

2011 HOUSE TRANSPORTATION

HB 1278

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

HB 1278
01/20/2011
Job #13183

☐ Conference Committee

Committee Clerk Signature

Jeannette Cook

Explanation or reason for introduction of bill/resolution:

HB 1278 allows cities that regulate vehicular traffic to set fines within their jurisdiction and to declare an emergency.

Minutes:

Attachments #1-7

Representative Nancy Johnson, District 37, introduced HB 1278 and provided testimony. See attachment #1.

Representative Onstad: In a previous session, there was decision about Fargo, they had unusually high fees and home rule came into play. They were using home rule to raise their fees. I think we had a court decision that they could not be higher than whatever the state was set. Are we looking to change that portion of that statute?

Representative Nancy Johnson: I think that is what this is going to do. There are others here that know more about the technicalities of it. The idea is that unless we change all the state fine levels, we are limited in a city by law to just charge what the state has. This is in a sense separating the two.

Chairman Ruby: Would you rather that we change the fines across the state? That would keep consistency from city to city and across the state. Or, would you favor each town having their own?

Representative Nancy Johnson: I guess I haven't thought about it. I was just looking at the flexibility of allowing the fines to change from what the state ones are. The individuals from the cities may have better input on that.

Representative Curt Kruen, District 43 in Grand Forks, a city council member, and a chair of the Safety and Service Committee testified in support of HB 1278. He feels that each city should have the flexibility to determine what the fines should be. The reasoning for this is that each community is different. If you are going down a road by a school zone, we should have the capability of making the fine higher as a deterrent, rather than it being the same across the board. This bill would give the flexibility to do that. There are two things that this bill would do. One would be a deterrent and the other is the cost. For the most

part the fines don't even cover the cost. I find it a bit ironic, that we give the ability to charge \$200 to \$250 as a minimum for littering, but we don't have the same ability in our own communities to set the fines higher as a deterrent and safety precaution. We think that each community should have the flexibility to change the fines to fit their particular situation. Representative Onstad indicated that this would be a money maker. Many times the cost is so low, that the people don't bother to pay the ticket. Then a warrant has to be put out for their arrest, so the cost goes up even more. Eventually we find it cost prohibitive to pursue it. The officers can spend their time doing more important things than chasing down a warrant for a \$10 fine. I think each community should have the ability to adjust those costs as needed and use this as a deterrent for poor behavior.

Connie Sprynczynatyk, North Dakota League of Cities, indicated support of HB 1278 and indicated that there are a number of representatives from different cities and the North Dakota Peace Officers Association to provide information to the committee. She provided copies of interesting newspaper articles that have appeared in the last year about traffic issues. They will just give you an idea of what we are talking about. See attachment #2.

Connie Sprynczynatyk: This bill is different from the ones in the 2007 and 2009 sessions. It simply says that if a city regulates traffic, then it may by ordinance establish a traffic fine schedule. I think you are going to hear about this from a safety angle and traffic in the west angle. We also have people here who will answer your questions about cost.

Chairman Ruby: We are going to be asked if cities are going to use this as a source of revenue. What would you say in response to that?

Connie Sprynczynatyk: There are people here that can give you the numbers that prosecuting traffic violations is not a money maker. After the big accident that we all remember in Fargo, for about a decade, a number of cities were levying higher traffic fines. I was on the Bismarck City Commission when we had a discussion about the growing traffic problems in Bismarck. Our observation was that the fines were simply no deterrent whatsoever. In some cases we are talking about the cost of a couple of Happy Meals at McDonalds or two lattes and a tip at Starbucks. Our commission took action strictly as a safety measure, and we did not look at the numbers except to say, "If a \$10 fine doesn't get your attention, will a \$20 fine, or a \$40 fine?"

Dennis Johnson, Mayor of Dickinson, spoke in support of HB 1278 and provided prepared testimony. See attachment # 3.

Vice Chairman Weiler: What is the reason for the decrease in traffic fines in the last two years? It is fairly significant.

Dennis Johnson: It is. In March of 2008 that we were require to reduce our fine amounts to come in line with the state. For example, the fine for running a red light was \$40, but now it is \$20. Most of the common fines have been reduced by about 50%.

Chairman Ruby: I know some years ago, there was a bill that put some uniformity to fines. I wonder if we are going to get back to that inconsistency, if we go with higher fines in different cities. Maybe it is not a problem, but I wonder if it could be.

Dennis Johnson: It is somewhat similar to the question that you asked Representative Johnson. I would say that every city in North Dakota is different. I don't think that one size fits all. I look at Hwy 22, it is the major north south throughway in Dickinson. We have two elementary schools that are on that highway, right in between two stoplights. It is a very dangerous situation. There are cars parked parallel on both sides of the street. Parents are dropping children off. Another thing that makes us unique is the oil development. It brings much larger vehicles to the community. I have witnessed them speed right through red lights. A fine of \$20 is no deterrent. I am also the CEO of PMI, and we are right on the intersection of Hwy 22 and Villard, which is the major intersection in Dickinson. In November I had an employee hit in the crosswalk. Our star basketball player at Dickinson State was involved in an accident at an intersection with a car running a stoplight. He suffered a severe cut. It is a very dangerous situation. While there are some revenue issues here, it is really a big safety issue. We have to be able to slow these vehicles down. Being in an oil impact community, we have a lot of other law enforcement issues that we are dealing with. I know our police officers are spending less time on traffic.

Representative R. Kelsch: You are talking about raising the fines, but yet you are saying that currently law enforcement doesn't have time to enforce the traffic violations. By increasing the fines, do you think that people will stop their bad driving behaviors? Just increasing fines will not give law enforcement any more time to patrol those violations. Or, does this just become more lucrative for law enforcement so now they become traffic violation chasers and not take care of some of the bigger issues that are happening?

Dennis Johnson: It will not give us more time. I see it more as a deterrent. Being in an oil impact area, even if we tripled these fines, it wouldn't act as an incentive for law enforcement to spend more time on law enforcement, because we are going to go where the higher priority needs are. I can assure you that in western North Dakota now the police are receiving enough service calls that it challenges their time. When it comes to the traffic side of things, that is the area that they are probably going to spend the least amount of time on. You have to answer 911 calls. I think that we need a greater deterrent, so that when we do have the opportunity to stop someone, it will cause a little more pain and make them think about it the next time they are trying to beat a red light.

John Olson, representing North Dakota Peace Officers' Association, spoke in support of HB 1278. Our association has no interest in the fines or the revenue that is created from the fines. Our interest is solely public safety. We believe it is time that the fines be adjusted to reflect a sincere interest by the legislature in the state of North Dakota in dealing with public safety. We have doubled the fines in construction zones. That must illustrate to all of us that there is some point to be made by increasing fines to change behavior. I think that could be said in the surrounding states of Montana, Minnesota, and South Dakota. They all have significantly higher fines over the level of North Dakota. I think that you would find there that they are creating behavioral changes when people are operating their motor vehicles and being subject to the law. I have asked some people in the state about what is going on in terms of traffic safety. The assistant Chief from West

Fargo was kind enough to give me some information about what is happening in his city. He told me that in 2009 they had 629 crashes and in 2010 they had 585. They had 3600 citations in West Fargo in 2009 compared with 3546 in 2010. In 2011 in the first 14 days they had 58 crashes, nearly all were speed related. You know that stopping distances increase dramatically, with increased speed. You know that if the highways are wet or icy, increased speed presents triple and ten times the dangers. Those are things that we need to consider, especially in our environment. I read an editorial in the Tribune recently. It stated that if we are going to increase fines, we should do it statewide to be consistent. I kind of thought that it was a good point; that maybe the state should do that. But, the state hasn't done that, so we are not here talking about THAT. It is an option that is available to you as a committee anytime. There are differences between rural and urban. There are even differences between cities. You have school zones, side streets, crosswalks, pedestrian areas, and all kinds of different areas that all warrant different treatment. So, I think that there is solid justification for enacting this bill. This would provide for each of the cities to examine what their particular situations are, so they can adapt their fines to the conditions that exist in that city. That, combined with the fact that we are becoming a more diverse society, we need to take a look at how we provide the incentive for people to obey the law. I don't know the last time these fines were set, but it was probably during my lifetime which could be many, many, many years ago. We have not had a real adjustment in the levy of fines for a considerable number of years. Adjusting to the inflation factor alone, it would be a fairly significant increase. The NDPOA really believes that public safety is a major issue here, and the only way to address it is to give the cities the opportunity to apply their discretion to their particular home environments.

Representative Onstad: In my area we lowered the speed limit to address safety. It didn't change the speed any, until the officers got out and enforced the speed limit. Then the safety issue was addressed, when the presence of the law enforcement was there. We do need the people out there to enforce the laws. We really need more peace officers.

John Olsen: I respectfully disagree. I think that fines serve as a deterrent regardless of the presence of a peace officer. I can tell you my own situation. When I am driving to Minneapolis, I am driving with a behavior in mind in North Dakota a little bit different that I am in Minnesota. I am minding my P's and Q's in Minnesota, because I don't want to pay the \$100+. I really believe that is behavior modification that comes from the level of fines. I might not even see an HP the whole trip between Fargo and Minneapolis, but my behavior has changed. I understand your point, but it doesn't go the distance in doing what the state should be doing by enabling a higher level of fine. That is the deterrent.

Representative Onstad: The presence of seeing an officer from time to time is also a deterrent. It does also make a difference.

John Olson: I fully agree with your point. I just want you to understand my point of view, which is the fine itself is a deterrent whether or not there is an officer present.

Brad Bekkedahl, Finance Commissioner for the Williston City Commission, provided testimony in support of HB 1278. See attached testimony #4. He explained that Williston faces the same issues as presented by Mayor Johnson of Dickinson. We have significant traffic increases. There are some intersections that are seeing over ten to twenty thousand

vehicle a day. The majority of them are large truck or commercial traffic. Our situation now is that they just blatantly run the red lights, because they are big enough vehicles with heavy industry loads that once they start through the intersection they just continue moving. There is a particular intersection north of Williston on the highway that is on our bypass which bisects the city, at that intersection they block three other intersection when they stack up the large trucks trying to get through the left turn light signal there. When that happens, they just essentially keep going through the red light and block traffic in the other directions and present that safety consideration. Another safety concern we have is that our bypass has a speed limit of 40 mph. We have two schools abutting that by pass, several churches, a nursing home, and some other smaller commercial areas, as well as one of our city parks. So, we have a lot of cross traffic of pedestrians along that roadway. We currently have two crosswalks with stoplights. When the trucks approach that intersection with a speed limit of 40 mph, they just go through the red lights. We are very concerned about that situation. We have asked for an overpass or an underpass to get children safely across that, but they have been denied at the funding level several times. The issue with the cost of patrolling, it is our view that we don't expect to recover all the costs of public safety, but currently our system of law enforcement at the county and city level and the highway patrol level in the NW District are so taxed that they are going to higher priority projects. We have over 4000 living in temporary housing, just in Williams County and Williston alone right now. That is a huge number of people to watch when you have all that going on. The highway patrol is increasing their patrol number by six in next year's budget. Williston is increasing our police officers by three. We know that we don't have the law enforcement to adequately police the situation. But, would an increase in fees be beneficial to us to help offset the cost of further law enforcement? Obviously, it would be something that would be a bonus for us. We levy approximately \$1.9 million general fund tax levy for the city of Williston. About \$1.3 million goes to police. We are already spending 65% of our general fund tax levy for police protection in the city. Of that amount, in total municipal court fees, not just the traffic violations, we recover less than \$200,000 a year. Please give us the ability to respond to the demands and needs that we have out there at this time in oil country.

Chairman Ruby: You mentioned that the dollar amount is a deterrent, but if someone gets multiple violations on their license and what that does to their insurance, isn't that also a deterrent?

Brad Bekkedahl: I think that it would be a deterrent, but at the intersection I am referring to with over 20,000 vehicles a day, the chances of getting caught at that intersection are maybe once or twice a year. I just see some much traffic there, that I don't see much chance of catching the same one every time for multiple infractions.

Representative Delmore: We all understand our obligation to public safety, etc. In North Dakota we are a conservative state. We don't like paying really high taxes, and we don't like paying really high fines. I am wondering if this authority is given, will it be taken seriously, rather than suddenly bumping something up to a point where citizens come and say to me, "Thanks a lot!" I understand the deterrent, and certainly don't condone that kind of driving, but it is a realistic issue that each of us faces with our own constituents.

Brad Bekkedahl: I agree, I face that every day in my own position as finance commissioner position as well. Taxes are a huge issue for all of us. I am not recognizing that we want this change for revenue. We are telling you that we would like to have the increase ability on the local level, to whatever our citizens demand or could accept, to try and handle the situation we have right now. We understand the state's side of the issue and are trying to get some consideration for our side as well.

Representative Gruchalla: A traffic fine is voluntary tax. It is one that you chose to pay. That is a definition that we should remember.

Representative Stacy Doll, District 42 in Grand Forks is a co-sponsor of the bill and spoke in support of HB 1278. She wanted to add one additional point. In 2010 there was a Supreme Court case in North Dakota that said if you are cited under a municipal ordinance and it is \$20 or higher, you have a right to a jury trial. In this case the city can expect to see an increase in expensive jury trials. I think that this is one thing that has changed since this was last considered.

Jerry Stein, Bismarck Police Department, spoke in favor of HB 1278, in place of Keith Witt, the Chief of the Bismarck Police Department. . He provided prepared testimony. See attachment # 5. Jerry Stein cited studies that were done in which the increase in fines significantly decreased the amount of accidents and the undesirable behavior. He stated that by increasing fines, they hope to see more people following the regulations. There is strong correlation out there that shows just by increasing fines, it will decrease the number of citations issues.

Chief Jeff Balentine, City of Minot, spoke in favor of HB 1278 and provided written testimony. See attachment #6.

Chief Jeff Balentine, City of Minot: I want to add one thing that I don't have in my written testimony. I came from Phoenix, AR. When I came here in the early 1980's, it was \$100 if parked in a mobility impaired space in Phoenix. In Minot it was \$10. When we had weather like it is today, those handicapped spaces were full. I had bonanza writing tickets in handicapped spaces. When that went up to \$100, we see very few \$100 tickets for mobility impaired parking space violations. We are asking you today, for that deterrent. It will help traffic safety. In my years as command staff at the Minot Police Department, I have never seen more traffic that has occurred lately. We need to do something about it. We have put additional officers out on the street, but we need additional deterrent, and that is fines.

Representative Louser: If I am driving on a street near a school, and I find out that the fine is doubled or tripled, but six blocks it is no longer an issue. It seems to me that it would just be consistent to have the fines the same everywhere. How would I know where the fines increase?

Chief Balentine: We would make drivers aware with signage. There is high volume around schools with children who don't necessarily look both ways when they cross the intersection, versus a residential area. They would also be published if they were to change.

Representative Louser: The fines would be posted on the signs?

Chief Balentine: No, the speed limits would be posted.

Chairman Ruby: The fines around schools are already higher at this time. Right?

Chief Balentine: Yes, sir. In the city of Minot, we have five of the highest 20 crash intersections in the state of North Dakota. We have that to consider as well.

Representative R. Kelsch: Were the conditions exactly the same a year ago as they were this year? Could it be that the conditions are worse this year because of the snow and causing the increase in accidents?

Chief Balentine. I looked at that when I was putting this together. We had as much snow in Minot this year as we have right now. They are not exactly the same; they can't be. But, as far as snow goes, they are comparable.

Representative Delmore: Do you have any later dates than 2007? I would think that boom of the increase in traffic in Minot from 2007 to 2010 would be a much better gauge of what the difference is. These are pretty old statistics.

Chief Balentine: No, I do not. These were published from the Department of Transportation. They may exist, but I do not have them.

Connie Sprynczynatyk distributed written testimony from Bill Wocken from Bismarck in support of HB 1278. See attachment #7. .

Representative Owens: One thing I found interesting when I moved here was how smart most of the drivers were. They would come up on a red light and all of the sudden it changes. If it is in the winter and is slippery, and they figure out it will just be safer to blow on through. Now, they get a \$120 fine because they were thinking about other people and other vehicles, rather than get somewhere in a hurry.

Connie Sprynczynatyk: I think we could spend all day, spinning "what if...". But, the fact is if I'm driving through the red light and feel it is safer to keep going, and I don't crash into someone, that is good. I ducked a crash and a ticket. But, I would just tell you that the traffic situations in the 357 cities are different. If they have some problems, they should be able to address them. That is what we are asking in this bill.

Representative Owens: I work with transportation everyday and intelligent transportation systems. I am having a difficult time understanding the correlation between traffic fines and traffic. The traffic is not going to shrink, if we increase traffic fines The way they behave is what we are hoping to change. But, the fact that you have these corridors where there are an entire number of red light systems that are not linked or sequenced, it is not going to help the traffic condition or the time it takes to get across town.

Connie Sprynczynatyk: I don't think that any one of us is suggesting that increasing fines is going to reduce the traffic. But, when you have a remarkable increase in traffic and you couple that with bad behavior on the part of drivers, you are going to have problems. So, we are saying that we have noticed not only the increase in traffic, but the increase in problems. We have to get at those problems. A ten or twenty dollar fine these days, is simply not a deterrent. If the state's preference is to change the fine schedule, we wouldn't be opposed to that. We tried that for two sessions, and it didn't work. So, this is the simple approach. We are saying, "Give us the tools to fix the problems that we see."

Representative R. Kelsch: I am going to ask you this question since you represent the cities. I am a big state's rights person. But, I am also an individual that thinks local control is good, especially if there is an elected board overseeing it. This issue has to come before the legislature. For consistency purposes, would it be better for the state to put a ceiling on the amount that the municipality can charge for their fines? The reason I ask this is for tourists. I think it is confusing when going from city to city that have different laws. It could be the same for a local driver who doesn't keep up with the changes. Should we just put a ceiling on it?

Connie Sprynczynatyk: I take your point, but am wondering if public education is the principle piece here. If the legislature says that this is not really a safety issue, but a prevailing need to have the public understand everything the same way and have uniformity, then your choice is to set a range and put it into state law. So, some jurisdictions will change and others won't. So, you still have the opportunity for inconsistency. I don't really understand the problem. Is it that you think that everyone knowing is the key? If you don't ever commit a murder or do property damage to your neighbor, then you don't know that fine structure either. There is not an easy answer here. I cannot tell you that if you just do this, then we can do this, and that will take care of the problem. What we are saying is that there are different problems in the communities. If you don't violate the law, particularly if you obey the posted speed limit, you don't need to know what the fines are. If you don't violate the law, you don't pay the fine.

There was no further testimony in support of HB 1278.

There was no testimony in opposition to HB 1278.

The hearing on HB 1278 was closed.

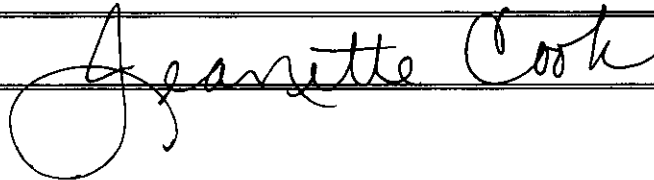
2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1278
01/27/2011
Job #13594

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman Ruby asked the committee to look at HB 1278 and distributed an amendment for the bill. He explained that this bill deals with cities increasing traffic fines. The amendment will allow the city to raise the fines to 100% more than the state level. The reason for using a percent is so that if the state increases fines, it would allow the cities to increase as well. The amount that is above the state level will not go into a city fund, but it will go into the Highway Tax Distribution Fund. All the cities share in this. That is the difference with this amendment. Chairman Ruby felt that this will alleviate some of the concerns that cities are trying to make money by raising fines.

Representative Delmore: I understand the 100%, but I do think that there is an increased cost for some of these departments. I feel that anything over the state increase is not going to help them very much with some real costs that they have. I think that if they need more money for enforcement that some of it is there.

Chairman Ruby: Cities will still get to keep whatever the state amount is that they are currently getting. For example, if they are now getting a \$20 fine, and it increases to \$40, they will get \$20 and then the rest will go into a fund that they get a share of. Indirectly they get a percentage of it.

Representative Vigesaa: Would Representative Weisz know how much of that money would be returned to the city by the formula?

Representative Weisz: It would be about 13%.

Representative Delmore: It would be handy to have a copy of the formula that shows the division of money that goes into the Highway Distribution Fund.

Chairman Ruby: I have a copy. 61.3% - State Dept. Department of Transportation, 2.7% - townships, 1.5% public transportation, 34.5% - counties... I will get a copy for everyone

Representative R. Kelsch: In testimony they all said that they mostly want the increased fines for a deterrent. They didn't say that they were doing this because the city needed the additional revenue. They emphasized the increased traffic and using fines as a deterrent.

Representative Onstad: One of the cities said that the cost to administer a \$20 fine was higher than \$20. That may be a concern.

Vice Chairman Weiler: I have a concern. If a small city issues a \$20 ticket for running a stop light and in a week the city writes 20 tickets and gets \$400 for that. If this is used for a deterrent, and this bill cuts their fines in half, then the city will only get 10 tickets at \$40, but half will go into the Highway Distribution Fund. The cities may lose money on this. I know they will get some from the Highway Distribution Fund, but this may have an unintended consequence. If it does work as a deterrent, they will see fewer violations.

Representative Weisz: I think that we need to be cautious about comparing the cost of a violation to the fine. With anything that goes to court, the amount of the fine will not pay anywhere close to the costs. That shouldn't be relevant. We are doing enforcement for public safety. The issue is if we want to let cities raise the fines or not. If you raise the fines enough, at some point people are going to go to court.

Representative Frantsvog: I have some experience with my job as finance director for the city. I don't know what the numbers are now, but I know that fines are not a money making thing for political subdivisions. It will never come close to what it costs to operate a police force. My thoughts on this bill are to run it up the pole as it is, and if it makes it, fine, and if it doesn't, so be it.

Representative Frantsvog moved a DO PASS on HB 1278.
Representative Hogan seconded the motion.

A roll call vote was taken. Aye 6 Nay 8 Absent 0
The motion failed.

Vice Chairman Weiler moved the amendment for HB 1278.
Representative R. Kelsch seconded the motion.

A voice vote was taken. Motion carried.

Representative Delmore move a DO PASS as amended on HB 1278.
Representative R. Kelsch seconded the motion.

A roll call vote was taken. Aye 8 Nay 6 Absent 0
The motion carried.
Vice Chairman Weiler will carry HB 1278.

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1278
02/03/2011
Job # 13947

☐ Conference Committee

Committee Clerk Signature

Jeannette Cosh

Explanation or reason for introduction of bill/resolution:

Minutes:

Chairman Ruby brought HB 1278 back to the committee for reconsideration. It was brought to his attention that there was no time frame in the amendment of when to remit the payment to the Highway Distribution Fund. The way that the fund is distributed to political subdivisions is on a monthly basis. It makes sense to this on a monthly basis as well. There were a couple other areas that the grammar was corrected.

Representative R. Kelsch moved a motion to reconsider HB 1278.
Representative Weisz seconded the motion.

A voice vote was taken. The motion carried.

Representative Weisz: As long as we are reconsidering the bill, I would argue that if we are going to do this at 100%, that there are problems involved with sending part of the money to the State Highway Distribution Fund. I think we should take a look at this again. If the committee thinks that the cities should have up to twice what the state limit is, that is fine. I agree with the rational. I don't like any political subdivision using enforcement as a means to gain revenue, but I do think that it will cause a paper work and time issue, if we put some of the money into the State Highway Distribution Fund. If there is any desire, I think that we should take a look at the part of the amendment of moving half of the fine into the State Highway Distribution Fund. I don't have a problem with letting them have the doubled fines. I think we should give the cities the fine money, if we do this.

Chairman Ruby: The criticism of the bill will be that cities will be using that fine money for their budgets. That isn't the reason that they should necessarily be enforcing those penalties. I wouldn't support the bill if it was going into their specific budgets.

Representative Hogan: I would agree with Representative Weisz. I think that the administration of keeping track of the money going into the State Highway Distribution Fund and sending it out on a monthly basis will cost them money. You would be setting up new administrative procedures.

Chairman Ruby: What I liked about it is that we are putting money into the State Highway Distribution Fund, and they get a percentage back.

Representative Hogan: I think it is bureaucratic.

Representative Weisz moved the amendments with the removal of the language on page 1, line 11, from the draft of the proposed amendment. The other language would stay the same.

Representative Hogan seconded the motion.

Representative R. Kelsch: My biggest concern of this bill in the first place was the fact that municipalities could raise their fines to anything that they wanted, kind of like an open checkbook. I had a problem with that, but you addressed that problem when you limited it to 100%. Every municipality will probably raise those fines to 100%. That is fine, and there will be more consistency as we drive across the state. I have had a number of phone call talking about the administration and the time and money that it will cost to process all of this. I am willing to look at this amendment. If it is defeated, I will go back to supporting the bill as it originally was. Hopefully this will be somewhat a deterrent.

Chairman Ruby: I talked to a gentleman from the city of Bismarck that had testified and explained this to him. He said that this was understandable. I'm sure they would like to have the money, but their intent was really for the deterrent.

Chairman Ruby explained the motion again. This is a motion to move the amendment with the removal of line 11 on page 1.

A roll call vote was taken: Aye 11 Nay 2 Absent 1
The motion carried.

Representative Heller moved a **DO PASS as amended** on HB 1278.

Representative Gruchalla seconded the motion.

A roll call vote was taken. Aye 11 Nay 2 Absent 1

Chairman Ruby: The bill will allow the cities to set their fees above the state amount by 100%, and they retain the full amount.

The motion carried.

Representative Heller will carry HB 1278.

Date: 1-27-11Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1278House TRANSPORTATION Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By Frantzvog Seconded By Hogan

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 Vigasaa		X			
Representative Weisz		X			

Total (Yes) 10 No 8Absent 0

Floor Assignment _____

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

DRAFT
PROPOSED AMENDMENT TO HOUSE BILL NO. 1278

Page 1, line 10, after “limits” insert “by one hundred percent”

Page 1, line 11, after the period insert “Any dollar amount received by the city for a violation which is over the state amount would be deposited into the highway tax distribution fund.”

Renumber accordingly

Date: 1-27-11

Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1278

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 Weiler Seconded By RAKelsch

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Vote
Vote
on
amend.*

Date: 1-27-11Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1278House TRANSPORTATION Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment☐ Rerefer to Appropriations ☐ ReconsiderMotion 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 Frantsvog		X	Representative Hogan	X	
Representative Heller	X		Representative Onstad		X
Representative R. Kelsch	X				
Representative Louser		X			
Representative Owens	X				
Representative Sukut		X			
Representative Vigasaa		X			
Representative Weisz		X			

Total (Yes) 8 No 6Absent 0Floor Assignment Weiler

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

Date: 2-3-11Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1278House TRANSPORTATION Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment☐ Rerefer to Appropriations ☒ ReconsiderMotion Made By P. A. Kelsch Seconded By R. Weisz

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Reconsider
Action*

DRAFT
PROPOSED AMENDMENT TO HOUSE BILL NO. 1278
Updated January 28, 2011

Page 1, line 10, overstrike "limits" and insert immediately thereafter "limit by one hundred percent of the limit"

Page 1, line 10, after "for" insert "an"

Page 1, line 10, overstrike "categories" and insert immediately thereafter "category"

Page 1, line 10, overstrike "violations" and insert immediately thereafter "violation"

Page 1, line 11, after the period insert "The city shall remit on a monthly basis any fee collected in excess of the limit in section 39-06.1-06 to the state treasurer for deposit in the state highway tax distribution fund."

Renumber accordingly

FOR REFERENCE ONLY - previous amendments passed on January 27, 2011 (these changes would no longer be in effect with passage of the January 28, 2011 amendments provided above):

Page 1, line 10, after "limits" insert "by one hundred percent"

Page 1, line 11, after the period insert "Any dollar amount received by the city for a violation which is over the state amount would be deposited into the highway tax distribution fund."

Renumber accordingly

Procedure: Motion to reconsider to undo the amendments. Move to replace the 02 amendments with 03 amendments. Reconsider the previous action for new action. Vote to reconsider the action to pass w/ amendments; vote to reconsider.

Date: 2-3-11Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1278House TRANSPORTATION Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By R. Weisz Seconded By K. Hogan

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

Total (Yes) 11 No 2Absent 1

Floor Assignment _____

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

vote to
amend
the
amendment

V12
2/3/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1278

Page 1, line 10, overstrike "limits" and insert immediately thereafter "limit by one hundred percent of the limit"

Page 1, line 10, after "for" insert "an"

Page 1, line 10, overstrike "categories" and insert immediately thereafter "category"

Page 1, line 10, overstrike "violations" and insert immediately thereafter "violation"

Renumber accordingly

Date: 2-3-11

Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1078

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 Heller Seconded By Gruchalla

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

Total (Yes) 11 No 2

Absent _____

Floor Assignment Heller

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

REPORT OF STANDING COMMITTEE

HB 1278: Transportation Committee (Rep. Ruby, Chairman) recommends
AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS**
(11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1278 was placed on the
Sixth order on the calendar.

Page 1, line 10, overstrike "limits" and insert immediately thereafter "limit by one hundred
percent of the limit"

Page 1, line 10, after "for" insert "an"

Page 1, line 10, overstrike "categories" and insert immediately thereafter "category"

Page 1, line 10, overstrike "violations" and insert immediately thereafter "violation"

Renumber accordingly

2011 SENATE TRANSPORTATION

HB 1278

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee Lewis and Clark Room, State Capitol

HB 1278
March 25, 2011
16017

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to the imposition of fees by cities for certain vehicle and traffic violations.

Minutes:

Written Testimony

Chairman Senator G. Lee opened the hearing on HB 1278.

Representative Nancy Johnson, District #37, introduced HB 1278. This bill allows cities that regulate vehicular traffic to set fines within their jurisdiction. She stated that first and foremost this is an issue about safety. See written testimony #1.

Representative Johnson read and submitted testimony from Dennis Johnson, Mayor of the City of Dickinson encouraging support for HB 1278. He testified that while safety is his primary concern, he is also concerned about the city's fiscal condition. Oil impact is placing a significant financial burden on the city. The loss of revenue from traffic fines beginning in March 2008 adds to that financial burden and places increased tax obligation on property taxpayers. Written testimony #1.a

Senator Mathern asked if they would like the bill passed the way it is or if they would prefer the original bill.

Representative Johnson said that personally, she would like it to allow the cities to set their own fines but her fear is that if it goes back to the original bill it would not make it through the House. She said that doubling the current fines in statute is better than nothing.

Senator Sitte asked when the cities had their own ability to raise the fines, what was their city fine.

Representative Johnson replied that in Dickinson their fines were double from what was in statute. She could not speak for other cities.

Senator Nething asked if this affected every city or just those under home rule.

Representative Johnson replied that it would be all cities.

Senator Nething said that it appears to him that it could be a revenue increaser for a lot of small towns.

Representative Johnson pointed out that some of the heavy oil trucks are zipping right through some of those smaller cities and when they say the fine is \$20 it doesn't encourage them to slow down. The smaller cities need a deterrent also.

Senator Nething asked if these violations carried a point penalty.

Representative Johnson answered that some do but she did not know the specific breakdown on it.

Senator Nething suggested maybe we should double the points along with doubling the fine.

Representative Johnson said that her instinct says no. She believes the House doesn't want any larger fines or more points taken off.

Senator Nething thought we may be attacking it the wrong way. With loss of points they would know that they have to slow down because their points are the bases of their livelihood.

Senator Lee clarified that if the current fine was \$40, with the passing of HB 1171, it could make that same fine \$80.

Representative Johnson said correct.

Senator Lee asked how their enforcement in Dickinson changed with the oil activity.

Representative Johnson replied there have been an increase in members on the Dickinson Police force but they have also had an increase in population and a large increase in traffic.

Representative Kreun, District #43, Grand Forks City Council member and chairman of the Safety and Service Committee testified in support of HB 1273. Policing is a public service but if we don't have a strong deterrent they dismiss it. What happens is they dismiss the safety aspect which Representative Johnson just testified on. In addition, they dismiss the warrant when they don't pay the ticket and they dismiss the court appearance simply because the fine is so minuet. The process is costing the tax payer money. He addressed the issue of points. He stated that out of state people don't care about points or coming back so we lose that enforcement and that deterrent portion. He pointed out that the deterrent is the major factor. He also said that it cost Grand Forks \$13 just to process the paperwork of recording that basic violation. The current \$20 fine hardly covers that small part of it. He asked that they take more points off and increase the fines.

Connie Sprynczynatyk, North Dakota League of Cities, testified in support of HB 1278. This is a bill that the League asked to have introduced. Prior to a court case in the Fargo

area and a Supreme Court decision, there were a number of cities operating under an attorney General's opinion from the nineties that appeared to indicate that cities could charge different traffic fines under home rule. When that decision was overturned the cities went back to the states schedule. This is the third time that the League has asked the legislature to make a change in what cities can levee for traffic fines. There primary interest is the deterrent effect. She said that the oil activity in the west has highlighted the need in the western part of the state for enforcement and deterrents. She pointed out that the state fine schedule was established in 1953 and hasn't been changed since then except the legislature has added higher fines for speeding in a construction zone and they have considered bills to look at higher fine for going around a barrier. The state does have a record of working on specific issues but the general schedule hasn't really changed. She concluded that public safety is always general fund expenditure. The primary source is property tax but highway distribution money may go into the general fund and then send that out for streets and roads. Cities are spending far more on public safety than they take in from property tax. The fine fees are a small slice. The answer to whether this bill is a revenue producer is no, it is not a significant revenue producer. It is an important part of the deterrent piece. See attached information #2.

Senator Nething asked about points. Are they not a deterrent? Why don't we address them along with the fines?

Ms. Sprynczynatyk replied that they introduced HB 1278 in the simplest form to simply say if a municipality regulates traffic it may by ordinance establish a traffic fine. The House amended it to reflect double the state fine schedule they did not address points. She understands that the points are helpful but the primary question they have addressed is: What is the fine? That is what gets people's attention. They have to pay that money.

Brad Bekkedahl, Finance Commissioner for the Williston City Commission testified in support of HB 1278. The fees listed in NDCC section 39-06.1-06 are so low as to be perceived by the general public merely as a convenience fee, something one pays for the convenience of speeding, delaying repairs, or falsifying a logbook. See written testimony #3.

He also explained some of the problems they are having with red light infractions and enforcement and the loss of personal to the oil fields. They explained a particular problem with a bypass area. He said that the majority of their drivers are from out-of-state. He doesn't know if the points would become an issue for those drivers. He said he would agree with Representative Kreun that both fine and point increases would be beneficial as a deterrent.

Senator Nething understanding is that a driver has a given number of days before he has to have a North Dakota license. Senator Nething referred to his statement where he referred to accumulation of points eventually becoming a deterrent. He asked him to explain.

Mr. Bekkedahl said that he had consulted with his police chief and he did say that was an issue with the local driving workforce. He said that he would agree that points and fines would be very beneficial as a deterrent.

Chief Jeff Balentine from the Minot Police Department spoke in support for HB 1278. See attached written testimony #4.

Senator Lee asked if he had the actual numbers for traffic increases instead of just the percentages.

Chief Balentine replied that he did not.

Keith Witt, Chief of the Bismarck Police Department, testified in support of HB 1278. He stated that he is supporting HB 1278 because it is extremely important in improving the safety of the citizens of Bismarck and other cities in ND. See written testimony #5.

Senator Mathern asked his opinion on adding the emergency clause.

Chief Witt replied that he would be in support.

Senator Nething said that he didn't talk about the use of points as a deterrent in his testimony. He asked if that was because he didn't believe they were a deterrent.

Chief Witt said that he didn't specifically address points because it wasn't part of the bill. He said that cities don't have the authority to vary the points from the state. Increasing points would have to be the same across the state. Personally, he doesn't think people worry too much about points because in six months they would have those points back. He thinks the impact is the money coming out of their pocket.

There was a short discussion on average drivers and violators.

Mike Reitan, Assistant Chief of the West Fargo Police Department, testified in support of HB 1278. He stated that some of the information he presented in his testimony he gave in 2009. The proposed legislation during 2009 was to increase fees across the state. Opposition indicated the increases were not warranted and would be unpopular in rural North Dakota. He believes the increased fees are warranted and necessary for increased public safety within our cities. See written testimony #6.

Senator Lee asked for any opposing testimony.

Schurkey Swanke, Grand Forks, testified in opposition to HB 1278. This bill represents or facilitates everything that is wrong with traffic enforcement; specifically claiming "safety" as a pretext to rape the motorist. See written testimony #7.

Senator Lee closed the hearing on HB 1278.

Committee Work

Senator Lee opened committee work on HB 1278.

Senator Nething expressed his concern about deterring violations and not about financing cities.

Senator Nodland said that the emergency clause was taken out by the House. He stated that he didn't want to lose this bill. He said that the bill made it this far and he would like to see the committee pass it out in the same shape the House gave it to us.

Discussion continued on deterrent possibilities. The questions evolved into the subject of points. Points specifically affect CDL drivers. They also affect insurance rates.

Senator Oehlke asked the committee if we need an amendment.

Senator Mathern asked if the points affect out-of-state drivers.

Senator Oehlke said absolutely, especially when insurance companies are involved. States and companies communicate with each other.

In view of the discussion, **Senator Lee** said that Senator Nething could have some time to pursue the possibility of an amendment. Senator Lee did have some concern with the inconsistencies of the fines.

Senator Lee closed the discussion on HB 1278.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

HB 1278
April 1, 2011
16268

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Minutes:

Committee Work/Action

Senator G. Lee opened committee work on HB 1278 relating to the imposition of fees by cities for certain vehicle and traffic violations.

Senator Nething presented amendments 11.8194.03001. Attachment #1 The intent of the amendment is to increase the demerit points in proportion to the increase of the fee. What this would do is that the increase in penalty would carry with it an increase in the points that are assessed against the individuals driving record. It might be said that this creates an imbalance in the point system however so does the increase in the fine penalty. He said that he was trying to get at what he thinks the heart of the problem is. Money alone doesn't mean that much to these drivers. It is the points, particularly for the CDL drivers.

Senator Nething moved to adopt the amendment.

Senator Mathern seconded the motion.

Senator Oehlke asked for an example.

Senator Nething said that if you were going to double the speed limit fine then the points would be doubled. He continued that if the cities take the fine to a different amount than the points would only increase to the portion equivalent to the increase of the fine.

Senator Nodland said that he had visited with his Chief of Police in Dickinson and he is totally against the point system. In testimony the Bismarck Police Chief and the West Fargo Assistant Chief Police were against the additional demerit point system. He stated that it just muddies the water. He agrees with Senator Nething that it does add an additional deterrent but in representing his constituents he is against this.

Senator Sitte also spoke with her local sheriff and he sees problems with doubling the points. He said that state highways and interstates come right into the city. On one side of

the street you could have double points and on the other side you abide by state standards. It would be just too inconsistent.

There was discussion on whom this would effect. There was some concern for the minor under eighteen who could lose their license with a single offense, if it was a four point offense and the points are doubled. They lose their license at five points.

Senator Nething said that is exactly what he would like to happen. If they speed maybe they should lose their license. This is a strong enough penalty that we should cut down on the speed.

There was a brief discussion on insurance records and how the points would affect premiums. **Senator Oehlke** said that it has to do more with the violation than the points.

Roll call vote: 2-4-0.

Amendment failed.

Senator Lee presented amendment 11.8194.03002. He said that he has heard several times in the hearing and discussion that this bill is not about the money. It's been said that we are just trying to enforce the laws that are there and fines make the difference, so we don't care about the money. If that is the case, this amendment would put those fines if they choose to include them in the common school trust fund rather than in the city coffers.

Senator Nething moved to adopt the amendment.

Senator Oehlke seconded the motion.

Senator Nodland stated, "It is all about the money". The lobbyist, commissioners and sponsors of the bill said it was about money. These cities are hurting for money in their police departments and cities are funding police and sheriff's departments with taxes.

Senator Lee heard in the testimony that it really wasn't about the money in terms of it going into the city coffers it was about raising the fines so that people wouldn't ignore them. This will allow cities to raise the fines and the money can go into the common school trust fund just like other fines do.

Senator Nething replied that the fine was supposed to be a deterrent.

Senator Mathern suspects that it is a little of both. They need the money to do the law enforcement and need the increase to have a greater deterrent.

Roll call vote on the amendment: 4-2-0. **Motion passed.**

Senator Mather moved a **Do pass as amended.**

Senator Sitte seconded the motion.

Roll call vote: 3-3-0. **Motion failed.**

Senator Nething moved a **Do Not Pass as amended**.

Senator Oehlke seconded the motion.

Roll call vote: 4-2-0. **Motion passed.**

Senator Oehlke is the carrier.

11.8194.03001
Title.

Prepared by the Legislative Council staff for
Senator Nething

March 29, 2011

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1278

Page 1, line 10, after the period insert "If a city establishes a fee that exceeds the limit for an equivalent category of violation set forth in section 39-06.1-06, the demerit points listed in section 39-06.1-10 are increased in proportion to the increase in the fee, to the closest whole number."

Renumber accordingly

Failed

Date: 4-1-1
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1278

Senate _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8194, 03001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nething Seconded By Senator Mathern

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

Total (Yes) 2 No 4

Absent 0

Floor Assignment _____

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

March 29, 2011

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1278

Page 1, line 10, after the period insert "A city that establishes a fee that exceeds the fee for an equivalent category violation as listed in section 39-06.1-06 shall transfer the excess fee on a monthly basis to the state treasurer for deposit in the common schools trust fund."

Renumber accordingly

Read

Date: 4-1-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. Re-E 1278

Senate _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number 11,8194,03002

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nething Seconded By Senator Oehlke

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

Total (Yes) 4 No 2

Absent 0

Floor Assignment _____

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

Date: 4-1-11
Roll Call Vote # 3

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

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 Mathern Seconded By Senator Sitte

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) 3 No 3

Absent _____

Floor Assignment _____

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

Failed

Date: 4-1-11
Roll Call Vote # 4

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1278

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 Nething 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) 4 No 2

Absent 0

Floor Assignment Senator Oehlke

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

REPORT OF STANDING COMMITTEE

HB 1278, as reengrossed: Transportation Committee (Sen. G. Lee, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO NOT PASS (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
Reengrossed HB 1278 was placed on the Sixth order on the calendar.

Page 1, line 10, after the period insert "A city that establishes a fee that exceeds the fee for an equivalent category violation as listed in section 39-06.1-06 shall transfer the excess fee on a monthly basis to the state treasurer for deposit in the common schools trust fund."

Renumber accordingly

2011 TESTIMONY

HB 1278

Testimony for HB 1278
Nancy Johnson
Representative – District #37

Good morning, Chairman Ruby and members of the House Transportation Committee.

My name is Nancy Johnson. I am a representative from District #37, Dickinson.

HB 1278 before you this morning basically allows cities that regulate vehicular traffic to set fines within their jurisdiction. At first blush, this may look like a way for a city to obtain increased revenue. But I ask you to keep an open mind to the testimony you will hear.

First and foremost, this is an issue about safety. In Dickinson we have seen a tremendous increase in the volume of traffic and I have personally witnessed many drivers going through stop signs without stopping, running red lights and exceeding the speed limit through school zones. It is just a matter of time before we have a very serious accident. The dollar amount of the current fines is so minimal that it does not do enough to deter drivers.

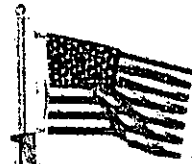
Secondly, the cost to write and process a ticket, and if necessary to prosecute a violation, far exceeds the cost of the fine. The average property tax payer in the municipality, who is law abiding, is subsidizing the driver who chooses to break the law. In other words, my property tax dollars increase to pay all the additional costs beyond the minimal fine amount. In essence I am being taxed to subsidize the law breakers.

Mr. Chairman and Committee Members, I ask for favorable consideration of HB 1278.

82/54
Details, 10C



SUNDAY,
JULY 4, 2010



The Bismarck Tribune

www.bismarcktribune.com

\$1.75

Police push fine increase

*Recent cases highlight
North Dakota's light fines*

By DAVE ROEPKE
For The Associated Press

FARGO — An Alabama man drives through fresh concrete on Interstate 94, leaving a \$100,000 mess in his wake.

He's cited for driving through a safety zone around barricades.

The fine is \$20.

A 92-year-old strikes two motorcycles on Highway 57 in Benson County, killing a woman.

She's cited for driving on the wrong side of the road.

The fine is \$20.

These cases, both of which made headlines in June, highlight an issue that's a major frustration

Continued on 8A

"We are so low you have to ask the question, 'What's the point?'"

Fargo Police Chief Keith Ternes



ALL ABOARD: The Barrel Train takes kids; more photos of Friday's events on Page 8

Police push

Continued from 1A

for law enforcement agencies: Why are North Dakota's traffic fines so light?

Granted, those incidents are the extreme and might not have played differently had the fines been higher. But supporters of upping the cost of the state's traffic fines say increases would provide a deterrent effect that's sorely lacking.

"We are so low you have to ask the question, 'What's the point?'" Fargo Police Chief Keith Ternes said.

Yet, efforts to boost those fines have been easily shot down in the past two sessions of the Legislature.

Ternes said he's decided to stop pushing lawmakers for increases, after lobbying in both 2007 and 2009.

"To go back out there for a third attempt and try to convey the same message is not worth my time or anybody else's time," the chief said. "It clearly has not resonated with many of the legislators across the state."

Rep. Ed Gruchalla, D-Fargo, said if re-elected, he'll likely try again to adjust the fine structure, which was set in the mid-1950s.

But Gruchalla, a former North Dakota trooper who has sponsored the House's fine-raising bills, said he's not confident the result will be much different.

"I'm a little bit disillusioned by the last vote in the

That's why Ternes hopes that if he steps aside as a vocal proponent, rural law enforcement officers could be more convincing.

But the vote wasn't strictly along urban-rural lines. The 16 House members from Fargo and West Fargo split an even 8-8.

One of the "no" votes was House Majority Leader Rep. Al Carlson, R-Fargo. Carlson said he'd be open to an increase in fines as long as they aren't pumped up too high too fast.

Doubling a fine is too much, he said.

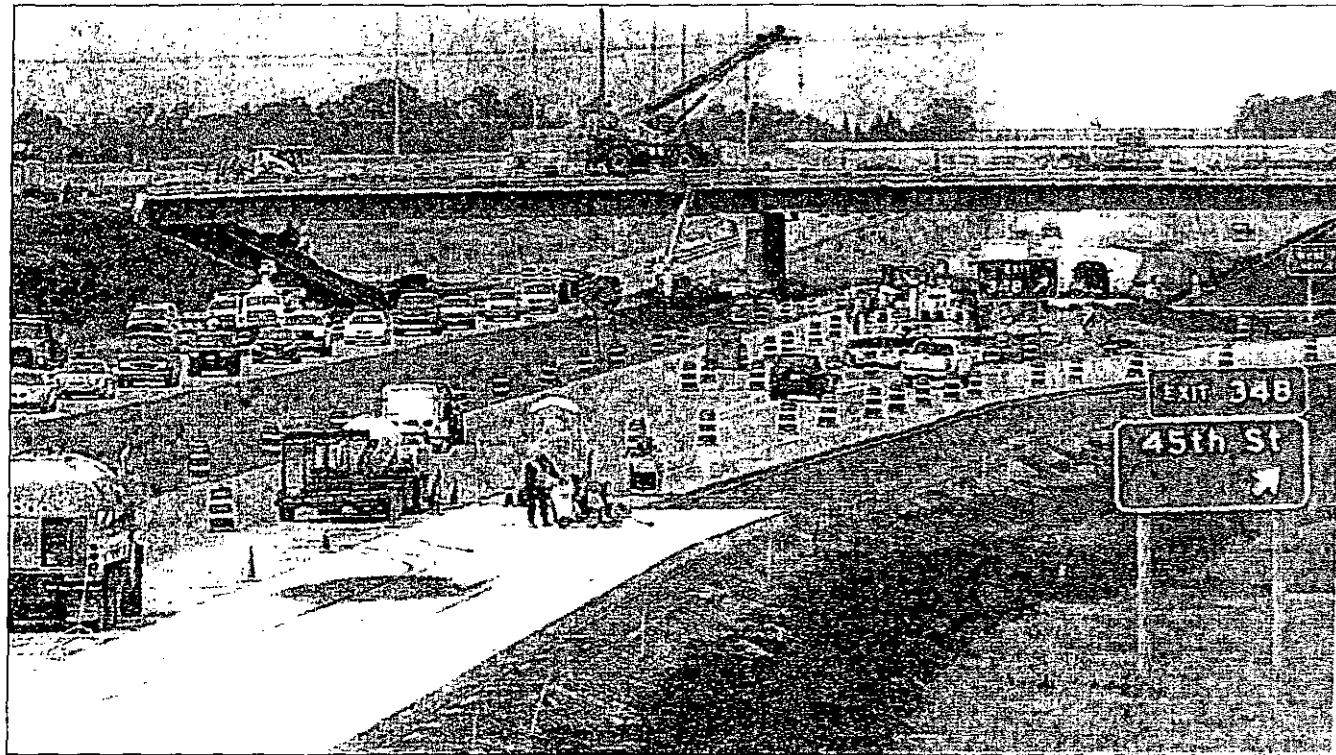
"If it's a major increase, I wouldn't support it. If it's reasonable, I'll discuss it," Carlson said.

Carlson said much of the opposition to raising the fines does come from lawmakers on the more rural western side of the state.

"His goal is to make speeding affordable," he said of an unidentified western legislator. "That's not my goal."

Rep. Keith Kempenich, R-Bowman, is from District 39, which includes much of the southwestern corner of the state, including four counties that border Montana.

Kempenich said while he would support boosting the fines in construction zones, where speeding tickets are already mandated to be at



Associated Press

A workman uses a saw to cut into fresh concrete on June 10, after a pickup pulling a trailer drove through fresh concrete the previous night on a new lane being added to Interstate 94 in Fargo.

much, unless you really got carried away with it," he said.

Gruchalla's bill in 2009 aimed to raise the standard moving violation from \$20 to \$30 and those for specific fines, such as speeding.

Many serious traffic violations carry that generic moving violation fine of \$20,

ricade and driving on the wrong side of the road.

Gruchalla said driving around a barricade is a good example of a fine that needs to be higher, as it's given to drivers who ignore road closures during winter storms. He said it was a common violation he saw as a trooper.

North Dakota Supreme Court barred the practice.

It's a financial issue for Fargo, as well. In 2009, the first full year since it had to do away with the higher city fines, Municipal Court collected about \$1 million less in fines than it did in 2006 and 2007.

City finance officials had

to deter driving violations high fines and a large police presence.

The chief said that's why there has been a particular focus on traffic issues by Fargo officers in the past two years.

For example, two separate "blitz" campaigns by Fargo police generated 18 citations



Bowman grapples with heavy truck traffic

By LAUREN DONOVAN Bismarck Tribune | Posted: Tuesday, July 27, 2010 2:15 am

BOWMAN -- Bowman will hold a special meeting at 7 p.m. tonight at city hall to share and get ideas about truck traffic running up and down a residential street in town.

Some is oil traffic, along with a mix of farm and construction trucks, and Mayor Lyn James said residents worry about their safety with small children and elderly people using 11th Avenue on the west side of Bowman.

James said truck drivers are using the street for quick north-south access, causing problems for people who live there.

"That's not what it's meant for," James said.

Bowman leaders haven't forgotten the death of a pedestrian that occurred on an even busier street in town 10 months ago. That death of 42-year-old Belinda Messer, a developmentally disabled woman who was crossing Highway 85, remains unsolved. A witness described the striking vehicle as a white Freightliner semi truck carrying a pipe load, but no one has come forward and the State Highway Patrol is out of leads to pursue, said Patrol Sgt. Bill Vance.

The patrol had hoped that it could get usable information from an outdoor security camera at a gas and convenience store on the corner of U.S. Highways 85 and 12 in Bowman. Vance said a cooperating police agency tried to enhance the video, but couldn't get a readout on plates or the truck's identification number.

"We really have nothing further to go on," Vance said. He said no one provided tips of a possible driver, but said if any information comes in, it will be pursued.

In the aftermath of the fatality, the state Department of Transportation improved the intersection where Messer was killed.

James said the crosswalk pattern and signs were improved there and better street lighting is in the works.

"I think it's much better," James said of Highway 85 through Bowman.

As to 11th Avenue, James said the city engineer has come up with some options. She said the city could restrict truck traffic in that area.

Bowman Police Chief Chuck Headley said he and his officers are vigilant about traffic since it's so heavy through town, partly because of semi loads of oil equipment moving to the Bakken fields further north.

"It's been a constant topic of conversation," he said.

(Reach reporter Lauren Donovan at 701-748-5511 or lauren@westriv.com)

North Dakota woman dies after crash with car, 2 motorcycles

Posted: Thursday, May 20, 2010 4:15 pm

FORT TOTTEN, N.D. (AP) — A Devils Lake woman has died hours after a motorcycle crash north of Fort Totten.

The North Dakota Highway Patrol says 30-year-old Sheri Leidholt was a passenger on a motorcycle that was struck by an oncoming car about 9:30 p.m. Wednesday on State Highway 57. She died early Thursday at a Fargo hospital.

The patrol says 92-year-old Faith Mitzel of Oberon crossed the center line and hit two motorcycles. Leidholt was on the second motorcycle.

The operators of the two motorcycles were taken to a hospital for treatment.

Woman, 92, cited for driving on wrong side of road in fatal accident

Posted: Wednesday, June 16, 2010 12:57 pm

DEVILS LAKE — A 92-year-old Oberon woman whose car struck two motorcycles in Benson County, killing a woman and seriously injuring two men, has been cited for driving on the wrong side of the road.

Highway Patrol Capt. Kyle Ternes says Faith Mitzel will not face other charges in the May 19 crash on state Highway 57 that fatally injured 30-year-old Sheri Leidholt of Devils Lake.

Thirty-seven-year-old James Leidholt, who was driving the motorcycle his wife was riding, was cited for not having a proper license.

Woman cited in fatal crash contesting ticket

Posted: Monday, July 19, 2010 7:25 am

DEVILS LAKE, N.D. (AP) - A 92-year-old Oberon woman given a \$20 ticket in a fatal crash is contesting the citation.

Faith Mitzel was cited for driving on the wrong side of the road in the May 19 crash on state Highway 57 that fatally injured 30-year-old Sheri Leidholt of Devils Lake.

Benson County State's Attorney Jim Wang said Mitzel has a right to contest the ticket, and a hearing is scheduled July 26.

Woman cited in fatal crash to pay \$20 ticket

Posted: Friday, July 23, 2010 8:00 am

GRAND FORKS, N.D. (AP) - The lawyer for a 92-year-old Oberon woman given a \$20 ticket in a fatal crash said she has decided against contesting the citation.

Faith Mitzel was cited for driving on the wrong side of the road in the May 19 crash that fatally injured 30-year-old Sheri Leidholt of Devils Lake.

Mitzel had claimed after the accident that she had not crossed the centerline. A hearing had been scheduled for Monday.

But her attorney, Scott Sandness, said in a letter to Benson County State's Attorney James Wang that she would pay the fine.

Oberon woman cited in fatal crash arrested again

Posted: Wednesday, August 4, 2010 9:42 am

DEVILS LAKE, N.D. (AP) - An elderly Oberon woman who was fined \$20 for causing a fatal crash in Benson County faces a possible jail sentence after being arrested on new traffic charges in Ramsey County.

Faith Mitzel, who turned 93 on Wednesday, was stopped a day earlier just inside the Devils Lake city limits after failing to use a turn signal and arrested for driving with a suspended license and not having liability insurance, Sheriff's Deputy Ross Walther told KZZY radio.

Mitzel said she was not aware her license was suspended.

"That's the first time I have drove" since the fatal crash, she told the Grand Forks Herald.

Mitzel's vehicle was impounded. She was released on her own recognizance and was due in court Monday. She faces up to 60 days in jail and \$2,000 in fines if convicted on the misdemeanor charges, along with a \$20 fine on the turn signal citation.

Mitzel was cited for driving on the wrong side of the road in the May 19 crash that fatally injured a pregnant woman and resulted in a man having his foot amputated. She initially said she would contest her fine but later changed her mind.

Mitzel on Tuesday said she still thinks she did not do anything wrong and should be able to drive.

Elderly Oberon woman facing charges warned by judge to stop driving or be jailed

Posted: Monday, August 9, 2010 10:44 am

DEVILS LAKE, N.D. (AP) - A judge has warned an elderly Oberon woman that she will be jailed if authorities catch her driving again.

Faith Mitzel, 93, of Oberon didn't enter a formal plea during a court appearance Monday but told Judge Donovan Foughty she's not guilty, and has someone to drive her around.

Mitzel's driver's license was suspended following a May crash in which authorities said she hit two motorcycles, killing a pregnant woman. She was fined \$20. Mitzel was stopped last week on a traffic violation and subsequently arrested for driving with a suspended license and not having insurance. Both are misdemeanors.

Foughty on Monday ordered license plates removed from 10 vehicles registered to Mitzel. He also ordered that the vehicle she was driving last week remain impounded until she can show a valid license. She's due back in court Aug. 23.

93-year-old Oberon woman asks for jury trial, could face jail time if convicted

Posted: Monday, August 23, 2010 3:17 pm

DEVILS LAKE, N.D. (AP) - A 93-year-old Oberon woman in trouble for alleged driving offenses is set for a jury trial Oct. 6.

Faith Mitzel could face two months in jail and \$2,000 in fines if convicted.

Mitzel's driver's license was suspended following a May crash in which authorities say she hit two motorcycles, killing a woman. She was fined \$20.

Mitzel was then stopped in early August on a traffic violation and subsequently arrested for driving with a suspended license and not having insurance. Both are misdemeanors.

93-year-old Oberon driver could see jail time if prosecutor has way

Posted: Wednesday, August 25, 2010 8:16 am

DEVILS LAKE, N.D. (AP) - Ramsey County State's Attorney Lonnie Olson said he will seek the mandatory punishment of 60 days in jail for a 93-year-old Oberon woman accused of driving offenses.

Faith Mitzel faces an Oct. 6 trial on misdemeanor charges of driving with a suspended license and not having insurance.

Olson said Mitzel has a history of dangerous driving. Her license was suspended following a May crash in which authorities say she hit two motorcycles, killing a woman. She was fined \$20 but not criminally charged.

Mitzel was then stopped in early August on a traffic violation and arrested on the two misdemeanors.

Defense attorney Monty Stensland said seeking jail time for Mitzel in the current case would be an attempt to punish her for the May 19 crash.

LETTERS TO THE EDITOR

Road penalties need teeth

By DALE WILSON
Zap

There are so many people in North Dakota who blatantly ignore the rule of law, especially on the highways. I am constantly watching as people fly by me as I go down the road driving the speed limit.

Speeding is dangerous. I feel our fines are so low that people have no problem spending the \$25 (I was told this is the basic fine) for speeding. I think we need to make the penalty for breaking the law much higher.

Fines for speeding should start at \$50, if you get a second ticket, the price should go to \$100. If you get a third ticket, the price should go to \$200, and so on. Eventually, the person will not be able to afford to speed.

Speeding in work zones should be double all of

those fines. I bet if we finally made it a penalty with teeth, our highways would be much safer.

Children are, by law, required to be in a car seat or booster seat, depending on their age, height and weight. I see kids bouncing around the passenger compartment all the time. Maybe this penalty is not stiff enough?

Maybe if the penalty were jacked up, the parents would make sure their kids were secured properly. If it were me, the fines for this would start at \$250 and double from there. Please make the kids safe.

Pets loose in a vehicle scare me. I see, so often, people driving around with their dog/cat on their laps or arms looking out the window. Why do we allow this?

If the animal was to jump on their arm, it could easily jerk the steering wheel and cause an accident. Animals should be secured just as children are.

Tribune
9-15-10

Insurance is an ever-increasing cost for all families. If we increased the fines, I feel it would slow people down and make them pay attention to driving instead of the stereo, cell phone, kids or friends in the car.

How many lives would be saved if the laws on the books were followed by everyone?

The Bismarck
Tribune
www.bismarcktribune.com

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Set traffic fines for safety

Normally law-abiding citizens, frequently it seems, think nothing of exceeding the speed limit or only hesitating at stop signs. To the extent that on speed limits, people expect they will not get a ticket for driving 5 mph above the posted speed. A disconnect exists between traffic laws, and the reason they exist, which is safety.

The Tribune ran an Associated Press story Sunday on the level of traffic fines in the state, and about how the Legislature has not seen fit to raise them.

The story contained the following line from House Majority Leader Al Carlson, R-Fargo, in referring to another lawmaker opposed to raising fines, "His goal is to make speeding affordable." It perfectly illustrates the issue.

It appears people are willing to pay a fine to violate the speed limit, as long as it's reasonable. Unfortunately, the safety concerns, in terms of traffic accidents and, inevitably, fatalities, doesn't relate to reasonableness of fines.

TRIBUNE
EDITORIAL The theory is that if traffic fines were higher, then people would follow the law. Some in law enforcement believe North Dakota's fines are so low it's hardly worth the bother of enforcing them. They would like to see the fines boosted. In some cases they are right.

Traffic fines should reflect, and be proportionate, to the seriousness of the potential consequences of failing to follow the law.

If they are not, and a strong case can be made that some of the fines are too light, then the Legislature should adjust them.

So far, lawmakers haven't been interested in putting bigger bumps in the fines for traffic violations.

Raising traffic fines will not fix all the ills on our roads. The guy who drove around the barrier on Interstate 94, cruising through wet concrete and causing \$100,000 in damages, will still foolishly violate the law. The person driving impaired will continue to run the risk of creating a tragic accident. But that should not stand in the way of doing what's reasonable and prudent for a large majority of those on the roads.

North Dakota streets and roads are not nearly as safe as they could be. Traffic fines may be a part of that, but the behavior of the state's drivers and their lack of knowledge in the rules of the road seems to be a larger issue.

Making the connection between traffic law and safety is the real solution.

Testimony for HB 1278**Dennis W. Johnson****January 20, 2011**

Chairman Ruby and members of the House Transportation Committee, my name is Dennis Johnson. For the past ten years I have had the privilege of serving as Mayor of the City of Dickinson. I am here to support passage of HB 1278.

As a major oil hub city, Dickinson has grown significantly in the past five years due to oil development. Dickinson is anticipating even greater growth in the coming five years. One of the challenges with population growth is the increased volume of traffic it brings and its impact on safety. Because of oil development Dickinson has many more trucks and large pick-ups using its city streets. Add cell phone usage while driving to the increased traffic and larger vehicles, our major city streets have become less safe. Because of increased calls for service due to the oil impact, Dickinson police officers have less time to dedicate to traffic violation enforcement.

I have with growing frequency witnessed too many vehicles running stop signs and red lights. The severity and amount of our in city accidents are increasing and I fear it is just a matter of time before we experience a very serious accident. The current traffic violation fine amounts are not an effective deterrent for unsafe driving behavior and I support increasing them.

While safety is my primary concern, I am also concerned about the city's fiscal condition. Oil impact is placing a significant financial burden on the city. The loss of revenue from traffic fines beginning in March 2008 adds to that financial burden and places increased tax obligation on property taxpayers.

<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
\$215,232	\$272,986	\$217,454	\$150,040	\$163,976

Mr. Chairman and Committee Members, I ask for favorable consideration of HB 1278.

Bill No: HB1278
Hearing Committee: House Transportation Committee
Date: Thursday, January 20, 2011

Honorable Chairman Ruby and Committee Members,

My name is Brad Bekkedahl, and I am Finance Commissioner of the Williston City Commission. I stand here today in support of HB 1278 and ask for your support as well.

House Bill 1278 is legislation long overdue. The fees listed in NDCC section 39-06.1-06 are so low as to be perceived by the general public merely as a convenience fee, something one pays for the convenience of speeding, delaying repairs, or falsifying a logbook. While it may be the state's view that these fees are not meant to be a revenue source, the existing code has not even kept up with inflation, resulting in a net loss. The cost of a violation from issuance by law enforcement to the hearing process is more than the existing statutory fees. Should our cities have to increase property taxes to fund the cost of issuing citations for the safety of its citizens?

I ask you to allow city governing bodies to determine the fees which are in the best interest of their constituents by voting a "Do Pass" recommendation to HB1278. I would be happy to answer any questions you may have, and appreciate your considering my testimony today.



#15

Testimony in Support of HB1278

January 20, 2011

Testimony of Keith Witt

Mr. Chairman Ruby and members of the House Transportation Committee, I am offering these comments in support of HB1278. For the record, my name is Keith Witt and I am Chief of the Bismarck Police Department.

I am supporting HB1278 because I sincerely believe it is extremely important in improving the safety of the citizens of Bismarck and other cities in our great state. In North Dakota, we rightfully take great pride in being one of the safest states in our nation, and this privilege of being considered a safe state is based on our low rates of crime. In Bismarck, we also take great pride in being one of the safest metropolitan areas in the nation, again based on our low rate of crime.

While we in Bismarck are very fortunate and take great pride in being a safe community, one of the areas of great concern in Bismarck is traffic safety. When the statistical crime data for the past five years is examined, we find that in Bismarck, 1 in 16 of our criminal reports involve personal injuries versus 1 in 7 of the traffic reports involving personal injury. In 2010, 464 persons were injured in traffic crashes. Additionally, in 2010 there was \$1,938,195.68 property loss as a result of criminal acts versus \$10,958,719.00 for traffic crashes. As you can see from these statistics, in Bismarck, traffic accidents create a greater hazard to our citizens than do criminal activities. I believe that this same situation exists in all of the larger communities in our state.

Keith Witt, Chief of Police

Phone: 701-223-1212 ★ FAX: 701-355-1927 ★ Tdd: 701-221-6820 ★ 700 S. Ninth Street ★ Bismarck, ND 58504-5899



How do we create safer traffic conditions in our communities? I believe safer conditions result from a combination of efforts:

- 1) Education;
- 2) Enforcement efforts; and,
- 3) Deterrence factors.

As a community and through our efforts at the Bismarck Police Department, we can direct efforts towards education and enforcement. However, deterrence is what is at issue here in our discussion of HB1278.

Do our current traffic fines provide a proper level of deterrence? Unfortunately, there is no available research that provides an analysis of the level of traffic fines that provide deterrence. However, I believe there is plenty of anecdotal evidence that does show that higher traffic fines provide a deterrent for drivers. For example, I am sure we have all heard on numerous occasions conversation in which someone will be speaking about driving out of state and another person will warn them to slow down when they get to the state line as fines are significantly higher in that state than here in North Dakota. Also, there are regular every day examples here in North Dakota in which we show that we believe that higher fines are a deterrent. I am sure that you have all been driving down the interstate when you have come upon a construction area and the signs posted clearly say that the fines are increased when workers are present. The purpose of these signs is to provide for increased highway worker safety by creating a deterrent effect for drivers not to speed through the construction zone as a result of higher fine. If we didn't believe that higher fines were deterrent, wouldn't the signs simply advise drivers to slow down?

I do believe that the traffic safety issues in each community are different, which is why I believe that HB1278 is a good bill in that it allows individual communities to set traffic fines in accordance with their local experience. Without a doubt, the traffic safety issues in Bismarck are much different than those in a small community in North Dakota. I believe that if this bill passes, the governing bodies in cities of North Dakota will set fines that are in accordance with and appropriate for the traffic safety issues in their community. I know that some will argue that this creates issues for our citizens as traffic fines will be different in the various cities in our state so a driver does not know what the fine will be if they commit a violation. First of all, I don't

believe that many drivers currently know the exact fines under current law, but likely have the general knowledge that they are relatively inexpensive. Also, currently in our cities there is not equity in many of the various fees or charges. For example, the cost of various permits, animal licensing fees, vehicle impound fees, and parking fines will vary from city to city. Having different traffic fines would be no different. Also, for criminal violations, the "standard" fines vary from one area of the state to another. Also, having seen the direct impact and tragedy caused by traffic violations over my career, I don't believe it is necessary there be some kind of "fairness" so that drivers know the traffic fine and can make some kind of objective analysis if it is economical to break the law. If cities are able to set their own fines at an appropriate level, my hope would be that it would create a concern for drivers that they comply with the law as they may not know what the fine may be.

Finally, Bismarck police officers issued 11248 traffic citations in 2010. I know that these officers would tell you that their desire would be that those citations served as a deterrent for the drivers who received those citations not to commit future driving violations, and for the persons who received these citations to tell family members and acquaintances that they received a citation with a high fine and to be careful when driving in our community. However, those same officers would tell you that unfortunately the current fines for traffic violations do not achieve that result, and do not serve as a deterrent. While those officers will continue to go out and do their jobs, allowing cities to set fines appropriate with their local traffic safety issues would allow the efforts of those officers to be much more effective in making their communities safe.

I appreciate your thoughtful consideration of HB1278 which will increase the level of traffic safety in our communities and ultimately reduce the number of people killed and injured, and decrease the property loss that is occurring as a result of traffic accidents in our communities. Thank you.

Chief Jeff Balentine, City of Minot.

#6

Good Afternoon – Chairman Ruby and Transportation Committee Members.
Thank you for the opportunity to speak in SUPPORT of H.B. 1278.

As you well know, Minot and Northwest North Dakota are in the midst of an economic boom which is great but there are growing pains associated with the boom. Legislators are dealing with issues of infrastructure concerns for the Northwest Region including traffic. **When I say traffic I mean traffic!**

An article that appeared in the Minot Daily News in September 2009 states that traffic has increased dramatically from 2004 to 2007.

- 37th Avenue SW traffic has increased 87% from 2004 to 2007.
- Traffic on South Broadway has increased 50% from 2004 to 2007.
- Traffic on 16th Street SW has increased 46% from 2004 to 2007.

Anyone who has driven in Minot lately will attest that traffic has increased significantly in the last three years from these figures. Last weekend we had 36 crashes with 1 injury crash. The same weekend time period in 2010 we had 5 crashes.

Based on the calls for services and traffic activity, I previously spoke on asking for more police officers and received permission to hire five new officers in 2011. Putting more


officers on the street is certainly going to help but we also need a strong deterrent to our growing traffic problems.

Officer enforcement is crucial to traffic enforcement but so are fines. While officers who write tickets place a bond on the ticket, they are more concerned with safety and eliminating the illegal driving practice that has occurred. Bond amounts in traffic tickets certainly are a deterrent if they impact a person's income to make them stop an illegal driving practice. Police don't set fine schedules in Minot. The Municipal Judge, an elected official, does. A Municipal Court Judge hears and sees a variety of traffic offenses before him and can set fair bonds on traffic offenses. He is an elected official and is answerable to the public.

You have a number of bills in front of the legislature that deal with a fine deterrent, one being S.B. 2157, dealing with entering a road closed due to hazardous conditions from a \$20 fine to \$100 and 2 points.

Legislators have heard that a change is necessary for safety in S.B. 2157 and are recommending a strong deterrent for disobeying a road closure gate. We in Northwest North Dakota are having significant traffic problems and need your support with H.B. 1278 to bring our traffic problem under control.

The City of Minot has recognized the growing concern with additional manpower but we need more and H.B. 1278 passage will help provide a greater deterrent to illegal and dangerous driving practices.




Testimony of Bill Wocken
HB 1278
January 20, 2011

Mr. Chairman and House Transportation Committee members,

My name is Bill Wocken. I am City Administrator for the City of Bismarck. I am appearing in support of House bill 1278 as a tool for the use of Bismarck, and other cities, to address vehicular safety in our communities.

This bill gives cities the option to use fines that may differ from those in the Century Code to address traffic violations that pose unacceptable and unsafe conditions in our cities. It allows a city to customize the regulatory tools to fit local circumstances.



For example, red light violations are a problem in Bismarck. It is difficult and time-consuming to enforce red light regulations unless an officer happens to be in close proximity to the violation. The consequences of a red light violation are potentially very severe and death or injury can easily result from a violation. The ability to charge a violator more than \$20 is needed to underscore the severity of this violation.

There will be those in our community who will feel that an increased fine for this violation is unwarranted. They will have the opportunity to express their opinion to their local elected officials who will need to balance the fine with the safety concern. Our City Commission has done this for other violations and is able to perform this function.



Please give House Bill 1278 a "Do Pass" recommendation.

Testimony for HB 1278**Dennis W. Johnson****March 25, 2011**

Chairman Lee and members of the Senate Transportation Committee, my name is Dennis Johnson. For the past ten years I have had the privilege of serving as Mayor of the City of Dickinson. I am here to support passage of HB 1278.

As a major oil hub city, Dickinson has grown significantly in the past five years due to oil development. Dickinson is anticipating even greater growth in the coming five years. One of the challenges with population growth is the increased volume of traffic it brings and its impact on safety. Because of oil development Dickinson has many more trucks and large pick-ups using its city streets. When you add cell phone usage while driving to the increased traffic and larger vehicles, our major city streets have become less safe. Because of increased calls for service due to the oil impact, Dickinson police officers have less time to dedicate to traffic violation enforcement.

I have with growing frequency witnessed too many vehicles running stop signs and red lights. The severity and amount of accidents in our city is increasing and I fear it is just a matter of time before we experience a very serious accident. The current traffic violation fine amounts are not an effective deterrent for unsafe driving behavior and I support increasing them.

While safety is my primary concern, I am also concerned about the city's fiscal condition. Oil impact is placing a significant financial burden on the city. The loss of revenue from traffic fines beginning in March 2008 adds to that financial burden and places increased tax obligation on property taxpayers.

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#1

Testimony for HB 1278
Nancy Johnson
Representative – District #37

Good morning, Chairman Lee and members of the Senate Transportation Committee.

My name is Nancy Johnson. I am a representative from District #37, Dickinson.

HB 1278 before you this morning basically allows cities that regulate vehicular traffic to set fines within their jurisdiction. At first blush, this may look like a way for a city to obtain increased revenue. But I ask you to keep an open mind to the testimony you will hear.

First and foremost, this is an issue about safety. In Dickinson we have seen a tremendous increase in the volume of traffic and I have personally witnessed many drivers going through stop signs without stopping, running red lights and exceeding the speed limit through school zones. It is just a matter of time before we have a very serious accident. The dollar amount of the current fines is so minimal that it does not do enough to deter drivers.

Secondly, the cost to write and process a ticket, and if necessary to prosecute a violation, far exceeds the cost of the fine. The average property tax payer in the municipality, who is law abiding, is subsidizing the driver who chooses to break the law. In other words, my property tax dollars increase to pay all the additional costs beyond the minimal fine amount. In essence I am being taxed to subsidize the law breakers.

When I introduced this bill, it allowed cities to establish their own fine amounts. The House amended it to allow cities to basically double the amount of the maximum fine currently in statute.

Mr. Chairman and Committee Members, I ask for your favorable consideration of HB 1278.

1

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Details, 10C



SUNDAY,
JULY 4, 2010

The Bismarck Tribune

www.bismarcktribune.com

\$1.75

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Police push fine increase

*Recent cases highlight
North Dakota's light fines*

By DAVE ROEPKE
For The Associated Press

FARGO — An Alabama man drives through fresh concrete on Interstate 94, leaving a \$100,000 mess in his wake.

He's cited for driving through a safety zone around barricades.

The fine is \$20.

A 92-year-old strikes two motorcycles on Highway 57 in Benson County, killing a woman.

She's cited for driving on the wrong side of the road.

The fine is \$20.

These cases, both of which made headlines in June, highlight an issue that's a major frustration.

Continued on 8A

"We are so low you have to ask the question, 'What's the point?'"

Fargo Police Chief Keith Ternes



ALL ABOARD: The Barrel Train takes kids on a more photos of Friday's events on Page 8A.

Police push

Continued from 1A

for law enforcement agencies: Why are North Dakota's traffic fines so light?

Granted, those incidents are the extreme and might not have played differently had the fines been higher. But supporters of upping the cost of the state's traffic fines say increases would provide a deterrent effect that's sorely lacking.

"We are so low you have to ask the question, 'What's the point?'" Fargo Police Chief Keith Ternes said.

Yet, efforts to boost those fines have been easily shot down in the past two sessions of the Legislature.

Ternes said he's decided to stop pushing lawmakers for increases, after lobbying in both 2007 and 2009.

"To go back out there for a third attempt and try to convey the same message is not worth my time or anybody else's time," the chief said. "It clearly has not resonated with many of the legislators across the state."

Rep. Ed Gruchalla, D-Fargo, said if re-elected, he'll likely try again to adjust the fine structure, which was set in the mid-1950s.

But Gruchalla, a former North Dakota trooper who has sponsored the House's fine-raising bills, said he's not confident the result will be much different.

"I'm a little bit disillusioned by the last vote in the House," he said. "I don't quite understand it."

The 2009 House vote was 57-35, with more than half of the "yes" votes coming from lawmakers in the four largest cities in the state: Fargo, Minot, Grand Forks and Bismarck.

That's why Ternes hopes that if he steps aside as a vocal proponent, rural law enforcement officers could be more convincing.

But the vote wasn't strictly along urban-rural lines. The 16 House members from Fargo and West Fargo split an even 8-8.

One of the "no" votes was House Majority Leader Rep. Al Carlson, R-Fargo. Carlson said he'd be open to an increase in fines as long as they aren't pumped up too high too fast.

Doubling a fine is too much, he said.

"If it's a major increase, I wouldn't support it. If it's reasonable, I'll discuss it," Carlson said.

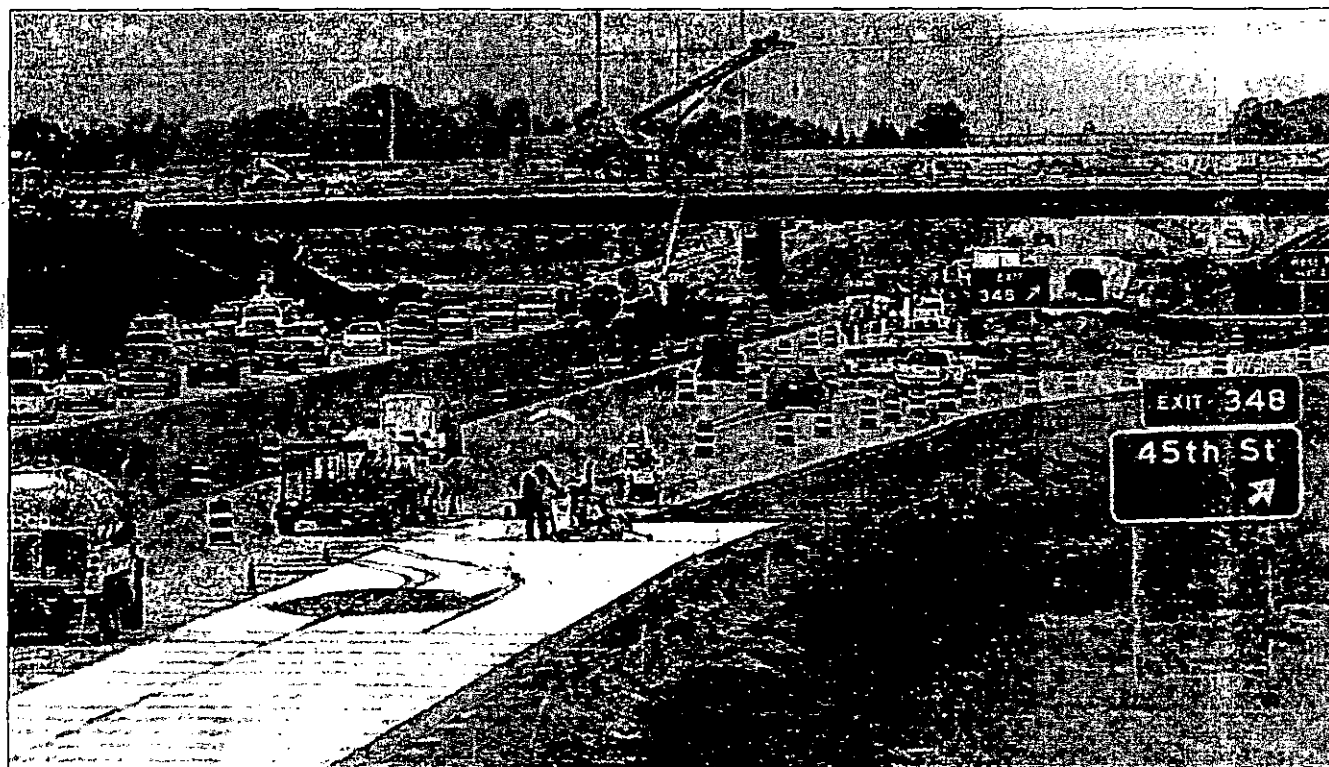
Carlson said much of the opposition to raising the fines does come from lawmakers on the more rural western side of the state.

"His goal is to make speeding affordable," he said of an unidentified western legislator. "That's not my goal."

Rep. Keith Kempenich, R-Bowman, is from District 39, which includes much of the southwestern corner of the state, including four counties that border Montana.

Kempenich said while he would support boosting the fines in construction zones, where speeding tickets are already mandated to be at least \$80, he'd prefer to see a more punitive structure for the license "points" that can eventually lead to a driving suspension. That is the best way to get at repeat offenders, he said.

"The dollar amounts are not going to slow them up



Associated Press

A workman uses a saw to cut into fresh concrete on June 10, after a pickup pulling a trailer drove through fresh concrete the previous night on a new lane being added to Interstate 94 in Fargo.

much, unless you really got carried away with it," he said.

Gruchalla's bill in 2009 aimed to raise the standard moving violation from \$20 to \$30 and those for specific fines, such as speeding.

Many serious traffic violations carry that generic moving violation fine of \$20, including running a stop sign or a red light, failing to yield, making an illegal U-turn, driving on the sidewalk and tailgating an emergency vehicle.

And don't forget the violations from the juvenile cases: driving around a bar-

ricade and driving on the wrong side of the road.

Gruchalla said driving around a barricade is a good example of a fine that needs to be higher, as it's given to drivers who ignore road closures during winter storms. He said it was a common violation he saw as a trooper.

"They knew what the fine was. They thought it was worth the risk," he said.

Carlson said he'd support a compromise that would allow cities to have costlier tickets than the state's, which many of them did before a 2008 ruling by the

North Dakota Supreme Court barred the practice.

It's a financial issue for Fargo, as well. In 2009, the first full year since it had to do away with the higher city fines, Municipal Court collected about \$1 million less in fines than it did in 2006 and 2007.

City finance officials had predicted the loss would be in that range.

Ternes has maintained it is not a financial issue for police, as fines go into the city's general fund. But it definitely makes traffic-law enforcement more difficult because there are two ways

to deter driving violations: high fines and a large police presence.

The chief said that's why there has been a particular focus on traffic issues by Fargo officers in the past two years.

For example, two separate "blitz" campaigns by Fargo police generated 180 citations.

"The traffic fine thing is really a dead issue for us. What we're left with is the other," Ternes said.

"There has to be that atmosphere where drivers think, 'a cops everywhere.'"



Bowman grapples with heavy truck traffic

By LAUREN DONOVAN Bismarck Tribune | Posted: Tuesday, July 27, 2010 2:15 am

BOWMAN -- Bowman will hold a special meeting at 7 p.m. tonight at city hall to share and get ideas about truck traffic running up and down a residential street in town.

Some is oil traffic, along with a mix of farm and construction trucks, and Mayor Lyn James said residents worry about their safety with small children and elderly people using 11th Avenue on the west side of Bowman.

James said truck drivers are using the street for quick north-south access, causing problems for people who live there.

"That's not what it's meant for," James said.

Bowman leaders haven't forgotten the death of a pedestrian that occurred on an even busier street in town 10 months ago. That death of 42-year-old Belinda Messer, a developmentally disabled woman who was crossing Highway 85, remains unsolved. A witness described the striking vehicle as a white Freightliner semi truck carrying a pipe load, but no one has come forward and the State Highway Patrol is out of leads to pursue, said Patrol Sgt. Bill Vance.

The patrol had hoped that it could get usable information from an outdoor security camera at a gas and convenience store on the corner of U.S. Highways 85 and 12 in Bowman. Vance said a cooperating police agency tried to enhance the video, but couldn't get a readout on plates or the truck's identification number.

"We really have nothing further to go on," Vance said. He said no one provided tips of a possible driver, but said if any information comes in, it will be pursued.

In the aftermath of the fatality, the state Department of Transportation improved the intersection where Messer was killed.

James said the crosswalk pattern and signs were improved there and better street lighting is in the works.

"I think it's much better," James said of Highway 85 through Bowman.

As to 11th Avenue, James said the city engineer has come up with some options. She said the city could restrict truck traffic in that area.

Bowman Police Chief Chuck Headley said he and his officers are vigilant about traffic since it's so heavy through town, partly because of semi loads of oil equipment moving to the Bakken fields further north.

"It's been a constant topic of conversation," he said.

(Reach reporter Lauren Donovan at 701-748-5511 or lauren@westriv.com)

Oberon woman cited in fatal crash arrested again

Posted: Wednesday, August 4, 2010 9:42 am

DEVILS LAKE, N.D. (AP) - An elderly Oberon woman who was fined \$20 for causing a fatal crash in Benson County faces a possible jail sentence after being arrested on new traffic charges in Ramsey County.

Faith Mitzel, who turned 93 on Wednesday, was stopped a day earlier just inside the Devils Lake city limits after failing to use a turn signal and arrested for driving with a suspended license and not having liability insurance, Sheriff's Deputy Ross Walther told KZZY radio.

Mitzel said she was not aware her license was suspended.

"That's the first time I have drove" since the fatal crash, she told the Grand Forks Herald.

Mitzel's vehicle was impounded. She was released on her own recognizance and was due in court Monday. She faces up to 60 days in jail and \$2,000 in fines if convicted on the misdemeanor charges, along with a \$20 fine on the turn signal citation.

Mitzel was cited for driving on the wrong side of the road in the May 19 crash that fatally injured a pregnant woman and resulted in a man having his foot amputated. She initially said she would contest her fine but later changed her mind.

Mitzel on Tuesday said she still thinks she did not do anything wrong and should be able to drive.

Elderly Oberon woman facing charges warned by judge to stop driving or be jailed

Posted: Monday, August 9, 2010 10:44 am

DEVILS LAKE, N.D. (AP) - A judge has warned an elderly Oberon woman that she will be jailed if authorities catch her driving again.

Faith Mitzel, 93, of Oberon didn't enter a formal plea during a court appearance Monday but told Judge Donovan Foughty she's not guilty, and has someone to drive her around.

Mitzel's driver's license was suspended following a May crash in which authorities said she hit two motorcycles, killing a pregnant woman. She was fined \$20. Mitzel was stopped last week on a traffic violation and subsequently arrested for driving with a suspended license and not having insurance. Both are misdemeanors.

Foughty on Monday ordered license plates removed from 10 vehicles registered to Mitzel. He also ordered that the vehicle she was driving last week remain impounded until she can show a valid license. She's due back in court Aug. 23.

93-year-old Oberon woman asks for jury trial, could face jail time if convicted

Posted: Monday, August 23, 2010 3:17 pm

DEVILS LAKE, N.D. (AP) - A 93-year-old Oberon woman in trouble for alleged driving offenses is set for a jury trial Oct. 6.

Faith Mitzel could face two months in jail and \$2,000 in fines if convicted.

Mitzel's driver's license was suspended following a May crash in which authorities say she hit two motorcycles, killing a woman. She was fined \$20.

Mitzel was then stopped in early August on a traffic violation and subsequently arrested for driving with a suspended license and not having insurance. Both are misdemeanors.

North Dakota woman dies after crash with car, 2 motorcycles

Posted: Thursday, May 20, 2010 4:15 pm

FORT TOTTEN, N.D. (AP) — A Devils Lake woman has died hours after a motorcycle crash north of Fort Totten.

The North Dakota Highway Patrol says 30-year-old Sheri Leidholt was a passenger on a motorcycle that was struck by an oncoming car about 9:30 p.m. Wednesday on State Highway 57. She died early Thursday at a Fargo hospital.

The patrol says 92-year-old Faith Mitzel of Oberon crossed the center line and hit two motorcycles. Leidholt was on the second motorcycle.

The operators of the two motorcycles were taken to a hospital for treatment.

Woman, 92, cited for driving on wrong side of road in fatal accident

Posted: Wednesday, June 16, 2010 12:57 pm

DEVILS LAKE — A 92-year-old Oberon woman whose car struck two motorcycles in Benson County, killing a woman and seriously injuring two men, has been cited for driving on the wrong side of the road.

Highway Patrol Capt. Kyle Ternes says Faith Mitzel will not face other charges in the May 19 crash on state Highway 57 that fatally injured 30-year-old Sheri Leidholt of Devils Lake.

Thirty-seven-year-old James Leidholt, who was driving the motorcycle his wife was riding, was cited for not having a proper license.

Woman cited in fatal crash contesting ticket

Posted: Monday, July 19, 2010 7:25 am

DEVILS LAKE, N.D. (AP) - A 92-year-old Oberon woman given a \$20 ticket in a fatal crash is contesting the citation.

Faith Mitzel was cited for driving on the wrong side of the road in the May 19 crash on state Highway 57 that fatally injured 30-year-old Sheri Leidholt of Devils Lake.

Benson County State's Attorney Jim Wang said Mitzel has a right to contest the ticket, and a hearing is scheduled July 26.

Woman cited in fatal crash to pay \$20 ticket

Posted: Friday, July 23, 2010 8:00 am

GRAND FORKS, N.D. (AP) - The lawyer for a 92-year-old Oberon woman given a \$20 ticket in a fatal crash said she has decided against contesting the citation.

Faith Mitzel was cited for driving on the wrong side of the road in the May 19 crash that fatally injured 30-year-old Sheri Leidholt of Devils Lake.

Mitzel had claimed after the accident that she had not crossed the centerline. A hearing had been scheduled for Monday.

93-year-old Oberon driver could see jail time if prosecutor has way

Posted: Wednesday, August 25, 2010 8:16 am

DEVILS LAKE, N.D. (AP) - Ramsey County State's Attorney Lonnie Olson said he will seek the mandatory punishment of 60 days in jail for a 93-year-old Oberon woman accused of driving offenses.

Faith Mitzel faces an Oct. 6 trial on misdemeanor charges of driving with a suspended license and not having insurance.

Olson said Mitzel has a history of dangerous driving. Her license was suspended following a May crash in which authorities say she hit two motorcycles, killing a woman. She was fined \$20 but not criminally charged.

Mitzel was then stopped in early August on a traffic violation and arrested on the two misdemeanors.

Defense attorney Monty Stensland said seeking jail time for Mitzel in the current case would be an attempt to punish her for the May 19 crash.

LETTERS TO THE EDITOR

Road penalties need teeth

By DALE WILSON
Zap

There are so many people in North Dakota who blatantly ignore the rule of law, especially on the highways. I am constantly watching as people fly by me as I go down the road driving the speed limit.

Speeding is dangerous. I feel our fines are so low that people have no problem spending the \$25 (I was told this is the basic fine) for speeding. I think we need to make the penalty for breaking the law much higher.

Fines for speeding should start at \$50, if you get a second ticket, the price should go to \$100. If you get a third ticket, the price should go to \$200, and so on. Eventually, the person will not be able to afford to speed.

Speeding in work zones should be double all of

those fines. I bet if we finally made it a penalty with teeth, our highways would be much safer.

Children are, by law, required to be in a car seat or booster seat, depending on their age, height and weight. I see kids bouncing around the passenger compartment all the time. Maybe this penalty is not stiff enough?

Maybe if the penalty were jacked up, the parents would make sure their kids were secured properly. If it were me, the fines for this would start at \$250 and double from there. Please make the kids safe.

Pets loose in a vehicle scare me. I see, so often, people driving around with their dog/cat on their laps or arms looking out the window. Why do we allow this?

If the animal was to jump on their arm, it could easily jerk the steering wheel and cause an accident. Animals should be secured just as children are.

Tribune
9-15-10

Insurance is an ever-increasing cost for all families. If we increased the fines, I feel it would slow people down and make them pay attention to driving instead of the stereo, cell phone, kids or friends in the car.

How many lives would be saved if the laws on the books were followed by everyone?

The Bismarck
Tribune
www.bismarcktribune.com

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Set traffic fines for safety

Normally law-abiding citizens, frequently it seems, think nothing of exceeding the speed limit or only hesitating at stop signs. To the extent that on speed limits, people expect they will not get a ticket for driving 5 mph above the posted speed. A disconnect exists between traffic laws, and the reason they exist, which is safety.

The Tribune ran an Associated Press story Sunday on the level of traffic fines in the state, and about how the Legislature has not seen fit to raise them.

The story contained the following line from House Majority Leader Al Carlson, R-Fargo, in referring to another lawmaker opposed to raising fines, "His goal is to make speeding affordable." It perfectly illustrates the issue.

It appears people are willing to pay a fine to violate the speed limit, as long as it's reasonable. Unfortunately, the safety concerns, in terms of traffic accidents and, inevitably, fatalities, doesn't relate to reasonableness of fines.

The theory is that if traffic fines were higher, then people would follow the law. Some in law enforcement believe North Dakota's fines are so low it's hardly worth the bother of enforcing them. They would like to see the fines boosted. In some cases they are right.

Traffic fines should reflect, and be proportionate, to the seriousness of the potential consequences of failing to follow the law.

If they are not, and a strong case can be made that some of the fines are too light, then the Legislature should adjust them.

So far, lawmakers haven't been interested in putting bigger bumps in the fines for traffic violations.

Raising traffic fines will not fix all the ills on our roads. The guy who drove around the barrier on Interstate 94, cruising through wet concrete and causing \$100,000 in damages, will still foolishly violate the law. The person driving impaired will continue to run the risk of creating a tragic accident. But that should not stand in the way of doing what's reasonable and prudent for a large majority of those on the roads.

North Dakota streets and roads are not nearly as safe as they could be. Traffic fines may be a part of that, but the behavior of the state's drivers and their lack of knowledge in the rules of the road seems to be a larger issue.

Making the connection between traffic law and safety is the real solution.



#3
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NORTH DAKOTA

Bill No: HB1278
Hearing Committee: Senate Transportation Committee
Date: Friday, March 25, 2011

Honorable Chairman Lee and Committee Members,

My name is Brad Bekkedahl, and I am Finance Commissioner of the Williston City Commission. I stand here today in support of HB 1278 and ask for your support as well.

House Bill 1278 is legislation long overdue. The fees listed in NDCC section 39-06.1-06 are so low as to be perceived by the general public merely as a convenience fee, something one pays for the convenience of speeding, delaying repairs, or falsifying a logbook. For some drivers, it is simply the cost of doing business until the accumulation of license points becomes the actual deterrent. While it may be the state's view that these fees are not meant to be a revenue source, the existing code has not even kept up with inflation, resulting in a net loss. The cost of a violation from issuance by law enforcement to the hearing process is more than the existing statutory fees. Our City Police Department is supported by our property tax general fund levy, and our current investment is almost 50% of that levy amount. Should our cities have to further increase property taxes to fund the cost of issuing citations for the safety of its citizens?

I ask that you vote for a "Do Pass" recommendation to HB1278 as amended, which will allow city governing bodies to increase fees. I would be happy to answer any questions you may have, and appreciate your considering this testimony from the City of Williston today.

Good Morning – Chairman Lee and Senate Transportation Committee Members

For the record, I am Chief Jeff Balentine from the Minot Police Department. Thank you for allowing me to speak in **SUPPORT** of H.B. 1278.

I don't think I have to tell you about the explosion in population the Northwest area of North Dakota as well as Minot has experienced. Legislators are dealing with issues of infrastructure concerns for the Northwest Region including traffic. When I say traffic – I mean traffic. We certainly have rush hour traffic in Minot now. In an article that appeared in the Minot Daily News in **September 2009**, they showed a dramatic increase in traffic from 2004-2007.

37th Avenue SW traffic has increased **87%** from 2004-2007.

Traffic on South Broadway has increased **50%** from 2004-2007.

Traffic on 16th Street SW has increased **46%** from 2004-2007

Again, this is 2004-2007 and I would say the increases are more from 2007-2010.

Accidents are increasing every year.

2006 – 2,175

2007 – 2,380

2008 – 2,508

2009 – 2,712

2010 – 2,816

Based on calls for service and heavy traffic activity, I asked for three new officer positions for 2011. We received a grant for three new officers plus two in the city budget for a total of five new officers.

As Chief, I receive more complaints on traffic violations than anything else. Certainly more officers on the streets are going to help but we also need a **STRONG**

DETERRENT to the growing traffic problems.

Officer enforcement is crucial to traffic enforcement but so are **FINES**. While officers place a bond on the ticket, they are more concerned with safety and eliminating/reducing the unlawful driving practice that has occurred. Bond amounts on traffic tickets certainly are a deterrent if they negatively impact a person's income.

Police don't set fine schedules in Minot. The Municipal Court Judge, an elected official, does. He drives in Minot and sees the challenges of heavier traffic flows and can set a fair bond.

You have a number of bills in front of the legislature that deal with fine deterrent, one being **S.B. 2157**, dealing with entering a road closed due to hazardous conditions from \$20 to \$250. When introduced, the proposed fine was \$100 and now after engrossments @ \$250. Legislators understand the principal of deterrence by increasing fines to eliminate/reduce unlawful driving practices that endanger the public. The cities in North Dakota are growing according to the 2010 census and we need to make our streets as safe as possible by more manpower and increased fines to provide a greater deterrent to unlawful and dangerous driving practices. We believe this bill is so important to safety that we have attached an emergency measure to it.

I would respectfully ask for your support on **H.B. 1278**.

I will answer any questions you may have and I thank you for your time.

Testimony in Support of HB1278

March 25, 2011

Senate Transportation Committee

Testimony of Keith Witt

Chairman Lee and members of the Senate Transportation Committee, I am offering these comments in support of HB1278. For the record, my name is Keith Witt and I am Chief of the Bismarck Police Department.

I am supporting HB1278 because I sincerely believe it is extremely important in improving the safety of the citizens of Bismarck and other cities in our great state. In North Dakota, we rightfully take great pride in being one of the safest states in our nation, and this privilege of being considered a safe state is based on our low rates of crime. In Bismarck, we also take great pride in being one of the safest metropolitan areas in the nation, again based on our low rate of crime.

While we in Bismarck are very fortunate and take great pride in being a safe community, one of the areas of great concern I have as Chief of Police in Bismarck is traffic safety. When the statistical crime data for the past five years is examined, we find that in Bismarck, 1 in 16 of our criminal reports involve personal injuries versus 1 in 7 of the traffic reports involving personal injury. Additionally, in 2010 there was \$1,938,195.68 property loss as a result of criminal acts versus \$10,958,719.00 for traffic crashes. As you can see from these statistics, in Bismarck traffic accidents create a greater hazard to our citizens than do criminal activities. I believe that this same situation exists in all of the larger communities in our state.

How do we create safer traffic conditions in our communities? I believe safer conditions result from a combination of efforts:

- 1) Education;
- 2) Enforcement efforts; and,
- 3) Deterrence factors.

As a community and through our efforts at the Bismarck Police Department, we can direct efforts towards education and enforcement. However, deterrence is what is at issue here in our discussion of HB1278.

Do our current traffic fines provide a proper level of deterrence? Unfortunately, there is no available research that provides an analysis as to the direct impact of traffic fines serving as a deterrent. However, I believe there is plenty of anecdotal evidence that does show that higher traffic fines provide a deterrent for drivers. For example, I am sure we have all heard on numerous occasions conversation in which someone will be speaking about driving out of state and another person will warn them to slow down when they get to the state line as fines are significantly higher in that state than here in North Dakota. Also, there are regular every day examples here in North Dakota in which we show that we believe that higher fines are a deterrent. I am sure that you have all been driving down the interstate when you have come upon a construction area and the signs posted clearly say that the fines are increased when workers are present. The purpose of these signs is to provide for increased highway worker safety by creating a deterrent effect for drivers not to speed through the construction zone as a result of higher fine. If we didn't believe that higher fines were a deterrent, wouldn't the signs simply advise drivers to slow down?

I do believe that the traffic safety issues in each community are different, which is why I believe that HB1278 is a good bill in that it allows individual communities to set traffic fines within the limits of the bill in accordance with their local experience. Without a doubt, the traffic safety issues in Bismarck are much different than those in a small community in North Dakota. I believe that if this bill passes, the governing bodies in cities of North Dakota will set fines that are in accordance with and appropriate for the traffic safety issues in their community. I know that some will argue that this creates issues for our citizens as traffic fines will be different in the various cities in our state so a driver does not know what the fine will be if they commit a violation. First of all, I don't believe that many drivers currently know the exact fines under existing law, but likely have the general knowledge that they are relatively inexpensive. Also, currently in our cities there is no equity in many of the various fees or charges. For example, the cost of various permits, animal licensing fees, vehicle impound fees, and parking fines will vary

from city to city. Having different traffic fines would be no different. Also, for criminal violations, the "standard" fines in the Courts vary from one area of the state to another. Finally, having seen the direct impact and tragedy caused by traffic violations over my career, I don't believe it is necessary there be some kind of "fairness" so that drivers know the traffic fine and can make some kind of objective analysis if it is economical to break the law. If cities are able to set their own fines at an appropriate level, my hope would be that it would create a concern for drivers that they comply with the law.

Bismarck police officers issued 12,995 traffic citations in 2010. I know that these officers would tell you that their hope would be that those citations served as a deterrent for the drivers who received those citations not to commit future driving violations, and for the persons who received these citations to tell family members and acquaintances that they received a citation with a high fine and to be careful when driving in our community. However, those same officers would tell you that unfortunately the current fines for traffic violations do not likely achieve that result, and do not serve as a deterrent. While those officers will continue to go out and do their jobs, allowing cities to set fines appropriate with their local traffic safety issues would allow the efforts of those officers to be much more effective in making their communities safe.

I appreciate your thoughtful consideration of HB1278 which will aid in increasing the level of traffic safety in our communities and ultimately reduce the number of people killed and injured, and decrease the property loss that is occurring as a result of traffic accidents in our communities. I would be glad to answer any questions.

Transportation Committee

House Bill 1278

Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Good Morning

Chairman Lee, Vice Chair Oehlke and members of the Committee, for the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today in support of House Bill 1278.

I had hoped to provide a background as to when the current state wide fee structure was first implemented in North Dakota. In my research I was unable to locate the actual date of the legislation establishing current fees. Not finding the information I then asked a retired Highway Patrol Officer. The Trooper responded that the fees were established in the 1950s or the 1960s. He pointed out some change had been made to specific statutes over the years. Without a solid date I am forced to rely on my own personal experience.

In 1975 I received my first speeding ticket in the City of Arthur from Cass County Deputy Oscar England. I was driving 13 mph over the 25 mph limit and received a citation. The fee was \$13.00. In 1984 when I began my career in law enforcement in Casselton the fee for driving 13 mph over the 25 mph limit was \$13.00. If I were on the street today and clocked a violator doing 13 mph over the limit within your residential neighborhood the fee would \$13.

During conversations with other drivers you may have heard them comment how they adjust their driving habits when they enter Minnesota or South Dakota because of the perceived harsher penalties. For comparison I would like to provide the following examples:

Speeding

Current ND

ND speeding in residential area	13 mph over the limit \$ 13
	22 mph over the limit \$ 31

In comparison

Current MN

MN speeding in residential area	13 mph over the limit \$125 (fine \$40/ \$75 surcharge/ \$10 law library)
	22 mph over the limit \$227 (fine \$70/ \$75 surcharge/ \$10 law library/ \$72 State general fund)

Current SD

SD speeding in residential area	13 mph over the limit \$110 (fine \$56/ \$40 liquidated costs/ \$14 surcharge)
	22 mph over the limit \$150 (fine \$96/ \$40 liquated costs/ \$ 14 surcharge)

Disregard Stop sign

Current ND disregard stop sign	\$ 20
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Transportation Committee

House Bill 1278

Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Current MN disregard stop sign	\$ 135 (fine \$50/ \$75 surcharge/ \$10 law library)
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Current SD disregard stop sign	\$ 104 (fine \$50/ \$40 liquidated costs/ \$14 surcharge)
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In 2000 the City of West Fargo, following an Attorney General's opinion on the powers of Home Rule communities, did raise traffic fees slightly above those set by the State of North Dakota. While the increase in fees was not significant the public's awareness of the increase did affect driving habits within my city.

All drivers weigh their own gain against the perceived risk to themselves or the potential penalty they could face. If the risk or penalty is low or inconsequential a driver will be willing to accept the risk or penalty and overdrive the conditions or violate the law. Your friends and neighbors will tell you the harsher penalties imposed in Minnesota and South Dakota do affect how they drive. They follow the law.

Our rural and urban areas are vastly different. Traffic volumes, unlimited access, multi-lane roadways and driver distractions of urban settings give drivers little margin of error when operating a motor vehicle. The importance of a driver to be motivated to obey the traffic regulation is paramount to the safety of those who share the roadway.

Some of the information I have presented to you today is from testimony I had given during the 2009 Legislative Session. The proposed legislation during 2009 was to increase fees across the state. Opposition indicated the increases were not warranted and would be unpopular in rural North Dakota. I believe the increased fees are warranted and necessary for increased public safety within our cities. If the voice of North Dakota is not to change the fees on a state wide basis at least allow the elected leaders to adjust fees to meet the traffic safety needs of their community.

Thank you for your consideration. I would be willing to answer any questions you may have.

From: Schurkey [schurkey@v-drivemail.zzn.com]
Sent: Friday, March 25, 2011 11:09 AM
To: NDLA, S TRN

7

ENGROSSED HOUSE BILL NO. 1278

This bill represents or facilitates everything that is wrong with traffic enforcement; specifically claiming "safety" as a pretext to rape the motorist.

This bill encourages local or county government to perform traffic enforcement for profit. The intent of this bill is to attach larger udders to the citizens.

There is no need to promote a patchwork of non-standardized fines throughout the State of North Dakota. The whole point of 39-06.1-06 is to prevent a complicated, variable, non-standardized fine structure; and this bill undoes that good work.

I refer you to the Manual on Uniform Traffic Control Devices (MUTCD), an 850-page document that is both Federal and ND State regulation:

<http://mutcd.fhwa.dot.gov/pdfs/2009/mutcd2009edition.pdf>

Link verified 24 March 11

Section 2B.13

Best practice suggests that "Speed zones (other than statutory speed limits) shall only be established on the basis of an engineering study that has been performed in accordance with traffic engineering practices. The engineering study shall include an analysis of the current speed distribution of free-flowing vehicles"; and further suggests that "Advance warning signs and other traffic control devices to attract the motorist's attention to a signalized intersection are usually more effective than a reduced speed limit zone."

Any jurisdiction having unusual problems with "traffic violators" is almost certainly NOT setting the speed limits based on engineering studies and the 85th percentile speed; the fault is the speed limit, not the motorists. The same can be said for most other traffic offenses: if the problem is that huge, look to the guidance of the MUTCD and FIX THE PROBLEM using proven engineering solutions rather than punishing (and picking the pocket of) the "evil motorists" who "disrespect" the law.

We will have more respect for traffic laws only when the traffic laws become more respectable. 1278 is the philosophical opposite of the logic- and traffic engineering-supported policies and procedures embodied in the MUTCD. The only conclusion to be drawn is that this is about dollars and not about safety.

Schurkey Swanke
1506 S. 15th St.
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Bye!

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From: Schurkey [schurkey@v-drivemail.zzn.com]
Sent: Friday, March 25, 2011 11:09 AM
To: NDLA, S TRN

REENGROSSED HOUSE BILL NO. 1278

This bill represents or facilitates everything that is wrong with traffic enforcement; specifically claiming "safety" as a pretext to rape the motorist.

This bill encourages local or county government to perform traffic enforcement for profit. The intent of this bill is to attach larger udders to the citizens.

There is no need to promote a patchwork of non-standardized fines throughout the State of North Dakota. The whole point of 39-06.1-06 is to prevent a complicated, variable, non-standardized fine structure; and this bill undoes that good work.

I refer you to the Manual on Uniform Traffic Control Devices (MUTCD), an 850-page document that is both Federal and ND State regulation:

<http://mutcd.fhwa.dot.gov/pdfs/2009/mutcd2009edition.pdf>

Link verified 24 March 11

Section 2B.13

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