



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5528

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

35 ILCS 505/8

from Ch. 120, par. 424

Amends the Motor Fuel Tax Law. Provides that provisions of the Act concerning distributions from the Motor Fuel Tax Fund to counties, municipalities, and road districts are an irrevocable and continuing appropriation to the Department of Transportation of all amounts necessary for those purposes. Effective immediately.

LRB099 15753 HLH 40054 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) \$3,500,000 shall be transferred each month to the Grade

1 Crossing Protection Fund to be used as follows: not less than
2 \$12,000,000 each fiscal year shall be used for the construction
3 or reconstruction of rail highway grade separation structures;
4 \$2,250,000 in fiscal years 2004 through 2009 and \$3,000,000 in
5 fiscal year 2010 and each fiscal year thereafter shall be
6 transferred to the Transportation Regulatory Fund and shall be
7 accounted for as part of the rail carrier portion of such funds
8 and shall be used to pay the cost of administration of the
9 Illinois Commerce Commission's railroad safety program in
10 connection with its duties under subsection (3) of Section
11 18c-7401 of the Illinois Vehicle Code, with the remainder to be
12 used by the Department of Transportation upon order of the
13 Illinois Commerce Commission, to pay that part of the cost
14 apportioned by such Commission to the State to cover the
15 interest of the public in the use of highways, roads, streets,
16 or pedestrian walkways in the county highway system, township
17 and district road system, or municipal street system as defined
18 in the Illinois Highway Code, as the same may from time to time
19 be amended, for separation of grades, for installation,
20 construction or reconstruction of crossing protection or
21 reconstruction, alteration, relocation including construction
22 or improvement of any existing highway necessary for access to
23 property or improvement of any grade crossing and grade
24 crossing surface including the necessary highway approaches
25 thereto of any railroad across the highway or public road, or
26 for the installation, construction, reconstruction, or

1 maintenance of a pedestrian walkway over or under a railroad
2 right-of-way, as provided for in and in accordance with Section
3 18c-7401 of the Illinois Vehicle Code. The Commission may order
4 up to \$2,000,000 per year in Grade Crossing Protection Fund
5 moneys for the improvement of grade crossing surfaces and up to
6 \$300,000 per year for the maintenance and renewal of 4-quadrant
7 gate vehicle detection systems located at non-high speed rail
8 grade crossings. The Commission shall not order more than
9 \$2,000,000 per year in Grade Crossing Protection Fund moneys
10 for pedestrian walkways. In entering orders for projects for
11 which payments from the Grade Crossing Protection Fund will be
12 made, the Commission shall account for expenditures authorized
13 by the orders on a cash rather than an accrual basis. For
14 purposes of this requirement an "accrual basis" assumes that
15 the total cost of the project is expended in the fiscal year in
16 which the order is entered, while a "cash basis" allocates the
17 cost of the project among fiscal years as expenditures are
18 actually made. To meet the requirements of this subsection, the
19 Illinois Commerce Commission shall develop annual and 5-year
20 project plans of rail crossing capital improvements that will
21 be paid for with moneys from the Grade Crossing Protection
22 Fund. The annual project plan shall identify projects for the
23 succeeding fiscal year and the 5-year project plan shall
24 identify projects for the 5 directly succeeding fiscal years.
25 The Commission shall submit the annual and 5-year project plans
26 for this Fund to the Governor, the President of the Senate, the

1 Senate Minority Leader, the Speaker of the House of
2 Representatives, and the Minority Leader of the House of
3 Representatives on the first Wednesday in April of each year;

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

7 (1) the costs of the Department of Revenue in
8 administering this Act;

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

13 (3) refunds provided for in Section 13, refunds for
14 overpayment of decal fees paid under Section 13a.4 of this
15 Act, and refunds provided for under the terms of the
16 International Fuel Tax Agreement referenced in Section
17 14a;

18 (4) from October 1, 1985 until June 30, 1994, the
19 administration of the Vehicle Emissions Inspection Law,
20 which amount shall be certified monthly by the
21 Environmental Protection Agency to the State Comptroller
22 and shall promptly be transferred by the State Comptroller
23 and Treasurer from the Motor Fuel Tax Fund to the Vehicle
24 Inspection Fund, and for the period July 1, 1994 through
25 June 30, 2000, one-twelfth of \$25,000,000 each month, for
26 the period July 1, 2000 through June 30, 2003, one-twelfth

1 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,
2 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each
3 July 1 and October 1, or as soon thereafter as may be
4 practical, during the period July 1, 2004 through June 30,
5 2012, and \$30,000,000 on June 1, 2013, or as soon
6 thereafter as may be practical, and \$15,000,000 on July 1
7 and October 1, or as soon thereafter as may be practical,
8 during the period of July 1, 2013 through June 30, 2015,
9 for the administration of the Vehicle Emissions Inspection
10 Law of 2005, to be transferred by the State Comptroller and
11 Treasurer from the Motor Fuel Tax Fund into the Vehicle
12 Inspection Fund;

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

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

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

24 (1) Until January 1, 2000, 58.4%, and beginning January
25 1, 2000, 45.6% shall be deposited as follows:

26 (A) 37% into the State Construction Account Fund,

1 and

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

7 (2) Until January 1, 2000, 41.6%, and beginning January
8 1, 2000, 54.4% shall be transferred to the Department of
9 Transportation to be distributed as follows:

10 (A) 49.10% to the municipalities of the State,

11 (B) 16.74% to the counties of the State having
12 1,000,000 or more inhabitants,

13 (C) 18.27% to the counties of the State having less
14 than 1,000,000 inhabitants,

15 (D) 15.89% to the road districts of the State.

16 (3) Item (2) of this subsection (e) constitutes an
17 irrevocable and continuing appropriation to the Department
18 of Transportation of all amounts necessary to make the
19 required distributions to counties, municipalities, and
20 road districts as set forth in this Section. The State
21 Treasurer and the State Comptroller are hereby authorized
22 and directed to make distributions from the Motor Fuel
23 Tax-Counties Fund, the Motor Fuel Tax-Municipalities Fund,
24 and the Motor Fuel Tax-Townships and Road Districts Fund as
25 provided in item (2) of this subsection (e).

26 As soon as may be after the first day of each month the

1 Department of Transportation shall allot to each municipality
2 its share of the amount apportioned to the several
3 municipalities which shall be in proportion to the population
4 of such municipalities as determined by the last preceding
5 municipal census if conducted by the Federal Government or
6 Federal census. If territory is annexed to any municipality
7 subsequent to the time of the last preceding census the
8 corporate authorities of such municipality may cause a census
9 to be taken of such annexed territory and the population so
10 ascertained for such territory shall be added to the population
11 of the municipality as determined by the last preceding census
12 for the purpose of determining the allotment for that
13 municipality. If the population of any municipality was not
14 determined by the last Federal census preceding any
15 apportionment, the apportionment to such municipality shall be
16 in accordance with any census taken by such municipality. Any
17 municipal census used in accordance with this Section shall be
18 certified to the Department of Transportation by the clerk of
19 such municipality, and the accuracy thereof shall be subject to
20 approval of the Department which may make such corrections as
21 it ascertains to be necessary.

22 As soon as may be after the first day of each month the
23 Department of Transportation shall allot to each county its
24 share of the amount apportioned to the several counties of the
25 State as herein provided. Each allotment to the several
26 counties having less than 1,000,000 inhabitants shall be in

1 proportion to the amount of motor vehicle license fees received
2 from the residents of such counties, respectively, during the
3 preceding calendar year. The Secretary of State shall, on or
4 before April 15 of each year, transmit to the Department of
5 Transportation a full and complete report showing the amount of
6 motor vehicle license fees received from the residents of each
7 county, respectively, during the preceding calendar year. The
8 Department of Transportation shall, each month, use for
9 allotment purposes the last such report received from the
10 Secretary of State.

11 As soon as may be after the first day of each month, the
12 Department of Transportation shall allot to the several
13 counties their share of the amount apportioned for the use of
14 road districts. The allotment shall be apportioned among the
15 several counties in the State in the proportion which the total
16 mileage of township or district roads in the respective
17 counties bears to the total mileage of all township and
18 district roads in the State. Funds allotted to the respective
19 counties for the use of road districts therein shall be
20 allocated to the several road districts in the county in the
21 proportion which the total mileage of such township or district
22 roads in the respective road districts bears to the total
23 mileage of all such township or district roads in the county.
24 After July 1 of any year prior to 2011, no allocation shall be
25 made for any road district unless it levied a tax for road and
26 bridge purposes in an amount which will require the extension

1 of such tax against the taxable property in any such road
2 district at a rate of not less than either .08% of the value
3 thereof, based upon the assessment for the year immediately
4 prior to the year in which such tax was levied and as equalized
5 by the Department of Revenue or, in DuPage County, an amount
6 equal to or greater than \$12,000 per mile of road under the
7 jurisdiction of the road district, whichever is less. Beginning
8 July 1, 2011 and each July 1 thereafter, an allocation shall be
9 made for any road district if it levied a tax for road and
10 bridge purposes. In counties other than DuPage County, if the
11 amount of the tax levy requires the extension of the tax
12 against the taxable property in the road district at a rate
13 that is less than 0.08% of the value thereof, based upon the
14 assessment for the year immediately prior to the year in which
15 the tax was levied and as equalized by the Department of
16 Revenue, then the amount of the allocation for that road
17 district shall be a percentage of the maximum allocation equal
18 to the percentage obtained by dividing the rate extended by the
19 district by 0.08%. In DuPage County, if the amount of the tax
20 levy requires the extension of the tax against the taxable
21 property in the road district at a rate that is less than the
22 lesser of (i) 0.08% of the value of the taxable property in the
23 road district, based upon the assessment for the year
24 immediately prior to the year in which such tax was levied and
25 as equalized by the Department of Revenue, or (ii) a rate that
26 will yield an amount equal to \$12,000 per mile of road under

1 the jurisdiction of the road district, then the amount of the
2 allocation for the road district shall be a percentage of the
3 maximum allocation equal to the percentage obtained by dividing
4 the rate extended by the district by the lesser of (i) 0.08% or
5 (ii) the rate that will yield an amount equal to \$12,000 per
6 mile of road under the jurisdiction of the road district.

7 Prior to 2011, if any road district has levied a special
8 tax for road purposes pursuant to Sections 6-601, 6-602 and
9 6-603 of the Illinois Highway Code, and such tax was levied in
10 an amount which would require extension at a rate of not less
11 than .08% of the value of the taxable property thereof, as
12 equalized or assessed by the Department of Revenue, or, in
13 DuPage County, an amount equal to or greater than \$12,000 per
14 mile of road under the jurisdiction of the road district,
15 whichever is less, such levy shall, however, be deemed a proper
16 compliance with this Section and shall qualify such road
17 district for an allotment under this Section. Beginning in 2011
18 and thereafter, if any road district has levied a special tax
19 for road purposes under Sections 6-601, 6-602, and 6-603 of the
20 Illinois Highway Code, and the tax was levied in an amount that
21 would require extension at a rate of not less than 0.08% of the
22 value of the taxable property of that road district, as
23 equalized or assessed by the Department of Revenue or, in
24 DuPage County, an amount equal to or greater than \$12,000 per
25 mile of road under the jurisdiction of the road district,
26 whichever is less, that levy shall be deemed a proper

1 compliance with this Section and shall qualify such road
2 district for a full, rather than proportionate, allotment under
3 this Section. If the levy for the special tax is less than
4 0.08% of the value of the taxable property, or, in DuPage
5 County if the levy for the special tax is less than the lesser
6 of (i) 0.08% or (ii) \$12,000 per mile of road under the
7 jurisdiction of the road district, and if the levy for the
8 special tax is more than any other levy for road and bridge
9 purposes, then the levy for the special tax qualifies the road
10 district for a proportionate, rather than full, allotment under
11 this Section. If the levy for the special tax is equal to or
12 less than any other levy for road and bridge purposes, then any
13 allotment under this Section shall be determined by the other
14 levy for road and bridge purposes.

15 Prior to 2011, if a township has transferred to the road
16 and bridge fund money which, when added to the amount of any
17 tax levy of the road district would be the equivalent of a tax
18 levy requiring extension at a rate of at least .08%, or, in
19 DuPage County, an amount equal to or greater than \$12,000 per
20 mile of road under the jurisdiction of the road district,
21 whichever is less, such transfer, together with any such tax
22 levy, shall be deemed a proper compliance with this Section and
23 shall qualify the road district for an allotment under this
24 Section.

25 In counties in which a property tax extension limitation is
26 imposed under the Property Tax Extension Limitation Law, road

1 districts may retain their entitlement to a motor fuel tax
2 allotment or, beginning in 2011, their entitlement to a full
3 allotment if, at the time the property tax extension limitation
4 was imposed, the road district was levying a road and bridge
5 tax at a rate sufficient to entitle it to a motor fuel tax
6 allotment and continues to levy the maximum allowable amount
7 after the imposition of the property tax extension limitation.
8 Any road district may in all circumstances retain its
9 entitlement to a motor fuel tax allotment or, beginning in
10 2011, its entitlement to a full allotment if it levied a road
11 and bridge tax in an amount that will require the extension of
12 the tax against the taxable property in the road district at a
13 rate of not less than 0.08% of the assessed value of the
14 property, based upon the assessment for the year immediately
15 preceding the year in which the tax was levied and as equalized
16 by the Department of Revenue or, in DuPage County, an amount
17 equal to or greater than \$12,000 per mile of road under the
18 jurisdiction of the road district, whichever is less.

19 As used in this Section the term "road district" means any
20 road district, including a county unit road district, provided
21 for by the Illinois Highway Code; and the term "township or
22 district road" means any road in the township and district road
23 system as defined in the Illinois Highway Code. For the
24 purposes of this Section, "township or district road" also
25 includes such roads as are maintained by park districts, forest
26 preserve districts and conservation districts. The Department

1 of Transportation shall determine the mileage of all township
2 and district roads for the purposes of making allotments and
3 allocations of motor fuel tax funds for use in road districts.

4 Payment of motor fuel tax moneys to municipalities and
5 counties shall be made as soon as possible after the allotment
6 is made. The treasurer of the municipality or county may invest
7 these funds until their use is required and the interest earned
8 by these investments shall be limited to the same uses as the
9 principal funds.

10 (Source: P.A. 97-72, eff. 7-1-11; 97-333, eff. 8-12-11; 98-24,
11 eff. 6-19-13; 98-674, eff. 6-30-14.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.