

SUBCOMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1975 _____
_____ Of the printed Bill
Page _____ Section _____ Lines _____
_____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Danny Morgan _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 PROPOSED SUBCOMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1975

By: Morgan

7 PROPOSED SUBCOMMITTEE SUBSTITUTE

8 An Act relating to revenue and taxation; amending 68
9 O.S. 2001, Sections 500.3, as amended by Section 2,
10 Chapter 327, O.S.L. 2006, 500.4, 500.6, as last
11 amended by Section 1, Chapter 256, O.S.L. 2010, 701
12 and 723 (68 O.S. Supp. 2010, Sections 500.3 and
13 500.6), which relate to motor fuel taxation;
14 modifying definitions; defining compressed natural
15 gas; providing for levy of tax on compressed natural
16 gas; modifying definition of special fuel; excluding
17 compressed natural gas from definition of special
18 fuel; eliminating references to compressed natural
19 gas for purposes of tax decal; providing for
20 apportionment of revenue; providing an effective
21 date; and declaring an emergency.

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

23 SECTION 1. AMENDATORY 68 O.S. 2001, Section 500.3, as
24 amended by Section 2, Chapter 327, O.S.L. 2006 (68 O.S. Supp. 2010,
Section 500.3), is amended to read as follows:

Section 500.3 As used in Section 500.1 et seq. of this title:

1. "Act" or "this act" means the Motor Fuel Tax Code;

1 2. "Agricultural purposes" means clearing, terracing or
2 otherwise preparing the ground on a farm; preparing soil for
3 planting and fertilizing, cultivating, raising and harvesting crops;
4 raising and feeding livestock and poultry; building fences; pumping
5 water for any and all uses on the farm, including irrigation;
6 building roads upon any farm by the owner or person farming same;
7 operating milking machines; sawing wood for use on a farm; producing
8 electricity for use on a farm; movement of tractors, farm implements
9 and equipment from one field to another and use of farm tractors to
10 move farm products from farm to market;

11 3. "Biodiesel" means a fuel comprised of mono-alkyl esters of
12 long chain fatty acids generally derived from vegetable oils or
13 animal fats, commonly known as "B100", that is commonly and
14 commercially known or sold as a fuel that is suitable for use in a
15 highway vehicle. The fuel meets this requirement if, without
16 further processing or blending, the fuel is a fluid and has
17 practical and commercial fitness for use in the propulsion of a
18 highway vehicle;

19 4. "Biodiesel blend" means a blend of biodiesel fuel with
20 petroleum-based diesel fuel, commonly designated as "Bxx", where
21 "xx" represents the volume percentage of biodiesel fuel in the
22 blend, and that is commonly and commercially known or sold as a fuel
23 that is suitable for use in a highway vehicle. The fuel meets this
24 requirement if, without further processing or blending, the fuel is

1 a fluid and has practical and commercial fitness for use in the
2 propulsion of a highway vehicle;

3 5. "Blend stock" means any petroleum product component of
4 gasoline, such as naphtha, reformate, or toluene, that can be
5 blended for use in a motor fuel without further processing.

6 However, the term does not include any substance that:

7 a. will be ultimately used for consumer nonmotor-fuel
8 use, and

9 b. is sold or removed in drum quantities (55 gallons) or
10 less at the time of the removal or sale;

11 6. "Blended fuel" means a mixture composed of gasoline or
12 diesel fuel and another liquid, other than a de minimis amount of a
13 product such as carburetor detergent or oxidation inhibitor, that
14 can be used as a fuel in a highway vehicle. This term includes
15 gasohol, ethanol and fuel grade ethanol;

16 7. "Blender" means any person that produces blended motor fuel
17 outside the bulk transfer/terminal system;

18 8. "Blending" means the mixing of one or more petroleum
19 products, with or without another product, regardless of the
20 original character of the product blended, if the product obtained
21 by the blending is capable of use or otherwise sold for use in the
22 generation of power for the propulsion of a motor vehicle, an
23 airplane, or a motorboat. The term does not include that blending
24 that occurs in the process of refining by the original refiner of

1 crude petroleum or the blending or products known as lubricating oil
2 and greases;

3 9. "Bulk end user" means a person who receives into the
4 person's own storage facilities in transport truck lots of motor
5 fuel for the person's own consumption;

6 10. "Bulk plant" means a motor fuel storage and distribution
7 facility that is not a terminal and from which motor fuel may be
8 removed at a rack;

9 11. "Bulk transfer" means any transfer of motor fuel from one
10 location to another by pipeline tender or marine delivery within the
11 bulk transfer/terminal system;

12 12. "Bulk transfer/terminal system" means the motor fuel
13 distribution system consisting of refineries, pipelines, vessels,
14 and terminals. Gasoline in a refinery, pipeline, vessel, or
15 terminal is in the bulk transfer/terminal system. Motor fuel in the
16 fuel supply tank of any engine, or in any tank car, rail car,
17 trailer, truck, or other equipment suitable for ground
18 transportation is not in the bulk transfer/terminal system;

19 13. "Tax Commission" or "Commission" means the Oklahoma Tax
20 Commission;

21 14. "Compressed natural gas" means a volume of natural gas
22 consisting primarily of methane which has been reduced to
23 approximately one percent (1%) of its original volume for purposes
24 of storage and for use as a fuel in motor vehicles;

1 15. "Consumer" means the user of the motor fuel on the public
2 highways of this state;

3 ~~15.~~ 16. "Dead storage" means the amount of motor fuel that will
4 not be pumped out of a storage tank because the motor fuel is below
5 the mouth of the draw pipe. For purposes of Section 500.1 et seq.
6 of this title, a dealer may assume that the amount of motor fuel in
7 dead storage is two hundred (200) gallons for a tank with a capacity
8 of less than ten thousand (10,000) gallons and four hundred (400)
9 gallons for a tank with a capacity of ten thousand (10,000) gallons
10 or more;

11 ~~16.~~ 17. "Delivery" means the placing of motor fuel or any
12 liquid into the fuel tank of a motor vehicle;

13 ~~17.~~ 18. "Destination state" means the state, territory, or
14 foreign country to which motor fuel is directed for delivery into a
15 storage facility, a receptacle, a container, or a type of
16 transportation equipment for the purpose of resale or use;

17 ~~18.~~ 19. "Diesel fuel" means any liquid, including but not
18 limited to, biodiesel, biodiesel blend or other diesel blended fuel,
19 that is commonly or commercially known or sold as a fuel that is
20 suitable for use in a diesel-powered highway vehicle. A liquid
21 meets this requirement if, without further processing or blending,
22 the liquid has practical and commercial fitness for use in the
23 propulsion engine of a diesel-powered highway vehicle. Except as
24 provided in subsection B of Section 500.4 of this title, "diesel

1 fuel" does not include jet fuel sold to a buyer who is registered
2 with and certified by the Internal Revenue Service to purchase jet
3 fuel subject to the Internal Revenue Service;

4 ~~19.~~ 20. "Diesel-powered highway vehicle" means a motor vehicle
5 operated on a highway that is propelled by a diesel-powered engine;

6 ~~20.~~ 21. "Distributor" means a person who acquires motor fuel
7 from a supplier or from another distributor for subsequent sale or
8 use;

9 ~~21.~~ 22. "Dyed diesel fuel" means diesel fuel that is required
10 to be dyed pursuant to United States Environmental Protection Agency
11 rules or is dyed pursuant to Internal Revenue Service rules or
12 pursuant to any other requirements subsequently set by the United
13 States Environmental Protection Agency or Internal Revenue Service
14 including any invisible marker requirements;

15 ~~22.~~ 23. "Eligible purchaser" means a person who has been
16 authorized by the Commission pursuant to Section 500.23 of this
17 title to make the election pursuant to Section 500.22 of this title;

18 ~~23.~~ 24. "Enterer" includes any person who is the importer of
19 record, pursuant to federal customs law, with respect to motor fuel.
20 If the importer of record is acting as an agent, the person for whom
21 the agent is acting is the enterer. If there is no importer of
22 record of motor fuel entered into this state, the owner of the motor
23 fuel at the time it is brought into this state is the enterer;

24

1 ~~24.~~ 25. "Entry" means the importing of motor fuel into this
2 state. Motor fuel brought into this state in the fuel tank of a
3 motor vehicle shall not be deemed to be an "entry" if not removed
4 from the fuel tank except as used for the propulsion of that motor
5 vehicle, except to the extent that motor fuel was acquired tax free
6 for export or a refund of tax was claimed as a result of exportation
7 from the state from which that motor fuel was transported into this
8 state;

9 ~~25.~~ 26. "Export" means to obtain motor fuel in this state for
10 sale or other distribution in another state. In applying this
11 definition, motor fuel delivered out of state by or for the seller
12 constitutes an export by the seller and motor fuel delivered out of
13 state by or for the purchaser constitutes an export by the
14 purchaser;

15 ~~26.~~ 27. "Exporter" means any person, other than a supplier, who
16 purchases motor fuel in this state for the purpose of transporting
17 or delivering the fuel to another state or country;

18 ~~27.~~ 28. "Farm tractor" means all tractor-type, motorized farm
19 implements and equipment but shall not include motor vehicles of the
20 truck-type, pickup truck-type, automobiles, and other motor vehicles
21 required to be registered and licensed each year pursuant to the
22 provisions of the motor vehicle license and registration laws of
23 this state;

24

1 ~~28.~~ 29. "Fuel transportation vehicle" means any vehicle
2 designed for highway use which is also designed or used to transport
3 motor fuels and includes transport trucks and tank wagons;

4 ~~29.~~ 30. "Gasoline" means all products, including but not
5 limited to, gasoline blend stocks, commonly or commercially known or
6 sold as gasoline that are suitable for use as a motor fuel.
7 Gasoline does not include products that have an American Society for
8 Testing Materials ("A.S.T.M.") octane number of less than seventy-
9 five (75) as determined by the "motor method". Except as provided
10 in subsection B of Section 500.4 of this title, "gasoline" does not
11 include aviation gasoline provided that the buyer is registered to
12 purchase aviation gasoline free of tax and the seller obtains
13 certification of such fact satisfactory to the Commission prior to
14 making the sale;

15 ~~30.~~ 31. "Gasoline blend stocks" includes any petroleum product
16 component of gasoline, such as naphtha, reformate, or toluene, that
17 can be blended for use in a motor fuel. The term shall not include
18 any substance that will be ultimately used for consumer nonmotor-
19 fuel use and is sold or removed in drum quantities of 55 gallons or
20 less at the time of the removal or sale;

21 ~~31.~~ 32. "Gross gallons" means the total measured motor fuel,
22 exclusive of any temperature or pressure adjustments, in U.S.
23 gallons;

24

1 ~~32.~~ 33. "Heating oil" means a motor fuel that is burned in a
2 boiler, furnace, or stove for heating or industrial processing
3 purposes;

4 ~~33.~~ 34. "Highway vehicle" means a self-propelled vehicle that
5 is designed for use on a highway;

6 ~~34.~~ 35. "Import" means to bring motor fuel into this state by
7 any means of conveyance other than in the fuel supply tank of a
8 motor vehicle. In applying this definition, motor fuel delivered
9 into this state from out of state by or for the seller constitutes
10 an import by the seller, and motor fuel delivered into this state
11 from out of state by or for the purchaser constitutes an import by
12 the purchaser;

13 ~~35.~~ 36. "Import verification number" means the number assigned
14 by the Commission with respect to a single transport truck delivery
15 into this state from another state upon request for an assigned
16 number by an importer or the transporter carrying motor fuel into
17 this state for the account of an importer;

18 ~~36.~~ 37. "In this state" means the area within the border of
19 this state, including all land within the borders of this state
20 owned by the United States of America;

21 ~~37.~~ 38. "Indian country" means:

- 22 a. land held in trust by the United States of America for
23 the benefit of a federally recognized Indian tribe or
24 nation,

1 b. all land within the limits of any Indian reservation
2 under the jurisdiction of the United States
3 Government, notwithstanding the issuance of any
4 patent, and including rights-of-way running through
5 the reservation,

6 c. all dependent Indian communities within the borders of
7 the United States whether within the original or
8 subsequently acquired territory thereof, and whether
9 within or without the limits of a state, and

10 d. all Indian allotments, the Indian titles to which have
11 not been extinguished, including individual allotments
12 held in trust by the United States or allotments owned
13 in fee by individual Indians subject to federal law
14 restrictions regarding disposition of said allotments
15 and including rights-of-way running through the same.

16 The term shall also include the definition of Indian country as
17 found in 18 U.S.C., Section 1151;

18 ~~38.~~ 39. "Indian tribe", "tribes", or "federally recognized
19 Indian tribe or nation" means an Indian tribal entity which is
20 recognized by the United States Bureau of Indian Affairs as having a
21 special relationship with the United States. The term shall also
22 include the definition of a tribe as defined in 25 U.S.C., Section
23 479a;

1 ~~39.~~ 40. "Invoiced gallons" means the gallons actually billed on
2 an invoice in payment to a supplier;

3 ~~40.~~ 41. "K-1 kerosene" means a petroleum product having an
4 A.P.I. gravity of not less than forty degrees (40°), at a
5 temperature of sixty degrees (60°) Fahrenheit and a minimum flash
6 point of one hundred degrees (100°) Fahrenheit with a sulphur
7 content not exceeding five one-hundredths percent (0.05%) by weight;

8 ~~41.~~ 42. "Liquid" means any substance that is liquid in excess
9 of sixty degrees (60°) Fahrenheit and a pressure of fourteen and
10 seven-tenths (14.7) pounds per square inch absolute;

11 ~~42.~~ 43. "Motor fuel" means gasoline, diesel fuel and blended
12 fuel;

13 ~~43.~~ 44. "Motor fuel transporter" means a person who transports
14 motor fuel outside the bulk terminal/transfer system by transport
15 truck or railroad tank car;

16 ~~44.~~ 45. "Motor vehicle" means every automobile, truck, truck-
17 tractor or any motor bus or self-propelled vehicle not operated or
18 driven upon fixed rails or tracks. The term does not include:

- 19 a. farm tractors or machinery including tractors and
20 machinery designed for off-road use but capable of
21 movement on roads at low speeds,
22 b. a vehicle operated on rails, or
23 c. machinery designed principally for off-road use;

24

1 ~~45.~~ 46. "Net gallons" means the motor fuel, measured in U.S.
2 gallons, when corrected to a temperature of sixty degrees (60°)
3 Fahrenheit (13° Celsius) and a pressure of fourteen and seven-tenths
4 (14.7) pounds per square inch (psi);

5 ~~46.~~ 47. "Permissive supplier" means an out-of-state supplier
6 that elects, but is not required, to have a supplier's license
7 pursuant to Section 500.1 et seq. of this title;

8 ~~47.~~ 48. "Person" means natural persons, individuals,
9 partnerships, firms, associations, corporations, estates, trustees,
10 business trusts, syndicates, this state, any county, city,
11 municipality, school district or other political subdivision of the
12 state, federally recognized Indian tribe, or any corporation or
13 combination acting as a unit or any receiver appointed by any state
14 or federal court;

15 ~~48.~~ 49. "Position holder" means the person who holds the
16 inventory position in motor fuel in a terminal, as reflected on the
17 records of the terminal operator. A person holds the inventory
18 position in motor fuel when that person has a contract with the
19 terminal operator for the use of storage facilities and terminaling
20 services for fuel at the terminal. The term includes a terminal
21 operator who owns fuel in the terminal;

22 ~~49.~~ 50. "Public highway" means every road, toll road, highway,
23 street, way or place generally open to the use of the public as a
24 matter of right for the purposes of vehicular travel, including

1 streets and alleys of any town or city notwithstanding that the same
2 may be temporarily closed for construction, reconstruction,
3 maintenance or repair;

4 ~~50.~~ 51. "Qualified terminal" means a terminal designated as a
5 qualified terminal pursuant to the Internal Revenue Code, regulation
6 and practices and which has been assigned a terminal control number
7 ("tcn") by the Internal Revenue Service;

8 ~~51.~~ 52. "Rack" means a mechanism for delivering motor fuel from
9 a refinery, a terminal, or a bulk plant into a railroad tank car, a
10 transport truck or other means of bulk transfer outside of the bulk
11 transfer/terminal system;

12 ~~52.~~ 53. "Refiner" means any person that owns, operates, or
13 otherwise controls a refinery within the United States;

14 ~~53.~~ 54. "Refinery" means a facility used to produce motor fuel
15 from crude oil, unfinished oils, natural gas liquids, or other
16 hydrocarbons and from which motor fuel may be removed by pipeline,
17 by vessel, or at a rack;

18 ~~54.~~ 55. "Removal" means any physical transfer other than by
19 evaporation, loss, or destruction of motor fuel from a terminal,
20 manufacturing plant, customs custody, pipeline, marine vessel such
21 as a barge or tanker, refinery or any receptacle that stores motor
22 fuel;

23 ~~55.~~ 56. "Retailer" means a person that engages in the business
24 of selling or distributing to the consumer within this state;

1 ~~56.~~ 57. "Supplier" means a person that is:

- 2 a. registered pursuant to Section 4101 of the Internal
3 Revenue Code for transactions in motor fuels in the
4 bulk transfer/terminal distribution system, and
5 b. one of the following:

- 6 (1) the position holder in a terminal or refinery in
7 this state,
8 (2) imports motor fuel into this state from a foreign
9 country,
10 (3) acquires motor fuel from a terminal or refinery
11 in this state from a position holder pursuant to
12 a two-party exchange, or
13 (4) the position holder in a terminal or refinery
14 outside this state with respect to motor fuel
15 which that person imports into this state on the
16 account of that person.

17 A terminal operator shall not be considered a supplier based solely
18 on the fact that the terminal operator handles motor fuel consigned
19 to it within a terminal. "Supplier" also means a person that
20 produces alcohol or alcohol derivative substances in this state,
21 produces alcohol or alcohol derivative substances for import to this
22 state into a terminal, or acquires upon import by truck, railcar or
23 barge into a terminal or refinery, alcohol or alcohol derivative
24

1 substances. "Supplier" includes a permissive supplier unless
2 specifically provided otherwise;

3 ~~57.~~ 58. "Tank wagon" means a straight truck having multiple
4 compartments designed or used to carry motor fuel;

5 ~~58.~~ 59. "Terminal" means a storage and distribution facility
6 for motor fuel, supplied by pipeline or marine vessel which is
7 registered as a qualified terminal by the Internal Revenue Service
8 and from which motor fuel may be removed at a rack;

9 ~~59.~~ 60. "Terminal bulk transfers" include but are not limited
10 to the following:

11 a. a marine barge movement of fuel from a refinery or
12 terminal to a terminal,

13 b. pipeline movements of fuel from a refinery or terminal
14 to a terminal,

15 c. book transfers of product within a terminal between
16 suppliers prior to completion of removal across the
17 rack, and

18 d. two-party exchanges between licensed suppliers;

19 ~~60.~~ 61. "Terminal operator" means any person that owns,
20 operates, or otherwise controls a terminal, and does not use a
21 substantial portion of the motor fuel that is transferred through or
22 stored in the terminal for its own use or consumption or in the
23 manufacture of products other than motor fuel. A terminal operator
24

1 may own the motor fuel that is transferred through or stored in the
2 terminal;

3 ~~61.~~ 62. "Throughputter" means any person that:

- 4 a. receives transfer of motor fuel from refiners,
5 importers, terminal operators, or other
6 throughputters,
- 7 b. stores the motor fuel in a terminal, and
- 8 c. owns the motor fuel or holds the inventory position to
9 the motor fuel, as reflected on the records of the
10 terminal operator, at the time of removal or sale from
11 a terminal;

12 ~~62.~~ 63. "Transmix" means the buffer or interface between two
13 different products in a pipeline shipment, or a mix of two different
14 products within a refinery or terminal that results in an off-grade
15 mixture;

16 ~~63.~~ 64. "Transport truck" means a semitrailer combination rig
17 designed or used for the purpose of transporting motor fuel over the
18 highways;

19 ~~64.~~ 65. "Transporter" means any operator of a pipeline, barge,
20 railroad or transport truck engaged in the business of transporting
21 motor fuels;

22 ~~65.~~ 66. "Two-party exchange" means a transaction in which the
23 motor fuel is transferred from one licensed supplier or licensed
24

1 permissive supplier to another licensed supplier or licensed
2 permissive supplier and:

3 a. which transaction includes a transfer from the person
4 that holds the original inventory position for motor
5 fuel in the terminal as reflected on the records of
6 the terminal operator, and

7 b. the exchange transaction is simultaneous with removal
8 from the terminal by the receiving exchange partner.

9 However, in any event, the terminal operator in the books and
10 records of such terminal operator treats the receiving exchange
11 party as the supplier which removes the product across a terminal
12 rack for purposes of reporting such events to this state;

13 ~~66.~~ 67. "Ultimate vendor" means a person that sells motor fuel
14 to the consumer;

15 ~~67.~~ 68. "Undyed diesel fuel" means diesel fuel that is not
16 subject to the United States Environmental Protection Agency dyeing
17 requirements, or has not been dyed in accordance with Internal
18 Revenue Service fuel dyeing provisions;

19 ~~68.~~ 69. "Vehicle fuel tank" means any receptacle on a motor
20 vehicle from which fuel is supplied for the propulsion of the motor
21 vehicle; and

22 ~~69.~~ 70. "Wholesaler" means a person that acquires motor fuel
23 from a supplier or from another wholesaler for subsequent sale and
24 distribution at wholesale.

1 SECTION 2. AMENDATORY 68 O.S. 2001, Section 500.4, is
2 amended to read as follows:

3 Section 500.4 A. A tax is imposed on all gasoline and all
4 diesel fuel used or consumed in this state as follows:

- 5 1. Gasoline, sixteen cents (\$0.16) per gallon; ~~and~~
- 6 2. Compressed natural gas, five cents (\$0.05) per gasoline
7 gallon equivalents (gge); and
- 8 3. Diesel fuel, thirteen cents (\$0.13) per gallon.

9 B. A tax is imposed on all gasoline, diesel fuel and kerosene
10 used or consumed in this state for use as fuel to generate power in
11 aircraft engines or for training, testing or research on aircraft
12 engines in the amount of eight one-hundredths of one cent (\$0.0008)
13 per gallon. All gasoline, diesel fuel and kerosene sold for use
14 under this subsection shall not be subject to the excise tax levied
15 in subsection A of this section.

16 C. Notwithstanding any exemption provided in Section 500.1 et
17 seq. of this title, all gasoline used or consumed in this state for
18 use as fuel for farm tractors or stationary engines and used
19 exclusively for agricultural purposes shall be subject to a tax in
20 the amount of two and eight one-hundredths cents (\$0.0208) per
21 gallon. All gasoline sold for use pursuant to this subsection shall
22 not be subject to the excise tax levied in subsection A of this
23 section. The term "farm tractor", as used herein, shall include all
24 tractor-type, motorized farm implements and equipment but shall not

1 include motor vehicles of the truck-type, pickup truck-type,
2 automobiles and other motor vehicles required to be registered and
3 licensed each year under the Oklahoma Vehicle License and
4 Registration Act.

5 D. It is the intent of this section to amend, revise,
6 incorporate and recodify the tax imposed on motor fuel and that the
7 tax shall be conclusively presumed to be a direct tax and shall be a
8 direct tax on the retail or ultimate consumer precollected for the
9 purpose of convenience and facility to the consumer. The levy and
10 assessment on other persons as specified in this act shall be as
11 agents of the state for the precollection of the tax. The
12 provisions of this section shall in no way affect the method of
13 collecting the tax as provided in this act. The tax imposed by this
14 section shall be collected and paid at those times, in the manner,
15 and by those persons specified in this act.

16 SECTION 3. AMENDATORY 68 O.S. 2001, Section 500.6, as
17 last amended by Section 1, Chapter 256, O.S.L. 2010 (68 O.S. Supp.
18 2010, Section 500.6), is amended to read as follows:

19 Section 500.6 A. The tax of sixteen cents (\$0.16) per gallon
20 of gasoline that is levied by paragraph 1 of subsection A of Section
21 500.4 of this title, the tax of five cents (\$0.05) per gasoline
22 gallon equivalents for compressed natural gas levied by paragraph 2
23 of subsection A of Section 500.4 of this title, and the tax of two
24 and eight one-hundredths cents (\$0.0208) per gallon of gasoline that

1 is levied by subsection C of Section 500.4 of this title, and
2 penalties and interest thereon, collected by the Oklahoma Tax
3 Commission under the levy shall be apportioned and distributed
4 monthly as follows:

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

8 2. One and six hundred twenty-five one-thousandths percent
9 (1.625%) of the levy shall be remitted to the State Treasurer to the
10 credit of the High Priority State Bridge Revolving Fund as created
11 in Section 506 of Title 69 of the Oklahoma Statutes;

12 3. Sixty-three and seventy-five one-hundredths percent (63.75%)
13 of the levy shall be deposited in the State Treasury to the credit
14 of the State Transportation Fund to be apportioned as follows:

15 a. the first Eight Hundred Fifty Thousand Dollars
16 (\$850,000.00) collected each fiscal year shall be
17 transferred to the Public Transit Revolving Fund,
18 created in Section 4031 of Title 69 of the Oklahoma
19 Statutes, and

20 b. the second Eight Hundred Fifty Thousand Dollars
21 (\$850,000.00) collected each fiscal year shall be
22 transferred to the Oklahoma Tourism and Passenger Rail
23 Revolving Fund and shall be used by the Department of
24 Transportation:

1 (1) to contract railroad passenger services,
2 including but not limited to a route linking
3 stations in Oklahoma and Tulsa Counties with
4 other primary points in the national railroad
5 passenger system and passenger rail service
6 within the state, and a route beginning at a
7 station in Oklahoma County and extending north to
8 the Kansas state line in Kay County, and

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

11 c. forty-one and two-tenths percent (41.2%) of the monies
12 apportioned to the State Transportation Fund shall be
13 used for any purpose provided for in Section 1502 of
14 Title 69 of the Oklahoma Statutes,

15 d. nine and eight-tenths percent (9.8%) of the monies
16 apportioned to the State Transportation Fund shall be
17 used to provide funds for the construction and
18 maintenance of farm-to-market roads on the state
19 highway system, and other rural farm-to-market roads
20 and bridges, and

21 e. any remaining amount of the apportionment shall be
22 deposited into the State Transportation Fund;
23
24

1 4. Twenty-seven percent (27%) of the levy shall be transmitted
2 by the Tax Commission to the various counties of the state, to be
3 apportioned and used as follows:

4 a. sixty-five and three-tenths percent (65.3%) of the
5 monies apportioned under this paragraph shall be used
6 on the following basis:

7 (1) forty percent (40%) of such sum shall be
8 distributed to the various counties in the
9 proportion which the county road mileage of each
10 county bears to the entire state road mileage as
11 certified by the Transportation Commission, and

12 (2) the remaining sixty percent (60%) of such sum
13 shall be distributed to the various counties on
14 the basis which the population and area of each
15 county bears to the total population and area of
16 the state. The population shall be as shown by
17 the last Federal Decennial Census or the most
18 recent annual estimate provided by the U.S.

19 Bureau of the Census,

20 b. twenty-three and one-tenth percent (23.1%) of the
21 monies apportioned under this paragraph shall be
22 distributed to the counties in the following manner:
23 One-third (1/3) on area; one-third (1/3) on rural
24 population, defined as including the population of all

1 municipalities with a population of less than five
2 thousand (5,000) according to the latest Federal
3 Decennial Census; and one-third (1/3) on county road
4 mileage, as last certified by the Department of
5 Transportation, as each county bears to the entire
6 area, rural population and road mileage of the state,
7 and

8 c. eleven and six-tenths percent (11.6%) of the monies
9 apportioned under this paragraph shall be distributed
10 to the various counties of the state based on a
11 formula developed by the Department of Transportation
12 and approved by the Department of Transportation
13 County Advisory Board created pursuant to Section
14 302.1 of Title 69 of the Oklahoma Statutes. The
15 formula shall be similar to the formula currently used
16 for the distribution of monies in the County Bridge
17 Program funds, but shall also take into consideration
18 the effect of the terrain and traffic volume as
19 related to county road improvement and maintenance
20 costs;

21 5. Three and one hundred twenty-five one-thousandths percent
22 (3.125%) of the levy shall be distributed to the various counties of
23 the state based on a formula developed by the Department of
24 Transportation and approved by the Department of Transportation

1 County Advisory Board created pursuant to Section 302.1 of Title 69
2 of the Oklahoma Statutes. The formula shall be similar to the
3 formula currently used for the distribution of monies in the County
4 Bridge Program funds, but shall also take into consideration the
5 effect of the terrain and traffic volume as related to county road
6 improvement and maintenance costs;

7 6. Two and two hundred ninety-seven one-thousandths percent
8 (2.297%) of the levy shall be distributed to the various counties of
9 the state for deposit into the County Bridge and Road Improvement
10 Fund of each county based on a formula developed by the Department
11 of Transportation and approved by the Department of Transportation
12 County Advisory Board created pursuant to Section 302.1 of Title 69
13 of the Oklahoma Statutes to be used for the purposes set forth in
14 the County Bridge and Road Improvement Act. The formula shall be
15 similar to the formula currently used for the distribution of monies
16 in the County Bridge Program funds, but shall also take into
17 consideration the effect of the terrain and traffic volume as
18 related to county road improvement and maintenance costs;

19 7. One and eight hundred seventy-five one-thousandths percent
20 (1.875%) of the levy shall be transmitted by the Tax Commission to
21 the treasurers of the various incorporated cities and towns of the
22 state in the percentage which the population, as shown by the last
23 Federal Decennial Census or the most recent annual estimate provided
24 by the U.S. Bureau of the Census, bears to the total population of

1 all the incorporated cities and towns in this state. The funds
2 shall be expended for the construction, repair and maintenance of
3 the streets and alleys of the incorporated cities and towns of this
4 state; and

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

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

17 2. The funds received by any county shall not be diverted to
18 any other county of the state, and shall only be expended under the
19 direction and control of the board of county commissioners in the
20 county to which the funds are appropriated. If any part of the
21 funds is diverted for any other purpose, the county commissioners
22 shall be liable on their bond for double the amount of the money so
23 diverted. This paragraph shall not prohibit counties from entering
24

1 into cooperative agreements pertaining to the maintenance and
2 construction of roads and bridges.

3 3. Where any county highway has been laid out over a road
4 already constructed in any county by the use of money raised from
5 county bond issues for that purpose, either alone or by the use of
6 federal or state aid, or both, the county commissioners may set
7 aside out of the funds apportioned to that county, as provided in
8 this section, an amount of money equal to the value of any part
9 thereof, of the interest of such county in such highway or bridge,
10 which amount of money shall be considered by the excise board in
11 reducing the levy for the purpose of retiring the bonded
12 indebtedness and interest thereon of the county, and shall be used
13 for investment or deposit in the same manner as provided by law for
14 the disposition of other sinking fund money.

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

22 5. Counties may use funds deposited in the county highway fund
23 for the purpose of matching federal or state funds, provided such
24

1 funds are available, as necessary to secure assistance in the
2 construction or improvement of the county road system.

3 C. With regards to the apportionment of the levy as set forth
4 in paragraph 5 of subsection A of this section, paragraph 5 of
5 subsection A of Section 500.7 of this title, and subsection C of
6 Section 707.2 of this title:

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

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

17 3. If any county has an accrued balance of funds which were
18 appropriated to or otherwise accrued in the County Bridge and Road
19 Improvement Fund, ninety-nine percent (99%) of such funds shall be
20 remitted to the respective county treasurer for deposit in the
21 appropriate County Bridge and Road Improvement Fund to be used for
22 the purpose set forth in the County Bridge and Road Improvement Act.
23 The remaining one percent (1%) of such funds will be remitted to the
24 Statewide Circuit Engineering District Revolving Fund; and

1 4. If any county has an advanced funding agreement with the
2 Department of Transportation, the Department of Transportation shall
3 notify the Tax Commission as to the amount the county is obligated
4 to pay according to the terms of the advanced funding agreement.
5 The obligated amount shall be transferred each month by the Tax
6 Commission to the Department of Transportation to the credit of the
7 County Bridge and Road Improvement Fund from the funds apportioned
8 to the county pursuant to paragraph 5 of subsection A of this
9 section. A county may elect to increase the monthly amount to be
10 repaid pursuant to the advanced funding agreement from the funds
11 apportioned to the county, but a county shall not be permitted to
12 reduce the amount agreed to pursuant to the advanced funding
13 agreement.

14 D. The tax levied on gasoline pursuant to Section 500.4A of
15 this title, and the penalties and interest thereon, collected by the
16 Tax Commission under the levy shall be apportioned and distributed
17 on a monthly basis to the State Highway Construction and Maintenance
18 Fund for the purposes authorized by Section 1502 of Title 69 of the
19 Oklahoma Statutes.

20 SECTION 4. AMENDATORY 68 O.S. 2001, Section 701, is
21 amended to read as follows:

22 Section 701. The following words and phrases when used in this
23 act are hereby defined as follows:

24

1 (a) The term "motor vehicle" or "vehicle" means and includes
2 any automobile, truck, truck-tractor, bus, vehicle or mechanical
3 contrivance which is propelled by an internal combustion engine or
4 motor and not used in the air or upon fixed rails or tracks.

5 (b) The term "person" means and includes every natural person,
6 fiduciary, individual, partnership, firm, association, limited
7 liability company, corporation, business trust, or combination
8 acting as a unit, or any receiver appointed by any state or federal
9 court, and the use of the singular number shall include the plural.
10 Whenever used in any clause prescribing and imposing a fine or
11 imprisonment or both, the term "person" as applied to an association
12 means and includes the parties or members thereof, and as applied to
13 corporations, the officers thereof.

14 (c) "Commission" or "Tax Commission" means the Oklahoma Tax
15 Commission.

16 (d) The term "special fuel" or "fuel" means and includes all
17 combustible gases and liquids, including liquefied gases, which
18 exist in the gaseous state at a temperature of sixty (60) degrees
19 Fahrenheit and at a pressure of fourteen and seven-tenths (14.7)
20 pounds per square inch absolute, but the term does not include
21 compressed natural gas subject to the levy of tax pursuant to
22 Section 500.4 of this title.

23 (e) The term "use" shall mean and include the following: (1)
24 the delivery or placing of special fuel into the fuel supply tank or

1 tanks of any motor vehicle in this state for use in whole or in part
2 to propel such vehicle on the public highways of this state; (2) the
3 consumption on the public highways of Oklahoma of any special fuel
4 imported into this state in the fuel supply tank or tanks of any
5 motor vehicle using the public highways of this state for commercial
6 purposes; (3) the consumption of special fuel in any type of motor
7 vehicle on the public highways of this state for any purpose by any
8 person who refuses to divulge the source of such fuel.

9 (f) The term "public highway" means and includes every road,
10 highway, street, way or place within this state, of whatever nature,
11 generally open to the use of the public as a matter of right for the
12 purposes of vehicular travel, including a toll highway, and
13 including streets and alleys of any town or city, notwithstanding
14 that the same may be temporarily closed for the purpose of
15 construction, reconstruction, maintenance, or repair.

16 (g) The term "gallon" means one (1) United States standard
17 gallon at a temperature of sixty (60) degrees Fahrenheit.

18 (h) The term "special fuel dealer" shall mean any person
19 engaged in the business of handling special fuel who delivers any
20 part thereof into the fuel supply tank or tanks of any motor
21 vehicle.

22 (i) The term "special fuel user" shall mean and include any
23 person other than a special fuel dealer, who uses special fuel in
24 this state, within the meanings of the word "use" as defined in this

1 act, and shall include any person who consumes special fuel to
2 propel a motor vehicle upon the public highways of this state when
3 such special fuel has been purchased or obtained from any source
4 free from the payment to this state of the tax levied by this act.

5 SECTION 5. AMENDATORY 68 O.S. 2001, Section 723, is
6 amended to read as follows:

7 Section 723. A. In lieu of the special fuel tax imposed by
8 Sections 703, 705, 707.1, 707.2 and 707.3 of this title, there is
9 hereby levied a flat fee of Fifty Dollars (\$50.00) on each passenger
10 automobile, and on each pickup truck or van not exceeding one (1)
11 ton in capacity, using liquefied petroleum gas or natural gas as
12 fuel, except that no such fee shall be levied on any vehicle which
13 is the subject of an exemption pursuant to Section 708 of this
14 title. Provided that, should the passenger automobile, pickup truck
15 or van have been acquired or should the liquefied petroleum gas or
16 natural gas system be installed on or after July 1, the flat fee
17 shall be Twenty-five Dollars (\$25.00) for the remainder of the
18 calendar year, except as hereinafter provided.

19 B. Beginning January 1, 1991, in lieu of the special fuel tax
20 imposed by Sections 703, 705, 707.1, 707.2 and 707.3 of this title,
21 there is hereby levied a flat fee of One Hundred Dollars (\$100.00)
22 on each passenger automobile, and on each pickup truck or van not
23 exceeding one (1) ton in capacity, using ~~compressed natural gas,~~
24 liquefied natural gas, methanol or "M-85" which is a mixture of

1 methanol and gasoline containing at least eighty-five percent (85%)
2 methanol as fuel, except that no such fee shall be levied on any
3 vehicle which is the subject of an exemption pursuant to Section 708
4 of this title. Provided that, should the passenger automobile,
5 pickup truck or van have been acquired or should the ~~compressed~~
6 ~~natural gas~~, liquefied natural gas, methanol or "M-85" system be
7 installed on or after July 1, the flat fee shall be Fifty Dollars
8 (\$50.00) for the remainder of the calendar year, except as
9 hereinafter provided.

10 C. ~~Beginning January 1, 1993, in~~ In lieu of the special fuel
11 tax imposed by Sections 703, 705, 707.1, 707.2 and 707.3 of this
12 title, there is hereby levied a flat fee of One Hundred Fifty
13 Dollars (\$150.00) on each vehicle exceeding one (1) ton in capacity,
14 using liquefied petroleum gas, ~~compressed natural gas~~, liquefied
15 natural gas, methanol or "M-85" as fuel, except that no such fee
16 shall be levied on any vehicle which is the subject of an exemption
17 pursuant to Section 708 of this title. Provided that, should the
18 vehicle be acquired or should the ~~compressed natural gas~~, liquefied
19 natural gas, methanol or "M-85" system be installed on or after July
20 1, the flat fee shall be Seventy-five Dollars (\$75.00) for the
21 remainder of the calendar year, except as hereinafter provided.

22 D. Every person operating a vehicle using liquefied petroleum
23 gas, liquefied natural gas, ~~compressed natural gas~~, methanol or "M-
24 85" as fuel shall make application for and obtain a decal to be

1 issued on a yearly basis by the Oklahoma Tax Commission on forms
2 prescribed and furnished by the Tax Commission.

3 E. Every person required to make application for and receive a
4 decal under this section shall, at the time of making said
5 application, remit to the Tax Commission the total amount of the fee
6 due.

7 F. Each decal issued by the Tax Commission pursuant to the
8 provisions of this section, shall expire on December 31 of every
9 year, and in addition thereto said decals shall be displayed in the
10 lower right hand corner of the front windshield of said vehicle.
11 Upon receipt of satisfactory proof by the Tax Commission that it has
12 become necessary to replace the windshield of the vehicle for which
13 the decal was issued, another decal shall be issued by the Tax
14 Commission as a replacement for a fee of One Dollar (\$1.00).

15 G. When any vehicle using liquefied petroleum gas, liquefied
16 natural gas, ~~compressed natural gas~~, methanol or "M-85" as fuel and
17 displaying a current decal as provided in this section is sold, such
18 decal shall remain with the vehicle sold, unless the equipment
19 installed to enable the vehicle to use liquefied petroleum gas,
20 liquefied natural gas, ~~compressed natural gas~~, methanol or "M-85"
21 has been removed from the vehicle before the sale.

22 H. When the aforementioned equipment has been removed before
23 the sale, the seller of the vehicle shall also remove the decal
24 required of vehicles using liquefied petroleum gas, liquefied

1 natural gas, ~~compressed natural gas~~, methanol or "M-85". The
2 removed decal, a receipt from the Oklahoma Tax Commission showing
3 that the fee required has been paid for the current year, and the
4 payment of a one-dollar fee for duplicate decal shall entitle the
5 seller to make application for and obtain a new decal to be used for
6 the remainder of the year on any vehicle using liquefied petroleum
7 gas, liquefied natural gas, ~~compressed natural gas~~, methanol or "M-
8 85" in accordance with the provisions of this section.

9 I. Provisions contained in Sections 701 through 721 of this
10 title shall not apply to any vehicle using liquefied petroleum gas,
11 liquefied natural gas, ~~compressed natural gas~~, methanol or "M-85".

12 J. All funds derived from the fee imposed by subsection A of
13 this section shall be deposited annually in the General Revenue Fund
14 of the State Treasury by the Tax Commission. When any person fails
15 to obtain a current decal within thirty (30) days of the date said
16 decal is required as provided in this section, there shall become
17 due and payable a penalty of twenty percent (20%) of the fee in
18 addition to the fee. Said penalty to be deposited in the same
19 manner as the fee pursuant to this subsection.

20 K. All funds derived from the fee imposed by subsections B and
21 C of this section shall be collected by the Oklahoma Tax Commission
22 and apportioned annually to the State Transportation Fund. When any
23 person fails to obtain a current decal within thirty (30) days of
24 the date such decal is required as provided in this section, there

1 shall become due and payable a penalty of twenty percent (20%) of
2 the fee in addition to the fee. Such penalty shall be deposited in
3 the same manner as the fee pursuant to this subsection.

4 SECTION 6. This act shall become effective July 1, 2011.

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

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