

## **GAS TAX DISTRIBUTION**

### **Section 8-17-91**

#### **Disposition of funds; overpayments.**

(a) The proceeds from the permit fees, inspection fees, and penalties, if any, collected by the Commissioner of Agriculture and Industries and the Revenue Commissioner pursuant to Section 8-17-87 together with one-third of the proceeds of the six cent (\$.06) additional motor fuel excise tax levied on gasoline under subdivision (1) of subsection (a) of Section 40-17-325, shall be paid into the State Treasury and distributed by the State Treasurer as follows:

(1) An amount equal to five percent or no less than \$175,000, whichever is greater, of the combined proceeds received each month shall accrue to the credit of, and be deposited in, the Agricultural Fund; and

(2) The balance of the proceeds shall be distributed as follows:

a. 13.87 percent of the balance of the proceeds shall be distributed equally among each of the 67 counties of the state monthly.

The county shall deposit the proceeds into the county's special RRR Fund as provided for in Section 40-17-362 and may use the proceeds so deposited for any purpose authorized under that section.

b. \$408,981 shall be allocated to the State Department of Transportation monthly and deposited in the State Treasury to the credit of the Public Road and Bridge Fund. Such funds are hereby appropriated to the State Department of Transportation to be used to match federal aid discretionary funds that may from time to time become available to the State Department of Transportation. In the event that in any fiscal year other State Department of Transportation funds are insufficient to match the department's regular federal aid apportionment, then at the Director of the State Department of Transportation's recommendation, and approval by the Governor, funds appropriated under this subsection may be used to match the federal aid apportionment.

c. 2.76 percent of the balance of the proceeds shall be allocated among the incorporated municipalities of the state as follows:

1. A portion of the municipalities' share of the balance of the proceeds that is equal to 45.45 percent of the municipalities' share of the balance of the proceeds shall be allocated equally among the 67 counties of the state.

2. The entire residue of the municipalities' share of the balance of the proceeds being an amount equal to 54.55 percent of the municipalities' share of the balance of the proceeds shall be allocated among the 67 counties of the state on the basis of the ratio of the population of each such county to the total population of the state according to the then next preceding federal decennial census, or any special federal census heretofore held in any county subsequent to the effective date of the 1980 federal decennial census.

3. The amount so allocated or apportioned to each county shall be distributed among the municipalities in the county with respect to which the allocation or apportionment is made, each such distribution among the municipalities to be on the basis of the ratio of the population of each such municipality to the total population of all municipalities in the applicable county according to the then next preceding federal decennial census.

4. The population of any municipality incorporated subsequent to the taking of the then next preceding federal decennial census shall be deemed to be the population shown by the census for that municipality taken pursuant to the requirements of Section 11-41-4. Any municipality incorporated after September 1983, shall not participate in the distribution provided for in this section until the fiscal year next succeeding the fiscal year during which it is incorporated, the first distribution to such municipality to be made in respect of receipts of the inspection fee by the state during October of the fiscal year next succeeding the incorporation.

5. Use of the inspection fee by a municipality shall be for transportation planning, the construction, reconstruction, maintenance, widening, alteration, and improvement of public roads, bridges, streets, and other public ways, including payment of the principal of and interest on any securities at any time issued by the municipality pursuant to law for the payment of which any part of the net tax proceeds were or may be lawfully pledged; provided, that no part of the balance of the proceeds referred to in this section shall be expended contrary to the provisions of the Constitution; and provided further, that funds distributed to municipalities under the provisions of this division shall not be commingled with other funds of the municipality, except the municipalities' portion of the highway gasoline tax, and shall be kept and disbursed by such municipality from a special fund only for the purposes hereinabove provided.

d. An additional five percent of the balance each month computed after deducting the distributions in paragraphs a. and c. shall accrue to the credit of, and be deposited in, the Agricultural Fund.

e. In addition to any and all other funds heretofore or hereafter appropriated, for the fiscal year beginning October 1, 2015, there is appropriated to the Department of Revenue as a first charge against the fees collected pursuant to this article, the sum of five hundred thousand dollars (\$500,000) to offset the Revenue Department's costs to implement and administer this article. Beginning October 1, 2016, and every year thereafter an amount equal to two and one-half percent of the balance of the proceeds received each month after deducting the distributions in paragraphs a., b., c., and d. or no less than eighty-seven thousand five hundred dollars (\$87,500), whichever is greater, is appropriated and shall accrue to the credit of, and be deposited to, the Department of Revenue to offset its costs of collection.

f. The balance of the proceeds after a., b., c., d., and e. above have been distributed monthly shall accrue to the credit of and be deposited in the Public Road and Bridge Fund.

(b) In the event of the collection hereunder from any person of an amount in excess of the amount of all inspection fees, interest, or penalties properly and lawfully required to be paid by such person, such person may apply to the Revenue Commissioner in the case of the inspection fees, interest, and penalties paid to the Revenue Commissioner. In the case of overpayment of the permit fees or penalties paid to the Commissioner of Agriculture and Industries, the person may apply to the Commissioner of Agriculture and Industries for a refund of the amount of such overpayment. If such application for refund is approved in whole or in part by the commissioner, the commissioner shall submit to the state Comptroller a statement,

approved by the state Attorney General, setting forth the amount determined to have been overpaid and the date of the overpayment. If an application for refund submitted to the Revenue Commissioner is approved in whole or in part by the Revenue Commissioner, he or she shall submit to the state Comptroller a statement, setting forth the amount determined to have been overpaid and the date of the overpayment. In each case, the state Comptroller shall then draw his or her warrant in favor of the person making such overpayment upon the State Treasurer for the amount specified in the statement, and such amount shall be paid out of current months' collections before any distribution is made under subsection (a) of this section.

(c) The application for refund of the permit fees provided for in this article shall be filed with the Commissioner of Agriculture and Industries within 12 calendar months from the date upon which the overpayment was made, and no amount shall be refunded unless the application therefor is filed within the time prescribed herein.

For any period prior to October 1, 2016, the application for refund of the inspection fee provided for in this article shall be filed with the Revenue Commissioner within 12 calendar months from the date upon which the overpayment was made, and no amount shall be refunded unless the application therefor is filed within the time prescribed herein. For the period beginning October 1, 2016, the application for refund of the inspection fee provided for in this article must be filed with the Revenue Commissioner within the time limits provided by the Taxpayer Bill of Rights in Chapter 2A of Title 40. No amount shall be approved for refund by the Revenue Commissioner unless the application therefor is filed within the time prescribed therein.

(d) The Department of Agriculture and Industries or the Department of Revenue shall have authority to make and issue rules and regulations relating to the procedure to be followed in filing an application for a refund and for payment of any refund made under this article.

(e) In the event of the collection from any person by the Revenue Commissioner of an amount in excess of the amount lawfully required for the six cent (\$.06) additional motor fuel excise tax levied on gasoline under subdivision (1) of subsection (a) of Section 40-17-325, when one-third of the amounts so collected have been deposited in the State Treasury and distributed as provided herein, any refund properly approved by the Revenue Commissioner shall be paid out of current months' collections before any distribution of the current months' collections is made under subsection (a) of this section.

***(Acts 1971, No. 1403, p. 2363, §11; Acts 1979, No. 79-307, p. 460, §1; Acts 1984, No. 84-185, p. 279, §2; Acts 1986, Ex. Sess., No. 86-716, p. 132, §1; Act 2004-516, p. 996, §1; Act 2004-546, p. 1164, §1; Act 2012-400, p. 1092, §1; Act 2015-54, §1.)***

### **Section 40-12-270**

#### **Disbursement of net proceeds from license taxes and registration fees; Secondary Road Committee created.**

(a) The moneys collected each month by the judge of probate from motor vehicle license taxes and registration fees, after deducting therefrom the amounts referred to in subdivisions (1) and (2) of subsection (a) of Section 40-12-269, the moneys remaining after making the said deductions being referred to in this section as "the net proceeds," shall be disbursed by the judge of probate as follows:

(1) That portion of the net proceeds that consists of additional amounts paid under the schedule of additional amounts set forth in subsection (b) of Section 40-12-248 shall be remitted by the judge of probate to the State Treasurer who shall distribute said amounts as follows:

a. 64.75 percent of said amounts shall be distributed by the State Treasurer to the State of Alabama;

b. 35.25 percent of said amounts shall be apportioned and distributed by the State Treasurer among the 67 counties as follows:

1. A portion of the counties' share of the net tax proceeds that is equal to 42.16 percent of the total net tax proceeds distributed to counties under paragraph (a)(1)b of this section, shall be allocated equally among the 67 counties of the state.

2. The entire residue of the counties' share of the net tax proceeds, being an amount equal to 57.84 percent of the total net tax proceeds distributed to counties under paragraph (a)(1)b of this section, shall be allocated among the 67 counties of the state on the basis of the ratio of the population of each county to the total population of the state according to the then next preceding federal decennial census, or any special federal census heretofore held in any county subsequent to the effective date of the 1980 federal decennial census.

(2) The entire residue of the net proceeds remaining after compliance with subdivision (1) of this subsection shall be distributed as follows:

a. Seventy-two percent of the said residue, referred to in this subdivision, shall be distributed to the State of Alabama and shall be remitted by the judge of probate to the State Treasurer;

b. Twenty-one percent of the said residue, referred to in this subdivision, shall be remitted by the judge of probate to the municipality in which the owner of the motor vehicle resides or with respect to which it is registered as required by law, or, if the said owner does not reside in, or the motor vehicle is not required by law to be registered with respect to, an incorporated municipality, then to the county in which the license tax or registration fee with respect to the said motor vehicle is paid; and

c. Seven percent of the said residue, referred to in this subdivision, shall be remitted by the judge of probate to the State Treasurer and shall be apportioned by the State Treasurer among the several counties of the state in an amount for each county that bears the same relation to, and constitutes the same proportion of, the total of the said seven percent that the total number of motor vehicles registered in such county bears to the total number of motor vehicles registered in the entire state. The amounts so apportioned to each county shall be distributed by the State Treasurer as follows:

1. Ten percent of the amount so apportioned to each county shall be distributed among the municipalities in the county with respect to which the apportionment is made, each such distribution to be on the basis of the ratio of the population of each such municipality to the total population of all municipalities in the applicable county according to the then next preceding federal decennial census; and

2. The remaining portion of the amount so apportioned to each county shall be distributed to the county to which such apportionment is made.

(b) Payment of the amounts herein provided to be distributed by the State Treasurer to counties and municipalities shall be made monthly by state warrant and shall be mailed, in the case of such distribution to a county, to the county treasurer (or other officer or entity having the functions of a county treasurer) of that county and, in the case of a distribution to a municipality, to the treasurer of that municipality.

(c) Any municipality incorporated after September 30, 1967, shall not participate in the distribution provided for in this section until the fiscal year next succeeding the fiscal year during which it is incorporated. The population of any municipality incorporated subsequent to the taking of the then next preceding federal decennial census shall, until the effective date of the then next succeeding federal decennial census, be deemed to be the population shown by the census for that municipality taken pursuant to the requirements of Section 11-41-4. For the purposes of this section, each federal decennial census shall be deemed to be effective on October 1 next following the publication of the results of such decennial census.

(d) The amounts remitted to the State Treasurer pursuant to subdivision (2) of subsection (a) of Section 40-12-269 and all moneys provided in this section to be distributed to the State of Alabama shall be covered into the Treasury to the credit of the Public Road and Bridge Fund and disbursed as follows:

(1) The amounts appropriated by the Legislature out of the motor vehicle license taxes and registration fees for the payment of expenses of the state Department of Revenue in the collection of the said taxes and fees, including salaries, cost of tags and other costs of collection, shall be paid out of the portion of said taxes and fees that is remitted to the State Treasurer pursuant to subdivision (2) of subsection (a) of Section 40-12-269;

(2) So much of the net proceeds distributed to the State of Alabama pursuant to the provisions of this section as shall be necessary for such purpose shall be used for the following purposes in the following order:

a. Payment at their respective maturities of the principal of and interest on bonds, other than refunding bonds, issued by Alabama Highway Authority under the provisions of Acts 1967, Ex. Sess., No. 225, p. 302;

b. Payment at their respective maturities of the principal of and interest on bonds, other than refunding bonds, issued by the said Alabama Highway Authority under the provisions of Acts 1969, No. 781, p. 1398;

c. Payment at their respective maturities of the principal of and interest on bonds, other than refunding bonds, issued by the said Alabama Highway Authority under the provisions of Acts 1971, No. 1416, p. 2414; and

d. Payment at their respective maturities of the principal of and interest on any bonds or other obligations, including refunding obligations, issued after December 1, 1977, by a public corporation existing at the time of issuance under the laws of Alabama pursuant to then existing statutory or constitutional authorization, or by the State of Alabama pursuant to authorization, effective at the time of issuance, under the Constitution and laws of the said state, and for which the said net proceeds referred to in this subdivision (2) shall have been appropriated and pledged in a then effective statute or constitutional provision (including any enabling act under a constitutional provision), all in the manner and to the extent and subject to such priorities in rank

as may be provided in such statute or constitutional provision or in an authorizing resolution thereunder; and

(3) The balance of the moneys referred to in subdivisions (1) and (2) of this subsection remaining after compliance with the said subdivisions shall be used by the state Department of Transportation for construction and maintenance of public roads and bridges in the state and for any other purpose for which moneys in the Public Road and Bridge Fund may be lawfully used.

(e)(1) All moneys received by a municipality or county under this section, except that portion of the said moneys that constitute collections from additional amounts paid under the schedule of additional amounts set forth in subsection (b) of Section 40-12-248 and distributed under subdivision (a)(1) of this section, shall be used by such municipality or county exclusively for the construction, improvement, and maintenance of public highways or public streets, including administrative expenses in connection therewith and retirement of securities evidencing obligations incurred for payment of costs of such construction, improvement and maintenance.

(2) All moneys received by a county under this section which constitute collections from additional amounts paid under the schedule of additional amounts set forth in subsection (b) of Section 40-12-248 and distributed under subdivision (a)(1) of this section shall be used by such county for the construction, including draining, grading, basing, paving, signing, and erosion items, of certain high density unpaved roads as herein provided and for the construction or reconstruction of bridges on such high density roads. The use may also be for the reconstruction, resurfacing, restoration, and rehabilitation of the paved county roads and bridges or bridge replacement on the county road system. The use may also be for the construction, including draining, grading, basing, and paving of certain unpaved roads, and reconstruction of certain paved roads accessing certain public and private recreational facilities and areas.

There is hereby created a committee to be referred to as the Secondary Road Committee comprised of the Chief of the Bureau of Secondary Roads of the state Department of Transportation, two county engineers appointed by the state Director of Transportation and two county commission members appointed by the Governor. The committee members shall serve at the pleasure of the appointing authority. The committee shall elect one of its members to serve as chairman. A quorum of the committee shall consist of no less than three members. Committee members shall serve without compensation.

The Secondary Road Committee shall develop and publish criteria for the designation of high density roads and bridges and for the designation of eligible recreational access roads. The committee may in its discretion provide different criteria for counties according to population, topography, and road mileage. The committee shall also develop and publish minimum design standards, including allowable cost items, for the construction, reconstruction, surfacing, resurfacing, restoration, and rehabilitation of such high density roads and bridges and recreational access roads. Criteria and standards developed by the committee shall be published by distributing printed copies thereof to the chairman of each county commission in Alabama no later than 90 days after June 1, 1984. The committee may from time to time amend the criteria and standards developed provided that at least 60 days' notice is provided in writing to the chairman of each county commission before the effective date of such amendment. The state Department of Transportation shall provide all supplies and clerical help necessary for the committee to execute its responsibilities.

County commissions are hereby required to submit all plans for the use of such proceeds to the Director of Transportation or his designee for approval. The Director of Transportation or his designee shall review all plans and approve them or disapprove them, based on the criteria and standards developed by the committee.

The funds distributed to the counties under this subsection shall not be commingled with other funds of the county except the counties' portion of the inspection fee distributed under Section 8-17-91 and shall be kept and disbursed by such county from a special fund only for the purposes hereinabove provided.

The provisions of this section notwithstanding, any county may at any time deposit all or any portion of such proceeds into the county's special RRR fund as provided for in Section 40-17-224 and may use the proceeds so deposited for any purpose authorized under said section.

***(Acts 1935, No. 194, p. 256; Acts 1939, No. 397, p. 518; Code 1940, T. 51, §713; Acts 1949, No. 471, p. 688; Acts 1951, No. 314, p. 609; Acts 1961, No. 682, p. 974; Acts 1967, Ex. Sess., No. 223, p. 282, §8; Acts 1969, No. 780, p. 1395; Acts 1971, No. 1206, p. 2092, §3; Acts 1978, No. 579, p. 648; Acts 1984, No. 84-186, p. 286, §3.)***

#### **Section 40-17-359**

##### **Distribution and use of proceeds.**

(a) For the purpose of this section, the following terms shall have the meanings ascribed below:

- (1) BASE ANNUAL COUNTY DISTRIBUTION. Five hundred fifty thousand dollars (\$550,000).
- (2) COST OF COLLECTION. The amounts from the proceeds of the highway gasoline tax that may be appropriated by the Legislature to the department for its operating expenses.
- (3) COUNTY. Each county in the state.
- (4) FISCAL YEAR. The fiscal year of the state.
- (5) DEPARTMENT OF TRANSPORTATION. The Department of Transportation of the state.
- (6) HIGHWAY GASOLINE TAX. Both of the following:
  - a. The excise tax levied under subdivision (1) of subsection (a) of Section 40-17-325, with the exception of those portions of the tax levied on aviation fuel and marine gasoline.
  - b. The excise tax levied by Sections 40-17-140 to 40-17-155, inclusive, except that portion of the tax imposed on diesel fuel.
- (7) LOCAL SUBDIVISIONS' SHARES OF THE NET TAX PROCEEDS. The 55 percent of the net tax proceeds referred to in the first sentence of subsection (d).
- (8) MUNICIPALITY. An incorporated city or town in the state.

(9) NET TAX PROCEEDS. The entire proceeds from the highway gasoline tax, except the proceeds from the supplemental excise tax of five cents (\$.05) per gallon and additional six cents (\$.06) imposed by subdivision (1) of subsection (a) of Section 40-17-325, less the cost of collection and less any refunds pursuant to the provisions of this article.

(10) PUBLIC HIGHWAY. Every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct, or trestle located either within a municipality or in unincorporated territory and laid out or erected by the public or dedicated or abandoned to the public or intended for use by or for the public. The term "public highway" shall apply to and include driveways upon the grounds of universities, colleges, schools, and institutions but shall not be deemed to include private driveways, private roads, or private places not intended for use by the public.

(11) STATE. The State of Alabama.

(12) STATE'S SHARE OF THE NET TAX PROCEEDS. The 45 percent of the net tax proceeds referred to in the first sentence of subsection (c).

(13) SUPPLEMENTAL NET TAX PROCEEDS. That portion of the highway gasoline tax remaining after the deduction of the net tax proceeds and one-third of all revenues received or collected by the department remaining after the payment of refunds from the additional six cents (\$.06) tax levied on gasoline under Section 40-17-325(a)(1) and two-thirds revenues received or collected by the department after the payment of refunds and the expense of administration and enforcement of this article from the additional six cents (\$.06) tax levied on gasoline under Section 40-17-325(a)(1), less the cost of collection and less any refunds of the highway gasoline tax applicable to the supplemental gasoline excise tax imposed in subdivision (1) of subsection (a) of Section 40-17-325.

The foregoing definitions shall be deemed applicable whether terms defined are used in the singular or plural.

(b) The revenue, less the cost of collection and refunds authorized by law, from the seven cents (\$.07) excise tax and the supplemental excise tax of five cents (\$.05) per gallon on gasoline, shall not be used for any purposes other than the following:

(1) The Legislature hereby finds as a fact that of all the gasoline sold in this state not less than one and twenty-three hundredths percent thereof is used for marine purposes to propel vessels on inland and coastal waterways of this state. The Legislature hereby declares that it is the policy of this state to use the funds derived pursuant to this section from the sale of marine gasoline to provide for the programs and activities of the Marine Police, Marine Resources, and Wildlife and Freshwater Fisheries Divisions of the Department of Conservation and Natural Resources in this state as follows:

a. Thirty-five one hundredths of one percent of all state-imposed taxes collected pursuant to this subsection on the sale of gasoline, except gasoline and other fuels consumed in airplanes, shall be credited as follows: 60 percent to the State Water Safety Fund of the Marine Police Division and 40 percent to the Seafood Fund of the Marine Resources Division.

b. An amount equal to seventy-one hundredths of one percent of all state-imposed taxes levied pursuant to this subsection and collected on the sale of gasoline, except gasoline and other fuels consumed in airplanes, and which would otherwise be credited to the Public Road and

Bridge Fund pursuant to this section shall be credited to the Game and Fish Fund of the Division of Wildlife and Freshwater Fisheries. Provided, however, that the above credit to the Game and Fish Fund shall not diminish the allocations provided by subsection (d).

c. An amount equal to eighteen one hundredths of one percent of all state-imposed taxes levied pursuant to this subsection and collected on the sale of gasoline, except gasoline and other fuels consumed in airplanes, and which would otherwise be credited to the Public Road and Bridge Fund pursuant to this section shall be credited as follows: 60 percent to the State Water Safety Fund of the Marine Police Division and 40 percent to the Seafood Fund of the Marine Resources Division. Provided, however, that this additional credit to the State Water Safety Fund and Seafood Fund shall not diminish the allocations provided by subsection (d).

(2) The revenue arising from the sale of gasoline as herein defined, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the tax imposed in subdivision (3) of subsection (a) of Section 40-17-325, and except for revenues from the supplemental net tax proceeds, for all other purposes shall not be used for any purpose other than for the construction, improvement, maintenance, and supervision of highways, bridges, and streets, including the retirement of bonds for the payment of which such revenues have been or may hereafter be pledged. The payment of the per diem and mileage of members of county governing bodies when engaged in supervising the construction, improvement, and maintenance of highways, bridges, and streets shall be construed as used in supervision. The governing body of each county may expend an amount not to exceed one third of the total amount of such revenue that may be received by such county in the payment of any debt that may have been incurred by such county for the construction or maintenance of roads or bridges. This fund shall be allocated in the manner now provided by law. On the 20th day of each month following that quarter of any fiscal year, all revenue derived from the sale of gasoline to be consumed in the motor of a boat or vessel as defined in subdivision (1) shall be allocated to the State Water Safety Fund, Seafood Fund, and Game and Fish Fund.

(c) Distribution of forty-five percent of net tax proceeds shall be distributed as follows:

(1) Forty-five percent of the net tax proceeds are hereby allocated and appropriated for state highway purposes and as the state's share of the net tax proceeds to be covered into the State Treasury to the credit of the Public Road and Bridge Fund and to be disbursed as hereinafter provided in this section.

(2) A portion of the state's share of the net tax proceeds that is equal in amount to two sevenths (equivalent to six twenty-firsts) of the net tax proceeds shall be disbursed, to pay at their respective maturities the principal of and interest on the bonds issued prior to March 1, 1967, by the Alabama Highway Authority, a public corporation organized and existing under the provisions of Sections 23-1-150 to 23-1-160, inclusive, in the order in which the two sevenths of the net tax proceeds were pledged for the bonds.

(3) A portion of the state's share of the net tax proceeds that is equal in amount to two twenty-firsts of the net tax proceeds shall be disbursed to pay at their respective maturities the principal of and interest on the bonds issued prior to March 1, 1967, by the Alabama Highway Authority, in the order in which the two twenty-firsts of the net tax proceeds were pledged for the bonds.

(4) A portion of the state's share of the net tax proceeds that is equal in amount to one twenty-first of the net tax proceeds shall be disbursed to pay at their respective maturities the principal

of and interest on the bonds issued by the Alabama Highway Authority after March 1, 1959, and prior to March 1, 1967, in the order in which the one twenty-first of the net tax proceeds was pledged for the bonds.

(5) The residue of the state's share of the net tax proceeds remaining after provision shall have been made out of the aforesaid nine twenty-firsts of the net tax proceeds for payment of the obligations referred to in the foregoing subdivisions (2), (3), and (4) shall be disbursed for the following purposes, in the following order and to the extent necessary:

a. For payment at their respective maturities of the principal of and interest on bonds, other than refunding bonds, issued by the Alabama Highway Authority under the provisions of Act No. 225, 1967 Special Session (Acts 1967, p. 302), to the extent that the portion of the motor vehicle license taxes and registration fees provided in Section 40-12-270, to be used for the payment of the principal of and interest on the bonds, other than refunding bonds, issued by the Alabama Highway Authority under the provisions of Act No. 225, should be insufficient to pay the principal and interest at their respective maturities.

b. For payment at their respective maturities of the principal of and interest on the bonds, other than refunding bonds, issued by the Alabama Highway Authority under the provisions of Act No. 781, 1969 Regular Session (Acts 1969, p. 1398), to the extent that the portion of the motor vehicle license taxes and registration fees provided in Section 40-12-270, to be used for the payment of the principal of and interest on the bonds, other than refunding bonds, issued by the Alabama Highway Authority under the provisions of Act No. 781, should be insufficient to pay the principal and interest at their respective maturities.

c. For payment at their respective maturities of the principal of and interest on the bonds, other than refunding bonds, issued by the Alabama Highway Authority under the provisions of Act No. 1416, 1971 Regular Session (Acts 1971, p. 2412), to the extent that the portion of the motor vehicle license taxes and registration fees provided in Section 40-12-270, to be used for the payment of the principal of and interest on the bonds, other than refunding bonds, issued by the Alabama Highway Authority under the provisions of Act No. 1416, should be insufficient to pay the principal and interest at their respective maturities.

d. For payment at their respective maturities of the principal of and interest on any bonds or other obligations, including refunding obligations, issued after December 1, 1977, by a public corporation existing at the time of issuance under the laws of the state pursuant to then existing statutory authorization, or by the state pursuant to then existing authorization, effective at the time of issuance, under the constitution and laws of the state, and for which the aforesaid residue, referred to in this subdivision, of the state's share of the net tax proceeds shall have been appropriated and pledged in a then effective statute or constitutional provision (including any enabling act under a constitutional provision) under which the bonds may be issued, all in the manner and to the extent and subject to the priorities in rank as may be provided in a statute or constitutional provision or in any authorizing resolution thereunder.

e. For allocation on September 30 of each fiscal year to each county to which allocation shall have been made under the provisions of subsection (d), during that fiscal year less than the base annual county distribution, which, when added to the amounts so allocated to that county under subsection (d), will equal the base annual county distribution.

(6) The state's share of the net tax proceeds paid into the Public Road and Bridge Fund and not required for any of the purposes referred to in any of the foregoing subdivisions (2), (3), (4), and (5) may be withdrawn by the Department of Transportation and used by it for highway purposes.

(d) Fifty-five percent of net tax proceeds shall be distributed as follows:

(1) Fifty-five percent of the net tax proceeds are hereby allocated and appropriated to be used for highway purposes by the counties and municipalities to be covered into the State Treasury and shall be disbursed and allocated as hereinafter provided in this section.

(2) A portion of the local subdivisions' shares of the net tax proceeds that is equal to 25 percent of the net tax proceeds shall be allocated equally among the 67 counties of the state.

(3) The entire residue of the local subdivisions' shares of the net tax proceeds, being an amount equal to 30 percent of the net tax proceeds less any amount paid pursuant to the contingent appropriation in subdivision (2), shall be allocated among the 67 counties of the state on the basis of the ratio of the population of each county to the total population of the state according to the then next preceding federal decennial census, or any special federal census heretofore held in any county subsequent to the effective date of the 1960 Federal Decennial Census. The allocation provided for in this subdivision shall be made on or prior to the tenth day of each month with respect to receipts of the highway gasoline tax by the state during the preceding month.

(e)(1) The amounts allocated or apportioned to each county pursuant to each of subsections (c) and (d) shall be disposed of as follows:

a. Ten percent of the amount so allocated or apportioned to each county shall be distributed among the municipalities in the county with respect to which the allocation or apportionment is made; each distribution among the municipalities shall be made on the basis of the ratio of the population of each municipality to the total population of all municipalities in the applicable county according to the then next preceding federal decennial census.

b. The remaining portion of the amount so allocated or apportioned to each county shall be distributed to the county with respect to which the allocation or apportionment is made. The distributions provided for in this subsection shall be made monthly.

(2) The population of any municipality incorporated subsequent to the taking of the then next preceding federal decennial census shall be deemed to be the population shown by the census for that municipality taken pursuant to the requirements of Section 11-41-4. Any municipality incorporated after September 30, 1967, shall not participate in the distribution provided for in this section until the fiscal year next succeeding the fiscal year during which it is incorporated, the first distribution to the municipality to be made from the receipts of the highway gasoline tax by the state during October of the fiscal year next succeeding its incorporation.

(3) When requested to do so by any municipality, the Department of Transportation may make available the services and advice of its engineers and other employees with respect to any work for which that municipality proposes to expend moneys distributed to it under this section. Any services and advice that may be made available shall be provided under the terms and conditions that may be mutually agreeable to the Department of Transportation and the municipality.

(f) Three-fifths of the supplemental net tax proceeds on gasoline, as defined in subsection (a), shall be deposited in the State Treasury to the credit of the Public Road and Bridge Fund of the Department of Transportation and shall be used exclusively in the construction, repair, maintenance, and operation of public roads and bridges in this state, including public roads in state parks and any toll road or toll bridge constructed by the state Department of Transportation or maintained and operated by it or under its supervision. It is further provided that of the receipts collected under this section dedicated to the Public Road and Bridge Fund, the sum of one million dollars (\$1,000,000) shall be set aside in the fiscal year ending September 30, 1992, and the sum of at least five hundred thousand dollars (\$500,000) for the fiscal year ending September 30, 1993, and in each fiscal year thereafter, to coordinate with the Department of Conservation and Natural Resources on the construction, maintenance, and repair of public roads in the state's park system. The remaining two-fifths of the supplemental net tax proceeds shall be distributed, as provided for distribution of the net tax proceeds, according to subsections (c), (d), and (e). Any local laws or general laws of local application now in effect regarding the distribution of the tax levied by Section 40-17-325 shall govern the distribution of the amounts allocated or apportioned within every county by this section. The Legislature may by general or local laws prescribe other distributions within counties to local governments. The two fifths of the supplemental net tax proceeds shall be used for the same purposes and deposited in the same state, county, and municipal funds as provided by Section 40-17-362. Where the use is by a county, the funds may be used to match federal aid on any projects that meet the requirements for federal funding and the funds may also be used for new construction without regard to the provision that 90 percent of the county's paved road system has achieved a grade of 85 percent based on the State of Alabama Department of Transportation's annual maintenance report of county roads and bridges.

(g) In all counties wherein members of the county governing bodies are compensated or paid on a salary basis, the county governing bodies may pay a part of the salary out of the county gasoline tax revenues. The part paid out of county gasoline tax revenues shall bear the same proportion to the total salary paid to the member as the time devoted by the member to supervising, inspecting, accepting, building, or repairing county roads or bridges bears to the total time devoted by the member to all of his or her duties as a member of the county governing body.

The county governing body may determine the proportions set out in this section.

(h) The county commissions may pay a portion of the compensation of their clerks out of the Public Road and Bridge Fund or gasoline tax funds in the county treasury; provided, that not more than 75 percent of the total salary payable shall be paid out of the fund or funds.

(i) For the purpose of this section, each federal decennial census shall be deemed to be effective on October 1 next following the publication of the results of the decennial census.

(j) Wherever in this section any portion of the net tax proceeds is provided to be applied or used for highway purposes, it shall be used as follows:

(1) Where the use is by the Department of Transportation, with the approval of the Governor, the use shall be for the construction of public roads and bridges in the state, the maintenance of public roads and bridges on the state highway system, the equipment and preparation of convicts for use upon the public roads and bridges in the state, the maintenance of the convicts while at work upon the roads and bridges, the compensation to the state for the use of any

convicts, and for other public road and bridge purposes in the state as may be authorized by the Department of Transportation with the approval of the Governor.

(2) Where the use is by a county, the use shall be for transportation planning, the construction, reconstruction, maintenance, widening, alteration, and improvement of public roads and bridges as is now or may hereafter be provided by law, including payment of the principal of and interest on any securities at any time issued by the county pursuant to law for payment of which all or any of the net tax proceeds were or may be lawfully pledged, and the use may also be for the purpose and subject to the provisions contained in subsection (g).

(3) Where the use is by a municipality, the use shall be for transportation planning, the construction, reconstruction, maintenance, widening, alteration, and improvement of public roads, bridges, streets, and other public ways, including payment of the principal of and interest on any securities at any time issued by the municipality pursuant to law for the payment of which any part of the net tax proceeds were or may be lawfully pledged; provided, that no part of the net tax proceeds referred to in this section shall be expended contrary to the provisions of the constitution; and provided further, that funds distributed to municipalities under the provisions of this section shall not be commingled with other funds of the municipality and shall be kept and disbursed by the municipality from a special fund only for the purposes hereinabove provided.

(k) The county commission of each of the counties may use or expend the proceeds of the state gasoline tax levied by Section 40-17-325, distributed to the county pursuant to this section, for the construction and maintenance of streets within the corporate limits of any municipality located within the county, anything in Sections 40-17-322 to 40-17-356, inclusive, to the contrary notwithstanding.

(l) The county commission of each of the counties may use or expend the state gasoline tax proceeds referred to in subsection (k) for the construction, reconstruction, maintenance, and repair of public highways and traffic control areas located on public school property or state school property within the county.

(m) The State Treasurer shall make all allocations of the net tax proceeds and the supplemental net tax proceeds and shall make the distributions and payments thereof pursuant to the allocations provided for in this section.

(n) It is the intention of the Legislature in enacting this section to preserve inviolate all pledges heretofore made pursuant to law of any portion of the proceeds derived from the highway gasoline tax for the benefit of those bonds now outstanding that are referred to in subsection (c), or for the benefit of securities now outstanding that were issued pursuant to law by any county or municipality.

(o) One-third of all revenues received or collected by the department from the additional six cents (\$.06) tax levied on gasoline under subdivision (1) of subsection (a) of Section 40-17-325, remaining after the payment of refunds of this article shall be paid into the State Treasury and distributed by the State Treasurer as prescribed under Section 8-17-91.

(p) The remaining two-thirds revenues received or collected by the department from the additional six cents (\$.06) tax levied on gasoline under subdivision (1) of subsection (a) of Section 40-17-325, after the payment of refunds and the expense of administration and

enforcement of this article shall be paid into the State Treasury and distributed by the State Treasurer as follows:

(1) Forty-five percent for state highway purposes and as the state's share of the remaining two-thirds revenues received or collected by the department from the additional six cents (\$.06) tax levied. This 45 percent shall be deposited into the State Treasury to the credit of the Public Road and Bridge Fund and shall be disbursed as provided in this article.

(2) Fifty-five percent for highway purposes by the counties and municipalities. The 55 percent of the remaining two-thirds revenues received or collected by the department from the additional six cents (\$.06) tax levied shall be deposited into the State Treasury and shall be disbursed and allocated as hereinafter provided in this section.

a. A portion of the local subdivisions' shares of the remaining two-thirds revenue received or collected by the department from the additional six cents (\$.06) tax levied that is equal to 25 percent of the remaining two-thirds revenue received or collected by the department from the additional six cents (\$.06) tax levied shall be allocated equally among the 67 counties of the state.

b. The entire residue of the local subdivisions' shares of the remaining two-thirds revenues received or collected by the department from the additional six cents (\$.06) tax levied, being an amount equal to 30 percent of the remaining two-thirds revenues received or collected by the department from the additional six cents (\$.06) tax levied, shall be allocated among the 67 counties of the state on the basis of the ratio of the population of each county to the total population of the state according to the then next preceding federal decennial census, or any special federal census heretofore held in any county subsequent to the effective date of the 1970 Federal Decennial Census. The allocation provided for in this subsection shall be made on or prior to the tenth day of each month with respect to receipts of the highway gasoline tax by the state during the preceding month.

c. The distributions provided for in this subdivision shall be made monthly. The amounts allocated or apportioned to each county shall be disposed of as follows:

1. Ten percent of the amount so allocated or apportioned to each county shall be distributed among the municipalities in the county with respect to which the allocation or apportionment is made, each distribution among the municipalities shall be made on the basis of the ratio of the population of each municipality to the total population of all municipalities in the applicable county according to the then next preceding federal decennial census. Provided, that any local laws or general laws of local application now in effect regarding the distribution of the tax levied by Section 40-17-325 shall govern the distribution of the amounts allocated or apportioned within every county by this section; provided further, that the Legislature may by general or local laws prescribe other distributions within counties to local governments.

2. The remaining portion of the amount so allocated or apportioned to each county shall be distributed to the county with respect to which such allocation or apportionment is made.

d. The population of any municipality incorporated subsequent to the taking of the then next preceding federal decennial census shall be deemed to be the population shown by the census for that municipality taken pursuant to the requirements of Section 11-41-4. Any municipality incorporated after September 30, 1978, shall not participate in the distribution provided for in

this section until the fiscal year next succeeding the fiscal year during which it is incorporated, the first distribution to the municipality shall be made in respect of receipts of the highway gasoline tax by the state during October of the fiscal year next succeeding its incorporation.

e. When requested to do so by any municipality, the Department of Transportation may at its discretion make available the services and advice of its engineers and other employees with respect to any work for which that municipality proposes to expend moneys distributed to it under this subdivision. Any services and advice that may be so made available shall be provided under the terms and conditions as may be mutually agreeable to the Department of Transportation and the municipality.

(q) The State Treasurer shall make all allocations of the revenue collections and shall make the distribution and payments thereof pursuant to such allocations provided for in this article.

***(Act 2011-565, p. 1084, §40; Act 2015-54, §4.)***