

**As Reported by the House Infrastructure, Homeland Security and  
Veterans Affairs Committee**

**127th General Assembly  
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**Sub. H. B. No. 318**

**Representative Gibbs**

**Cosponsors: Representatives Aslanides, Domenick**

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**A B I L L**

To amend sections 5541.05, 5571.20, and 5735.27 of 1  
the Revised Code to make changes relative to the 2  
provisions that govern the placing of county and 3  
township roads on nonmaintained status. 4

**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 5  
Revised Code be amended to read as follows: 6

**Sec. 5541.05.** (A) Except as otherwise provided in division 7  
(D) of this section, a board of county commissioners by resolution 8  
may place a graveled or unimproved county road under its 9  
jurisdiction that is not passable year-round or any portion of 10  
such a road on nonmaintained status. Prior to adopting a 11  
resolution that places a road on nonmaintained status, the board, 12  
at special or regular meetings, shall hold at least two public 13  
hearings to allow for public comment on the proposed resolution. 14  
The board shall publicize the times and places of the hearings by 15  
causing a notice to be published in a newspaper of general 16  
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, briers, 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

(D) A graveled or unimproved road may not be placed on 50  
nonmaintained status if ~~any person resides in a residence adjacent~~ 51  
~~to the road,~~ the road is the exclusive means for obtaining access 52  
to ~~the residence,~~ and ~~the residence is the person's primary place~~ 53  
~~of residence~~ land that adjoins that road or the road is passable 54  
year-round. 55

(E) For purposes of this section, a road is passable 56  
year-round if a four-wheeled, two-wheel drive motor vehicle can be 57  
driven on the road year-round. 58

**Sec. 5571.20.** (A) Except as otherwise provided in division 59  
(D) of this section, a board of township trustees by resolution 60  
may place a graveled or unimproved township road under its 61  
jurisdiction that is not passable year-round or any portion of 62  
such a road on nonmaintained status. Prior to adopting a 63  
resolution that places a road on nonmaintained status, the board 64  
shall hold at least two public hearings to allow for public 65  
comment on the proposed resolution. The board, at special or 66  
regular meetings, shall publicize the times and places of the 67  
hearings by causing a notice to be published in a newspaper of 68  
general circulation in the county in which the road is located at 69  
least ten days prior to the date of the first meeting. If the 70  
township maintains a web site on the internet, the same notice 71  
also shall be posted on the web site at least ten days prior to 72  
the date of the first meeting. Upon adoption of such a resolution, 73  
the board is not required to cause the road to be dragged at any 74  
time, or to cut, destroy, or remove any brush, weeds, briers, 75  
bushes, or thistles upon or along the road, or to remove snow from 76  
the road, or to maintain or repair the road in any manner. The 77  
board, in its discretion, may cause any of these actions to be 78  
performed on or to a road that it has placed on nonmaintained 79  
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  
253

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