

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 52**

**Senator Beagle**

**Cosponsors: Senators LaRose, Eklund, Coley, Manning, Seitz, Patton**

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**A BILL**

To amend sections 5735.05, 5735.14, 5735.23, 1  
5735.25, 5735.26, 5735.29, 5735.291, and 5735.30 2  
and to enact section 5735.054 of the Revised 3  
Code to subject the receipt of motor fuel used 4  
to operate aircraft to the motor fuel excise 5  
taxes rather than the sales and use taxes and to 6  
require a percentage of motor fuel excise tax 7  
revenue to be used for airport improvements. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 5735.05, 5735.14, 5735.23, 9  
5735.25, 5735.26, 5735.29, 5735.291, and 5735.30 be amended and 10  
section 5735.054 of the Revised Code be enacted to read as 11  
follows: 12

**Sec. 5735.05.** (A) To provide revenue for maintaining the 13  
state highway system; to widen existing surfaces on such 14  
highways; to resurface such highways; to pay that portion of the 15  
construction cost of a highway project which a county, township, 16  
or municipal corporation normally would be required to pay, but 17  
which the director of transportation, pursuant to division (B) 18  
of section 5531.08 of the Revised Code, determines instead will 19

be paid from moneys in the highway operating fund; to enable the 20  
counties of the state properly to plan, maintain, and repair 21  
their roads and to pay principal, interest, and charges on bonds 22  
and other obligations issued pursuant to Chapter 133. of the 23  
Revised Code or incurred pursuant to section 5531.09 of the 24  
Revised Code for highway improvements; to enable the municipal 25  
corporations to plan, construct, reconstruct, repave, widen, 26  
maintain, repair, clear, and clean public highways, roads, and 27  
streets, and to pay the principal, interest, and charges on 28  
bonds and other obligations issued pursuant to Chapter 133. of 29  
the Revised Code or incurred pursuant to section 5531.09 of the 30  
Revised Code for highway improvements; to enable the Ohio 31  
turnpike and infrastructure commission to construct, 32  
reconstruct, maintain, and repair turnpike projects; to maintain 33  
and repair bridges and viaducts; to purchase, erect, and 34  
maintain street and traffic signs and markers; to purchase, 35  
erect, and maintain traffic lights and signals; to pay the costs 36  
apportioned to the public under sections 4907.47 and 4907.471 of 37  
the Revised Code and to supplement revenue already available for 38  
such purposes; to pay the costs incurred by the public utilities 39  
commission in administering sections 4907.47 to 4907.476 of the 40  
Revised Code; to distribute equitably among those persons using 41  
the privilege of driving motor vehicles upon such highways and 42  
streets the cost of maintaining and repairing them; to pay the 43  
interest, principal, and charges on highway capital improvements 44  
bonds and other obligations issued pursuant to Section 2m of 45  
Article VIII, Ohio Constitution, and section 151.06 of the 46  
Revised Code; to pay the interest, principal, and charges on 47  
highway obligations issued pursuant to Section 2i of Article 48  
VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the 49  
Revised Code; to pay the interest, principal, and charges on 50  
major new state infrastructure bonds and other obligations of 51

the state issued pursuant to Section 13 of Article VIII, Ohio 52  
Constitution, and section 5531.10 of the Revised Code; to 53  
provide revenue for the purposes of sections 1547.71 to 1547.78 54  
of the Revised Code; to provide revenue for the purposes 55  
described in section 5735.054 of the Revised Code; and to pay 56  
the expenses of the department of taxation incident to the 57  
administration of the motor fuel laws, a motor fuel excise tax 58  
is hereby imposed on all motor fuel dealers upon receipt of 59  
motor fuel within this state at the rate of two cents plus the 60  
cents per gallon rate on each gallon so received, to be computed 61  
in the manner set forth in section 5735.06 of the Revised Code; 62  
provided that no tax is hereby imposed upon the following 63  
transactions: 64

(1) The sale of dyed diesel fuel by a licensed motor fuel 65  
dealer from a location other than a retail service station 66  
provided the licensed motor fuel dealer places on the face of 67  
the delivery document or invoice, or both if both are used, a 68  
conspicuous notice stating that the fuel is dyed and is not for 69  
taxable use, and that taxable use of that fuel is subject to a 70  
penalty. The tax commissioner, by rule, may provide that any 71  
notice conforming to rules or regulations issued by the United 72  
States department of the treasury or the Internal Revenue 73  
Service is sufficient notice for the purposes of division (A) (1) 74  
of this section. 75

(2) The sale of K-1 kerosene to a retail service station, 76  
except when placed directly in the fuel supply tank of a motor 77  
vehicle. Such sale shall be rebuttably presumed to not be 78  
distributed or sold for use or used to generate power for the 79  
operation of motor vehicles upon the public highways or upon the 80  
waters within the boundaries of this state. 81

- (3) The sale of motor fuel by a licensed motor fuel dealer to another licensed motor fuel dealer; 82 83
- (4) The exportation of motor fuel by a licensed motor fuel dealer from this state to any other state or foreign country; 84 85
- (5) The sale of motor fuel to the United States government or any of its agencies, except such tax as is permitted by it, where such sale is evidenced by an exemption certificate, in a form approved by the tax commissioner, executed by the United States government or an agency thereof certifying that the motor fuel therein identified has been purchased for the exclusive use of the United States government or its agency; 86 87 88 89 90 91 92
- (6) The sale of motor fuel that is in the process of transportation in foreign or interstate commerce, except insofar as it may be taxable under the Constitution and statutes of the United States, and except as may be agreed upon in writing by the dealer and the commissioner; 93 94 95 96 97
- ~~(7) The sale of motor fuel when sold exclusively for use in the operation of aircraft, where such sale is evidenced by an exemption certificate prescribed by the commissioner and executed by the purchaser certifying that the motor fuel purchased has been purchased for exclusive use in the operation of aircraft;~~ 98 99 100 101 102 103
- ~~(8)~~ The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter described in division (DD) (1) of section 5735.01 of the Revised Code; 104 105 106
- ~~(9)~~ (8) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter described in division (DD) (2) of section 5735.01 of the Revised Code, provided that the destination state motor fuel tax has been paid 107 108 109 110

or will be accrued and paid by the licensed motor fuel dealer. 111

~~(10)~~ (9) The sale to a consumer of diesel fuel, by a motor 112  
fuel dealer for delivery from a bulk lot vehicle, for 113  
consumption in operating a vessel when the use of such fuel in a 114  
vessel would otherwise qualify for a refund under section 115  
5735.14 of the Revised Code. 116

Division (A) (1) of this section does not apply to the sale 117  
or distribution of dyed diesel fuel used to operate a motor 118  
vehicle on the public highways or upon water within the 119  
boundaries of this state by persons permitted under regulations 120  
of the United States department of the treasury or of the 121  
Internal Revenue Service to so use dyed diesel fuel. 122

(B) The two cent motor fuel tax levied by this section is 123  
also for the purpose of paying the expenses of administering and 124  
enforcing the state law relating to the registration and 125  
operation of motor vehicles. 126

(C) After the tax provided for by this section on the 127  
receipt of any motor fuel has been paid by the motor fuel 128  
dealer, the motor fuel may thereafter be used, sold, or resold 129  
by any person having lawful title to it, without incurring 130  
liability for such tax. 131

If a licensed motor fuel dealer sells motor fuel received 132  
by the licensed motor fuel dealer to another licensed motor fuel 133  
dealer, the seller may deduct on the report required by section 134  
5735.06 of the Revised Code the number of gallons so sold for 135  
the month within which the motor fuel was sold or delivered. In 136  
this event the number of gallons is deemed to have been received 137  
by the purchaser, who shall report and pay the tax imposed 138  
thereon. 139

Sec. 5735.054. (A) As used in this section, "airport" has 140  
the same meaning as in section 4563.01 of the Revised Code. 141

(B) The general assembly finds as a fact that, of the 142  
revenues that occur from the excises imposed by section 5735.05, 143  
5735.25, 5735.29, and 5735.30 of the Revised Code, seventy-five 144  
hundredths of one per cent is attributable to the operation of 145  
aircraft within the boundaries of this state. This amount shall 146  
be credited to the aviation improvement fund, which is hereby 147  
created. 148

(C) The aviation improvement fund shall be administered by 149  
the department of transportation. The department shall use money 150  
credited to the fund for the following purposes: 151

(1) Providing matching funds for federal grants and 152  
funding under the airport improvement program pursuant to 49 153  
U.S.C. 47101 et seq., or any similar federal program 154  
administered by the federal aviation administration; 155

(2) Providing loans and grants for airport capital 156  
improvements at Ohio airports or within Ohio airspace. Such 157  
improvements may include infrastructure and safety projects and 158  
development and implementation of federal aviation 159  
administration's "NextGen" programs and unmanned aerial systems 160  
technologies. 161

(3) Providing loans and grants for economic development 162  
and job creation projects that may involve cooperation between 163  
airports and the development services agency or a state or 164  
regional nonprofit entity engaged in economic development 165  
activities. 166

(D) The director of transportation shall adopt rules in 167  
accordance with Chapter 119. of the Revised Code for the purpose 168

of distributing money in the aviation improvement fund. 169

**Sec. 5735.14.** (A) Any person who uses any motor fuel, on 170  
which the tax imposed by this chapter has been paid, for the 171  
purpose of operating stationary gas engines, tractors not used 172  
on public highways, unlicensed motor vehicles used exclusively 173  
in intraplant operations, vessels when used in trade, including 174  
vessels when used in connection with an activity that 175  
constitutes a person's chief business or means of livelihood or 176  
any other vessel used entirely for commercial purposes, vessels 177  
used for commercial fishing, vessels used by the sea scout 178  
department of the boy scouts of America chiefly for training 179  
scouts in seamanship, or vessels used or owned by any railroad 180  
company, railroad car ferry company, the United States, this 181  
state, or any political subdivision of this state, ~~or aircraft,~~ 182  
or any person who uses any such fuel upon which such tax has 183  
been paid, for cleaning or for dyeing, or any purpose other than 184  
the operation of motor vehicles upon highways or upon waters 185  
within the boundaries of this state, shall be reimbursed in the 186  
amount of the tax so paid on such motor fuel as provided in this 187  
section; provided, that any person purchasing motor fuel in this 188  
state on which taxes levied under Title LVII of the Revised Code 189  
have been paid shall be reimbursed for such taxes paid in this 190  
state on such fuel used by that person in another state on which 191  
a tax is paid for such usage, except such tax used as a credit 192  
against the tax levied by section 5728.06 of the Revised Code. A 193  
person shall not be reimbursed for taxes paid on fuel that is 194  
used while a motor vehicle is idling or used to provide comfort 195  
or safety in the operation of a motor vehicle. Sales of motor 196  
fuel, on which the tax imposed by this chapter has been paid, 197  
from one person to another do not constitute use of the fuel and 198  
are not subject to a refund under this section. 199

(B) Any person who uses in this state any motor fuel with water intentionally added to the fuel, on which the taxes imposed by this chapter or Chapter 5728. of the Revised Code have been paid, shall be reimbursed in the amount of the taxes so paid on ninety-five per cent of the water. This division applies only to motor fuel that contains at least nine per cent water, by volume.

(C) A person claiming reimbursement under this section shall file with the tax commissioner an application for refund within one year from the date of purchase, stating the quantity of fuel used for the refundable purposes in division (A) or (B) of this section, except that no person shall file a claim for the tax on fewer than one hundred gallons of motor fuel. An application for refund filed for the purpose of division (B) of this section also shall state the quantity of water intentionally added to the motor fuel. No person shall claim reimbursement under that division on fewer than one hundred gallons of water. The application shall be accompanied by the statement described in section 5735.15 of the Revised Code showing such purchase, together with evidence of payment thereof.

(D) After consideration of the application and statement, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.



No refund shall be authorized or paid under this section 230  
on a single claim for tax on fewer than one hundred gallons of 231  
motor fuel. And, when water has been intentionally added to 232  
fuel, no refund shall be authorized or paid under this section 233  
on a single claim for tax on fewer than one hundred gallons of 234  
water. The commissioner may require that the application be 235  
supported by the affidavit of the claimant. 236

The refund authorized by this section or section 5703.70 237  
of the Revised Code shall be reduced by the cents per gallon 238  
amount of any qualified fuel credit received under section 239  
5735.145 of the Revised Code, as determined by the commissioner, 240  
for each gallon of qualified fuel included in the total 241  
gallage of motor fuel upon which the refund is computed. 242

(E) The right to receive any refund under this section or 243  
section 5703.70 of the Revised Code is not assignable. The 244  
payment of this refund shall not be made to any person other 245  
than the person originally entitled thereto who used the motor 246  
fuel upon which the claim for refund is based, except that such 247  
refunds, when allowed and certified as provided in this section, 248  
may be paid to the executor, administrator, receiver, trustee in 249  
bankruptcy, or assignee in insolvency proceedings of such 250  
person. 251

**Sec. 5735.23.** (A) Out of receipts from the tax levied by 252  
section 5735.05 of the Revised Code, the treasurer of state 253  
shall place to the credit of the tax refund fund established by 254  
section 5703.052 of the Revised Code amounts equal to the 255  
refunds certified by the tax commissioner pursuant to sections 256  
5735.13, 5735.14, 5735.141, and 5735.142 of the Revised Code. 257  
The treasurer of state shall then transfer the amount required 258  
by section 5735.051 of the Revised Code to the waterways safety 259

fund, the amount required by section 5735.054 of the Revised 260  
Code to the aviation improvement fund, the amount required by 261  
section 4907.472 of the Revised Code to the grade crossing 262  
protection fund, and the amount required by section 5735.053 of 263  
the Revised Code to the motor fuel tax administration fund. 264

(B) Except as provided in division (D) of this section, 265  
each month the balance of the receipts from the tax levied by 266  
section 5735.05 of the Revised Code shall be credited, after 267  
receipt by the treasurer of state of certification from the 268  
commissioners of the sinking fund, as required by section 269  
5528.35 of the Revised Code, that there are sufficient moneys to 270  
the credit of the highway obligations bond retirement fund to 271  
meet in full all payments of interest, principal, and charges 272  
for the retirement of highway obligations issued pursuant to 273  
Section 2i of Article VIII, Ohio Constitution, and sections 274  
5528.30 and 5528.31 of the Revised Code due and payable during 275  
the current calendar year, as follows: 276

(1) To the state and local government highway distribution 277  
fund, which is hereby created in the state treasury, an amount 278  
that is the same percentage of the balance to be credited as 279  
that portion of the tax per gallon determined under division (B) 280  
(2) (a) of section 5735.06 of the Revised Code is of the total 281  
tax per gallon determined under divisions (B) (2) (a) and (b) of 282  
that section. 283

(2) After making the distribution to the state and local 284  
government highway distribution fund, the remainder shall be 285  
credited as follows: 286

(a) Thirty per cent to the gasoline excise tax fund for 287  
distribution pursuant to division (A) (1) of section 5735.27 of 288  
the Revised Code; 289

(b) Twenty-five per cent to the gasoline excise tax fund 290  
for distribution pursuant to division (A) (3) of section 5735.27 291  
of the Revised Code; 292

(c) Except as provided in division (D) of this section, 293  
forty-five per cent to the highway operating fund for 294  
distribution pursuant to division (B) (1) of section 5735.27 of 295  
the Revised Code. 296

(C) From the balance in the state and local government 297  
highway distribution fund on the last day of each month there 298  
shall be paid the following amounts: 299

(1) To the local transportation improvement program fund 300  
created by section 164.14 of the Revised Code, an amount equal 301  
to a fraction of the balance in the state and local government 302  
highway distribution fund, the numerator of which fraction is 303  
one and the denominator of which fraction is that portion of the 304  
tax per gallon determined under division (B) (2) (a) of section 305  
5735.06 of the Revised Code; 306

(2) An amount equal to five cents multiplied by the number 307  
of gallons of motor fuel sold at stations operated by the Ohio 308  
turnpike and infrastructure commission, such gallonage to be 309  
certified by the commission to the treasurer of state not later 310  
than the last day of the month following. The funds paid to the 311  
commission pursuant to this section shall be expended for the 312  
construction, reconstruction, maintenance, and repair of 313  
turnpike projects, except that the funds may not be expended for 314  
the construction of new interchanges. The funds also may be 315  
expended for the construction, reconstruction, maintenance, and 316  
repair of those portions of connecting public roads that serve 317  
existing interchanges and are determined by the commission and 318  
the director of transportation to be necessary for the safe 319

merging of traffic between the turnpike and those public roads. 320

The remainder of the balance shall be distributed as 321  
follows on the fifteenth day of the following month: 322

(a) Ten and seven-tenths per cent shall be paid to 323  
municipal corporations for distribution pursuant to division (A) 324  
(1) of section 5735.27 of the Revised Code and may be used for 325  
any purpose for which payments received under that division may 326  
be used. Through July 15, 2005, the sum of two hundred forty- 327  
eight thousand six hundred twenty-five dollars shall be monthly 328  
subtracted from the amount so computed and credited to the 329  
highway operating fund. Beginning August 15, 2005, the sum of 330  
seven hundred forty-five thousand eight hundred seventy-five 331  
dollars shall be monthly subtracted from the amount so computed 332  
and credited to the highway operating fund. 333

(b) Five per cent shall be paid to townships for 334  
distribution pursuant to division (A) (5) of section 5735.27 of 335  
the Revised Code and may be used for any purpose for which 336  
payments received under that division may be used. Through July 337  
15, 2005, the sum of eighty-seven thousand seven hundred fifty 338  
dollars shall be monthly subtracted from the amount so computed 339  
and credited to the highway operating fund. Beginning August 15, 340  
2005, the sum of two hundred sixty-three thousand two hundred 341  
fifty dollars shall be monthly subtracted from the amount so 342  
computed and credited to the highway operating fund. 343

(c) Nine and three-tenths per cent shall be paid to 344  
counties for distribution pursuant to division (A) (3) of section 345  
5735.27 of the Revised Code and may be used for any purpose for 346  
which payments received under that division may be used. Through 347  
July 15, 2005, the sum of two hundred forty-eight thousand six 348  
hundred twenty-five dollars shall be monthly subtracted from the 349

amount so computed and credited to the highway operating fund. 350  
Beginning August 15, 2005, the sum of seven hundred forty-five 351  
thousand eight hundred seventy-five dollars shall be monthly 352  
subtracted from the amount so computed and credited to the 353  
highway operating fund. 354

(d) Except as provided in division (D) of this section, 355  
the balance shall be transferred to the highway operating fund 356  
and used for the purposes set forth in division (B) (1) of 357  
section 5735.27 of the Revised Code. 358

(D) Monthly from September to February of each fiscal 359  
year, an amount equal to one-sixth of the amount certified in 360  
July of that year by the treasurer of state pursuant to division 361  
(Q) of section 151.01 of the Revised Code shall, from amounts 362  
required to be credited or transferred to the highway operating 363  
fund pursuant to division (B) (2) (c) or (C) (2) (d) of this 364  
section, be credited or transferred to the highway capital 365  
improvement bond service fund created in section 151.06 of the 366  
Revised Code. If, in any of those months, the amount available 367  
to be credited or transferred to the bond service fund is less 368  
than one-sixth of the amount so certified, the shortfall shall 369  
be added to the amount due the next succeeding month. Any amount 370  
still due at the end of the six-month period shall be credited 371  
or transferred as the money becomes available, until such time 372  
as the office of budget and management receives certification 373  
from the treasurer of state or the treasurer of state's designee 374  
that sufficient money has been credited or transferred to the 375  
bond service fund to meet in full all payments of debt service 376  
and financing costs due during the fiscal year from that fund. 377

**Sec. 5735.25.** To provide revenue for supplying the state's 378  
share of the cost of planning, constructing, widening, and 379

reconstructing the state highways; for supplying the state's 380  
share of the cost of eliminating railway grade crossings upon 381  
such highways; to pay that portion of the construction cost of a 382  
highway project which a county, township, or municipal 383  
corporation normally would be required to pay, but which the 384  
director of transportation, pursuant to division (B) of section 385  
5531.08 of the Revised Code, determines instead will be paid 386  
from moneys in the highway operating fund; to enable the 387  
counties and townships of the state to properly plan, construct, 388  
widen, reconstruct, and maintain their public highways, roads, 389  
and streets; to enable counties to pay principal, interest, and 390  
charges on bonds and other obligations issued pursuant to 391  
Chapter 133. of the Revised Code or incurred pursuant to section 392  
5531.09 of the Revised Code for highway improvements; to enable 393  
municipal corporations to plan, construct, reconstruct, repave, 394  
widen, maintain, repair, clear, and clean public highways, 395  
roads, and streets; to enable municipal corporations to pay the 396  
principal, interest, and charges on bonds and other obligations 397  
issued pursuant to Chapter 133. of the Revised Code or incurred 398  
pursuant to section 5531.09 of the Revised Code for highway 399  
improvements; to maintain and repair bridges and viaducts; to 400  
purchase, erect, and maintain street and traffic signs and 401  
markers; to purchase, erect, and maintain traffic lights and 402  
signals; to pay the costs apportioned to the public under 403  
section 4907.47 of the Revised Code; to provide revenue for the 404  
purposes of sections 1547.71 to 1547.78 of the Revised Code and 405  
to supplement revenue already available for such purposes; to 406  
provide revenue for the purposes described in section 5735.054 407  
of the Revised Code; to pay the expenses of the department of 408  
taxation incident to the administration of the motor fuel laws, 409  
to supplement revenue already available for such purposes, to 410  
pay the interest, principal, and charges on bonds and other 411

obligations issued pursuant to Section 2g of Article VIII, Ohio 412  
Constitution, and sections 5528.10 and 5528.11 of the Revised 413  
Code; and to pay the interest, principal, and charges on highway 414  
obligations issued pursuant to Section 2i of Article VIII, Ohio 415  
Constitution, and sections 5528.30 and 5528.31 of the Revised 416  
Code, a motor fuel excise tax is hereby imposed on all motor 417  
fuel dealers upon their receipt of motor fuel within this state, 418  
at the rate of two cents per gallon on each gallon so received. 419  
This tax is subject to the specific exemptions set forth in this 420  
chapter of the Revised Code. It shall be reported, computed, 421  
paid, collected, administered, enforced, and refunded, and the 422  
failure properly and correctly to report and pay the tax shall 423  
be penalized, in exactly the same manner as is provided in this 424  
chapter. Such sections relating to motor fuel excise taxes are 425  
reenacted and incorporated as if specifically set forth in this 426  
section. The tax levied by this section shall be in addition to 427  
the tax imposed under this chapter. 428

**Sec. 5735.26.** The treasurer of state shall place to the 429  
credit of the tax refund fund created by section 5703.052 of the 430  
Revised Code, out of receipts from the tax levied by section 431  
5735.25 of the Revised Code, amounts equal to the refunds 432  
certified by the tax commissioner pursuant to sections 5735.142 433  
and 5735.25 of the Revised Code, which shall be paid from such 434  
fund. The treasurer of state shall then transfer the amount 435  
required by section 5735.051 of the Revised Code to the 436  
waterways safety fund, the amount required by section 5735.054 437  
of the Revised Code to the aviation improvement fund, and the 438  
amount required by section 5735.053 of the Revised Code to the 439  
motor fuel tax administration fund. 440

The balance of taxes collected under section 5735.25 of 441  
the Revised Code shall be credited as follows, after the credits 442

to the tax refund fund and the transfers to the waterways safety 443  
fund, aviation improvement fund, and motor fuel tax 444  
administration fund, and after receipt by the treasurer of state 445  
of certifications from the commissioners of the sinking fund 446  
certifying, as required by sections 5528.15 and 5528.35 of the 447  
Revised Code, there are sufficient moneys to the credit of the 448  
highway improvement bond retirement fund to meet in full all 449  
payments of interest, principal, and charges for the retirement 450  
of bonds and other obligations issued pursuant to Section 2g of 451  
Article VIII, Ohio Constitution, and sections 5528.10 and 452  
5528.11 of the Revised Code due and payable during the current 453  
calendar year, and that there are sufficient moneys to the 454  
credit of the highway obligations bond retirement fund to meet 455  
in full all payments of interest, principal, and charges for the 456  
retirement of highway obligations issued pursuant to Section 2i 457  
of Article VIII, Ohio Constitution, and sections 5528.30 and 458  
5528.31 of the Revised Code due and payable during the current 459  
calendar year: 460

(A) Sixty-seven and one-half per cent to the highway 461  
operating fund for distribution pursuant to division (B) (2) of 462  
section 5735.27 of the Revised Code; 463

(B) Seven and one-half per cent to the gasoline excise tax 464  
fund for distribution pursuant to division (A) (2) of such 465  
section; 466

(C) Seven and one-half per cent to the gasoline excise tax 467  
fund for distribution pursuant to division (A) (4) of such 468  
section; 469

(D) Seventeen and one-half per cent to the gasoline excise 470  
tax fund for distribution pursuant to division (A) (5) of such 471  
section. 472



**Sec. 5735.29.** To provide revenue for supplying the state's 473  
share of the cost of constructing, widening, maintaining, and 474  
reconstructing the state highways; to maintain and repair 475  
bridges and viaducts; to purchase, erect, and maintain street 476  
and traffic signs and markers; to purchase, erect, and maintain 477  
traffic lights and signals; to pay the expense of administering 478  
and enforcing the state law relative to the registration and 479  
operation of motor vehicles; to make road improvements 480  
associated with retaining or attracting business for this state, 481  
to pay that portion of the construction cost of a highway 482  
project which a county, township, or municipal corporation 483  
normally would be required to pay, but which the director of 484  
transportation, pursuant to division (B) of section 5531.08 of 485  
the Revised Code, determines instead will be paid from moneys in 486  
the highway operating fund; to provide revenue for the purposes 487  
of sections 1547.71 to 1547.78 of the Revised Code; to provide 488  
revenue for the purposes described in section 5735.054 of the 489  
Revised Code; and to supplement revenue already available for 490  
such purposes, to pay the expenses of the department of taxation 491  
incident to the administration of the motor fuel laws, to 492  
supplement revenue already available for such purposes; and to 493  
pay the interest, principal, and charges on highway obligations 494  
issued pursuant to Section 2i of Article VIII, Ohio 495  
Constitution, and sections 5528.30 and 5528.31 of the Revised 496  
Code; to enable the counties and townships of the state to 497  
properly plan, construct, widen, reconstruct, and maintain their 498  
public highways, roads, and streets; to enable counties to pay 499  
principal, interest, and charges on bonds and other obligations 500  
issued pursuant to Chapter 133. of the Revised Code or incurred 501  
pursuant to section 5531.09 of the Revised Code for highway 502  
improvements; to enable municipal corporations to plan, 503  
construct, reconstruct, repave, widen, maintain, repair, clear, 504

and clean public highways, roads, and streets; to enable 505  
municipal corporations to pay the principal, interest, and 506  
charges on bonds and other obligations issued pursuant to 507  
Chapter 133. of the Revised Code or incurred pursuant to section 508  
5531.09 of the Revised Code for highway improvements; and to pay 509  
the costs apportioned to the public under section 4907.47 of the 510  
Revised Code, a motor fuel excise tax is hereby imposed on all 511  
motor fuel dealers upon their receipt of motor fuel within the 512  
state at the rate of two cents on each gallon so received; 513  
provided, that effective July 1, 2003, the motor fuel excise tax 514  
imposed by this section shall be at the rate of four cents on 515  
each gallon so received; effective July 1, 2004, the motor fuel 516  
excise tax imposed by this section shall be at the rate of six 517  
cents on each gallon so received; and, subject to section 518  
5735.292 of the Revised Code, effective July 1, 2005, the motor 519  
fuel excise tax imposed by this section shall be at the rate of 520  
eight cents on each gallon so received. This tax is subject to 521  
the specific exemptions set forth in this chapter of the Revised 522  
Code. It shall be reported, computed, paid, collected, 523  
administered, enforced, and refunded, and the failure properly 524  
and correctly to report and pay the tax shall be penalized, in 525  
exactly the same manner as is provided in this chapter. Such 526  
sections relating to motor fuel excise taxes are reenacted and 527  
incorporated as if specifically set forth in this section. The 528  
tax levied by this section is in addition to any other taxes 529  
imposed under this chapter. 530

No municipal corporation, county, or township shall expend 531  
any revenues received from the tax levied by this section for 532  
any purpose other than one of the specific highway-related 533  
purposes stated in this section. In addition, each municipal 534  
corporation, county, or township shall use at least ninety per 535

cent of all revenues received from the tax levied by this 536  
section to supplement, rather than supplant, other local funds 537  
used for highway-related purposes. 538

**Sec. 5735.291.** (A) The treasurer of state shall place to 539  
the credit of the tax refund fund created by section 5703.052 of 540  
the Revised Code, out of receipts from the tax levied by section 541  
5735.29 of the Revised Code, amounts equal to the refunds 542  
certified by the tax commissioner pursuant to sections 5735.142 543  
and 5735.29 of the Revised Code. The refunds provided for by 544  
sections 5735.142 and 5735.29 of the Revised Code shall be paid 545  
from such fund. The treasurer of state shall then transfer the 546  
amount required by section 5735.051 of the Revised Code to the 547  
waterways safety fund, the amount required by section 5735.054 548  
of the Revised Code to the aviation improvement fund, and the 549  
amount required by section 5735.053 of the Revised Code to the 550  
motor fuel tax administration fund. 551

The specified portion of the balance of taxes collected 552  
under section 5735.29 of the Revised Code, after the credits to 553  
the tax refund fund and the transfers to the waterways safety 554  
fund, the aviation improvement fund, and the motor fuel tax 555  
administration fund, shall be credited to the gasoline excise 556  
tax fund. Subject to division (B) of this section, forty-two and 557  
eighty-six hundredths per cent of the specified portion shall be 558  
distributed among the municipal corporations within the state in 559  
accordance with division (A) (2) of section 5735.27 of the 560  
Revised Code, thirty-seven and fourteen hundredths per cent of 561  
the specified portion shall be distributed among the counties 562  
within the state in accordance with division (A) (3) of section 563  
5735.27 of the Revised Code, and twenty per cent of the 564  
specified portion shall be combined with twenty per cent of any 565  
amounts transferred from the highway operating fund to the 566

gasoline excise tax fund through biennial appropriations acts of 567  
the general assembly pursuant to the planned phase-in of a new 568  
source of funding for the state highway patrol, and shall be 569  
distributed among the townships within the state in accordance 570  
with division (A) (5) (b) of section 5735.27 of the Revised Code. 571  
Subject to division (B) of this section, the remainder of the 572  
tax levied by section 5735.29 of the Revised Code after receipt 573  
by the treasurer of state of certifications from the 574  
commissioners of the sinking fund certifying, as required by 575  
sections 5528.15 and 5528.35 of the Revised Code, that there are 576  
sufficient moneys to the credit of the highway improvement bond 577  
retirement fund created by section 5528.12 of the Revised Code 578  
to meet in full all payments of interest, principal, and charges 579  
for the retirement of bonds and other obligations issued 580  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 581  
sections 5528.10 and 5528.11 of the Revised Code due and payable 582  
during the current calendar year, and that there are sufficient 583  
moneys to the credit of the highway obligations bond retirement 584  
fund created by section 5528.32 of the Revised Code to meet in 585  
full all payments of interest, principal, and charges for the 586  
retirement of highway obligations issued pursuant to Section 2i 587  
of Article VIII, Ohio Constitution, and sections 5528.30 and 588  
5528.31 of the Revised Code due and payable during the current 589  
calendar year, shall be credited to the highway operating fund, 590  
which is hereby created in the state treasury and shall be used 591  
solely for the purposes enumerated in section 5735.29 of the 592  
Revised Code. All investment earnings of the fund shall be 593  
credited to the fund. 594

(B) (1) Effective August 15, 2003, prior to the 595  
distribution from the gasoline excise tax fund to municipal 596  
corporations of the forty-two and eighty-six hundredths per cent 597

of the specified portion as provided in division (A) of this 598  
section, the department of taxation shall deduct thirty-three 599  
and one-third per cent of the amount specified in division (A) 600  
(5) (c) of section 5735.27 of the Revised Code and use it for 601  
distribution to townships pursuant to division (A) (5) (b) of that 602  
section. 603

(2) Effective August 15, 2003, prior to the distribution 604  
from the gasoline excise tax fund to counties of the thirty- 605  
seven and fourteen hundredths per cent of the specified portion 606  
as provided in division (A) of this section, the department of 607  
taxation shall deduct thirty-three and one-third per cent of the 608  
amount specified in division (A) (5) (c) of section 5735.27 of the 609  
Revised Code and use it for distribution to townships pursuant 610  
to division (A) (5) (b) of that section. 611

(3) Effective August 15, 2003, prior to crediting any 612  
revenue resulting from the tax levied by section 5735.29 of the 613  
Revised Code to the highway operating fund, the department of 614  
taxation shall deduct thirty-three and one-third per cent of the 615  
amount specified in division (A) (5) (c) of section 5735.27 of the 616  
Revised Code and use it for distribution to townships pursuant 617  
to division (A) (5) (b) of that section. 618

(C) As used in this section, "specified portion" means all 619  
of the following: 620

(1) Until August 15, 2003, none of the taxes collected 621  
under section 5735.29 of the Revised Code; 622

(2) Effective August 15, 2003, one-eighth of the balance 623  
of taxes collected under section 5735.29 of the Revised Code, 624  
after the credits to the tax refund fund and the transfers to 625  
the waterways safety fund, the aviation improvement fund, and 626

the motor fuel tax administration fund; 627

(3) Effective August 15, 2004, one-sixth of the balance of 628  
taxes described in division (C) (2) of this section; 629

(4) Effective August 15, 2005, three-sixteenths of the 630  
balance of taxes described in division (C) (2) of this section. 631

**Sec. 5735.30.** (A) For the purpose of providing funds to 632  
pay the state's share of the cost of constructing and 633  
reconstructing highways and eliminating railway grade crossings 634  
on the major thoroughfares of the state highway system and urban 635  
extensions thereof, to pay that portion of the construction cost 636  
of a highway project which a county, township, or municipal 637  
corporation normally would be required to pay, but which the 638  
director of transportation, pursuant to division (B) of section 639  
5531.08 of the Revised Code, determines instead will be paid 640  
from moneys in the highway operating fund, to pay the interest, 641  
principal, and charges on bonds and other obligations issued 642  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 643  
sections 5528.10 and 5528.11 of the Revised Code, to pay the 644  
interest, principal, and charges on highway obligations issued 645  
pursuant to Section 2i of Article VIII, Ohio Constitution, and 646  
sections 5528.30 and 5528.31 of the Revised Code, to provide 647  
revenues for the purposes of sections 1547.71 to 1547.78 of the 648  
Revised Code, to provide revenue for the purposes described in 649  
section 5735.054 of the Revised Code, and to pay the expenses of 650  
the department of taxation incident to the administration of the 651  
motor fuel laws, a motor fuel excise tax is hereby imposed on 652  
all motor fuel dealers upon their receipt of motor fuel within 653  
the state, at the rate of one cent on each gallon so received, 654  
to be reported, computed, paid, collected, administered, 655  
enforced, refunded, and subject to the same exemptions and 656

penalties as provided in this chapter of the Revised Code.

The tax imposed by this section shall be in addition to the tax imposed by sections 5735.05, 5735.25, and 5735.29 of the Revised Code.

(B) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to this section. The refund provided for by division (A) of this section shall be paid from such fund. The treasurer shall then transfer the amount required by section 5735.051 of the Revised Code to the waterways safety fund, the amount required by section 5735.054 of the Revised Code to the aviation improvement fund, and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund. The balance of taxes for which the liability has become fixed prior to July 1, 1955, under this section, after the credit to the tax refund fund, shall be credited to the highway operating fund.

(C) (1) The moneys derived from the tax levied by this section, after the credit and transfers required by division (B) of this section, shall, during each calendar year, be credited to the highway improvement bond retirement fund created by section 5528.12 of the Revised Code, until the commissioners of the sinking fund certify to the treasurer of state, as required by section 5528.17 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised

Code due and payable during the current calendar year and during 687  
the next succeeding calendar year. From the date of the receipt 688  
of the certification required by section 5528.17 of the Revised 689  
Code by the treasurer of state until the thirty-first day of 690  
December of the calendar year in which such certification is 691  
made, all moneys received in the state treasury from the tax 692  
levied by this section, after the credit and transfers required 693  
by division (B) of this section, shall be credited to the 694  
highway obligations bond retirement fund created by section 695  
5528.32 of the Revised Code, until the commissioners of the 696  
sinking fund certify to the treasurer of state, as required by 697  
section 5528.38 of the Revised Code, that there are sufficient 698  
moneys to the credit of the highway obligations bond retirement 699  
fund to meet in full all payments of interest, principal, and 700  
charges for the retirement of obligations issued pursuant to 701  
Section 2i of Article VIII, Ohio Constitution, and sections 702  
5528.30 and 5528.31 of the Revised Code due and payable during 703  
the current calendar year and during the next succeeding 704  
calendar year. 705

(2) From the date of the receipt of the certification 706  
required by section 5528.38 of the Revised Code by the treasurer 707  
of state until the thirty-first day of December of the calendar 708  
year in which such certification is made, all moneys received in 709  
the state treasury from the tax levied by this section, after 710  
the credit and transfers required by division (B) of this 711  
section, shall be credited to the highway operating fund, except 712  
as provided in division (C) (3) of this section. 713

(3) From the date of the receipt by the treasurer of state 714  
of certifications from the commissioners of the sinking fund, as 715  
required by sections 5528.18 and 5528.39 of the Revised Code, 716  
certifying that the moneys to the credit of the highway 717



improvement bond retirement fund are sufficient to meet in full 718  
all payments of interest, principal, and charges for the 719  
retirement of all bonds and other obligations which may be 720  
issued pursuant to Section 2g of Article VIII, Ohio 721  
Constitution, and sections 5528.10 and 5528.11 of the Revised 722  
Code, and to the credit of the highway obligations bond 723  
retirement fund are sufficient to meet in full all payments of 724  
interest, principal, and charges for the retirement of all 725  
obligations issued pursuant to Section 2i of Article VIII, Ohio 726  
Constitution, and sections 5528.30 and 5528.31 of the Revised 727  
Code, the moneys derived from the tax levied by this section, 728  
after the credit and transfers required by division (B) of this 729  
section, shall be credited to the highway operating fund. 730

**Section 2.** That existing sections 5735.05, 5735.14, 731  
5735.23, 5735.25, 5735.26, 5735.29, 5735.291, and 5735.30 of the 732  
Revised Code are hereby repealed. 733

**Section 3.** The amendments and additions by this act to 734  
Chapter 5735. of the Revised Code apply to the receipt of motor 735  
fuel on or after the first day of the month that begins at least 736  
30 days after the effective date of this act. 737