

2009 HOUSE TRANSPORTATION

HB 1555

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1555

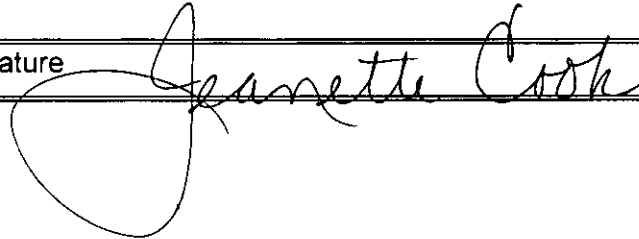
House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 01/30/09

Recorder Job Number: 8282

Committee Clerk Signature

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Minutes:

Representative Ben Vig, District 23, spoke in support of HB 1555. He brings forward the bill in a positive way to bring extra revenue to our townships for their efforts to maintain good roads and infrastructure.

Representative Vig: In the last couple of years, neighbors have been talking to me about how to reduce expenses or increase revenue. I have thought about introducing this as a discussion point. As you know, expenses for our townships have sky rocketed like everything else. Our township roads have become run down because we have seen more traffic, whether it is from oil development or pipeline construction, or high volume of agricultural commodities. In essence townships are finding it hard to keep their infrastructure going with tight budgets. This bill will bring more revenue to the townships through the Township Aid Fund. He provided pages page 40 and 41 of the tax department's red book as a quick reference as to what is in the funds and how the budget will increase. See attachments #1 and #2. Using the fund it will be using a long-term continuous fund that our townships can rely on. We know that the funding is getting out to the primary arteries of our infrastructure. We will be able to keep our farmers and rancher going as the number one industry of North Dakota. I think it is simple, and I think it is long term. I ask that you consider this with a Do Pass.

Representative Delmore: What is exactly going to the township right now?

Representative Vig: Currently it is \$5.6 million, with this bill it will double to \$11.2 million.

Representative Delmore: What made you decide that the townships were the ones that needed the money the most? We have looked at several of these bills and a lot of them look at equal distribution.

Representative Vig: That is who I have been visiting mostly, back home. Our roads have really been run down. We have had an oil pipeline go through the area and have more corn production than ever before, so to maintain the infrastructure has been very hard to do.

Representative Gruchalla: There was a county that attempted to put a mill levy on rural property to put into a fund to maintain the roads. Have you looked at that avenue at all?

Representative Vig: On a county level?

Representative Gruchalla: I think it was Stutsman County, and I think the funds were available to the townships as well.

Representative Vig: It was Stutsman County, and as I understand it they have been working on a local level to try to initiate through the property tax. That is up to the local level. I brought this forward, and we want to use the gas tax in a way that we can bring more revenue through the Township Highway Distribution Fund.

Representative R. Kelsch: Do you know how much new revenue will be generated into the county where the pipeline is going through?

Representative Vig: I don't have the specific figure, but it is under \$80,000 for Steele County. For Nelson County, I think it could be just under \$1,000,000.

Representative R. Kelsch: Is that an annual new income that is coming into the county?

Representative Vig: I am not positive if it is annual.

Chairman Ruby: Are you proposing an increase on the total gas tax?

Representative Vig: No, it will still be twenty-three cents on the gas tax, but it will move two cents into the Township Highway Distribution Fund and maintain twenty-one cents in the State Highway Distribution.

Chairman Ruby: We appreciate what you are attempting to do. There are a couple of bills out there that are dealing with the formula. I think all sides agree that the goal is to get more into all areas. I think the reason for the formula is rather than one side fighting against the other side for more money, we get it (money) into the formula and try to get as much money as possible.

Representative Vig reiterated that the townships are in great need.

Larry Syverson, a farmer from Mayville and the Chairman of Roseville Township of Traill County, spoke in support of HB 1555. See attachment # 3.

Representative Schmidt: In my county, they are turning roads back to the townships. Is that happening in your county?

Larry Syverson: I don't have any figures on that. I do know that the total number of miles that collect from this fund is increasing by a few every two years. We are now up to 56, 744 miles that are supported partially by this fund.

Jerry Hjelmstad, the North Dakota League of Cities, spoke in **opposition** to HB 1555. This is not because they are opposed to townships getting more money for their roads. But because, they are supporting instead, the townships being included in the Highway Tax Distribution Formula and receive a percentage just as the cities, counties, and public transportation. Hopefully, by all working together, we will be able to get more money for our transportation needs in the state.

Grant Levi, Deputy Director for Engineering for the North Dakota DOT, spoke to **oppose** HB 1555. See attachment # 4.

Chairman Ruby: What is the likelihood that one of the two proposals for the formula will pass?

Grant Levi: We have always viewed "this body" as the body that sets policy for the state. It would be the DOT's hope that additional funding would be made available. All the parties do support the formula. It is the means of how to bring new money into the formula that will need to be discussed.

The hearing on HB 1555 was closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1555

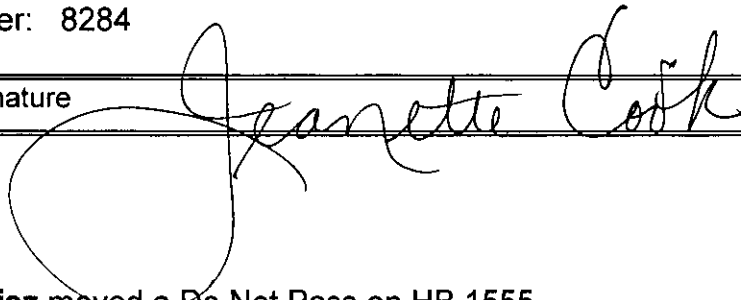
House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 01/30/09

Recorder Job Number: 8284

Committee Clerk Signature

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Minutes:

Representative Weisz moved a Do Not Pass on HB 1555.

Representative Weiler seconded the motion.

Representative Weisz repeated the reasoning that they have spent the last two years working together to make a formula that treats everyone fairly.

Representative Weiler: I think that all these bills are certainly putting the spotlight on all the needs for more funding.

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

The motion passed.

Representative Heller will carry the HB 1555.

FISCAL NOTE
Requested by Legislative Council
01/20/2009

Bill/Resolution No.: HB 1555

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				\$0		
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

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).*

HB 1555 changes the allocation of fuels tax revenue going to the township highway aid fund.

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.*

HB 1555 doubles the allocation of motor and special fuels tax revenue that goes to the township highway aid fund. This is expected to result in an increase of \$5.3 million per year in allocations to the township highway aid fund. This will reduce revenues in the highway distribution fund by the same \$5.3 million per year, or \$10.6 million for the biennium. (These impacts both affect "other funds" and cancel each other out, so they are not shown in 1A above.)

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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

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

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/29/2009

Date: 1-30-09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1555

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Wiesz Seconded By Weiler

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 13 No 1

Absent ~~Heller~~

Bill Carrier Heller

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

REPORT OF STANDING COMMITTEE

HB 1555: Transportation Committee (Rep. Ruby, Chairman) recommends DO NOT PASS
(13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1555 was placed on the
Eleventh order on the calendar.

2009 TESTIMONY

HB 1555

2001 Session.

- The legislature enacted a decrease in special fuels taxes on diesel fuel containing at least 2% biodiesel fuel by weight. The decrease is contingent upon the opening of a biodiesel refining facility in this state with a production capacity of at least 10 million gallons biodiesel per year. If triggered, the tax on undyed diesel fuel containing biodiesel is reduced by one and five-hundredths cents per gallon, and the tax on dyed diesel fuel containing biodiesel is reduced to one and nine-tenths percent.

2005 Session.

- The legislature provided for an increase in the tax rates for both motor vehicle fuel and special fuels from 21 cents per gallon to 23 cents per gallon.
- E85 was defined and a reduced rate of 1 cent per gallon was imposed on all E85 sold in the state until a total of 1.2 million gallons were sold, at which time the tax rate reverted to the 23 cents motor fuel tax rate.
- A special fuels tax exemption was provided through June 30, 2010, for the sale of hydrogen used to fuel an internal combustion engine or fuel cell.
- Provided for motor vehicle and special fuel tax refunds to Native Americans and established a refund reserve fund for this purpose.

2007 Session.

- Motor fuel refunds are available for emergency medical services.
- The special fuels excise tax rate for all special fuels, except LPG, changed from 2% of the value to 4 cents per gallon.
- The special fuels excise tax rate for heating fuel was reduced to 1% for LPG and 2 cents per gallon for all other special fuels through June 30, 2009; beginning July 1, 2009, heating fuels are exempt from tax.
- Taxpayers are required to report actual physical inventories on a monthly basis.
- The requirement that tax be listed as a separate item, or a statement that the tax is included in the price, on a claim for refund was repealed.

Distribution of Revenue

Tax Types

Motor Vehicle Fuel Tax (23¢ per gallon):

22¢ Highway Tax Distribution Fund

1¢ Township Highway Aid Fund

Withheld from farmers' refunds (8¢ per gallon):

1¢ Township Highway Aid Fund

2¢ Agricultural Fuel Tax Fund

1¢ Ethanol Production Fund

4¢ Agricultural Research Fund

Withheld from Industrial users' refunds

(1½¢ per gallon):

1¢ Township Highway Aid Fund

½¢ Agricultural Fuel Tax Fund

Withheld from state or political subdivision and emergency medical services' refunds

(1¢ per gallon):

1¢ Township Highway Aid Fund

Special Fuels Tax (23¢ per gallon):

22¢ Highway Tax Distribution Fund

1¢ Township Highway Aid Fund

Withheld from emergency medical services' refunds (1¢ per gallon):

1¢ Township Highway Aid Fund

Special Fuels Excise Tax (4¢ or 2¢ per gallon):

100% Highway Tax Distribution Fund

Special Fuels Excise Tax - LPG (2% or 1% of sales price):

100% Highway Tax Distribution Fund

Aviation Fuel Tax (8¢ per gallon):

8¢ Aeronautics Commission Special Fund

Withheld from refunds:

4% Aviation fuel excise tax

Withheld from emergency medical services' refunds (0¢ per gallon):

Aviation Fuel Excise Tax (4% of sales price):

100% Aeronautics Commission Special Fund

Highway Tax Distribution Fund

- 63% allocated to state highway purposes

- 37% allocated to the counties and cities

Fuel Taxes and Fees Disbursements

Fiscal Year	Total Disbursement	Highway Distribution Fund	Township Highway Aid Fund	Agricultural Fuel Tax Fund	Agricultural Research Fund	Aeronautics Commission	State General Fund	Refund Reserve & Cash Bonds
1998	\$112,566,368	\$98,871,799	\$5,337,068	\$380,824	\$606,790	\$617,768	\$759,724	\$5,992,395
1999	110,664,269	96,651,826	5,270,153	359,554	714,787	403,793	756,137	6,407,500
2000	114,861,740	103,873,179	5,193,618	335,040	666,253	752,894	877,782	2,884,500
2001	115,907,986	104,822,117	5,119,576	308,263	612,415	665,638	876,844	3,175,500
2002	114,131,923	103,789,792	5,092,540	286,162	568,231	738,856	864,879	2,448,000
2003	117,605,841	107,425,949	5,229,933	254,788	505,763	693,293	863,943	2,310,000
2004	121,466,700	111,644,818	5,393,334	236,786	470,999	769,785	889,130	1,757,500
2005	124,242,338	113,931,319	5,424,854	217,782	431,112	941,680	903,721	2,097,000
2006	135,038,662	124,741,234	5,311,819	196,400	389,528	1,130,261	881,277	2,115,000
2007	141,908,527	131,445,986	5,456,111	168,538	334,153	1,171,275	897,502	2,023,020
2008	146,250,694	135,121,096	5,618,871	130,928	259,118	1,276,210	848,165	1,973,028

Motor Vehicle Fuels - Gallons Taxed

Fiscal Year	Total Gallons	Fiscal Refund	Net Gallons
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1998	365,493,671	20,189,232	345,304,439
1999	365,389,457	18,854,167	346,535,290
2000	364,472,028	17,610,696	346,861,332
2001	362,611,882	16,117,349	346,494,533
2002	359,176,664	14,965,893	344,210,771
2003	368,973,065	13,418,634	355,554,431
2004	370,923,822	12,338,689	358,585,133
2005	366,130,282	11,182,318	354,947,964
2006	350,779,757	10,510,356	340,269,401
2007	358,118,000	9,511,735	348,606,265
2008	359,794,778	8,206,542	351,588,236

Special Fuels - Gallons Taxed - Per Gallon Tax Rate

Year	Total	Refund	Net
1998	169,591,976	12,449,849	157,142,127
1999	168,218,146	11,715,815	156,502,331
2000	162,411,793	4,658,342	157,753,451
2001	159,884,499	3,41,613	159,542,886
2002	159,899,715	0	159,899,715
2003	166,462,335	0	166,462,335
2004	177,164,572	0	177,164,572
2005	181,293,961	0	181,293,961
2006	165,456,167	17,221	165,438,946
2007	197,294,786	3,50,149	196,944,637
2008	208,741,260	659,803	208,081,457

**Special Fuels - Gallons Taxed
2% or \$.04 or Heating Fuel**

Fiscal Year	Standing Rock	Spirit Lake	Three Affiliated Tribes	Fiscal Year	2% or \$.04/gas	Heating Fuel
1999	100,519			1998	334,633,528	
2000	278,474			1999	314,146,274	
2001	327,633			2000	294,285,846	
2002	343,463			2001	317,956,120	
2003	322,172			2002	326,123,925	
2004	304,349			2003	314,124,119	
2005	294,870			2004	322,361,843	
2006	273,142			2005	333,386,326	
2007	308,073	103,869		2006	303,656,667	
2008	292,102	257,124	474,053	2007	341,923,238	40,917,726
				2008	328,112,675	

SOURCE: Office of State Tax Commissioner

Attachments #3

In support of HB1555:

Good Morning Chairman Ruby and members of the House Transportation Committee. I am Larry Syverson a farmer from Mayville; I am the Chairman of Roseville Township of Traill County. I am also a District Director of the North Dakota Township Officers Association. NDTOA represents six thousand Township Officers in eleven hundred dues paying townships.

Since the mid 1980's, when the one cent per gallon gas tax was passed by the legislators, we have counted on it as a mainstay for funding road maintenance projects. This one cent had to be matched with equal dollars of taxation on the property within the township.

The last few years we have found it just doesn't go far enough any more. The cost of maintenance have risen so dramatically over the last 4 years it is hard to imagine the cost of graveling a road has more than doubled to near \$3000 per mile in some instances. All of the services townships provide such as sign maintenance and culvert repairs have all increased and without some source of income increases safety is likely to suffer.

The benefits of this tax can be witnessed by the payers when they travel rural gravel roads to go hunting and fishing or to go visit grandpa and grandma out at the old farm.

Therefore I ask you to support HB1555 and help townships maintain their roads and keep them safe.

I will try to answer your questions.

Attachment #4

HOUSE TRANSPORTATION COMMITTEE

January 30, 2009

9:30 a.m. – Fort Totten Room

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

HB 1555

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). I'm here to oppose HB 1555.

If HB 1555 passes it would increase funds deposited in the township highway aid fund an additional one cent which is approximately \$10.6 million. It would also reduce the funding made available to the highway distribution fund approximately \$10.6 million. As a result the cities, counties and Department of Transportation funding would be reduced.

We acknowledge the counties, cities, townships and the state have unmet transportation needs. 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. As a result, we believe that funds appropriated for highway purposes should be inserted into the Highway Distribution Fund and not distributed individually to the townships.

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