

**2021 HOUSE TRANSPORTATION**

**HB 1098**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Transportation Committee Room JW327E, State Capitol

HB 1098  
1/8/2021

A bill relating to reporting crashes and obtaining crash reports and data.
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10:00 AM **Chairman Ruby** opened the meeting.

### Attendance

Representatives	Vote
Representative Dan Ruby	P
Representative Tom Kading	P
Representative Rick Becker	P
Representative Cole Christensen	P
Representative LaurieBeth Hager	P
Representative Jared C. Hagert	P
Representative Karla Rose Hanson	P
Representative Terry B. Jones	P
Representative Emily O'Brien	P
Representative Mark S. Owens	P
Representative Bob Paulson	P
Representative Gary Paur	P
Representative Robin Weisz	P
Representative Greg Westlind	P

### Discussion Topics:

- Changes language in code from “accident” to “crash”.
- Language clarification to provide immediate notice of a crash.
- Fee changes for a crash report from \$5.00 to \$7.00.
- Add language” OR THE AGENT OF THE INSURER”

**Major Aaron Hummel, Chief of Staff for ND Highway Patrol.** Introduction. Testimony # 279 & 289.

**Karen Mongeon, Safety Division Director for ND Department of Transportation.** Neutral testimony # 135.

### Additional written testimony:

**Gabby Reed, Manager, State Government Affairs, Rocky Mountain Region, Denver, CO,** proposed amendment # 275.

**Melissa Casteel, Research Analyst, ND Department of Transportation.** Favorable testimony #137.

10:41 **Chairman Ruby** closed hearing.

10:49 Meeting adjourned.

House Transportation Committee  
HB 1098  
01/08/2021  
Page 2

*Jeanette Cook, Committee Clerk*

**House Bill 1098**  
**House Transportation Committee**  
**Representative D. Ruby, Chairman**  
**January 8, 2021**

Chairman Ruby and members of the House Transportation Committee, my name is Major Aaron Hummel, chief of staff for the North Dakota Highway Patrol. I am here to provide testimony in support of House Bill 1098, which was introduced at the request of the Highway Patrol.

The changes to sections 39-08-05, 08, 10, 11, and 13 through 16 of the North Dakota Century Code are being requested by the Highway patrol in collaboration with the North Dakota Department of Transportation.

The **SECTION 1. AMENDMENT** changes the term “accident” to “crash” as part of the Vision Zero initiative. The Highway Patrol supports the change in terminology, because there are predictable contributing factors to crashes while the term accident implies that the event occurred unexpectedly or by chance. This section also clarifies language relating to reporting by adding reference to NDCC 39-08-06 which is the requirement to provide immediate notice of the crash.

The **SECTION 2. AMENDMENT** provides clarification to what information must be provided if someone causes damage to another’s property as well as changes the term accident to crash.

The **SECTION 3. AMENDMENT** changes the term accident to crash as well as clarifies the way law enforcement is currently required to submit crash reports to the department of transportation.

The **SECTION 4. AMENDMENT** changes the term accident to crash.

In the **SECTION 5. AMENDMENT** there are two significant changes. The first would classify crash reports as exempt until they are final and received by the Department of Transportation (DOT). The original purpose of requesting the changes for the Highway Patrol was to streamline workflow for our agency. Currently, the DOT is the entity that prescribes the form and manner that crash reports can be completed and submitted by law enforcement. Because DOT maintains all crash report records, they are the main source for the public to request and receive a finalized copy of a crash report. As an agency, the Highway Patrol considers a crash report to be in draft form until it is officially submitted electronically to DOT. We do get requests for crash reports on occasion and try to route the public to DOT to obtain a copy of the report. Through current open records law, law enforcement agencies are required to provide the unofficial copy of the crash report to the requesting party. This amendment would streamline the process and help law enforcement avoid duplication of effort. Although the ability is there for us to charge a fee for the report, the Highway Patrol has not been charging these fees for several years. We get a low quantity of requests and charging the fees would likely cost more for the processing of the payment.

The Highway Patrol is in the process of streamlining our administrative staff, and we’re taking a close look at tasks that are completed. Processing crash report requests is one of those tasks. This bill would change any crash report held by an entity from an open record to an exempt

record, while the crash report that is required to be submitted to DOT would remain an open record. There are many instances when our troopers are working closely with families or insurance companies on serious crashes, and by classifying our records as exempt rather than confidential, we would still be able to provide that information. Also, the exempt status would allow law enforcement agencies who prefer to sell crash reports locally to continue to do so.

The second change revises NDCC 39-08-13 which currently states that for a payment of five dollars, a party to the crash, a party's legal representative, or the insurer of any party to the crash may receive the officer's "opinion" of the crash report. In application, I believe the term "opinion" and "narrative" have been used interchangeably over the years. At the Highway Patrol we believe that the narrative should not be based on opinion, but rather upon factual information collected and known at the time of the report. The narrative provides significant information to tell the story about how the crash occurred. The section of law noting that an officer's opinion is considered confidential has been removed in the bill.

Currently, any person may request a copy of the crash report which does not include the "opinion" for a payment of two dollars. The two separate fees are tied to a prior system of crash reporting in which the front of the report contained the basic crash information, and the back of the report contained a crash diagram and narrative. Today, crash reports are submitted electronically, and they can be released in their entirety except for any information that must be redacted. Because the crash report is now one electronic file, the changes in this section combine the two separate fees for a total of seven dollars, which is what an individual would pay today to receive a full crash report containing the basic information along with the officer's opinion. These changes still incorporate the need for an individual to assure they are a party to the crash, a party's personal representative, or an insurer of a party to the crash before they can receive a driver's license number, phone number, insurance/policy information, or date of birth.

There are several other minor clean-up recommendations in this section. The most repetitive is changing the term accident to crash.

We were contacted yesterday by Amy Cleary of the GA Group requesting that we also amend 39-08-13(5), which can be identified on line 2 of page number 4, by adding "or agent of the insurer" to the list of individuals who can obtain an unredacted copy of the crash report. This request is valid, and the proposed amendment would match the parties listed in 39-08-13(4). We support this amendment and would appreciate your consideration.

In the **SECTION 6. AMENDMENT** there are several instances where the term accident is revised to crash. Additionally, language is added to clarify when data may be released for qualifying activities such as for use by a government agency in carrying out its functions, for use in connection with matters of motor vehicle theft or public safety and theft, and for use in research activities and producing statistical reports.

The **SECTION 7. and SECTION 8. AMENDMENTS** are revisions which change the term accident to crash.

I appreciate your support in considering the changes offered in this bill and the proposed amendment, and I would be happy to answer any questions you may have.

**PROPOSED AMENDMENTS TO HOUSE BILL NO. 1098**

Page 4, remove lines 1 through 7, replace with and insert:

5. ~~Upon affirmation by request from a party to the accident~~crash, a party's legal representative, ~~or the insurer of any party to the accident that the investigating officer's opinion is material to a determination of liability~~crash, the agent of that insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or crash involving a party to the crash and upon payment of a fee of ~~five~~up to seven dollars, the director ~~or investigating agency~~ shall release a completed copy of the ~~investigating officer's opinion~~crash report to the entity requesting the information. The request must be made on ~~an appropriate~~the form approvedprescribed by the director.

Renumber accordingly

**HOUSE TRANSPORTATION COMMITTEE**  
**January 8, 2021 – 10:00 a.m.**

**North Dakota Department of Transportation**  
**Karin Mongeon, Safety Division Director**  
**HB 1098**

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Good morning Chairman Ruby and members of the committee. I'm Karin Mongeon, Safety Division Director for the North Dakota Department of Transportation (NDDOT). I am here to provide information related to HB 1098. Thank you for giving me the opportunity to address you today.

HB 1098 amends and reenacts sections of 39-08 of the North Dakota Century Code, relating to reporting crashes and obtaining crash reports and data.

The NDDOT has no concerns with this bill and worked jointly with the North Dakota Highway Patrol (NDHP) on its content. We have no further information to provide beyond what the NDHP has already discussed but are available to respond to any questions from the committee.

Thank you.

January 7, 2021

275

The Honorable Dan Ruby  
Chairman, House Transportation Committee  
North Dakota State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

**Re: HB 1098 “Relating to reporting crashes and obtaining crash reports and data”**

Dear Chairman Ruby:

I am writing on behalf of RELX Group and LexisNexis Risk Solutions, a leader in providing essential information to help customers across industry and government assess, predict and manage risk, to respectfully request a small technical amendment to HB 1098 “Relating to reporting crashes and obtaining crash reports and data”.

In section five of the bill, we request the following change:


39-08-13(5)

Upon ~~affirmation by request from~~ a party to the ~~accident crash~~, a party's legal representative, ~~or~~ the insurer of any party to the ~~accident that the investigating officer's opinion is material to a determination of liability crash~~, **OR THE AGENT OF THAT INSURER** and upon payment of a fee of ~~five~~ **up to seven** dollars, the director ~~or investigating agency~~ shall release a completed copy of the ~~investigating officer's opinion crash report~~ to the entity requesting the information. The request must be made on ~~an appropriate~~ **the form approved** prescribed by the director.

LexisNexis Risk Solutions is an insurance support organization. This amendment would ensure alignment of 39-08-13(5) with 39-08-13(4) which, under current law and in the proposed bill, permits agents of insurers to access exempt information in crash reports. This small change would ensure that an agent of the impacted insurer is able to access complete crash reports.

Thank you for your consideration of the requested amendment to HB 1098 which will result in our support of this legislation. Should you have any questions, please do not hesitate to contact me either via e-mail at [gabby.reed@relx.com](mailto:gabby.reed@relx.com) or at 202-403-7893.

Sincerely,



Gabby Reed  
Manager, State Government Affairs - Rocky Mountain Region  
RELX Group

**North Dakota Department of Transportation**  
**Testimony Subject Matter Expert**

Name:       Melissa Casteel, Research Analyst  
              North Dakota Department of Transportation, Safety Division

HB or SB Bill #:  HB 1098

Email:       mccasteel@nd.gov

Phone #:  701-328-1805

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Transportation Committee Room JW327E, State Capitol

HB 1098  
1/28/2021

A bill relating to reporting crashes and obtaining crash reports and data.
--

2:38 PM **Chairman Ruby** called the committee to order.

### Attendance

Representatives	
Representative Dan Ruby	P
Representative Tom Kading	P
Representative Rick Becker	P
Representative Cole Christensen	P
Representative LaurieBeth Hager	P
Representative Jared C. Hagert	P
Representative Karla Rose Hanson	P
Representative Terry B. Jones	P
Representative Emily O'Brien	P
Representative Mark S. Owens	P
Representative Bob Paulson	P
Representative Gary Paur	P
Representative Robin Weisz	A
Representative Greg Westlind	P

### Discussion Topics:

- Amendments

**Chairman Ruby** proposed amendments # 4142 and mark-up language # 4143.

**Representative Hanson** moved the amendments. LC 21.8088.01001

**Representative Hagert** seconded.

Voice vote. Carried.

**Representative Jones** moved a Do Pass as amended. **Representative Paur** seconded.

Representatives	Vote
Representative Dan Ruby	Y
Representative Tom Kading	Y
Representative Rick Becker	N
Representative Cole Christensen	N
Representative LaurieBeth Hager	Y
Representative Jared C. Hagert	Y
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	Y

Representative Emily O'Brien	Y
Representative Mark S. Owens	Y
Representative Bob Paulson	Y
Representative Gary Paur	Y
Representative Robin Weisz	A
Representative Greg Westlind	Y

Motion carried. 11-2-1 Representative Hagert carrier.

2:46 PM Chairman Ruby adjourned.

*Jeanette Cook, Committee Clerk*

DO 1/28/21  
1st

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1098

Page 3, line 16, remove the overstrike over "is"

Page 3, line 16, remove "when received by the director are"

Page 3, line 19, replace "entities" with "a public entity"

Page 3, line 20, after "transportation" insert "and a law enforcement agency that contracts with service providers"

Page 4, line 2, overstrike "or"

Page 4, line 3, after "crash" insert ", the agent of the insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or crash involving a party to the crash,"

Page 5, line 8, remove "The department may disclose exempt information referred to in subsection 4 of section"

Page 5, remove lines 9 through 16

Page 5, line 17, remove "5."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1098: Transportation Committee (Rep. D. Ruby, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1098 was placed on the Sixth order on the calendar.

Page 3, line 16, remove the overstrike over "is"

Page 3, line 16, remove "when received by the director are"

Page 3, line 19, replace "entities" with "a public entity"

Page 3, line 20, after "transportation" insert "and a law enforcement agency that contracts with service providers"

Page 4, line 2, overstrike "or"

Page 4, line 3, after "crash" insert ". the agent of the insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or crash involving a party to the crash."

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Page 5, line 17, remove "5."

Renumber accordingly

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Page 5, line 17, remove "5."

Renumber accordingly

Sixty-seventh  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1098**

Introduced by

Transportation Committee

(At the request of the Highway Patrol)

1 A BILL for an Act to amend and reenact sections 39-08-05, 39-08-08, 39-08-10, 39-08-11,  
2 39-08-13, 39-08-14, 39-08-15, and 39-08-16 of the North Dakota Century Code, relating to  
3 reporting crashes and obtaining crash reports and data.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 39-08-05 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **39-08-05. ~~Accidents~~Crashes involving damage to vehicle - Penalty.**

8 The driver of any vehicle involved in ~~an accident~~a crash resulting only in ~~damage to a~~  
9 ~~vehicle which is driven or attended by any person~~ property damage to the driver's vehicle or any  
10 other vehicle shall immediately stop ~~such~~the vehicle at the scene of ~~such accident~~the crash or  
11 as close ~~thereto~~to the scene of the crash as possible but shall ~~forthwith~~ return to and ~~in every~~  
12 ~~event shall~~ remain at the scene of ~~such accident~~the crash until the driver has fulfilled the  
13 requirements of section 39-08-06 and 39-08-09. Every such stop must be made without  
14 obstructing traffic more than is necessary. Any person failing to stop or comply with ~~said~~the  
15 requirements ~~under such circumstances~~in this section is guilty of a class B misdemeanor.

16 **SECTION 2. AMENDMENT.** Section 39-08-08 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **39-08-08. Duty upon striking highway fixtures or other property.**

19 The driver of any vehicle involved in ~~an accident~~a crash resulting only in damage to  
20 highway fixtures or other property shall take reasonable steps to locate and notify the owner or  
21 person in charge of ~~such~~the property of ~~such fact and of the~~ damage. The driver shall provide  
22 the driver's name and, address, and of the registration number of the vehicle the driver is driving  
23 and shall upon request and if available exhibit the driver's operator's or chauffeur's license and,  
24 The driver shall make report of ~~such accident~~the crash when and as required in section

1 39-08-09. The driver shall provide the name of the motor vehicle insurance policy carrier and  
2 the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor  
3 vehicle insurance policy carrier and the policy number of the owner of the vehicle, to the owner  
4 or person in charge of the damaged property or to the law enforcement officer investigating the  
5 crash.

6 **SECTION 3. AMENDMENT.** Section 39-08-10 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **39-08-10. Officer to report.**

9 Every law enforcement officer, who in the regular course of duty investigates a motor  
10 vehicle ~~accident~~crash required to be reported as provided in section 39-08-09 either at the time  
11 and at the scene of the ~~accident~~crash or thereafter by interviewing the participants, or  
12 witnesses, shall make and promptly forward to the director a report of the ~~accident~~crash in ~~athe~~  
13 format prescribed by the director. The report must contain all the information required therein  
14 unless the information is not available, and must be transmitted electronically to the department  
15 of transportation using the software prescribed by the director.

16 **SECTION 4. AMENDMENT.** Section 39-08-11 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **39-08-11. When driver unable to report.**

- 19 1. ~~An accident~~A crash notice is not required from any person who is physically incapable  
20 of making the report during the period of such incapacity.
- 21 2. Whenever the driver of a vehicle is physically incapable of giving an immediate notice  
22 of ~~an accident~~a crash and there was another occupant in the vehicle at the time of the  
23 ~~accident~~crash capable of doing so, ~~such~~the occupant shall make or cause to be given  
24 the notice not given by the driver.
- 25 3. Whenever the driver is physically incapable of giving notice of ~~an accident~~a crash and  
26 ~~such~~the driver is not the owner of the vehicle, then the owner of the vehicle involved  
27 shall within five days after learning of the ~~accident~~crash give ~~such~~the notice and  
28 insurance information not given by the driver.

29 **SECTION 5. AMENDMENT.** Section 39-08-13 of the North Dakota Century Code is  
30 amended and reenacted as follows:

**39-08-13. AccidentCrash report forms.**

1. The director shall prepare and supply to law enforcement agencies, garages, and other suitable agencies or individuals forms for accidentcrash reports required by law, appropriate with respect to the purposes to be served. The reports to be made by investigating officers shall call for sufficiently detailed information to disclose the cause of a traffic accidentcrash, conditions then existing, persons and vehicles involved, and whether the requirements for the deposit of security under section 39-16-05 are applicable.
2. Every accidentcrash report required to be made to the director must be made in the appropriate format or ~~approved~~prescribed by the director and must contain all the information required therein unless not available.
3. Every law enforcement officer who investigates a vehicle accidentcrash for which a report must be made as required in this chapter shall forward a report of such accidentcrash to the department within ten days after the accidentcrash.
4. The reports required to be forwarded by law enforcement officers and the information contained in the reports ~~is when received by the director are~~ not privileged or confidential. ~~If, however, the investigating officer expresses an opinion as to fault or responsibility for the accident, the opinion is confidential and not open to public inspection, except as provided in subsection 5.~~ Crash reports held by entitles a public entity other than the department of transportation and a law enforcement agency that contracts with service providers are exempt records. In addition, the following information contained in the report is an exempt record as defined in section 44-04-17.1 unless the requester is a party to the accidentcrash, a party's legal representative, the insurer of any party to the accidentcrash, the agent of that insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or accidentcrash involving a party to the accidentcrash:
  - a. Driver identification number of a party in the report;
  - b. Telephone number of a party in the report;
  - c. Insurance company name and policy number of a party in the report; and
  - d. Day and month of birth of a party in the report.

- 1        5. Upon affirmation by request from a party to the ~~accident~~crash, a party's legal  
2        representative, ~~or the insurer of any party to the accident that the investigating officer's~~  
3        ~~opinion is material to a determination of liability~~crash, the agent of the insurer, or the  
4        legal representative or insurer of an individual involved in defending or investigating a  
5        prior or subsequent claim or crash involving a party to the crash, and upon payment of  
6        a fee of ~~five~~up to seven dollars, the director ~~or investigating agency~~ shall release a  
7        completed copy of the ~~investigating officer's opinion~~crash report to the entity  
8        requesting the information. The request must be made on an ~~appropriate~~the form  
9        ~~approved~~prescribed by the director.
- 10       6. Upon request of any person and upon payment of a fee of ~~two~~up to seven dollars, the  
11       director ~~or the law enforcement agency~~ may furnish to a requester a copy of that  
12       ~~portion of an investigating officer's accident~~crash report which does not disclose the  
13       ~~opinion of the reporting officer or~~ contain any exempt information that may not be  
14       disclosed, if the report shows that the ~~accident~~crash is one for which a driver is  
15       required to file a report under section 39-08-09.
- 16       7. Copies of ~~accident~~crash reports are not admissible as evidence in any action for  
17       damages or criminal proceedings arising out of a motor vehicle ~~accident~~crash.
- 18       8. The director, without a request under subsection 4 or 5, may send a copy of an  
19       ~~accident~~a crash report to the registered owner of each vehicle involved as indicated by  
20       the report.

21       **SECTION 6. AMENDMENT.** Section 39-08-14 of the North Dakota Century Code is  
22       amended and reenacted as follows:

23       **39-08-14. Public inspection of reports relating to ~~accidents~~crashes.**

- 24       1. All ~~accident~~crash reports made by persons involved in ~~accidents~~crashes or by garages  
25       shall be without prejudice to the individual so reporting and shall be for the confidential  
26       use of the department or other state agencies having use for the records for  
27       ~~accident~~crash prevention purposes, or for the administration of the laws of this state  
28       relating to the deposit of security and proof of financial responsibility by persons  
29       driving or the owners of motor vehicles, except that the department may disclose the  
30       identity of a person involved in an ~~accident~~a crash when such identity is not otherwise  
31       known or when such person denies the person's presence at such ~~accident~~crash.

2. All ~~accident~~crash reports and supplemental information filed in connection with the administration of the laws of this state relating to the deposit of security or proof of financial responsibility are confidential and not open to general public inspection, nor may copying of lists of such reports be permitted.

3. No written reports or written information mentioned in this section may be used as evidence in any trial, civil or criminal, arising out of an ~~accident~~a crash, except that the director shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified ~~accident~~crash report has or has not been made to the director in compliance with law.

~~4. The department may disclose exempt information referred to in subsection 4 of section 39-08-13 to any person, on proof of the identity of the person requesting a record and representation by the requestor that the use of the exempt information will be strictly limited to one or more of the following:~~

~~a. For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person acting on behalf of a government agency in carrying out its functions.~~

~~b. For use in connection with matters of motor vehicle or public safety and theft.~~

~~c. For use in research activities and producing statistical reports.~~

~~5.~~ Notwithstanding any other provisions of this chapter, any information compiled or otherwise made available to the department pursuant to this chapter must be transmitted to each and every duly authorized official or agency of the United States requesting such.

**SECTION 7. AMENDMENT.** Section 39-08-15 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-15. Director of the department of transportation to tabulate and analyze ~~accident~~crash reports.**

The director shall tabulate and may analyze all ~~accident~~crash reports and shall publish annually, or at more frequent intervals, statistical information based thereon as to the number and circumstances of traffic ~~accidents~~crashes.

**SECTION 8. AMENDMENT.** Section 39-08-16 of the North Dakota Century Code is amended and reenacted as follows:

1       **39-08-16. Any incorporated city may require accidentcrash reports.**

2       Any incorporated city or other municipality may by ordinance require that the driver of a  
3       vehicle involved in an ~~accident~~ crash shall file with a designated city department a report of  
4       such ~~accident~~ crash or a copy of any report herein required to be filed with the director. All such  
5       reports must be for the confidential use of the city department and subject to the provisions of  
6       section 39-08-14.

**2021 SENATE TRANSPORTATION**

**HB 1098**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Transportation Committee Fort Totten Room, State Capitol

HB 1098  
2/18/2021

A BILL for an Act to amend and reenact sections 39-08-05, 39-08-08, 39-08-10, 39-08-11, 39-08-13, 39-08-14, 39-08-15, and 39-08-16 of the North Dakota Century Code, relating to reporting crashes and obtaining crash reports and data.

**Chair Clemens** calls the meeting to order. Present are Chair Clemens, Vice Chair Fors, Senators Bakke, Conley, Dwyer, D. Larsen. [09:30]

### Discussion Topics:

- Replacing "Accident" term with "Crash"
- Streamlining workflow re: crash reports
- Streamlining Administrative workflow

**Aaron Hummel**, Chief of Staff, Highway Patrol In favor #6835 [9:31]

**Karin Mongeon**, Safety Division Director NDDOT in favor #6934 [9:45]

**Aaron Hummel**, answers question from committee [09:54]

**Chair Clemens**, adjourns the public hearing [10:00]

**Senator Dwyer** Motion do pass [10:00]

**Senator Conley** second [10:00]

Senators	Vote
Senator David Clemens	Y
Senator Robert Fors	Y
Senator Cole Conley	Y
Senator Michael Dwyer	Y
Senator Doug Larsen	N
Senator JoNell Bakke	Y

Motion passed 5-1-0 [10:00]

**Senator Dwyer** carries [10:01]

**Chair Clemens** adjourns the meeting. [10:00]

*Sheldon Wolf, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1098, as engrossed: Transportation Committee (Sen. Clemens, Chairman)**  
recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1098 was placed on the Fourteenth order on the calendar.

House Bill 1098  
Senate Transportation Committee  
Senator Clemens, Chairman  
February 18, 2021

Chairman Clemens and members of the House Transportation Committee, my name is Major Aaron Hummel, chief of staff for the North Dakota Highway Patrol. I am here to provide testimony in support of House Bill 1098, which was introduced at the request of the Highway Patrol.

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The **SECTION 3. AMENDMENT** changes the term accident to crash as well as clarifies the way law enforcement is currently required to submit crash reports to the department of transportation.

The **SECTION 4. AMENDMENT** changes the term accident to crash.

In the **SECTION 5. AMENDMENT** there are two significant changes. The first will classify crash reports as exempt when held by a public entity other than the department of transportation and a law enforcement agency that contracts with service providers. The original purpose of requesting the changes for the Highway Patrol was to streamline workflow for our agency. Currently, the DOT is the entity that prescribes the form and manner that crash reports can be completed and submitted by law enforcement. Because DOT maintains all crash report records, they are the main source for the public to request and receive a finalized copy of a crash report. As an agency, the Highway Patrol considers a crash report to be in draft form until it is officially submitted electronically to DOT. We do get requests for crash reports on occasion and try to route the public to DOT to obtain a copy of the report. Through current open records law, law enforcement agencies are required to provide the unofficial copy of the crash report to the requesting party. This amendment would

streamline the process and help law enforcement avoid duplication of effort. Although the ability is there for us to charge a fee for the report, the Highway Patrol has not been charging these fees for several years. We get a low quantity of requests and charging the fees would likely cost more for the processing of the payment.

The Highway Patrol is in the process of streamlining our administrative staff, and we're taking a close look at tasks that are completed. Processing crash report requests is one of those tasks. This bill would change any crash report held by an entity from an open record to an exempt record, while the crash report that is required to be submitted to DOT would remain an open record. There are many instances when our troopers are working closely with families or insurance companies on serious crashes, and by classifying our records as exempt still allows agencies to provide that information. Also, the exempt status would allow law enforcement agencies who prefer to sell crash reports locally to continue to do so.

There were some concerns voiced to Chairman Ruby on the Senate Transportation Committee by a representative of Carfax. The Highway Patrol and Department of Transportation worked together with Chris Neal from Carfax to draft language for an amendment. The language provided the same exemption for contract services working on behalf of an agency to have the same exemption as the agency. The amendment was agreed upon by all parties and supported in the current format by the Highway Patrol.

The second change revises NDCC 39-08-13 which currently states that for a payment of five dollars, a party to the crash, a party's legal representative, or the insurer of any party to the crash may receive the officer's "opinion" of the crash report. In application, I believe the term "opinion" and "narrative" have been used interchangeably over the years. At the Highway Patrol we believe that the narrative should not be based on opinion, but rather upon information collected and known at the time of the report. The narrative provides significant information to tell the story about how the crash occurred. The section of law noting that an officer's opinion is considered confidential has been removed in the bill.

Currently, any person may request a copy of the crash report which does not include the "opinion" for a payment of two dollars. The two separate fees are tied to a prior system of crash reporting in which the front of the report contained the basic crash information, and the back of the report contained a crash diagram and narrative. Today, crash reports are submitted electronically, and they can be released in their entirety except for any information that must be redacted. Because the crash report is now one electronic file, the changes in this section combine the two separate fees for a total of seven dollars, which is what an individual would pay today to receive a full crash report containing the basic information along with the officer's opinion. These changes still incorporate the need for an individual to assure they are a party to the crash, a party's personal representative, or an insurer of a party to the crash before they can receive a driver's license number, phone number, insurance/policy information, or date of birth.

There are several other minor clean-up recommendations in this section. The most repetitive is changing the term accident to crash.

Prior to the original House Transportation Committee we were contacted by Amy Cleary of the GA Group requesting that we also amend 39-08-13(5), which can be identified on line 3 of page number 4, by adding “or agent of the insurer or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or crash involving a party to the crash” to the list of individuals who can obtain an unredacted copy of the crash report. This request added language which matches the parties listed in 39-08-13(4). We supported this amendment, which was approved by the House.

In the **SECTION 6. AMENDMENT** there are several instances where the term accident is revised to crash.

The **SECTION 7. and SECTION 8. AMENDMENTS** are revisions which change the term accident to crash.

I appreciate your support in considering the changes offered in this bill as amended by the House, and I would be happy to answer any questions you may have.

**SENATE TRANSPORTATION COMMITTEE**

**February 18, 2021 – 9:30 a.m. Ft. Totten**

**North Dakota Department of Transportation**

**Karin Mongeon, Safety Division Director**

**HB 1098**

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Good morning Chairman Clemens and members of the committee. I'm Karin Mongeon, Safety Division Director for the North Dakota Department of Transportation (NDDOT). I am here to provide information related to HB 1098. Thank you for giving me the opportunity to address you today.

HB 1098 amends and reenacts sections of 39-08 of the North Dakota Century Code, relating to reporting crashes and obtaining crash reports and data.

The NDDOT has no concerns with this bill and worked jointly with the North Dakota Highway Patrol (NDHP) on its content. We have no further information to provide beyond what the NDHP has already discussed but are available to respond to any questions from the committee.

Thank you.