

FISCAL NOTE
Requested by Legislative Council
01/07/2019

Bill/Resolution No.: HB 1301

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

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$34,700,000		
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties		\$37,600,000	
Cities		\$21,300,000	
School Districts			
Townships		\$10,000,000	

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

House Bill 1301 calls for a life-of-roadway study to be conducted, amends the allocation percentages in the highway tax distribution formula, and increases the state fuel tax by seven cents per gallon.

- 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.*

Section 1 of HB 1301 calls for DOT to conduct a long-term, life-of-the-road study regarding center rumble strips and report the findings to legislative management.

Section 2 of the bill amends NDCC 54-27-19 by adjusting the allocation percentages used in the highway tax distribution formula.

Sections 3 and 4 of the bill amend NDCC to increase the tax rate on motor vehicle and special fuel sold in the state from 23 cents per gallon to 30 cents per gallon.

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.*

Sections 3 & 4 of House Bill 1301 would increase the tax rate on motor vehicle and special fuel sold in the state by 7 cents per gallon. Based on estimates from the Tax Commissioner's Office and DOT, this increase would generate roughly \$103.6 million in additional revenue which would be deposited into the highway tax distribution fund.

Section 2 of the bill also modifies the allocation percentages within the highway tax distribution fund as follows:

- State Highway Fund - 61.3% to 56.7%
- Township Fund - 2.7% to 3.8%
- Public Transit - 1.5% unchanged
- Counties/Cities - 34.5% to 38%

The combination of increased tax revenue and the allocation changes result in estimated increases in revenue as shown in section 1 above and detailed as follows:

- State Highway Fund - \$33,200,000
- Public Transit Fund - \$1,500,000
- Townships - \$10,000,000
- Counties - \$37,600,000
- Cities - \$21,300,000

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

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

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Date Prepared: 01/15/2019

2019 HOUSE TRANSPORTATION COMMITTEE

HB 1301

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1301
1/24/2019
#31394

- Subcommittee
 Conference Committee

Committee Clerk Signature Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A BILL relating to a long term study of roadway center rumble strips; relating to highway tax distribution fund allocations and the tax imposed on motor vehicle fuels; to provide for a Department of Transportation study; to provide for a report for legislative management; and to provide an effective date.

Minutes:

Attachment #1

Chairman Ruby opened the hearing on HB 1301.

Representative Hager introduced HB 1031 by beginning testimony **from Representative Nelson**. See attachment #1.

Representative Nelson spoke to support HB 1031. He continued with attachment #1.
12:02

Chairman Ruby: Each section is different. In Section 5 you have similar language to what we see in interim committees.

Representative Nelson: It is somewhat. I know that there is machinery out there that is capable of visually rating the condition of the highways. I don't know the cost and didn't want to say must. I just know that when the department is giving us a report about the conditions of the road, they are not looking at the center of the road. This would be a strong indication from the legislature that we would like them to look at this.

Chairman Ruby: What is the difference between Section 1 and 5?

Representative Nelson: Section 1 would be looking at the condition of a new road. It is taking a new road and going through the whole life of the road. The road would have rumble strips in half of it and not in the other half. It would compare the maintenance of the two parts. The other one is just like a snap shot of the road.

Chairman Ruby: In your example of the distribution of the taxes, there are some slight variations from what the Department of Transportation put in the fiscal note. Where did you get your numbers?

Representative Nelson: I asked Legislative Council to take a year in which we had complete data, 2017, split out of 2017 how it was done. Then take 2017 and put my formula and my gas tax on there to get new numbers. Mine is looking at the past, while they would be looking at a projection of the future.

Representative Paur: Did you consider asking the Upper Great Plains Institute to do the study about the rumble strips?

Representative Nelson: NO, but I would have no problem with them doing that.

There was no further support for HB 1301.

Mike Rud, North Dakota Petroleum Marketers' Association: I am not in opposition to the bill. I would just share a bit of caution about where we are at on gas taxes right now.

Our association has no real issues with an increase in gas tax. We just don't want to see it go higher than our neighboring states. We are bringing a lot of people into our convenience store outlets that probably will go across the border if our taxes go above the neighboring state.

Chairman Ruby: What are the taxes for the three bordering states?

Mike Rud: South Dakota is at 30 cents; Minnesota is at 28.6; and Montana is at 32.25.

Representative Weisz: Does the Minnesota tax include the fund that triggers an extra cent?

Mike Rud: I think so, and I believe that Minnesota is talking about more taxes for roads this year.

Chairman Ruby: I heard that Minnesota will have a line away from the border before the higher taxes will take effect.

Mike Rud: There is what is called the Moe Law. It is a seven-and-a-half-mile barrier from the border that they only have to be three cents above what North Dakota is.

There was no further opposition or neutral testimony to HB 1301.

The hearing on HB 1301 was closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1301
1/31/2019
#31944

- Subcommittee
 Conference Committee

Committee Clerk Signature Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A BILL relating to a long term study of roadway center rumble strips; and relating to highway tax distribution fund allocations and the tax imposed on motor vehicle fuels and special fuels; to provide for a department of transportation study; to provide for a report to the legislative management; and to provide an effective date.

Minutes:

Chairman Ruby brought HB 1301 back before the committee.
The bill was reviewed.

Representative Nelson: I would add that the reason for the change of the formula is that every session we end up giving money to the townships because they don't have enough money to operate. Last session we ran into the veto. This would take care of the townships by building them into the funding formula. It is actually more fairly distributed based on the roads that they have, rather than per township. In the Great Plains Transportation Study the group that was really hurting was the counties. This would increase their portion. The cities actually get an increase from the counties share too. In the cities they are putting on special assessments, and the people aren't willing to put up with it any more. The change in the formula is designed to take care of all those things. The Department of Transportation would like a large increase, but it is the subdivisions that are more in need. On the Senate side there is a bill with the same 7 cent tax, but it doesn't adjust the formula.

Chairman Ruby: I think there should be something done about studying the center rumble strips.

Vice Chairman Rick C. Becker: I am opposed to the increase to the gas tax. We are not forced to pay for roads only by the gas taxes. North Dakota is number one for total state revenue per capita in the entire nation. The five states with the highest per capita tax burden are: New York, Connecticut, New Jersey, North Dakota,.... The people that called me were astounded that we would even consider raising the gas tax. We have plenty of money; we are just not aware of our spending.

**Vice Chairman Rick C. Becker moved a DO NOT PASS on HB 1301.
Representative Kading seconded the motion.**

Representative Nelson: We probably do have the money, but we squirrel it away, and it is not available for roads. Especially, not this biennium, in a significant amount to maintain the roads we have. We've been through that cycle before when we let the roads decline and decline, then property taxes go up and up. Finally, we come through and approve a great big spending bill to try to fix the roads back up. Maintenance of the roads is the important thing. This doesn't give the Department of Transportation a lot of money, but it gives them a bit more to maintain the roads we have. The counties and cities will be able to have a little more money instead of going to special assessments. People paying a little bit more at the pump as you go along will be more tolerable. It is a user fee. I would hope that we would resist the motion.

Chairman Ruby: I don't like the idea of the changing of the distribution fund. It was an agreement that was well thought out. I like the study of the rumble strip. I agree that gas tax is a user fee, but don't know if 7 cents is the correct number. I would be more agreeable to 2-3 cents. I won't support the bill the way that it is now.

**A roll call vote was taken on HB 1301: Aye 8 Nay 4 Absent 2.
The motion carried.
Vice Chairman Rick C. Becker will carry HB 1301.**

Date: 1-31-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1301

House Transportation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Becker Seconded By Kading

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN RUBY	X		REP LAURIEBETH HAGER		X
VICE CHAIR BECKER	X		REP KARLA ROSE HANSON		X
REP JIM GRUENEICH		X	REP MARVIN NELSON		X
REP TERRY JONES	X				
REP TOM KADING	X				
REP EMILY O'BRIEN	X				
REP MARK OWENS	A				
REP BOB PAULSON	X				
REP GARY PAUR	X				
REP ROBIN WEISZ	X				
REP GREG WESTLIND	A				

Total (Yes) 8 No 4

Absent 2

Floor Assignment Becker

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

REPORT OF STANDING COMMITTEE

HB 1301: Transportation Committee (Rep. D. Ruby, Chairman) recommends **DO NOT PASS** (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). HB 1301 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1301

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#1
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Chairman Ruby, and members of the House Transportation Committee

I am Representative Marvin Nelson, District 9

HB 1301 does three things.

Section 3 raises the fuel tax 7 cents to 30 cents a gallon.

Section 2 changes the distribution formula a bit. The Upper Great Plains Transportation Study showed a severe shortage of funds for Counties (Cities are a part of that) and while cities did not show the same level of shortage, they have turned to special assessments. Seems we are about at the stage of a rebellion on special assessments. And townships we have long recognized a deficiency and have been giving ad hoc bills to send thousands more to townships each biennium until the Governor vetoed the current one so we really need to take account of funding for townships in the formula.

And certainly the DOT would like to get the additional \$300 million to maintain the road system the study said was needed.

But then if we raised the tax enough to do all that, we could pretty well be guaranteed a referral in my opinion. So that's where the 7 cents came from.

I had legislative council do a basic analysis of 2017 with and without the changes in the fuel tax and distribution.

For fiscal year 2017, the current motor fuels tax and excise tax of 23 cents per gallon, generated \$274,608,131.97 of revenue for the highway tax distribution fund, distributed as follows:

- Department of Transportation 61.3% - \$168,334,784.90
- Township highway fund 2.7% - \$7,414,419.56
- Public transportation fund 1.5% - \$4,119,121.98
- Counties 34.5% - \$94,739,805.53

If for fiscal year 2017, the motor fuels tax and excise tax were 30 cents per gallon, \$358,184,519.96 of revenue would have been generated for the highway tax distribution fund. The following distribution is based on changes you make to the highway tax distribution fund.

- Department of Transportation 56.7% - \$203,090,622.82
- Township highway fund 3.8% - \$13,611,011.76
- Public transportation fund 1.5% - \$5,372,767.80
- Counties 38.0% - \$136,110,117.58

None of the entities receive what the study said they need. For the townships that a bit over \$3000 per township.

So a basic question is whether a pay as you drive gas tax is more acceptable, or the yearly hit when people pay their property and special assessment taxes.

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The other thing is two studies of center rumble strips.

One to compare the condition of the road in the middle compared to the rest of the road. Something I don't believe is done due to the roughness caused by the rumbles themselves.

The other is a long term life of the road study on the effects of the center rumbles. Due to the length it requires a section of Century Code. What we see is the rumbles destroy the two lane rural highways, not the shoulder rumbles the center. The rumbles catch water and with the center crack that forms between the sheets of pavement, the water has easy access into the road and when they start emptying quickly within a year or two the road starts blowing out.

Then the summers are spent putting on a reddish 3M patch to try and hold the road together, the rumble is gone but the bumps and such are there. Sometime the patch holds, often it does not.

The worst is the roads that get the two inch overlays, the water gets between the layers, lifts the top layer and boom along comes the snowplows and the road is in the ditch. Clearly, the rumbles shorten the lifespan by years. Something that approaches 100% agreement in the rural areas but disagreement with DOT. I can find no long term study in a freezing environment of the costs of maintenance and life of the road. Everything I see driving those roads tells me it is substantial.