

As Passed by the House

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Representative Gibbs

**Cosponsors: Representatives Aslanides, Domenick, Bacon, Batchelder,
Bolon, Chandler, Combs, Daniels, DeBose, Dyer, Evans, Flowers, Garrison,
Goyal, Hagan, J., Hagan, R., Harwood, Hughes, Luckie, McGregor, J., Patton,
Sayre, Schindel, Schneider, Setzer, Uecker, Zehringer**

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A B I L L

To amend sections 5541.05, 5571.20, and 5735.27 of
the Revised Code to make changes relative to the
provisions that govern the placing of county and
township roads on nonmaintained status.

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

Section 1. That sections 5541.05, 5571.20, and 5735.27 of the
Revised Code be amended to read as follows:

Sec. 5541.05. (A) Except as otherwise provided in division
(D) of this section, a board of county commissioners by resolution
may place a graveled or unimproved county road under its
jurisdiction that is not passable year-round or any portion of
such a road on nonmaintained status. Prior to adopting a
resolution that places a road on nonmaintained status, the board,
at special or regular meetings, shall hold at least two public
hearings to allow for public comment on the proposed resolution.
The board shall publicize the times and places of the hearings by
causing a notice to be published in a newspaper of general

circulation in the county in which the road is located at least 17
ten days prior to the date of the first meeting. If the county 18
maintains a web site on the internet, the same notice also shall 19
be posted on the web site at least ten days prior to the date of 20
the first meeting. Upon adoption of such a resolution, the board 21
is not required to cause the road to be dragged at any time, or to 22
cut, destroy, or remove any brush, weeds, briars, bushes, or 23
thistles upon or along the road, or to remove snow from the road, 24
or to maintain or repair the road in any manner. The board, in its 25
discretion, may cause any of these actions to be performed on or 26
to a road that it has placed on nonmaintained status. 27

(B) Prior to adopting a resolution under division (A) of this 29
section, the board shall request the county engineer to issue an 30
advisory opinion regarding the consequences of placing the road on 31
nonmaintained status, including any impact such action would have 32
on adjoining property owners. A board may adopt a resolution under 33
division (A) of this section only if after the board county 34
engineer issues the advisory opinion and the county engineer, in 35
the advisory opinion, finds that placing the road on nonmaintained 36
status will not unduly adversely affect the flow of motor vehicle 37
traffic on that road or on any other adjacent road located in the 38
immediate vicinity of that road as determined by the overall use 39
of the road during the preceding twenty one years. 40

(C) A board may terminate the nonmaintained status of a 42
county road by adopting a resolution to that effect. If the owner 43
of land adjoining a road that has been placed on nonmaintained 44
status requests the board to terminate the nonmaintained status of 45
the road, the board, in its resolution that terminates that 46
nonmaintained status, may require the owner to pay the costs of 47
upgrading the road to locally adopted county standards. 48

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(D) A graveled or unimproved road may not be placed on
nonmaintained status if ~~any person resides in a residence adjacent~~
~~to the road,~~ the road is the exclusive means for obtaining access
to the residence, and the residence is the person's primary place
of residence land that adjoins that road or the road is passable
year-round.

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(E) For purposes of this section, a road is passable
year-round if a four-wheeled, two-wheel drive motor vehicle can be
driven on the road year-round.

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Sec. 5571.20. (A) Except as otherwise provided in division
(D) of this section, a board of township trustees by resolution
may place a graveled or unimproved township road under its
jurisdiction that is not passable year-round or any portion of
such a road on nonmaintained status. Prior to adopting a
resolution that places a road on nonmaintained status, the board
shall hold at least two public hearings to allow for public
comment on the proposed resolution. The board, at special or
regular meetings, shall publicize the times and places of the
hearings by causing a notice to be published in a newspaper of
general circulation in the county in which the road is located at
least ten days prior to the date of the first meeting. If the
township maintains a web site on the internet, the same notice
also shall be posted on the web site at least ten days prior to
the date of the first meeting. Upon adoption of such a resolution,
the board is not required to cause the road to be dragged at any
time, or to cut, destroy, or remove any brush, weeds, briers,
bushes, or thistles upon or along the road, or to remove snow from
the road, or to maintain or repair the road in any manner. The
board, in its discretion, may cause any of these actions to be
performed on or to a road that it has placed on nonmaintained

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status. 80

(B) Prior to adopting a resolution under division (A) of this 81
section, the board shall request the county engineer to issue an 82
advisory opinion regarding the consequences of placing the road on 83
nonmaintained status, including any impact such action would have 84
on adjoining property owners. A board may adopt a resolution under 85
division (A) of this section only ~~if~~ after the ~~board~~ county 86
engineer issues the advisory opinion and the county engineer, in 87
the advisory opinion, finds that placing the road on nonmaintained 88
status will not unduly adversely affect the flow of motor vehicle 89
traffic on that road or on any ~~other adjacent~~ road ~~located in the~~ 90
~~immediate vicinity of that road as determined by the overall use~~ 91
~~of the road during the preceding twenty one years.~~ 92

(C) A board may terminate the nonmaintained status of a 94
township road by adopting a resolution to that effect. If the 95
owner of land adjoining a road that has been placed on 96
nonmaintained status requests the board to terminate the 97
nonmaintained status of the road, the board, in its resolution 98
that terminates that nonmaintained status, may require the owner 99
to pay the costs of upgrading the road to locally adopted township 100
standards. 101

(D) A graveled or unimproved road may not be placed on 102
nonmaintained status if ~~any person resides in a residence adjacent~~ 103
~~to the road,~~ the road is the exclusive means for obtaining access 104
to ~~the residence,~~ and ~~the residence is the person's primary place~~ 105
~~of residence~~ land that adjoins that road or the road is passable 106
year-round. 107

(E) For purposes of this section, a road is passable 108
year-round if a four-wheeled, two-wheel drive motor vehicle can be 109
driven on the road year-round. 110

Sec. 5735.27. (A) There is hereby created in the state 111
treasury the gasoline excise tax fund, which shall be distributed 112
in the following manner: 113

(1) The amount credited pursuant to divisions (B)(2)(a) and 114
(C)(2)(a) of section 5735.23 of the Revised Code shall be 115
distributed among municipal corporations. The amount paid to each 116
municipal corporation shall be that proportion of the amount to be 117
so distributed that the number of motor vehicles registered within 118
the municipal corporation bears to the total number of motor 119
vehicles registered within all the municipal corporations of this 120
state during the preceding motor vehicle registration year. When a 121
new village is incorporated, the registrar of motor vehicles shall 122
determine from the applications on file in the bureau of motor 123
vehicles the number of motor vehicles located within the territory 124
comprising the village during the entire registration year in 125
which the municipal corporation was incorporated. The registrar 126
shall forthwith certify the number of motor vehicles so determined 127
to the tax commissioner for use in distributing motor vehicle fuel 128
tax funds to the village until the village is qualified to 129
participate in the distribution of the funds pursuant to this 130
division. The number of motor vehicle registrations shall be 131
determined by the official records of the bureau of motor 132
vehicles. The amount received by each municipal corporation shall 133
be used to plan, construct, reconstruct, repave, widen, maintain, 134
repair, clear, and clean public highways, roads, and streets; to 135
maintain and repair bridges and viaducts; to purchase, erect, and 136
maintain street and traffic signs and markers; to pay the costs 137
apportioned to the municipal corporation under section 4907.47 of 138
the Revised Code; to purchase, erect, and maintain traffic lights 139
and signals; to pay the principal, interest, and charges on bonds 140
and other obligations issued pursuant to Chapter 133. of the 141
Revised Code or incurred pursuant to section 5531.09 of the 142

Revised Code for the purpose of acquiring or constructing roads, 143
highways, bridges, or viaducts or acquiring or making other 144
highway improvements for which the municipal corporation may issue 145
bonds; and to supplement revenue already available for these 146
purposes. 147

(2) The amount credited pursuant to division (B) of section 148
5735.26 of the Revised Code shall be distributed among the 149
municipal corporations within the state, in the proportion which 150
the number of motor vehicles registered within each municipal 151
corporation bears to the total number of motor vehicles registered 152
within all the municipal corporations of the state during the 153
preceding calendar year, as shown by the official records of the 154
bureau of motor vehicles, and shall be expended by each municipal 155
corporation to plan, construct, reconstruct, repave, widen, 156
maintain, repair, clear, and clean public highways, roads and 157
streets; to maintain and repair bridges and viaducts; to purchase, 158
erect, and maintain street and traffic signs and markers; to 159
purchase, erect, and maintain traffic lights and signals; to pay 160
costs apportioned to the municipal corporation under section 161
4907.47 of the Revised Code; to pay the principal, interest, and 162
charges on bonds and other obligations issued pursuant to Chapter 163
133. of the Revised Code or incurred pursuant to section 5531.09 164
of the Revised Code for the purpose of acquiring or constructing 165
roads, highways, bridges, or viaducts or acquiring or making other 166
highway improvements for which the municipal corporation may issue 167
bonds; and to supplement revenue already available for these 168
purposes. 169

(3) The amount credited pursuant to divisions (B)(2)(b) and 170
(C)(2)(c) of section 5735.23 of the Revised Code shall be paid in 171
equal proportions to the county treasurer of each county within 172
the state and shall be used only for the purposes of planning, 173
maintaining, and repairing the county system of public roads and 174

highways within the county; the planning, construction, and repair 175
of walks or paths along county roads in congested areas; the 176
planning, construction, purchase, lease, and maintenance of 177
suitable buildings for the housing and repair of county road 178
machinery, housing of supplies, and housing of personnel 179
associated with the machinery and supplies; the payment of costs 180
apportioned to the county under section 4907.47 of the Revised 181
Code; the payment of principal, interest, and charges on bonds and 182
other obligations issued pursuant to Chapter 133. of the Revised 183
Code or incurred pursuant to section 5531.09 of the Revised Code 184
for the purpose of acquiring or constructing roads, highways, 185
bridges, or viaducts or acquiring or making other highway 186
improvements for which the board of county commissioners may issue 187
bonds under that chapter; and the purchase, installation, and 188
maintenance of traffic signal lights. 189

(4) The amount credited pursuant to division (C) of section 190
5735.26 of the Revised Code shall be paid in equal proportions to 191
the county treasurer of each county for the purposes of planning, 192
maintaining, constructing, widening, and reconstructing the county 193
system of public roads and highways; paying principal, interest, 194
and charges on bonds and other obligations issued pursuant to 195
Chapter 133. of the Revised Code or incurred pursuant to section 196
5531.09 of the Revised Code for the purpose of acquiring or 197
constructing roads, highways, bridges, or viaducts or acquiring or 198
making other highway improvements for which the board of county 199
commissioners may issue bonds under that chapter; and paying costs 200
apportioned to the county under section 4907.47 of the Revised 201
Code. 202

(5)(a) The amount credited pursuant to division (D) of 203
section 5735.26 and division (C)(2)(b) of section 5735.23 of the 204
Revised Code shall be divided in equal proportions among the 205
townships within the state. 206

(b) As used in division (A)(5)(b) of this section, the 207
"formula amount" for any township is the amount that would be 208
allocated to that township if fifty per cent of the amount 209
credited to townships pursuant to section 5735.291 of the Revised 210
Code were allocated among townships in the state proportionate to 211
the number of lane miles within the boundaries of the respective 212
townships, as determined annually by the department of 213
transportation, and the other fifty per cent of the amount 214
credited pursuant to section 5735.291 of the Revised Code were 215
allocated among townships in the state proportionate to the number 216
of motor vehicles registered within the respective townships, as 217
determined annually by the records of the bureau of motor 218
vehicles. The number of lane miles within the boundaries of a 219
township shall not include any lane miles of township roads that 220
have been placed on nonmaintained status by a board of township 221
trustees pursuant to section 5571.20 of the Revised Code. 222

Beginning on August 15, 2003, the tax levied by section 223
5735.29 of the Revised Code shall be partially allocated to 224
provide funding for townships. Each township shall receive the 225
greater of the following two calculations: 226

(i) The total statewide amount credited to townships under 227
division (A) of section 5735.291 of the Revised Code divided by 228
the number of townships in the state at the time of the 229
calculation; 230

(ii) Seventy per cent of the formula amount for that 231
township. 232

(c) The total difference between the amount of money credited 233
to townships under division (A) of section 5735.291 of the Revised 234
Code and the total amount of money required to make all the 235
payments specified in division (A)(5)(b) of this section shall be 236
deducted, in accordance with division (B) of section 5735.291 of 237
the Revised Code, from the revenues resulting from the tax levied 238

pursuant to section 5735.29 of the Revised Code prior to crediting 239
portions of such revenues to counties, municipal corporations, and 240
the highway operating fund. 241

(d) All amounts credited pursuant to divisions (A)(5)(a) and 242
(b) of this section shall be paid to the county treasurer of each 243
county for the total amount payable to the townships within each 244
of the counties. The county treasurer shall pay to each township 245
within the county its proportional share of the funds, which shall 246
be expended by each township only for the purposes of planning, 247
constructing, maintaining, widening, and reconstructing the public 248
roads and highways within the township, paying principal, 249
interest, and charges on obligations incurred pursuant to section 250
5531.09 of the Revised Code, and paying costs apportioned to the 251
township under section 4907.47 of the Revised Code. 252
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No part of the funds designated for road and highway purposes 254
shall be used for any purpose except to pay in whole or part the 255
contract price of any such work done by contract, or to pay the 256
cost of labor in planning, constructing, widening, and 257
reconstructing such roads and highways, and the cost of materials 258
forming a part of the improvement; provided that the funds may be 259
used for the purchase of road machinery and equipment and for the 260
planning, construction, and maintenance of suitable buildings for 261
housing road machinery and equipment, and that all such 262
improvement of roads shall be under supervision and direction of 263
the county engineer as provided in section 5575.07 of the Revised 264
Code. No obligation against the funds shall be incurred unless 265
plans and specifications for the improvement, approved by the 266
county engineer, are on file in the office of the township fiscal 267
officer, and all contracts for material and for work done by 268
contract shall be approved by the county engineer before being 269
signed by the board of township trustees. The board of township 270

trustees of any township may pass a resolution permitting the 271
board of county commissioners to expend the township's share of 272
the funds, or any portion of it, for the improvement of the roads 273
within the township as may be designated in the resolution. 274

All investment earnings of the fund shall be credited to the 275
fund. 276

(B) Amounts credited to the highway operating fund pursuant 277
to divisions (B)(2)(c) and (C)(2)(d) of section 5735.23 and 278
division (A) of section 5735.26 of the Revised Code shall be 279
expended in the following manner: 280

(1) The amount credited pursuant to divisions (B)(2)(c) and 281
(C)(2)(d) of section 5735.23 of the Revised Code shall be 282
apportioned to and expended by the department of transportation 283
for the purposes of planning, maintaining, repairing, and keeping 284
in passable condition for travel the roads and highways of the 285
state required by law to be maintained by the department; paying 286
the costs apportioned to the state under section 4907.47 of the 287
Revised Code; paying that portion of the construction cost of a 288
highway project which a county, township, or municipal corporation 289
normally would be required to pay, but which the director of 290
transportation, pursuant to division (B) of section 5531.08 of the 291
Revised Code, determines instead will be paid from moneys in the 292
highway operating fund; and paying the costs of the department of 293
public safety in administering and enforcing the state law 294
relating to the registration and operation of motor vehicles. 295

(2) The amount credited pursuant to division (A) of section 296
5735.26 of the Revised Code shall be used for paying the state's 297
share of the cost of planning, constructing, widening, 298
maintaining, and reconstructing the state highways; paying that 299
portion of the construction cost of a highway project which a 300
county, township, or municipal corporation normally would be 301
required to pay, but which the director of transportation, 302

pursuant to division (B) of section 5531.08 of the Revised Code, 303
determines instead will be paid from moneys in the highway 304
operating fund; and also for supplying the state's share of the 305
cost of eliminating railway grade crossings upon such highways and 306
costs apportioned to the state under section 4907.47 of the 307
Revised Code. The director of transportation may expend portions 308
of such amount upon extensions of state highways within municipal 309
corporations or upon portions of state highways within municipal 310
corporations, as is provided by law. 311

Section 2. That existing sections 5541.05, 5571.20, and 312
5735.27 of the Revised Code are hereby repealed. 313