

# SENATE BILL NO. 522

September 12, 2019, Introduced by Senator ZORN 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 9a (MCL 247.659a), as amended by 2018 PA 325.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1           Sec. 9a. (1) As used in this section:
- 2           (a) "Asset management" means an ongoing process of
- 3 maintaining, preserving, upgrading, and operating physical assets
- 4 cost-effectively, based on a continuous physical inventory and
- 5 condition assessment and investment to achieve established
- 6 performance goals.

1           (b) "Asset management plan" means a plan created by the  
2 department and approved by the state transportation commission or a  
3 plan created by a local road agency and approved by the local road  
4 agency's governing body that includes provisions for asset  
5 inventory, performance goals, risk of failure analysis, anticipated  
6 revenues and expenses, performance outcomes, and coordination with  
7 other infrastructure owners.

8           (c) "Bridge" means a structure including supports erected over  
9 a depression or an obstruction, such as water, a highway, or a  
10 railway, for the purposes of carrying traffic or other moving  
11 loads, and having an opening measuring along the center of the  
12 roadway of more than 20 feet between undercopings of abutments or  
13 spring lines of arches, or extreme ends of openings for multiple  
14 boxes where the clear distance between openings is less than 1/2 of  
15 the smaller contiguous opening.

16           (d) "Central storage data agency" means an agency or office  
17 chosen by the council where the data collected is stored and  
18 maintained.

19           (e) "Department" means the state transportation department.

20           (f) "Federal-aid eligible" means a public road or bridge that  
21 is eligible for federal aid to be spent for the construction,  
22 repair, or maintenance of that road or bridge.

23           (g) "Local road agency" means a county road commission or  
24 designated county road agency or city or village that is  
25 responsible for the construction or maintenance of public roads  
26 within the state under this act.

27           (h) "Michigan infrastructure council" means the Michigan  
28 infrastructure council created in section 3 of the Michigan  
29 infrastructure council act, **2018 PA 323, MCL 21.606.**

1 (i) "Multiyear program" means a compilation of road and bridge  
2 projects anticipated to be contracted for by the department or a  
3 local road agency during a 3-year period. The multiyear program  
4 shall ~~shall~~ **must** include a listing of each project to be funded in whole  
5 or in part with state or federal funds.

6 (j) "Region" means the geographic jurisdiction of any of the  
7 following:

8 (i) A regional planning commission created under 1945 PA 281,  
9 MCL 125.11 to 125.25.

10 (ii) A regional economic development commission created under  
11 1966 PA 46, MCL 125.1231 to 125.1237.

12 (iii) A metropolitan area council formed under the metropolitan  
13 councils act, 1989 PA 292, MCL 124.651 to 124.729.

14 (iv) A Michigan metropolitan planning organization established  
15 under the moving ahead for progress in the 21st century act, Public  
16 Law 112-141.

17 (v) An agency directed and funded by section 822f of 2016 PA  
18 268, to engage in joint decision-making practices related to, but  
19 not limited to, community development, economic development,  
20 talent, and infrastructure opportunities.

21 (k) "State planning and development regions" means those  
22 agencies required by 23 USC 134, and those agencies established by  
23 Executive Directive 1968-1.

24 (l) "Water asset management council" means the water asset  
25 management council created in section 5002 of the natural resources  
26 and environmental protection act, 1994 PA 451, MCL 324.5002.

27 (2) In order to provide a coordinated, unified effort by the  
28 various road agencies within this state, the transportation asset  
29 management council is hereby created within the state

1 transportation commission. ~~Upon~~**On** creation of the Michigan  
2 infrastructure council, the transportation asset management council  
3 shall be placed within the Michigan infrastructure council.

4 (3) The transportation asset management council shall advise  
5 the Michigan infrastructure council on a statewide transportation  
6 asset management strategy and the processes and tools needed to  
7 implement that strategy, beginning with the federal-aid eligible  
8 highway system and infrastructure assets that impact system  
9 performance, safety, or risk management, including signals and  
10 culverts. This section does not prohibit a local road agency from  
11 using an asset management process on its non-federal-aid eligible  
12 system.

13 (4) The transportation asset management council shall consist  
14 of 10 voting members appointed by the state transportation  
15 commission. The transportation asset management council shall  
16 include 2 members from the County Road Association of Michigan, 2  
17 members from the Michigan Municipal League, 2 members from the  
18 state planning and development regions, 1 member from the Michigan  
19 Townships Association, 1 member from the Michigan Association of  
20 Counties, and 2 members from the department. Nonvoting members  
21 shall include 1 person from the agency or office selected as the  
22 location for central data storage. Each agency with voting rights  
23 shall submit a list of 2 nominees to the state transportation  
24 commission from which the appointments shall be made. The Michigan  
25 Townships Association shall submit 1 name, and the Michigan  
26 Association of Counties shall submit 1 name. Names ~~shall~~**must** be  
27 submitted within 30 days after July 3, 2002. The state  
28 transportation commission shall make the appointments within 30  
29 days after receipt of the lists.

1           (5) The positions for the department on the transportation  
2 asset management council ~~shall~~**must** be permanent. The position of  
3 the central data storage agency ~~shall~~**must** be nonvoting and ~~shall~~  
4 **must** be for as long as the agency continues to serve as the data  
5 storage repository. The member from the Michigan Association of  
6 Counties shall be initially appointed for 2 years. The member from  
7 the Michigan Townships Association shall be initially appointed for  
8 3 years. Of the members first appointed from the County Road  
9 Association of Michigan, the Michigan Municipal League, and the  
10 state planning and development regions, 1 member of each group  
11 shall be appointed for 2 years and 1 member of each group shall be  
12 appointed for 3 years. At the end of the initial appointment, all  
13 terms ~~shall~~**must** be for 3 years. The chairperson shall be selected  
14 from among the voting members of the transportation asset  
15 management council. A member of the transportation asset management  
16 council may be removed for incompetence, dereliction of duty,  
17 malfeasance during his or her tenure in office, or any other cause  
18 considered appropriate by the Michigan infrastructure council. The  
19 Michigan infrastructure council shall consult with the  
20 transportation asset management council before removing a member of  
21 the transportation asset management council under this subsection.

22           (6) The department shall provide qualified administrative  
23 staff and the state planning and development regions shall provide  
24 qualified technical assistance to the transportation asset  
25 management council **and the road agency advocate.**

26           (7) The transportation asset management council may appoint an  
27 advisory committee whose members shall serve as needed to provide  
28 research on issues and projects as determined by the transportation  
29 asset management council. An advisory committee member who is not a

1 member of the transportation asset management council does not have  
2 voting rights on the advisory committee. A recommendation from the  
3 advisory committee appointed under this subsection is advisory only  
4 and is not binding.

5 (8) Except as otherwise provided in this subsection, costs  
6 incurred for data collection, analysis, or submittal, other than  
7 costs covered by the council for the federal-aid eligible highway  
8 system, are the responsibility of the owner of the data. A local  
9 road agency may request planning region assistance or reimbursement  
10 for data collected on non-federal-aid eligible roads or streets  
11 within that region. The region shall determine where to collect  
12 local road or street data to expend its remaining data collection  
13 money based ~~upon~~**on** requests received from local road agencies.

14 (9) The transportation asset management council shall promote  
15 and oversee the implementation of recommendations from the regional  
16 infrastructure asset management pilot program on a statewide level  
17 as the program relates to roads, bridges, and related  
18 transportation infrastructure.

19 (10) No later than October 1, 2019, the transportation asset  
20 management council shall develop a template for an asset management  
21 plan for use by local road agencies responsible for 100 or more  
22 certified miles of road and require its submission to the  
23 transportation asset management council as provided in subsection  
24 (12). No later than October 1, 2019, the transportation asset  
25 management council shall establish a schedule for the submission of  
26 asset management plans by local road agencies described in  
27 subsection (11)(b) that ensures that 1/3 of those local road  
28 agencies submit an asset management plan each year. The template  
29 required by this subsection ~~shall~~**must** include, but is not limited

1 to, all of the following:

2 (a) Asset inventory, including the location, material, size,  
3 and condition of the assets, in a format that allows for and  
4 encourages digital mapping. All standards and protocols for assets  
5 ~~shall~~**must** be consistent with government accounting standards.  
6 Standards and protocols for assets that are eligible for federal  
7 aid ~~shall~~**must** be consistent with federal requirements and  
8 regulations.

9 (b) Performance goals, including the desired condition and  
10 performance of the assets, which ~~shall~~**must** be set by the local  
11 road agency. Performance goals may vary among asset classes under  
12 the local road agency's jurisdiction. If a local road agency has  
13 jurisdiction over roads or bridges that are designated as part of  
14 the federal National Highway System, performance goals for that  
15 portion of the system ~~shall~~**must** be consistent with established  
16 federal performance targets.

17 (c) Risk of failure analysis, including the identification of  
18 the probability and criticality of a failure of the most critical  
19 assets and any contingency plans.

20 (d) Anticipated revenues and expenses, including a description  
21 of all revenue sources and anticipated receipts for the period  
22 covered by the asset management plan and expected infrastructure  
23 repair and replacement expenditures, including planned improvements  
24 and capital reconstruction.

25 (e) Performance outcomes, including a determination of how the  
26 local road agency's investment strategy will achieve the desired  
27 levels of service and performance goals and the steps necessary to  
28 ensure asset conditions meet or achieve stated goals and a  
29 description and explanation of any gap between achievable condition



1 and performance through the investment strategy and desired goals.

2 (f) A description of any plans of the asset owner to  
3 coordinate with other entities, including neighboring jurisdictions  
4 and utilities, to minimize duplication of effort regarding  
5 infrastructure preservation and maintenance.

6 (g) Proof of acceptance, certification, or adoption by the  
7 local road agency's governing body.

8 (11) The department, each county road commission, and each  
9 city and village of this state shall annually submit a report on  
10 infrastructure conditions and investment to the transportation  
11 asset management council. This report ~~shall~~**must** include a  
12 multiyear program developed through the asset management process  
13 described in this section. No later than October 1, 2019, the  
14 transportation asset management council shall establish a schedule  
15 for the submission by the department of the report required by this  
16 subsection. All of the following apply to a multiyear program  
17 required by this subsection:

18 (a) Projects contained in the department's annual multiyear  
19 program ~~shall~~**must** be consistent with the department's asset  
20 management process and asset management plan, and ~~shall~~**must** be  
21 reported consistent with categories established by the  
22 transportation asset management council.

23 (b) Projects contained in the annual multiyear program of each  
24 local road agency responsible for 100 or more certified miles of  
25 road ~~shall~~**must** be consistent with the asset management process and  
26 asset management plan of that local road agency and ~~shall~~**must** be  
27 reported consistent with categories established by the  
28 transportation asset management council.

29 (c) Projects contained in the annual multiyear program of each

1 local road agency responsible for less than 100 certified miles of  
2 road ~~shall~~**must** be consistent with the asset management process of  
3 that local road agency and ~~shall~~**must** be reported consistent with  
4 categories established by the transportation asset management  
5 council.

6 (12) Beginning October 1, 2020, each local road agency  
7 described in subsection (11)(b) shall begin submitting an asset  
8 management plan to the transportation asset management council  
9 according to the 3-year schedule described in subsection (10). The  
10 asset management plan ~~shall~~**must** cover a period of at least 3  
11 years, and ~~shall~~**must** be consistent with a template provided by the  
12 transportation asset management council. A local road agency that  
13 is required to submit an asset management plan under this  
14 subsection that has not submitted the asset management plan by  
15 October 1, 2024 is not in compliance with this subsection. ~~A~~**The**  
16 **transportation asset management council shall notify a** local road  
17 agency that is not in compliance with this subsection ~~shall be~~  
18 ~~notified by the transportation asset management council that the~~  
19 local road agency ~~shall~~**must** comply with this subsection within 120  
20 days of the notice. If a local road agency fails to comply with  
21 this subsection after 120 days of the notice required by this  
22 subsection, the transportation asset management council shall  
23 notify the department of the noncompliance and the department may  
24 withhold funds distributed to the local road agency under this act.  
25 The department shall release any funds withheld for noncompliance  
26 with this subsection to the local road agency in the following  
27 month's allocation after compliance is verified.

28 (13) The transportation asset management council shall review  
29 an asset management plan submitted under subsection (12) no later

1 than 6 months after receipt of the asset management plan. The  
2 transportation asset management council shall compare the asset  
3 management plan to the minimum requirements of this act and the  
4 template created by the transportation asset management council,  
5 and determine whether the asset management plan is in compliance  
6 with those standards. If the asset management plan does not meet  
7 those standards, the transportation asset management council shall  
8 seek concurrence from the department that the asset management plan  
9 does not meet the transportation asset management council's  
10 standards. If the department concurs, the transportation asset  
11 management council shall require the local road agency to revise  
12 its asset management plan to conform to the standards within 6  
13 months after notifying the local road agency that the asset  
14 management plan does not meet the transportation asset management  
15 council's standards. The transportation asset management council  
16 shall provide an opportunity for a noncompliant local road agency  
17 to appear before the transportation asset management council to  
18 discuss the reasons the local road agency's plan is not in  
19 compliance and ways for the local road agency to become compliant.

20 (14) Beginning October 1, 2025, if the transportation asset  
21 management council determines, and the department concurs, that a  
22 local road agency described in subsection (11)(b) has not  
23 demonstrated progress toward achieving the condition goals  
24 described in its asset management plan for its federal-aid eligible  
25 county primary road system or city major street system, as  
26 applicable, the transportation asset management council shall  
27 provide notice to the local road agency of the reasons that it has  
28 determined progress is not being made and recommendations on how to  
29 make progress toward the local road agency's condition goals. The

1 local road agency shall become compliant within 6 months after  
2 receiving the notification required by this subsection. The  
3 transportation asset management council shall provide an  
4 opportunity for the noncompliant local road agency to appear before  
5 the transportation asset management council to discuss the reasons  
6 the local road agency is not compliant and ways for the local road  
7 agency to become compliant. If the local road agency is not  
8 compliant within 6 months after receiving the notification required  
9 by this subsection, the local road agency shall not shift funds  
10 distributed to it under this act from a county primary road system  
11 to a county local road system or from a city major street system to  
12 a city local street system, as applicable. ~~Upon~~**On** demonstration of  
13 progress toward achieving its condition goals, a local road agency  
14 may shift funds distributed to it under this act from a county  
15 primary road system to a county local road system or from a city  
16 major street system to a city local street system, as applicable. A  
17 local road agency may submit a revised asset management plan to the  
18 transportation asset management council.

19 (15) An annual report ~~shall~~**must** be prepared by the staff  
20 assigned to the transportation asset management council regarding  
21 the results of activities conducted during the preceding year and  
22 the expenditure of funds related to the processes and activities  
23 identified by the Michigan infrastructure council. The report ~~shall~~  
24 **must** also include a summary analysis of the asset management plans  
25 and annual reports received from local road agencies, a  
26 determination of how investments are achieving desired levels of  
27 service and performance goals, an identification of any additional  
28 steps that may be needed to achieve desired levels of service and  
29 performance goals, and an overview of the activities identified for

1 the succeeding year. The transportation asset management council  
2 shall submit this report to the Michigan infrastructure council,  
3 the state transportation commission, **each house of** the legislature,  
4 and the transportation committees of the house and senate by May 2  
5 of each year.

6 (16) Funding necessary to support the activities described in  
7 this section ~~shall~~**must** be provided by an annual appropriation from  
8 the Michigan transportation fund to the state transportation  
9 commission. Beginning on ~~the effective date of the amendatory act~~  
10 ~~that amended this subsection,~~ **September 30, 2018,** the annual  
11 appropriation provided for in this subsection ~~shall~~**must** be  
12 allocated to the Michigan infrastructure council and ~~shall~~**must** be  
13 used to support the activities described in this section.

14 (17) The department and each local road agency shall keep  
15 accurate and uniform records on all road and bridge work performed  
16 and funds expended for the purposes of this section, according to  
17 the procedures developed by the transportation asset management  
18 council. Each local road agency and the department shall annually  
19 report to the transportation asset management council the mileage  
20 and condition of the road and bridge system under their  
21 jurisdiction and the receipts and disbursements of road and street  
22 funds in the manner prescribed by the transportation asset  
23 management council, which shall be consistent with any current  
24 accounting procedures.

25 (18) A local road agency may seek and use federal grants or  
26 loans to achieve the goals and manage the asset inventory described  
27 in its asset management plan.

28 **(19) The transportation asset management council shall appoint**  
29 **a road agency advocate with the advice and consent of the senate**

1 who shall serve at the pleasure of the transportation asset  
2 management council. The road agency advocate shall devote his or  
3 her full time to the duties of the office, be qualified by  
4 experience and ability to conduct the duties of the office, and  
5 receive compensation as fixed by the transportation asset  
6 management council. The transportation asset management council may  
7 remove the road agency advocate from office for cause, including,  
8 but not limited to, incompetence, official misconduct, habitual or  
9 willful neglect of duty, or other misfeasance in connection with  
10 the operation of the office of the road agency advocate. The  
11 transportation asset management council shall report the reason for  
12 the removal of the road agency advocate to each house of the  
13 legislature. The duties of the road agency advocate include all of  
14 the following:

15 (a) Receiving, investigating, and resolving permit complaints  
16 and disputes from local road agencies with state agencies as it  
17 relates to performing their duties as a local road agency. As used  
18 in this subdivision and subsection (21), "state agency" means a  
19 department, board, commission, office, agency, authority, or other  
20 unit of state government.

21 (b) Assisting the department and local road agencies with  
22 developing a plan to comply with federal permit requirements.

23 (c) Recommending appropriate changes in policy, procedure, and  
24 legislation. This includes facilitating and promoting individual  
25 local road agencies to participate in the development of state and  
26 federal rules and standards related to the operation of local road  
27 agencies.

28 (d) Disseminating information regarding changes in policy,  
29 procedures, and legislation related to the operations of a local

1 road agency to local road agencies.

2 (20) The road agency advocate shall develop a process for  
3 receiving, processing, and resolving complaints from local road  
4 agencies. The road agency advocate has discretion to determine if a  
5 complaint from a local road agency is within the scope of the road  
6 agency advocate's official duties. If the road agency advocate  
7 determines that the complaint is not within the scope of the road  
8 agency advocate's official duties, the road agency advocate shall  
9 notify the local road agency of that determination.

10 (21) All state agencies and political subdivisions of this  
11 state, so far as it is compatible with their duties, shall give the  
12 office of the road agency advocate any assistance requested by the  
13 office of the road agency advocate in the performance of its  
14 official duties. A state agency shall not discriminate against a  
15 local road agency because a complaint against the state agency has  
16 been or may be filed with the office of the road agency advocate by  
17 or on behalf of the local road agency.