

ENROLLED HOUSE  
BILL NO. 1468

By: Corn of the House

and

Robinson of the Senate

An Act relating to revenue and taxation; amending Section 6, Chapter 345, O.S.L. 1996, as last amended by Section 3, Chapter 405, O.S.L. 1998 (68 O.S. Supp. 1998, Section 500.6), which relates to apportionment of motor fuel taxes; clarifying taxes to be apportioned; amending 68 O.S. 1991, Section 3202, as last amended by Section 41 of Enrolled Senate Bill No. 720 of the 1st Session of the 47th Oklahoma Legislature, which relates to exemptions from documentary stamp tax; modifying certain exemption; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 6, Chapter 345, O.S.L. 1996, as last amended by Section 3, Chapter 405, O.S.L. 1998 (68 O.S. Supp. 1998, 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 paragraph 1 of subsection A of Section 500.4 of this title, and the tax of two and eight one-hundredths cents (\$0.0208) per gallon of gasoline that is levied by subsection C of Section 500.4 of this title, and penalties and interest thereon, collected by the Oklahoma Tax 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 Tax Commission to the various counties of the state, to be apportioned and used as follows:

- a. sixty-five and three-tenths percent (65.3%) 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 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,
- b. 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, and

- c. eleven and six-tenths percent (11.6%) of the monies apportioned under this paragraph shall be distributed to the various counties of the state based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs. Any county may, by resolution of the board of county commissioners, direct the Tax Commission to deposit the funds apportioned pursuant to this subparagraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act;

5. Three and one hundred twenty-five one-thousandths percent (3.125%) of the levy shall be distributed to the various counties of the state based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs. Any county may, by resolution approved by a majority of the board of county commissioners and filed with the Tax Commission, direct the Tax Commission to deposit the funds apportioned pursuant to this paragraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and 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 and Road Improvement Fund of the State Treasury to be used for the purposes set forth in the County Bridge and Road Improvement Act; and

7. One and eight hundred seventy-five one-thousandths percent (1.875%) of the levy shall be transmitted by the Tax 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. 1. The funds apportioned or transmitted pursuant to subparagraphs a, b, and c of paragraph 4 of subsection A of this section, subsection B of Section 500.7 of this title, subsection B of Section 704 of this title, Section 706 of this title, and

paragraph 2 of subsection D of Section 707.3 of this title shall be sent to the respective county treasurers and deposited in the county highway fund to be used by the county commissioners for the purpose of constructing and maintaining county highways and bridges.

2. The funds received by any county shall not be diverted to any other county of the state, and shall only be expended under the direction and control of the board of county commissioners in the county to which the funds are appropriated. If any part of the funds is diverted for any other purpose, the county commissioners shall be liable on their bond for double the amount of the money so diverted. This paragraph shall not prohibit counties from entering into cooperative agreements pertaining to the maintenance and construction of roads and bridges.

3. Where any county highway has been laid out over a road already constructed in any county by the use of money raised from county bond issues for that 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 in this section, an amount of money equal to the value of any part thereof, of the interest of such county in such highway or bridge, 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, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

4. In all counties where the county excise board may find it necessary, because of insufficient revenue, to maintain county government 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.

5. Counties may use funds deposited in the county highway fund for the purpose of matching federal or state funds, provided such funds are available, as necessary to secure assistance in the construction or improvement of the county road system.

C. With regards to the apportionment of the levy as set forth in paragraph 5 of subsection A of this section, paragraph 5 of subsection A of Section 500.7 of this title, and subsection C of Section 707.2 of this title:

1. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in a restricted road maintenance fund, such funds shall be deposited directly to the county highway fund of the county;

2. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in the County Road Improvement Fund, or the County Bridge Improvement Fund, as such funds existed prior to July 1, 1997, such funds shall, by resolution approved by a majority of the board of county commissioners and filed with the Department of Transportation, be deposited in the county highway fund of the county or shall be deposited to the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act; and

3. If any county has an advanced funding agreement with the Department of Transportation, the Department of Transportation shall notify the Tax Commission as to the amount the county is obligated to pay according to the terms of the advanced funding agreement. The obligated amount shall be transferred each month by the Tax Commission to the Department of Transportation to the credit of the County Bridge and Road Improvement Fund from the funds apportioned to the county pursuant to paragraph 5 of subsection A of this section. A county may elect to increase the monthly amount to be repaid pursuant to the advanced funding agreement from the funds apportioned to the county, but a county shall not be permitted to reduce the amount agreed to pursuant to the advanced funding agreement.

D. The tax levied on gasoline pursuant to Section 500.4A of this title, and the penalties and interest thereon, collected by the Tax 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 2. AMENDATORY 68 O.S. 1991, Section 3202, as last amended by Section 41 of Enrolled Senate Bill No. 720 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 3202. The tax imposed by Section 3201 of this title shall not apply to:

1. Deeds recorded prior to the effective date of Sections 3201 through 3206 of this title;

2. Deeds which secure a debt or other obligation;

3. Deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded;

4. Deeds between husband and wife, or parent and child, or any persons related within the second degree of consanguinity, without actual consideration therefor, deeds between any person and an express revocable trust created by such person or such person's spouse or deeds pursuant to which property is transferred from a person to a partnership, limited liability company or corporation of which the transferor or the transferor's spouse, parent, child, or other person related within the second degree of consanguinity to the transferor are the only owners of the partnership, limited liability company or corporation. However, if the ownership of the partnership, limited liability company or corporation is changed within one (1) year of the property transfer, the seller shall immediately pay the amount of tax which would have been due had this exemption not been granted;

5. Tax deeds;

6. Deeds of release of property which is security for a debt or other obligation;

7. Deeds executed by Indians in approval proceedings of the district courts or by the Secretary of the Interior;

8. Deeds of partition, unless, for consideration, some of the parties take shares greater in value than their undivided interests, in which event a tax attaches to each deed conveying such greater share computed upon the consideration for the excess;

9. Deeds made pursuant to mergers of partnerships, limited liability companies or corporations;

10. Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

11. Deeds or instruments to which the State of Oklahoma or any of its instrumentalities, agencies or subdivisions is a party, whether as grantee or as grantor or in any other capacity;

12. Deeds or instruments to which the United States or any of its agencies or departments is a party, whether as grantor or as grantee or in any other capacity, provided that this shall not exempt transfers to or from national banks or federal savings and loan associations;

13. Any deed executed pursuant to a foreclosure proceeding in which the grantee is the holder of a mortgage on the property being foreclosed, or any deed executed pursuant to a power of sale in which the grantee is the party exercising such power of sale or any deed executed in favor of the holder of a mortgage on the property in consideration for the release of the borrower from liability on the indebtedness secured by such mortgage except as to cash consideration paid; provided, however, the tax shall apply to deeds in other foreclosure actions, unless otherwise hereinabove exempted, and shall be paid by the purchaser in such foreclosure actions; or

14. Deeds and other instruments to which the Oklahoma Space Industry Development Authority or a spaceport user, as defined in the Oklahoma Space Industry Development Act, is a party.

SECTION 3. This act shall become effective July 1, 1999.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 25th day of May, 1999.

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Speaker of the House of  
Representatives

Passed the Senate the 26th day of May, 1999.

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President of the Senate