of traffic offense convictions of federal, military, and tribal courts forwarded by federal, military, and tribal courts ~~in this state~~ or law enforcement authorities."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1182

Page 1, line 3, after the fifth comma insert "subsection 1 of section 39-06.1-10,"

Page 3, line 13, after "licensing" insert "or other"

Page 5, after line 8, insert:

**"SECTION 7. AMENDMENT.** Subsection 1 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

1. When a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the licensing authority, the licensing authority shall proceed to enter the proper number of points on the licensee's driving record, unless the number points assigned to the violation are two or less. If the number points assigned to the violation are two or less, the violation and points may not be entered on the driving record but must be recorded separately, and the separate record shall not be available to the public. Points from violations in which the assigned number points are two or less shall be considered a part of the driving record only for purposes of point reduction pursuant to section 39-06.1-13 and for purposes of license suspension. When the driving record shows that the licensee has an accumulated point total of twelve or more points, assigned on the basis of the schedule contained in subsection 3, the authority shall notify the licensee of its intention to suspend the operator's license according to the provisions of section 39-06-33. For the purposes of this chapter, the licensing authority may also receive and act on reports of traffic offense convictions ~~by federal, military, and tribal courts~~ <sup>from other jurisdictions</sup> forwarded ~~by federal, military, and tribal courts~~ or by tribal law enforcement agencies in this state."

Renumber accordingly

from other jurisdictions forwarded

*Fax to Sen. Bercier*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1182

Page 3, line 6, after the period insert "The director may act on a report of a conviction in tribal court received from any tribal law enforcement agency."

Page 3, line 13, after "licensing" insert "or other"

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1182

Page 3, line 4, after "in" insert "a tribal court or in" and remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 3, line 6, after the period insert "The director may act on a report of a conviction in tribal court received from any tribal law enforcement agency."

Page 3, line 8, after "in" insert "a tribal court or in" and remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 3, line 10, after the second "revocation" insert "on an Indian reservation or"

Page 3, line 11, remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 3, line 13, after "licensing" insert "or other"

Page 3, line 16, after "revoked" insert "on an Indian reservation or" and remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 3, line 22, after "laws of" insert "the Indian reservation or"

Page 3, line 23, remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 3, line 28, after "test" insert "on an Indian reservation or" and remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 3, line 30, after "used" insert "on the Indian reservation or" and remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 4, line 14, after "decision" insert "on an Indian reservation or" and remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 4, line 15, after "drive" insert "on that Indian reservation or" and remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 4, line 16, remove "that" and "jurisdiction's"

Page 4, line 20, remove "that" and "jurisdiction's"

Page 4, line 23, after "violation" insert "on the Indian reservation or" and remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 4, line 24, remove "other" and "jurisdiction's" and after "licensing" insert "or other"

Renumber accordingly



Add to  
.0106  
Incorporate

Marsha Lemblee  
add \* Emergency  
Clause

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1182

Page 1, line 3, after "39-06-33," insert "section 39-08-21,"

Page 5, after line 8, insert

**"SECTION 7. AMENDMENT.** Section 39-08-21 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-21. Medical qualifications exemption for intrastate drivers.** Notwithstanding the adoption by the superintendent of the state highway patrol of federal motor carrier safety regulations pursuant to subsection 2 of section 39-21-46, the provisions of 49 CFR 391.41(b)(1)-(11) do not apply to a person who:

1. Is otherwise qualified to operate a commercial motor vehicle and who possesses, on March 26, 1991, a class 1 license issued pursuant to section 39-06-14, as that section existed on June 30, 1989, or a class A license issued pursuant to chapter 39-06.2;
2. Operates a commercial motor vehicle only within the boundaries of this state;
3. Does not operate a motor vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued pursuant to the Hazardous Materials Transportation Act [49 U.S.C. App. 1801 et seq.]; and
4. Has a medical or physical condition which:
  - a. Would prevent such person from operating a commercial motor vehicle under federal motor carrier safety regulations contained in 49 CFR, Chapter III, subchapter B;
  - b. Existed on March 26, 1991, or at the time of the first required physical examination after that date; and
  - c. An examining physician has determined has not substantially worsened since March 26, 1991, or the time of the first required physical examination after that date; or
5. Is qualified through a state medical waiver program to operate a commercial motor vehicle within the boundaries of this state."

# 0107  
Title 0200  
98250.0106  
Title.

*Incorporate*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1182

Page 1, line 3, remove "subsection 1 of section 39-06-33,"

Page 3, line 4, after "in" insert "a tribal court or in", remove the overstrike over "state", and remove "jurisdiction"

Page 3, line 6, after the period insert "The director may act on a report of a conviction in tribal court received from any tribal law enforcement agency."

Page 3, line 8, after "in" insert "a tribal court or in", remove the overstrike over "state", and remove "jurisdiction"

Page 3, line 10, after the second "revocation" insert "on an Indian reservation or"

Page 3, line 11, remove the overstrike over "state" and remove "jurisdiction"

Page 3, line 13, after "licensing" insert "or other"

Page 3, line 16, after "revoked" insert "on an Indian reservation or", remove the overstrike over "state", and remove "jurisdiction"

Page 3, line 22, overstrike "such" and insert immediately thereafter "the Indian reservation or the"

Page 3, line 23, remove the overstrike over "state" and remove "jurisdiction"

Page 3, line 28, after "test" insert "on an Indian reservation or", remove the overstrike over "state", and remove "jurisdiction"

Page 3, line 30, after "used" insert "on the Indian reservation or", remove the overstrike over "state", and remove "jurisdiction"

Page 4, line 14, after "decision" insert "on an Indian reservation or", remove the overstrike over "state", and remove "jurisdiction"

Page 4, line 15, after "drive" insert "on that Indian reservation or", remove the overstrike over "state", and remove "jurisdiction"

Page 4, line 16, after "that" insert "Indian reservation's or", remove the overstrike over "state's", and remove "jurisdiction's"

Page 4, line 20, after "that" insert "Indian reservation's or", remove the overstrike over "state's", and remove "jurisdiction's"

Page 4, line 23, after "violation" insert "on the Indian reservation or", remove the overstrike over "state", and remove "jurisdiction"

Page 4, line 24, after the second "the" insert "Indian reservation's or", remove the overstrike over "state's", and remove "jurisdiction's"

Page 4, remove lines 30 and 31

Page 5, remove lines 1 through 8

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1182

Page 1, line 3, replace "subsection 1 of section 39-06-33" with "section 39-08-21"

Page 1, line 8, after "~~hearings~~" insert "and to declare an emergency" replace "time for holding hearings" with "medical qualifications exemptions for intrastate drivers; And to declare an emergency"

Page 3, line 4, after "in" insert "a tribal court or in", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 3, line 6, after the period insert "The director may act on a report of a conviction in tribal court received from any tribal law enforcement agency."

Page 3, line 8, after "in" insert "a tribal court or in", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 3, line 10, after the second "revocation" insert "on an Indian reservation or"

Page 3, line 11, remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 3, line 13, after "licensing" insert "or other"

Page 3, line 16, after "revoked" insert "on an Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 3, line 22, overstrike "such" and insert immediately thereafter "the Indian reservation or the"

Page 3, line 23, remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 3, line 28, after "test" insert "on an Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 3, line 30, after "used" insert "on the Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 4, line 14, after "decision" insert "on an Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 4, line 15, after "drive" insert "on that Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 4, line 16, after "that" insert "Indian reservation's or", remove the overstrike over "~~state's~~", and remove "jurisdiction's"

Page 4, line 20, after "that" insert "Indian reservation's or", remove the overstrike over "~~state's~~", and remove "jurisdiction's"

Page 4, line 23, after "violation" insert "on the Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 4, line 24, after the second "the" insert "Indian reservation's or", remove the overstrike over "~~state's~~", and remove "jurisdiction's"

line 30,  
Page 4, replace "subsection 1 of section 39-06-33 of the North Dakota" with "Section 39-08-21" of the North Dakota Century Code is amended and reenacted as follows:

**39-08-21. Medical qualifications exemption for intrastate drivers.**

Notwithstanding the adoption by the superintendent of the state highway patrol of federal motor carrier safety regulations pursuant to subsection 2 of section 39-21-46, the provisions of 49 CFR 391.41(b)(1)-(11) do not apply to a person who:

1. Is otherwise qualified to operate a commercial motor vehicle and who possesses, on March 26, 1991, a class 1 license issued pursuant to section 39-06-14, as that section existed on June 30, 1989, or a class A license issued pursuant to chapter 39-06.2;
2. Operates a commercial motor vehicle only within the boundaries of this state;
3. Does not operate a motor vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued pursuant to the Hazardous Materials Transportation Act [49 U.S.C. App. 1801 et seq.]; and
4. Has a medical or physical condition which:
  - a. Would prevent such person from operating a commercial motor vehicle under federal motor carrier safety regulations contained in 49 CFR, Chapter III, subchapter B;
  - b. Existed on March 26, 1991, or at the time of the first required physical examination after that date; and
  - c. An examining physician has determined has not substantially worsened since March 26, 1991, or the time of the first required physical examination after that date <sup>1 or</sup>

B. Is qualified through a state medical waiver program to operate a commercial motor vehicle within the boundaries of this state <sup>ne</sup>

Page 4, remove line 31

Page 5, <sup>replace</sup> remove lines 1 through 8 <sup>with</sup>

Page 5, after line 25, insert:

**SECTION 8. EMERGENCY.** <sup>Section 6 of this</sup> This Act is declared to be an emergency measure."

Renumber accordingly

or a person who

Date: March 30, 1999

Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1182

Senate Transportation Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number 98250.0107

Action Taken No Pass as Amended

Motion Made By Sen. Thompson Seconded By Sen. Schobinger

Senators	Yes	No	Senators	Yes	No
Sen. B. Stenejem-Chairman	✓				
Sen. R. Schobinger-V. Chair	✓				
Sen. Duane Mutch	✓				
Sen. Dwight Cook		✓			
Sen. David O'Connell		✓			
Sen. Vern Thompson	✓				
Sen. Dennis Bercier					

Total (Yes) 4 No 2

Absent 1

Floor Assignment Senator Thompson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1182: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1182 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "subsection 1 of section 39-06-33" with "section 39-08-21"

Page 1, line 8, replace "time for holding hearings" with "medical qualifications exemptions for intrastate drivers; and to declare an emergency"

Page 3, line 4, after "in" insert "a tribal court or in", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 3, line 6, after the period insert "The director may act on a report of a conviction in tribal court received from any tribal law enforcement agency."

Page 3, line 8, after "in" insert "a tribal court or in", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 3, line 10, after the second "revocation" insert "on an Indian reservation or"

Page 3, line 11, remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 3, line 13, after "licensing" insert "or other"

Page 3, line 16, after "revoked" insert "on an Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 3, line 22, overstrike "such" and insert immediately thereafter "the Indian reservation or the"

Page 3, line 23, remove the overstrike over "~~state~~" and remove "jurisdiction"

Page 3, line 28, after "test" insert "on an Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 3, line 30, after "used" insert "on the Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 4, line 14, after "decision" insert "on an Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 4, line 15, after "drive" insert "on that Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 4, line 16, after "that" insert "Indian reservation's or", remove the overstrike over "~~state's~~", and remove "jurisdiction's"

Page 4, line 20, after "that" insert "Indian reservation's or", remove the overstrike over "~~state's~~", and remove "jurisdiction's"

Page 4, line 23, after "violation" insert "on the Indian reservation or", remove the overstrike over "~~state~~", and remove "jurisdiction"

Page 4, line 24, after the second "the" insert "Indian reservation's or", remove the overstrike over "~~state's~~", and remove "jurisdiction's"

Page 4, line 30, replace "Subsection 1 of section 39-06-33" with "Section 39-08-21"

Page 5, replace lines 1 through 8 with:

**"39-08-21. Medical qualifications exemption for intrastate drivers.**  
Notwithstanding the adoption by the superintendent of the state highway patrol of federal motor carrier safety regulations pursuant to subsection 2 of section 39-21-46, the provisions of 49 CFR 391.41(b)(1)-(11) do not apply to a person who is qualified through a state medical waiver program to operate a commercial motor vehicle within the boundaries of this state or a person who:

1. Is otherwise qualified to operate a commercial motor vehicle and who possesses, on March 26, 1991, a class 1 license issued pursuant to section 39-06-14, as that section existed on June 30, 1989, or a class A license issued pursuant to chapter 39-06.2;
2. Operates a commercial motor vehicle only within the boundaries of this state;
3. Does not operate a motor vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued pursuant to the Hazardous Materials Transportation Act [49 U.S.C. App. 1801 et seq.]; and
4. Has a medical or physical condition which:
  - a. Would prevent such person from operating a commercial motor vehicle under federal motor carrier safety regulations contained in 49 CFR, Chapter III, subchapter B;
  - b. Existed on March 26, 1991, or at the time of the first required physical examination after that date; and
  - c. An examining physician has determined has not substantially worsened since March 26, 1991, or the time of the first required physical examination after that date."

Page 5, after line 25, insert:

**"SECTION 8. EMERGENCY.** Section 6 of this Act is declared to be an emergency measure."

Renumber accordingly



1999 TESTIMONY

HB 1182

# HOUSE TRANSPORTATION COMMITTEE

January 14, 1999

North Dakota Department of Transportation  
Keith Magnusson, Director, Office of Driver and Vehicle Services

HB 1182

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Chairman Keiser and members of the committee: the North Dakota Department of Transportation prefiled HB 1182 as an agency bill. This bill cleans up and clarifies a number of driver's license issues.

**SECTION 1** clarifies who may report potential physical or mental driver impairments to the department and receive protection for giving such a report. Under current law, only physicians are protected from liability if they make a report, or fail to do so. To encourage evaluation of potential problem drivers, we propose adding "other medical professionals." The term "medical professional" has previously been used in NDCC 25-01.3-04 in the reporting statute under the Committee on Protection and Advocacy.

**SECTION 2** cleans up the wording in the section on a non-driver photo ID. The minimum age has been changed over the years and we ended up with different criteria based on age. With the new wording, everyone would be treated the same.

**SECTION 3** updates the department's medical advice statute to reflect current practice. As the law now stands, the department can seek advice from a physician in evaluating drivers for potential problems and the physician will incur no liability. The department has set up an advisory committee that includes not only physicians in numerous specialties but an optometrist who is a low-vision specialist. The optometrist is a very valuable member of the committee, but under the current wording of the law, he or she is not protected from liability when giving advice to the department. In addition, we often ask drivers or applicants to provide us with a report from their personal physician, or to have an eye exam that is much more thorough than our machines could provide. It makes sense that the eye examination could be done by an optometrist, as it is in most cases now (we do accept the information from the optometrist, even though the statute does not strictly provide for it).

**SECTION 4** makes it clear that NDDOT may take action upon a driver's license when we receive notice of a conviction, suspension, or revocation in another jurisdiction, not just another state as the present language reads. Current law -- and this would not change -- requires us to take action if we would have been required to do so had the incident taken place in North Dakota. The Attorney General's office and NDDOT have been discussing the problem of DUI with the Three Affiliated Tribes. Depending on what course of action they pursue -- reporting court convictions to us or setting up their own implied consent administrative system and reporting suspensions and revocations to us -- we need to clarify our law to make sure we can accept those reports and add to a driver's record. This would also apply to reports we get from other countries, such as Canada.

**SECTION 5** is tied to Section 4 and deals with the implied consent system. In this section we also clarify that NDDOT may suspend a driver if we receive a certificate from another jurisdiction

saying that the driver failed to appear or post bond on a traffic violation in that jurisdiction, just as we do when it happens in North Dakota.

**SECTION 6** corrects an omission in the law dealing with the use of fraudulent or altered drivers' licenses. The amendment makes it clear that the department can suspend or revoke a driver for using a fraudulent or altered license, as set out in the specific sections of law being added. A due process hearing would be provided for. Law enforcement officers often send these licenses to the department, rather than working with the city or state's attorney to prosecute under the criminal law. As the law currently stands, in those situations where the licenses have been mailed into us, it appears that NDDOT could take action without any due process; the department is not comfortable with this and proposes that it be handled as any other proposed suspension or revocation.

**SECTION 7** deletes reference to holding an implied consent hearing within 25 days after the issuance of a temporary operator's permit. The current law requires a hearing to be held within 25 days, but allows the hearing officer to extend the hearing to within 30 days "to accommodate the efficient scheduling of hearings." This requires the hearing officer to make a specific finding that the hearing was held past the 25 days to accommodate the efficient scheduling. This should not be necessary, because many hearings are held between the 25<sup>th</sup> and 30<sup>th</sup> day to help defense attorneys with their scheduling. Federal regulations prohibit us from going beyond the 30<sup>th</sup> day, so we cannot change the outside limit, but this small change will save some time for hearing officers and also preclude any possible issue on appeal if they forget to make the finding as to why the hearing was held after the 25<sup>th</sup> day.

**NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION**

**DRIVERS LICENSE & TRAFFIC SAFETY DIVISION**

**House Appropriations Committee  
January 8, 1999**

**Keith Magnusson, Director  
Driver & Vehicle Services Division  
Telephone 328-2727**

**Marsha Lembke, Director  
Drivers License & Traffic Safety Division  
Telephone 328-4865**

## DRIVERS LICENSE AND TRAFFIC SAFETY DIVISION

The NDDOT Drivers License and Traffic Safety Division promotes safety on state highways. We ensure that only qualified and competent people are licensed to drive, and educate the public with traffic safety programs designed to reduce traffic crashes and the associated deaths, injuries, and property damage. Our division has an effect on all the residents of North Dakota, and especially serves infants and children, drivers of all ages, law enforcement, and courts of law.

### **In 1997, the Drivers License and Traffic Safety Division:**

- ▶ was responsible for all driver license services for 452,000 North Dakota drivers
- ▶ administered 46,000 written tests and 19,000 road tests
- ▶ issued 22,000 permits, 29,000 licenses, 102,000 renewals, and 7,700 ID cards
- ▶ processed 315,000 requests for driving records
- ▶ processed 125,000 citations
- ▶ issued 24,000 suspension orders
- ▶ processed 19,000 crash reports

**Financial responsibilities.** Although our division doesn't make a profit, we generated about \$2.4 million during the first 11 months of 1998, through the collection of various licensing and suspension fees (see Exhibit 1). In addition, we administered \$1.3 million in federal grant dollars for traffic safety programs during the same period (see Exhibit 2). This includes the "Safe Communities" network of 12 North Dakota cities, and our statewide, multi-year, multi-agency "Do Buckle, Don't Booze" traffic safety campaign.

**Safety is one of our division's main areas of activity.** It's an issue that the public cares about on the local, state, and national levels. TRIP (The Road Information Program), a Washington, D.C. nonprofit organization, writes that "crashes cost [our] state \$214 million per year -- \$336 for each resident -- for emergency services, medical costs, property damage, and lost market productivity." The DL&TS division works hard to keep North Dakota citizens safe on our highways.

- ▶ **Crashes:** There are about 17,000 traffic crashes each year in North Dakota. The number of licensed North Dakota drivers and miles driven increases each year. This increase means a rise in the number of renewals and in written, vision, and road tests, and, sadly, also in the number of crashes. With the passage of TEA-21, we'll receive more federal traffic safety dollars and will be able to apply for additional grants to help combat the increase in crashes (see *North Dakota Traffic Trends: 1988-1997* attached).
- ▶ **Injuries:** In these crashes, more than 6,000 people are injured each year
- ▶ **Deaths:** An average of 88 people die in North Dakota each year as a result of traffic crashes: (1994:88, 1995:74; 1996:85; 1997: 105; and 1998:91)
- ▶ Our division produces a monthly "Do Buckle, Don't Booze" newsletter which goes to our 12 Safe Community program directors and to law enforcement offices across the state. We also disseminate news and information on other traffic safety issues.

**Our plans for the future.** In the past, legislators have encouraged us to be creative and innovative. We are proud to be on the cutting edge of technical advances: North Dakota is recognized as a leader in licensing technology and streamlining.

- ▶ **“Smart card.”** We’re looking at a way to make the drivers license a “smart card” containing pertinent information that will be used by other state agencies and programs.
- ▶ **Bringing courts on-line.** We’re bringing major courts on-line with our licensing database.
- ▶ **Licensing automation.** We maintain operations of 44 licensing sites: 26 automated, 18 non-automated. The automated sites provide full service to commercial and non-commercial applicants, and issue documents instantly. Non-automated sites provide limited service (see Exhibit 3). One of our goals is to automate *all* licensing sites so that all citizens can enjoy the instant issue of their license, and may also purchase a driving record or obtain reinstatement of their license without having to contact the central office in Bismarck. We’re researching how we might offer these advanced services most effectively for the least capital investment.
- ▶ **Licensing site reallocation.** Some site visitations are growing and some are shrinking (see Exhibit 4). We financially support examiner teams (mileage, per diem, etc.) to travel on a regular schedule to infrequently visited sites. At times, these traveling teams spend a whole day in one area to serve only a handful of customers (without being able to offer instant-issue service), while customers at sites with increased visitation wait in longer lines because we don’t have enough staff there. If we remember that our main purpose is to serve the citizens of North Dakota with hospitality, efficiency, and the good service they deserve, the need for change becomes evident.

WORKLOAD/REVENUE  
1994 -1998

	1994	1995	1996	1997	1998
Dollars Collected	\$2,341,687	\$2,309,220	\$2,419,797	\$2,433,090	\$2,443,167
Licensed Drivers	439,330	448,781	449,225	452,163	454,933
Violations Processed	112,891	119,430	137,489	125,083	135,713
Crash Reports Processed	16,977	15,125	16,300	19,093	17,430
Record Requests	292,328	302,519	314,252	317,837	324,681
Suspensions/Revocations/Cancellations Processed	21,819	22,696	23,168	23,942	24,940

WORKLOAD/TOTAL TRANSACTIONS  
June 1 through June 30

	1994-1995	1995-1996	1996-1997	1997-1998
License Renewals	98,341	97,803	101,507	101,765
Written Tests	68,611	65,468	63,887	63,628
Road Tests	30,141	30,363	28,513	32,326
Vision Tests	130,110	127,388	129,663	131,920

**HIGHWAY SAFETY PLAN**

*The Highway Safety Plan*

The following program areas are defined in North Dakota's annual Highway Safety Plan. This document outlines the projects planned for the current fiscal year to reduce the number of traffic crashes on North Dakota traffic ways and the deaths, injuries, and property damage caused by them. All contractors are reimbursed with federal highway safety grant dollars through this office.

North Dakota has received \$1,097,878 federal grant dollars to fund its 1999 Highway Safety Plan. An additional \$329,200 was received this year for funding special alcohol incentive programs.

**PLANNING & ADMINISTRATION**

**POLICE TRAFFIC SERVICES**

**EMERGENCY MEDICAL SERVICES**

**TRAFFIC RECORDS**

**OCCUPANT PROTECTION**

**MOTORCYCLE SAFETY**

**ROADWAY SAFETY**

**ALCOHOL COUNTERMEASURES/YOUTH PROGRAMS**

**SAFE COMMUNITY PROGRAMS:**

Bismarck/Mandan  
Devils Lake  
Dickinson  
Fargo  
Grand Forks  
Jamestown

Minot  
Williston  
Spirit Lake  
Standing Rock  
Turtle Mountain  
Three Affiliated Tribes



## HIGHWAY SAFETY PLAN

### *The Highway Safety Plan (HSP) Process:*

Our planning process involves these steps:

#### Identify Traffic Safety Problems

- Compile a summary of motor vehicle crash reports
- Review data from other sources (see Page 3)
- Look for over-representation trends
- Compare ND data to national data

#### Establish Performance Goals and Objectives

- Invitation to submit proposals from traffic safety (TS) partners (see Page 4)
- Review and recommendations by TS program managers
- Establish goals, objectives, and project priorities during Strategic Planning Session

#### Develop the Programs/Projects for the HSP

- Program managers draft PSP sections for the HSP
- HSP is finalized and submitted to National Highway Traffic Safety Administration (NHTSA) and Federal Highway Administration (FHWA)

#### Write contracts based on proposals or Requests for Proposal (RFP)

- Program managers write contracts for approved proposals
- Program managers secure audits for review and required Risk Management documents
- Contracts are processed

#### Manage contracts

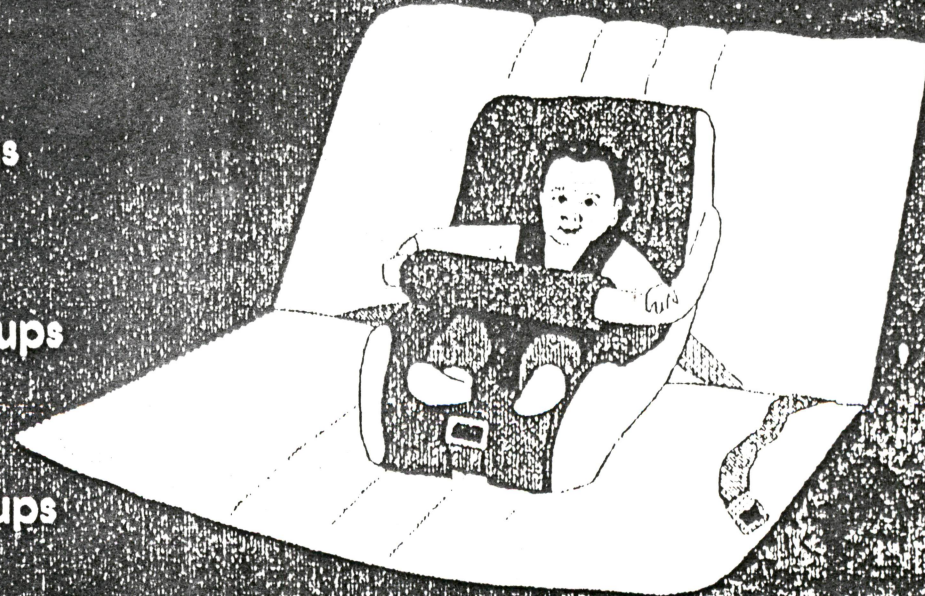
- Program managers monitor contracts, inventory equipment
- Program managers provide technical support for activities
- Review and reimbursement of vouchers for costs incurred

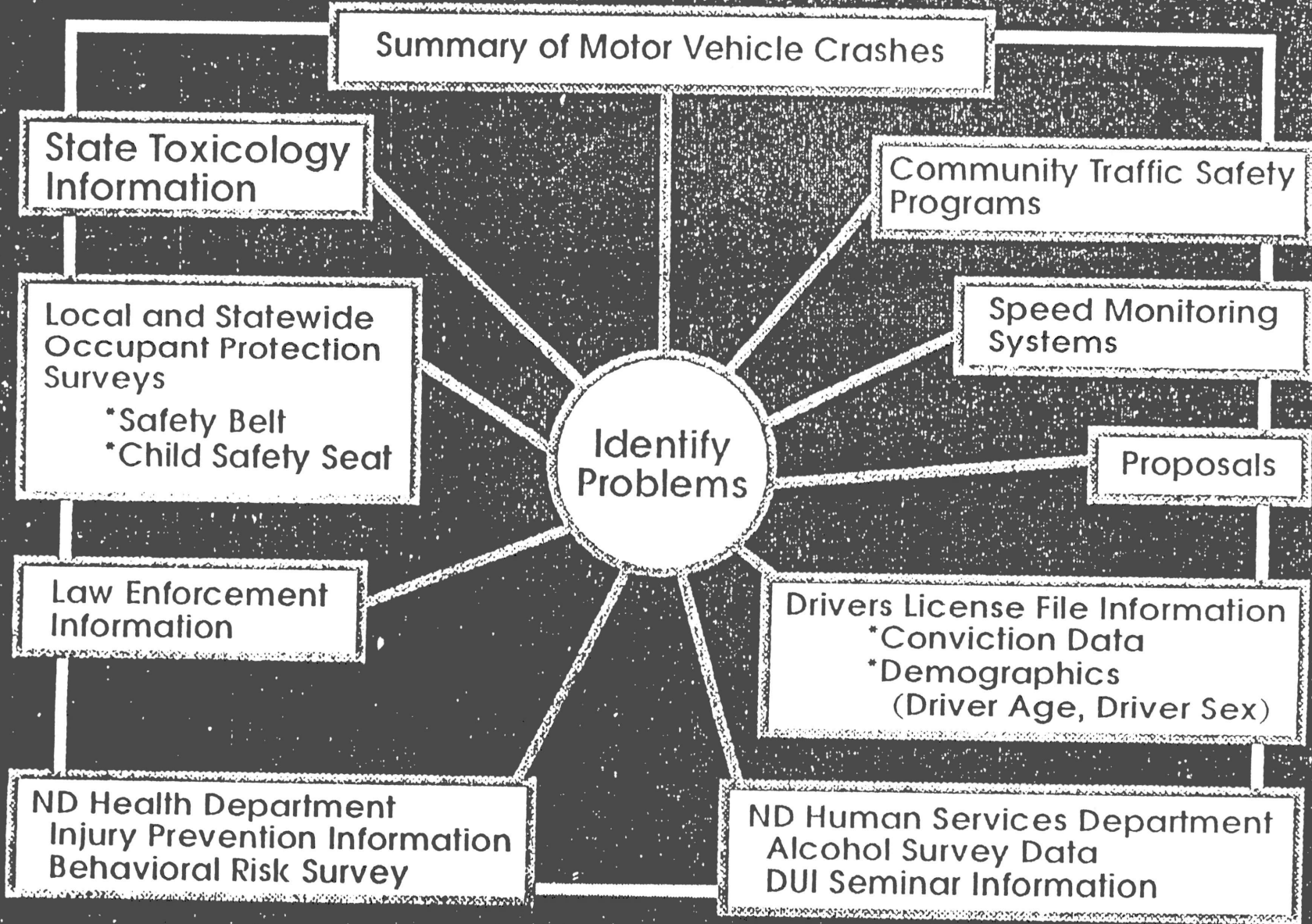
#### Evaluation

- Review project file for completeness
- Program manager prepares an evaluation report
- HSP Evaluation document is prepared and submitted to NHTSA and FHWA

# Solicit Proposals from our Partners

State Government Departments  
Local Government Entities  
Community Traffic Safety Programs  
Indian Reservation Jurisdictions  
Law Enforcement Agencies  
Emergency Medical Services Groups  
Health Agencies  
Traffic Safety Organizations  
Motorcycle Safety Education Groups  
Roadway Safety Entities  
Private Entities  
Non-profit Organizations  
Youth Organizations  
Entities submitting proposals in prior years  
Agencies and Organizations concerned with driving while impaired





NON-AUTOMATED SITES

The following are examples of services we are unable to provide because we do not have access to the driver records.

- We are unable to replace lost permits, licenses, or identification cards because we cannot verify the applicant has an existing document.
- We cannot renew or issue duplicate commercial licenses, make name or address corrections, add endorsements, etc., because we cannot issue a 30-day temporary non-photo permit to a commercial driver.
- We cannot issue any permanent card to an applicant because we are unable to verify the applicant's status.
- We have a number of individuals who contact us stating that they never received a document. This causes both a security issue (one license/one driver) and poor public service. If the license or permit is not received within a week from the site visit, the calls from the public start coming in, questioning why they haven't received it.
- We are unable to process permits at a non-automated site or reschedule road test appointments. The driver must wait until the permit is received in the mail before they can drive.
- We are unable to do federally-mandated commercial driver license or problem driver pointer checks, and yet we issue 30-day non-commercial driving authority when the driver is not entitled to any privileges.
- Each individual's application must be handled at least twice: once at the non-automated site; and once at an automated site. We have noted a decrease in the accuracy of the data collected at the non-automated sites as we have no way of verifying the application data with our existing record when the applicant is not present.
- We are susceptible to losing the individual's captured photos and signature which requires the applicant to return to another site to have their image retaken.
- We are unable to provide service to an individual who has any pending actions such as vision, medical, or training requirements because we have no access to the driver's history.
- We cannot issue any 'immediate' document or identification, *regardless* of how urgent the need.

## TRANSACTIONS (PEOPLE) PER YEAR

July 1 through June 30

(Automated Sites Indicated by \*)

## Northeast

	1994-1995	1995-1996	1996-1997	1997-1998
Grand Forks*	18,116	20,696	18,669	22,352
Devils Lake*	5,954	6,668	7,015	6,774
Grafton*	2,676	3,084	3,415	3,588
Mayville*	1,052	1,176	1,182	1,152
Langdon*	745	1,006	950	1,128
Carrington*	642	766	729	781
Cavalier	1,026	632	650	621
Cooperstown	520	371	444	499
New Rockford	305	301	257	301

## North Central

	1994-1995	1995-1996	1996-1997	1997-1998
Rolla*	1,287	1,547	1,721	1,946
Bottineau*	1,326	1,397	1,381	1,473
Harvey*	1,128	1,206	1,194	1,244
Rugby*	1,022	1,156	1,190	1,251
Cando	181	152	144	146

## TRANSACTIONS (PEOPLE) PER YEAR

July 1 through June 30

(Automated Sites Indicated by \*)

## Northwest

	1994-1995	1995-1996	1996-1997	1997-1998
Minot*	17,820	21,352	21,309	21,841
Williston*	5,336	6,303	6,532	6,670
Watford City*	474	558	527	555
Crosby*	355	300	401	364
Stanley*	273	356	322	273
Bowbells	301	275	266	267
New Town	318	205	228	236

## Southeast

	1994-1995	1995-1996	1996-1997	1997-1998
Fargo*	29,964	34,218	36,558	38,941
Jamestown*	7,409	8,554	9,151	9,074
Wahpeton*	2,969	3,479	3,528	3,750
Valley City*	2,466	2,497	2,504	2,737
Oakes*	900	1,108	1,063	1,131
Lisbon	929	672	767	742
Forman	803	510	539	587
LaMoure	355	284	310	323

## TRANSACTIONS (PEOPLE) PER YEAR

July 1 through June 30

(Automated Sites Indicated by \*)

## South Central

	1994-1995	1995-1996	1996-1997	1997-1998
Bismarck*	25,709	30,730	32,603	33,028
Carson*	368	559	556	579
Linton	665	429	470	554
Wishek*	417	583	527	488
Washburn	414	320	321	360
Garrison	371	321	338	340
Steele	351	300	313	349
Ashley	320	281	265	319
Hebron	249	130	140	106

## Southwest

	1994-1995	1995-1996	1996-1997	1997-1998
Dickinson*	7,938	9,090	9,526	9,687
Beulah*	1,201	1,575	1,495	1,482
Bowman*	830	975	948	929
Hazen	464	414	464	437
Mott	300	175	173	139
Hettinger	0	0	0	114

## When North Dakota Fatal Traffic Crashes Occurred • 1997

Fatal Crashes & Fatalities by Day		
Day of Week	No. of Crashes	No. Killed
Sunday	13	14
Monday	8	8
Tuesday	15	17
Wednesday	12	16
Thursday	15	16
Friday	14	16
Saturday	12	18
<b>TOTALS</b>	<b>89</b>	<b>105</b>

Fatal Crashes & Fatalities by Month		
Month	No. of Crashes	No. Killed
January	4	8
February	4	5
March	4	5
April	1	1
May	5	5
June	8	14
July	12	13
August	9	10
September	13	13
October	10	11
November	11	12
December	8	8
<b>TOTALS</b>	<b>89</b>	<b>105</b>

Fatal Crashes & Fatalities by Time		
Time of Day	Number of Crashes	Number Killed
12:00-12:59 am	5	9
1:00-1:59 am	3	3
2:00-2:59 am	4	4
3:00-3:59 am	-	-
4:00-4:59 am	2	2
5:00-5:59 am	2	4
6:00-6:59 am	3	3
7:00-7:59 am	6	6
8:00-8:59 am	1	1
9:00-9:59 am	3	3
10:00-10:59 am	3	4
11:00-11:59 am	6	10
12:00-12:59 pm	3	3
1:00-1:59 pm	4	4
2:00-2:59 pm	3	4
3:00-3:59 pm	6	6
4:00-4:59 pm	5	6
5:00-5:59 pm	1	1
6:00-6:59 pm	4	5
7:00-7:59 pm	4	4
8:00-8:59 pm	3	3
9:00-9:59 pm	7	8
10:00-10:59 pm	5	6
11:00-11:59 pm	5	5
Unknown	1	1
<b>TOTALS</b>	<b>89</b>	<b>105</b>

### Restraint Device Usage vs. Ejection Passenger Cars and Pickups - Age Six and Over • 1997

Safety Equipment	Not Ejected		Partial Ejection		Total Ejection	
	Fat./Inj.	All	Fat./Inj.	All	Fat./Inj.	All
Not In Use	920	2,946	23	25	186	219
Lap Belt Only	74	349	-	-	-	-
Lap and Shoulder	1,174	7,528	3	6	2	13
Automatic Belts	12	84	-	-	-	-
Restraint Unknown	251	1,729	2	2	17	18
Other	29	127	-	-	3	3
<b>TOTALS</b>	<b>2,460</b>	<b>12,763</b>	<b>28</b>	<b>33</b>	<b>208</b>	<b>253</b>
Air Bag Deployed*	203	406	2	2	11	11
AB** Not Deployed*	299	2,002	1	1	15	20
No Air Bag(s)*	1,980	10,563	16	31	223	244

\*Air Bag totals are counted in other categories.  
\*\*Air Bag

This document was produced and published through the efforts of the Drivers License and Traffic Safety Division of the North Dakota Department of Transportation. For further information, please contact:

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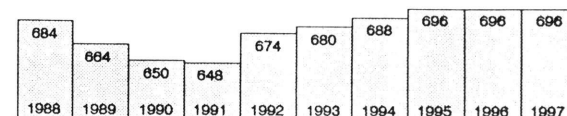
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## NORTH DAKOTA TRAFFIC TRENDS: 1988-1997



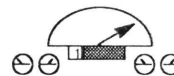
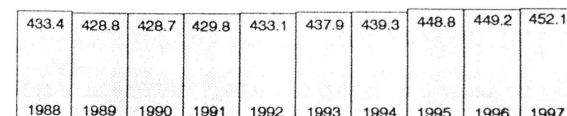
MOTOR VEHICLE REGISTRATIONS

### THOUSANDS OF VEHICLES:



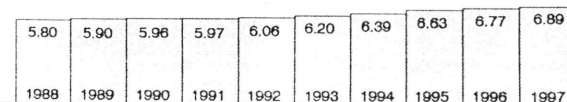
LICENSED DRIVERS

### THOUSANDS OF DRIVERS:



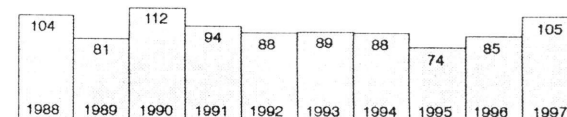
VEHICLE MILES TRAVELED

### BILLIONS OF MILES:



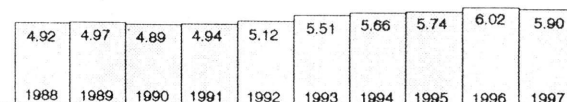
DEATHS

### NUMBER OF DEATHS:



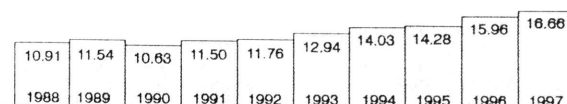
INJURIES

### THOUSANDS OF INJURED:



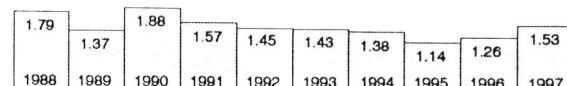
CRASHES

### THOUSANDS OF CRASHES:



MILEAGE DEATH RATE

### DEATHS PER 100 MILLION VEHICLE MILES:







TESTIMONY OF HEIDI HEITKAMP

HOUSE BILL 1182

Senate Transportation Committee

February 26, 1999

Chairman Stenehjem, members of the Senate Transportation Committee, I am Heidi Heitkamp, Attorney General for the State of North Dakota. I am here today on behalf of the Attorney General's Office to testify in support of the proposed amendments to House Bill 1182.

N.D.C.C. § 39-06.1-10(1) currently permits the North Dakota Department of Transportation ("DOT") to "receive and act on reports of traffic offense convictions forwarded by federal, military, and tribal courts in this state." The statute does not authorize the DOT to receive and act on a conviction report if the report is not forwarded by the federal, military, or tribal court, or if the federal, military, or tribal court is outside the State of North Dakota.

The proposed amendments to House Bill 1182 would accomplish two public safety objectives. First, the proposed amendments would permit the DOT to receive and act on a report of a traffic offense conviction of a federal, military, and tribal court forwarded to the DOT either by the court or by a law enforcement authority. Second, the proposed amendments would permit the DOT to receive and act on a report of a traffic offense conviction of a federal, military, or tribal court whether or not the court is in the State of North Dakota.

The impetus for the proposed amendments is a DUI case last year on a North Dakota Indian reservation. Based upon a tip that a school bus driver appeared to be drunk, a law enforcement officer with the Bureau of Indian Affairs ("B.I.A.") stopped the school bus after the driver had dropped off a load of children and before he picked up another load of children. The driver was arrested for DUI and the results of a chemical test indicated that his alcohol concentration was .294 percent by weight.

The driver was convicted of DUI in tribal court. The tribal court did not forward the conviction report to the DOT. However, the conviction report was forwarded by the B.I.A. and the United States Attorney. Because N.D.C.C. § 39-06.1-10(1) requires that the conviction report be forwarded by the tribal court, the DOT was unable to suspend the school bus driver's North Dakota driving privileges based solely on the conviction report forwarded by the B.I.A. and United States Attorney.

The DOT ultimately did suspend the school bus driver's North Dakota driving privileges based upon the conviction report and other evidence under another administrative rule that authorizes the DOT to suspend driving privileges of a person who is inimical to public safety. However, most persons who are convicted of DUI will not meet the criteria for being deemed inimical to public safety. Therefore, the proposed amendments to House Bill 1182 are offered to authorize the DOT to receive and act upon a report of a traffic offense conviction of

federal, military, or tribal courts that are forwarded either by the court or law enforcement authorities.

# SENATE TRANSPORTATION COMMITTEE

February 26, 1999

**North Dakota Department of Transportation**  
**Keith Magnusson, Director, Office of Driver and Vehicle Services**

## HB 1182

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Chairman Stenehjem and members of the committee: the North Dakota Department of Transportation prefiled HB 1182 as an agency bill. This bill cleans up and clarifies a number of driver's license issues.

**SECTION 1** clarifies who may report potential physical or mental driver impairments to the department and receive protection for giving such a report. Under current law, only physicians are protected from liability if they make a report, or fail to do so. To encourage evaluation of potential problem drivers, we propose adding "other medical professionals." The term "medical professional" has previously been used in NDCC 25-01.3-04 in the reporting statute under the Committee on Protection and Advocacy.

**SECTION 2** cleans up the wording in the section on the non-driver photo ID. The minimum age has been changed over the years and we ended up with different criteria based on age. With the new wording, everyone would be treated the same.

**SECTION 3** updates the department's medical advice statute to reflect current practice. As the law now stands, the department can seek advice from a physician in evaluating drivers for potential problems and the physician will incur no liability. The department has set up an advisory committee that includes not only physicians in numerous specialties but an optometrist who is a low-vision specialist. The optometrist is a very valuable member of the committee, but under the current wording of the law, he or she is not protected from liability when giving advice to the department. In addition, we often ask drivers or applicants to provide us with a report from their personal physician, or to have an eye exam that is much more thorough than our machines could provide. It makes sense that the eye examination could be done by an optometrist, as it is in most cases now (we do accept the information from the optometrist, even though the statute does not strictly provide for it).

**SECTION 4** makes it clear that NDDOT may take action upon a driver's license when we receive notice of a conviction, suspension, or revocation in another jurisdiction, not just another state as the present language reads. Current law -- and this would not change -- requires us to take action if we would have been required to do so had the incident taken place in North Dakota. The Attorney General's office and NDDOT have been discussing the problem of DUI with the Three Affiliated Tribes. Depending on what course of action they pursue -- reporting court convictions to us or setting up their own implied consent administrative system and reporting suspensions and revocations to us -- we need to clarify our law to make sure we can accept those reports and add to a driver's record. This would also apply to reports we get from other countries, such as Canada.

**SECTION 5** is tied to Section 4 and deals with the implied consent system. In this section we also clarify that NDDOT may suspend a driver if we receive a certificate from another jurisdiction

saying that the driver failed to appear or post bond on a traffic violation in that jurisdiction, just as we do when it happens in North Dakota.

**SECTION 6** corrects an omission in the law dealing with the use of fraudulent or altered drivers' licenses. The amendment makes it clear that the department can suspend or revoke a driver for using a fraudulent or altered license, as set out in the specific sections of law being added. A due process hearing would be provided for. Law enforcement officers often send these licenses to the department, rather than working with the city or state's attorney to prosecute under the criminal law. As the law currently stands, in those situations where the licenses have been mailed into us, it appears that NDDOT could take action without any due process; the department is not comfortable with this and proposes that it be handled as any other proposed suspension or revocation.

**SECTION 7** deletes reference to holding an implied consent hearing within 25 days after the issuance of a temporary operator's permit. The current law requires a hearing to be held within 25 days, but allows the hearing officer to extend the hearing to within 30 days "to accommodate the efficient scheduling of hearings." This requires the hearing officer to make a specific finding that the hearing was held past the 25 days to accommodate the efficient scheduling. This should not be necessary, because many hearings are held between the 25<sup>th</sup> and 30<sup>th</sup> day to help defense attorneys with their scheduling. Federal regulations prohibit us from going beyond the 30<sup>th</sup> day, so we cannot change the outside limit, but this small change will save some time for hearing officers and also preclude any possible issue on appeal if they forget to make the finding as to why the hearing was held after the 25<sup>th</sup> day.