

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1422

By: Schulz of the Senate

and

McCall of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to motor fuel tax; amending 68 O.S.
12 2011, Sections 500.6, as amended by Section 4,
13 Chapter 375, O.S.L. 2013 and 500.7 (68 O.S. Supp.
14 2017, Section 500.6), which relate to apportionment
15 of tax; modifying apportionment; providing an
16 effective date; and declaring an emergency.

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

18 SECTION 1. AMENDATORY 68 O.S. 2011, Section 500.6, as
19 amended by Section 4, Chapter 375, O.S.L. 2013 (68 O.S. Supp. 2017,
20 Section 500.6), is amended to read as follows:

21 Section 500.6 A. The tax of sixteen cents (\$0.16) per gallon
22 of gasoline that is levied by paragraph 1 of subsection A of Section
23 500.4 of this title, the tax upon compressed natural gas levied by
24 paragraph 3 of subsection A of Section 500.4 of this title, the tax
 upon liquefied natural gas levied by paragraph 4 of subsection A of

1 Section 500.4 of this title and the tax of two and eight one-
2 hundredths cents (\$0.0208) per gallon of gasoline that is levied by
3 subsection C of Section 500.4 of this title, and penalties and
4 interest thereon, collected by the Oklahoma Tax Commission under the
5 levy shall be apportioned and distributed monthly as follows:

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

9 2. One and six hundred twenty-five one-thousandths percent
10 (1.625%) of the levy shall be remitted to the State Treasurer to the
11 credit of the High Priority State Bridge Revolving Fund as created
12 in Section 506 of Title 69 of the Oklahoma Statutes; provided, in no
13 event shall the revenue apportioned pursuant to this paragraph
14 exceed the three-year average of the total fiscal year amounts
15 apportioned in fiscal years 2015, 2016 and 2017. Any amount in
16 excess of the three-year average shall be placed to the credit of
17 the General Revenue Fund;

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

21 a. the first Eight Hundred Fifty Thousand Dollars
22 (\$850,000.00) collected each fiscal year shall be
23 transferred to the Public Transit Revolving Fund,
24

1 created in Section 4031 of Title 69 of the Oklahoma
2 Statutes, and

3 b. the second Eight Hundred Fifty Thousand Dollars
4 (\$850,000.00) collected each fiscal year shall be
5 transferred to the Oklahoma Tourism and Passenger Rail
6 Revolving Fund and shall be used by the Department of
7 Transportation:

8 (1) to contract railroad passenger services,
9 including but not limited to a route linking
10 stations in Oklahoma and Tulsa Counties with
11 other primary points in the national railroad
12 passenger system and passenger rail service
13 within the state, and a route beginning at a
14 station in Oklahoma County and extending north to
15 the Kansas state line in Kay County, and

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

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

22 d. nine and eight-tenths percent (9.8%) of the monies
23 apportioned to the State Transportation Fund shall be
24 used to provide funds for the construction and

1 maintenance of farm-to-market roads on the state
2 highway system, and other rural farm-to-market roads
3 and bridges, and

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

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

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

12 (1) forty percent (40%) of such sum shall be
13 distributed to the various counties in the
14 proportion which the county road mileage of each
15 county bears to the entire state road mileage as
16 certified by the Transportation Commission, and

17 (2) the remaining sixty percent (60%) of such sum
18 shall be distributed to the various counties on
19 the basis which the population and area of each
20 county bears to the total population and area of
21 the state. The population shall be as shown by
22 the last Federal Decennial Census or the most
23 recent annual estimate provided by the U.S.
24 Bureau of the Census,

- b. twenty-three and one-tenth percent (23.1%) of the monies apportioned under this paragraph shall be distributed to the counties in the following manner: One-third (1/3) on area; one-third (1/3) on rural population, defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census; and one-third (1/3) on county road mileage, as last certified by the Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state, and
- c. eleven and six-tenths percent (11.6%) of the monies apportioned under this paragraph shall be distributed to the various counties of the state based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as

1 related to county road improvement and maintenance
2 costs;

3 5. Three and one hundred twenty-five one-thousandths percent
4 (3.125%) of the levy shall be distributed to the various counties of
5 the state based on a formula developed by the Department of
6 Transportation and approved by the Department of Transportation
7 County Advisory Board created pursuant to Section 302.1 of Title 69
8 of the Oklahoma Statutes. The formula shall be similar to the
9 formula currently used for the distribution of monies in the County
10 Bridge Program funds, but shall also take into consideration the
11 effect of the terrain and traffic volume as related to county road
12 improvement and maintenance costs;

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

1 7. One and eight hundred seventy-five one-thousandths percent
2 (1.875%) of the levy shall be transmitted by the Tax Commission to
3 the treasurers of the various incorporated cities and towns of the
4 state in the percentage which the population, as shown by the last
5 Federal Decennial Census or the most recent annual estimate provided
6 by the U.S. Bureau of the Census, bears to the total population of
7 all the incorporated cities and towns in this state. The funds
8 shall be expended for the construction, repair and maintenance of
9 the streets and alleys of the incorporated cities and towns of this
10 state; and

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

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

23 2. The funds received by any county shall not be diverted to
24 any other county of the state, and shall only be expended under the

1 direction and control of the board of county commissioners in the
2 county to which the funds are appropriated. If any part of the
3 funds is diverted for any other purpose, the county commissioners
4 shall be liable on their bond for double the amount of the money so
5 diverted. This paragraph shall not prohibit counties from entering
6 into cooperative agreements pertaining to the maintenance and
7 construction of roads and bridges.

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

20 4. In all counties where the county excise board may find it
21 necessary, because of insufficient revenue, to maintain county
22 government out of the general fund, after a levy of ten (10) mills
23 has been made for any fiscal year, the county excise board may
24 appropriate out of any such funds apportioned to the county an

1 amount sufficient to pay the salaries of the county commissioners of
2 the county for the fiscal year.

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

7 C. With regards to the apportionment of the levy as set forth
8 in paragraph 5 of subsection A of this section, paragraph 5 of
9 subsection A of Section 500.7 of this title, and subsection C of
10 Section 707.2 of this title:

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

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

21 3. If any county has an accrued balance of funds which were
22 appropriated to or otherwise accrued in the County Bridge and Road
23 Improvement Fund, ninety-nine percent (99%) of such funds shall be
24 remitted to the respective county treasurer for deposit in the

1 appropriate County Bridge and Road Improvement Fund to be used for
2 the purpose set forth in the County Bridge and Road Improvement Act.
3 The remaining one percent (1%) of such funds will be remitted to the
4 Statewide Circuit Engineering District Revolving Fund; and

5 4. If any county has an advanced funding agreement with the
6 Department of Transportation, the Department of Transportation shall
7 notify the Tax Commission as to the amount the county is obligated
8 to pay according to the terms of the advanced funding agreement.

9 The obligated amount shall be transferred each month by the Tax
10 Commission to the Department of Transportation to the credit of the
11 County Bridge and Road Improvement Fund from the funds apportioned
12 to the county pursuant to paragraph 5 of subsection A of this
13 section. A county may elect to increase the monthly amount to be
14 repaid pursuant to the advanced funding agreement from the funds
15 apportioned to the county, but a county shall not be permitted to
16 reduce the amount agreed to pursuant to the advanced funding
17 agreement.

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

1 SECTION 2. AMENDATORY 68 O.S. 2011, Section 500.7, is
2 amended to read as follows:

3 Section 500.7. A. The tax of thirteen cents (\$0.13) per gallon
4 of diesel fuel that is levied by Section 500.4 of this title, and
5 all penalties and interest thereon, collected by the Oklahoma Tax
6 Commission under the levy shall be apportioned and distributed
7 monthly as follows:

8 1. The first Eighty-three Thousand Three Hundred Thirty-three
9 Dollars and thirty-three cents (\$83,333.33) of the levy collected
10 each month shall be deposited in the State Treasury to the credit of
11 the State Transportation Fund;

12 2. One and thirty-nine one-hundredths percent (1.39%) of the
13 levy shall be paid by the Commission to the State Treasurer to the
14 credit of the High Priority State Bridge Revolving Fund as created
15 in Section 506 of Title 69 of the Oklahoma Statutes; provided, in no
16 event shall the revenue apportioned pursuant to this paragraph
17 exceed the three-year average of the total fiscal year amounts
18 apportioned in fiscal years 2015, 2016 and 2017. Any amount in
19 excess of the three-year average shall be placed to the credit of
20 the General Revenue Fund;

21 3. Sixty-four and thirty-four one-hundredths percent (64.34%)
22 of the levy shall be deposited in the State Treasury to the credit
23 of the State Transportation Fund;

1 4. Twenty-six and fifty-eight one-hundredths percent (26.58%)
2 of the levy shall be transmitted by the Commission to various
3 counties of the state, to be apportioned as follows:

4 a. forty-two and one-tenth percent (42.1%) of the monies
5 apportioned under this paragraph shall be transmitted
6 to the various counties in the percentage which the
7 population and area of each county bears to the
8 population and area of the entire state. The
9 population shall be as shown by the last Federal
10 Decennial Census or the most recent annual estimate
11 provided by the U.S. Bureau of the Census,

12 b. fourteen and five-tenths percent (14.5%) of the monies
13 apportioned under this paragraph shall be distributed
14 as follows:

15 Forty percent (40%) of such sum shall be distributed
16 to the various counties in that proportion which the
17 county road mileage of each county bears to the entire
18 state road mileage as certified by the Transportation
19 Commission, and the remaining sixty percent (60%) of
20 such sum shall be distributed to the various counties
21 on the basis which the population and area of each
22 county bears to the total population and area of the
23 state. The population shall be as shown by the last
24

- 1 Federal Decennial Census or the most recent annual
2 estimate provided by the U.S. Bureau of the Census,
3 c. twenty-eight and nine-tenths percent (28.9%) of the
4 monies apportioned under this paragraph shall be
5 distributed to the several counties in the following
6 manner: one-third (1/3) on area, one-third (1/3) on
7 rural population (defined as including the population
8 of all municipalities with a population of less than
9 five thousand (5,000) according to the latest Federal
10 Decennial Census), and one-third (1/3) on county road
11 mileage, as last certified by the Department of
12 Transportation, as each county bears to the entire
13 area, rural population and road mileage of the state,
14 and
15 d. fourteen and five-tenths percent (14.5%) of the monies
16 apportioned under this paragraph shall be distributed
17 to the various counties of the state based on a
18 formula developed by the Department of Transportation
19 and approved by the Department of Transportation
20 County Advisory Board created pursuant to Section
21 302.1 of Title 69 of the Oklahoma Statutes. The
22 formula shall be similar to the formula currently used
23 for the distribution of the County Bridge Program
24 funds, but shall also take into consideration the

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

3 5. Three and eighty-five one-hundredths percent (3.85%) of the
4 levy shall be distributed based on a formula developed by the
5 Department of Transportation and approved by the Department of
6 Transportation County Advisory Board created pursuant to Section
7 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be
8 similar to the formula currently used for the distribution of the
9 County Bridge Program funds, but shall also take into consideration
10 the effect of the terrain and traffic volume as related to the
11 county road improvement and maintenance costs. The apportionment of
12 the levy as set forth in this paragraph shall be subject to the
13 provisions of subsection C of Section 500.6 of this title; and

14 6. Three and thirty-six one-hundredths percent (3.36%) of the
15 levy shall be distributed to the various counties of the state for
16 deposit into the County Bridge and Road Improvement Fund of each
17 county based on a formula developed by the Department of
18 Transportation and approved by the Department of Transportation
19 County Advisory Board created pursuant to Section 302.1 of Title 69
20 of the Oklahoma Statutes to be used for the purposes set forth in
21 the County Bridge and Road Improvement Act. The formula shall be
22 similar to the formula currently used for the distribution of monies
23 in the County Bridge Program funds, but shall also take into
24

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

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

7 B. The funds apportioned or transmitted pursuant to the
8 provisions of subparagraphs a, b, and c of paragraph 4 of subsection
9 A of this section shall be used in accordance with and subject to
10 the provisions of subsection B of Section 500.6 of this title.

11 C. The tax levied on diesel fuel pursuant to Section 500.4A of
12 this title, and all penalties and interest thereon, collected by the
13 Commission under the levy shall be apportioned and distributed on a
14 monthly basis to the State Highway Construction and Maintenance Fund
15 for the purposes authorized by Section 1502 of Title 69 of the
16 Oklahoma Statutes.

17 SECTION 3. This act shall become effective July 1, 2018.

18 SECTION 4. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

22
23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
24 03/27/2018 - DO PASS, As Amended.