

As Introduced

131st General Assembly

Regular Session

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H. B. No. 32

Representative Perales

**Cosponsors: Representatives Brown, Boyd, Butler, Dever, Brenner, Schaffer,
Blessing, Ruhl**

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	82
to another licensed motor fuel dealer;	83
(4) The exportation of motor fuel by a licensed motor fuel	84
dealer from this state to any other state or foreign country;	85
(5) The sale of motor fuel to the United States government	86
or any of its agencies, except such tax as is permitted by it,	87
where such sale is evidenced by an exemption certificate, in a	88
form approved by the tax commissioner, executed by the United	89
States government or an agency thereof certifying that the motor	90
fuel therein identified has been purchased for the exclusive use	91
of the United States government or its agency;	92
(6) The sale of motor fuel that is in the process of	93
transportation in foreign or interstate commerce, except insofar	94
as it may be taxable under the Constitution and statutes of the	95
United States, and except as may be agreed upon in writing by	96
the dealer and the commissioner;	97
(7) The sale of motor fuel when sold exclusively for use	98
in the operation of aircraft, where such sale is evidenced by an	99
exemption certificate prescribed by the commissioner and	100
executed by the purchaser certifying that the motor fuel	101
purchased has been purchased for exclusive use in the operation	102
of aircraft;	103
(8) The sale for exportation of motor fuel by a licensed	104
motor fuel dealer to a licensed exporter described in division	105
(DD) (1) of section 5735.01 of the Revised Code;	106
(9) <u>(8)</u> The sale for exportation of motor fuel by a	107
licensed motor fuel dealer to a licensed exporter described in	108
division (DD) (2) of section 5735.01 of the Revised Code,	109
provided that the destination state motor fuel tax has been paid	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
Constitution, and sections 5528.10 and 5528.11 of the Revised
Code; and to pay the interest, principal, and charges on highway
obligations issued pursuant to Section 2i of Article VIII, Ohio
Constitution, and sections 5528.30 and 5528.31 of the Revised
Code, a motor fuel excise tax is hereby imposed on all motor
fuel dealers upon their receipt of motor fuel within this state,
at the rate of two cents per gallon on each gallon so received.
This tax is subject to the specific exemptions set forth in this
chapter of the Revised Code. It shall be reported, computed,
paid, collected, administered, enforced, and refunded, and the
failure properly and correctly to report and pay the tax shall
be penalized, in exactly the same manner as is provided in this
chapter. Such sections relating to motor fuel excise taxes are
reenacted and incorporated as if specifically set forth in this
section. The tax levied by this section shall be in addition to
the tax imposed under this chapter.

Sec. 5735.26. 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 section
5735.25 of the Revised Code, amounts equal to the refunds
certified by the tax commissioner pursuant to sections 5735.142
and 5735.25 of the Revised Code, which shall be paid from such
fund. The treasurer of state 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 collected under section 5735.25 of
the Revised Code shall be credited as follows, after the credits

to the tax refund fund and the transfers to the waterways safety fund, aviation improvement fund, and motor fuel tax administration fund, and after receipt by the treasurer of state of certifications from the commissioners of the sinking fund certifying, as required by sections 5528.15 and 5528.35 of the Revised Code, 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 that there are sufficient moneys to the credit of the highway obligations bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year:

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

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

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

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

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. 657

The tax imposed by this section shall be in addition to 658
the tax imposed by sections 5735.05, 5735.25, and 5735.29 of the 659
Revised Code. 660

(B) The treasurer of state shall place to the credit of 661
the tax refund fund created by section 5703.052 of the Revised 662
Code, out of receipts from the tax levied by this section, 663
amounts equal to the refunds certified by the tax commissioner 664
pursuant to this section. The refund provided for by division 665
(A) of this section shall be paid from such fund. The treasurer 666
shall then transfer the amount required by section 5735.051 of 667
the Revised Code to the waterways safety fund, the amount 668
required by section 5735.054 of the Revised Code to the aviation 669
improvement fund, and the amount required by section 5735.053 of 670
the Revised Code to the motor fuel tax administration fund. The 671
balance of taxes for which the liability has become fixed prior 672
to July 1, 1955, under this section, after the credit to the tax 673
refund fund, shall be credited to the highway operating fund. 674

(C) (1) The moneys derived from the tax levied by this 675
section, after the credit and transfers required by division (B) 676
of this section, shall, during each calendar year, be credited 677
to the highway improvement bond retirement fund created by 678
section 5528.12 of the Revised Code, until the commissioners of 679
the sinking fund certify to the treasurer of state, as required 680
by section 5528.17 of the Revised Code, that there are 681
sufficient moneys to the credit of the highway improvement bond 682
retirement fund to meet in full all payments of interest, 683
principal, and charges for the retirement of bonds and other 684
obligations issued pursuant to Section 2g of Article VIII, Ohio 685
Constitution, and sections 5528.10 and 5528.11 of the Revised 686

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