

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2790

By: Jackson

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5
6 AS INTRODUCED

7 An Act relating to railroads; amending 47 O.S. 2001,
8 Section 1104, as last amended by Section 1, Chapter
9 45, 2nd Extraordinary Session, O.S.L. 2006 (47 O.S.
10 Supp. 2007, Section 1104), which relates to motor
11 vehicle licensing fees, taxes, and penalties;
12 deleting obsolete language; providing for
13 apportionment of certain monies to the Oklahoma
14 Tourism and Passenger Rail Revolving Fund; amending
15 66 O.S. 2001, Sections 324 and 325, which relate to
16 the Oklahoma Tourism and Passenger Rail Act;
17 clarifying expenditure of income and funds; providing
18 for deposit of certain monies into the Oklahoma
19 Tourism and Passenger Rail Revolving Fund; requiring
20 certain monies to be expended for certain purposes;
21 providing an effective date; and declaring an
22 emergency.

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

24 SECTION 1. AMENDATORY 47 O.S. 2001, Section 1104, as
last amended by Section 1, Chapter 45, 2nd Extraordinary Session,
O.S.L. 2006 (47 O.S. Supp. 2007, 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

1 this title shall be apportioned and distributed monthly by the
2 Oklahoma Tax Commission in accordance with this section.

3 B. 1. The following percentages of the monies referred to in
4 subsection A of this section shall be apportioned to the various
5 school districts in accordance with paragraph 2 of this subsection:

6 a. from October 1, 2000, until June 30, 2001, thirty-five
7 and forty-six one-hundredths percent (35.46%),

8 b. for the year beginning July 1, 2001, and ending June
9 30, 2002, thirty-five and ninety-one one-hundredths
10 percent (35.91%), and

11 c. for the year beginning July 1, 2002, and all
12 subsequent years, thirty-six and twenty one-hundredths
13 percent (36.20%).

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

17 a. except as otherwise provided in this subparagraph,
18 each district shall receive the same amount of funds
19 as such district received from the taxes and fees
20 provided in this title in the corresponding month of
21 the preceding year. Any district eligible for funds
22 pursuant to the provisions of this section that was
23 not eligible the preceding year shall receive an
24 amount equal to the average daily attendance of the

1 applicable year multiplied by the average daily
2 attendance apportionment within such county for each
3 appropriate month. For fiscal year 1995 and
4 thereafter, any district which received less than
5 twenty-five percent (25%) of the average apportionment
6 of the monies made to school districts in this state
7 based on average daily attendance in fiscal year 1995
8 shall receive an amount equal to the average daily
9 attendance in the 1994-1995 school year multiplied by
10 the average daily attendance apportionment within the
11 county in which the district is located for each
12 appropriate month, and

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

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

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

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

- 13 a. ~~from October 1, 2000, until June 30, 2001, forty five~~
14 ~~and ninety seven one hundredths percent (45.97%),~~
- 15 b. ~~for the year beginning July 1, 2001, and ending June~~
16 ~~30, 2002, forty five and twenty nine one hundredths~~
17 ~~percent (45.29%),~~
- 18 c. ~~for the year beginning July 1, 2002, and for the~~
19 ~~subsequent fiscal years ending June 30, 2007, forty-~~
20 ~~four and eighty four one hundredths percent (44.84%),~~
- 21 d. ~~for the year beginning July 1, 2007, and ending June~~
22 ~~30, 2008, thirty-nine and eighty-four one-hundredths~~
23 ~~percent (39.84%),~~

24

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

4 1. From October 1, 2000, until June 30, 2001, thirty one-
5 hundredths percent (0.30%); and

6 2. For the year beginning July 1, 2001, and all subsequent
7 years, thirty-one one-hundredths percent (0.31%).

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

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

13 b. for the year beginning July 1, 2001, and ending June
14 30, 2002, seven and eighteen one-hundredths percent
15 (7.18%), and

16 c. for the year beginning July 1, 2002, and all
17 subsequent years, seven and twenty-four one-hundredths
18 percent (7.24%).

19 2. The monies apportioned pursuant to subparagraphs a through c
20 of paragraph 1 of this subsection shall be apportioned as follows:
21 forty percent (40%) of such sum shall be distributed to the various
22 counties in that proportion which the county road mileage of each
23 county bears to the entire state road mileage as certified by the
24 Transportation Commission and the remaining sixty percent (60%) of

1 such sum shall be distributed to the various counties on the basis
2 which the population and area of each county bears to the total
3 population and area of the state. The population shall be as shown
4 by the last Federal Census or the most recent annual estimate
5 provided by the United States Bureau of the Census. The funds shall
6 be used for the purpose of constructing and maintaining county
7 highways, provided, however, the county treasurer may deposit so
8 much of the funds in the sinking fund as may be necessary for the
9 retirement of interest and annual accrual of indebtedness created by
10 the issuance of county or township bonds for road purposes. Such
11 deposits to the sinking fund shall not exceed forty percent (40%) of
12 the funds allocated to a county pursuant to this paragraph.

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

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

20 b. for the year beginning July 1, 2001, and ending June
21 30, 2002, two and fifty-six one-hundredths percent
22 (2.56%), and
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1 c. for the year beginning July 1, 2002, and all
2 subsequent years, two and fifty-nine one-hundredths
3 percent (2.59%).

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

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

19 a. from October 1, 2000, until June 30, 2001, three and
20 fifty-five one-hundredths percent (3.55%),

21 b. for the year beginning July 1, 2001, and ending June
22 30, 2002, three and fifty-nine one-hundredths percent
23 (3.59%), and
24

1 c. for the year beginning July 1, 2002, and all
2 subsequent years, three and sixty-two one-hundredths
3 percent (3.62%).

4 2. The monies apportioned pursuant to subparagraphs a through c
5 of paragraph 1 of this subsection shall be transmitted to the
6 various counties on the basis of a formula to be developed by the
7 Department of Transportation. Such formula shall be similar to that
8 currently used for the distribution of County Bridge Program Funds,
9 but also taking into consideration the effect of terrain and traffic
10 volume as related to county road improvement and maintenance costs.
11 Provided, however, the Department of Transportation may update the
12 formula factors from time to time as necessary to account for
13 changing conditions. The funds shall be transmitted to the various
14 county treasurers to be deposited in the county highway fund of
15 their respective counties.

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

19 a. from October 1, 2000, until June 30, 2001, eighty-one
20 one-hundredths percent (0.81%),

21 b. for the year beginning July 1, 2001, and ending June
22 30, 2002, eighty-two one-hundredths percent (0.82%),
23 and
24

1 c. for the year beginning July 1, 2002, and all
2 subsequent years, eighty-three one-hundredths percent
3 (0.83%).

4 2. The monies apportioned pursuant to subparagraphs a through c
5 of paragraph 1 of this subsection shall be apportioned to the
6 various counties as follows:

7 a. each county shall receive the same amount of funds as
8 such county received from the taxes and fees provided
9 for in the 1985 fiscal year, and

10 b. any funds remaining unallocated following the
11 allocation provided in subparagraph a of this
12 paragraph shall be apportioned to the various counties
13 based upon the proportion that each county's
14 population bears to the total state population.

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

18 I. 1. The following percentages of the monies referred to in
19 subsection A of this section shall be apportioned to the various
20 cities and incorporated towns as set forth in paragraph 2 of this
21 subsection:

22 a. from October 1, 2000, until June 30, 2001, three and
23 four one-hundredths percent (3.04%),
24

1 b. for the year beginning July 1, 2001, and ending June
2 30, 2002, three and eight one-hundredths percent
3 (3.08%), and

4 c. for the year beginning July 1, 2002, and all
5 subsequent years, three and ten one-hundredths percent
6 (3.10%).

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

20 J. The following percentages of the monies referred to in
21 subsection A of this section shall be remitted to the State
22 Treasurer to be credited to the Oklahoma Law Enforcement Retirement
23 Fund:
24

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

3 2. For the year beginning July 1, 2001, and ending June 30,
4 2002, one and twenty-three one-hundredths percent (1.23%); and

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

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

13 L. 1. For the year beginning July 1, 2007, and ending June 30,
14 2008, five percent (5%) of monies referred to in subsection A of
15 this section shall be remitted to the State Treasurer to be credited
16 to the County Improvements for Roads and Bridges Fund as created in
17 Section 7 507 of ~~this act~~ Title 69 of the Oklahoma Statutes.

18 2. For the year beginning July 1, 2008, and ending June 30,
19 2009, ten percent (10%) of monies referred to in subsection A of
20 this section shall be remitted to the State Treasurer to be credited
21 to the County Improvements for Roads and Bridges Fund as created in
22 Section 7 507 of ~~this act~~ Title 69 of the Oklahoma Statutes.

23 3. For the year beginning July 1, 2009, and all subsequent
24 years, fifteen percent (15%) of monies referred to in subsection A

1 of this section shall be remitted to the State Treasurer to be
2 credited to the County Improvements for Roads and Bridges Fund as
3 created in Section 7 507 of ~~this act~~ Title 69 of the Oklahoma
4 Statutes.

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

10 N. In no event shall the monies apportioned pursuant to
11 subsections B, E, F, G, H, I and L of this section be less than the
12 monies apportioned in the previous fiscal year.

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

19 SECTION 2. AMENDATORY 66 O.S. 2001, Section 324, is
20 amended to read as follows:

21 Section 324. A. The Department of Transportation is hereby
22 authorized and empowered to:

23 1. Acquire, construct, reconstruct, repair, replace, operate
24 and maintain railroad rights-of-way and trackage projects at such

1 | locations and on such passenger routes as it shall determine to be
2 | feasible and economically sound;

3 | 2. Enter into agreements with the owners of operating railroads
4 | for the acquisition and/or use of railroad rights-of-way and
5 | trackage on such terms, conditions, rates or rentals as the
6 | Department may consider to be in the best interests of the state;

7 | 3. Enter directly into agreements with owners of operating
8 | passenger railroads to sell, lease, or sell by lease-purchase
9 | agreement any state-owned railroad property on such terms,
10 | conditions or amounts as the Department may consider to be in the
11 | best interests of the state and to promote the purposes of this act;

12 | 4. Acquire and hold real or personal property in the exercise
13 | of its powers for the performance of its duties as authorized by
14 | this act. Surplus property may be disposed of by the Department;

15 | 5. Acquire in the name of the Department, by purchase or
16 | otherwise on such terms and conditions and in such manner as it may
17 | deem proper, or by exercise of the right of condemnation, such
18 | public or private lands and personalty, including public parks,
19 | playgrounds, or reservations, or parts thereof or rights therein,
20 | rights-of-way, trackage, property, rights, easements, and interests,
21 | as it may deem necessary for carrying out the provisions of this
22 | act;

23 | 6. Make and enter into all contracts and agreements necessary
24 | or incidental to the performance of its duties and the execution of

1 its powers under this act, and to employ passenger rail planning and
2 management consultants, consulting engineers, attorneys,
3 accountants, construction and financial consultants,
4 superintendents, managers, and such other employees and agents as
5 may be necessary in its judgment, and to fix their compensation;
6 provided, that all such expenses shall be payable solely from funds
7 made available under and pursuant to the provisions of this act or
8 from revenues; provided, further, no attorney employed by the
9 Department, nor any member of any law firm of which he or she may be
10 connected, shall ever be paid any fee or compensation for any
11 special or extraordinary services;

12 7. Receive, accept and expend funds from the state, any federal
13 agency, or from private sources, for passenger rail planning and for
14 administration of passenger railroad assistance projects, and for,
15 or in aid of the acquisition, construction, reconstruction,
16 replacement, repair, maintenance and operation of passenger railroad
17 rights-of-way and trackage and for passenger rail service
18 continuation payments to railroad companies for operating losses
19 sustained by reasons of continuing service on a line which may
20 otherwise be abandoned or which may experience a reduced level of
21 service not in the public interest, where such continuation of
22 service is carried out under a written agreement with the Department
23 establishing the terms and conditions for such payments, and to
24 receive and accept funds, aid or contributions from any source of

1 either money, property, labor or other things of value, to be held,
2 used and applied only for the purposes for which such funds, aid or
3 contributions may be made;

4 8. Adopt such rules and to do any and all things necessary to
5 comply with rules, regulations or requirements of the United States
6 Department of Transportation, any successor thereof, the Interstate
7 Commerce Commission or any federal agency administering any law
8 enacted by the Congress of the United States or having funds
9 available for the purpose of the Department that are not
10 inconsistent with or contrary to the prohibitions and restrictions
11 of Oklahoma law or public interest;

12 9. Expend income and funds from the Oklahoma Tourism and
13 Passenger Rail Revolving Fund created in Section ~~5~~ 325 of this ~~act~~
14 title in the exercise of any or all ~~of the foregoing~~ powers as
15 provided for in this section and as set forth in Section 325 of this
16 title; and

17 10. Do all things necessary or convenient to carry out the
18 powers expressly granted in this act.

19 B. It shall be unlawful for any member, officer or employee of
20 the Department to transact with the Department, either directly or
21 indirectly, any business for profit of such member, officer or
22 employee; and any person, firm or corporation knowingly
23 participating therein shall be equally liable for violation of this
24 provision.

1 The term "business for profit" shall include, but not be limited
2 to, the acceptance or payment of any fee, commission, gift, or
3 consideration to such member, officer or employee.

4 Violation of this provision shall constitute a felony and, upon
5 conviction, shall be punishable by a fine of not less than Five
6 Hundred Dollars (\$500.00) and not more than Five Thousand Dollars
7 (\$5,000.00), or by imprisonment in the custody of the Department of
8 Corrections for not more than five (5) years, or by both such fine
9 and imprisonment.

10 C. All meetings of the Department shall be open public
11 meetings, and all records shall be public records, except when
12 considering personnel.

13 SECTION 3. AMENDATORY 66 O.S. 2001, Section 325, is
14 amended to read as follows:

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

1 payments for the use of any rail property and any accumulated
2 interest thereon, ~~or~~ any revenues apportioned thereto pursuant to
3 the provisions of subparagraph b of paragraph 3 of subsection A of
4 Section 500.6 of Title 68 of the Oklahoma Statutes, and any revenues
5 apportioned pursuant to the provisions of paragraph 2 of subsection
6 C of Section 1104 of Title 47 of the Oklahoma Statutes. All monies
7 accruing to the credit of the fund are hereby appropriated and may
8 be budgeted and expended by the Department of Transportation in
9 furtherance of the provisions of this act.

10 B. The monies accruing to the credit of the Oklahoma Tourism
11 and Passenger Rail Revolving Fund from revenues apportioned pursuant
12 to paragraph 2 of subsection C of Section 1104 of Title 47 of the
13 Oklahoma Statutes shall be expended as follows:

14 1. Fifteen percent (15%) for capital and operating costs
15 associated with the extension of the Heartland Flyer rail service
16 from Oklahoma City, Oklahoma, to the national system rail connection
17 at Newton, Kansas;

18 2. Twenty percent (20%) for the capital and operating costs
19 associated with the establishment of rail passenger service from
20 Tulsa, Oklahoma, to Saint Louis, Missouri;

21 3. Twenty percent (20%) for capital and administrative costs
22 associated with improvements to reliability, reduction in travel
23 time, and the addition of a second train to the Heartland Flyer rail
24 service; and

1 4. Forty-five percent (45%) for capital and administrative
2 costs associated with the development of frequent intercity
3 passenger rail service between Oklahoma City, Oklahoma, and Tulsa,
4 Oklahoma.

5 SECTION 4. This act shall become effective July 1, 2008.

6 SECTION 5. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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