

AN ACT relating to transportation financing.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

➔Section 1. KRS 138.220 is amended to read as follows:

- (1) (a) An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the nearest one-tenth of one cent (\$0.001) shall be paid on all gasoline and special fuel received in this state. The tax shall be paid on a per gallon basis.
  - (b) The average wholesale price shall be determined and adjusted as provided in KRS 138.210(10).
  - (c) For the purposes of the allocations in KRS 177.320(1) and (2) and 177.365, the amount calculated under this subsection shall be reduced by the amount calculated in subsection (3) of this section.
  - (d) Except as provided by KRS Chapter 138, no other excise or license tax shall be levied or assessed on gasoline or special fuel by the state or any political subdivision of the state.
  - (e) The tax ~~[herein]~~ imposed ***under this section*** shall be paid by the dealer receiving the gasoline or special fuel to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline or special fuel sold in this state.
  - (f) Nothing ***under this section*** ~~[herein contained]~~ shall authorize or require the collection of the tax upon any gasoline or special fuel after it has been once taxed under the provisions of this section, unless such tax was refunded or credited.
- (2) (a) In addition to the excise tax provided in subsection (1) of this section, there is hereby levied a supplemental highway user motor fuel tax  ~~***of*** to be paid in the same manner and at the same time as the tax provided in subsection (1) of this~~

section.

- ~~(b) The tax shall be calculated, starting with the quarter beginning July 1, 1986, by taking the excise tax resulting from the calculation provided for in subsection (1) of this section and adjusting the tax calculated, for each quarter, to reflect decreases in the average wholesale price, as defined in KRS 138.210(10). The adjustment shall be made by calculating the difference between the average wholesale price computed for the quarter beginning October 1, 1985, as provided for in subsection (4) of this section, and the average wholesale price computed for the quarter beginning July 1, 1986 and each succeeding quarter, as provided for in subsection (4) of this section.~~
- ~~(c) If there is a decrease in the average wholesale price computed for the quarter beginning October 1, 1985, and ending December 31, 1985, and the average wholesale price computed for the quarter beginning July 1, 1986, and each succeeding quarter, the excise tax shall be adjusted upward for that quarter. The upward adjustment shall equal one half (1/2) of the decrease between the two (2) quarterly periods, rounded to the third decimal.~~
- ~~(d) In no case shall the adjustment provided by this subsection result in a supplemental highway user motor fuel tax greater than] five cents (\$0.05) per gallon on gasoline or two cents (\$0.02) per gallon on special fuel[ and, notwithstanding any adjustment which may be calculated as provided by this subsection, in no case shall the supplemental highway user motor fuel tax for any quarter be less than the previous quarter].~~

~~(b)~~~~(e)~~ The supplemental highway user motor fuel tax provided by this subsection and the provisions of subsections (1) and (3) of this section shall constitute the tax on motor fuels imposed by KRS 138.220.

- (3) Effective July 1, 2005, one cent (\$0.01), and effective July 1, 2006, two and one-tenth cents (\$0.021), of the tax collected under subsection (1) of this section shall be

excluded from the calculations in KRS 177.320(1) and (2) and 177.365. The funds identified in this subsection shall be deposited into the state road fund.

- (4) ~~{Effective with the calendar quarter beginning July 1, 1980, }~~The department shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter.
- (5) Dealers with a tax-paid gasoline or special fuel inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. The department shall promulgate such rules and regulations to properly administer this provision.

➔Section 2. KRS 177.320 is amended to read as follows:

- (1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660(1) and (2) and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the Transportation Cabinet of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.360.
- (2) ~~{On or after July 1, 1980, }~~Eighteen and three-tenths percent (18.3%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660(1) and (2), and 234.320 shall be set aside for the construction, reconstruction and maintenance of county roads and bridges provided by KRS 179.410 and 179.415.
- (3) All funds set aside in subsection (2) of this section for the construction, reconstruction and maintenance of county roads and bridges shall be allocated to the county in accordance with the formula established in KRS 177.360(1) pursuant to

KRS 179.410.

- (4) ~~On or after July 1, 1986,~~ One-tenth of one percent (0.1%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660 and 234.320 shall be set aside for the purposes and functions of the Kentucky Transportation Center as established by KRS 177.375 to 177.380, except that the receipts provided to the center by this subsection shall not exceed one hundred ninety thousand dollars (\$190,000) for any fiscal year.

➔Section 3. KRS 177.365 is amended to read as follows:

- (1) ~~On and after July 1, 1980,~~ Seven and seven-tenths percent (7.7%) of all amounts received from the imposition of the taxes provided for in KRS 138.220(1) and (2), 138.660(1) and (2) and 234.320 shall be set aside by the Finance and Administration Cabinet for the construction, reconstruction and maintenance of urban roads and streets and for no other purpose.
- (2) As used in this section unless the context requires otherwise "construction," "reconstruction," and "maintenance" mean the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or maintenance of a road or street, including planning, locating, surveying, and mapping or preparing roadway plans, acquisition of rights-of-way, relocation of utilities, lighting and the elimination of other hazards such as roadway grade crossings, and all other items defined in the Department of Highways, design, operations, and construction manuals.
- (3) "Urban roads" mean all public ways lying within the limits of the unincorporated urban place as defined in KRS 81.015, and as described by the Bureau of Census tracts.
- (4) "Streets" mean all public ways which have been designated by the incorporated city as being city streets and said streets lying within the boundaries of an incorporated city.

→Section 4. KRS 175.505 is amended to read as follows:

There is hereby created a fund in the road fund of the Commonwealth of Kentucky entitled the debt payment acceleration fund. The fund shall consist of twenty percent (20%) of the revenues to the state road fund provided by the ~~tax~~[adjustments] in KRS 138.220(2) excluding the provisions of KRS 177.320 and 177.365. Annually the Transportation Cabinet shall use the funds generated to accelerate the payment of debt service including principal and interest, over and above the annual debt service payments appropriated for each fiscal year, for all bonds issued and any refinancings thereof by the Kentucky Turnpike Authority. The Transportation Cabinet shall notify the Interim Joint Committee on Appropriations and Revenue by January 1 of each fiscal year of the debt payments which are to or have been accelerated in the fiscal year. In the event that, due to bond market conditions, the terms of the bonds issued or other factors, the Transportation Cabinet is unable to accelerate debt service payments, the Transportation Cabinet shall provide documentation to the Interim Joint Committee on Appropriations and Revenue that such acceleration is not possible and the reasons therefor. In such an event, the funds not available for debt acceleration shall be placed in a special escrow account in the Transportation Cabinet. Such funds shall not be expended for any of the lawful purposes of the Transportation Cabinet but shall be held in the escrow account until such time as the debt acceleration described by this section is possible. The Transportation Cabinet shall invest the funds allocated to the escrow account and any funds generated from these investments shall remain in the escrow account. Any funds remaining in the escrow account at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year for use as provided in this section. In the event that all principal and interest outstanding on any bonds issued or any refinancing thereof by the turnpike authority has been paid, the Transportation Cabinet shall so report. In that event, any funds remaining in the escrow account shall remain in the fund until such time as the funds are appropriated by the General Assembly for any of the lawful purposes of the

Transportation Cabinet.