



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3136

by Rep. Robert W. Pritchard

SYNOPSIS AS INTRODUCED:

35 ILCS 505/2
35 ILCS 505/8

from Ch. 120, par. 418
from Ch. 120, par. 424

Amends the Motor Fuel Tax Law. Provides that, beginning on July 1, 2017, the rate of tax imposed in the Act shall be 29 cents per gallon (currently, 19 cents per gallon), plus an additional 2 1/2 cents per gallon for diesel fuel. Provides that, of the additional 10 cents per gallon, 6 cents per gallon shall be deposited into the Road Fund and 4 cents per gallon shall be distributed to municipalities, counties, and road districts.

LRB100 10159 HLH 21709 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 Sections 2 and 8 as follows:

6 (35 ILCS 505/2) (from Ch. 120, par. 418)

7 Sec. 2. A tax is imposed on the privilege of operating
8 motor vehicles upon the public highways and recreational-type
9 watercraft upon the waters of this State.

10 (a) Prior to August 1, 1989, the tax is imposed at the rate
11 of 13 cents per gallon on all motor fuel used in motor vehicles
12 operating on the public highways and recreational type
13 watercraft operating upon the waters of this State. Beginning
14 on August 1, 1989 and until January 1, 1990, the rate of the
15 tax imposed in this paragraph shall be 16 cents per gallon.
16 Beginning January 1, 1990 and through June 30, 2017, the rate
17 of tax imposed in this paragraph shall be 19 cents per gallon.
18 Beginning on July 1, 2017, the rate of tax imposed in this
19 paragraph shall be 29 cents per gallon.

20 (b) The tax on the privilege of operating motor vehicles
21 which use diesel fuel shall be the rate according to paragraph
22 (a) plus an additional 2 1/2 cents per gallon. "Diesel fuel" is
23 defined as any product intended for use or offered for sale as

1 a fuel for engines in which the fuel is injected into the
2 combustion chamber and ignited by pressure without electric
3 spark.

4 (c) A tax is imposed upon the privilege of engaging in the
5 business of selling motor fuel as a retailer or reseller on all
6 motor fuel used in motor vehicles operating on the public
7 highways and recreational type watercraft operating upon the
8 waters of this State: (1) at the rate of 3 cents per gallon on
9 motor fuel owned or possessed by such retailer or reseller at
10 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per
11 gallon on motor fuel owned or possessed by such retailer or
12 reseller at 12:01 A.M. on January 1, 1990.

13 Retailers and resellers who are subject to this additional
14 tax shall be required to inventory such motor fuel and pay this
15 additional tax in a manner prescribed by the Department of
16 Revenue.

17 The tax imposed in this paragraph (c) shall be in addition
18 to all other taxes imposed by the State of Illinois or any unit
19 of local government in this State.

20 (d) Except as provided in Section 2a, the collection of a
21 tax based on gallonage of gasoline used for the propulsion of
22 any aircraft is prohibited on and after October 1, 1979.

23 (e) The collection of a tax, based on gallonage of all
24 products commonly or commercially known or sold as 1-K
25 kerosene, regardless of its classification or uses, is
26 prohibited (i) on and after July 1, 1992 until December 31,

1 1999, except when the 1-K kerosene is either: (1) delivered
2 into bulk storage facilities of a bulk user, or (2) delivered
3 directly into the fuel supply tanks of motor vehicles and (ii)
4 on and after January 1, 2000. Beginning on January 1, 2000, the
5 collection of a tax, based on gallonage of all products
6 commonly or commercially known or sold as 1-K kerosene,
7 regardless of its classification or uses, is prohibited except
8 when the 1-K kerosene is delivered directly into a storage tank
9 that is located at a facility that has withdrawal facilities
10 that are readily accessible to and are capable of dispensing
11 1-K kerosene into the fuel supply tanks of motor vehicles. For
12 purposes of this subsection (e), a facility is considered to
13 have withdrawal facilities that are not "readily accessible to
14 and capable of dispensing 1-K kerosene into the fuel supply
15 tanks of motor vehicles" only if the 1-K kerosene is delivered
16 from: (i) a dispenser hose that is short enough so that it will
17 not reach the fuel supply tank of a motor vehicle or (ii) a
18 dispenser that is enclosed by a fence or other physical barrier
19 so that a vehicle cannot pull alongside the dispenser to permit
20 fueling.

21 Any person who sells or uses 1-K kerosene for use in motor
22 vehicles upon which the tax imposed by this Law has not been
23 paid shall be liable for any tax due on the sales or use of 1-K
24 kerosene.

25 (Source: P.A. 96-1384, eff. 7-29-10.)

1 (35 ILCS 505/8) (from Ch. 120, par. 424)

2 Sec. 8. Except as provided in Section 8a, subdivision
3 (h)(1) of Section 12a, Section 13a.6, and items 13, 14, 15, and
4 16 of Section 15, all money received by the Department under
5 this Act, including payments made to the Department by member
6 jurisdictions participating in the International Fuel Tax
7 Agreement, shall be deposited in a special fund in the State
8 treasury, to be known as the "Motor Fuel Tax Fund", and shall
9 be used as follows:

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

14 (a-5) 6 cents per gallon of the tax collected under this
15 Act shall be deposited into the Road Fund.

16 (a-10) 4 cents per gallon of the tax collected under this
17 Act shall be transferred to the Department of Transportation to
18 be distributed as follows:

19 (1) 49.10% to the municipalities of the State;

20 (2) 16.74% to the counties of the State having
21 1,000,000 or more inhabitants;

22 (3) 18.27% to the counties of the State having less
23 than 1,000,000 inhabitants; and

24 (4) 15.89% to the road districts of the State.

25 (b) \$420,000 shall be transferred each month to the State
26 Boating Act Fund to be used by the Department of Natural

1 Resources for the purposes specified in Article X of the Boat
2 Registration and Safety Act;

3 (c) \$3,500,000 shall be transferred each month to the Grade
4 Crossing Protection Fund to be used as follows: not less than
5 \$12,000,000 each fiscal year shall be used for the construction
6 or reconstruction of rail highway grade separation structures;
7 \$2,250,000 in fiscal years 2004 through 2009 and \$3,000,000 in
8 fiscal year 2010 and each fiscal year thereafter shall be
9 transferred to the Transportation Regulatory Fund and shall be
10 accounted for as part of the rail carrier portion of such funds
11 and shall be used to pay the cost of administration of the
12 Illinois Commerce Commission's railroad safety program in
13 connection with its duties under subsection (3) of Section
14 18c-7401 of the Illinois Vehicle Code, with the remainder to be
15 used by the Department of Transportation upon order of the
16 Illinois Commerce Commission, to pay that part of the cost
17 apportioned by such Commission to the State to cover the
18 interest of the public in the use of highways, roads, streets,
19 or pedestrian walkways in the county highway system, township
20 and district road system, or municipal street system as defined
21 in the Illinois Highway Code, as the same may from time to time
22 be amended, for separation of grades, for installation,
23 construction or reconstruction of crossing protection or
24 reconstruction, alteration, relocation including construction
25 or improvement of any existing highway necessary for access to
26 property or improvement of any grade crossing and grade

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

1 identify projects for the 5 directly succeeding fiscal years.
2 The Commission shall submit the annual and 5-year project plans
3 for this Fund to the Governor, the President of the Senate, the
4 Senate Minority Leader, the Speaker of the House of
5 Representatives, and the Minority Leader of the House of
6 Representatives on the first Wednesday in April of each year;

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

10 (1) the costs of the Department of Revenue in
11 administering this Act;

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

16 (3) refunds provided for in Section 13, refunds for
17 overpayment of decal fees paid under Section 13a.4 of this
18 Act, and refunds provided for under the terms of the
19 International Fuel Tax Agreement referenced in Section
20 14a;

21 (4) from October 1, 1985 until June 30, 1994, the
22 administration of the Vehicle Emissions Inspection Law,
23 which amount shall be certified monthly by the
24 Environmental Protection Agency to the State Comptroller
25 and shall promptly be transferred by the State Comptroller
26 and Treasurer from the Motor Fuel Tax Fund to the Vehicle

1 Inspection Fund, and for the period July 1, 1994 through
2 June 30, 2000, one-twelfth of \$25,000,000 each month, for
3 the period July 1, 2000 through June 30, 2003, one-twelfth
4 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,
5 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each
6 July 1 and October 1, or as soon thereafter as may be
7 practical, during the period July 1, 2004 through June 30,
8 2012, and \$30,000,000 on June 1, 2013, or as soon
9 thereafter as may be practical, and \$15,000,000 on July 1
10 and October 1, or as soon thereafter as may be practical,
11 during the period of July 1, 2013 through June 30, 2015,
12 for the administration of the Vehicle Emissions Inspection
13 Law of 2005, to be transferred by the State Comptroller and
14 Treasurer from the Motor Fuel Tax Fund into the Vehicle
15 Inspection Fund;

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

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

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

1 (1) Until January 1, 2000, 58.4%, and beginning January
2 1, 2000, 45.6% shall be deposited as follows:

3 (A) 37% into the State Construction Account Fund,
4 and

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

10 (2) Until January 1, 2000, 41.6%, and beginning January
11 1, 2000, 54.4% shall be transferred to the Department of
12 Transportation to be distributed as follows:

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

14 (B) 16.74% to the counties of the State having
15 1,000,000 or more inhabitants,

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

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

19 As soon as may be after the first day of each month the
20 Department of Transportation shall allot to each municipality
21 its share of the amount apportioned to the several
22 municipalities under subsection (a-10) and this subsection (e)
23 which shall be in proportion to the population of such
24 municipalities as determined by the last preceding municipal
25 census if conducted by the Federal Government or Federal
26 census. If territory is annexed to any municipality subsequent

1 to the time of the last preceding census the corporate
2 authorities of such municipality may cause a census to be taken
3 of such annexed territory and the population so ascertained for
4 such territory shall be added to the population of the
5 municipality as determined by the last preceding census for the
6 purpose of determining the allotment for that municipality. If
7 the population of any municipality was not determined by the
8 last Federal census preceding any apportionment, the
9 apportionment to such municipality shall be in accordance with
10 any census taken by such municipality. Any municipal census
11 used in accordance with this Section shall be certified to the
12 Department of Transportation by the clerk of such municipality,
13 and the accuracy thereof shall be subject to approval of the
14 Department which may make such corrections as it ascertains to
15 be necessary.

16 As soon as may be after the first day of each month the
17 Department of Transportation shall allot to each county its
18 share of the amount apportioned to the several counties of the
19 State under subsection (a-10) and this subsection (e) as herein
20 provided. Each allotment to the several counties having less
21 than 1,000,000 inhabitants shall be in proportion to the amount
22 of motor vehicle license fees received from the residents of
23 such counties, respectively, during the preceding calendar
24 year. The Secretary of State shall, on or before April 15 of
25 each year, transmit to the Department of Transportation a full
26 and complete report showing the amount of motor vehicle license

1 fees received from the residents of each county, respectively,
2 during the preceding calendar year. The Department of
3 Transportation shall, each month, use for allotment purposes
4 the last such report received from the Secretary of State.

5 As soon as may be after the first day of each month, the
6 Department of Transportation shall allot to the several
7 counties their share of the amount apportioned for the use of
8 road districts under subsection (a-10) and this subsection (e).
9 The allotment shall be apportioned among the several counties
10 in the State in the proportion which the total mileage of
11 township or district roads in the respective counties bears to
12 the total mileage of all township and district roads in the
13 State. Funds allotted to the respective counties for the use of
14 road districts therein shall be allocated to the several road
15 districts in the county in the proportion which the total
16 mileage of such township or district roads in the respective
17 road districts bears to the total mileage of all such township
18 or district roads in the county. After July 1 of any year prior
19 to 2011, no allocation shall be made for any road district
20 unless it levied a tax for road and bridge purposes in an
21 amount which will require the extension of such tax against the
22 taxable property in any such road district at a rate of not
23 less than either .08% of the value thereof, based upon the
24 assessment for the year immediately prior to the year in which
25 such tax was levied and as equalized by the Department of
26 Revenue or, in DuPage County, an amount equal to or greater

1 than \$12,000 per mile of road under the jurisdiction of the
2 road district, whichever is less. Beginning July 1, 2011 and
3 each July 1 thereafter, an allocation shall be made for any
4 road district if it levied a tax for road and bridge purposes.
5 In counties other than DuPage County, if the amount of the tax
6 levy requires the extension of the tax against the taxable
7 property in the road district at a rate that is less than 0.08%
8 of the value thereof, based upon the assessment for the year
9 immediately prior to the year in which the tax was levied and
10 as equalized by the Department of Revenue, then the amount of
11 the allocation for that road district shall be a percentage of
12 the maximum allocation equal to the percentage obtained by
13 dividing the rate extended by the district by 0.08%. In DuPage
14 County, if the amount of the tax levy requires the extension of
15 the tax against the taxable property in the road district at a
16 rate that is less than the lesser of (i) 0.08% of the value of
17 the taxable property in the road district, based upon the
18 assessment for the year immediately prior to the year in which
19 such tax was levied and as equalized by the Department of
20 Revenue, or (ii) a rate that will yield an amount equal to
21 \$12,000 per mile of road under the jurisdiction of the road
22 district, then the amount of the allocation for the road
23 district shall be a percentage of the maximum allocation equal
24 to the percentage obtained by dividing the rate extended by the
25 district by the lesser of (i) 0.08% or (ii) the rate that will
26 yield an amount equal to \$12,000 per mile of road under the

1 jurisdiction of the road district.

2 Prior to 2011, if any road district has levied a special
3 tax for road purposes pursuant to Sections 6-601, 6-602 and
4 6-603 of the Illinois Highway Code, and such tax was levied in
5 an amount which would require extension at a rate of not less
6 than .08% of the value of the taxable property thereof, as
7 equalized or assessed by the Department of Revenue, or, in
8 DuPage County, an amount equal to or greater than \$12,000 per
9 mile of road under the jurisdiction of the road district,
10 whichever is less, such levy shall, however, be deemed a proper
11 compliance with this Section and shall qualify such road
12 district for an allotment under this Section. Beginning in 2011
13 and thereafter, if any road district has levied a special tax
14 for road purposes under Sections 6-601, 6-602, and 6-603 of the
15 Illinois Highway Code, and the tax was levied in an amount that
16 would require extension at a rate of not less than 0.08% of the
17 value of the taxable property of that road district, as
18 equalized or assessed by the Department of Revenue 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, that levy shall be deemed a proper
22 compliance with this Section and shall qualify such road
23 district for a full, rather than proportionate, allotment under
24 this Section. If the levy for the special tax is less than
25 0.08% of the value of the taxable property, or, in DuPage
26 County if the levy for the special tax is less than the lesser

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

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

20 In counties in which a property tax extension limitation is
21 imposed under the Property Tax Extension Limitation Law, road
22 districts may retain their entitlement to a motor fuel tax
23 allotment or, beginning in 2011, their entitlement to a full
24 allotment if, at the time the property tax extension limitation
25 was imposed, the road district was levying a road and bridge
26 tax at a rate sufficient to entitle it to a motor fuel tax

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

14 As used in this Section the term "road district" means any
15 road district, including a county unit road district, provided
16 for by the Illinois Highway Code; and the term "township or
17 district road" means any road in the township and district road
18 system as defined in the Illinois Highway Code. For the
19 purposes of this Section, "township or district road" also
20 includes such roads as are maintained by park districts, forest
21 preserve districts and conservation districts. The Department
22 of Transportation shall determine the mileage of all township
23 and district roads for the purposes of making allotments and
24 allocations of motor fuel tax funds for use in road districts.

25 Payment of motor fuel tax moneys to municipalities and
26 counties shall be made as soon as possible after the allotment

1 is made. The treasurer of the municipality or county may invest
2 these funds until their use is required and the interest earned
3 by these investments shall be limited to the same uses as the
4 principal funds.

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