

AN ACT relating to the distribution of fuel tax revenues and declaring an emergency.

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

➔Section 1. KRS 177.320 is amended to read as follows:

(1) *Forty-eight and two-tenths percent (48.2%)*~~*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 *rural and* secondary ~~*and rural*~~ roads, *county roads, and city streets. These funds shall be divided between incorporated and unincorporated areas according to the following schedule:*

(a) One-third (1/3) shall be divided based on the proportion of population living in incorporated areas and unincorporated areas;

(b) One-third (1/3) shall be divided based on the proportion of revenue sharing road miles in incorporated areas and unincorporated areas; and

(c) One-third (1/3) shall be divided based on the proportion of land area in incorporated areas and unincorporated areas.

Determinations of population and land area under this section shall be according to the most recent decennial census of the United States Bureau of the Census.

(2) The portion of fuel taxes allocated to incorporated areas under subsection (1) of this section shall be allocated to cities in accordance with Sections 3, 4, and 5 of this Act.

(3) The portion of fuel taxes allocated to unincorporated areas under subsection (1) of this section shall be allocated to counties in accordance with Section 2 of this Act. The funds allocated to counties shall further be allocated in the following manner:

(a) Fifty-four and eight-tenths percent (54.8%) 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; and[-

~~(2) [(b) **Forty-five and two-tenths percent (45.2%)**]~~ 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.

~~(4) [(3)]~~ All funds set aside in subsection ~~(3)(b) [(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.

~~(5) [(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 2. KRS 177.360 is amended to read as follows:

(1) Except as provided in subsection (5) of this section, the Department of Rural and Municipal Aid shall allocate the funds set apart under subsection (3)(a) of Section 1 of this Act~~[KRS 177.320(1)]~~ for construction, reconstruction, and maintenance of state-maintained secondary and rural highways as follows:

(a) **One-third (1/3) shall be apportioned among the counties based on the ratio of population living in unincorporated areas in each county bears to the total population living in unincorporated areas statewide;**

(b) One-third (1/3) shall be apportioned among the counties based on the ratio of revenue sharing road mileage in unincorporated areas in each county bears to the total revenue sharing road mileage in unincorporated areas statewide; and

(c) One-third (1/3) shall be apportioned among the counties based on the ratio of land area in unincorporated areas in each county bears to the total land area in unincorporated areas statewide.

Determinations of population and land area under this section shall be according to~~One fifth (1/5) shall be apportioned equally among the one hundred twenty (120) counties.~~

~~(b) One fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the rural population of each county bears to the total rural population of the state. "Rural population" as used here means the population in a county outside cities, towns, and urban areas having a population of twenty five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census.~~

~~(c) One fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of twenty five hundred (2,500) or more bears to the total mileage of such roads for the entire state.~~

~~(d) Two fifths (2/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the square-mile rural area of the county bears to the total square-mile rural area of the state. "Rural area" as used here means that area of the county outside of cities, towns, and urban areas having a population of twenty five hundred (2,500) or more and shown~~

by] the most recent decennial census of the United States Bureau of the Census.

- (2) A sum not exceeding six percent (6%) of the allocation provided by KRS 177.320(1) to each county shall be deducted at the beginning of each fiscal year and adjusted quarterly to cover the maintenance, administrative, engineering, and other costs of the program.
- (3) Of the total amount apportioned by the provisions of this section, a sum not exceeding six percent (6%) may be deducted and placed by the Department of Rural and Municipal Aid in a special emergency account to be expended at the direction of the commissioner to meet unforeseen emergencies on rural and secondary roads and bridges.
- (4) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Finance and Administration Cabinet and adjusted quarterly in accordance with the most recent revision of the estimates by the Finance and Administration Cabinet.
- (5) Any county eligible to receive county road aid moneys in accordance with KRS 177.320 and this section shall be required to submit a uniform financial information report to the Department for Local Government in accordance with KRS 65.905 before any payment of county road aid funds shall be made. The Department for Local Government shall notify the Department of Rural and Municipal Aid no later than March 1 annually of any county that has not submitted a uniform financial information report. The Department of Rural and Municipal Aid shall, upon notification by the Department for Local Government, immediately suspend all county road aid moneys to the county until the county complies with the provisions of KRS 65.900 to 65.925 and submits the uniform financial information report to the Department for Local Government. The Department for Local Government shall immediately notify the Department of Rural and Municipal Aid to reinstate county

road aid moneys to any county affected by this subsection as soon as the county submits the uniform financial information report.

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

(1) *The portion of fuel taxes allocated to cities under subsection (2) of Section 1 of this Act*~~[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:

(a) "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; and~~[-]~~

(b)~~(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 177.366 is amended to read as follows:

(1) Except as provided in subsection (8) of this section~~[, on and after July 1, 1980]~~, the Finance and Administration Cabinet shall allocate to each incorporated city~~[- and~~

~~"unincorporated urban place"]~~ its pro rata share of the funds set apart for construction, reconstruction, and maintenance of ~~[urban roads and]~~ streets ~~[on]~~ in the following manner:

(a) One-third (1/3) shall be apportioned among the cities based on the ratio of population living in incorporated areas in each city bears to the total population living in incorporated areas statewide;

(b) One-third (1/3) shall be apportioned among the cities based on the ratio of city street mileage in incorporated areas in each city bears to the total city street mileage in incorporated areas statewide; and

(c) One-third (1/3) shall be apportioned among the cities based on the ratio of land area in incorporated areas in each county bears to the total land area in incorporated areas statewide.

Determinations of population and land area under this section shall be according to~~[the basis of the ratio which the population in the incorporated cities and in "unincorporated urban places" bears to the total population in incorporated cities and in "unincorporated urban places" of the state. "Unincorporated urban places" as used here, means an area as defined in KRS 81.015, and any area outside of incorporated cities, which area has a population of 2,500 or more as shown by] the most recent decennial census of the United States Bureau of the Census~~[, and all populations shall be determined by the most recent decennial census of the United States].~~~~

- (2) Any area which becomes incorporated after December 31, 1970, shall not be eligible to participate in the Municipal Aid Program until the beginning of the second fiscal year following its incorporation and population certification. It shall be the responsibility of the newly incorporated area to provide the Finance and Administration Cabinet with documentation from the United States Bureau of the Census showing the population of the newly incorporated area as it existed at the

time of the last decennial census.

- (3) In the event the newly incorporated area cannot obtain a population count from the Bureau of the Census, it shall not be eligible to participate in the Municipal Aid Program until the next decennial census.
- (4) If an incorporated city, whose incorporation took place prior to December 31, 1970, annexes additional area, the population of the annexed area will not be counted in the allocation of municipal aid funds until the beginning of the second fiscal year following annexation and population certification.
- (5) It shall be the responsibility of the incorporated city to provide the Finance and Administration Cabinet with documentation from the United States Bureau of the Census showing the population for the annexed area as it existed at the time of the last decennial census.
- (6) If the incorporated area cannot obtain a population count from the Bureau of the Census, the annexed area's population shall not be eligible to be counted in the distribution of the municipal aid fund. However, the streets included in the annexed areas shall be eligible to receive work through this program.
- (7) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Office of State Budget Director and shall be adjusted quarterly in accordance with the most recent revision of the estimates by the Office of State Budget Director.
- (8) Any local government eligible to receive municipal road aid moneys pursuant to KRS 177.365 to 177.369 shall be required to submit a uniform financial information report to the Department for Local Government pursuant to KRS 65.905 before any payment of municipal road aid funds shall be made. The Department for Local Government shall notify the Finance and Administration Cabinet no later than March 1 annually of any local government that has not submitted a uniform financial information report. The Finance and Administration

Cabinet shall, upon notification by the Department for Local Government, immediately suspend all municipal road aid moneys to the local government until the local government complies with the provisions of KRS 65.900 to 65.925 and submits the uniform financial information report to the Department for Local Government. The Department for Local Government shall immediately notify the Finance and Administration Cabinet to reinstate municipal road aid moneys to any local government affected by this subsection as soon as the local government submits the uniform financial information report.

➔Section 5. KRS 177.369 is amended to read as follows:

- (1) ~~{On and after the fiscal year beginning July 1, 1980 and }Each fiscal year{ thereafter}~~, the Finance and Administration Cabinet shall pay to each incorporated city ~~and county containing an unincorporated urban place~~ its pro rata share of any funds appropriated and any unexpended balance of funds appropriated for construction, reconstruction, and maintenance of ~~urban roads and~~ streets. During each fiscal year, the Finance and Administration Cabinet shall make quarterly payments to each ~~such~~ city ~~and county~~ of the funds set aside and allocated pursuant to **Section 1 of this Act**, KRS 177.365, and 177.366.
- (2) The expenditure of any money received by the city ~~or county~~ pursuant to the provisions of subsection (1) of this section shall be made solely for the purpose of construction, reconstruction, and maintenance of ~~urban roads and~~ streets set forth in KRS 177.365.
- (3) Any city ~~or county~~ which has received any money pursuant to the provisions of subsection (1) of this section shall retain all records of the expenditure of such money for a period of five (5) years and said records shall be subject to audit by the Finance and Administration Cabinet for said period of time in order to determine the proper expenditure of said money for the purposes required by KRS 177.365.

➔Section 6. KRS 177.330 is amended to read as follows:

- (1) At least once in each calendar year, the Department of Rural and Municipal Aid, through a duly authorized representative, shall consult with the fiscal courts of the various counties for the purpose of receiving recommendations from the fiscal courts for the selection of rural and secondary roads lying within the counties for construction, reconstruction, or maintenance under the Rural and Secondary Road Program as set forth in subsection (3)(a) of Section 1 of this Act~~[KRS 177.320(1)]~~. The Department of Rural and Municipal Aid may receive recommendations from any citizen on the selection of rural and secondary roads for construction, reconstruction, or maintenance under the Rural and Secondary Road Program. The Department of Highways shall notify each county fiscal court of the county roads that the department intends to construct, reconstruct, or maintain in accordance with the provisions of KRS Chapters 177 and 179.
- (2) Where the construction of a secondary or rural road through an incorporated city with a population of less than three thousand (3,000) based upon the most recent federal decennial census is necessary, as determined by the Department of Rural and Municipal Aid, the road may be constructed, reconstructed, or maintained at the discretion of the Department of Rural and Municipal Aid.

➔Section 7. KRS 179.410 is amended to read as follows:

The Department for Local Government shall allocate the sum appropriated by the General Assembly from the funds arising under the provisions of subsection (3)(b) of Section 1 of this Act~~[KRS 177.320(2)]~~, for the construction, reconstruction, improvement, and maintenance of county roads and bridges in accordance with the provisions of KRS 177.360(1).

➔Section 8. KRS 179.415 is amended to read as follows:

- (1) On and after the fiscal year beginning July 1, 1980, and each fiscal year thereafter, the Department for Local Government shall pay to each county its pro rata share of any funds appropriated and any unexpended balance of funds appropriated for

construction, reconstruction, improvement, and maintenance of county roads and bridges. ~~[During each fiscal year, the Department for Local Government shall make quarterly payments to each such county of the funds allocated in accordance with KRS 177.369.]~~

- (2) The expenditure of any money received by the county in accordance with the provisions of subsection (1) of this section shall be made solely for the purpose of construction, reconstruction, improvement, and maintenance of county roads and bridges.
- (3) Any county which has received any money in accordance with the provisions of subsection (1) of this section shall retain all records of the expenditure of the money for a period of five (5) years and said records shall be subject to audit by the Department for Local Government for said period of time in order to determine the proper expenditure of said money for the purpose required by KRS 179.410.

➔Section 9. KRS 177.010 is amended to read as follows:

As used in KRS 177.010 to 177.890, unless the context otherwise requires:

- (1) "Department" means Department of Highways of the Commonwealth of Kentucky;
- (2) "Construct" includes reconstruct and improve;
- (3) "Roads" includes rural roads; highways; bridges and bridge approaches; city streets, viaducts, and bridges;
- (4) "Rural and secondary roads" includes:
 - (a) A county road as defined in KRS 178.010(1)(b);
 - (b) A publicly-owned road other than a state or federal highway, that is outside a city, town, or urban area having a population of twenty-five hundred (2,500) or more;
 - (c) A road that is classified as part of the rural secondary road system by the Department of Highways;
- (5) **"Revenue sharing roads" includes:**

(a) A county road as defined in KRS 178.010(1)(b);

(b) A rural and secondary road; and

(c) A street as defined in Section 3 of this Act;

(6) "Public grade crossing" means the at-grade intersection of a railroad track or tracks and a road or highway that has been dedicated to public use and incorporated into either the state primary road system or the highway or road system of a county or municipality;

(7)~~(6)~~ "Cabinet" means the Kentucky Transportation Cabinet; and

(8)~~(7)~~ "Secretary" means the secretary of the Kentucky Transportation Cabinet.

➔Section 10. 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 138.228.
- (c) For the purposes of the allocations in subsections (1), (2), and (3) of Section 1 of this Act~~[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 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 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 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:
1. Five cents (\$0.05) per gallon on gasoline; and
 2. Two cents (\$0.02) per gallon on special fuel.
- (c) 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) Two and one-tenth cents (\$0.021), of the tax collected under subsection (1) of this section shall be excluded from the calculations in **subsections (1), (2), and (3) of Section 1 of this Act**~~[KRS 177.320(1) and (2)]~~ and 177.365. The funds identified in this subsection shall be deposited into the state road fund.
- (4) 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 administrative regulations to properly administer this provision.

➔Section 11. KRS 177.020 is amended to read as follows:

- (1) The state primary road system shall consist of such public roads and city streets

within the state as the Department of Highways determines shall be established, constructed, or maintained by the Department of Highways.

- (2) The department shall, in its discretion, determine which public roads, or city streets, shall be established, constructed, or maintained by it, and shall determine the type of construction or maintenance for that road or city street.
- (3) In the establishment of the state primary road system, the Department of Highways is authorized to select new routes, deviate from an existing route whenever it deems such deviation proper, eliminate from the state primary system roads or city streets which have been replaced as proper part of the system by the construction of a new facility or the selection of a new route. No permanent ingress or egress ramp of the state primary road system on fully controlled access facilities shall be closed, except for repairs, unless a public hearing is first held in the area to be affected by the closing. The Department of Highways shall, at least twenty (20) days before the hearing, advertise in a newspaper of general circulation in the area to be affected by the closing, the date, time, and place of the hearing.
- (4) Prior to the advertisement for bids on any highway construction project, the Department of Highways shall meet with the fiscal court in the jurisdiction of the construction project for the purpose of advising the fiscal court of any state road or road segment which the department may seek to eliminate from the state primary road system upon completion of that highway construction project. The requirement of this subsection shall be in addition to the requirements of subsection (5) of this section.
- (5) The department shall notify the fiscal court of the county at least four (4) months before it eliminates a road, road segment, bridge, or street in that county from the state primary road system. Upon receiving notice, the fiscal court may reject title and notify the department that the road shall not become part of the county road system. If the fiscal court declines, the department shall give notice to all private

persons entitled to a necessary access over this road of their rights under this chapter; and, by petition of any private party entitled to such access, the road shall be deemed a discontinued state road and shall be closed to public use but remain open in accordance with its condition and use for the access of the private parties involved. In the absence of such petition, title shall be transferred to the owner or owners of the tract or tracts of land to which the road originally belonged.

- (6) As used in this section, the term "rural secondary roads" shall mean the system of roads in this state which are usually considered farm-to-market roads and that are classified as part of the rural secondary road system by the Department of Highways. The roads in the rural secondary system shall be maintained with the proceeds of the provisions of subsection (3)(a) of Section 1 of this Act~~[KRS 177.320(1)]~~ and in no case shall the rural secondary system, as defined in this subsection, be less than eleven thousand eight hundred (11,800) miles.
- (7) The establishment, construction, or maintenance of the state primary road system shall be under the direction and control of the Department of Highways. The commissioner of highways is authorized to adopt regulations necessary to the administration of this authority.

➔Section 12. KRS 177.037 is amended to read as follows:

- (1) The Department of Highways may install and maintain signs recognizing the boundary of a city, town, or community whether incorporated or unincorporated. These signs shall be installed regardless of whether the community has a post office, if the Department of Highways had previously erected signs recognizing the city, town, or community. The signs shall be placed at the official community boundaries. If the community does not have official boundaries, the signs shall be installed at the community boundaries as determined by the built-up area.
- (2) The department shall install and maintain signs at the boundaries of any city or an unincorporated town or community~~[urban place as defined in KRS 177.366]~~,

regardless of whether the city or unincorporated urban place has a post office or zip code, if the city or unincorporated *town or community*~~[urban place]~~:

- (a) Submits a written request for not more than two (2) signs:
 1. To honor the birthplace of a person important to the city or unincorporated *town or community*~~[urban place]~~; or
 2. To honor an event or accomplishment important to the city or unincorporated *town or community*~~[urban place]~~; and
 - (b) Agrees to pay for the actual cost to make and install the signs.
- (3) The department shall work with the city or unincorporated *town or community*~~[urban place]~~ to determine the appropriate place to install the signs required under subsection (2) of this section. If an agreement cannot be reached on the appropriate place to install the signs, the site selected by the city or unincorporated *town or community*~~[urban place]~~ shall take precedence and the department shall not prohibit and shall not delay the installation of the signs.
 - (4) Each city or unincorporated *town or community*~~[urban place]~~ requesting a sign under subsection (2) of this section shall be limited to two (2) signs. Requests for additional signs authorized under subsection (2) of this section in excess of two (2) by the same city or unincorporated *town or community*~~[urban place]~~ shall be consolidated into a single sign.
 - (5) All statutes to the contrary notwithstanding, the Transportation Cabinet shall amend its policies and administrative regulations in effect on July 15, 2002, to comply with the provisions of this section, and shall not subsequently adopt new policies or promulgate new administrative regulations to the contrary.

➔Section 13. KRS 177.055 is amended to read as follows:

- (1) An incorporated area~~[—or unincorporated urban place]~~ may elect, with the concurrence of the Department of Highways, to construct, reconstruct, or maintain~~[urban]~~ roads and streets which are included in the Department of Highways' state

primary road system and are maintained by the Department of Highways.

- (2) The Department of Highways cannot initiate the expenditures of funds allocated pursuant to KRS 177.365 on any roads or streets classified by the Department of Highways as being a part of the state primary road system as defined in KRS 177.020.

➔Section 14. The following KRS sections are repealed:

67.805 Receipt of certain tax funds by county.

81.015 Areas designated "unincorporated urban places".

➔Section 15. Because a change in the allocation of fuel tax revenues should coincide with the beginning of a biennial budget, an emergency is declared to exist, and this Act takes effect July 1, 2016.