

2009 HOUSE TRANSPORTATION

HB 1407

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1407

House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 01/29/09

Recorder Job Number: 8128

Committee Clerk Signature

Janette Cook

Minutes:

Representative Weisz, District 14, introduced HB 1407. Representative Weisz stated that the state has had a great economic boom. One reason is the developing energy development, and the other is the agriculture sector. We have seen a dramatic shift in our infrastructure with alternative energy, lack of pipeline capacity for oil, and developing coal. These things have made it possible for the state to have some money in the bank today, but it also has critical infrastructure needs. In the last twelve years, the volume of freight that moves across North Dakota's highways has increased by 50 percent. At the same time, the state's revenue sources have stayed the same for the past twenty years. There has been an increase in the amount of miles traveled, but the amount of fuel used hasn't increased because of more energy efficient vehicles; therefore the dollars brought in by fuel taxes has stayed level. The use of the roads has increased dramatically. So, while there has been an increasing demand on the system, due to the economic growth the state has had. The state has had a relatively flat revenue source from conventional sources. The other negative factor is inflation. Nothing has been hurt worse from inflation than transportation. From 2005 to 2008 transportation has incurred approximately a 47% inflationary increase. In 2005 there was a highway budget for a number of allocated projects. When we came back in January 2007, already at that point, the

DOT had canceled \$130 million dollars of projects that were anticipated to be completed when the legislative session was finished in 2005. This was strictly due to the dramatic inflationary increases because of the energy crisis, which is one of the reasons that the state has money in the bank. Representative Weisz thinks that the state of the infrastructure of the state could reach a crisis proportion if it isn't acted upon now. He advocates that the system has to get more money. In the past the legislature has basically matched federal dollars. That doesn't work any longer. The federal highway fund that is bankrupt. Federal funding in the future will not be for rural states like North Dakota. The federal emphasis for increased spending is for congested areas. The funding mechanism that the federal is looking at has to do with BLT's and public/private partnerships, which don't work in rural states like North Dakota. Representative Weisz feels that it is imperative that the state look at how it is going to fund transportation.

The bill has two parts. The first part is funding. Fifty percent of the motor vehicle excise tax will go into the highway distribution fund. It would be a dedicated ongoing source of funds. The \$120 million that the Governor has put towards roads this biennium are one time dollars. There is an ongoing problem that isn't going to be fixed by a onetime infusion of dollars. Representative Weisz would prefer to see 100% of the excise tax go into roads, but has to look at reality. According to projections the 50% would be roughly \$65 million for the 09-11 budget. In addition there will be \$70 million of general fund dollars that go into the highway fund. \$50 million will go into the highway distribution fund and \$20 million will go into an economic development fund. There will about \$115 million that will be distributed through the system by the formula that would be spelled out in this bill to the state, counties, townships, and public transit. The other \$20 million will be allocated to the DOT to be used for economic

development projects. Special projects can apply directly for that money without going through the STIP plan. There would have to be a match from the political subdivision.

The second part of the bill is the formula. There have been ongoing meetings with the cities, counties, townships, and public transit to develop a better formula for funding any increases in the highway fund. In the past sessions there has been a tendency to separate out certain items, for example the \$3 of a registration fee for public transit. In this case since the money didn't go into the distribution fund, cities and townships got nothing. Townships have not had an increase since the 1970's. One year in the 70's the legislature allocated one penny of gas tax to the townships. This new formula, which was agreed to by all parties, breaks it up so that every group will get what they got yesterday. So, if no money is added to the funding every political subdivision will get the same as they got when they left in 07. Any increase will

now be allocated out on a formula basis. The townships and public transit will get increases on the basis of the formula. Cities and counties will retain their percentages as they have in the past. Now, when we look at additional dollars, every division will share in the increase.

Since the legislature left in 05, transportation has gone behind \$350 million. Even if we get 100 million of stimulus dollars, it will still not bring us up to the level that we were at in 2005.

Representative R. Kelsch made the point that even if we get economic stimulus dollars, we will still need to go forward with the formula in this bill to take care of our state's transportation needs.

Representative Delmore asked if we will reach a point in North Dakota that some of our roads will not be able to be maintained and won't remain open.

Representative Weisz: I hope that doesn't occur. Especially in the areas of the state where the population is the least, there is increased economic activity. The roads must remain open to continue that activity.

Representative Griffin: Is there any discussion about the gas tax being flat, and that it keeps getting eaten up by inflation over the years?

Representative Weisz: There has been discussion. That is one of the reasons that we are looking at the excise tax. In general as the economy grows the excise tax grows, so at least there will be an increase in revenue sources. There is an argument that we should no longer use a gas tax, since there are cars like hybrids that are using the system and don't share in an equitable part of the tax.

Representative Gruchalla: When you look at the fees, farm trucks pay about one third of the fees. I don't think that is fair, when they travel a lot of miles and use the roads much more than they did when this schedule was put together. The gas tax seems to be fairer.

Representative Weisz: I believe that the gas tax is fairer. Then out-of-state road users pay that gas tax too. Roughly 40% of the gas tax that we get comes from out-of-state. As far as farm versus commercial, there has been an intermediate category added for some of those vehicles.

Representative Vigesaa: Will the amendments to this bill correct the fee schedules?

Representative Weisz: No, the fee schedules are there because we are no longer separating out the \$3.00 public transit fees. The amendments will reflect the agreement on the percentages that the cities, counties, and townships get. Also 100% of the registration fees are going into the highway distribution fund.

Senator O'Connell, District 6, spoke in support of HB 1407.

Grant Levi, Deputy Director of Engineering for the North Dakota DOT, spoke in favor of HB 1407 as amended, with some exceptions that were explained in testimony. See attachment #1. He explained that although the DOT doesn't support the means by which this bill brings funds into the highway distribution fund, we do support the need for additional

funding. He also commented on the economic stimulus dollars. He does agree with

Representative Weisz that the \$120 million of general fund money that will go into transportation, if SB 2012 passes, will only cover a portion of the losses that have incurred as a result of inflation over the last years. Since 2005 the DOT has lost about 45% of their spending power.

Representative Vigesaa: Can you explain the reason there is no amount for tribal agreements on the new chart?

Grant Levi: When we prepared for the current biennium not all the agreements had been reached with the tribal government, so we had to estimate the amount of money that would go to the tribal governments, so it wouldn't impact the other revenues.

Terry Traynor, Assistant Director for North Dakota Association of Counties, presented testimony in support of HB 1407. See attachment #2. He focused on the part that inflation has played in the counties' abilities to build and maintain roads.

Keith Magnusson from the North Dakota League of Cities spoke to support HB 1407. He is in agreement with previous testifiers. He sees the formula as a great solution to the funding of transportation in the future.

Tom Balzer spoke on behalf of the North Dakota Motor Carriers Association in support of HB 1470. He explained that using the excise tax for transportation is not a new idea. It used to be put into the highway distribution fund, but in the 1980's when the oil fields went bust, the legislature moved that money back into the general fund. His association thinks that this is a logical place to go for funding.

Russ Hanson with the Associated General Contractors of North Dakota spoke to support HB1407. The Association strongly supports adequate transportation funding. He stated that the inflation factor has adversely affected their industry. It does make sense to look at a plan

for the future. He stated that they do get a good two-to-one return on the federal program. That will end September 30th this year. He doesn't think that they can count on that kind of return in the future. The federal gas tax which funds the highway trust fund, which has big financial problems, is 18.4 cents. That gas tax has not been adjusted since 1993. When you take in consideration all the years of inflation and the national economy, it has really stressed a fund that is already broke. His association complimented this futuristic approach to funding transportation because it is needed. He repeated that all the user groups have worked together.

Jeb Elke, North Dakota Chamber of Commerce, spoke to support HB 1407. They recognize the importance of transportation in the state, and without the infrastructure the quality of business will suffer.

Bruce Murry, a lawyer with the North Dakota Protection and Advocacy Projects, supports the funding formula and distribution system in HB 1407, and the role that it plays in funding public transit. See attachment #3.

There was no testimony in opposition of HB 1407.

The hearing was closed on HB 1407.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1407

House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 01/29/09

Recorder Job Number: 8195

Committee Clerk Signature

Jeanette Cook

Minutes:

Chairman Ruby brought HB 1407 before the committee.

Representative Weisz distributed the proposed amendments and reviewed the effects of the amendments as was discussed in previous testimony. This amendment makes it clear that the State Aid Distribution fund comes out first, then the money is transferred into the Highway Distribution Fund.

Representative Weisz moved the amendments.

Representative R. Kelsch seconded the motion.

A voice vote was taken. All were in favor and the motion passed.

Representative R. Kelsch moved a Do Pass as amended with re-referred to appropriations on HB 1407.

Representative Delmore seconded the motion.

Representative Gruchalla: Representative Weisz, can you tell me how different this is from the bill from last session?

Representative Weisz: The main difference is that last session's bill didn't have this new formula that incorporates all groups involved. So, in the last bill, public transit and the townships got nothing.

Representative Gruchalla: Are the adjustments that are made in this bill for the registration fees, going to be new money? If not, where is it coming from?

Representative Weisz: Explained the transfer of money. Now with the formula, all the registration money will go into the highway distribution fund and everyone will get a share. He re-explained that even if appropriations takes all the money out of the bill, everyone will still get what they got last session because it has been figured proportionately. Now projects won't have special funding. If it is related to transportation, and there is an increase in funding, everyone will get a percentage of that dollar amount.

Chairman Ruby: Is the influx of new money from the 50% of the excise tax?

Representative Weisz: Yes, that in addition to the general fund dollars. In reality this bill does add \$15 million more dollars than the Governor's plan. This replaces the \$120 million; it isn't in addition to that.

Representative Weiler pointed out that the total would then be \$135 million rather than \$120 million as proposed by the governor.

Representative Frantsvog: If the \$135 million is reduced to \$120 million, will everyone take a cut since there are more organizations in the distribution?

Representative Weisz: Correct, they won't get as much of an increase.

Chairman Ruby: The big decision for the committee here is the idea of the economic development transportation fund and the 50% coming from the excise tax.

Representative Weisz: There are two bills in the Senate, the DOT budget bill (2012) with the Governor's \$120 million. The Governor didn't propose to change the formula, but the counties and cities have agreed that townships and public transport have the same needs and support the formula.

Representative Weiler: Is it still possible to change the formula without going over the \$120 million that is in the Governor's proposal?

Representative Weisz: The committee can change the percentage of the excise tax or make other changes. The formula will do its job regardless of what the ending revenue increases are.

Representative Weiler: My point is that I don't want to fight the formula, but I want to fight the money.

Chairman Ruby: If the committee passes this, it says that we support this policy and this approach. Appropriations has to balance the money.

Representative Weisz: I believe there are two issues here:

- 1) Should we dedicate an additional income source? (an excise tax for transportation)
- 2) Are we spending enough or too much?

Chairman Ruby: Does this pull \$3.2 million out of subsidizing ethanol and put it towards roads?

Representative Weisz: Yes, it does.

Representative Vigesaa: In regard to the excise tax, if vehicle sales drop, then the excise tax will decrease, and the amount to go into the Highway Distribution Fund will be less as well.

Representative Sukut: Are the cities and counties going to get less percentage wise, but not in dollars?

Representative Weisz: Yes, they will get what they got before. They will get a small percentage less of NEW money because of the new distribution.

A roll call vote was taken on HB 1470 as amended with re-referral to appropriations.

Aye 14 Nay 0 Absent 0

The motion carried.

Representative Weisz will carry HB 1407.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1407

House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 02/05/09

Recorder Job Number: 8867

Committee Clerk Signature

Janette Cook

Minutes:

HB 1407 was brought back for reconsideration.

Representative Weisz there was a mix-up. All these amendments do is make sure the formula is working the way that it is supposed to.

Representative Weisz moved that the committee reconsider their action.

Representative Delmore seconded the motion.

A voice vote was taken. All were in favor, and the motion passed.

Representative Weisz moved to further amend HB 1407.

Representative R. Kelsch seconded the motion.

A roll call vote was taken. All in favor. Motion passed.

Representative Weiler moved to further amend HB 1407. On page 14 of the bill, there is an appropriation of \$70 million from the general fund. I move that we replace the 70 with 20.

Representative Sukut seconded the motion.

Representative Potter: What is the rationale for this change?

Representative Weiler: There is talk of money coming from the federal government, so I feel that there is an opportunity to cut down on the general fund spending.

Representative Delmore: I am going to resist this amendment. There may be money coming from the federal government. Some of it may be matching, so we may want to have some money here. I think that appropriations is going through and doing that. I don't think that we need to do it in this committee.

Representative R. Kelsch: The merits of this bill are good. I agree with the way that Representative Weisz has put together the formula. I also agree with his philosophies that are in this piece of legislation. This is what I have a problem with, and we will have a difficult time overcoming. When this Representative Weisz put this bill in, The Governor has a bill for \$120 million dollars from the general fund. Representative Weisz thinks that by running it through the formula it is a better idea. The problem is that the \$120 million is over in the Senate.

Representative Weisz thought that this bill was the replacement for the \$120 plus the additional \$15 million, that is not the case. This bill is addition to the Governor's bill. So, we know that there will be \$120 million for transportation; we are pretty certain about that. We also know that potentially there is another \$190 million coming for transportation. In the end we are going to have to decide, if this is the route that we want to take. Do we want to put money in an economic development fund or a highway distribution fund, or how we want to do it in the end. The problem is that right now we have \$135 million here, and they have \$120 million there, and it is not reconciled. We can send this down to appropriations, but it won't come out with any money. It is probably better for us to send this down and say that we agree with the policy, we will reduce the money down so it can at least be a vehicle. We have no way of defeating the Governor's bill and replacing it with this bill. That is how I am viewing this.

Representative Delmore: We have a couple of other doubled up bills too that we know one of them will be voted down. I think this is a good process and was well thought out. I don't

know if the additional money that we have in here will make a huge difference, but those are my feelings.

Representative Weisz: There may have been some misunderstanding that this bill was to be above the \$120 million in the Governor's bill. It is hard to know what to do. If we send it out without the additional money, it is like saying that we don't need the money. That is not my intent, and if it comes out that way I will make that point on the floor.

Representative Weiler: The \$120 million is in the Governor's budget for the DOT over in the Senate. It is not like a separate bill that is coming to this committee. That would be easy to address. I agree with the content of the bill, but it looks like there is \$120 million there (Senate) and \$135 million here (House), and there is concern with that.

Representative Potter: Will the economic stimulus money be extra money, and not used to take the place of the money in this bill? We can't supplant money.

Representative Weisz: If we get Federal money, none of that money has been allocated yet, so we can't supplant that. If we pulled money out of the current transportation budget, and then tried to replace it with federal dollars, we would be guilty of supplanting. Assuming we get the \$194 million from the federal, all that will do is catch us up partially.

Representative Schmidt: Are you saying that both of these bill are not likely to pass?

Representative Weisz: They could both pass, but happens is they both end up in appropriations. The second half the house will have DOT budget cuts. So, they reconcile based on what the legislature tells they what it wants to do. Either the dollar provision from this bill may go into the DOT budget bill, or they strip the \$120 million out of there and put it into here (this bill). It depends what the policy makers want done.

Representative Schmidt: Then let's pass it and plead our case over there.

Representative Vigesaa: I imagine if you send in its original form, they are going to pass the Governor's budget, and then they get 1407. They will say that they have already funded \$120 million. They will kill the bill and the formula in the bill.

Chairman Ruby: We need the formula, and we need some money that can pass our side.

Representative Weisz: My two main issues are the formula and the excise tax needs to be with it as an ongoing revenue source.

Chairman Ruby reviewed the amendment as moved by **Representative Weiler**.

A roll call vote was taken. **Aye 8 Nay 6 Absent 0**

The motion passed.

Representative Weiler moved a Do Pass on HB 1407 as amended and further amended with re-referral to appropriations.

Representative Griffin seconded the motion.

A roll call vote was taken. **Aye 14 Nay 0 Absent 0**

The motion passed.

Representative Weisz will carry the HB 1407.

FISCAL NOTE
Requested by Legislative Council
04/15/2009

REVISION

Amendment to: Reengrossed
HB 1407

1A. 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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$2,700,000)	\$2,090,064	\$0	(\$600,000)
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$900,000	\$300,000		\$900,000	\$300,000	

2A. 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, with the Senate amendments (third engrossment), changes the distribution of transportation funding.

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 changes the Highway Tax Distribution allocation formula, places some tax and fee revenues previously allocated directly to various entities into the Highway Tax Distribution fund for allocation by way of the formula, provides a direct allocation to the State Highway Fund from the Highway Tax Distribution Fund, and provides additional funding from the Motor Vehicle Excise tax for townships during the 2009-2011 biennium. The significant fiscal impacts are:

SECTION 1 increases the Motor Vehicle Registration fees by \$3. Under current law, an additional motor vehicle registration fee of \$3 is assessed and credited to the Public Transportation Fund; section 7 of this bill removes that additional separate fee for public transportation. This revenue will now go into the Highway Tax Distribution Fund instead of the Public Transportation Fund. \$3 of Motor Vehicle Registration fees generates approximately \$4.7 million per biennium.

This section also provides that the \$13 of motor vehicle registrations (\$20 million) previously deposited directly into the State Highway Fund will now go to the Highway Tax Distribution Fund.

SECTION 2 changes the distribution rates for the Highway Tax Distribution Fund (HTDF) and adds the Township Highway Aid Fund and the Public Transportation Fund as recipients of the Highway Tax Distribution Fund through the new distribution rates.

- Under current law, the State Highway Fund receives 63 percent of HTDF allocations (plus the \$20 million of direct revenues from the \$13 of motor vehicle registration fees), and the counties and cities receive 37 percent (counties 23%, cities 14%). While the Public Transportation Fund and the Township Highway Aid Fund do not receive percentage allocations under current law, they do receive direct revenues of \$4.7 million and \$10.6 million respectively.

- Under the changes proposed in this bill, the State Highway Fund would receive 61.3 percent of HTDF allocations, the counties and cities receive 34.5 percent (counties 21.5%, cities 13%), the Township Highway Aid Fund would receive 2.7 percent, and the Public Transportation Fund would receive 1.5 percent.

- Section 2 of the bill also provides for the State Highway Fund to receive the first \$5.5 million of revenues generated for the Highway Tax Distribution Fund each biennium.

SECTION 3 of the bill discontinues a separate allocation of one cent of motor fuel taxes which, under current law is allocated directly to the Township Highway Aid Fund. As a result of section 3, this one cent of fuel tax would be deposited into the Highway Tax Distribution Fund. One cent of motor fuel tax generates approximately \$10.6 million per biennium. Section 3 of the bill will also allow taxpayers to obtain a refund of that one cent of fuel tax if they otherwise qualify for the tax exemption. The estimated amount of the tax that will be refunded under this provision is \$600,000 per biennium.

SECTION 4 of the bill provides that the first \$2.7 million collected from the motor vehicle excise tax be deposited into the Township Highway Aid Fund. Section 8 of the bill will cause this provision to expire on June 30, 2011.

SECTIONS 5 and 6 remove the references to the one cent fuel tax designated for the Township Highway Aid Fund.

SECTION 7 eliminates the \$3 motor vehicle registration fee that is currently credited directly to the Public Transportation Fund. The revenue lost under this section is replaced by the revenue generated under section 1 of the bill.

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.*

This bill will result in a net reduction in the revenues distributed and available to both the State Highway Fund and the State General Fund. The bill will result in increased revenue distributions to the counties, cities, public transportation, and the Township Highway Aid Fund.

GENERAL FUND

The general fund will experience decreased revenues of \$2,700,000 during the 2009-2011 biennium as a result of Section 4 of the bill.

OTHER FUNDS

This bill results in a net increase of approximately \$2.1 million to other funds during the 2009-2011 biennium, including the positive \$2.7 million impact on the Township Highway Aid Fund. Additionally, approximately \$600,000 of fuel taxes that will be available for refund to taxpayers but will no longer be available to fund transportation. The "Other Funds" impact is a composite of the bill's impact on four separate special funds. Following is a discussion of those impacts:

Township Highway Aid Fund - Section 3 eliminates the allocation of 1 cent of fuel tax (\$10.6 million) to this fund. It should be noted that this fund is also impacted by the formula percentage changes in Section 2 as well as the other revenue changes prescribed in this bill. While the fund sees a reduction for the direct allocation of 1 cent of fuel tax (\$10.6 million), it will receive 2.7 percent (\$10.4 million) of the revenues available for distribution from the Highway Tax Distribution fund. In addition, Section 4 provides that the first \$2.7 million collected from the motor vehicle excise tax be deposited into the Township Highway Aid Fund. As a result of these provisions, the Township Highway Aid Fund will realize a net increase of approximately \$2.5 million.

Public Transportation Fund - Section 7 repeals the \$3 Public Transportation Fee (\$4.7 million) on each motor vehicle registration. This fund is also impacted by the formula percentage changes in section 2 as well as the other revenue changes prescribed in this bill. While the fund sees a reduction for the \$3 Public Transportation fee (\$4.7 million), it will receive 1.5 percent (\$5.8 million) of the revenues available for distribution from the Highway Tax Distribution fund. It is estimated that this distribution from the Highway Tax Distribution Fund will be \$5.8 million. As a result of these provisions, the Public Transportation Fund will realize a net increase of approximately \$1.1 million.

State Highway Fund - Section 1 eliminates the \$13 direct allocation of each motor vehicle registration (\$20 million). These funds will be placed into the Highway Tax Distribution Fund. It should be noted that this fund is also impacted by the formula percentage changes in section 2 as well as the other revenue changes prescribed in this bill. In addition to the reduction of the \$13 dedicated motor vehicle registration fee, the State Highway Fund will receive a smaller percentage distribution from the Highway Tax Distribution Fund than previously received (61.3% versus 63%). Section 2 of the bill provides for the State Highway Fund to receive the first \$5.5 million of revenue generated for the Highway Tax Distribution Fund. It is estimated that the State Highway Fund will experience an net decrease in revenue amounting to \$2.7 million as a result of this bill.

Highway Tax Distribution Fund - This bill has a number of provisions that impact the Highway Tax Distribution Fund. * Section 1 places the \$13 of each motor vehicle registration (\$20 million) into the fund. Section 1 also increase motor

vehicle registration fees by \$3; this motor vehicle registration fee increase is offset by section 7 which repeals the \$3 public transportation fee (\$4.7 million).

* Section 3 places into the fund the 1 cent of fuel tax (\$10.6 million) previously dedicated to the Township Highway Aid Fund. It also provides for the 1 cent of fuel tax to be eligible for refund to the taxpayer; these refunds will result in a reduction to the fund of approximately \$600,000.

COUNTIES AND CITIES

The counties and cities will also experience increased revenues because of this bill. Due to the additional revenues to the Highway Tax Distribution Fund as previously explained, the counties will receive \$900,000 in increased revenues during each of the 2009-2011 and 2011-2013 bienniums. The increased revenues for the cities will be \$300,000 for each of the same time periods.

The \$2.7 million diversion of motor vehicle excise tax to the Township Highway Aid fund impacts only the 2009-2011 biennium.

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

This bill contains no appropriation provisions. The NDDOT appropriation is contained in SB2012. The funding provisions of this bill (HB1407) will leave the NDDOT approximately \$60 million short of the revenues necessary to fund the appropriation contained in engrossed SB2012.

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	04/15/2009

FISCAL NOTE
Requested by Legislative Council
03/18/2009

Amendment to: Reengrossed
HB 1407

1A. 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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$2,484,000)	\$2,090,064	\$0	(\$600,000)
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$793,944	\$199,992		\$900,000	\$300,000	

2A. 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, with the Senate amendments (third engrossment), changes the distribution of transportation funding.

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 changes the Highway Tax Distribution allocation formula, places some tax and fee revenues previously allocated directly to various entities into the Highway Tax Distribution fund for allocation by way of the formula, provides a direct allocation to the State Highway Fund from the Highway Tax Distribution Fund, and provides additional funding from the Motor Vehicle Excise tax for townships during the 2009-2011 biennium. The significant fiscal impacts are:

SECTION 1 increases the Motor Vehicle Registration fees by \$3. Under current law, an additional motor vehicle registration fee of \$3 is assessed and credited to the Public Transportation Fund; section 7 of this bill removes that additional separate fee for public transportation. This revenue will now go into the Highway Tax Distribution Fund instead of the Public Transportation Fund. \$3 of Motor Vehicle Registration fees generates approximately \$4.7 million per biennium.

This section also provides that the \$13 of motor vehicle registrations (\$20 million) previously deposited directly into the State Highway Fund will now go to the Highway Tax Distribution Fund.

SECTION 2 changes the distribution rates for the Highway Tax Distribution Fund (HTDF) and adds the Township Highway Aid Fund and the Public Transportation Fund as recipients of the Highway Tax Distribution Fund through the new distribution rates.

- Under current law, the State Highway Fund receives 63 percent of HTDF allocations (plus the \$20 million of direct revenues from the \$13 of motor vehicle registration fees), and the counties and cities receive 37 percent (counties 23%, cities 14%). While the Public Transportation Fund and the Township Highway Aid Fund do not receive percentage allocations under current law, they do receive direct revenues of \$4.7 million and \$10.6 million respectively.

- Under the changes proposed in this bill, the State Highway Fund would receive 61.3 percent of HTDF allocations, the counties and cities receive 34.5 percent (counties 21.5%, cities 13%), the Township Highway Aid Fund would receive 2.7 percent, and the Public Transportation Fund would receive 1.5 percent.

- Section 2 of the bill also provides for the State Highway Fund to receive the first \$5.5 million of revenues generated for the Highway Tax Distribution Fund each biennium.

SECTION 3 of the bill discontinues a separate allocation of one cent of motor fuel taxes which, under current law is allocated directly to the Township Highway Aid Fund. As a result of section 3, this one cent of fuel tax would be deposited into the Highway Tax Distribution Fund. One cent of motor fuel tax generates approximately \$10.6 million per biennium. Section 3 of the bill will also allow taxpayers to obtain a refund of that one cent of fuel tax if they otherwise qualify for the tax exemption. The estimated amount of the tax that will be refunded under this provision is \$600,000 per biennium.

SECTION 4 of the bill provides that the first \$2.7 million collected from the motor vehicle excise tax be deposited into the Township Highway Aid Fund. Section 8 of the bill will cause this provision to expire on June 30, 2011.

SECTIONS 5 and 6 remove the references to the one cent fuel tax designated for the Township Highway Aid Fund.

SECTION 7 eliminates the \$3 motor vehicle registration fee that is currently credited directly to the Public Transportation Fund. The revenue lost under this section is replaced by the revenue generated under section 1 of the bill.

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.*

This bill will result in a net reduction in the revenues distributed and available to both the State Highway Fund and the State General Fund. The bill will result in increased revenue distributions to the counties, cities, public transportation, and the Township Highway Aid Fund.

GENERAL FUND

The general fund will experience decreased revenues of \$2,484,000 during the 2009-2011 biennium as a result of Section 4 of the bill ($\$2,484,000 = \$2,700,000$ of transferred motor vehicle excise tax less the State Aid Distribution Fund share of the 2.7 million ($40\% \text{ of } 1\% / .05 \text{ (tax rate)} \times \$2.7 \text{ million} = \$216,000$)).

STATE AID DISTRIBUTION FUND

The State Aid Distribution Fund will experience decreased revenues totaling \$216,000 during the 2009-2011 biennium because of the transfer of the \$2.7 million of motor vehicle excise taxes. The calculation of the \$216,000 is explained in the preceding paragraph which discusses the General Fund revenue impacts. This loss will ultimately be allocated to the cities, counties, and townships as follows: cities - \$100,008, counties - \$106,056, and townships - \$9,936.

OTHER FUNDS

This bill results in a net increase of approximately \$2.1 million to other funds during the 2009-2011 biennium, including the positive \$2.7 million impact on the Township Highway Aid Fund. Additionally, approximately \$600,000 of fuel taxes that will be available for refund to taxpayers but will no longer be available to fund transportation. The "Other Funds" impact is a composite of the bill's impact on four separate special funds. Following is a discussion of those impacts:

Township Highway Aid Fund - Section 3 eliminates the allocation of 1 cent of fuel tax (\$10.6 million) to this fund. It should be noted that this fund is also impacted by the formula percentage changes in Section 2 as well as the other revenue changes prescribed in this bill. While the fund sees a reduction for the direct allocation of 1 cent of fuel tax (\$10.6 million), it will receive 2.7 percent (\$10.4 million) of the revenues available for distribution from the Highway Tax Distribution fund. In addition, Section 4 provides that the first \$2.7 million collected from the motor vehicle excise tax be deposited into the Township Highway Aid Fund. As a result of these provisions, the Township Highway Aid Fund will realize a net increase of approximately \$2.5 million.

Public Transportation Fund - Section 7 repeals the \$3 Public Transportation Fee (\$4.7 million) on each motor vehicle registration. This fund is also impacted by the formula percentage changes in section 2 as well as the other revenue changes prescribed in this bill. While the fund sees a reduction for the \$3 Public Transportation fee (\$4.7 million), it will receive 1.5 percent (\$5.8 million) of the revenues available for distribution from the Highway Tax Distribution fund. It is estimated that this distribution from the Highway Tax Distribution Fund will be \$5.8 million. As a result of these provisions, the Public Transportation Fund will realize a net increase of approximately \$1.1 million.

State Highway Fund - Section 1 eliminates the \$13 direct allocation of each motor vehicle registration (\$20 million). These funds will be placed into the Highway Tax Distribution Fund. It should be noted that this fund is also impacted by the formula percentage changes in section 2 as well as the other revenue changes prescribed in this bill. In addition to the reduction of the \$13 dedicated motor vehicle registration fee, the State Highway Fund will receive a

smaller percentage distribution from the Highway Tax Distribution Fund than previously received (61.3% versus 63%). Section 2 of the bill provides for the State Highway Fund to receive the first \$5.5 million of revenue generated for the Highway Tax Distribution Fund. It is estimated that the State Highway Fund will experience an net decrease in revenue amounting to \$2.7 million as a result of this bill.

Highway Tax Distribution Fund - This bill has a number of provisions that impact the Highway Tax Distribution Fund.

* Section 1 places the \$13 of each motor vehicle registration (\$20 million) into the fund. Section 1 also increase motor vehicle registration fees by \$3; this motor vehicle registration fee increase is offset by section 7 which repeals the \$3 public transportation fee (\$4.7 million).

* Section 3 places into the fund the 1 cent of fuel tax (\$10.6 million) previously dedicated to the Township Highway Aid Fund. It also provides for the 1 cent of fuel tax to be eligible for refund to the taxpayer; these refunds will result in a reduction to the fund of approximately \$600,000.

COUNTIES AND CITIES

The counties and cities will also experience increased revenues because of this bill. Due to the additional revenues to the Highway Tax Distribution Fund as previously explained, the counties will receive \$900,000 in increased revenues during each of the 2009-2011 and 2011-2013 bienniums. A small portion of this increase (\$106,056) will be offset by impact that the \$2.7 million motor vehicle excise tax transfer has on the State Aid Distribution Fund as previously discussed. The increased revenues for the cities will be \$300,000 for each of the same time periods. Likewise, a portion of this increase (\$100,008) will be offset as a result of the loss to the State Aid Distribution Fund. The net increases for the counties and cities will be \$793,944 and \$199,992 respectively for the 2009-2011 biennium.

The \$2.7 million diversion of motor vehicle excise tax to the Township Highway Aid fund impacts only the 2009-2011 biennium.

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

This bill contains no appropriation provisions. The NDDOT appropriation is contained in SB2012. The funding provisions of this bill (HB1407) will leave the NDDOT approximately \$60 million short of the revenues necessary to fund the appropriation contained in engrossed SB2012.

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	03/19/2009

FISCAL NOTE
Requested by Legislative Council
02/19/2009

Amendment to: Reengrossed
HB 1407

1A. 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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$64,764,000)	\$64,764,000	(\$64,764,000)	\$64,764,000
Expenditures						
Appropriations				\$48,400,000		\$48,400,000

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$10,700,000	\$6,600,000		\$10,700,000	\$6,600,000	

2A. 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 is intended to provide additional funding for transportation statewide and prescribe the distribution of transportation funding.

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 changes the Highway Tax Distribution allocation formula, places some tax and fee revenues previously allocated directly to various entities into the Highway Tax Distribution fund for allocation by way of the formula, and places part of the Motor Vehicle Excise Tax into the Highway Tax Distribution fund. The significant fiscal impacts are:

SECTION 1 increases the Motor Vehicle Registration fees by \$3. Under current law, an additional motor vehicle registration fee of \$3 is assessed and credited to the Public Transportation Fund; section 6 of this bill removes that additional separate fee for public transportation. This revenue will now go into the Highway Tax Distribution Fund instead of the Public Transportation Fund. \$3 of Motor Vehicle Registration fees generates approximately \$4.7 million per biennium.

This section also provides that the \$13 of motor vehicle registrations (\$20 million) previously deposited directly into the State Highway Fund will now go to the Highway Tax Distribution Fund.

SECTION 2 removes the provision from NDCC that forty percent of all sums collected for the registration of farm vehicles be transferred from the highway tax distribution fund to the ethanol production incentive fund (\$3.4 million per biennium). As a result of this section of the bill, these funds will be distributed through the Highway Tax Distribution Fund.

SECTION 3 changes the distribution rates for the Highway Tax Distribution Fund (HTDF) and adds the Township Highway Aid Fund and the Public Transportation Fund as recipients of the Highway Tax Distribution Fund through the new distribution rates.

- Under current law, the State Highway Fund receives 63 percent of HTDF allocations (plus the \$20 million of direct revenues from the \$13 of motor vehicle registration fees), and the counties and cities receive 37 percent (counties 23%, cities 14%). While the Public Transportation Fund and the Township Highway Aid Fund do not receive percentage allocations under current law, they do receive direct revenues of \$4.7 million and \$10.6 million respectively.

- Under the changes proposed in this bill, the State Highway Fund would receive 63.28 percent of HTDF allocations, the counties and cities receive 32.45 percent (counties 20.17%, cities 12.28%), the Township Highway Aid Fund

would receive 2.74 percent, and the Public Transportation Fund would receive 1.53 percent.

- It is very important to note that the allocation formula prescribed in Section 3 of the bill closely matches the percentage of funds the recipients realized in the 2007-2009 biennium through the Highway Tax Distribution fund or direct allocations.

SECTION 4 of the bill discontinues a separate allocation of one cent of motor fuel taxes which, under current law is allocated directly to the Township Highway Aid Fund. As a result of section 4, this one cent of fuel tax would be deposited into the Highway Tax Distribution Fund. One cent of motor fuel tax generates approximately \$10.6 million per biennium. Section 4 of the bill will also will allow taxpayers to obtain a refund of that one cent of fuel tax if they otherwise qualify for the tax exemption. The estimated amount of the tax that will be refunded under this provision is \$600,000 per biennium.

SECTION 5 provides for a continuation of the deposit of a portion of the motor vehicle excise taxes into the State Aid Distribution Fund (approximately \$11.3 million) and provides for the remainder of motor vehicle excise tax revenues be credited equally to the State General Fund and the Highway Tax Distribution Fund (approximately \$64.8 million each).

SECTION 6 eliminates the \$3 motor vehicle registration fee that is currently credited directly to the Public Transportation Fund. The revenue lost under this section is replaced by the revenue generated under section 1 of the bill.

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.*

This bill will result in a net decrease to the revenues available to the State General Fund and net increases to the revenues available to a number of other funds as well as the cities and counties. These changes are as follows.

GENERAL FUND

The general fund will experience decreased revenues of \$64,764,000 for the each of the 2009-2011 and 2011-2013 bienniums as a result of this bill.

During each of these bienniums, the general fund will forego \$64,763,998 which is fifty percent of the motor vehicle excise tax revenue it currently receives net of the portion credited to the State Aid Distribution Fund (Total MV Excise Tax revenues of \$140,791,300 less State Aid Distribution portion of \$11,263,304 equals \$129,527,996. Fifty percent of that amount is \$64,763,998).

OTHER FUNDS

This bill results in a net increase of approximately \$64.2 million to other funds, plus approximately \$600,000 of fuel taxes that will be available for refund to taxpayers. The "Other Funds" impact is a composite of the bill's impact on five separate special funds. Following is a discussion of those impacts:

Ethanol Production Incentive Fund - Section 2 eliminates the \$3.4 million direct allocation to this fund (40 percent of farm truck registrations).

Township Highway Aid Fund - Section 4 eliminates the allocation of 1 cent of fuel tax (\$10.6 million) to this fund. It should be noted that this fund is also impacted by the formula percentage changes in section 3 as well as the other revenue changes prescribed in this bill. While the fund loses the direct allocation of 1 cent of fuel tax (\$10.6 million), it will receive 2.74 percent of the revenues available for distribution from the Highway Tax Distribution fund. It is estimated that this distribution from the Highway Tax Distribution fund will be \$13.9 million. As a result of these provisions, the Township Highway Aid Fund will realize a net increase of approximately \$3.3 million.

Public Transportation Fund - Section 6 repeals the \$3 Public Transportation Fee (\$4.7 million) on each motor vehicle registration. It should be noted that this fund is also impacted by the formula percentage changes in section 3 as well as the other revenue changes prescribed in this bill. While the fund loses the \$3 Public Transportation fee (\$4.7 million), it will receive 1.53 percent of the revenues available for distribution from the Highway Tax Distribution fund. It is estimated that this distribution from the Highway Tax Distribution Fund will be \$7.8 million. As a result of these provisions, the Public Transportation Fund will realize a net increase of approximately \$3.1 million.

State Highway Fund - Section 1 eliminates the \$13 direct allocation of each motor vehicle registration (\$20 million). These funds will be placed into the Highway Tax Distribution Fund. It should be noted that this fund is also impacted by the formula percentage changes in section 3 as well as the other revenue changes prescribed in this bill. While the

fund loses the \$13 dedicated motor vehicle registration fee, it will receive 63.28 percent of the revenues available for distribution from the Highway Tax Distribution Fund. It is estimated that the State Highway Fund will receive an net increase of \$46.1 million as a result of this bill.

Highway Tax Distribution Fund - This bill has a number of provisions that impact the Highway Tax Distribution Fund.

* Section 1 places the \$13 of each motor vehicle registration (\$20 million) into the fund. This section also increase motor vehicle registration fees by \$3; this provision is offset by section 6 which repeals the \$3 public transportation fees (\$4.7 million).

* Section 2 places into the fund the \$3.4 million that was previously diverted to the Ethanol Production Incentive Fund.

* Section 4 places into the fund the 1 cent of fuel tax (\$10.6 million) previously dedicated to the Township Highway Aid Fund. It also provides for the 1 cent of fuel tax to be eligible for refund to the taxpayer; these refunds will result in a reduction to the fund of approximately \$600,000.

*Section 5 provides for a net amount of \$64.8 million of Motor Vehicle Excise Tax to be deposited into the fund.

COUNTIES AND CITIES

The counties and cities will also experience increased revenues because of this bill. Due to the increased revenues to the Highway Tax Distribution Fund as previously explained, the counties will receive \$10,700,000 in increased revenues during each of the 2009-2011 and 2011-2013 bienniums. The increased revenues for the cities will be \$6,600,000 for each of the same time periods.

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

This bill will necessitate increased appropriation amounts for the NDDOT totalling \$48.4 million for the 2009-2011 biennium and \$48.4 million for the 2011-2013 biennium. For the 2009-2011 biennium

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	02/19/2009

FISCAL NOTE
Requested by Legislative Council
02/16/2009

REVISION

Amendment to: Engrossed
HB 1407

1A. 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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$64,764,000)	\$84,764,000	(\$64,764,000)	\$64,764,000
Expenditures						
Appropriations			\$20,000,000	\$68,400,000		\$48,400,000

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$10,700,000	\$6,600,000		\$10,700,000	\$6,600,000	

2A. 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 as amended is intended to provide additional funding for transportation statewide and prescribe the distribution of transportation funding.

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 creates an Economic Development Transportation Fund, changes the Highway Tax Distribution allocation formula, places some tax and fee revenues previously allocated directly to various entities into the Highway Tax Distribution fund for allocation by way of the formula, places part of the Motor Vehicle Excise Tax into the Highway Tax Distribution fund, and makes a one-time transfer of \$20 million from the General Fund to the Economic Development Transportation Fund.

The significant fiscal impacts are:

SECTION 1 creates an Economic Development Transportation Fund and provides a continuing appropriation.

SECTION 2 increases the Motor Vehicle Registration fees by \$3. Under current law, an additional motor vehicle registration fee of \$3 is assessed and credited to the Public Transportation Fund; section 8 of this bill removes that additional separate fee for public transportation. This revenue will now go into the Highway Tax Distribution Fund instead of the Public Transportation Fund. \$3 of Motor Vehicle Registration fees generates approximately \$4.7 million per biennium.

This section also provides that the \$13 of motor vehicle registrations (\$20 million) previously deposited directly into the State Highway Fund will now go to the Highway Tax Distribution Fund.

SECTION 3 removes the provision from NDCC that forty percent of all sums collected for the registration of farm vehicles be transferred from the highway tax distribution fund to the ethanol production incentive fund (\$3.4 million per biennium). As a result of section 3 of this bill, these funds will be distributed through the Highway Tax Distribution Fund.

SECTION 4 changes the distribution rates for the Highway Tax Distribution Fund (HTDF) and adds the Township Highway Aid Fund and the Public Transportation Fund as recipients of the Highway Tax Distribution Fund through the new distribution rates.

- Under current law, the State Highway Fund receives 63 percent of HTDF allocations (plus the \$20 million of direct revenues from the \$13 of motor vehicle registration fees), and the counties and cities receive 37 percent (counties 23%, cities 14%). While the Public Transportation Fund and the Township Highway Aid Fund do not receive percentage allocations under current law, they do receive direct revenues of \$4.7 million and \$10.6 million respectively.
- Under the changes proposed in this bill, the State Highway Fund would receive 63.28 percent of HTDF allocations, the counties and cities receive 32.45 percent (counties 20.17%, cities 12.28%), the Township Highway Aid Fund would receive 2.74 percent, and the Public Transportation Fund would receive 1.53 percent.
- It is very important to note that the allocation formula prescribed in Section 4 of the bill closely matches the percentage of funds the recipients realized in the 2007-2009 biennium through the Highway Tax Distribution fund or direct allocations.

SECTION 5 of the bill discontinues a separate allocation of one cent of motor fuel taxes which, under current law is allocated directly to the Township Highway Aid Fund. As a result of section 5, this one cent of fuel tax would be deposited into the Highway Tax Distribution Fund. One cent of motor fuel tax generates approximately \$10.6 million per biennium. Section 5 of the bill will also will allow taxpayers to obtain a refund of that one cent of fuel tax if they otherwise qualify for the tax exemption. The estimated amount of the tax that will be refunded under this provision is \$600,000 per biennium.

SECTION 6 provides for a continuation of the deposit of a portion of the motor vehicle excise taxes into the State Aid Distribution Fund (approximately \$11.3 million) and provides for the remainder of motor vehicle excise tax revenues be credited equally to the State General Fund and the Highway Tax Distribution Fund (approximately \$64.8 million each).

SECTION 7 eliminates the \$3 motor vehicle registration fee that is currently credited directly to the Public Transportation Fund. The revenue lost under this section is replaced by the revenue generated under section 2 of the bill.

SECTION 8 of the bill provides for a one-time appropriation from the State General Fund of \$20 million and provides that these funds be placed into the Economic Development Transportation Fund.

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.*

This bill will result in a net decrease to the revenues available to the State General Fund and net increases to the revenues available to a number of other funds as well as the cities and counties. These changes are as follows.

GENERAL FUND

The general fund will experience decreased revenues of \$84,764,000 for the 2009-2011 biennium and \$64,764,000 for the 2011-2013 biennium as a result of this bill.

During each of these bienniums, the general fund will forego \$64,763,998 which is fifty percent of the motor vehicle excise tax revenue it currently receives net of the portion credited to the State Aid Distribution Fund (Total MV Excise Tax revenues of \$140,791,300 less State Aid Distribution portion of \$11,263,304 equals \$129,527,996. Fifty percent of that amount is \$64,763,998).

In addition, the general fund will be reduced during the 2009-2011 biennium for the \$20 million transfer provided in Section 8 of the bill.

OTHER FUNDS

This bill results in a net increase of approximately \$84.2 million to other funds, plus approximately \$600,000 of fuel taxes that will be available for refund to taxpayers. The "Other Funds" impact is a composite of the bill's impact on six separate special funds. Following is a discussion of those impacts:

Economic Development Transportation Fund - Section 8 places \$20 million of general funds into this fund.

Ethanol Production Incentive Fund - Section 3 eliminates the \$3.4 million direct allocation to this fund (40 percent of

farm truck registrations).

Township Highway Aid Fund - Section 5 eliminates the allocation of 1 cent of fuel tax (\$10.6 million) to this fund. It should be noted that this fund is also impacted by the formula percentage changes in section 4 as well as the other revenue changes prescribed in this bill. While the fund loses the direct allocation of 1 cent of fuel tax (\$10.6 million), it will receive 2.74 percent of the revenues available for distribution from the Highway Tax Distribution fund. It is estimated that this distribution from the Highway Tax Distribution fund will be \$13.9 million. As a result of these provisions, the Township Highway Aid Fund will realize a net increase of approximately \$3.3 million.

Public Transportation Fund - Section 7 repeals the \$3 Public Transportation Fee (\$4.7 million) on each motor vehicle registration. It should be noted that this fund is also impacted by the formula percentage changes in section 4 as well as the other revenue changes prescribed in this bill. While the fund loses the \$3 Public Transportation fee (\$4.7 million), it will receive 1.53 percent of the revenues available for distribution from the Highway Tax Distribution fund. It is estimated that this distribution from the Highway Tax Distribution Fund will be \$7.8 million. As a result of these provisions, the Public Transportation Fund will realize a net increase of approximately \$3.1 million.

State Highway Fund - Section 2 eliminates the \$13 direct allocation of each motor vehicle registration (\$20 million). These funds will be placed into the Highway Tax Distribution Fund. It should be noted that this fund is also impacted by the formula percentage changes in section 4 as well as the other revenue changes prescribed in this bill. While the fund loses the \$13 dedicated motor vehicle registration fee, it will receive 63.28 percent of the revenues available for distribution from the Highway Tax Distribution Fund. It is estimated that the State Highway Fund will receive an net increase of \$46.1 million as a result of this bill.

Highway Tax Distribution Fund - This bill has a number of provisions that impact the Highway Tax Distribution Fund.

* Section 2 places the \$13 of each motor vehicle registration (\$20 million) into the fund. This section also increase motor vehicle registration fees by \$3; this provision is offset by section 8 which repeals the \$3 public transportation fees (\$4.7 million).

* Section 3 places into the fund the \$3.4 million that was previously diverted to the Ethanol Production Incentive Fund.

* Section 5 places into the fund the 1 cent of fuel tax (\$10.6 million) previously dedicated to the Township Highway Aid Fund. It also provides for the 1 cent of fuel tax to be eligible for refund to the taxpayer; these refunds will result in a reduction to the fund of approximately \$600,000.

*Section 6 provides for a net amount of \$64.8 million of Motor Vehicle Excise Tax to be deposited into the fund.

COUNTIES AND CITIES

The counties and cities will also experience increased revenues because of this bill. Due to the increased revenues to the Highway Tax Distribution Fund as previously explained, the counties will receive \$10,700,000 in increased revenues during each of the 2009-2011 and 2011-2013 bienniums. The increased revenues for the cities will be \$6,600,000 for each of the same time periods.

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

This bill will necessitate increased appropriation amounts for the NDDOT totalling \$68.4 million for the 2009-2011 biennium and \$48.4 million for the 2011-2013 biennium. For the 2009-2011 biennium, \$20 million of the \$68.4 million is covered under the continuing appropriation provided in section 1.

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	02/16/2009

FISCAL NOTE
Requested by Legislative Council
02/16/2009

Amendment to: Engrossed
 HB 1407

1A. 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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$84,764,000)	\$84,764,000	(\$64,764,000)	\$64,764,000
Expenditures						
Appropriations				\$68,400,000		\$48,400,000

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$10,700,000	\$6,600,000		\$10,700,000	\$6,600,000	

2A. 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 as amended is intended to provide additional funding for transportation statewide and prescribe the distribution of transportation funding.

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 creates an Economic Development Transportation Fund, changes the Highway Tax Distribution allocation formula, places some tax and fee revenues previously allocated directly to various entities into the Highway Tax Distribution fund for allocation by way of the formula, places part of the Motor Vehicle Excise Tax into the Highway Tax Distribution fund, and makes a one-time transfer of \$20 million from the General Fund to the Economic Development Transportation Fund.

The significant fiscal impacts are:

SECTION 1 creates an Economic Development Transportation Fund and provides a continuing appropriation.

SECTION 2 increases the Motor Vehicle Registration fees by \$3. Under current law, an additional motor vehicle registration fee of \$3 is assessed and credited to the Public Transportation Fund; section 8 of this bill removes that additional separate fee for public transportation. This revenue will now go into the Highway Tax Distribution Fund instead of the Public Transportation Fund. \$3 of Motor Vehicle Registration fees generates approximately \$4.7 million per biennium.

This section also provides that the \$13 of motor vehicle registrations (\$20 million) previously deposited directly into the State Highway Fund will now go to the Highway Tax Distribution Fund.

SECTION 3 removes the provision from NDCC that forty percent of all sums collected for the registration of farm vehicles be transferred from the highway tax distribution fund to the ethanol production incentive fund (\$3.4 million per biennium). As a result of section 3 of this bill, these funds will be distributed through the Highway Tax Distribution Fund.

SECTION 4 changes the distribution rates for the Highway Tax Distribution Fund (HTDF) and adds the Township Highway Aid Fund and the Public Transportation Fund as recipients of the Highway Tax Distribution Fund through the new distribution rates.

- Under current law, the State Highway Fund receives 63 percent of HTDF allocations (plus the \$20 million of direct

revenues from the \$13 of motor vehicle registration fees), and the counties and cities receive 37 percent (counties 23%, cities 14%). While the Public Transportation Fund and the Township Highway Aid Fund do not receive percentage allocations under current law, they do receive direct revenues of \$4.7 million and \$10.6 million respectively.

- Under the changes proposed in this bill, the State Highway Fund would receive 63.28 percent of HTDF allocations, the counties and cities receive 32.45 percent (counties 20.17%, cities 12.28%), the Township Highway Aid Fund would receive 2.74 percent, and the Public Transportation Fund would receive 1.53 percent.

- It is very important to note that the allocation formula prescribed in Section 4 of the bill closely matches the percentage of funds the recipients realized in the 2007-2009 biennium through the Highway Tax Distribution fund or direct allocations.

SECTION 5 of the bill discontinues a separate allocation of one cent of motor fuel taxes which, under current law is allocated directly to the Township Highway Aid Fund. As a result of section 5, this one cent of fuel tax would be deposited into the Highway Tax Distribution Fund. One cent of motor fuel tax generates approximately \$10.6 million per biennium. Section 5 of the bill will also will allow taxpayers to obtain a refund of that one cent of fuel tax if they otherwise qualify for the tax exemption. The estimated amount of the tax that will be refunded under this provision is \$600,000 per biennium.

SECTION 6 provides for a continuation of the deposit of a portion of the motor vehicle excise taxes into the State Aid Distribution Fund (approximately \$11.3 million) and provides for the remainder of motor vehicle excise tax revenues be credited equally to the State General Fund and the Highway Tax Distribution Fund (approximately \$64.8 million each).

SECTION 7 eliminates the \$3 motor vehicle registration fee that is currently credited directly to the Public Transportation Fund. The revenue lost under this section is replaced by the revenue generated under section 2 of the bill.

SECTION 8 of the bill provides for a one-time appropriation from the State General Fund of \$20 million and provides that these funds be placed into the Economic Development Transportation Fund.

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.*

This bill will result in a net decrease to the revenues available to the State General Fund and net increases to the revenues available to a number of other funds as well as the cities and counties. These changes are as follows.

GENERAL FUND

The general fund will experience decreased revenues of \$84,764,000 for the 2009-2011 biennium and \$64,764,000 for the 2011-2013 biennium as a result of this bill.

During each of these bienniums, the general fund will forego \$64,763,998 which is fifty percent of the motor vehicle excise tax revenue it currently receives net of the portion credited to the State Aid Distribution Fund (Total MV Excise Tax revenues of \$140,791,300 less State Aid Distribution portion of \$11,263,304 equals \$129,527,996. Fifty percent of that amount is \$64,763,998).

In addition, the general fund will be reduced during the 2009-2011 biennium for the \$20 million transfer provided in Section 8 of the bill.

OTHER FUNDS

This bill results in a net increase of approximately \$84.2 million to other funds, plus approximately \$600,000 of fuel taxes that will be available for refund to taxpayers. The "Other Funds" impact is a composite of the bill's impact on six separate special funds. Following is a discussion of those impacts:

Economic Development Transportation Fund - Section 8 places \$20 million of general funds into this fund.

Ethanol Production Incentive Fund - Section 3 eliminates the \$3.4 million direct allocation to this fund (40 percent of farm truck registrations).

Township Highway Aid Fund - Section 5 eliminates the allocation of 1 cent of fuel tax (\$10.6 million) to this fund. It should be noted that this fund is also impacted by the formula percentage changes in section 4 as well as the other revenue changes prescribed in this bill. While the fund loses the direct allocation of 1 cent of fuel tax (\$10.6 million), it will receive 2.74 percent of the revenues available for distribution from the Highway Tax Distribution fund. It is estimated that this distribution from the Highway Tax Distribution fund will be \$13.9 million. As a result of these provisions, the Township Highway Aid Fund will realize a net increase of approximately \$3.3 million.

Public Transportation Fund - Section 7 repeals the \$3 Public Transportation Fee (\$4.7 million) on each motor vehicle registration. It should be noted that this fund is also impacted by the formula percentage changes in section 4 as well as the other revenue changes prescribed in this bill. While the fund loses the \$3 Public Transportation fee (\$4.7 million), it will receive 1.53 percent of the revenues available for distribution from the Highway Tax Distribution fund. It is estimated that this distribution from the Highway Tax Distribution Fund will be \$7.8 million. As a result of these provisions, the Public Transportation Fund will realize a net increase of approximately \$3.1 million.

State Highway Fund - Section 2 eliminates the \$13 direct allocation of each motor vehicle registration (\$20 million). These funds will be placed into the Highway Tax Distribution Fund. It should be noted that this fund is also impacted by the formula percentage changes in section 4 as well as the other revenue changes prescribed in this bill. While the fund loses the \$13 dedicated motor vehicle registration fee, it will receive 63.28 percent of the revenues available for distribution from the Highway Tax Distribution Fund. It is estimated that the State Highway Fund will receive an net increase of \$46.1 million as a result of this bill.

Highway Tax Distribution Fund - This bill has a number of provisions that impact the Highway Tax Distribution Fund.

* Section 2 places the \$13 of each motor vehicle registration (\$20 million) into the fund. This section also increase motor vehicle registration fees by \$3; this provision is offset by section 8 which repeals the \$3 public transportation fees (\$4.7 million).

* Section 3 places into the fund the \$3.4 million that was previously diverted to the Ethanol Production Incentive Fund.

* Section 5 places into the fund the 1 cent of fuel tax (\$10.6 million) previously dedicated to the Township Highway Aid Fund. It also provides for the 1 cent of fuel tax to be eligible for refund to the taxpayer; these refunds will result in a reduction to the fund of approximately \$600,000.

*Section 6 provides for a net amount of \$64.8 million of Motor Vehicle Excise Tax to be deposited into the fund.

COUNTIES AND CITIES

The counties and cities will also experience increased revenues because of this bill. Due to the increased revenues to the Highway Tax Distribution Fund as previously explained, the counties will receive \$10,700,000 in increased revenues during each of the 2009-2011 and 2011-2013 bienniums. The increased revenues for the cities will be \$6,600,000 for each of the same time periods.

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

This bill will necessitate increased appropriation amounts for the NDDOT totalling \$68.4 million for the 2009-2011 biennium and \$48.4 million for the 2011-2013 biennium. For the 2009-2011 biennium, \$20 million of the \$68.4 million is covered under the continuing appropriation provided in section 1.

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	02/16/2009

VR
1/30/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1407

Page 8, line 7, remove the overstrike over "~~Sixty-three~~" and replace "Sixty-one and forty-five" with "and twenty-eight"

Page 8, line 10, replace "eighty" with "seventy-four"

Page 8, line 12, replace "fifty" with "fifty-three"

Page 8, line 14, replace "Thirty-four" with "Thirty-two" and replace "twenty-five" with "forty-five"

Page 13, line 27, after "chapter" insert "after moneys are deposited in the state aid distribution fund under section 57-39.2-26.1"

Renumber accordingly

Date: 1-29-09

Voice Vote 1
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1407

House TRANSPORTATION

Amendments Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do pass ☐ Don't Pass ☐ Amended

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman			Representative Delmore		
Rep. Weiler - Vice Chairman			Representative Griffin		
Representative Frantsvog			Representative Gruchalla		
Representative Heller			Representative Potter		
Representative R. Kelsch			Representative Schmidt		
Representative Sukut			Representative Thorpe		
Representative Vigasaa					
Representative Weisz					

Total Yes 14 No 0

Absent 0

Bill Carrier _____

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

Date: 1-29-09

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1407

House TRANSPORTATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do pass ☐ Don't Pass ☒ Amended

*Re-referral
to
appropriations*

Motion Made By

Kelsch

Seconded By

Delmore

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	
Representative Frantsvog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigasaa	✓				
Representative Weisz	✓				

Total Yes 14 No 0

Absent 0

Bill Carrier Weisz

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

REPORT OF STANDING COMMITTEE

HB 1407: Transportation Committee (Rep. Ruby, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1407 was placed on the Sixth order on the calendar.

Page 8, line 7, remove the overstrike over "~~Sixty-three~~" and replace "Sixty-one and forty-five" with "and twenty-eight"

Page 8, line 10, replace "eighty" with "seventy-four"

Page 8, line 12, replace "fifty" with "fifty-three"

Page 8, line 14, replace "Thirty-four" with "Thirty-two" and replace "twenty-five" with "forty-five"

Page 13, line 27, after "chapter" insert "after moneys are deposited in the state aid distribution fund under section 57-39.2-26.1"

Renumber accordingly

Date: 2/5/09
Voice vote
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 14 07

House TRANSPORTATION

Committee

☐ Check here for Conference Committee

Move to reconsider.

Legislative Council Amendment Number _____

Action Taken ☒ Do pass ☐ Don't Pass ☐ Amended

Motion Made By _____

Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman			Representative Delmore		
Rep. Weiler - Vice Chairman			Representative Griffin		
Representative Frantsvog			Representative Gruchalla		
Representative Heller			Representative Potter		
Representative R. Kelsch			Representative Schmidt		
Representative Sukut			Representative Thorpe		
Representative Vigasaa					
Representative Weisz					

Total Yes 14 No 0

Absent _____

Bill Carrier _____

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

VR
2/6/09

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1407

Page 1, line 3, remove "57-39.2-26.1,"

Page 11, remove lines 1 through 30

Page 12, remove lines 1 through 31

Page 13, remove lines 1 through 22

Page 14, line 10, replace "\$70,000,000" with "\$20,000,000" and remove "\$50,000,000 to the"

Page 14, remove line 11

Page 14, line 12, remove "sixty-first legislative assembly and"

Renumber accordingly

Voice Vote 2
Roll Call Vote #: _____

BILL/RESOLUTION NO. 1407

Motion Made By Weisz Seconded By Zalsch

[illegible]

Bill Carrier

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

Date: 2-5-09

Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1407

House TRANSPORTATION

Committee

☐ Check here for Conference Committee

further amendments

Legislative Council Amendment Number _____

Action Taken ☒ Do pass ☐ Don't Pass ☐ Amended

Motion Made By Weiler Seconded By Sukut

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore		✓
Rep. Weiler - Vice Chairman	✓		Representative Griffin		✓
Representative Frantsvog	✓		Representative Gruchalla		✓
Representative Heller	✓		Representative Potter		✓
Representative R. Kelsch	✓		Representative Schmidt		✓
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigesaa	✓				
Representative Weisz		✓			

Total Yes 8 No 6

Absent 0

Bill Carrier _____

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

Motion passed.

Date: 2-5-02

Roll Call Vote #: 4

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1407

House TRANSPORTATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do pass ☐ Don't Pass ☒ Amended

Motion Made By

Weiler

Seconded By

Griffin

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	
Representative Frantsvog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigasaa	✓				
Representative Weisz	✓				

Total Yes 14 No 0

Absent 0

Bill Carrier Weisz

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

*as amended
and with
re-referral*

REPORT OF STANDING COMMITTEE

HB 1407, as engrossed: Transportation Committee (Rep. Ruby, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1407 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "57-39.2-26.1,"

Page 11, remove lines 1 through 30

Page 12, remove lines 1 through 31

Page 13, remove lines 1 through 22

Page 14, line 10, replace "\$70,000,000" with "\$20,000,000" and remove "\$50,000,000 to the"

Page 14, remove line 11

Page 14, line 12, remove "sixty-first legislative assembly and"

Renumber accordingly

2009 HOUSE APPROPRIATIONS

HB 1407

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1407**

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: **February 16, 2009**

Recorder Job Number: 9574

Committee Clerk Signature

Jane Prindle

Minutes:

Chairman Svedjan: This bill was rereferred to us by the Transportation Committee.

Rep. Ruby approached the podium to discuss **HB 1407**. This bill puts in place a new formula for the state and political subdivisions for funding of roads. It is also in a standalone bill in the Senate. This bill includes using 50% of the excise tax increasing it from 10%. This also has a \$20 million GF appropriation for a new fund—the economic development transportation fund. That will be in the form of grants to political subdivisions. There is a 90:10 match requirement for transportation related projects that promote economic development by improving the transportation infrastructure of this state. It would be an ongoing fund. It appears there is an increase in the registration fee, but it is not. That is the dollar amount that registration currently costs but there is a \$3 addition for Transit that is currently in practice. These dollars are moved up to go into the fund that would be part of the share in the formula. Transit shares in that formula. The 50% excise tax is a \$65 million transfer difference out of the GF to the road formula and that would be in addition to the current registration and gas tax that go in there.

Rep. Wald: on P. 9, line 24 – 28. Within or outside city limits, could this be used for impact on county roads?

Rep. Ruby: We didn't ask that question. My gut is to tell me no. This is for the regular funding of the roads. I don't think this changes or is in addition to impact dollars.

Rep. Wald: It could be construed that way.

Rep. Glassheim: How much decrease is there to the GF? Besides the \$20 million, is there additional because of the change in the formula?

Rep. Ruby: Not necessarily because of the formula but because of using the 50% excise tax. The one-time 10% was estimated was about \$13 million. If we're going to go back to not having the 10% in this would impact the GF by \$65 million. The \$20 would be an additional.

Rep. Glassheim: What is the relation of this to the Governor's proposed \$120 million of new dollars for transportation?

Rep. Ruby: That \$120 is on the Senate side in the DOT budget. That was a concern that this looks like money on top of money. We will have to rectify that. Initially, there were more dollars in this bill that we were seeking to get us to the \$120 million and the using that and getting rid of the blanket GF transfer. This would be set up in the \$70 million in the economic development fund and the \$65 million. It got to the point that we bumped the economic development fund down to \$20 million and kept the 50% in. It would have to be reconciled with those dollars.

Chm. Svedjan: Give examples of an economic development transportation project might entail.

Rep. Ruby: In the case where a large project proposed within a city or county and there are no funds for the infrastructure to get it there. There may be economic development funds for the project itself but probably not to get to and from. It may need new roads, bridge, extra paving because of heavier traffic and those would be the grants they could access then on that 90:10 split.

Chm. Svedjan: In terms of this bill, is the economic development transportation component new?

Rep. Ruby: Yes.

Chm. Svedjan: Going from 10% to 50% excise tax that's new too.

Rep. Ruby: Correct. That would be an influx of money into the fund that would increase the funding level for the state and political subdivisions for roads.

Rep. Berg: Comparing the two proposals: the governor's is a one-time of \$120 million. You are setting up an ongoing revenue stream of \$65 million as we move forward and for this next biennium there would be an additional \$20 million.

Rep. Ruby: You are correct that the Governor's is one-time. By using the 50% requirement, it would really solve an issue that DOT and political subdivisions are struggling with. They are funded from registration fees and they are pretty much a level amount and there is no growth to it and gas tax which is flat and sometimes goes backwards. The excise tax is going to be an ongoing slight increase adjusted for inflation. It would be a way to capture an inflationary funding level for roads that would be ongoing because their inflationary costs have certainly outpaced the revenues that have been coming in.

Rep. Berg: That's the problem with highway funding, when we have a booming economy there is nothing in the system that provides additional match money because it's not tied to the increase sales or things like that.

Rep. Ruby: Right.

Rep. Skarphol: On p. 10, Line 12, it says, "the county treasurer shall allocate the funds received to the organized townships." We were told counties don't have the capability to do this. They apparently have a system for distributing funds to townships. That's existing law—there's nothing new there.

Rep. Ruby: Correct. They do and that's based on one cent of the gas tax.

Rep. Skarphol: You said the \$20 million is ongoing, but based my read of Section 8, page 11, it's a one-time because it does say ending in 2011. So it would have to be appropriated next time

Rep. Ruby: That's right; however, in the language of the actual fund on page 1, it talks about "monies in the fund are appropriated on a continuing basis to the director." It would have to be at our approval each time. It also revisits if funds were requested and used and what would be involved. It does give the discretion to the legislature in the future.

Chm. Svedjan: I'm confusing myself. You said it's an \$85 million bill. I know how you get there. But the appropriations show \$70 million of which \$20 million would be for the economic development transportation part of this. What am I missing?

Rep. Ruby: That's probably not the latest fiscal note. We took that \$50 million out. That was amended out.

Chm. Svedjan: But, I'm looking at the first engrossment of the bill.

Rep. Ruby: We're working off the second engrossment.

Rep. Pollert: I'm not following something through here. Why the \$3 increase on registration?

Rep. Ruby: That is what is being added to the current registration fees for Transit. It is revenue neutral for your registration fee but all the dollars are going in to one fund that the formula is going to be working off of.

Rep. Skarphol: So there is an assumption that we would have approved the \$3 increase?

Rep. Ruby: That is the current level.

Rep. Skarphol: Is there a commensurate reduction in another piece of legislation. If so, where?

Rep. Ruby: It's in the repealer.

Rep. Klein: I move a DO PASS.

Rep. Berg: Second

Rep. Kaldor: Even though there is an appropriation in the bill and we know what the fiscal effect is, there probably should be a fiscal note.

Chm. Svedjan: I looked at that too. There is no fiscal note?

Rep. Ruby: It gets put into the dollars with the total amount that are put in. It would have to be mentioned that is in addition to current existing dollars. The percent of the split under the new language would be 63.28% to DOT and 32.45% to cities and counties and 2.74% to townships and 1.53% to Transit.

Rep. Berg: We can wait and get that fiscal note.

Chm. Svedjan: We'll hold until we get back from the floor session. We have a motion on the floor and I'll just hold on that until we reconvene after the floor session.

Rep. Ruby: I can work on getting the numbers together. The fiscal note will be the increased impact of the bill.

Chm. Svedjan: We will recess until 10 minutes after the floor session.

Chm. Svedjan called the meeting of the house Appropriations Committee back to order. We have what we need to finish our work on HB 1407.

Rep. Ruby: I refer you to Section 3 of the bill. On the fiscal note you will see it removes the provision that 40% of all sums collected for the registration of farm vehicles be transferred from the Highway Tax Distribution Fund to the Ethanol Production Incentive Fund. That doesn't affect the general revenue at all. A portion of the farm registration fees went into this fund and this proposal removes that and then those funds would go in to the formula.

Rep. Nelson: Do we then no longer fund the Ethanol Incentive Fund?

Rep. Ruby: When I spoke to Rep. Weisz whose bill this is, he said if we are going to fund the incentives for ethanol, we should do it from other funds rather than the road funds.

Rep. Kempenich: Last session we put \$12 million from GF to DOT. We were told that was all they were going to get done during the last biennium. Now we are coming up with this number. How is the \$120 million that's in the budget going to correlate with this bill?

Rep. Ruby: That would have to be reconciled. This money is on top of that \$120 million. Having a mechanism like this bill that provides ongoing funding set up in a formula is probably a more prudent way to approach it. There were a lot of projects DOT put off because they didn't have the money for them.

Rep. Kempenich: This is frustrating. Last session we tried to put money away. I think we are going to run into problems because this is ongoing. We need to identify a stronger source than the GF.

Rep. Kaldor: I need clarification. I thought this morning you said the \$20 million GF was going to be ongoing, but the FN doesn't say that. This says it is a one-time transfer.

Rep. Ruby: You are correct there. The part that is conflicting is on page 1 of the bill where it talks about "the economic development transportation fund is created as a special fund in the state treasury. Monies in the fund are appropriated on a continuing basis . . ." That's where it would be left to the Legislative Assembly. It doesn't require an automatic \$20 million.

Chm. Svedjan: That's not typically how a continuing appropriations work. It would work if there was a balance in that fund then the language would allow them to use the remaining funds in the ensuing biennium.

Rep. Ruby: if we ask Rep. Weisz, I'm sure he would have no problem making that a \$20 million continuing appropriation. He wasn't looking at adding \$120 million to the \$120 million

the Governor. He was looking at having this in a formula and the funding source diverting money from the registration fee. He was looking at having it in a structured environment.

Chm. Svedjan: What was the impetus to changing where the funds go? When you read the fiscal note, there's a lot of change going on here and it becomes a very complicated bill.

Rep. Ruby: In past sessions, we would hear from the counties—they want so much. Transit would ask for a \$1 on their registration fee. So rather than have all the parties come and try scrounge for money here and there, it seems to make sense to have an agreement of the percentage each could have from one fund. We can monitor ongoing to see how much the excise tax is going to infuse for roads and whether that will be adequate.

Rep. Kempenich: The \$65 million you discussed this morning, how would that be disbursed?

Rep. Ruby: That would be input into the distribution fund itself.

Rep. Kempenich: So the \$20 million is the only money that you want to reoccur?

Rep. Ruby: That's correct.

Rep. Nelson: The refund option is still there. Does passage of this bill have any effect on the funding of APUC?

Rep. Ruby: No.

Rep. Kaldor: On the township distribution fund, we are discontinuing the one cent motor fuels tax. It says it will be deposited in the highway tax distribution fund and previous to that we have the allocation from that fund and the percentages are closely matched to the funds realized in 07-09. If we pass this can we feel comfortable knowing what they got last time?

Rep. Ruby: No. If we gave only the same amount of funds as we did last biennium, they would be equal. If we put the \$65 million in through the excise, they get their increase.

Rep. Kaldor: The percentage that they shared last biennium will be approximately the same in the new biennium?

Rep. Ruby: Yes.

Chm. Svedjan: I share concerns: the continuing appropriation and the duplication of what's in the Senate. Also, this is an example of a bill that is apart from the DOT budget which is in the other chamber. This makes it difficult to deal with.

Rep. Kaldor: I agree. This is laudable but I wish it was more in concert with the Senate bill. I'm not comfortable with the fact that we don't have the budget bill with this.

Rep. Berg: This is a dramatic change. After this week, what are we going to have left? We need to have a long-term plan for matching federal highway dollars. If we match it with the gas tax it's based on consumption. Registration fees are the other big thing we fund it with. We need a revenue source to match federal dollars that grows when there is prosperity in ND. There are two ways: look at excise, or do the registration fees based on the value of the vehicles. I think this is like property tax was last session; we are not going to pass both bills. If we defeat this we are left with one-time money? I'd like to see this go forward but I'm concerned with the cost to the GF.

A roll call vote on the Do Pass motion was taken: Yes: 11, No: 13, Absent: 1

The motion FAILED.

Rep Wald: I move Do Not Pass.

Rep. Glassheim: Second.

Rep. Nelson: DOT was the only agency that did not experience an increase in revenue because declining use of gas and what Rep. Berg said earlier is very true. If there is one thing we do know, the infrastructure of this state is in dire need of help. This is a sustaining method of funding our DOT for road building and repair. I think this makes a lot of sense.

Rep. Delzer: I don't totally disagree with that issue. I object to the \$20 million continuing appropriation. We will have the DOT budget. We could take the continuing appropriation out and keep the rest of it alive so we had the issue before us. **I So Move.**

Chm. Svedjan: We have a substitute motion to remove the \$20 million and the continuing appropriation language.

Rep. Wald: Second

Rep. Berg: This would be our state match to the stimulus money. I don't know if it would qualify but I think at the end of session if we said future increases in the excise tax will go in to this that would help generate an increasing revenue source. I would support the amendment.

Rep. Klein: we should keep this philosophy alive. We can reconcile it when we get the other bill from the Senate. The ideas of letting them know what's coming in is going to be key.

Rep. Glassheim: I kind of like the other philosophy. The notion of one-time money when we have significant surplus is a lot more pleasant than to commit to an ongoing revenue source which takes \$85 million or \$65 million more out of the GF ongoing next time, whether we have the money or not. Some of you argue that we need to be cautious, that's why you defeated Measure 2, because we might not have money next time. Right? Now you are willing to give away future GF money assuming we are going to have it. I get confused by the rationale.

Rep. Berg: This is a Legislature. Maybe at the end of the session we may have \$60 million from the excise tax and \$60 million that's one time. Then everyone knows that two years from now you get the \$60 that's in the formula and if we don't have resources—you won't get the other \$60 million. There might be some alternatives with this idea alive that are workable long-term solutions.

Chm. Svedjan: There's really no guarantee with what's going to happen to the \$120 that's over in the Senate now. How will that ultimately shake out?

Rep. Delzer: I proposed this substitute motion to keep this alive.

A Voice Vote was taken on the substitute motion to remove the \$20 million and the continuing appropriation language.

The motion carried and the bill will be amended.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1407

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02/16/09

Recorder Job Number: 9577

Committee Clerk Signature

Janette Cook

Minutes:

Representative Klein move a Do Pass as amended on HB 1407.

Representative Kempenich seconded the motion.

A roll call vote was taken. **Aye 21 Nay 3 Absent 1**

The motion carried.

Representative Klein will carry HB 1407.

Date: 2/16/09
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1407

Day 30

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass

Motion Made By

Klein

Seconded By

Berg

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan		✓			
Vice Chairman Kempenich	✓				
Rep. Skarphol		✓	Rep. Kroeber		✓
Rep. Wald		✓	Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams		✓
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer		✓	Rep. Glassheim		✓
Rep. Thoreson		✓	Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch		✓			
Rep. Pollert		✓	Rep. Ekstrom	✓	
Rep. Bellew		✓	Rep. Kerzman	✓	
Rep. Kreidt		✓	Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland		✓			

Total (Yes) 11 No 13

Absent 1

Floor Assignment _____

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

Date: 2/16/09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1407

Full House Appropriations Committee

☐ Check here for Conference Committee

Withdrawn

Legislative Council Amendment Number _____

Action Taken No Not Pass

Motion Made By Wald Seconded By Glassheim

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VR
2/17/09

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1407

Page 1, line 1, remove "create and enact a new section to chapter 24-02 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to an economic development transportation fund;"

Page 1, line 4, after the semicolon insert "and"

Page 1, line 6, remove "; to provide an appropriation; and to provide a continuing appropriation"

Page 1, remove lines 8 through 16

Page 11, remove lines 14 through 18

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes the economic development transportation fund and the related appropriation and continuing appropriation.

Substitute Motion

Date: 2/16/09
Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1407

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Remove \$20 million and cost app.

Motion Made By Delzer Seconded By Wald

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote - carries

Date: 2/16/09
Roll Call Vote #: 4

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1407

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

No Pass & Amended

Motion Made By

Klein

Seconded By

Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber		✓
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim		✓
Rep. Thoreson		✓	Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 21 No 3

Absent 1

Floor Assignment

Rep. Klein

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

REPORT OF STANDING COMMITTEE

HB 1407, as reengrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1407 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 24-02 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to an economic development transportation fund;"

Page 1, line 4, after the semicolon insert "and"

Page 1, line 6, remove "; to provide an appropriation; and to provide a continuing appropriation"

Page 1, remove lines 8 through 16

Page 11, remove lines 14 through 18

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes the economic development transportation fund and the related appropriation and continuing appropriation.

2009 SENATE TRANSPORTATION

HB 1407

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. Reengrossed HB 1407

Senate Transportation Committee

☐ Check here for Conference Committee

Hearing Date: March 6, 2009

Recorder Job Number: 10377

Committee Clerk Signature

Jody Hauge

Minutes:

Chairman Gary Lee opened the hearing on Reengrossed HB 1407 relating to the registration fee for the public transportation fund.

Representative Weisz introduced the bill, he said the bill does 2 things: It changes the formula to be fair to all entities and 2nd the main difference has to do with the excise tax. This bill was amended to transfer 50% of the excise tax into the Highway tax distribution fund. He discussed the 170 Million stimuli for transportation and said the needs were great and it will help cover what was lost in 2005. Even with that money we have short comings. Infrastructure is critical. He said we need a good infrastructure with the top three industries being Agriculture, Oil and Tourism.

Senator Nodland said that in section 2 the ethanol production incentive fund is eliminated.

Rep. Weisz said he wouldn't say eliminated but it would be taken out of general funds. I have always had a hard time understanding where highway money should be used to support the ethanol.

Senator Lee asked if in the formula they are just pulling money as we did in the bill before like this and taking all the registration fees and putting them in the pot, which includes the 40% off of farm vehicles that would eliminate the incentive for ethanol as we have it today. It take the

one cent from the gas tax and still makes part of that refundable for those who pay it if they are eligible for that refund. And the bill takes half of the excise tax and puts that in the pot as well. And the \$3 registration for transit and the \$13 that would normally go to the highway fund. He asked if those are the pieces.

Rep. Weisz said that he believed he was correct. It could affect what counties are getting but their share comes off the top.

Senator Nething had a question on why this was the third engrossment and why.

Rep. Weisz explained the changes and said it was just a matter of getting things right. Also, appropriations took money out.

Senator Nething asked if the elimination of the funding of the ethanol incentive fund was from the beginning of the bill draft.

Rep. Weisz said it was. Their intent was not to do away with the ethanol fund but they thought it should be funded by general fund money.

Senator Nething asked if there was companion legislation to take care of the ethanol fund.

Rep. Weisz said he didn't know if appropriations put that in or not.

Tom Balzer representing the ND Motor Carriers Association said that they were part of the group that helped with the formula. The excise tax is taxed on increase in value. The gas tax is flat. Finding another source that has growth potential is really what they like to see.

Senator Nodland asked how he testified on SB 2177.

Tom Balzer said he testified in support.

Ken Yanter representing the ND Township Association testified in support. He said that Rep. Weisz was correct when he said townships do need some funding.

Mark Johnson representing the ND Association of Counties testified in support of Rep.

Weisz's but not necessarily the whole bill. He talked about the stimulus package and he hopes

the committee will keep this bill alive but it does need work. He hopes a conference committee can get it worked out. Written testimony #1

Senator Nething asked what the Repealer is.

Senator Lee said it was the transit. He asked Mr. Johnson if he supported everything in the bill.

Mark Johnson said it contains the formula identical to SB 2177 and the coalition is still standing by it for the future.

Discussed keeping it alive and the stimulus package and how it could work with the Governor's budget. All parties will have to work together.

Senator Nething asked where the excise tax was dealt with in the bill.

Johnson said it was toward the end of the bill in section 5.

Ken Tupa representing the ND Senior Advisor Transit Association testified as part of the coalition that worked on this during the interim. He said transit is a big issue for us. He said that they supported SB 2012 & 2177. He asked that the committee keep this bill alive so the conference committee can work on this.

Connie Spryncznatyk representing ND League of Cities testified in support of many of the concepts of reengrossed HB 1407. She said that they have 2 needs: one is operational dollars and the other is construction and reconstruction dollars. They appreciate the money that comes from the formula for operations.

Opposing Testimony

Lance Gaebe, representing the Governor's Office said they had worked with the interim coalition and the Governor's budget reflects that with the formula they talked about. The

Governor's Office opposes the ethanol distribution fund elimination found in Section 2, 39-04-39. They are concerned about and oppose the transfer of 50% of the excise tax in Section 5,

lines 27-30. He said that excise tax is a sales tax, just like sales tax on shoes or whatever. It is the people's money in the general fund. They support the formula in 2012 and he talked about the 170 million in the stimulus package. He talked about carrying over some of the money for the next biennium. They oppose this bill because they have serious concerns about the dedicated excise tax and the removal of the ethanol fund.

Senator Nodland asked about the stimulus package.

Lance explained the budget and how it fit with the stimulus package. They are proposing to carry over 100 million. Total funds for transportation would be 201 million. That would be 170M stimulus, 11 million transit and 20 million recommended fund request.

Senator Fiebiger asked why we had to put the 100 M aside. He asked if that was consistent with the intent of a stimulus.

Lance explained that the money held is from the additional funds that the Governor's budget purposed.

Senator Fiebiger asked if there are not needs for that 100M.

Lance There are always needs but this influcts of money will help us to set some aside.

Senator Potter expressed his concern and disappointment that the stimulus money would not be spent and they would carry too much over. He asked why they were opposed to the excise tax.

Lance said that it is about the flexibility of this governor and future governors and legislators for the future. Once you dedicate to a specific area you take away the flexibility of what the future holds.

Senator Potter asked if there were other ethanol moneys to replace what this bill eliminates.

Lance said there is not another bill, he said there were 2 sources one is this source that this bill will eliminate and the other is one penny of farmers gas tax refund is retained and goes into this fund.

Joel Gilbertson representing the ND Ethanol Producers Association testified against the bill and introduced two of their board members that will speak.

Mick Miller, Vice President of the ND Ethanol Producers Association and President and CEO of Red Trail Energy testified in opposition of HB 1407. Written testimony #2

Senator Nething asked if they would remove section 2 on page 7, would they have any objection to the bill.

Miller said he stands in opposition specifically to the removal of the ethanol incentive fund.

Jeff Zueger, Secretary of the ND Ethanol Producers Association and General Manager of Blue Flint Ethanol testified in opposition to HB 1407. Written testimony #3

Senator Nething asked him if he testified on this bill in the House.

Zueger said no he did not.

Tom Lilja representing the ND Corn Growers Association testified in opposition to HB 1407 and the elimination of the Ethanol Production Incentive.

Senator Lee closed the hearing on Reengrossed HB 1407.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. Reengrossed HB 1407

Senate Transportation Committee

☐ Check here for Conference Committee

Hearing Date: March 12, 2009

Recorder Job Number: 10859

Committee Clerk Signature

Jody Hauge

Minutes:

Committee work on HB 1407

Senator Lee said that there was a bill that passed through the Senate that dealt with the same formula (2177). That formula was applied to the Department of Transportation budget bill (2012). That bill is now in the House. He said that Reengrossed HB 1407 takes a little different approach: It takes \$3 from the motor vehicle registration fees and puts it on the registration fee that we pay; it takes \$13 from the motor vehicle registration fees and puts it in the same pool; it depletes the ethanol fund and doesn't fund that; takes one penny of the tax fund that the township have been getting and puts that in a fund but part of that is refundable; it also dedicates half of the motor vehicle excise tax to this fund. Then on a percentage bases these groups get their money back.

Senator Nething asked if the first bill (2177) dealt with the registration funds as well. So the changes from the bill we passed (2177) were basically what?

Senator Lee said (2177) dealt with townships, kept the ethanol funding tax as a separate allocation and took the one penny gas tax but the \$600,000 wasn't refundable to those eligible, and it didn't dedicate half the excise tax.

The committee agreed that they liked the old bill (2177)

Senator Lee proposed some amendments (attachment #1) and what he asked Legislative Council to do was take the bill that we passed that was rolled into the Department of Transportation budget bill and replace that language for what is in this bill with the exemption of taking 2.7 million from the general fund and allocating that directly to townships for this next biennium. The reason for that is that the townships will not be able to get any stimulus money but the counties and cities will.

Discussion followed on having a vehicle to keep this alive. This bill gives us a bill in the Senate.

Senator Nething moved the amendment 90343.0502.

Senator Nodland seconded.

Roll call vote: 6-0-0

Senator Nething moved a Do Pass as amended and rerefer to appropriations.

Senator Nodland seconded.

Roll call vote: 6-0-0

Senator Lee will carry the bill.

it!

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1407

Page 1, line 1, remove "39-04-39,"

Page 1, line 2, remove the first "and" and after "57-40.3-10" insert ", 57-43.1-06, and 57-43.2-04.2"

Page 1, line 3, remove "and"

Page 1, line 4, after "fund" insert "; and to provide an expiration date"

Page 7, remove lines 6 through 17

Page 7, line 24, overstrike "Any" and insert immediately thereafter "The state treasurer shall transfer the first five million five hundred thousand dollars per biennium from the highway tax distribution fund to the state highway fund for the purpose of providing administrative assistance to other transferees. After the transfer of the first five million five hundred thousand dollars, any"

Page 7, line 26, overstrike "Sixty-three" and replace "and twenty-eight hundredths" with "Sixty-one and three-tenths"

Page 7, line 29, replace "seventy-four hundredths" with "seven-tenths"

Page 8, line 1, replace "fifty-three hundredths" with "five-tenths"

Page 8, line 3, replace "Thirty-two and forty-five hundredths" with "Thirty-four and five-tenths"

Page 10, line 27, remove "after moneys are deposited in the state aid distribution fund under"

Page 10, ^{line} ~~line~~ 28, remove "section 57-39.2-26.1"

Page 10, line 29, replace "fifty percent" with "the first two million seven hundred thousand dollars per biennium to be transferred to the township highway fund and then"

Page 10, line 30, remove "and fifty percent to the highway tax distribution fund"

Page 10, after line 30, insert:

"SECTION 5. AMENDMENT. Section 57-43.1-06 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-06. Refund to prevent taxation by multiple jurisdictions. Any person to whom motor vehicle fuel is sold on which the tax imposed by this chapter has been paid, who thereafter removes the fuel from this state for sale or resale in another state or to a state which requires payment of a tax upon the use of the fuel in that state, must be granted a refund of the tax that was paid pursuant to this chapter. The refund may be granted only upon application to the commissioner in the manner prescribed by

the commissioner and must include proof that fuel for sale or resale in another state was reported to the taxing agency of that state, or in the case of a consumer, proof of payment of the tax imposed by the other state. ~~The refund may not be reduced by the one-cent-per-gallon [3.79 liters] tax designated for the township highway aid fund.~~ A claim for refund under this section must be made within one year from the date the fuel was removed to another state for sale, resale, or use in another state.

SECTION 6. AMENDMENT. Section 57-43.2-04.2 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-04.2. Refund to prevent taxation by multiple jurisdictions. Any person to whom special fuel is sold on which the tax imposed by this chapter has been paid, who thereafter removes the fuel from this state for sale or resale in another state or to a state that requires payment of a tax upon the use of the fuel in that state, must be granted a refund of the tax that was paid pursuant to this chapter. The refund may be granted only upon application to the commissioner in the manner prescribed by the commissioner and must include proof that fuel for sale or resale in another state was reported to the taxing agency of that state, or in the case of a consumer, proof of payment of the tax imposed by the other state. ~~The refund may not be reduced by the one-cent-per-gallon [3.79 liters] tax designated for the township highway aid fund.~~ A claim for refund under this section must be made within one year from the date the fuel was removed to another state for sale, resale, or use in another state."

Page 11, after line 2, insert:

"SECTION 8. EXPIRATION DATE. Section 4 of this Act is effective through June 30, 2011, and after that date is ineffective."

Renumber accordingly

Date:
Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1407 Reengrossed

Senate Transportation

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 90343.0502

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Other

moved amendments

Motion Made By Senator Nething Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Chairman Senator Gary Lee	<input checked="" type="checkbox"/>		Senator Tom Fiebiger	<input checked="" type="checkbox"/>	
Senator George Nodland	<input checked="" type="checkbox"/>		Senator Richard Marcellais	<input checked="" type="checkbox"/>	
Senator Dave Nething	<input checked="" type="checkbox"/>		Senator Tracy Potter	<input checked="" type="checkbox"/>	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 3-12-09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ^{HB}407
Reingrossed

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

as amended + rerefer

Motion Made By Senator Nething Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Chairman Senator Gary Lee	✓		Senator Tom Fiebiger	✓	
Senator George Nodland	✓		Senator Richard Marcellais	✓	
Senator Dave Nething	✓		Senator Tracy Potter	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Lee

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

REPORT OF STANDING COMMITTEE

HB 1407, as reengrossed: Transportation Committee (Sen. G. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1407 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "39-04-39,"

Page 1, line 2, remove the first "and" and after "57-40.3-10" insert "; 57-43.1-06, and 57-43.2-04.2"

Page 1, line 3, remove "and"

Page 1, line 4, after "fund" insert "; and to provide an expiration date"

Page 7, remove lines 6 through 17

Page 7, line 24, overstrike "Any" and insert immediately thereafter "The state treasurer shall transfer the first five million five hundred thousand dollars per biennium from the highway tax distribution fund to the state highway fund for the purpose of providing administrative assistance to other transferees. After the transfer of the first five million five hundred thousand dollars, any"

Page 7, line 26, overstrike "Sixty-three" and replace "and twenty-eight hundredths" with "Sixty-one and three-tenths"

Page 7, line 29, replace "seventy-four hundredths" with "seven-tenths"

Page 8, line 1, replace "fifty-three hundredths" with "five-tenths"

Page 8, line 3, replace "Thirty-two and forty-five hundredths" with "Thirty-four and five-tenths"

Page 10, line 27, remove "after moneys are deposited in the state aid distribution fund under"

Page 10, line 28, remove "section 57-39.2-26.1"

Page 10, line 29, replace "fifty percent" with "the first two million seven hundred thousand dollars per biennium to be transferred to the township highway fund and then"

Page 10, line 30, remove "and fifty percent to the highway tax distribution fund"

Page 10, after line 30, insert:

"SECTION 5. AMENDMENT. Section 57-43.1-06 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-06. Refund to prevent taxation by multiple jurisdictions. Any person to whom motor vehicle fuel is sold on which the tax imposed by this chapter has been paid, who thereafter removes the fuel from this state for sale or resale in another state or to a state which requires payment of a tax upon the use of the fuel in that state, must be granted a refund of the tax that was paid pursuant to this chapter. The refund may be granted only upon application to the commissioner in the manner prescribed by the commissioner and must include proof that fuel for sale or resale in another state was reported to the taxing agency of that state, or in the case of a consumer, proof of payment of the tax imposed by the other state. ~~The refund may not be reduced by the one cent per gallon [3.79 liters] tax designated for the township highway aid fund. A~~

claim for refund under this section must be made within one year from the date the fuel was removed to another state for sale, resale, or use in another state.

SECTION 6. AMENDMENT. Section 57-43.2-04.2 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-04.2. Refund to prevent taxation by multiple jurisdictions. Any person to whom special fuel is sold on which the tax imposed by this chapter has been paid, who thereafter removes the fuel from this state for sale or resale in another state or to a state that requires payment of a tax upon the use of the fuel in that state, must be granted a refund of the tax that was paid pursuant to this chapter. The refund may be granted only upon application to the commissioner in the manner prescribed by the commissioner and must include proof that fuel for sale or resale in another state was reported to the taxing agency of that state, or in the case of a consumer, proof of payment of the tax imposed by the other state. ~~The refund may not be reduced by the one-cent-per-gallon [3.79 liters] tax designated for the township highway aid fund.~~ A claim for refund under this section must be made within one year from the date the fuel was removed to another state for sale, resale, or use in another state."

Page 11, after line 2, insert:

"SECTION 8. EXPIRATION DATE. Section 4 of this Act is effective through June 30, 2011, and after that date is ineffective."

Renumber accordingly

2009 SENATE APPROPRIATIONS

HB 1407

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1407

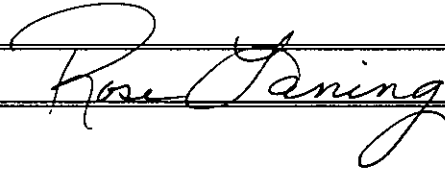
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 20, 2009

Recorder Job Number: 11335

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee hearing to order on HB 1407 which relates to the economic development transportation fund; and relates to the collection and distribution of highway funds.

Rep. Robin Weisz District #14. I am here in supports 1407 even though it's radically different from when it left the House. Spoke about some of the differences between the house and senate differences. The direction we are going in transportation funding is that we can longer depend on gas tax and other revenue funding. When you have 65% increase of costs in road construction that tells me we have an issue in front of us. Discussed the stimulus money and its role in transportation funding—If we don't keep up with our transportation infrastructure we will end up paying for it later. We must properly fund the infrastructure. We're enjoying the revenue from Ag, and energy. Our top three industries are Ag, tourism, energy so we must protect the infrastructure to protect our revenue.

Senator Robinson What is the status of 2012 in the House because they're related?

Weisz The status is that the formula that was sent with the modifications is intact. There's no indication whether the dollars will stay. It is still up in the air.

Bill Shalhoob Greater North Dakota Chamber of Commerce. Testified in favor of HB 1407.

Took up the bill in transportation committees. Weiss talked about the dynamic. The method we

use to fund highways is flat. The costs of highway repair has increased exponentially. Our concern is that the roads are the lifeblood of ND. We're dependent on the roads. Unless we change the dynamic which is the base funding for our roads, we are never going to catch up. It seems to us that the answer is to grab a portion of motor vehicle excise tax and put that into the road system. Nothing is going to change unless we change the assumptions about road funding. It's a hard decision. We are in favor of a switch allowing some portion of the motor vehicle excise fund to move into the general fund.

Senator Lindaas Would you advocate for a small bump in fuel/gas tax?

Shalhoob At this point you could do that, but if gas is at \$40 a gallon you might not like that. Even doing that, as I understand it the sales of gasoline are pretty flat. The motor vehicle excise tax has kept up more in inflation.

Senator Lindaas There are some people who think that tax stays the same no matter the price of gas. We have seen gas prices rise and fall, it seems if we put a penny or two of additional gas tax, it's a strategy.

Shalhoob We don't subscribe to that. We have nothing without roads.

Discussion about gas tax

Ken Yantes North Dakota Township Officer's Association. Testified in favor of HB 1407. The townships are here asking for your help. We missed out on the stimulus money. There are many senators here who took part in the upper Great Plains meetings. We sat down and figured out what we actually needed for safer highways in ND and came up with a formula. The governor put it in his budget. For us to not be able to get what we need to operate could be disastrous for us. I'm here to say, please pass the bill.

Sandra Clark North Dakota Farm Bureau. Testified in favor of HB 1407.

Chairman Holmberg asked for any questions and then closed the hearing on HB 1407.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1407

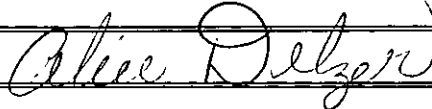
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 04-08-09

Recorder Job Number: 11783 (the job was not started until the motion was made)

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee back to order on HB 1407 regarding highway funds.

SENATOR ROBINSON MOVED A DO PASS. SECONDED BY SENATOR KREBSBACH.

Chairman Holmberg Would you call the roll on a Do Pass on HB 1407. (.22 seconds)

A ROLL CALL VOTE WAS TAKEN ON HB 1407 RESULTING IN 12 YEAS, 0 NAYS, 2 ABSENT. SENATOR GARY LEE FROM TRANSPORTATION WILL CARRY THE BILL.

Chairman Holmberg closed the hearing on HB 1407. (1.31)

Date: 4/8/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1407

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Robinson Seconded By Krebsbach

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach	<input checked="" type="checkbox"/>		Senator Seymour	<input checked="" type="checkbox"/>	
Senator Fischer	<input checked="" type="checkbox"/>		Senator Lindaas	<input checked="" type="checkbox"/>	
Senator Wardner	<input checked="" type="checkbox"/>		Senator Robinson	<input checked="" type="checkbox"/>	
Senator Kilzer	<input checked="" type="checkbox"/>		Senator Warner	<input checked="" type="checkbox"/>	
V. Chair Bowman	<input checked="" type="checkbox"/>		Senator Krauter	<input checked="" type="checkbox"/>	
Senator Christmann	<input checked="" type="checkbox"/>		Senator Mathern	<input checked="" type="checkbox"/>	
V. Chair Grindberg	<input checked="" type="checkbox"/>				
Chairman Holmberg	<input checked="" type="checkbox"/>				

Total Yes 12 No 0

Absent 2

Floor Assignment Back to Grants

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

Gary Lee

REPORT OF STANDING COMMITTEE (410)
April 8, 2009 11:50 a.m.

Module No: SR-60-6526
Carrier: G. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1407, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Reengrossed HB 1407, as amended, was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1407

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1407

Page 1, line 3, remove "57-39.2-26.1"

Page 10, remove lines 29 and 30

Page 11, remove lines 1 through 31

Page 12, remove lines 1 through 31

Page 13, remove lines 1 through 17

Renumber accordingly

Attachment #1

HOUSE TRANSPORTATION COMMITTEE

January 29, 2009

8:30 a.m. – Fort Totten Room

**North Dakota Department of Transportation
Grant Levi, P.E., Deputy Director for Engineering**

HB 1407

Good morning, Mr. Chairman and members of the committee. I'm Grant Levi, Deputy Director for Engineering for the North Dakota Department of Transportation (NDDOT). Thank you for giving me the opportunity to present information to you this morning. I'm here to support HB 1407 as amended, with some exceptions that will be explained in the testimony that follows.

The effort to address transportation needs started two years ago. After the last legislative session, a group representing various agencies got together to discuss transportation needs and funding. As a result, a steering committee was formed.

The steering committee recognized that the NDDOT, counties, cities, townships and transit providers all face major challenges in maintaining and improving their road, bridge, street network and services.

- **Upper Great Plains Technical Institute (UGPTI) Workshops and Needs Study** – In the spring of 2008, the UGPTI hosted a series of eight regional transportation workshops and one statewide meeting. About 500 people attended the workshops including a cross-section of participants (including legislators) representing a variety of transportation interests. The purpose of the workshops was to inform participants, solicit input, and encourage future involvement. Some of the major findings and challenges identified include:
 - Transportation infrastructure and personal mobility are critical to economic development.
 - Customer expectations related to highways and transit systems are increasing.
 - Transit services enhance the mobility of our residents and allow people to stay in their homes and communities.
 - Demands on the transportation system have increased significantly due to agriculture production, processing and energy development.
 - Inflation has had a significant impact on the purchasing power of transportation dollars. Reduced purchasing power results in deferred maintenance.
 - The Federal Highway Trust Fund is not generating adequate revenue to support expenditures.
 - Increased funding is needed by all jurisdictions to meet current and future needs.

In addition to attaining public input, the UGPTI worked with the cities, counties, township, transit representatives and the NDDOT to complete a comprehensive needs study. The following is an overview of the transportation needs that were used as a basis for recommending additional state revenue for transportation.

Table 1, which was prepared by the UGPTI, provides an overview of the revenue needed to maintain existing roadway and bridge conditions in North Dakota. The table does not include needs for system expansion or operational expenditures for snow removal, signing, mowing, or other maintenance activities indirectly relating to roadway surface condition.

The table shows the annual needs for roads and bridges on the state system are about \$243 million. There are also substantial needs on the local road and street networks. The county needs are approximately \$160 million, urban streets \$71 million, townships \$36 million and small city streets \$30 million.

The table also shows the current average annual funding levels and annual revenue shortfalls for maintaining the existing condition of roads and bridges.

Table 1 – Comparison of Annual Needs to Revenue (UGPTI June 2008)					
	Annual Needs	Present Average Annual Funding	Inflation	2007 Buying Power	2008 Difference
State System	Roads & Bridges \$242.9 M	Federal & State \$148 M	15%	\$125.8 M	\$117 M
County	Roads & Bridges \$159.5 M	Federal, State & Local Mill Levies \$75.6 M ¹	15%	\$64.3 M	\$95.6 M
Urban	Streets \$70.7 M	Federal & State \$52.3 M ²	15%	\$44.4 M	\$26.3 M
Townships	Roads \$36.3 M	State & Local Mill Levies \$24.7 M	15%	\$21 M	\$15.3 M
Small Cities	Streets \$29.7 M	Special Assessments NA	15%	NA	NA
Transit	\$13.7 M	State & Local Match \$13.2 M	15%	\$11.2 M	\$2.5 M

¹Does not include oil/gas/coal impact fund; ²Does not include local revenue generated for transportation; NA: Not available

Current Allocation of the Highway Tax Distribution Fund

HB 1407 would significantly modify the way highway user revenues are disbursed through the Highway Tax Distribution Fund. Currently, with some exceptions, all motor vehicle registrations (after deduction for motor vehicle program costs) and fuel taxes are deposited into the fund and distributed based on a formula whereby the NDDOT receives 63 percent, the counties receive 23 percent, and the cities receive 14 percent.

The exceptions, which never go into the Highway Tax Distribution Fund, or are distributed off the top of the fund before the remainder is allocated, are:

- \$13 dollars of every motor vehicle registration goes directly to the Highway Fund.
- Ten percent of the Motor Vehicle Excise Tax is deposited directly into the State Highway Fund (approximately \$12.6 million); \$1 million of this amount is dedicated to transit. This is a one-biennium provision; this allocation is scheduled to expire on June 30, 2009.
- \$3 of every motor vehicle registration goes directly to the Highway Fund for the Public Transportation programs.
- The Highway Patrol, the Ethanol Production Incentive Fund, and various tribal governments receive a total of about \$8.4 million dollars.
- Townships receive the revenue from one cent of fuel taxes (approximately \$10.2 million).
- The Motor Boat Program and Safety Account receive an amount equal to \$2.50 times the number of motor boats registered with the Game and Fish Department. This is approximately \$200,000 per biennium.
- The State Snowmobile Fund receives an amount equal to the tax on 30 gallons of fuel times the number of snowmobiles registered. This is approximately \$200,000 per biennium.

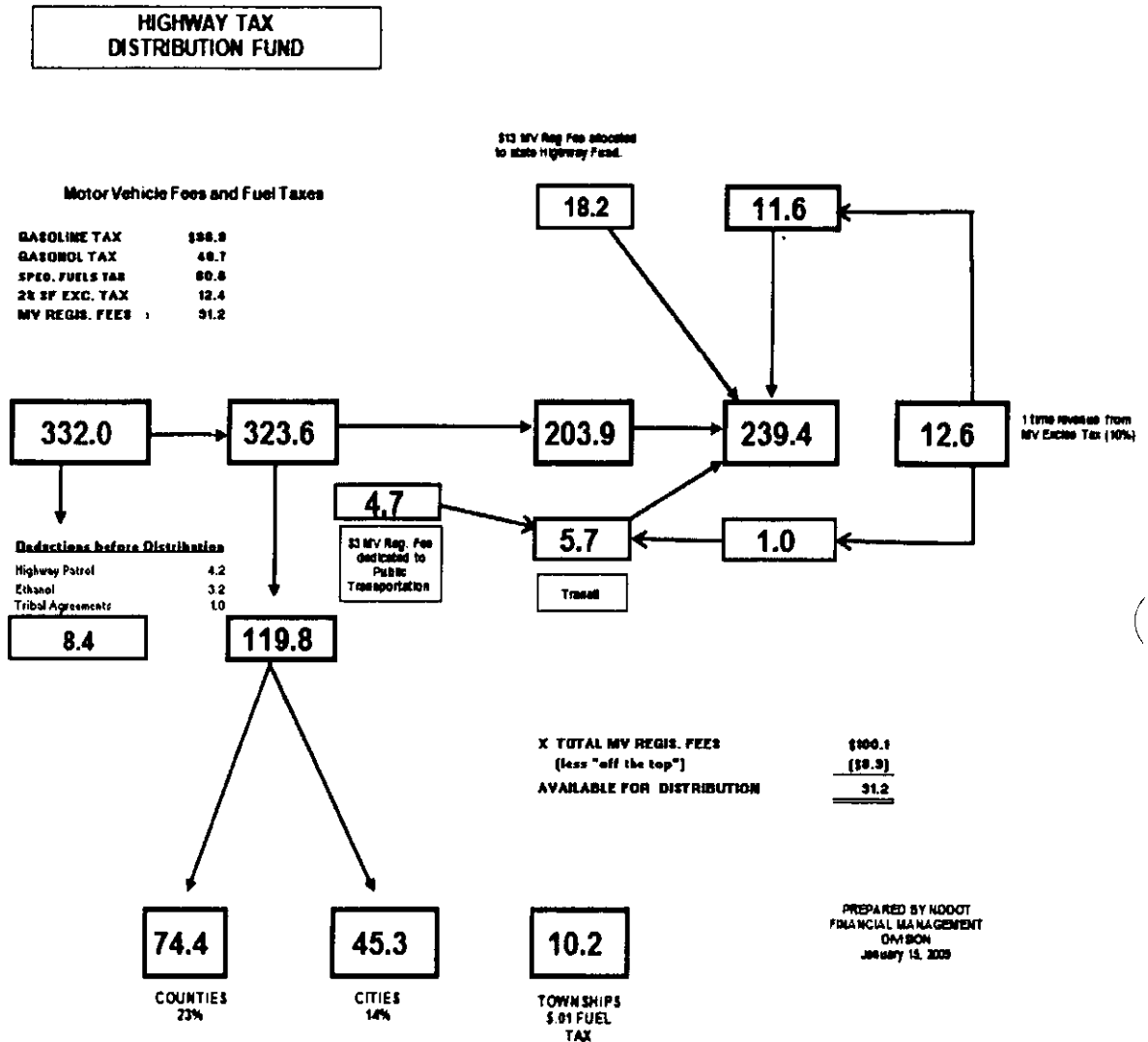
The chart on the following page shows the estimated distribution of 2007-2009 biennium revenues through the Highway Tax Distribution Fund as provided for under current law.

DEPARTMENT OF TRANSPORTATION

2007 - 2009 BIENNIUM

Current Highway Tax Distribution Fund Revenues

(MILLIONS)



Proposed Changes to the Highway Tax Distribution Fund Allocation Formula

HB 1407 as amended would create a new allocation formula. Under the new allocation formula, the DOT is allocated 63.28 percent, the townships receive 2.74 percent, the counties and cities receive 32.45 percent (20.17 and 12.28 percent respectively), and public transportation (transit) will receive 1.53 percent. This allocation formula is prescribed in HB 1407 as amended and closely matches the percentage of funds the recipients realized in the 2007-2009 biennium through the Highway Tax Distribution Fund or direct allocations.

The \$13 and \$3 dollar motor vehicle registration fee allocations that were previously dedicated to the State Highway fund and public transportation will now be deposited in the Highway Tax Distribution Fund and distributed by way of the new allocation percentages, as will the one cent of fuel tax currently allotted to the townships.

The allocations for the Highway Patrol will continue as it currently is; the motor vehicle program costs will also continue to be funded "off the top" before the fund is allocated. The funding to the Motor Boat Program, Safety Account and the State Snowmobile Fund will continue as it currently is.

HB 1407 no longer provides \$3.2 million for the ethanol set aside. The Bill also creates a \$20 million Economic Development Transportation Fund.

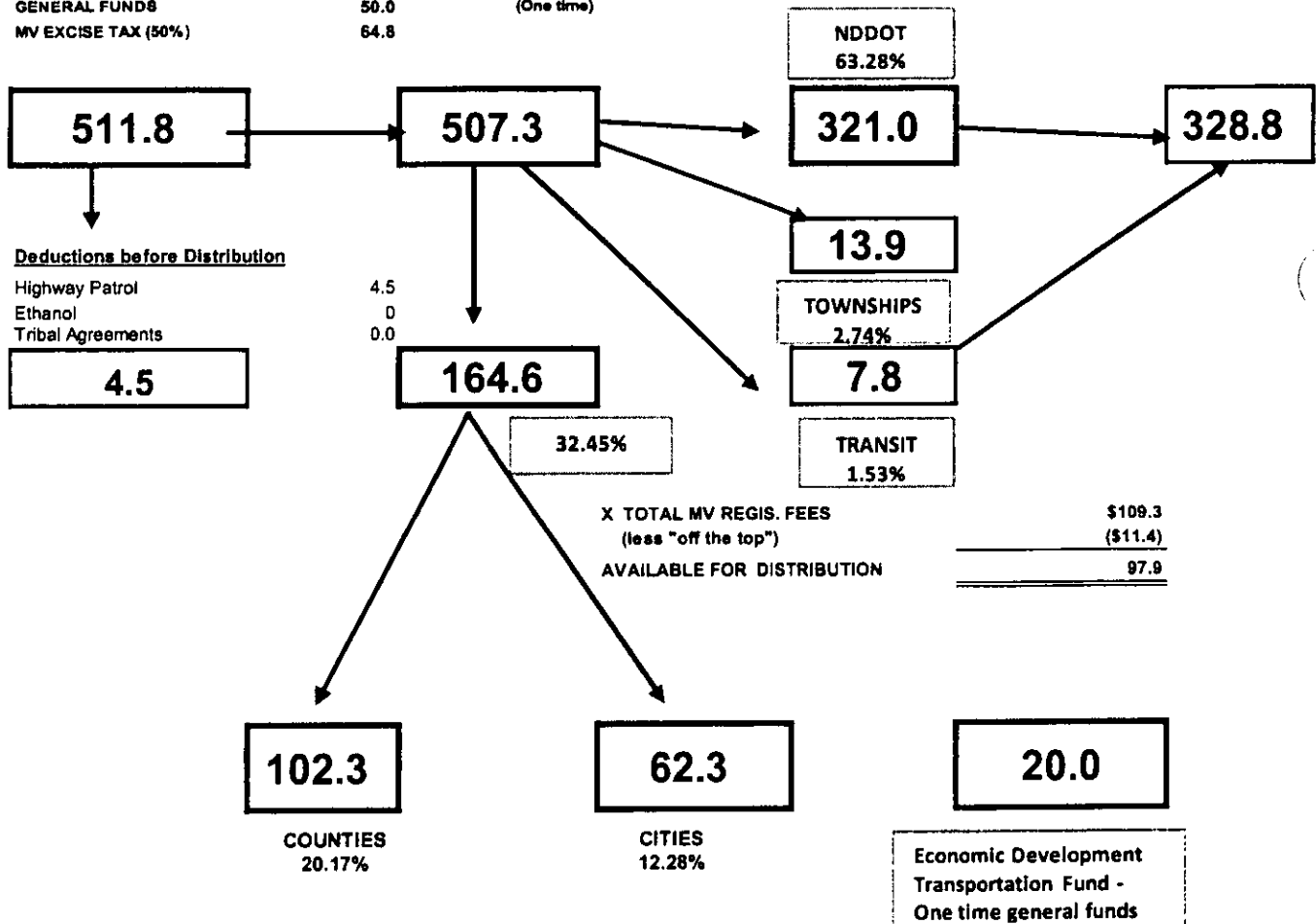
The chart on the following page shows the estimated distribution of 2009-2011 biennium revenues through the Highway Tax Distribution Fund as proposed by HB 1407 with the amendments.

2009 - 2011 Biennium
House Bill 1407 - As Amended
Proposed Revenue From Highway User Sources
(MILLIONS)

**HIGHWAY TAX
DISTRIBUTION FUND**

Motor Vehicle Fees and Fuel Taxes

GASOLINE TAX	62.0	(\$55.6+6.4)
GASOHOL TAX	99.4	
SPEC. FUELS TAX	96.4	(92.8+3.6)
2% SF EXC. TAX	16.6	
MV REGIS. FEES x	122.6	(97.9+20.0+4.7)
GENERAL FUNDS	50.0	(One time)
MV EXCISE TAX (50%)	64.8	



The new formula presented in HB 1407, as amended, provides a vision for the future of transportation. The Upper Great Plains Institute and several groups including: Association of Counties, League of Cities, Township Officers, Transit, Associated General Contractors, Motor Carriers organization and the NDDOT, along with Representative Weisz, who at the time was Chair of the House Transportation Committee, worked together to create a formula to provide funding to meet transportation needs across the state.

While the department supports the provisions of HB 1407 that modify the formula, we do not support the following portions of the bill:

- Section 1 which creates an Economic Development fund.
- Section 7 which transfers fifty percent of the Motor Vehicle Excise Tax to the Highway Tax Distribution fund.
- Section 9 which appropriates \$70 million of general fund money. \$50 million is appropriated to the highway tax distribution fund and \$20 million to the economic development transportation fund that was created in Section 1.

We acknowledge that the counties, cities, townships and the state have unmet transportation needs. However, section one, seven and nine of HB 1407 are not consistent with SB 2012 (NDDOT's appropriation bill) and as a result we do not support those sections of the bill. The Governor recognized the additional transportation needs and has included in SB 2012 (NDDOT's appropriation bill) \$120 million of general funds to be distributed to the state, cities, counties, townships and transit through the Highway Distribution Fund.

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

**Testimony To The
THE HOUSE TRANSPORTATION COMMITTEE**

Prepared January 29, 2009 by
Terry Traynor, Assistant Director
North Dakota Association of Counties

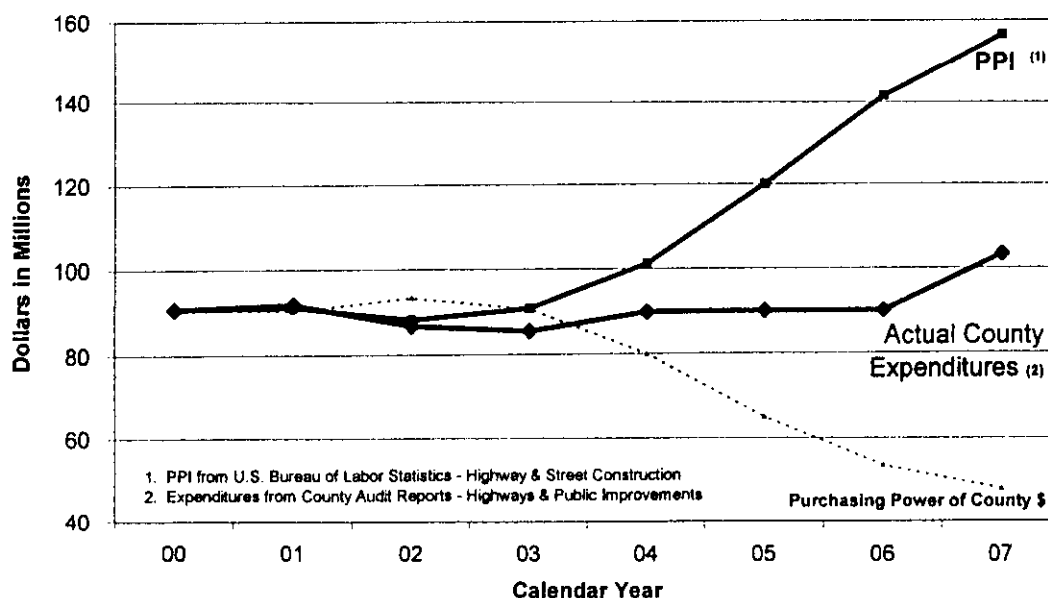
REGARDING HOUSE BILL No. 1407

Chairman Ruby and committee members, county government is very appreciative to the sponsors of this bill and extremely excited about the focus that the Legislature has placed on the costs of operation and maintenance of our State's transportation infrastructure.

While, county government is not alone in its struggle to meet its transportation responsibilities with relatively stagnant revenue and dramatically increasing costs, the chart below is a clear indication of how serious the issue has become for the entire transportation sector.

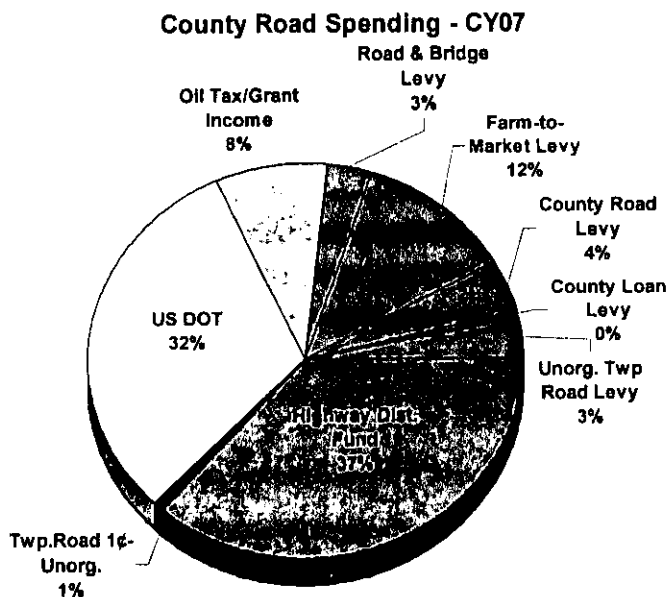
Counties' purchasing power, has been dramatically eroded – by well over 25% in just the last five years, as measured by the Department of Labor's Production Price Index (PPI) for road construction. In short, costs have risen while revenues have not. That combination has significantly reduced the miles of road and number of bridges that counties can adequately maintain. The most significant source of highway funding – the State Highway Distribution Fund, has remained almost stagnant.

**County Highway Expenditures
vs. Production Price Increase (PPI)**



Counties have a large infrastructure to maintain. NDDOT data indicates that counties collectively have 10,321 miles of major collector highways and 65,330 miles of local roads. In addition, they are responsible for 3,229 major bridge structures (> 20') of which 647 (20%) are now at a sufficiency rating of less than 50 – at the point of replacement.

Increased commodity prices, a growing ag processing sector, energy development in all of its forms, have together increased the traffic on our entire State's road system. The recent *Transportation Infrastructure Needs* study indicated that, with current revenues and the impact of construction inflation, North Dakota counties fall short by about \$95.6 million annually on what they need to maintain their road systems. This does not include any improvement costs.



The pie chart shows where counties now get the revenue they use for roads.

Counties certainly have no control over the federal share; and increasing property taxes is not a popular option. This leaves enhancements to the State Highway Distribution Fund as the only realistic possibility for improving road funding.

Throughout the past year, a broad coalition of transportation interests has been holding public meetings across the State with the organizational help of the Upper Great Plains Transportation Institute. The turnout at every one of these meetings became a clear indication of the interest that local officials, business owners, agricultural producers, truckers, contractors, the elderly, the disabled, and a host of other citizens have for this issue. All were concerned with the impact of rising costs and deterioration in transportation service – whether this was road conditions, timely maintenance, lack of resources, or simply transit fare costs. It became obvious that to address these concerns, a broad-based comprehensive solution would be needed.

Clearly, the enhanced funding combined with the revised allocation formula of this legislation would make significant strides toward this comprehensive solution.

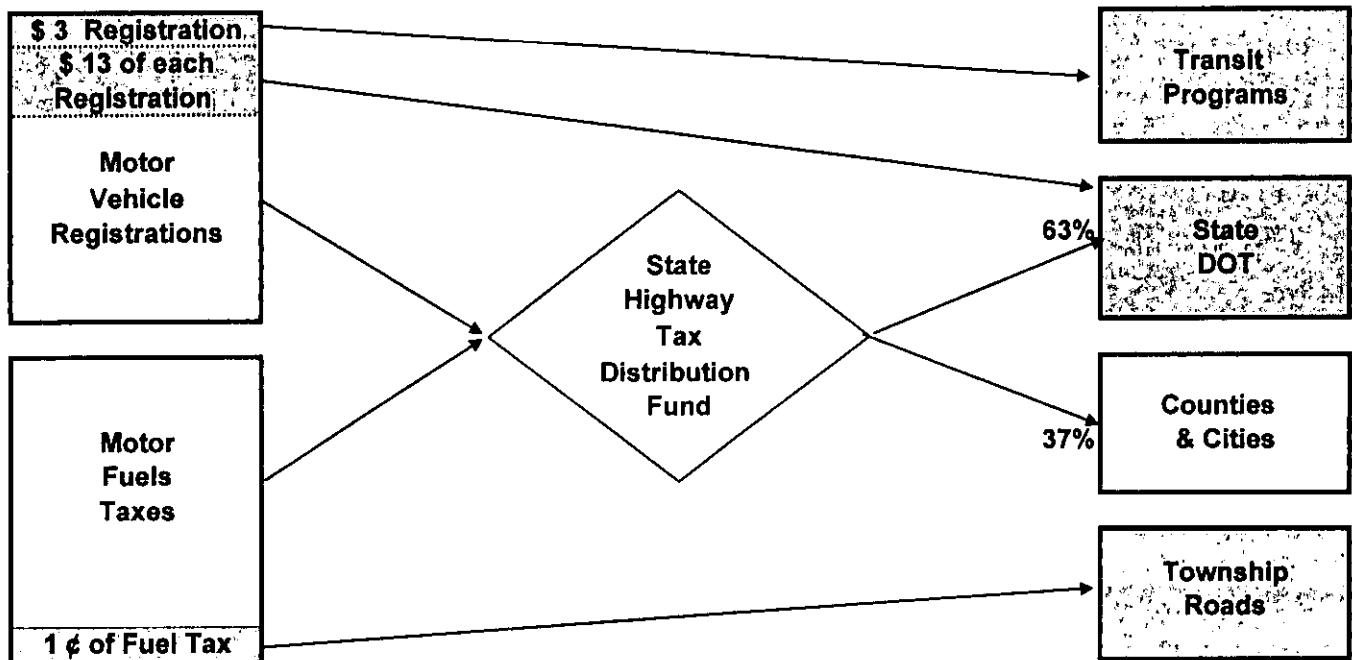
During the last three or four Sessions, the various components of the transportation sector have worked to nibble around the edges of our current funding structure, proposing (and sometimes creating) dedicated funding streams that benefit their single component. Replacing this piecemeal approach to transportation funding with a comprehensive strategy such as this bill envisions would put all components in the same boat, obligating each to work for the benefit of all.

This formula change, as illustrated on the last page, would bring the isolated and fixed funding for townships and transit into this dynamic funding structure for the first time; and with enhanced funding, provide a significant increase for the State DOT, counties, cities, townships, and transit.

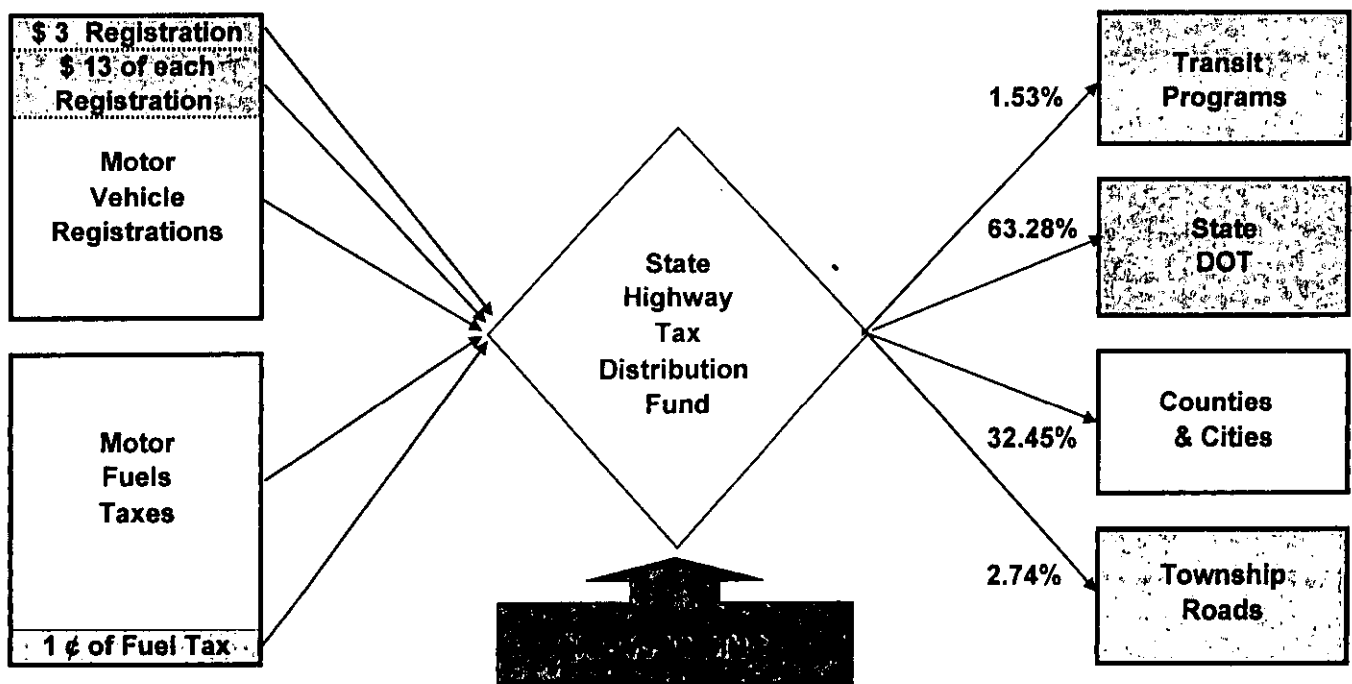
We believe that it is significant that HB1407 contains no fee or tax increase. While Section 1 of the bill appears to raise registration fees by \$3, in reality this simply replaces the flat \$3 fee for transit that is repealed in section 8 of the bill. Again, transit authorities and townships are written into the state Highway Tax Distribution Fund and will receive a permanent percentage share as NDDOT, counties and cities have for well over 30 years.

The formula change in HB1407 is a monumental and historic piece of legislation, and a concept that has been embraced by, not only road and transit authorities, but business groups, contractors, and farm organizations. Dedicating a permanent source of revenue makes it even more significant for the future.

CURRENT TRANSPORTATION CASHFLOW *



PROPOSED TRANSPORTATION CASHFLOW - HB1407 *



* Generalized - does not change formula for ethanol, highway patrol, tribal, snowmobile & motorboat allocations

Attachment #3

TESTIMONY – PROTECTION AND ADVOCACY PROJECT

BILL 1407 (2009)

HOUSE TRANSPORTATION COMMITTEE

Honorable Dan Ruby, Chairman

January 29, 2009

Chairman Ruby, and members of the House Transportation Committee, I am Bruce Murry, a lawyer with the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state disability rights agency.

Sometimes I ride Bismarck's CAT bus to the Capitol. A couple of years ago, I overheard a very telling conversation. Two riders were talking about the money they saved commuting to work on the bus verses individual transit. As we passed various businesses we saw help wanted signs. One rider said to the other, "You know, a guy could afford to work on the other side of town." The other replied, "Yeah, maybe we could make more money!"

I don't know how the bus system continued to affect these riders' lives. However, I think the story sums up why transit and public transportation are good for communities. P&A defers to the wisdom of others in funding formulas and distribution systems. We wish to point out all of your work is well worthwhile.

Thank you very much for your consideration.

Testimony To The
THE SENATE TRANSPORTATION COMMITTEE
Prepared March 6, 2009 by
Mark A. Johnson, CAE – Executive Director
North Dakota Association of Counties

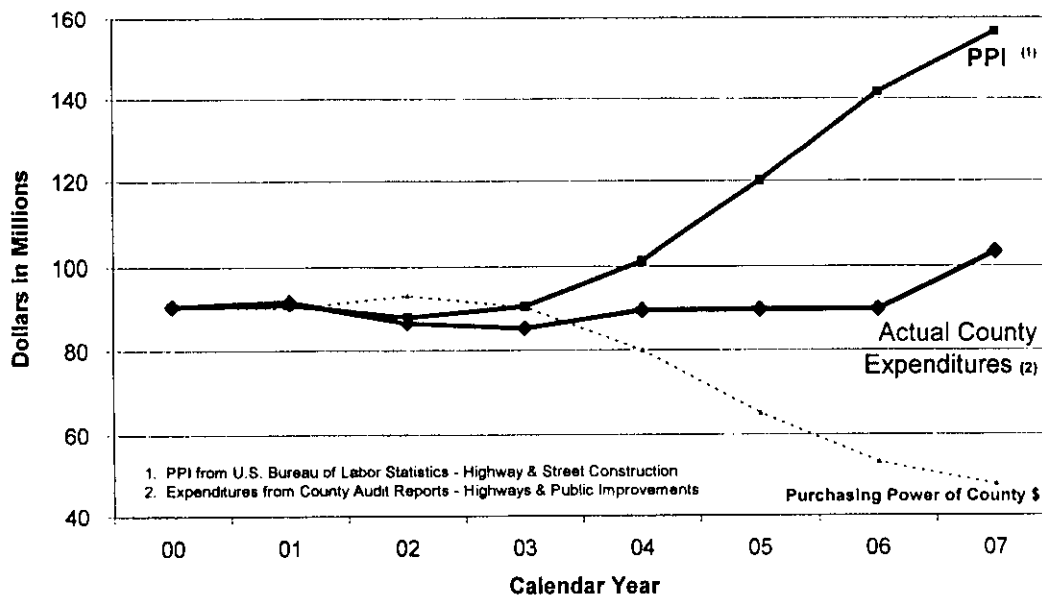
REGARDING ENGROSSED HOUSE BILL No. 1407

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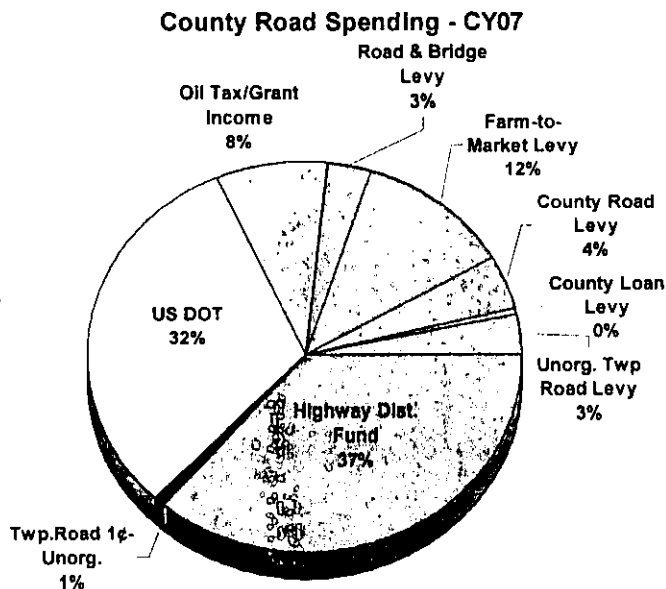
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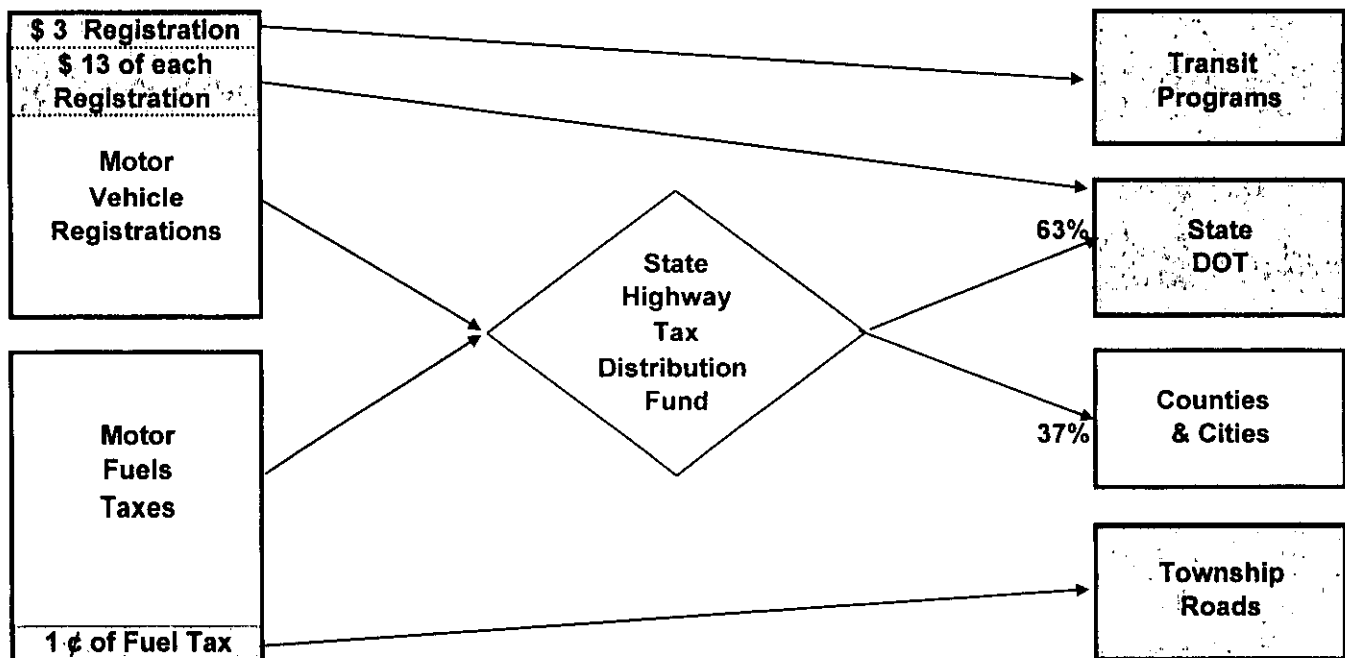
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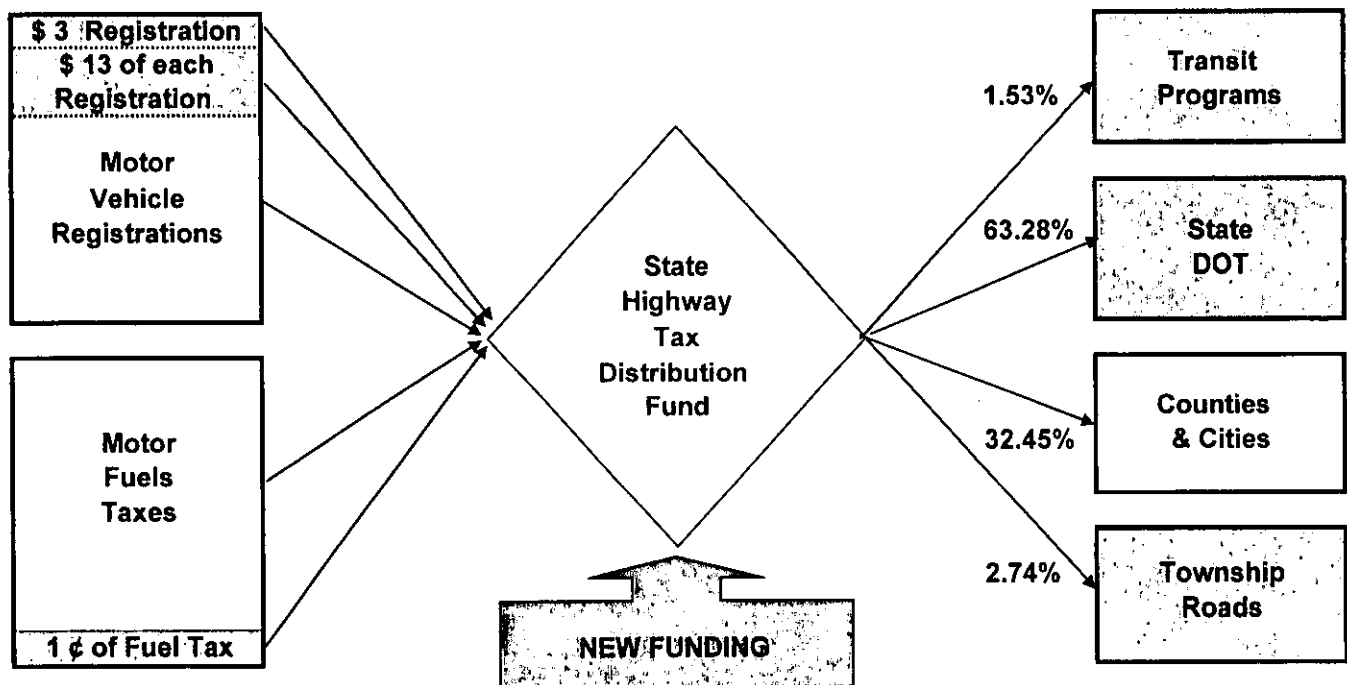
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March 6, 2008

Testimony to the Senate Transportation Committee

Re: House Bill 1407

By: Mick Miller, Vice President of the North Dakota Ethanol Producers Association

Good Morning Chairmen Lee and members of the Senate Transportation Committee. For the record my name is Mick Miller, Vice president of the North Dakota Ethanol Producers Association and President and CEO of Red Trail Energy and I am testifying in opposition of House Bill 1407.

This bill specifically dismantles the states nationally recognized ethanol production incentive fund. I believe this fund has been a key factor in the decision making process of constructing new, state of the art ethanol production facilities in North Dakota. I will assure you it was a very important deciding factor during the development of Red Trail Energy in Richardton ND.

Red Trail Energy has been in operation for 2 years now and employees 40 full time employees with an annual payroll of approximately 2.8 million. Most of our 40 employees live in or near Richardton and our local area has seen a very positive economic impact from the plant and its operation. The facility operates 24 hours per day and 365 days per year. In 2008 we purchased approximate 20 million bushels of corn at an approximate cost of \$110 million producing 55 million gallons of ethanol. Additional costs of goods sold were approximately \$24 million for 2008.

The funding for the ethanol production incentive fund is extremely important to the states new ethanol facilities especially during the first several years of operation as the plants operate with high debt loads. The incentive offers assistance if the plants find themselves operating during times when corn prices and ethanol prices do not yield profitability or even cash flow opportunities which is very similar to today's environment. That is exactly what is unique about the ethanol incentive fund; it offers support when the plants need it most.

Chairperson Lee and members of the Senate Transportation Committee my name is Jeff Zueger. I am the Secretary of the North Dakota Ethanol Producers Association and also serve as the General Manager of Blue Flint Ethanol, located in Underwood, North Dakota.

I am testifying in opposition to House Bill 1407 and respectfully ask for your vote in opposition of this bill. This bill would eliminate the funding of the North Dakota Ethanol Production Incentive.

Blue Flint Ethanol is a 58 Million gallon per year ethanol production facility that is a partnership between Great River Energy of Maple Grove, MN and Headwaters Incorporated of Salt Lake City, Utah. This incentive served an important role in these two out of state partners decided to invest their capital in developing a \$100 million ethanol production facility in North Dakota. The Ethanol Producer Incentive was viewed as a positive signal that the state of North Dakota shared a partnership with industry in economic development and help in assuring the long term success of these facilities.

Blue Flint utilizes waste energy from the Coal Creek Electrical Power Generating Facility. It implements state of the art renewable fuel production technology and represents the continuous improvement and ingenuity that exists in our industry. Blue Flint Ethanol provides 37 direct full time jobs with an annual payroll of over \$2.5 million and an annual economic impact of over \$160 million providing hundreds of indirect jobs. The development and on-going operations of an ethanol plant in a rural community represents opportunities for North Dakotans to stay in state or return home and enjoy a rewarding long term career in the renewable energy industry.

The ethanol industry brings significant economic benefit to the state of North Dakota by providing a strong market for our farmer's corn to produce a renewable fuel that brings down the cost of gasoline at the pump. In addition, the industry produces distiller's grains as a low cost, high value feed product to the livestock industry.

North Dakota has been nationally recognized for having the foresight to create the Ethanol Producer Incentive. This policy supports a developing ethanol industry only when support is needed. This policy serves as a continued partnership between the state and the ethanol industry to ensure long term sustainability and future growth of our industry. Your opposition of House Bill 1407 will help assure that the Ethanol Producer Incentive will continue in its beneficial support of the ethanol industry in our state.