

SENATE BILL NO. 515

September 12, 2019, Introduced by Senator BARRETT and referred to the Committee on Transportation and Infrastructure.

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

1 priority:

2 (a) For the payment, but only from money restricted as to use
3 by section 9 of article IX of the state constitution of 1963, of
4 bonds, notes, or other obligations in the following order of
5 priority:

6 (i) For the payment of contributions pledged before July 18,
7 1979 and required to be made by the state highway commission or the
8 state transportation commission under contracts entered into before
9 July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, for the
10 payment of the principal and interest on bonds issued under 1941 PA
11 205, MCL 252.51 to 252.64, for the payment of which a sufficient
12 sum is irrevocably appropriated.

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

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

1 other than comprehensive transportation purposes as defined by law,
2 and to pay the annual contributions of the state highway commission
3 and the state transportation commission as are pledged for the
4 payment of bonds issued under contracts authorized by section 18d.

5 (b) For the transfer of money appropriated under section
6 ~~10(1)(i)~~**10(1)(j)** to the transportation economic development fund
7 **created in section 2 of 1987 PA 231, MCL 247.902**, but the transfer
8 shall be reduced each fiscal year by the amount of debt service to
9 be paid in that year from the state trunk line fund for bonds,
10 notes, or other obligations issued to fund projects of the
11 transportation economic development fund **created in section 2 of**
12 **1987 PA 231, MCL 247.902**, which amount shall be certified by the
13 department.

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

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

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

28 (iii) Consistent with the other requirements for this money, the
29 first priority for money deposited under this subdivision for rail

1 grade crossing improvements and retirement shall be to match
2 federal money from the railroad-highway grade crossing improvement
3 program or other comparable federal programs if a match is required
4 under federal law.

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

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

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

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

29 (iii) Funding under the grade crossing surface account shall be

1 limited to items of work that are normally the responsibility of
2 the railroad under section 309 of the railroad code of 1993, 1993
3 PA 354, MCL 462.309. Maintenance of the roadway approaches to the
4 crossing will continue to be the responsibility of the party with
5 jurisdiction over that roadway.

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

8 (f) For the preservation of state trunk line highways and
9 bridges.

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

22 (h) The department may enter into agreements with a local road
23 agency or a private sector company to perform work on a highway,
24 road, or street. The agreements may provide for the performance by
25 any of the contracting parties of any of the work contemplated by
26 the contract including maintenance, engineering services, and the
27 acquisition of rights of way in connection with the work, by
28 purchase or condemnation by any of the contracting parties in its
29 own name, and for joint participation in the costs, but only to the

1 extent that the contracting parties are otherwise authorized by law
2 to expend money on the highways, roads, or streets. The department
3 also may contract with a local road agency to advance money to a
4 local road agency to pay the costs of improving railroad grade
5 crossings on the terms and conditions agreed to in the contract. A
6 contract may be executed before or after the state transportation
7 commission borrows money for the purpose of advancing money to a
8 local road agency, but the contract shall be executed before the
9 advancement of any money to a local road agency by the state
10 transportation commission, and shall provide for the full
11 reimbursement of any advancement by a local road agency to the
12 department, with interest, within 15 years after advancement, from
13 any available revenue sources of the local road agency or, if
14 provided in the contract, by deduction from the periodic
15 disbursements of any money returned by the state to the local road
16 agency.

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

23 (2) Notwithstanding any other provision of this act, the
24 department shall annually expend at least 90% of state revenue
25 appropriated annually to the state trunk line fund less the amounts
26 described in subdivisions (a) to (i) for the preservation of
27 highways, roads, streets, and bridges and for the payment of debt
28 service on bonds, notes, or other obligations described in
29 subsection (1) (a) issued after July 1, 1983, for the purpose of

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

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

27 (b) Amounts expended to provide the state matching requirement
28 for projects on the national highway system and for the payment of
29 debt service on bonds, notes, or other obligations issued after

1 July 1, 1983, for the purpose of providing money for the state
2 matching requirements for projects on the national highway system.

3 (c) Amounts expended for the construction of a highway,
4 street, road, or bridge to 1 or more of the following or for the
5 payment of debt service on bonds, notes, or other obligations
6 issued after July 1, 1983, for the purpose of providing money for
7 the construction of a highway, street, road, or bridge to 1 or more
8 of the following:

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

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

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

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

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

24 (g) Amounts expended for the purposes described in subsection
25 (5).

26 (h) Amounts appropriated for deposit in the transportation
27 economic development fund **created in section 2 of 1987 PA 231, MCL**
28 **247.902**, and the rail grade crossing account ~~pursuant to~~**under**
29 section 10(1)(a) and ~~(h)-(j)~~.

1 (i) Upon the affirmative recommendation of the director of the
2 department and the approval by resolution of the state
3 transportation commission, those amounts expended for projects
4 vital to the economy of this state, a region, or local area or the
5 safety of the public. The resolution shall state the cost of the
6 project exempted from this subsection.

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

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

28 (5) A local road agency may borrow money from the proceeds of
29 bonds or notes issued under section 18b or the state trunk line

1 fund for the purposes set forth in subsection (4) that shall be
2 repayable, with interest, from 1 or more of the following:

3 (a) The money to be received by the local road agency from the
4 Michigan transportation fund, except to the extent the money has
5 been or may in the future be pledged by contract in accordance with
6 1941 PA 205, MCL 252.51 to 252.64, or has been or may in the future
7 be pledged for the payment of the principal and interest upon notes
8 issued under 1943 PA 143, MCL 141.251 to 141.254, or has been or
9 may in the future be pledged for the payment of principal and
10 interest upon bonds issued under section 18c or 18d, or has been or
11 may in the future be pledged for the payment of the principal and
12 interest upon bonds issued under 1952 PA 175, MCL 247.701 to
13 247.707.

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

16 (6) If required by the department, loans made under subsection
17 (4) are payable by deduction by the state treasurer, upon direction
18 of the department, from the periodic disbursements of any money
19 returned by this state under this act to the local road agency, but
20 only after sufficient money has been returned to the local road
21 agency to provide for the payment of contractual obligations
22 incurred or to be incurred and principal and interest on notes and
23 bonds issued or to be issued under 1941 PA 205, MCL 252.51 to
24 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL
25 247.701 to 247.707, or section 18c or 18d. The interest rates and
26 payment schedules of any loans made from the proceeds of bonds or
27 notes issued ~~pursuant to~~ **under** section 18b shall be established by
28 the department to conform as closely as practicable to the interest
29 rate and repayment schedules on the bonds or notes issued to make

1 the loans. However, the department may allow for the deferral of
2 the first payment of interest or principal on the loans for a
3 period of not to exceed 1 year after the respective first payment
4 of interest or principal on the bonds or notes issued to make the
5 loans.

6 (7) The amount borrowed by a local road agency under
7 subsection (5) shall not be included in, or charged against, any
8 constitutional, statutory, or charter debt limitation of the
9 county, city, or village and shall not be included in the
10 determination of the maximum annual principal and interest
11 requirements of, or the limitations upon, the maximum annual
12 principal and interest incurred under 1941 PA 205, MCL 252.51 to
13 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL
14 247.701 to 247.707, or section 18c or 18d.

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

1 requested by the affected local road agency, subsequently gives
2 notice to the director of the department that the loan may be made
3 on the conditions that the state treasurer specifies.

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

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

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

1 equipment expense, net capital outlay, debt service principal and
2 interest, and payments to other state or local offices that are
3 assigned, but not limited to, specific road construction projects
4 or preservation activities.

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

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

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

20 (a) The type of project.

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

22 (c) The expected lifespan of the project.

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

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

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

1 (15) As used in this section:

2 (a) "Local road agency" means that term as defined in section
3 9a.

4 (b) "Rail grade crossing improvement purposes" means 1 or more
5 of the following:

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

8 (ii) The installation or improvement of grade crossing
9 surfaces.

10 (iii) Modification, relocation, or modernization of railroad
11 grade crossing active and passive warning devices necessitated by
12 roadway improvement projects.

13 (iv) Test installations of innovative warning devices or other
14 innovative applications.

15 (v) Construction of new grade separations.

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

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

23 **Sec. 11i. (1) By March 1, 2020, the department shall create a**
24 **highway construction cost index to measure inflation in highway**
25 **construction costs for road and bridge projects in this state. The**
26 **department may contract with a third party to develop the index.**
27 **The department shall use an accepted inflation measurement when**
28 **creating the index to help project future highway construction**
29 **costs. The department may include a labor cost measurement in the**

1 index to help project changes in the cost of labor for highway
2 construction projects. The highway construction cost index created
3 pursuant to this section must be approved by the state
4 transportation commission. Upon approval, the department shall
5 submit a report on the index by June 1, 2020 and quarterly
6 thereafter to the house and senate transportation appropriations
7 subcommittees. The report shall include, at a minimum, all of the
8 following:

9 (a) A historic record of the index.

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

12 (c) Discussion of labor trends and economic factors impacting
13 highway construction costs.

14 (d) Recommendations to local units of government for measuring
15 and indexing its own highway construction costs.

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

19 (3) The department shall post the highway construction cost
20 index and the report on its website and shall make the highway
21 construction cost index and the report available for public
22 inspection upon request during reasonable business hours.