

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1017

2007 HOUSE APPROPRIATIONS

HB 1017

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1017

House Appropriations Committee
Human Resources Division

Check here for Conference Committee

Hearing Date: January 15, 2007

Recorder Job Number: 1017

Committee Clerk Signature

Minutes:

Rep. Chet Pollert, Chairman opened the hearing on **HB 1017**, A Bill for an Act to provide an appropriation for defraying the expenses of the office of administrative hearings. All division members present: **Representatives Larry Bellew, Vice Chairman, James Kerzman, Ralph Metcalf, Mary Ekstrom, Jon Nelson, Gary Kreltdt, and Alon Wieland.**

Allen Hoberg, Director of the Office of Administrative Hearings, testified in support of the bill. (Copy of written testimony attached) It was stated the office's work consists almost exclusively of conducting administrative hearings for numerous state and local agencies or entities on a wide variety of administrative matters, including complaint or enforcement hearings, application hearings for a license or benefits, and appeals of various types of governmental actions. OAH provides independent administrative law judges to conduct hearings that were formerly conducted by in-house agency hearing officers, assistant attorneys general, or agency contract hearing officers.

Question asked and it was stated that the office is strictly a special fund agency. Questions asked about digital equipment, what is the authority of the agency, what kind of administrative hearings with WSI, salaries, number of hearings held, if OAR's granted ... increase to agency?

Question asked if the agency bills by the hour ... answer: bill currently at \$95.25 an hour.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1017

House Appropriations Committee
Human Resources Division

Check here for Conference Committee

Hearing Date: February 1, 2007 Time: 10 am

Recorder Job Number: 2502

Committee Clerk Signature

Donna Kramer

Minutes:

Rep. Chet Pollert, Chairman opened the hearing on **HB 1017**, A Bill for an Act to provide an appropriation for defraying the expenses of the office of administrative hearings. All division members present: **Representatives Larry Bellew, Vice Chairman, James Kerzman, Ralph Metcalf, Mary Ekstrom, Jon Nelson, Gary Kreidt, and Alon Wieland.**

Chairman Pollert: Explained that the agency overview had already been heard and now the spend down would be reviewed.

Allen Hoberg, Director of the Office of Administrative Hearings, provided an **Addendum.** He explained that his agency uses federal funds and special funds. Very few general funds. Discussion on salaries increases, \$100,000 for increased caseload, estimated workload goes down - shift of funds, equity pool increases, work of temporary staff, and 4 and 4 salaries plus equity.

Adjournment.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1017

House Appropriations Committee
Human Resources Division

Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2834

Committee Clerk Signature

Minutes:

Rep. Chet Pollert, Chairman opened the hearing on **HB 1017**, A Bill for an Act to provide an appropriation for defraying the expenses of the office of administrative hearings. All division members present: **Representatives Larry Bellew, Vice Chairman, Ralph Metcalf, Mary Ekstrom, Jon Nelson, Gary Kreidt, and Alon Wieland.** **Absent: Jim Kerzman.**

Representative Bellew: Made a motion to accept the amendment **78017.0101** on HB 1017.

Representative Wieland: Seconded the motion.

Representative Bellew: Explained the intent of the amendment as: "Takes away the special funds for the line item #2 on the Green Sheet ... "Adds funding for professional fees for temporary law judges due to anticipated increase in caseload for the Office of Administrative Hearings." Representative Bellew stated that was his understanding that this amount of money was not needed in their budget.

Chairman Pollert: Stated there had been a jump in caseload, but now it is coming back to normal and that is where the \$50,000 is coming from.

Allen Hoberg, Director of the Office of Administrative Hearings, stated they had put the optional request in because they thought they could use it. "It is not absolutely necessary, I think we can get by without it."

Discussion:

Representative Ekstrom: "My understanding is that they will come back to the Emergency Commission when they need this money."

Chairman Pollert: "That is correct."

Roll call on the Amendment 78017.0101 for a "Do Pass": 5 yes, 2 no and 1 absent.

Carrier: Representative Nelson

Representative Bellew: Motion to pass HB 1017 as amended.

Representative Kreidt: Seconded the motion.

Roll call for a "Do Pass as amended" on HB 1017: Yes - 5, no - 2, and 1 absent.

Carrier: Representative Nelson

Adjourned.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1017

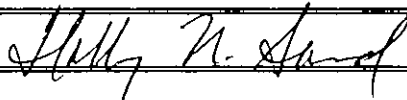
House Appropriations Committee

Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3249

Committee Clerk Signature



Minutes:

Chairman Svedjan opened the hearing on HB 1017, budget bill for the Office of Administrative Hearings.

Rep. Nelson reviewed the Department 140 – Office of Administrative Hearings green sheet and described the changes made to the Executive recommendation.

Rep. Nelson motioned a Do Pass and then withdrew the motion until the amendment was adopted.

Amendment .0101 is distributed and Rep. Nelson points out that all the amendment does is remove the \$50,000 funding for law judges from the executive recommendation.

Rep. Nelson motioned the adoption of amendment .0101, Rep. Metcalf seconded the motion. The motion carried by voice vote and the amendment was adopted.

Rep. Nelson motions a Do Pass as amended. Rep. Bellew seconded the motion. The motion carried by a roll call vote of 22 ayes, 1 nay, and 1 absent and not voting. Rep. Nelson was designated to carry the bill.

Date: 2/8/07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1017

House Appropriations Full Committee

Check here for Conference Committee

Legislative Council Amendment Number withdrawn

Action Taken No Pass

Motion Made By Rep. Nelson Seconded By Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Representative Wald			Representative Aarsvold		
Representative Monson			Representative Gulleson		
Representative Hawken					
Representative Klein					
Representative Martinson					
Representative Carlson			Representative Glassheim		
Representative Carlisle			Representative Kroeber		
Representative Skarphol			Representative Williams		
Representative Thoreson					
Representative Pollert			Representative Ekstrom		
Representative Bellew			Representative Kerzman		
Representative Kreidt			Representative Metcalf		
Representative Nelson					
Representative Wieland					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2/8/07
 Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1017

House Appropriations Full Committee

Check here for Conference Committee

Legislative Council Amendment Number 78017.0101

Action Taken No Pass as Amended by 0101

Motion Made By Nelson Seconded By Ballew

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleason	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol		✓	Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom		
Representative Ballew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 22 No 1

Absent 1

Floor Assignment 4 Nelson

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

REPORT OF STANDING COMMITTEE

HB 1017: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (22 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1017 was placed on the Sixth order on the calendar.

Page 1, line 15, replace "157,500" with "107,500"

Page 1, line 16, replace "384,247" with "334,247"

Page 1, line 22, replace "424,417" with "374,417"

Page 1, line 23, replace "1,694,091" with "1,644,091"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1017 - Office of Administrative Hearings - House Action

	EXECUTIVE BUDGET	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$1,269,674		\$1,269,674
Operating expenses	<u>424,417</u>	<u>(\$50,000)</u>	<u>374,417</u>
Total all funds	\$1,694,091	(\$50,000)	\$1,644,091
Less estimated income	<u>1,694,091</u>	<u>(50,000)</u>	<u>1,644,091</u>
General fund	\$0	\$0	\$0
FTE	8.00	0.00	8.00

Dept. 140 - Office of Administrative Hearings - Detail of House Changes

	DECREASES FUNDING FOR PROFESSIONAL SERVICES ¹	TOTAL HOUSE CHANGES
Salaries and wages		
Operating expenses	<u>(\$50,000)</u>	<u>(\$50,000)</u>
Total all funds	(\$50,000)	(\$50,000)
Less estimated income	<u>(50,000)</u>	<u>(50,000)</u>
General fund	\$0	\$0
FTE	0.00	0.00

¹ Decreases funding for professional fees for temporary law judges.

2007 SENATE APPROPRIATIONS

HB 1017

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1017

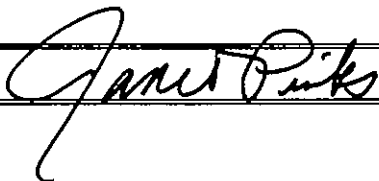
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 3-12-07

Recorder Job Number: 4856

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1017 indicating the subcommittee would be the same as that of DOT. He indicated we want to make sure that if the bill on hearings all fits together.

Allen Hoberg, Director, Office of Administrative Hearings, distributed written testimony and testified in support of HB 1017 indicating the work of the department consists of conducting administrative hearings from state and local agencies. He described the department hearings and the percentages coming from different agencies, the budget analysis, the professional services, the salaries and benefits and equity increases, the digital recordings, statistics, and the effect of Senate Bill 2375.

Chairman Holmberg asked if the salaries are the typical 4/4 or if this was in addition to. The response was yes, the 4/4.

Chairman Holmberg asked about the 4/4 increase at \$120,000 plus and the equity and whether he had any idea how much would be reduced. The response was he has no idea of the numbers.

Chairman Holmberg indicated he assumed that if that bill passes, in the end it will work out. The response was that he thought the appropriation would work with that bill rather than this bill.

Chairman Holmberg indicated SB 2375 will be back here if they make a recommendation and will be in conference committee.

Senator Mathem questioned who pays the tab when the PSC has a hearing. The response was that most hearings come out of the utility fund established by the utility fees and not the general fund. All agencies are billed for services.

Chairman Holmberg closed the hearing on HB 1017

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1017

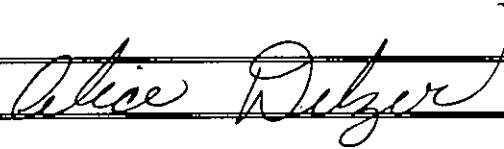
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-22-07

Recorder Job Number: 5484

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1017 at 5:30 pm on March 22, 2003 regarding the Office of Administrative Hearings.

Senator Wardner distributed the amendments and explained them to the committee. He moved a do pass on the amendments, seconded by Senator Christmann, the amendment carried.

Senator Krauter had a questions asked about the FTE's, and the fee for services and where the money goes from these fees. Senator Wardner told him the money stays with DOT.

Senator Wardner moved a DO PASS AS AMENDED, Seconded by Senator Christmann.

A roll call vote was taken resulting in 14 yeas, 0 nays, 0 absent. The motion carried.

Senator Wardner will carry the bill.

The hearing on HB 1017 closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1017

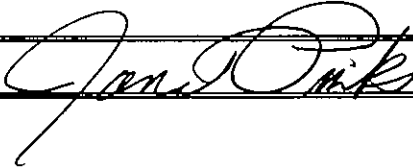
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 04-05-07

Recorder Job Number: 5779

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1017 on 04-05-07 distributing amendments which take the provisions of SB 2375 which we feel the House should have another chance to look at and make the effective date of the transfer August 1, 2008. In other words give an additional year for the agencies to meld and mesh together.

Senator Wardner moved to reconsider the action by which we passed, Senator Seymour seconded. No discussion. An oral vote was taken resulting in the motion passing.

Senator Wardner moved we reconsidered the action by which we amended and we amend further with these amendments, Senator Fischer seconded. Discussion was held.

Senator Mathern asked this to be explained again.

Senator Wardner indicated we are taking the hearings out of DOT and into the Office of Administrative Hearings. The funding is already in SB 2375 which was killed in the House.

Senator Mathern asked what we did on the original SB 2375.

Senator Wardner indicated we passed it out and here we moved up the date to August 1, 2008.

Chairman Holmberg indicated one issue in the House is with a change like this in four months was a little to much. This gives them a year. The argument on the bill was the same agency that is the judge is also the jury.

Senator Krauter indicated there is no reduction of FTE in DOT but there is the addition of one FTE in the Office of Administrative Hearings, correct?

Senator Wardner indicated there should be a reduction of FTE's in DOT and they are moved to the Office of Administrative Hearings. What really happens is when hearings take place then the Office of Administrative Hearings bills DOT.

Senator Krauter asked where the FTE is located in the amendment.

Allan Knudson indicated that when the bill was passed, there was no reduction of FTE's because these bills are still in limbo so no changes were made yet.

Chairman Holmberg indicated the same conferees will be on HB 1017 and DOT.

Senator Tallackson indicated there won't be a saving of FTE's because DOT has to stay in part way.

Senator Wardner did say we will need more administrative money but actually five FTE's will go to administrative hearings but the money stays with DOT and when the hearing comes up DOT transfers funds.

Senator Mathern asked why not have wording in here that it takes 5 FTE's out of DOT.

Senator Fischer is there other duties that the people have at DOT because they can't be taken out?

Senator Wardner indicated it is his understanding that is all they do; they are hearing officers over there and that is all they do. But as Senator Tallackson mentioned, DOT has to field this and pass it on to the Office of Administrative Hearing so they feel they may have to hire a half time person in order to facilitate that even though the hearings are over there they still have some requirements.

An oral vote was taken resulting in the amendment being approved.

Senator Fischer moved a do pass on HB 1017 as amended, Senator Wardner seconded. A roll call vote was taken resulting in 9 yes, 4 no, and 1 absent. The motion carried and Senator Wardner will carry the bill.

Chairman Holmberg closed the hearing on HB 1017.

JB
3-22-07

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1017

Page 1, line 14, replace "226,747" with "917,231"

Page 1, line 15, replace "107,500" with "186,722"

Page 1, line 16, replace "334,247" with "1,103,953"

Page 1, line 21, replace "1,269,674" with "1,960,158"

Page 1, line 22, replace "374,417" with "453,639"

Page 1, line 23, replace "1,644,091" with "2,413,797"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1017 - Office of Administrative Hearings - Senate Action

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$1,269,674	\$1,269,674	\$690,484	\$1,960,158
Operating expenses	<u>424,417</u>	<u>374,417</u>	<u>79,222</u>	<u>453,639</u>
Total all funds	\$1,694,091	\$1,644,091	\$769,706	\$2,413,797
Less estimated income	<u>1,694,091</u>	<u>1,644,091</u>	<u>769,706</u>	<u>2,413,797</u>
General fund	\$0	\$0	\$0	\$0
FTE	8.00	8.00	5.00	13.00

Dept. 140 - Office of Administrative Hearings - Detail of Senate Changes

	ADDS FUNDING FOR DEPARTMENT OF TRANSPORTATION HEARINGS ¹	TOTAL SENATE CHANGES
Salaries and wages	\$690,484	\$690,484
Operating expenses	<u>79,222</u>	<u>79,222</u>
Total all funds	\$769,706	\$769,706
Less estimated income	<u>769,706</u>	<u>769,706</u>
General fund	\$0	\$0
FTE	5.00	5.00

¹ The Senate added funding relating to Senate Bill No. 2375, which transfers Department of Transportation hearings responsibility to the Office of Administrative Hearings.

Date: 3/22/07
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1017

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number Amends 0201

Action Taken _____

Motion Made By Wardner Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm			Senator Aaron Krauter		
Senator Bill Bowman, V Chrm			Senator Elroy N. Lindaas		
Senator Tony Grindberg, V Chrm			Senator Tim Mathern		
Senator Randel Christmann			Senator Larry J. Robinson		
Senator Tom Fischer			Senator Tom Seymour		
Senator Ralph L. Kilzer			Senator Harvey Tallackson		
Senator Karen K. Krebsbach					
Senator Rich Wardner					

Total (Yes) Carried No _____

Absent _____

Floor Assignment _____

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

Date: 3/22/07
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1017

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass as amended.

Motion Made By Wardner Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 14 No _____

Absent _____

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE

HB 1017, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1017 was placed on the Sixth order on the calendar.

Page 1, line 14, replace "226,747" with "917,231"

Page 1, line 15, replace "107,500" with "186,722"

Page 1, line 16, replace "334,247" with "1,103,953"

Page 1, line 21, replace "1,269,674" with "1,960,158"

Page 1, line 22, replace "374,417" with "453,639"

Page 1, line 23, replace "1,644,091" with "2,413,797"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1017 - Office of Administrative Hearings - Senate Action

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$1,269,674	\$1,269,674	\$690,484	\$1,960,158
Operating expenses	<u>424,417</u>	<u>374,417</u>	<u>79,222</u>	<u>453,639</u>
Total all funds	\$1,694,091	\$1,644,091	\$769,706	\$2,413,797
Less estimated income	<u>1,694,091</u>	<u>1,644,091</u>	<u>769,706</u>	<u>2,413,797</u>
General fund	\$0	\$0	\$0	\$0
FTE	8.00	8.00	5.00	13.00

Dept. 140 - Office of Administrative Hearings - Detail of Senate Changes

	ADDS FUNDING FOR DEPARTMENT OF TRANSPORTATION HEARINGS ¹	TOTAL SENATE CHANGES
Salaries and wages	\$690,484	\$690,484
Operating expenses	<u>79,222</u>	<u>79,222</u>
Total all funds	\$769,706	\$769,706
Less estimated income	<u>769,706</u>	<u>769,706</u>
General fund	\$0	\$0
FTE	5.00	5.00

¹ The Senate added funding relating to Senate Bill No. 2375, which transfers Department of Transportation hearings responsibility to the Office of Administrative Hearings.

QJ3
4-5-7
1 of 11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1017

In lieu of the amendments adopted by the Senate as printed on page 953 of the Senate Journal, Engrossed House Bill No. 1017 is amended as follows:

Page 1, line 2, after "hearings" insert "; to amend and reenact sections 39-01-16, 39-02-03.1, 39-06-34, 39-06.1-11, 39-06.2-10.6, 39-06.2-10.7, and 39-06.2-10.8, subsection 1 of section 39-20-03.1, section 39-20-03.2, subsection 1 of section 39-20-04, sections 39-20-05 and 39-20-06, and subsection 1 of section 54-57-03 of the North Dakota Century Code, relating to the transfer of administrative hearings from the department of transportation to the office of administrative hearings; to provide for transition; and to provide an effective date"

Page 1, line 14, replace "226,747" with "571,989"

Page 1, line 15, replace "107,500" with "159,442"

Page 1, line 16, replace "334,247" with "731,431"

Page 1, line 21, replace "1,269,674" with "1,614,916"

Page 1, line 22, replace "374,417" with "426,359"

Page 1, line 23, replace "1,644,091" with "2,041,275"

Page 1, after line 23, insert:

"SECTION 4. AMENDMENT. Section 39-01-16 of the North Dakota Century Code is amended and reenacted as follows:

39-01-16. Hearing on alleged violations.

1. Any person having information that a licensed dealer has violated any provisions of this title may file with the director an affidavit specifically ~~setting forth each~~ stating the facts of the violation. Upon receipt of ~~such~~ the affidavit, the director shall investigate the violation alleged in the affidavit. If, after investigation, the director determines that the dealer's license will be revoked or suspended, a notice of intent to revoke or suspend the license must be mailed to the dealer by certified mail. The notice must provide the dealer with an opportunity for a hearing ~~prior to~~ before the effective date of the license revocation or suspension. A record of ~~such hearings~~ the hearing must be made by stenographic notes or use of an electronic recording device.
2. If after ~~such~~ the hearing the ~~director~~ administrative law judge finds the violation charged in the affidavit has been proved by the evidence, an order must be served on the licensee revoking or suspending the dealer's license for a period of time to be determined by the director. ~~Such~~ The action may be appealed to the district court by following the appeal procedure set forth in chapter 28-32, except that the order revoking or suspending the license is ineffective while the appeal is pending.

~~The director has the power to appoint an administrative hearing officer to conduct the hearing, administer oaths, and subpoena and examine witnesses. The~~

2 of 11

~~administrative hearing officer shall submit the findings to the director for consideration and final decision.~~

- 3. Any witness called by the prosecution, except a peace officer while on duty, ~~shall~~ must receive the same fees and mileage as a witness in a civil case in district court.

SECTION 5. AMENDMENT. Section 39-02-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-02-03.1. Director to provide notice and opportunity for hearing ~~prior to~~ before cancellation, revocation, suspension, or rescision of a motor vehicle registration or a certificate of title to a motor vehicle. ~~Whenever, under~~ Under the laws pertaining to the cancellation, revocation, suspension, or rescision of a registration of a motor vehicle or a certificate of title to a motor vehicle, if a determination has been made to cancel, revoke, suspend, or rescind either the registration or certificate of title, or both, the director shall provide the legal and registered owner with notice of ~~such~~ the cancellation, revocation, suspension, or rescision and the opportunity for a hearing. ~~Such~~ The notice must be sent by registered or certified mail, return receipt requested, not less than ten days ~~prior to~~ before the effective date of the cancellation, revocation, suspension, or rescision.

SECTION 6. AMENDMENT. Section 39-06-34 of the North Dakota Century Code is amended and reenacted as follows:

39-06-34. Director may require reexamination. In addition to other powers set forth in this chapter, the director, having good cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, may upon written notice of at least five days to the licensee require the licensee to submit to such physical, mental, or driver's examination as may be deemed necessary. If the director has good cause to believe that the licensed operator presents an immediate danger to the motoring public, the director may immediately, and without prior notice, suspend the operator's license pending the examination. The notice of suspension must provide the operator with the opportunity for a hearing within five days of the receipt of the notice of suspension. When a hearing is requested it must be conducted under section 39-06-33 and the ~~hearing officer's~~ administrative law judge's recommended decision must be rendered within two days of the conclusion of the hearing. Upon the conclusion of such examination the director shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain the license, or may issue a license subject to restrictions as permitted under section 39-06-17. Refusal or neglect of the licensee to submit to such examination shall be grounds for suspension or revocation of the license.

SECTION 7. AMENDMENT. Section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-11. Temporary restricted license - Ignition Interlock device.

- 1. Except as provided under subsection 2, if the director has suspended a license under section 39-06.1-10 or has extended a suspension or revocation under section 39-06-43, upon receiving written application from the offender affected, the director may for good cause issue a temporary restricted operator's license valid for the remainder of the suspension period after seven days of the suspension period have passed.
- 2. If the director has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, upon written application of the offender the director may issue for good cause a temporary restricted license that takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01

or chapter 39-20. The director may not issue a temporary restricted license to any offender whose operator's license has been revoked under section 39-20-04 or suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued for good cause if the offender has not committed an offense for a period of two years before the date of the filing of a written application that must be accompanied by a report from an addiction facility or if the offender is participating in the drug court program and has not committed an offense for a period of three hundred sixty-five days before the date of the filing of a written application that must be accompanied by a recommendation from the district court. The director may ~~conduct~~ request a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior during the prerequisite period of time. The director may also require that an ignition interlock device be installed in the offender's vehicle.

- 3. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 5 of section 39-06-17, section 39-06-31, or subsection 3.1 of section 39-06.1-10. A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.
- 4. A restricted license issued under this section is solely for the use of a motor vehicle during the licensee's normal working hours and may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.

SECTION 8. AMENDMENT. Section 39-06.2-10.6 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-10.6. Administrative hearing on request.

- 1. Before issuing an order of suspension, revocation, or disqualification under section 39-06.2-10, the director shall afford that person an opportunity for a hearing as provided by section 39-20-05, if the person mails a request for the hearing to the director within ten days after the date of issuance of the temporary driver's permit.
- 2. If the issue to be determined by the hearing concerns license suspension for operating a commercial motor vehicle while having an alcohol concentration of at least four one-hundredths of one percent by weight, the hearing must be before ~~a hearing officer assigned by the director~~ an administrative law judge and at a time and place designated by the director of the office of administrative hearings. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle in violation of section 39-06.2-10.1, whether the person was lawfully detained, whether the person was tested in accordance with section 39-06.2-10.2, and whether the test results show the person had an alcohol concentration of at least four one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood or urine sample from the office of the director of the state crime laboratory or the director's designee, or a certified copy of the checklist and test records from a certified breath test operator establish prima facie the alcohol concentration shown therein. Whether the person was warned that the

