

1 AN ACT relating to the distribution of fuel tax revenues.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) In any fiscal year in which the total amount of funds available for revenue*
6 *sharing arising from the imposition of taxes provided by subsections (1) and (2)*
7 *of Section 11 of this Act, KRS 138.660(1) and (2), and KRS 234.320 is less than*
8 *or equal to eight hundred twenty-five million dollars (\$825,000,000), the portion*
9 *of revenues set aside for the construction of rural and secondary roads, county*
10 *roads, urban roads, and city streets shall be in accordance with Sections 2, 3, 4, 5,*
11 *and 6 of this Act.*

12 *(2) In any fiscal year in which the total amount of funds available for revenue*
13 *sharing arising from the imposition of taxes provided by subsections (1) and (2)*
14 *of Section 11 of this Act, KRS 138.660(1) and (2), and KRS 234.320 is greater*
15 *than eight hundred twenty-five million dollars (\$825,000,000), the portion of*
16 *revenues in excess of that amount shall be set aside for the construction of rural*
17 *and secondary roads, county roads, urban roads, and city streets in accordance*
18 *with subsections (3) to (5) of this section and Sections 2, 3, 4, 5, and 6 of this Act.*

19 *(3) Forty-eight and two-tenths percent (48.2%) of the amount described in subsection*
20 *(2) of this section shall be divided as follows:*

21 *(a) One half (1/2) shall be divided based on the proportion of population living*
22 *in incorporated areas and unincorporated urban places to the population*
23 *living unincorporated areas; and*

24 *(b) One half (1/2) shall be divided based on the proportion of revenue-sharing*
25 *road miles in incorporated areas and unincorporated urban places to*
26 *revenue sharing road miles in unincorporated areas.*

27 *Determinations of population and land area under this section shall be according*

1 to the most recent decennial census of the United States Bureau of the Census.
 2 As used in this section, "unincorporated urban place" has the same meaning as
 3 in Section 4 of this Act.

4 (4) The portion of fuel taxes allocated to incorporated areas and unincorporated
 5 urban places under subsection (3) of this section shall be allocated to cities in
 6 accordance with Sections 4, 5, and 6 of this Act.

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

11 (a) Fifty-four and eight-tenths percent (54.8%) shall be set aside for the
 12 construction, reconstruction, and maintenance of rural and secondary
 13 roads; and

14 (b) Forty-five and two-tenths percent (45.2%) shall be set aside for the
 15 construction, reconstruction, and maintenance of county roads and bridges
 16 provided by KRS 179.410 and 179.415.

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

18 (1) Twenty-two and two-tenths percent (22.2%) of all funds identified in subsection (1)
 19 of Section 1 of this Act~~[arising from the imposition of taxes provided by KRS~~
 20 ~~138.220(1) and (2), 138.660(1) and (2) and 234.320]~~ shall be set aside for the
 21 construction, reconstruction, and maintenance of rural and secondary~~[and rural]~~
 22 roads and for no other purpose, and shall be expended for said purposes by the
 23 Transportation Cabinet of the Commonwealth of Kentucky according to the terms
 24 and conditions prescribed in KRS 177.330 to 177.360.

25 (2) ~~[On or after July 1, 1980,]~~Eighteen and three-tenths percent (18.3%) of all funds
 26 identified in subsection (1) of Section 1 of this Act~~[arising from the imposition of~~
 27 ~~taxes provided by KRS 138.220(1) and (2), 138.660(1) and (2), and 234.320]~~ shall

1 be set aside for the construction, reconstruction, and maintenance of county roads
2 and bridges provided by KRS 179.410 and 179.415.

3 (3) All funds set aside in subsection (2) of this section for the construction,
4 reconstruction and maintenance of county roads and bridges shall be allocated to the
5 county in accordance with the formula established in KRS 177.360(1) pursuant to
6 KRS 179.410.

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

13 ➔Section 3. KRS 177.360 is amended to read as follows:

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

18 (a) One-fifth (1/5) shall be apportioned equally among the one hundred twenty
19 (120) counties.

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

- 1 (c) One-fifth (1/5) shall be apportioned among the one hundred twenty (120)
2 counties on the basis of the ratio that the public road mileage outside of cities,
3 towns, and urban areas having a population of twenty-five hundred (2,500) or
4 more bears to the total mileage of such roads for the entire state.
- 5 (d) Two-fifths (2/5) shall be apportioned among the one hundred twenty (120)
6 counties on the basis of the ratio which the square-mile rural area of the
7 county bears to the total square-mile rural area of the state. "Rural area" as
8 used here means that area of the county outside of cities, towns, and urban
9 areas having a population of twenty-five hundred (2,500) or more and shown
10 by the most recent decennial census of the United States Bureau of the
11 Census.
- 12 (2) A sum not exceeding six percent (6%) of the allocation provided by KRS
13 177.320(1) to each county shall be deducted at the beginning of each fiscal year and
14 adjusted quarterly to cover the maintenance, administrative, engineering, and other
15 costs of the program.
- 16 (3) Of the total amount apportioned by the provisions of this section, a sum not
17 exceeding six percent (6%) may be deducted and placed by the Department of Rural
18 and Municipal Aid in a special emergency account to be expended at the direction
19 of the commissioner to meet unforeseen emergencies on rural and secondary roads
20 and bridges.
- 21 (4) Apportionments as required by the provisions of this section shall be made on the
22 basis of revenue estimates supplied by the Finance and Administration Cabinet and
23 adjusted quarterly in accordance with the most recent revision of the estimates by
24 the Finance and Administration Cabinet.
- 25 (5) Any county eligible to receive county road aid moneys in accordance with KRS
26 177.320 and this section shall be required to submit a uniform financial information
27 report to the Department for Local Government in accordance with KRS 65.905

1 before any payment of county road aid funds shall be made. The Department for
 2 Local Government shall notify the Department of Rural and Municipal Aid no later
 3 than March 1 annually of any county that has not submitted a uniform financial
 4 information report. The Department of Rural and Municipal Aid shall, upon
 5 notification by the Department for Local Government, immediately suspend all
 6 county road aid moneys to the county until the county complies with the provisions
 7 of KRS 65.900 to 65.925 and submits the uniform financial information report to
 8 the Department for Local Government. The Department for Local Government shall
 9 immediately notify the Department of Rural and Municipal Aid to reinstate county
 10 road aid moneys to any county affected by this subsection as soon as the county
 11 submits the uniform financial information report.

12 ➔Section 4. KRS 177.365 is amended to read as follows:

13 (1) ~~{On and after July 1, 1980, }~~Seven and seven-tenths percent (7.7%) of ***the amount***
 14 ***identified in subsection (1) of Section 1 of this Act***~~{all amounts received from the~~
 15 ~~imposition of the taxes provided for in KRS 138.220(1) and (2), 138.660(1) and (2)~~
 16 ~~and 234.320}~~ shall be set aside by the Finance and Administration Cabinet for the
 17 construction, reconstruction, and maintenance of urban roads and streets and for no
 18 other purpose.

19 (2) As used in this section ***and Section 5 of this Act***~~{unless the context requires~~
 20 ~~otherwise}~~

21 ***(a)*** "Construction," "reconstruction," and "maintenance" mean the supervising,
 22 inspecting, actual building, and all expenses incidental to the construction,
 23 reconstruction, or maintenance of a road or street, including planning,
 24 locating, surveying, and mapping or preparing roadway plans, acquisition of
 25 rights-of-way, relocation of utilities, lighting and the elimination of other
 26 hazards such as roadway grade crossings, and all other items defined in the
 27 Department of Highways, design, operations, and construction manuals;{ }

1 ~~(b)(3)~~ "Urban roads" mean all public ways lying within the limits of the
 2 unincorporated urban place as defined in KRS 81.015, and as described by the
 3 Bureau of Census tracts;

4 *(c) "Unincorporated urban place" means an area designated as such in KRS*
 5 *81.015, and any area outside of incorporated cities, which area has a*
 6 *population of two thousand five hundred (2,500) or more; and*~~[-]~~

7 ~~(d)(4)~~ "Streets" mean all public ways which have been designated by the
 8 incorporated city as being city streets and said streets lying within the
 9 boundaries of an incorporated city.

10 ➔Section 5. KRS 177.366 is amended to read as follows:

11 (1) Except as provided in subsection (8) of this section~~[- on and after July 1, 1980]~~, the
 12 Finance and Administration Cabinet shall allocate to each incorporated city and
 13 "unincorporated urban place" its pro rata share of the funds set apart for
 14 construction, reconstruction, and maintenance of urban roads and streets~~[- on]~~ *under*
 15 *subsection (3) of Section 1 of this Act and Section 4 of this Act in the following*
 16 *manner:*

17 *(a) Seventy-five percent (75%) shall be apportioned among the cities and*
 18 *unincorporated urban places based on the ratio that the population living in*
 19 *incorporated areas in each city and unincorporated urban place bears to the*
 20 *total population living in incorporated areas and unincorporated urban*
 21 *places statewide; and*

22 *(b) Twenty-five percent (25%) shall be apportioned among the cities and*
 23 *unincorporated urban places based on the ratio that the city street and*
 24 *urban road mileage in incorporated areas in each city and unincorporated*
 25 *urban places bears to the total city street mileage and urban road mileage in*
 26 *incorporated areas and unincorporated urban places statewide.*

27 *Determinations of population and land area under this section shall be according*

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

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

16 (3) In the event the newly incorporated area cannot obtain a population count from the
17 Bureau of the Census, it shall not be eligible to participate in the Municipal Aid
18 Program until the next decennial census.

19 (4) If an incorporated city, whose incorporation took place prior to December 31, 1970,
20 annexes additional area, the population of the annexed area will not be counted in
21 the allocation of municipal aid funds until the beginning of the second fiscal year
22 following annexation and population certification.

23 (5) It shall be the responsibility of the incorporated city to provide the Finance and
24 Administration Cabinet with documentation from the United States Bureau of the
25 Census showing the population for the annexed area as it existed at the time of the
26 last decennial census.

27 (6) If the incorporated area cannot obtain a population count from the Bureau of the

1 Census, the annexed area's population shall not be eligible to be counted in the
2 distribution of the municipal aid fund. However, the streets included in the annexed
3 areas shall be eligible to receive work through this program.

4 (7) Apportionments as required by the provisions of this section shall be made on the
5 basis of revenue estimates supplied by the Office of State Budget Director and shall
6 be adjusted quarterly in accordance with the most recent revision of the estimates by
7 the Office of State Budget Director.

8 (8) Any local government eligible to receive municipal road aid moneys pursuant to
9 KRS 177.365 to 177.369 shall be required to submit a uniform financial
10 information report to the Department for Local Government pursuant to KRS
11 65.905 before any payment of municipal road aid funds shall be made. The
12 Department for Local Government shall notify the Finance and Administration
13 Cabinet no later than March 1 annually of any local government that has not
14 submitted a uniform financial information report. The Finance and Administration
15 Cabinet shall, upon notification by the Department for Local Government,
16 immediately suspend all municipal road aid moneys to the local government until
17 the local government complies with the provisions of KRS 65.900 to 65.925 and
18 submits the uniform financial information report to the Department for Local
19 Government. The Department for Local Government shall immediately notify the
20 Finance and Administration Cabinet to reinstate municipal road aid moneys to any
21 local government affected by this subsection as soon as the local government
22 submits the uniform financial information report.

23 ➔Section 6. KRS 177.369 is amended to read as follows:

24 (1) ~~{On and after the fiscal year beginning July 1, 1980 and }~~Each fiscal year~~{~~
25 ~~thereafter}~~, the Finance and Administration Cabinet shall pay to each incorporated
26 city and county containing an unincorporated urban place its pro rata share of any
27 funds appropriated and any unexpended balance of funds appropriated for

1 construction, reconstruction, and maintenance of urban roads and streets. During
2 each fiscal year, the Finance and Administration Cabinet shall make quarterly
3 payments to each ~~such~~ city and county of the funds set aside and allocated
4 pursuant to **Section 1 of this Act**, KRS 177.365, and 177.366.

5 (2) The expenditure of any money received by the city or county pursuant to the
6 provisions of subsection (1) of this section shall be made solely for the purpose of
7 construction, reconstruction, and maintenance of urban roads and streets set forth in
8 KRS 177.365.

9 (3) Any city or county which has received any money pursuant to the provisions of
10 subsection (1) of this section shall retain all records of the expenditure of such
11 money for a period of five (5) years and said records shall be subject to audit by the
12 Finance and Administration Cabinet for said period of time in order to determine
13 the proper expenditure of said money for the purposes required by KRS 177.365.

14 ➔Section 7. KRS 177.330 is amended to read as follows:

15 (1) At least once in each calendar year, the Department of Rural and Municipal Aid,
16 through a duly authorized representative, shall consult with the fiscal courts of the
17 various counties for the purpose of receiving recommendations from the fiscal
18 courts for the selection of rural and secondary roads lying within the counties for
19 construction, reconstruction, or maintenance under the Rural and Secondary Road
20 Program as set forth in **subsection (5)(a) of Section 1 of this Act and** KRS
21 177.320(1). The Department of Rural and Municipal Aid may receive
22 recommendations from any citizen on the selection of rural and secondary roads for
23 construction, reconstruction, or maintenance under the Rural and Secondary Road
24 Program. The Department of Highways shall notify each county fiscal court of the
25 county roads that the department intends to construct, reconstruct, or maintain in
26 accordance with the provisions of KRS Chapters 177 and 179.

27 (2) Where the construction of a secondary or rural road through an incorporated city

1 with a population of less than three thousand (3,000) based upon the most recent
2 federal decennial census is necessary, as determined by the Department of Rural and
3 Municipal Aid, the road may be constructed, reconstructed, or maintained at the
4 discretion of the Department of Rural and Municipal Aid.

5 ➔Section 8. KRS 179.410 is amended to read as follows:

6 The Department for Local Government shall allocate the sum appropriated by the General
7 Assembly from the funds arising under the provisions of subsection (5)(b) of Section 1 of
8 this Act and KRS 177.320(2), for the construction, reconstruction, improvement, and
9 maintenance of county roads and bridges in accordance with the provisions of KRS
10 177.360(1).

11 ➔Section 9. KRS 179.415 is amended to read as follows:

12 (1) On and after the fiscal year beginning July 1, 1980, and each fiscal year thereafter,
13 the Department for Local Government shall pay to each county its pro rata share of
14 any funds appropriated and any unexpended balance of funds appropriated for
15 construction, reconstruction, improvement, and maintenance of county roads and
16 bridges. ~~During each fiscal year, the Department for Local Government shall make~~
17 ~~quarterly payments to each such county of the funds allocated in accordance with~~
18 ~~KRS 177.369.]~~

19 (2) The expenditure of any money received by the county in accordance with the
20 provisions of subsection (1) of this section shall be made solely for the purpose of
21 construction, reconstruction, improvement, and maintenance of county roads and
22 bridges.

23 (3) Any county which has received any money in accordance with the provisions of
24 subsection (1) of this section shall retain all records of the expenditure of the money
25 for a period of five (5) years and said records shall be subject to audit by the
26 Department for Local Government for said period of time in order to determine the
27 proper expenditure of said money for the purpose required by KRS 179.410.

1 ➔Section 10. KRS 177.010 is amended to read as follows:

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

3 (1) "Department" means Department of Highways of the Commonwealth of Kentucky;

4 (2) "Construct" includes reconstruct and improve;

5 (3) "Roads" includes rural roads; highways; bridges and bridge approaches; city streets,
6 viaducts, and bridges;

7 (4) "Rural and secondary roads" includes:

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

9 (b) A publicly-owned road other than a state or federal highway, that is outside a
10 city, town, or urban area having a population of twenty-five hundred (2,500)
11 or more;

12 (c) A road that is classified as part of the rural secondary road system by the
13 Department of Highways;

14 (5) **"Revenue-sharing road" means:**

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

16 **(b) A rural and secondary road;**

17 **(c) An urban road as defined in Section 4 of this Act; or**

18 **(d) A street as defined in Section 4 of this Act;**

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

23 ~~(7)(6)~~ "Cabinet" means the Kentucky Transportation Cabinet; and

24 ~~(8)(7)~~ "Secretary" means the secretary of the Kentucky Transportation Cabinet.

25 ➔Section 11. KRS 138.220 is amended to read as follows:

26 (1) (a) An excise tax at the rate of nine percent (9%) of the average wholesale price
27 rounded to the nearest one-tenth of one cent (\$0.001) shall be paid on all

1 gasoline and special fuel received in this state. The tax shall be paid on a per
2 gallon basis.

3 (b) The average wholesale price shall be determined and adjusted as provided in
4 KRS 138.228.

5 (c) For the purposes of the allocations in Section 1 of this Act, KRS 177.320(1)
6 and (2), and 177.365, the amount calculated under this subsection shall be
7 reduced by the amount calculated in subsection (3) of this section.

8 (d) Except as provided by KRS Chapter 138, no other excise or license tax shall
9 be levied or assessed on gasoline or special fuel by the state or any political
10 subdivision of the state.

11 (e) The tax herein imposed shall be paid by the dealer receiving the gasoline or
12 special fuel to the State Treasurer in the manner and within the time specified
13 in KRS 138.230 to 138.340 and all such tax may be added to the selling price
14 charged by the dealer or other person paying the tax on gasoline or special fuel
15 sold in this state.

16 (f) Nothing herein contained shall authorize or require the collection of the tax
17 upon any gasoline or special fuel after it has been once taxed under the
18 provisions of this section, unless such tax was refunded or credited.

19 (2) (a) In addition to the excise tax provided in subsection (1) of this section, there is
20 hereby levied a supplemental highway user motor fuel tax to be paid in the
21 same manner and at the same time as the tax provided in subsection (1) of this
22 section.

23 (b) The tax shall be:

24 1. Five cents (\$0.05) per gallon on gasoline; and

25 2. Two cents (\$0.02) per gallon on special fuel.

26 (c) The supplemental highway user motor fuel tax provided by this subsection
27 and the provisions of subsections (1) and (3) of this section shall constitute the

1 tax on motor fuels imposed by KRS 138.220.

2 (3) Two and one-tenth cents (\$0.021), of the tax collected under subsection (1) of this
3 section shall be excluded from the calculations in Section 1 of this Act, KRS
4 177.320(1) and (2), and 177.365. The funds identified in this subsection shall be
5 deposited into the state road fund.

6 (4) Notification of the average wholesale price shall be given to all licensed dealers at
7 least twenty (20) days in advance of the first day of each calendar quarter.

8 (5) Dealers with a tax-paid gasoline or special fuel inventory at the time an average
9 wholesale price becomes effective, shall be subject to additional tax or appropriate
10 tax credit to reflect the increase or decrease in the average wholesale price for the
11 new quarter. The department shall promulgate administrative regulations to
12 properly administer this provision.

13 ➔Section 12. KRS 177.020 is amended to read as follows:

14 (1) The state primary road system shall consist of such public roads and city streets
15 within the state as the Department of Highways determines shall be established,
16 constructed, or maintained by the Department of Highways.

17 (2) The department shall, in its discretion, determine which public roads, or city streets,
18 shall be established, constructed, or maintained by it, and shall determine the type
19 of construction or maintenance for that road or city street.

20 (3) In the establishment of the state primary road system, the Department of Highways
21 is authorized to select new routes, deviate from an existing route whenever it deems
22 such deviation proper, eliminate from the state primary system roads or city streets
23 which have been replaced as proper part of the system by the construction of a new
24 facility or the selection of a new route. No permanent ingress or egress ramp of the
25 state primary road system on fully controlled access facilities shall be closed, except
26 for repairs, unless a public hearing is first held in the area to be affected by the
27 closing. The Department of Highways shall, at least twenty (20) days before the

1 hearing, advertise in a newspaper of general circulation in the area to be affected by
2 the closing, the date, time, and place of the hearing.

3 (4) Prior to the advertisement for bids on any highway construction project, the
4 Department of Highways shall meet with the fiscal court in the jurisdiction of the
5 construction project for the purpose of advising the fiscal court of any state road or
6 road segment which the department may seek to eliminate from the state primary
7 road system upon completion of that highway construction project. The requirement
8 of this subsection shall be in addition to the requirements of subsection (5) of this
9 section.

10 (5) The department shall notify the fiscal court of the county at least four (4) months
11 before it eliminates a road, road segment, bridge, or street in that county from the
12 state primary road system. Upon receiving notice, the fiscal court may reject title
13 and notify the department that the road shall not become part of the county road
14 system. If the fiscal court declines, the department shall give notice to all private
15 persons entitled to a necessary access over this road of their rights under this
16 chapter; and, by petition of any private party entitled to such access, the road shall
17 be deemed a discontinued state road and shall be closed to public use but remain
18 open in accordance with its condition and use for the access of the private parties
19 involved. In the absence of such petition, title shall be transferred to the owner or
20 owners of the tract or tracts of land to which the road originally belonged.

21 (6) As used in this section, the term "rural secondary roads" shall mean the system of
22 roads in this state which are usually considered farm-to-market roads and that are
23 classified as part of the rural secondary road system by the Department of
24 Highways. The roads in the rural secondary system shall be maintained with the
25 proceeds of the provisions of subsection (5)(a) of Section 1 of this Act and KRS
26 177.320(1) and in no case shall the rural secondary system, as defined in this
27 subsection, be less than eleven thousand eight hundred (11,800) miles.

1 (7) The establishment, construction, or maintenance of the state primary road system
2 shall be under the direction and control of the Department of Highways. The
3 commissioner of highways is authorized to adopt regulations necessary to the
4 administration of this authority.

5 ➔Section 13. This Act takes effect July 1, 2018.