



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB2552

Introduced 1/11/2012, by Sen. Darin M. LaHood

#### SYNOPSIS AS INTRODUCED:

35 ILCS 505/1	from Ch. 120, par. 417
35 ILCS 505/1.30 new	
35 ILCS 505/8	from Ch. 120, par. 424

Amends the Motor Fuel Tax Law. Includes "cemeteries" within the definition of "road districts" for the purposes of allotments and distributions. Defines a "cemetery" as any publicly-owned land in this State dedicated to and used, or intended to be used, for the interment of human remains and that contains more than 5 miles of roadway.

LRB097 16317 HLH 61471 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Motor Fuel Tax Law is amended by changing  
5 Sections 1 and 8 and by adding Section 1.30 as follows:

6 (35 ILCS 505/1) (from Ch. 120, par. 417)

7 Sec. 1. For the purposes of this Act the terms set out in  
8 the following Sections preceding Section 2 ~~1.1 through 1.21~~  
9 have the meanings ascribed to them in those Sections.

10 (Source: P.A. 86-16; 86-1028.)

11 (35 ILCS 505/1.30 new)

12 Sec. 1.30. Cemetery. "Cemetery" means any publicly-owned  
13 land in this State dedicated to and used, or intended to be  
14 used, for the interment of human remains and that contains more  
15 than 5 miles of roadway.

16 (35 ILCS 505/8) (from Ch. 120, par. 424)

17 Sec. 8. Except as provided in Section 8a, subdivision  
18 (h) (1) of Section 12a, Section 13a.6, and items 13, 14, 15, and  
19 16 of Section 15, all money received by the Department under  
20 this Act, including payments made to the Department by member  
21 jurisdictions participating in the International Fuel Tax

1 Agreement, shall be deposited in a special fund in the State  
2 treasury, to be known as the "Motor Fuel Tax Fund", and shall  
3 be used as follows:

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

8 (b) \$420,000 shall be transferred each month to the State  
9 Boating Act Fund to be used by the Department of Natural  
10 Resources for the purposes specified in Article X of the Boat  
11 Registration and Safety Act;

12 (c) \$3,500,000 shall be transferred each month to the Grade  
13 Crossing Protection Fund to be used as follows: not less than  
14 \$12,000,000 each fiscal year shall be used for the construction  
15 or reconstruction of rail highway grade separation structures;  
16 \$2,250,000 in fiscal years 2004 through 2009 and \$3,000,000 in  
17 fiscal year 2010 and each fiscal year thereafter shall be  
18 transferred to the Transportation Regulatory Fund and shall be  
19 accounted for as part of the rail carrier portion of such funds  
20 and shall be used to pay the cost of administration of the  
21 Illinois Commerce Commission's railroad safety program in  
22 connection with its duties under subsection (3) of Section  
23 18c-7401 of the Illinois Vehicle Code, with the remainder to be  
24 used by the Department of Transportation upon order of the  
25 Illinois Commerce Commission, to pay that part of the cost  
26 apportioned by such Commission to the State to cover the

1 interest of the public in the use of highways, roads, streets,  
2 or pedestrian walkways in the county highway system, township  
3 and district road system, or municipal street system as defined  
4 in the Illinois Highway Code, as the same may from time to time  
5 be amended, for separation of grades, for installation,  
6 construction or reconstruction of crossing protection or  
7 reconstruction, alteration, relocation including construction  
8 or improvement of any existing highway necessary for access to  
9 property or improvement of any grade crossing and grade  
10 crossing surface including the necessary highway approaches  
11 thereto of any railroad across the highway or public road, or  
12 for the installation, construction, reconstruction, or  
13 maintenance of a pedestrian walkway over or under a railroad  
14 right-of-way, as provided for in and in accordance with Section  
15 18c-7401 of the Illinois Vehicle Code. The Commission may order  
16 up to \$2,000,000 per year in Grade Crossing Protection Fund  
17 moneys for the improvement of grade crossing surfaces and up to  
18 \$300,000 per year for the maintenance and renewal of 4-quadrant  
19 gate vehicle detection systems located at non-high speed rail  
20 grade crossings. The Commission shall not order more than  
21 \$2,000,000 per year in Grade Crossing Protection Fund moneys  
22 for pedestrian walkways. In entering orders for projects for  
23 which payments from the Grade Crossing Protection Fund will be  
24 made, the Commission shall account for expenditures authorized  
25 by the orders on a cash rather than an accrual basis. For  
26 purposes of this requirement an "accrual basis" assumes that

1 the total cost of the project is expended in the fiscal year in  
2 which the order is entered, while a "cash basis" allocates the  
3 cost of the project among fiscal years as expenditures are  
4 actually made. To meet the requirements of this subsection, the  
5 Illinois Commerce Commission shall develop annual and 5-year  
6 project plans of rail crossing capital improvements that will  
7 be paid for with moneys from the Grade Crossing Protection  
8 Fund. The annual project plan shall identify projects for the  
9 succeeding fiscal year and the 5-year project plan shall  
10 identify projects for the 5 directly succeeding fiscal years.  
11 The Commission shall submit the annual and 5-year project plans  
12 for this Fund to the Governor, the President of the Senate, the  
13 Senate Minority Leader, the Speaker of the House of  
14 Representatives, and the Minority Leader of the House of  
15 Representatives on the first Wednesday in April of each year;

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

19 (1) the costs of the Department of Revenue in  
20 administering this Act;

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

25 (3) refunds provided for in Section 13, refunds for  
26 overpayment of decal fees paid under Section 13a.4 of this

1 Act, and refunds provided for under the terms of the  
2 International Fuel Tax Agreement referenced in Section  
3 14a;

4 (4) from October 1, 1985 until June 30, 1994, the  
5 administration of the Vehicle Emissions Inspection Law,  
6 which amount shall be certified monthly by the  
7 Environmental Protection Agency to the State Comptroller  
8 and shall promptly be transferred by the State Comptroller  
9 and Treasurer from the Motor Fuel Tax Fund to the Vehicle  
10 Inspection Fund, and for the period July 1, 1994 through  
11 June 30, 2000, one-twelfth of \$25,000,000 each month, for  
12 the period July 1, 2000 through June 30, 2003, one-twelfth  
13 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,  
14 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each  
15 July 1 and October 1, or as soon thereafter as may be  
16 practical, during the period July 1, 2004 through June 30,  
17 2012, for the administration of the Vehicle Emissions  
18 Inspection Law of 2005, to be transferred by the State  
19 Comptroller and Treasurer from the Motor Fuel Tax Fund into  
20 the Vehicle Inspection Fund;

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

22 (6) payment of motor fuel use taxes due to member  
23 jurisdictions under the terms of the International Fuel Tax  
24 Agreement. The Department shall certify these amounts to  
25 the Comptroller by the 15th day of each month; the  
26 Comptroller shall cause orders to be drawn for such

1 amounts, and the Treasurer shall administer those amounts  
2 on or before the last day of each month;

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

6 (1) Until January 1, 2000, 58.4%, and beginning January  
7 1, 2000, 45.6% shall be deposited as follows:

8 (A) 37% into the State Construction Account Fund,  
9 and

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

15 (2) Until January 1, 2000, 41.6%, and beginning January  
16 1, 2000, 54.4% shall be transferred to the Department of  
17 Transportation to be distributed as follows:

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

19 (B) 16.74% to the counties of the State having  
20 1,000,000 or more inhabitants,

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

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

24 As soon as may be after the first day of each month the  
25 Department of Transportation shall allot to each municipality  
26 its share of the amount apportioned to the several

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

20 As soon as may be after the first day of each month the  
21 Department of Transportation shall allot to each county its  
22 share of the amount apportioned to the several counties of the  
23 State as herein provided. Each allotment to the several  
24 counties having less than 1,000,000 inhabitants shall be in  
25 proportion to the amount of motor vehicle license fees received  
26 from the residents of such counties, respectively, during the



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

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

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

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

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

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

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

23 In counties in which a property tax extension limitation is  
24 imposed under the Property Tax Extension Limitation Law, road  
25 districts may retain their entitlement to a motor fuel tax  
26 allotment or, beginning in 2011, their entitlement to a full

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

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

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

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

10 (Source: P.A. 96-34, eff. 7-13-09; 96-45, eff. 7-15-09; 96-959,  
11 eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1024, eff. 7-12-10;  
12 96-1384, eff. 7-29-10; 97-72, eff. 7-1-11; 97-333, eff.  
13 8-12-11.)