

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1422

By: Schulz

6 AS INTRODUCED

7 An Act relating to motor fuel tax; amending 68 O.S.
8 2011, Sections 500.6, as amended by Section 4,
Chapter 375, O.S.L. 2013 and 500.7 (68 O.S. Supp.
9 2017, Section 500.6), which relate to apportionment
of tax; modifying apportionment; providing an
effective date; and declaring an emergency.

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

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

16 Section 500.6. A. The tax of sixteen cents (\$0.16) per gallon
17 of gasoline that is levied by paragraph 1 of subsection A of Section
18 500.4 of this title, the tax upon compressed natural gas levied by
19 paragraph 3 of subsection A of Section 500.4 of this title, the tax
20 upon liquefied natural gas levied by paragraph 4 of subsection A of
21 Section 500.4 of this title and the tax of two and eight one-
22 hundredths cents (\$0.0208) per gallon of gasoline that is levied by
23 subsection C of Section 500.4 of this title, and penalties and
24

1 interest thereon, collected by the Oklahoma Tax Commission under the
2 levy shall be apportioned and distributed monthly as follows:

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

6 2. One and six hundred twenty-five one-thousandths percent
7 (1.625%) of the levy shall be remitted to the State Treasurer to the
8 credit of the High Priority State Bridge Revolving Fund as created
9 in Section 506 of Title 69 of the Oklahoma Statutes; provided, in no
10 event shall the revenue apportioned pursuant to this section exceed
11 the 3-year average of the total fiscal year amounts apportioned in
12 fiscal years 2015, 2016 and 2017. Any amount in excess of the 3-
13 year average shall be placed to the credit of the General Revenue
14 Fund;

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

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

23 b. the second Eight Hundred Fifty Thousand Dollars
24 (\$850,000.00) collected each fiscal year shall be

1 transferred to the Oklahoma Tourism and Passenger Rail
2 Revolving Fund and shall be used by the Department of
3 Transportation:

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

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

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

18 d. nine and eight-tenths percent (9.8%) of the monies
19 apportioned to the State Transportation Fund shall be
20 used to provide funds for the construction and
21 maintenance of farm-to-market roads on the state
22 highway system, and other rural farm-to-market roads
23 and bridges, and
24

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

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

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

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

21 Bureau of the Census,

22 b. twenty-three and one-tenth percent (23.1%) of the
23 monies apportioned under this paragraph shall be
24 distributed to the counties in the following manner:

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

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

5. Three and one hundred twenty-five one-thousandths percent (3.125%) of the levy shall be distributed to the various counties of

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

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

21 7. One and eight hundred seventy-five one-thousandths percent
22 (1.875%) of the levy shall be transmitted by the Tax Commission to
23 the treasurers of the various incorporated cities and towns of the
24 state in the percentage which the population, as shown by the last

1 Federal Decennial Census or the most recent annual estimate provided
2 by the U.S. Bureau of the Census, bears to the total population of
3 all the incorporated cities and towns in this state. The funds
4 shall be expended for the construction, repair and maintenance of
5 the streets and alleys of the incorporated cities and towns of this
6 state; and

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

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

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

1 diverted. This paragraph shall not prohibit counties from entering
2 into cooperative agreements pertaining to the maintenance and
3 construction of roads and bridges.

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

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

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

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

22 Section 500.7. A. The tax of thirteen cents (\$0.13) per gallon
23 of diesel fuel that is levied by Section 500.4 of this title, and
24 all penalties and interest thereon, collected by the Oklahoma Tax

Commission under the levy shall be apportioned and distributed monthly as follows:

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

2. One and thirty-nine one-hundredths percent (1.39%) of the levy shall be paid by the Commission to the State Treasurer to the credit of the High Priority State Bridge Revolving Fund as created in Section 506 of Title 69 of the Oklahoma Statutes; provided, in no event shall the revenue apportioned pursuant to this section exceed the 3-year average of the total fiscal year amounts apportioned in fiscal years 2015, 2016 and 2017. Any amount in excess of the 3-year average shall be placed to the credit of the General Revenue Fund;

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

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

a. forty-two and one-tenth percent (42.1%) of the monies apportioned under this paragraph shall be transmitted to the various counties in the percentage which the

1 population and area of each county bears to the
2 population and area of the entire state. The
3 population shall be as shown by the last Federal
4 Decennial Census or the most recent annual estimate
5 provided by the U.S. Bureau of the Census,

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

9 Forty percent (40%) of such sum shall be distributed
10 to the various counties in that proportion which the
11 county road mileage of each county bears to the entire
12 state road mileage as certified by the Transportation
13 Commission, and the remaining sixty percent (60%) of
14 such sum shall be distributed to the various counties
15 on the basis which the population and area of each
16 county bears to the total population and area of the
17 state. The population shall be as shown by the last
18 Federal Decennial Census or the most recent annual
19 estimate provided by the U.S. Bureau of the Census,

20 c. twenty-eight and nine-tenths percent (28.9%) of the
21 monies apportioned under this paragraph shall be
22 distributed to the several counties in the following
23 manner: one-third (1/3) on area, one-third (1/3) on
24 rural population (defined as including the population

1 of all municipalities with a population of less than
2 five 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 d. fourteen and five-tenths percent (14.5%) 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 the County Bridge Program
17 funds, but shall also take into consideration the
18 effect of the terrain and traffic volume as related to
19 the county road improvement and maintenance costs;

20 5. Three and eighty-five one-hundredths percent (3.85%) of the
21 levy shall be distributed based on a formula developed by the
22 Department of Transportation and approved by the Department of
23 Transportation County Advisory Board created pursuant to Section
24 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be

1 similar to the formula currently used for the distribution of the
2 County Bridge Program funds, but shall also take into consideration
3 the effect of the terrain and traffic volume as related to the
4 county road improvement and maintenance costs. The apportionment of
5 the levy as set forth in this paragraph shall be subject to the
6 provisions of subsection C of Section 500.6 of this title; and

7 6. Three and thirty-six one-hundredths percent (3.36%) of the
8 levy shall be distributed to the various counties of the state for
9 deposit into the County Bridge and Road Improvement Fund of each
10 county based on a formula developed by the Department of
11 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; and

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

23 B. The funds apportioned or transmitted pursuant to the
24 provisions of subparagraphs a, b, and c of paragraph 4 of subsection

1 A of this section shall be used in accordance with and subject to
2 the provisions of subsection B of Section 500.6 of this title.

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

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

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

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