

**SUBSTITUTE FOR
SENATE BILL NO. 515**

A bill to amend 1951 PA 51, entitled

"An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to promote safe and efficient travel for motor vehicle drivers, bicyclists, pedestrians, and other legal users of roads, streets, and highways; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state



transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, local bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts,"

by amending section 11 (MCL 247.661), as amended by 2015 PA 175, and by adding section 11i.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) A fund to be known as the state trunk line fund
2 is established in the state treasury as a separate fund. The money
3 deposited in the state trunk line fund is appropriated to the
4 department for the following purposes in the following order of
5 priority:

6 (a) For the payment, but only from money restricted as to use
7 by section 9 of article IX of the state constitution of 1963, of
8 bonds, notes, or other obligations in the following order of



1 priority:

2 (i) For the payment of contributions pledged before July 18,
3 1979 and required to be made by the state highway commission or the
4 state transportation commission under contracts entered into before
5 July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, for the
6 payment of the principal and interest on bonds issued under 1941 PA
7 205, MCL 252.51 to 252.64, for the payment of which a sufficient
8 sum is irrevocably appropriated.

9 (ii) For the payment of the principal and interest upon bonds
10 designated "State of Michigan, State Highway Commissioner, Highway
11 Construction Bonds, Series I", dated September 1, 1956, in the
12 aggregate principal amount of \$25,000,000.00, issued ~~pursuant to~~
13 **under** former 1955 PA 87 and the resolution of the state
14 administrative board adopted August 6, 1956, for the payment of
15 which a sufficient sum is irrevocably appropriated.

16 (iii) For the payment of the principal and interest on bonds
17 issued under section 18b for transportation purposes other than
18 comprehensive transportation purposes as defined by law and the
19 payment of contributions pledged to the payment of principal and
20 interest on bonds issued under section 18d and contracts entered
21 into under section 18d by the state highway commission or state
22 transportation commission to be made ~~pursuant to~~**under** contracts
23 entered into under section 18d. A sufficient portion of the fund is
24 irrevocably appropriated to pay, when due, the principal and
25 interest on bonds or notes issued under section 18b for purposes
26 other than comprehensive transportation purposes as defined by law,
27 and to pay the annual contributions of the state highway commission
28 and the state transportation commission as are pledged for the
29 payment of bonds issued under contracts authorized by section 18d.



1 (b) For the transfer of money appropriated under section
2 ~~10(1)(i)~~**10(1)(j)** to the transportation economic development fund
3 **created in section 2 of 1987 PA 231, MCL 247.902**, but the transfer
4 shall be reduced each fiscal year by the amount of debt service to
5 be paid in that year from the state trunk line fund for bonds,
6 notes, or other obligations issued to fund projects of the
7 transportation economic development fund **created in section 2 of**
8 **1987 PA 231, MCL 247.902**, which amount shall be certified by the
9 department.

10 (c) For the transfer of money appropriated under section
11 10(1)(a) to the rail grade crossing account in the state trunk line
12 fund for expenditure for rail grade crossing improvement purposes
13 at rail grade crossings on public roads and streets under the
14 jurisdiction of this state, counties, cities, or villages. The
15 department shall select projects for funding in accordance with the
16 following:

17 (i) Not more than 50% or less than 30% of this money and
18 matched federal money shall be expended for state trunk line
19 projects.

20 (ii) In prioritizing projects for this money, in whole or in
21 part, the department shall consider train and vehicular traffic
22 volumes, accident history, traffic control device improvement
23 needs, and the availability of funding.

24 (iii) Consistent with the other requirements for this money, the
25 first priority for money deposited under this subdivision for rail
26 grade crossing improvements and retirement shall be to match
27 federal money from the railroad-highway grade crossing improvement
28 program or other comparable federal programs if a match is required
29 under federal law.



1 (iv) If the department and a road authority with jurisdiction
2 over the crossing formally agree that the grade crossing should be
3 eliminated by permanent closing of the public road or street, the
4 physical removal of the crossing, roadway within railroad rights of
5 way and street termination treatment shall be negotiated between
6 the road authority and railroad company. The money provided to the
7 road authority as a result of the crossing closure shall be
8 credited to its account representing the same road or street system
9 on which the crossing is located and shall be used for any
10 transportation purpose within that road authority's jurisdiction.

11 (d) For the transfer of money appropriated under section
12 10(1)(b) to the grade crossing surface account in the state trunk
13 line fund for expenditure for rail grade crossing surface
14 improvement purposes at rail grade crossings on public roads and
15 streets under the jurisdiction of counties, cities, or villages.
16 Projects shall be selected for funding in accordance with the
17 following:

18 (i) In prioritizing projects, the department shall consider
19 vehicular traffic volumes, relative crossing surface condition, the
20 ability of the railroad and local road authority to make
21 coordinated improvements, and the availability of funding.

22 (ii) The grade crossing surface account shall fund 60% of the
23 project cost, with the remaining 40% funded by the railroad
24 company.

25 (iii) Funding under the grade crossing surface account shall be
26 limited to items of work that are normally the responsibility of
27 the railroad under section 309 of the railroad code of 1993, 1993
28 PA 354, MCL 462.309. Maintenance of the roadway approaches to the
29 crossing will continue to be the responsibility of the party with



1 jurisdiction over that roadway.

2 (e) For the total operating expenses of the state trunk line
3 fund for each fiscal year as appropriated by the legislature.

4 (f) For the preservation of state trunk line highways and
5 bridges.

6 (g) For the opening, widening, improving, construction, and
7 reconstruction of state trunk line highways and bridges, including
8 the acquisition of necessary rights of way and the work incidental
9 to that opening, widening, improving, construction, or
10 reconstruction. Those sums in the state trunk line fund not
11 otherwise appropriated, distributed, determined, or set aside by
12 law shall be used for the construction or reconstruction of the
13 national system of interstate and defense highways, referred to in
14 this act as "the interstate highway system" to the extent necessary
15 to match federal aid money as the federal aid money becomes
16 available for that purpose; and, for the construction and
17 reconstruction of the state trunk line system.

18 (h) The department may enter into agreements with a local road
19 agency or a private sector company to perform work on a highway,
20 road, or street. The agreements may provide for the performance by
21 any of the contracting parties of any of the work contemplated by
22 the contract including maintenance, engineering services, and the
23 acquisition of rights of way in connection with the work, by
24 purchase or condemnation by any of the contracting parties in its
25 own name, and for joint participation in the costs, but only to the
26 extent that the contracting parties are otherwise authorized by law
27 to expend money on the highways, roads, or streets. The department
28 also may contract with a local road agency to advance money to a
29 local road agency to pay the costs of improving railroad grade



1 crossings on the terms and conditions agreed to in the contract. A
2 contract may be executed before or after the state transportation
3 commission borrows money for the purpose of advancing money to a
4 local road agency, but the contract shall be executed before the
5 advancement of any money to a local road agency by the state
6 transportation commission, and shall provide for the full
7 reimbursement of any advancement by a local road agency to the
8 department, with interest, within 15 years after advancement, from
9 any available revenue sources of the local road agency or, if
10 provided in the contract, by deduction from the periodic
11 disbursements of any money returned by the state to the local road
12 agency.

13 (i) For providing inventories of supplies and materials
14 required for the activities of the department. The department may
15 purchase supplies and materials for these purposes, with payment to
16 be made out of the state trunk line fund to be charged on the basis
17 of issues from inventory in accordance with the accounting and
18 purchasing laws of this state.

19 (2) Notwithstanding any other provision of this act, the
20 department shall annually expend at least 90% of state revenue
21 appropriated annually to the state trunk line fund less the amounts
22 described in subdivisions (a) to (i) for the preservation of
23 highways, roads, streets, and bridges and for the payment of debt
24 service on bonds, notes, or other obligations described in
25 subsection (1)(a) issued after July 1, 1983, for the purpose of
26 providing money for the preservation of highways, roads, streets,
27 and bridges. Of the amounts appropriated for state trunk line
28 projects, the department shall, where possible, secure pavement
29 warranties for full replacement or appropriate repair for



1 contracted construction work on pavement projects whose cost
2 exceeds \$2,000,000.00 and projects for new construction or
3 reconstruction undertaken after ~~the effective date of the 2015~~
4 ~~amendatory act that amended this subsection.~~ **April 1, 2016.** The
5 department shall compile and make available to the public an annual
6 report of all warranties that were secured under this subsection
7 and all pavement projects whose costs exceed \$2,000,000.00 where a
8 warranty was not secured as provided in subsection (14). If an
9 appropriate certificate is filed under section 18e but only to the
10 extent necessary, this subsection does not prohibit the use of any
11 amount of money restricted as to use by section 9 of article IX of
12 the state constitution of 1963 and deposited in the state trunk
13 line fund for the payment of debt service on bonds, notes, or other
14 obligations pledging for the payment thereof money restricted as to
15 use by section 9 of article IX of the state constitution of 1963
16 and deposited in the state trunk line fund, whenever issued, as
17 specified ~~under~~ **in** subsection (1) (a). The amounts that are deducted
18 from the state trunk line fund for the purpose of the calculation
19 required by this subsection are as follows:

20 (a) Amounts expended for the purposes described in subsection
21 (1) (a) for the payment of debt service on bonds, notes, or other
22 obligations issued before July 2, 1983.

23 (b) Amounts expended to provide the state matching requirement
24 for projects on the national highway system and for the payment of
25 debt service on bonds, notes, or other obligations issued after
26 July 1, 1983, for the purpose of providing money for the state
27 matching requirements for projects on the national highway system.

28 (c) Amounts expended for the construction of a highway,
29 street, road, or bridge to 1 or more of the following or for the



1 payment of debt service on bonds, notes, or other obligations
 2 issued after July 1, 1983, for the purpose of providing money for
 3 the construction of a highway, street, road, or bridge to 1 or more
 4 of the following:

5 (i) A location for which a building permit has been obtained
 6 for the construction of a manufacturing or industrial facility.

7 (ii) A location for which a building permit has been obtained
 8 for the renovation of, or addition to, a manufacturing or
 9 industrial facility.

10 (d) Amounts expended for capital outlay other than for
 11 highways, roads, streets, and bridges or to pay debt service on
 12 bonds, notes, or other obligations issued after July 1, 1983, for
 13 the purpose of providing money for capital outlay other than for
 14 highways, roads, streets, and bridges.

15 (e) Amounts expended for the operating expenses of the
 16 department other than the units of the department performing the
 17 functions assigned on January 1, 1983 to the bureau of highways.

18 (f) Amounts expended ~~pursuant to~~**under** contracts entered into
 19 before January 1, 1983.

20 (g) Amounts expended for the purposes described in subsection
 21 (5).

22 (h) Amounts appropriated for deposit in the transportation
 23 economic development fund **created in section 2 of 1987 PA 231, MCL**
 24 **247.902**, and the rail grade crossing account ~~pursuant to~~**under**
 25 section 10(1)(a) and ~~(h)~~**(j)**.

26 (i) Upon the affirmative recommendation of the director of the
 27 department and the approval by resolution of the state
 28 transportation commission, those amounts expended for projects
 29 vital to the economy of this state, a region, or local area or the



1 safety of the public. The resolution shall state the cost of the
2 project exempted from this subsection.

3 (3) Notwithstanding any other provision of this act, the
4 department shall expend annually at least 90% of the federal
5 revenue distributed to the credit of the state trunk line fund in
6 that year, except for federal revenue expended for the purposes
7 described in subsection (2)(b), (c), (f), and (i) and for the
8 payment of notes issued under section 18b(9) on the preservation of
9 highways, roads, streets, and bridges. The requirement of this
10 subsection is waived if compliance would cause this state to be
11 ineligible according to federal law for federal revenue, but only
12 to the extent necessary to make this state eligible according to
13 federal law for that revenue.

14 (4) Notwithstanding any other provision of this section, the
15 department may loan money to a local road agency for paying capital
16 costs of transportation purposes described in the second paragraph
17 of section 9 of article IX of the state constitution of 1963 from
18 the proceeds of bonds or notes issued pursuant to section 18b or
19 from the state trunk line fund. Loans made directly from the state
20 trunk line fund shall be made only after provision of money for the
21 purposes specified in subsection (1)(a) to (f). Loans described in
22 this subsection are not subject to the revised municipal finance
23 act, 2001 PA 34, MCL 141.2101 to 141.2821.

24 (5) A local road agency may borrow money from the proceeds of
25 bonds or notes issued under section 18b or the state trunk line
26 fund for the purposes set forth in subsection (4) that shall be
27 repayable, with interest, from 1 or more of the following:

28 (a) The money to be received by the local road agency from the
29 Michigan transportation fund, except to the extent the money has



1 been or may in the future be pledged by contract in accordance with
2 1941 PA 205, MCL 252.51 to 252.64, or has been or may in the future
3 be pledged for the payment of the principal and interest upon notes
4 issued under 1943 PA 143, MCL 141.251 to 141.254, or has been or
5 may in the future be pledged for the payment of principal and
6 interest upon bonds issued under section 18c or 18d, or has been or
7 may in the future be pledged for the payment of the principal and
8 interest upon bonds issued under 1952 PA 175, MCL 247.701 to
9 247.707.

10 (b) Any other legally available money of the local road
11 agency, other than the general funds of the county.

12 (6) If required by the department, loans made under subsection
13 (4) are payable by deduction by the state treasurer, upon direction
14 of the department, from the periodic disbursements of any money
15 returned by this state under this act to the local road agency, but
16 only after sufficient money has been returned to the local road
17 agency to provide for the payment of contractual obligations
18 incurred or to be incurred and principal and interest on notes and
19 bonds issued or to be issued under 1941 PA 205, MCL 252.51 to
20 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL
21 247.701 to 247.707, or section 18c or 18d. The interest rates and
22 payment schedules of any loans made from the proceeds of bonds or
23 notes issued ~~pursuant to~~ **under** section 18b shall be established by
24 the department to conform as closely as practicable to the interest
25 rate and repayment schedules on the bonds or notes issued to make
26 the loans. However, the department may allow for the deferral of
27 the first payment of interest or principal on the loans for a
28 period of not to exceed 1 year after the respective first payment
29 of interest or principal on the bonds or notes issued to make the



1 loans.

2 (7) The amount borrowed by a local road agency under
 3 subsection (5) shall not be included in, or charged against, any
 4 constitutional, statutory, or charter debt limitation of the
 5 county, city, or village and shall not be included in the
 6 determination of the maximum annual principal and interest
 7 requirements of, or the limitations upon, the maximum annual
 8 principal and interest incurred under 1941 PA 205, MCL 252.51 to
 9 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL
 10 247.701 to 247.707, or section 18c or 18d.

11 (8) The local road agency is not required to seek or obtain
 12 the approval of the electors, the municipal finance commission or
 13 its successor agency, or, except as provided in this subsection,
 14 the department of treasury to borrow money under subsection (5).
 15 The borrowing is not subject to the revised municipal finance act,
 16 2001 PA 34, MCL 141.2101 to 141.2821, or to section 5(g) of the
 17 home rule city act, 1909 PA 279, MCL 117.5. The department shall
 18 give at least 10 days' notice to the state treasurer of its
 19 intention to make a loan under subsection (4). If the state
 20 treasurer gives notice to the director of the department within 10
 21 days of receiving the notice from the department, that, based upon
 22 the then existing financial or credit situation of the local road
 23 agency, it would not be in the best interests of this state to make
 24 a loan under subsection (4) to the local road agency, the loan
 25 shall not be made unless the state treasurer, after a hearing, if
 26 requested by the affected local road agency, subsequently gives
 27 notice to the director of the department that the loan may be made
 28 on the conditions that the state treasurer specifies.

29 (9) The state transportation commission may borrow money and



1 issue bonds and notes under section 18b to make loans to a local
2 road agency for the purposes described in the second paragraph of
3 section 9 of article IX of the state constitution of 1963, as
4 provided in subsection (4). A single issue of bonds or notes may be
5 issued for the purposes specified in subsection (4) and for the
6 other purposes specified in section 18b. The house and senate
7 transportation appropriations subcommittees shall be notified by
8 the department if there are extras and overruns sufficient to
9 require approval of either the state administrative board or the
10 commission, or both, on any contract between the department and a
11 local road agency or a private business.

12 (10) The director of the department, after consultation with
13 representatives of the interests of local road agencies, shall
14 establish, by intergovernmental communication, procedures for the
15 implementation and administration of the loan program established
16 under subsections (4) to (9).

17 (11) Not more than 8% per year of all of the money received by
18 and returned to the department from any source for the purposes of
19 this section may be expended for administrative expenses. The
20 department ~~shall be~~ **is** subject to section 14(5) if more than 8% per
21 year is expended for administrative expenses. As used in this
22 subsection, "administrative expenses" means expenses that are not
23 assigned including, but not limited to, specific road construction
24 or preservation projects and are often referred to as general or
25 supportive services. Administrative expenses do not include net
26 equipment expense, net capital outlay, debt service principal and
27 interest, and payments to other state or local offices that are
28 assigned, but not limited to, specific road construction projects
29 or preservation activities.



1 (12) Any performance audits of the department shall be
2 conducted according to government auditing standards issued by the
3 United States General Accounting Office.

4 (13) Contracts entered into to advance money to a local road
5 agency under subsection (1)(g) are not subject to the revised
6 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

7 (14) The department shall prepare on an annual basis a report
8 listing all warranties that were secured under subsection (2) and
9 indicate whether any of those warranties were redeemed and all
10 pavement projects whose costs exceed \$2,000,000.00 for which a
11 warranty was not secured as described in subsection (2). The
12 department shall make the report required by this subsection
13 available to the public upon request and shall also post the report
14 on its website, which shall include, but is not limited to, all of
15 the following information:

16 (a) The type of project.

17 (b) The cost or estimated cost of the project.

18 (c) The expected lifespan of the project.

19 (d) Whether or not the project met or is currently meeting its
20 expected lifespan.

21 (e) If the project failed to meet or is not meeting its
22 expected lifespan, the cause of the failure and the cost to replace
23 or repair the project.

24 (f) The entity responsible for paying the cost of replacing or
25 repairing the project.

26 (15) As used in this section:

27 (a) "Local road agency" means that term as defined in section
28 9a.

29 (b) "Rail grade crossing improvement purposes" means 1 or more



1 of the following:

2 (i) The installation and modernization of active and passive
3 warning devices at railroad grade crossings.

4 (ii) The installation or improvement of grade crossing
5 surfaces.

6 (iii) Modification, relocation, or modernization of railroad
7 grade crossing active and passive warning devices necessitated by
8 roadway improvement projects.

9 (iv) Test installations of innovative warning devices or other
10 innovative applications.

11 (v) Construction of new grade separations.

12 (vi) A cash incentive payment made ~~pursuant to~~**under** subsection
13 (1)(c)(iv) for any public road or street crossing, in an amount no
14 greater than the cost of installing flashing light signals and half
15 roadway gates at the crossing.

16 (vii) Any other work that would be eligible for funding under
17 the federal railroad-highway grade crossing improvement program or
18 other comparable programs.

19 **Sec. 11i. (1) By May 1, 2020, the department shall create a**
20 **highway construction cost index to measure inflation in highway**
21 **construction costs for road and bridge projects in this state. The**
22 **department may contract with a third party to develop the index.**
23 **The department shall use an accepted inflation measurement when**
24 **creating the index to help project future highway construction**
25 **costs. The department may include a labor cost measurement in the**
26 **index to help project changes in the cost of labor for highway**
27 **construction projects. The highway construction cost index created**
28 **pursuant to this section must be approved by the state**
29 **transportation commission. Upon approval, the department shall**



1 submit a report on the index by June 1, 2020 and quarterly
2 thereafter to the house and senate transportation appropriations
3 subcommittees. The report shall include, at a minimum, all of the
4 following:

5 (a) A historic record of the index.

6 (b) A forecast of highway construction cost inflation for the
7 next 5 years.

8 (c) Discussion of labor trends and economic factors impacting
9 highway construction costs.

10 (2) The department may update the index every 10 years. The
11 department may contract with a third party to update the index and
12 any update must be approved by the state transportation commission.

13 (3) The department shall post the highway construction cost
14 index and the report on its website and shall make the highway
15 construction cost index and the report available for public
16 inspection upon request during reasonable business hours. The
17 department shall make available, upon request from any local unit
18 of government, the methodology and measurements used as the basis
19 to create the highway construction cost index.

