

3 Senate Bill No. 1028
4 As Amended

5 SENATE BILL NO. 1028 - By: LAWLER of the Senate and McMULLEN of the
6 House.

7 [revenue and taxation - modifying apportionment -
8 emergency]

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

10 SECTION 1. AMENDATORY 66 O.S. 2001, Section 325, is
11 amended to read as follows:

12 Section 325. There is hereby created in the State Treasurer's
13 office a revolving fund for the Department of Transportation, to be
14 designated the "Oklahoma Tourism and Passenger Rail Revolving Fund".
15 The fund shall be a continuing fund, not subject to fiscal year
16 limitations, and shall be composed of all revenues generated
17 pursuant to the federal Intercity Passenger Rail Trust Fund Act of
18 1995, together with any federal grants, or financial assistance
19 payments or contributions by any state or agency thereof or any
20 authority constituted by the state, private donation or the proceeds
21 from any rail property sale or payments for the use of any rail
22 property and any accumulated interest thereon, or any revenues
23 apportioned thereto pursuant to the provisions of subparagraph b of
24 paragraph ~~3~~ 2 of subsection A of Section 500.6 of Title 68 of the

1 Oklahoma Statutes. All monies accruing to the credit of the fund
2 are hereby appropriated and may be budgeted and expended by the
3 Department of Transportation in furtherance of the provisions of
4 this act.

5 SECTION 2. AMENDATORY 68 O.S. 2001, Section 500.6, as
6 last amended by Section 8, Chapter 472, O.S.L. 2003 (68 O.S. Supp.
7 2005, Section 500.6), is amended to read as follows:

8 Section 500.6 A. The tax of sixteen cents (\$0.16) per gallon
9 of gasoline that is levied by paragraph 1 of subsection A of Section
10 500.4 of this title, and the tax of two and eight one-hundredths
11 cents (\$0.0208) per gallon of gasoline that is levied by subsection
12 C of Section 500.4 of this title, and penalties and interest
13 thereon, collected by the Oklahoma Tax Commission under the levy
14 shall be apportioned and distributed monthly as follows:

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

18 2. ~~One and six hundred twenty-five one-thousandths percent~~
19 ~~(1.625%) of the levy shall be remitted to the State Treasurer to the~~
20 ~~credit of the General Revenue Fund of the State Treasury;~~

21 3. ~~Sixty-three and seventy-five one-hundredths percent (63.75%)~~
22 Sixty-five and three hundred seventy-five one-thousandths percent
23 (65.375%) of the levy shall be deposited in the State Treasury to

1 the credit of the State Transportation Fund to be apportioned as
2 follows:

3 a. the first Eight Hundred Fifty Thousand Dollars
4 (\$850,000.00) collected each fiscal year shall be
5 deposited into the Public Transit Revolving Fund,
6 created in Section 4031 of Title 69 of the Oklahoma
7 Statutes,

8 b. the second Eight Hundred Fifty Thousand Dollars
9 (\$850,000.00) collected each fiscal year shall be
10 deposited into the Oklahoma Tourism and Passenger Rail
11 Revolving Fund and shall be used by the Department of
12 Transportation:

13 (1) to contract railroad passenger services,
14 including but not limited to a route linking
15 stations in Oklahoma and Tulsa Counties with
16 other primary points in the national railroad
17 passenger system and passenger rail service
18 within the state, and a route beginning at a
19 station in Oklahoma County and extending north to
20 the Kansas state line in Kay County, and

21 (2) to provide necessary facility, signaling, and
22 track improvements for those contracted services,

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

9 b. twenty-three and one-tenth percent (23.1%) of the
10 monies apportioned under this paragraph shall be
11 distributed to the counties in the following manner:
12 One-third (1/3) on area; one-third (1/3) on rural
13 population, defined as including the population of all
14 municipalities with a population of less than five
15 thousand (5,000) according to the latest Federal
16 Decennial Census; and one-third (1/3) on county road
17 mileage, as last certified by the Department of
18 Transportation, as each county bears to the entire
19 area, rural population and road mileage of the state,
20 and

21 c. eleven and six-tenths percent (11.6%) of the monies
22 apportioned under this paragraph shall be distributed
23 to the various counties of the state based on a

1 formula developed by the Department of Transportation
2 and approved by the Department of Transportation
3 County Advisory Board created pursuant to Section
4 302.1 of Title 69 of the Oklahoma Statutes. The
5 formula shall be similar to the formula currently used
6 for the distribution of monies in the County Bridge
7 Program funds, but shall also take into consideration
8 the effect of the terrain and traffic volume as
9 related to county road improvement and maintenance
10 costs. Any county may, by resolution of the board of
11 county commissioners, direct the Tax Commission to
12 deposit the funds apportioned pursuant to this
13 subparagraph directly into the County Bridge and Road
14 Improvement Fund to be used for the purposes set forth
15 in the County Bridge and Road Improvement Act;

16 ~~5.~~ 4. Three and one hundred twenty-five one-thousandths percent
17 (3.125%) of the levy shall be distributed to the various counties of
18 the state based on a formula developed by the Department of
19 Transportation and approved by the Department of Transportation
20 County Advisory Board created pursuant to Section 302.1 of Title 69
21 of the Oklahoma Statutes. The formula shall be similar to the
22 formula currently used for the distribution of monies in the County
23 Bridge Program funds, but shall also take into consideration the

1 effect of the terrain and traffic volume as related to county road
2 improvement and maintenance costs. Any county may, by resolution
3 approved by a majority of the board of county commissioners and
4 filed with the Tax Commission, direct the Tax Commission to deposit
5 the funds apportioned pursuant to this paragraph directly into the
6 County Bridge and Road Improvement Fund to be used for the purposes
7 set forth in the County Bridge and Road Improvement Act;

8 ~~6.~~ 5. Two and six hundred twenty-five one-thousandths percent
9 (2.625%) of the levy shall be deposited in the County Bridge and
10 Road Improvement Fund of the State Treasury to be used for the
11 purposes set forth in the County Bridge and Road Improvement Act;
12 and

13 ~~7.~~ 6. One and eight hundred seventy-five one-thousandths
14 percent (1.875%) of the levy shall be transmitted by the Tax
15 Commission to the treasurers of the various incorporated cities and
16 towns of the state in the percentage which the population, as shown
17 by the last Federal Decennial Census or the most recent annual
18 estimate provided by the U.S. Bureau of the Census, bears to the
19 total population of all the incorporated cities and towns in this
20 state. The funds shall be expended for the construction, repair and
21 maintenance of the streets and alleys of the incorporated cities and
22 towns of this state.

1 Provided, for the fiscal year beginning July 1, 2002, the first
2 Two Hundred Thousand Dollars (\$200,000.00) of such revenues shall be
3 apportioned to the Education Reform Revolving Fund.

4 B. 1. The funds apportioned or transmitted pursuant to
5 subparagraphs a, b, and c of paragraph 4 3 of subsection A of this
6 section, subsection B of Section 500.7 of this title, subsection B
7 of Section 704 of this title, Section 706 of this title, and
8 paragraph 2 of subsection D of Section 707.3 of this title shall be
9 sent to the respective county treasurers and deposited in the county
10 highway fund to be used by the county commissioners for the purpose
11 of constructing and maintaining county highways and bridges.

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

21 3. Where any county highway has been laid out over a road
22 already constructed in any county by the use of money raised from
23 county bond issues for that purpose, either alone or by the use of

1 federal or state aid, or both, the county commissioners may set
2 aside out of the funds apportioned to that county, as provided in
3 this section, an amount of money equal to the value of any part
4 thereof, of the interest of such county in such highway or bridge,
5 which amount of money shall be considered by the excise board in
6 reducing the levy for the purpose of retiring the bonded
7 indebtedness and interest thereon of the county, and shall be used
8 for investment or deposit in the same manner as provided by law for
9 the disposition of other sinking fund money.

10 4. In all counties where the county excise board may find it
11 necessary, because of insufficient revenue, to maintain county
12 government out of the general fund, after a levy of ten (10) mills
13 has been made for any fiscal year, the county excise board may
14 appropriate out of any such funds apportioned to the county an
15 amount sufficient to pay the salaries of the county commissioners of
16 the county for the fiscal year.

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

21 C. With regards to the apportionment of the levy as set forth
22 in paragraph 5 4 of subsection A of this section, paragraph 5 4 of

1 subsection A of Section 500.7 of this title, and subsection C of
2 Section 707.2 of this title:

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

7 2. If any county has an accrued balance of funds which were
8 appropriated to or otherwise accrued in the County Road Improvement
9 Fund, or the County Bridge Improvement Fund, such funds shall, by
10 resolution approved by a majority of the board of county
11 commissioners and filed with the Department of Transportation, be
12 deposited in the county highway fund of the county or shall be
13 deposited to the County Bridge and Road Improvement Fund to be used
14 for the purposes set forth in the County Bridge and Road Improvement
15 Act; and

16 3. If any county has an advanced funding agreement with the
17 Department of Transportation, the Department of Transportation shall
18 notify the Tax Commission as to the amount the county is obligated
19 to pay according to the terms of the advanced funding agreement.
20 The obligated amount shall be transferred each month by the Tax
21 Commission to the Department of Transportation to the credit of the
22 County Bridge and Road Improvement Fund from the funds apportioned
23 to the county pursuant to paragraph 5 of subsection A of this

1 section. A county may elect to increase the monthly amount to be
2 repaid pursuant to the advanced funding agreement from the funds
3 apportioned to the county, but a county shall not be permitted to
4 reduce the amount agreed to pursuant to the advanced funding
5 agreement.

6 D. The tax levied on gasoline pursuant to Section 500.4A of
7 this title, and the penalties and interest thereon, collected by the
8 Tax Commission under the levy shall be apportioned and distributed
9 on a monthly basis to the State Highway Construction and Maintenance
10 Fund for the purposes authorized by Section 1502 of Title 69 of the
11 Oklahoma Statutes.

12 SECTION 3. AMENDATORY 68 O.S. 2001, Section 500.7, is
13 amended to read as follows:

14 Section 500.7 A. The tax of thirteen cents (\$0.13) per gallon
15 of diesel fuel that is levied by Section 500.4 of this title, and
16 all penalties and interest thereon, collected by the Oklahoma Tax
17 Commission under the levy shall be apportioned and distributed
18 monthly as follows:

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

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

4 ~~3. Sixty-four and thirty-four one-hundredths percent (64.34%)~~
5 Sixty-five and seventy-three one-hundredths percent (65.73%) of the
6 levy shall be deposited in the State Treasury to the credit of the
7 State Transportation Fund;

8 ~~4.~~ 3. Twenty-six and fifty-eight one-hundredths percent
9 (26.58%) of the levy shall be transmitted by the Commission to
10 various counties of the state, to be apportioned as follows:

11 a. forty-two and one-tenth percent (42.1%) of the monies
12 apportioned under this paragraph shall be transmitted
13 to the various counties in the percentage which the
14 population and area of each county bears to the
15 population and area of the entire state. The
16 population shall be as shown by the last Federal
17 Decennial Census or the most recent annual estimate
18 provided by the U.S. Bureau of the Census,

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

22 Forty percent (40%) of such sum shall be distributed
23 to the various counties in that proportion which the

1 county road mileage of each county bears to the entire
2 state road mileage as certified by the Transportation
3 Commission, and the remaining sixty percent (60%) of
4 such sum shall be distributed to the various counties
5 on the basis which the population and area of each
6 county bears to the total population and area of the
7 state. The population shall be as shown by the last
8 Federal Decennial Census or the most recent annual
9 estimate provided by the U.S. Bureau of the Census,
10 c. twenty-eight and nine-tenths percent (28.9%) of the
11 monies apportioned under this paragraph shall be
12 distributed to the several counties in the following
13 manner: one-third (1/3) on area, one-third (1/3) on
14 rural population (defined as including the population
15 of all municipalities with a population of less than
16 five thousand (5,000) according to the latest Federal
17 Decennial Census), and one-third (1/3) on county road
18 mileage, as last certified by the Oklahoma Department
19 of Transportation, as each county bears to the entire
20 area, rural population and road mileage of the state,
21 and
22 d. fourteen and five-tenths percent (14.5%) of the monies
23 apportioned under this paragraph shall be distributed

1 to the various counties of the state based on a
2 formula developed by the Oklahoma Department of
3 Transportation and approved by the Department of
4 Transportation County Advisory Board created pursuant
5 to Section 302.1 of Title 69 of the Oklahoma Statutes.
6 The formula shall be similar to the formula currently
7 used for the distribution of the County Bridge Program
8 funds, but shall also take into consideration the
9 effect of the terrain and traffic volume as related to
10 the county road improvement and maintenance costs.
11 Any county may, by resolution approved by a majority
12 of the board of county commissioners and filed with
13 the ~~Oklahoma~~ Tax Commission, direct the ~~Oklahoma~~ Tax
14 Commission to deposit the funds so apportioned by this
15 subparagraph directly into the County Bridge and Road
16 Improvement Fund to be used for the purposes set forth
17 in the County Bridge and Road Improvement Act;

18 ~~5.~~ 4. Three and eighty-five one-hundredths percent (3.85%) of
19 the levy shall be distributed based on a formula developed by the
20 Oklahoma Department of Transportation and approved by the Department
21 of Transportation County Advisory Board created pursuant to Section
22 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be
23 similar to the formula currently used for the distribution of the

1 County Bridge Program funds, but shall also take into consideration
2 the effect of the terrain and traffic volume as related to the
3 county road improvement and maintenance costs. Any county may, by
4 resolution approved by a majority of the board of county
5 commissioners and filed with the ~~Oklahoma~~ Tax Commission, direct the
6 ~~Oklahoma~~ Tax Commission to deposit the funds so apportioned by this
7 paragraph directly into the County Bridge and Road Improvement Fund
8 to be used for the purposes set forth in the County Bridge and Road
9 Improvement Act. The apportionment of the levy as set forth in this
10 paragraph shall be subject to the provisions of subsection C of
11 Section 500.6 of this title; and

12 ~~6-~~ 5. Three and eighty-four one-hundredths percent (3.84%) of
13 the levy shall be deposited in the County Bridge and Road
14 Improvement Fund of the State Treasury to be used for the purposes
15 set forth in the County Bridge and Road Improvement Act.

16 B. The funds apportioned or transmitted pursuant to the
17 provisions of subparagraphs a, b, and c of paragraph ~~4~~ 3 of
18 subsection A of this section shall be used in accordance with and
19 subject to the provisions of subsection B of Section 500.6 of this
20 title.

21 C. The tax levied on diesel fuel pursuant to Section 500.4A of
22 this title, and all penalties and interest thereon, collected by the
23 Commission under the levy shall be apportioned and distributed on a

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

4 SECTION 4. AMENDATORY 68 O.S. 2001, Section 707.2, is
5 amended to read as follows:

6 Section 707.2 A. There is hereby levied an excise tax of one
7 cent (\$0.01) upon the use within this state of each and every gallon
8 of special fuel, which shall be reported and collected in the same
9 manner as provided by law for the reporting and collecting of all
10 other tax levies upon the use of special fuel within this state.

11 B. The tax levied by this section shall not apply to special
12 fuel which is exempt from tax pursuant to the provisions of Section
13 708 of this title.

14 C. The excise tax of one cent (\$0.01) per gallon of special
15 fuel levied by this section, together with any interest and
16 penalties thereon, collected by the Oklahoma Tax Commission shall be
17 apportioned as set forth in paragraph ~~5~~ 4 of subsection A and
18 subsection C of Section 500.6 of this title.

19 SECTION 5. This act shall become effective July 1, 2006.

20 SECTION 6. It being immediately necessary for the preservation
21 of the public peace, health and safety, an emergency is hereby
22 declared to exist, by reason whereof this act shall take effect and
23 be in full force from and after its passage and approval.

1 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-21-06 - DO PASS,
2 As Amended and Coauthored.