



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1422

Introduced 2/21/2007, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

35 ILCS 505/8

from Ch. 120, par. 424

Amends the Motor Fuel Tax Law. Provides that unexpended, obligated, or unobligated moneys remaining in the Grade Crossing Protection Fund do not lapse and may not be transferred from that Fund to the General Revenue Fund or to any other State Fund.

LRB095 04465 BDD 24512 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Motor Fuel Tax Law is amended by changing
5 Section 8 as follows:

6 (35 ILCS 505/8) (from Ch. 120, par. 424)

7 Sec. 8. Except as provided in Section 8a, subdivision
8 (h) (1) of Section 12a, Section 13a.6, and items 13, 14, 15, and
9 16 of Section 15, all money received by the Department under
10 this Act, including payments made to the Department by member
11 jurisdictions participating in the International Fuel Tax
12 Agreement, shall be deposited in a special fund in the State
13 treasury, to be known as the "Motor Fuel Tax Fund", and shall
14 be used as follows:

15 (a) 2 1/2 cents per gallon of the tax collected on special
16 fuel under paragraph (b) of Section 2 and Section 13a of this
17 Act shall be transferred to the State Construction Account Fund
18 in the State Treasury;

19 (b) \$420,000 shall be transferred each month to the State
20 Boating Act Fund to be used by the Department of Natural
21 Resources for the purposes specified in Article X of the Boat
22 Registration and Safety Act;

23 (c) \$2,250,000 shall be transferred each month to the Grade

1 Crossing Protection Fund to be used as follows: not less than
2 \$6,000,000 each fiscal year shall be used for the construction
3 or reconstruction of rail highway grade separation structures;
4 \$2,250,000 in fiscal year 2004 and each fiscal year thereafter
5 shall be transferred to the Transportation Regulatory Fund and
6 shall be accounted for as part of the rail carrier portion of
7 such funds and shall be used to pay the cost of administration
8 of the Illinois Commerce Commission's railroad safety program
9 in connection with its duties under subsection (3) of Section
10 18c-7401 of the Illinois Vehicle Code, with the remainder to be
11 used by the Department of Transportation upon order of the
12 Illinois Commerce Commission, to pay that part of the cost
13 apportioned by such Commission to the State to cover the
14 interest of the public in the use of highways, roads, streets,
15 or pedestrian walkways in the county highway system, township
16 and district road system, or municipal street system as defined
17 in the Illinois Highway Code, as the same may from time to time
18 be amended, for separation of grades, for installation,
19 construction or reconstruction of crossing protection or
20 reconstruction, alteration, relocation including construction
21 or improvement of any existing highway necessary for access to
22 property or improvement of any grade crossing including the
23 necessary highway approaches thereto of any railroad across the
24 highway or public road, or for the installation, construction,
25 reconstruction, or maintenance of a pedestrian walkway over or
26 under a railroad right-of-way, as provided for in and in

1 accordance with Section 18c-7401 of the Illinois Vehicle Code.
2 The Commission shall not order more than \$2,000,000 per year in
3 Grade Crossing Protection Fund moneys for pedestrian walkways.
4 In entering orders for projects for which payments from the
5 Grade Crossing Protection Fund will be made, the Commission
6 shall account for expenditures authorized by the orders on a
7 cash rather than an accrual basis. For purposes of this
8 requirement an "accrual basis" assumes that the total cost of
9 the project is expended in the fiscal year in which the order
10 is entered, while a "cash basis" allocates the cost of the
11 project among fiscal years as expenditures are actually made.
12 Unexpended, obligated, or unobligated moneys remaining in the
13 Fund do not lapse and may not be transferred from the Fund into
14 the General Revenue Fund or any other State fund. To meet the
15 requirements of this subsection, the Illinois Commerce
16 Commission shall develop annual and 5-year project plans of
17 rail crossing capital improvements that will be paid for with
18 moneys from the Grade Crossing Protection Fund. The annual
19 project plan shall identify projects for the succeeding fiscal
20 year and the 5-year project plan shall identify projects for
21 the 5 directly succeeding fiscal years. The Commission shall
22 submit the annual and 5-year project plans for this Fund to the
23 Governor, the President of the Senate, the Senate Minority
24 Leader, the Speaker of the House of Representatives, and the
25 Minority Leader of the House of Representatives on the first
26 Wednesday in April of each year;

1 (d) of the amount remaining after allocations provided for
2 in subsections (a), (b) and (c), a sufficient amount shall be
3 reserved to pay all of the following:

4 (1) the costs of the Department of Revenue in
5 administering this Act;

6 (2) the costs of the Department of Transportation in
7 performing its duties imposed by the Illinois Highway Code
8 for supervising the use of motor fuel tax funds apportioned
9 to municipalities, counties and road districts;

10 (3) refunds provided for in Section 13 of this Act and
11 under the terms of the International Fuel Tax Agreement
12 referenced in Section 14a;

13 (4) from October 1, 1985 until June 30, 1994, the
14 administration of the Vehicle Emissions Inspection Law,
15 which amount shall be certified monthly by the
16 Environmental Protection Agency to the State Comptroller
17 and shall promptly be transferred by the State Comptroller
18 and Treasurer from the Motor Fuel Tax Fund to the Vehicle
19 Inspection Fund, and for the period July 1, 1994 through
20 June 30, 2000, one-twelfth of \$25,000,000 each month, for
21 the period July 1, 2000 through June 30, 2003, one-twelfth
22 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,
23 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each
24 July 1 and October 1, or as soon thereafter as may be
25 practical, during the period July 1, 2004 through June 30,
26 2008, for the administration of the Vehicle Emissions

1 Inspection Law of 1995, to be transferred by the State
2 Comptroller and Treasurer from the Motor Fuel Tax Fund into
3 the Vehicle Inspection Fund;

4 (5) amounts ordered paid by the Court of Claims; and

5 (6) payment of motor fuel use taxes due to member
6 jurisdictions under the terms of the International Fuel Tax
7 Agreement. The Department shall certify these amounts to
8 the Comptroller by the 15th day of each month; the
9 Comptroller shall cause orders to be drawn for such
10 amounts, and the Treasurer shall administer those amounts
11 on or before the last day of each month;

12 (e) after allocations for the purposes set forth in
13 subsections (a), (b), (c) and (d), the remaining amount shall
14 be apportioned as follows:

15 (1) Until January 1, 2000, 58.4%, and beginning January
16 1, 2000, 45.6% shall be deposited as follows:

17 (A) 37% into the State Construction Account Fund,
18 and

19 (B) 63% into the Road Fund, \$1,250,000 of which
20 shall be reserved each month for the Department of
21 Transportation to be used in accordance with the
22 provisions of Sections 6-901 through 6-906 of the
23 Illinois Highway Code;

24 (2) Until January 1, 2000, 41.6%, and beginning January
25 1, 2000, 54.4% shall be transferred to the Department of
26 Transportation to be distributed as follows:

- 1 (A) 49.10% to the municipalities of the State,
2 (B) 16.74% to the counties of the State having
3 1,000,000 or more inhabitants,
4 (C) 18.27% to the counties of the State having less
5 than 1,000,000 inhabitants,
6 (D) 15.89% to the road districts of the State.

7 As soon as may be after the first day of each month the
8 Department of Transportation shall allot to each municipality
9 its share of the amount apportioned to the several
10 municipalities which shall be in proportion to the population
11 of such municipalities as determined by the last preceding
12 municipal census if conducted by the Federal Government or
13 Federal census. If territory is annexed to any municipality
14 subsequent to the time of the last preceding census the
15 corporate authorities of such municipality may cause a census
16 to be taken of such annexed territory and the population so
17 ascertained for such territory shall be added to the population
18 of the municipality as determined by the last preceding census
19 for the purpose of determining the allotment for that
20 municipality. If the population of any municipality was not
21 determined by the last Federal census preceding any
22 apportionment, the apportionment to such municipality shall be
23 in accordance with any census taken by such municipality. Any
24 municipal census used in accordance with this Section shall be
25 certified to the Department of Transportation by the clerk of
26 such municipality, and the accuracy thereof shall be subject to

1 approval of the Department which may make such corrections as
2 it ascertains to be necessary.

3 As soon as may be after the first day of each month the
4 Department of Transportation shall allot to each county its
5 share of the amount apportioned to the several counties of the
6 State as herein provided. Each allotment to the several
7 counties having less than 1,000,000 inhabitants shall be in
8 proportion to the amount of motor vehicle license fees received
9 from the residents of such counties, respectively, during the
10 preceding calendar year. The Secretary of State shall, on or
11 before April 15 of each year, transmit to the Department of
12 Transportation a full and complete report showing the amount of
13 motor vehicle license fees received from the residents of each
14 county, respectively, during the preceding calendar year. The
15 Department of Transportation shall, each month, use for
16 allotment purposes the last such report received from the
17 Secretary of State.

18 As soon as may be after the first day of each month, the
19 Department of Transportation shall allot to the several
20 counties their share of the amount apportioned for the use of
21 road districts. The allotment shall be apportioned among the
22 several counties in the State in the proportion which the total
23 mileage of township or district roads in the respective
24 counties bears to the total mileage of all township and
25 district roads in the State. Funds allotted to the respective
26 counties for the use of road districts therein shall be

1 allocated to the several road districts in the county in the
2 proportion which the total mileage of such township or district
3 roads in the respective road districts bears to the total
4 mileage of all such township or district roads in the county.
5 After July 1 of any year, no allocation shall be made for any
6 road district unless it levied a tax for road and bridge
7 purposes in an amount which will require the extension of such
8 tax against the taxable property in any such road district at a
9 rate of not less than either .08% of the value thereof, based
10 upon the assessment for the year immediately prior to the year
11 in which such tax was levied and as equalized by the Department
12 of Revenue or, in DuPage County, an amount equal to or greater
13 than \$12,000 per mile of road under the jurisdiction of the
14 road district, whichever is less. If any road district has
15 levied a special tax for road purposes pursuant to Sections
16 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such
17 tax was levied in an amount which would require extension at a
18 rate of not less than .08% of the value of the taxable property
19 thereof, as equalized or assessed by the Department of Revenue,
20 or, in DuPage County, an amount equal to or greater than
21 \$12,000 per mile of road under the jurisdiction of the road
22 district, whichever is less, such levy shall, however, be
23 deemed a proper compliance with this Section and shall qualify
24 such road district for an allotment under this Section. If a
25 township has transferred to the road and bridge fund money
26 which, when added to the amount of any tax levy of the road

1 district would be the equivalent of a tax levy requiring
2 extension at a rate of at least .08%, or, in DuPage County, an
3 amount equal to or greater than \$12,000 per mile of road under
4 the jurisdiction of the road district, whichever is less, such
5 transfer, together with any such tax levy, shall be deemed a
6 proper compliance with this Section and shall qualify the road
7 district for an allotment under this Section.

8 In counties in which a property tax extension limitation is
9 imposed under the Property Tax Extension Limitation Law, road
10 districts may retain their entitlement to a motor fuel tax
11 allotment if, at the time the property tax extension limitation
12 was imposed, the road district was levying a road and bridge
13 tax at a rate sufficient to entitle it to a motor fuel tax
14 allotment and continues to levy the maximum allowable amount
15 after the imposition of the property tax extension limitation.
16 Any road district may in all circumstances retain its
17 entitlement to a motor fuel tax allotment if it levied a road
18 and bridge tax in an amount that will require the extension of
19 the tax against the taxable property in the road district at a
20 rate of not less than 0.08% of the assessed value of the
21 property, based upon the assessment for the year immediately
22 preceding the year in which the tax was levied and as equalized
23 by the Department of Revenue or, in DuPage County, an amount
24 equal to or greater than \$12,000 per mile of road under the
25 jurisdiction of the road district, whichever is less.

26 As used in this Section the term "road district" means any

1 road district, including a county unit road district, provided
2 for by the Illinois Highway Code; and the term "township or
3 district road" means any road in the township and district road
4 system as defined in the Illinois Highway Code. For the
5 purposes of this Section, "road district" also includes park
6 districts, forest preserve districts and conservation
7 districts organized under Illinois law and "township or
8 district road" also includes such roads as are maintained by
9 park districts, forest preserve districts and conservation
10 districts. The Department of Transportation shall determine
11 the mileage of all township and district roads for the purposes
12 of making allotments and allocations of motor fuel tax funds
13 for use in road districts.

14 Payment of motor fuel tax moneys to municipalities and
15 counties shall be made as soon as possible after the allotment
16 is made. The treasurer of the municipality or county may invest
17 these funds until their use is required and the interest earned
18 by these investments shall be limited to the same uses as the
19 principal funds.

20 (Source: P.A. 93-32, eff. 6-20-03; 93-839, eff. 7-30-04;
21 94-839, eff. 6-6-06.)