15.0726.03000

FISCAL NOTE
Requested by Legislative Council
01/14/2015

Amendment to: HB 1288

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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
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).*

This bill makes changes to the laws pertaining to abandoned vehicles.

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.*

This bill should have no material fiscal impact.

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.*

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.*

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Shannon L. Sauer
Agency: NDDOT
Telephone: 328-4375
Date Prepared: 01/16/2015

15.0726.01000

FISCAL NOTE
Requested by Legislative Council
01/14/2015

Bill/Resolution No.: HB 1288

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	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Shannon L. Sauer
Agency: NDDOT
Telephone: 328-4375
Date Prepared: 01/16/2015

2015 HOUSE TRANSPORTATION

HB 1288

2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1288
1/30/2015
#22905

☐ Subcommittee
Conference Committee

Committee Clerk Signature Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to abandoned vehicles.

Minutes: Attachments # 1 - 6

Chairman Dan Ruby opened the hearing on HB 1288.

Representative Toman, district 34, introduced HB 1288. He stated that the bill allow re-titlement of abandoned property for sale, if all other requirements have been submitted.

Representative Ben Hanson: Can you tell me what the genesis of this bill was?

Representative Toman: The issue is abandoned vehicles that are being towed on behalf of a political subdivision. The towing company in not allowed to dispose of these vehicles in any manner other than crushing after 90 days. They want to be able to dispose of them sooner, if no one lays claim to them.

Representative Lois Delmore: On Page 3 the bill references the cost of storage. Can you tell me what those costs can run?

Representative Toman: I don't have those numbers in front of me.

Representative Rick C. Becker: Are there any circumstances that you think that 30 days might not be enough?

Representative Toman: The longer they sit there, the storage costs just build up. We just picked 30 days. It may not be long enough.

Representative Robert Frantzvog: Where do they get the abandoned vehicles, off the street or in the yard?

Representative Toman: There may be a number of ways. A vehicle may be abandoned in a business parking lot. Law enforcement is called, and the vehicle is towed. Notice

would be provided. If a vehicle has an orange sticker on it, they are notified to tow it, and again, notice would be provided.

Representative Robert Frantzvog: Does the city own the storage where the vehicle gets taken?

Representative Toman: In some cases it goes to a city lot, but in some the vehicles go to the agent's lot.

Robert Frantzvog: How do you get to selling the vehicle?

Representative Toman: If it is on a city impound lot, then it has a better chance of going to a city auction. The rules are different for that.

Representative Rick C. Becker: Couldn't there be a circumstance (1%) where someone's car, which is actually their mode of transportation, gets sold before they can come and get it. Wouldn't it be reasonable, that if the time period is only 30 days, to say that "you" would have to sign for it?

Representative Toman: The amendments do address that. Certified mail has been inserted into them.

Representative Toman provided the committee with amendments. See attachment #1.

Representative Rick C. Becker: I like that certified is in there. It takes out "private party ... " and replaces it with "a business that is registered in good standing...". What is the recourse for a non-registered business that is a private party in possession of an abandoned vehicle?

Representative Toman: It is intended to stop me from parking my vehicle in your driveway with your permission. Then you get the vehicle towed and re-titled to sell. That is why we came up with "business registered and is in good standing...". It does then leave out the scenario that you described, unfortunately.

Chairman Dan Ruby: If a vehicle is abandoned in a private parking lot, the vehicle is towed, the towing company would have possession of the vehicle, and the vehicle would be accumulating the cost of storage. There might also be a situation where a vehicle would be abandoned out in the county. The county would hire someone to tow it, and it might be in the same private place. A vehicle might also be towed to a city impound lot. There are different scenarios of how the vehicle gets towed. Could I just keep a vehicle that was abandoned in my parking lot, and then have it retitled and sell it?

Representative Toman: You would have to go through all of the notifications.

Chairman Dan Ruby: How would I even know who to notify?

Representative Toman: The amendment attempts to deal with that on Page 3 Line 12. It says that you would have to use "a form approved by the department". You would apply through that, and the Department of Transportation would assist you in the notification process.

Representative Robert Frantzvog: Don't most governments have ordinances on abandoned vehicles.

Representative Toman: Yes, this title does deal with abandoned vehicles. I cannot remember exactly what the Section is.

Representative Marvin Nelson: Antique is defined in Code, but how do you know that something is a parts car or a special interest vehicle?

Representative Toman: That is current statute as well. It is attempting to cover all the cars in the tree rows. They may not be antique, but they may be abandoned.

Chairman Dan Ruby: I can understand the need to do something with the vehicle. No one will want to tow a vehicle if they are obligated to the thing forever. We have to make sure that we are careful with the lien holders and that proper notification has taken place.

Bill Kalanek representing the North Dakota Towing Association, spoke to support HB 1288. He provided written testimony. See attachment #2.

(18:10)
Representative Lois Delmore: Can you tell me what the average cost of towing is, and what day by day costs are for storage of these vehicles?

Bill Kalanek: They are set by the towing companies. Typical rate for storage is approximately $40 - $50 dollars a day. The towing costs vary according to distance.

Representative Lois Delmore: Are all of these vehicles of no value to anyone? Could there be some value in them, either to the owner or the person who has a lien against them?

Bill Kalanek: There is a great variance. I have personally seen a vehicle abandoned on the roadway that was only two years old. Even though there is something wrong with it, it still has value. There are other vehicles that are obviously wrecks.

Representative Lois Delmore: Is there a set limit of time that you have to hang on those vehicles?

Bill Kalanek: I defer to my professional in the room.

Representative Ben Hanson: Do we have local, municipal or county laws that differ from city to city, or is this entirely state law?

Bill Kalanek: There are different policies by which each political subdivision might operate. Usually the state law is adhered to. The city of Bismarck has their own impound, but some guidelines are set on a city to city basis.
Representative Ben Hanson: Right now the state law provides for 90 days. Could a city vote that it will only be 45 days in that city? So, would this bill change any of the parameters set up by cities?

Bill Kalanek: I do not know.

Representative Marvin Nelson: When a tow operator is acting as an agent of a governmental entity, is there a contract in place where the government entity is responsible for the towing and storage? How does that work?

Bill Kalanek: Those sorts of arrangements are done at a city level. There are certain towers that contract with certain political subdivisions. Those situations would be governed by their agreement.

Representative Marvin Nelson: Current law says that if a vehicle is under 7 years old, it must be sold at auction. I assume that someone is getting the proceeds. Does the law say that the vehicle belongs to that governmental agency?

Bill Kalanek: I think we are getting into an area where a company is working on behalf of a governmental entity. The governmental entity can have the title released and resell the vehicle, is my understanding, without too much paperwork. When you are an agent and storing it on your own property, there are hang ups in turning around the vehicle and being able to do anything with it. The law is seeking a solution to that.

Representative Marvin Nelson: If a tow operator come to me and wants the title, how do I know that the actions he took were on behalf of a governmental entity?

Bill Kalanek: The towing companies are responsible for notifying law enforcement for the vehicles that they have taken possession of. So, there is a record of that.

Representative Marvin Nelson: How do you prove that you were acting on behalf of a governmental agency **at the time it was towed**?

Bill Kalanek: You have to **document, document, document.**

Chairman Dan Ruby: Would a towing company be able to get rid of one vehicle because it was done on behalf of a government agency rather than it being picked up from a private request?

Bill Kalanek: The problem is two-fold because in either instance the private towing company is in possession of the vehicle and the government entity is not. In the majority of these incidences, I think that it is in service to law enforcement that this occurs. In drafting the amendment, it was an attempt to cover all instances.

Chairman Dan Ruby: So, this will allow them to not only have the authority to crush the vehicle, but also to get a title and sell the vehicle. Is that the main intent?

Bill Kalanek: Yes, if there is no responsible party that is willing to reclaim the vehicle, then they will have an option other than just crushing it. It is also a waste issue.

George Kuntz, owner of Ace Towing in Bismarck and Vice President of North Dakota Towing Association, spoke to support HB 1288. He stated that HB1288 has the framework to proceed when all other resources have failed, and no one will take responsibility for a vehicle. He explained that these issues have become an epidemic, much because of the additional number of people that have come into North Dakota and abandoned vehicles by the side of the road or other places.

George Kuntz: If the city of Bismarck has the abandoned vehicle, it is able to hold an impound sale each May. They are able to sell the vehicles and issue a title to the highest bidder. If the towing companies of North Dakota have these vehicles on their property, coming from either private property or law enforcement, then we go to the North Dakota Department of Transportation. We run a history on the vehicle which gives us the last registered owner and if there is a current lien holder. We then send a registered letter to each individual giving them a 30 day notice to either come and pick up the vehicle and pay the charges, or forfeit the vehicle. Many of the vehicles that have been forfeited are a true waste as far as being crushed. The majority of them could easily be salvaged. We are trying to find a way, so that the resources aren't wasted. We have come here, because we have nowhere else to turn.

Vice Chairman Lisa Meier: About how many abandoned vehicles did you tow last year?

George Kuntz: I would estimate a minimum of 200 vehicles.

Vice Chairman Lisa Meier: Was that mainly from the Bismarck/ Mandan area? How far on the outskirts do you go?

George Kuntz: They mainly come from the Bismarck/Mandan area. Maybe 10% come from within a 75 mile radius.

Vice Chairman Lisa Meier: Out of the 200 vehicles, how many were reclaimed by the individuals that owned them?

George Kuntz: I would guess between 25 and 30 percent.

Rep. Mark Owens: When you said that you send out certified letters, is that just your business or your association?

George Kuntz: It is an agreement within the association that we **all** send out the **certified** (not registered) letters to the last known registered owner, and if there is a lien holder. We do get a return receipt back if the letter is signed for.

Rep. Mark Owens: The government can sell abandoned vehicles that are less than 7 years of age. Is this trying to find an avenue for the individual towers, like the unit of government, to have an out and not to arbitrarily waste vehicles that apparently still have value?
George Kuntz: That is correct. The other thing is that North Dakota state law says that it is a Class A Misdemeanor to abandon your vehicle. But, I don't have the time to go and sit in a court room to prosecute these people. When we notify the lien holder, and they don't want to take responsibility to come and get the vehicle, we have to sit with the vehicle. We can't do anything.

Chairman Dan Ruby: Do you think the 30 days from notification is adequate? How long after you get the vehicle do you send out notification?

George Kuntz: We immediately send out notification. We have one person on our staff whose job it is to go ahead and do research immediately on each vehicle. It is within 5 days of when the vehicle comes into the yard. We have done research through the Towing Association across the United States, and thirty days is the norm.

Representative Lois Delmore: If a vehicle is stored for 30 days at $40 a day, how many of those vehicles would be worth anything close to that $1200 in addition to the towing fees?

George Kuntz: A lot of them would not have that value. The majority would be crushed. It is about 15% - 20% that would have value equal to the storage and impound fee.

Representative Gary Paur: What do **you** charge for storage?

George Kuntz: $50 a day

Representative Gary Paur: What do you get for a crushed vehicle?

George Kuntz: It depends upon the price of iron at the time. Currently it is about $105 per ton for iron. That would mean about $150 per vehicle.

Representative Gary Paur: If you could sell the vehicle for more than $155, it would be in your best interest to do so, correct?

George Kuntz: That is true, but when we crush a vehicle we have to prepare them, so that ties up labor as well. The vehicle amount that we get for the vehicle then is about $75.

There was no further support for HB 1288.

Jeff Olson, Credit Union Association of the Dakotas, spoke in opposition to HB 1288 unless it is amended as in the amendments he provided. He also provided written testimony. See attachments #3-4.

Representative Rick C. Becker: Are you indicating that the return receipt Certified Mail is not good enough, that it has to be served by law enforcement?

Jeff Olson: Yes, that is what we are proposing.

Representative Rick C. Becker: If there is a signed receipt, are you concerned that someone else is going to sign it? A signed receipt would indicate that the recipient has received it.

Jeff Olson: Our concern is really if the towing companies or storage companies are being consistent in sending out their Certified Mail. When does the storage begin? We have heard stories of the notice not coming for days and days, and then there is an exorbitant storage bill. There was no proper notifcation received.

Another thing that hasn't been talked about yet is "trolling". Companies come in and do tow trolling on their own. They find abandoned vehicles that are illegally parked and takie their time to find the lien holder or owner of the vehicle.

Rick Clayberg, President and CEO of the North Dakota Bankers Association, spoke to oppose HB 1288 as written.

Rick Clayberg: We do understand what Rep. **Toman** is attempting to do and would support changes to the bill. Without changes we are opposed to the Legislation. There are a couple of issues that we are concerned with. We consider this a fairly significant policy change in North Dakota law that would allow a private entity to be able to have quasi government support through the Department of Transportation to sever another business's property rights in a vehicle. That would be our members' liens that may be on a property. Under current law if our member banks get contacted by a company that is in possession of an asset of ours (an abandoned vehicle), we will ask a couple of questions. This will make a determination. If it appears that they are upside down, now, they will release their lien to allow the towing company to sell the vehicle free of their interest in the vehicle. In this case you are severing the property rights of the bank. The bank loses all rights and upon the sale of the property, and the paying of the fees to the individual company, those dollars under **this** law would be turned over to the state. We believe that you should ensure that if there were proceeds available after fees have been paid, they should go to the **lien holder.** We agree that after that proceeds should be turned over to abandoned property.

There is also an issue with the terminology of the fees. If you allow someone to have that much power over another private business by severing their rights, shouldn't you then cap fees that are reasonable? There are fees from $40 to $65 a day, $1500 - $2000 per month, to store a vehicle on a lot outside. I called an owner of a storage facility, and you can rent a 10 x 30 unit garage to store something for $150 per month. We believe a $20 maximum cap daily charge is reasonable. We also have concern about the issue of trolling.

Let me give you an example of what could happen. I'm coming back to Bismarck from Fargo, somewhere between Sterling and Steele. My car breaks down. It may be an older vehicle, but I work an hourly job. I get someone to give me a ride back to Bismarck with the intent of getting someone to help me take care of my car. In the couple of hours that I am away from my car the Highway Patrol comes by and puts an orange sticker on it. I come back the next morning to get my vehicle with some help, and the vehicle is gone. I realize

that it has been towed. I get ahold of the company that has towed it and find that $200 - $400 in towing charges have incurred. I then have to figure out how to pay for it. A week later I call back to say I have the money, but now there are enhanced storage costs on the vehicle. After a very short period of time, as a working person, I have a vehicle that has very limited equity in it. I will not be able to afford it with the amount that I owe the bank as well. So, I walk away from it. What you will do by public policy here, is allow a situation that fees will force an individual out of ownership of their vehicle. It will also sever the security interests that are put in on that vehicle to protect the people that lend money to those customers.

The bill has a legitimate purpose, but I think before you as policy makers in the state need to take a good look at this issue.

The last concern we also have is the expansion to private property owners, Page 2 Line 4. This doesn't change what the bottom line is. It just expands this public policy to allow business to do the same thing. We believe this is detrimental both to lien holders and consumers in the state of North Dakota.

Jack McDonald, Independent Banks of North Dakota, spoke in opposition to HB 1288. He stated that they believe that one of the things could solve the problem is to **follow** the example that Mr. Kuntz talked about. We think that the notice should be sent by Certified Mail, so there is a receipt. At the minimum that should be changed.

The second thing that should be looked at is the "overage". Under current law when a vehicle is repossessed, you have to sell the vehicle. If there is money left over after all costs are paid off, the money has to go back to the owner. In this day and age of high priced cars, I think we should follow the basic law of repossession. The towing people should get all of their costs, but the overage, or the balance, if there is one, needs to go to the owner. We would be willing to work with committee members and bill sponsors to work out some agreeable amendments.

Linda Fisher, Deputy Commissioner of Operations from the North Dakota Department of Trust Lands spoke in opposition to HB 1288. She provided written testimony and proposed amendments. See attachment # 5 and #6.

There was no further opposition to HB1288.

Matthew Larsgaard, Automobile Dealer Association of North Dakota, spoke in a neutral capacity on HB 1288. Periodically, individuals abandon vehicles at our dealerships. In most of these cases, someone brings in a vehicle to repair a major failure, they learn that the repair exceeds the worth of the vehicle, or they simply don't want to spend the money on the repair. They walk away from the vehicle and leave it at the dealership. Right now, under state law there is not a clear and reasonable way to dispose of these vehicles. So, we also do an have abandoned vehicle issue. This bill may or not be the most reasonable way to address the concerns of our dealers. It seems like it may be a step in the right direction. We would be happy to be involved in the discussion on this bill to address our concerns as well.

There was no further testimony on HB1288.
The hearing on HB1288 was closed.

2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB1288
2/13/2015
#23846

☐ Subcommittee
Conference Committee

Committee Clerk Signature Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to abandoned vehicles.

Minutes: Attachment #1, 2

Start at 3:30 on recording. (Misc. non-bill discussion at beginning)

Chairman Dan Ruby brought HB 1288 back before the committee.

Rep. Mark Owens provided proposed amendments and explained them. See attachment #1.
Amendment discussion.
Clarification of certified and registered mail. Registered is more secure, but takes longer, most often used for something valuable.

Representative Chris Olson: Wouldn't unclaimed property be part of what would govern this? I don't know if we should cancel titles and giving full ownership to another party of someone's property. The towing companies may be entitled to be repaid for storage fees and other services, and if in the future, they are forced to liquidate the vehicle they could retain some of the monies and forward the rest to the state unclaimed property department.

Chairman Dan Ruby: There was some discussion in the hearing about being able to clear the title at some point if we allow it. Then anything above their cost would go to unclaimed property division in the title holder's name. It would be easy to tell who the last title holder of the vehicle was. That language would have to be added. I agree with you.

Representative Chris Olson: If we give them the authority to do whatever they want with the vehicle, then it won't be an open bidding process for the vehicle. They may report that they received $500 for the vehicle, and that is what the costs were. Really the car may have sold for $5000 if it had been put in a bidding process.

Chairman Dan Ruby: That is just one more problem with this bill. It may be easy to sell it to someone and report that there was no extra money.

Representative Robin Weisz: I can understand how someone could have a vehicle break down on the side of the road and not be able to get to it right away. I had it happen to me, and my vehicle was taken to impound within two days. I understand that a vehicle needs to be moved off of interstate for safety reasons. I think that there is a lot of inconsistency in the bill. This whole bill scares me. I do think the amendments make it better.

Chairman Dan Ruby: There were issues with unclaimed property too, as Representative Chris Olson mentioned.

Rep. Mark Owens: The bill was ugly, period. I was just trying to make it better with the amendments.

Representative Ben Hanson moved the amendments (provided by Rep. Mark Owens, see attachment #1). 15.0726.01003
Representative Gary Paur seconded the motion.

A voice vote was taken. The motion carried.

Representative Kathy Hawken reminded the committee of the proposed amendments provided in testimony by the Department of North Dakota Trust Lands and questioned the committee if they should also be included.

Representative Kathy Hawken moved the amendments from North Dakota Trust Lands. (See attachment #2.) 15.0726.01003
Rep. Mark Owens seconded the motion.

The motion carried.

Discussion on abandoned vehicle language.

Representative Robin Weisz moved a DO NOT PASS on HB 1288 as amended.
Representative Ben Hanson seconded the motion.

Representative Gary Paur: A point of query, would there be any there be any point in hog-housing this to change the present law, to fix any things that we don't like about the present situation?

Chairman Dan Ruby: We probably have already done as much as we could on it. It is a pretty involved bill. I don't know if we have the time to rework it.

Representative Robin Weisz: Unless you want it to be an interim study.

Chairman Dan Ruby: I don't think the whole committee needs to study it.

Representative Mike Schatz: I think the purpose of the bill is that there are abandoned vehicles along the road, and we need to get them off as soon as possible.

Representative Gary Paur: My impression of the bill was to provide the tow operators with a revenue stream.

Chairman Dan Ruby: There is value to some of the vehicles, and it is a shame if the only recourse that they have is to crush them. I think that a new bill needs to be figured out better than this one is.

A roll call vote was taken on HB 1288 as amended. Aye 8 Nay 2 Absent 4
The motion carried.

Representative Gary Paur will carry HB 1288.

Prepared Amendments for
Representative Owens
February 12, 2015

PROPOSED AMENDMENTS FOR HB NO. 1288

Page 1, line 10, overstrike "forty-eight" and insert immediately thereafter "ninety-six"

Page 2, line 4, replace the underscored comma with "or"

Page 2, line 5, remove the underscored comma

Page 2, line 5, remove "in possession of an abandoned"

Page 2, line 6, remove "vehicle"

Page 3, line 3, after "by" insert "registered"

Page 3, line 3, after "mail" insert "with return receipt"

Page 3, line 9, after "costs" insert ",which shall not exceed twenty-five dollars per day or four hundred dollars per calendar month for storage costs,"

Page 3, line 9, replace "date" with "receipt"

Page 3, line 9, after "of" insert "the"

Page 3, line 10, after "notice" insert "by the lienholder or secured party"

Page 3, line 12, after the first "entity" insert "on a form approved by the department"

Page 3, line 16, replace "shall" with "may"

Page 3, line 28, overstrike "fifteen" and insert immediately thereafter "thirty"

Renumber accordingly

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www.land.nd.gov

DEPARTMENT OF
ND TRUST LANDS
INVESTING FOR EDUCATION

Lance D. Gaebe, Commissioner

ND Department of Trust Lands
Proposed Amendments to HB 1288
January 30, 2015

Page 4, line 20, overstrike "deposited in the state treasury as provided in section 1 of article IX of the Constitution"

Page 4, line 21, overstrike "of North Dakota and credited to the permanent school fund" and insert immediately thereafter reported to the state unclaimed property division to be administered under chapter 47-30.1"

Renumber accordingly.

15.0726.01003
Title.03000

Adopted by the Transportation Committee

2-16-15

February 16, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1288

Page 1, line 10, overstrike "forty-eight" and insert immediately thereafter "ninety-six"

Page 2, line 4, replace the underscored comma with "or"

Page 2, line 5, remove the underscored comma

Page 2, line 5, after "or" insert "of a"

Page 2, line 5, remove "in possession of an abandoned"

Page 2, line 6, remove "vehicle"

Page 3, line 3, after "by" insert "registered"

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Page 3, line 10, after "notice" insert "by the lienholder or secured party"

Page 3, line 12, after the first "entity" insert "on a form approved by the department"

Page 3, line 16, replace "shall" with "may"

Page 3, line 28, overstrike "fifteen" and insert immediately thereafter "thirty"

Page 4, overstrike line 20

Page 4, line 21, overstrike "of North Dakota and credited to the permanent school fund" and insert immediately thereafter "reported to the state unclaimed property division to be administered under chapter 47-30.1"

Renumber accordingly

2-13-15
Date: Click here to enter a date.
Roll Call Vote #: "Enter Vote #" 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. "Enter Bill/Resolution No." 1288

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: 15.0726.01003

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Hanson Seconded By Paur

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby			Rep. Lois Delmore		
Vice Chair. Lisa Meier			Ben Hanson		
Rick C. Becker			Marvin E. Nelson		
Robert Frantsvog					
Kathy Hawken					
Christopher D. Olson					
Mark S. Owens					
Gary Paur					
Mike Schatz					
Gary R. Sukat					
Robin Weisz					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Rep. Owens ammend.

Date: 2-13-15
Roll Call Vote #: "Enter Vote #" 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. "Enter Bill/Resolution No." 1288

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: 15.6726.01003

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Hawken Seconded By Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby			Rep. Lois Delmore		
Vice Chair. Lisa Meier			Ben Hanson		
Rick C. Becker			Marvin E. Nelson		
Robert Frantsvog					
Kathy Hawken					
Christopher D. Olson					
Mark S. Owens					
Gary Paur					
Mike Schatz					
Gary R. Sukat					
Robin Weisz					

Voice Vote
Voice carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

ND Trust Lands. amend.

2-13-15
Date: Click here to enter a date.
Roll Call Vote #: "Enter Vote #" 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. "Enter Bill/Resolution No." 1288

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: 15.0726.01003

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Weisz Seconded By Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	X		Rep. Lois Delmore	X	
Vice Chair. Lisa Meier	A		Ben Hanson	X	
Rick C. Becker	A		Marvin E. Nelson	A	
Robert Frantsvog	A				
Kathy Hawken	X				
Christopher D. Olson	X				
Mark S. Owens		X			
Gary Paur	X				
Mike Schatz		X			
Gary R. Sukat	X				
Robin Weisz	X				

Total (Yes) 8 No 2

Absent 4

Floor Assignment Paur

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

REPORT OF STANDING COMMITTEE

HB 1288: Transportation Committee (Rep. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 2 NAYS, 4 ABSENT AND NOT VOTING). HB 1288 was placed on the Sixth order on the calendar.

Page 1, line 10, overstrike "forty-eight" and insert immediately thereafter "ninety-six"

Page 2, line 4, replace the underscored comma with "or"

Page 2, line 5, remove the underscored comma

Page 2, line 5, after "or" insert "of a"

Page 2, line 5, remove "in possession of an abandoned"

Page 2, line 6, remove "vehicle"

Page 3, line 3, after "by" insert "registered"

Page 3, line 3, after "mail" insert "with return receipt"

Page 3, line 9, after "costs" insert ", which may not exceed twenty-five dollars per day or four hundred dollars per calendar month for storage costs,"

Page 3, line 9, replace "date" with "receipt"

Page 3, line 10, after "notice" insert "by the lienholder or secured party"

Page 3, line 12, after the first "entity" insert "on a form approved by the department"

Page 3, line 16, replace "shall" with "may"

Page 3, line 28, overstrike "fifteen" and insert immediately thereafter "thirty"

Page 4, overstrike line 20

Page 4, line 21, overstrike "of North Dakota and credited to the permanent school fund" and insert immediately thereafter "reported to the state unclaimed property division to be administered under chapter 47-30.1"

Renumber accordingly

2015 TESTIMONY

HB 1288

HB 1288
1-30-15

15.0726.01001
Title.

#1

Prepared by the Legislative Council staff for
Representative Toman
January 23, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1288

Page 2, line 5, remove "private party in possession of an abandoned"

Page 2, line 6, replace "vehicle" with "a business that is registered and is in good standing with the secretary of state"

Page 3, line 3, after "by" insert "certified"

Page 3, line 12, after the first "entity" insert "on a form approved by the department"

Renumber accordingly

HB1288
1-30-15
#2

Testimony on HB 1288
Bill Kalanek
North Dakota Towing Association
House Transportation Committee
January 30, 2015

Good Morning Chairman Ruby and members of the House Transportation Committee, my name is Bill Kalanek, here today representing the members of the North Dakota Towing Association.

On behalf of our members I'd like to voice support for House Bill 1288. House Bill 1288 seeks to resolve an ongoing issue that law enforcement, road departments, landowners and tow truck drivers have been dealing with for some time. Vehicle abandonment has become more and more prevalent throughout the state even as we are experiencing economic prosperity like the state has never seen before. I'm sure all of you have driven down the highway and noticed a broken down vehicle on the side of the road? Some of you might have even stopped to help a stranger get moving again. Now more than ever we see those vehicles left unattended, left behind, and a hazard to the drivers on our roadways.

HB 1288 simply put, provides a process by which vehicle owners and lien holders are notified when an abandoned vehicle is removed from public or business property and allows them to either reclaim the vehicle if they choose or allows the towing company a clear means of disposing of the vehicle or selling the vehicle at auction in order to recover storage and towing costs. North Dakota's towing industry works closely with law enforcement every day to keep the roads free of vehicles damaged in accidents and those that people have just left behind, they are tasked with the challenge of locating the owners and lien holders with an interest in the vehicle at their expense.

On the surface ND law already provides for recourse in instances of abandonment but towing companies can often do little more than crush what might be a fully functional vehicle and sell it for scrap if no one is willing to reclaim it and pay the fees associated with towing and storing the vehicle.

I respectfully request that the committee give HB 1288 a "Do Pass" recommendation and provide relief to the industry assisting them with the growing problem of abandoned vehicles in our state.

Thank you.

HB 1288
1-30-15
#3

TESTIMONY IN REGARDS TO HOUSE BILL NO. 1288

JEFF OLSON, CREDIT UNION ASSOCIATION
OF THE DAKOTAS

Mr. Chairman and Members of the House Transportation Committee, I am Jeff Olson and I represent the Credit Union Association of the Dakotas.

Credit Unions do not object to House Bill No. 1288 **if** the Bill is amended to include the amendments submitted by the Credit Union Association to the Committee.

NOTICE TO LIENHOLDERS

A substantial amount of consumer loans at credit unions are secured by motor vehicles. In addition, credit unions purchase retail installment contracts from automobile dealers. It appears that the purpose of this Bill is to provide towing companies with an easier method to obtain title to motor vehicles that have been abandoned by the owners. Section 39-26-06 (2) (see page 3, line 3) provides that "The notice must be sent by mail . . . to all identifiable lienholders or secured parties of record." That sounds good but what happens if the lienholder never receives the notice or the notice is not received until 30 days after the date of the notice? This Bill provides that the lienholder (credit union) loses its secured interest in the collateral even if the credit union never receives the notice or the notice is received late. Secured credit union loans are granted on the basis of the credit of the member **and** the value of the collateral. The credit union should not

lose its interest in the collateral because the United States Post Office fails to deliver the mail or fails to deliver it within a reasonable amount of time.

We have all heard horror stories about mail that is lost. This week I was visiting with a gentleman from the northeastern part of North Dakota who mailed a letter over two weeks ago to his daughter in Fargo. She has not received it. I was informed that it took six (6) weeks for a letter to be delivered from Mandan to Bismarck and a letter sent from Bismarck to Phoenix which was delivered six (6) months later.

It is only fair, reasonable, and due process that property (the loss of the collateral) is not taken without receipt of such notices. The enclosed amendment provides that service of the notice must occur in any manner permitted by Rule 4 of the North Dakota Rules of Civil Procedure which would include service by a Sheriff or process server or by mail requiring a signed receipt. In addition, the 30 day time period should not commence until the notice has actually been received by the lienholder.

STORAGE COSTS. There is no limit on the amount that towing companies can charge to store vehicles. In some locations, storage fees can range from $40 to $65 per day. That is $1,200 to $2,000 per month. Those fees are unreasonable and in fact are gouging parties who have no control or opportunity to negotiate the fees. If you don't pay the unreasonable fees, then the vehicle will be lost.

It is submitted that $20 per day - $600 per month is a fair and reasonable amount for storing vehicles.

HB1288
1-30-15
#4

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1288

Page 3, line 4, overstrike "to" and after "and" insert "the notice must be served in accordance with rule 4 of the rules of civil procedure on"

Page 3, line 9, after "costs" insert ", which shall not exceed twenty dollars per day for storage costs,"

Page 3, line 9, replace "date" with "receipt"

Page 3, line 9, after "of" insert "the"

Page 3, line 10, after "notice" insert "by the lienholder or secured party"

Renumber accordingly

Submitted by

Credit Union Association of the Dakotas

#5 HB1288
1-30-15

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DEPARTMENT OF
ND TRUST LANDS
INVESTING FOR EDUCATION

Lance D. Gaebe, Commissioner

TESTIMONY OF LINDA FISHER
DEPUTY COMMISSIONER OF OPERATIONS
North Dakota Department of Trust Lands

IN OPPOSITION TO HOUSE BILL 1288

HOUSE TRANSPORTATION COMMITTEE
January 30, 2015

Chairman Ruby, and members of the Committee, I am Linda Fisher, Deputy Commissioner of Operations for the Department of Trust Lands.

I am here to testify in opposition to this bill; not in its entirety, but more specifically to the process relating to the disposition of proceeds referred to in line 21 and 22 of section 5 of the bill which currently requires residual sale proceeds be deposited in the "state treasury" and credited to the "permanent school fund".

Many of you on the committee may be familiar with the unclaimed property program in North Dakota that operates under NDCC 47-30.1. It is commonly referred to as the Uniform Unclaimed Property Act (the Act), and has been enacted in some form in all 50 states.

Since 1975, the Act has been administered in our state to provide a repository where financial assets belonging to a business or individual can be placed in custody in hopes of reuniting it with the rightful owner.

While those assets are waiting to be claimed, the funds are in fact credited to, and invested with, other assets of a permanent school fund known as the Common Schools Trust fund. The beneficiary of this particularly permanent trust is K-12 public education in North Dakota.

I am here today to offer an amendment to House Bill 1288 that would:

- Clarify disposition of proceeds by providing a specific process whereby residual sale funds would be transferred to the state; and,
- Provide a mechanism for the rightful owner to claim whatever funds may be available after the sale of that abandoned vehicle.

I would respectfully request that this amendment be given serious consideration prior to the committee taking any action on this bill.

#6 HB1288
1-30-15

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DEPARTMENT OF
ND TRUST LANDS
INVESTING FOR EDUCATION

Lance D. Gaebe, Commissioner

ND Department of Trust Lands
Proposed Amendments to HB 1288
January 30, 2015

Page 4, line 20, overstrike "deposited in the state treasury as provided in section 1 of article IX of the Constitution"

Page 4, line 21, overstrike "of North Dakota and credited to the permanent school fund" and insert immediately thereafter reported to the state unclaimed property division to be administered under chapter 47-30.1"

Renumber accordingly.

HB1288
2-13-15
#1

Prepared Amendments for
Representative Owens
February 12, 2015

PROPOSED AMENDMENTS FOR HB NO. 1288

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#2 HB1288
2-13-15

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Lance D. Gaebe, Commissioner

ND Department of Trust Lands
Proposed Amendments to HB 1288
January 30, 2015

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