

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 671

By: Williamson

AS INTRODUCED

An Act relating to motor vehicles, revenue and taxation and Corporation Commission; amending 17 O.S. 2001, Sections 353, as amended by Section 8, Chapter 430, O.S.L. 2004 and 354, as amended by Section 1, Chapter 371, O.S.L. 2002 (17 O.S. Supp. 2004, Sections 353 and 354), which relate to assessment on motor fuel, diesel fuel and blending materials; modifying purpose of assessment; redirecting procedures and schedule for distribution of assessment; amending 47 O.S. 2001, Section 1104, as amended by Section 1, Chapter 139, O.S.L. 2003 (47 O.S. Supp. 2004, Section 1104), which relates to apportionment of vehicle license and registration fees; redirecting apportionment of specified fees, taxes and penalties to State Highway and Road Improvement Fund; deleting authority of certain governing boards to transfer certain funds; updating references; amending 68 O.S. 2001, Sections 500.6, as last amended by Section 8, Chapter 472, O.S.L. 2003, 500.6a, 500.7 and 704 (68 O.S. Supp. 2004, Section 500.6), which relate to the Motor Fuel Tax Code and the Special Fuel Use Tax; redirecting apportionment of fees, taxes and penalties relating to gasoline and diesel tax to State Highway and Road Improvement Fund; making mandatory the deposit of specified funds into the County Bridge and Road Improvement Fund; deleting authority of certain governing boards to appropriate certain funds for specified purpose; redirecting apportionment of specified portion of certain fees, taxes and penalties to State Highway and Road Improvement Fund; modifying purpose of special fuel use tax; redirecting apportionment of specified portion of certain taxes, penalties and interest; creating State Highway and Road Improvement Fund; providing for apportionment and purpose; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 17 O.S. 2001, Section 353, as amended by Section 8, Chapter 430, O.S.L. 2004 (17 O.S. Supp. 2004, Section 353), is amended to read as follows:

Section 353. A. There is hereby created within the Corporation Commission, the "Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund". The Director shall hire an Administrator who shall administer the Indemnity Fund and Indemnity Fund Program. The Indemnity Fund shall be administered by the Administrator for the benefit of those persons determined to be eligible by the Administrator to receive total or partial reimbursement for:

1. The costs determined to be eligible by the Administrator in preparing a corrective action plan;

2. The cost of corrective action taken in response to an eligible release;

3. Payment of claims for property damage or personal injury resulting from an eligible release; and

4. Necessary costs incidental to the cost of a site assessment or the corrective action taken and for filing and obtaining reimbursement from the Indemnity Fund.

B. Reimbursements made to or for the benefit of eligible persons shall be exempt from the Oklahoma Central Purchasing Act.

C. 1. Costs incurred as a result of a release from a storage tank system owned or operated by this state or by the federal government are not reimbursable pursuant to the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program. State and federally owned facilities shall take the proper corrective action as may be necessary to protect the environment from a leaking storage tank system. Provided, that an agency of the state may access said fund for reimbursement when it purchases property containing storage tanks from an owner or operator qualified to access the Indemnity Fund and upon which an eligible release has occurred prior to the agency acquiring the property. In such case, the agency of the state shall be reimbursed for allowable costs in excess of Five Thousand Dollars (\$5,000.00) at the same level or amount of reimbursement as the qualified owner or operator would

have received pursuant to Section 356 of Title 17 of the Oklahoma Statutes.

2. Costs incurred as a result of a release from a storage tank system owned or operated by a Class I Railroad are not reimbursable pursuant to the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program.

D. The Indemnity Fund shall consist of:

1. All monies received by the Commission as proceeds from the assessment imposed pursuant to Section 354 of this title prior to the effective date of this act;

2. Interest attributable to investment of money in the Indemnity Fund; and

3. Money received by the Commission in the form of gifts, grants, reimbursements, or from any other source intended to be used for the purposes specified by or collected pursuant to the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program.

E. 1. The monies deposited in the Indemnity Fund shall at no time become monies of the state and shall not become part of the general budget of the Commission or any other state agency. Except as otherwise authorized by the Oklahoma Storage Tank Regulation Act and the Oklahoma Petroleum Storage Tank Release Indemnity Program, no monies from the Indemnity Fund shall be transferred for any purpose to any other state agency or any account of the Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

2. No monies from the Indemnity Fund shall be used to pay or reimburse the Commission for the salary of any employee, except for the Compliance and Inspection Division, while such employee is performing work involved in the regulation of storage tanks pursuant to the Oklahoma Storage Tank Regulation Act or the administration of programs pursuant to said act, including the development, review and

approval of corrective action plans as required by the regulatory programs. The Commission shall cross train the field staff of the Petroleum Storage Tank Division to perform inspections and related field activities for all programs within the Division and the Oklahoma Petroleum Storage Tank Release Indemnity Program may reimburse the Division the actual costs of inspection services performed on behalf of the Oklahoma Petroleum Storage Tank Release Indemnity Program.

3. Monies in the Indemnity Fund shall only be expended for:
 - a. reimbursements to eligible persons unless duly assigned to another, and
 - b. costs incurred by the Indemnity Fund Program for the administration of the fund and costs incurred for the sole purpose of evaluating claims and determining whether specific claims qualify for payment or reimbursement from such Indemnity Fund.

Any costs incurred by and reimbursed to the Commission pursuant to the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program shall not exceed the actual expenditures made by the Commission to implement the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program.

4. Payment of claims from the Indemnity Fund shall not become or be construed to be an obligation of this state. No claims submitted for reimbursement from the Indemnity Fund shall be paid with state monies.

SECTION 2. AMENDATORY 17 O.S. 2001, Section 354, as amended by Section 1, Chapter 371, O.S.L. 2002 (17 O.S. Supp. 2004, Section 354), is amended to read as follows:

Section 354. A. Except as otherwise provided by this section, there shall be an assessment of one cent (\$0.01) per gallon upon the sale of each gallon of motor fuel, diesel fuel and blending materials used or consumed in this state. The assessment imposed

pursuant to the provisions of this section shall be for the purposes of providing revenue to:

~~1. The Oklahoma Corporation Commission Revolving Fund pursuant to paragraph 1 of subsection C of this section;~~

~~2. The Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund pursuant to paragraphs 2, 3 and 4 of subsection C of this section;~~

~~3. The the State Transportation Fund pursuant to subparagraph e of paragraph 5 of subsection C of this section;~~

~~4. The Corporation Commission pursuant to subparagraph a of paragraph 5 of subsection C of this section;~~

~~5. The Environmental Trust Revolving Fund pursuant to subparagraph b of paragraph 5 of subsection C of this section; and~~

~~6. The Higher Education Facilities Revolving Fund pursuant to paragraphs 2 and 3 of subsection C of this section.~~

The assessment shall be imposed at the time of the sale of the motor fuel, diesel fuel and blending materials and shall be precollected and remitted to the Oklahoma Tax Commission in accordance with Section 500.1 et seq. of Title 68 of the Oklahoma Statutes and as provided by Section 355 of this title.

B. 1. Exempt from the assessment imposed pursuant to subsection A of this section are:

- a. the state government,
- b. the federal government,
- c. class I and class II railroads, and
- d. sales for exportation outside of this state by a licensed exporter.

2. Exempt from the assessment imposed for purposes specified in ~~paragraph 3 of~~ subsection A of this section are sales of:

- a. motor fuel, diesel fuel and blending materials used solely and exclusively in district-owned or leased public school buses, FFA and 4-H club trucks for the

purposes of legally transporting public school children, or in the operation of vehicles used in driver training,

- b. motor fuels, diesel fuels and blending materials used solely and exclusively to propel motor vehicles on the public roads and highways of this state when leased or owned and being operated for the sole benefit of a county, city, town, volunteer fire department with a state certification and rating, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe as specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
- c. motor fuel, diesel fuel and blending materials to counties and cities and towns,
- d. diesel fuel for off-road purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
- e. motor fuel, diesel fuel and blending materials used for agricultural purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes, and
- f. motor fuel, diesel fuel and blending materials used in aircraft or in aircraft engines pursuant to Section 500.10 of Title 68 of the Oklahoma Statutes.

C. The assessment imposed by subsection A of this section shall be ~~distributed in the following manner:~~

~~1. The first One Million Dollars (\$1,000,000.00) collected during each fiscal year shall be deposited into the Oklahoma Corporation Commission Revolving Fund created in Section 180.7 of this title;~~

~~2. From July 1, 2002, until June 30, 2004, fifty percent (50%) of all revenue from the assessment received over the amount required by paragraph 1 of this subsection shall be deposited in the Higher~~

~~Education Facilities Revolving Fund and fifty percent (50%) of all revenue from the assessment received over the amount required by paragraph 1 of this subsection shall be deposited in the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund created in Section 353 of this title;~~

~~3. From July 1, 2004, until the total amount deposited since July 1, 2002, in the Higher Education Facilities Revolving Fund totals Thirty-eight Million Dollars (\$38,000,000.00) twenty-five percent (25%) of all revenue from the assessment received over the amount required by paragraph 1 of this subsection shall be deposited in the Higher Education Facilities Revolving Fund and seventy-five percent (75%) of all revenue from the assessment received over the amount required by paragraph 1 of this subsection shall be deposited in the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund created in Section 353 of this title;~~

~~4. After the total amount deposited in the Higher Education Facilities Revolving Fund totals Thirty-eight Million Dollars (\$38,000,000.00), any revenue from the assessment received over the amount required in paragraph 1 of this subsection, shall be deposited in the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund created in Section 353 of this title in amounts necessary to maintain the maintenance level of the Indemnity Fund pursuant to subsection D of this section; and~~

~~5. The balance of any revenue from the assessment remaining above the amount required in paragraphs 1 through 4 of this subsection shall be deposited as follows:~~

- ~~a. the first One Million Dollars (\$1,000,000.00) collected during each fiscal year shall be deposited in the Corporation Commission Storage Tank Regulation Revolving Fund for the purpose of implementing the provisions of the Oklahoma Storage Tank Regulation Act and the rules promulgated thereunder;~~

~~b. the second One Million Dollars (\$1,000,000.00) collected during each fiscal year shall be deposited in the Environmental Trust Revolving Fund created in Section 2-3-403 of Title 27A of the Oklahoma Statutes, to be used solely for the cleanup of abandoned oil and gas processing and refining sites, and~~

~~c. the balance of the monies collected during each fiscal year shall be deposited in the State Transportation Fund and shall be used solely for the purpose of matching Federal-Aid funds for the construction of highways and roads in this state.~~

~~D. 1. If at any time the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund falls below the required maintenance level on or before December 31, 2012, the Administrator shall notify the Tax Commission that the Indemnity Fund has fallen below the required maintenance level and that the assessment is to be deposited into the Indemnity Fund for at least three (3) calendar months pursuant to the provisions of paragraph 2 of this subsection.~~

~~2. At least fifteen (15) days prior to the calendar month in which the assessment is to be collected for credit to the Indemnity Fund, the Tax Commission, upon notification by the Administrator that the Indemnity Fund has fallen below the required maintenance level, shall notify the suppliers, licensed importers or other appropriate persons that the assessment is being imposed for purposes of maintaining the Indemnity Fund. The notice shall include a date certain upon which to begin collecting the assessment for credit to the Indemnity Fund and a date certain for ending the assessment for credit to the Indemnity Fund. Upon notice by the Tax Commission that the assessment imposed is for credit to the Indemnity Fund, the supplier, licensed importer or other appropriate person shall also assess, for the specified period required by the Tax Commission, the sales of:~~

- ~~a. motor fuel, diesel fuel and blending materials used solely and exclusively in district-owned or leased public school buses, FFA and 4-H Club trucks for the purposes of legally transporting public school children or in the operation of vehicles used in driver's training,~~
- ~~b. motor fuels, diesel fuels and blending materials used solely and exclusively to propel motor vehicles on the public roads and highways of the state when leased or owned and being operated for the sole benefit of a county, city or town, volunteer fire department with a state certification and rating, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe as specified by Section 500.10 of Title 68 of the Oklahoma Statutes,~~
- ~~c. motor fuel, diesel fuel and blending materials to counties and cities and towns,~~
- ~~d. diesel fuel for off-road purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes,~~
- ~~e. motor fuel, diesel fuel and blending materials used for agricultural purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes, and~~
- ~~f. motor fuel, diesel fuel and blending materials used in aircraft and aircraft engines pursuant to Section 500.10 of Title 68 of the Oklahoma Statutes.~~

~~3. After the collection period required by this subsection has expired, the revenue collected from the assessment shall be again deposited in the Corporation Commission Revolving Fund, the Environmental Trust Revolving Fund, and the State Transportation Fund as provided in subsection C of this section.~~

SECTION 3. AMENDATORY 47 O.S. 2001, Section 1104, as amended by Section 1, Chapter 139, O.S.L. 2003 (47 O.S. Supp. 2004, Section 1104), is amended to read as follows:

Section 1104. A. Unless otherwise provided by law, all fees, taxes and penalties collected or received pursuant to the Oklahoma Vehicle License and Registration Act or Section 1-101 et seq. of this title shall be apportioned and distributed monthly by the Oklahoma Tax Commission in accordance with this section.

B. ~~1. The following percentages~~ Eighty-three and fourteen one-hundredths percent (83.14%) of the monies referred to in subsection A of this section shall be apportioned ~~to the various school districts in accordance with paragraph 2 of this subsection:~~

- ~~a. from October 1, 2000, until June 30, 2001, thirty-five and forty-six one-hundredths percent (35.46%),~~
- ~~b. for the year beginning July 1, 2001, and ending June 30, 2002, thirty-five and ninety-one one-hundredths percent (35.91%), and~~
- ~~c. for the year beginning July 1, 2002, and all subsequent years, thirty-six and twenty one-hundredths percent (36.20%).~~

~~2. The monies apportioned pursuant to subparagraphs a through e of paragraph 1 of this subsection shall be apportioned to the various school districts as follows:~~

- ~~a. except as otherwise provided in this subparagraph, each district shall receive the same amount of funds as such district received from the taxes and fees provided in this title in the corresponding month of the preceding year. Any district eligible for funds pursuant to the provisions of this section that was not eligible the preceding year shall receive an amount equal to the average daily attendance of the applicable year multiplied by the average daily~~

~~attendance apportionment within such county for each appropriate month. For fiscal year 1995 and thereafter, any district which received less than twenty-five percent (25%) of the average apportionment of the monies made to school districts in this state based on average daily attendance in fiscal year 1995 shall receive an amount equal to the average daily attendance in the 1994-1995 school year multiplied by the average daily attendance apportionment within the county in which the district is located for each appropriate month, and~~

~~b. any funds remaining unallocated following the allocation provided in subparagraph a of this paragraph shall be apportioned to the various school districts so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph a of this paragraph and then an amount based upon the proportion that each district's average daily attendance bears to the total average daily attendance of those districts entitled to receive funds pursuant to this section as certified by the State Department of Education.~~

~~Each district's allocation of funds shall be remitted to the county treasurer of the county wherein the administrative headquarters of the district are located.~~

~~No district shall be eligible for the funds herein provided unless the district makes an ad valorem tax levy of fifteen (15) mills and maintains nine (9) years of instruction and pursuant to the rules of the State Board of Education, is authorized to maintain ten (10) years of instruction.~~

~~C. 1. The following percentages of the monies referred to in subsection A of this section shall be remitted to the State Treasurer to be credited to the General Revenue Fund of the State Treasury:~~

- ~~a. from October 1, 2000, until June 30, 2001, forty-five and ninety-seven one-hundredths percent (45.97%),~~
- ~~b. for the year beginning July 1, 2001, and ending June 30, 2002, forty-five and twenty-nine one-hundredths percent (45.29%), and~~
- ~~c. for the year beginning July 1, 2002, and all subsequent years, forty-four and eighty-four one-hundredths percent (44.84%).~~

~~2. In the event that additional monies are necessary pursuant to subsection M of this section, such additional monies shall be deducted from the monies apportioned to the General Revenue Fund remitted to the State Treasurer to be credited to the State Highway and Road Improvement Fund, created pursuant to Section 8 of this act.~~

~~D. C.~~ The following percentages of the monies referred to in subsection A of this section shall be remitted to the State Treasurer to be credited to the State Transportation Fund:

- 1. From October 1, 2000, until June 30, 2001, thirty one-hundredths percent (0.30%); and
- 2. For the year beginning July 1, 2001, and all subsequent years, thirty-one one-hundredths percent (0.31%).

~~E. D.~~ 1. The following percentages of the monies referred to in subsection A of this section shall be apportioned to the various counties as set forth in paragraph 2 of this ~~section~~ subsection:

- a. from October 1, 2000, until June 30, 2001, seven and nine one-hundredths percent (7.09%),

- b. for the year beginning July 1, 2001, and ending June 30, 2002, seven and eighteen one-hundredths percent (7.18%), and
- c. for the year beginning July 1, 2002, and all subsequent years, seven and twenty-four one-hundredths percent (7.24%).

2. The monies apportioned pursuant to subparagraphs a through c of paragraph 1 of this subsection shall be apportioned 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 Census or the most recent annual estimate provided by the United States Bureau of the Census. The funds shall be used for the purpose of constructing and maintaining county highways, provided, however, the county treasurer may deposit so much of the funds in the sinking fund as may be necessary for the retirement of interest and annual accrual of indebtedness created by the issuance of county or township bonds for road purposes. Such deposits to the sinking fund shall not exceed forty percent (40%) of the funds allocated to a county pursuant to this paragraph.

~~F.~~ E. 1. The following percentages of the monies referred to in subsection A of this section shall be remitted to the county treasurers of the respective counties and by them deposited in a separate special revenue fund to be used by the county commissioners in accordance with paragraph 2 of this subsection:

- a. from October 1, 2000, until June 30, 2001, two and fifty-three one-hundredths percent (2.53%),

- b. for the year beginning July 1, 2001, and ending June 30, 2002, two and fifty-six one-hundredths percent (2.56%), and
- c. for the year beginning July 1, 2002, and all subsequent years, two and fifty-nine one-hundredths percent (2.59%).

2. The monies apportioned pursuant to subparagraphs a through c of paragraph 1 of this subsection shall be used for the primary purpose of matching federal funds for the construction of federal aid projects on county roads, or constructing and maintaining county or township highways and permanent bridges of such counties. The distribution of monies apportioned by this paragraph shall be made upon the basis of the current formula based upon road mileage, area and population as related to county road improvement and maintenance costs. Provided, however, the Department of Transportation may update the formula factors from time to time as necessary to account for changing conditions.

~~G.~~ F. 1. The following percentages of the monies referred to in subsection A of this section shall be transmitted by the Tax Commission to the various counties as set forth in paragraph 2 of this subsection:

- a. from October 1, 2000, until June 30, 2001, three and fifty-five one-hundredths percent (3.55%),
- b. for the year beginning July 1, 2001, and ending June 30, 2002, three and fifty-nine one-hundredths percent (3.59%), and
- c. for the year beginning July 1, 2002, and all subsequent years, three and sixty-two one-hundredths percent (3.62%).

2. The monies apportioned pursuant to subparagraphs a through c of paragraph 1 of this subsection shall be transmitted to the various counties on the basis of a formula to be developed by the

Department of Transportation. Such formula shall be similar to that currently used for the distribution of County Bridge Program Funds, but also taking into consideration the effect of terrain and traffic volume as related to county road improvement and maintenance costs. Provided, however, the Department of Transportation may update the formula factors from time to time as necessary to account for changing conditions. The funds shall be transmitted to the various county treasurers to be deposited in the county highway fund of their respective counties.

~~H. 1. The following percentages of the monies referred to in subsection A of this section shall be apportioned to the various counties as set forth in paragraph 2 of this subsection:~~

- ~~a. from October 1, 2000, until June 30, 2001, eighty-one one-hundredths percent (0.81%),~~
- ~~b. for the year beginning July 1, 2001, and ending June 30, 2002, eighty-two one-hundredths percent (0.82%), and~~
- ~~c. for the year beginning July 1, 2002, and all subsequent years, eighty-three one-hundredths percent (0.83%).~~

~~2. The monies apportioned pursuant to subparagraphs a through e of paragraph 1 of this subsection shall be apportioned to the various counties as follows:~~

- ~~a. each county shall receive the same amount of funds as such county received from the taxes and fees provided for in the 1985 fiscal year, and~~
- ~~b. any funds remaining unallocated following the allocation provided in subparagraph a of this paragraph shall be apportioned to the various counties based upon the proportion that each county's population bears to the total state population.~~

~~Each county's allocation of funds shall be remitted to the various county treasurers to be deposited in the general fund of the county and used for the support of county government.~~

~~F.~~ G. 1. The following percentages of the monies referred to in subsection A of this section shall be apportioned to the various cities and incorporated towns as set forth in ~~this~~ paragraph 2 of this subsection:

- a. from October 1, 2000, until June 30, 2001, three and four one-hundredths percent (3.04%),
- b. for the year beginning July 1, 2001, and ending June 30, 2002, three and eight one-hundredths percent (3.08%), and
- c. for the year beginning July 1, 2002, and all subsequent years, three and ten one-hundredths percent (3.10%).

2. The monies apportioned pursuant to subparagraphs a through c of paragraph 1 of this subsection shall be apportioned to the various cities and incorporated towns based upon the proportion that each city or incorporated town's population bears to the total population of all cities and incorporated towns in the state. Such funds shall be remitted to the various county treasurers for allocation to the various cities and incorporated towns. All such funds shall be used for the construction, maintenance, repair, improvement and lighting of streets and alleys. ~~Provided, however, the governing board of any city or town may, with the approval of the county excise board, transfer any surplus funds to the general revenue fund of such city or town whenever an emergency requires such a transfer.~~

~~J. The following percentages of the monies referred to in subsection A of this section shall be remitted to the State Treasurer to be credited to the Oklahoma Law Enforcement Retirement Fund:~~

~~1. From October 1, 2000, until June 30, 2001, one and twenty-two one-hundredths percent (1.22%);~~

~~2. For the year beginning July 1, 2001, and ending June 30, 2002, one and twenty-three one-hundredths percent (1.23%); and~~

~~3. For the year beginning July 1, 2002, and all subsequent years, one and twenty-four one-hundredths percent (1.24%).~~

~~K. Three one-hundredths of one percent (3/100 of 1%) of the monies referred to in subsection A of this section shall be remitted to the State Treasurer to be credited to the Wildlife Conservation Fund. Seventy-five percent (75%) of the funds shall be used for fish habitat restoration and twenty-five percent (25%) of the funds shall be used in the fish hatchery system for fish production.~~

~~H. H.~~ Monies allocated to counties by this section may be estimated by the county excise board in the budget for the county as anticipated revenue to the extent of ninety percent (90%) of the previous year's income from such source, provided, not more than fifteen percent (15%) can be encumbered during any month.

~~M. I.~~ In no event shall the monies apportioned pursuant to subsections B, C, D, E, F, and G, ~~H and I~~ of this section be less than the monies apportioned in the previous fiscal year.

~~N. Notwithstanding any other provisions of this section, for the fiscal year beginning July 1, 2003, the first One Hundred Thousand Dollars (\$100,000.00) of the monies collected or received by the Tax Commission pursuant to the registration of motorcycles and mopeds in this state shall be placed to the credit of the Oklahoma Tax Commission Revolving Fund.~~

SECTION 4. AMENDATORY 68 O.S. 2001, Section 500.6, as last amended by Section 8, Chapter 472, O.S.L. 2003 (68 O.S. Supp. 2004, 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~~ State Highway and Road Improvement Fund, created pursuant to Section 8 of this act;

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 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,~~
- ~~e. 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~~ The Tax Commission ~~to~~ shall 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.

~~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 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, 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 5. AMENDATORY 68 O.S. 2001, Section 500.6a, is amended to read as follows:

Section 500.6a All revenue from the tax of eight one-hundredths of one cent (\$0.0008) per gallon imposed pursuant to the provisions of subsection B of Section 500.4 of Title 68 of the Oklahoma Statutes, and penalties and interest thereon, collected by the Oklahoma Tax Commission shall be apportioned and distributed monthly as follows:

~~1. For the fiscal year beginning July 1, 1999, one-third shall be paid to the State Treasurer and placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund and two-thirds shall be apportioned pursuant to the provisions of Section 500.6 of Title 68 of the Oklahoma Statutes;~~

~~2. For the fiscal year beginning July 1, 2000, two-thirds shall be paid to the State Treasurer and placed to the credit of the~~

~~Oklahoma Aeronautics Commission Revolving Fund and one-third shall be apportioned pursuant to the provisions of Section 500.6 of Title 68 of the Oklahoma Statutes; and~~

~~3. For the fiscal year beginning July 1, 2001, and for each fiscal year thereafter, all such revenue shall be paid to the State Treasurer and placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund to the credit of the State Highway and Road Improvement Fund, created pursuant to Section 8 of this act.~~

SECTION 6. 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 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~~ State Highway and Road Improvement Fund, created pursuant to Section 8 of this act;

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, 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%) 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~~ The Oklahoma Tax Commission to shall 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%) 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 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 7. AMENDATORY 68 O.S. 2001, Section 704, is amended to read as follows:

Section 704. A. The purpose of Section 701 et seq. of this title is to provide revenue for ~~general governmental functions of state government and for~~ the construction and maintenance of state and county highways and bridges. The tax, including penalties and interest collected under the levy in Section 703 of this title, shall be apportioned monthly for use as follows:

1. An amount equal to the revenue, including penalties and interest thereon, accruing from four cents (\$0.04) per gallon of the five and one-half cents (\$0.055) per gallon collected of the tax levied by Section 703 of this title, shall be apportioned monthly and used for the following purposes:

- a. three percent (3%) shall be paid by the Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund of the State Treasury State Highway and Road Improvement Fund, created pursuant to Section 8 of this act,
- b. seventy-two and three-fourths percent (72 3/4%) shall be deposited in the State Treasury to the credit of the State Transportation Fund, and
- c. twenty-four and one-fourth percent (24 1/4%) shall be transmitted by the Tax Commission to various counties of the state, 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 Census or the most recent annual estimate provided by the U.S. Bureau of the Census;

2. An amount equal to the revenue, including penalties and interest thereon, accruing from one cent (\$0.01) per gallon of the five and one-half cents (\$0.055) per gallon collected of the tax levied by Section 703 of this title, shall be apportioned monthly and shall be deposited in the State Treasury to the credit of the State Transportation Fund; and

3. An amount equal to the revenue, including penalties and interest thereon, accruing from one-half cent (\$0.005) per gallon of the five and one-half cents (\$0.055) per gallon collected of the tax levied by Section 703 of this title, shall be apportioned monthly and 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 State 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 Census or the most recent annual estimate provided by the U.S. Bureau of the Census.

B. The funds apportioned or transmitted pursuant to the provisions of subparagraph c of paragraph 1 of subsection A of this section and paragraph 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.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1501.2 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a fund to be designated as the "State Highway and Road Improvement Fund". The fund shall be subject to legislative appropriation and shall consist of revenues apportioned to such fund pursuant to Section 354 of Title 17, Section 1104 of Title 47, and Sections 500.6, 500.6a, 500.7 and 704 of Title 68 of the Oklahoma Statutes.

B. The State Highway and Road Improvement Fund shall be used exclusively for appropriations for the construction, repair and maintenance of state highways, roads and bridges.

SECTION 9. This act shall become effective July 1, 2005.

SECTION 10. 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.

50-1-807

JCR

6/13/2015 8:51:55 AM