STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1028 By: Lawler

AS INTRODUCED

An Act relating to revenue and taxation; amending 66 O.S. 2001, Section 325, which relates to Oklahoma Tourism and Passenger Rail Revolving Fund; modifying reference; amending 68 O.S. 2001, Sections 500.6, as last amended by Section 8, Chapter 472, O.S.L. 2003, 500.7 and 707.2 (68 O.S. Supp. 2005, Section 500.6), which relate to the motor fuel tax code; modifying apportionment of taxes on gasoline and diesel fuel; modifying reference relating to tax on special fuel; providing an effective date; and declaring an emergency.

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

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

Section 325. There is hereby created in the State Treasurer's office a revolving fund for the Department of Transportation, to be designated the "Oklahoma Tourism and Passenger Rail Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall be composed of all revenues generated pursuant to the federal Intercity Passenger Rail Trust Fund Act of 1995, together with any federal grants, or financial assistance payments or contributions by any state or agency thereof or any authority constituted by the state, private donation or the proceeds from any rail property sale or payments for the use of any rail property and any accumulated interest thereon, or any revenues apportioned thereto pursuant to the provisions of subparagraph b of paragraph ~~3~~ 2 of subsection A of Section 500.6 of Title 68 of the Oklahoma Statutes. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the

Department of Transportation in furtherance of the provisions of this act.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 500.6, as last amended by Section 8, Chapter 472, O.S.L. 2003 (68 O.S. Supp. 2005, 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%)~~ Sixty-five and three hundred seventy-five one-thousandths percent (65.375%) 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 Oklahoma Tourism and Passenger Rail

Revolving Fund and shall be used by the Department of Transportation:

(1) 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 a route beginning at a station in Oklahoma County and extending north to the Kansas state line in Kay County, and

(2) 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.~~ 3. 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.~~ 4. 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.~~ 5. 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.~~ 6. 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.

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

B. 1. The funds apportioned or transmitted pursuant to subparagraphs a, b, and c of paragraph ~~4~~ 3 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~~ 4 of subsection A of this section, paragraph ~~5~~ 4 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, 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 3. AMENDATORY 68 O.S. 2001, 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 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%) 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%)~~ Sixty-five and seventy-three one-hundredths percent (65.73%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund;

~~4.~~ 3. 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, 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.~~ 4. Three and eighty-five one-hundredths percent (3.85%) 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.~~ 5. Three and eighty-four one-hundredths percent (3.84%) 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.

B. The funds apportioned or transmitted pursuant to the provisions of subparagraphs a, b, and c of paragraph ~~4~~ 3 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 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 68 O.S. 2001, Section 707.2, is amended to read as follows:

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

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

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

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

SECTION 6. 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.

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