

2011 SENATE TRANSPORTATION

SB 2107

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee  
Lewis and Clark Room, State Capitol

SB 2107  
January 13, 2011  
12905

Conference Committee

Committee Clerk Signature *Hauge*

## Explanation or reason for introduction of bill/resolution:

This bill originated from the Department of Emergency Services to update North Dakota's Century Code to align with actual procedure.

## Minutes:

One attached testimony

**Senator G. Lee** opened the hearing on SB 2107 relating to the disaster or emergency loan funding process and removal of department of emergency services from blue light rulemaking.

**Greg Wilz**, Deputy Director of the Department of Emergency Services (DES), and Homeland Security Division Director, testified in support of SB 2107. Written testimony #1.

**Senator Mathern** asked if this bill was necessary and stated that they already have that authorization in another part of the law and that it took place when they put the division into the Adjutant General's office. He thinks that this bill might become too restricted. He asked if there wasn't sufficient authorization already, to do what they are doing, without changing the law.

**Mr. Wilz** said that they are physically doing this today and that the Legislature has given them some verbiage in law to do what they need to do. He said that they just see this as a cleanup bill. They don't see this restricting them in any way. The intent that the Legislature has provided in law is already there. They are just looking at this as an opportunity to synchronize all parts of the code that relate to their overall responsibilities. The Homeland Security Division is part of the Department of Emergency Services. The Department of Emergency Services, as the Legislature has reorganized them, is a part of the Office of the Adjutant General. He said they now have one synchronized budget and they are just trying to clean up the little parts of the code that have not been cleaned up since the reorganization of 2005.

**Senator Mathern** asked if he believes that the merger into the Office of the Adjutant General into one entity will be permanent.

**Mr. Wilz** said that in his opinion, it is organized as best as it can ever be organized in the state of ND until such day that the State of ND wants to reorganize again and perhaps have a full Department of Public Safety.

**Senator Sitte** asked if she understood correctly that Homeland Security is a division with Emergency Services.

**Mr. Wilz** said that was correct. He services as the division director.

**Senator Sitte** said that she thought of Homeland Security as Federal and asked if most of their working was through the Federal rules or if they operated mostly under state regulations.

**Mr. Wilz** said that they operate under state regulations. He said they do manage about ten Federal programs and they have to follow the Federal rules for the Federal grants that they administer.

**Senator Sitte** said that the implication seems that whenever there is an emergency it is almost Marshall Law.

**Mr. Wilz** said absolutely not. In emergency response, local government is always in charge. He said that they never organize or deploy to take over. They deploy to assist.

**Senator Lee** asked where his position reported to.

**Mr. Wilz** said he reported to two bosses. His day to day supervision is the Office of the Adjutant General. As the Homeland Security adviser to the Governor, he reports to the Governor's Office.

**Senator Lee** asked why we would want to change the reporting through the Adjutant General versus his position to the Governor and how you report.

**Mr. Wilz** said that they don't look at this as actually reporting requirements, they look at this as fixing a process that allows them to interface with the Emergency Commission, get the approval that they need based on state law and work with the Bank of ND, and do this in a way that it is in compliance with the Century Code.

**Senator Lee** thought they were giving more authority to the Adjutant General by doing this.

**Mr. Wilz** did not agree. He said that he believes the authority is already there today. He said that It is just not in paper. What they are doing now matches the intent of the Legislature since they were reorganized into one budget.

**Senator Lee** said this bill will take away authority from the Emergency Commission and gives it to the Adjutant General in terms of responsibility for paying the loan. This seems to take authority from elected people (Emergency Commission) and gives it to an appointed person.

**Mr. Wilz** said that is correct. He said that the Emergency Commission has never taken the responsibility of what the century code has said they were to do concerning the loan. The Emergency Commission has never borrowed the money; they have never come before the Legislature and asked for a deficiency appropriation. It has always been the agency. They are just trying to get the code changed to meet with what is commonly practiced.

**Senator Lee** asked if their reasoning for removing the blue light language was that there are already rules and regulations on the books that already govern the use of blue lights. He asked if they were looking for an exemption.

**Mr. Wilz** said absolutely not. He said that he feels the law was poorly written or changed and it just needs cleanup. It doesn't change anything. The rules and authority is already there.

**Senator Sitte** expressed her concern that they will be giving the Adjutant General a blank check. She said that she thought they should go through the Emergency Commission.

**Mr. Wilz** said that he would have never come before the Transportation Committee today if the Emergency Commission was actually doing what the century code required them to do. They have not been doing what the legislature has put in code. He said that he did not look at this as giving the AJ General a blank check and felt that there were enough controls and rules and laws that govern exactly who can do what. All they are trying to do is match century code to a process that is working well.

**Senator Mathern** asked if any Federal authority govern the AJ General.

**Mr. Wilz** said he did not believe so. The AJ General of the state of ND only has one superior and that is the Commander and Chief, the Governor of the state of ND. The AJ General is controlled federally by the various federal accounts where they get funds. That is the only control that the federal government has over him.

**Senator Lee** asked why we have the Emergency Commission if the AJ General does this.

**Mr. Wilz** stated that the AJ General cannot secure a loan without the approval of the Emergency Commission. There is also a secondary process that validates this in the budget section. The AJ General cannot go and borrow money from the Bank of ND. He has to have expressed authority from the Emergency Commission and a letter from the Secretary of State.

**Senator Lee** closed the hearing on SB 2107.

Discussion followed.

Alex will look up information in the century code on blue light regulations.

Senator Sitte had a question she wanted answered by the AJ General and she will get that answered and she also distributed a letter from the Department of the Army from Mark Mahoney, Director Army Regional Environment and Energy Office-Western.


# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Transportation Committee**  
Lewis and Clark Room, State Capitol

SB 2107  
January 20, 2011  
13124

Conference Committee

Committee Clerk Signature



**Minutes:**

*Do Pass Vote*

**Senator G. Lee** opened discussion on SB 2107 relating to the disaster or emergency loan funding process and removal of department of emergency services from blue light rulemaking.

**Senator Nodland** moved a Do Pass on SB 2107.

**Senator Oehlke** seconded the motion.

Roll call vote 5-0-1. **Motion passed.**

Carrier is **Senator Oehlke.**

Date: January 28, 2011  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2107

Senate Transportation Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Senator Nodland Seconded By Senator Oehlke

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething					
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Oehlke

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

**REPORT OF STANDING COMMITTEE**

**SB 2107: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS**  
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2107 was placed on the  
Eleventh order on the calendar.

2011 HOUSE TRANSPORTATION

SB 2107



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee  
Fort Totten Room, State Capitol

SB 2107  
03/03/2011  
Job # 14901

Conference Committee

Committee Clerk Signature *Jeanette Cook*

## Explanation or reason for introduction of bill/resolution:

SB 2107 is a bill relating to the disaster or emergency loan funding process and removal of department of emergency services from blue light rulemaking.

## Minutes:

Attachment #1

**Greg Wilz**, Deputy Director of the Department of Emergency Services and Homeland Security Division Director, spoke to support SB 2107 and provided written testimony. See attachment #1.

**Representative Gruchalla**: On line 13 page 2 it says "rotating blue flashing light"; that is old language. Most of the LED lights do not rotate. I am wondering if this would be a time to fix that and just put in "blue flashing light".

**Greg Wilz**: That is a good idea. We are moving toward using LEDs more and more. There is still a lot of the old style lights out there yet, but to stay with technology that would be appropriate.

There was no further support for SB 2107.  
There was no further testimony on SB 2107.  
The hearing was closed on SB 2107.

**Representative Gruchalla moved an amendment to take out the word "rotating".**  
**Representative Owens seconded the motion.**  
**A voice vote was taken, and the motion carried.**

**Representative Delmore moved a DO PASS as amended on SB 2107.**  
**Representative R. Kelsch seconded the motion.**  
**A roll call vote was taken. Aye 14 Nay 0 Absent 0**  
**The motion carried.**  
**Representative Frantsvog will carry SB 2107.**

11.8050.01001  
Title.02000

Adopted by the Transportation Committee

VK  
3/3/11

March 3, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2107

Page 2, line 13, overstrike "rotating"

Renumber accordingly

Date: 3-3-11

Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2107

House TRANSPORTATION Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Delmore Seconded By R. Kelsch

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	X	
Vice Chairman Weiler	X		Representative Gruchalla	X	
Representative Frantsovog	X		Representative Hogan	X	
Representative Heller	X		Representative Onstad	X	
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut	X				
Representative Vigesaa	X				
Representative Weisz	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Frantsovog

If the vote is on an amendment, briefly indicate intent

**REPORT OF STANDING COMMITTEE**

**SB 2107: Transportation Committee (Rep. Ruby, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2107 was placed on the Sixth order on the calendar.

Page 2, line 13, overstrike "rotating"

Renumber accordingly

2011 TESTIMONY

SB 2107



DEPARTMENT OF THE ARMY  
Regional Environmental and Energy Office - Western  
US Custom House  
721 19<sup>th</sup> Street, 4<sup>th</sup> Floor, Rm. 427  
Denver, CO 80202-2500

December 30, 2010

The Honorable Margaret Sitte  
North Dakota Senate  
State Capitol 600 East Blvd  
Bismarck, ND 58505-0360

Dear Senator Sitte:

As the Director of the U.S. Army Regional Environment and Energy Office – Western, I am writing to congratulate you on your election. I look forward to working with your office in support of our men and women in uniform.

North Dakota and the military have a long and distinguished history. We are proud to contribute \$1.1 billion per year to North Dakota's diverse economy. We also appreciate North Dakota's support for our 13,788 active duty, National Guard and civilian employees and their families. We continue to be committed to ensuring Army activities are sustainable – meeting needs of the present without compromising the ability of future generation to meet their own needs. The Army has been integrating that ethic of sustainability into our operations in North Dakota.

The military units in North Dakota face numerous challenges. The training ranges, airspace and frequency spectrum vital to our missions are being encroached upon by numerous sources both physical and electronic; including wind towers and electric transmission lines. As we struggle against encroachment and prepare the young men and women of our Armed Forces for their dangerous and uncertain work, we will seek your input and assistance.

Again, congratulations and I look forward to providing any appropriate assistance as you consider legislation that has the potential to impact our operations. I can be reached at (303) 844-0956 or at [mark.a.mahoney@us.army.mil](mailto:mark.a.mahoney@us.army.mil).

Sincerely,

Mark Mahoney  
Director  
Army Regional Environment and Energy Office –  
Western

TESTIMONY- SB 2107  
SENATE – TRANSPORTATION  
JANUARY 14, 2011  
BY GREG WILZ  
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members, my name is Greg Wilz and I am the Deputy Director of the Department of Emergency Services (DES), and Homeland Security Division Director.

This bill originates from DES and presents changes needed to update North Dakota Century Code. During the 2005 Legislative Session, DES was reorganized under the Office of the Adjutant General. In 2006 with approval from the Office on Management and Budget, the DES budget was merged into the Office of the Adjutant General. It has for the past two biennia and will continue to be submitted within the budget of the Office of the Adjutant General. Therefore, a language change in 37-17.1-23 is necessary to confer authorization responsibility to the Office of the Adjutant General.

The second change shifts responsibility for requesting deficiency appropriations and loan repayment from the Emergency Commission to the Office of the Office of the Adjutant General. It has been a long standing practice for the Division to obtain and repay loans through the deficiency appropriation process. SB 2107 seeks to change code requirements to align with actual procedure.

The third change involves a request to remove language directing the Division of Homeland Security to adopt rules applicable for the use of blue flashing lights by local emergency disaster emergency services personnel. For a time, guidelines were promulgated; however, in 1998 the Division discontinued issuing blue light rules. This action was warranted because local decisions concerning blue light use better serves public safety.

I urge members to support SB 2107 and will answer any questions committee members may have.

TITLE 39  
MOTOR VEHICLES

CHAPTER 39-01  
DEFINITIONS AND GENERAL PROVISIONS

39-01-01. Definitions. In this title, unless the context or subject matter otherwise requires:

- 1. "Appropriate licensed addiction treatment program" means an addiction treatment program conducted by an addiction facility licensed by the department of human services or conducted by a licensed individual specifically trained in addiction treatment.
- 2. "Authorized emergency vehicles":

a. ~~"Class A" authorized emergency vehicles~~ means:

- (1) Vehicles of a governmentally owned fire department.
- (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.
- (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
- (4) Ambulances.
- (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.
- (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
- (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.
- (8) Vehicles operated by or under the control of the director of the parks and recreation department.
- (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.
- (10) Vehicles operated by or under the control of the state forester.

b. ~~"Class B" authorized emergency vehicles~~ means wreckers and such other emergency vehicles as are authorized by the local authorities.

a. ~~"Class C" authorized emergency vehicles~~ means:



- (1) Vehicles authorized by the state division of homeland security or local division of emergency management organizations.
- (2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
- (3) Vehicles, other than ambulances, used by emergency medical services personnel.

3. "Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches [50.8 centimeters] in diameter.
4. "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. Provided, every motor vehicle designed for carrying not more than fifteen persons and used for a ridesharing arrangement, as defined in section 8-02-07, is not a "bus".
5. "Business district" means the territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet [91.44 meters] or more is occupied by buildings in use for business.
6. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
7. "Child restraint system" means a specifically designed device, built-in seating system, or belt-positioning booster that meets the federal motor vehicle safety standards and is permanently affixed to a motor vehicle, is affixed to the vehicle by a safety belt or universal attachment system, or is combined with a federally compliant safety belt system.
8. "Commercial freighting" means the carriage of things other than passengers, for hire, except that such term does not include:
  - a. The carriage of things other than passengers within the limits of the same city;
  - b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or in the immediate vicinity thereof, in this state, and not to exceed two miles [3.22 kilometers] from the corporate or recognized limits of said city; or
  - c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market.
9. "Commercial passenger transportation" means the carriage of passengers for hire, except that the term does not include:
  - a. The carriage of passengers within the limits of a city.
  - b. The carriage by local buslines of passengers to or from a railroad station from or to places within any city or within two miles [3.22 kilometers] of the limits of the city.
  - c. The carriage of passengers under a ridesharing arrangement, as defined in section 8-02-07.

10. "Commissioner" means the director of the department of transportation of this state, acting directly or through authorized agents as provided by section 24-02-01.3.
11. "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.
12. "Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
13. "Dealer" means every person, partnership, corporation, or limited liability company engaged in the business of buying, selling, or exchanging motor vehicles, or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, limited liability company, or association doing business in several cities or in several locations within a city must be considered a separate dealer in each such location.
14. "Department" means the department of transportation of this state as provided by section 24-02-01.1.
15. "Director" means the director of the department of transportation of this state as provided by section 24-02-01.3.
16. "Driver" means every person who drives or is in actual physical control of a vehicle.
17. "Essential parts" means all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation and includes all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.
18. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or by destroying life or limb.
19. "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.
20. "Farm trailer" includes those trailers and semitrailers towed by a bona fide resident farmer hauling the farmer's own agricultural, horticultural, dairy, and other farm products if the gross weight, not including the towing vehicle, does not exceed twenty-four thousand pounds [10886.22 kilograms].
21. "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit and designed to

# CHAPTER 39-10 GENERAL RULES OF THE ROAD

## 39-10-01. Provisions of title refer to vehicles upon the highways - Exceptions.

1. The provisions of this title relating to the operation of vehicles apply to the operation of vehicles upon highways or other places open to the public for the operation of vehicles except when a different place is specifically referred to in a given section.
2. The provisions of this title, or equivalent ordinances, relating to reporting of accidents, careless driving, exhibition driving, drag racing, reckless or aggravated reckless driving, driving while under the influence of intoxicating liquor or controlled substances, or fleeing or attempting to elude a peace officer apply upon highways and elsewhere.

**39-10-01.1. Required obedience to traffic laws.** It is unlawful and, unless otherwise declared in this chapter or in chapter 39-06.1 with respect to particular offenses, it is a class B misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.

**39-10-02. Obedience to police officer or firefighter.** No person may willfully refuse to comply with any lawful order or direction of any police officer or firefighter invested by law with authority to direct, control, or regulate traffic.

**39-10-02.1. Person riding animal or driving animal-drawn vehicle.** In addition to any special regulations, any person riding an animal or driving any animal-drawn vehicle upon a roadway must be granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions which by their very nature can have no application.

~~**39-10-03. Class A authorized emergency vehicles.**~~

1. The driver of a class A authorized emergency vehicle may:
  - a. Park or stand, irrespective of the provisions of this chapter.
  - b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
  - c. Exceed the speed limit so long as the driver does not endanger life or property.
  - d. Disregard regulations governing direction of movement or turning in specified directions.
2. The exceptions herein granted to a class A authorized emergency vehicle apply only:
  - a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions.
  - b. When the class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death, or damage to property, and when giving adequate warning by use of a flashing red or combination red and white lights that are visible under normal atmospheric conditions for at least five hundred feet [152.4 meters] and if appropriate, giving audible signal by siren or airhorn. A law enforcement vehicle that is otherwise a class A authorized emergency vehicle may display a flashing blue light in

addition to and under the same conditions as the other colors allowed in this subdivision.

- c. In any instance when the head of a law enforcement agency deems advisable within the area of that person's jurisdiction for the protection of person and property and when giving audible signal by siren or when giving adequate warning by use of a flashing red or combination red and white lights which are visible under normal atmospheric conditions for at least five hundred feet [152.4 meters]. A law enforcement vehicle that is otherwise a class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.
3. An emergency vehicle may not display or permit to be displayed any red lamp except when operated on official business.
  4. Any law enforcement officer as provided in paragraph 2 of subdivision a of subsection 2 of section 39-01-01 having stopped another vehicle along a highway, and while still involved in that incident, or any other related activity, may use amber lights, visible under normal atmospheric conditions for at least five hundred feet [152.4 meters], for the purpose of maintaining traffic flow.

~~39-10-03.1, Class B authorized emergency vehicles.~~

1. The driver of a class B authorized emergency vehicle may:
  - a. Park or stand, irrespective of the provisions of this chapter.
  - b. Exceed the speed limit so long as the driver does not endanger life or property during the time of a local or national disaster.
  - c. Disregard regulations governing direction of movement or turning in specified directions.
2. The exceptions herein granted to a class B authorized emergency vehicle apply only when the authorized emergency vehicle is displaying an amber light visible under normal atmospheric conditions for a distance of five hundred feet [152.4 meters] in any direction, and:
  - a. When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
  - b. When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of the driver; or
  - c. When traveling at a speed slower than the normal flow of traffic.

~~39-10-03.2, Class C authorized emergency vehicles.~~ All class B specifications apply to class C authorized emergency vehicles except that a rotating blue flashing light must be displayed in place of an amber light as provided in section 39-10-03.1. With respect to vehicles used by state and local disaster emergency services personnel, the division of homeland security is responsible for adopting rules for the use of flashing blue lights in accordance with chapter 28-32.

**39-10-04. Obedience to and required traffic-control devices.**

1. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

2. No provision of this chapter for which traffic-control devices are required may be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a state statute does not state that devices are required, such statute is effective even though no devices are erected or in place.
3. Whenever official traffic-control devices are placed in positions approximately conforming to the requirements of this title, such devices must be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary is established by competent evidence.
4. Any official traffic-control device placed pursuant to the provisions of this title and purporting to conform to the lawful requirements pertaining to such devices must be presumed to comply with the requirements of this title, unless the contrary is established by competent evidence.

**39-10-05. Traffic-control signal legend.** Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow may be used, except for special pedestrian signals carrying a word or legend, and said lights must indicate and apply to drivers of vehicles and pedestrians as follows:

1. Green indications:
  - a. Vehicular traffic facing a circular green indication may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
  - b. Vehicular traffic facing a green arrow indication, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
  - c. Unless otherwise directed by a pedestrian-control signal as provided for in section 39-10-06, pedestrians facing any green indication, except when the sole green indication is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.
2. Steady yellow indication:
  - a. Vehicular traffic facing a steady circular yellow or yellow arrow indication is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic may not enter the intersection.
  - b. Pedestrians facing a steady circular yellow or yellow arrow indication, unless otherwise directed by a pedestrian-control signal as provided for in section 39-10-06, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian may then start to cross the roadway.
3. Steady red indication:

TESTIMONY- SB 2107  
HOUSE TRANSPORTATION COMMITTEE  
MARCH 3, 2011  
BY GREG WILZ  
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members, my name is Greg Wilz and I am the Deputy Director of the Department of Emergency Services (DES), and Homeland Security Division Director.

This bill originates from DES and presents changes needed to update North Dakota Century Code. During the 2005 Legislative Session, DES was reorganized under the Office of the Adjutant General. In 2006 with approval from the Office on Management and Budget, the DES budget was merged into the Office of the Adjutant General. It has for the past two biennia and will continue to be submitted within the budget of the Office of the Adjutant General. Therefore, a language change in 37-17.1-23 is necessary to confer authorization responsibility to the Office of the Adjutant General.

The second change shifts responsibility for requesting deficiency appropriations and loan repayment from the Emergency Commission to the Office of the Office of the Adjutant General. It has been a long standing practice for the Division to obtain and repay loans through the deficiency appropriation process. SB 2107 seeks to change code requirements to align with actual procedure.

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I urge members to support SB 2107 and will answer any questions committee members may have.