

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1239

By: Dahm

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5
6 AS INTRODUCED

7 An Act relating to transportation funding; amending
8 68 O.S. 2011, Section 500.6, as amended by Section 4,
9 Chapter 375, O.S.L. 2013 (68 O.S. Supp. 2017, Section
10 500.6), which relates to the apportionment of gasoline
11 and compressed natural gas tax; eliminating
12 apportionment to the Oklahoma Tourism and Passenger
13 Rail Revolving Fund; amending 69 O.S. 2011, Section
14 1521, as last amended by Section 93, Chapter 15,
15 O.S.L. 2013 (69 O.S. Supp. 2017, Section 1521), which
16 relates to the Rebuilding Oklahoma Access and Driver
17 Safety Fund; eliminating apportionment to the
18 Oklahoma Tourism and Passenger Rail Revolving Fund;
19 providing effective date, and declaring an emergency.

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

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

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

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

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

21 b. ~~the~~ for fiscal years ending on or before June 30,
22 2018, the second Eight Hundred Fifty Thousand Dollars
23 (\$850,000.00) collected each fiscal year shall be
24 transferred to the Oklahoma Tourism and Passenger Rail

1 Revolving Fund and shall be used by the Department of
2 Transportation:

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

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

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

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

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

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
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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
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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 69 O.S. 2011, Section 1521, as
21 last amended by Section 93, Chapter 15, O.S.L. 2013 (69 O.S. Supp.
22 2017, Section 1521), is amended to read as follows:

23 Section 1521. A. There is hereby created in the State Treasury
24 a fund to be known as the "Rebuilding Oklahoma Access and Driver

1 Safety Fund". The fund shall be a continuing fund, not subject to
2 fiscal year limitations, and shall consist of all appropriations and
3 transfers made by the Legislature. All monies accruing to the
4 credit of the fund are hereby appropriated and may be budgeted and
5 expended each fiscal year by the Department of Transportation for
6 the purposes authorized by subsection G of this section.
7 Expenditures from the fund shall be made upon warrants issued by the
8 State Treasurer against claims filed as prescribed by law with the
9 Director of the Office of Management and Enterprise Services for
10 approval and payment.

11 B. There shall be apportioned to the funds specified in this
12 subsection from the monies that would otherwise be apportioned to
13 the General Revenue Fund by Section 2352 of Title 68 of the Oklahoma
14 Statutes from the revenues derived pursuant to subsections A, B and
15 E of Section 2355 of Title 68 of the Oklahoma Statutes amounts as
16 follows:

17 1. For each fiscal year, subject to the provisions of paragraph
18 3 of this subsection, and, except for the amount prescribed by
19 subparagraph a of this paragraph, subject to any reductions required
20 by subsection F of this section, there shall be apportioned to the
21 Rebuilding Oklahoma Access and Driver Safety Fund:

22 a. for the fiscal year beginning July 1, 2011, the first
23 Thirty-five Million Seven Hundred Thousand Dollars
24 (\$35,700,000.00), for the fiscal year beginning July

1, 2012, the first Forty-one Million Seven Hundred
Thousand Dollars (\$41,700,000.00) and for the fiscal
year beginning July 1, 2013, and for each fiscal year
thereafter, Fifty-nine Million Seven Hundred Thousand
Dollars (\$59,700,000.00), which shall be allocated and
used by the Department of Transportation first for the
purpose of making any required payments for principal,
interest or other costs of borrowing with respect to
the obligations issued pursuant to Section 341 of
Title 73 of the Oklahoma Statutes and after any such
required payment has been made then for the purposes
otherwise authorized by this section, plus

b. the total amount apportioned to the Rebuilding
Oklahoma Access and Driver Safety Fund for the
preceding fiscal year which, except for the amount
prescribed by subparagraph a of this paragraph, shall
be apportioned before any other amount is apportioned
pursuant to Section 2352 of Title 68 of the Oklahoma
Statutes, plus

c. an additional incremental amount which shall not be in
excess of the amount prescribed by subparagraph a of
this paragraph and that is required in order for the
total apportionment for such fiscal year to equal Five

1 Hundred Seventy-five Million Dollars
2 (\$575,000,000.00) .

3 All amounts apportioned pursuant to this paragraph shall be
4 divided into twelve equal amounts to be apportioned each month
5 during the fiscal year except the amount specified in subparagraph a
6 of this paragraph which amount shall be allocated in its full amount
7 in cash not later than July 30 each year or such later date as may
8 be required in order for the amount to be allocated in cash;

9 2. For each fiscal year after the apportionments required by
10 paragraph 1 of this subsection have been made:

11 ~~a. the next Two Million Dollars (\$2,000,000.00) shall be~~
12 ~~apportioned to the Oklahoma Tourism and Passenger Rail~~
13 ~~Revolving Fund created pursuant to Section 325 of~~
14 ~~Title 66 of the Oklahoma Statutes to be used for~~
15 ~~capital and operating costs for the "Heartland Flyer"~~
16 ~~rail project, and~~

17 ~~b. the next Three Million Dollars (\$3,000,000.00) shall~~
18 ~~be apportioned to the Public Transit Revolving Fund~~
19 ~~created pursuant to Section 4031 of this title to be~~
20 ~~used for purposes authorized by law other than the~~
21 ~~purpose described by subparagraph a of this paragraph.~~

22 All amounts apportioned pursuant to this paragraph shall be
23 divided into twelve equal amounts to be apportioned each month
24 during the fiscal year; and

1 3. For each fiscal year after the first fiscal year in which
2 the total apportionment to the Rebuilding Oklahoma Access and Driver
3 Safety Fund as provided by paragraph 1 of this subsection equals
4 Five Hundred Seventy-five Million Dollars (\$575,000,000.00), the
5 first Five Hundred Seventy-five Million Dollars (\$575,000,000.00)
6 collected pursuant to subsections A, B and E of Section 2355 of
7 Title 68 of the Oklahoma Statutes and apportioned pursuant to
8 Section 2352 of Title 68 of the Oklahoma Statutes that would
9 otherwise be apportioned to the General Revenue Fund shall be
10 apportioned to the Rebuilding Oklahoma Access and Driver Safety
11 Fund. With the exception of the amount prescribed by subparagraph a
12 of paragraph 1 of this subsection, all amounts apportioned pursuant
13 to this paragraph shall be divided into twelve equal amounts to be
14 apportioned each month during the fiscal year.

15 C. The apportionments of revenues required by subparagraphs a,
16 b and c of paragraph 1 of subsection B of this section shall be made
17 until the total annual apportionment to the Rebuilding Oklahoma
18 Access and Driver Safety Fund equals Five Hundred Seventy-five
19 Million Dollars (\$575,000,000.00). After such annual apportionment
20 level is reached, the apportionment to the fund shall be governed by
21 the provisions of paragraph 3 of subsection B of this section.

22 D. The monies apportioned to the Rebuilding Oklahoma Access and
23 Driver Safety Fund shall not be used to supplant or replace existing
24 state funds used for transportation purposes.

1 E. In order to ensure that the funds from the ROADS Fund are
2 used to enhance and not supplant state funding for the Department of
3 Transportation, the State Board of Equalization shall examine and
4 investigate expenditures from the fund each year. For purposes of
5 this examination, monies used to retire outstanding debt obligations
6 for which the Department of Transportation is responsible shall be
7 excluded. At the meeting of the State Board of Equalization held
8 within five (5) days after the monthly apportionment in February of
9 each year, the State Board of Equalization shall issue a finding and
10 report which shall state whether expenditures from the ROADS Fund
11 were used to enhance or supplant state funding for the Department of
12 Transportation. If the State Board of Equalization finds that state
13 funding for the Department of Transportation was supplanted by funds
14 from the ROADS Fund, the Board shall specify the amount by which
15 such funding was supplanted. In this event, the Legislature shall
16 not make any appropriations for the ensuing fiscal year until an
17 appropriation in that amount is made to replenish state funding for
18 the Department of Transportation.

19 F. In the event that the Director of the Office of Management
20 and Enterprise Services declares a General Revenue Fund revenue
21 failure pursuant to Section 34.49 of Title 62 of the Oklahoma
22 Statutes, and agency allocations are reduced pursuant to the
23 provisions of Section 34.49 of Title 62 of the Oklahoma Statutes,
24

1 the amounts that would otherwise be apportioned to the ROADS Fund
2 by:

3 1. Subparagraph a of paragraph 1 of subsection B of this
4 section, only to the extent that the amount is not required for debt
5 service related to the obligations authorized pursuant to Section
6 341 of Title 73 of the Oklahoma Statutes;

7 2. Subparagraphs b and c of paragraph 1 of subsection B of this
8 section; and

9 3. ~~Subparagraphs a and b of paragraph~~ Paragraph 2 of subsection
10 B of this section,
11 shall be reduced by a percentage equal to that required of the
12 General Revenue Fund appropriations to state agencies and such
13 reductions shall occur during the entire fiscal year and for any
14 month during which such reductions are required by the Office of
15 Management and Enterprise Services and by the same percentage as
16 that required of the agencies for such General Revenue Fund
17 appropriations.

18 G. The Department of Transportation shall use the monies in the
19 Rebuilding Oklahoma Access and Driver Safety Fund for:

20 1. The construction and maintenance of state roads, bridges and
21 highways;

22 2. The direct expenses of operating and maintaining the state
23 highway system, including bridges;

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1 3. Direct expenses incurred in constructing, repairing, and
2 maintaining state highways, farm-to-market roads, county highways
3 and bridges as authorized by law;

4 4. Matching federal funds;

5 5. The purchase of materials, tools, machinery, motor vehicles,
6 and equipment necessary or convenient for the construction and
7 maintenance of the state highway system and bridges;

8 6. Debt service incurred prior to January 1, 2006, for Capital
9 Improvement Program bonds sold pursuant to Section 2001 of this
10 title; and

11 7. Debt service incurred on or after July 1, 2009, with respect
12 to obligations authorized to be issued pursuant to Section 341 of
13 Title 73 of the Oklahoma Statutes.

14 H. From the monies allocated pursuant to the provisions of
15 subparagraph a of paragraph 1 of subsection B of this section each
16 fiscal year, the Department of Transportation shall make payments
17 required for the payment of principal, interest and other costs
18 related to the obligations issued by the Oklahoma Capitol
19 Improvement Authority as authorized by Section 341 of Title 73 of
20 the Oklahoma Statutes and such payments shall be made by the
21 Department each fiscal year before such monies are used for any
22 other purpose.

23 SECTION 3. This act shall become effective July 1, 2018.
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1 SECTION 4. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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