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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**

**Senators Amstutz, Buehrer, Harris, Lehner, Padgett, Patton, Sawyer,
Schaffer, Wagoner, Wilson, Miller, R., Miller, D.**

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A B I L L

To amend sections 5541.05, 5553.11, 5571.20, and	1
5735.27 of the Revised Code to make changes	2
relative to the provisions that govern the placing	3
of county and township roads on nonmaintained	4
status and to establish that proceedings to vacate	5
a road are not subject to real property	6
appropriation procedures.	7

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

Section 1. That sections 5541.05, 5553.11, 5571.20, and	8
5735.27 of the Revised Code be amended to read as follows:	9

Sec. 5541.05. (A) Except as otherwise provided in division	10
(D) of this section, a board of county commissioners by resolution	11
may place a graveled or unimproved county road under its	12
jurisdiction <u>that is not passable year-round</u> or any portion of	13
such a road on nonmaintained status. <u>Prior to adopting a</u>	14

resolution that places a road on nonmaintained status, the board, 15
at special or regular meetings, shall hold at least two public 16
hearings to allow for public comment on the proposed resolution. 17
The board shall publicize the times and places of the hearings by 18
causing a notice to be published in a newspaper of general 19
circulation in the county in which the road is located at least 20
ten days prior to the date of the first meeting. If the county 21
maintains a web site on the internet, the same notice also shall 22
be posted on the web site at least ten days prior to the date of 23
the first meeting. Upon adoption of such a resolution, the board 24
is not required to cause the road to be dragged at any time, or to 25
cut, destroy, or remove any brush, weeds, briars, bushes, or 26
thistles upon or along the road, or to remove snow from the road, 27
or to maintain or repair the road in any manner. The board, in its 28
discretion, may cause any of these actions to be performed on or 29
to a road that it has placed on nonmaintained status. 30

(B) Prior to adopting a resolution under division (A) of this 32
section, the board shall request the county engineer to issue an 33
advisory opinion regarding the consequences of placing the road on 34
nonmaintained status, including any impact such action would have 35
on adjoining property owners. A board may adopt a resolution under 36
division (A) of this section only if after the board county 37
engineer issues the advisory opinion and the county engineer, in 38
the advisory opinion, finds that placing the road on nonmaintained 39
status will not unduly adversely affect the flow of motor vehicle 40
traffic on that road or on any ~~other adjacent road located in the~~ 41
~~immediate vicinity of that road as determined by the overall use~~ 42
~~of the road during the preceding twenty one years.~~ 43

(C)(1) A board may terminate the nonmaintained status of a 45
county road by adopting a resolution to that effect. If the owner 46

of land adjoining a road that has been placed on nonmaintained status requests the board to terminate the nonmaintained status of the road, the board, in its resolution that terminates that nonmaintained status, may require the owner to pay the costs of upgrading the road to locally adopted county standards.

(2) If the owner of land adjoining a road that has been placed on nonmaintained status upgrades the road to the standards most recently certified by the county engineer for the road, the board shall terminate the nonmaintained status of the road and then shall maintain and repair the road according to such standards. However, division (C)(2) of this section does not apply to a road or portion of a road that, prior to being placed on nonmaintained status, was not certified by the board of county commissioners to the director of transportation in accordance with division (D) of section 4501.04 of the Revised Code as mileage in the county used by and maintained for the public.

(3) The owner of land adjoining a road that was placed on nonmaintained status prior to the effective date of this amendment or the owner of land whose only access to such a road is by easement may petition the board for review of the nonmaintained status of the road if the road provides the exclusive means for obtaining access to the land. Upon receipt of a petition, the board shall review the status of the road and shall terminate the nonmaintained status if the board finds that the road provides such exclusive means for obtaining access to the land. After completing the review, the board shall adopt a resolution either retaining or terminating the nonmaintained status of the road. If the board terminates the nonmaintained status of a road under division (C)(3) of this section, the board shall not require the owner to pay the costs of upgrading, maintaining, or repairing the road.

(D) A graveled or unimproved road may not be placed on 79
nonmaintained status if ~~any person resides in a residence adjacent~~ 80
~~to the road,~~ the road is the exclusive means for obtaining access 81
to ~~the residence, and the residence is the person's primary place~~ 82
~~of residence~~ land that adjoins that road and the road is passable 83
year-round. 84

(E) For purposes of this section, a road is passable 85
year-round if a four-wheeled, two-wheel drive passenger motor 86
vehicle can be driven on the road year-round, apart from seasonal 87
conditions caused by weather-related events. 88

Sec. 5553.11. If the proceeding is for an improvement other 89
than the vacation of a road and the board of county commissioners, 90
at its final hearing on the proposed improvement, orders the 91
improvement established, it shall proceed in accordance with 92
sections 163.01 to 163.22, ~~inclusive,~~ of the Revised Code. 93

Sec. 5571.20. (A) Except as otherwise provided in division 94
(D) of this section, a board of township trustees by resolution 95
may place a graveled or unimproved township road under its 96
jurisdiction that is not passable year-round or any portion of 97
such a road on nonmaintained status. Prior to adopting a 98
resolution that places a road on nonmaintained status, the board 99
shall hold at least two public hearings to allow for public 100
comment on the proposed resolution. The board, at special or 101
regular meetings, shall publicize the times and places of the 102
hearings by causing a notice to be published in a newspaper of 103
general circulation in the county in which the road is located at 104
least ten days prior to the date of the first meeting. If the 105
township maintains a web site on the internet, the same notice 106
also shall be posted on the web site at least ten days prior to 107
the date of the first meeting. Upon adoption of such a resolution, 108
the board is not required to cause the road to be dragged at any 109

time, or to cut, destroy, or remove any brush, weeds, briers, 110
bushes, or thistles upon or along the road, or to remove snow from 111
the road, or to maintain or repair the road in any manner. The 112
board, in its discretion, may cause any of these actions to be 113
performed on or to a road that it has placed on nonmaintained 114
status. 115

(B) Prior to adopting a resolution under division (A) of this 116
section, the board shall request the county engineer to issue an 117
advisory opinion regarding the consequences of placing the road on 118
nonmaintained status, including any impact such action would have 119
on adjoining property owners. A board may adopt a resolution under 120
division (A) of this section only if after the board county 121
engineer issues the advisory opinion and the county engineer, in 122
the advisory opinion, finds that placing the road on nonmaintained 123
status will not unduly adversely affect the flow of motor vehicle 124
traffic on that road or on any ~~other adjacent road located in the~~ 125
~~immediate vicinity of that road as determined by the overall use~~ 126
~~of the road during the preceding twenty one years.~~ 127

(C)(1) A board may terminate the nonmaintained status of a 129
township road by adopting a resolution to that effect. If the 130
owner of land adjoining a road that has been placed on 131
nonmaintained status requests the board to terminate the 132
nonmaintained status of the road, the board, in its resolution 133
that terminates that nonmaintained status, may require the owner 134
to pay the costs of upgrading the road to locally adopted township 135
standards. 136

(2) If the owner of land adjoining a road that has been 137
placed on nonmaintained status upgrades the road to the standards 138
most recently certified by the county engineer for the road, the 139
board shall terminate the nonmaintained status of the road and 140

then shall maintain and repair the road according to such 141
standards. However, division (C)(2) of this section does not apply 142
to a road or portion of a road that, prior to being placed on 143
nonmaintained status, was not certified by the board of township 144
trustees to the director of transportation in accordance with 145
division (E) of section 4501.04 of the Revised Code as mileage in 146
the township used by and maintained for the public. 147

(3) The owner of land adjoining a road that was placed on 148
nonmaintained status prior to the effective date of this amendment 149
or land owner of land whose only access to such a road is by 150
easement may petition the board for review of the nonmaintained 151
status of the road if the road provides the exclusive means for 152
obtaining access to the land. Upon receipt of a petition, the 153
board shall review the status of the road and shall terminate the 154
nonmaintained status if the board finds that the road provides 155
such exclusive means for obtaining access to the land. After 156
completing the review, the board shall adopt a resolution either 157
retaining or terminating the nonmaintained status of the road. If 158
the board terminates the nonmaintained status of a road under 159
division (C)(3) of this section, the board shall not require the 160
owner to pay the costs of upgrading, maintaining, or repairing the 161
road. 162

(D) A graveled or unimproved road may not be placed on 163
nonmaintained status if ~~any person resides in a residence adjacent~~ 164
~~to the road,~~ the road is the exclusive means for obtaining access 165
~~to the residence, and the residence is the person's primary place~~ 166
~~of residence~~ land that adjoins that road and the road is passable 167
year-round. 168

(E) For purposes of this section, a road is passable 169
year-round if a four-wheeled, two-wheel drive passenger motor 170
vehicle can be driven on the road year-round, apart from seasonal 171
conditions caused by weather-related events. 172

Sec. 5735.27. (A) There is hereby created in the state 173
treasury the gasoline excise tax fund, which shall be distributed 174
in the following manner: 175

(1) The amount credited pursuant to divisions (B)(2)(a) and 176
(C)(2)(a) of section 5735.23 of the Revised Code shall be 177
distributed among municipal corporations. The amount paid to each 178
municipal corporation shall be that proportion of the amount to be 179
so distributed that the number of motor vehicles registered within 180
the municipal corporation bears to the total number of motor 181
vehicles registered within all the municipal corporations of this 182
state during the preceding motor vehicle registration year. When a 183
new village is incorporated, the registrar of motor vehicles shall 184
determine from the applications on file in the bureau of motor 185
vehicles the number of motor vehicles located within the territory 186
comprising the village during the entire registration year in 187
which the municipal corporation was incorporated. The registrar 188
shall forthwith certify the number of motor vehicles so determined 189
to the tax commissioner for use in distributing motor vehicle fuel 190
tax funds to the village until the village is qualified to 191
participate in the distribution of the funds pursuant to this 192
division. The number of motor vehicle registrations shall be 193
determined by the official records of the bureau of motor 194
vehicles. The amount received by each municipal corporation shall 195
be used to plan, construct, reconstruct, repave, widen, maintain, 196
repair, clear, and clean public highways, roads, and streets; to 197
maintain and repair bridges and viaducts; to purchase, erect, and 198
maintain street and traffic signs and markers; to pay the costs 199
apportioned to the municipal corporation under section 4907.47 of 200
the Revised Code; to purchase, erect, and maintain traffic lights 201
and signals; to pay the principal, interest, and charges on bonds 202
and other obligations issued pursuant to Chapter 133. of the 203
Revised Code or incurred pursuant to section 5531.09 of the 204

Revised Code for the purpose of acquiring or constructing roads, 205
highways, bridges, or viaducts or acquiring or making other 206
highway improvements for which the municipal corporation may issue 207
bonds; and to supplement revenue already available for these 208
purposes. 209

(2) The amount credited pursuant to division (B) of section 210
5735.26 of the Revised Code shall be distributed among the 211
municipal corporations within the state, in the proportion which 212
the number of motor vehicles registered within each municipal 213
corporation bears to the total number of motor vehicles registered 214
within all the municipal corporations of the state during the 215
preceding calendar year, as shown by the official records of the 216
bureau of motor vehicles, and shall be expended by each municipal 217
corporation to plan, construct, reconstruct, repave, widen, 218
maintain, repair, clear, and clean public highways, roads and 219
streets; to maintain and repair bridges and viaducts; to purchase, 220
erect, and maintain street and traffic signs and markers; to 221
purchase, erect, and maintain traffic lights and signals; to pay 222
costs apportioned to the municipal corporation under section 223
4907.47 of the Revised Code; to pay the principal, interest, and 224
charges on bonds and other obligations issued pursuant to Chapter 225
133. of the Revised Code or incurred pursuant to section 5531.09 226
of the Revised Code for the purpose of acquiring or constructing 227
roads, highways, bridges, or viaducts or acquiring or making other 228
highway improvements for which the municipal corporation may issue 229
bonds; and to supplement revenue already available for these 230
purposes. 231

(3) The amount credited pursuant to divisions (B)(2)(b) and 232
(C)(2)(c) of section 5735.23 of the Revised Code shall be paid in 233
equal proportions to the county treasurer of each county within 234
the state and shall be used only for the purposes of planning, 235
maintaining, and repairing the county system of public roads and 236

highways within the county; the planning, construction, and repair 237
of walks or paths along county roads in congested areas; the 238
planning, construction, purchase, lease, and maintenance of 239
suitable buildings for the housing and repair of county road 240
machinery, housing of supplies, and housing of personnel 241
associated with the machinery and supplies; the payment of costs 242
apportioned to the county under section 4907.47 of the Revised 243
Code; the payment of principal, interest, and charges on bonds and 244
other obligations issued pursuant to Chapter 133. of the Revised 245
Code or incurred pursuant to section 5531.09 of the Revised Code 246
for the purpose of acquiring or constructing roads, highways, 247
bridges, or viaducts or acquiring or making other highway 248
improvements for which the board of county commissioners may issue 249
bonds under that chapter; and the purchase, installation, and 250
maintenance of traffic signal lights. 251

(4) The amount credited pursuant to division (C) of section 252
5735.26 of the Revised Code shall be paid in equal proportions to 253
the county treasurer of each county for the purposes of planning, 254
maintaining, constructing, widening, and reconstructing the county 255
system of public roads and highways; paying principal, interest, 256
and charges on bonds and other obligations issued pursuant to 257
Chapter 133. of the Revised Code or incurred pursuant to section 258
5531.09 of the Revised Code for the purpose of acquiring or 259
constructing roads, highways, bridges, or viaducts or acquiring or 260
making other highway improvements for which the board of county 261
commissioners may issue bonds under that chapter; and paying costs 262
apportioned to the county under section 4907.47 of the Revised 263
Code. 264

(5)(a) The amount credited pursuant to division (D) of 265
section 5735.26 and division (C)(2)(b) of section 5735.23 of the 266
Revised Code shall be divided in equal proportions among the 267
townships within the state. 268

(b) As used in division (A)(5)(b) of this section, the 269
"formula amount" for any township is the amount that would be 270
allocated to that township if fifty per cent of the amount 271
credited to townships pursuant to section 5735.291 of the Revised 272
Code were allocated among townships in the state proportionate to 273
the number of ~~lane~~ centerline miles within the boundaries of the 274
respective townships, as determined annually by the department of 275
transportation, and the other fifty per cent of the amount 276
credited pursuant to section 5735.291 of the Revised Code were 277
allocated among townships in the state proportionate to the number 278
of motor vehicles registered within the respective townships, as 279
determined annually by the records of the bureau of motor 280
vehicles. The number of centerline miles within the boundaries of 281
a township shall not include any centerline miles of township 282
roads that have been placed on nonmaintained status by a board of 283
township trustees pursuant to section 5571.20 of the Revised Code. 284
285

Beginning on August 15, 2003, the tax levied by section 286
5735.29 of the Revised Code shall be partially allocated to 287
provide funding for townships. Each township shall receive the 288
greater of the following two calculations: 289

(i) The total statewide amount credited to townships under 290
division (A) of section 5735.291 of the Revised Code divided by 291
the number of townships in the state at the time of the 292
calculation; 293

(ii) Seventy per cent of the formula amount for that 294
township. 295

(c) The total difference between the amount of money credited 296
to townships under division (A) of section 5735.291 of the Revised 297
Code and the total amount of money required to make all the 298
payments specified in division (A)(5)(b) of this section shall be 299
deducted, in accordance with division (B) of section 5735.291 of 300

the Revised Code, from the revenues resulting from the tax levied 301
pursuant to section 5735.29 of the Revised Code prior to crediting 302
portions of such revenues to counties, municipal corporations, and 303
the highway operating fund. 304

(d) All amounts credited pursuant to divisions (A)(5)(a) and 305
(b) of this section shall be paid to the county treasurer of each 306
county for the total amount payable to the townships within each 307
of the counties. The county treasurer shall pay to each township 308
within the county its proportional share of the funds, which shall 309
be expended by each township only for the purposes of planning, 310
constructing, maintaining, widening, and reconstructing the public 311
roads and highways within the township, paying principal, 312
interest, and charges on obligations incurred pursuant to section 313
5531.09 of the Revised Code, and paying costs apportioned to the 314
township under section 4907.47 of the Revised Code. 315

316

No part of the funds designated for road and highway purposes 317
shall be used for any purpose except to pay in whole or part the 318
contract price of any such work done by contract, or to pay the 319
cost of labor in planning, constructing, widening, and 320
reconstructing such roads and highways, and the cost of materials 321
forming a part of the improvement; provided that the funds may be 322
used for the purchase of road machinery and equipment and for the 323
planning, construction, and maintenance of suitable buildings for 324
housing road machinery and equipment, and that all such 325
improvement of roads shall be under supervision and direction of 326
the county engineer as provided in section 5575.07 of the Revised 327
Code. No obligation against the funds shall be incurred unless 328
plans and specifications for the improvement, approved by the 329
county engineer, are on file in the office of the township fiscal 330
officer, and all contracts for material and for work done by 331
contract shall be approved by the county engineer before being 332

signed by the board of township trustees. The board of township 333
trustees of any township may pass a resolution permitting the 334
board of county commissioners to expend the township's share of 335
the funds, or any portion of it, for the improvement of the roads 336
within the township as may be designated in the resolution. 337

All investment earnings of the fund shall be credited to the 338
fund. 339

(B) Amounts credited to the highway operating fund pursuant 340
to divisions (B)(2)(c) and (C)(2)(d) of section 5735.23 and 341
division (A) of section 5735.26 of the Revised Code shall be 342
expended in the following manner: 343

(1) The amount credited pursuant to divisions (B)(2)(c) and 344
(C)(2)(d) of section 5735.23 of the Revised Code shall be 345
apportioned to and expended by the department of transportation 346
for the purposes of planning, maintaining, repairing, and keeping 347
in passable condition for travel the roads and highways of the 348
state required by law to be maintained by the department; paying 349
the costs apportioned to the state under section 4907.47 of the 350
Revised Code; paying that portion of the construction cost of a 351
highway project which a county, township, or municipal corporation 352
normally would be required to pay, but which the director of 353
transportation, pursuant to division (B) of section 5531.08 of the 354
Revised Code, determines instead will be paid from moneys in the 355
highway operating fund; and paying the costs of the department of 356
public safety in administering and enforcing the state law 357
relating to the registration and operation of motor vehicles. 358

(2) The amount credited pursuant to division (A) of section 359
5735.26 of the Revised Code shall be used for paying the state's 360
share of the cost of planning, constructing, widening, 361
maintaining, and reconstructing the state highways; paying that 362
portion of the construction cost of a highway project which a 363
county, township, or municipal corporation normally would be 364

required to pay, but which the director of transportation, 365
pursuant to division (B) of section 5531.08 of the Revised Code, 366
determines instead will be paid from moneys in the highway 367
operating fund; and also for supplying the state's share of the 368
cost of eliminating railway grade crossings upon such highways and 369
costs apportioned to the state under section 4907.47 of the 370
Revised Code. The director of transportation may expend portions 371
of such amount upon extensions of state highways within municipal 372
corporations or upon portions of state highways within municipal 373
corporations, as is provided by law. 374

Section 2. That existing sections 5541.05, 5553.11, 5571.20, 375
and 5735.27 of the Revised Code are hereby repealed. 376