THE STATE SENATE

Monday, February 22, 2010

Committee Substitute for

Senate Bill No. 2173

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2173 - By: Branan of the Senate and Shannon of the House.

[roads, bridges and ferries - county road and bridge improvement fund - effective date - emergency]

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 500.6, as last amended by Section 3, Chapter 45, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2009, 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 High Priority State Bridge Revolving Fund as created in Section ~~6~~ 506 of ~~this act~~ Title 69 of the Oklahoma Statutes;

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 transferred to the Public Transit Revolving Fund, created in Section 4031 of Title 69 of the Oklahoma Statutes, and

b. the second Eight Hundred Fifty Thousand Dollars ($850,000.00) collected each fiscal year shall be transferred to 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. 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 Tax Commission to deposit the funds apportioned pursuant to this paragraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act~~;

6. ~~Two and six hundred twenty-five one-thousandths percent (2.625%)~~ Two and two hundred ninety-seven one thousandths percent (2.297%) of the levy shall be ~~deposited in~~ distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of ~~the State Treasury~~ each county 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 to be used for the purposes set forth in the County Bridge and Road Improvement Act. 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; ~~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~~.~~; and

8. Three hundred twenty-eight one thousandths percent (0.328%) of the levy shall be transmitted by the Tax Commission to the Statewide Circuit Engineering Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes.

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 accrued balance of funds which were appropriated to or otherwise accrued in the County Bridge and Road Improvement Fund, ninety-nine percent (99%) of such funds shall be remitted to the respective county treasurer for deposit in the appropriate County Bridge and Road Improvement fund to be used for the purpose set forth in the County Bridge and Road Improvement Act. The remaining one percent (1%) of such funds will be remitted to the Statewide Circuit Engineering Revolving Fund; and

4. 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 2. AMENDATORY 68 O.S. 2001, Section 500.7, as amended by Section 4, Chapter 45, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2009, 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 High Priority State Bridge Revolving Fund as created in Section ~~6 of this act~~ 506 of Title 69 of the Oklahoma Statutes;

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 Oklahoma Tax Commission to deposit the funds so apportioned by this paragraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act.~~ The apportionment of the levy as set forth in this paragraph shall be subject to the provisions of subsection C of Section 500.6 of this title; and

6. ~~Three and eighty four one hundredths percent (3.84%)~~ Three and thirty-six one-hundredths percent (3.36%) of the levy shall be ~~deposited in~~ distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of ~~the State Treasury~~ each county 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 to be used for the purposes set forth in the County Bridge and Road Improvement Act. 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; and

7. Forty eight one-hundredths percent (0.48%) of the levy shall be transmitted by the Tax Commission to the Statewide Circuit Engineering Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes.

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 3. AMENDATORY 68 O.S. 2001, Section 707.1, is amended to read as follows:

Section 707.1 A. In addition to the excise taxes levied by Sections 703 and 705 of this title, there is hereby levied an excise tax of two and one-half cents ($0.025) 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 under the provisions of Section 708 of this title.

C. The excise tax of two and one-half cents ($0.025) per gallon of special fuel levied in this section, together with any interest and penalties thereon, collected by the Tax Commission shall be apportioned monthly as follows:

Two cents ($0.02) of the two and one-half cents ($0.025), together with any interest and penalties thereon, shall be apportioned according to the provisions of paragraph 1 of Section 704 of this title.

~~One half of one cent ($0.005) of the two and one half cents ($0.025), together with any interest and penalties thereon, 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.~~

Eighty-seven and five tenths of one percent (87.5%) of the one-half of one cent ($0.005) of the two and one-half cents ($0.025), together with any interest and penalties thereon, shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county 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 to be used for the purposes set forth in the County Bridge and Road Improvement Act. 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. Twelve and five tenths of one percent (12.5%) of the one-half of one cent ($0.005) of the two and one-half cents ($0.025), together with any interest and penalties thereon, shall be transmitted by the Tax Commission to the Statewide Circuit Engineering Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 1004, as last amended by Section 1, Chapter 305, O.S.L. 2009 (68 O.S. Supp. 2009, Section 1004), is amended to read as follows:

Section 1004. Beginning July 1, 2002, the gross production tax provided for in Section 1001 of this title is hereby levied and shall be collected and apportioned as follows:

1. For all monies collected from the tax levied on asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper:

a. eighty-five and seventy-two one-hundredths percent (85.72%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,

b. seven and fourteen one-hundredths percent (7.14%) of the sum collected from natural gas and/or casinghead gas or asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and

c. seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided for in subparagraph b of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend

school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

2. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of seven percent (7%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. eighty-five and seventy-two one-hundredths percent (85.72%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,

b. seven and fourteen one-hundredths percent (7.14%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and

c. seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided for in

subparagraph b of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

3. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of four percent (4%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. seventy-five percent (75%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,

b. twelve and one-half percent (12.5%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total

value of production from such county in the corresponding month of the preceding year, and

c. twelve and one-half percent (12.5%) shall be allocated to each county as provided for in subparagraph b of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

4. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of one percent (1%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. fifty percent (50%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from

such county in the corresponding month of the preceding year, and

b. fifty percent (50%) shall be allocated to each county as provided for in subparagraph a of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

5. For all monies collected from the tax levied on oil at a tax rate of seven percent (7%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Common Education Technology Revolving Fund created in Section 41.29c of Title 62 of the Oklahoma Statutes,

b. twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Higher Education Capital Revolving Fund

created in Section 41.29d of Title 62 of the Oklahoma Statutes,

c. twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Oklahoma Tuition Scholarship Revolving Fund created in Section 41.29e of Title 62 of the Oklahoma Statutes,

d. ~~four and twenty eight one hundredths percent (4.28%)~~ three and seven hundred forty-five one thousandths percent (3.745%) shall be ~~paid to the State Treasurer to be apportioned to~~ distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of ~~the State Treasury~~ each county 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 to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the Country 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,

e. four and twenty-eight one-hundredths percent (4.28%) shall be paid to the State Treasurer to be apportioned to:

(1) the following sources and in the following amounts through the fiscal year ending June 30, 2014:

(a) thirty-three and one-third percent (33 1/3%) to the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund created pursuant to Section 2254.1 of Title 74 of the Oklahoma Statutes,

(b) thirty-three and one-third percent (33 1/3%) to the Oklahoma Conservation Commission Infrastructure Revolving Fund created pursuant to Section 3-2-110 of Title 27A of the Oklahoma Statutes, and

(c) thirty-three and one-third percent (33 1/3%) to the Community Water Infrastructure Development Revolving Fund created pursuant to Section 1085.7A of Title 82 of the Oklahoma Statutes, and

(2) the Oklahoma Water Resources Board Rural Economic Action Plan Water Projects Fund for the fiscal year ending June 30, 2014, and for each fiscal year thereafter,

f. seven and fourteen one-hundredths percent (7.14%) of the sum collected from oil shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, ~~and~~

g. seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided in subparagraph f of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction~~;~~, and

h. five hundred thirty-five one thousandths percent (0.535%) of the levy shall be transmitted by the Tax Commission to the Statewide Circuit Engineering Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes.

6. For all monies collected from the tax levied on oil at a tax rate of four percent (4%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Common Education Technology Revolving Fund created in Section 41.29c of Title 62 of the Oklahoma Statutes,

b. twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Higher Education Capital Revolving Fund created in Section 41.29d of Title 62 of the Oklahoma Statutes,

c. twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Oklahoma Tuition Scholarship Revolving Fund created in Section 41.29e of Title 62 of the Oklahoma Statutes,

d. ~~three and seventy-five one-hundredths percent (3.75%)~~ three and twenty-eight one hundredths percent (3.28%) shall be ~~paid to the State Treasurer to be apportioned~~

~~to~~ distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of ~~the State Treasury~~ each county 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 to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the Country 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,

e. three and seventy-five one-hundredths percent (3.75%) shall be paid to the State Treasurer to be apportioned to:

(1) the following sources and in the following amounts through the fiscal year ending June 30, 2014:

(a) thirty-three and one-third percent (33 1/3%) to the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving

Fund created pursuant to Section 2254.1 of Title 74 of the Oklahoma Statutes,

(b) thirty-three and one-third percent (33 1/3%) to the Oklahoma Conservation Commission Infrastructure Revolving Fund created pursuant to Section 3-2-110 of Title 27A of the Oklahoma Statutes, and

(c) thirty-three and one-third percent (33 1/3%) to the Community Water Infrastructure Development Revolving Fund created pursuant to Section 1085.7A of Title 82 of the Oklahoma Statutes, and

(2) the Oklahoma Water Resources Board Rural Economic Action Plan Water Projects Fund for the fiscal year ending June 30, 2014, and for each fiscal year thereafter,

f. twelve and one-half percent (12.5%) of the sum collected from oil shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, ~~and~~

g. twelve and one-half percent (12.5%) shall be allocated to each county as provided in subparagraph f of this paragraph and shall be apportioned on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction; and

h. forty-seven one hundredths percent (0.47%) of the levy shall be transmitted by the Tax Commission to the Statewide Circuit Engineering Revolving Fund as created in Section 687.2 of Title 69.

7. For all monies collected from the tax levied on oil at a tax rate of one percent (1%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. fifty percent (50%) of the sum collected shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of

production from such county in the corresponding month of the preceding year, and

b. fifty percent (50%) shall be allocated to each county as provided for in subparagraph a of this paragraph and shall be apportioned on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction.

Provided, notwithstanding any other provision of this section, the total amounts deposited to the Common Education Technology Revolving Fund, the Higher Education Capital Revolving Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Rural Economic Action Plan Water Projects Fund, the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund, the Oklahoma Conservation Commission Infrastructure Revolving Fund and the Community Water Infrastructure Development Revolving Fund pursuant to paragraphs 5 and 6 of this section shall not exceed One Hundred Fifty Million Dollars ($150,000,000.00) in any fiscal year. All sums in excess of One Hundred Fifty Million Dollars

($150,000,000.00) in any fiscal year which would otherwise be deposited in such funds shall be placed by the State Treasurer in the General Revenue Fund of the state.

SECTION 5. AMENDATORY 69 O.S. 2001, Section 659, is amended to read as follows:

Section 659. The Department of Transportation is hereby authorized to develop a complete set of county bridge standards, including standards for demonstration bridge projects and standards for county bridges with low average daily traffic volumes as defined by the latest published version of the County Roads Design Guidelines Manual. Such standards shall be developed under the direction of the Bridge Division of the Department and prior to implementation shall be approved by the State Association of County Commissioners and the Transportation Commission. Such standards shall be furnished without cost to local units of government. ~~Engineering for projects authorized pursuant to the County Bridge and Road Improvement Act may be provided by the Department of Transportation at the request of a county. The cost to the Department for such engineering shall be charged to the project.~~ Monies received by the county pursuant to the County Bridge and Road Improvement Act, Section 657 et seq. of this title, may be used for purposes of obtaining engineering services. Only registered professional engineers, approved by the Department, experienced in

the design and construction of highway and related facilities, shall be used for such services. Counties acquiring engineering services as provided for in this section shall require the engineers providing such services to execute professional service contracts which include a requirement that the engineer shall maintain an adequate policy of professional liability insurance.

SECTION 6. AMENDATORY 69 O.S. 2001, Section 660, as last amended by Section 1, Chapter 281, O.S.L. 2009 (69 O.S. Supp. 2009, Section 660), is amended to read as follows:

Section 660. ~~A. The Local Government Division of the Department of Transportation shall immediately establish a program to aid counties in replacing or reconstructing bridges and roads. The bridges and roads to be replaced or reconstructed shall be those that are structurally inadequate, functionally obsolete or have been destroyed or rendered unusable.~~

~~B. Funds made available for the purposes of the County Bridge and Road Improvement Act may be used to pay the cost of county bridge inspections, classifications, and evaluations, and county road inspections, classifications, and evaluations for federal and state purposes and to match federal or state funds, provided the applicable federal or state funds are available.~~

~~C. Except as otherwise specified in the County Bridge and Road Improvement Act, the county collector system, including any future~~

~~revisions thereto, shall constitute the system of roads wherein the bridges and roads are located that are eligible for project funding under the County Bridge and Road Improvement Act. Official maps showing the county collector system in each county shall be maintained on file by the Department of Transportation and shall be furnished each county at no cost.~~

~~D. The Department of Transportation may approve the utilization of up to ninety percent (90%) of the estimated four year apportionment to the county for county projects. However, no additional projects may be approved for the county until the county has accumulated a surplus of three (3) months of apportionments and repaid all funds advanced from the State Highway Construction and Maintenance Fund.~~

~~E. When a county bridge sustains damage, whether caused by a natural or artificial event, and consequently requires immediate repair, the board of county commissioners may by resolution direct the transfer, by the Department of Transportation, of any unencumbered monies in that county's account in the County Bridge and Road Improvement Fund, to that county's highway fund, for the sole purpose of repairing or reconstructing the bridge.~~

~~F.~~ The boards of county commissioners may enter into cooperative agreements with the Oklahoma Turnpike Authority for the purpose of replacement, expansion or repair of functionally obsolete

and structurally deficient bridges which cross over or under turnpikes. The expenditures for such projects will be from any federal, state or county public funds appropriated and earmarked for such purpose. Counties may apply for the expenditure of these earmarked funds for projects that have been requested by the board of county commissioners of the county where the bridge is located. Once approved by the Oklahoma Cooperative Circuit Engineering Districts Board, the Board will select and prioritize the bridge replacement projects based on criteria which shall include, but not be limited to, high traffic volume and current bridge safety assessments.

SECTION 7. AMENDATORY 69 O.S. 2001, Section 661, as last amended by Section 2, Chapter 157, O.S.L. 2006 (69 O.S. Supp. 2009, Section 661), is amended to read as follows:

Section 661. A. ~~While the legislative intent of the County Bridge and Road Improvement Act is to replace or reconstruct structurally obsolete bridges and roads on the county collector system, it is recognized that specific conditions may exist in a county justifying the need to reconstruct or replace a bridge or a road on a road section not included in the county collector system. In such specific instance, the Oklahoma Department of Transportation may approve a project not on the county collector system. Justification for such projects shall include use of the bridge or~~

~~road for school bus routes, mail routes, heavy and extensive industrial or agricultural operations, or such other unique purposes as may be acceptable to the Department of Transportation. However, in all instances projects located on school bus routes shall have priority on funds provided for the implementation of this act. Right of way acquisition and utility relocation shall be the responsibility of the county in which the project is located. Monies received by counties pursuant to the County Bridge and Road Improvement Act may be used for right-of-way acquisition and utility relocation.~~

~~B.~~ When a county receives monies pursuant to the County Bridge and Road Improvement Act, a county shall give priority to reconstructing, replacing, or closing those bridges in the county that are rated less than three (3) tons or fifteen (15) tons or less for those bridges on school bus routes. Bridge and road replacement or reconstruction projects shall be selected by the individual boards of county commissioners ~~with the concurrence of the Department of Transportation~~ and shall be based on a countywide assessment of bridge and road reconstruction and replacement needs. ~~Each request for project funds will be transmitted to the Department of Transportation in the form of an official programming resolution bearing the signatures of a majority of the county commissioners. Where more than one project is programmed in a single county, the~~

~~board of county commissioners shall designate the priority in which it wishes the projects to be undertaken.~~

~~C. These funds shall be apportioned among the various counties by the Transportation Commission on an equitable basis consistent with the identifiable bridge and road needs on the collector system in each county.~~

~~D. On or before July 1 of each year, the Department of Transportation shall review the County Bridge and Road Program in each county. Said review shall examine the status of all programmed projects, funds carried over from previous fiscal year allocations, and funds anticipated to be available from future allocations. The purpose of the review is to estimate the rate of County Bridge and Road Fund utilization by the various counties and to assess the progress of the County Bridge and Road Program throughout the state.~~

B. Funds accruing to the County Bridge and Road Improvement Revolving Fund shall be apportioned on the basis of 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 this title. The formula shall be similar to that previously used for the distribution of County Bridge Improvement Program funds, but shall also take into consideration the effects of terrain and traffic volume as related to county road improvement and maintenance costs.

SECTION 8. AMENDATORY 69 O.S. 2001, Section 662, as last amended by Section 3, Chapter 231, O.S.L. 2009 (69 O.S. Supp. 2009, Section 662), is amended to read as follows:

Section 662. A. ~~The program and funds shall be administered by the Department of Transportation under a minimum of policies, guidelines and engineering design standards. Approved projects will~~ A professional engineer registered by the State Board of Registration for Professional Engineers and Land Surveyors pursuant to Section 475.1 et seq. of Title 59 of the Oklahoma Statutes, shall approve projects that may be awarded to contractors by the Boards of County Commissioners, Transportation Commission or by other federal or state agencies under their normal competitive bidding procedures, excluding prequalification of bidders. ~~Force account road projects may be approved for a county by the Transportation Commission. No force account county bridge project shall be reimbursed in excess of Four Hundred Thousand Dollars ($400,000.00). No county road project in excess of Four Hundred Thousand Dollars ($400,000.00), excluding the cost for engineering, right of way acquisition, and utility relocation, in cost shall be done by the force account method.~~ A "county-built" project may be a road or bridge in whole or in part built with its own county forces or entirely let to contract, but all costs associated are reimbursable.

B. ~~Funds available for the County Bridge and Road Improvement Act shall not be subject to fiscal year limitations and shall be available for encumbrance and expenditure purposes for a period of thirty (30) months from the effective date such funds are appropriated.~~

~~C. In order to receive reimbursement for constructing a force account bridge, a county shall have sufficient funds in the County Bridge and Road Improvement Fund to pay the reimbursement request cost. Upon completion of a force account bridge, the board of county commissioners shall request an inspection of the bridge in accordance with the criteria set forth by the National Bridge Inventory Program.~~

~~D.~~ When ~~the force account~~ a county-built bridge has been inspected and achieves a load rating of H. ~~twenty (20)~~ twenty-three (23) tons or greater, the board of county commissioners may ~~submit a request for reimbursement to the Department of Transportation~~ be reimbursed. The county shall receive reimbursement for all costs claimed relating to the construction of the bridge provided the inspection report indicates that the county has met or exceeded the criteria set forth in this section. ~~The resolution for reimbursement submitted by the board of county commissioners shall serve to satisfy the requirements of Section 41.16 of Title 62 of the Oklahoma Statutes.~~ County ~~force account~~-built bridges eligible

for reimbursement from the County Bridge and Road Improvement Fund shall meet or exceed the following criteria:

1. The bridge has been built according to the current edition of the County Bridge Standards manual or from field notes drawn by a registered professional engineer that provide the basic structural requirements to achieve a load rating of H. ~~twenty (20)~~ twenty-three (23) tons or greater. Field notes may be handwritten specifications or sketches which have been stamped or signed;

2. The finished bridge shall achieve a ~~twenty-ton~~ twenty-three-ton or greater rating. The rating criteria shall be determined by the National Bridge Inventory and approved by the Department of Transportation for bridges twenty (20) feet or more in length;

3. The subsurface foundation of the bridge shall meet the minimum guidelines established by using approved engineering methods, details of which shall be kept as shop notes;

4. The finished bridge shall have a minimum roadway width of twenty-four (24) feet; and

5. Materials used in the construction of the bridge shall meet or exceed the specifications for materials as specified in the current edition of the County Bridge Standards or certified in writing by the engineer or supplier.

~~E. Monies from the County Bridge and Road Improvement Fund may be used to establish minimum standards for guardrail applications on~~

~~low-traffic-volume county roads. The board of directors of the association representing the county commissioners of Oklahoma may request the development of guardrail standards for bridges on low-traffic volume county roads, as defined in the county road standard manual, the cost of which shall be paid from monies from the County Bridge and Road Improvement Fund.~~

~~F.~~ C. Prior to construction of the bridge, a county may request that construction supervision be provided by the Circuit Engineering District of which the county is a member to ensure quality control and quality assurance.

SECTION 9. AMENDATORY 69 O.S. 2001, Section 665, is amended to read as follows:

Section 665. A. ~~The Oklahoma Department of Transportation shall be required to certify to the State Transportation Commission that each county has upheld all agreements with, and obligations to, this state. If, due to failure by the county to maintain such obligations and agreements, the Department of Transportation cannot make the certification, the county shall receive no allocation or funding under the County Bridge and Road Improvement Act until such obligations and agreements are fulfilled. However, if requested, a county shall be entitled to notice and a hearing before the Transportation Commission prior to any allocation or funding being withheld by the Department of Transportation.~~

~~B.~~ All consulting engineering contracts for services referred to in this act ~~shall~~ may be ~~approved~~ reviewed by the Department of Transportation except those contracts entered into pursuant to the provisions of Section 687.1 of this title or by the county or circuit engineer. The Department, county or circuit engineer shall make findings on all contracts ~~approved~~ reviewed that the cost is reasonable and the firm involved is capable of performing the service within a reasonable period of time.

~~C.~~ B. Expenditures which may be allowed pursuant to the provisions of this act shall include the following:

1. ~~Matching federal funds for the annual Federal Highway Administration allocation to the Oklahoma State University Center for Local Government Technology for the Federal Highway Administration Rural Technical Assistance Program, not to exceed twenty-five percent (25%) of the amount of funding the state is required to provide, which shall not exceed Fifty Thousand Dollars ($50,000.00)~~ The cost of county bridge inspections, classifications, and evaluations, and county road inspections, classifications and evaluations for federal and state purposes and to match federal or state funds, provided the applicable federal or state funds are available;

2. Project engineering costs;

3. The cost of rights-of-way acquired for projects pursuant to the provisions of this act and the cost of the relocation of utilities from the rights-of-way so acquired;

4. The cost of reconstruction or replacement of roadway structures which may be less than twenty (20) feet in length;

5. Any cost or expense for administration, program management, engineering, including the development of appropriate local road standards which shall apply only to those roads reconstructed, maintained, or otherwise constructed pursuant to this act, or construction supervision necessarily incurred by the Department of Transportation or Circuit Engineering Districts in fulfilling its duties and responsibilities pursuant to this act;

6. Any cost or expense related to a comprehensive plan for signing or inventory of signs on the county road system; ~~and~~

7. The expense and related costs of employing an engineer to assist a county or counties in carrying out the daily operations of road and bridge maintenance and construction, including the employment of a circuit engineer; and

8. All costs associated with constructing a bituminous surface treatment or gravel roadway.

SECTION 10. AMENDATORY 69 O.S. 2001, Section 689, is amended to read as follows:

Section 689. A. ~~The program and funds pursuant to the County Bridge and Road Improvement Act shall be administered by the Oklahoma Department of Transportation under a minimum of policies and guidelines in accordance with appropriate design and construction engineering standards. Approved projects will be awarded to contractors by the State Transportation Commission or by other federal or state agencies under their normal competitive bidding procedures. However, force account projects may be awarded to a county based upon agreed unit prices, if deemed to be in the best public interest.~~

~~B.~~ The Department of Transportation is hereby directed, in cooperation with the Association of County Commissioners of Oklahoma, to cause to be developed appropriate local road design standards for use in constructing projects pursuant to this program. The standards, upon their adoption by the Transportation Commission and by those counties wishing to participate in this program, shall be used for the design and construction of all projects funded pursuant to this program. However, when funds available pursuant to this program are used to match federal funds, projects shall meet appropriate minimum design standards for local roads and other applicable federal requirements. All plans and specifications for federal-aid projects shall be subject to the approval of the Department. To every extent possible, negotiations with the Federal

Highway Administration should be undertaken to allow application of the County Road Guidelines Design Manual.

~~C.~~ B. Plans, surveys, and engineering shall be the responsibility of the county in which the project is located ~~and may be paid for by the Department of Transportation on a contractual basis from program funds accruing to that county~~. Only registered professional engineers, approved by the Department of Transportation, experienced in the design and construction of highway and related facilities, shall be used for such services. ~~Where funds available pursuant to this program are used to match federal funds, the engineer shall be subject to approval by the Department of Transportation. On those projects where no federal funds are involved, the Department of Transportation shall make every effort to develop simplified procedures designed to expedite the efforts of the county to advance the project to contract letting. The Field Division engineer of the Department of Transportation or an appropriate designee shall be responsible for providing such guidance and assistance as may be requested by the county in the development of the project. The Field Division engineer shall be notified in advance by the county's engineer of all field "plan-in-hand" inspections involving the project and shall be granted access to the project and all related records and documents during all phases of the project design and construction.~~

~~Construction engineering on all projects shall be the responsibility of the Department of Transportation. In specific instances where, in the opinion of the Department of Transportation, the public interest would be best served, the county's engineer may be authorized to perform the construction engineering.~~

~~D. Upon completion of the construction plans, the county's engineer shall submit the plans to the Department of Transportation accompanied by detailed estimates of the cost of right of way, utility relocations and construction of the project and a certification that the project was designed in accordance with the applicable adopted design standards. The Department of Transportation shall review the plans, specifications, and estimates to the extent of assuring their completeness and compliance with the appropriate design criteria. Upon acceptance of the plans, specifications, and estimates by the Department and at such time all right of way necessary to construct the project has been acquired by the county and so certified to the Department of Transportation, the project will be scheduled for bid opening by the Transportation Commission. However, no project shall be scheduled for bid opening unless sufficient program funds are available to the account of the county in which the project is located to adequately finance the project construction.~~

C. Prior to award of the contract by the Transportation Commission, the county shall be given the option of accepting or rejecting the bid submitted by the successful bidder.

SECTION 11. REPEALER 69 O.S. 2001, Section 658, is hereby repealed.

SECTION 12. REPEALER 69 O.S. 2001, Section 664, as amended by Section 9, Chapter 45, 2nd Extraordinary Session, O.S.L. 2006 (69 O.S. Supp. 2009, Section 664), is hereby repealed.

SECTION 13. This act shall become effective July 1, 2010.

SECTION 14. 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.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-17-10 - DO PASS, As Amended and Coauthored.