

2013 HOUSE TRANSPORTATION

HB 1139

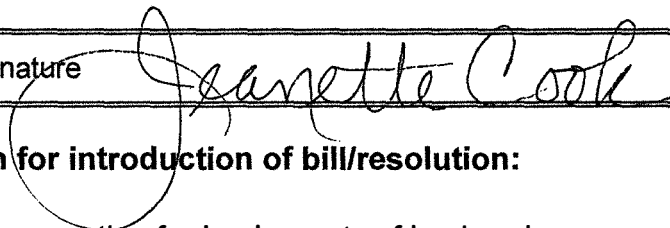
2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

HB 1139
01/24/13
Job # 17693

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to weight exemption for implements of husbandry.

Minutes:

Attachment #1

Chairman Ruby opened the hearing on HB 1139.

Representative Belter, District 22, introduced HB 1139. The intent of HB 1139 is to exempt equipment of husbandry and construction type equipment from the weight limit of 20,000 pounds per axle, so that they can legally travel on the highway. It does not give a farmer a right to load a grain cart with 1,000 bushels of grain and run down the highway. They still have to fall under the 80,000 pound road restrictions or in some cases 105,000 pounds. It is to assist our agriculture industry to be able to operate and move equipment from one field to the next and not be under violation of our road restrictions.

Representative Gruchella: If a farmer purchased a large scraper to do farm work, would it be legal under this bill?

Representative Belter: Yes, I believe it would.

Representative Gruchella: Some of those machines weigh more than 20,000 pounds per axle, correct?

Representative Belter: Yes, they would.

Representative Weisz: On line ten it talks about "unless a restriction is imposed" under Section 39:1203, can you address that? Is it referring to the spring weight restrictions?

Representative Belter: That particular code allows local governing authorities to go out and post a road if it is in really bad shape.

Representative Drovdal: We try to do whatever we can do for the farmers, but we know that overloading severely damages the roads. This appears to give the farmers a blanket policy to haul heavy loads. Can you assure me that they will not be allowed to grossly overload?

Representative Belter: You can ask the highway department, but it is my understanding that this agricultural equipment would still fall under the 80,000 pound requirement. With a tractor that weighs 50,000 pounds, which per axle is overweight by current law, you have to keep in perspective that they have large duals or triple tires on them front and back. Looking then at the spread of the weight, is probably a lot lighter than a legal truck.

Chairman Ruby: Would this exempt a grain cart going down a highway?

Representative Belter: It would not; they would fall under the other categories like 39:12:503. The highway department has brought forward a couple of amendments to deal with things like track tractors with steel tracks.

Representative Kreun: Was your constituent going down the road loaded or empty?

Representative Belter: He had a small load of trash. I'm not sure that he got picked up when he was loaded or not.

Representative Kreun: The point is that he was using the piece of equipment for transportation rather than loading and unloading, which is what the equipment is designed for.

Representative Belter: That's true.

Representative Kreun: So, what about construction companies doing the same thing? It doesn't exempt them.

Representative Belter: No, it does not exempt commercial construction equipment.

There was no further support for HB 1139.
There was no opposition to HB 1139.

Ron Henke, North Dakota Department of Transportation, Director of Operations, spoke in a neutral capacity on HB 1139. He discussed the testimony provided by **Terry Traynor, Assistant Director, North Dakota Association of Counties.** See attachment #1, amendment included. Mr. Henke stated that the Department of Transportation is supporting the amendments from the Association of Counties.

Chairman Ruby: Do you prefer to see the language dealing with pounds per square inch?

Ron Henke: We prefer the second version, of the amendment, which is the 'pounds per square inch'.

Chairman Ruby: If someone gets pulled over, how do they weigh them?

Ron Henke: I can't answer that.

Representative Gruchella: Does this open the door for a farmer who is building a dike with a front end loader and hauling dirt up and down the road, as long as it is agriculture related?

Ron Henke: The amendments do provide a maximum load limitation. It may allow for some of that. The definition for implement of husbandry, it identifies specifically that the equipment is designed for agriculture producing. So, if it is a semi-trailer with an aggregate type trailer behind it, that is not designed specifically for agriculture production. To me would not fall under this exemption.

Representative Delmore: Would this bill as amended address the problem that Representative Belter's constituent had?

Ron Henke: I believe that it would.

Representative Gruchella: (21:00) If you have a front-end loader that is over the 20,000 pounds per axle, isn't that already over the 550 pounds per square inch?

Ron Henke: The tires on the tires on a front-end loader are quite wide.

Representative Gruchella: Did you look at all the different types of equipment?

Ron Henke: No we did not.

Chairman Ruby: How do you weigh something like that, Colonel Prochniak?

James Prochniak, Superintendent of Highway Patrol: We don't try to weigh them. It is not usually possible with our portable scale system. If the equipment is too heavy, the operator would have to apply for a permit.

Chairman Ruby: Is there some kind of exemption for snow removal?

James Prochniak: Within the city we are not dealing with that component as much.

Representative Gruchella: Do you issue permits for overweight vehicles because you don't want the overweight vehicles to go over a certain bridge, for instance?

James Prochniak: Yes, that is correct.

Representative Gruchella: Under this statute you wouldn't know what route a piece of equipment is taking, correct?

James Prochniak: Yes.

There was no further testimony on HB 1139.

The hearing was closed on HB 1139.

Chairman Ruby: I like the second amendment on the testimony. See attachment #1.

Representative Weisz: An average pay loader or tractor with duals will not exceed the 550 pounds per square inch. A grain cart won't exceed that limit either, but they will exceed the 80,000 pound limit. About the only ag. implement that could potentially exceed the 550 pounds per square inch is a loaded sprayer. The language of 550 pounds per square inch makes it prohibitive to haul too much weigh.

Representative Kreun: I think that with this there is potential to use vehicles that are not actually designed to go down the road and haul materials.

Representative Weisz moved the amendments for HB 1139.

Representative Vigesaa seconded the motion.

A voice vote was taken. All aye. The motion carried.

The bill will be held until a later time.

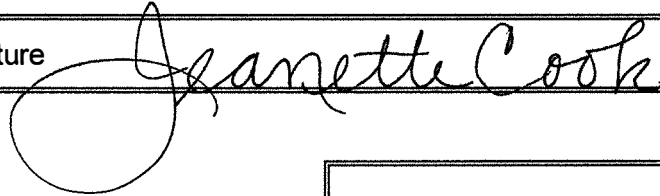
2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

HB 1139
01-31-13
Job # 18103

Conference Committee

Committee Clerk Signature



Minutes:

Chairman Ruby: Reviewed the bill and amendment.

**Representative Weisz moved a DO PASS AS AMENDED.
Vice Chairman Owens seconded the motion.**

Representative Gruchella: I can't support the DO PASS. I have had a lot of training that stressed to us that axle weights are very important. Putting so much weight over a road at one time causes a lot of damage to a roadway. Spreading the weight out by using big tires does mitigate some of that, but I still think axle weights are important.

Representative Weisz: If we don't pass this, a farmer might have to get 20 permits in one day to move equipment from field to field or get a multi-axle trailer to load every implement on a trailer. It is impractical.

Representative Oversen: How are we currently doing this? Aren't farmers currently following regulations when they are moving their equipment?

Representative Weisz: Farmers move their equipment where they need to move it. The psi is not that high, there is limited movement, and low speeds. It is not an issue. You can't say farmers can't do this. You will shut down Ag.

Representative Gruchella: When Representative Belter brought this bill in, he was trying to exempt a piece of construction equipment that used as farm equipment. Wasn't that his intent? At present practice, farm equipment is exempt.

Representative Weisz: The bill includes both movements of implements of husbandry and pneumatic tired equipment used for construction.

Representative Gruchella: I think the Ag exemption is still present practice and will remain present practice. Farmers are pretty much exempt from size, vehicle weight, everything. I don't see that changing.

Representative Weisz: There are some limitations. One year we had to make a special exemption for loaded sprayers because they were overweight.

Representative Kreun: Belter's intention was to add the construction equipment because of his constituent's problem. Construction equipment doesn't have the same design as a tractor with duals or triples on it. The weight psi won't be the same on one of those. How are we going to enforce it? We don't have the equipment to weigh it. If we open this up to construction equipment, there might be a question if the equipment is being used for construction or Ag. It is not an implement of husbandry.

Representative Weisz: I think it is, if it is used for an Ag purpose.

A discussion continued about construction versus agriculture.

Representative Oversen: I understand that part of the purpose of the permits is that the Highway Patrol can monitor where these overweight vehicles are going and keep them off at risk roads. I don't understand all of the permitting process. Could someone explain that?

Representative Weisz: There are self-issuing permits that are good for 24 hours. They are only good for one trip. The self-issuing also might have weight restriction (96,000#) on the interstate because it is federal. There are also special over-width and over-size permits with specific time restrictions.

Representative Gruchella: This bill can cause inconsistent fines for the same piece of equipment being used for Ag and construction.

Representative Heller: I am wondering if this is prevalent problem. Are we just changing the law for one person?

Chairman Ruby: I'm not sure.

Representative Becker: Representative Weisz, what is your take on Representative Gruchella's contention that this is an unequal application of the law?

Representative Weisz: We often have unequal applications. Ag has exemptions, taxes are different, etc. Those exemptions are put in because of the uniqueness of Ag. You can make the argument that you don't want to go down this road of allowing the construction equipment, but almost all livestock operations today use pay loaders.

Representative Drovdal: We do this in many ways for Agriculture. I see the difference that a commercial operation will have the equipment to haul their equipment to the site where they use it. In agriculture it will generally be used on the farmer's own land or occasionally to go down the road. I will support the bill.

Representative Fransvog: What about using a pay loader at an elevator or feed store? Is that agriculture or commercial?

Representative Weisz: They are not exempt.

Representative Kreun: A gentleman that I work for has his own scraper that is used for ditching and draining. We go down the road with it loaded when we need a load of dirt in a certain place. It is not legal, but he does it. Does that make it right? It doesn't. You are not putting in a crop or taking off a crop. It is a construction piece of equipment that is used for a different type of activity. I don't see the connection with that kind of equipment.

Representative Sukut: This bill was put in so that a farmer can move his equipment from one field to another.

A roll call vote was taken on HB 1139. Aye 11 Nay 3 Absent 0

The motion passed.

Representative Weisz will carry HB 1139.

FISCAL NOTE
Requested by Legislative Council
01/09/2013

Amendment to: HB 1139

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0					
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0		
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill provides for a weight exemption on most state highways for implements of husbandry and some related equipment. There would be very little fiscal impact on NDHP permit fee or overload collections.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The NDHP does not collect enough data about vehicle type in order to properly identify whether or not a permit or overload is associated with an implement of husbandry. Some related information may be helpful: In 2011, 37 oversize permits were issued to farm plated vehicles and 4 of the permits were for overweight. In 2012, there were also 37 oversize permits issued to farm plated vehicles and 12 were for overweight. An oversize permit costs \$20.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

NA

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

NA

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

NA

Name: James Prochniak

Agency: Highway Patrol

Telephone: 328-2455

Date Prepared: 01/14/2013

FISCAL NOTE
Requested by Legislative Council
01/09/2013

Bill/Resolution No.: HB 1139

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0					
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0		
Cities			
School Districts			
Townships			

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NA

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

NA

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

NA



Name: James Prochniak

Agency: Highway Patrol

Telephone: 328-2455

Date Prepared: 01/14/2013



January 31, 2013

2/1/13

TU

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1139

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 39-12-05.3 of the North Dakota Century Code, relating to weight exemption for implements of husbandry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-12-05.3 of the North Dakota Century Code is created and enacted as follows:

The axle weight limitations in subsection 1 do not apply to movements of implements of husbandry or equipment with pneumatic tires used for construction which is used by an agricultural producer while using the equipment for the producer's agricultural, horticultural, or livestock operations if the maximum wheel load does not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width and if the gross weight limitation in this section is not exceeded."

Renumber accordingly

Date: 1-24-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1139**

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 Andrew Wain Seconded By Vigesaa

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby			Rep. Lois Delmore		
Vice Chairman Mark Owens			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Kylie Oversen		
Rep. David Drovdal					
Rep. Robert Frantvog					
Rep. Brenda Heller					
Rep. Curtiss Kreun					
Rep. Mike Schatz					
Rep. Gary Sukut					
Rep. Don Vigesaa					
Rep. Robin Weisz					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 1-31-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1139

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0297.01001

Action Taken: Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Weisz Seconded By Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Lois Delmore	✓	
Vice Chairman Mark Owens	✓		Rep. Edmund Gruchalla		✓
Rep. Rick Becker	✓		Rep. Kylie Oversen		✓
Rep. David Drovdal	✓				
Rep. Robert Frantsvog	✓				
Rep. Brenda Heller	✓				
Rep. Curtiss Kreun		✓			
Rep. Mike Schatz	✓				
Rep. Gary Sukut	✓				
Rep. Don Vigesaa	✓				
Rep. Robin Weisz	✓				

Total (Yes) 11 No 3

Absent 0

Floor Assignment Weisz

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

REPORT OF STANDING COMMITTEE

HB 1139: Transportation Committee (Rep. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1139 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 39-12-05.3 of the North Dakota Century Code, relating to weight exemption for implements of husbandry.

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Renumber accordingly

2013 SENATE TRANSPORTATION

HB 1139

2013 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

HB 1139
3/08/2013
Recording job number 19612

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

To create a weight exemption for implements of husbandry.

Minutes:

Attached testimony: 1

Chairman Oehlke opened the hearing on HB 1139

Representative Wesley Belter, District 22, the intent of this bill is to allow implements of husbandry which includes construction equipment to go down the road (passed out citation from a deputy sheriff), attachment #1. I had never heard of a citation given to an agricultural implement. This farmer had a payloader, which many farmers have nowadays, got an overweight fine. This bill will not remove all restrictions it would still require to have the 550 lbs. /sq. in. requirement. Payloaders we see around city are probably in violation but nobody is picking them up, sometimes contractors will load them in semis to transport them.

Senator Campbell: aren't farms exempt from this already? This bill extends that window to excavators and pay loaders?

Rep Belter: Agriculture is exempt, but a pay loader was not considered an implement of husbandry.

Senator Flakoll: Will this affect farmers or contracted people hauling the big round bales on tractor trailers? Where do they fit? When the weight restrictions are on? It is per tire?

Rep Belter: there is a provision in 3912 that allows for hauling bales and things like that. I don't think this particular piece will have any impact on that. They would have to meet the weight restrictions. Yes per tire

Senator Flakoll: husbandry relates to animals or crops?

Senator Belzer: it includes all; I would prepare amendments to make sure it includes all

No additional testimony

Captain Eldon Mehrer Commander Motor Carrier Division, North Dakota Highway Patrol here to answer questions from the committee

Chairman Oehlke tell me about farmers doing construction work, moonlighting

Capt. Mehrer : We ask clarifying type questions: where are you going, what are you doing is this a commercial venture? In a lot of cases they know how to answer the questions so we have no recourse but to take them at their word and allow them to proceed. If it turns out in the line of questioning that this is now a commercial type venture we will take a different course of action.

Senator Sinner Are a lot of these payloaders overweight as they are built?

Capt. Mehrer I would say if you look at the axle limitations, the size of the bucket, a good portion of them are overloaded driving down the road empty if they are on a restricted road. Example: spring thaw, a payloader with forks on, down highway 2, since it has restricted weight, it was considered overweight just going down the road. If you look at the tire size, you spread the weight over a larger area if there are larger tires, you do get some relief. If you are looking at the impact in the infrastructure we are concerned about bridge length and the amount of weight that is in the span that is able to cover. You get a lot of short span with a lot of weight, it will impact the infrastructure.

No other questions, hearing closed.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

HB 1139
4/05/2013
Recording job number 20871

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to weight exemptions for implements of husbandry

Minutes:

Attached testimony

Chairman Oehlke opened the discussion on HB 1139. Committee reviewed the fiscal note. Senator Flakoll suggested putting a sunset on this bill and revisit it in two years. Committee discussed permit requirements and what type of implements "implements of husbandry" refers to. Vice Chairman Armstrong said we are codifying something that is already going on everywhere. Committee discussed the concern of how the amount of weight will affect bridges. No further discussion

Senator Flakoll moved voice amendment to sunset June 30th 2015

Senator Campbell seconded

Voice vote: all yes

Vice Chairman Armstrong Move DO PASS AS AMENDED

Senator Sitte Seconded

Roll call vote Yes 7 No 0 Absent not voting 0

Carrier: Senator Campbell

FISCAL NOTE
Requested by Legislative Council
01/09/2013

Amendment to: HB 1139

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Revenues	\$0					
Expenditures						
Appropriations						

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NA

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NA

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

NA

Name: James Prochniak

Agency: Highway Patrol

Telephone: 328-2455

Date Prepared: 01/14/2013

FISCAL NOTE
Requested by Legislative Council
01/09/2013

Bill/Resolution No.: HB 1139

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Revenues	\$0					
Expenditures						
Appropriations						

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Cities			
School Districts			
Townships			

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NA

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

NA

Name: James Prochniak
Agency: Highway Patrol
Telephone: 328-2455
Date Prepared: 01/14/2013

April 4, 2013

3/4/13
TM

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1139

Page 1, line 2, after "husbandry" insert "and to provide an expiration date"

Page 1, after line 11, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2015,
and after that date is ineffective."

Renumber accordingly

Date: 4/04/13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1139

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number Flakoll amendment

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

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senator	Yes	No
Chairman Dave Oehlke			Senator Tyler Axness		
Vice Chairman Kelly Armstrong			Senator George Sinner		
Senator Margaret Sitte					
Senator Tim Flakoll					
Senator Tom Campbell					
<i>Voice Vote</i>					

Total (Yes) 7 No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
To provide an expiration date

Date: 4/4/13
 Roll Call Vote #: 2

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1139**

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0297.0201

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

Motion Made By Senator Armstrong Seconded By Senator Sitte

Senators	Yes	No	Senator	Yes	No
Chairman Dave Oehlke	✓		Senator Tyler Axness	✓	
Vice Chairman Kelly Armstrong	✓		Senator George Sinner	✓	
Senator Margaret Sitte	✓				
Senator Tim Flakoll	✓				
Senator Tom Campbell	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Campbell

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

REPORT OF STANDING COMMITTEE

HB 1139, as engrossed: Transportation Committee (Sen. Oehlke, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1139 was placed on the Sixth order on the calendar.

Page 1, line 2, after "husbandry" insert "; and to provide an expiration date"

Page 1, after line 11, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2015, and after that date is ineffective."

Renumber accordingly

2013 CONFERENCE COMMITTEE

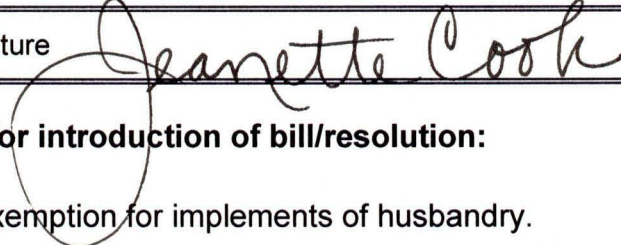
HB 1139

2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1139
04/16/13
Job #21153

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

A bill relating to weight exemption for implements of husbandry.

Minutes:

Representative Schatz brought HB 1139 before the committee. He asked the senators to explain the purpose of adding a sunset clause to HB 1139.

Senator Campbell: I was opposed to the sunset clause. Senator Flakoll put it on at the last minute to feel it out and see how it would go.

Senator Sitte: It was put on because this puts a lot more weight on our roads, and we thought that we should see how the cities respond to it and what happens with it. Will it get widely abused, or if people will follow it as it is intended which is just for agricultural purposes? There were concerns that it would be opening a Pandora's Box. We could take a look at it again in two years, if it is working fine, then we could extend it.

Representative Weisz: I don't think the cities will be affected by this. Also, I think two years is a short amount of time to judge if this is causing a problem.

Senator Sinner: I recall the concern to be more the length not the weight in regard to crossing bridges. The wheel base is so short, so the psi is greater. I think that is why the amendment was put on.

Senator Sitte: The Highway Patrol was discussing ticketing; they said that their line of questioning is the basis of ticketing. Sometimes this sort of equipment is off of the farm property. That is why we got talking about the equipment being on roads other than the farmstead. The short weight on a bridge span was an enormous part of our discussion.

Representative Weisz: In two years what are we going to know? Either we say they can do it, or we kill the bill if we are concerned that they are on the bridges. If we come back in two years, how do you determine the impact that it will have if a couple of pay loaders drive across a bridge? There is no provision in here to get information, only that it will have a sunset.

Senator Sinner: It really came down to whether or not the agricultural producers were using this equipment for agricultural use or for some commercial use. In this bill I believe that we are allowing them to do whatever they are doing, commercial or agricultural, and still be in compliance with the law. Am I correct?

Representative Schatz: The bill says, "An agricultural producer while using the equipment for the producer's agricultural, horticultural, or livestock operations." It would only be for those three things, not for construction or anything else, is the way I read it. It seems clear that it is only for agricultural, horticultural, or livestock operations. As far as the bridge restriction, every bridge has a load restriction to it. If you are driving on the bridge overloaded, then you are in violation of the law.

Representative Weisz: The other point is that currently agricultural equipment is not restricted at all on weight while crossing bridges.

Senator Campbell: If a farmer is using the pay loader for another agricultural purpose, for example, building another farm project one half mile down the road. He has to drive down the road. If there is a bridge, he has to go across it and be legal. I don't have a problem with removing the sunset clause.

Senator Sinner moved that the Senate recede from the Senate amendments on HB 1139.

Senator Sitte seconded the motion.

A roll call vote was taken. Aye 6 Nay 0 Absent 0

The motion carried.

Representative Schatz closed the conference committee on SB 1139.

FISCAL NOTE
Requested by Legislative Council
01/09/2013

Amendment to: HB 1139

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0					
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0		
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill provides for a weight exemption on most state highways for implements of husbandry and some related equipment. There would be very little fiscal impact on NDHP permit fee or overload collections.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The NDHP does not collect enough data about vehicle type in order to properly identify whether or not a permit or overload is associated with an implement of husbandry. Some related information may be helpful: In 2011, 37 oversize permits were issued to farm plated vehicles and 4 of the permits were for overweight. In 2012, there were also 37 oversize permits issued to farm plated vehicles and 12 were for overweight. An oversize permit costs \$20.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

NA

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

NA

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

NA

Name: James Prochniak

Agency: Highway Patrol

Telephone: 328-2455

Date Prepared: 01/14/2013

FISCAL NOTE
Requested by Legislative Council
01/09/2013

Bill/Resolution No.: HB 1139

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	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
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	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
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NA

Name: James Prochniak
Agency: Highway Patrol
Telephone: 328-2455
Date Prepared: 01/14/2013

2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Transportation

Bill/Resolution No. HB 1139 as (re) engrossed

Date: 04/16/13

Roll Call Vote #: 1

- Action Taken**
- HOUSE accede to Senate amendments
 - HOUSE accede to Senate amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 1260 --

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) HB 1139 was placed on the Seventh order of business on the calendar

Motion Made by: Senator Sinner Seconded by: Senator Sitte

Representatives	4/16		Yes	No		Senators	4/16		Yes	No
Representative Schatz	X		X			Senator Campbell	X		X	
Representative Weisz	X		X			Senator Sitte	X		X	
Representative Oversen	X		X			Senator Sinner	X		X	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Schatz Senate Carrier Senator Campbell

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1139, as engrossed: Your conference committee (Sens. Campbell, Sitte, Sinner and Reps. Schatz, Weisz, Oversen) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1260 and place HB 1139 on the Seventh order.

Engrossed HB 1139 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

HB 1139

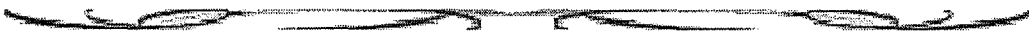
#1

Testimony to the
House Transportation Committee
Prepared January 24, 2013 by
Terry Traynor, Assistant Director
North Dakota Association of Counties

Regarding: HB1139 – Axle Weight Exemption

While certainly an issue of interest to the county commissioners our Association represents, we have been directed to take no position on House Bill 1139. The comments our office received indicated that county officials were unaware of citations being issued for situations that this bill appeared to address.

We do however ask the Committee to consider an amendment to the bill, should it be recommended for approval. Extending the exemption to construction equipment used by farmers and ranchers could be misunderstood to allow steel-treaded dozers to travel on public roads – something we would hope to avoid. By placing the words “pneumatic tired” in front of the word “construction”, we believe this concern would be removed. A formal amendment to accomplish this follows:



PROPOSED AMENDMENTS TO HOUSE BILL No. 1139

Page 1, line 7, after “for” insert “pneumatic tired”

Re-number accordingly



As an alternative, it has been brought to our attention that there is already one weight exemption addressing specific farm equipment on roads other than the interstate. It is subsection 6 of 39-12-05.3. Some road officials believe it may be more consistent (and easily tracked) to amend the bill to actually place the proposed new language in that section, keeping those exemptions together. That change would likely require a hog-house amendment to make it consistent with the other subsections. On the reverse of this testimony, we have included that amendment in a form we believe is consistent with the existing language of that statute.

Thank you for your consideration of these comments.

PROPOSED AMENDMENTS TO HOUSE BILL No. 1139

Page 1, line 1, after “A BILL” replace the remainder of the bill with “for an Act to create and enact a new subsection to section 39-12-05.3 of the North Dakota Century Code, relating to relating to weight exemption for implements of husbandry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA

SECTION 1. A new subsection to section 39-12-05.3 of the North Dakota Century Code is created and enacted as follows:

The axle weight limitations in subsection 1 do not apply to movements of implements of husbandry or pneumatic tired equipment used for construction which is used by an agricultural producer while using the equipment for the producer's agricultural, horticultural, or livestock operations provided that the maximum wheel loads do not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width and provided the gross weight limitation in this section is not exceeded.

Renumber accordingly

HB1139

Testimony 1 page 1



CASS COUNTY SHERIFF'S DEPARTMENT
Overload Worksheet

Date 09-27-11
Time 12:51 pm

Registered Owner _____ Address _____

Drivers Name _____ DL # _____

Address: _____

Truck Lic: 0 State: _____ Yr/Make: 2001/SA 4300

Trailer Lic: 0 State: _____ Yr/Make: _____

Location of Stop _____ Load Type _____

CR-5 1/4 mile north of CA-4 Garbage - Haystack

Road Restriction Class _____ Unrestricted 8700 Class of Restriction _____

Overload assessed according to:

- 1 _____ Exceeded Gross Weight Limitations by _____ lbs.
- 2 _____ Exceeded Axle Weight Limitations by 7,200 lbs.
- 3 _____ Exceeded Bridge Weight Limitations by _____ lbs.

Bridge Length		No. Axles		Gross Weight		Allowable GVW	
Ft.				lbs.		lbs.	
Axles in Grouping	No. of Tires	Tire Size	Axle Weight Lbs.	Allowable Weight lbs.	Amount Over lbs.		
1	2	23.5-25	22,500	16,000	6,500		
1	2	23.5-25	16,700	16,000	700		
TOTAL		4	TOTAL GVW	LBS	Max Allowable Gross	LBS	7200 LBS

FEE

Pounds	Fee	Pounds	Fee	Pounds	Fee
1 to 1,000	- \$ 20	10,001 to 11,000	- \$ 1,100	20,001 to 21,000	- \$ 4,200
1,001 to 2,000	- \$ 40	11,001 to 12,000	- \$ 1,200	21,001 to 22,000	- \$ 4,400
2,001 to 3,000	- \$ 60	12,001 to 13,000	- \$ 1,300	22,001 to 23,000	- \$ 4,600
3,001 to 4,000	- \$ 140	13,001 to 14,000	- \$ 1,680	23,001 to 24,000	- \$ 4,800
4,001 to 5,000	- \$ 220	14,001 to 15,000	- \$ 1,800	24,001 to 25,000	- \$ 5,000
5,001 to 6,000	- \$ 305	15,001 to 16,000	- \$ 1,920	25,001 to 26,000	- \$ 5,200
6,001 to 7,000	- \$ 380	16,001 to 17,000	- \$ 2,550	26,001 to 27,000	- \$ 5,400
7,001 to 8,000	- \$ 495	17,001 to 18,000	- \$ 2,700	27,001 to 28,000	- \$ 5,600
8,001 to 9,000	- \$ 575	18,001 to 19,000	- \$ 2,850	28,001 to 29,000	- \$ 5,800
9,001 to 10,000	- \$ 655	19,001 to 20,000	- \$ 3,000	29,001 to 30,000	- \$ 6,000

An additional charge of \$200 for every 1,000-pound increase over 30,000 pounds consistent with the above formula.

TOTAL FEES OWED: \$ 495

Officer Signature _____ Unit Number 3511