ENGROSSED HOUSE
BILL NO. 1149

By: Dunegan, Ferguson, Benson, Adair, Kouba, Bonny, Davis, Hamilton, Hastings, Miller, Rice, Roach, Roberts, Smith (Dale), Steidley, Stites, Sullivan (John), Sullivan (Leonard), Thornbrugh and Tyler of the House

and

Stipe of the Senate

(revenue and taxation - motor fuel tax levy - amending Sections 500.6 and 500.7 - codification - effective date)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.4A of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In the event that, by federal law, the federal excise tax imposed on gasoline or diesel fuel or both is reduced from the rate imposed on January 1, 1996, there shall be levied a tax equal to the reduction in the federal excise tax on gasoline or diesel fuel or both. The tax on gasoline or diesel fuel or both shall be imposed beginning the first day following the reduction in the rate of the federal excise tax on gasoline or diesel fuel or both.

B. The tax levied pursuant to subsection A of this section shall be in addition to and applicable to all gasoline and diesel fuel subject to the tax imposed and levied pursuant to Section 500.4 of Title 68 of the Oklahoma Statutes. It is the intent of this section that the tax shall be conclusively presumed to be a direct tax and shall be a direct tax on the retail or ultimate consumer precollected for the purpose of convenience and facility to the consumer. The levy and assessment on other persons as specified in the Motor Fuel Tax Code shall be as agents of the state for the precollection of the tax. The provisions of this section shall in no way affect the method of collecting the tax as provided in the Motor Fuel Tax Code. The tax imposed by this section shall be collected and paid at those times, in the manner, and by those persons specified in the Motor Fuel Tax Code.

SECTION 2. AMENDATORY Section 6, Chapter 345, O.S.L. 1996 (68 O.S. Supp. 1996, Section 500.6), is amended to read as follows:

Section 500.6 A. The tax of sixteen cents ($0.16) per gallon of gasoline that is levied by Section ~~4~~ 500.4 of this ~~act~~ title, and penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed monthly as follows:

1. The first Two Hundred Fifty Thousand Dollars ($250,000.00) of the levy collected each month shall be deposited in the State Treasury to the credit of the State Transportation Fund;

2. One and six hundred twenty-five one-thousandths percent (1.625%) of the levy shall be remitted to the State Treasurer to the credit of the General Revenue Fund of the State Treasury;

3. Sixty-three and seventy-five one-hundredths percent (63.75%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund to be apportioned as follows:

a. the first Eight Hundred Fifty Thousand Dollars ($850,000.00) collected each fiscal year shall be

deposited into the Public Transit Revolving Fund, created in Section 4031 of Title 69 of the Oklahoma Statutes,

b. the second Eight Hundred Fifty Thousand Dollars ($850,000.00) collected each fiscal year shall be deposited into the Railroad Maintenance Revolving Fund and shall be used by the Department of Transportation to contract railroad passenger services, including but not limited to a route linking stations in Oklahoma and Tulsa Counties with other primary points in the national railroad passenger system and passenger rail service within the state and to provide necessary facility, signaling, and track improvements for those contracted services,

c. forty-one and two-tenths percent (41.2%) of the monies apportioned to the State Transportation Fund shall be used for any purpose provided for in Section 1502 of Title 69 of the Oklahoma Statutes,

d. nine and eight-tenths percent (9.8%) of the monies apportioned to the State Transportation Fund shall be used to provide funds for the construction and maintenance of farm-to-market roads on the state highway system, and other rural farm-to-market roads and bridges, and

e. any remaining amount of the apportionment shall be deposited into the State Transportation Fund;

4. Twenty-seven percent (27%) of the levy shall be transmitted by the Commission to the various counties of the state, to be apportioned and used as follows:

a. thirty and six-tenths percent (30.6%) of the monies apportioned under this paragraph shall be used on the following basis:

(1) forty percent (40%) of such sum shall be distributed to the various counties in the proportion which the county road mileage of each county bears to the entire state road mileage as certified by the State Transportation Commission, and

(2) the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census.

The funds so transmitted shall be sent to the respective county treasurers and deposited in the county highway fund of their respective counties to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. No part of the fund shall be used for any purpose other than the construction and maintenance of county or township highways and permanent bridges in the county receiving the fund. The funds received by any county shall not be diverted to any other county of the state, but the funds shall be expended only under the direction and control of the board of county commissioners in the county to which the funds are apportioned. If any part of the funds is diverted for any purpose other than is provided herein, the county commissioners shall be liable on their bond for double the amount of money so diverted. However, where any

state or county highway has been laid out over a road already constructed in any county by the use of money raised from county or township bond issues for the purpose either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided herein, an amount of money equal to the value of any part thereof, of the interest of such county or township, or both, in and to such highway or highways, bridge or bridges, so constituting a part of the state highway system, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county, or township, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

Each county shall use not less than fifty percent (50%) of the monies apportioned to it for the construction, improvement or repair of highways under the provisions of this article, or for the purpose of participating in or sponsoring federal projects for the building or maintenance of roads, bridges or culverts, and it shall be the mandatory duty of the county excise board to appropriate the funds for such purpose,

b. twenty-three and one-tenth percent (23.1%) of the monies apportioned under this paragraph shall be distributed as follows:

Forty percent (40%) of such sum shall be distributed to the various counties in that proportion, which the county road mileage of each county bears to the entire

state road mileage as certified by the Transportation Commission, and the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state.

The population shall be shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers and deposited in the county highway fund of the respective counties, to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. In all counties where the county excise board of any county may find it necessary, because of insufficient revenue to maintain city and county government of such county out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any such funds apportioned to the county an amount sufficient to pay the salaries of the county commissioners of the county for the fiscal year,

c. twenty-three and one-tenth percent (23.1%) of the monies apportioned under this paragraph shall be distributed to the counties in the following manner: One-third (1/3) on area; one-third (1/3) on rural population, defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census; and one-third (1/3) on county road

mileage, as last certified by the Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state. When federal funds are available for assistance in constructing county roads, the funds herein provided, when distributed and deposited in the county highway fund, are authorized to be used by the boards of county commissioners, by majority action thereof, in matching such federal funds on any county highway, and for the purpose of securing such federal assistance, the boards of county commissioners, by majority action thereof, are authorized to enter into agreements with the federal government through the Transportation Commission and deposit, from the proceeds of the tax levied by Section ~~4~~ 500.4 of this ~~act~~ title, cash with the Transportation Commission necessary to fulfill the agreement, for the extension of the present Federal Aid Farm-to-Market System, or for the creation of new federal systems, and to enter into such other contracts and agreements as may be necessary to secure federal assistance in the construction or improvement of any county road,

d. eleven and six-tenths percent (11.6%) of the monies apportioned under this paragraph shall be distributed to the various counties in the following manner: thirty percent (30%) based upon area, thirty percent (30%) based upon population according to the latest Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census, and forty percent (40%) based upon county road mileage on the basis which the respective area, population and county road mileage of each county bear to the total

area, population and county road mileage of the state. The funds so transmitted shall be sent to the respective county treasurers and by them deposited in the county highway fund to be used by the board of county commissioners for the purpose of construction, repair and maintenance of county roads and highways, and

e. eleven and six-tenths percent (11.6%) of the monies apportioned under this paragraph shall be distributed to the various counties of the state pursuant to the provisions of subsection B of Section 687 of Title 69 of the Oklahoma Statutes;

5. Three and one hundred twenty-five one-thousandths percent (3.125%) of the levy shall be deposited in the County Road Improvement Revolving Fund of the State Treasury to be used for the purposes set forth in the County Road Improvement Act;

6. Two and six hundred twenty-five one-thousandths percent (2.625%) of the levy shall be deposited in the County Bridge Improvement Fund of the State Treasury to be used for the purposes set forth in the County Bridge Improvement Act; and

7. One and eight hundred seventy-five one-thousandths percent (1.875%) of the levy shall be transmitted by the Commission to the treasurers of the various incorporated cities and towns of the state in the percentage which the population, as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census, bears to the total population of all the incorporated cities and towns in this state. The funds shall be expended for the construction, repair and maintenance of the streets and alleys of the incorporated cities and towns of this state.

B. The tax levied on gasoline pursuant to Section 1 of this act, and the penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed on a

monthly basis to the State Highway Construction and Maintenance Fund for the purposes authorized by Section 1502 of Title 69 of the Oklahoma Statutes.

SECTION 3. AMENDATORY Section 7, Chapter 345, O.S.L. 1996 (68 O.S. Supp. 1996, Section 500.7), is amended to read as follows:

Section 500.7 A. The tax of thirteen cents ($0.13) per gallon of diesel fuel that is levied by Section ~~4~~ 500.4 of this ~~act~~ title, and all penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed monthly as follows:

1. The first Eighty-three Thousand Three Hundred Thirty-three Dollars and thirty-three cents ($83,333.33) of the levy collected each month shall be deposited in the State Treasury to the credit of the State Transportation Fund;

2. One and thirty-nine one-hundredths percent (1.39%) of the levy shall be paid by the Commission to the State Treasurer to the credit of the General Revenue Fund of the State Treasury;

3. Sixty-four and thirty-four one-hundredths percent (64.34%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund;

4. Twenty-six and fifty-eight one-hundredths percent (26.58%) of the levy shall be transmitted by the Commission to various counties of the state and deposited by the county treasurers in the county highway fund to be used by the board of county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in the counties, to be apportioned as follows:

a. forty-two and one-tenth percent (42.1%) of the monies apportioned under this paragraph shall be transmitted to the various counties in the percentage which the population and area of each county bears to the

population and area of the entire state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers and deposited in the county highway fund of their respective counties to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. No part of the fund shall be used for any purpose other than the construction and maintenance of county or township highways and permanent bridges in the county receiving the fund. The funds received by any county shall not thereafter be diverted to any other county of the state, but the funds shall be expended only under the direction and control of the board of county commissioners in the county to which the funds are apportioned. If any part of the funds is diverted for any purpose other than is provided herein, the county commissioners shall be liable on their bond for double the amount of money so diverted. However, where any state or county highway has been laid out over a road already constructed in any county by the use of money raised from county or township bonds issued for the purpose either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided herein, an amount of money equal to the value of any part thereof, of the interest of such county or township or both, in and to such highway or highways, bridge or bridges so constituting a part of the state

highway system, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county or township, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money,

b. fourteen and five-tenths percent (14.5%) of the monies apportioned under this paragraph shall be distributed as follows:

Forty percent (40%) of such sum shall be distributed to the various counties in that proportion which the county road mileage of each county bears to the entire state road mileage as certified by the Transportation Commission, and the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census.

In all counties where the county excise board of any county may find it necessary, because of insufficient revenue to maintain city and county government of the county out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any funds apportioned to the county under this act, an amount sufficient to pay the salaries of the county commissioners of the county for the fiscal year.

It shall be unlawful for the board of county commissioners to use the funds for any other purpose,

and any commissioner violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed Five Hundred Dollars ($500.00) and imprisoned in the county jail not to exceed six (6) months, and the commissioner shall be liable on the official bond of the commissioner for any of the funds expended in violation of the provisions of this act,

c. twenty-eight and nine-tenths percent (28.9%) of the monies apportioned under this paragraph shall be distributed to the several counties in the following manner: one-third (1/3) on area, one-third (1/3) on rural population (defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census), and one-third (1/3) on county road mileage, as last certified by the Oklahoma Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state. When federal funds are available for assistance in constructing county roads, the funds herein provided, when distributed and deposited in the county highway funds, are authorized to be used by the boards of county commissioners, by majority action thereof, in matching the federal funds on any county highway and, for the purpose of securing federal assistance, the boards of county commissioners, by majority action thereof, are authorized to enter into agreements with the federal government through the Oklahoma Department of Transportation necessary to fulfill the agreement for the extension of the present Federal Aid Farm-to-Market System, or for the creation of new federal

systems, and to enter into such other contracts and agreements as may be necessary to secure federal assistance in the construction or improvement of any county road, and

d. fourteen and five-tenths percent (14.5%) of the monies apportioned under this paragraph shall be distributed to the various counties of the state pursuant to the provisions of subsection B of Section 687 of Title 69 of the Oklahoma Statutes;

5. Three and eighty-five one-hundredths percent (3.85%) of the levy shall be deposited in the County Road Improvement Revolving Fund of the State Treasury to be used for the purposes set forth in the County Road Improvement Act; and

6. Three and eighty-four one-hundredths percent (3.84%) of the levy shall be deposited in the County Bridge Improvement Fund of the State Treasury to be used for the purposes set forth in the County Bridge Improvement Act.

B. The tax levied on diesel fuel pursuant to Section 1 of this act, and all penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed on a monthly basis to the State Highway Construction and Maintenance Fund for the purposes authorized by Section 1502 of Title 69 of the Oklahoma Statutes.

SECTION 4. This act shall become effective November 1, 1997.

Passed the House of Representatives the 26th day of February, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate