

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE JOINT
RESOLUTION NO. 12

By: Herbert

AS INTRODUCED

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed act relating to revenue and taxation; amending Section 4, Chapter 345, O.S.L. 1996, Section 6, Chapter 345, O.S.L. 1996, as last amended by Section 3, Chapter 405, O.S.L. 1998, Section 7, Chapter 345, O.S.L. 1996, as last amended by Section 21, Chapter 5, O.S.L. 1998 and 68 O.S. 1991, Section 603, as amended by Section 5, Chapter 284, O.S.L. 1997 (68 O.S. Supp. 1998, Sections 500.4, 500.6, 500.7 and 603), which relate to motor fuel taxes; modifying rate of tax imposed on gasoline and diesel fuel; modifying apportionment of certain revenues; modifying portion of tax authorized to be retained for administrative costs; providing an effective date; providing ballot title; ordering a special election; and directing filing.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 1ST SESSION OF THE 47TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, Sections 2, 3, 4, 5 and 6 of this resolution.

SECTION 2. AMENDATORY Section 4, Chapter 345, O.S.L. 1996 (68 O.S. Supp. 1998, Section 500.4), is amended to read as follows:

Section 500.4 A. A tax is imposed on all gasoline and all diesel fuel used or consumed in this state as follows:

1. Gasoline, ~~sixteen cents (\$0.16)~~ seventeen cents (\$0.17) per gallon; and

2. Diesel fuel, ~~thirteen cents (\$0.13)~~ fifteen cents (\$0.15) per gallon.

B. A tax is imposed on all gasoline, diesel fuel and kerosene used or consumed in this state for use as fuel to generate power in aircraft engines or for training, testing or research on aircraft engines in the amount of eight one-hundredths of one cent (\$0.0008) per gallon. All gasoline, diesel fuel and kerosene sold for use under this subsection shall not be subject to the excise tax levied in subsection A of this section.

C. A tax is imposed on all gasoline used or consumed in this state for use as fuel for agricultural purposes in the amount of two and eight one-hundredths cents (\$0.0208) per gallon. All gasoline sold for use pursuant to this subsection shall not be subject to the excise tax levied in subsection A of this section.

D. It is the intent of this section to amend, revise, incorporate and recodify the tax imposed on motor fuel and 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 Section 500.1 et seq. of this act title 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 Section 500.1 et seq. of this act title. The tax imposed by this section shall be collected and paid at those times, in the manner, and by those persons specified in Section 500.1 et seq. of this act title.

SECTION 3. 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)~~ seventeen cents (\$0.17) per gallon of gasoline that is levied by 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%)~~ One and five hundred twenty-five one-thousandths percent (1.525%) 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%)~~ Sixty-one and one-fourth percent (61.25%) 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. five hundred twenty-five one-thousandths percent (0.525%) of the monies apportioned to the State Transportation Fund shall be used for economic infrastructure for intermodal railroad spurs and access roads for new and existing businesses,
- f. five hundred twenty-five one-thousandths percent (0.525%) of the monies apportioned to the State Transportation Fund shall be deposited into the Public Transit Revolving Fund created in Section 4031 of title 69 of the Oklahoma Statutes for the purpose of enhancing intermodal systems and infrastructure. Such apportionment shall be in addition to the amount apportioned to the Public Transit Revolving Fund pursuant to the provisions of subparagraph a of this paragraph,
- g. five hundred twenty-five one-thousandths percent (0.525%) of the monies apportioned to the State Transportation Fund shall be used for the purpose of construction and maintenance of park and lake access roads,
- h. five hundred twenty-five one-thousandths percent (0.525%) of the monies apportioned to the State Transportation Fund shall be used for local railroad track or rail maintenance, and
- i. any remaining amount of the apportionment shall be deposited into the State Transportation Fund;

4. ~~Twenty-seven percent (27%)~~ Twenty-five and four-tenths percent (25.4%) 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%)~~ Three percent (3%) 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%)~~ Two and one-half percent (2.5%) 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%)~~ One and three-fourths percent (1.75%) 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; and

8. Four and five hundred seventy-five one-thousandths percent (4.575%) 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.

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~~ regard 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 4. AMENDATORY Section 7, Chapter 345, O.S.L. 1996, as last amended by Section 21, Chapter 5, O.S.L. 1998 (68 O.S. Supp. 1998, Section 500.7), is amended to read as follows:

Section 500.7 A. The tax of ~~thirteen cents (\$0.13)~~ fifteen cents (\$0.15) per gallon of diesel fuel that is levied by Section 500.4 of this title, and all penalties and interest thereon, collected by the Oklahoma Tax 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%)~~ One and two-tenths percent (1.2%) 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%)~~ Fifty-five and seventy-six one-hundredths percent (55.76%) 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%)~~ Twenty-three and four one-hundredths percent (23.04%) of the levy shall be transmitted by the Tax Commission to various counties of the state, 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,

- 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,

- 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, 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 based on a formula developed by the ~~Oklahoma~~ 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 the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to the 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 ~~Oklahoma~~ Tax Commission, direct the ~~Oklahoma~~ Tax Commission to deposit the funds so apportioned by 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 eighty-five one-hundredths percent (3.85%)~~ Three and thirty-four one-hundredths percent (3.34%) of the levy shall be distributed based on a formula developed by the ~~Oklahoma~~ 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 the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to the 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 ~~Oklahoma~~ Tax Commission, direct the ~~Oklahoma~~ Tax Commission to deposit the funds so apportioned by 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. The apportionment of the levy as set forth in this paragraph shall be subject to the provisions of subsection C of Section 500.6 of this title; ~~and~~

6. ~~Three and eighty-four one-hundredths percent (3.84%)~~ Three and thirty-three one-hundredths percent (3.33%) 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. Thirteen and thirty-three one-hundredths percent (13.33%) of the levy 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.

B. The funds apportioned or transmitted pursuant to the provisions of subparagraphs a, b, and c of paragraph 4 of subsection A of this section shall be used in accordance with and subject to the provisions of subsection B of Section 500.6 of this title.

C. The tax levied on diesel fuel pursuant to Section 500.4A of this title, and all 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 5. AMENDATORY 68 O.S. 1991, Section 603, as amended by Section 5, Chapter 284, O.S.L. 1997 (68 O.S. Supp. 1998, Section 603), is amended to read as follows:

Section 603. A. In consideration of the use of the highways of this state, and in addition to all other taxes levied for such purposes, all persons who import gasoline and diesel fuel into this state in the fuel supply tank or tanks of motor vehicles or in any other containers for use in propelling such vehicles on the highways for commercial purposes, shall report and pay to the Oklahoma Tax Commission a tax for such use of the highways as provided in this section. The tax shall be levied and imposed as follows:

1. Gasoline, ~~sixteen cents (\$0.16)~~ seventeen cents (\$0.17) per gallon; and

2. Diesel fuel, ~~thirteen cents (\$0.13)~~ fifteen cents (\$0.15) per gallon.

The tax levied and imposed shall be measured and determined by the number of gallons of gasoline and diesel fuel so imported and actually used on the highways of this state. No gasoline or diesel fuel on which the tax levied by the Motor Fuel Tax Code has been paid to this state shall be used in computing the tax imposed by this section. In the event the tax levied by this section can be more accurately determined on a mileage basis, that is, by determining and using the total number of miles traveled in Oklahoma, or in case it is practicable to so determine the tax, the Tax Commission is authorized to accept and approve such basis.

B. Each person licensed pursuant to Section 607 of this title who properly remits the tax pursuant to the provisions of Section 601 et seq. of this act title shall be entitled to retain ~~one and twenty-five one-hundredths percent (1.25%)~~ one and two-tenths percent (1.2%) of the tax imposed on gasoline by this section and remitted by that licensee and ~~one and fifty-four one-hundredths percent (1.54%)~~ one and thirty-four one-hundredths percent (1.34%) of the tax imposed on diesel fuel by this section and remitted by the licensee to cover the costs of administration imposed by the provisions of Section 601 et seq. of this act title, including

record keeping, report filing, and remitting of the tax. The retention of a percentage of the tax permitted by this section shall not be allowed by a licensee if any report or the tax remittance is delinquent.

SECTION 6. This act shall become effective July 1 of the year following approval by the people of the provisions of this resolution.

SECTION 7. The Ballot Title for the proposed act as set forth in SECTIONS 1 through 6 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure would amend laws relating to motor fuel taxes. The current rate of state tax on gasoline is sixteen cents per gallon. The current rate of state tax on diesel fuel is thirteen cents per gallon. This measure would increase the gasoline tax by one cent per gallon and increase the diesel fuel tax by two cents per gallon. Revenue from this increase would go to the Railroad Maintenance Revolving Fund. This revenue would be used for railroad passenger services and needed improvements.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

YES, FOR THE AMENDMENT

NO, AGAINST THE AMENDMENT

SECTION 8. A special election is hereby ordered to be held throughout the State of Oklahoma on the date of the next statewide primary election or special election, whichever occurs first, at which time the proposed amendment to the Statutes of the State of Oklahoma, as set forth in SECTIONS 2 through 6 of this resolution,

shall be submitted to the people of Oklahoma for their approval or rejection as and in the manner provided by law.

SECTION 9. The President Pro Tempore of the Senate, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 7 hereof, with the Secretary of State and one copy with the Attorney General.

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