

2011 HOUSE TRANSPORTATION

HB 1079

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

HB 1079
01/06/2011
#12614

☐ Conference Committee

Committee Clerk Signature

Jeanette Cook

Explanation or reason for introduction of bill/resolution:

Presently, state law limits the amount of weight that can be carried on a single axle to 20,000 lbs. In addition, the wheel may not carry a gross weight over five hundred and fifty pounds for each inch of tire width. This is true for both the interstate and non-interstate sections of state law. We were recently informed that state law is not in line with federal law.

Minutes:

See attached testimony #1.

Darcy Rosendahl, Director of Operations from the Department of Transportation, introduced the HB 1079. He gave testimony in support of HB 1079. See attached testimony #1.

Representative Onstad: Are the defense highways the interstate and all the rest of our highway system?

Darcy Rocendahl: The definition for the interstate is: "The National System of interstate and defense highways." In the code of federal regulations it says, Interstate System. The defense highways are a system termed the straw net. In North Dakota that is Hwy US 83 from the interstate up to US 2, the bypass around Minot onto 83 again up to the Airbase, and on US 2, it is from I-29 up to the Grand Forks Air Force Base.

Representative Onstad: Would the current load limits on Hwy 23, for example, remain the same? Is this change only on the highways that you mentioned?

Darcy Rosendahl: That is correct. It would just change on the Interstate.

Chairman Ruby: On the Interstate and the specific areas of highway that you mentioned?

Darcy Rosendahl: No, not in those specific areas. That was our mistake, we thought it included the defense highways, and it did not.

Chairman Ruby: Do you perceive this to be an increase of weight, removing a limiter on the steering axle on the interstates, or an increase?

Darcy Rosendahl: I don't think they would be, because currently we restrict them to 20,000 pounds per axle. An exception would be if the manufacture's rating was higher than that, then they would be allowed by Federal law to go to that manufacturer's rating. Typically the weight on a steering axle isn't all that great.

Chairman Ruby: So, it could be higher than what we currently allow, based on the weight per inch per tire?

Darcy Rosendahl: That is possible.

There were no further questions from the committee.

Tom Balzer, North Dakota Motor Carrier's Association: I thought that we supported this but will have to look at it again with the amendments. The reason that this issue came up was that a DOD load was turned back at the border because the steer axle weights were over limits. When you are dealing with military product, sometimes they're top heavy, in the case of a missile, for example. That was the issue at hand. My concern is that by taking the defense highways out of the bill, we would not be able to deliver DOD loads to the Minot AFB or to the Grand Forks AFB. That would be an issue. Overall, this is something that is an oversight in our law and one that does not conform to the Federal Law. We do support this change, but I would like to take a closer at the amendments.

Representative Weisz: Your understanding was that the load did not exceed the 20,000 pounds, but it was exceeding the 550 pounds per square inch?

Tom Balzer: Yes, on the steer axle it was, because of the width of the tires.

Representative Weisz: Didn't they have the ability to get the permit to get through?

Tom Balzer: I guess, I don't know the answer to that question.

Chairman Ruby asked Darcy Rosendahl to return to the podium.

Chairman Ruby: Where would you expect the load to go, unless it is just going through North Dakota, if it can't go on the defense highways?

Darcy Rosendahl: In the example that Tom gave, if it is something military, that is the intent of the straw net. In the CFR for the exchange, it talks about each state allowing reasonable access. So, if a load wasn't military, then they would not be allowed to go up to the Minot AFB. If it is a military load, that is where the discretion comes in, the reasonable access. In talking to the highway patrol they would allow that reasonable access off of the interstate and go up the straw net route to get to the Minot AFB or the Grand Forks AFB. That was the reason that the Federal highway put in the straw net system, to allow those type of loads. But, it isn't in the CFR that way.

Chairman Ruby: Why was the other truck not allowed in then?

Darcy Rosendahl: I believe, it was because no one was aware of the change. Our state law says, 550 pounds per inch of tire width. That was what they were enforcing. There was no provision that allowed it onto the interstate. This is what we are trying to come into compliance with. Federal law says they are allowed that on the interstate.

Representative Frantsvog: If the highway patrol would allow it, why not leave the language in the legislation?

Darcy Rosendahl: It is something we can look at. We are just trying to come into compliance with Federal Law, not change anything else. The original law, we just said, "defense highways". We probably want to clarify which routes those were.

Representative Weisz: The way I would read this, it wouldn't be limited to military. Is that correct?

Darcy Rosendahl: Yes, that is correct.

Representative Vigesaa: You said that if the manufacturer's rating was higher, that we can accept that. But the language would say that if the manufacturer's rating is over 20,000, it would be limited to 20,000, because it would be whatever is lower. Isn't that correct?

Darcy Rosendahl: That would be correct. I may have misstated that.

There was no further support for HB 1079.

There was no opposition to HB 1079.

The hearing for HB 1079 was closed.

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1079
01/07/2011
12640

☐ Conference Committee

Committee Clerk Signature

Jeannette Cook

Explanation or reason for introduction of bill/resolution:

Presently, state law limits the amount of weight that can be carried on a single axle to 20,000 lbs. In addition, the wheel may not carry a gross weight over five hundred and fifty pounds for each inch of tire width. This is true for both the interstate and non-interstate sections of state law. This means that state law is not in compliance with federal law.

Minutes:

Chairman Ruby reviewed the bill and amendment.

Tom Balzer, North Dakota Motor Carriers' Association: After speaking with the Highway Patrol and the Department of Transportation, we think the changes are fine. My concern was that the DOD loads would not be able to get to the areas that they needed to go. They assured me that they will write into their administrative policy that if there is a DOD load, they will allow it on the corridors on 83 and Hwy 2. I feel comfortable with that.

Representative R. Kelsch: Yesterday Representative Gruchalla made a comment about \$50 permit fee going to North Dakota and \$100 going to Minnesota. Is there that much of a discrepancy between the permit fees between the states? Or is it smaller than that?

Tom Balzer: I don't know. We are working on some language that you will get at some time soon, I hope.

Representative R. Kelsch: Do other states charge more for out of state vehicles or is it always the same?

Tom Balzer: The fee is the same based on weight.

Representative Frantsvog: If there will be exceptions for DOD loads, why can't we include that language in the bill?

Tom Balzer: I asked the same question. I was told that those roads are not designed or built for those weights, so the Department of Transportation does not feel comfortable just opening it up. I think it would be fine if that language was in there, but I don't want to speak for them. There were some concerns about defining the roads that those DOD loads could

go on. Federal law does require that states allow Department of Defense loads to go on those particular sections.

Chairman Ruby: If this bill were passed to allow that weight limit on those roads, it would be for all traffic, not just Department of Defense loads.

Tom Balzer: That is correct. This was a very unique case. The driver was using a specific piece of equipment that is not routinely used. Normally no matter how you packed the load it would not be a problem. This sparked the noncompliance that North Dakota has with the federal requirements. The new language, even after the amendments, will still comply with the federal regulations.

Representative R. Kelsch moved the amendment.

Representative Weisz seconded the motion.

A voice vote was taken, **ALL IN FAVOR, MOTION CARRIED.**

Representative R. Kelsch moved DO PASS AS AMENDED.

Representative Weisz seconded the motion.

A roll call vote was taken. **Aye 13 Nay 0 Absent 1**

MOTION CARRIED - DO PASS AS AMENDED.

Representative Gruchalla will carry HB 1079.

January 7, 2011

VK
1/11/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1079

Page 1, line 1, remove "and subsection 1 of"

Page 1, line 2, remove "section 39-12-05.3"

Page 1, remove lines 19 through 24

Page 2, remove lines 1 through 14

Renumber accordingly

Amendment

Date: 7-11

Roll Call Vote #: _____

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1079

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8044.01001

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

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By R Kelsch Seconded By R Weisz

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

Total (Yes) 13 No 0

Absent 1

Floor Assignment /

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

Voice vote on amendment

Date: 1-7-11Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1079House TRANSPORTATION Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

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

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

Total (Yes) 13 No 0Absent 1Floor Assignment Gruchalla

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

REPORT OF STANDING COMMITTEE

HB 1079: Transportation Committee (Rep. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1079 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "and subsection 1 of"

Page 1, line 2, remove "section 39-12-05.3"

Page 1, remove lines 19 through 24

Page 2, remove lines 1 through 14

Renumber accordingly

2011 SENATE TRANSPORTATION

HB 1079

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

HB 1079
March 3, 2011
14907

☐ Conference Committee

Stange

Explanation or reason for introduction of bill/resolution:

To bring state law into compliance with federal law.

Minutes:

Written testimony attached

Chairman Senator G. Lee opened the hearing on HB 1079 relating to steering axle weight limits on the national system of interstate and defense highways.

Darcy Rosendahl, North Dakota Department of Transportation, testified in support of HB 1079 which was submitted at the request of the DOT. Written testimony #1

Senator Nodland asked if they were saying that for any of the other axles you can use that per inch formula but on the steering axle it is the 20,000 pounds.

Mr. Rosendahl replied that was correct. States may not limit steering axle weights to less than 20,000 pounds or the axle rating established by the manufacturer, or whichever is lower.

Senator Nething asked when this federal law came into play.

Mr. Rosendahl said that it had been on the books for quite awhile but they were not aware of it. There was an incident at the border that brought these federal regulations to the attention of the NDDOT.

Senator Lee asked if there were consequences if we don't address this.

Mr. Rosendahl said that the federal highway can come back and say we are in violation and could hold some type of sanction against us.

Senator Nething asked what the amendments to the original bill did.

Mr. Rosendahl said the wording presented in the amendment in the House restricted it totally to the interstate.

Senator Mathern asked if adoption to this bill creates two standards in North Dakota where we now have one.

Mr. Rosendahl answered, not necessarily. He said that in law there was already a breakout for interstate and non-interstate highways. This bill would be just for the interstate portion to put us in compliance with the federal law.

Aaron Birst, ND Association of Counties testified in support of HB 1079 and suggested an amendment. Written testimony and amendment attached #2. The intent of the amendment is to clarify not only do the locals have the ability to create their own overweight system but also to collect the fees associated with violations of that system. He gave a history of HB 1042. He said that it was not their practice to revive a dead bill. He said this bill came out of the interim committee, went over to the House, the House Transportation passed it out with a Do Pass 13-1. It passed on the House floor and passed by a large margin. The next day the bill was brought back, and there was testimony on the floor and the bill was killed. They felt some of the floor debate was not accurate. Some of the debate was that it was unconstitutional for money to be diverted out of the state funds to be kept in the county. Part of this was true, all fines have to go to the School Land Board Trust Fund, but civil fees and civil damages are not in the constitution. He explained the original fiscal note.

Senator Mathern asked what their rationale was when choosing SB 1079 to put this amendment on.

Mr. Birst said that it was a strategic decision. It was the only bill on the senate side that had some sort of transportation weight issue.

Senator Nodland asked him to explain the history of the western oil counties permit system.

Mr. Birst said that the western counties have for twenty years had a process in place where they all join together to a Joint Powers agreement. These counties have a centralized location to get permits that allow trucks to run multiple counties instead of having to get an overweight permit from each county. Money from the permits is distributed among the seventeen counties.

Senator Nething said that he understood his strategy for bring this amendment to the Senate but wondered what his strategy was for dealing with the House if we comply with his request.

Mr. Birst said their strategy is to talk to everyone in the House so they understand that when they first voted for the bill and approved the bill that they were correct. The statements that caused them to waver were incorrect. We need to clear up the statement that was made on the House floor saying it was unconstitutional.

Senator Lee said that the committee had heard SB 2308 that dealt with electronic permitting, if that is in place, why do we need this amendment.

Mr. Birst replied that specifically dealt with State Roads. Theoretically, we should be putting together regional structures, even multistate. But, that is not here yet.

Discussion followed on how much money the state gets, how much the seventeen western states get and how much money goes to the counties.

Senator Lee commented that the state had taken over much of the costs to the county for several programs. He sighted child support and significant dollars going from the state to the county for these types of programs. He stated that these dollars should allow for some opportunities for the counties to work with roads.

Mr. Birst said that is correct. The two most significant ones were when the state took over the court system and when they took over child support. What counties did for the most part was lower their property tax.

Senator Oehlke asked if this was a make or break for counties if they actually do any type of enforcement of overloads.

Mr. Birst replied that the program is so effective that the county commissions will find ways to continue to fund it. He sighted what Barnes County was doing. What they are trying to suggest is that a well functioning county road overweight program helps everyone, including the state because you get the offender at the county level and keep him off the state system. If there is that dollar incentive for the county, then there is more incentive to get the overweight trucks off the roads. He stated that it is the law and if there is more incentive to enforce it, it helps everyone.

Senator Mathern asked if he had discussed the amendments with the Department of Transportation and if so, what was their response.

Mr. Birst said that they had spoken with them and their understanding was that it is a good idea. In the interim committee the DOT believed that counties already had that authority until they saw the Attorney General's opinion. He added: Please don't kill this bill on behave of my amendment.

Scott Rising, ND Soybean Growers Association testified in support of HB 1079 with the addition of the amendments. He stated that the idea of potentially having the ability to get a permit in a single place that would allow us to transport our Ag products over longer distances is very appealing.

Senator Lee asked for any opposing testimony.

Sandy Clark, North Dakota Farm Bureau, said that they were not testifying on HB 1079 but they were testifying against the amendments submitted. She said that if the real issue was concern for the roads, and not about the money, this overweight issue would have been enforced before. She did attend that hearing and it was very clear that the counties didn't enforce because they didn't get the money. This amendment is about money. Furthermore, we don't believe this is about Western North Dakota. This is a statewide issue. There was testimony from a county commissioner that they were going to go out

and buy the scales and they were going to hire people to enforce. She asked if we are going to set up speed traps. She gave an example of trucks being legal but having to go off that road for a quarter of a mile to get to an elevator and not being legal on that fourth of a mile. They have concern that this could turn into an issue. She added that Farm Bureau is not sure that this amendment is germane to this bill but that is the committee's judgment call.

Senator Nething asked how her board reconciled the damage that the Traffic Institute Study indicates producers are causing to the road and then not wanting to have a mechanism of enforcement to prevent that damage.

Ms. Clark said that they were not opposed to a logical enforcement procedure but are opposed to setting up a system that simply provides a cash cow.

Senator Nething said that the dollars are so minimal that I have a hard time recognizing a cash cow here.

Ms. Clark said that the testimony said \$100 fines. She said that their members are telling them that it is not uncommon to have overweight fines of \$5000 to 10,000.

Senator Nething questioned, shouldn't they be.

Ms. Clark replied that they are not supporting overweight vehicles. She said that is not the point here.

Senator Lee closed the hearing on SB 1079.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

HB 1079
March 4, 2011
14976

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Minutes:

Discussion/Action

Chairman Senator G. Lee opened discussion on HB 1079 relating to steering axle weight limits on the national system of interstate and defense highways and the amendment that was presented by Aaron Birst, North Dakota Association of Counties.

Senator Mathern commented that he would be supportive of adding the amendment.

Senator Nodland said that in the seventeen western states, the oil companies actually requested the counties to come up with a uniformed permit system because it was difficult to travel the area and not have to cross over counties. Some days they would have to purchase multitude overweight permits for one truck. This system accommodated the industry but at the same time helped the enforcement of overweight and overwidth trucks. He said that he would like to see this type of system statewide. He said that the western states agreement didn't have any negative impact on the agricultural producers. He said that he could vote either way but his experience with the western states, and their successful endeavor, helps him to believe that this is a good thing to look at.

Senator Mathern suggested that they should probably look at the whole picture for a system that would include IT development for all the players. He suggested they put the county amendments on HB 1079 and add a study resolution asking that the changes that we are making will be looked at so they fit together technologically.

Senator Lee said that he struggled with hanging this amendment on HB 1079. The bill is a clean, simple bill. The amendment muddies the water significantly. He believes the issue is bigger than just hanging an amendment on and it deserves further consideration. He said that they have another bill that the Transportation Committee will hear that deals with cities. The cities are asking if they can charge more for fines than the state says they can. He believes this is a bigger issue.

Senator Sitte referred to Sandy Clark's testimony and that entrapment seems a possibility. She said that she was not in favor of giving counties money to buy more scales. She

suggested that we take more time to work with counties on how to do this and come up with a plan that all sides can work with.

Senator Lee gave an example of the beet haulers in his area. He said that they can get an overweight permit to go on the state highway but they are not supposed to be on the township roads nor the county roads because they don't offer the 10% overweight permit. As soon as you turn on a county road, there is a \$500 fine. These are issues that the farm community is concerned about. He said that no one wants bad roads but the way the system is and the lack of consistency, it is a bigger issue. He believes it should be dealt with as a separate bill in a separate hearing.

Senator Nodland said that he could understand that and that they are two different issues. He had a question on Mr. Birst testimony and the first vote on the House side that did pass. It also came out of the interim committee.

Senator Lee replied that the voting and reconsidering may speak of the issues complexity. He said that to him, it is a larger issue than just putting the amendments on a bill that may or may not be germane.

Senator Mathern said that he got the impression that the sponsors were not against the amendment. He had the impression that the Department of Transportation was ok with this being the vehicle to help move the other issue which is of concern to the DOT. He said that he recognized Senator Lee's concern but he would still support the amendments.

Senator Lee said that it is not about the money, it is about how this is applied.

Senator Sitte asked if the problem is that we do need the help from the counties to enforce these regulations and that there isn't enough highway patrol out there.

Senator Nodland replied that the highway patrol don't enforce on county roads.

Senator Lee added that the highway patrol can issue tickets anywhere.

Senator Nething spoke to the committee on county road damage all over North Dakota. He made reference to the report that was done by the Traffic Institute. He stated that overloads on county roads, plus the number of loads, plus heavy equipment, specifically farm equipment is a big factor in damaging county and township roads. He says that there is a reluctance to want to enforce the limits that we have. Having said that, he asked what is wrong with the present system where the money goes back to the state. The problem is the counties don't have money to do the increase to prevent the damage. He said that we have farmers coming in from all over the state asking for money to take care of the damage road problems but they are the ones causing the damage. He said it is a situation to have the Farm Bureau come in and testify against an enforcement opportunity yet on the same hand they will come in and testify that we need more money for roads.

Senator Lee commented in regard to the counties not having any money; he said that he would begin to argue differently now a days. The state has assumed their court system, their child support programs; they are being allotted a large sum of money for roads over

the next biennium. The state works in cooperation with counties. He believes counties are not that bad off.

Senator Mathern spoke to Senator Sitte's question on the small portion of road to the elevator that isn't of the quality. He said the solution maybe to build up that road to the elevator. Build up the road, make it legal, and give them some enforcement.

Senator Oehlke moved a **Do Pass on Engrossed HB 1079**.

Senator Sitte seconded the motion.

Senator Mathern offered the amendment.

Senator Lee said that we had a motion and a second.

Roll call vote: 6-0-0. **Motion passed.**

Senator Mathern moved that we amend the bill that we have just approved and add the first amendments.

Senator Lee asked Senator Nething if that was appropriate.

Senator Nething replied that it was not appropriate.

Senator Oehlke will be the carrier.

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

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. Eng 1079

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

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

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Oehlke Seconded By Senator Sitte

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

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Oehlke

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

REPORT OF STANDING COMMITTEE

HB 1079, as engrossed: Transportation Committee (Sen. G. Lee, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1079 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1079

HOUSE TRANSPORTATION COMMITTEE

January 6, 2011

North Dakota Department of Transportation

Darcy Rosendahl, Director of Operations

HB 1079

Mr. Chairman and members of the committee, my name is Darcy Rosendahl and I serve as Director of the Office of Operations for the North Dakota Department of Transportation (NDDOT.) I'm here today to support HB 1079 which was submitted at the request of the DOT. As part of my testimony today, in addition to explaining the need for the changes in state law, we will be respectfully requesting the committee to amend HB 1079, so it properly complies with federal law.

Presently, state law limits the amount of weight that can be carried on a single axle to 20,000 lbs. In addition, the wheel may not carry a gross weight over five hundred and fifty pounds for each inch of tire width. This is true for both the interstate and non-interstate sections of state law. We were recently informed that state law is not in line with federal law.

The federal law states:

Except as provided herein, States may not enforce on the National System of Interstate and Defense Highways vehicle weight limits of less than 20,000 pounds on a single axle, 34,000 pounds on a tandem axle, or the weights derived from the Bridge Formula, up to a maximum of 80,000 pounds, including all enforcement tolerances. States may not limit tire loads to less than 500 pounds per inch of tire or tread width, except that such limits may not be applied to tires on the steering axle. States may not limit steering axle weights to less than 20,000 pounds or the axle rating established by the manufacturer, whichever is lower.

Federal law does not allow states to limit the steering axle strictly by the pounds per inch of tire width on the interstate. As a result we believe it is necessary to modify state law by inserting "except that such limits may not be applied to tires on the steering axle. Steering axle weights are limited to twenty thousand pounds or the axle rating established by the manufacturer, whichever is lower." This language was added as shown on HB 1079, Page 1, lines 10-13.

When we originally reviewed federal law we mistakenly interpreted it as requiring changes to the national defense highways, and as a result HB 1079 contained changes to Subsection 1 of section 39-12-05.3, which is shown on Page 2 of HB 1079 lines 10-14. After further discussions with the Federal Highway Administration these changes are not necessary so we are offering the attached amendments which remove Subsection 1 of section 39-12-05.3 from HB 1079 (See attachment).

With the amendment HB 1079 will change the allowable steering axle weights on the interstate to match federal law. (23 CFR, SS 658.17 #f) The current law for all other highways will not change.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions the committee may have.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1079

Page 1, line 1, remove "and subsection 1 of"

Page 1, line 2, remove "section 39-12-05.3"

Page 1, remove lines 19 through 24

Page 2, remove lines 1 through 14

Renumber accordingly

1

SENATE TRANSPORTATION COMMITTEE

March 3, 2011

**North Dakota Department of Transportation
Darcy Rosendahl, Director of Operations**

HB 1079

Mr. Chairman and members of the committee, my name is Darcy Rosendahl and I serve as Director of the Office of Operations for the North Dakota Department of Transportation (DOT.) I'm here today to support HB 1079 which was submitted at the request of the DOT.

Presently, state law limits the amount of weight that can be carried on a single axle to 20,000 lbs. In addition, the wheel may not carry a gross weight over five hundred and fifty pounds for each inch of tire width. This is true for both the interstate and non-interstate sections of state law. We were recently informed that state law is not in line with federal law.

The federal law states:

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Federal law does not allow states to limit the steering axle strictly by the pounds per inch of tire width on the interstate. As a result we believe it is necessary to modify state law by making the changes shown in the engrossed bill.

With this change the allowable steering axle weights on interstate will match federal law. (23 CFR, SS 658.17 #f) The current law for all other highways will not change.

Mr. Chairman, this concludes my testimony and I will be happy to answer any questions the committee may have at this time.

Testimony to the
SENATE TRANSPORTATION
Prepared March 3, 2011 by the North Dakota Association of Counties
Aaron Birst, Legal Counsel

CONCERNING HOUSE BILL 1079

Chairman Lee and members of the committee, the North Dakota Association of Counties is here today to strongly support HB 1079. We are also asking you to adopt an amendment which reflects a significant amount of work that was done by the public safety and transportation interim committee.

In enacting NDCC § 39-12-02, the legislature specifically granted the highway patrol and local authorities the ability to create special road permits which would allow individuals to operate vehicles on the highway which would otherwise exceeds size and weight restrictions. The entity that issues the permit is based upon what jurisdiction's highway was used. In other words, a city would have the authority to issue an overweight permit for city road, a county would have the authority to issue an overweight permit for county roads and the highway patrol would have the authority to issue an overweight permit for State roads.

NDCC § 39-12-02(3) list the charges allowed for the permits which varies depending on a number of factors such as whether it is a single trip or whether it is a yearly permit. Just for example, a single trip permit would be a \$20 fee.

If a vehicle does not have a permit, and gets stopped, they could be subject to having their vehicle weighed. If their vehicle is overweight, NDCC § 39-12-08 provides the individual must be assessed a \$100 penalty. Additionally, law enforcement has the right to impound the overweight vehicle pursuant to NDCC § 39-12-11. However, NDCC § 39-12-16 allows for a cash bond to be posted in lieu of seizing the vehicle.

The State's Attorney then has to file a civil complaint on behalf of **"the authority having jurisdiction of the road whereon the violation occurred"** against the owner or operator to forfeit the bond. If the case does not settle then it is scheduled for a trial.

In 2009, an Attorney General opinion (2009-L-19) was released which addressed some issues related to overweight truck regulations. The opinion raised some concerns on where the fines and/or fees should go when a vehicle violates the law. The ultimate conclusion was "a county may enact a weight restriction ordinance" but "it may not contain any provisions which would divert any revenue raised through enforcement of the ordinance from the state treasury to any county."

The intent of this amendment is to clarify not only do the locals have the ability to create their own overweight system but also to collect the fees associated with violations of that system. For the following reasons I ask that you support House Bill 1079 and its amendment. Thank you.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1079

Page 1, line 1, after "section 39-12-05" insert ", subsection 3 of 39-12-02 and section 29-12-14.1"

Page 1, line 2, after "relating to" insert "extraordinary road use fees and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 3 of Section 39-12-02 of the North Dakota Century Code is amended and reenacted as follows:

3. An appropriate charge must be made for each permit and all funds collected hereunder by the highway patrol must be deposited in the state highway fund for use in the construction and maintenance of highways and operating expenses of the department of transportation or deposited in the local authorities' general fund for use of the local road system. This section does not apply to ~~Except for~~ publicly owned vehicles that provide service beyond the agency's jurisdiction, official, publicly owned, emergency, or military vehicles which are not subject to charges for permits. The minimum fee for selected charges is as follows:

SECTION 2. AMENDMENT. Section 39-12-14.1 of the North Dakota Century Code is amended and reenacted as follows:

39-12-14.1 Voluntary settlement of extraordinary road use fee charges. Before the complaint is issued pursuant to section 39-12-14, the owner, or the owner's driver or agent, may voluntarily pay the amount of the extraordinary road use fee, or may provide proof of surety coverage to ensure payment of the extraordinary road use fee, provided under section 39-12-17, plus any towing or storage costs. Any settlement, whether made by the owner, or the owner's driver or agent, must be presumed to be of a voluntary nature. A peace officer or a peace officer's designee is authorized to receive the settlement payment on behalf of the authority having jurisdiction of the road whereon the violation occurred. The extraordinary road use fees for a violation on an interstate or on a state highway must be remitted to deposited with the state treasurer to be credited to the state highway fund. Extraordinary road use fees for a violation that did not occur on an interstate or state highway must be deposited in the county general fund in the county of the violation.

Renumber accordingly