

1 STATE OF OKLAHOMA

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

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 1975

6 By: Morgan

7 SUBCOMMITTEE RECOMMENDATION

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,
25 Section 500.3), is amended to read as follows:

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

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

28 2. "Agricultural purposes" means clearing, terracing or
29 otherwise preparing the ground on a farm; preparing soil for

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

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

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

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

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

5 a. will be ultimately used for consumer nonmotor-fuel
6 use, and

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

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

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

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

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

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

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

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

17 13. "Tax Commission" or "Commission" means the Oklahoma Tax
18 Commission;

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

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

1 ~~15.~~ 16. "Dead storage" means the amount of motor fuel that will
2 not be pumped out of a storage tank because the motor fuel is below
3 the mouth of the draw pipe. For purposes of Section 500.1 et seq.
4 of this title, a dealer may assume that the amount of motor fuel in
5 dead storage is two hundred (200) gallons for a tank with a capacity
6 of less than ten thousand (10,000) gallons and four hundred (400)
7 gallons for a tank with a capacity of ten thousand (10,000) gallons
8 or more;

9 ~~16.~~ 17. "Delivery" means the placing of motor fuel or any
10 liquid into the fuel tank of a motor vehicle;

11 ~~17.~~ 18. "Destination state" means the state, territory, or
12 foreign country to which motor fuel is directed for delivery into a
13 storage facility, a receptacle, a container, or a type of
14 transportation equipment for the purpose of resale or use;

15 ~~18.~~ 19. "Diesel fuel" means any liquid, including but not
16 limited to, biodiesel, biodiesel blend or other diesel blended fuel,
17 that is commonly or commercially known or sold as a fuel that is
18 suitable for use in a diesel-powered highway vehicle. A liquid
19 meets this requirement if, without further processing or blending,
20 the liquid has practical and commercial fitness for use in the
21 propulsion engine of a diesel-powered highway vehicle. Except as
22 provided in subsection B of Section 500.4 of this title, "diesel
23 fuel" does not include jet fuel sold to a buyer who is registered
24

1 with and certified by the Internal Revenue Service to purchase jet
2 fuel subject to the Internal Revenue Service;

3 ~~19.~~ 20. "Diesel-powered highway vehicle" means a motor vehicle
4 operated on a highway that is propelled by a diesel-powered engine;

5 ~~20.~~ 21. "Distributor" means a person who acquires motor fuel
6 from a supplier or from another distributor for subsequent sale or
7 use;

8 ~~21.~~ 22. "Dyed diesel fuel" means diesel fuel that is required
9 to be dyed pursuant to United States Environmental Protection Agency
10 rules or is dyed pursuant to Internal Revenue Service rules or
11 pursuant to any other requirements subsequently set by the United
12 States Environmental Protection Agency or Internal Revenue Service
13 including any invisible marker requirements;

14 ~~22.~~ 23. "Eligible purchaser" means a person who has been
15 authorized by the Commission pursuant to Section 500.23 of this
16 title to make the election pursuant to Section 500.22 of this title;

17 ~~23.~~ 24. "Enterer" includes any person who is the importer of
18 record, pursuant to federal customs law, with respect to motor fuel.
19 If the importer of record is acting as an agent, the person for whom
20 the agent is acting is the enterer. If there is no importer of
21 record of motor fuel entered into this state, the owner of the motor
22 fuel at the time it is brought into this state is the enterer;

23 ~~24.~~ 25. "Entry" means the importing of motor fuel into this
24 state. Motor fuel brought into this state in the fuel tank of a

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

7 ~~25.~~ 26. "Export" means to obtain motor fuel in this state for
8 sale or other distribution in another state. In applying this
9 definition, motor fuel delivered out of state by or for the seller
10 constitutes an export by the seller and motor fuel delivered out of
11 state by or for the purchaser constitutes an export by the
12 purchaser;

13 ~~26.~~ 27. "Exporter" means any person, other than a supplier, who
14 purchases motor fuel in this state for the purpose of transporting
15 or delivering the fuel to another state or country;

16 ~~27.~~ 28. "Farm tractor" means all tractor-type, motorized farm
17 implements and equipment but shall not include motor vehicles of the
18 truck-type, pickup truck-type, automobiles, and other motor vehicles
19 required to be registered and licensed each year pursuant to the
20 provisions of the motor vehicle license and registration laws of
21 this state;

22 ~~28.~~ 29. "Fuel transportation vehicle" means any vehicle
23 designed for highway use which is also designed or used to transport
24 motor fuels and includes transport trucks and tank wagons;

1 ~~29.~~ 30. "Gasoline" means all products, including but not
2 limited to, gasoline blend stocks, commonly or commercially known or
3 sold as gasoline that are suitable for use as a motor fuel.
4 Gasoline does not include products that have an American Society for
5 Testing Materials ("A.S.T.M.") octane number of less than seventy-
6 five (75) as determined by the "motor method". Except as provided
7 in subsection B of Section 500.4 of this title, "gasoline" does not
8 include aviation gasoline provided that the buyer is registered to
9 purchase aviation gasoline free of tax and the seller obtains
10 certification of such fact satisfactory to the Commission prior to
11 making the sale;

12 ~~30.~~ 31. "Gasoline blend stocks" includes any petroleum product
13 component of gasoline, such as naphtha, reformate, or toluene, that
14 can be blended for use in a motor fuel. The term shall not include
15 any substance that will be ultimately used for consumer nonmotor-
16 fuel use and is sold or removed in drum quantities of 55 gallons or
17 less at the time of the removal or sale;

18 ~~31.~~ 32. "Gross gallons" means the total measured motor fuel,
19 exclusive of any temperature or pressure adjustments, in U.S.
20 gallons;

21 ~~32.~~ 33. "Heating oil" means a motor fuel that is burned in a
22 boiler, furnace, or stove for heating or industrial processing
23 purposes;

24

1 ~~33.~~ 34. "Highway vehicle" means a self-propelled vehicle that
2 is designed for use on a highway;

3 ~~34.~~ 35. "Import" means to bring motor fuel into this state by
4 any means of conveyance other than in the fuel supply tank of a
5 motor vehicle. In applying this definition, motor fuel delivered
6 into this state from out of state by or for the seller constitutes
7 an import by the seller, and motor fuel delivered into this state
8 from out of state by or for the purchaser constitutes an import by
9 the purchaser;

10 ~~35.~~ 36. "Import verification number" means the number assigned
11 by the Commission with respect to a single transport truck delivery
12 into this state from another state upon request for an assigned
13 number by an importer or the transporter carrying motor fuel into
14 this state for the account of an importer;

15 ~~36.~~ 37. "In this state" means the area within the border of
16 this state, including all land within the borders of this state
17 owned by the United States of America;

18 ~~37.~~ 38. "Indian country" means:

19 a. land held in trust by the United States of America for
20 the benefit of a federally recognized Indian tribe or
21 nation,

22 b. all land within the limits of any Indian reservation
23 under the jurisdiction of the United States
24 Government, notwithstanding the issuance of any

1 patent, and including rights-of-way running through
2 the reservation,

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

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

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

15 ~~38.~~ 39. "Indian tribe", "tribes", or "federally recognized
16 Indian tribe or nation" means an Indian tribal entity which is
17 recognized by the United States Bureau of Indian Affairs as having a
18 special relationship with the United States. The term shall also
19 include the definition of a tribe as defined in 25 U.S.C., Section
20 479a;

21 ~~39.~~ 40. "Invoiced gallons" means the gallons actually billed on
22 an invoice in payment to a supplier;

23 ~~40.~~ 41. "K-1 kerosene" means a petroleum product having an
24 A.P.I. gravity of not less than forty degrees (40°), at a

1 temperature of sixty degrees (60°) Fahrenheit and a minimum flash
2 point of one hundred degrees (100°) Fahrenheit with a sulphur
3 content not exceeding five one-hundredths percent (0.05%) by weight;

4 ~~41.~~ 42. "Liquid" means any substance that is liquid in excess
5 of sixty degrees (60°) Fahrenheit and a pressure of fourteen and
6 seven-tenths (14.7) pounds per square inch absolute;

7 ~~42.~~ 43. "Motor fuel" means gasoline, diesel fuel and blended
8 fuel;

9 ~~43.~~ 44. "Motor fuel transporter" means a person who transports
10 motor fuel outside the bulk terminal/transfer system by transport
11 truck or railroad tank car;

12 ~~44.~~ 45. "Motor vehicle" means every automobile, truck, truck-
13 tractor or any motor bus or self-propelled vehicle not operated or
14 driven upon fixed rails or tracks. The term does not include:

15 a. farm tractors or machinery including tractors and
16 machinery designed for off-road use but capable of
17 movement on roads at low speeds,

18 b. a vehicle operated on rails, or

19 c. machinery designed principally for off-road use;

20 ~~45.~~ 46. "Net gallons" means the motor fuel, measured in U.S.
21 gallons, when corrected to a temperature of sixty degrees (60°)
22 Fahrenheit (13° Celsius) and a pressure of fourteen and seven-tenths
23 (14.7) pounds per square inch (psi);

24

1 ~~46.~~ 47. "Permissive supplier" means an out-of-state supplier
2 that elects, but is not required, to have a supplier's license
3 pursuant to Section 500.1 et seq. of this title;

4 ~~47.~~ 48. "Person" means natural persons, individuals,
5 partnerships, firms, associations, corporations, estates, trustees,
6 business trusts, syndicates, this state, any county, city,
7 municipality, school district or other political subdivision of the
8 state, federally recognized Indian tribe, or any corporation or
9 combination acting as a unit or any receiver appointed by any state
10 or federal court;

11 ~~48.~~ 49. "Position holder" means the person who holds the
12 inventory position in motor fuel in a terminal, as reflected on the
13 records of the terminal operator. A person holds the inventory
14 position in motor fuel when that person has a contract with the
15 terminal operator for the use of storage facilities and terminaling
16 services for fuel at the terminal. The term includes a terminal
17 operator who owns fuel in the terminal;

18 ~~49.~~ 50. "Public highway" means every road, toll road, highway,
19 street, way or place generally open to the use of the public as a
20 matter of right for the purposes of vehicular travel, including
21 streets and alleys of any town or city notwithstanding that the same
22 may be temporarily closed for construction, reconstruction,
23 maintenance or repair;

1 ~~50.~~ 51. "Qualified terminal" means a terminal designated as a
2 qualified terminal pursuant to the Internal Revenue Code, regulation
3 and practices and which has been assigned a terminal control number
4 ("tcn") by the Internal Revenue Service;

5 ~~51.~~ 52. "Rack" means a mechanism for delivering motor fuel from
6 a refinery, a terminal, or a bulk plant into a railroad tank car, a
7 transport truck or other means of bulk transfer outside of the bulk
8 transfer/terminal system;

9 ~~52.~~ 53. "Refiner" means any person that owns, operates, or
10 otherwise controls a refinery within the United States;

11 ~~53.~~ 54. "Refinery" means a facility used to produce motor fuel
12 from crude oil, unfinished oils, natural gas liquids, or other
13 hydrocarbons and from which motor fuel may be removed by pipeline,
14 by vessel, or at a rack;

15 ~~54.~~ 55. "Removal" means any physical transfer other than by
16 evaporation, loss, or destruction of motor fuel from a terminal,
17 manufacturing plant, customs custody, pipeline, marine vessel such
18 as a barge or tanker, refinery or any receptacle that stores motor
19 fuel;

20 ~~55.~~ 56. "Retailer" means a person that engages in the business
21 of selling or distributing to the consumer within this state;

22 ~~56.~~ 57. "Supplier" means a person that is:
23
24

1 a. registered pursuant to Section 4101 of the Internal
2 Revenue Code for transactions in motor fuels in the
3 bulk transfer/terminal distribution system, and

4 b. one of the following:

5 (1) the position holder in a terminal or refinery in
6 this state,

7 (2) imports motor fuel into this state from a foreign
8 country,

9 (3) acquires motor fuel from a terminal or refinery
10 in this state from a position holder pursuant to
11 a two-party exchange, or

12 (4) the position holder in a terminal or refinery
13 outside this state with respect to motor fuel
14 which that person imports into this state on the
15 account of that person.

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

1 ~~57.~~ 58. "Tank wagon" means a straight truck having multiple
2 compartments designed or used to carry motor fuel;

3 ~~58.~~ 59. "Terminal" means a storage and distribution facility
4 for motor fuel, supplied by pipeline or marine vessel which is
5 registered as a qualified terminal by the Internal Revenue Service
6 and from which motor fuel may be removed at a rack;

7 ~~59.~~ 60. "Terminal bulk transfers" include but are not limited
8 to the following:

9 a. a marine barge movement of fuel from a refinery or
10 terminal to a terminal,

11 b. pipeline movements of fuel from a refinery or terminal
12 to a terminal,

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

16 d. two-party exchanges between licensed suppliers;

17 ~~60.~~ 61. "Terminal operator" means any person that owns,
18 operates, or otherwise controls a terminal, and does not use a
19 substantial portion of the motor fuel that is transferred through or
20 stored in the terminal for its own use or consumption or in the
21 manufacture of products other than motor fuel. A terminal operator
22 may own the motor fuel that is transferred through or stored in the
23 terminal;

24 ~~61.~~ 62. "Throughputter" means any person that:

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

9 ~~62.~~ 63. "Transmix" means the buffer or interface between two
10 different products in a pipeline shipment, or a mix of two different
11 products within a refinery or terminal that results in an off-grade
12 mixture;

13 ~~63.~~ 64. "Transport truck" means a semitrailer combination rig
14 designed or used for the purpose of transporting motor fuel over the
15 highways;

16 ~~64.~~ 65. "Transporter" means any operator of a pipeline, barge,
17 railroad or transport truck engaged in the business of transporting
18 motor fuels;

19 ~~65.~~ 66. "Two-party exchange" means a transaction in which the
20 motor fuel is transferred from one licensed supplier or licensed
21 permissive supplier to another licensed supplier or licensed
22 permissive supplier and:

- 23 a. which transaction includes a transfer from the person
24 that holds the original inventory position for motor

1 fuel in the terminal as reflected on the records of
2 the terminal operator, and

3 b. the exchange transaction is simultaneous with removal
4 from the terminal by the receiving exchange partner.

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

9 ~~66.~~ 67. "Ultimate vendor" means a person that sells motor fuel
10 to the consumer;

11 ~~67.~~ 68. "Undyed diesel fuel" means diesel fuel that is not
12 subject to the United States Environmental Protection Agency dyeing
13 requirements, or has not been dyed in accordance with Internal
14 Revenue Service fuel dyeing provisions;

15 ~~68.~~ 69. "Vehicle fuel tank" means any receptacle on a motor
16 vehicle from which fuel is supplied for the propulsion of the motor
17 vehicle; and

18 ~~69.~~ 70. "Wholesaler" means a person that acquires motor fuel
19 from a supplier or from another wholesaler for subsequent sale and
20 distribution at wholesale.

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

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

1 1. Gasoline, sixteen cents (\$0.16) per gallon; ~~and~~

2 2. Compressed natural gas, five cents (\$0.05) per gasoline
3 gallon equivalents (gge); and

4 3. Diesel fuel, thirteen cents (\$0.13) per gallon.

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

12 C. Notwithstanding any exemption provided in Section 500.1 et
13 seq. of this title, all gasoline used or consumed in this state for
14 use as fuel for farm tractors or stationary engines and used
15 exclusively for agricultural purposes shall be subject to a tax in
16 the amount of two and eight one-hundredths cents (\$0.0208) per
17 gallon. All gasoline sold for use pursuant to this subsection shall
18 not be subject to the excise tax levied in subsection A of this
19 section. The term "farm tractor", as used herein, shall include all
20 tractor-type, motorized farm implements and equipment but shall not
21 include motor vehicles of the truck-type, pickup truck-type,
22 automobiles and other motor vehicles required to be registered and
23 licensed each year under the Oklahoma Vehicle License and
24 Registration Act.

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

12 SECTION 3. AMENDATORY 68 O.S. 2001, Section 500.6, as
13 last amended by Section 1, Chapter 256, O.S.L. 2010 (68 O.S. Supp.
14 2010, Section 500.6), is amended to read as follows:

15 Section 500.6 A. The tax of sixteen cents (\$0.16) per gallon
16 of gasoline that is levied by paragraph 1 of subsection A of Section
17 500.4 of this title, the tax of five cents (\$0.05) per gasoline
18 gallon equivalents for compressed natural gas levied by paragraph 2
19 of subsection A of Section 500.4 of this title, and the tax of two
20 and eight one-hundredths cents (\$0.0208) per gallon of gasoline that
21 is levied by subsection C of Section 500.4 of this title, and
22 penalties and interest thereon, collected by the Oklahoma Tax
23 Commission under the levy shall be apportioned and distributed
24 monthly as follows:

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

4 2. One and six hundred twenty-five one-thousandths percent
5 (1.625%) of the levy shall be remitted to the State Treasurer to the
6 credit of the High Priority State Bridge Revolving Fund as created
7 in Section 506 of Title 69 of the Oklahoma Statutes;

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

11 a. the first Eight Hundred Fifty Thousand Dollars
12 (\$850,000.00) collected each fiscal year shall be
13 transferred to the Public Transit Revolving Fund,
14 created in Section 4031 of Title 69 of the Oklahoma
15 Statutes, and

16 b. the second Eight Hundred Fifty Thousand Dollars
17 (\$850,000.00) collected each fiscal year shall be
18 transferred to the Oklahoma Tourism and Passenger Rail
19 Revolving Fund and shall be used by the Department of
20 Transportation:

21 (1) to contract railroad passenger services,
22 including but not limited to a route linking
23 stations in Oklahoma and Tulsa Counties with
24 other primary points in the national railroad

1 passenger system and passenger rail service
2 within the state, and a route beginning at a
3 station in Oklahoma County and extending north to
4 the Kansas state line in Kay County, and

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

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

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

17 e. any remaining amount of the apportionment shall be
18 deposited into the State Transportation Fund;

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

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

1 (1) forty percent (40%) of such sum shall be
2 distributed to the various counties in the
3 proportion which the county road mileage of each
4 county bears to the entire state road mileage as
5 certified by the Transportation Commission, and
6 (2) the remaining sixty percent (60%) of such sum
7 shall be distributed to the various counties on
8 the basis which the population and area of each
9 county bears to the total population and area of
10 the state. The population shall be as shown by
11 the last Federal Decennial Census or the most
12 recent annual estimate provided by the U.S.
13 Bureau of the Census,

14 b. twenty-three and one-tenth percent (23.1%) of the
15 monies apportioned under this paragraph shall be
16 distributed to the counties in the following manner:
17 One-third (1/3) on area; one-third (1/3) on rural
18 population, defined as including the population of all
19 municipalities with a population of less than five
20 thousand (5,000) according to the latest Federal
21 Decennial Census; and one-third (1/3) on county road
22 mileage, as last certified by the Department of
23 Transportation, as each county bears to the entire
24

1 area, rural population and road mileage of the state,
2 and

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

16 5. Three and one hundred twenty-five one-thousandths percent
17 (3.125%) of the levy shall be distributed to the various counties of
18 the state based on a formula developed by the Department of
19 Transportation and approved by the Department of Transportation
20 County Advisory Board created pursuant to Section 302.1 of Title 69
21 of the Oklahoma Statutes. The formula shall be similar to the
22 formula currently used for the distribution of monies in the County
23 Bridge Program funds, but shall also take into consideration the
24

1 effect of the terrain and traffic volume as related to county road
2 improvement and maintenance costs;

3 6. Two and two hundred ninety-seven one-thousandths percent
4 (2.297%) of the levy shall be distributed to the various counties of
5 the state for deposit into the County Bridge and Road Improvement
6 Fund of each county based on a formula developed by the Department
7 of Transportation and approved by the Department of Transportation
8 County Advisory Board created pursuant to Section 302.1 of Title 69
9 of the Oklahoma Statutes to be used for the purposes set forth in
10 the County Bridge and Road Improvement Act. The formula shall be
11 similar to the formula currently used for the distribution of monies
12 in the County Bridge Program funds, but shall also take into
13 consideration the effect of the terrain and traffic volume as
14 related to county road improvement and maintenance costs;

15 7. One and eight hundred seventy-five one-thousandths percent
16 (1.875%) of the levy shall be transmitted by the Tax Commission to
17 the treasurers of the various incorporated cities and towns of the
18 state in the percentage which the population, as shown by the last
19 Federal Decennial Census or the most recent annual estimate provided
20 by the U.S. Bureau of the Census, bears to the total population of
21 all the incorporated cities and towns in this state. The funds
22 shall be expended for the construction, repair and maintenance of
23 the streets and alleys of the incorporated cities and towns of this
24 state; and

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

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

13 2. The funds received by any county shall not be diverted to
14 any other county of the state, and shall only be expended under the
15 direction and control of the board of county commissioners in the
16 county to which the funds are appropriated. If any part of the
17 funds is diverted for any other purpose, the county commissioners
18 shall be liable on their bond for double the amount of the money so
19 diverted. This paragraph shall not prohibit counties from entering
20 into cooperative agreements pertaining to the maintenance and
21 construction of roads and bridges.

22 3. Where any county highway has been laid out over a road
23 already constructed in any county by the use of money raised from
24 county bond issues for that purpose, either alone or by the use of

1 federal or state aid, or both, the county commissioners may set
2 aside out of the funds apportioned to that county, as provided in
3 this section, an amount of money equal to the value of any part
4 thereof, of the interest of such county in such highway or bridge,
5 which amount of money shall be considered by the excise board in
6 reducing the levy for the purpose of retiring the bonded
7 indebtedness and interest thereon of the county, and shall be used
8 for investment or deposit in the same manner as provided by law for
9 the disposition of other sinking fund money.

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

17 5. Counties may use funds deposited in the county highway fund
18 for the purpose of matching federal or state funds, provided such
19 funds are available, as necessary to secure assistance in the
20 construction or improvement of the county road system.

21 C. With regards to the apportionment of the levy as set forth
22 in paragraph 5 of subsection A of this section, paragraph 5 of
23 subsection A of Section 500.7 of this title, and subsection C of
24 Section 707.2 of this title:

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

5 2. If any county has an accrued balance of funds which were
6 appropriated to or otherwise accrued in the County Road Improvement
7 Fund, or the County Bridge Improvement Fund, such funds shall, by
8 resolution approved by a majority of the board of county
9 commissioners and filed with the Department of Transportation, be
10 deposited in the county highway fund of the county;

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

19 4. If any county has an advanced funding agreement with the
20 Department of Transportation, the Department of Transportation shall
21 notify the Tax Commission as to the amount the county is obligated
22 to pay according to the terms of the advanced funding agreement.
23 The obligated amount shall be transferred each month by the Tax
24 Commission to the Department of Transportation to the credit of the

1 County Bridge and Road Improvement Fund from the funds apportioned
2 to the county pursuant to paragraph 5 of subsection A of this
3 section. A county may elect to increase the monthly amount to be
4 repaid pursuant to the advanced funding agreement from the funds
5 apportioned to the county, but a county shall not be permitted to
6 reduce the amount agreed to pursuant to the advanced funding
7 agreement.

8 D. The tax levied on gasoline pursuant to Section 500.4A of
9 this title, and the penalties and interest thereon, collected by the
10 Tax Commission under the levy shall be apportioned and distributed
11 on a monthly basis to the State Highway Construction and Maintenance
12 Fund for the purposes authorized by Section 1502 of Title 69 of the
13 Oklahoma Statutes.

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

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

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

22 (b) The term "person" means and includes every natural person,
23 fiduciary, individual, partnership, firm, association, limited
24 liability company, corporation, business trust, or combination

1 acting as a unit, or any receiver appointed by any state or federal
2 court, and the use of the singular number shall include the plural.
3 Whenever used in any clause prescribing and imposing a fine or
4 imprisonment or both, the term "person" as applied to an association
5 means and includes the parties or members thereof, and as applied to
6 corporations, the officers thereof.

7 (c) "Commission" or "Tax Commission" means the Oklahoma Tax
8 Commission.

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

16 (e) The term "use" shall mean and include the following: (1)
17 the delivery or placing of special fuel into the fuel supply tank or
18 tanks of any motor vehicle in this state for use in whole or in part
19 to propel such vehicle on the public highways of this state; (2) the
20 consumption on the public highways of Oklahoma of any special fuel
21 imported into this state in the fuel supply tank or tanks of any
22 motor vehicle using the public highways of this state for commercial
23 purposes; (3) the consumption of special fuel in any type of motor
24

1 vehicle on the public highways of this state for any purpose by any
2 person who refuses to divulge the source of such fuel.

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

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

12 (h) The term "special fuel dealer" shall mean any person
13 engaged in the business of handling special fuel who delivers any
14 part thereof into the fuel supply tank or tanks of any motor
15 vehicle.

16 (i) The term "special fuel user" shall mean and include any
17 person other than a special fuel dealer, who uses special fuel in
18 this state, within the meanings of the word "use" as defined in this
19 act, and shall include any person who consumes special fuel to
20 propel a motor vehicle upon the public highways of this state when
21 such special fuel has been purchased or obtained from any source
22 free from the payment to this state of the tax levied by this act.

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

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

13 B. Beginning January 1, 1991, in lieu of the special fuel tax
14 imposed by Sections 703, 705, 707.1, 707.2 and 707.3 of this title,
15 there is hereby levied a flat fee of One Hundred Dollars (\$100.00)
16 on each passenger automobile, and on each pickup truck or van not
17 exceeding one (1) ton in capacity, using ~~compressed natural gas,~~
18 liquefied natural gas, methanol or "M-85" which is a mixture of
19 methanol and gasoline containing at least eighty-five percent (85%)
20 methanol as fuel, except that no such fee shall be levied on any
21 vehicle which is the subject of an exemption pursuant to Section 708
22 of this title. Provided that, should the passenger automobile,
23 pickup truck or van have been acquired or should the ~~compressed~~
24 ~~natural gas,~~ liquefied natural gas, methanol or "M-85" system be

1 installed on or after July 1, the flat fee shall be Fifty Dollars
2 (\$50.00) for the remainder of the calendar year, except as
3 hereinafter provided.

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

16 D. Every person operating a vehicle using liquefied petroleum
17 gas, liquefied natural gas, ~~compressed natural gas,~~ methanol or "M-
18 85" as fuel shall make application for and obtain a decal to be
19 issued on a yearly basis by the Oklahoma Tax Commission on forms
20 prescribed and furnished by the Tax Commission.

21 E. Every person required to make application for and receive a
22 decal under this section shall, at the time of making said
23 application, remit to the Tax Commission the total amount of the fee
24 due.

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

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

16 H. When the aforementioned equipment has been removed before
17 the sale, the seller of the vehicle shall also remove the decal
18 required of vehicles using liquefied petroleum gas, liquefied
19 natural gas, ~~compressed natural gas~~, methanol or "M-85". The
20 removed decal, a receipt from the Oklahoma Tax Commission showing
21 that the fee required has been paid for the current year, and the
22 payment of a one-dollar fee for duplicate decal shall entitle the
23 seller to make application for and obtain a new decal to be used for
24 the remainder of the year on any vehicle using liquefied petroleum

1 gas, liquefied natural gas, ~~compressed natural gas~~, methanol or "M-
2 85" in accordance with the provisions of this section.

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

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

14 K. All funds derived from the fee imposed by subsections B and
15 C of this section shall be collected by the Oklahoma Tax Commission
16 and apportioned annually to the State Transportation Fund. When any
17 person fails to obtain a current decal within thirty (30) days of
18 the date such decal is required as provided in this section, there
19 shall become due and payable a penalty of twenty percent (20%) of
20 the fee in addition to the fee. Such penalty shall be deposited in
21 the same manner as the fee pursuant to this subsection.

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

23 SECTION 7. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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