

## **Chapter 247**

### **HIGHWAYS**

#### **CONSOLIDATION OF TOWNSHIP AND COUNTY ROAD SYSTEMS**

##### **Act 130 of 1931**

247.1-247.13 Repealed. 1951, Act 51, Eff. June 1, 1951.

#### **SNOW REMOVAL ON COUNTY ROADS**

##### **Act 1 of 1937 (Ex. Sess.)**

247.21-247.25 Repealed. 1951, Act 51, Eff. June 1, 1951.

#### **WATERWAYS ON OVERFLOWED LANDS**

##### **Act 174 of 1921**

247.31-247.33 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

#### **DISCONTINUATION OF HIGHWAY BORDERING LAKE OR STREAM**

##### **Act 341 of 1927**

AN ACT to prevent the abandonment, discontinuation, vacation, or alteration of the course of any public highway which borders upon, or is adjacent to any lake, or to the general course of any stream, or the course of any portion of such a highway, or bordering upon a lake or general course of any stream, by the public authorities of any village or city, until after the approval thereof by the circuit court of the county in which said highway is situated; to provide for a notice of application for that purpose, and a method of hearing in such court, and the method for review of orders made thereon; and to prescribe powers and duties of certain state agencies.

**History:** 1927, Act 341, Eff. Sept. 5, 1927 ;-- Am. 1996, Act 217, Imd. Eff. May 28, 1996

*The People of the State of Michigan enact:*

#### **247.41 Highway bordering on lake or stream; abandonment, discontinuation, alteration, or vacation.**

##### **Sec. 1.**

A public highway or a portion of a public highway that borders upon, crosses, is adjacent to, or ends at a lake, or the general course of a stream, shall not be abandoned, discontinued, vacated, or have its course altered resulting in a loss of public access by the order or action of an official or officials of a city or village in this state, until an order authorizing the abandonment, discontinuation, alteration, or vacation is made by the circuit court for the county in which the highway is situated in the manner provided in this act.

**History:** 1927, Act 341, Eff. Sept. 5, 1927 ;-- CL 1929, 3950 ;-- CL 1948, 247.41 ;-- Am. 1996, Act 217, Imd. Eff. May 28, 1996

#### **247.42 Highway bordering on lake or stream; application signed by landowners.**

##### **Sec. 2.**

If the official or officials having jurisdiction over the highways of a village or city in this state desire to abandon, discontinue, vacate, or alter the course of a public highway referred to in section 1, and the abandonment, discontinuation, vacation, or alteration will result in the loss of public access, before any action is taken by the public official or officials of a village or city, an application signed by not less than 21 landowners of the village or city in which the highway is situated, shall be made to the circuit court for the county in which the highway is located, setting forth the particular circumstances of the case, an accurate description of the highway proposed to be abandoned, discontinued, vacated, or altered, together with the reasons for the proposed abandonment, discontinuation, vacation, or alteration. The application shall be substantiated by oath by 5 or more of the persons signing the application.

**History:** 1927, Act 341, Eff. Sept. 5, 1927 ;-- CL 1929, 3951 ;-- CL 1948, 247.42 ;-- Am. 1996, Act 217, Imd. Eff. May 28, 1996

#### **247.43 Highway bordering on lake or stream; hearing; notice; publication; posting; service.**

##### **Sec. 3.**

Upon the filing of an application required by section 2, the presiding circuit judge shall schedule a hearing on the application not later than 60 days from the date the application is filed. Notice of the application and the time of hearing on the application shall be published once each week for 3 successive weeks, in a newspaper printed and circulated in the county, unless an affidavit is filed in the case that no such newspaper is published in the county. The notice shall contain an accurate description of the highway described in the application and a brief recital of the reasons for its abandonment, discontinuance, vacation, or alteration. A copy of the notice shall also be posted in 3 of the most public places in the city or village in which the highway is situated, at least 20 days before the date of the hearing on the application. A copy of the notice shall be sent by first-class mail to the owners of record title of each parcel of land located within 300 feet of the highway described in the application and to those persons of record claiming under those owners at their local address and the address appearing on the assessment roll, if different, and to the chief executive officer of the city or village in which the highway is situated, the state transportation department, the department of natural resources, and, if applicable, the township in which the highway is situated at least 30 days before the date fixed for the hearing on the application. The department of natural resources and, if applicable, the township shall review the application to determine whether the property should be retained as an ingress and egress point. Proof by affidavit of the required publication, posting, and mailing shall be filed with the court before the date of hearing.

**History:** 1927, Act 341, Eff. Sept. 5, 1927 ;-- CL 1929, 3952 ;-- Am. 1931, Act 40, Eff. Sept. 18, 1931 ;-- CL 1948, 247.43 ;-- Am. 1996, Act 217, Imd. Eff. May 28, 1996

**Compiler's Notes:** For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

#### **247.44 Highway bordering on lake or stream; court order; operation and maintenance of property; effect of noncompliance with subsection (3); reopening road ending; closure; initiation of proceedings.**

##### **Sec. 4.**

(1) Upon the day of hearing the application or any adjournment of the hearing, testimony may be taken from any

person or persons interested in the application, and if it satisfactorily appears to the court that there is no reasonable objection to the application, and that it is necessary for the best interest and welfare of the public that the highway be abandoned, discontinued, vacated, or altered as to its course, as prayed for in the application, or if it appears to the court that the highway or any part of the highway should remain as then established, an order shall be entered in the record of the court in accordance with the determination.

(2) If a circuit court determines pursuant to this act that an official or officials of a city or village in this state may discontinue, abandon, alter the course, or vacate a public highway or portion of a public highway, and the department of natural resources or, if applicable, the township in which the highway is situated decides to maintain the property as an ingress and egress point, the court shall order the official or officials either to relinquish control to the state or township if the interest is nontransferable or to convey by quitclaim deed whatever interest in the property is held by the local unit of government to the state or township. The township shall have first priority to obtain the property or control of the property as an ingress and egress point. If the township obtains the property or control of the property as an ingress and egress point and later proposes to transfer the property or control of the property, it shall give the department of natural resources first priority to obtain the property or control of the property. If the state obtains the property or control of the property under this subsection, the property shall be under the jurisdiction of the department of natural resources. The state may retain title to the property, transfer title to a local unit of government, or deed the property to the adjacent property owners. If the property was purchased by the state from restricted fund revenue, money obtained from sale of the property shall be returned to that restricted fund.

(3) If interest in the property is conveyed or control over the property is relinquished to a local unit or this state under subsection (2), the local unit or this state, as applicable, shall operate and maintain the property so as to prevent and eliminate garbage and litter accumulation, unsanitary conditions, undue noise, and congestion as necessary.

(4) If a person shows substantial noncompliance with the requirements of subsection (3), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for a period of up to 30 days.

(5) If a person shows substantial noncompliance with the requirements of subsection (3) and the circuit court has previously closed the road ending for up to 30 days under subsection (4), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for 90 days.

(6) If a person shows substantial noncompliance with the requirements of subsection (3) and the circuit court has previously closed the road ending for 90 days under subsection (5), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for 180 days.

(7) If a person shows substantial noncompliance with the requirements of subsection (3) and the circuit court has previously closed the road ending for 180 days under subsection (6), the circuit court shall order the local unit or this state to show cause why the road ending should not be permanently closed in a manner to prevent ingress and egress to the body of water. Subject to subsection (8), the circuit court shall permanently close the road ending unless the local unit or this state shows cause why the road ending should not be closed.

(8) After a road ending is closed under subsection (7), and unless the property has been conveyed or relinquished to the adjacent landowners under subsection (9), the local unit or this state may petition the circuit court to reopen the road ending. The circuit court may order the road ending reopened if the local unit or this state presents a management plan to and posts a performance bond with the circuit court, and the circuit court finds that the management plan and performance bond are adequate to ensure compliance with subsection (3).

(9) After a road ending is closed by the circuit court under subsection (7), 1 or more of the adjacent landowners may petition the circuit court to order the local unit or this state to convey any interest in the property that the local unit or this state holds to the adjacent landowners, or, if the interest is nontransferable, to relinquish control over the property to the adjacent landowners.

(10) Proceedings under subsection (4), (5), (6), or (7) shall be initiated by application of 7 owners of record title of land in the local unit who own land within 1 mile of the road ending to the circuit court for the county in which the road ending is located. The applicants in proceedings under subsection (4), (5), (6), (7), (8), or (9) shall give the persons described in section 3 notice of the application by registered mail.

**History:** 1927, Act 341, Eff. Sept. 5, 1927 ;-- CL 1929, 3953 ;-- CL 1948, 247.44 ;-- Am. 1996, Act 217, Imd. Eff. May 28, 1996

**Compiler's Notes:** For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

## **247.45 Highway bordering on lake or stream; appeal.**

### **Sec. 5.**

The proceedings required by section 4 are subject to appeal by a taxpayer of the village or city in which the highway is situated. Notice of a claim for appeal shall be served upon the parties to the action including the chief executive officer of the city or village in which the highway is situated, within 10 days after the date of the entry of the order. Further proceedings on the appeal shall be in the same manner as provided by law for appeal of judgments of the circuit court.

**History:** 1927, Act 341, Eff. Sept. 5, 1927 ;-- CL 1929, 3954 ;-- CL 1948, 247.45 ;-- Am. 1996, Act 217, Imd. Eff. May 28, 1996

#### **247.46 "Adjacent" and "highway" defined.**

Sec. 6.

As used in this act:

(a) "Adjacent" includes any highway, or portion of a highway, lying within 5 rods of the shore of any lake or the general course of any stream.

(b) "Highway" includes, where applicable, local roads or streets.

**History:** 1927, Act 341, Eff. Sept. 5, 1927 ;-- Am. 1929, Act 204, Eff. Aug. 28, 1929 ;-- CL 1929, 3955 ;-- CL 1948, 247.46 ;-- Am. 1996, Act 217, Imd. Eff. May 28, 1996

### **NOXIOUS WEEDS, WILD GRASS, OR FOUL SEEDS**

#### **Act 184 of 1917**

247.51, 247.52 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

### **NOXIOUS WEEDS**

#### **Act 359 of 1941**

AN ACT for controlling and eradicating certain noxious weeds within the state; to permit townships, villages, and cities to have a lien for expenses incurred in controlling and eradicating such weeds; to permit officials of counties and municipalities to appoint commissioners of noxious weeds; to define the powers, duties, and compensation of commissioners; to provide for sanctions; and to repeal certain acts and parts of acts.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- Am. 1956, Act 81, Eff. Aug. 11, 1956 ;-- Am. 1994, Act 26, Eff. May 1, 1994

*The People of the State of Michigan enact:*

#### **247.61 Commissioner of noxious weeds; appointment, term, removal, report.**

Sec. 1.

The governing body of any city, village or township may appoint a competent person to be the commissioner of noxious weeds who shall take the oath required of township, city or village officers, and shall hold office for the term of 2 years and until a successor is appointed and qualified, and he shall receive for his compensation such sum as may be fixed by the appointing body. The body so appointing may, at any time, for good cause remove such

commissioner from office and appoint his successor to serve the remaining portion of his term. The appointing body shall report the name and address of the person so appointed to the state department of agriculture within 10 days after making such appointment.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.61 ;-- Am. 1962, Act 10, Eff. Mar. 28, 1963

#### **247.62 Noxious weeds; definition; exclusion of milkweed.**

##### **Sec. 2.**

(1) For the purpose of this act, "noxious weeds" includes all of the following:

- (a) Canada thistle (*Cirsium arvense*).
- (b) Dodders (any species of the genus *Cuscuta*).
- (c) Mustards (charlock, black mustard, and Indian mustard, species of the genus *Brassica* or *Sinapis*).
- (d) Wild carrot (*Daucus carota*).
- (e) Bindweed (*Convolvulus arvensis*).
- (f) Perennial sowthistle (*Sonchus arvensis*).
- (g) Hoary alyssum (*Berteroa incana*).
- (h) Giant hogweed (*Heracleum mantegazzianum*).
- (i) Ragweed (*Ambrosia elatior* L.).
- (j) Poison ivy (*Toxicodendron radicans*).
- (k) Poison sumac (*Toxicodendron vernix*).

(l) Any other plant that, in the opinion of the governing body of any county, city, township, or village, falls under the provisions of this act and is regarded as a common nuisance.

(2) Noxious weeds does not include milkweed (any species of the genus *Asclepias*).

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- Am. 1947, Act 114, Eff. Oct. 11, 1947 ;-- CL 1948, 247.62 ;-- Am. 2010, Act 358, Imd. Eff. Dec. 22, 2010 ;-- Am. 2024, Act 13, Eff. Apr. 2, 2025

#### **247.63 Noxious weeds; eradication; duty of commissioner.**

##### **Sec. 3.**

The commissioner of noxious weeds shall diligently inquire concerning the introduction and existence of noxious weeds in his township, city or village and if any are found growing therein, he shall take charge of all such growing and take care that they do not go to seed or otherwise spread, or become a detriment to the public health, and he shall carefully seek and learn, so far as practicable, the best methods of their destruction, and he shall persistently apply in proper time such remedy or treatment as shall be best calculated to prevent their spread and to eradicate the same.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- Am. 1947, Act 114, Eff. Oct. 11, 1947 ;-- CL 1948, 247.63

#### **247.64 Destruction of noxious weeds; duty of owner, commissioner, agent, and department of natural resources and environment; notice; ordinance; resolution; expenses; lien; penalty; exceptions; action in court of claims.**

##### **Sec. 4.**

(1) The owner of land on which noxious weeds are found growing shall destroy the weeds before they reach a

seed bearing stage and prevent their regrowth, or shall prevent them from becoming a detriment to public health. The commissioner shall notify by certified mail with return receipt requested the owner, agent, or occupant of land on which noxious weeds are found growing. The notice shall describe methods of treating and eradicating the noxious weeds and a summary of the provisions of this section. Failure of the commissioner to give the notice does not, however, constitute a defense to an action to enforce the payment of a fine provided for or debt created under this act. If the owner, agent, or occupant refuses to destroy the noxious weeds, the commissioner shall enter upon the land and destroy the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the land, and the township, city, or village of which the commissioner is an officer shall have a lien against the land for the amount of the expense. The lien shall be enforced in the manner provided by law for the enforcement of construction liens.

(2) A village, city, or township may, whether or not provided in its charter, provide by ordinance enacted for the purpose of controlling and eradicating noxious weeds in subdivided land that if the owner, agent, or occupant of subdivided land in a subdivision in which buildings have been erected on 60% of the lots, or the owner, agent, or occupant of a lot along an improved street in common usage, has failed, after 10 days' notice as provided in this section, to destroy the weeds, for a depth of 10 rods or the depth of the lot, whichever is less, then an agent authorized by the governing body of the township, village, or city may enter upon the lot and destroy noxious weeds by cutting. Mechanical equipment that will not damage the property or the adjacent sidewalk, may be used to cut the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the lot. The township, village, or city shall have a lien upon the lot for the amount of the expense. The lien shall be enforced in the manner prescribed by charter, by the laws of this state providing for the enforcement of tax liens, or by ordinance passed by the governing body of the township, village, or city.

(3) An owner who refuses to destroy noxious weeds as provided in this section is subject to a fine of not more than \$100.00. When collected, the fine shall become a part of the "noxious weed control fund" of the township, village, or city. By ordinance, the township, city, or village may designate the refusal to destroy noxious weeds as provided in this section as a municipal civil infraction, in which case the fine shall be a civil fine. If the city establishes an administrative hearings bureau pursuant to statute to adjudicate and impose sanctions for blight violations, the city by ordinance may designate the refusal to destroy noxious weeds as provided in this section as a blight violation and any fine imposed shall be a civil fine.

(4) This act does not apply to weeds in fields devoted to growing any small grain crop such as wheat, oats, barley, or rye. In the case of an easement, property such as an abandoned subdivision, strip mine, or gravel pit, public property such as a forest preserve, and all other land as to which definite ownership is not known to the commissioner and cannot be established, the county board of commissioners shall cause the destruction of noxious weeds in accordance with this act.

(5) If the county board of commissioners of a county passes a resolution to participate under this act, the commissioner of noxious weeds shall notify the department of natural resources and environment, which shall determine whether there is land in the county belonging to this state under the jurisdiction of the department. The department of natural resources and environment shall cut noxious weeds growing on that land within 10 rods of any privately owned improved property, upon receipt of the notification. If the department of natural resources and environment fails to cut the weeds, the commissioner of noxious weeds shall enter upon the land and destroy the weeds. The expense shall be a charge against the department of natural resources and environment and may be recovered in an action in the court of claims.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- Am. 1947, Act 114, Eff. Oct. 11, 1947 ;-- CL 1948, 247.64 ;-- Am. 1956, Act 81, Eff. Aug. 11, 1956 ;-- Am. 1962, Act 29, Eff. Mar. 28, 1963 ;-- Am. 1984, Act 58, Imd. Eff. Apr. 12, 1984 ;-- Am. 1994, Act 26, Eff. May 1, 1994 ;-- Am. 2003, Act 321, Imd. Eff. Jan. 12, 2004 ;-- Am. 2010, Act 118, Imd. Eff. July 13, 2010

**Compiler's Notes:** For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919. For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

#### **247.64a Cutting of weeds by township, city, or village; publication of notice; charging cost to owner; provisions inapplicable to railroads.**

##### **Sec. 4a.**

(1) Instead of the notice required by section 4, the township, city, or village may publish a notice in a newspaper of general circulation in the county during the month of March that weeds not cut by May 1 of that year may be cut by the township, village, or city and the owner of the property charged with the cost under the provisions of section 4. The publication shall also contain all other information required of the notice provided for in section 4. The

township, city, or village may cut weeds as many times as is necessary and charge the cost to the property owner.

(2) The provisions of this act relative to entering on property for the cutting of weeds shall not apply to railroads which shall continue to be subject to the provisions of section 11.

**History:** Add. 1969, Act 172, Eff. Mar. 20, 1970 ;-- Am. 1987, Act 210, Imd. Eff. Dec. 22, 1987

#### **247.65 Noxious weeds; means of eradication; limitation of expense.**

Sec. 5.

The commissioner shall apply the best known means, and use the utmost diligence, in eradicating noxious weeds; but he shall not have power to expend in work or materials more than \$25.00 on any 1 infested tract, without the advice and consent, in writing, of the supervisor of the township.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.65

#### **247.66 Noxious weeds; prosecution of violators of act.**

Sec. 6.

It shall be the duty of the commissioner to prosecute or complain to the proper authorities of any person or corporation who may violate any law now existing, or which may hereafter be passed, on the subject of noxious weeds.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.66

#### **247.67 Commissioner; annual report, contents.**

Sec. 7.

The commissioner shall, annually, before the first day of December, make a written report to the department of agriculture and to the body by whom he was appointed, as the case may be. Said report shall be made out upon blank forms furnished by the department of agriculture and shall contain such information with reference to the existence and growth of noxious weeds as said department may require.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.67

#### **247.68 Department of agriculture; duty to enforce law; cooperation with commissioners.**

Sec. 8.

The department of agriculture is authorized and it shall be its duty to assist in the enforcement of this law. The department shall cooperate with the various commissioners of noxious weeds in carrying out the provisions of this act and shall advise them from time to time of the most effective methods of treating and eradicating noxious weeds.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.68

**247.69 Board of supervisors; auditing accounts of commissioner; payment.**

Sec. 9.

The board of supervisors or other official body appointing any commissioner shall audit the accounts of the commissioner, both for his services and for the money expended or labor employed by him; and they shall provide for their payment as they now do for other county or municipal expenses.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.69

**247.70 County board of commissioners; appropriation; powers; penalties; jurisdiction.**

Sec. 10.

(1) The county board of commissioners may make an appropriation from the county treasury to aid in destroying the noxious weeds in a town or precinct of the county. The board of commissioners may assume control over the noxious weeds in all or part of the county. The county board of commissioners may adopt a noxious weed ordinance that it considers necessary. For each violation of the ordinance, the ordinance may do either of the following:

- (a) Impose as a penalty for the violation a fine not exceeding \$100.00.
- (b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation.

(2) The action for imposition of the fine shall be commenced in the name and for the use of the proper county, before the district or municipal court of the judicial district or municipality in which the weeds are located. If the board of commissioners assumes control, its jurisdiction is superior to that of the commissioner of noxious weeds so long as the board of commissioners exercises that control.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.70 ;-- Am. 1990, Act 218, Imd. Eff. Oct. 8, 1990 ;-- Am. 1994, Act 26, Eff. May 1, 1994

**247.71 Railroads; failure to comply, penalty.**

Sec. 11.

If any company, association or person owning, controlling or operating a railroad shall refuse or neglect to dig up and destroy, or take other certain means of exterminating noxious weeds that may at any time be growing upon the right of way or other lands of such roads, or appertaining thereto, they shall be fined for each offense not less than \$50.00 nor more than \$200.00.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.71

**247.72 Highways; noxious weeds; duty of officials to prevent growth.**

Sec. 12.

It shall be the duty of the state highway commissioner to prevent all noxious weeds as defined in this act from



growing within the right of way of any highways under his jurisdiction. It shall be the duty of each county road commission to prevent all noxious weeds as defined in this act from growing within the right of way of any highways under their jurisdiction.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.72

## **ABOLITION OF BOARD OF COUNTY ROAD COMMISSIONERS**

### **Act 227 of 1933**

247.101-247.103 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

## **HIGHWAY EXPENDITURES IN PLATTED PORTION OF UNINCORPORATED VILLAGES**

### **Act 217 of 1925**

247.111 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

## **TRANSFERS FROM GENERAL FUND TO COUNTY ROAD FUND**

### **Act 253 of 1917**

AN ACT to authorize the transfer of moneys from the general fund of counties, in certain instances, to the county road fund of said counties, to be used in the construction, maintenance and repair of highways.

**History:** 1917, Act 253, Eff. Aug. 10, 1917

*The People of the State of Michigan enact:*

### **247.121 Transfer of surplus funds.**

Sec. 1.

If a county operating under the county road system of this state has a surplus in the general fund, the board of commissioners of that county may, by resolution, direct the transfer of a part of that surplus from the general fund to the county road fund, to be used for the construction, maintenance, and repair of highways under the supervision and direction of the board of county road commissioners.

**History:** 1917, Act 253, Eff. Aug. 10, 1917 ;-- CL 1929, 4005 ;-- CL 1948, 247.121 ;-- Am. 2011, Act 119, Imd. Eff. July 20, 2011

## **TOWNSHIP ROADS**

### **Act 202 of 1925**

247.131-247.142 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

## **STATE REWARD ROADS; BONDS**

### **Act 220 of 1925**

247.151 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

## **STATE REWARD ROADS; LIMITATION**

### **Act 195 of 1929**

247.161 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

## **HIGHWAY OBSTRUCTIONS AND ENCROACHMENTS; USE OF HIGHWAY BY PUBLIC UTILITIES**

### **Act 368 of 1925**

AN ACT to prohibit obstructions and encroachments on public highways; to provide for the removal of obstructions and encroachments on public highways; to prescribe the conditions under which telegraph, telephone, power, and other public utility companies, cable television companies, broadband companies, and municipalities may enter upon, construct, and maintain telegraph, telephone, power, cable television, or broadband lines, pipe lines, wires, cables, poles, conduits, sewers, and like structures upon, over, across, or under public roads, bridges, streets, and waters; and to prescribe penalties and provide remedies.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- Am. 1972, Act 268, Imd. Eff. Oct. 11, 1972 ;-- Am. 2018, Act 450, Eff. Mar. 21, 2019

*The People of the State of Michigan enact:*

### **247.171 Encroachments; removal order, service; temporary permit.**

#### **Sec. 1.**

In every case where a public highway has been or shall be encroached upon by any fence, building, or other encroachment, the commissioner or commissioners having jurisdiction over the road may make an order under his or their hand requiring the owner or occupant of the land through or by which such highway runs, and of which such fence, building, or other encroachment forms a part of the enclosure, to remove such encroachment from such highway within 30 days. A copy of such order shall be served upon such owner or occupant, and every such order shall specify the width of the road, the nature of the encroachment and its location with relation to the center line of the road, and the township, section and fraction thereof in which it may be: Provided, The commissioner or commissioners having the matter in charge may issue temporary permits for fences for the protection of improvements on the adjacent land.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4041 ;-- CL 1948, 247.171

**Former Law:** See section 1 of Ch. 7 of Act 283 of 1909, being CL 1915, Â§ 4401.

**247.171a Rights-of-way, bridges, towers, and welcome centers; use to provide travel-related information through electronic technologies.**

Sec. 1a.

This act does not prohibit the use of rights-of-way, bridges, towers, welcome centers, and rest stops to provide through the use of electronic technologies, including electronic kiosks, travel-related information or assistance and advance traffic information systems.

**History:** Add. 2002, Act 151, Imd. Eff. Apr. 8, 2002

**247.172 Encroachments; removal by commissioner, penalty, expense charged to occupant, collection by tax; limitation.**

Sec. 2.

If such encroachment shall not be removed within 30 days after the service of a copy of such order, such owner or occupant shall forfeit the sum of 1 dollar for every day after the expiration of that time during which such encroachment shall continue unremoved, to be recovered in an action of trespass before any justice of the peace of the township, or of an adjoining township in the same county, and the commissioner or commissioners may proceed to remove such encroachment in such manner as to cause the least damage to the property or loss to the owner, and the person at fault shall be liable for the costs and expenses of such removal. The highway commissioner or commissioners shall keep an accurate account of the expenses incurred by him or them in carrying out the provisions hereof and shall present a full and complete statement thereof, verified by oath, together with a full and legal description of the lands entered upon, to the occupants of such lands, requiring the said occupant to pay the amount therein set forth; and in case such owner or occupant shall refuse or neglect to pay the same within 30 days after such notice and demand, the highway commissioner or commissioners shall present a duly verified copy of said statement to the township clerk of the township in which such expense was incurred, and thereupon the amount of all such costs and expenditures shall be certified to the supervisor and shall be assessed and levied on the lands described in the statement of the commissioner or commissioners, and shall be collected in the same manner as other taxes are collected, but no person shall be required to remove any fence under the provisions of this section between the first day of May and the first day of September unless such fence shall have been made within 3 months next before the making of the order for the removal thereof, or interferes with the construction, improvement or maintenance of the road.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4042 ;-- CL 1948, 247.172

**Former Law:** See section 2 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4402.

**247.173 Encroachments; denied, notice to commissioner; trespass action.**

Sec. 3.

If the person upon whom the copy of such order shall be served at any time before the expiration of said 30 days, by a written notice served upon the commissioner or commissioners, deny such encroachment either in whole or in part, or shall deny the existence of a highway where such encroachment is claimed to exist, the commissioner or commissioners, instead of proceeding to remove such encroachment, shall commence an action of trespass against the person upon whom the copy of such order was served, as hereinafter provided.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4043 ;-- CL 1948, 247.173

**Former Law:** See section 2 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4402.

#### **247.174 Trespass action; brought by commissioner.**

##### **Sec. 4.**

Such action shall be brought by the commissioner or commissioners in his or their name of office, claiming nominal damages only in the sum of 6 cents, before any justice of the peace of the township, or of any adjoining township in the same county. The summons in such action may be in the same form, and shall be issued and served, and a jury shall be impaneled when demanded, and all proceedings had as near as may be, as in cases of personal actions of trespass, and full costs shall be taxed by the justice and paid by the losing party, except that if the commissioner or commissioners demand a jury he or they shall not be required to advance the jury fee.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4044 ;-- CL 1948, 247.174

**Former Law:** See sections 3 and 4 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§Å§ 4403 and 4404.

#### **247.175 Trespass action; pleadings and trial.**

##### **Sec. 5.**

The declaration in such action shall follow the order required by section 1 of this chapter, in describing such encroachment. The defendant may plead denying the encroachment in whole or in part, and may also deny the existence of a highway where such encroachment is claimed to be, but otherwise the legal existence of the highway shall not be questioned on the trial, and the fact of such encroachment, and where the true line of the highway is, shall only be tried.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4045 ;-- CL 1948, 247.175

**Former Law:** See section 3 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4403.

#### **247.176 Trespass action; trial and verdict.**

##### **Sec. 6.**

The trial of said action may be adjourned for not to exceed 10 days. The jury shall specify in their verdict, if they find the defendant guilty of causing or maintaining the encroachment as charged, and the extent thereof, and if the existence of the highway has been denied, they shall also specify, if they find a highway to exist, whether it be such by public use or by having been regularly laid out and established as a public highway. In the trial of any cause involving the existence of any highway, the burden of proof shall be upon the contestants to show that the same has not been regularly laid out and established as a public highway, or has not become such by public use.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4046 ;-- CL 1948, 247.176

**Former Law:** See section 4 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4404.

#### **247.177 Trespass action; trial and appeal.**

##### **Sec. 7.**

Either party may appeal to the circuit court of the proper county in the same manner that appeals are taken from justices' courts in other cases, but in case of an appeal taken by the commissioner or commissioners, he or they shall

not be required to pay the costs or furnish an appeal bond. In case of such appeal, trial shall be had on the issue joined in the justice court, and in case of a judgment in any court against the commissioner or commissioners no execution shall issue, but the judgment shall be certified to the proper supervisor and the amount thereof assessed and collected as in case of judgments against townships and counties.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4047 ;-- CL 1948, 247.177

**Former Law:** See section 5 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4405.

#### **247.178 Encroachment; removal by commissioner; penalty on owner or occupant for neglect.**

##### **Sec. 8.**

In all cases of final judgment against any person for causing or maintaining an encroachment, the commissioner or commissioners may proceed to remove the same within 10 days after such judgment, in the same manner that he may do under section 2 of this chapter, where the encroachment or the existence of the highway is not denied, and the penalty prescribed in section 2 shall attach and continue from and after the expiration of the 30 days mentioned therein, until such encroachment be removed.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4048 ;-- CL 1948, 247.178

**Former Law:** See section 6 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4406.

#### **247.179 Encroachment; removal, interference, penalty.**

##### **Sec. 9.**

In all cases of final judgment against any person or persons for causing or maintaining an encroachment or obstruction upon a highway, if such person shall, subsequent to such final judgment, by force or otherwise, interfere with any commissioner or commissioners in the performance of his or their duties under this chapter, or if such person shall replace or cause to be replaced any of the encroachments or obstructions which had been removed, or in any way interfere with the said highway, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding 100 dollars, or by imprisonment in the county jail not exceeding 3 months, or by both such fine and imprisonment, in the discretion of the court.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4049 ;-- CL 1948, 247.179

**Former Law:** See section 6 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4406.

#### **247.180 Loose obstructions, logs, or wood; notice to remove; removal; removal by commissioner, sale; proceeds, disposition.**

##### **Sec. 10.**

In case any saw logs, cordwood, or other loose obstruction shall be upon any highway, the commissioner or commissioners may notify the owner, if known, to remove the same within 2 days, and if not so removed, or the owner is unknown, the commissioner or commissioners may remove such obstruction to some convenient place, and if it has a value he or they shall hold it for 30 days subject to the order of the owner upon payment of the necessary expenses of removal, after which time he or they may sell the property removed, and such sale, notice of sale and application of the proceeds thereof shall be the same as is now required by law of constables' sale under execution, and the expense of removal, care of property and sale shall be deducted from the proceeds of sale, and the balance paid to the owner of such property, or deposited with the township clerk to be by him paid to the owner.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4050 ;-- CL 1948, 247.180  
**Former Law:** See section 11 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4411.

#### **247.181 Loose obstructions, logs, or wood; no value, compensation for removing.**

##### **Sec. 11.**

In case the article or thing have no value or is not of sufficient value to pay for the removal, the commissioner or commissioners shall be entitled to compensation for the expense of removing it, and the expense of removal may be recovered from the owner in the name of the commissioner or commissioners in an action of assumpsit, or the same may be assessed upon any property of such owner and collected in the same manner as is provided in section 2 hereof.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4051 ;-- CL 1948, 247.181  
**Former Law:** See section 11 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4411.

#### **247.182 Obstructions; road fence if dangerous, penalty.**

##### **Sec. 12.**

It shall hereafter be unlawful for any person, firm or corporation to erect a fence along any road, of any material which, by reason of its construction or otherwise, is dangerous in itself or by reason of causing an obstruction to the highway. Any person violating the provisions hereof shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than 15 dollars, nor more than 50 dollars, or by imprisonment in the county jail for a period not exceeding 30 days or by both such fine and imprisonment in the discretion of the court.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4052 ;-- CL 1948, 247.182  
**Former Law:** See section 13 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4413.

#### **247.183 Public utilities, cable television companies, broadband companies, and municipalities; construction and maintenance of structures; consent of governing body; construction and maintenance of utility lines and structures longitudinally within limited access highway rights-of-way; standards; charges; use of revenue; relocation permit; use of electronic devices within limited access and rights-of-way to provide travel-related information.**

##### **Sec. 13.**

(1) Except as otherwise provided under subsection (2), telegraph, telephone, power, and other public utility companies, cable television companies, broadband companies, and municipalities may enter upon, construct, and maintain telegraph, telephone, or power lines, pipelines, wires, cables, poles, conduits, sewers or similar structures upon, over, across, or under any public road, bridge, street, or public place, including, longitudinally within limited access highway rights-of-way, and across or under any of the waters in this state, with all necessary erections and fixtures for that purpose. A telegraph, telephone, power, and other public utility company, cable television company, broadband company, and municipality, before any of this work is commenced, shall first obtain the consent of the governing body of the city, village, or township through or along which these lines and poles are to be constructed and maintained.

(2) A utility as defined in 23 CFR 645.105 may enter upon, construct, and maintain utility lines and structures, including pipelines, longitudinally within limited access highway rights-of-way and under any public road, street, or other subsurface that intersects any limited access highway at a different grade, in accordance with standards

approved by the state transportation commission and the Michigan public service commission that conform to governing federal laws and regulations and is not required to obtain the consent of the governing body of the city, village, or township as required under subsection (1). The standards must require that the lines and structures be underground and be placed in a manner that will not increase highway maintenance costs for the state transportation department. The standards may provide for the imposition of a reasonable charge for longitudinal use of limited access highway rights-of-way. The imposition of a reasonable charge is a governmental function, offsetting a portion of the capital, maintenance, and permitting expense of the limited access highway, and is not a proprietary function. The charge must be calculated to reflect a 1-time installation permit fee that does not exceed \$1,000.00 per mile of longitudinal use of limited access highway rights-of-way with a minimum fee of \$5,000.00 per permit. If the 1-time installation permit fee does not cover the reasonable and actual costs to the department in issuing the permit, the department may assess the utility for the remaining balance. All revenue received under this subsection must be used for capital and maintenance expenses incurred for limited access highways, including the cost of issuing the permit.

(3) If a city, village, township, county, or county road commission or the state transportation department requests or requires an entity holding a license under the Michigan telecommunications act, 1991 PA 179, MCL 484.2101 to 484.2603, or holding a franchise under the uniform video services local franchise act, 2006 PA 480, MCL 484.3301 to 484.3315, to relocate facilities, the city, village, township, county, or county road commission or the state transportation department may require the entity to obtain a permit for the relocation of the facilities but shall waive any permit fees including, but not limited to, any permit fee under subsection (2). This subsection does not apply if the request to relocate facilities was due to an entity placing facilities in a location not authorized by a current or previous permit.

(4) A person engaged in the collection of traffic data or the provision of travel-related information or assistance may enter upon, construct, and maintain electronic devices and related structures within limited access and other highway rights-of-way in accordance with standards approved by the state transportation commission that conform to governing federal laws and regulations. The standards must require that the devices and structures be placed in a manner that will not impede traffic and will not increase maintenance costs for the state transportation department. The state transportation department may enter into agreements to authorize the use of property acquired for or designated as a highway or acquired for or designated for ancillary purposes for the installation, operation, and maintenance of commercial or noncommercial electronic devices and related structures for the collection of traffic data or to assist in providing travel-related information or assistance to motorists who subscribe to travel-related services, the public, or the department. Any revenue generated by the agreements must be deposited in the state trunk line fund established under section 11 of 1951 PA 51, MCL 247.661. The department may accept facilities or in-kind services to be used for public purposes in lieu of, or in addition to, monetary compensation.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4053 ;-- CL 1948, 247.183 ;-- Am. 1972, Act 268, Imd. Eff. Oct. 11, 1972 ;-- Am. 1989, Act 215, Imd. Eff. Nov. 13, 1989 ;-- Am. 1994, Act 306, Imd. Eff. July 14, 1994 ;-- Am. 2002, Act 151, Imd. Eff. Apr. 8, 2002 ;-- Am. 2005, Act 103, Imd. Eff. July 22, 2005 ;-- Am. 2018, Act 450, Eff. Mar. 21, 2019 ;-- Am. 2018, Act 565, Eff. Mar. 28, 2019

## **247.184 Consent of county or state to construction.**

### **Sec. 14.**

(1) A person that proposes to construct a telegraph, telephone, power line or cable television line, broadband line, pipe lines, wires, cables, poles, conduits, sewers, or like structures upon, over or under a county road or bridge, shall obtain the consent of the board of county road commissioners before commencing work.

(2) A person that proposes to construct a telegraph, telephone, power line, cable television line, broadband line, pipe line, wires, cables, poles, conduits, sewers or like structures, upon, over or under a state trunk line highway, or upon, over or under any bridge that this state has participated in constructing, shall obtain the consent of the state highway commissioner before commencing work.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4054 ;-- CL 1948, 247.184 ;-- Am. 1972, Act 268, Imd. Eff. Oct. 11, 1972 ;-- Am. 2018, Act 450, Eff. Mar. 21, 2019

## **247.184a Surveillance of occupied manhole; exceptions; training and duties of second employee.**

Sec. 14a.

(1) A person shall not enter a manhole being constructed or being used for repairs to underground utilities or remain inside of the opening unless a person is providing alert surveillance, except that a new manhole under construction is exempted if adequate steps are taken to insure safe working conditions.

(2) A person, firm, or corporation authorized or permitted to construct or repair underground facilities by access through a manhole shall provide alert surveillance until the manhole cover is in place and no person remains in the underground facility. The second employee shall be trained in safety and first aid practices and shall be responsible for alert surveillance of the occupied manhole to afford immediate action in emergencies. The second employee could also perform other duties either above grade or in the manhole provided they did not interfere with the employees surveillance duties. This section does not preclude an employee trained in safety practices, in the absence of a second employee, from entering a manhole for a brief period of time not in excess of 20 minutes for purposes such as inspections, housekeeping, taking readings, or similar work, provided adequate steps have been taken to insure safe working conditions.

**History:** Add. 1978, Act 287, Imd. Eff. July 7, 1978

#### **247.185 Paramount rights of public; injury to trees and shrubs; regulation of rights.**

Sec. 15.

The construction and maintenance of all such telegraph, telephone and power lines, cable television lines, pipe lines, wires, cables, poles, conduits, sewers and like structures shall be subject to the paramount right of the public to use such public places, roads, bridges and waters, and shall not interfere with other public uses thereof and nothing herein contained shall be construed to authorize any telegraph, telephone, power, or other public utility company, cable television company or municipality to cut, destroy, or in anywise injure any tree or shrub planted within any highway right of way or along the margin thereof, or purposely left there for shade or ornament or to bridge across any of the waters of this state. Nor shall anything in this section or sections 13 and 14 be construed to grant any rights whatsoever to any public utilities or cable television companies whatsoever, nor to impair anywise any existing rights granted in accordance with the constitution or laws of this state, but shall be construed as a regulation of the exercise of all such rights.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4055 ;-- CL 1948, 247.185 ;-- Am. 1972, Act 268, Imd. Eff. Oct. 11, 1972

#### **247.186 Public utility; placing poles, fixtures, wires, or cables.**

Sec. 16.

In no case shall any poles or other structures be placed above the ground or road grade between the curb or road shoulder lines, or closer than 15 feet from the center line of the roadway; and in no case shall any wires, cables or other fixtures be placed, or be permitted to remain, at less height than 15 feet above any part of the traveled portion of the road.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4056 ;-- CL 1948, 247.186

**Former Law:** See section 8 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4408.

#### **247.187 Encroachments; removal, expense of removal by commissioner.**

Sec. 17.



Any person or persons, firm, corporation or municipality violating any of the provisions of this chapter, shall, upon written demand of the commissioner or commissioners having jurisdiction over the road, remove such encroachments, pipe lines, wires, cables, poles, conduits, sewers and like structures. If removal be not made within 30 days thereafter, then the said commissioner or commissioners shall have the right to remove the same and the person, persons, firm or corporation or municipality so violating, shall be liable for the amount of expense incurred in making such removal, to be collected in an action of assumpsit, or assessed upon the property of such person, persons, firm or corporation and collected in the same manner as other taxes are assessed and collected.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4057 ;-- CL 1948, 247.187

**Former Law:** See section 9 of Ch. 7 of Act 283 of 1909, being CL 1915, Å§ 4409.

#### **247.188 Obstructions to traffic; moving; permit, bond; penalty.**

Sec. 18.

No building, or other obstruction to traffic shall be moved across, upon or along any road without consent being first obtained from the commissioner or commissioners having jurisdiction over the road, and without first executing to such commissioner or commissioners, a bond in an amount sufficient to cover all possible damage to the road on account of such moving, to be determined by the commissioner or commissioners aforesaid, and conditioned for the payment of all such damage or injury to the road on account of such moving. Any person violating the provisions hereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed 100 dollars or by imprisonment in the county jail for not to exceed 30 days or by both such fine and imprisonment in the discretion of the court.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4058 ;-- CL 1948, 247.188

#### **247.189 Repealed. 2020, Act 264, Eff. Mar. 29, 2021.**

**Compiler's Notes:** The repealed section pertained to obstructions to traffic, removal, and penalties.

#### **247.190 Width of highway; encroachment does not give right to land.**

Sec. 20.

All public highways for which the right of way has at any time been dedicated, given or purchased, shall be and remain a highway of the width so dedicated, given or purchased, and no encroachments by fences, buildings or otherwise which may have been made since the purchase, dedication or gift nor any encroachments which were within the limits of such right of way at the time of such purchase, dedication or gift, and no encroachments which may hereafter be made, shall give the party or parties, firm or corporation so encroaching, any title or right to the land so encroached upon.

**History:** 1925, Act 368, Eff. Aug. 27, 1925 ;-- CL 1929, 4060 ;-- CL 1948, 247.190

#### **247.191 Act inapplicable to encroachments and obstructions erected under MCL 257.1701 et seq.**

Sec. 21.

This act does not apply to encroachments and obstructions erected under the city motor vehicle racing act of 1981.

**History:** Add. 1981, Act 176, Imd. Eff. Dec. 14, 1981

## **PRIVATE ROADS**

### **Act 393 of 1913**

AN ACT to permit passage ways to lands adjoining at a single point.

**History:** 1913, Act 393, Eff. Aug. 14, 1913

*The People of the State of Michigan enact:*

#### **247.201 Private roads; ingress and egress, application.**

##### **Sec. 1.**

When lands owned in different descriptions by the same person, copartnership or corporation, and are contiguous at the corners or as more fully described at the points of intersection of description lines projected, a private road may be secured across the adjacent lands, not to exceed 12 feet on each side of the point of intersection, or a passage way of 24 feet permitting ingress and egress. Application for such easement shall be made by the owner of such land contiguous at the corners, in writing to the highway commissioner of the township who shall act on such application in the manner prescribed in chapter 9 of Act No. 283 of the Public Acts of 1909, entitled "An act to revise, consolidate and add to the laws relating to the establishment, opening, improvement, maintenance and use of the public highways and private roads, the condemnation of property and gravel therefor; the building, repairing and preservation of bridges; setting and protecting shade trees, drainage, cutting weeds and brush within this state, and providing for the election and defining the powers, duties and compensation of state, county, township and district highway officials."

**History:** 1913, Act 393, Eff. Aug. 14, 1913 ;-- CL 1915, 4860 ;-- CL 1929, 4073 ;-- CL 1948, 247.201

**Compiler's Notes:** For provisions of chapter 9 of Act 283 of 1909, referred to in this section, see MCL 229.1 et seq.

## **ROADS TO ISOLATED LANDS**

### **Act 172 of 1915**

AN ACT to provide for the opening of roads to certain isolated lands.

**History:** 1915, Act 172, Imd. Eff. May 11, 1915

*The People of the State of Michigan enact:*

#### **247.211 Isolated lands; road established, width, record.**

##### **Sec. 1.**

Owners of isolated lands, where the same are platted or subdivided into lots for residence purposes or lake resort homes and where said plat or subdivision shall have been duly recorded in the office of the register of deeds of the county wherein such lands are located, shall have the right to acquire in the same manner as provided by Act No. 283 of the Public Acts of 1909, for the establishment, opening and maintenance of private or public roads, a roadway leading to the streets on said plat from the nearest public highway across the lands adjacent to said plat or subdivision by the most feasible route. Said roadway shall be not less than 2 rods wide and when so acquired may be dedicated to the public for use as a highway by the owner or owners of said plat or subdivision. The survey or conveyance showing title to said roadway shall be recorded in the office of the register of deeds of the county wherein said land lies.

**History:** 1915, Act 172, Imd. Eff. May 11, 1915 ;-- CL 1915, 4861 ;-- CL 1929, 4074 ;-- CL 1948, 247.211  
**Compiler's Notes:** For provisions of Act 283 of 1909, referred to in this section, see MCL 220.1 et seq.

## TEMPORARY HIGHWAYS

### Act 283 of 1921

AN ACT to provide for the laying out, construction, and use of a temporary highway.

**History:** 1921, Act 283, Eff. Aug. 18, 1921

*The People of the State of Michigan enact:*

#### 247.221 Temporary road for transportation of forest products.

##### Sec. 1.

Whenever any owner of any timber, logs, lumber, wood, poles, bark, ties or other forest products shall wish to have a temporary highway laid out for the purpose of hauling said timber, logs, lumber, wood, poles, bark, ties or other forest products to a place for manufacture, shipment or sale, he may, in writing, make application for such road to the owner or owners of said lands and in case said lands are unoccupied, to the agent or agents having charge of the same, and if the owner of said lands is a non-resident of the county and no known agent in charge, then application may be made to the commissioner of highways of the township in which said lands are situated. If the party desiring said road and the owner of said lands, his agent or representative, may agree on the amount of damages then he may forthwith enter upon said lands, lay out, prepare and use said highway, or if unable to agree upon the amount of damages, then said applicant for such road may have the commissioner of highways, the supervisor or some other suitable person in said township, under oath, appraise the damages to said lands on account of such highway, which said appraisal and application shall be filed in the office of the clerk of the circuit court for the county in which said lands are located and shall pay to the clerk the sum of 50 cents as a filing fee and thereupon said applicant may enter upon said premises, lay out, prepare and use said highway at any time after the first day of December of any year to and including the first day of April of the ensuing year, upon making, executing and delivering to the clerk of the county a bond in the penal sum of not less than 100 dollars and at least 5 times the amount of the appraised damages with sufficient surety in the name of the owner of the said lands, or if unknown, in the name of the highway commissioner and to his successors in office, to be approved by the county clerk of said county to secure the payment of all damages sustained by the owner of said lands on account of said highway: Provided, however, That said road does not go through the door yard or barn yard of the owner of said lands.

**History:** 1921, Act 283, Eff. Aug. 18, 1921 ;-- CL 1929, 4075 ;-- CL 1948, 247.221

## PLANTING OF TREES

## **Act 36 of 1919**

247.231-247.235 Repealed. 1996, Act 227, Imd. Eff. May 30, 1996;—2000, Act 125, Imd. Eff. May 30, 2000.

## **TREES AND SHRUBS**

### **Act 2 of 1921 (1st Ex. Sess.)**

AN ACT to provide for the protection and care of certain trees and shrubs within the limits of public highways within the state of Michigan and for the planting of trees and shrubs as a part of the maintenance of the road in certain cases.

**History:** 1921, 1st Ex. Sess., Act 2, Eff. Sept. 19, 1921

*The People of the State of Michigan enact:*

#### **247.241 Trees or shrubs; unlawful cutting, destruction; penalty.**

##### **Sec. 1.**

It shall be unlawful to cut, destroy or otherwise injure any shade or ornamental tree or shrub growing within the limits of any public highway within the state of Michigan without the consent of the authorities having jurisdiction over such road. In the case of a trunk line or federal aided road the state highway commissioner shall be deemed to have such jurisdiction in all cases. It shall also be unlawful to affix to any such tree or shrub any picture, announcement, notice or advertisement or to negligently permit any animal to break down or injure the same. Any person violating any of the provisions of this act shall be deemed to be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than 100 dollars or by imprisonment in the county jail for a period not exceeding 30 days, or by both such fine and imprisonment within the discretion of the court.

**History:** 1921, 1st Ex. Sess., Act 2, Eff. Sept. 19, 1921 ;-- CL 1929, 4095 ;-- CL 1948, 247.241

#### **247.242 Trees or shrubs; planting and protection.**

##### **Sec. 2.**

The state highway commissioner is hereby authorized and empowered as a part of the maintenance of trunk line and federal aided roads to protect trees and shrubs set out along and within the limits of such roads and to set out such trees and shrubs as may be furnished to him by the Michigan agricultural college, the department of conservation, or by any other state department or institution, or obtained from neighboring lands without cost, for the use and benefit of the public. The care of such trees shall be deemed to be a part of the road maintenance work. Boards of county road commissioners and township highway authorities shall likewise have power to set out and maintain such trees along, and within the limits of, roads under their respective jurisdictions.

**History:** 1921, 1st Ex. Sess., Act 2, Eff. Sept. 19, 1921 ;-- CL 1929, 4096 ;-- CL 1948, 247.242

## **CLAIMS FOR LABOR AND MATERIALS**

**Act 357 of 1913**

247.251 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

**TOWNSHIP HIGHWAY AND BRIDGE FUNDS**

**Act 75 of 1929**

247.261-247.264 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

**MARKING HIGHWAYS; SIGNS**

**Act 108 of 1925**

247.271-247.281 Repealed. 1958, Act 77, Eff. Sept. 13, 1958; 1980, Act 180, Imd. Eff. July 2, 1980.

**CLOSING ROADS UNDER CONSTRUCTION OR REPAIR**

**Act 165 of 1917**

AN ACT to authorize highway officials to close roads under construction, improvement or repair, or any portion of a highway whereon a bridge is being constructed or repaired; to require such officials to place in good repair and to mark by proper signs suitable detours around roads, or portions of roads, which are closed hereunder; to provide suitable barriers, and lights shall be maintained at the end of such roads or portions of roads which are thus closed and at the intersections thereof with other roads; to require the removal of signs and barriers located and placed hereunder; and to provide a penalty for a violation of the provisions hereof.

**History:** 1917, Act 165, Eff. Aug. 10, 1917

*The People of the State of Michigan enact:*

**247.291 Closing highways or bridges for construction or repair; barriers.**

**Sec. 1.**

Subject to section 1a, the officials in charge of constructing, improving, or repairing highways may close any highway or portion of highway that is under process of construction, improvement, or repair or upon which is located any bridge that is being constructed or repaired. A highway or portion of highway must not be closed under this act until after suitable barriers have been erected at the ends of the closed highway or portion of highway, and also at the point of intersection of the closed highway or portion of highway with other highways.

**History:** 1917, Act 165, Eff. Aug. 10, 1917 ;-- CL 1929, 4626 ;-- CL 1948, 247.291 ;-- Am. 1966, Act 176, Imd. Eff. July 1, 1966 ;-- Am. 2023, Act 164, Imd. Eff. Oct. 19, 2023

#### **247.291a Barrier requirements; closure of freeways or bridges; exception.**

##### **Sec. 1a.**

(1) Except as otherwise provided in subsections (2) and (3), if the state transportation department closes any freeway or portion of freeway under its jurisdiction for construction, improvement, or repair of that freeway, a portion of freeway, or a bridge located upon that freeway or portion of freeway, both of the following apply:

(a) If the freeway is closed completely to traffic, it must be closed using concrete barriers or equivalent crashworthy temporary traffic barriers. Ramp access to the freeway may be closed with barricades, concrete barriers, or other equivalent crashworthy temporary traffic barriers to maintain access for construction traffic and emergency services.

(b) If the freeway is not closed completely to traffic and a portion of the freeway is closed at any time between a half hour after sunset to a half hour before sunrise for work scheduled to be done at that time in a contract between a contractor and the state transportation department, concrete barriers or equivalent crashworthy temporary traffic barriers must separate any road workers who are performing work from traffic.

(2) This section does not apply if the freeway or portion of freeway described in subsection (1) is closed for not more than 3 days for an emergency repair, utility crossing, maintenance, or other short-duration operation.

(3) The state transportation department may exercise its engineering judgment in designing and placing concrete barriers or equivalent crashworthy temporary traffic barriers and associated traffic control devices for each closure of a freeway or portion of freeway to account for site-specific conditions, including, but not limited to, roadway grade, equipment malfunctions, emergency service, law enforcement needs, crash history, or work duration. If the engineering judgment determines that the use of concrete barriers would cause additional risks for road users, additional safety measures to protect road workers must be included in the contract between the contractor and the state transportation department.

**History:** Add. 2023, Act 164, Imd. Eff. Oct. 19, 2023

#### **247.291b Definitions.**

##### **Sec. 1b.**

As used in this act:

(a) "Crashworthy" means that term as defined in the Michigan manual on uniform traffic control devices.

(b) "Freeway" means that term as defined in section 18a of the Michigan vehicle code, 1949 PA 300, MCL 257.18a.

(c) "Highway" includes roads and streets.

(d) "Michigan manual on uniform traffic control devices" means the manual on uniform traffic control devices adopted under section 608 of the Michigan vehicle code, 1949 PA 300, MCL 257.608.

(e) "Suitable barrier" means a barrier that conforms to the Michigan manual on uniform traffic control devices.

**History:** Add. 2023, Act 164, Imd. Eff. Oct. 19, 2023

#### **247.292 Closing of highways or bridges for construction or repair; detours, notices, removal of barriers on completion of work.**

##### **Sec. 2.**

No highway shall be closed under the provisions of this act until suitable detours around the same, or the closed portion thereof, are provided and are placed in reasonably safe and passable condition for traffic. Notices in the form of plainly legible signs shall be placed by the highway officials having such work in charge at either end of the closed highway or portion of highway and at such intermediate points along the detour, or detours, as may be necessary to plainly mark the same. Upon the completion of the work of construction, improvement or repair and as soon as the highway or bridge constructed, improved or repaired shall be in suitable condition for public travel, all barriers, marks and signs whatsoever erected under the provisions hereof shall be at once removed by the officials erecting or placing the same.

**History:** 1917, Act 165, Eff. Aug. 10, 1917 ;-- CL 1929, 4627 ;-- CL 1948, 247.292 ;-- Am. 1966, Act 176, Imd. Eff. July 1, 1966

#### **247.293 Refusal to provide barriers; penalty.**

Sec. 3.

Any highway official who shall neglect or refuse to provide suitable barriers and suitable detours or to remove barriers and signs as herein provided, or any person who wilfully enters upon the closed portion of any highway or removes the barriers therefrom, or who removes, obliterates or defaces any sign or mark, or who extinguishes or removes any light placed or maintained hereunder, except by permission of the highway officials in charge, is guilty of a misdemeanor.

**History:** 1917, Act 165, Eff. Aug. 10, 1917 ;-- CL 1929, 4628 ;-- CL 1948, 247.293 ;-- Am. 1966, Act 176, Imd. Eff. July 1, 1966

### **TRAFFIC SIGNS, SIGNALS, AND GUIDE POSTS**

#### **Act 186 of 1937**

247.301-247.306 Repealed. 1949, Act 300, Eff. Sept. 23, 1949.

### **MECHANICALLY OPERATED BARRICADING DEVICES**

#### **Act 295 of 1937**

AN ACT to promote the safety of persons and property at intersections of highways with other highways and at bridge approaches in highways; to authorize public authorities having jurisdiction over highways to install, operate, and maintain automatic or mechanically operated barricading devices in the highways; and to provide for civil liability and a penalty for damage to such devices.

**History:** 1937, Act 295, Eff. Oct. 29, 1937 ;-- Am. 1993, Act 358, Imd. Eff. Jan. 14, 1994

*The People of the State of Michigan enact:*

#### **247.311 Highways; definition.**

Sec. 1.

The word "highways" as used in this act shall include without limitation all state, county and township highways

and roads and all highways, streets, avenues, boulevards and alleys in cities and villages, and any place wheresoever situated in this state which is dedicated to the use of public vehicular traffic.

**History:** 1937, Act 295, Eff. Oct. 29, 1937 ;-- CL 1948, 247.311

#### **247.312 Automatic or mechanically operated barricading devices.**

##### **Sec. 2.**

A public authority having jurisdiction and control over any highway in this state that determines that the safety of persons and property require the installation of the devices provided for in this act at any intersection of that highway with any other highway or at any bridge approach in that highway, may construct, install, operate, and maintain at each such place automatic or mechanically operated barricading devices, which, when giving warning, shall rise from a bed in the highway and become a barrier in the highway.

**History:** 1937, Act 295, Eff. Oct. 29, 1937 ;-- CL 1948, 247.312 ;-- Am. 1993, Act 358, Imd. Eff. Jan. 14, 1994

#### **247.313 Barricading devices on highway; automatic; warning signs, size, wording, distance.**

##### **Sec. 3.**

Whenever such barricading device shall be constructed, installed, operated or maintained, the public authorities having jurisdiction and control over the highway at any such place shall install and maintain at the side of such highway, immediately adjacent to such device, reflectorized warning signs with the words "automatic barrier" in letters not less than 3 inches high. Whenever such device is located at a railroad intersection, additional reflectorized warning signs, of a design to be prescribed by the state highway commissioner, shall be installed and maintained on both sides thereof at a distance not less than 400 feet therefrom when such intersection is located on a highway where vehicular traffic is permitted to travel at speeds in excess of 30 miles per hour, and not less than 200 feet therefrom when such intersection is located on a highway where vehicular traffic is permitted to travel at speeds not in excess of 30 miles per hour, and such device and warning signs shall be in lieu of all other protection at such intersection. The advance warning signs required by any other law of this state shall also be installed and maintained.

**History:** 1937, Act 295, Eff. Oct. 29, 1937 ;-- CL 1948, 247.313 ;-- Am. 1964, Act 77, Eff. Aug. 28, 1964

#### **247.314 Barricading devices; expense.**

##### **Sec. 4.**

The public authorities, or the political subdivision of the state, having jurisdiction and control over any highway, in which such device is constructed, installed, operated and maintained, shall bear the expense thereof, unless the parties in interest agree otherwise in writing.

**History:** 1937, Act 295, Eff. Oct. 29, 1937 ;-- CL 1948, 247.314

## **DRIVEWAYS, BANNERS, AND PARADES**



## **Act 200 of 1969**

AN ACT to regulate driveways, banners, events, and parades upon and over highways; to provide for the promulgation of rules; to prescribe requirements for the issuance of permits; and to provide for the issuance of those permits.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969 ;-- Am. 1981, Act 177, Imd. Eff. Dec. 14, 1981

*The People of the State of Michigan enact:*

### **247.321 Driveways, banners and parades on highways; definitions.**

#### **Sec. 1.**

As used in this act:

(a) "Driveway" means a driveway, lane, road or any other way providing vehicular access to or from the highway from or to property adjoining the highway but does not mean a city or village street or other highway covered by the provisions of Act No. 288 of the Public Acts of 1967, being sections 560.101 to 560.293 of the Compiled Laws of 1948.

(b) "Highway" means a state trunk line highway or a county road including the entire right of way.

(c) "Highway authority" means the department of state highways in the case of state trunk line highways, and the board of county road commissioners in the case of county roads.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969

### **247.322 Permit; requirement, local ordinances.**

#### **Sec. 2.**

No driveway, banner or parade is lawful except pursuant to a permit issued in accordance with this act unless otherwise provided. Nothing in this act shall be construed to prevent the application of the provisions of any other statute of this state or any local ordinance which is more restrictive than this act nor to preclude any city or village from requiring city or village permits with respect to any street or highway within its corporate limits. No permit shall be issued pursuant to this act unless there is compliance with other provisions of law or ordinances.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969

### **247.323 Permits to temporarily close highway and for banners, decorations, or similar objects; issuance; requests; arrangements for handling highway traffic; section inapplicable to racing event.**

#### **Sec. 3.**

A permit to temporarily close a highway, or a portion of the highway, for a parade, celebration, festival, or similar activity, and a permit for banners, decorations, or similar objects to overhang the traveled way of a highway, may be issued by the highway authority only if requested by an authorized official designated by resolution of the governing body of a city, incorporated village, or township. Requests for temporary closing of highways shall indicate the time and date the highway is to be closed to traffic, the date and time the highway is to be reopened to traffic, and other information as the highway authority may require. A permit shall not be issued for the partial or complete closing of a highway unless the highway authority is satisfied that adequate arrangements have been made for the handling of highway traffic during such closure. Permits for banners, decorations, or similar objects over the

traveled way of a highway shall require that they be securely fastened and be at least 18 feet above the surface of the traveled way. This section does not apply to a racing event for which a permit has been issued under the city motor vehicle racing act of 1981.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969 ;-- Am. 1981, Act 177, Imd. Eff. Dec. 14, 1981

#### **247.324 Permit; driveways; rules.**

##### **Sec. 4.**

Permits for driveways shall be granted in conformity with rules promulgated by the highway authority which shall be consistent with the public safety and based upon the traffic volumes, drainage requirements and the character of the use of land adjoining the highway and other requirements in the public interest. Rules shall prescribe reasonable standards for the design and the location of driveways and may require that driveways shall be hard-surfaced. The provisions of this section shall not be deemed to deny reasonable access to a nonlimited access highway.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969

#### **247.325 Rules; local adoption.**

##### **Sec. 5.**

The department of state highways shall make rules necessary for the administration of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. The boards of county road commissioners may adopt by reference the rules, in whole or in part, of the department of state highways or may adopt its own rules after a public hearing of which notice has been given by publication at least twice in a newspaper circulated in the county not more than 30 days nor less than 7 days prior to the hearing.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969

**Admin Rule:** R 247.201 et seq. of the Michigan Administrative Code.

#### **247.326 Permit; issuance requirements; revocation.**

##### **Sec. 6.**

A permit shall not be issued unless all the requirements of this act, and of rules made pursuant to section 5, are met. A permit may be revoked by the highway authority issuing it if at any time the permitted object, use, or activity fails to meet the requirements of this act or rules made in accordance with section 5. This section does not apply to a permit issued by a city under the city motor vehicle racing act of 1981.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969 ;-- Am. 1981, Act 177, Imd. Eff. Dec. 14, 1981

#### **247.327 Correction of driveway in violation of rules; applicability; notice; failure to correct;**

**reimbursement; "constructed or reconstructed" defined.**

Sec. 7.

This act does not apply to a driveway in existence on August 6, 1969, except that if the use of the land served by the driveway is changed or expanded, and the change or expansion causes the existing driveway to be a safety hazard, the driveway shall be considered a new driveway subject to this act. A driveway that is constructed or reconstructed after the effective date of the rules issued under this act that is in violation of the rules shall be corrected by the owner within a period of time, not less than 30 days, specified in a notice of violation sent by certified mail to the owner. If not corrected within the period required by the notice, the highway authority or its agents may perform the necessary correction and the owner shall reimburse the highway authority for the reasonable cost of correction. As used in this section, "constructed or reconstructed" does not include maintenance activities performed on a driveway, including, but not limited to, the placement of additional gravel.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969 ;-- Am. 1978, Act 83, Imd. Eff. Mar. 29, 1978 ;-- Am. 2016, Act 455, Eff. Apr. 5, 2017

**247.328 Construction of act.**

Sec. 8.

Nothing in this act shall limit the right of the highway authority in the exercise of its authority to acquire property for highway purposes or to widen, relocate, reconstruct, improve or maintain any highways.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969

**247.329 Authorization of city or village to issue permits with respect to state trunk line highways; conditions; permit issued by city pursuant to MCL 257.1701 et seq.**

Sec. 9.

(1) Except as provided in subsection (2), the state transportation commission by resolution may authorize any city or village to issue on behalf of the state the permits required by this act with respect to state trunk line highways within the corporate limits of the city or village provided the permits are issued pursuant to this act and rules promulgated under this act, subject to conditions as the commission may prescribe and subject to acceptance of that authority by the governing body of the city or village.

(2) A permit issued by a city under the city motor vehicle racing act of 1981 shall be considered to be a permit issued for all purposes under this act regarding any highway located within the limits of the city.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969 ;-- Am. 1981, Act 177, Imd. Eff. Dec. 14, 1981

**BUS PASSENGER SHELTERS**

**Act 96 of 1959**

AN ACT to prescribe the conditions under which persons, firms, corporations and municipalities may enter upon, construct and maintain bus passenger shelters upon public highways within the corporate limits of municipalities; to permit the posting of advertisements thereon; and to provide for the regulation thereof.

**History:** 1959, Act 96, Imd. Eff. June 30, 1959

**247.331 Bus passenger shelters; definitions.**

Sec. 1.

As used in this act:

(1) "Advertisement" means any writing, printing, picture, painting, display, emblem, drawing, sign or similar device which is posted or displayed outdoors on real property and is intended to invite or to draw the attention or to solicit the patronage or support of the public to any goods, merchandise, property, real or personal, business, services, entertainment or amusement, manufactured, produced, bought, sold, conducted, furnished or dealt in by any person or for any political party or for the candidacy of any individual for any nomination or office; and the term shall also include any part of an advertisement recognizable as such.

(2) "Bus passenger shelter" means any rigid structure situated upon or attached to real property outdoors, primarily or principally for the purpose of furnishing a waiting room or shelter for the use and convenience of the passengers of common motor carriers, but suitable for the purpose of furnishing a background, base or support upon which an advertisement may be posted.

(3) "Highway" means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this state.

(4) "Municipality" means any city or incorporated village.

(5) "Post" means post, display, print, paint, burn, nail, paste or otherwise attach.

(6) "Real property" means any property physically attached or annexed to real estate in any manner whatsoever.

**History:** 1959, Act 96, Imd. Eff. June 30, 1959

**247.332 Bus passenger shelters; construction on highways, municipal consent.**

Sec. 2.

Persons, firms, corporations and municipalities may enter upon, construct and maintain bus passenger shelters with all necessary erections and fixtures therefor upon that portion of any highway lying within the corporate limits of municipalities. Every person, firm, corporation and municipality before any of the work of construction and erection is commenced shall obtain the consent of the duly constituted authorities of the municipality.

**History:** 1959, Act 96, Imd. Eff. June 30, 1959

**247.333 Bus passenger shelters; county and state highways, consent.**

Sec. 3.

If it is proposed to construct a bus passenger shelter on that portion of a county road lying within the corporate limits of any municipality, the consent of the board of county road commissioners both as to location and duration shall also be obtained before the construction is commenced. If it is proposed to construct a bus passenger shelter upon that portion of a state trunkline highway lying within the corporate limits of any municipality, the consent of the state highway commissioner both as to location and duration shall be obtained before the construction is commenced.

**History:** 1959, Act 96, Imd. Eff. June 30, 1959

#### **247.334 Bus passenger shelters; construction, municipal supervision.**

##### **Sec. 4.**

The municipalities in which bus passenger shelters are proposed to be erected shall have the exclusive power to prescribe the size, shape and nature of the bus passenger shelters, and to supervise their construction and maintenance.

**History:** 1959, Act 96, Imd. Eff. June 30, 1959

#### **247.335 Bus passenger shelters; convenience of public.**

##### **Sec. 5.**

The construction and maintenance of all such bus passenger shelters shall be deemed to be for the use and convenience of the public, but nothing in this section or in sections 2, 3 or 4 shall be construed to grant any rights whatsoever to any person, firm, corporation or municipality whatsoever or to impair in any way any existing rights granted in accordance with the constitution or laws of this state, but shall be construed as a regulation of the exercise of all such rights.

**History:** 1959, Act 96, Imd. Eff. June 30, 1959

#### **247.336 Bus passenger shelters; advertisements, approval.**

##### **Sec. 6.**

Advertisements of such size, shape and nature as the municipality in which such advertisements are proposed to be posted shall approve may be posted in such quantity and upon such portions of duly authorized bus passenger shelters as such municipality shall approve.

**History:** 1959, Act 96, Imd. Eff. June 30, 1959

### **SIGNS MARKING TOWNSHIP LIMITS**

#### **Act 140 of 1972**

AN ACT to provide for the placing of signs marking township limits along state highways.

**History:** 1972, Act 140, Eff. Mar. 30, 1973

*The People of the State of Michigan enact:*

#### **247.341 Signs marking township limits.**

##### **Sec. 1.**

A township may manufacture and place signs marking the township limits along any state highway which passes through the township. The department of state highways shall provide specifications for the manufacture of the signs, and may supervise their construction. If a township shall erect such signs along any state highway, it shall thereafter maintain the same at the township's expense.

**History:** 1972, Act 140, Eff. Mar. 30, 1973

## **HIGHWAYS WITHIN TOWNSHIPS**

### **Act 111 of 1956**

AN ACT to provide for the acquisition, construction, establishment, opening, altering, improving and maintaining of highways; authorizing contracts between townships and boards of county road commissioners for the same; authorizing townships to finance their share of the cost of the same from its contingent fund, special assessments, and bonds or short term notes issued in anticipation of the receipt of sales tax moneys or general obligation bonds; and to prescribe procedures and conditions relative to the issuance of said bonds or short term notes.

**History:** 1956, Act 111, Imd. Eff. Apr. 13, 1956

*The People of the State of Michigan enact:*

#### **247.351 Highways within townships; contracts, structures included.**

##### **Sec. 1.**

The township board of any township and the board of county road commissioners in which said township is located are hereby authorized and shall have power to enter into a contract to provide for the acquisition, construction, establishment, opening, altering, improving and maintaining of any highways within the township. Said highways shall be deemed to include such bridges, culverts, storm sewers and other drainage structures, and traffic control and regulatory devices, as may be necessary to provide a complete highway.

**History:** 1956, Act 111, Imd. Eff. Apr. 13, 1956

#### **247.352 Highways within townships; contracts, contents; approval by electors, board of county road commissioners; execution.**

##### **Sec. 2.**

Said contract shall provide that all engineering with respect to such highways be performed by, and that all construction including the award of contracts therefor be under the supervision of, and in accordance with the plans and specifications therefor prepared by, the board of county road commissioners. The cost of engineering and supervision shall be deemed a part of the cost of the highway. Said contract shall provide that all or part of the cost of the highway improvement be allocated to the township as the township and the board of county road commissioners may agree, and shall approve the plans, specifications and estimates of cost of the highway improvement. Said contract may be executed by the township board after a majority of the legal voters of such township, voting upon said proposition, at a township meeting, a general election or a special election called by the township board for that purpose, shall vote in favor thereof, and by the board of county road commissioners after approval thereof by a resolution adopted by a majority vote of the members of said board. The contract shall be executed on behalf of the township by the supervisor and on behalf of the county road commissioners by the chairman of said board. The execution of said contract by the board of county road commissioners shall not require the approval of the board of supervisors.

**History:** 1956, Act 111, Imd. Eff. Apr. 13, 1956

#### **247.353 Highways within townships; funds.**

##### **Sec. 3.**

For the purpose of obtaining funds to carry out the provisions of this act the township board of any township which is a party to such a contract is hereby authorized to pay its allocable share of the cost of any such highway improvements from any, all, or any combination of, the following methods of raising money therefor: (a) From the contingent fund of the township; (b) from the proceeds of special assessments levied on property benefited by the highway improvement, the procedures relative to making and collecting said special assessments to conform to the procedures provided by Act No. 188 of the Public Acts of 1954, being sections 41.721 to 41.737, inclusive, of the Compiled Laws of 1948: Provided, That when a contract has been duly executed as authorized by this act no petition shall be required to authorize the levy and collection of special assessments; (c) from proceeds of sale of bonds or short term notes which the township is hereby authorized to issue in anticipation of sales tax moneys to be returned to the township pursuant to section 23 of article 10 of the state constitution; or (d) from the proceeds of sale of general obligation bonds of the township which the township is hereby authorized to issue.

**History:** 1956, Act 111, Imd. Eff. Apr. 13, 1956

**Compiler's Notes:** In this section, "section 23 of article 10 of the state constitution" refers to the Constitution of 1908. See now Const. 1963, Art. IX, §§ 8, 10, and 11.

#### **247.354 Bonds issued in anticipation of sales tax money; additional security; irrevocable pledge and appropriation; annual debt service requirements; limitation; successive borrowings; bonds and notes subject to revised municipal finance act.**

##### **Sec. 4.**

(1) Bonds issued under this act in anticipation of sales tax revenue to be returned to the township shall be payable primarily from the proceeds of revenues derived from sales tax revenue collected by the state and returned to the township under section 10 of article IX of the state constitution of 1963.

(2) As additional security for the payment of the bonds, the township board may submit to the qualified electors of the township the question of pledging the full faith and credit of the township for the payment of the bonds, as provided in section 5; and if a majority of the qualified electors voting on the issue approve the question, the township board may pledge the full faith and credit of the township for the payment of the bonds, in which event, if the sales tax proceeds are not sufficient to pay the bonds and the interest on the bonds, they shall be payable from any money in the contingent fund of the township or from ad valorem taxes that the township shall levy without limitation as to rate or amount.

(3) The township board in the resolution shall make an irrevocable pledge and appropriation of an amount sufficient for payment of the principal of and interest upon the bonds or short term notes from revenues derived from sales tax revenue collected by the state and returned to the township under section 10 of article IX of the state constitution of 1963. The township board may not pledge for annual debt service requirements in any future calendar year on the bonds or short term notes an amount in excess of 50% of the average revenues derived from sales tax revenues collected by the state and returned to the township under section 10 of article IX of the state constitution of 1963 in the 3 calendar years immediately preceding the borrowing. Nothing contained in this section shall be construed as a prohibition against successive borrowings if the total amount of revenues pledged for annual debt service requirements does not exceed the applicable percentage described in this section.

(4) Bonds and notes issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1956, Act 111, Imd. Eff. Apr. 13, 1956 ;-- Am. 1983, Act 109, Imd. Eff. July 6, 1983 ;-- Am. 2002, Act 336, Imd. Eff. May 23, 2002

#### **247.355 General obligation bonds.**

##### **Sec. 5.**

General obligation bonds issued under this act shall be issued only after their issuance has been authorized by a majority vote of the qualified electors of the township voting on the proposition of issuing the bonds at a general or special township election and only after the qualified electors of the township have voted an increase in the tax rate limitation imposed by section 6 of article IX of the state constitution of 1963, in an amount and for a period of time necessary to permit the collection of taxes in an amount sufficient to meet the principal and interest requirements on the proposed bonds. A township may not issue general obligation bonds under this act for an amount greater than 10% of the total assessed valuation of the township. The general obligation bonds shall be issued and sold subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1956, Act 111, Imd. Eff. Apr. 13, 1956 ;-- Am. 1974, Act 101, Imd. Eff. May 14, 1974 ;-- Am. 2002, Act 336, Imd. Eff. May 23, 2002

#### **247.356 Townships and boards of county road commissioners; enlargement of powers.**

##### **Sec. 6.**

The powers herein granted shall be deemed an enlargement of any power granted to townships and boards of county road commissioners.

**History:** 1956, Act 111, Imd. Eff. Apr. 13, 1956

### **SNOW REMOVAL FROM PRIVATE WAYS**

#### **Act 387 of 1965**

AN ACT to authorize county road commissions to provide for snow removal from private ways; and to provide for the disposition of funds received.

**History:** 1965, Act 387, Imd. Eff. Oct. 19, 1965 ;-- Am. 1980, Act 310, Imd. Eff. Dec. 4, 1980

*The People of the State of Michigan enact:*

#### **247.361 Snow removal from private ways; request; contract; liability; validity of snow removal operations.**

##### **Sec. 1.**

(1) Upon request by the county board of commissioners, the board of county road commissioners of any county in the upper peninsula with a voted millage for snow removal may remove snow from driveways and roads situated on private property within the county, without cost to the property owner.

(2) In any county in the upper peninsula without a voted millage for snow removal, the board of county road commissioners may contract with the owners of private driveways or roads to remove snow from the private driveway or road. The contract shall provide for the reimbursement of the snow removal cost to the board of county road commissioners.

(3) The county shall not be liable for damages resulting from the snow removal work.



(4) Any snow removal operations conducted on driveways and roads situated on private property before the effective date of this subsection is declared valid.

**History:** 1965, Act 387, Imd. Eff. Oct. 19, 1965 ;-- Am. 1980, Act 310, Imd. Eff. Dec. 4, 1980

**247.362 Snow removal; service charges, determination; reimbursement of county.**

Sec. 2.

Before entering into the contracts, the board of county road commissioners shall determine the charges to be made for snow removal service, which charges shall be sufficient to completely reimburse the county road commission for all expenses of whatsoever nature incurred in the performance of snow removal.

**History:** 1965, Act 387, Imd. Eff. Oct. 19, 1965

**247.363 Snow removal; advance payment, disposition of funds.**

Sec. 3.

Upon entering into the contract, the board of county road commissioners shall demand and receive sufficient payment from the property owners to fully pay for the services to be rendered for at least 30 days in advance. All payments shall be turned over to the county treasurer, who shall credit them to the county road fund.

**History:** 1965, Act 387, Imd. Eff. Oct. 19, 1965

**MAINTENANCE OF PRIVATE ROADS**

**Act 234 of 1968**

247.371-247.375 Repealed. 1972, Act 139, Imd. Eff. May 22, 1972.

**NATURAL BEAUTY ROADS**

**Act 150 of 1970**

247.381-247.386 Repealed. 1995, Act 59, Imd. Eff. May 24, 1995.

**MAINTENANCE OF PRIVATE ROADS**

**Act 139 of 1972**

AN ACT authorizing township boards to provide for the maintenance and improvement of private roads by contract and to provide payments by special assessment districts; and to repeal certain acts and parts of acts.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

*The People of the State of Michigan enact:*

**247.391 Contract for maintenance of private roads; special assessment district; petition.**

Sec. 1.

In any township, the township board may contract for the maintenance or improvement of any private roads within the township by the creation of a special assessment district. Fifty-one percent of the property owners owning the frontage along a private road shall be required to request the improvement or maintenance by petition to the township board.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.392 Allocation of costs; notice of public hearings.**

Sec. 2.

Upon receiving a petition, the township board of any township may enter into a contract or make any maintenance or improvement with the allocation of cost to be spread against all of the owners in the special assessment district benefiting on a pro rata frontage basis or against each owner equally in the special assessment district benefiting. The maintenance or improvement and assessment of cost must not be completed until the township board has created the special assessment district and assessed the properties with proper notice of public hearings to all of the owners of property within the special assessment district to be benefited.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972 ;-- Am. 2022, Act 95, Imd. Eff. June 14, 2022

**247.393 Procedures and requirements.**

Sec. 3.

The making of improvements or the maintenance of private roads and the creation of a special assessment district and the assessments levied to be placed upon the tax roll of the township shall all be in accordance with the procedures and requirements of Act No. 188 of the Public Acts of 1954, as amended, being sections 41.721 to 41.737 of the Compiled Laws of 1948.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.394 Annual program; duration of program; assessment period.**

Sec. 4.

The maintenance or improvement approved by the township board may be an annual maintenance or

improvement program not to exceed 5 years in scope and the assessment district shall not be assessed for a period longer than 5 years unless a new district with a new assessment is created to continue the program.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.395 “Maintenance” defined.**

Sec. 5.

Maintenance, as used in this act, is defined as that word applies and has been adopted by the department of state highways manual to cities and villages.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.396 Contract with board of county road commissioners.**

Sec. 6.

The township board may enter into contracts with the board of county road commissioners to provide maintenance or make improvement but such contracts shall include specific terms holding and saving the county free from damages resulting from the maintenance or improvement of private roads.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.397 Repealed. 1978, Act 108, Imd. Eff. Apr. 13, 1978.**

**Compiler's Notes:** The repealed section pertained to applicability of act to platted private roads.

**247.398 Repeal of MCL 247.371 to 247.375.**

Sec. 8.

Act No. 234 of the Public Acts of 1968, being sections 247.371 to 247.375 of the Compiled Laws of 1948, is repealed.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**TOURIST-ORIENTED DIRECTIONAL SIGNS**

**Act 299 of 1996**

AN ACT to regulate tourist-oriented directional signs on certain rural roads; and to impose certain duties upon the state transportation department.

*The People of the State of Michigan enact:*

**247.401 Definitions.**

**Sec. 1.**

As used in this act:

- (a) "Department" means the state transportation department.
- (b) "Eligible attraction" means a tourist-oriented activity that is all of the following:
  - (i) Within 10 miles of the rural road for which a tourist-oriented directional sign is sought, unless otherwise restricted or permitted by the department.
  - (ii) Not visible from the rural road for which a tourist-oriented directional sign is sought unless a sign for an eligible attraction is already in place in the vicinity for which the tourist-oriented directional sign is sought.
  - (iii) In compliance with section 131 of title 23 of the United States Code, 23 USC 131, and the national standards, criteria, and rules established under that act, if the activity is advertised by rural road signs.
- (c) "Rural road" means a highway as that term is defined in section 20 of the Michigan vehicle code, 1949 PA 300, MCL 257.20, but does not include either of the following:
  - (i) A freeway as that term is defined in section 18a of the Michigan vehicle code, 1949 PA 300, MCL 257.18a.
  - (ii) A road that is part of the national system of interstate and defense highways.
- (d) "Tourist-oriented activity" means a lawful cultural, historical, recreational, educational, or commercial activity that is annually attended by 2,000 or more people and for which a major portion of the activity's income or visitors are derived during the normal business season from motorists not residing in the immediate area of the activity.
- (e) "Tourist-oriented directional sign" means a sign used to provide motorists with advanced notice of a tourist-oriented activity.

**History:** 1996, Act 299, Imd. Eff. June 19, 1996 ;-- Am. 2004, Act 528, Imd. Eff. Jan. 3, 2005 ;-- Am. 2017, Act 45, Eff. Sept. 5, 2017

**247.402 Tourist-oriented directional signs and markers; placement program; contract with nongovernmental entity.**

**Sec. 2.**

- (1) Within 6 months after the effective date of this act, the department shall implement a program for the placement of tourist-oriented directional signs and markers within the right-of-way of those portions of rural roads within state jurisdiction. At a minimum, the program shall include all of the following:
  - (a) The form of the application for a permit to participate in the program.
  - (b) The criteria for limiting the number of permits for a single site or area.
  - (c) The criteria for issuing a permit for which multiple applications have been received.
  - (d) The removal or covering of signs, if necessary, during the off-season of an eligible attraction that operates seasonally.
  - (e) Criteria for including on a sign the season and hours of operation of an eligible attraction.
  - (f) Criteria for awarding sign manufacturing, installation, or maintenance contracts to nongovernmental agencies.
  - (g) A provision specifying that a person who obtains a permit under this act is responsible for payment of all costs incurred in the replacement of a sign, including the costs of manufacturing and installing the replacement sign, and covering of the sign, if necessary.
  - (h) Provision for the establishment of a review board to consider and grant or deny applications for the waiver of distance requirements imposed under this act for tourist-oriented directional signs. The review board shall consist of at least 1 member representative of the state transportation department, at least 1 member representative of the department of agriculture, at least 1 member representative of the Michigan travel bureau, and at least 2 members representative of persons in the general public who are engaged in tourist-oriented activities.

(2) The department may authorize a nongovernmental entity to manufacture, install, and maintain signs under this act pursuant to a written contract. The written contract shall not prohibit the nongovernmental entity from making a reasonable profit, which shall be determined by the department.

**History:** 1996, Act 299, Imd. Eff. June 19, 1996

**247.403 Directional sign program; participation by operator of tourist-oriented activity; application; fee; determination; appeal; issuance of permit; order canceling permit; removal of signs; tourist-oriented directional signs.**

**Sec. 3.**

(1) The operator of a tourist-oriented activity who wishes to participate in a directional sign program under this act shall submit to the department or its designee an application described in section 2. If the department or its designee determines that an application is complete and that the applicant has complied with this act, the department or its designee shall notify the applicant of that determination in writing. If the applicant pays the permit fee following receipt of the written notice described in this subsection, the department or its designee shall issue the permit.

(2) If the department or its designee determines that an application is incomplete or that the applicant has not complied with this act, the department or its designee shall provide the applicant with written notice specifying the factual basis of that determination. A person aggrieved by a determination under this act may appeal the determination pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The department shall establish the time period for which a permit issued or renewed under this section is valid. Additionally, the department shall establish criteria for the cancellation of a permit issued or renewed under this section.

(4) The department or its designee shall not issue permits that would result in installation of more signs at a single site than are permitted under this act. If applications for sign installation at a single site exceed the number of signs permitted for that site, permits shall be issued in accordance with the program described in section 2.

(5) If the eligible attraction for which a permit is in effect ceases operation, the owner or operator of that eligible attraction shall immediately return the permit to the department or the department's designee for cancellation.

(6) If the department or its designee has reasonable cause to believe that an eligible attraction for which a permit is in effect has ceased operation, the director of the department shall issue an order canceling the permit and provide the holder of that permit with a copy of the order. If the order is not appealed in a timely manner, or if the order is appealed and the cancellation is affirmed, the director shall order the removal of the sign or signs governed by the canceled permit.

(7) In addition to the other requirements of this section, the operator of a tourist-oriented activity who wishes to participate in a directional sign program under this act and is applying for a sign that would reside within the boundaries of an incorporated city or village shall have the application approved by the incorporated city or village if the incorporated city or village has adopted an ordinance that allows tourist-oriented directional signs within the jurisdictional boundaries of the incorporated city or village. If the incorporated city or village has not adopted an ordinance that allows tourist-oriented directional signs, then a tourist-oriented directional sign shall not be posted within the jurisdictional limits of the incorporated city or village. If the incorporated city or village has adopted an ordinance allowing tourist-oriented directional signs, the incorporated city or village may reject any application for tourist-oriented directional signs within the jurisdictional limits of the incorporated city or village.

**History:** 1996, Act 299, Imd. Eff. June 19, 1996 ;-- Am. 2004, Act 528, Imd. Eff. Jan. 3, 2005

**247.404 Sign specifications; symbols; multiple signs; location.**

**Sec. 4.**

(1) The size, location, design, and arrangement of each tourist-oriented directional sign subject to this act shall conform to the specifications for signs contained in the state manual of uniform traffic control devices.

(2) The department shall develop optional, standardized symbols for different types of activities associated with

eligible attractions. The symbols may be used on signs in conjunction with other directional information. If more than 1 eligible attraction requires a sign at the same location, multiple signs may be combined on the same panel in accordance with the state manual of uniform traffic control devices.

(3) Signs governed by this act may be erected at locations the department determines appropriate to ensure adequate sight distance, intersection vehicle maneuvers, and public safety.

**History:** 1996, Act 299, Imd. Eff. June 19, 1996

#### **247.405 Permit fee; calculation; public notice.**

##### **Sec. 5.**

The department or its designee may impose a reasonable fee for a permit issued under this act, which shall be calculated to include reimbursement for the department's anticipated costs in implementing and administering this act, including the costs of installing, repairing, covering during an off-season, and removing signs. However, at least 60 days before the imposition of a fee or fee increase under this section, the department shall provide public notice of the proposed fee or fee increase to the general public and shall notify in writing standing committees of the legislature that are primarily responsible for transportation and tourism issues.

**History:** 1996, Act 299, Imd. Eff. June 19, 1996

## **CONSTRUCTION, IMPROVEMENT, AND MAINTENANCE OF HIGHWAYS**

### **Act 59 of 1915**

AN ACT to provide for the construction, improvement and maintenance of highways; for the levying, spreading and collecting of taxes and of special assessments therefor; to authorize the borrowing of money and the issuance of bonds under certain restrictions, regulations and limitations; to prescribe the powers and duties of certain officers with reference thereto; and to validate certain proceedings heretofore taken.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917

*The People of the State of Michigan enact:*  
ASSESSMENT.

#### **247.415-247.417 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.**

**Compiler's Notes:** The repealed sections pertained to payment of assessments in installments, creation of special assessment districts, and cost apportionment.

#### **247.418 Review of roll; notice, posting, publishing, service.**

##### **Sec. 18.**

On the completion of the roll, apportioning the per cent of benefits to be paid by the respective parties and municipalities, the county road commissioners or the state highway commissioner shall give notice by advertising and posting, of a review of said roll. Notice of such hearing shall be given by publishing a notice thereof, at least 2

insertions in some newspaper published and of general circulation in the county, if there is one. Such notice shall be so published at least once not less than 10 days prior to the hearing. If there is no such newspaper within the county, then the publishing of such notice will not be necessary. The county road commissioners or the state highway commissioner shall also give notice of such hearing by posting notices thereof in 5 conspicuous and public places in each township where the special assessment district is located, within the limits of said district at least 10 days prior to such hearing. They shall also serve notice of such hearing upon each township or city to be assessed, and upon the county, in case the same is operating under the county road system, at least 10 days prior to such hearing. Such notice may be served upon the clerks of the county or townships, respectively, as notice to such county or townships.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4688 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4333 ;-- CL 1948, 247.418

#### **247.419 Hearing of objections; adjournment; roll, approval, filing of copy.**

Sec. 19.

At such review the said county road commissioners or the state highway commissioner shall appear and hear all objections to the proposed apportionment of benefits, and equalize the same, and may make such changes and corrections in such rolls as they shall deem just and equitable. Such hearing may be adjourned from time to time as may be necessary in the judgment of the county road commissioners or the state highway commissioner, by giving legal notice of the time and place. After hearing objections, the county road commissioners or the state highway commissioner shall sign and approve such apportionment of benefits roll, and shall file a copy thereof with the county clerk of the county, and with the township clerk of each township within which the improvement is located, or within which any lands assessed a per cent of benefits therefor are situate, or where any township at large is to be assessed a per cent of benefits on such improvement. In any case where a city is liable to an assessment at large on account of such improvement a copy of the roll aforesaid shall be filed with the clerk of said city and shall be by said clerk placed before the legislative body of the city at the next meeting thereof.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4689 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4334 ;-- CL 1948, 247.419

#### **247.420 Yearly roll for divided improvement.**

Sec. 20.

In case the proposed improvement is divided into sections for letting in separate years, as heretofore provided, then this roll shall be for the first section only, and a new roll shall be prepared each succeeding year for each succeeding section. Each such assessment roll shall be equalized in the manner herein provided.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4690 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4335 ;-- CL 1948, 247.420

#### **247.421 Rolls; computation of cost, total.**

Sec. 21.

If the rolls are made before the contracts for the construction of the improvement are let the total amount of such rolls shall be the estimates heretofore referred to, to which estimates the county road commissioners or the state highway commissioner shall add such further sum, not exceeding 10 per cent, as shall be deemed necessary to

cover contingent expenses. If the rolls are not made until after the letting of the contracts for the improvement, the county road commissioners or the state highway commissioner shall take the contract price for such improvement, to which they shall add the incidental expenses to the time of making the roll, and to this total such further sum, not exceeding 10 per cent, as shall be deemed necessary to cover contingent expenses. Such rolls shall show the total sums exclusive of interest, which shall be paid by the county, the townships at large, and the lands benefited, and also the sums that may be payable hereunder by any cities assessed at large.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4691 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4336 ;-- CL 1948, 247.421

#### **247.422 Rolls; tax assessment, certification, collection of tax; township exemption.**

Sec. 22.

After the time for appeal from said roll has expired, or after an appeal shall have been decided, the county road commissioners or the state highway commissioner shall then prepare a tax assessment roll for the first year, for the collection of taxes and shall certify the same to the several township boards, to the legislative body of any city assessed at large, and to the county clerk of the county, on or before the first day of the annual meeting of the boards of supervisors; and the several boards of supervisors shall order such taxes collected at the same time, and in the same manner as are county, state and township taxes. All provisions of law with respect to the collection of said county, state and township taxes, shall apply to these special taxes. Said board of supervisors shall also order spread on the county at large, such sum, if any, as is apportioned thereto, which sum shall be entered upon the assessment rolls with the other county taxes but in a separate column. The legislative body of any city assessed at large hereunder shall order spread and collected in the same manner as other general taxes are spread and collected the amount that may be apportioned to such city: Provided, however, That any township that is entitled to the return of the county road tax paid thereby under the provisions of section 26 of chapter 4 of Act No. 283 of the Public Acts of 1909, as amended, shall be exempt from the payment of any portion of the tax spread at large upon the county under the provisions thereof, and such tax shall be apportioned among the other townships and cities of such county.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4692 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4337 ;-- CL 1948, 247.422

**Compiler's Notes:** Section 26 of chapter 4 of Act 283 of 1909, referred to in this section, was repealed by Act 77 of 1958.

#### **247.422a Lands assessed for Covert road; purchase of part or interest; apportionment of assessment, procedure; expenses.**

Sec. 22a.

Any person who has, or shall become the owner of, any interest, less than the whole, in any lands subject to the special assessments for road purposes as provided in this act, and the acquiring of said interest occurred or shall occur subsequent to the time for appeal from the roll as referred to in section 22 of this act, may pay on the part thus acquired and owned, its proportionate share of said road assessments, by paying an amount having the same relation to the whole assessment as the area of the part on which payment is made has to the whole area originally assessed: Provided, That anyone desiring to so pay shall make application in writing to the county road commission or the state highway commissioner, as the case may be, setting forth fully and correctly a description of the part or parcel of land upon which the applicant desires to pay the assessment and also setting forth therein the interest of the applicant in such part or parcel. It shall be the duty of the county road commission or the state highway commissioner, as the case may be, to cause the description and claimed ownership to be checked, and if satisfied that the applicant is the owner of the interest claimed, said county road commission or state highway commissioner shall make a certificate over the signature of the proper officers and official seal, setting forth the proportion of the road assessment to be borne by the parcel, parcels or interest of the applicant and file the same in the office of the county treasurer of the county in which the lands in question lie and shall thereafter, and shall so long as any assessments under this act remain unpaid, prepare the annual rolls as provided in this act in accordance with any



such division or divisions of such road assessment: Provided, That the actual costs incurred by said county road commission or state highway commissioner, as the case may be, shall be paid by such applicant, which cost, in the case of platted lands, of which a plat is of record in the county where the lands lie, shall not exceed \$10.00 per lot and in the case of unplatted lands shall not exceed \$50.00. These costs shall be paid before the filing of the certificate aforesaid in the office of the county treasurer.

**History:** Add. 1941, Act 253, Eff. Jan. 10, 1942 ;-- CL 1948, 247.422a

**247.423 Division of roll for total cost of improvement by number of years in which assessment paid; interest charge; payment of full tax; notice of taxes paid in full and of delinquent taxes; payment of tax spread against township at large; present payment of annual installments by county.**

Sec. 23.

Exclusive of interest, the roll for the total cost of the improvement shall be divided by the number of years in which the total assessment is to be paid. The roll prepared for the first year's collection may contain an interest charge at the rate of 6% per annum upon the total assessment from the date of the confirmation of the roll until the taxes carried on the roll are due and payable. The roll for the next year shall contain an interest charge of 6% upon the whole amount unpaid and each succeeding roll shall likewise contain an interest charge of 6% for the whole amount unpaid for the preceding year. Where bonds are to be issued in anticipation of the collection of the unpaid installments of the roll the interest charge for the first and each succeeding years' roll shall be at a rate of not more than 1% above the average rate of interest borne by the bonds. A taxpayer may pay his full tax at any time after the completion of the assessment roll and when taxes are due and save interest thereon so far forth. Upon the expiration of the time for collecting taxes hereunder the township treasurer shall notify the board of county road commissioners, or the department of state highways and transportation, of all taxes paid in full under the provisions hereof, specifying the names of the parties so paying, the dates when paid, and the amounts paid by each; and the treasurer shall likewise give notice of all delinquent taxes. The electors of a township at any regular annual meeting thereof, may, by resolution, provide for the payment of any tax spread against the township at large, in anticipation of installments thereafter to become due. The county board of commissioners of any county that is subject to the payment of annual installments, may likewise, at any regular or special meeting thereof, direct the present payment of the installments to be due at some future time, it being the intent hereof to extend to the township and to the county, the same privilege with respect to anticipation of installments and the consequent saving of interest hereinbefore granted to individual taxpayers.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4693 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4338 ;-- CL 1948, 247.423 ;-- Am. 1975, Act 308, Imd. Eff. Dec. 22, 1975

**247.424 Interest on annual installments; preparation of annual tax rolls or assessments; delivery and collection of rolls for successive installments; hearing of objections; installments, interest, and charges as lien on land.**

Sec. 24.

Except as provided in section 23, after the first installment of the assessment, the succeeding annual installments of all taxes and moneys to be paid shall draw interest at the rate of 6% per annum. The commissioners or commissioner shall prepare their successive annual tax rolls or assessments in proper time each year. After the first installment, the rolls for the successive installments shall be delivered to the county, city, and township clerks, as heretofore provided, and collected in the same manner as state, county, city, and township taxes are collected, as heretofore provided. A hearing of objections shall not be deemed necessary in the case of the several installment rolls. From and after the confirmation of the original assessment roll, all installments of taxes together with the interest and other charges thereon, shall be a lien on the land against which the same are assessed.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4694 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4339 ;-- CL 1948, 247.424 ;-- Am. 1975, Act 308, Imd. Eff. Dec. 22, 1975

**247.425 Money collected; disposition; disbursement; interest; secured deposits; limitation on acceptable assets; designation of financial institution; "financial institution" defined.**

Sec. 25.

(1) Money collected on account of an improvement shall be paid to the county treasurer and credited to the special assessment district.

(2) The money shall be disbursed only by an order of the county road commission or the state transportation commission and only for the purposes of this act.

(3) The county treasurer shall deposit the money in a manner that will draw interest, in a financial institution approved by the county board of commissioners or by the state transportation commission. The interest accrued shall become a part of the fund.

(4) Assets acceptable for pledging to secure deposits of county funds are limited to any of the following:

(a) Assets considered acceptable to the state treasurer under section 3 of 1855 PA 105, MCL 21.143, to secure deposits of state surplus funds.

(b) Any of the following:

(i) Securities issued by the federal home loan mortgage corporation.

(ii) Securities issued by the federal national mortgage association.

(iii) Securities issued by the government national mortgage association.

(c) Other securities considered acceptable to the county and the financial institution.

(5) If the improvement is carried on by and under the direction of the state transportation commission, the commission shall designate the financial institution the money is to be deposited in under this act.

(6) As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office located in this state under the laws of this state or the United States.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4695 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4340 ;-- CL 1948, 247.425 ;-- Am. 1997, Act 37, Imd. Eff. June 30, 1997

**247.426, 247.427 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.**

**Compiler's Notes:** The repealed sections regulated borrowing in anticipation of proceeds and imposed limitation on indebtedness.

**247.428 Certification of sums to be paid.**

Sec. 28.

The county road commissioners or the state highway commissioner shall certify to the county treasurer of the county, the various sums to be paid by the county at large, townships at large, and lands benefited in each township, and shall also certify to the treasurer of any city assessed at large the amount to be paid by such city.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4698 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4343 ;-- CL 1948, 247.428

**247.429 Deficiency assessments; surplus, crediting, transfer.**

Sec. 29.

If the sum ordered raised shall not be enough to complete the improvement or to pay in full outstanding indebtedness with the interest thereon, whether such insufficiency is due to the anticipation of installments as provided in section 25 or otherwise, then the county road commissioners or the state highway commissioner shall raise such additional sums as may be necessary, in the same proportion as the original roll was made. Such shortage may be raised and collected in 1 installment, for which the county road commissioners or the state highway commissioner shall make their special assessment roll. Such roll shall be collected at the same time state, county and township taxes are collected. In case there is a surplus after completing the improvement amounting to 3 per cent or more of the cost of the improvement, such surplus shall be refunded or credited on the next installment of the assessment pro rata according to their assessments whether due from individuals or municipalities; where the surplus is less than 3 per cent and more than 1 per cent such surplus shall be credited to the road fund to which it belongs and applied to reducing the payments on the last annual installment, or if there is more money than is required to pay the last installment it shall be applied to reducing the last preceding installment or installments pro rata to their assessments whether due from individuals or municipalities; but any surplus less than 1 per cent shall constitute a maintenance fund to be expended under the direction of the county road commissioners or the state highway commissioner as the case may be, for the proper maintenance and repair of such road, and the state highway commissioner or the board of county road commissioners, as the case may be, shall make such refund or give such credit in all cases of roads heretofore built in which such funds may not already have been expended under the provisions of this act prior to this amendment: Provided, however, That in case such surplus amounts to \$15,000.00 or less on roads already constructed under the provisions of this act, and where said road is being maintained by the county road commissioners, such surplus may be transferred by the county road commissioners to a fund to be established as a general Covert fund and to be used for the maintenance of all Covert roads, including bridges, in said county.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4699 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4344 ;-- Am. 1931, Act 68, Imd. Eff. May 5, 1931 ;-- Am. 1939, Act 250, Eff. Sept. 29, 1939 ;-- CL 1948, 247.429

**247.431 Orders on improvement fund; payment, limitation.**

Sec. 31.

Orders on the improvement fund of any special assessment district created and existing hereunder, shall be drawn by the state highway commissioner or by the chairman of the board of county road commissioners on the majority vote of the members of said board, as the case may be, and countersigned by the county clerk. In no event shall any order or orders be drawn in excess of the amount raised or directed to be raised on account of any particular improvement. Such order shall be payable by any county treasurer having in custody any portion of the funds of such special assessment district or out of such funds. In any case where the special assessment district is situated in 2 or more counties, no orders shall be drawn upon the treasurer of either of said counties payable out of the funds of said district in excess of the amounts that will come into his custody as a part of said fund under the provisions hereof.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4701 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4346 ;-- CL 1948, 247.431

**247.432 Donation of money; application, return.**

Sec. 32.

Donations of money may be received by either the state highway commissioner or the county road commissioners for the benefit of any road sought to be improved in accordance with the provisions of this act. Such money shall be paid to the treasurer of the county in which such special assessment district, or the greater portion thereof, is situated. Donations received before the preparation of the assessment roll shall be so applied as to

decrease proportionately special assessments apportioned against individual property owners. In the event that the proposed improvement is not made, money so donated shall be returned to the donor on the warrant of the state highway commissioner or the board of county road commissioners as the case may be.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4702 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4347 ;-- CL 1948, 247.432

#### **247.433 Taxes; interest charges, collection, powers of collecting officers, return as delinquent, lien.**

##### **Sec. 33.**

All taxes assessed under the provisions of this act, shall be subject to the same interest and charges as are state and other general taxes. When the rolls are delivered to the township boards, they shall be collected in the same manner as state and other general taxes are collected. Collecting officers are hereby vested with the same power and authority in the collection of such taxes, as are, or may be conferred by law for collecting general taxes. All taxes not collected, shall be returned to the county treasurer, as are state and other general taxes, and may be paid to such officer. All uncollected taxes shall, by the county treasurer, be returned, together with the lands upon which they were levied, at the same time, and in the same manner as lands are returned for state, county and township taxes, and such taxes shall follow such lands the same as all other taxes, and all the general provisions of law now existing or that may be hereafter enacted for enforcing the payment of state, county and township taxes, shall apply to these special taxes, and to lands returned delinquent therefor, in the same manner, and with like effect. All taxes levied under the provisions of this act, with all lawful costs, interest and charges, shall be, and remain a perpetual lien upon the lands upon which they are assessed, and a personal claim against the owner of such lands, until they are paid.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4703 ;-- CL 1929, 4348 ;-- CL 1948, 247.433

#### **247.434 Taxes; rejection; reassessment.**

##### **Sec. 34.**

If any tax assessed under this act is rejected because of an error in the description of the premises sought to be charged, the tax shall be ordered charged back by the board of supervisors, and reassessed upon the lands in the same manner that unpaid or rejected taxes may be charged back by the state treasurer and reassessed under the general provisions of law applicable to state, county, and township taxes.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4704 ;-- CL 1929, 4349 ;-- CL 1948, 247.434 ;-- Am. 2002, Act 351, Imd. Eff. May 23, 2002

#### **247.435 Taxes; apportionment on parcels; notice of hearing; correction of roll.**

##### **Sec. 35.**

If 2 or more parcels of land owned by different persons are assessed as 1 parcel and the frontage of the different parcels upon the improvement are not relatively the same, then upon discovery of the error the county road commissioners or the department of transportation, or any 1 of the several owners, may require the county road commissioners or the state highway commissioner to apportion this tax between the several parcels, upon the principle of benefits derived. The county road commissioners or the department of transportation shall give the parties in interest 5 days' notice of their hearing, by posting a notice of the hearing in a conspicuous place on each of such premises. On apportioning the tax as provided in this section, the county road commissioners or the

department of transportation shall change their roll accordingly, and if any rolls have been delivered to the county or township clerks, or to collecting officers, shall certify the change to them. The county or township clerk or other collecting officer shall correct the roll in their hands, and collection shall be made accordingly. This change may be made at any time before final decree is taken by the state treasurer for the sale of the lands for delinquent taxes.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4705 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4350 ;-- CL 1948, 247.435 ;-- Am. 2002, Act 351, Imd. Eff. May 23, 2002

#### **247.436 Legality of proceedings, evidence; finality of determination.**

Sec. 36.

All special assessment rolls and copies of rolls heretofore required to be delivered to county or township clerks under this act shall be prima facie evidence of the regularity and legality of all proceedings had to levy such tax. Any determination herein required to be made by the state highway commissioner or by the board of county road commissioners shall be deemed to be final and conclusive as to the existence of the facts therein involved.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4706 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4351 ;-- CL 1948, 247.436

### **STATE HIGHWAY COMMISSIONER.**

#### **247.437 Petition for improvement; transmission to proper authorities.**

Sec. 37.

In case a petition is presented to the state highway commissioner where authority to act is hereby vested in the board of county road commissioners of the county wherein such road is situated, such petition shall be immediately transmitted to said board and action thereon is hereby authorized as though the said petition had been properly addressed and presented in the first instance. Should a petition be presented to these county road commissioners for the improvement of any highway, in any county, and in the judgment of the county road commissioners, there should be lands liable to an assessment for benefits situate in any other county, then the county road commissioners shall certify such petition to the state highway commissioner, who shall thereupon proceed to act upon the same as though the said petition had been addressed to him in the first instance.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4707 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4352 ;-- CL 1948, 247.437

#### **247.438 Deputy; acting for commissioner, legal effect.**

Sec. 38.

Any act or proceeding herein directed or authorized to be performed or conducted by the state highway commissioner, may be done by said commissioner in person, or by 1 of his deputies or by any other person generally or specifically deputized by him for the doing of such work. Any determination made by such deputy, or any hearing or other proceeding conducted by him shall be deemed to be for the purpose of this act, and have the same legal force and significance as though personally performed by said commissioner.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4708 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4353 ;-- CL 1948, 247.438

#### **247.440 Jurisdiction over highways in more than one county.**

Sec. 40.

All highways improved under the provisions of this act by the county road commissioners, or by the state highway commissioner, where more than 1 county is affected, that are parts of county roads shall be and remain under the jurisdiction of the county road commissioners of the county in which such highway is situate. Any township road improved hereunder shall be and remain subject to the jurisdiction or authority of the proper township officials after such improvement: Provided, however, That in all cases, the jurisdiction of the county and township officials shall be subject to the right to make proper repairs out of the maintenance fund, if any, hereinbefore provided for. In any highways improved along a county line, jurisdiction over the portion improved shall remain the same as though no improvement had been made upon such highway.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4710 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4355 ;-- CL 1948, 247.440

### **REVIEW OF ASSESSMENTS.**

#### **247.441 Appeal by municipality; application for board of review, limitations; authorized representative.**

Sec. 41.

The county or city at large, or any township at large assessed a per cent for any benefit for the improvement of any highway by the county road commissioners, or by the state highway commissioner, may within 10 days after the final hearing of the review heretofore provided for, appeal therefrom, and for such purpose make an application to the probate court of the proper county for the appointment of a board of review, as hereinafter provided. Townships shall appear by their respective supervisors; and counties shall appear by their clerk and prosecuting attorney; cities shall appear by their chief executive officers or by the city attorney, under the direction of the legislative body of such city. The supervisor shall act upon the direction of his township board. The clerk and prosecuting attorney shall act upon the direction of their board of supervisors, or of a committee of that board to whom may have been referred by the whole board, questions pertaining to the highway improvements. Only 1 application for a board of review shall be entertained by the probate court to review any special assessment.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4711 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4356 ;-- CL 1948, 247.441

#### **247.442 Appeal by municipality; hearing, notice; board of review or joint board; appointment, meeting, notice, duties.**

Sec. 42.

The probate court upon the receipt of any such application for appeal, shall forthwith notify the county road commissioners or the state highway commissioner in writing of such an appeal. The probate court shall thereupon make an order appointing the day of hearing upon such application, and shall require notice of such hearing to be given the county at large, if subject to assessment hereunder, to the several township boards of the townships interested, and to any city liable to an assessment at large, and the county road commissioners, or the state highway commissioner, at least 3 days before such hearing. Such notice may be served on the clerk of the board of supervisors, on the city clerk and upon the township clerks of the respective townships. At such hearing, the probate court shall thereupon make an order, appointing 3 disinterested and competent freeholders of such county, not residents or freeholders of the township or townships affected or assessed for the proposed improvement, as members of a board of review. The persons so appointed shall constitute the board of review. The court shall thereupon immediately fix a time and place where the said board of review shall hold its first meeting to review

such assessments, which time shall not be less than 5, nor more than 15 days from the date of such hearing. The county road commissioners, or the state highway commissioner, shall thereupon give notice to the persons so appointed of their appointment, and of the time and place of their first meeting, and shall give notice of such first meeting by posting notices in at least 5 public and conspicuous places in each township within the assessment district affected by such assessment, and by giving notice to the prosecuting attorney in the county, in all cases where the state is an interested party. Said notice shall be served and posted at least 10 days before the meeting: Provided, That if the road to be improved, or the assessment district, shall lie in 2 or more counties, the application referred to in the preceding section shall be presented simultaneously to the probate court in each of said counties. Thereupon each said court, proceeding as above set forth, shall appoint a disinterested and competent freeholder of such county as a member of the board of review. Upon certification to him of such appointment the state highway commissioner shall fix the time and place of the first meeting thereof and shall give notice as above provided, to the members so appointed, of the time and place of such meeting. If but 2 counties are concerned, and if the members appointed therefrom are unable to agree, such members shall select a third member of the board, who shall be a competent and disinterested freeholder from another county of the state. Notice of such appointment shall be given to the state highway commissioner who shall notify the member so appointed thereof and thereupon the members of the board shall proceed in the same manner as is herein provided in the case of a board appointed within 1 county by the probate court thereof. In case of the selection of a third member of the board as herein provided the state highway commissioner shall fix the time and place of meeting of the board to be held thereafter and shall notify all members accordingly.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4712 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4357 ;-- CL 1948, 247.442

#### **247.443 Board of review; duty, limitation, oath.**

Sec. 43.

At such hearing the board of review shall have the right, and it shall be their duty to review and equalize all assessments of per cent of benefits made by the county road commissioners, or the state highway commissioner, for such improvement upon the county at large, or upon any city, and the total assessment made upon the several townships, including the total per cent assessed upon lands benefited therein. Such board shall not review or equalize the assessment for benefits upon particular lands. The persons so appointed as such board of review shall be sworn to faithfully discharge the duties of such board of review.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4713 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4358 ;-- CL 1948, 247.443

#### **247.444 Board of review; hearing, view of lands, correction of errors, additions; hearing of objections on change; decision, preparation and finality.**

Sec. 44.

The board of review shall proceed to hear the proofs and allegations of the county, or of any city assessed at large, and of the several townships at large, in respect to the matter of the appeal, and shall proceed to view the lands benefited by such improvement, and to review the total per cent ordered to be paid by the county at large, and by each township, including the sum total per cent assessed upon lands benefited in such township, and if, in their judgment, there be manifest error or inequality in such assessment, they shall order, or make such changes therein within the limitations hereinbefore provided, as they may deem just and equitable. The board of review shall not equalize the assessment between the several tracts or parcels of land. Should the board of review find, upon personal examination, that there are lands liable to be assessed for the construction of such improvement, that were not included in the assessment district made by the county road commissioners, or the state highway commissioner, they shall add such lands to the assessment district for such improvement. Before adding any lands to such special assessment district not included in the final order of the county road commissioners, or the state highway commissioner, the said board of review shall give the same notice as hereinbefore provided to be given by the



county road commissioners, or the state highway commissioner, in establishing a special assessment district. The board of review shall meet at the time and place mentioned in their notice, to hear objections from the persons interested with respect to change in such district. On hearing such objections, the board of review, should they still deem it just and equitable that additional lands be included in the district, shall make their order in accordance therewith. The action and decision of the board of review shall be final. The action and decision of such board shall be reduced to writing and signed by a majority making the same, and shall be delivered to the county road commissioners, or the state highway commissioner, together with all other papers relating thereto.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4714 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4359 ;-- CL 1948, 247.444

#### **247.445 Costs of appeals.**

Sec. 45.

In case the assessment of the county road commissioners, or the state highway commissioner, shall be sustained by such board of review, the appellant shall pay the whole cost and expense of the appeal. Such cost and expense shall be ascertained and determined by the judge of probate; and the amount so determined by said judge, or by the court on appeal therefrom, shall be paid by the county, city, or township appealing, to the county treasurer of said county, and placed to the credit of the road district. If the apportionment of the county road commissioners, or the state highway commissioner, is not sustained, the road district shall pay the cost of such appeal.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4715 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4360 ;-- CL 1948, 247.445

#### **247.446 Appeal by land owner; application for board of review; bond, liability, costs.**

Sec. 46.

The owner of any lands assessed a per cent for benefits for improving any highway, who may conceive himself aggrieved by the assessment made by the county road commissioners, or the state highway commissioner, may, within 10 days after the hearing of the review heretofore provided by the county road commissioners, or the state highway commissioner, appeal therefrom, and for such purpose make an application to the probate court of the county in which his land is situate, for a review of the per cent of benefits assessed for such improvement upon his land in any township. Said appellant shall file with the probate court a bond in the sum of 200 dollars, with 1 or more sureties, to be approved by said court, conditioned for the payment of all costs in case the assessment made by the county road commissioners, or the state highway commissioner, shall be sustained. In case the assessment of the per cent of benefits made by the county road commissioners, or the state highway commissioner, upon lands assessed in that township shall be sustained by the board of review, the appellant shall pay the whole cost of such appeal. Such cost and expenses shall be ascertained and determined by the probate court; and if not paid the appellant shall be liable on his bond for the full amount of such costs in an action in law to be brought by the county road commissioners, or the state highway commissioner, before any court having jurisdiction. If the assessments made by the county road commissioners, or the state highway commissioner, on lands in such townships shall be changed, the road districts shall pay the cost of such appeal.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4716 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4361 ;-- CL 1948, 247.446

#### **247.447 Appeal by land owner; board of review, appointment, eligibility, notice; hearing, notice; assessment district in more than one county.**



Sec. 47.

On the receipt of such claim of appeal by the land owner and the giving of a bond as aforesaid, the probate court shall appoint a board of review to examine into and equalize the apportionment of the per cent of benefits assessed upon lands within the assessment district. Such board of review shall consist of 3 competent and disinterested freeholders selected from townships in the same county, adjoining the township where the land of the appellant is situated outside of the assessment district. Notice of the appointment of the board of review to review the apportionment of the per cent of benefits upon lands shall be given by posting a notice thereof in 5 public and conspicuous places in the special assessment district at least 5 days prior to the hearing in the probate court for the appointment of such board of review. Such board of review when appointed shall give notice of its hearing in the matter, and of the time and place when and where it will meet to review the apportionment of benefits upon the lands in the assessment district, by posting a notice thereof at least 5 days before the day of hearing in 5 public and conspicuous places within the special assessment district. Such board of review shall also cause a copy of such notice to be delivered to the appellant, or left at his place of residence, if his residence is within the said district. If the assessment district is situated in more than 1 county the application for the board of review and the appointment thereof shall be made in the same manner as is hereinbefore provided for the application for and the appointment of the board of review to equalize and review assessments made upon the counties at large, the several townships, and the assessment district in any such case. When so selected said board of review shall proceed to review the assessments upon all lands within the assessment district as provided in this section and in the following section.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4717 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4362 ;-- CL 1948, 247.447

**247.448 Apportionment final; hearing, duties of board; boundaries of districts.**

Sec. 48.

The apportionment of benefits for the proposed improvements against the county at large, or against any city at large, and against the several townships at large, as made by the county road commissioners, or the state highway commissioner, or in case of appeal by the county or any township as made by the board of review hereinbefore provided for shall be final and conclusive and shall not be changed by the board of review herein appointed to review the apportionment of benefits upon lands. The board of review herein shall proceed at the time and place specified in their notice to hear the proofs and allegations of the parties in interest, and shall proceed to view the lands benefited by the proposed improvement, and to review all of the apportionments for benefits made by the county road commissioners or the state highway commissioner, on lands benefited in the assessment district on account of such improvement, and if in their judgment there be manifest error in any such apportionment upon lands benefited, they shall make such changes therein and equalize the same as they deem just and equitable. All boundaries of the special assessment district as made by the county road commissioners, or the state highway commissioner, or by the board of review hereinbefore mentioned, upon appeal shall be final and conclusive; the board of review appointed to review the apportionment of the per cent upon lands shall have no power to add additional lands to the special assessment district. But 1 appeal shall be acted upon to review the apportionment of the per cent of benefits assessed upon lands in the assessment district.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4718 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4363 ;-- CL 1948, 247.448

**247.449 Hearing; adjournment.**

Sec. 49.

The several boards of review may adjourn from time to time, for the hearing of appeals; and public announcement of such adjourning shall be given.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4719 ;-- CL 1929, 4364 ;-- CL 1948, 247.449

**247.450 Determination; certification, finality.**

Sec. 50.

The several boards of review shall certify to the county road commissioners, or the state highway commissioner, their finding and determination upon any appeal, which finding and determination as to the per cent of benefits to be assessed upon particular tracts, or parcels of lands benefited, shall be final and conclusive.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4720 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4365 ;-- CL 1948, 247.450

**247.451 Vacancy on board; filling.**

Sec. 51.

Should any person appointed on either of the boards of review as aforesaid, neglect or refuse to serve, or be unable to act, the county road commissioners, or the state highway commissioner, shall report the same to the probate court, who shall, upon like notice, as in the first instance, proceed to appoint others, or another, competent and disinterested person or persons, to act on said board of review. The person or persons so appointed shall have the same power and perform the same duties as herein provided for the board of review in the first instance.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4721 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4366 ;-- CL 1948, 247.451

**247.452 Assessment rolls; spread and collection; delayed report of rolls, subsequent installments.**

Sec. 52.

All the assessment rolls under this act, reported to the board of supervisors at the annual meeting thereof, shall be ordered spread and collected by the board and they shall order any rolls reported to them, while they are in session, spread and collected. Rolls not reported before the final adjournment of such boards at their annual October meeting, shall stand over until the following year, notwithstanding they may have been ordered collected by the county road commissioners the prior year. Where the contract is let prior to the annual meeting of the board of supervisors in October, and by reason of delay occurring from appeals to review the apportionment of benefits taken, so that the assessment roll, as finally determined, cannot be laid before the meetings of the board of supervisors, such delay shall not affect the collection of the second installment of the assessment, but both the first and second installments shall be collected the next year.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4722 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4367 ;-- CL 1948, 247.452

MISCELLANEOUS.

**247.453 Tax set aside; new proceedings.**

Sec. 53.

In case any tax assessed under the provisions of this act shall be set aside, except for the reason that the petition

for the improvement does not confer jurisdiction to act, the county road commissioners, or the state highway commissioner, as the case may be, shall begin proceedings anew at the stage where they shall be correct.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4723 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4368 ;-- CL 1948, 247.453

#### **247.454 Apportionment based on benefits; description of lands.**

Sec. 54.

All apportionment for benefits under the provisions of this act, shall be upon the principle of benefits derived. All description of lands under the provisions of this act shall be made by bounding the same or by giving the local sub-divisions thereof; and it may be described by designations of the lot, or in some way by which it may be known and identified.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4724 ;-- CL 1929, 4369 ;-- CL 1948, 247.454

#### **247.456 Drainage; petition of commissioner.**

Sec. 56.

In case the county road commissioners, or the state highway commissioner, shall deem it necessary for the proper drainage of the highway to be improved, that any drain or water course be laid out and established, deepened and widened, cleaned out, straightened or extended, they may petition the county drain commissioner for the same, and such petition shall have all the force and effect of the requisite petitions by freeholders to the county drain commissioner for the same purpose; and thereupon the county drain commissioner shall proceed to act upon such petition, and shall take the same steps that are provided for him to take under the drain laws of the state.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4726 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4371 ;-- CL 1948, 247.456

#### **247.457 Legal and clerical service, expenses.**

Sec. 57.

The county road commissioner, or the state highway commissioner, acting under the provisions of this act, may employ all necessary clerks, and such clerk hire, and any legal expense shall be charged to the several road districts in behalf of which they shall be employed. They may likewise employ an attorney when they deem the same necessary. All incidental expenses shall be paid out of the first moneys collected.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4727 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4372 ;-- CL 1948, 247.457

#### **247.458 Record of proceedings; supplies.**

Sec. 58.

The county road commissioners, or the state highway commissioner, shall procure record books, and keep a record of all the proceedings had under this act, and they shall procure the necessary stationery and supplies, which expense shall be paid by the county, or by the state as the case may be.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4728 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4373 ;-- CL 1948, 247.458

#### **247.459 County road commissioners; annual report.**

Sec. 59.

The county road commissioners shall render an annual report to the board of supervisors, of their doings, showing itemized statements of all the sums ordered raised by them and expended by them. Such statements shall be filed on or before the first day of the annual meeting of the supervisors in October.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4729 ;-- CL 1929, 4374 ;-- CL 1948, 247.459

#### **247.460 County road commissioners; administrative board.**

Sec. 60.

The county road commissioners shall work together as an administrative board in the performance of their work.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4730 ;-- CL 1929, 4375 ;-- CL 1948, 247.460

#### **247.461 County road commissioners; disqualification to act; procedure; special road commissioner.**

Sec. 61.

(1) If a county road commissioner is interested in the improvement of a highway, or is for any reason disqualified to act on the improvement of a highway, then the remaining county road commissioner or commissioners, shall proceed with the work. The action of the county road commissioner or commissioners not interested shall be valid and effective. If a county road commissioner is disqualified to act upon a proposed improvement, the facts shall be entered upon the records of the county road commissioners. If all of the members of the board of county road commissioners are disqualified for any reason from acting on an application, a special road commissioner may be appointed by the judge of probate. If a disqualification of all of the members of the board of county road commissioners is made, the board of county road commissioners to whom a petition is addressed immediately shall transmit the petition to the judge of probate with a certified statement as to the fact of the disqualification or the petition, in the first instance, may be submitted to the judge of probate accompanied by a certified statement of an elector of the county as to the fact of disqualification, with a request that a special road commissioner be appointed for the purposes of the application.

(2) The judge of probate shall then appoint a day for hearing on the question of making the appointment. Due notice of the hearing shall be printed in a newspaper of general circulation in the county, or counties, in which the special assessment district is located, not less than 10 days before the day of hearing. The publication shall be all the notice required as to the hearing. On the appointed day, or on a subsequent day to which adjournment is made, the judge of probate shall determine whether or not all the members of the board of county road commissioners are in fact disqualified. If the judge finds that to be the case, the judge immediately shall appoint a special road commissioner, invested with all the rights, powers, duties, and obligations granted to or conferred upon the board of county road commissioners by this act for the purposes of the application for the improvement of a highway

under this act.

(3) If it is found on hearing, that all the members of the board of county road commissioners are not in fact disqualified to act, the judge of probate shall certify accordingly and immediately shall transmit the application to the board of county road commissioners, and the board or the members of the board not disqualified, shall proceed as provided in this act.

(4) As determined by the county board of commissioners, a special road commissioner appointed in accordance with this section, either shall be covered by a blanket bond or shall be required to give a bond in a reasonable amount and with the sureties the judge of probate directs and approves. The special commissioner shall receive compensation for time actually expended by him or her, added to his or her reasonable expenses, out of the funds of the special assessment district as fixed by the county board of commissioners or by the board of county auditors, in a county having that board.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4731 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4376 ;-- Am. 1933, Act 75, Imd. Eff. May 8, 1933 ;-- CL 1948, 247.461 ;-- Am. 1978, Act 569, Imd. Eff. Jan. 2, 1979

#### **247.462 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.**

**Compiler's Notes:** The repealed section provided for employment of an engineer.

#### **247.463 Estimates and certificates of completed work; payments on contracts, prerequisites, portion withheld.**

Sec. 63.

As the work of improvement progresses, the county road commissioners, or the state highway commissioner, shall cause written estimates to be made, and certificates of work done and materials furnished, according to specifications, and of the value of the work accomplished by the several contractors. These estimates and certificates shall be made and signed by a competent engineer. At the request of any contractor doing work, such estimate shall be made at least once in each month. The county road commissioners, or the state highway commissioner, shall make no payment on any contract without such written estimates and certificates that the work is done according to specifications where the total contract price shall be 500 dollars or over. Before the final completion of the work and its final acceptance, they shall not pay more than 80 per cent of the amount of such estimates and certificates: Provided, That upon satisfactory showing of the paying of outstanding indebtedness as hereinafter provided the amount retained on such estimates may be proportionately reduced in the discretion of the state highway commissioner or the board of county road commissioners as the work progresses. Before payment is made on any estimate or certificate aforesaid, the contractor shall file an affidavit showing, either that all labor and material so far used in the improvement has been paid for by him, or an itemized statement giving the several amounts and names of persons to whom anything is owing for labor and material used in the particular improvement contracted for by him, or he shall file releases from all persons unpaid for either labor or material used in such improvement. In case it appears from such affidavits that any labor or material is not paid for, the county road commissioners, or the state highway commissioner, shall deduct from any payment to be made by them such indebtedness for material and labor. The county road commissioners, or the state highway commissioner, out of money so retained by them, may pay any such indebtedness; and they shall pay such indebtedness out of such money on the request of any contractor. They shall not be obliged to pay on the request of a creditor until such creditor shall have put his claim into final judgment.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4733 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4378 ;-- CL 1948, 247.463

#### **247.464 Repealed. 1963, Act 213, Eff. Sept. 6, 1963.**

**Compiler's Notes:** The repealed section required bond of successful bidder.

#### **247.465 Contracts under \$500; payments.**

Sec. 65.

The county road commissioners, or the state highway commissioner, may let contracts under 500 dollars without advertising. They may make payments on such contracts without the estimates and certificates above required.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4735 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4380 ;-- CL 1948, 247.465

### **ACTIONS AND HEARING PROVISIONS.**

#### **247.466 Certiorari; notice, hearing, bond; proceedings, setting aside; costs; postponement in letting of contracts.**

Sec. 66.

The proceedings herein provided for improving any highway, shall be subject to review upon certiorari. Notice of such certiorari shall be served upon the county commissioners, or 1 of them or upon the state highway commissioner, within 10 days after the making of their apportionment of benefits for such improvement has been filed with the county clerk in the same manner as notice is required to be given of certiorari for reviewing judgments returned by the justice of the peace, and the writ shall be issued and served, and the bond given and approved, and all subject matter brought to issue in the same way and manner as in such case provided, except that such certiorari may be heard by the court during term, or at chambers, upon 5 days' notice given to the opposing party; and the circuit court of the county shall hear and determine the same without necessary delay; and if any material defect be found in the proceedings, such proceedings shall be set aside in so far as erroneous with consent to the county road commissioners, or the state highway commissioner, to proceed anew with their proceedings from the point where the defect occurs. The entire proceedings shall not be set aside except where the county road commissioners, or the state highway commissioner, are found to have no jurisdiction to act upon the petition presented. If the proceedings be sustained, the party bringing the certiorari shall be liable for the costs thereof; and if they be not sustained in whole, or in part, the parties petitioning for the proposed improvement, shall be liable for the costs. If no certiorari be brought within the time herein described, the improvements shall be deemed to have been legally ordered and established, and its legality shall not thereafter be questioned in any suit at law, or in equity. When such proceedings are brought, the county road commissioners, or the state highway commissioner, shall postpone the letting of contracts if they have not been let, and of all other proceedings until after the determination of the court.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4736 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4381 ;-- CL 1948, 247.466

**Compiler's Notes:** In the second sentence of this section, "necessary" evidently should read "unnecessary."

#### **247.467 Tax assessment; irregularities not prejudicial; presumptions; prima facie evidence; absent or omitted records; signing of papers; deeds.**

Sec. 67.

A tax assessed under this act upon any property or sale of the property shall not be held invalid by any court of this state on account of any irregularity in any assessment, or on account of any tax roll not having been made, or

proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any person other than the owner, or on account of any other irregularity, informality, omission, or want of any matter or form or substance in any proceeding that does not prejudice the property rights of the person whose property is taxed. All proceedings in assessing and levying taxes, and in the sale and conveyance therefor, shall be presumed by all the courts of this state to be legal until the contrary is affirmatively shown. All records, statements and certificates provided for under this act shall be prima facie evidence of the facts therein set forth. The absence of any record of any proceeding or proceedings, or the omission of any mention in any record of any vote or proceeding, or mention of any matter in any statement or certificate that should appear therein under this act, does not affect the validity of any proceeding, tax, or title thereon, if the fact that the vote or proceeding was had or tax authorized is shown by any other record, statement or certificate made evidence by the terms of this act or any other law of this state. A tax or sale of property for any tax shall not be rendered or held invalid by showing that any record, statement, affidavit, certificate, paper, or return cannot be found in the proper office. Unless the contrary is affirmatively shown, the presumption shall be that the record was made, and that the certificate, statement, affidavit, paper, or return was duly made and filed. If any statement, certificate, or record is required to be made or signed by the county road commissioners, that statement, certificate, or record may be made and signed by the members of the commission, or a majority of them, and it is not necessary that other members be present when each signs the statement, certificate, or record. The provisions of this section shall not be construed to authorize any showing impeaching the validity of any deed executed by the state treasurer under this act, but the deed shall be held absolute and conclusive as provided in general tax laws of this state.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4737 ;-- CL 1929, 4382 ;-- CL 1948, 247.467 ;-- Am. 2002, Act 351, Imd. Eff. May 23, 2002

#### **247.468 Limitation of actions; tax payment under protest; suit against county.**

Sec. 68.

No suit shall be instituted to recover any tax or money paid, or for property therefor, or for damages on account thereof, unless brought within 30 days from the time of payment of such money to, or for the sale of such property by, the collecting officers; and if such tax be paid under protest, the reasons therefor shall be specified, and the same procedure observed as is, and may be required by the general tax law: Provided, That suits specified in this section shall be brought against the county at large.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4738 ;-- CL 1929, 4383 ;-- CL 1948, 247.468

#### **247.469 Injunction restricted.**

Sec. 69.

After any taxes shall have been assessed for the improvement of any highway under this act, no injunction shall issue to restrain the spreading of the same upon the tax roll, nor to restrain the collection thereof, nor shall the same be in any manner stayed, except as provided in provisions for certiorari unless the amount of such assessment shall be first paid to the county treasurer to be applied upon such taxes in case the court in which the suit upon which such injunction is tried, shall so order.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4739 ;-- CL 1929, 4384 ;-- CL 1948, 247.469

#### **247.470 Faulty proceedings; collection of tax; new proceedings.**

Sec. 70.

The collection of no tax levied, or ordered to be levied for the payment of the improvement or construction of any highway laid out under this act shall be perpetually enjoined, or declared absolutely void in consequence of any error or informality appearing in the record of the proceedings under which any highway shall have been constructed or improved, nor on account of any irregularity or informality in the condemnation of the right of way, nor for want of any record thereof, but the court in which any action may be brought to recover any tax or assessment paid, or to declare void the highway proceedings, or to enjoin any tax or assessment levied or ordered to be levied for the payment of the labor and expenses of the improvement thereof, shall, if there be manifest error in the proceedings, allow the county road commissioners, or the state highway commissioner, to begin their proceedings anew at the stage prior to which the error occurred.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4740 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4385 ;-- CL 1948, 247.470

#### **247.471 Delinquent tax; collection.**

Sec. 71.

Any taxes that may have been assessed and returned delinquent to the county treasurer upon any lands and by virtue of the provisions of this act and remaining unpaid, may be sued for, by the county road commissioners of the county in which such delinquent lands are situated, or by the state highway commissioner, in an action of assumpsit before any court of competent jurisdiction; or the county road commissioners, or the state highway commissioner, may file their bill in equity to enforce the lien of such tax against the real estate charged therewith, in the same manner as mortgages are foreclosed in chancery. The court may order the sale of such delinquent lands at any time after 6 months from the filing of such bill in chancery.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4741 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4386 ;-- CL 1948, 247.471

#### **247.472 Tax set aside; parties to action.**

Sec. 72.

In case any suit shall be brought to set aside any tax assessed under the provisions of this act, or in any way attacking the legality of the proceedings had under this act, the county road commissioners, or the state highway commissioner, shall be made a party to such suit. The county in which such road district shall be situated, if operating under the county road system, shall likewise be made a party and process shall be served upon the clerk of such county.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4742 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4387 ;-- CL 1948, 247.472

#### **247.473 Tax set aside; new proceedings.**

Sec. 73.

In case any tax assessed under the provisions of this act shall be set aside, except for the reason that the petition for the improvement does not confer jurisdiction to act, the county road commissioners, or the state highway commissioner, as the case may be, shall begin proceedings anew at the stage where they shall be correct.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4743 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4388 ;-- CL 1948,



**247.474 Proceedings; recommencement; notice of hearing; credit for tax paid.**

## Sec. 74.

Whenever the work of improving any highway has been wholly or partly completed, and payment for same has not been legally made, the county road commissioners, or the state highway commissioner, shall proceed without unnecessary delay to start such proceedings anew, providing the petition for the improvement confers jurisdiction upon the county road commissioners, or the state highway commissioner, at such a stage as may be correct; and the county road commissioners, or the state highway commissioner, shall proceed to take the necessary steps under the provisions of this act, and shall reassess upon the lands benefited by the improvement, the original cost thereof, together with all expense of completing the proceedings, and continue so to do, until such improvement has been legally constructed: Provided, That on such recording and legally completing the proceedings, it shall not be necessary to re-advertise the letting or to make a new contract for the letting and constructing of the improvement, but the county road commissioners, or the state highway commissioner, shall advertise a day of review for benefits in the manner provided in the first instance: Provided further, That any person who has paid taxes for benefits assessed against him for such improvement, shall be allowed the amount so paid; and the collecting officer shall accept the receipt theretofore issued as cash, and the same shall be applied upon such new assessment.

**History:** 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4744 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4389 ;-- CL 1948, 247.474

**247.476 Saving clause.**

## Sec. 76.

All proceedings heretofore taken under this act shall not be defeated or nullified because of any irregularity therein if there has been a substantial compliance with the requirements of the said measure as hereby amended. Such proceedings heretofore commenced under said act shall not be invalidated either in whole or in part hereby, but may be completed under the provisions hereof.

**History:** Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4391 ;-- CL 1948, 247.476

**247.477 Clerical errors; correction.**

## Sec. 77.

After the county road commissioners shall have made their apportionment of benefits, and held a review of the same, whether an appeal has been taken therefrom or not, but in case of appeal, then after such appeal shall have been decided, and it shall appear that any parcel of land has been omitted by clerical error within the boundaries of the district finally established, or that parcels of land have been misdescribed, or the acreage stated to be more or less than it really is or that the amount appearing on the roll as assessed against any parcel of land is erroneous because of a clerical error, the county road commissioners, or the state highway commissioner, as the case may be, may correct such errors in the manner herein provided.

**History:** Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4392 ;-- CL 1948, 247.477

**247.478 Clerical errors; notice of review and correction.**

Sec. 78.

The county road commissioners, or the state highway commissioner, on discovering any of the aforesaid errors, may make their order reciting the particular errors, or that there appears to be error in the designated descriptions, and give notice of the review and correction thereof in any road district affected in the same manner as is required for the review of the apportionment of benefits in the first instance, except that the county at large or townships at large need not be notified. The meeting of the county road commissioners or of the state highway commissioner to review and correct such errors shall be held at some place in the road district to be affected.

**History:** Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4393 ;-- CL 1948, 247.478

**247.479 Clerical errors; correction of omissions, descriptions, acreage, apportionment of benefits.**

Sec. 79.

At such meeting, the county road commissioners, or the state highway commissioner, shall correct the errors aforesaid. Such meeting may be adjourned from time to time, public announcement of such adjournment being made in each case. Where lands within the boundaries of the assessment district as established have been omitted by clerical mistake from the apportionment of benefits, or from the special assessment roll, they may be added thereto, and shall be assessed their proportionate share of the cost of the improvement. Where lands have been erroneously described, they shall be correctly described as near as may be. Where the acreage of any parcel is erroneously stated to be more or less than it really is, such acreage shall be correctly stated as near as may be. Where the apportionment of benefits has already been determined by the state highway commissioner, or by the appellate boards, upon an acreage basis, the tax or apportionment upon any parcel where the acreage was wrong in the first instance shall be increased or reduced as the case may be, proportionate to the increase or decrease of the acreage of that parcel. Where any parcel of land is charged on the roll with an assessment that is improper because of some clerical error, such assessment shall be corrected.

**History:** Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4394 ;-- CL 1948, 247.479

**247.480 Correction of tax in next assessment roll.**

Sec. 80.

If a parcel of land shall have been erroneously assessed too high by reason of a mistake in the acreage of the parcel, and 1 or more years' tax shall have been paid thereon, the board of county road commissioners or the state highway commissioner, as the case may be, in their next assessment roll after the hearing herein provided, shall credit such parcel with the excessive tax theretofore paid or charged to it, and thereafter shall place the same upon the assessment roll as equalized under this act. If a parcel of land theretofore has been assessed too low by reason of a mistake of the acreage of such parcel, the board of county road commissioners or the state highway commissioner, as the case may be, in the aforesaid next roll, shall charge such parcel with the additional tax which said parcel did not pay or was not charged with on prior rolls by reason of the mistake aforesaid, and thereafter shall place such parcel upon the assessment roll as equalized under this act. If any parcel of land has been erroneously omitted from the apportionment of benefits of the tax roll, the board of county road commissioners or the state highway commissioner, as the case may be, in their next assessment roll shall add such parcel to the roll and charge the same with all taxes theretofore omitted, as well as the tax it should regularly bear on that roll, and thereafter shall place the same upon the assessment roll as equalized under this act. It shall be assessed its just proportion of the cost of the same. Where the tax upon any parcel of land as shown by the roll is improper because of some clerical error the same shall be corrected, and the county road commissioners or the state highway commissioner, as the case may be, in their next assessment roll shall charge such parcel with the tax found to have been omitted, or credit said parcel with the amount of tax theretofore charged in excess of what it should have

been; and thereafter they shall place said parcel upon the assessment roll as equalized under this act.

**History:** Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4395 ;-- CL 1948, 247.480

#### **247.481 Change in apportionment or tax; restriction.**

Sec. 81.

The county road commissioners or the state highway commissioner, as the case may be, shall have no power to change the apportionment or tax upon any parcels of land except for the errors as in this act provided, or has been provided in said Act No. 59 of the Public Acts of 1915.

**History:** Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4396 ;-- CL 1948, 247.481

**Compiler's Notes:** For provisions of Act 59 of 1915, referred to in this section, see MCL 247.418 et seq.

#### **247.482-247.487 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.**

**Compiler's Notes:** The repealed sections provided for construction or widening of highway into city and for a refunding plan for special assessments.

### **LOCAL ROAD IMPROVEMENTS AND OPERATIONS REVENUE ACT**

#### **Act 237 of 1987**

247.521-247.525 Repealed. 1987, Act 237, Eff. Dec. 31, 1992.

### **REVOLVING FUND FOR HIGHWAY PLANNING AND CONSTRUCTION**

#### **Act 59 of 1944 (1st Ex. Sess.)**

247.601-247.603 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

### **STATE TRUNK LINE HIGHWAY SYSTEM**

#### **Act 51 of 1951**

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; to investigate and study the tolling of roads, streets, highways, or bridges; and to repeal acts and parts of acts.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 1953, Act 86, Imd. Eff. May 18, 1953 ;-- Am. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1975, Act 195, Imd. Eff. Aug. 13, 1975 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1983, Act 82, Imd. Eff. June 15, 1983 ;-- Am. 1988, Act 348, Imd. Eff. Oct. 25, 1988 ;-- Am. 1992, Act 223, Imd. Eff. Oct. 15, 1992 ;-- Am. 1997, Act 79, Eff. July 28, 1997 ;-- Am. 2004, Act 384, Imd. Eff. Oct. 12, 2004 ;-- Am. 2010, Act 135, Imd. Eff. Aug. 2, 2010 ;-- Am. 2020, Act 140, Imd. Eff. July 8, 2020

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

*The People of the State of Michigan enact:*

**247.651 State trunk line highway system; additions and deletions; operating license agreement with regional transit authority to operate public transit system; lane designation for high-occupancy vehicles.**

**Sec. 1.**

(1) The state trunk line highway system of this state consists of all roads, streets, and highways, either located within or outside the limits of incorporated cities and villages, that are made state trunk line highways under the laws of this state. The director of the department may establish subordinate classifications or groupings of state trunk line highways as the department considers necessary or desirable for proper administration of the state trunk line highway system. Additions to and deletions from the state trunk line highway system may be made in the manner prescribed by law. All roads, streets, and highways included in the state trunk line highway system shall be known and may be referred to for all purposes as state trunk line highways.

(2) The department or a local road agency may enter into an operating license agreement with a regional transit authority to operate a public transit system on the streets and highways of this state as provided for in state law enacted after January 1, 2012. As part of an operating license agreement, the department or local road agency may designate 1 or more lanes of a street or highway as a dedicated public transit lane. A dedicated public transit lane may be reserved for the exclusive use of public transit vehicles operated by a regional transit authority during periods determined by the department or the local road agency, except that a dedicated public transit lane must be made available at all times to emergency services vehicles. A lane designated and marked as a dedicated public transit lane by the department or a local road agency under an operating license agreement with a regional transit authority is subject to the same provisions as a high-occupancy vehicle lane under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(3) Except as otherwise provided in this subsection, the department may designate a lane on a highway for the exclusive use of high-occupancy vehicles, during a period determined by the department, by filing a traffic control order and installing appropriate traffic control devices. This subsection applies only to lanes that are newly constructed using federal funds.

(4) As used in this act:

(a) "High-occupancy vehicle" means that term as defined in section 20b of the Michigan vehicle code, 1949 PA 300, MCL 257.20b.

(b) "Traffic control devices" means that term as defined in section 70 of the Michigan vehicle code, 1949 PA 300, MCL 257.70.

(c) "Traffic control order" means that term as defined in section 71 of the Michigan vehicle code, 1949 PA 300, MCL 257.71.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 2008, Act 303, Imd. Eff. Dec. 9, 2008 ;-- Am. 2012, Act 390, Eff. Mar. 28, 2013 ;-- Am. 2023, Act 149, Imd. Eff. Oct. 10, 2023

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.651a State trunk line highway system; construction, maintenance, improvement; control of state highway commissioner; change in line of road.**

Sec. 1a.

All state trunk line highways now or hereafter established as provided by law, shall be constructed, maintained and improved in accordance with the provisions of this act under the direction, supervision and control of the state highway commissioner. The commissioner shall make surveys and proper plans and specifications and take charge of the construction and maintenance of the state trunk line highways. For the purpose of securing a more direct and favorable location, minor changes in the line of any road may be made when, in the judgment of the state highway commissioner, the changes make for the safety of public travel.

**History:** Add. 1957, Act 262, Eff. July 1, 1957

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.651b Cost of maintaining state trunk line highways; preservation of aesthetic and historic character of abutting national historic landmark; service plaza prohibited.**

Sec. 1b.

(1) The state transportation department shall bear the entire cost of maintaining, in accordance with standards and specifications of the department, all state trunk line highways including highways within incorporated cities and villages except that the cost of maintaining additional width for local purposes as provided in section 1c shall be borne by the city or village.

(2) Notwithstanding any provision of law to the contrary, as part of the construction or reconstruction of a state trunk line highway which abuts a location designated as a national historic landmark pursuant to the national historic preservation act, Public Law 89-665, 80 Stat. 915, and 36 C.F.R. part 65, the department may include within the project, expenditures deemed necessary to mitigate the adverse impact of the state trunk line highway on the aesthetic and historic character of that abutting area. The installation or maintenance of lighting to preserve the aesthetic and historic character of the abutting area shall not impose a duty on the department to provide or maintain lighting for the improved portion of the highway designed for vehicular travel.

(3) The state transportation department shall not use funds allocated under this act for the development or construction of a service plaza.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1967, Act 298, Eff. Jan. 1, 1968 ;-- Am. 1967, Ex. Sess., Act 4, Eff. Jan. 1, 1968 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1989, Act 188, Imd. Eff. Aug. 24, 1989 ;-- Am. 2002, Act 498, Imd. Eff. July 3, 2002

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.651c Cost of opening, widening, and improving state trunk line highways.**

### **Sec. 1c.**

(1) The department shall bear the cost of opening, widening, and improving, including construction and reconstruction, in accordance with standards and specifications of the department, all state trunk line highways, subject to all of the following provisions:

(a) Incorporated cities and villages shall participate with the department in the cost of opening, widening, and improving, including construction and reconstruction of state trunk line highways within cities and villages to which may be added, subject to the approval of the state transportation commission, streets that are connecting links of trunk line highways or streets that are made connecting links of trunk line highways, according to the following schedule subject to the definition of population as provided in section 13:

(i) In cities and villages having a population of 50,000 or more, 12.5% of the cost shall be borne by the city or village, and 87.5% by the state transportation department.

(ii) In cities and villages having a population of 40,000 or more and less than 50,000, 11.25% of the cost shall be borne by the city or village, and 88.75% by the state transportation department.

(iii) In cities and villages having a population of 25,000 or more and less than 40,000, 8.75% of the cost shall be borne by the city or village, and 91.25% by the state transportation department except in the case of projects related to international border crossing, in which case the department shall bear the entire project cost.

(iv) In cities and villages having a population of less than 25,000, the state transportation department shall bear the entire cost.

(b) As used in this act, "opening, widening, and improving, including construction and reconstruction, of state trunk line highways" includes, but is not limited to, the cost of right of way; the cost of removal and replacement of sidewalks, street lighting, curbing, where removal and replacement is made necessary by construction or reconstruction of a trunk line highway; and the cost of bridges and structures, including that part of the cost of grade separation structures not paid by the railroad companies.

(2) In a city or village, the width of a state trunk line highway shall be the width required to serve anticipated future traffic needs for a 20-year period as determined by a department transportation survey, but shall not be less than the currently accepted standards prescribed for a 4-lane highway; the width as may be built on the same trunk line route immediately beyond and adjacent to either legal boundary of the city or village; or on trunk lines eligible for federal highway funds, a width as may be prescribed by the federal government, whichever width is greater. However, the department and the governing body of a city or village by mutual agreement may determine that the width of a state trunk line highway shall be less than the width otherwise prescribed by this subsection.

(3) If a city or village chooses to widen a state trunk line highway for local purposes beyond the width prescribed in subsection (2), the entire cost of the extra width, less the federal highway funds that may be allocated to the portion of the project by the department, shall be borne by the city or village.

(4) The state transportation commission and the boards of county road commissioners may enter into agreements with townships or private persons for the improvement or widening of state trunk line highways or county roads. The state transportation commission and the boards of county road commissioners may require full or partial participation in the cost of the improvement or widening by the requesting party as considered appropriate.

(5) As used in subsection (1)(a), "state trunk line highway" does not include a limited access freeway.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1967, Act 298, Eff. Jan. 1, 1968 ;-- Am. 1967, Ex. Sess., Act 4, Eff. Jan. 1, 1968 ;-- Am. 1976, Act 263, Imd. Eff. Oct. 1, 1976 ;-- Am. 1982, Act 436, Imd. Eff. Dec. 29, 1982 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 2010, Act 28, Imd. Eff. Mar. 26, 2010 ;-- Am. 2016, Act 459, Eff. Apr. 5, 2017

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.651d Contract for joint participation in cost; approval; renegotiation; local taxation; bonds; special assessment.**

### **Sec. 1d.**

The governing body of a city or village and the state highway commission may enter into a contract to effectuate joint participation in the cost of opening, widening and improving, including construction and reconstruction, of a state trunk line highway, the terms of which contract, when approved by the state administrative board, shall establish the responsibilities of each party and provide for the method of payment for such joint obligations. The agreements may provide for deferring payment by the city or village until the completion of the project. Contracts

and agreements between the state highway commission and the legislative body of any city or village, approved by the state administrative board, are authorized and approved whether heretofore or hereafter made. All agreements entered into prior to January 1, 1968, between the state highway department and any city or village pursuant to this act may be renegotiated by the state highway commission for the purpose of providing for participation in the cost of construction between the highway commission and the city or village on the basis of the participation provisions of section 1c. The renegotiation shall be authorized only for all or any part or unit of the state trunk line highway projects which have not been placed under contract for construction by the highway commission on January 1, 1968. Under any contract heretofore or hereafter made which relates to a state trunk line highway project for which federal highway funds are allocated or paid, the portion of the cost to be paid by a city or village shall be in accordance with the percentage of participation required by law at the time the contract was entered into applied to the net cost of the project after deduction from the total cost of all federal highway funds allocated or paid for the project. In all contracts hereafter made an amount equivalent to the federal highway funds for the acquisition of right of way as would have been available if application had been made therefor and approved by the federal government, shall also be deducted from the total cost in determining the net cost. Any city or village paying a portion of the cost of improving trunk lines or trunk line structures, including cost of right of way, within its corporate limits may raise money for that purpose, either by taxation or by the issuance of bonds or short term loans therefor, on the faith and credit of the city or village. The bonds or loans shall not be chargeable against the established bonded debt limit of the city or village, if a special assessment district is established in connection with the improvement. The execution of the contracts or agreements shall not restrict any right of the city or village to establish special assessment districts in connection with the improvements. The construction, maintenance and improvement of the trunk line highways and the direction, supervision and control of same by the state highway commission as provided in sections 1a, 1b and 1c may be modified in the contracts authorized by this act to such extent as may be agreed upon.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1967, Act 298, Eff. Jan. 1, 1968 ;-- Am. 1967, Ex. Sess., Act 4, Eff. Jan. 1, 1968

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.651e Contract with city or village for joint participation in cost; assumption by board of county road commissioners, approval.**

##### **Sec. 1e.**

Whenever the board of county road commissioners of any county shall have funds available, the board may enter into a contract or agreement, with any incorporated city or village within the county, assuming the obligations in whole or in part of the city or village undertaken by contract or agreement with the state highway commissioner under the provisions hereof or approved hereby. The board may contract or agree to carry on, in whole or in part, the improvement or construction required thereby, and may institute and conduct condemnation proceedings necessary therefor. No contract or agreement by any board of county road commissioners shall be effective until approved by resolution of the board of supervisors of the county and of the legislative body of the incorporated city or village concerned. The provisions of this section shall not be deemed to abolish, limit or restrict the powers and duties of the state highway commissioner or of incorporated cities or villages as prescribed by this act.

**History:** Add. 1957, Act 262, Eff. July 1, 1957

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.651f State trunk lines; cancellation of municipal obligations; assumption by state.**

##### **Sec. 1f.**

The obligation of any city under 30,000 population which prior to July 1, 1957 entered into a contract with the state highway department pursuant to the provisions of Act No. 19 of the Public Acts of 1919, as amended, for the construction of state trunkline highways, which highways have been taken over as part of the interstate and defense



highway system, is hereby canceled and the city is relieved of any obligation remaining under the contract. The state highway department shall assume the obligation still outstanding under the terms of such a contract upon the effective date of this amendatory act.

**History:** Add. 1965, Act 352, Eff. Mar. 31, 1966

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.651g Pavement management system.**

##### **Sec. 1g.**

The transportation asset management council, in conjunction with the department, counties, and municipalities, shall develop and implement a pavement management system for each mile of roadway on the federal-aid eligible highway system in Michigan. This pavement management system shall attempt to ensure that a disproportionate share of pavement shall not become due for replacement or major repair at the same time. The transportation asset management council shall provide local road agencies with the training needed to utilize the pavement management system in accordance with this section.

**History:** Add. 1997, Act 79, Eff. July 28, 1997 ;-- Am. 2007, Act 199, Imd. Eff. Dec. 21, 2007

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.651h Life-cycle cost analysis; "life-cycle cost" defined; substitutes for requirements listed in subsection (3).**

##### **Sec. 1h.**

(1) The department shall develop and implement a life-cycle cost analysis for each project for which the estimated total pavement costs exceed \$1,500,000.00 funded in whole or in part with state funds. The department shall design and award paving projects utilizing material having the lowest life-cycle cost. All pavement design life shall ensure that state funds are utilized as efficiently as possible.

(2) As used in this section and section 1i, "life-cycle cost" means the total of the cost of the initial project plus all anticipated costs for subsequent maintenance, repair, or resurfacing over the life of the pavement.

(3) Except as otherwise provided in this section, life-cycle cost shall compare equivalent designs and shall be based upon Michigan's actual historic project maintenance, repair, and resurfacing schedules and costs as recorded by the pavement management system, and shall include estimates of user costs throughout the entire pavement life.

(4) For pavement projects for which there are no relevant Michigan actual historic project maintenance, repair, and resurfacing schedules and costs as recorded by the pavement management system, the department may use either of the following as a substitute for the requirements listed in subsection (3):

(a) Actual historical and comparable data for reasonably equivalent designs from geographic locations with similar climates, soil structures, or vehicle traffic.

(b) The department may determine appropriate estimated maintenance, repair, and resurfacing schedules for a project by using preliminary results from a demonstration project described in section 1i(1) that is underway at the time of the project. The schedules described in this subdivision shall be determined using appropriate engineering analysis techniques and shall be approved by the chief engineer of the department. The temporary schedules described in this subdivision shall be superseded by actual performance data as it is developed.

**History:** Add. 1997, Act 79, Eff. July 28, 1997 ;-- Am. 2008, Act 501, Imd. Eff. Jan. 13, 2009 ;-- Am. 2016, Act 457, Eff. Apr. 5, 2017

**Compiler's Notes:** Enacting section 1 of Act 501 of 2008 provides: "Enacting section 1. The legislature intends that this amendatory act provide the department with the necessary flexibility to utilize pavement designs which have not been used in Michigan but have been used successfully in other states."

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act



## **247.651i Demonstration projects.**

### **Sec. 1i.**

(1) Notwithstanding section 1h, the department may conduct pavement demonstration projects to evaluate new construction methods, materials, or designs that do not have actual Michigan historical project maintenance, repair, or resurfacing schedules or costs recorded by the pavement management system. The department may conduct a pavement demonstration project that may be all or a portion of that project using either concrete or asphalt as determined by the department. Each demonstration project shall include measurable goals and objectives for determining the success of that project. The department shall measure the interim success of each demonstration project each year and make a final report for each demonstration project following the demonstration life of the project, which may be shorter than the actual pavement life of the material used for the project, that assesses the cost-effectiveness and performance of the pavement materials and design used in the project and compares the results to the pavement material identified under the department's standard pavement selection process.

(2) A demonstration project shall not be conducted without the approval of the department. If a proposed demonstration project is rejected, the department shall provide an explanation of the reason for the rejection to the person that proposed the demonstration project. Demonstration projects shall be selected using any of the following criteria:

(a) Pavement designs intended to increase pavement life expectancy in a manner that will result in lowered life-cycle costs.

(b) Pavement designs intended to improve performance, including, but not limited to, friction, surface stress, reduction of noise, and improvement of ride quality.

(c) Comparisons of performance of various types of pavement.

(3) If the difference between the total cost of contracts awarded for demonstration projects under this section using asphalt and concrete in any contiguous 3-year period is more than, or is anticipated to be more than, 25%, the department shall submit a detailed letter of explanation to the chairs of the senate and house of representatives transportation committees, the senate majority leader, and the speaker of the house of representatives explaining why there is a difference and recommendations on how the department will reduce the difference to below 25% over the next 3 years. As used in this subsection, "total costs" means the initial engineer's estimated costs of the pavement design portion of the project. Nothing in this subsection requires that any individual demonstration project be duplicated with both asphalt and concrete.

(4) The director shall provide an annual report, not later than July 1 of each year, to the senate and house of representatives transportation standing committees and the senate and house of representatives appropriations subcommittees on transportation regarding the status of each demonstration project.

(5) A lack of Michigan actual historic project maintenance, repair, and resurfacing schedules and costs as recorded by the pavement management system does not preclude the department from conducting a pavement demonstration project under this section.

(6) The department shall strive to reduce the equivalent uniform annual cost of demonstration projects described in this section by 5% over the 10-year period following the effective date of the amendatory act that added this subsection.

**History:** Add. 2001, Act 259, Imd. Eff. Jan. 9, 2002 ;-- Am. 2016, Act 457, Eff. Apr. 5, 2017

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.651j Road innovation task force; purpose; report; availability of report to public; update of finalized report; deposit of amount into state treasury; roads innovation fund; creation; investment; interest and earnings; money remaining in fund at close of fiscal year; expenditure; 1-time concurrent resolution.**

### **Sec. 1j.**

(1) No later than December 1, 2015, the department shall form a special internal task force specifically named the roads innovation task force. The purpose of the task force shall be to create a comprehensive public report that does all of the following:

(a) Evaluates road materials and construction methods that, when implemented, could allow the department to build high-quality roads in this state that last longer than those typically constructed by the department, with a goal of roads lasting at least 50 years, higher quality roads, and reduced maintenance costs.

(b) Focuses on materials and processes that may cost more in initial up-front spending but that still produce life-cycle construction and maintenance savings. The department shall strive to achieve a reduction of at least 50% in its net present value 50-year life cycle costs as compared to the commensurate net present value 50-year life cycle costs for road construction and maintenance costs from 2015, in a manner that results in no state roads being rated in poor condition and has no net degradation from overall 2015 level pavement surface evaluation and rating (PASER) scores within the plan's first 10 years.

(c) Focuses on longer-term time frames that seek to maximize value to the taxpayers of this state on a total cost basis, regardless of funding or financing considerations. The report shall not incorporate or reference plans or suggestions regarding bonding, refinancing, or financing innovations.

(2) Not later than March 1, 2016, the department shall finalize and make public the report described in subsection (1). The task force shall present that report at a public hearing before a joint committee hearing of the standing committees of the senate and house of representatives with primary responsibility for transportation issues called by the chairs.

(3) Not later than June 1, 2016, the task force shall update the finalized report described in subsection (2) to provide suggested boilerplate language which coincides with how the department would execute the plan and attempt to achieve the targets described in subsection (1). The plan shall include sufficient detail to allow the legislature to monitor and track progress, estimate how long it is expected to take to achieve targets, and project what the inflation adjusted reduction in annual spending will be once fully implemented as compared to the costs associated with 2015.

(4) Beginning in fiscal year 2016-2017 and each fiscal year thereafter, the first \$100,000,000.00 received and collected attributable to taxes imposed under section 8(1) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, shall be annually deposited into the state treasury to the credit of the roads innovation fund created in subsection (5).

(5) The roads innovation fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the roads innovation fund. The state treasurer shall direct the investment of the roads innovation fund. The state treasurer shall credit to the roads innovation fund interest and earnings from fund investments. Money in the roads innovation fund at the close of the fiscal year shall remain in the roads innovation fund and shall not lapse to the general fund. The department of treasury shall be the administrator of the fund for auditing purposes. The department shall expend money from the fund only after each house of the legislature approves a 1-time concurrent resolution on a record roll call vote to release money in the roads innovation fund. Once released by the 1-time concurrent resolution, money in the roads innovation fund shall be deposited in the Michigan transportation fund created in section 10 and distributed as provided in section 10. Once money is released by the 1-time concurrent resolution, the roads innovation fund shall no longer annually receive the amount described in subsection (4).

**History:** Add. 2015, Act 175, Eff. Apr. 1, 2016

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.652 Tentative system of county primary roads; selection and certification; check and review; approval; county primary road system.**

### **Sec. 2.**

By December 1, 1951, a tentative system of county primary roads shall be selected by the board of county road commissioners in each county and certified to the state transportation department for its approval. Such tentative system of county primary roads shall be selected on the basis of greatest general importance to the county and shall include any such county roads then legally established and existing as such within the limits of incorporated cities and villages. Each such tentative system of county primary roads certified to the state transportation department shall be checked and reviewed under its direction. Within 6 months after receipt by the department of each such certification, the state transportation department shall approve such part of that tentative system of county primary roads as the department determines is appropriate and shall certify to that board of county road commissioners the approved portion of the tentative system and any deletions therefrom. So much of the tentative system of county primary roads of any county as is approved by the state transportation department shall constitute the county primary road system of that county for all purposes and shall be officially known as the county primary road system

of that county.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.653 Tentative system of county primary roads; roads included or deleted.**

##### **Sec. 3.**

Roads may, from time to time, be included in or deleted from the county primary road system of any county by selection of the county road commission and approval of the state highway commissioner in the same manner and by the same procedure as provided in section 2 hereof for the adoption of any county primary road system in the first instance.

**History:** 1951, Act 51, Eff. June 1, 1951

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.654 Tentative system of county primary roads; roads under jurisdiction of county road commissioners; certification and review.**

##### **Sec. 4.**

All roads under the jurisdiction of the board of county road commissioners in each of the several counties of the state not included in the county primary system as finally approved shall be certified to and reviewed and approved or deleted by the state highway commissioner in the same manner as provided in section 2 hereof for the county primary road system and when finally approved by the state highway commissioner shall constitute and be the county local road system of that county, which may thereafter be added to or deleted from in the same manner as provided in section 3 of this act for the county primary road system.

**History:** 1951, Act 51, Eff. June 1, 1951

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.655 Tentative system of county primary roads; official name; establishment, certification, and approval.**

##### **Sec. 5.**

All roads, streets and highways included in the county primary road system of any county shall be officially known as county primary roads, and all roads, streets and highways included in the county local road system of any county shall be officially known as county local roads. For a period of 2 years after the effective date of this act, the primary road system and the local road system in each county, and the mileage in each such system used for all purposes under the provisions of this act, shall be as determined by the state highway commissioner, and thereafter the local road system and the primary road system in each county, and the mileage in each such system used for all purposes under the provisions of this act, shall be as established by certification to and approved by the state highway commissioner pursuant to the provisions of this act.

**History:** 1951, Act 51, Eff. June 1, 1951

**Popular Name:** McNitt Act

## **247.655a Seasonal county road system.**

### **Sec. 5a.**

(1) The board of county road commissioners of each county may establish a system of seasonal county roads, which may be part of either the county primary road system, the county local road system, or both systems. A board of county road commissioners in establishing a system of seasonal county roads, may declare a road under the jurisdiction of the board to not be open to public travel during the months of November through April, which road shall then not be open to public travel.

(2) The seasonal county road system shall include any road under the jurisdiction of the board of county road commissioners which that board determines shall not be open to public travel each year for a period of less than 12 months. The system of seasonal county roads shall be selected on the basis of seasonal use of the roads and in accordance with rules promulgated by the state transportation department. A board of county road commissioners may include or exclude roads in the seasonal county road system upon adoption of a proper resolution but only after holding a public hearing. Notice of the public hearing shall be given to the clerk of the county and of each city, village, or township in which the roads are situated and published at least twice in a newspaper of general circulation in that county, the first notice to be not less than 30 days before the hearing and the second notice not less than 7 days before the hearing. The notice shall contain the date, time, and place of the hearing and shall describe in general terms the action proposed to be taken by the board, the roads to be affected, and the period of time that the roads shall not be open to public travel. The business which the board may perform at the public hearing shall be conducted at a hearing held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. In addition to the other notices required by this subsection, public notice of the time, date, and place of the hearing shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. If at the hearing an objection is made to the designation of a road as a part of the seasonal county road system by a person occupying a structure located upon or along the road as the person's principal residence, the commissioners shall not designate that road as a part of the seasonal county road system unless the commissioners provide that person with immediate access to a road which is not a part of the seasonal county road system.

(3) Within 30 days after final adoption of a resolution establishing a seasonal county road system, the board of county road commissioners shall file with the state transportation department and each city, village, or township in which the roads are situated a full record of its determination.

(4) The designation of a road as part of the seasonal county road system shall not affect the certification of the road under this act, but if the road is not open to public travel during the months of December to April, the road shall be excluded for purposes of the distribution of snow removal funds under section 12a.

(5) A road included as part of the seasonal county road system shall be excluded for the purposes of determining the distribution of funds under sections 12(4) and 12b for each year in which the road is part of the seasonal county road system.

(6) A map shall be maintained and on display in the office of each board of county road commissioners which has established a seasonal county roads system which shall also inform the public of the dates the road or road shall not open to public travel.

(7) The board shall place and maintain signs on all roads designated as seasonal county roads, which signs shall describe the roads as seasonal county roads.

**History:** Add. 1981, Act 184, Imd. Eff. Dec. 23, 1981

**Compiler's Notes:** In the last sentence of subsection (2), the word "system" at the end of the sentence should evidently read "system."

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**Admin Rule:** R 247.651 et seq. of the Michigan Administrative Code.

## **247.656 Tentative system of streets; selection and certification; approval.**

### **Sec. 6.**

Within 6 months from the effective date of this act, a tentative system of major streets shall be selected in each incorporated city and village of the state and certified to the state highway commissioner for his approval. Such tentative system of major streets shall be selected in each incorporated city and village under the direction of the governing body thereof on the basis of greatest general importance to such municipality and shall not include any of the trunk line highways or county roads within the limits of such municipality. Each such tentative system of major streets certified to the state highway commissioner shall be checked and reviewed under his direction. Within 6 months after receipt by him of each such certification the state highway commissioner shall approve such part of that tentative system of major streets as complies with the uniform standards and specifications adopted and established as hereinbefore provided and shall reject and delete any part that does not so comply and shall certify to that city or village the approved portion of the tentative system and any deletions therefrom. So much of the tentative system of major streets of any city or village as is approved by the state highway commissioner shall constitute the major street system of that municipality for all purposes, and shall be known officially as the major street system of that city or village as the case may be.

**History:** 1951, Act 51, Eff. June 1, 1951

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.657 Tentative system of streets; included or deleted.**

##### **Sec. 7.**

Streets may, from time to time, be included in or deleted from the major street system of any municipality by selection by the governing body thereof and approval of the state highway commissioner in the same manner and by the same procedure as provided in section 6 hereof for the adoption of any major street system in the first instance.

**History:** 1951, Act 51, Eff. June 1, 1951

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.658 Tentative system of streets; streets not included, certification and approval.**

##### **Sec. 8.**

All streets within the corporate limits and under the jurisdiction of each municipality of the state, exclusive of state trunk line highways and county roads, and not included in the major street system of such municipality as finally approved shall be certified to and reviewed and approved or deleted by the state highway commissioner in the same manner as provided in section 6 hereof for the major street system and when finally approved by the state highway commissioner shall constitute and be the local street system of that city or village, which may thereafter be added to or deleted from in the same manner as provided in section 7 of this act for city or village major street systems.

**History:** 1951, Act 51, Eff. June 1, 1951

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.659 Tentative system of streets; official name; establishment and certification.**

##### **Sec. 9.**

All roads, streets and highways included in the major street system of any municipality shall be officially known

as city or village major streets as the case may be, and all roads, streets and highways included in the local street system of any municipality shall be officially known as city or village local streets, as the case may be. For a period of 2 years after the effective date of this act, the major street system and the local street system in each city and village, and the mileage in each such system used for all purposes under the provisions of this act, shall be as determined by the state highway commissioner, and thereafter the major street system and the local street system in each city and village, and the mileage in each such system used for all purposes under the provisions of this act, shall be as established by certification to and approval by the state highway commissioner pursuant to the provisions of this act.

**History:** 1951, Act 51, Eff. June 1, 1951

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.659a Definitions; transportation asset management council; creation; charge; membership; appointments; Michigan infrastructure council; staff and technical assistance; advisory committee; infrastructure asset management pilot program; template for asset management plan; report including multiyear program; submission and review asset management plan; compliance; notice of progress; annual report; funding; records on road and bridge work performed and funds expended; federal grants or loans.**

Sec. 9a.

(1) As used in this section:

(a) "Asset management" means an ongoing process of maintaining, preserving, upgrading, and operating physical assets cost-effectively, based on a continuous physical inventory and condition assessment and investment to achieve established performance goals.

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

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

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

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

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

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

(h) "Michigan infrastructure council" means the Michigan infrastructure council created in section 3 of the Michigan infrastructure council act, 2018 PA 323, MCL 21.603.

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

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

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

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

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

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

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

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



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

(2) In order to provide a coordinated, unified effort by the various road agencies within this state, the transportation asset management council is hereby created within the state transportation commission. On creation of the Michigan infrastructure council, the transportation asset management council shall be placed within the Michigan infrastructure council.

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

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

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

(6) The department shall provide qualified administrative staff and the state planning and development regions shall provide qualified technical assistance to the transportation asset management council.

(7) The transportation asset management council may appoint an advisory committee whose members shall serve as needed to provide research on issues and projects as determined by the transportation asset management council. An advisory committee member who is not a member of the transportation asset management council does not have voting rights on the advisory committee. A recommendation from the advisory committee appointed under this subsection is advisory only and is not binding.

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

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

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

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

(b) Performance goals, including the desired condition and performance of the assets, which must be set by the

local road agency. Performance goals may vary among asset classes under the local road agency's jurisdiction. If a local road agency has jurisdiction over roads or bridges that are designated as part of the federal National Highway System, performance goals for that portion of the system must be consistent with established federal performance targets.

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

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

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

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

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

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

(a) Projects contained in the department's annual multiyear program must be consistent with the department's asset management process and asset management plan, and must be reported consistent with categories established by the transportation asset management council.

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

(c) Projects contained in the annual multiyear program of each local road agency responsible for less than 100 certified miles of road must be consistent with the asset management process of that local road agency and must be reported consistent with categories established by the transportation asset management council.

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

(13) If a local road agency responsible for less than 100 certified miles of road submits an asset management plan to the transportation asset management council, the plan is considered approved on submission.

(14) The transportation asset management council shall review an asset management plan submitted under subsection (12) no later than 6 months after receipt of the asset management plan. The transportation asset management council shall compare the asset management plan to the minimum requirements of this act and the template created by the transportation asset management council, and determine whether the asset management plan is in compliance with those standards. If the asset management plan does not meet those standards, the transportation asset management council shall seek concurrence from the department that the asset management plan does not meet the transportation asset management council's standards. If the department concurs, the transportation asset management council shall require the local road agency to revise its asset management plan to conform to the standards within 6 months after notifying the local road agency that the asset management plan does not meet the transportation asset management council's standards. The transportation asset management council shall provide an opportunity for a noncompliant local road agency to appear before the transportation asset management council to discuss the reasons the local road agency's plan is not in compliance and ways for the local road agency to become compliant.

(15) Beginning October 1, 2025, if the transportation asset management council determines, and the department concurs, that a local road agency described in subsection (11)(b) has not demonstrated progress toward achieving



the condition goals described in its asset management plan for its federal-aid eligible county primary road system or city major street system, as applicable, the transportation asset management council shall provide notice to the local road agency of the reasons that it has determined progress is not being made and recommendations on how to make progress toward the local road agency's condition goals. The local road agency shall become compliant within 6 months after receiving the notification required by this subsection. The transportation asset management council shall provide an opportunity for the noncompliant local road agency to appear before the transportation asset management council to discuss the reasons the local road agency is not compliant and ways for the local road agency to become compliant. If the local road agency is not compliant within 6 months after receiving the notification required by this subsection, the local road agency shall not shift funds distributed to it under this act from a county primary road system to a county local road system or from a city major street system to a city local street system, as applicable. On demonstration of progress toward achieving its condition goals, a local road agency may shift funds distributed to it under this act from a county primary road system to a county local road system or from a city major street system to a city local street system, as applicable. A local road agency may submit a revised asset management plan to the transportation asset management council. If a local road agency's asset management plan is determined to be out of compliance, the local road agency's asset management plan is disapproved for the purposes of sections 12 and 13.

(16) The staff assigned to the transportation asset management council shall prepare an annual report regarding the results of activities conducted during the preceding year and the expenditure of funds related to the processes and activities identified by the Michigan infrastructure council. The report must also include a summary analysis of the asset management plans and annual reports received from local road agencies, a determination of how investments are achieving desired levels of service and performance goals, an identification of any additional steps that may be needed to achieve desired levels of service and performance goals, and an overview of the activities identified for the succeeding year. The transportation asset management council shall submit this report to the Michigan infrastructure council, the state transportation commission, each house of the legislature, and the transportation committees of the house and senate by May 2 of each year.

(17) Funding necessary to support the activities described in this section must be provided by an annual appropriation from the Michigan transportation fund to the state transportation commission. Beginning on September 30, 2018, the annual appropriation provided for in this subsection must be allocated to the Michigan infrastructure council and must be used to support the activities described in this section.

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

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

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 1998, Act 308, Imd. Eff. July 29, 1998 ;-- Am. 2002, Act 499, Imd. Eff. July 3, 2002 ;-- Am. 2007, Act 199, Imd. Eff. Dec. 21, 2007 ;-- Am. 2010, Act 257, Imd. Eff. Dec. 14, 2010 ;-- Am. 2012, Act 298, Imd. Eff. Aug. 23, 2012 ;-- Am. 2018, Act 325, Eff. Sept. 30, 2018 ;-- Am. 2020, Act 164, Imd. Eff. Sept. 17, 2020

**Compiler's Notes:** For transfer of powers and duties of the transportation needs study committee to the state transportation commission and abolishment of the committee, see E.R.O. No. 1997-6, compiled at MCL 247.691 of the Michigan Compiled Laws. For transfer of powers and duties of the citizens advisory committee to the director of the department of transportation and abolishment of the committee, see E.R.O. No. 1997-6, compiled at MCL 247.691 of the Michigan Compiled Laws.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.659b Contracts to construct or repair roads or bridges; assistance to minority business enterprises; notice to legislative committees; definitions; other duties of department.**

Sec. 9b.

(1) After the effective date of the amendatory act that added this section, the department shall do all of the following regarding contracts to construct or repair roads or bridges:

(a) Establish technical assistance programs to prepare minority business enterprises to compete for contracts.

(b) Assist in creating and developing sources of nontraditional capital to assist minority business enterprises to

compete for contracts.

(c) Assist in creating and developing incentives for firms to mentor minority business enterprises to assist minority business enterprises to gain the experience and resources necessary to compete for contracts.

(d) Increase information programs to inform minority business enterprises of opportunities to compete for contracts.

(2) The department shall notify the majority and minority chairpersons of the house and senate appropriations committees and the majority and minority chairpersons of the house and senate committees that consider transportation matters of each contract awarded to minority business enterprises under this section.

(3) As used in this section:

(a) "Minority business enterprise" means a business enterprise located within an empowerment zone or an enterprise zone that is owned or controlled solely by 1 or more socially or economically disadvantaged persons. The disadvantage may arise from cultural, racial, gender, or chronic economic circumstances or background, or other similar cause.

(b) "Empowerment zone" means an area designated as an empowerment zone by the United States department of housing and urban development.

(c) "Enterprise zone" means a neighborhood enterprise zone designated under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.787.

(4) After the effective date of the amendatory act that added this section, the department shall do all of the following regarding contracts to construct or repair roads and bridges:

(a) Consult with the Michigan state chamber of commerce and the Michigan minority business development council on requests for proposals and requests for quotations to ensure competitive and inclusive strategies which ensure an inclusive and competitive bid environment.

(b) Appoint not less than 1 representative from the Michigan minority business development council and the DBE division of the Michigan department of transportation to all requests for proposal and quote review panels.

(c) Establish within the DBE division of the Michigan department of transportation a surety division to assist qualified bidders in securing bonding and in monitoring vendor and supplier payments.

**History:** Add. 1997, Act 79, Eff. July 28, 1997

**Compiler's Notes:** Enacting section 1 of Act 473 of 2014 provides: "Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 473 of 2014 does not go into effect.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.659c Review of adequacy of surface transportation and aeronautics service provision and finance; appointment of task force by governor; duties; membership; citizens advisory committee; creation; purpose; technical staff and administrative support; focus of task force; report and recommendations.**

Sec. 9c.

(1) By February 1, 2008, the governor shall appoint not more than 9 persons who shall serve as a task force to review the adequacy of surface transportation and aeronautics service provision and finance in this state. The governor shall not appoint a member that represents the state transportation department or a local authority as that term is defined in section 27 of the Michigan vehicle code, 1949 PA 300, MCL 257.27. The appointments shall be subject to the advice and consent of the senate. The task force shall review strategies for maximizing the return on transportation investments and shall evaluate the potential of alternate strategies to replace or supplement the state motor fuel taxes, existing and alternative user fees, and nonuser revenues to support economic activity and personal mobility in this state. The task force shall appoint a chairperson from among its members who shall schedule meetings and submit reports required under this section. The task force shall include at least 1 representative of the following interests:

- (a) Manufacturing.
- (b) Commerce.
- (c) Agriculture.
- (d) Tourism.
- (e) Labor.
- (f) Transportation.
- (g) Public transit.

(h) Aviation

(2) Beginning February 1, 2008, the task force shall also include the majority and minority leaders of the senate or a member of the senate designated by each leader and the speaker and minority leader of the house of representatives or a member of the house of representatives designated by each leader.

(3) A citizens advisory committee shall be created to receive and comment upon all reports, studies, and recommendations prepared by the various designated technical subcommittees of the citizens advisory committee before but not later than the submission of the reports, studies, and recommendations to the task force. The citizens advisory committee may create any subcommittees that it deems necessary, and any subcommittee that is created may make recommendations to the full committee. Each committee shall designate a chairperson from the members and that person shall schedule committee meetings and shall be responsible for submitting reports. The members of the citizens advisory committee shall provide members of the task force their majority, minority, or individual views of the reports, studies, and recommendations of the various designated technical subcommittees. The governor shall appoint not more than 19 persons, who shall serve as a citizens advisory committee and shall include a member of the general public and 1 representative from a list of 3 recommendations supplied by each of the following organizations:

- (a) Michigan farm bureau.
- (b) Michigan trucking association.
- (c) Michigan association of counties.
- (d) Michigan townships association.
- (e) Michigan state chamber of commerce.
- (f) Michigan tourist association.
- (g) County road association of Michigan.
- (h) Michigan municipal league.
- (i) Michigan public transit association.
- (j) Asphalt paving association of Michigan.
- (k) Michigan concrete paving association.
- (l) Michigan infrastructure and transportation association.
- (m) Michigan railroads association.
- (n) American council of engineering companies.
- (o) Michigan building and construction trades council.
- (p) Michigan association of airport executives.
- (q) Michigan business aviation association.
- (r) The state transportation department.

(4) The state transportation department shall provide qualified technical staff and administrative support to the task force, and by March 1, 2008 shall recommend a work program to the task force to enable it to perform the requirements of subsection (1). The department shall invite regional metropolitan planning organizations to assist.

(5) The primary focus of the task force is to examine alternatives to the portion of transportation funding that has fuel taxes as a source and to suggest or recommend alternative revenue collection systems funded through user pay methods or methods other than user pay methods. The task force shall include an analysis of the feasibility of alternative methods. The task force may make recommendations for implementation of pilot programs to test feasible alternatives to replace the portion of transportation funding that comes from fuel taxes. The task force shall make a preliminary recommendation on pilot programs by October 31, 2008.

(6) By a majority vote of the task force, the task force shall report to the governor, the state transportation commission, and the legislature on the identified capital and maintenance needs, transportation investment and maintenance priorities, funding for state trunk line roads and bridges, local road agencies, and public transit agencies, relative use of transportation systems, responsibilities for the identified needs including alternative transportation funding options, historical transportation financing patterns as they relate to total statewide fiscal resources, and strategies for maximizing the returns on transportation investments. All studies and reports relating to highways shall be reported according to functional and legal classification. The task force shall publish a preliminary report of the data, findings, and recommendations by October 31, 2008. The task force, after holding appropriate public hearings, shall recommend, if it considers it necessary, alterations of formulas for and alternative sources of transportation funding and alterations to the distributions of transportation responsibilities in the final report by April 1, 2009. The final report and recommendations shall also include any minority and individual views of task force members.

**History:** Add. 2007, Act 221, Imd. Eff. Jan. 2, 2008

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.659d "Port facility" definition.**

Sec. 9d.

As used in this act, "port facility" means a commercial facility located alongside a navigable waterway used for commercial vessels and includes any of the following types of facilities:

- (a) A seawall jetty, pier, wharf, or dock.
- (b) A warehouse, storehouse, elevator, grain bin, cold storage plant, terminal icing plant, bunker, or oil tank.
- (c) A ferry, canal, lock, seaway, or conveyor.
- (d) A modern appliance for the economical handling, storage, or transportation of freight and handling of passenger traffic.
- (e) A transfer or terminal facility required for the efficient operation or development of a port or harbor.
- (f) Any other port or harbor improvement to assist with commercial operations.
- (g) An improvement, enlargement, remodeling, or extension of a facility described in this section.

**History:** Add. 2022, Act 158, Imd. Eff. July 19, 2022

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.660 Michigan transportation fund; establishment; use of appropriated money; programs; allocation to transportation economic development fund; establishment of local bridge fund and regional bridge councils; distribution and allocation of money; report; rules; selection of bridge projects for funding; availability of list to interested parties; implementation of bridge project by county road commission, city, or village.**

Sec. 10.

(1) A fund to be known as the Michigan transportation fund is established in the state treasury as a separate fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Except as otherwise provided in this section, the legislature shall appropriate money for the necessary expenses incurred in the administration and enforcement of the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, the motor carrier act, 1933 PA 254, MCL 475.1 to 479.42, and sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810. Money appropriated for necessary expenses must be based upon established cost allocation methodology that reflects actual costs. Appropriations for the necessary expenses incurred by the department of state in administration and enforcement of sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810, must be made from the Michigan transportation fund and from money in the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b. Appropriations from the Michigan transportation fund for the necessary expenses incurred by the department of state in administration and enforcement of sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810, must not exceed \$20,000,000.00 per state fiscal year. Except as provided in section 51d of the income tax act of 1967, 1967 PA 281, MCL 206.51d, all money in the Michigan transportation fund is apportioned and appropriated in the following manner:

(a) Not more than \$3,000,000.00 as may be annually appropriated each fiscal year to the state trunk line fund for subsequent deposit in the rail grade crossing account.

(b) Not more than \$3,000,000.00 as may be annually appropriated each fiscal year to the state trunk line fund for subsequent deposit in the grade crossing surface account.

(c) Not more than \$3,000,000.00 each year to the local bridge fund established in subsection (4) for the purpose of payment of the principal, interest, and redemption premium on any notes or bonds issued by the state transportation commission under former section 11b or subsection (9).

(d) Except as otherwise provided in this subdivision and subject to section 11h, \$2,000,000.00 each year of the revenue from 3 cents of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, to the local agency wetland mitigation board fund created in section 11h.

(e) Except as otherwise provided in this subdivision, \$5,000,000.00 each year of the revenue from 3 cents of the

tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, to the movable bridge fund created in section 11g, with the remainder to the state trunk line fund, county road commissions, and cities and villages in the percentages provided in subdivision (l). The department shall annually adjust the amount allocated under this subdivision by an amount equal to the annual increase in the Detroit Consumer Price Index for the preceding year.

(f) One-half of the revenue from 1 cent of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, to the state trunk line fund for the repair of state bridges under section 11, and 1/2 of the revenue from 1 cent of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, to the local bridge fund created in subsection (4) for distribution only to cities, villages, and county road commissions.

(g) \$50,000,000.00 to the state trunk line fund for debt service costs on state of Michigan projects.

(h) Ten percent to the comprehensive transportation fund for the purposes described in section 10e.

(i) \$5,000,000.00 to the local bridge fund established in subsection (4) for distribution only to the local bridge advisory board, the regional bridge councils, cities, villages, and county road commissions.

(j) \$36,775,000.00 to the state trunk line fund for subsequent deposit in the transportation economic development fund created in section 2 of 1987 PA 231, MCL 247.902, with first priority for allocation to debt service on bonds issued to fund transportation economic development fund projects. In addition, \$3,500,000.00 is appropriated from the Michigan transportation fund to the state trunk line fund for subsequent deposit in the transportation economic development fund created in section 2 of 1987 PA 231, MCL 247.902, to be used for economic development road projects in any of the targeted industries described in section 9(1)(a) of 1987 PA 231, MCL 247.909.

(k) Not less than \$33,000,000.00 as may be annually appropriated each fiscal year to the local program fund created in section 11e.

(l) The balance of the Michigan transportation fund, as well as funds allocated to the Michigan transportation fund and collected under the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, as follows, after deduction of the amounts appropriated in subdivisions (a) to (k):

(i) 39.1% to the state trunk line fund for the purposes described in section 11 and section 10o(5).

(ii) 39.1% to the county road commissions of this state.

(iii) 21.8% to the cities and villages of this state.

(2) The money appropriated under this section must be used for the purposes as provided in this act and any other applicable act. Subject to section 9b, the department shall develop programs in conjunction with the Michigan Chamber of Commerce and the Michigan Minority Supplier Development Council to assist small businesses, including those located in enterprise zones and those located in empowerment zones as determined under federal law, as defined by law in becoming qualified to bid.

(3) From federal funds, an amount equal to 31-1/2% of the money formerly appropriated to this state from the federal government under former 23 USC 157, commonly known as minimum guarantee funds, must be allocated to the transportation economic development fund, if the allocation is consistent with federal law. This money must be distributed 16-1/2% for development projects for rural counties as defined by law and 15% for capacity improvement or advanced traffic management systems in urban counties as defined by law. Federal money allocated for distribution under this section is eligible for obligation and use by all recipients as provided in the moving ahead for progress in the 21st century act, Public Law 112-141.

(4) A fund to be known as the local bridge fund is established in the state treasury as a separate fund. The money appropriated to the local bridge fund and the interest accruing to that fund must be expended for the local bridge program. The purpose of the fund is to provide financial assistance to highway authorities for the preservation, improvement, or reconstruction of existing bridges or for the construction of bridges to replace existing bridges in whole or part. The money in the local bridge fund is not subject to section 12(15) or 13(5). The local bridge advisory board is created and must consist of 6 voting members appointed by the state transportation commission and 2 nonvoting members appointed by the department. The board must include 3 members from the County Road Association of Michigan, 1 member who represents counties with populations 65,000 or greater, 1 member who represents counties with populations greater than 30,000 and less than 65,000, and 1 member who represents counties with populations of 30,000 or less. Three members must be appointed from the Michigan Municipal League, 1 member who represents cities with a population 75,000 or greater, 1 member who represents cities with a population less than 75,000, and 1 member who represents villages. Each organization with voting rights shall submit a list of nominees in each population category to the state transportation commission. The state transportation commission shall make the appointments from the lists submitted under this subsection. Voting members must be appointed for 2 years. The chairperson of the board must be selected from among the voting members of the board. In addition to the 2 nonvoting members, the department shall provide qualified administrative staff and qualified technical assistance to the board.

(5) No less than 5% and no more than 15% of the money received in the local bridge fund may be used for critical repair of large bridges and emergencies as determined by the local bridge advisory board. Money remaining after the money allocated for critical large bridge repair and emergencies is deducted must be distributed by the



board to the regional bridge councils created under this section. One regional council must be formed for each department of transportation region as those regions exist on October 1, 2004. The regional councils must consist of 2 members of the County Road Association of Michigan from counties in the region, 2 members of the Michigan Municipal League from cities and villages in the region, and 1 member of the department in each region. The members of the department are nonvoting members and shall provide qualified administrative staff and qualified technical assistance to the regional councils.

(6) Money in the local bridge fund after deduction of the amounts set aside for critical repair of large bridges and emergency repairs must be distributed among the regional bridge councils according to all of the following ratios, which must be assigned a weight expressed as a percentage as determined by the board, with each ratio receiving no greater than a 50% weight and no less than a 25% weight:

(a) A ratio with a numerator that is the total number of local bridges in the region and a denominator that is the total number of local bridges in this state.

(b) A ratio with a numerator that is the total local bridge deck area in the region and a denominator that is the total local bridge deck area in this state.

(c) A ratio with a numerator that is the total amount of structurally deficient local bridge deck area in the region and a denominator that is the total amount of structurally deficient local bridge deck area in this state.

(7) The regional bridge councils shall allocate the money received from the board for the preservation, improvement, and reconstruction of existing bridges or for the construction of bridges to replace existing bridges in whole or in part in each region.

(8) Each January, the department shall submit a report to the chair and the minority vice-chair of the appropriations committees of the senate and the house of representatives, and to the standing committees on transportation of the senate and the house of representatives, on all of the following activities for the previous state fiscal year:

(a) A listing of how much money was dedicated for emergency and large bridge repair.

(b) A listing of what emergency and large bridge repair projects were funded.

(c) The actual weights used in the calculation required under subsection (6).

(d) A listing of the total money distributed to each region.

(e) A listing of the specific projects that were funded under subsection (7).

(9) The state transportation commission shall borrow money and issue notes or bonds in an amount of not less than \$30,000,000.00 to supplement the funding provided for the local bridge program under subsection (5). The bonds or notes issued under this subsection may be issued by the commission for any purpose for which other local bridge money may be used under this section. The bonds or notes authorized by this subsection must be issued by resolution of the state transportation commission consistent with the requirements of section 18b.

(10) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, governing the administration of the local bridge program. The rules must set forth the eligibility criteria for financial assistance under the program and other matters related to the program that the department considers necessary and desirable. The department shall take into consideration the availability of federal aid and other financial resources of the highway authority responsible for the bridge, the importance of the bridge to the highway, road, or street network, and the condition of the existing bridge.

(11) The revenue appropriated to the local bridge fund under subsection (1)(i) must be distributed only to the local bridge advisory board, the regional bridge councils, cities, villages, and county road commissions.

(12) The regional bridge councils shall determine what bridge projects are selected for funding from the local bridge fund created in subsection (4) and shall make a list of selected projects available to interested parties in the region. A determination that a bridge project is selected for funding in a given fiscal year is not approval to disburse the money.

(13) A county road commission, city, or village may implement a bridge project if the bridge project has been selected for funding and is included in the appropriate regional bridge council's current multiyear bridge plan for the local bridge program but the regional bridge council has not allocated money to the bridge project for the fiscal year that the bridge project is on the current multiyear bridge plan. A county road commission, city, or village may borrow money to implement a project that has been selected for funding and is included in the appropriate regional bridge council's current multiyear bridge plan but has not been allocated money by the regional bridge council. Based on available local bridge money, when a bridge project that was implemented with borrowed money is allocated funding in a subsequent fiscal year, the funding must only be used to repay the amount approved by the multiyear bridge plan when the money was borrowed. To be eligible for repayment of the amount borrowed, a bridge project that has been implemented with borrowed money must be administered through the department's local bridge program.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 1954, Act 154, Imd. Eff. Apr. 30, 1954 ;-- Am. 1955, Act 265, Imd. Eff. June 29, 1955 ;-- Am. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1967, Act 298, Eff. Jan. 1, 1968 ;-- Am. 1967, Ex. Sess., Act 4, Eff. Jan. 1, 1968 ;-- Am. 1972,

Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1985, Act 125, Imd. Eff. July 31, 1985 ;-- Am. 1986, Act 254, Imd. Eff. Dec. 9, 1986 ;-- Am. 1987, Act 3, Imd. Eff. Mar. 18, 1987 ;-- Am. 1987, Act 43, Imd. Eff. June 9, 1987 ;-- Am. 1987, Act 103, Imd. Eff. July 7, 1987 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 1988, Act 348, Imd. Eff. Oct. 25, 1988 ;-- Am. 1992, Act 223, Imd. Eff. Oct. 15, 1992 ;-- Am. 1993, Act 20, Imd. Eff. Apr. 14, 1993 ;-- Am. 1993, Act 294, Imd. Eff. Dec. 28, 1993 ;-- Am. 1997, Act 79, Eff. July 28, 1997 ;-- Am. 1998, Act 308, Imd. Eff. July 29, 1998 ;-- Am. 2000, Act 188, Imd. Eff. June 20, 2000 ;-- Am. 2003, Act 151, Eff. Oct. 1, 2003 ;-- Am. 2004, Act 384, Eff. Oct. 12, 2004 ;-- Am. 2006, Act 178, Imd. Eff. June 6, 2006 ;-- Am. 2007, Act 210, Imd. Eff. Dec. 27, 2007 ;-- Am. 2015, Act 175, Eff. Apr. 1, 2016 ;-- Am. 2016, Act 246, Eff. Sept. 22, 2016 ;-- Am. 2018, Act 471, Eff. Mar. 27, 2019 ;-- Am. 2020, Act 222, Imd. Eff. Oct. 16, 2020 ;-- Am. 2022, Act 50, Eff. Oct. 1, 2022

**Compiler's Notes:** Enacting section 1 of Act 473 of 2014 provides: "Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 473 of 2014 does not go into effect.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.660a Transferred mileage; worth per mile of county primary and local roads; determination of money to be transferred; jurisdictional transfers made after July 1, 1992; construction of subsections (4) and (5); transfer of funds included in appropriation.**

Sec. 10a.

(1) Annually the state transportation department shall determine the miles of state trunk line highways, county primary and local roads, and city and village major and local streets transferred to and from state, county, city, or village jurisdiction during the preceding period of July 1 to June 30. In each year after that determination, the transferred mileage shall be accumulated and added to the mileage transferred in each subsequent July 1 to June 30 period.

(2) The current average revenue worth per mile of a county primary road and a county local road shall be determined annually by dividing the total county primary and local road mileages respectively as of the first day of the preceding July 1 to June 30 period into the total amount of Michigan transportation funds returned to counties pursuant to this act for use on county primary and local roads respectively during that period, except money returned to counties pursuant to section 12(2) and (3).

(3) The total amount of money to be transferred from and to the state trunk line fund, the counties, cities, and villages shall be determined annually by multiplying the current revenue worth per mile of a county primary road and a county local road respectively by the number of accumulated miles in each category transferred from and to state, county, city, or village jurisdiction. If the transferred facility becomes classified as part of the local road or street system of the receiving jurisdiction, the transfer of money shall be calculated on the basis of the revenue worth per mile of a county local road. In any other category of jurisdictional transfer, the transfer of money shall be calculated on the basis of the revenue worth per mile of a county primary road.

(4) For jurisdictional transfers made from the state to a county, city, or village after July 1, 1992, the amount in the state trunk line fund to be transferred shall be transferred to the county, city, or village receiving jurisdiction. If the transferred highway is then classified as part of the local road or street system of the receiving jurisdiction, the transfer of money to the receiving jurisdiction shall be calculated on the basis of the revenue worth per mile of a county local road as determined in subsection (2). If the transferred highway is then classified as part of the primary road or major street system of the receiving jurisdiction, the transfer of money to the receiving jurisdiction shall be calculated on the basis of the revenue worth per mile of a county primary road as determined in subsection (2). This subsection and subsection (5) shall not be construed to effect contracts entered into before or after the effective date of this subsection pursuant to Act No. 166 of the Public Acts of 1965, being sections 408.551 to 408.558 of the Michigan Compiled Laws, for the maintenance of a transferred highway.

(5) In cities and villages with a population of 25,000 or more, trunk line mileage that is transferred to local jurisdiction after July 1, 1992 and is then classified as a major street shall be certified at twice its measured length.

(6) The transfer of funds under this section shall be included each year in the October appropriation of the Michigan transportation fund.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1992, Act 137, Imd. Eff. July 15, 1992

**Compiler's Notes:** In the fourth sentence of subsection (4), the phrase "to effect contracts entered" evidently should read "to affect contracts entered."

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.660b Comprehensive transportation fund.**

Sec. 10b.

(1) A fund to be known as the comprehensive transportation fund is established and shall be set up and maintained in the state treasury as a separate fund. In addition to the money distributed to the comprehensive transportation fund pursuant to this act, the money authorized to be credited to the comprehensive transportation fund pursuant to section 25 of the general sales tax act, 1933 PA 167, MCL 205.75, shall be deposited in the comprehensive transportation fund and is appropriated to the department for the purposes described in section 10e.

(2) The comprehensive transportation fund shall be administered by the department in accordance with this act.

(3) The general functions of the department in the administration of funds for comprehensive transportation services shall include the following:

(a) Establishing public transportation procedures and administrative practices for which there is a clear requirement for uniformity statewide.

(b) Planning and providing for the current and long-range development of a system of public transportation in areas for which an eligible authority or eligible governmental agency does not exist.

(c) Investigating public transportation conditions and making recommendations for improvement to the state transportation commission for forwarding to the legislature.

(d) Encouraging, coordinating, and administering grants for research and demonstration projects to develop the application of new ideas and concepts in public transportation facilities and services as applied to state as opposed to nationwide problems.

(e) Performing each function necessary to comply fully with present or future federal transportation acts.

(f) Except as provided in section 8 of the regional transit authority act, administering and distributing money from the comprehensive transportation fund and the proceeds of notes and bonds sold for public transportation purposes. If money is raised by an eligible authority or an eligible governmental agency for a public transportation capital outlay project funded pursuant to sections 3, 5, and 6 of the urban mass transportation act of 1964, 49 USC 1602, 1604, and 1605, or federal law codified in 23 USC 101 to 407, this state shall pay not less than 66-2/3% of the local match. This state shall not expend money as a local match or otherwise, and an eligible authority or eligible governmental agency shall not expend money distributed pursuant to this act, as a local match or otherwise, for the preliminary or final construction engineering plans or the construction of a subway system within the area of the southeastern Michigan transportation authority until that expenditure is approved by concurrent resolution of the legislature. The concurrent resolution shall be approved on a record roll call vote of each house. This state shall not expend money for the construction, operation, or maintenance of a commuter boat service system within a county which is a member of the southeastern Michigan transportation authority until approved by concurrent resolution of the legislature. The concurrent resolution shall be approved on a record roll call vote of each house.

(g) Applying for, receiving, and accepting any grant, gift, contribution, loan, or other assistance in the form of money, property, labor, and any other form from a public or private source, including assistance from an agency or instrumentality of the United States and doing each thing as is necessary to apply for, receive, and administer that assistance in accordance with the laws of this state.

(h) Promulgating rules for the implementation and administration of the comprehensive transportation fund, pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(i) Issuing bonds or notes for public transportation purposes in accordance with this act.

(j) Making direct expenditures, loans, grants, or guaranteeing lease costs to public and private corporations for public transportation purposes using the comprehensive transportation fund or using as appropriate, the proceeds of notes and bonds authorized by section 18b.

**History:** Add. 1976, Act 297, Eff. Nov. 15, 1976 ;-- Am. 1978, Act 393, Imd. Eff. Aug. 1, 1978 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 2012, Act 391, Imd. Eff. Dec. 19, 2012

**Constitutionality:** MCL 474.51 et seq. and MCL 247.660b et seq. are constitutional. In re Advisory Opinion 1976 PA 295 and 1976 PA 297, 401 Mich 686; 259 NW2d 129 (1977).

**Compiler's Notes:** Former MCL 247.660b, pertaining to the creation of a general transportation fund, was repealed by Act 296 of 1976.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**Admin Rule:** R 247.4101 et seq. of the Michigan Administrative Code.



## 247.660c Definitions.

Sec. 10c.

As used in this act:

(a) "Urban or rural area" means a contiguous developed area, including the immediate surrounding area, where transportation services should reasonably be provided presently or in the future; the area within the jurisdiction of an eligible authority; or for the purpose of receiving funds for public transportation, a contiguous developed area having a population of less than 50,000 that has an urban public transportation program approved by the state transportation department and for which the state transportation commission determines that public transportation services should reasonably be provided presently or in the future.

(b) "Eligible authority" means an authority organized under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426.

(c) "Eligible governmental agency" means a county, city, or village or an authority created under 1963 PA 55, MCL 124.351 to 124.359; the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512; 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536; 1951 PA 35, MCL 124.1 to 124.13; the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479; or the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(d) "Transit vehicle" means a bus, rapid transit vehicle, railroad car, street railway car, water vehicle, taxicab, or other type of public transportation vehicle or individual unit, whether operated singly or in a group that provides public transportation.

(e) "Transit vehicle mile" means a transit vehicle operated for 1 mile in public transportation service including demand actuated and line-haul vehicle miles.

(f) "Demand actuated vehicle" means a bus or smaller transit vehicle operated for providing group rides to members of the general public paying fares individually, and on demand rather than in regularly scheduled route service.

(g) "Demand actuated vehicle mile" means a demand actuated vehicle operated for 1 mile in service to the general public.

(h) "Public transportation", "comprehensive transportation", "public transportation service", "comprehensive transportation service", "public transportation purpose", or "comprehensive transportation purpose" means the movement of people and goods by publicly or privately owned water vehicle, bus, railroad car, street railway, aircraft, rapid transit vehicle, taxicab, or other conveyance that provides general or special service to the public, but not including charter or sightseeing service or transportation which is exclusively for school purposes. Public transportation, public transportation services, or public transportation purposes; and comprehensive transportation, comprehensive transportation services, or comprehensive transportation purposes as defined in this subdivision are declared by law to be transportation purposes within the meaning of section 9 of article IX of the state constitution of 1963.

(i) "State transportation commission" or "commission" means the state transportation commission established in section 28 of article V of the state constitution of 1963.

(j) "Governmental unit" means the state transportation department, the state transportation commission, a county road commission, a city, or a village.

(k) "Department" or "department of transportation" means the state transportation department, the principal department of state government created under section 350 of the executive organization act of 1965, 1965 PA 380, MCL 16.450.

(l) "Preservation" means an activity undertaken to preserve the integrity of the existing roadway system. Preservation does not include new construction of highways, roads, streets, or bridges, a project that increases the capacity of a highway facility to accommodate that part of traffic having neither an origin nor destination within the local area, widening of a lane width or more, or adding turn lanes of more than 1/2 mile in length. Preservation includes, but is not limited to, 1 or more of the following:

- (i) Maintenance.
- (ii) Capital preventive treatments.
- (iii) Safety projects.
- (iv) Reconstruction.
- (v) Resurfacing.
- (vi) Restoration.
- (vii) Rehabilitation.
- (viii) Widening of less than the width of 1 lane.
- (ix) Adding auxiliary weaving, climbing, or speed change lanes.
- (x) Modernizing intersections.
- (xi) Adding auxiliary turning lanes of 1/2 mile or less.
- (xii) Installing traffic signs in new locations, installing signal devices in new locations, and replacing existing

signal devices.

(m) "Maintenance" means routine maintenance or preventive maintenance, or both. Maintenance does not include capital preventive treatments, resurfacing, reconstruction, restoration, rehabilitation, safety projects, widening of less than 1 lane width, adding auxiliary turn lanes of 1/2 mile or less, adding auxiliary weaving, climbing, or speed-change lanes, modernizing intersections, or the upgrading of aggregate surface roads to hard surface roads. Maintenance of state trunk line highways does not include streetlighting except for freeway lighting for traffic safety purposes.

(n) "Routine maintenance" means actions performed on a regular or controllable basis or in response to uncontrollable events upon a highway, road, street, or bridge. Routine maintenance includes, but is not limited to, 1 or more of the following:

- (i) Snow and ice removal.
- (ii) Pothole patching.
- (iii) Unplugging drain facilities.
- (iv) Replacing damaged sign and pavement markings.
- (v) Replacing damaged guardrails.
- (vi) Repairing storm damage.
- (vii) Repair or operation of traffic signs and signal systems.
- (viii) Emergency environmental cleanup.
- (ix) Emergency repairs.
- (x) Emergency management of road closures that result from uncontrollable events.
- (xi) Cleaning streets and associated drainage.
- (xii) Mowing roadside.
- (xiii) Control of roadside brush and vegetation.
- (xiv) Cleaning roadside.
- (xv) Repairing lighting.
- (xvi) Grading.

(o) "Preventive maintenance" means a planned strategy of cost-effective treatments to an existing roadway system and its appurtenances that preserve assets by retarding deterioration and maintaining functional condition without significantly increasing structural capacity. Preventive maintenance includes, but is not limited to, 1 or more of the following:

- (i) Pavement crack sealing.
- (ii) Micro surfacing.
- (iii) Chip sealing.
- (iv) Concrete joint resealing.
- (v) Concrete joint repair.
- (vi) Filling shallow pavement cracks.
- (vii) Patching concrete.
- (viii) Shoulder resurfacing.
- (ix) Concrete diamond grinding.
- (x) Dowel bar retrofit.
- (xi) Bituminous overlays of 1-1/2 inches or less in thickness.
- (xii) Restoration of drainage.
- (xiii) Bridge crack sealing.
- (xiv) Bridge joint repair.
- (xv) Bridge seismic retrofit.
- (xvi) Bridge scour countermeasures.
- (xvii) Bridge painting.
- (xviii) Pollution prevention.
- (xix) New treatments as they may be developed.

(p) "County road commission" means the board of county road commissioners elected or appointed pursuant to section 6 of chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county with a population of 750,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission provided for in section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions. In addition, if a board of county road commissioners is dissolved as provided in section 6 of chapter IV of 1909 PA 283, MCL 224.6, county road commission includes the county board of commissioners of the county.

(q) "Capital preventive treatments" means any preventive maintenance category project on state trunk line highways that qualifies under the department's capital preventive maintenance program.

(r) "Public transit region" means that term as defined in the regional transit authority act.

(s) "Regional transit authority" means an authority created under the regional transit authority act.

**History:** Add. 1976, Act 297, Eff. Nov. 15, 1976 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 1990, Act 73, Imd. Eff. May 17, 1990 ;-- Am. 2002, Act 498, Imd. Eff. July 3, 2002 ;-- Am. 2005, Act 45, Imd. Eff. June 16, 2005 ;-- Am. 2008, Act 485, Imd. Eff. Jan. 12, 2009 ;-- Am. 2010, Act 257, Imd. Eff. Dec. 14, 2010 ;-- Am. 2012, Act 298, Imd. Eff. Aug. 23, 2012 ;-- Am. 2012, Act 391, Imd. Eff. Dec. 19, 2012

**Compiler's Notes:** Former MCL 247.660c, containing definitions, was repealed by Act 296 of 1976.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.660d Comprehensive transportation fund; distribution.**

Sec. 10d.

The comprehensive transportation fund shall be distributed to eligible authorities for public transportation purposes, distributed to eligible governmental agencies which are not within the jurisdiction of an eligible authority for public transportation purposes, distributed to a regional transit authority, for public transportation purposes, and expended by the department for public transportation purposes. A distribution to an eligible governmental agency located within the jurisdiction of an eligible authority for public transportation purposes may be made directly if the eligible governmental agency was providing public transportation service on January 3, 1973. Except for an eligible governmental agency that was providing public transportation service on January 3, 1973, distribution for public transportation purposes may be made directly to an eligible governmental agency located within the jurisdiction of an eligible governmental agency or eligible authority that is providing public transportation service on the date of the creation of the comprehensive transportation fund, only if approved by the eligible governmental agency or eligible authority in which the eligible governmental agency is located. Further, except for an eligible governmental agency or eligible authority in whose jurisdiction is located an eligible governmental agency that was providing public transportation service on January 3, 1973, a distribution may be made directly to an eligible governmental agency or eligible authority in whose jurisdiction is located an eligible governmental agency that is providing public transportation service on the date of the creation of the comprehensive transportation fund, only if approved by the eligible governmental agency located within the eligible governmental agency or eligible authority. A county that withdraws from an eligible authority shall not be considered to be within the jurisdiction of the eligible authority.

**History:** Add. 1976, Act 297, Eff. Nov. 15, 1976 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 2012, Act 391, Imd. Eff. Dec. 19, 2012

**Compiler's Notes:** Former MCL 247.660d, pertaining to use and objectives of general transportation fund, was repealed by Act 296 of 1976.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.660e Comprehensive transportation fund; appropriation and expenditure; order of priority; capital grants; instructions; submission of local transportation program to department; department transportation program; proposed state transportation program; action by commission; approval of projects; agreement; approval of multiyear public transportation program; grant-in-aid instrument; audits; source of funds for payment of eligible capital projects, local bus new services, and intercity passenger operating assistance projects; demand actuated service; plan; exceptions; annual report; appropriation; application, receipt, and disbursement of funds.**

Sec. 10e.

(1) The comprehensive transportation fund is appropriated for each fiscal year in the following order of priority.

(2) The first priority is to pay, but only from money restricted as to use by section 9 of article IX of the state constitution of 1963, the principal and interest on bonds or notes issued under section 18b for comprehensive transportation purposes as defined by law. A sufficient portion of the comprehensive transportation fund is irrevocably appropriated to pay, when due, the principal and interest on those bonds and notes.

(3) After making or setting aside payments required by subsection (2), the second priority of the comprehensive transportation fund is the payment of the department's cost in administering the comprehensive transportation fund. The amount to be expended pursuant to this subsection shall not exceed the costs appropriated for the

administration of the fund in the fiscal year ending September 30, 1987, as adjusted annually on October 1, by the change for the preceding 12 months in the Detroit consumer price index for urban wage earners and shall be appropriated annually by the legislature.

(4) After making or setting aside payments required by subsections (2) and (3), the balance of the comprehensive transportation fund shall be expended each fiscal year as appropriated annually by the legislature pursuant to the state transportation program approved by the commission as follows:

(a) The third priority shall be the payment of operating grants to eligible authorities and eligible governmental agencies according to the following formulations and subject to the following requirements:

(i) For the fiscal year ending September 30, 1998, and for each fiscal year thereafter, each eligible authority and eligible governmental agency that provides public transportation services in urbanized areas under 49 USC 5307, with a Michigan population greater than 100,000 shall receive a grant of up to 50% of their eligible operating expenses as defined by the department.

(ii) For the fiscal year ending September 30, 1998, and each fiscal year thereafter, each eligible authority and eligible governmental agency that provides public transportation services in urbanized areas with a Michigan population less than or equal to 100,000 and nonurbanized areas under 49 USC 5311, shall receive a grant of up to 60% of their eligible operating expenses as defined by the department. For purposes of receiving a grant under this subparagraph in nonurbanized areas, eligible costs of services provided by water vehicle shall be reimbursed at not less than 50% of the portion of the costs not eligible for reimbursement by the federal government.

(iii) Funds shall not be distributed to an eligible authority or eligible governmental agency under this act unless the eligible authority or eligible governmental agency provides or agrees to provide preferential fares for public transportation services to persons 65 years of age or over or persons with disabilities riding in off peak periods of service. As used in this section, "person with disabilities" means an individual with a disability as that term is defined in 61 FR 56424 (November 1, 1996) and 49 CFR part 27. The preferential fares shall not be higher than 50% of the regular 1-way single fare.

(iv) Eligible authorities and eligible governmental agencies shall not engage in charter service using vehicles, facilities, or equipment funded under this act except on an incidental basis as defined by 49 CFR part 604.

(v) Notwithstanding any other provision of this subsection, for the fiscal year ending September 30, 1998, each eligible authority and eligible governmental agency shall receive a distribution from the comprehensive transportation fund not less than the distribution received for eligible operating expenses for the fiscal year ending September 30, 1997. Beginning with the fiscal year ending September 30, 1998 and each fiscal year thereafter, each eligible authority and eligible governmental agency shall receive a distribution from the comprehensive transportation fund for eligible operating expenses not less than the distribution received for the fiscal year ending September 30, 1997. As it relates to this subsection the ratio between comprehensive transportation funds and local funds in the fiscal year ending September 30, 1989 shall be maintained for all fiscal years by the eligible authority and eligible governmental agency. Reductions in this ratio shall require a proportionate reduction in the comprehensive transportation funds provided for any fiscal year.

(vi) Each eligible authority and eligible governmental agency receiving comprehensive transportation funds shall prepare and submit to the department a quarterly report of the progress made in carrying out its local transportation program within 40 days after the end of each fiscal year quarter. The progress report shall be made on forms authorized by the United States department of transportation under the provisions of the surface transportation and uniform relocation assistance act of 1987, Public Law 100-17, 101 Stat. 132.

(vii) The department shall periodically adjust or redistribute comprehensive transportation funds previously distributed under this subdivision.

(b) For the fiscal year ending September 30, 1997, and each fiscal year thereafter, not less than 10% shall be distributed by the department for intercity passenger and intercity freight transportation purposes.

(c) For the fiscal year ending September 30, 1997, and each fiscal year thereafter, funds remaining in the fund after payment of the amounts required by subdivisions (a) and (b) shall be distributed by the department for public transportation purposes. For the fiscal year ending September 30, 1998, and each fiscal year thereafter, funds shall be made available to match all projects for eligible authorities and eligible governmental agencies that are approved for federal funding as provided by federal law and for which an approved transportation improvement program (TIP) and state transportation improvement plan (STIP) exist. Funds distributed under this subdivision shall be expended pursuant to specific line item appropriation for, but are not limited to, the following public transportation purposes:

(i) The specialized services assistance program. The specialized services assistance program shall be funded with not less than \$3,600,100.00 from funds distributed under this subdivision. Funds shall be distributed according to guidelines developed by the department based upon the following considerations:

(A) Proposals for coordinated specialized services assistance funding shall be developed jointly between existing eligible authorities or eligible governmental agencies that provide public transportation services and the area agencies on aging or any other organization representing specialized services interests, as defined in this subdivision. Plans shall be reviewed and approved by the bureau of urban and public transportation of the department. Upon approval, the department shall release the funds to the eligible authority or eligible governmental

agency which shall then allocate the funds to the area agency on aging or any other organization representing specialized services interests, as defined in this subdivision for the purchase of services as approved in the plan by the department.

(B) If an eligible authority or eligible governmental agency does not exist to provide public transportation service in a county, coordinated proposals for specialized services assistance funding may be submitted by the area agency on aging or any other organization representing specialized services interests, as defined in this subdivision. The proposals shall be reviewed and approved by the bureau of urban and public transportation of the department. Upon approval, the department shall release the funds to the area agency on aging or any other organization representing specialized services interests, as defined in this subdivision for the purchase of services as approved in the plan by the department.

(C) For the purposes of this program, "specialized services" means public transportation primarily designed for persons with disabilities or persons who are 65 years of age or older.

(ii) Local bus capital. For the fiscal year ending September 30, 1998 and each fiscal year thereafter, not less than \$8,000,000.00 will be distributed for either matching federal funds for local bus capital or 100% capital projects for eligible authorities and eligible governmental agencies that are not eligible to receive federal capital formula funds under section 5307 of the federal intermodal surface transportation efficiency act, Public Law 102-240, or any successor act.

(iii) Local bus new services.

(iv) Not less than \$2,000,000.00 in each fiscal year for the credit program established under section 10I.

(v) Public transportation development.

(vi) Other public transportation programs approved by the commission.

(d) The unappropriated and unencumbered balance of the comprehensive transportation fund lapses at the end of each fiscal year and reverts to the comprehensive transportation fund for appropriation in the following fiscal year.

(5) Eligible authorities and eligible governmental agencies shall receive capital grants each fiscal year by the annual process described in this section. Amounts received by an eligible authority or eligible governmental agency pursuant to this subsection shall be expended by that authority or agency solely for capital projects that have been approved by the state transportation commission. Any funds approved by distribution to an eligible authority or eligible governmental agency pursuant to this section that have not been encumbered by that agency or authority for an approved capital project by the end of the following fiscal year in which the funds were approved shall not be expended by the authority or agency and be available for distribution from the comprehensive transportation fund for the purposes described in this section.

(6) The department, in carrying out the policy of the state transportation commission, shall annually prepare and distribute by December 1, instructions to eligible governmental agencies, eligible authorities, and intercity carriers to enable the preparation of a local transportation program. Eligible governmental agencies, eligible authorities, and intercity carriers shall give public notice of their intent to apply for money in the comprehensive transportation fund to the residents of the counties, townships, villages, and cities affected by the local transportation program and shall make their application available for a period of 30 days. All comments received by the eligible governmental agency, eligible authority, or intercity carrier shall be transmitted to the department.

(7) On or before March 1 of each year, each intercity carrier, eligible authority, and eligible governmental agency shall submit to the department its local transportation program for the next succeeding fiscal year. The format for each local transportation program shall be as prescribed by the federal transportation improvement program insofar as practical and shall include project descriptions, funding sources, and justification for each line item, and summary budgets based on distributions anticipated under subsection (4). The program shall contain at a minimum the contemplated routes, hours of service, estimated transit vehicle miles, costs of public transportation services, and projected capital improvements or projects as exclusively determined by the eligible authority or eligible governmental agency. The costs of service and capital improvements or projects shall be in sufficient detail to permit the department to evaluate and approve the annual public transportation program. Determination of individual projects to be included in the local transportation programs other than those provided in this subsection shall be made by the governing body of the eligible authority or eligible governmental agency.

(8) On or before March 1 of each year, the department shall prepare and file for public inspection and review the department transportation program. The department transportation program shall be prepared on similar format to the local transportation programs, and shall include a summary description of projects, with funding sources and project justifications for each line item for the fiscal year immediately succeeding the fiscal year in which the program is submitted. In addition, the department transportation program shall include summary, nondetailed budget and project descriptions and justifications excluding projects contained in a local transportation program.

(9) On or before April 1 of each year, the department shall prepare and file with the commission the proposed state transportation program for the next succeeding fiscal year. The proposed state transportation program shall contain the local transportation programs of each intercity carrier, eligible authority and eligible governmental agency, the department transportation program, and the programs for the expenditure of the state trunk line fund as they may have been supplemented, amended, or modified since their original filing. The state transportation program shall include the estimated amount of money in the funds described in this subsection by revenue source,



project justifications, project descriptions funding sources, and budget summaries.

(10) On or before May 1 of each year, the state transportation commission shall act on the state transportation program for the fiscal year commencing on the following October 1. In considering approval of the proposed projects of each intercity carrier, eligible authority, or eligible governmental agency, other than projects that are to be funded pursuant to subsection (5), the state transportation commission shall consider whether the projects comply with state law, are within funds allocated in this section, whether they may be funded within the approved budgets, whether there are intercity carriers, eligible authorities, and eligible governmental agencies responsible to implement the projects, and the recommendations of the department on individual projects. Upon making those determinations, the state transportation commission shall approve the projects which best meet the criteria of this subsection.

(11) By October 1, the department and each intercity carrier, eligible authority, or eligible governmental agency shall enter into a contractual agreement or standardized grant memorandum of agreement, which may cover 1 or more projects to be made from this section in the applicable fiscal year to the intercity carrier, eligible authority, or eligible governmental agency from the comprehensive transportation fund.

(12) After a multiyear public transportation program is approved by the state transportation commission, the department may enter into a grant-in-aid instrument with an eligible authority, intercity carrier, or eligible governmental agency obligating the state to a minimum level of funding for approved projects to be available over the multiyear period of the program. This obligation shall be binding upon the department as long as the provisions and conditions of the state transportation commission approved program are carried out as agreed.

(13) Contracts and grant memorandum agreements may be audited by the state transportation commission's office of commission audits using rules promulgated by the United States general accounting office and the terms and conditions of the respective contracts and agreements. Third party agreements are subject to the review and approval of the department.

(14) Funds distributed by the department may pay 100% of the portion of the cost not eligible for reimbursement by the federal government for eligible capital projects authorized by the state transportation commission using comprehensive transportation funds or the proceeds of notes and bonds issued under section 18b. Priority for funding obligation shall be given to capital projects for which federal funds have been authorized.

(15) All approved local bus new services initiated by eligible authorities and eligible governmental agencies not in their fourth year or beyond of funding on October 1, 1988, shall be funded from subsection (4)(c)(iii). Local bus new services shall be funded under subsection (4)(c)(iii) in the following percentages of eligible operating expenses as determined by the department:

- (a) Startup 100%.
- (b) First year 90%.
- (c) Second year 80%.
- (d) Third year 70%.

(e) Fourth year and each year thereafter, as determined by and from funds provided under subsection (4)(a). The balance of eligible operating expenses shall be met from local revenue sources including farebox. The department shall pay up to 100% of eligible capital expenses during the startup and first 3 years of service, after the third year, the department shall participate in eligible capital expenses in the same percentage as for other eligible authorities and eligible governmental agencies. For the purposes of this subsection, eligible operating and capital expenses means those expenses determined by the department as applicable to existing eligible authorities and eligible governmental agencies. The department shall prioritize annually all requests for comprehensive transportation funds to institute new services under this subsection. First priority shall be given to eligible authorities and eligible governmental agencies who have not completed their first 3 years of service by October 1, 1998. New services initiated by eligible authorities and eligible governmental agencies under this subsection shall meet all of the requirements of section 10.

(16) The department shall pay up to 80% of the portion of the cost not eligible for reimbursement by the federal government for intercity passenger operating assistance projects authorized by the commission for the first 2 years of new services. For the third year, eligible costs shall be reimbursed at up to 60% of the portion of the cost not eligible for reimbursement by the federal government. After the third year, eligible costs shall be reimbursed at up to 50% of the portion of the cost not eligible for reimbursement by the federal government. Eligible costs of services provided as of September 30, 1981, shall be reimbursed at up to 50% of the portion of the cost not eligible for reimbursement by the federal government. However, the amount of funds from the comprehensive transportation fund when added to federal funds and local funds shall not exceed the total operating assistance project cost.

(17) A vehicle purchased, leased, or rented after November 15, 1976, by an eligible authority or eligible governmental agency with funds made available under this act and not already committed under a contract in existence on November 15, 1976, shall not be used to provide service on a fixed schedule and fixed route for which a passenger fee is charged unless the vehicle is accessible to a person using a wheelchair from a roadway level or curb level, and has accommodations in which 1 or more wheelchairs can be secured.

(18) A vehicle used to provide demand actuated service shall not be purchased, leased, or rented by an eligible authority or eligible governmental agency after October 1, 1978, with funds made available under this act unless the

eligible authority or eligible governmental agency has submitted a plan to the department describing the service to be provided by the demand actuated service to persons 65 years of age or older and persons with disabilities within the applicable service area and that plan has been approved by the department. The department shall approve the plan as submitted or modified or shall reject the plan within 60 days after the plan is submitted. A plan that describes the service to be provided by the demand actuated service shall not be approved by the department unless that plan provides the following:

(a) That demand actuated service will be provided to persons 65 years of age or older and persons with disabilities residing in the entire service area subject to the plan.

(b) That as a minimum, demand actuated service will be provided to persons 65 years of age or older and persons with disabilities during the same hours as service is provided to all other persons in the service area subject to the plan.

(c) That the average time period required for demand actuated service to persons 65 years of age or older and persons with disabilities from the initiation of a service request to arrival at the destination is equal to the average time period required for demand actuated service provided to all other persons in the service area subject to the plan.

(d) That the eligible authority or eligible governmental agency submitting the plan has established a local advisory council with not less than 50% of its membership representing persons 65 years of age or older and persons with disabilities within the service area subject to the plan and that the local advisory council has had an opportunity to review and comment upon the plan before its submission to the department. Each eligible authority or eligible governmental agency jointly with the area agency on aging shall approve at least 1 or the equivalent of 12% of the membership of the local advisory council. Each advisory council comment shall be included in the plan when submitted to the department.

(19) Notwithstanding subsection (18), a plan required by subsection (18) that is not approved or rejected by the department within 60 days after submission shall be considered approved as submitted.

(20) Subsections (17), (18), and (19) shall not apply to vehicles or facilities used to transport persons by rail, air, or water or to vehicles of common carriers licensed by the department.

(21) After January 1, 1979, the department shall submit an annual report to the legislature detailing the service provided in the prior year for persons 65 years of age or older and persons with disabilities by fixed route service and demand actuated service. This report shall include a record of passenger usage and shall be submitted by April 1 of each year.

(22) Notwithstanding any other provision of this section, for each fiscal year that begins after September 30, 2009, the governor and the state budget director shall include in the annual budget submitted to the legislature for the ensuing fiscal period under section 18 of article V of the state constitution of 1963 an appropriation from a fund or funds other than the comprehensive transportation fund to a street railway organized under the nonprofit street railway act, 1867 PA 35, MCL 472.1 to 472.27, of a sum equal to the difference between the annual operating expenses of the street railway and revenue received by the street railway during the same annual period, including, but not limited to, tax increment revenues received by the street railway under section 23 of the nonprofit street railway act, 1867 PA 35, MCL 472.23. The appropriation submitted in the budget under this section shall not exceed 8% of the total private investment in the street railway as determined by the department. A street railway is not an eligible authority or eligible governmental agency for purposes of subdivision (4)(a).

(23) For each eligible authority and each eligible governmental agency within a public transit region, a regional transit authority shall apply for, receive, and disburse funds under section 8 of the regional transit authority act.

**History:** Add. 1976, Act 297, Eff. Nov. 15, 1976 ;-- Am. 1978, Act 140, Imd. Eff. May 11, 1978 ;-- Am. 1978, Act 393, Imd. Eff. Aug. 1, 1978 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1984, Act 255, Imd. Eff. Nov. 30, 1984 ;-- Am. 1986, Act 254, Imd. Eff. Dec. 9, 1986 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 1990, Act 73, Imd. Eff. May 17, 1990 ;-- Am. 1997, Act 79, Eff. July 28, 1997 ;-- Am. 1998, Act 87, Imd. Eff. May 13, 1998 ;-- Am. 2008, Act 487, Imd. Eff. Jan. 12, 2009 ;-- Am. 2012, Act 391, Imd. Eff. Dec. 19, 2012

**Compiler's Notes:** Former MCL 247.660e, pertaining to priorities in use of general transportation fund, was repealed by Act 296 of 1976.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.660f Repealed. 1982, Act 438, Eff. Jan. 1, 1983.**

**Compiler's Notes:** The repealed section pertained to development, review, and approval of annual public transportation program.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.660g Rules.**

Sec. 10g.

The state transportation department shall promulgate rules for the implementation and administration of the comprehensive transportation fund pursuant to Act No. 306 of the Public Acts of 1969, as amended.

**History:** Add. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**Admin Rule:** R 247.4101 et seq. of the Michigan Administrative Code.

## **247.660h Report by state transportation commission to legislature, governor, and auditor general; contents; audit; cost; submission of audit report and management letter to department; minimum audit standards and requirements; task force.**

Sec. 10h.

(1) By May 1 of each year, the state transportation commission shall report to each member of the legislature, the governor, and the auditor general its recommendations for a transportation program that the state transportation commission acts on under section 10e(10). The report shall specify the following:

(a) The estimated amount of money in the comprehensive transportation fund to be distributed in the following fiscal year and the amount of money in the comprehensive transportation fund to be distributed to each eligible authority, each intercity carrier, each eligible governmental agency, and the department; the estimated amount of money in the state trunk line fund to be distributed to the department for the preservation, as defined in section 10c, of state trunk line highways; and the estimated amount of money in the state trunk line fund to be distributed to the department for all other purposes in the following fiscal year. The report shall further subdivide the money to be distributed to each eligible authority, each intercity carrier, each eligible governmental agency, the department from the comprehensive transportation fund, the department from the state trunk line fund for the preservation of state trunk line highways, and the department from the state trunk line fund for all other purposes specifying how much of that money is proposed to be expended for either capital acquisitions, including demonstration projects, or for operating expenses, including demonstration projects.

(b) An account of all expenditures of funds distributed from the state trunk line fund and the comprehensive transportation fund to the department, eligible authorities, intercity carriers, and eligible governmental agencies, and the progress made by the department, eligible authorities, intercity carriers, and eligible governmental agencies in carrying out the approved transportation programs in the preceding fiscal year through the use of those funds. The progress report shall be made based on information supplied to the department on forms authorized by the federal department of transportation. For those eligible authorities, intercity carriers, and eligible governmental agencies not receiving federal funds pursuant to the urban mass transportation act of 1964, Public Law 88-365, the progress report shall be made upon forms supplied by the department. The progress report shall also contain the whole amount of the expenses of the department for the fiscal year.

(c) Each project certified to be eligible for a multiyear funding commitment.

(d) The status of all multiyear funding commitments.

(e) An account of the department's compliance in the preceding year with the requirements of section 11(2) and (3). The report shall also specify the justification for a waiver of the requirement of section 11(3), if that requirement was waived.

(2) The financial transactions and accounts related to distributions made from the comprehensive transportation fund to an eligible authority shall be audited pursuant to the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, or the regional transit authority act, whichever applies. The cost of the audit shall be paid by the eligible authority. The financial transactions and accounts related to distributions made from the fund to an eligible governmental agency, other than a county, shall be audited in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a. The financial transactions and accounts related to distributions made from the fund to a county that is an eligible governmental agency shall be



audited in accordance with 1919 PA 71, MCL 21.41 to 21.55. The financial transactions and accounts relative to distributions made to an intercity carrier shall be audited by an independent certified public accountant in accordance with instructions promulgated by the department of treasury. A copy of the complete audit report and management letter shall be submitted by the eligible authority, intercity carrier, or eligible governmental agency to the department. The department of treasury shall develop minimum audit standards and requirements.

(3) There is hereby established a task force composed of the Michigan public transit association, the Michigan motorbus association, the Michigan rail users and supporters association, the Michigan railroad association, a representative of a state-owned or leased short line railroad, and the office of auditor general or a certified public accountant appointed by the auditor general, to assist the department in the development of the progress report requirements outlined in subsection (1)(b).

**History:** Add. 1976, Act 297, Eff. Nov. 15, 1976 ;-- Am. 1977, Act 87, Imd. Eff. Aug. 2, 1977 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 2002, Act 498, Imd. Eff. July 3, 2002 ;-- Am. 2012, Act 391, Imd. Eff. Dec. 19, 2012

**Compiler's Notes:** Former MCL 247.660h, pertaining to reports, was repealed by Act 296 of 1976.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.660i Repealed. 1978, Act 444, Imd. Eff. Oct. 10, 1978.**

**Compiler's Notes:** The repealed section provided for the creation of a public transportation council. A former MCL 247.660i, pertaining to creation of a public transportation council, was repealed by Act 296 of 1976.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.660j Ineligibility for grant or distribution; accrued pension or retirement liabilities.**

Sec. 10j.

(1) An eligible authority or eligible governmental agency may not receive a grant or distribution pursuant to this act if it has an employee which is considered to be a state employee or is subject to the jurisdiction of the department of civil service.

(2) An eligible authority may not receive a grant or distribution pursuant to this act if the eligible authority assumes responsibility for a pension or retirement benefit which accrued to former employees of acquired public or private transportation systems who are not transferred as regular employees to the authority at the time of acquisition in conformity with sections 13 and 24 of Act No. 204 of the Public Acts of 1967, as amended, being sections 124.413 and 124.424 of the Michigan Compiled Laws.

(3) Nothing in this section shall relieve former employers of any accrued pension or retirement liabilities to employees or former employees not transferred at the time of acquisition.

**History:** Add. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.660k Nonmotorized transportation services and facilities; expenditures; improvements as qualified nonmotorized facility; meeting requirements of section; 5-year program; notice and consultation; establishment of facilities; information and assistance as to planning, design, and construction.**

Sec. 10k.

(1) Transportation purposes as provided in this act include provisions for facilities and services for nonmotorized

transportation.

(2) Of the funds allocated from the Michigan transportation fund to the state trunk line fund and to the counties, cities, and villages, a reasonable amount, but not less than 1% of those funds shall be expended for construction or improvement of nonmotorized transportation services and facilities.

(3) An improvement in a road, street, or highway that meets accepted practices or established best practices and facilitates nonmotorized transportation such as the paving of unpaved road shoulders, the widening of lanes, the addition or improvement of a sidewalk in a city or village, or any other appropriate measure shall be considered to be a qualified nonmotorized facility for the purposes of this section.

(4) Units of government need not meet the provisions of this section annually, if the requirements are met as an average over a reasonable period of years, not to exceed 10.

(5) The state transportation department or a county, city, or village receiving money from the Michigan transportation fund annually shall prepare a 5-year program for the improvement of qualified nonmotorized facilities which when implemented would result in the expenditure of an amount equal to at least 1% of the amount distributed to the state transportation department or the county, city, or village, whichever is appropriate, from the Michigan transportation fund in the previous calendar year, multiplied by 10, less the accumulated total expenditures by the state transportation department or the county, city, or village for qualified nonmotorized facilities in the immediately preceding 5 calendar years. A county shall notify the state transportation department and each municipality in the county when the county completes preparation of its 5-year program under this subsection. A city or village shall notify the state transportation department and the county where the city or village is located when the city or village completes preparation of its 5-year program under this subsection. The department shall notify each affected county, city, or village when the department completes preparation of its 5-year program. A city or village receiving money from the Michigan transportation fund shall consult with the state transportation department or county in the city's or village's preparation of the 5-year program under this subsection when planning a nonmotorized project affecting a facility under the jurisdiction of the state transportation department or county. A county receiving money from the Michigan transportation fund shall consult with the state transportation department or a city or village when planning a nonmotorized project affecting a transportation facility under the jurisdiction of the state transportation department or the city or village. The department shall consult with a county, city, or village when planning a nonmotorized project affecting a transportation facility within the county, city, or village.

(6) Facilities for nonmotorized transportation including those that contribute to complete streets as defined in section 10p may be established in conjunction with or separate from already existing highways, roads, and streets and shall be established when a highway, road, or street is being constructed, reconstructed, or relocated, unless:

(a) The cost of establishing the facilities would be disproportionate to the need or probable use.

(b) The establishment of the facilities would be contrary to public safety or state or federal law.

(c) Adequate facilities for nonmotorized transportation already exist in the area.

(d) The previous expenditures and projected expenditures for nonmotorized transportation facilities for the fiscal year exceed 1% of that unit's share of the Michigan transportation fund, in which case additional expenditures shall be discretionary.

(7) The state transportation department may provide information and assistance to county road commissions, cities, and villages on the planning, design, and construction of nonmotorized transportation facilities and services.

**History:** Add. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 2006, Act 82, Imd. Eff. Mar. 29, 2006 ;-- Am. 2010, Act 135, Imd. Eff. Aug. 2, 2010

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.660l Return of audit as credit to cities, villages, and townships; expenditure of credit; use of unexpended credit; final decision; expenditure by county as condition prohibited; coordination of services; "operating deficit" defined.**

Sec. 10l.

(1) Subject to subsections (2) and (3), for each 12-month period beginning October 1, 1987, and each 12-month period thereafter, \$2,000,000.00 shall be returned from the distribution under section 10e(4)(a) by each eligible authority organized or continued under the regional transit authority act as a credit to those cities, villages, and townships within the authority that receive credits under this section or that are eligible to receive credits as of October 1, 2001 if the city, village, or township applies to the authority for the credit in accordance with procedures and standards established by the authority. The return of money in terms of a credit shall be based upon

the population of each city, village, or township within the authority.

(2) For each 12-month period described in subsection (1), a city, village, or township described in subsection (1) may apply to the authority to use its credit for public transportation purposes within the authority's jurisdiction. However, the money returned as a credit to any city, village, or township that provides public transportation service for that city, village, or township shall be used exclusively toward reducing the operating deficit of that service. Any service provided by the city, township, or village utilizing the credit received under this section shall be operated by the authority returning the money in terms of a credit on a contractual basis with each city, village, or township or with a combination of cities, villages, and townships. If a city, township, or village has not applied to the authority to utilize its credit pursuant to this subsection by the last day of the 12-month period, that municipality's share of the money credited pursuant to subsection (1) shall be used by the authority for an expenditure within the county within which the city, village, or township lies.

(3) A city, village, or township that has applied for and received approval from the authority for use of its credit pursuant to subsection (2) shall have 1 year after the end of the period in which the application was made to actually expend that credit. A credit not actually expended by the city, village, or township by the last day of the year after the end of the period in which the application was made shall be used by the authority for an expenditure within the county within which the city, village, or township lies.

(4) Notwithstanding any other section of this or any other act, each authority authorized by this section to return money in terms of a credit shall have the final decision as to what constitutes a proper expenditure, a public transportation service, or a public transportation purpose under subsections (2) and (3).

(5) The expenditure of the amounts required to be expended under subsections (2) and (3) shall not be conditioned on an expenditure by a county in which the expenditure is required to be expended.

(6) An authority shall retain the ability to coordinate services between contracting cities, villages, and townships or groups of cities, villages, or townships.

(7) As used in this section, "operating deficit" means the operating cost of a public transportation service less the revenues generated by the service.

**History:** Add. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 2012, Act 391, Imd. Eff. Dec. 19, 2012

**Compiler's Notes:** Former MCL 247.660l, pertaining to operation of authority within transportation district, expired October 10, 1982.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.660m Schedule.**

### **Sec. 10m.**

An eligible authority or eligible governmental agency shall make available, at no cost, a schedule of the times at which public transportation services are offered by the eligible authority or eligible governmental agency as exclusively determined by the eligible authority or eligible governmental agency.

**History:** Add. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.660n Comprehensive transportation fund; distribution of funds; notes.**

### **Sec. 10n.**

(1) Funds from the comprehensive transportation fund may be distributed to a trustee, or to the Michigan municipal bond authority as created under the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076, that is authorized to receive the funds under a borrowing resolution adopted by an eligible authority. The issuance of the notes of an eligible authority in anticipation of payment of proceeds from the comprehensive transportation fund shall be authorized by a borrowing resolution of the eligible authority under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, or a regional transit authority under the regional

transit authority act. The issuance of the notes under this section is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and shall be subject to the prior approval of the state transportation commission. Failure of the commission to take action within 35 days after receipt of notification from the eligible authority of intent to issue the notes, constitutes approval by the state transportation commission. The eligible authority may only issue the notes in anticipation of funds to be received during its current fiscal year at any time before the eligible authority's receipt of the funds from the comprehensive transportation fund. The principal amount of notes for which the funds to be received from the comprehensive transportation fund are pledged shall not exceed 85% of the amount remaining to be received by the eligible authority from the comprehensive transportation fund in the current fiscal year. The pledge of 100% of the funds the eligible authority expects to receive from the comprehensive transportation fund shall be secured by a direct transfer of the pledge funds from the comprehensive transportation fund to the trustee or the Michigan municipal bond authority that is authorized to receive the funds by the borrowing resolution adopted by the eligible authority. The notes of the eligible authority shall not be in any way a debt or a liability of this state and shall not create or constitute any indebtedness, liability, or obligations of this state or be or constitute a pledge of the full faith and credit of this state. Each note shall contain on its face a statement to the effect that the eligible authority is obligated to pay the principal of and the interest on the note only from funds of or due to the eligible authority and that this state is not obligated to pay that principal or interest and that neither the faith in credit nor the taxing power of this state is pledged to the payment of the principal of or the interest on the note. The notes shall mature not more than 13 months from the date of issuance, shall bear interest at a fixed or variable rate or rates of interest per annum, and, in addition to other security required by this section, may be secured by letter or line of credit issued by a financial institution or as provided in the borrowing resolution.

(2) The issuance of notes under this section is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

**History:** Add. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 2002, Act 329, Imd. Eff. May 23, 2002 ;-- Am. 2012, Act 391, Imd. Eff. Dec. 19, 2012

**Compiler's Notes:** Former MCL 247.660n, which defined "department" or "department of transportation", was repealed by Act 438 of 1982.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.660o Allocation of federal funds to local jurisdictions; distributions; local federal aid exchange program.**

Sec. 10o.

(1) Twenty-three to twenty-seven percent of the DOT-FHWA highway research, planning, and construction federal funds appropriated to this state from the federal government for road and bridge construction must be allocated to programs administered by local jurisdictions after deduction of the following:

- (a) Funds that are specifically allocated at the federal level to this state or local jurisdictions.
- (b) Funds allocated by the department to this state and to local jurisdictions through a competitive process.

(2) Federal aid excluded from the calculation of funding allocated to programs administered by local jurisdictions in subsection (1) includes, but is not limited to, congestion mitigation and air quality funds, federal bridge funds, transportation enhancement funds, funds distributed at the discretion of the United States Secretary of Transportation, and congressionally designated funds.

(3) The funds must be distributed to eligible local agencies for transportation purposes in a manner consistent with state and federal law.

(4) It is the intent of the legislature that federal aid to highways allocated to local jurisdictions in subsection (1) be distributed in a manner that produces a 25% average allocation of applicable funds to programs for local jurisdictions in each fiscal year through the fiscal year ending September 30, 2000. Beginning in the fiscal year ending September 30, 1999, the average allocation of applicable federal aid to highway funds to programs for local jurisdictions must be the average of the amount distributed to local jurisdictions under subsection (1) and similarly calculated distributions in each succeeding fiscal year. The average allocation percentage described in this subsection must be adjusted to reflect any agreements made by the department with local jurisdictions regarding the state buyout of local federal aid.

(5) Subject to subsections (6) to (15), the department shall award money from the state trunk line fund to local road agencies in exchange for federal aid obligation authority allocated to local-agency projects as provided in this section, if allowed by federal law and rules.

(6) The department must make available money from the state trunk line fund in exchange for federal aid obligation authority awarded to local road agencies in the amounts described in subsection (8) unless the amount must be reduced to do either or both of the following:

(a) Match all available federal aid including reapportionments, redistributions, or other awards of federal aid obligation authority.

(b) Provide for debt service, the minimum state-funded program, routine maintenance of state trunk lines, administration, and all other functions of the department.

(7) If the department reduces the amount of money available from the state trunk line fund under subsection (6), the department must submit a letter to the chairpersons of the senate and house of representatives transportation committees, the chairpersons of the senate and house of representatives transportation appropriations subcommittees, the senate majority leader, and the speaker of the house of representatives explaining why the department is unable to match available federal aid or perform its essential functions.

(8) Except if reduced under subsection (6), the amount of money available from the state trunk line fund in exchange for federal aid obligation authority awarded to local road agencies must be not less than the following amounts:

(a) In the fiscal year ending September 30, 2023, \$25,000,000.00.

(b) In the fiscal year ending September 30, 2024, \$35,000,000.00.

(c) In the fiscal year ending September 30, 2025, and in every subsequent fiscal year, \$45,000,000.00.

(9) Local road agencies may apply for state money in exchange for 100% of the federal aid obligation authority allocated by the department to a local road agency project in a metropolitan planning organization transportation improvement program or in the rural transportation improvement program, in the manner and on the schedule determined by the department. The department must publish announcements, instructions, forms, and deadlines on its website. If applications are received that request more state money than is available to be exchanged in a fiscal year, awards must be made in the order received.

(10) State money must be exchanged with local road agencies for federal aid obligation authority in an amount equal to 90 cents per dollar of all federal aid obligation authority allocated in the approved transportation improvement plan to each project for which authority is exchanged.

(11) The department must pay state money exchanged for federal aid obligation authority to local road agencies when sufficient federal aid obligation authority is received from the Federal Highway Administration to cover the exchanges, not including any year-end redistributions.

(12) The first priority for the use of state money exchanged for federal aid obligation authority must be the local road agency project for which the federal aid obligation authority was originally proposed. If the state money exchanged for federal aid obligation authority exceeds the cost of the original project, any surplus must be applied to federal-aid-eligible projects by the local road agency or returned to the department. Completed work must be reported to the transportation asset management council investment reporting tool or any successor system.

(13) State money exchanged for federal aid obligation authority must be expended not later than 3 years after the exchange. If the project for which federal aid obligation authority was exchanged cannot be completed within 3 years, the local road agency must notify the department and its metropolitan planning agency or rural task force and identify an alternate project eligible for federal aid that can be constructed within the original 3-year period, or return the money to the department.

(14) In accordance with 23 USC 112, 23 CFR 635.104(b), and Federal Highway Administration Directive 5060.1, a local road agency that is awarded state money in exchange for federal aid obligation authority shall follow the policies adopted by the department that govern the number of force accounts and the total amount of money spent on force account project cost authorizations in a fiscal year. For each fiscal year in which a local road agency is awarded state money in exchange for federal aid obligation authority, the local road agency must certify to the department that the limits in this subsection are not exceeded. This subsection applies only to state money awarded in exchange for federal aid obligation authority as described in this section and not to any money garnered through any other means.

(15) Contracts between local road agencies and contractors for projects funded from state money exchanged for federal aid obligation authority must contain a federal wage and benefits schedule consistent with, and incorporating the requirements of, Section IV of Form FHWA 1273, revised May 1, 2012, or any successor form, and provide that covered workers are third-party beneficiaries of these contract requirements.

(16) As used in this section:

(a) "Federal aid obligation authority" means federal aid obligation authority and an equal amount of contract authority.

(b) "Minimum state-funded program" includes, but is not limited to, preservation, preventive maintenance, maintenance, operations, safety, administration, and all other essential functions not eligible for federal aid, as determined by the department.



**History:** Add. 1998, Act 308, Imd. Eff. July 29, 1998 ;-- Am. 2000, Act 188, Imd. Eff. June 20, 2000 ;-- Am. 2022, Act 49, Eff. Oct. 1, 2022  
**Popular Name:** McNitt Act  
**Popular Name:** Michigan Transportation Fund Act

**247.660p Definitions; complete streets policy; duties of state transportation commission; consultation by department or county road agency with municipality; agreements for maintenance of transportation facilities.**

Sec. 10p.

(1) As used in this section:

(a) "Complete streets" means roadways planned, designed, and constructed to provide appropriate access to all legal users in a manner that promotes safe and efficient movement of people and goods whether by car, truck, transit, assistive device, foot, or bicycle.

(b) "Complete streets policy" means a document that provides guidance for the planning, design, and construction of roadways or an interconnected network of transportation facilities being constructed or reconstructed and designated for a transportation purpose that promotes complete streets and meets all of the following requirements:

(i) Is sensitive to the local context and recognizes that needs vary according to urban, suburban, and rural settings.

(ii) Considers the functional class of the roadway and project costs and allows for appropriate exemptions.

(iii) Considers the varying mobility needs of all legal users of the roadway, of all ages and abilities.

(c) "Department" means the state transportation department.

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

(e) "Municipality" means a city, village, or township.

(2) The state transportation commission shall do both of the following by not later than 2 years after the effective date of the amendatory act that added this section:

(a) Adopt a complete streets policy for the department.

(b) Develop a model complete streets policy or policies to be made available for use by municipalities and counties.

(3) Before a municipality approves any project in its multiyear capital program that affects a roadway or transportation facility under the jurisdiction of the state transportation department or within or under the jurisdiction of a county or another municipality, it shall consult with the affected agency and agree on how to address the respective complete streets policies, subject to each agency's powers and duties. Before the department submits its multiyear capital plan to the commission or a county road agency approves its multiyear capital plan, for any project that affects a roadway or transportation facility within or under the jurisdiction of a municipality, the department or county road agency shall consult with the municipality and agree on how to address the respective complete streets policies, subject to each agency's powers and duties. Failure to come to an agreement shall not prevent the department from submitting its multiyear capital plan to the commission. This subsection does not apply under any of the following circumstances:

(a) If neither the agency proposing the project nor the affected agency has a complete streets policy.

(b) If the project was included in a municipality's multiyear capital program or the department's or a county's multiyear capital plan on July 1, 2010.

(4) The department may provide assistance to and coordinate with local agencies in developing and implementing complete streets policies. The department shall share expertise in nonmotorized and multimodal transportation planning in the development of trunk line projects within municipal boundaries.

(5) The department, local road agencies, and municipalities may enter into agreements with each other providing for maintenance of transportation facilities constructed to implement a complete streets policy.

**History:** Add. 2010, Act 135, Imd. Eff. Aug. 2, 2010 ;-- Am. 2016, Act 48, Eff. June 13, 2016  
**Popular Name:** McNitt Act  
**Popular Name:** Michigan Transportation Fund Act

## **247.660r Tolling highways; feasibility study and strategic implementation plan; written report.**

Sec. 10r.

(1) The department shall engage an outside consulting firm to conduct a feasibility study and strategic implementation plan on tolling highways of this state, including revenue projections based on an analysis of optimal tolling rates, vehicle counts and types by state of registration, and traffic diversion.

(2) The feasibility study described in subsection (1) must consider all of the following:

(a) The economic impact and feasibility of tolling particular highways of this state.

(b) The ability to provide discounts or credits or otherwise lessen the impact of tolling on local, commuter, and in-state operators.

(c) Information related to the number and impact of out-of-state operators expected to use highways of this state.

(d) The rationale for the federal authorization of any tolling plan that may be submitted by this state to the United States Department of Transportation.

(e) The optimal levels at which tolls may reasonably be expected to be set for passenger vehicles and other vehicles.

(f) Appropriate tolling rules regarding population center local traffic.

(g) This state's ability to enter into monetization agreements or long-term contracts for initial construction, long-term maintenance, installation, and operation of tolling facilities.

(h) Any estimates of which highway facilities would be conducive to tolling operations.

(i) Ways to maximize the use of Michigan workers and products made in this state.

(3) A written report on the feasibility study and strategic implementation plan shall be delivered not later than January 31, 2023 to the governor, the senate majority leader, the senate minority leader, the speaker of the house of representatives, the minority leader of the house of representatives, the chairpersons of the senate and house of representatives standing committees on transportation, and the senate and house of representatives appropriations subcommittees on transportation.

(4) It is the intent of the legislature that this state become qualified to apply to the United States Federal Highway Administration under the Interstate System Rehabilitation and Reconstruction Pilot Program, 23 USC 101 to 170, or any successor program that may be authorized in federal law.

**History:** Add. 2020, Act 140, Imd. Eff. July 8, 2020 ;-- Am. 2022, Act 73, Imd. Eff. May 5, 2022

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.660s Maritime and port facility assistance office; responsibilities and duties.**

Sec. 10s.

(1) The maritime and port facility assistance office is created in the department. The office shall do both of the following:

(a) Assist owners of port facilities in this state by doing all of the following:

(i) Administering the grant program as described in subsection (2).

(ii) Developing a statewide strategic maritime plan.

(iii) Identifying federal funding opportunities to which owners of port facilities can apply.

(iv) Providing technical assistance to integrate and take advantage of the maritime resources of this state in moving goods within and through this state to support a global economy in a sustainable manner.

(b) Perform the duties described in the maritime and port facility assistance grant program act.

(2) The office shall implement and administer the grant program by doing all of the following:

(a) Awarding grants to publicly or privately owned port facilities for the purposes described in the maritime and port facility assistance grant program act.

(b) Establishing criteria for awarding grants consistent with the maritime and port facility assistance grant program act, and based on the impact the project will have on all of the following:

(i) Direct port facility activity.

(ii) Increasing the amount or value of freight moving through the port facility.

(iii) Overall economic development or transportation opportunities in the region.

(c) Receiving and reviewing grant applications under the maritime and port facility assistance grant program act

and prescribing the form, nature, and extent of the information that must be contained in a grant application.

(d) Before disbursing grant money under the maritime and port facility assistance grant program act, entering into a grant agreement with the grant recipient.

(3) As used in this section:

(a) "Grant program" means the maritime and port facility assistance grant program created in section 5 of the maritime and port facility assistance grant program act.

(b) "Office" means the maritime and port facility assistance office created in subsection (1).

**History:** Add. 2022, Act 158, Imd. Eff. July 19, 2022

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.661 State trunk line fund; separate fund; appropriation; purposes; order of priority; expenditures; borrowing by local road agency; deductions; approval; notice; borrowing by state transportation commission; procedures for implementation and administration of loan program; expenditure for administrative expenses; conduct of performance audits; contracts not subject to revised municipal finance act; annual report listing warranties; definitions.**

Sec. 11.

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

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

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

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

(iii) For the payment of the principal and interest on bonds issued under section 18b for transportation purposes other than comprehensive transportation purposes as defined by law and the payment of contributions pledged to the payment of principal and interest on bonds issued under section 18d and contracts entered into under section 18d by the state highway commission or state transportation commission to be made pursuant to contracts entered into under section 18d. A sufficient portion of the fund is irrevocably appropriated to pay, when due, the principal and interest on bonds or notes issued under section 18b for purposes other than comprehensive transportation purposes as defined by law, and to pay the annual contributions of the state highway commission and the state transportation commission as are pledged for the payment of bonds issued under contracts authorized by section 18d.

(b) For the transfer of money appropriated under section 10(1)(i) to the transportation economic development fund, but the transfer shall be reduced each fiscal year by the amount of debt service to be paid in that year from the state trunk line fund for bonds, notes, or other obligations issued to fund projects of the transportation economic development fund, which amount shall be certified by the department.

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

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

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

(iii) Consistent with the other requirements for this money, the first priority for money deposited under this subdivision for rail grade crossing improvements and retirement shall be to match federal money from the railroad-



highway grade crossing improvement program or other comparable federal programs if a match is required under federal law.

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

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

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

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

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

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

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

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

(h) The department may enter into agreements with a local road agency or a private sector company to perform work on a highway, road, or street. The agreements may provide for the performance by any of the contracting parties of any of the work contemplated by the contract including maintenance, engineering services, and the acquisition of rights of way in connection with the work, by purchase or condemnation by any of the contracting parties in its own name, and for joint participation in the costs, but only to the extent that the contracting parties are otherwise authorized by law to expend money on the highways, roads, or streets. The department also may contract with a local road agency to advance money to a local road agency to pay the costs of improving railroad grade crossings on the terms and conditions agreed to in the contract. A contract may be executed before or after the state transportation commission borrows money for the purpose of advancing money to a local road agency, but the contract shall be executed before the advancement of any money to a local road agency by the state transportation commission, and shall provide for the full reimbursement of any advancement by a local road agency to the department, with interest, within 15 years after advancement, from any available revenue sources of the local road agency or, if provided in the contract, by deduction from the periodic disbursements of any money returned by the state to the local road agency.

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

(2) Notwithstanding any other provision of this act, the department shall annually expend at least 90% of state revenue appropriated annually to the state trunk line fund less the amounts described in subdivisions (a) to (i) for the preservation of highways, roads, streets, and bridges and for the payment of debt service on bonds, notes, or other obligations described in subsection (1)(a) issued after July 1, 1983, for the purpose of providing money for the preservation of highways, roads, streets, and bridges. Of the amounts appropriated for state trunk line projects, the department shall, where possible, secure pavement warranties for full replacement or appropriate repair for contracted construction work on pavement projects whose cost exceeds \$2,000,000.00 and projects for new construction or reconstruction undertaken after the effective date of the 2015 amendatory act that amended this subsection. The department shall compile and make available to the public an annual report of all warranties that were secured under this subsection and all pavement projects whose costs exceed \$2,000,000.00 where a warranty was not secured as provided in subsection (14). If an appropriate certificate is filed under section 18e but only to the extent necessary, this subsection does not prohibit the use of any amount of money restricted as to use by

section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund for the payment of debt service on bonds, notes, or other obligations pledging for the payment thereof money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund, whenever issued, as specified under subsection (1)(a). The amounts that are deducted from the state trunk line fund for the purpose of the calculation required by this subsection are as follows:

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

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

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

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

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

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

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

(f) Amounts expended pursuant to contracts entered into before January 1, 1983.

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

(h) Amounts appropriated for deposit in the transportation economic development fund and the rail grade crossing account pursuant to section 10(1)(a) and (h).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The type of project.
- (b) The cost or estimated cost of the project.
- (c) The expected lifespan of the project.
- (d) Whether or not the project met or is currently meeting its expected lifespan.
- (e) If the project failed to meet or is not meeting its expected lifespan, the cause of the failure and the cost to replace or repair the project.

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

(15) As used in this section:

- (a) "Local road agency" means that term as defined in section 9a.
- (b) "Rail grade crossing improvement purposes" means 1 or more of the following:
  - (i) The installation and modernization of active and passive warning devices at railroad grade crossings.
  - (ii) The installation or improvement of grade crossing surfaces.
  - (iii) Modification, relocation, or modernization of railroad grade crossing active and passive warning devices necessitated by roadway improvement projects.
  - (iv) Test installations of innovative warning devices or other innovative applications.

- (v) Construction of new grade separations.
- (vi) A cash incentive payment made pursuant to subsection (1)(c)(iv) for any public road or street crossing, in an amount no greater than the cost of installing flashing light signals and half roadway gates at the crossing.
- (vii) Any other work that would be eligible for funding under the federal railroad-highway grade crossing improvement program or other comparable programs.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1967, Act 298, Eff. Jan. 1, 1968 ;-- Am. 1967, Ex. Sess., Act 4, Eff. Jan. 1, 1968 ;-- Am. 1976, Act 264, Imd. Eff. Oct. 1, 1976 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1978, Act 502, Imd. Eff. Dec. 13, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1983, Act 82, Imd. Eff. June 15, 1983 ;-- Am. 1984, Act 104, Imd. Eff. May 8, 1984 ;-- Am. 1985, Act 124, Imd. Eff. July 31, 1985 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 1992, Act 224, Imd. Eff. Oct. 15, 1992 ;-- Am. 1993, Act 294, Imd. Eff. Dec. 28, 1993 ;-- Am. 1997, Act 79, Eff. July 28, 1997 ;-- Am. 1998, Act 308, Imd. Eff. July 29, 1998 ;-- Am. 2000, Act 188, Imd. Eff. June 20, 2000 ;-- Am. 2002, Act 466, Imd. Eff. June 21, 2002 ;-- Am. 2002, Act 498, Imd. Eff. July 3, 2002 ;-- Am. 2002, Act 639, Imd. Eff. Dec. 23, 2002 ;-- Am. 2015, Act 175, Eff. Apr. 1, 2016

**Compiler's Notes:** Act 87 of 1955, referred to in this section, was repealed by Act 1 of 1956, Ex. Sess., Act 263 of 1957, and Act 6 of 1967, Ex. Sess.

**Compiler's Notes:** Enacting section 1 of Act 473 of 2014 provides: "Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 473 of 2014 does not go into effect.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.661a Use of agricultural additives pilot program; report to legislature.**

Sec. 11a.

(1) As provided in this section, the department must implement a pilot program on the use of agricultural additives to control ice on public roads, highways, and bridges in this state and to review the potential efficacy and environmental impacts of agricultural additives, while maintaining the safety and mobility of the motoring public.

(2) At a minimum, the pilot program described in subsection (1) must be designed to study liquid-only plow routes and must do all of the following:

(a) Identify and utilize methods for the use of agricultural additives, including, but not limited to, liquid sugar beet by-products, that promote surface adhering and reduce the freezing point of applied substances.

(b) Examine results from expanded use of agricultural additives, including, but not limited to, potential environmental and fiscal impacts.

(c) Develop best practices and technical guidelines for the use of agricultural additives, and for the expansion of the use of agricultural additives in the pilot program.

(d) Convey program information and guidance to local road agencies.

(e) Use agricultural additives in at least 3 test locations, each containing public roads, highways, and bridges that may be impacted by corrosion and a body of water that may be impacted by other commonly used deicers.

(f) Include collaboration with at least 1 local road agency.

(3) Not later than June 30, 2025, the department must submit a report on the pilot program to the members of the house of representatives and senate committees with jurisdiction over transportation. At a minimum, the report must summarize all of the following:

(a) Pilot program activity.

(b) Review results.

(c) Potential best practices for the statewide use of agricultural additives based on the results of the pilot program.

**History:** Add. 2020, Act 310, Eff. Mar. 24, 2021

**Compiler's Notes:** Former MCL 247.661a, which pertained to use of additional moneys in state trunk line fund was repealed by Act 234 of 1987, Imd. Eff. Dec. 28, 1987.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.661b Repealed. 2004, Act 384, Imd. Eff. Oct. 12, 2004.**

**Compiler's Notes:** The repealed section pertained to appropriations funding, and promulgation of rules for critical bridge program.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.661c Construction or preservation projects to be performed by contract awarded by competitive bidding; other method; findings; report; "local road agency" defined.**

Sec. 11c.

(1) All construction projects of the department concerning highways, streets, roads, and bridges, whose cost exceeds \$100,000.00 for construction or preservation as defined in section 10c, shall be performed by contract awarded by competitive bidding unless the department affirmatively finds that under the circumstances relating to those projects, some other method is in the public interest. The director of the department shall report his or her findings to the state transportation commission 90 days before work is commenced and promptly in writing to the appropriations committees of the senate and house of representatives. However, in a case in which the department determines emergency action is required, the reports need not be filed before a contract is awarded but shall be promptly filed.

(2) All construction projects of a local road agency whose costs exceed \$100,000.00 for construction or preservation, excluding maintenance, shall be performed by contract awarded by competitive bidding unless the local road agency affirmatively finds that under the circumstances relating to those projects, some other method is in the public interest. Installation or upgrading of advanced traffic management and signals is exempt from this subsection. A county road commission shall report its findings before work is commenced in writing to the county board of commissioners of that county. A city or village shall report its findings before work is commenced in writing to the governing elected body of that city or village. As used in this subsection, "local road agency" means that term as defined in section 9a.

**History:** Add. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1993, Act 294, Imd. Eff. Dec. 28, 1993 ;-- Am. 1997, Act 79, Eff. July 28, 1997 ;-- Am. 2002, Act 498, Imd. Eff. July 3, 2002 ;-- Am. 2015, Act 182, Eff. Nov. 10, 2015

**Compiler's Notes:** Enacting section 1 of Act 471 of 2014 provides: "Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 471 of 2014 does not go into effect.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.661d Report to legislature on changes in department's accounting system.**

Sec. 11d.

Within 6 months following the effective date of this section, the state transportation department shall report to the legislature on changes in the department's accounting system to implement the provisions of section 11(2) and (3).

**History:** Add. 1982, Act 438, Eff. Jan. 1, 1983

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.661e Local program fund; creation; purpose; distribution of funds; local federal match program; use.**



Sec. 11e.

(1) There is created within the state trunk line fund a local program fund for the purpose of receiving funds allocated from the Michigan transportation fund and from the state trunk line fund. Funds received shall be distributed 64.2% to the county road commissions of the state to be administered according to section 12 and 35.8% to the cities and villages of the state to be administered according to section 13.

(2) There is created within the state trunk line fund a local federal match program for the purpose of receiving the proceeds of bonds issued under section 18b that are to be repaid under section 11(1)(a)(iii). Funds deposited into the local federal match program shall not exceed \$80,000,000.00.

(3) The legislature intends that funds in the local federal match program be used for 1 or more of the following:

(a) Except for those projects described in section 11f(d)(iv), projects that are the subject of a federal appropriation in the safe, accountable, flexible, efficient transportation equity act, a legacy for users (SAFETEA-LU), Public Law 109-59, or the transportation equity act for the 21st century, Public Law 105-178, and have been designated as high priority road and bridge projects that have received earmarks in the federal budget, so long as those projects are under construction or let for bid on or before September 5, 2008.

(b) Projects scheduled to be under construction or let for bid during the fiscal year that begins on October 1, 2006 and that can be advanced to the fiscal year that began on October 1, 2005.

(c) Any project scheduled for any fiscal year after the fiscal year that begins on October 1, 2006 that can be advanced and under construction or let for bid during the fiscal year that begins on October 1, 2005, October 1, 2006, or October 1, 2007.

**History:** Add. 1992, Act 223, Imd. Eff. Oct. 15, 1992 ;-- Am. 2006, Act 139, Imd. Eff. May 22, 2006 ;-- Am. 2006, Act 141, Imd. Eff. May 22, 2006 ;-- Am. 2007, Act 26, Imd. Eff. June 28, 2007 ;-- Am. 2008, Act 73, Imd. Eff. Apr. 7, 2008

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.661f Funds received under local federal match program; projects; submission; grant awards; criteria; unused bond proceeds; reports; distribution of remaining funds; additional criteria.**

Sec. 11f.

(1) Funds received under the local federal match program created in section 11e shall be granted to local municipalities and other local road agencies to match federal aid projects as provided in this subsection. Projects shall be submitted to the state transportation department by the local municipality or other local road agency. The department shall review the submittals and apply criteria that take into account the needs of highway, road, and street systems and an equitable allocation of available funds considering the geographic location of the proposed project. If the projects meet the criteria, the state transportation department shall award grants to the extent of available funds. An individual grant shall not exceed 25% of the amount of federal funds available for the project. Projects selected for funding shall meet all of the following criteria:

(a) Except for projects described in subdivision (d)(iv), the project shall be under construction or let for bid no later than September 5, 2008.

(b) The applicant shall have identified all of the necessary funding to complete the project.

(c) The project shall be for the opening, widening, improving, construction, or reconstruction of a federal aid eligible road or street, including the work incidental to that opening, widening, improving, construction, or reconstruction.

(d) The project shall be 1 or more of the following:

(i) Projects that are the subject of a federal appropriation in the safe, accountable, flexible, efficient transportation equity act, a legacy for users (SAFETEA-LU), Public Law 109-59, or the transportation equity act for the 21st century, Public Law 105-178, and have been designated as high priority road and bridge projects and that can be let for bid no later than April 4, 2008.

(ii) Projects that are not the subject of a federal appropriation in the safe, accountable, flexible, efficient transportation equity act, a legacy for users (SAFETEA-LU), Public Law 109-59, or the transportation equity act for the 21st century, Public Law 105-178, that have received earmarks in the federal budget and that can be let for bid no later than April 4, 2008.

(iii) Projects that are for federal aid eligible roads and that are scheduled to be under construction or let for bid during the fiscal year that begins October 1, 2008 or a later fiscal year and that can be advanced to the fiscal year that begins October 1, 2007 and can be let for bid no later than September 5, 2008.

(iv) Projects that are the subject of a federal appropriation in the safe, accountable, flexible, efficient

transportation equity act, a legacy for users (SAFETEA-LU), Public Law 109-59, or the transportation equity act for the 21st century, Public Law 105-178, and have been designated as high priority road and bridge projects from the following list as determined by the department:

(A) Romeo Plank, construction of 5 lane concrete pavement with curb, gutter, and sewer on Romeo Plank Road from M-59 to 23 Mile Road in Macomb Township.

(B) Finkbeiner Road, construct improvements to Crane & Finkbeiner Road from Patterson Road to Whitneyville Road in Barry County, and new bridge over Thornapple River.

(C) CR 492, Marquette County, realignment of 3200 feet of County Road 492 from U.S. 41 north to County Road HD.

(D) H-58, Alger County, reconstruct, pave, and some realignment of H-58 from 2600 feet south of Little Beaver Lake Road to 4600 feet east of Hurricane River.

(E) Westland, Ann Arbor Trail between Farmington and Inkster, Warren/Newburgh intersection, reconstruction.

(F) Port Huron, NAFTA corridor congestion mitigation project, grade separation, integrated highway realignment at Port Huron, Michigan to eliminate road blockages from NAFTA rail traffic.

(G) Muskegon County, City of Muskegon: study and implement transportation system alternatives in the vicinity of U.S. 31/M 46. Quarterline Rd, Laketon to McArthur, US-31/M-46 vicinity. Transportation system improvements on Quarterline Road from Laketon Avenue to Stebbins Road. Project description; right-of-way acquisition, road relocation, road reconstruction/resurfacing and signal improvements.

(2) Except for projects described in subsection (1)(d)(iv), all bond proceeds not used to fund grants awarded by September 5, 2008 are appropriated for the purposes described in section 11(1)(f).

(3) Beginning February 1, 2007, the department shall submit a written report to the legislature by each February 1 containing all of the following information:

(a) The balance contained in the program.

(b) A list of all projects currently funded under the program.

(c) A list of all federal high priority projects eligible for funding under the program.

(d) A list of pending requests for funding under the program, if any.

(4) The department shall submit a written report to the legislature no later than 30 days after the program has expended \$40,000,000.00. The report shall contain all of the following:

(a) A list of all projects currently funded under the program.

(b) A list of federal high priority projects eligible to receive funding from the program.

(c) A list of pending requests for funding under the program, if any.

(5) The department shall provide additional criteria if necessary for selecting the remaining projects to be funded in a fiscal year no later than 30 days after the report required under subsection (4) is issued. In determining the additional criteria to apply to the remaining funds, the department shall consult with interested local road agencies, the Michigan municipal league, and the county road association of Michigan and shall utilize any recommendations made on additional criteria by these entities unless the department determines that the additional criteria are inequitable or impractical. If the additional criteria are deemed inequitable or impractical, the department is directed to work with the interested parties to develop equitable and practical criteria. The department shall apply those criteria that most equitably distribute the remaining funds considering the geographic location of the funded projects. In applying criteria, the department shall take into account the needs of highway, road, and street systems and an equitable allocation of available funds considering the geographic location of the funded project.

**History:** Add. 2006, Act 140, Imd. Eff. May 22, 2006 ;-- Am. 2007, Act 27, Imd. Eff. June 28, 2007 ;-- Am. 2008, Act 73, Imd. Eff. Apr. 7, 2008

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.661g Movable bridge fund; contract with person or agency having jurisdiction of publicly owned movable bridge; operational procedures and costs; "operational costs" defined.**

Sec. 11g.

(1) The movable bridge fund is created in the state treasury as a separate fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department shall be the administrator of the fund for auditing purposes.

(2) The department may enter into a contract with a person or agency that has jurisdiction of a publicly owned



movable bridge for the operation of that bridge. A contract entered into under this subsection shall require any contractor hired by the department to operate the bridge to maintain insurance in an amount specified by the department. This subsection does not require the department to assume ownership or jurisdiction of a publicly owned movable bridge as part of a contract described in this subsection.

(3) Each person or agency other than the department that owns or has jurisdiction of a publicly owned movable bridge shall submit to the department the operational procedures for that bridge and the operational costs incurred by the person or agency in operating the bridge on an annual basis. The department shall develop procedures to govern the operation of and to determine the operational costs of all publicly owned movable bridges in this state. The department shall annually develop an estimate for the operational cost of each publicly owned movable bridge in this state for each fiscal year. For each publicly owned movable bridge that is owned by or under the jurisdiction of a person or agency other than the department, the department shall use the operational procedures and operational costs submitted by that person or agency under this subsection in developing the procedures and estimates required by this subsection. Using the estimates developed under this subsection, the department shall distribute a percentage of money from the movable bridge fund to each person or agency responsible for the operation of a publicly owned movable bridge. If the department is responsible for the operation of a publicly owned movable bridge, the money distributed under this subsection shall be distributed to the department.

(4) If the department offers to enter into a contract described in subsection (2) and the owner or agency that has jurisdiction of the bridge declines, the owner or agency shall continue to receive the amount of money that it otherwise would have received for the operation of that bridge under this act.

(5) As used in this section, "operational costs" includes all reasonable and customary costs associated with the operation of a publicly owned moveable bridge. Operational costs do not include routine maintenance costs, capital improvement costs, or emergency structural, mechanical, electrical, or hydraulic repairs.

**History:** Add. 2016, Act 246, Eff. Sept. 22, 2016

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.661h Local agency wetland mitigation board fund; advisory board; duties.**

### **Sec. 11h.**

(1) The local agency wetland mitigation board fund is established in the state treasury as a separate fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(2) The money appropriated to the local agency wetland mitigation board fund and the interest accruing to that fund must be expended for the local agency wetland mitigation board program. The balance of the fund must not exceed \$8,000,000.00 at the beginning of a fiscal year, less the amount of funds that have been obligated but not yet expended. The money in the local agency wetland mitigation board fund is not subject to section 12(15).

(3) The local agency wetland mitigation bank advisory board is created and shall consist of the following 9 members:

(a) One voting member appointed by the County Road Association of Michigan from a county with a population greater than 400,000.

(b) One voting member appointed by the County Road Association of Michigan from a county with a population greater than 65,000 but no more than 400,000.

(c) One voting member appointed by the County Road Association of Michigan from a county with a population of less than 65,000.

(d) One voting member who shall be an engineer appointed jointly by the County Road Association of Michigan and the Michigan Municipal League.

(e) One voting member appointed by the Michigan Municipal League from a city with a population of more than 70,000.

(f) One voting member appointed by the Michigan Municipal League from a city with a population of 70,000 or less.

(g) One voting member appointed by the Michigan Municipal League from a village.

(h) Two nonvoting members appointed by the department and the department of environment, Great Lakes, and energy.

(4) Beginning on March 27, 2019, the local agency wetland mitigation advisory board is created and shall consist of the following 7 members:

(a) Four voting members from road agencies appointed jointly by the County Road Association of Michigan and the Michigan Municipal League.

(b) One voting member who shall be an engineer appointed jointly by the County Road Association of Michigan and the Michigan Municipal League.

(c) Two nonvoting members appointed by the department and the department of environment, Great Lakes, and energy.

(5) The members first appointed to the local agency wetland mitigation bank advisory board under subsection (3) shall be appointed no later than October 1, 2015. The members first appointed to the local agency wetland mitigation advisory board under subsection (4) shall be appointed no later than April 1, 2019.

(6) Members of the board shall serve for terms of 2 years or until a successor is appointed, whichever is later.

(7) If a vacancy occurs on the board, the person that appointed the vacating member shall make an appointment for the unexpired term in the same manner as the original appointment.

(8) A member of the board may be removed for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(9) The first meeting of the board must be called by the member appointed by the department under subsection (4)(c). At the first meeting, the board shall elect from among its voting members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the board shall meet at least quarterly.

(10) A majority of the voting members of the board constitute a quorum for the transaction of business at a meeting of the board. A majority of the members present and serving are required for official action of the board.

(11) A board member shall serve without compensation, but may receive reimbursement for necessary travel and expenses consistent with applicable law and rules and procedures of the civil service commission and department of technology, management, and budget or local road agency policies, subject to available funding. The board may employ a part-time or full-time manager or engineer or contract with a person or firm to perform professional, technical, or administrative assistance or legal counsel. The board shall determine the duties of a person or firm employed under this subsection, and shall require the manager and the board to retain insurances.

(12) The business that the board may perform must be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(13) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(14) The 2 nonvoting members of the board, the department, and the department of environment, Great Lakes, and energy shall provide qualified administrative staff and qualified technical assistance to the board as necessary.

(15) The local agency wetland mitigation program must provide funds to local road agencies for 1 or more of the following:

(a) Complete engineering and design for a wetland mitigation site.

(b) Purchase of land for a wetland mitigation site.

(c) Construction of a wetland mitigation site.

(d) Monitoring and maintenance necessary to ensure that the performance standards are or will be met.

(e) Obtaining conservation easements in perpetuity and maintenance of endowment funds to manage wetland mitigation sites.

(f) Funding for a wetland mitigation site established before September 22, 2016.

(g) Purchasing wetland mitigation bank credits from an established wetland mitigation bank approved by the department of environment, Great Lakes, and energy to meet a local agency's wetland mitigation permit requirements.

(16) Not more than 20% of a wetland mitigation site may be sold to the private sector, and any revenues generated from that sale must be deposited into the local agency wetland program fund.

(17) The board may approve the use of local agency wetland mitigation funds for other activities needed to establish a wetland mitigation site, a pre-mitigation wetland area or wetland preservation site, or other mitigation as permitted by law on a demonstrated need by a local road agency.

(18) An application for funds from the local agency wetland mitigation program must be made on a form approved by the board and must contain the information required by the board. An application for funds under this section may be made at any time determined by the board.

(19) The board shall establish a review process for considering funding applications under this section. No later than 180 days after receiving a funding application under this section, the board shall notify the applicant in writing whether the application is approved or rejected. If the board fails to notify an applicant in writing whether an application is approved or rejected within 180 days after receiving the funding application, the application is approved. Prior to releasing local agency wetland mitigation program funds, the board shall enter into an agreement with the funding recipient.

(20) For each year in which the board receives funding applications, the board shall report by October 1 to the standing committees of the senate and the house of representatives with primary jurisdiction over issues pertaining to transportation and natural resources and the environment and to the senate and house of representatives appropriations committees on the utilization of funds from the local agency wetland mitigation board fund. The

report must include, at a minimum, all of the following:

- (a) The number of funding applications received under this section.
  - (b) The name of each local road agency applying for funding, and whether each application was approved or denied.
  - (c) The amount of local match for each award under this section.
  - (d) The individual and annual cumulative amount of funds awarded, including an identification of the purpose of all funds awarded.
- (21) Beginning on April 2, 2019, the local agency wetland mitigation bank advisory board created in subsection (3) is dissolved.

**History:** Add. 2016, Act 246, Eff. Sept. 22, 2016 ;-- Am. 2018, Act 471, Eff. Mar. 27, 2019 ;-- Am. 2020, Act 152, Imd. Eff. Sept. 17, 2020

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.661i Local grade separation grant program.**

Sec. 11i.

(1) The department shall create and operate a local grade separation grant program for the separation of motor vehicle traffic and railroad traffic in this state. The department shall provide grants to cities, villages, and county road commissions in this state.

(2) A funding application for the local grade separation grant program must be made on a form approved by the department and must contain the information required under section 11j and by the department. A funding application under this section may be made at any time as determined by the department.

(3) The department shall establish a review process for considering funding applications under this section that includes the parameters for prioritizing the approval of funding applications as described in section 11j. No later than 180 days after receiving a funding application under this section, the department shall notify the applicant whether the funding application is approved or rejected. Before releasing grant funds awarded under this section, the department must enter into a written agreement, as described in subsection (4), with the funding recipient. Grant funds awarded under this section may be used by the funding recipient for any stage of design and construction related to either of the following:

- (a) A grade separation project.
- (b) A project that improves traffic at a rail crossing without a full grade separation, including, but not limited to, construction of a rail siding or spur.

(4) The written agreement between the department and the funding recipient required under subsection (3) must provide for both of the following:

- (a) A description of the grade separation project, or project described in subsection (3)(b).
- (b) A local, private, or federal match of not less than 10% of the cost of the grade separation project, or project described in subsection (3)(b).

(5) For each year in which the department receives funding applications, the department shall report by December 1 to the standing committees of the senate and house of representatives with primary jurisdiction over issues pertaining to transportation and to the senate and house of representatives appropriations committees on the utilization of funds from the local grade separation grant program. The report must include, at a minimum, all of the following:

- (a) The number of funding applications received under this section.
- (b) The name of each city, village, or county road commission that submitted a funding application, and whether each funding application was approved or denied.
- (c) The amount of local match for each funding application approved under this section.
- (6) The local grade separation fund is created within the state treasury.
- (7) The state treasurer may receive money or other assets from any source for deposit into the local grade separation fund. The state treasurer shall direct the investment of the local grade separation fund. The state treasurer shall credit to the local grade separation fund interest and earnings from local grade separation fund investments.

(8) Money in the local grade separation fund at the close of the fiscal year remains in the local grade separation fund and does not lapse into the general fund.

(9) The state transportation department is the administrator of the local grade separation fund for auditing

purposes.

(10) The state transportation department shall expend money from the local grade separation fund, on appropriation, only to fund and operate the local grade separation grant program created in subsection (1).

(11) As used in this section, "grade separation" means an intersection of a railroad and roadway at different levels with the railroad either above or below the roadway.

**History:** Add. 2023, Act 66, Imd. Eff. July 12, 2023

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.661j Prioritization parameters of funding applications; railroad crossing projects; local grade separation grant program.**

Sec. 11j.

(1) The department shall develop parameters for prioritizing the approval of funding applications for railroad crossing projects awarded under the local grade separation grant program created in section 11i. The parameters must give priority to railroad crossing projects that meet 1 or more of the following conditions, and must give a higher priority to railroad crossing projects that meet a higher number of the following conditions than competing railroad crossing projects:

- (a) Are within 5 miles of a railyard.
- (b) Are within 5 miles of a manufacturing facility.
- (c) Are within 5 miles of any of the following:
  - (i) An adult assisted-living facility.
  - (ii) A courthouse.
  - (iii) Any facility where emergency medical service vehicles are housed for maintenance, operation, and dispatch.
  - (iv) A fire station.
  - (v) An international airport.
  - (vi) A level I to level IV trauma center.
  - (vii) A school.
- (d) Any other condition the department considers relevant.

(2) Before awarding grants under the local grade separation grant program created in section 11i, the department must publish the parameters described in subsection (1) on the department's website.

(3) As used in this section, "railroad crossing project" means a project as described in section 11i(3)(a) or (b).

**History:** Add. 2023, Act 67, Imd. Eff. July 12, 2023

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.662 Return to county treasurers of amount distributed to county road commissions; manner, purposes, terms, and conditions; statewide purchasing pools; expenditures; urban routes; certification concerning average annual debt service requirements for bonds or notes; representation of charter county in certain transactions; expenditure for administrative expenses; conduct of performance audits; pavement warranties; permissible county expenditures.**

Sec. 12.

(1) The amount distributed to the county road commissions must be returned to the county treasurers in the manner, for the purposes, and under the terms and conditions specified in this section. The department and the County Road Association of Michigan shall jointly develop incentives for counties to establish statewide purchasing

pools for the more efficient use of Michigan transportation funds.

(2) Each county road commission shall be reimbursed in an amount up to \$10,000.00 per year for the sum paid to a licensed professional engineer employed or retained by the county road commission in the previous year. The sum must be returned to each county road commission certified by the department as complying with this subsection regarding the employment of an engineer.

(3) An amount equal to 1% of the total amount returned to the county road commissions from the Michigan transportation fund during the prior calendar year must be withheld annually from the counties' November monthly distribution provided for in section 17, and the amount must be returned to the county road commissions for snow removal purposes as provided in section 12a.

(4) An amount equal to 10% of the total amount returned to the county road commissions from the Michigan transportation fund must be returned to each county road commission having county primary, or county local road, or both, mileage in the urban areas as determined under section 12b. This sum must be distributed as provided in section 12b. The return must be in addition to the amounts provided in subsections (6) and (7) and for the purposes stated in those subsections.

(5) An amount equal to 4% of the total amount returned to the county road commissions from the Michigan transportation fund must be returned to the county road commissions in the same percentages under subsection (7). All money returned to the county road commissions under this subsection must be expended by the county road commissions for the preservation, construction, acquisition, and extension of county local road systems and is in addition to the amounts provided in subsection (7).

(6) Except as otherwise provided in subsection (23), 75% of the remainder of the total amount to be returned to the counties must be expended by each county road commission for the preservation, construction, acquisition, and extension of the county primary road system, including the acquisition of a necessary right of way for the system, work incidental to the system, and a roadside park or motor parkway appurtenant to the system, and must be returned to the counties as follows:

(a) Three-fourths of the amount in proportion to the amount received within the respective county during the 12 months next preceding the date of each monthly distribution, as specific taxes upon registered motor vehicles under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(b) One-tenth of the amount in the same proportion that the total mileage in the county primary road system of each county bears to the total mileage in all of the county primary road systems of this state.

(c) One eighty-third of the remaining 15% of the amount to each county.

(7) Except as otherwise provided in subsection (23), the balance of the remainder of the total amount to be returned to counties must be expended by each county road commission for the preservation, construction, acquisition, and extension of the county local road system as defined by this act, including the acquisition of a necessary right of way for the system, work incidental to the system, and a roadside park or motor parkway appurtenant to the system, and must be returned to the counties as follows:

(a) Sixty-five percent of the amount in the same proportion that the total mileage in the county local road system of each county bears to the total mileage in all of the county local road systems of this state.

(b) Thirty-five percent of the amount in the same proportion that the total population outside of incorporated municipalities in each county bears to the total population outside of incorporated municipalities in all of the counties of this state, according to the most recent statewide federal census as certified at the beginning of the state fiscal year.

(8) Money deposited in, or becoming a part of the county road funds of a board of county road commissioners must be expended first for the payment of principal and interest on the bonds, for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of contractual contributions pledged for the payment of bonds, and for debt service requirements for the payment of notes and loans in the following order of priority:

(a) For the payment of contributions required to be made by a board of county road commissioners under a contract entered into under 1941 PA 205, MCL 252.51 to 252.64, that have been pledged for the payment of the principal and interest on bonds issued under that act, or for the payment of total debt service requirements upon notes issued by a board of county road commissioners under 1943 PA 143, MCL 141.251 to 141.254.

(b) For the payment of principal and interest on bonds issued under section 18c, and the payment of contributions of a board of county road commissioners made under contracts entered into under section 18d that are pledged to the payment of principal and interest on bonds issued after June 30, 1957, under the authorization of section 18c and contracts executed under section 18c.

(c) For the payment of principal and interest upon loans received under section 11(5), to the extent other funds have not been made available for that payment.

(9) Beginning November 1, 2008, no more than 50% per year of the amount returned to a county for use on the county primary road system may be expended, with or without matching, on the county local road system of that county. Except as otherwise provided in this subsection, beginning September 30, 2010, no more than 30% per year of the amount returned to a county for use on the county primary road system may be expended, with or without matching, on the county local road system of that county. An additional amount, not to exceed 20% per



year of the amount returned to a county for use on the county primary road system, may be expended on the county local road system of that county if there is an emergency or if the county road commission determines that an additional 20% may be expended on the county local road system. The county road commission may attach any conditions to its determination if the determination is for nonemergency purposes, including, but not limited to, a requirement that the additional 20% expended on the county local road system only be used to supplement money from other sources. No more than 15% per year of the amount returned to a county for expenditure on the county local road system may be used, with or without matching, on the county primary road system of that county, and not to exceed an additional 15% per year of the amount returned to a county for expenditure on the county local road system, may, in case of an emergency or with the approval of the county road commission, be expended, with or without matching, on the county primary road system of that county. An amount returned to a county for and on account of county local roads under this section that is in excess of the total amount paid into the county treasury each year by all of the townships of that county for and on account of the county local roads under section 14(6) may be transferred to and expended on the county primary road system of that county.

(10) Not less than 20% per year of the money returned to a county by this section must be expended for snow and ice removal, the reconstruction of an existing highway if not in conflict with its asset management plan as provided in section 9a, and the acquisition of a necessary right of way for those highways, and work incidental to those highways, or for the servicing of bonds issued by the county for these purposes. A county may expend surplus money for the development, construction, or repair of an off-street parking facility.

(11) Not more than 5% per year of the money returned to a county for the county road system must be expended for the maintenance, improvement, or acquisition of appurtenant roadside parks and motor parkways.

(12) Money returned to a county must be expended by the county road commission for the purposes provided in this section and must be deposited by the county treasurer in a designated county depository, in a separate account to the credit of the county road fund, and must be paid out only on the order of the county road commission, and interest accruing on the money must become a part of, and be deposited with the county road fund.

(13) In a county to which money is returned under this section, the function of the county road commission is limited to the formation of policy and the performance of the official duties imposed by law and delegated by the county board of commissioners. A member of the county road commission shall not be employed individually in any other capacity for other duties with the county road commission.

(14) A county road commission may enter into an agreement with a county road commission of another county, with a city or village, or with the department, to perform work on a highway, road, or street within the limits of that county or of another county. The agreement may provide for the performance by each contracting party of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection with the work contemplated, by purchase or condemnation, by any of the contracting parties in its own name and the agreement may provide for joint participation in the costs.

(15) Money distributed from the Michigan transportation fund may be expended for construction purposes on county local roads only to the extent matched by money from other sources. However, Michigan transportation funds may be expended for the construction of bridges on the county local roads in an amount not to exceed 75% of the cost of the construction of local road bridges. The match may exceed 75% of the cost of construction in the case of a public emergency.

(16) Notwithstanding any other provision of this act, at least 90% of the state revenue returned annually to the county road commission from the Michigan transportation fund less the amounts described in subdivisions (a) to (e) must be expended annually by the county road commission for the preservation of highways, roads, streets, and bridges, and for the payment of contractual contributions pledged for the payment of bonds or portions of bonds, debt service requirements for the payment of bonds or portions of bonds, and debt service requirements for the payment of notes and loans or portions of notes and loans issued or received after July 1, 1983, for the purpose of providing money for the preservation of highways, roads, streets, and bridges. If an appropriate certificate is filed under subsection (18) but only to the extent necessary, this subsection does not prohibit the use of any amount of state revenue returned annually to the county road commissions for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of bonds, and for debt service requirements for the payment of notes or loans, whenever issued or received, as specified under subsection (8). The amounts that are deducted from the state revenue returned to a county road commission from the Michigan transportation fund, for the purpose of the calculation required by this subsection are as follows:

(a) Amounts expended for the purposes described in subsection (8) for bonds, notes, loans, or other obligations issued or received before July 2, 1983.

(b) Amounts expended for the administrative costs of the county road commission.

(c) Amounts expended for capital outlay projects for equipment and buildings, and for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of bonds, and for debt service requirements for the payment of notes and loans issued or received after July 1, 1983, for the purpose of providing funds for capital outlay projects for equipment and buildings.

(d) Amounts expended for projects vital to the economy of the local area or the safety of the public in the local area. Before these amounts can be deducted, the governing body over the county road commission or the county

road commission, as applicable, must pass a resolution approving these projects. This resolution must state the projects that will be funded and the cost of each project. A copy of each approved resolution must be forwarded immediately to the department.

(e) Amounts expended in urban areas as determined under section 12b.

(17) Notwithstanding any other provision of this act, except as provided in this subsection, a county road commission shall annually expend at least 90% of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges. A county road commission may expend in 1 year less than 90% of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges, if that year is part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges. If a county road commission expends in 1 year less than 90% of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges and that year is not a part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges, the county road commission shall expend in each year subsequent to the 3-year period 100%, or less in 1 year if sufficient for the purposes of this subsection, of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges until the average percentage spent on the preservation of highways, roads, streets, and bridges in the 3-year period and the subsequent years, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is at least 90%. A year may be included in only one 3-year period for the purposes of this subsection. The requirements of this subsection are waived if compliance would cause the county road commission to be ineligible for federal revenue under federal law, but only to the extent necessary to make the county road commission eligible for that revenue under federal law. For the purpose of the calculations required by this subsection, the amount expended on urban routes by a county road commission for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system must be deducted from the total federal revenue distributed to the use of the county road commission. As used in this subsection, "urban routes" means those portions of 2-lane county primary roads within an urban area that have average daily traffic in excess of 15,000.

(18) A county road commission shall certify to the department on or before the issuance of any bonds or notes issued after July 1, 1983, under 1943 PA 143, MCL 141.251 to 141.254, 1941 PA 205, MCL 252.51 to 252.64, or section 18c or 18d, for purposes other than the preservation of highways, roads, streets, and bridges and purposes other than the purposes specified in subsection (16)(c) that its average annual debt service requirements for all bonds and notes or portions of bonds and notes issued after July 1, 1983, for purposes other than the preservation of highways, roads, streets, and bridges and other than for the purposes specified in subsection (16)(c), including the bond or note to be issued does not exceed 10% of the money returned to the county road commission under this act, less the amounts specified in subsection (16)(a), (b), and (c) during the last completed fiscal year of the county road commission. If the purpose for which the bonds or notes are issued is changed after the issuance of the notes or bonds, the change must be made in a manner that maintains compliance with the certification required by this subsection, as of the date the certificate was originally issued, but the change does not invalidate or otherwise affect the bonds or notes with respect to which the certificate was issued or the obligation to pay debt service on the bonds or notes. A certification under this subsection is conclusive as to the matters stated in the certification for purposes of the validity of bonds and notes.

(19) In each charter county to which funds are returned under this section, the responsibility for road improvement, preservation, and traffic operation work, and the development, construction, or repair of off-road parking facilities and construction or repair of road lighting must be coordinated by a single administrator designated by the county executive who is responsible for and represents the charter county in transactions with the department under this act.

(20) Not more than 10% per year of all of the money received by and returned to a county from any source for the purposes of this section may be expended for administrative expenses. A county that expends more than 10% for administrative expenses in a year is subject to section 14(5) unless a waiver is granted by the department of



treasury. As used in this subsection, "administrative expenses" means expenses that are not assigned including, but not limited to, specific road construction or preservation projects and are often referred to as general or supportive services. Administrative expenses do not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices that are assigned, but not limited to, specific road construction projects or preservation activities.

(21) In addition to the financial compliance audits required by law, the department may conduct performance audits and make investigations of the disposition of all state money received by county road commissions, county boards of commissioners, or any other county governmental agency acting as the county road authority, for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits must be conducted according to government auditing standards issued by the United States General Accounting Office. The department shall develop performance audit procedures and reporting requirements sufficient to determine whether money expended under this section was expended in compliance with this act by September 1, 2012 and shall report to the transportation committees of the senate and house of representatives no later than October 1, 2012 on the additional audit procedures and reporting requirements. The department shall provide notice to the county road commission, county board of commissioners, or any other county governmental agency acting as the county road authority, as applicable, of the standards to be used for audits performed under this subsection. The notice must be provided 6 months before the fiscal year in which the audit is conducted. The department shall notify the county road commission, county board of commissioners, or any other county governmental agency acting as the county road authority of any subsequent changes to the standards. County road commissions, county boards of commissioners, or any other county governmental agencies acting as county road authorities, as applicable, shall make available to the department the pertinent records for the audit. Performance audits may be performed at the discretion of the department or on receiving a request from the speaker of the house of representatives or the senate majority leader.

(22) Of the amounts appropriated for a county primary or local road system under this section, where possible, a county road commission shall secure pavement warranties for full replacement or appropriate repair for contracted construction work on pavement projects whose cost exceeds \$2,000,000.00 and projects for new construction or reconstruction undertaken after April 1, 2016, if allowed by the Federal Highway Administration and the department. A county road commission shall submit a proposed warranty program to the department for approval no later than April 1, 2016. If a proposed warranty program submitted under this subsection is approved by the department, the county road commission shall implement the program no later than 1 year after the approval. A county road commission shall include a list of all warranties that were secured under this subsection and indicate whether any of those warranties were redeemed with the report required under section 14(3), and shall also list all pavement projects whose cost exceeds \$2,000,000.00 for which a warranty was not secured. The list must include, but is not limited to, all of the following information:

- (a) The type of project.
- (b) The cost or estimated cost of the project.
- (c) The expected lifespan of the project.
- (d) Whether or not the project met or is currently meeting its expected lifespan.
- (e) If the project failed to meet or is not meeting its expected lifespan, the cause of the failure and the cost to replace or repair the project.
- (f) The entity responsible for paying the cost of replacing or repairing the project.

(23) Once the asset management plan for a county as described in section 9a has been approved, amounts distributed to a county under this section must be expended toward attainment of the condition goals in the asset management plan and as otherwise required by this act.

(24) A county road commission may use a portion of the amount returned to the county under this section for the payment of debt service on bonds, notes, or other obligations.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 1953, Act 86, Imd. Eff. May 18, 1953 ;-- Am. 1956, Act 28, Eff. Aug. 11, 1956 ;-- Am. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1967, Act 298, Eff. Jan. 1, 1968 ;-- Am. 1967, Ex. Sess., Act 4, Eff. Jan. 1, 1968 ;-- Am. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1975, Act 239, Imd. Eff. Sept. 2, 1975 ;-- Am. 1976, Act 41, Imd. Eff. Mar. 16, 1976 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1983, Act 82, Imd. Eff. June 15, 1983 ;-- Am. 1984, Act 104, Imd. Eff. May 8, 1984 ;-- Am. 1985, Act 124, Imd. Eff. July 31, 1985 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 1992, Act 224, Imd. Eff. Oct. 15, 1992 ;-- Am. 1993, Act 294, Imd. Eff. Dec. 28, 1993 ;-- Am. 1997, Act 79, Eff. July 28, 1997 ;-- Am. 2002, Act 498, Imd. Eff. July 3, 2002 ;-- Am. 2010, Act 143, Imd. Eff. Aug. 4, 2010 ;-- Am. 2012, Act 298, Imd. Eff. Aug. 23, 2012 ;-- Am. 2015, Act 175, Eff. Apr. 1, 2016 ;-- Am. 2020, Act 152, Imd. Eff. Sept. 17, 2020 ;-- Am. 2023, Act 248, Eff. Feb. 13, 2024

**Compiler's Notes:** Enacting section 1 of Act 473 of 2014 provides: "Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 473 of 2014 does not go into effect.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.662a Snow removal; distribution of amount returned to county road commission.**

Sec. 12a.

(1) The amount withheld from the counties' November monthly distribution as specified in section 12(3) shall be returned to the county road commission of each county for snow removal purposes, including the purchase and maintenance of equipment for snow removal and shall be distributed among the counties on the basis of each respective county's average percentage share of the total amount returned annually to all counties in the state in each of the 14 calendar years before 1987.

(2) Before November 30 of each year, the state transportation department shall certify to the department of management and budget its determination of the amount to which each county is entitled from the distribution authorized by this section. Before December 15 of each year the department of management and budget shall cause to be paid to the county treasurer of each county entitled to money for snow removal purposes the amount to be returned to the county for snow removal purposes under this section and the amount returned shall be deposited to the credit of the county road fund.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.662b County urban system; distribution of amounts returned; urban area boundaries.**

Sec. 12b.

(1) The amounts returned to the counties for the county urban system as provided in section 12(4) shall be distributed on the basis of the county road mileage contained within the urban area boundaries as established pursuant to this section.

(2) On January 3, 1973, the department of transportation shall establish urban area boundaries which shall be reviewed and corrected periodically and which shall be in conformance with the federal-aid urban area definition as published by the federal highway administration of the United States department of transportation and in effect July 1, 1971.

(3) The amounts returned to the county road commissions qualifying under this section shall be in the same proportion that the total urban local road mileage, plus 6 times the urban primary road mileage of each county bears to the total mileage in all the urban local road systems of the state, plus 6 times the total mileage in all the urban primary road systems of the state.

(4) All amounts returned to the county road commissions on the basis of the urban primary road mileage of each county are for use on the county primary road system and are subject to the same provisions of this act as other amounts for expenditure on the county primary road system.

(5) All amounts returned to the county road commissions on the basis of the urban local road mileage of each county are for expenditure on the county local road system and are subject to the same provisions of this act as other amounts for expenditure on the county local road systems.

**History:** Add. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.662c Placing county primary road under jurisdiction of city or village; request; response by county road commission; appeal; hearing; determination.**

Sec. 12c.

(1) A city or village which desires to have a county primary road, which is under the jurisdiction of a county road commission and which lies within the corporate limits of the city or village, placed under the jurisdiction of the city or village, shall present a resolution of its governing body to the appropriate county road commission requesting that the county primary road be placed under the jurisdiction of the city or village. The county road commission shall respond to the request, in writing, within 90 days after its receipt of the request.

(2) If the county road commission rejects the request within 90 days after its receipt of the request, the city or village, by resolution of its governing body, not sooner than 30 days after, nor later than 90 days after, the decision of the county road commission, may appeal the decision of the county road commission to the state transportation commission.

(3) If the county road commission does not respond, in writing, within 90 days after its receipt of the request, the city or village, by resolution of its governing body, not sooner than 30 days after, nor later than 90 days after, the expiration of the 90-day period for a response, may petition the state transportation commission for a hearing on the request.

(4) The state transportation commission, after notice and an opportunity for a hearing on the appeal under subsection (2) or the petition under subsection (3), shall review the merits of the request. The state transportation commission in its determination as to whether the county primary road shall be placed under the jurisdiction of the city or village, shall consider all of the following:

- (a) The benefits of the requested transfer to the city or village making the request.
- (b) The benefits of the requested transfer to the users of the county primary road.
- (c) The benefits of the requested transfer to the county with respect to the maintenance of a county road arterial network.

**History:** Add. 1982, Act 438, Eff. Jan. 1, 1983

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.663 Return of distribution to city and village treasurers; manner, purpose, and conditions; audits; pavement warranties; permissible city or village expenditures; definitions.**

Sec. 13.

(1) The amount distributed to cities and villages must be returned to the treasurers of the cities and villages in the manner, for the purposes, and under the terms and conditions specified in this section. The amount received by a newly incorporated municipality must be in place of any other direct distribution of money from the Michigan transportation fund. The population of a newly incorporated municipality as determined under this section must be added to the total population of all incorporated cities and villages in this state in computing the amounts to be returned under this section to each municipality in the state. Major street mileage, local street mileage, and equivalent major mileage, if applicable, must be determined by the department before the next month for which distribution is made following the effective date of incorporation of a newly incorporated municipality.

(2) From the amount available for distribution to cities and villages during each December, an amount equal to 0.7% of the total amount returned to all cities and villages under subsections (3) and (4) during the previous calendar year must be withheld. The amount withheld must be used to partially reimburse cities and villages located in counties that are eligible for snow removal funds under section 12a and that have costs for winter maintenance on major and local streets that are greater than the statewide average. The distributions must be made annually during February and must be calculated separately for the major and local street systems but may be paid in a combined warrant. The distribution to a city or village must be equal to 1/2 of its winter maintenance expenditures after deducting the product of its total earnings under subsections (3) and (4) multiplied by 2 times the average municipal winter maintenance factor. Winter maintenance expenditures must be determined from the street financial reports for the most current fiscal years ending before July 1. A city or village that does not submit a street financial report for the fiscal year ending before July 1 by the subsequent December 31 is ineligible for the winter maintenance payment that is to be based on that street financial report. The department shall determine the average municipal winter maintenance factor annually by dividing the total expenditures of all cities and villages on winter maintenance of streets and highways by the total amount earned by all cities and villages under subsections (3) and (4) during the 12 months. If the sum of the distributions to be made under this subsection exceeds the amount withheld, the distributions to each eligible city and village must be reduced proportionately. If the sum is less than the amount withheld, the balance must be added to the amount available for distribution under subsections (3) and

(4) during the next month. The distributions are for use on the major and local street systems respectively and are subject to the same provisions as money returned under subsections (3) and (4).

(3) Seventy-five percent of the remaining amount to be returned to the cities and villages, after deducting the amounts withheld under subsection (2), must be returned 60% in the same proportion that the population of each bears to the total population of all cities and villages, and 40% in the same proportion that the equivalent major mileage in each bears to the total equivalent major mileage in all cities and villages. The amount returned under this subsection must be used by each city and village for the following purposes in the following order of priority:

(a) For the payment of contributions required to be made by a city or village under the provisions of contracts previously entered into under 1941 PA 205, MCL 252.51 to 252.64, that have been previously pledged for the payment of the principal and interest on bonds issued under that act; or for the payment of the principal and interest upon bonds issued by a city or village under 1952 PA 175, MCL 247.701 to 247.707.

(b) Payment of obligations of the city or village on highway projects undertaken by the city or village jointly with the department.

(c) For the payment of principal and interest on loans received under section 11(5), to the extent other money has not been made available for that payment.

(d) Except as otherwise provided in this subdivision, for the preservation, construction, acquisition, and extension of the major street system as defined by this act including the acquisition of a necessary right of way for the system, work incidental to the system, and an appurtenant roadside park or motor parkway, of the city or village and for the payment of the principal and interest on that portion of the city's or village's general obligation bonds that are attributable to the construction or reconstruction of the city's or village's major street system. However, once an asset management plan described in section 9a has been approved, funds shall be used for the preservation, construction, and acquisition of the street system as provided in subsection (16) or for an emergency as described in section 11c. Not more than 5% per year of the money returned to a city or village by this subsection shall be expended for the preservation or acquisition of appurtenant roadside parks and motor parkways. Surplus money may be expended for the development, construction, or repair of off-street parking facilities, and the construction or repair of street lighting, and transfer to the local street system under subsection (6).

(e) For capital outlay projects for equipment and buildings, contributions pledged for the payment of loans and for the payment of contractual debt service requirements for the payment of bonds for the purpose of providing money for capital outlay projects for equipment and buildings necessary to the development and maintenance of the road system so long as amounts allocated under this subdivision are used for transportation purposes.

(4) The remaining amount to be returned to incorporated cities and villages must be expended in each city or village for the preservation, construction, acquisition, and extension of the local street system of the city or village, including the acquisition of a necessary right of way for the system, work incidental to the system, and subject to subsection (5), for the payment of the principal and interest on the portion of the city's or village's general obligation bonds that are attributable to the construction or reconstruction of the city's or village's local street system. However, once an asset management plan described in section 9a has been approved, funds shall be used for the preservation, construction, and acquisition of the street system as provided in subsection (16) or for an emergency as described in section 11c. The amount returned under this subsection must be returned to the cities and villages 60% in the same proportion that the population of each bears to the total population of all incorporated cities and villages in this state, and 40% in the same proportion that the total mileage of the local street system of each bears to the total mileage in the local street systems of all cities and villages of this state. The payment of the principal and interest on bonds issued by a city or village under 1952 PA 175, MCL 247.701 to 247.707, and after that payment, the payment of debt service on loans received under section 11(5), must have priority in the expenditure of money returned under this subsection.

(5) Money distributed to each city and village for the maintenance and preservation of its local street system under this act represents the total responsibility of this state for local street system support. Money distributed from the Michigan transportation fund must not be expended for construction purposes on city and village local streets except to the extent matched from local revenues including other money returned to a city or village by this state under the state constitution of 1963 and statutes of this state, from money that can be raised by taxation in cities and villages for street purposes within the limitations of the state constitution of 1963 and statutes of this state, from special assessments, or from any other source.

(6) Money returned under this section to a city or village must be expended on the major and local street systems of that city or village. However, the first priority is the major street system. Money returned for expenditure on the major street system must be expended in the priority order provided in subsection (3) except that surplus money may be transferred for preservation of the local street system. Major street money transferred for use on the local street system must not be used for construction but may be used for preservation. A city or village shall not transfer more than 50% of its annual major street funding for the local street system unless it has adopted and is following an asset management process for its major and local street systems and adopts a resolution with a copy to the department setting forth all of the following:

(a) A list of the major streets in that city or village.

(b) A statement that the city or village is adequately maintaining its major streets.

- (c) The dollar amount of the transfer.
- (d) The local streets to be funded with the transfer.
- (e) A statement that the city or village is following an asset management process for its major and local street systems.

(7) A city or village that has not adopted an asset management plan shall obtain the concurrence of the department to transfer more than 50% of its major street funding to its local street system. The department may provide for pilot projects that would allow a city or village that has adopted an asset management plan under subsection (6) to combine their local and major street funds into 1 street fund and to submit a single report to the department on the expenditure of money on the local and major street systems.

(8) Not more than 10% per year of all of the money returned to a city or village from any source for the purposes of this section may be expended for administrative expenses. A city or village that expends more than 10% for administrative expenses in a year is subject to section 14(5).

(9) In each city and village to which money is returned under this section, the responsibility for street preservation and the development, construction, or repair of off-street parking facilities and construction or repair of street lighting shall be coordinated by a single administrator designated by the governing body who shall be responsible for and shall represent the municipality in transactions with the department under this act.

(10) Cities and villages may provide for consolidated street administration. A city or a village may enter into an agreement with other cities or villages, the county road commission, or with the state transportation commission for the performance of street or highway work on a road or street within the limits of the city or village or adjacent to the city or village. The agreement may provide for any of the contracting parties to perform the work contemplated by the contracts including services and acquisition of rights of way, by purchase or condemnation in its own name. The agreement may provide for joint participation in the costs if appropriate.

(11) Interest earned on money returned to a city or a village for purposes provided in this section must be credited to the appropriate street fund.

(12) In addition to the financial compliance audits required by law, the department may conduct performance audits and make investigations of the disposition of all state money received by cities and villages for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits must be conducted according to government auditing standards issued by the United States General Accounting Office. The department shall develop all performance audit procedures and reporting requirements sufficient to determine whether money expended under this section was expended in compliance with this act by September 1, 2012 and shall report to the transportation committees of the senate and house of representatives no later than October 1, 2012 on the additional audit procedures and reporting requirements. The audit procedures must include a review of the road fund balance of the city or village. The cities and villages shall report their road fund balances by fund balance component. The department shall assist cities and villages to ensure that road fund balances are consistently classified and are in compliance with the audit and reporting requirements of this section. The department shall provide notice to cities and villages of the standards to be used for audits under this subsection prior to the fiscal year in which the audit is conducted. The department shall notify cities and villages of any subsequent changes to the standards. Cities and villages shall make available to the department the pertinent records for the audit. Performance audits may be performed at the discretion of the department or on receiving a request from the speaker of the house of representatives or the senate majority leader.

(13) Of the amounts appropriated for a city or village major or local street system under this section, where possible, a city or village shall secure pavement warranties for full replacement or appropriate repair for contracted construction work on pavement projects whose cost exceeds \$2,000,000.00 and projects for new construction or reconstruction undertaken after April 1, 2016 if allowed by the Federal Highway Administration and the department. A city or village shall submit a proposed warranty program to the department for approval no later than February 1, 2017. If a proposed warranty program submitted under this subsection is approved by the department, the city or village shall implement the program no later than 1 year after the approval. A city or village shall include a list of all warranties that were secured under this subsection and indicate whether any of those warranties were redeemed with the report required under section 14(3), and shall also list all pavement projects whose cost exceeds \$2,000,000.00 for which a warranty was not secured. The list shall include, but is not limited to, all of the following information:

- (a) The type of project.
- (b) The cost or estimated cost of the project.
- (c) The expected lifespan of the project.
- (d) Whether or not the project met or is currently meeting its expected lifespan.
- (e) If the project failed to meet or is not meeting its expected lifespan, the cause of the failure and the cost to replace or repair the project.
- (f) The entity responsible for paying the cost of replacing or repairing the project.

(14) With the approval of the director of the department, a city may use up to 20% of the amount received by that city under this section for public transit purposes if more than 10,000,000 passengers used public transit within that city during the previous fiscal year.



(15) A city or village may use a portion of the amount returned to the city or village under this section for the payment of debt service on bonds, notes, or other obligations.

(16) Once the asset management plan for a city or village as described in section 9a has been approved, amounts distributed to a city or village under this section shall be expended toward attainment of the condition goals in the asset management plan and as otherwise required by this act.

(17) As used in this section:

(a) "Administrative expenses" means expenses that are not assigned under this section, including, but not limited to, specific road construction or maintenance projects, and are often referred to as general or supportive services. Administrative expenses do not include net equipment expense, net capital outlay, debt service principal and interest, or payments to other state or local offices that are assigned, but not limited to, specific road construction projects or maintenance activities.

(b) "Equivalent major mileage" means the sum of 2 times the state trunk line mileage certified by the department as of March 31 of each year, as being within the boundaries of each city and village having a population of 25,000 or more, plus the major street mileage in each city and village, multiplied by the following factor:

(i) 1.0 for cities and villages of 2,000 or less population.

(ii) 1.1 for cities and villages from 2,001 to 10,000 population.

(iii) 1.2 for cities and villages from 10,001 to 20,000 population.

(iv) 1.3 for cities and villages from 20,001 to 30,000 population.

(v) 1.4 for cities and villages from 30,001 to 40,000 population.

(vi) 1.5 for cities and villages from 40,001 to 50,000 population.

(vii) 1.6 for cities and villages from 50,001 to 65,000 population.

(viii) 1.7 for cities and villages from 65,001 to 80,000 population.

(ix) 1.8 for cities and villages from 80,001 to 95,000 population.

(x) 1.9 for cities and villages from 95,001 to 160,000 population.

(xi) 2.0 for cities and villages from 160,001 to 320,000 population.

(xii) For cities over 320,000 population, a factor of 2.1 increased successively by 0.1 for each 160,000 population increment over 320,000.

(c) "Population" means the population according to the most recent statewide federal census as certified at the beginning of the state fiscal year, except that, if a municipality has been newly incorporated since completion of the census, the population of the municipality for purposes of the distribution of money before completion of the next census is the population as determined by special federal census, if there is a special federal census, and if not, by the population as determined by the official census in connection with the incorporation, if there is such a census and, if not, by a special state census to be taken at the expense of the municipality by the secretary of state under section 6 of the home rule city act, 1909 PA 279, MCL 117.6.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1967, Act 298, Eff. Jan. 1, 1968 ;-- Am. 1967, Ex. Sess., Act 4, Eff. Jan. 1, 1968 ;-- Am. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1976, Act 41, Imd. Eff. Mar. 16, 1976 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979 ;-- Am. 1982, Act 436, Imd. Eff. Dec. 29, 1982 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1983, Act 82, Imd. Eff. June 15, 1983 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 1992, Act 82, Imd. Eff. June 2, 1992 ;-- Am. 1993, Act 294, Imd. Eff. Dec. 28, 1993 ;-- Am. 1997, Act 79, Eff. July 28, 1997 ;-- Am. 1999, Act 54, Imd. Eff. June 15, 1999 ;-- Am. 2004, Act 9, Imd. Eff. Feb. 26, 2004 ;-- Am. 2006, Act 338, Imd. Eff. Aug. 15, 2006 ;-- Am. 2010, Act 261, Imd. Eff. Dec. 14, 2010 ;-- Am. 2012, Act 298, Imd. Eff. Aug. 23, 2012 ;-- Am. 2015, Act 175, Eff. Apr. 1, 2016 ;-- Am. 2020, Act 153, Imd. Eff. Sept. 17, 2020

**Compiler's Notes:** Enacting section 1 of Act 473 of 2014 provides: "Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 473 of 2014 does not go into effect.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.663a Acquisition of private property within right of way of highway project; expenditure of revenue.**

### **Sec. 13a.**

The state transportation commission, the county road commissions, and the cities and villages of the state, acting individually or jointly in accordance with a contract, may acquire by purchase or condemnation, in advance of actual construction programming, private property situated within the right of way of a highway project planned for future construction by the governmental unit, and may expend for the advance acquisition of right of way

money received by the governmental unit from the Michigan transportation fund. Revenue received from a rental or lease of property so acquired or from the disposition of an improvement on that property or the proceeds of the sale of excess parcels of property so acquired shall be expended by the governmental unit for highway purposes in accordance with this act.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.663b Contracts between county road commissions for purchase or use of equipment or machinery.**

Sec. 13b.

A county road commission may contract with other county road commissions or with the department for the purchase and use of equipment or machinery necessary for the construction, maintenance, or operation of a road or highway.

**History:** Add. 1976, Act 41, Imd. Eff. Mar. 16, 1976 ;-- Am. 2023, Act 248, Eff. Feb. 13, 2024

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.664 Biennial primary road and major street programs; separate accounts; records; annual report; expenditures for administration, engineering, and record keeping; noncompliance; responsibility of state for local county road support; additional funds.**

Sec. 14.

(1) Each county road commission and city and village of the state shall prepare biennial primary road and major street programs, based on long-range plans, and shall make the programs available for review by the public.

(2) Separate accounts must be kept by cities, villages, and county road commissions of all money returned from the Michigan transportation fund. This subsection does not prevent the combining of accounts on which separate bookkeeping records are kept into a single deposit account.

(3) All county road commissions and cities and villages shall keep accurate and uniform records on all road and street work and funds, and shall annually report to the department at the time, in the manner, and on forms prescribed by the department the mileage of each road system under their jurisdiction and the receipts and disbursements of road and street funds. In the annual report, each county road commission shall report on its compliance in the preceding year with the requirements of section 12(16) and (17). The report must also specify, with respect to section 12(17), the total dollar amount expended for other than maintenance purposes which would not have been permissible without the deduction of certain urban route expenditures as permitted under section 12(17). The report must also specify the justification for a waiver of the requirement of section 12(17), if that requirement was waived. A county road commission, city, or village shall post the report required by this subsection on its website, if the county road commission, city, or village has a website.

(4) The county road commissions and the cities and villages are authorized to expend adequate amounts from funds returned by this act to cover the cost of administration, engineering, and record keeping, and expenditures for those purposes must be reported separately by each county road commission, city, and village to the department.

(5) All distributions and returns of funds provided for in this act must be withheld from the department, eligible authorities, county road commissions, cities, villages, or other eligible governmental agencies for failure to comply with any of the requirements of this act, and the withholding must continue for the period of noncompliance.

(6) Money distributed to county road commissions for the maintenance and improvement of county local road systems pursuant to section 12 represents the total responsibility of this state for local county road support. Additional funds required for the support of county local road systems may be supplied from other money returned to the township governments by this state under the state constitution of 1963 and statutes of this state, or from funds that can be raised by taxation in the townships or counties for road purposes within the limitations of the state



constitution of 1963 and statutes of this state.

**History:** Add. 1976, Act 297, Eff. Nov. 15, 1976 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1984, Act 104, Imd. Eff. May 8, 1984 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 2015, Act 175, Eff. Apr. 1, 2016 ;-- Am. 2020, Act 152, Imd. Eff. Sept. 17, 2020

**Compiler's Notes:** Former MCL 247.664, pertaining to administration and use of funds, was repealed by Act 296 of 1976.

**Compiler's Notes:** Enacting section 1 of Act 473 of 2014 provides: "Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 473 of 2014 does not go into effect.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.664a Expenditures to pay cost of drain assessments; rules.**

Sec. 14a.

Expenditure of funds allocated by this act to the department of state highways or to a county road commission to pay the cost of drain assessments under Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.623 of the Compiled Laws of 1948, imposed after the effective date of rules promulgated under this section, shall be made only if all apportionments of benefits of any nature or kind determined or made for the drainage of county roads or state highways are made in accordance with rules jointly promulgated by the department of state highways and the department of agriculture. The department of state highways and the department of agriculture jointly shall promulgate rules in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948, to provide for an engineering determination of benefits based on the pro rata share of storm water runoff from the county roads or state highways within the drainage district in direct proportion to the total storm water runoff in the entire drainage district. Fifty percent of the cost of a drain assessment against the county for the drainage of county roads shall be paid by the county road commission from county road funds. Expenditures for such purposes shall be reported separately by each county road commission to the state highway commission. Section 16 applies to expenditures made pursuant to this section.

**History:** Add. 1972, Act 327, Imd. Eff. Jan. 3, 1973

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**Admin Rule:** R 280.1 et seq. of the Michigan Administrative Code.

#### **247.665 Reports showing disposition of funds appropriated, apportioned, or allocated; other information.**

Sec. 15.

(1) Before May 2 of each year, each county road commission or the county executive or other agency acting as the county road commission shall file with the director of the state transportation department, each township in the county, and the clerk of the county, on forms to be provided by the director, a report showing the disposition of funds appropriated, apportioned, or allocated under this act to the county road commission or the county executive or other agency acting as the county road commission including the funds expended for road construction and heavy maintenance in each township in the county on the form provided by the department in the annual county financial report instruction and forms booklet prepared by the department, except funds appropriated under section 10b.

(2) In addition to the general information required under subsection (1), the report filed by the county road commission or the county executive or other agency acting as the county road commission under subsection (1) must also include the following specific information:

(a) The number of miles of local roads outside of incorporated municipalities in each township in the county and

the amount of funds received for each of those miles by the county under the formula described in section 12(7)(a).

(b) The number of miles of primary roads outside of incorporated municipalities in each township in the county and the amount of funds received for each of those miles by the county under the formula described in section 12(4) and (6)(b).

(c) The total population outside of incorporated municipalities in each township in the county and the per capita amount of funds received for each person on the basis of population according to the formula described in section 12(7)(b).

(d) The amount of funds received by the county road commission or the county executive or other agency acting as the county road commission directly from each township in the county for the purposes of this act.

(3) Beginning with municipal fiscal years ending after April 15, 1976, each city and village shall file with the director of the state transportation department, not more than 120 days after the end of its fiscal year, on forms provided by the director, a report showing the disposition of funds appropriated, apportioned, or allocated under this act to the city or village, except funds appropriated under section 10b.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 1976, Act 161, Imd. Eff. June 18, 1976 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1999, Act 50, Imd. Eff. June 15, 1999 ;-- Am. 2020, Act 152, Imd. Eff. Sept. 17, 2020

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.665a Intergovernmental highway corridor planning preservation committees.**

Sec. 15a.

County road commissions and cities and villages shall establish, where applicable, intergovernmental highway corridor planning preservation committees for the purpose of developing corridor plans in order to provide a stable economic environment for businesses in the corridor and to eliminate duplicative services at the local government level.

**History:** Add. 1997, Act 79, Eff. July 28, 1997

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.665b Mowing right-of-way of public road.**

Sec. 15b.

(1) Road authorities shall mow the right-of-way of a public road in accordance with the requirements prescribed in this section, subject to the following:

(a) This section does not apply within the limits of a city or village.

(b) This section is not mandatory with respect to public road rights-of-way within designated federal aid urban boundaries.

(c) Property owners may mow public road rights-of-way immediately in front of their residences, schools, or businesses.

(2) Mowing shall be 12 feet or to the leading edge of the ditch, whichever is less, adjacent to both shoulders of the roadway to any height at any time. The area between the ditch bottom and the back slopes of the rights-of-way shall be protected from mowing between September 1 and the following July 15 except as permitted in this subsection. Spraying shall be limited to the control of noxious weeds and brush within this area. From July 16 through August 31, mowing may be through the entire right-of-way if needed, including through the ditch bottom, while maintaining not less than 12 inches of grass height from the back of the ditch to the back of the right-of-way and within the median. Between July 16 and the following March 1, mechanical brush and woody stem control may be completed to whatever height is needed to provide control and safety. Up to 50% of all roads shall be designated annually for brush control that includes mowing and may include herbicide treatment during the next growing season.

(3) The mowing standards prescribed in this section shall apply to all medians 70 feet wide or more. Medians 70 feet wide or more shall be maintained as brush-free as possible and with a grass height of at least 12 inches. Twenty-five percent of the medians within a region shall be annually designated for removal or spot spray treatment of unwanted brush and trees. It is the intent of the legislature that the mowing standards prescribed in this section apply to medians 50 or more feet wide 3 years after the effective date of the amendatory act that added this subsection.

(4) All mowing of the back slope and wide median areas beyond the 12-foot width from the road edge shall be performed so as to ensure a minimum of 12 inches of grass remains by September 1 each year, except in those zones designated for brush control. Areas of brush within the right-of-way shall be mowed back to prevent brush from becoming established within the right-of-way. Brush or tree stumps shall be spot treated with herbicide, as needed, for long-term control.

(5) A right-of-way may be mowed as necessary to maintain public health and safety.

(6) The road authority shall not provide compensation for any mowing or spraying that does not comply with this section.

**History:** Add. 1997, Act 79, Eff. July 28, 1997 ;-- Am. 1999, Act 174, Imd. Eff. Nov. 16, 1999

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.666 Forfeiture of funds.**

##### **Sec. 16.**

The failure of a county road commission, city, or village to apply money returned pursuant to this act, to the purposes prescribed in this act, shall result in the forfeiture by the county road commission, city, or village of funds to which it may have been entitled under this act for a period of 1 year from and after the failure to apply the money for the purposes prescribed, and funds forfeited shall then be apportioned and distributed among the other county road commissions and cities and villages in the same manner and proportion as provided in section 10 for the distribution of the Michigan transportation fund.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.667 Certifications required; warrants; checks; mandamus; report.**

##### **Sec. 17.**

(1) At the end of each month, the secretary of state shall certify to the state transportation department and the director of the department of management and budget the amounts received from the counties for motor vehicle taxes during the preceding month pursuant to the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Michigan Compiled Laws, and also the total amount deposited in the Michigan transportation fund pursuant to this act during the preceding month, after deducting the amount appropriated for the payment of the necessary expenses incurred in the enforcement of Act No. 150 of the Public Acts of 1927, as amended, being sections 207.101 to 207.202 of the Michigan Compiled Laws, and sections 801 to 810 of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.801 to 257.810 of the Michigan Compiled Laws. The state transportation department shall certify to the director of the department of management and budget the amounts to be returned to the state transportation department from the Michigan transportation fund monthly, and the amounts to be returned to each county road commission and each city and village of the state monthly, pursuant to this act, and the director of the department of management and budget shall certify these amounts to the state treasurer, who shall draw a warrant monthly for the net amounts as are due the state transportation department, the county road commissions, and the cities and villages of the state under this act. The state treasurer shall issue checks for the amounts due, within 30 days after the end of each month, to the state transportation department, the county road commissions, and the cities and villages. If the amount due is not

returned to a county road commission, city, or village within 30 days after the end of each month, the county road commission, city, or village may bring an action in the nature of mandamus to compel the various officials to perform their duties in connection with the return as provided in this section.

(2) The state transportation department, within 120 days after the close of each fiscal year of the state shall furnish to the legislature and the governor a detailed report of revenues credited to the Michigan transportation fund and distributions under this act and a detailed report of the interest earnings and allocations of each fund created or appropriated money under this act, showing the amounts distributed to each county road commission, city, and village and the purposes for which those amounts were expended.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 1952, Act 141, Eff. Sept. 18, 1952 ;-- Am. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1983, Act 84, Imd. Eff. June 16, 1983 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 1993, Act 294, Imd. Eff. Dec. 28, 1993

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.667a Office of audit; creation; head; duties, functions, and responsibilities.**

Sec. 17a.

There is hereby established the office of audit within the department to conduct financial and performance audits. The office shall be headed by an individual appointed by, and serving at the pleasure of, the state transportation commission. The duties, functions, and responsibilities of the office shall be as determined by the state transportation commission.

**History:** Add. 1982, Act 438, Eff. Jan. 1, 1983

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.668 Repealed. 1957, Act 262, Eff. July 1, 1957.**

**Compiler's Notes:** The repealed section pertained to cancelled installments of special assessments.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.668a Michigan transportation fund; payment of notes, bonds, or other indebtedness; notes and bonds not general obligations of state.**

Sec. 18a.

Subject to the provisions and the limitations set forth in this act, money in the Michigan transportation fund, distributed as provided in this act, may be expended for the payment of the principal and interest on notes and bonds issued or other indebtedness incurred by a governmental unit for transportation purposes as defined by law. Except as otherwise provided by law, the notes or bonds shall be payable solely from the proceeds of taxes restricted to use for the purposes described in section 9 of article 9 of the state constitution of 1963, which are deposited in the state treasury to the credit of the Michigan transportation fund and are distributed pursuant to this act. The notes and bonds shall not be general obligations of this state, which shall be specifically stated on the face of each note or bond sold.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.668b State transportation commission; bonds and notes.**

### **Sec. 18b.**

(1) The state transportation commission may borrow money and issue notes or bonds for the following purposes:

(a) To pay all or any portion of or to make loans, grants, or contract payments to pay all or any portion of any capital costs for the purposes described in section 9 of article IX of the state constitution of 1963.

(b) To pay the principal or the principal and interest on notes and, if the state transportation commission considers refunding to be expedient, to refund bonds payable from money in the state trunk line fund or the comprehensive transportation fund or received or to be received from the motor vehicle highway fund or the Michigan transportation fund regardless of when the refunded bonds were issued, by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds; and to issue new bonds partly to refund bonds or pay notes then outstanding and partly for any other transportation purpose authorized by this act.

(c) To pay all costs relating to the issuance of the bonds or notes described in this section, including, but not limited to, legal, engineering, accounting, and consulting services, interest on bonds or notes for such period as determined by the state transportation commission in the resolution authorizing the bonds or notes and a reserve for payment of principal, interest, and redemption premiums on the bonds or notes in an amount determined by the state transportation commission in the resolution authorizing the bonds or notes.

(2) The refunding bonds described in subsection (1)(b) shall be sold and the proceeds and the earnings or profits from the investment of those proceeds applied in whole or in part to the purchase, redemption, or payment of the principal or the principal and interest of the bonds to be refunded and the refunding bonds issued by the state transportation commission under subsection (1)(b) and the costs described in subsection (1)(c). Refunding notes or bonds shall be considered to be issued for the same purpose or purposes for which the notes or bonds to be refunded were issued.

(3) The notes or bonds authorized by this section shall be issued only after authorization by resolution of the state transportation commission, which resolution shall contain the following:

(a) An irrevocable pledge providing for the payment of the principal and interest on the notes or bonds from money which is restricted as to use by section 9 of article IX of the state constitution of 1963 and which is deposited or to be deposited in the comprehensive transportation fund, in the case of bonds or notes issued for comprehensive transportation purposes as defined by law, or in the state trunk line fund, in the case of bonds or notes issued for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963, or in the case of notes or bonds, if the resolution authorizing the notes or bonds provides, from money received or to be received by the state transportation department from the proceeds of bonds or renewal notes to be issued after the date of the resolution or from money received or to be received from the proceeds of the grants described in subsection (9). If the resolution authorizing the bonds or notes so provides, a portion of the principal or interest on the bonds or notes may be secured by an irrevocable pledge of money deposited in the comprehensive transportation fund or the state trunk line fund, and the balance of the principal and interest secured by an irrevocable pledge of the proceeds of bonds or renewal notes or money received or to be received from the proceeds of the grants described in subsection (9).

(b) A brief statement describing the projects for which the notes or bonds are to be issued and in the case of notes or bonds to pay notes or refund bonds, a description of the notes or bonds to be paid or refunded. For purposes of this section and section 18k, in connection with bonds issued to fund the loan program established under section 11(6) to (11), the loan program shall constitute the project, and it shall not be necessary to specify the particular item or costs of a particular item to be financed from any particular loan made under the loan program.

(c) The estimated cost of the projects or refunding or refinancing.

(d) The detail of the notes or bonds including the date of issue, maturity date or dates of the bonds or notes, the maximum interest rate, the dates of payment of interest, the paying agents, the transfer agent or agents, the provisions for registration, the redemption provisions, and the manner of execution or, as provided in subsection (11)(d), the limitations within which such detail may be determined by the person designated by the commission.

(4) If after the issuance of notes or bonds, the state transportation commission determines that a project for which the notes or bonds are to be issued should be changed, the state transportation commission, by resolution, adopted after the 30 days' notice of intention to adopt the resolution has been given to the appropriations committees of the senate and the house of representatives, shall amend the resolution authorizing the bonds or notes to change the description of the project or projects or to substitute a different project or projects for the project for which the notes or bonds were issued and shall make other revisions in the resolution authorizing the

notes or bonds with respect to cost as may be necessary to permit the change in or substitution of a project or projects.

(5) Before October 1, 1979, the total amount of bonds and notes issued pursuant to this section for comprehensive transportation purposes as defined by law shall not exceed an amount as will be serviced as to maximum principal and interest requirements by a sum equal to the amount deposited to the credit of the general transportation fund for the fiscal year ending September 30, 1977. After September 30, 1979, the total amount of bonds and notes issued pursuant to this section for comprehensive transportation purposes as defined by law shall not exceed an amount as will be serviced, out of state funds only, as to maximum annual principal and interest requirements by an amount equal to 50% of the total amount of money from taxes, the use of which money is restricted by section 9 of article IX of the state constitution of 1963, and which money is deposited in the state treasury to the credit of the comprehensive transportation fund during the state fiscal year immediately preceding the issuance of the bonds or notes.

(6) The total amount of bonds and notes issued pursuant to this section for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963 shall not exceed an amount as will be serviced as to the maximum principal and interest requirements by a sum equal to 50% of the total of the amount of money received from taxes, the use of which is restricted by section 9 of article IX of the state constitution of 1963 and which is deposited in the state treasury to the credit of the state trunk line fund during the state fiscal year immediately preceding the issuance of the bonds or notes.

(7) The principal or principal and interest or the portion of principal or interest of bonds or notes which are issued in anticipation of the issuance of bonds or renewal notes or of federal grants as provided in subsection (9) and which do not pledge for their payment money in the state trunk line fund or the comprehensive transportation fund or money received or to be received by the state transportation department from the Michigan transportation fund or the motor vehicle highway fund shall not be considered to be principal and interest requirements subject to the limitation set forth in subsections (5) and (6). The principal of and interest on notes or bonds refunded or for the refunding of which refunding bonds have been sold, whether the bonds to be refunded are to be retired at the time of delivery of the refunding bonds or not, shall not be considered to be principal and interest requirements subject to the limitation set forth in subsections (5) and (6).

(8) In computing the maximum annual principal and interest requirements under subsection (6), the total outstanding maximum annual contributions required to be made by the state highway commission and the state transportation commission pursuant to contracts entered into under the authorization of section 18d, which contributions are pledged to the payment of bonds issued under section 18d, shall be included in the amount.

(9) The state transportation commission may borrow money and issue notes or bonds in anticipation of the receipt of grants from the United States of America or any agency or instrumentality thereof and may pledge for the payment of the principal, interest, and redemption premiums on such notes or bonds 1 or more of the following:

(a) The proceeds of any grant and any investment earnings or gain on the grant.

(b) If deemed advisable by the state transportation commission, money which is restricted as to use by section 9 of article IX of the state constitution of 1963, and which is deposited or to be deposited in the comprehensive transportation fund, in the case of bonds or notes issued for comprehensive transportation purposes as defined by law, or in the state trunk line fund, in the case of bonds or notes issued for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963.

(c) If deemed advisable by the state transportation commission, money received or to be received by the state from the sale of the bonds or notes described in this section to be issued after the issuance of the notes or bonds described in this subsection and any investment earnings or gain thereon.

(10) Bonds or notes may be issued under this section as separate issues or series with different dates of issuance, but the aggregate of the bonds or notes shall be subject to the limitations set forth in this section.

(11) The state transportation commission in determining to issue bonds or notes may do 1 or more of the following:

(a) Authorize and enter into insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase obligations, remarketing agreements, reimbursement agreements, and any other transactions to provide security to assure timely payment of any bonds or notes.

(b) Authorize payment from the proceeds of the bonds or notes or other funds available, of the cost of issuance, including, but not limited to, fees for placement, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or other agreements to provide security to assure timely payment of bonds or notes.

(c) Authorize principal and interest to be payable from 1 or more of the following:

(i) Money described in subsection (3)(a).

(ii) Proceeds of bonds or notes.

(iii) Earning on proceeds of bonds or notes or other funds held for payment of bonds or notes.

(iv) Proceeds of any other security provided to assure timely payment of the bonds or notes.

(v) Proceeds of federal grants and other money described in subsection (9).

(vi) Any combination of the sources described in subparagraphs (i) to (v).



(d) Authorize or provide for a person designated by the state transportation commission, but only within limitations which shall be contained in the authorization resolution of the state transportation commission, to do 1 or more of the following:

(i) Sell and deliver and receive payment for bonds or notes.

(ii) Refund bonds or notes by the delivery of new bonds or notes, whether or not the bonds or notes to be refunded have matured or are subject to redemption prior to maturity on the date of delivery of the refunding bonds or notes.

(iii) Deliver bonds or notes partly to refund bonds or notes and partly for any other authorized purposes.

(iv) Buy, hold without cancellation, or sell bonds or notes so issued.

(v) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, optional or mandatory redemption or tender rights and obligations to be exercised by the state transportation commission or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(e) In connection with outstanding bonds, notes, or other obligations issued under this act, or in connection with the issuance or proposed issuance of bonds, notes, or other indebtedness, the state transportation commission may authorize by resolution the execution and delivery of agreements providing for interest rate exchanges or swaps, hedges, or similar agreements. The obligations of this state under the agreements, including termination payments, may be made payable from and secured by a pledge of the same sources of funds as the bonds, notes, or other obligations in connection with which the agreements are entered into, or from any other sources of funds available as a payment source of bonds, notes, or other obligations issued under this act. In calculating debt service on bonds, notes, and other obligations, the payments and receipts under the agreements authorized by this subsection, without regard to termination payments, and the payment obligations under the bonds, notes, or other obligations in connection with which the agreements are entered into, shall be aggregated and treated as a single obligation.

(f) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(g) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

If additionally secured as provided in this subsection, the bonds or notes, notwithstanding other provisions of this act, may be made payable or subject to purchase on demand or prior to maturity at the option of the holder at the time and in the manner as determined by the state transportation commission or the designated person as provided in the resolution authorizing the bonds or notes. Any bonds or notes authorized by this section may bear no interest or interest at a rate or rates which may be variable but which shall be subject to the limitations provided in section 18e as provided in the resolution authorizing the obligations. If bonds or notes are subject to payment or purchase on demand or prior to maturity at the option of the holder, and the obligation of the state to make payment or effect purchases on demand or prior to maturity, at the option of the holder is limited to the proceeds of 1 or more of the additional security devices described in this subsection and is not payable from constitutionally restricted funds deposited in the comprehensive transportation fund or the state trunk line fund, for purposes of computing maximum annual principal and interest requirements under subsections (5) and (6), the principal and interest on the bonds or notes subject to payment or purchase on demand or prior redemption at the option of the holder shall be disregarded and the maximum annual principal and interest requirements which would arise with respect to the repayment of the proceeds of the additional security device shall be substituted therefor.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979 ;-- Am. 1983, Act 82, Imd. Eff. June 15, 1983 ;-- Am. 1985, Act 201, Imd. Eff. Dec. 27, 1985 ;-- Am. 2002, Act 467, Imd. Eff. June 21, 2002 ;-- Am. 2002, Act 498, Imd. Eff. July 3, 2002

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.668c Counties; bonds.**

### **Sec. 18c.**

(1) A county may borrow money and issue bonds to pay all or any portion of the cost of the construction or reconstruction of highways, including limited access highways, which by law a county road commission is authorized to construct or reconstruct, or participate with any other county road commission, city, or village in the construction or reconstruction of, including the construction or the enlargement, reconstruction, or relocation of existing highways and the acquisition of necessary rights-of-way for those highways, and all work incidental to the construction or reconstruction, which bonds shall be issued only upon the written recommendation or approval of the county road commission, and the adoption of a resolution by a majority vote of the county board of



commissioners of the county. The resolution shall briefly describe the contemplated highway construction project, the estimated cost of the project, and the amount, maximum rate of interest, and maturity dates of the bonds to be issued and the form of the bonds. The resolution shall contain an irrevocable appropriation providing for the payment of the principal and interest of the bonds from the money received or to be received by the county road commission from the Michigan transportation fund, except to the extent the money has been pledged by contract in accordance with 1941 PA 205, MCL 252.51 to 252.64, before July 1, 1957, for the construction or financing of limited access highways, and except to the extent the moneys have been pledged before July 1, 1957, for the payment of notes issued under 1943 PA 143, MCL 141.251 to 141.254. A contractual pledge made before July 1, 1957, in accordance with the provisions of 1941 PA 205, MCL 252.51 to 252.64, and a pledge made before July 1, 1957, for the payment of promissory notes under 1943 PA 143, MCL 141.251 to 141.254, shall have and retain its priority of lien or charge against the money distributed by law to the county road commission from the Michigan transportation fund, as contemplated by those acts, and as provided in the contract or resolution authorizing the issuance of bonds or notes under those acts. A pledge made after June 30, 1957, by a county road commission under 1941 PA 205, MCL 252.51 to 252.64, or 1943 PA 143, MCL 141.251 to 141.254, shall have equal standing and priority with a pledge made after June 30, 1957, by the county road commission under this act. The total aggregate amount of bonds that may be issued by a county under this section shall not exceed the amount that will be serviced as to their maximum annual principal and interest requirements by an amount equal to 20% of the moneys received by the county road commission of the county from the Michigan transportation fund during the fiscal year immediately preceding the issuance of the bonds. Bonds may be issued under this section as separate issues or series with different dates of issuance but the aggregate of the bonds shall be subject to the limitations set forth in this act. As additional security for the payment of the bonds, a county, upon adoption of a resolution by a majority of the members of its county board of commissioners, may agree on behalf of the county that if the funds pledged for the payment of the bonds are at any time insufficient to pay the principal and interest on the bonds as the same become due, the county treasurer shall be obligated to advance sufficient money from the general fund of the county to make up the deficiency, and reimbursement shall be made from the first subsequent revenues received by the county road commission from the Michigan transportation fund not pledged or required to be set aside and used for the payment of the principal and interest on bonds, notes, or other evidences of indebtedness.

(2) The total annual amount that may be pledged by a county road commission for the payment of principal and interest on bonds issued pursuant to this section, or the payment of contributions as required by a contract entered into in accordance with section 18d, which contributions are pledged for the payment of bonds, together with total maximum debt service requirements for payment of notes issued under 1943 PA 143, MCL 141.251 to 141.254, shall not exceed 50% of the total amount received by the county road commission from the Michigan transportation fund during the last completed fiscal year ending on June 30 before the issuance of a bond or note or the execution of a contract.

(3) Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 2002, Act 451, Imd. Eff. June 21, 2002

**Compiler's Notes:** The following communication was sent to Governor John Engler on December 9, 2002:â€œDecember 9, 2002The Honorable John EnglerCapitol BuildingLansing, MI 48913Subject: PA 451 of 2002Dear Governor Engler:This is to inform you that an error has been discovered in Enrolled Senate Bill No. 1265, which was assigned Public Act No. 451 of 2002. The enrolled bill was presented to you on June 7, 2002, and it did not accurately reflect what was agreed to by both houses of the Legislature. Specifically, Section 18c(3) incorrectly stated:â€œ(3) Bonds issued under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.â€The language agreed to by both houses should read as follows:â€œ(3) Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.â€Therefore, we are presenting a correct Enrolled Senate Bill No. 1265 for your signature and filing with the Secretary of State. Upon filing, the defective Enrolled Senate Bill No. 1265 will be replaced with the correct Enrolled Senate Bill No. 1265 and assigned the same public act number. The inaccurate enrolled bill was signed by you on June 21, 2002, and filed with the Secretary of State on June 21, 2002. The effective date of Public Act No. 451 of 2002 will remain June 21, 2002.This procedure ensures that the bill as passed by both houses in the Legislature is accurately filed and effective, while this document will provide notification to the public. We apologize for any inconvenience this may have caused you and the citizens of the state of Michigan.If you have any questions, please feel free to contact us.Sincerely,Carol Morey Viventi Gary L. RandallSecretary of the Senate Clerk of the House of Representativesâ€œOn December 9, 2002, a corrected version of Enrolled Senate Bill No. 1265, signed by the Governor and dated June 21, 2002, was filed with the Secretary of State. The corrected version of Enrolled Senate Bill No. 1265 was assigned the same filing date (June 21, 2002) and Public Act number (451) as the defective enrolled bill.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.668d Contracts between governmental units for construction or reconstruction of highways; contributions; pledges; bonds; applicability of revised municipal finance act and agency financing reporting**

act.

Sec. 18d.

(1) The state transportation commission, county road commission, and a city or village may enter into a contract providing for the construction or reconstruction of highways, including limited access highways, under the jurisdiction and control of 1 of the contracting parties to the extent that the contracting parties are otherwise authorized by law to expend moneys on the highways, roads, or streets, which contract shall provide for allocation of the share of the cost of the construction or reconstruction to be borne by the department or a county road commission, city, or village in annual installments for a period not to exceed 30 years. The contract shall designate the department or a county road commission, city, or village to carry on, in whole or in part, the engineering, construction, or reconstruction work required by the contract, which may include the construction or enlargement, reconstruction, or relocation of existing highways and work incidental to the engineering, construction, or reconstruction work. The contract shall designate the department or a county road commission, city, or village to undertake the acquisition of rights of way required for the highways, which rights of way may be acquired by purchase or condemnation by the department or a county road commission, city, or village in its own name for the purposes of the construction or reconstruction. The department or a county road commission, city, or village may make a contribution to the cost of its highway construction and reconstruction projects as are provided for in contracts authorized in this section. A governmental unit may make irrevocable pledges of its Michigan transportation fund receipts to meet its annual obligations pursuant to the contracts. A governmental unit that is a party to a contract may make an additional irrevocable pledge of a contribution or funds received, or to be received, by the department or a county road commission, city, or village from the federal government or 1 of its agencies or from any other source for or in aid of the highway construction or reconstruction projects provided for in the contracts. A governmental unit that is a party to the contracts may borrow money and issue bonds in accordance with this act for the purpose of providing funds for the immediate construction or reconstruction of the highway projects contemplated by the contracts. The bonds shall be secured by an irrevocable pledge of the annual contributions required to be made by the department or a county road commission, city, or village that is a party to the contracts. Before the issuance of the bonds by a governmental unit, the issuance of the bonds shall be approved by a resolution of the state administrative board and by a resolution of the county road commission of each county and the governing body of each city or village that is a party to the contracts. The annual contribution required by the contracts shall be paid to the governmental unit issuing the bonds. A governmental unit that is a party to the contracts, at any time, may pay all or part of the unpaid annual contributions undertaken by it in a contract, and may raise money for that payment by the issuance of bonds in accordance with and subject to this act. A contract executed under this section may authorize the governmental unit issuing the bonds pursuant to the contract to receive bids for the bonds, accept the best bid, and issue and deliver the bonds for and on behalf of all the parties to the contract.

(2) The aggregate amount of annual contributions from the Michigan transportation fund that may be made by a county, city, or village under this section and pledged for the payment of principal and interest on bonds issued pursuant to a contract, shall not exceed 40% of the total amount received by it from the Michigan transportation fund during the last completed fiscal year ending on the June 30 before the execution of a contract. The amount of an annual contribution made by the state transportation department and pledged for the payment of bonds pursuant to this section shall be included in computing the bonding limit set forth in section 18b. The total aggregate amount that may be pledged by a city or village for the payment of principal and interest on bonds issued pursuant to a contract entered into in accordance with this section and 1952 PA 175, MCL 247.701 to 247.707, shall not exceed 50% of the total amount received by the city or village from the Michigan transportation fund and the highway construction fund during the last completed fiscal year ending on June 30 before the issuance of the bonds.

(3) Bonds issued and contracts entered into under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The issuance of bonds under this section is subject to the agency financing reporting act.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1979, Act 58, Imd. Eff. July 18, 1979 ;-- Am. 2002, Act 557, Imd. Eff. July 26, 2002

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.668e Bonds of governmental unit; maturities; interest; measuring maximum annual principal and interest requirements; certification of state transportation commission concerning average annual debt service requirements for certain obligations; "preservation" defined.**

Sec. 18e.

Except for bonds issued under section 18c, bonds issued by a governmental unit under this act shall be serial bonds with periodic maturities, or term bonds, with mandatory redemption requirements, or both serial and term bonds, the aggregate of which shall not exceed 30 years, the first of which shall fall due not more than 5 years from the date of issuance. Maturities shall be as established by the resolution or ordinance authorizing the bonds or notes, without regard to the useful lives of the projects financed from the proceeds of the bonds or notes. The bonds shall bear interest, taking into account any discount or premium on the sale of the bonds, at a rate not exceeding the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, may be made redeemable before maturity on those terms and conditions, and with the premium as shall be provided by the proceedings authorizing their issuance. Outstanding and authorized bonds issued pursuant to this act may be treated as a single issue for the purpose of fixing maturities. If pursuant to 1952 PA 175, MCL 247.701 to 247.707, or in 1943 PA 143, MCL 141.251 to 141.254, the maximum annual principal and interest requirements on bonds issued by governmental units are required to be measured by reference to amounts received from the motor vehicle highway fund, the requirements shall be measured by the receipts from the motor vehicle highway fund, the Michigan transportation fund, or both funds, and if pursuant to this act the maximum annual principal and interest requirements on bonds or notes issued by governmental units are required to be measured by reference to amounts received from the Michigan transportation fund, the requirements shall be measured by the receipts from the motor vehicle highway fund, the Michigan transportation fund, or both funds. The state transportation commission shall certify, which certification shall, for purposes of the validity of bonds, notes, and other obligations, be conclusive as to the matters stated in the certification, to the state treasury on or before the issuance of any bonds, notes, or other obligations payable from and secured by a lien on the state trunk line fund, issued after July 1, 1983, pursuant to section 18b or 18d for purposes other than the preservation of highways, roads, streets, and bridges and for purposes other than the purposes specified in section 11(2)(b), (c), (d), (g), (h), and (i) that its average annual debt service requirements payable from and secured by a lien on the state trunk line fund for all bonds, notes, and other obligations, or portions of bonds, notes, and other obligations issued after July 1, 1983, for purposes other than the preservation of highways, roads, streets, and bridges and other than for the purposes specified in section 11(2)(b), (c), (d), (g), (h), and (i), including the bonds, notes, or other obligations to be issued does not exceed 10% of the state revenue appropriated to the state trunk line fund, less the amounts described in section 11(2)(a) to (i) during the last completed state fiscal year. The state transportation commission shall certify, which certification shall, for purposes of the validity of bonds, notes, or other certification, to the state treasury on or before the issuance of any bonds, notes, or other obligations issued after December 31, 2001, pursuant to section 18b(9) in anticipation of the receipt of grants from the United States or any agency or instrumentality of the United States for distributions to the credit of the state trunk line fund, and not payable from taxes deposited in the state trunk line fund, for purposes other than the preservation of highways, roads, streets, and bridges and for purposes other than the purposes specified in section 11(2)(b), (c), (f), and (i), that its average annual debt service requirements for all bonds, notes, and other obligations, or portions of bonds, notes, or other obligations issued after December 31, 2001, pursuant to section 18b(9) and not payable from taxes deposited in the state trunk line fund, for purposes other than the preservation of highways, roads, streets, and bridges and other than the purposes specified in section 11(2)(b), (c), (f), and (i), including the bonds, notes, or other obligations to be issued, do not exceed 10% of the federal revenue distributed to the credit of the state trunk line fund during the last completed state fiscal year. If the purpose for which the bonds, notes, or other obligations is issued is changed after the issuance of the bonds, notes, or other obligations, the change shall be made in a manner to maintain compliance with the certification required by the preceding sentence, as of the date the certificate was originally issued, but no change shall invalidate or otherwise affect the bonds, notes, or other obligations with respect to which the certificate was issued, or the obligation to pay debt service on the bonds, notes, or other obligations. As used in this section, "preservation" means preservation as defined in section 10c.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1973, Act 72, Imd. Eff. July 23, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1983, Act 82, Imd. Eff. June 15, 1983 ;-- Am. 1985, Act 201, Imd. Eff. Dec. 27, 1985 ;-- Am. 2002, Act 493, Imd. Eff. July 3, 2002 ;-- Am. 2002, Act 498, Imd. Eff. July 3, 2002

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.668f Approval of construction; sale price of bonds.**

Sec. 18f.

If the aggregate maturities of the bonds exceed 15 years, the bonds shall not be issued until the state transportation department has approved the construction to be financed by the proceeds of the bonds. The sale price of the bonds shall not be less than the minimum price specified in the proceedings authorizing their issuance.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1983, Act 82, Imd. Eff. June 15, 1983 ;-- Am. 2002, Act 448, Imd. Eff. June 17, 2002

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.668g Bonds; protection of outstanding bonds.**

Sec. 18g.

Nothing contained in this act shall be construed in such manner as to violate or impair any substantive rights existing in the holders of any outstanding bonds, notes or other evidences of indebtedness issued under the provisions of Act No. 205 of the Public Acts of 1941, as amended, Act No. 87 of the Public Acts of 1955, as amended, Act No. 143 of the Public Acts of 1943, as amended, or Act No. 175 of the Public Acts of 1952. It is hereby declared to be the determination and intent of the legislature that adequate and complete provision has been made in this act for the protection and preservation of the rights and security of the bonds issued and outstanding under the provisions of the laws.

**History:** Add. 1957, Act 262, Eff. July 1, 1957

**Compiler's Notes:** Act 87 of 1955, referred to in this section, was repealed by Act 1 of 1956, Ex. Sess., Act 263 of 1957, and Act 6 of 1967, Ex. Sess.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.668h Bonds; negotiability; payment, exemption from taxation.**

Sec. 18h.

Any bonds issued under the provisions of this act shall have all the qualities of negotiable instruments under the law merchant and the negotiable instruments law. Any bonds and interest coupons shall be made payable in lawful money of the United States of America, and shall be exempt from any and all taxation whatsoever by the state or by any taxing authority within the state.

**History:** Add. 1957, Act 262, Eff. July 1, 1957

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.668i Cumulative authority of act.**

Sec. 18i.

The provisions of this act shall be construed as cumulative authority for the exercise of the bonding powers herein granted and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intention of this act to create full and complete additional and alternate methods and means for the exercise of such powers. The powers conferred by this act shall not be affected or limited by any other statute or by any charter, except as otherwise herein provided.

**History:** Add. 1957, Act 262, Eff. July 1, 1957

**247.668j Annual certification that certain employee-related conditions met; failure to make certification; withholding distributions to local road agency; website.**

Sec. 18j.

(1) Beginning September 30, 2015, each local road agency shall annually certify to the department that it satisfies 1 of the following conditions with respect to employees:

(a) The local road agency has developed and publicized an employee compensation plan that the local road agency intends to implement with any new, modified, or extended contract or employment agreements for employees not covered under contract or employment agreement. The employee compensation plan that each local road agency plans to achieve shall be posted on a publicly accessible internet site and shall be submitted to the department. At a minimum, the employee compensation plan shall include all of the following:

(i) New employee hires who are eligible for retirement plans are placed on retirement plans that cap annual employer contributions at 10% of base salary for employees who are eligible for social security benefits. For employees who are not eligible for social security benefits, the annual employer contribution is capped at 16.2% of base salary.

(ii) For defined benefit pension plans, a maximum multiplier of 1.5% for all employees who are eligible for social security benefits, except, if postemployment health care is not provided, the maximum multiplier shall be 2.25%. For all employees who are not eligible for social security benefits, a maximum multiplier of 2.25%, except, if postemployment health care is not provided, the maximum multiplier shall be 3.0%. This subparagraph does not apply to years of service accrued prior to September 30, 2013, or to contracts entered into prior to September 30, 2013.

(iii) For defined benefit pension plans, final average compensation for all employees is calculated using a minimum of 3 years of compensation and shall not include more than a total of 240 hours of paid leave. Overtime hours shall not be used in computing the final average compensation for an employee. This subparagraph does not apply to years of service accrued prior to September 30, 2013, or to contracts entered into prior to September 30, 2013.

(iv) Health care premium costs for new employee hires shall include a minimum employee share of 20%; or, an employer's share of the local health care plan costs shall be cost competitive with the new state preferred provider organization health plan, on a per-employee basis.

(b) The local road agency complies with 1 of the following:

(i) A local road agency that offers medical benefits to its employees or elected public officials shall certify to the department by September 30, 2015 that it is in compliance with the publicly funded health insurance contribution act, 2011 PA 152, MCL 15.561 to 15.569. For purposes of this subparagraph, dental and vision coverages are not considered medical benefits. The department shall develop a certification process and method for local road agencies to follow. A local road agency shall indicate in a certification under this subparagraph whether it has exempted itself from the publicly funded health insurance contribution act, 2011 PA 152, MCL 15.561 to 15.569, as provided in section 8 of the publicly funded health insurance contribution act, 2011 PA 152, MCL 15.568.

(ii) A local road agency that does not offer medical benefits to its employees or elected public officials shall certify to the department by September 30, 2015 that it does not offer medical benefits to its employees or elected public officials. For purposes of this subparagraph, dental and vision coverages are not considered medical benefits. The department shall develop a certification process and method for local road agencies to follow.

(2) If a local road agency does not make the certification required under subsection (1), the department may withhold all or part of the distributions to the local road agency from the Michigan transportation fund under this act. A withholding under this subsection shall continue for the period of noncompliance with subsection (1) by the local road agency.

(3) A county road commission shall maintain a searchable website accessible by the public at no cost that includes, but is not limited to, all of the following:

(a) Current fiscal year budget.

(b) The number of active employees of the county road commission by job classification and wage rate.

(c) A financial performance dashboard that contains information on revenues, expenditures, and unfunded liabilities. The county road commission may link to financial information provided by the Michigan transportation asset management council.

(d) The names and contact information for the governing body of the county road commission.

(e) A copy of the certification required by subsection (1).



(4) The department shall maintain a searchable website accessible by the public at no cost. A website maintained by the department under this subsection shall include, but is not limited to, the following:

(a) Current fiscal year budget.

(b) The number of active employees of the department by job classification and wage rate.

(c) A financial performance dashboard that contains information on revenues, expenditures, and unfunded liabilities. The department may link to financial information provided by the Michigan transportation asset management council.

(d) The names and contact information for the governing body of the department.

(5) A county road commission may develop and operate its own website to provide the information required under subsection (3), or the county road commission may reference this state's central transparency website as the source for the information required under subsection (3). If a county road commission does not have a website, the county road commission may post the information required under subsection (3) on the website for the county within which the county road commission is located or on the website of a statewide road association of which the county road commission is a member.

**History:** Add. 2012, Act 506, Imd. Eff. Dec. 28, 2012 ;-- Am. 2014, Act 301, Imd. Eff. Oct. 9, 2014

**Compiler's Notes:** Former MCL 247.668j, which pertained to pledge for annual debt service requirements and to successive borrowings, was repealed by Act 234 of 1987, Imd. Eff. Dec. 28, 1987.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.668k List of projects for which notes or bonds to be issued.**

Sec. 18k.

If the state transportation commission, by resolution, after January 1, 1983, authorizes the issuance of notes or bonds, the state transportation commission shall provide the appropriations committees of the senate and the house of representatives with a list of the projects for which the notes or bonds are to be issued. The list shall be provided at least 30 days before the notes or bonds are issued.

**History:** Add. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1983, Act 82, Imd. Eff. June 15, 1983

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.668l Borrowing money and issuing notes or bonds in anticipation of federal funds.**

Sec. 18l.

(1) In order to provide a more immediate economic impact and the creation of job opportunities by accelerating vital transportation projects as part of an infrastructure investment program, the state transportation commission, as soon as possible after the effective date of this section, may borrow money and issue notes or bonds in anticipation of the receipt of the additional approximately \$1,200,000,000.00 in increased funds from the federal government pursuant to the intermodal surface transportation efficiency act of 1991, Public Law 102-240 and any other appropriate federal funding sources available to the department as the respective funds become available, and may pledge for the payment of the principal, interest, and redemption premiums on such notes or bonds sufficient funds from the funds received each fiscal year beginning with the fiscal year ending September 30, 1993 and through the fiscal year ending September 30, 1997 from the federal government pursuant to the intermodal surface transportation efficiency act of 1991, Public Law 102-240 or any other appropriate revenues available consistent with federal and state law as the respective funds become available each year in order to repay the notes or bonds and the debt service on the notes or bonds.

(2) The bonds or notes issued pursuant to subsection (1) shall be issued by the commission to fund projects for any purpose for which federal funds received through the intermodal surface transportation efficiency act of 1991 may be used to fulfill the requirements of that act and for any other purpose consistent with state and federal law.

(3) The notes or bonds authorized by this section shall be issued by resolution of the state transportation



commission consistent with the requirements of section 18b.

**History:** Add. 1992, Act 224, Imd. Eff. Oct. 15, 1992

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.668m Borrowing from a state infrastructure bank program.**

Sec. 18m.

(1) A local road agency or a public transportation system may borrow money from a state infrastructure bank program administered by the department in accordance with regulations of the state infrastructure bank program of the United States Department of Transportation.

(2) As used in this section:

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

(b) "Public transportation system" means that term as defined in section 2 of the regional transit authority act, 2012 PA 387, MCL 124.542.

**History:** Add. 2018, Act 507, Eff. Mar. 29, 2019

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.669 Roads, streets, and alleys taken over as county roads.**

Sec. 19.

The board of county road commissioners in each of the several counties shall, within 1 year from the effective date of this act, complete the taking over as county roads of all roads, streets and alleys heretofore required to be taken over as county roads by the provisions of Act No. 130 of the Public Acts of 1931, as amended, being sections 247.1 to 247.13, inclusive, of the Compiled Laws of 1948. Said board of county road commissioners in each of the several counties shall take over as county roads all streets and alleys lying outside the limits of incorporated cities and villages and dedicated to the public in recorded plats approved by said board of county road commissioners, within 30 days after the recording of the plat or the effective date of this act, whichever may be the later. Such dedicated streets and alleys, when taken over by the county road commission, shall be county roads in all respects and for all purposes and shall be classified as county primary roads or county local roads pursuant to the provisions of this act.

**History:** 1951, Act 51, Eff. June 1, 1951

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.670 Unexpended balances of township funds; appropriation for local road maintenance or improvement; additional powers; snow removal in Marquette county townships.**

Sec. 20.

Notwithstanding any other provisions of this act the township board of any township may appropriate any unexpended balances in the contingent or general fund of the township without submitting the question to the electors of said township, or raise money by the issuance of bonds of the township in the same manner and to the same extent as provided in sections 8 to 18 of chapter 14 of Act No. 283 of the Public Acts of 1909, being sections 234.8 to 234.18, inclusive, of the Compiled Laws of 1948, and to pay any sum so appropriated or raised into the

county road fund of the county for the maintenance and/or improvement of county roads within the townships, or for the widening of state trunk line highways beyond the width required for state trunk line traffic in unincorporated areas of such township, pursuant to an agreement between the township and the county road commission. Where funds are to be used for the widening of a state trunk line highway, the county road commission shall enter into agreement with the state highway commissioner for the work. Notwithstanding any other provisions of this act the township board of any township may also levy a property tax of not to exceed 3 mills on each dollar of assessed valuation of the township in any year for the maintenance or improvement of county roads within the township or for the widening of state trunk line highways, as aforesaid, without submitting the question to the electors of said township, and pay any sum so raised into the county road fund of the county for the aforesaid purposes pursuant to an agreement with the county road commission: Provided, That in addition to the foregoing powers any township may, when authorized by a vote of the electorate, levy a property tax of not to exceed 6 mills on each dollar of assessed valuation of the township in any year for the maintenance or improvement of county roads or for the widening of state trunk line highways beyond the width required for state trunk line traffic in unincorporated areas of the township and pay any sum so raised into the county road fund of the county for the maintenance and/or improvement of county roads within such township or the widening of state trunk line highways, as aforesaid, pursuant to an agreement between the township and the county road commission. Where funds are to be used for the widening of a state trunk line highway, the county road commission shall enter into agreement with the state highway commissioner for such work. Notwithstanding any other provisions of this act the township board of any township in the county of Marquette, out of any unexpended balances in the contingent or general fund of the township, after first submitting the question to the electors of the township, and a majority of those voting thereon approve of such expenditure, may purchase and operate snow removal equipment.

**History:** 1951, Act 51, Eff. June 1, 1951 ;-- Am. 1953, Act 86, Imd. Eff. May 18, 1953 ;-- Am. 1954, Act 102, Imd. Eff. Apr. 14, 1954 ;-- Am. 1956, Act 58, Imd. Eff. Apr. 2, 1956 ;-- Am. 1957, Act 153, Eff. Sept. 27, 1957

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

#### **247.670a Contract for preservation of county local road system within township.**

Sec. 20a.

A board of county road commissioners in a county and the township board of a township with a population of 15,000 or more, and which in the prior year and the contract year will have levied a property tax of not less than 1 mill on each dollar of assessed valuation of the township for the improvement or preservation of county roads within the township, may exercise the provisions of this section only by entering into a written contract of not more than 1 year providing for the preservation by the township of all or any part of the county local road system within that township, subject to, at a minimum, the following conditions:

(a) The contract shall specify the total amount of money that shall be annually expended by the contracting township for the preservation of all or part of the local road system. The contracting road commission may pay not more than 90% of the amount specified in the contract to the contracting township annually. The contracting road commission shall not pay more than 66% of an amount equal to the average annual amount of funds expended by the county road commission on the local road system located within the contracting township for construction and preservation purposes over the previous 5-year period from local road funds received by the county under this act. The contracting township shall match any funds expended by the contracting road commission on the local road system located within the contracting township in excess of 66%. The amount paid to the contracting township shall not directly or indirectly include money transferred from the primary fund allocation to the county under section 12(8).

(b) The contracting township shall keep separate accounts and accurate and uniform records on all road preservation work and funds, and shall file with the state transportation commission and the contracting county road commission on or before April 1 of each year, on forms provided by the state transportation commission, a report showing the disposition of funds received and expended for road purposes.

(c) The contract shall require the contracting township to provide insurance covering the contracting road commission's liability for failure to preserve the local roads specified in the contract.

(d) The contracting road commission shall determine and specify the equipment and personnel necessary to provide the preservation as set forth in the contract, and the contract shall not take effect until the contracting township has acquired the necessary equipment and personnel specified in the contract.

(e) As used in this section, "preservation" means that term as defined in section 10c unless the contracting parties specify a different meaning in the contract.

**History:** Add. 1974, Act 74, Imd. Eff. Apr. 4, 1974 ;-- Am. 2002, Act 498, Imd. Eff. July 3, 2002 ;-- Am. 2005, Act 5, Imd. Eff. Apr. 7, 2005 ;-- Am. 2010, Act 257, Imd. Eff. Dec. 14, 2010 ;-- Am. 2012, Act 298, Imd. Eff. Aug. 23, 2012

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.671 Repeal.**

Sec. 21.

All acts and parts of acts inconsistent with the provisions of this act, and the following acts and parts of acts, are hereby repealed, viz: sections 19, 19a, 19b, 19e and 19f of Act No. 150 of the Public Acts of 1927, being sections 207.119, 207.119a, 207.119b, 207.119e and 207.119f, respectively, of the Compiled Laws of 1948; Act No. 130 of the Public Acts of 1931, as amended, being sections 247.1 to 247.13, inclusive, of the Compiled Laws of 1948; Act No. 1 of the Public Acts of the Extra Session of 1937, being sections 247.21 to 247.25, inclusive, of the Compiled Laws of 1948; and section 805 of Act No. 300 of the Public Acts of 1949, being section 257.805 of the Compiled Laws of 1948.

**History:** 1951, Act 51, Eff. June 1, 1951

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.672 Effective date of act.**

Sec. 22.

This act shall become effective June 1, 1951.

**History:** 1951, Act 51, Eff. June 1, 1951

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.673 Effective upon passage of certain act.**

Sec. 23.

This act shall not take effect unless Senate Bill No. 41 of the 1951 session of the legislature, relative to increase in the privilege tax for the use of the public highways by owners and drivers of motor vehicles is enacted into law and becomes effective.

**History:** 1951, Act 51, Eff. June 1, 1951

**Compiler's Notes:** Senate Bill No. 41 of 1951, referred to in this section, became Act 54 of 1951.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **247.674 Refunding bonds or advance refunding bonds.**

Sec. 24.

The state transportation commission may issue refunding bonds or advance refunding bonds for the purpose of refunding notes or bonds issued under this act before the effective date of this section. Those refunding bonds or advance refunding bonds shall be issued in accordance with section 18b.

**History:** Add. 1978, Act 444, Imd. Eff. Oct. 10, 1978

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.675 Truck safety fund and Michigan truck safety commission; establishment; administration of fund; duty of commission; appointment, qualifications, and terms of commission members; election of chairperson; vacancy; meetings; notice; quorum; expenditure of fund; annual report.**

Sec. 25.

(1) The truck safety fund is established and shall be maintained in the state treasury. The truck safety fund shall be administered by the office of highway safety planning within the department of state police.

(2) The Michigan truck safety commission is established in the office of highway safety planning within the department of state police. The commission shall control the expenditures of the truck safety fund. The commission shall consist of the following members:

(a) A member of the state transportation commission, or his or her authorized representative who is a member of the state transportation commission.

(b) The director of the office of highway safety planning, within the department of state police.

(c) The secretary of state.

(d) The commanding officer of the motor carrier division within the department of state police.

(e) Seven individuals appointed by the governor with the advice and consent of the senate as follows:

(i) One individual representing Michigan community colleges.

(ii) One individual representing 4-year colleges or universities.

(iii) One individual representing the Michigan trucking association.

(iv) One individual representing private motor carriers.

(v) One individual representing organized labor.

(vi) Two individuals representing the general public.

(3) The appointed members of the Michigan truck safety commission shall be appointed for 2-year terms. The chairperson of the Michigan truck safety commission shall be elected by a majority of the members serving on the Michigan truck safety commission. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment. The business which the Michigan truck safety commission shall perform shall be conducted at a quarterly meeting held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the meeting shall be given in the manner required under Act No. 267 of the Public Acts of 1976. A majority of the commission members serving shall be required to constitute a quorum.

(4) The truck safety fund shall be expended in the following order of priority and in the following manner:

(a) Not more than 5% but not more than \$100,000.00 of the money deposited in the truck safety fund shall be expended for the fund's administrative expenses. The office of highway safety planning may employ not more than 2 persons to assist in the administration of the fund.

(b) Not less than 30%, but not less than \$1,000,000.00 of the balance of the money deposited in the truck safety fund shall be expended for the following purposes:

(i) Establishing truck driver safety education programs.

(ii) Encouraging, coordinating, and administering grants for research and demonstration projects to develop the application of new ideas and concepts in truck driver safety education as applied to state, as opposed to nationwide, problems.

(iii) Applying for, receiving, and accepting any grant, gift, contribution, loan, or other assistance in the form of money, property, labor, and any other form from a public or private source for the enhancement of truck driver safety education, including matching funds and other assistance from an agency or instrumentality of the United States and doing each thing as is necessary to apply for, receive, and administer that assistance in accordance with the laws of this state.

(c) Not less than \$750,000.00 of the balance of the money deposited in the truck safety fund shall be expended for the establishment of special transportation enforcement team operations within the motor carrier division of the department of state police and any expenses incurred by the special transportation enforcement team including, but not limited to, required equipment. The motor carrier division of the department of state police shall submit an

annual report of the activities of the special transportation enforcement team operations and expenditures of the fund for those operations provided by this subdivision.

(d) The balance of the money deposited in the truck safety fund, if any, shall be expended for the following purposes:

(i) Investigating, performing data collection and analysis, and making recommendations on truck accidents within this state.

(ii) Investigating and making recommendations on the truck safety enforcement procedures of local law enforcement agencies.

(iii) Performing other functions considered necessary by the Michigan truck safety commission for the enhancement of truck and truck driver safety within this state.

(5) The commission shall make an annual report to the chairpersons of the house transportation and senate transportation and tourism committees on the status of the fund. The report shall be submitted within 45 days after the end of the fiscal year and shall include the year end balance of the fund and the disbursements made from the fund during the previous fiscal year.

**History:** Add. 1988, Act 348, Imd. Eff. Oct. 25, 1988 ;-- Am. 1993, Act 20, Imd. Eff. Apr. 14, 1993

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

## **EXECUTIVE REORGANIZATION ORDER**

### **E.R.O. No. 1997-6**

#### **247.691 Transfer of powers and duties of the transportation needs study committee to the state transportation commission by type III transfer; transfer of powers and duties of the citizens advisory committee to the director of the department of transportation by type III transfer.**

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the transportation needs study committee was created by Section 9a of Act No. 234 of the Public Acts of 1987, being Section 247.659a of the Michigan Compiled Laws; and

WHEREAS, the transportation needs study committee was to report to the Governor, the state transportation commission and the legislature on various transportation needs of the state; and

WHEREAS, no Governor has appointed members to the transportation needs study committee since its inception in 1987; and

WHEREAS, the state transportation commission was created by Article V, Section 28, of the Constitution of the State of Michigan of 1963 to "establish policy for the state transportation department transportation programs and facilities, and such other public works of the state, as provided by law;" and

WHEREAS, the functions, duties and responsibilities assigned to the transportation needs study committee can be more effectively and appropriately organized and carried out by the state transportation commission; and

WHEREAS, a citizens advisory committee was created by Section 9a of Act No. 234 of the Public Acts of 1987, being Section 247.659a of the Michigan Compiled Laws; and

WHEREAS, the functions, duties and responsibilities assigned to the citizens advisory committee can be more effectively organized and carried out by the Director of the Department of Transportation; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the statutory authority, powers, duties, functions and responsibilities of the transportation needs study committee, as set forth in Section 247.659a of the Michigan Compiled Laws, are hereby transferred to the state

transportation commission, by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Transportation shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered by the state transportation commission.

3. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the transportation needs study committee are hereby transferred to the state transportation commission.

4. All the statutory authority, powers, duties, functions and responsibilities of the citizens advisory committee, as set forth in Section 247.659a of the Michigan Compiled Laws, are hereby transferred to the Director to the Department of Transportation, by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

5. The Director of the Department of Transportation shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered by the Director of the Department of Transportation.

6. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the citizens advisory committee are hereby transferred to the Director of the Department of Transportation.

7. The Director of the Department of Transportation shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

8. The Director of the Department of Transportation shall immediately initiate coordination to facilitate the transfers and develop a memorandum of record identifying any pending business before the transportation needs study committee and the citizens advisory committee.

9. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

10. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

11. The transportation needs study committee and the citizens advisory committee are hereby abolished.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

**History:** 1997, E.R.O. No. 1997-6, Eff. June 2, 1997

**Compiler's Notes:** In paragraph number "4.", the phrase "to the Director to the Department of Transportation" evidently should read "to the Director of the Department of Transportation."

## EXECUTIVE REORGANIZATION ORDER

**E.R.O. No. 2009-34**

### **247.692 Transfer of public transit association task force to department of education by type III transfer; abolishment of public transit association task force.**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

WHEREAS, abolishing the Public Transit Association Task Force will contribute to a smaller and more efficient state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and



authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

**I. DEFINITIONS**

As used in this Order:

A. "Department of Transportation" means the principal department of state government created under Section 350 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.450.

B. "Public Transit Association Task Force" means the task force created under Section 10h of the State Trunk Line Highway System, 1951 PA 51, MCL 247.660h.

C. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

D. "Type III transfer" means that term as defined under Section 3(c) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

**II. TRANSFER OF AUTHORITY**

A. The Public Transit Association Task Force is transferred by Type III transfer to the Department of Transportation.

B. The Public Transit Association Task Force is abolished.

**III. IMPLEMENTATION OF TRANSFERS**

A. The Director of the Department of Transportation shall provide executive direction and supervision for the implementation of all transfers of functions under this Order and shall make internal organizational changes as necessary to complete the transfers under this Order.

B. The functions transferred under this Order shall be administered by the Director of the Department of Transportation in such ways as to promote efficient administration.

C. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Public Transit Association Task Force for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Department of Transportation.

D. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

**IV. MISCELLANEOUS**

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective December 28, 2009 at 12:01 a.m.

**History:** 2009, E.R.O. No. 2009-34, Eff. Dec. 28, 2009

## **BORROWING FROM MOTOR VEHICLE HIGHWAY FUND**

### **Act 175 of 1952**

AN ACT to authorize incorporated cities and villages to borrow money and issue bonds in anticipation of future payments from the motor vehicle highway fund, for any purpose or purposes for which said funds may be used and for the purpose of refunding such bonds; authorizing the pledging of the faith and credit of the issuing city or village, upon proper resolution of its governing body, as additional security for the payment of said bonds; and to prescribe procedures and conditions relative to the issuance of such bonds.

**History:** 1952, Act 175, Imd. Eff. Apr. 25, 1952 ;-- Am. 1964, Act 37, Eff. Aug. 28, 1964

*The People of the State of Michigan enact:*

**247.701 Borrowing money and issuing bonds; purposes; bonds subject to revised municipal finance act; refunding bonds; sale; refund prohibited under certain conditions.**

**Sec. 1.**

(1) Subject to subsections (2) and (3), any incorporated city or village in this state is authorized to borrow money and issue its bonds for the purposes enumerated in section 13 of 1951 PA 51, MCL 247.663, and to refund bonds issued under this act or in part to refund bonds issued under this act and in part for the purposes enumerated in section 13 of 1951 PA 51, MCL 247.663, without a vote of the electors. Any bonds issued under this act are subject to the requirements of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and all procedures for issuing bonds under this act shall conform to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Any refunding bonds issued under this act may include the amount of any premium to be paid upon the calling of the bonds to be refunded or, if the bonds are not callable, any premium necessary to be paid in order to secure the surrender of the bonds to be refunded, but, in either case, the amount of the premium included shall not exceed 3% of the principal amount of the bonds to be refunded. Nothing in this section shall be construed to provide for the refunding of noncallable unmatured bonds without the consent of the holder or holders of those bonds. Refunding bonds may be sold at any time to refund any outstanding bonds.

(2) A city or village shall not issue or refund a bond under this act if the bond or authorizing resolution does 1 or more of the following:

(a) Provides that the proceeds of the bond are used for operational expenses of the city or village, other than engineering or design expenses related to the project for which the bond was issued.

(b) Provides that the weighted average maturity of the bond exceeds the useful life of the asset.

(c) Provides that the bond, in whole or in part, appreciates in principal amount or is sold at a discount in an amount greater than 10%.

**History:** 1952, Act 175, Imd. Eff. Apr. 25, 1952 ;-- Am. 1964, Act 37, Eff. Aug. 28, 1964 ;-- Am. 1983, Act 117, Imd. Eff. July 18, 1983 ;-- Am. 1998, Act 506, Imd. Eff. Jan. 8, 1999 ;-- Am. 2002, Act 330, Imd. Eff. May 23, 2002

**247.702 Authorization of bonds; cities and villages; resolution, approval, publication, contents.**

**Sec. 2.**

When the governing body of any incorporated city or village shall determine to borrow money under the provisions of this act, they shall by resolution approved by a 2/3 majority of the members-elect of said governing body so declare, which resolution shall be published once in a daily or weekly newspaper of general circulation in said incorporated city or village before the same becomes effective, and such resolution shall briefly describe the contemplated project or projects, the estimated cost thereof, and the amount, maximum rate of interest and maturity dates of the bonds to be issued and the form thereof, and such resolution shall contain an irrevocable appropriation providing for the payment of the principal and interest thereof from the moneys to be derived from state collected taxes returned to such city or village for highway purposes pursuant to law, which have not been theretofore specially allocated and pledged for the payment of indebtedness.

**History:** 1952, Act 175, Imd. Eff. Apr. 25, 1952 ;-- Am. 1960, Act 16, Eff. Aug. 17, 1960

**247.703 Bonds; principal and interest; payment; additional security; existing contract rights; priority.**

Sec. 3.

(1) The principal of and interest upon the bonds shall be payable primarily from the proceeds of revenues derived from state collected taxes returned to the city or village for road purposes pursuant to law. As additional security for the payment of the bonds, a city or village, upon proper resolution of its governing body, is authorized to pledge its full faith and credit for the payment of the bonds. If a pledge of its full faith and credit is made and the revenues pledged to the payment of the bonds are at any time insufficient for the payment, the city or village shall be obligated to pay the bonds and coupons to the same extent as other general obligation bonds of the city or village, and shall be reimbursed from subsequent revenues received by the city or village from the state collected taxes returned to the city or village for road purposes pursuant to law.

(2) Nothing contained in this act shall be construed to violate or impair contract rights existing in the holders of outstanding bonds issued under the provisions of 1941 PA 205, MCL 252.51 to 252.64, but pledges of the revenues or taxes made by a city or village under the provisions of that act shall retain their priority of lien or charge against the revenues as contemplated by the provisions of that act and as provided in the contract or resolution authorizing the issuance of bonds under that act.

**History:** 1952, Act 175, Imd. Eff. Apr. 25, 1952 ;-- Am. 1960, Act 16, Eff. Aug. 17, 1960 ;-- Am. 1964, Act 37, Eff. Aug. 28, 1964 ;-- Am. 1968, Act 70, Imd. Eff. May 28, 1968 ;-- Am. 1973, Act 71, Imd. Eff. July 23, 1973 ;-- Am. 1988, Act 152, Imd. Eff. June 14, 1988 ;-- Am. 2002, Act 330, Imd. Eff. May 23, 2002

**247.704 Issuance of bonds for highway purposes; cities and villages; successive borrowing.**

Sec. 4.

A city or village shall not pledge, for annual debt service requirements, in excess of 50% of the revenues received, during the fiscal year next preceding any borrowings, from the motor vehicle highway fund pursuant to 1951 PA 51, MCL 247.651 to 247.675. This act does not prohibit successive borrowings if the total amount of revenues pledged for annual debt service requirements does not exceed 50% and if the total aggregate amount of borrowing does not exceed an amount which 50% of the revenues will service as to annual principal and interest requirements. Debt service on any bonds that have been refunded under this act shall not be included in the calculation of annual debt service requirements under this section.

**History:** 1952, Act 175, Imd. Eff. Apr. 25, 1952 ;-- Am. 1958, Act 62, Imd. Eff. Apr. 9, 1958 ;-- Am. 1961, Act 142, Imd. Eff. May 31, 1961 ;-- Am. 1996, Act 125, Imd. Eff. Mar. 13, 1996 ;-- Am. 1998, Act 506, Imd. Eff. Jan. 8, 1999

**247.705 Revenues set aside; source.**

Sec. 5.

After any indebtedness shall be incurred under the provisions of this act, it shall be the duty of the treasurer of the city or village, during each year such indebtedness shall continue, to set aside in a separate fund from such revenues as shall be received during such year from the motor vehicle highway fund an amount sufficient to pay the interest and principal upon the installment on such indebtedness next maturing.

**History:** 1952, Act 175, Imd. Eff. Apr. 25, 1952

**247.706 Repealed. 2002, Act 330, Imd. Eff. May 23, 2002.**

**Compiler's Notes:** The repealed section pertained to approval or denial of bonds.

#### **247.707 Prohibition of pledges.**

Sec. 7.

Nothing in this act contained shall be construed as permitting any city or village to pledge such portion of the future revenues derived from state collected taxes returned to such city or village for road purposes which are pledged by law, ordinance, resolution or contract for the payment of bonds.

**History:** 1952, Act 175, Imd. Eff. Apr. 25, 1952

### **SURVEYS ON PUBLIC AND PRIVATE PROPERTY**

#### **Act 208 of 1959**

AN ACT to empower highway and road authorities to make surveys on public and private property.

**History:** 1959, Act 208, Eff. Mar. 19, 1960

*The People of the State of Michigan enact:*

#### **247.751 Highway surveys on public and private property; liability.**

Sec. 1.

In preparation for and in connection with the planning, construction and maintenance of state trunk line highways and county roads, it shall be lawful for the appropriate authorities to go upon any land and waters in this state for the purpose of making necessary surveys, soundings and borings as necessary; and such action shall not be a trespass nor an entry. The authorities shall be liable for any actual damage thereby done to such premises. No fences, fencing, trees or shrubbery shall be removed without the written consent of an owner of such property.

**History:** 1959, Act 208, Eff. Mar. 19, 1960

### **RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS**

#### **Act 63 of 2018**

AN ACT to promote the safety and security of rail fixed guideway public transportation systems operating within this state; to designate the office of rail within the state transportation department as the state safety oversight entity for this state; to provide for the powers and duties of the state safety oversight entity; and to provide for the enforcement of this act.

**History:** 2018, Act 63, Eff. June 12, 2018

*The People of the State of Michigan enact:*

## **247.781 Definitions.**

### **Sec. 1.**

As used in this act:

(a) "Corrective action plan" means a plan developed by a rail transit agency that describes the actions that the rail transit agency will take to minimize, control, correct, or eliminate risks or hazards, and the schedule for taking those actions.

(b) "Covered rail fixed guideway public transportation system" means a transit system operating within this state that is subject to the state safety oversight requirements under 49 CFR 659 and 49 CFR 674.

(c) "Department" means the state transportation department.

(d) "Hazard" means a real or potential condition that can cause injury, illness, or death; damage to or loss of facilities, equipment, rolling stock, or infrastructure of a rail fixed guideway public transportation system; or damage to the environment.

(e) "Investigation" means a process of determining the causal and contributing factors of an accident, incident, or hazard to prevent recurrence and mitigate risk.

(f) "Rail fixed guideway public transportation system" means a fixed guideway system, including a fixed guideway system that is in the process of engineering or construction, that uses rail, is operated for the purpose of public transportation, is within the jurisdiction of a state, and is not subject to the jurisdiction of the Federal Railroad Administration. Rail fixed guideway public transportation system includes, but is not limited to, a rapid rail, heavy rail, light rail, monorail, trolley, streetcar, inclined plane, funicular, and automated guideway system.

(g) "Rail transit agency" means an entity that provides services on a rail fixed guideway public transportation system.

(h) "State safety oversight entity" means the office of rail within the state transportation department designated under section 5.

**History:** 2018, Act 63, Eff. June 12, 2018

## **247.783 State safety oversight entity; powers and duties.**

### **Sec. 3.**

The state safety oversight entity has the power and duty to supervise and regulate covered rail fixed guideway public transportation systems operating within this state in compliance with all applicable federal laws and regulations, including, but not limited to, 49 USC 5329, 49 CFR 659, and 49 CFR 674, to the extent necessary to fulfill obligations under federal law, including investigative, reporting, and safety standards enforcement requirements.

**History:** 2018, Act 63, Eff. June 12, 2018

## **247.785 Office of rail; designation as state safety oversight entity; powers and duties; limitation.**

### **Sec. 5.**

(1) In accordance with Executive Order No. 2003-14, the office of rail within the state transportation department is designated as the state safety oversight entity as required by 49 USC 5329(e)(4).

(2) The state safety oversight entity has all of the following powers and duties, only to the extent necessary to fulfill its obligations under federal law and to protect employees, patrons, the general public, and physical assets:

(a) Enter and inspect the property of the operator of a covered rail fixed guideway public transportation system without prior notice to the operator.

(b) Audit a covered rail fixed guideway public transportation system for compliance with federal and state laws and regulations regarding the safety of rail fixed guideway public transportation systems and compliance with rail transit agency rules, plans, and procedures.

(c) Audit a covered rail fixed guideway public transportation system for compliance with federal and state laws regarding the security and emergency preparedness of rail fixed guideway public transportation systems and compliance with rail transit agency rules, plans, and procedures.

(d) Audit and inspect a covered rail fixed guideway public transportation system for an identified hazard, occurrence, or trend at the direction of the state safety oversight entity, the Federal Transit Administration, or the National Transportation Safety Board.

(e) Investigate an accident, incident, or hazard at a covered rail fixed guideway public transportation system. The state safety oversight entity may conduct an investigation described in this subdivision independently, may lead or conduct the investigation with the participation of a rail transit agency, or may review and approve investigative reports generated by a rail transit agency.

(f) Require the operator of a covered rail fixed guideway public transportation system to initiate a corrective action plan to mitigate a hazard.

(g) Direct the operator of a covered rail fixed guideway public transportation system to mitigate a hazard by a specified date and time.

(h) Oversee the implementation of a corrective action plan by a covered rail fixed guideway public transportation system and provide verification or approval of completion or resolution of the hazard.

(i) Take action, either through an administrative hearing or in a court of competent jurisdiction, to compel the operator of a covered rail fixed guideway public transportation system to mitigate a safety hazard or to prevent the operation of all or part of a covered rail fixed guideway public transportation system that the state safety oversight entity has determined to be unsafe.

(j) Audit, review, approve, and oversee the operator of a covered rail fixed guideway public transportation system for compliance with a public transportation agency safety plan adopted under 49 USC 5329(d).

(k) Enforce the laws and rules of this state related to the operation and maintenance of a covered rail fixed guideway public transportation system in this state, to the extent that enforcement is consistent with federal law.

(l) Promulgate rules and regulations as may be necessary to comply with 49 USC 5329, 49 CFR 659, 49 CFR 670, and 49 CFR 674.

**History:** 2018, Act 63, Eff. June 12, 2018

#### **247.787 State safety oversight entity; legal and financial independence; funding; limitation; activities; conflict of interest policy.**

##### **Sec. 7.**

(1) The state safety oversight entity is legally and financially independent of the covered rail fixed guideway public transportation systems in this state.

(2) A covered rail fixed guideway public transportation system shall not fund state safety oversight activities.

(3) The activities of the state safety oversight entity shall be governed by a conflict of interest policy.

**History:** 2018, Act 63, Eff. June 12, 2018

### **STATE TRANSPORTATION COMMISSION**

#### **Act 286 of 1964**

AN ACT to provide for the organization, powers, and duties of the state transportation commission and the state transportation department; to provide for the appointment, powers, and duties of the state transportation director; to abolish the office of state highway commissioner and the commissioner's advisory board and to transfer their powers and duties; to provide for penalties and remedies; and to repeal certain acts and parts of acts.

**History:** 1964, Act 286, Imd. Eff. June 12, 1964 ;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978 ;-- Am. 1984, Act 398, Imd. Eff. Dec. 28, 1984



**247.801 Definitions.**

Sec. 1.

As used in this act:

- (1) "Commission" means the state transportation commission.
- (2) "Director" means the director of transportation.
- (3) "Department" means the department of transportation.

**History:** 1964, Act 286, Imd. Eff. June 12, 1964 ;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978

**247.802 Office of state highway commissioner abolished; transfer of power and duties; references.**

Sec. 2.

The office of state highway commissioner is abolished and the powers and duties of that office are transferred to and vested in the commission. Any law referring to the state highway commissioner or office of state highway commissioner shall be considered to refer to the department.

**History:** 1964, Act 286, Eff. Jan. 4, 1965 ;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978

**247.803 State transportation commission; appointment and terms of members; vacancies; bond.**

Sec. 3.

The governor with the advice and consent of the senate shall appoint the first members of the commission for terms of 1, 2, 3, and 4 years, commencing on July 1, 1964. Except for terms commenced before the effective date of section 6a, the term of office of a member of the commission shall be for 3 years. Vacancies on the commission shall be filled by the governor for the unexpired terms. Each member shall give to the people of the state a bond in the penal sum of \$25,000.00, with sureties approved by the state treasurer, conditioned upon the faithful discharge of the duties of his or her office, the premium to be paid from the state transportation fund.

**History:** 1964, Act 286, Imd. Eff. June 12, 1964 ;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978

**247.804 State transportation commission; officers; quorum; transaction of business.**

Sec. 4.

The governor shall appoint 1 of the members of the commission as chairperson to serve at the pleasure of the governor. Each year by a majority vote of the members elected to and serving on the commission, the commission shall elect 1 of its members as vice-chairperson and other officers as it considers advisable. In addition to the powers granted the vice-chairperson by commission bylaws, the vice-chairperson shall act as chairperson when the office of chairperson is vacant or the chairperson is absent or unable to serve. Four members of the commission constitute a quorum. The affirmative vote of a majority of those members elected to and serving is necessary for the transaction of business.

**History:** 1964, Act 286, Imd. Eff. June 12, 1964 ;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978 ;-- Am. 1979, Act 65, Imd. Eff. July 25, 1979

#### **247.805 Director; appointment, qualifications, and term; deputy director.**

##### **Sec. 5.**

- (1) The governor shall appoint the director with the advice and consent of the senate.
- (2) The director shall possess proven executive and administrative abilities, preferably in the field of public or private transportation or public administration.
- (3) If the director is not a licensed professional engineer, the director shall designate a deputy director of the department who shall be a licensed professional engineer who shall be responsible to the director for the engineering content of policies and programs.
- (4) The director shall serve at the pleasure of the governor.

**History:** 1964, Act 286, Eff. Jan. 4, 1965 ;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978 ;-- Am. 1979, Act 65, Imd. Eff. July 25, 1979 ;-- Am. 1982, Act 235, Eff. Jan. 1, 1983

#### **247.805a Bureau of urban and public transportation; chief administrative officer; deputy director of state transportation department.**

##### **Sec. 5a.**

The chief administrative officer of the bureau of urban and public transportation of the state transportation department shall be appointed by the governor, shall serve at the pleasure of the governor, and shall serve as a deputy director of the department. The appointment made pursuant to this section shall be made with the advice and consent of the senate.

**History:** Add. 1978, Act 484, Imd. Eff. Dec. 1, 1978 ;-- Am. 1979, Act 65, Imd. Eff. July 25, 1979

#### **247.806 State highway commission; transitional powers.**

##### **Sec. 6.**

Before assuming the powers and duties of the present state highway commissioner the commission shall meet at least monthly at the call of the state highway commissioner and shall have the following powers and duties:

- (a) To consult with the state highway commissioner and serve as members of the advisory board created by section 2a of chapter 5 of Act No. 283 of the Public Acts of 1909, being section 225.2a of the Compiled Laws of 1948, the membership of which board is hereby increased to 9.
- (b) To request information from the state highway commissioner concerning highway matters.
- (c) To assist in the preparation of budget requests for the fiscal year commencing July 1, 1965.
- (d) To designate the director whose employment will not begin until the commission assumes the powers and duties of the present state highway commissioner.

**History:** 1964, Act 286, Imd. Eff. June 12, 1964

#### **247.806a Powers of director.**

Sec. 6a.

The director may do the following:

- (a) Organize the department and its work, supervise the work of the employees of the department, create, merge, and abolish organizational divisions within the department, and transfer or merge functions among those divisions in the interest of economy and efficiency.
- (b) Employ personnel necessary to carry out the duties of the director and the responsibilities of the department subject to laws governing state employment.
- (c) Delegate to any employee of the department, subject to the approval of the commission, any powers vested in the director or delegated to the director by the commission.
- (d) Establish a program of current and long-range planning for the transportation systems under the department's jurisdiction.
- (e) Direct the preparation of budget requests, expenditures, programs and periodical allotments.
- (f) Purchase materials, supplies and equipment as necessary and proper to carry out the duties of the department as provided by law governing state purchasing.
- (g) Dispose of obsolete equipment, surplus supplies and material that cannot be used by the department as provided by law governing the disposal.
- (h) Do anything necessary and proper to comply fully with the provisions of present or future federal aid acts.
- (i) Do anything necessary and proper to carry out the duties imposed upon the department by the constitution and other duties as may be imposed by law.

**History:** Add. 1978, Act 484, Imd. Eff. Dec. 1, 1978

#### **247.806b Film production located in state; authorization by director or commission to use property; exception; cooperation with Michigan film office; definitions.**

Sec. 6b.

(1) The director or the commission may authorize a person engaged in the production of a film in this state to use without charge property owned by or under the control of the commission for the purpose of producing a film under terms and conditions established by the director or commission. The economic and other benefits to this state of film production located in this state shall be deemed to be the value received by this state in exchange for the use of property under this section.

(2) The director or the commission shall not authorize the use of property owned by or under the control of the commission for the production of a film that includes obscene matter or an obscene performance or for a production for which records are required to be maintained with respect to any performer under 18 USC 2257.

(3) The department and the commission shall cooperate with the Michigan film office in providing the office with information about potential film locations owned by or under the control of the commission and the use of property owned by or under the control of the commission.

(4) As used in this section:

(a) "Film" means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or videotape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

(b) "Michigan film office" means the office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(c) "Obscene matter or an obscene performance" means matter described in 1984 PA 343, MCL 752.361 to 752.374.

**History:** Add. 2008, Act 83, Imd. Eff. Apr. 8, 2008

## **247.807 Powers and duties of commission.**

### **Sec. 7.**

- (1) The commission's powers and duties shall include:
  - (a) The awarding of all contracts for the construction, improvement, and maintenance of the highways and transportation facilities under its jurisdiction, as provided by law.
  - (b) The establishment of transportation policies for the guidance and direction of the director.
- (2) The commission may do the following:
  - (a) Delegate to any member of the commission, the director, or any subordinate, any powers, other than the power to establish policy, vested in the commission as it considers necessary and proper; and permit the director to delegate any powers delegated to him or her by the commission.
  - (b) Acquire, own, and hold real and personal property in the name of the state or the commission and sell, lease or otherwise dispose of, or encumber, the same in connection with, and in furtherance of, its duties and the purposes of this act.
  - (c) Do anything necessary and proper to carry out the duties imposed upon it by the constitution and such other duties as may be imposed by law.

**History:** 1964, Act 286, Eff. Jan. 4, 1965 ;-- Am. 1969, Act 148, Eff. Mar. 20, 1970 ;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978

## **247.807a Definitions; partial payments to contractor; retaining portion of total amount earned; specifications; escrow account; escrow agent; escrow agreement; terms.**

### **Sec. 7a.**

- (1) As used in this section:
  - (a) "Completion" means the date when the construction, improvement, or maintenance of a bridge, highway, or other transportation facility is accepted in accordance with the contract documents, so that the bridge, highway, or other transportation facility may be used for its intended purpose.
  - (b) "Construction contract" means an agreement between a contractor and the department for the construction, improvement, or maintenance of a bridge, highway, or other transportation facility.
  - (c) "Contractor" means an individual; sole proprietorship; partnership; corporation; joint venture; or other legal entity, other than the state, or an agency or department of the state, who is a party to a construction contract.
  - (d) "Project" means the specific section of the highway construction to be performed under the construction contract.
- (2) A construction contract may provide for partial payments to be made periodically to a contractor. The department may establish specifications regarding the retention of a portion of the total amount earned under the construction contract.
- (3) At the request of the contractor and upon the approval of the department, the portion retained pursuant to the specifications established under subsection (2) shall be placed in an escrow account pursuant to this section.
- (4) An escrow agent may be selected by the contractor. For purposes of this section, an escrow agent shall be a state or national bank, a state or federally chartered savings and loan association, or a state or federally chartered credit union whose principal place of business is located in this state.
- (5) An escrow agreement shall be entered into between the contracting parties and the escrow agent. The escrow agreement shall contain all of the following terms:
  - (a) That the escrow agent shall promptly invest all of the escrowed funds.
  - (b) That the escrow agent shall hold the escrowed funds until receipt of notice from the department. Upon receipt of a notice of release from the department, the escrow agent shall promptly remit the designated portion of escrowed funds to the contractor involved in the contract. Upon receipt of a notice of overpayment or default of the contract, the escrow agent shall promptly remit the designated portion of escrowed funds to the department.
  - (c) That the escrow agent is responsible for all investments and money as a result of the deposit of the amount until released from responsibility pursuant to the escrow agreement.
  - (d) That the contractor shall pay all expenses regarding the deposit, investment, and administration of the retained amount and all other charges made by the escrow agent.
  - (e) Any other provision agreed to by the contracting parties and the escrow agent necessary or proper for purposes of this section.

**History:** Add. 1980, Act 447, Eff. Mar. 31, 1981 ;-- Am. 1981, Act 122, Imd. Eff. July 23, 1981

#### **247.808 Adoption of bylaws by commission.**

##### **Sec. 8.**

The commission by an affirmative vote of a majority of its members may adopt bylaws pertaining to the following:

- (a) Any aspect of the commission's organization and internal management not otherwise prescribed by law.
- (b) The administration of oaths.
- (c) The posting of bond by the director or a subordinate in the amount the commission determines to be reasonable and proper, the premium to be paid from the state transportation fund.

**History:** 1964, Act 286, Eff. Jan. 4, 1965 ;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978

#### **247.809 Rules; violation as misdemeanor.**

##### **Sec. 9.**

(1) Except as provided in subsection (2), the commission shall by an affirmative vote of 4 members promulgate rules to implement its powers and duties under this act, pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(2) The department, subject to the policies of the state transportation commission, shall promulgate rules to implement its powers and duties under this act permitting and regulating the operation, maintenance, and use of rest areas, travel information centers, roadside parks, and other state owned motorist service areas along state trunk line highways pursuant to Act No. 306 of the Public Acts of 1969, as amended. The rules promulgated under this subsection may apply to all state owned motorist service areas or only to specific state owned motorist service areas.

(3) The department shall not promulgate a rule under subsection (2) which rule applies only to a specific state owned motorist service area until the department gives notification to the county board of commissioners of the county or counties in which the specific state owned motorist service area to be covered by the rule is located and allows 30 days for that county or counties to respond.

(4) A person who violates any of the rules promulgated under this act shall be guilty of a misdemeanor.

**History:** 1964, Act 286, Eff. Jan. 4, 1965 ;-- Am. 1980, Act 173, Imd. Eff. June 23, 1980 ;-- Am. 1984, Act 398, Imd. Eff. Dec. 28, 1984

**Admin Rule:** R 247.1 et seq. of the Michigan Administrative Code.

#### **247.809a Conducting business at public meeting; notice.**

##### **Sec. 9a.**

The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

**History:** Add. 1979, Act 201, Imd. Eff. Jan. 2, 1980

**247.810 State highway commission; issuance and execution of documents and instruments.**

Sec. 10.

Documents and instruments of any kind authorized to be issued or executed by the commission shall be issued or executed in the name of the "Michigan state highway commission" by the chairman of the commission, or to the extent expressly authorized by bylaw or resolution, by the vice chairman, other member, director, or other subordinate. Documents or instruments which convey interests or rights in land shall be executed by the chairman or vice chairman and the director or a deputy director designated by the commission.

**History:** 1964, Act 286, Eff. Jan. 4, 1965

**247.811 State highway commission; compensation, expenses, meetings, offices.**

Sec. 11.

The members of the commission and the director shall receive, in addition to compensation that may be appropriated, all reasonable and necessary expenses while performing their duties. The members of the commission are not required to devote their full time to their duties, but shall participate in all activities necessary to perform their duties and functions. Except as provided in section 6, commission meetings shall be called by the chairman or as prescribed by the commission. The main office of the commission shall be located in Lansing, but the commission may meet anywhere in the state.

**History:** 1964, Act 286, Imd. Eff. June 12, 1964

**247.812 State highway commission; conflict of interest.**

Sec. 12.

Neither a member of the commission, the director, nor any officer of the department shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest.

**History:** 1964, Act 286, Imd. Eff. June 12, 1964

**247.813 State highway commission; records of acts, proceedings, and transactions.**

Sec. 13.

The commission shall keep accurate records of all its acts and proceedings and a complete account of all financial transactions of the department in accordance with the accounting laws of this state.

**History:** 1964, Act 286, Eff. Jan. 4, 1965 ;-- Am. 2018, Act 296, Eff. Sept. 27, 2018



**247.813a Availability of writings to public.**

Sec. 13a.

A writing prepared, owned, used, in the possession of, or retained by the department or the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** Add. 1979, Act 201, Imd. Eff. Jan. 2, 1980

**247.814 Replacement of state highway commissioner on boards, commissions, authorities, and agencies.**

Sec. 14.

The director or other person designated by the director shall replace the state highway commissioner on all boards, commissions, authorities, and agencies on which the commissioner holds membership by virtue of that office.

**History:** 1964, Act 286, Eff. Jan. 4, 1965 ;— Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978

**247.815 Repeal.**

Sec. 15.

Sections 2 and 2a of chapter 5 of Act No. 283 of the Public Acts of 1909, as amended, being sections 225.2 and 225.2a of the Compiled Laws of 1948, are repealed.

**History:** 1964, Act 286, Eff. Jan. 4, 1965

**247.816 Effective date of certain sections.**

Sec. 16.

Sections 2, 5, 7, 8, 9, 10, 13, 14 and 15 of this act shall take effect on July 1, 1965, or when the present state highway commissioner no longer holds his office, whichever occurs first.

**History:** 1964, Act 286, Imd. Eff. June 12, 1964

**EXECUTIVE REORGANIZATION ORDER**

**E.R.O. No. 1973-1**

**247.821 Transfer of department of aeronautics and aeronautics commission; transfer of powers, duties, and functions of port authorities, interagency transportation council, and bureau of transportation; interagency transportation council abolished; development of transportation plan.**

WHEREAS, the development and implementation of a State plan for comprehensive multi-purpose transportation modes would provide more effective transportation service and provide economic stimulus to the State economy; and

WHEREAS, the Constitution of the State of Michigan established a Department of State Highways administered by a State Highway Commission and provided the Commission with authority over State Highways, appurtenant facilities and such other public works of the State as provided by law; and

WHEREAS, public mass transportation functions, in part, sponsored by and controlled by appropriations of the State of Michigan, are properly public works within the meaning of public works as that term appears in the Constitution and within the authority of the State Highway Commission; and

WHEREAS, the Department of Aeronautics and the Michigan Aeronautics Commission were transferred by Type I transfer to the Department of Commerce by Section 233 of Act 380 of the Public Acts of 1965; and

WHEREAS, it is recognized that in the interests of economy, efficiency, and effectiveness of government, it is necessary to effectuate changes in the executive branch of state government.

THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to Article V, Section 2, of the Constitution of the State of Michigan, do hereby establish within the Department of State Highways and under the jurisdiction of the Michigan State Highway Commission the responsibility for coordination and administration of the activities of all transportation agencies within state government.

The State Highway Commission, constitutionally established to administer the Department of State Highways, shall be responsible for the following functions in addition to those now prescribed by law:

1. The statutory authority, powers, duties, functions, and responsibilities of the Department of Aeronautics and the Michigan Aeronautics Commission created by Section 26 of Act 327 of the Public Acts of 1945, being Section 259.26 of the Compiled Laws of 1948, are transferred by a Type II transfer as defined by Section 3(b) of Act 380, Public Acts of 1965, from the Department of Commerce to the Department of State Highways.

2. The Michigan Aeronautics Commission shall continue to serve in an advisory capacity to the Division of Aeronautics and the State Highway Commission.

3. All records, property, personnel and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Aeronautics Commission and the Department of Aeronautics presently in the Department of Commerce are transferred to the Department of State Highways.

4. The statutory authority, powers, duties, functions, and responsibilities of the Department of Commerce with respect to port development established by Act 251, Public Acts of 1966, being Section 120.51 of the Compiled Laws of 1948, are hereby transferred to the Department of State Highways by a Type II transfer, as defined by Section 3(b) Act 380, Public Acts of 1965. All records, property, personnel and unexpended balances of appropriations, allocations and other funds, used, held, employed, available, or to be made available to the Department of Commerce are transferred to the Department of State Highways.

5. The Interagency Transportation Council created by Executive Order 1969-2 within the Executive Office of the Governor is hereby abolished. The duties, functions, and responsibilities formerly administered by the Council are hereby transferred to the Department of State Highways.

6. The powers, duties, and functions of the Bureau of Transportation within the central office of the Department of Commerce are hereby transferred to the Department of State Highways including all contractual agreements for mass transportation planning studies.

7. The State Highway Commission may establish the necessary organizational components and may assign duties and functions as are required to effectuate the intent of this Order.

8. All rules, orders, contracts and agreements of the agencies transferred by this Executive Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by or against any entity effected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by or against the appropriate successor of any officer affected by this Order.

In fulfillment of the requirements of Article V, Section 2 of the Michigan Constitution, the provisions of this Order shall become effective April 1, 1973.

WHEREAS, Executive Order 1973-1 dated January 11, 1973, transferred and consolidated multi-purpose transportation functions within the Department of State Highways; and

WHEREAS, modifications and clarifications of said Executive Order 1973-1 are recognized to be in the interests of economy, efficiency and effectiveness of government and necessary to effectuate changes in the executive branch of government;

NOW, THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to Article V,

Section 2, of the Constitution of the State of Michigan, do hereby order the following:

1. All of paragraph 1, page 2 of said Executive Order is stricken and in lieu thereof the following is hereby ordered:

"1. The statutory authority, powers, duties, functions and responsibilities of the Department of Aeronautics and the Michigan Aeronautics Commission created by Section 26 of Act 327 of the Public Acts of 1945, being Section 259.26 of the Compiled Laws of 1948, are transferred by a Type II transfer as defined by Section 3(b) of Act 380, Public Acts of 1965, from the Department of Commerce to the Department of State Highways except that the following statutory authority, powers, duties, functions, and responsibilities shall be exercised by the Department of Aeronautics and Michigan Aeronautics Commission independent of the control and supervision of the Department of State Highways.

a. The third sentence and the balance of Section 51(a) of Act 327, P.A. 1945 pertaining to the registration of airmen's certificates and the regulation of intrastate commerce;

b. Sections 51(b), 51(e) and 51(f); Section 54; Sections 76-107; Sections 135(b) and 135(c); Sections 151-156; and Section 201 of Act 327, P.A. 1945, as amended.

c. Act 32, P.A. 1950, Ex. Sess. pertaining to airport zoning; Act 259, P.A. 1959 pertaining to regulation of tail structures; Act 206, P.A. 1958, pertaining to Community Airports, and Act 257, P.A. 1955 pertaining to aircraft financial responsibility.

d. In the administration of the sections enumerated in sub-sections (a), (b) and (c) of this order the Michigan Aeronautics Commission may utilize the authority of Sections 52 and 53 of Act 327, P.A. of 1945 with respect to the delegation of the specific sections reserved to the independent control, supervision and jurisdiction of the Michigan Aeronautics Commission."

2. The State Highway Commission shall be responsible for the development of the comprehensive transportation plan for the State of Michigan. In the formulation of the aviation mode of said plan, including the prospective designation of regional airport facilities, the State Highway Commission shall utilize the experience and the expertise of the Aeronautics Commission and shall consult with and consider recommendations offered by the Aeronautics Commission prior to adoption of the official plan.

3. All of paragraph 6, page 2, of said executive order is reaffirmed and, in addition thereto, the following is hereby ordered: All records, property, and personnel made available to the Bureau of Transportation presently in the Department of Commerce are transferred to the Department of State Highways.

4. In fulfillment of the requirements of Article V, Section 2, of the Michigan Constitution, the provisions of this amendatory order shall become effective May 14, 1973; all provisions of Executive Order 1973-1 that are not affected by this amendatory order shall be effective April 1, 1973. During the period April 1, 1973 to May 14, 1973, all determinations of the Aeronautics Commission pursuant to the authority reserved to it by the provisions of this amendatory order shall be reviewed and acted upon by the State Highway Commission.

**History:** 1973, E.R.O. No. 1973-1, Eff. Apr. 1, 1973 ;-- Am. 1973, E.R.O. No. 1973-1a, Eff. May 14, 1973

**Compiler's Notes:** In subsection 1c, "Act 32, P.A. 1950, Ex. Sess." evidently should read "Act 23, P.A. 1950, Ex. Sess."; "tail structures" evidently should read "tail structures"; and "Act 206, P.A. 1958" evidently should read "Act 206, P.A. 1957".

**Admin Rule:** R 259.201 et seq. and R 259.801 et seq. of the Michigan Administrative Code.

## EXECUTIVE REORGANIZATION ORDER

### E.R.O. No. 1975-1

#### **247.822 Transfer of railroad regulation functions from public service commission to department of state highways and transportation.**

WHEREAS, it is necessary to centralize certain railroad functions of state government in order to provide a coordinated response to the transportation problems facing the State of Michigan; and

WHEREAS, the efficient, economical and safe operation of railroads is an integral part of the development of a viable transportation system for Michigan; and

WHEREAS, Article V, Section 2, of the Michigan Constitution of 1963, empowers the Governor to make

changes in the Executive Branch of Government and in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Michigan Public Service Commission is vested by law with certain regulatory powers and duties with regard to rates, services and safety of railroads operating within Michigan.

NOW, THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to Article V, Section 2, of the Michigan Constitution hereby order the following:

1. The statutory authority, powers, duties, functions, and responsibilities of the Public Service Commission with regard to railroad regulation under the following statutory provisions are hereby transferred to the State Highway Commission:

Sections 1 and 2 of Act No. 275 of the Public Acts of 1887, being Sections 469.221 and 469.222 of the Compiled Laws of 1970.

Sections 1-6 of Act 56 of the Public Acts of 1919, being Sections 469.241-469.246 of the Compiled Laws of 1970.

Section 1-3 of Act No. 158 of the Public Acts of 1923, being Sections 469.111-469.113 of the Compiled Laws of 1970.

Sections 1 and 2 of Act No. 234 of the Public Acts of 1907, being Sections 469.181 and 469.182 of the Compiled Laws of 1970.

Sections 1-4 of Act No. 52 of the Public Acts of 1909, being Sections 469.201-469.204 of the Compiled Laws of 1970.

Sections 1-3 of Act 123 of the Public Acts of 1923, being Sections 469.211-469.213 of the Compiled Laws of 1970.

Sections 1-9 of Act No. 156 of the Public Acts of 1941, being Sections 470.101-470.109 of the Compiled Laws of 1970.

Sections 1-3 of Act No. 118 of the Public Acts of 1887, being Sections 469.131-469.133 of the Compiled Laws of 1970.

Sections 1-4 of Act No. 167 of the Public Acts of 1871, being Sections 469.141-469.144 of the Compiled Laws of 1970.

Sections 1-10 of Act No. 187 of the Public Acts of 1911, being Sections 470.1-470.10 of the Compiled Laws of 1970.

Sections 1-4 of Act No. 102 of the Public Acts of 1927, being Sections 469.81-469.84 of the Compiled Laws of 1970.

Sections 1-3 of Act No. 75 of the Public Acts of 1945, being Sections 470.151-470.153 of the Compiled Laws of 1970.

Sections 1 and 2 of Act No. 153 of the Public Acts of 1883, being Sections 469.471 and 469.472 of the Compiled Laws of 1970.

Sections 1 and 2 of Act No. 37 of the Public Acts of 1949, being Sections 469.521 and 469.522 of the Compiled Laws of 1970.

Sections 1 and 2 of Act No. 137 of the Public Acts of 1956, being Sections 467.301 and 467.302 of the Compiled Laws of 1970.

Sections 1-3 of Act No. 144 of the Public Acts of 1909, being Sections 460.301-460.303 of the Compiled Laws of 1970.

Sections 1-5 of Act No. 303 of the Public Acts of 1921, being Sections 469.351-469.355 of the Compiled Laws of 1970.

Sections 1-3 of Act No. 77 of the Public Acts of 1913, being Sections 469.101-469.103 of the Compiled Laws of 1970.

Section 1 of Act No. 193 of the Public Acts of 1929, being Section 467.251 of the Compiled Laws of 1970.

Sections 3 and 3a of Act No. 419 of the Public Acts of 1919, being Sections 460.53 and 460.53a of the Compiled Laws of 1970.

Sections 2-50 of Act No. 300 of the Public Acts of 1909, being Sections 462.2-462.50 of the Compiled Laws of 1970.

Sections 1-4 of Act No. 198 of the Public Acts of 1873, being Sections 463.1-463.4 of the Compiled Laws of 1970.

Sections 1-13 of Act No. 270 of the Public Acts of 1921, being Sections 469.1-469.13 of the Compiled Laws of 1970.

Section 1 of Act No. 180 of the Public Acts of 1956, being Section 469.601 of the Compiled Laws of 1970.

Sections 1-6 of Act No. 26 of the Public Acts of 1968, being Sections 470.121-470.126 of the Compiled Laws of 1970.

Sections 1-5 of Act No. 55 of the Public Acts of 1919, being Sections 469.231-469.235 of the Compiled Laws of 1970.

Sections 1-5 of Act No. 189 of the Public Acts of 1921, being Sections 469.61-469.65 of the Compiled Laws of 1970.

Sections 1-3 of Act No. 383 of the Public Acts of 1913, being Sections 469.491-469.493 of the Compiled Laws of 1970.

Sections 1-7 of Act No. 171 of the Public Acts of 1893, being Sections 469.31-469.37 of the Compiled Laws of 1970.

Sections 1 and 2 of Act No. 142 of the Public Acts of 1895, being Sections 469.451 and 469.452 of the Compiled Laws of 1970.

Section 1 of Act No. 245 of the Public Acts of 1917, being Section 469.421 of the Compiled Laws of 1970.

Sections 1 and 2 of Act No. 106 of the Public Acts of 1951, being Sections 469.541 and 469.542 of the Compiled Laws of 1970.

Sections 1-47 of Act No. 244 of the Public Acts of 1881, being Sections 471.1-471.47 of the Compiled Laws of 1970.

Sections 1 and 2 of Act No. 401 of the Public Acts of 1919, being Sections 469.191 and 469.192 of the Compiled Laws of 1970.

Sections 1-24 of Act No. 114 of the Public Acts of 1925, being Sections 253.51-253.74 of the Compiled Laws of 1970.

Sections 6, 7 and 8 of Act No. 3 of the Public Acts of 1939, being Sections 460.6, 460.7 and 460.8 of the Compiled Laws of 1970.

Sections 1-33 of Act No. 92 of the Public Acts of 1893, being Sections 253.1-253.33 of the Compiled Laws of 1970.

Sections 1-4 of Act No. 295 of the Public Acts of 1937, being Sections 247.311-247.314 of the Compiled Laws of 1970.

Sections 1 and 27 of Act No. 283 of the Public Acts of 1909, being Section 220.1 and 221.27 of the Compiled Laws of 1970.

2. All records, property, personnel and unexpended balances of appropriations and allocations and other funds used, held, employed, available, or to be made available, to the Public Service Commission for railroad regulation functions are transferred to the State Highway Commission.

3. All quasi-judicial decision making powers of the Public Service Commission related to the functions transferred by this Order shall be vested in and performed by the State Highway Commission except that the adjudication powers of the Public Service Commission with respect to grade separations under 1925 PA 114, being Sections 1 through 5, inclusive, of the Compiled Laws of 1970, shall be exercised by the Treasurer of the Mackinac Bridge Authority.

4. All rules and orders of the agencies and entities transferred by this Executive Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

5. All hearings currently in progress before the Public Service Commission involving functions transferred by this order and not decided by the Public Service Commission on the effective date of this order shall continue to be heard by the Public Service Commission and decisions in such matters shall be made by the Public Service Commission. If a petition or any similar document has been filed but no hearing has actually commenced on the matter for which the petition or other document has been filed, the hearing shall be conducted by the Highway Commission or the Treasurer of the Mackinac Bridge Authority.

6. After the effective date of this order the State Highway Commission shall make such departmental organizational changes as may be administratively necessary to complete the integration of transportation functions contemplated by this order.

7. Where the Public Service Commission's powers to regulate utilities are derived from any statutory provision referring to its powers to regulate railroads, Public Service Commission's powers to regulate utilities shall remain intact.

8. There being an immediate and urgent need to revise the basic railroad regulation statutes of this state to reflect modern day problems and concerns and provide statutory implementation of the comprehensive railroad development plans and programs of the Department of Highways and Transportation, there is hereby established a special inter-agency task force to consist of representation from Department of Commerce, Attorney General, Executive Office and Department of Highways and Transportation to draft revised railroad regulatory legislation to reflect the concerns indicated above. The chairman of this inter-agency task force shall be the Director of the Department of Highways and Transportation.

In fulfillment of the requirements of Article V, Section 2, of the Michigan Constitution, the provisions of this Executive Order shall become effective January 1, 1976.

**History:** 1975, E.R.O. No. 1975-1, Eff. Jan. 1, 1976

**Admin Rule:** R 247.3101 et seq. of the Michigan Administrative Code.

## EXECUTIVE REORGANIZATION ORDER

### E.R.O. No. 1982-3

#### **247.823 Transfer of authority from public service commission to department of transportation.**

WHEREAS, for purposes of centralization of railroad functions and coordination of administration of railroad transportation in Michigan, by authority vested in the Governor in Article V, Section 2, of the Michigan Constitution of 1963, certain regulatory powers, authority, functions, duties, responsibilities and records and staff of the Public Service Commission were transferred effective January 1, 1976, to the Michigan Department of State Highways and Transportation; and

WHEREAS, that transfer was made by Executive Order 1975-10; and

WHEREAS, pursuant to Acts 483 and 484, of the Public Acts of 1978, the Department of State Highways and Transportation has been reorganized as the Department of Transportation; and

WHEREAS, clarification of the Department of Transportation's regulatory authority over railroad transportation is desirable,

NOW, THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to Article V, Section 2 of the Michigan Constitution, hereby order the following:

1. The statutory authority, powers, duties, functions, and responsibilities of the Public Service Commission for the regulation of common carrier railroad under the following statutory provisions are hereby transferred to the Department of Transportation:

- Sections 1 and 2 of Act 94 of the Public Acts of 1923, as amended, being Sections 460.351 and 460.352 of the Compiled Laws of 1970;

- Sections 1 through 49 of Article II. of Act 198 of the Public Acts of 1873, as amended, being Sections 464.1 through 464.49 of the Compiled Laws of 1970;

- Sections 1 through 25 of Article IV. of Act 198 of the Public Acts of 1873, as amended, being Sections 466.1 through 466.25 of the Compiled Laws of 1970;

- Sections 1 through 36 of Article V. of Act 198 of the Public Acts of 1873, as amended, being Sections 467.1 through 467.36 of the Compiled Laws of 1970;

- Section 35 of Act 35 of the Public Acts of 1867, as amended, being Section 472.35 of the Compiled Laws of 1970;

- Sections 1 and 2 of Act 137 of the Public Acts of 1956, as amended, being Sections 467.301 and 467.302 of the Compiled Laws of 1970.

2. It is the intent of this Order that the authority, powers, duties, functions, and responsibilities covered by this Order be transferred consistent with the intent expressed in Executive Order 1975-10.

In fulfillment of the requirements of Article V, Section 2, of the Michigan Constitution, the provisions of this Executive Order shall become effective August 16, 1982.

**History:** 1982, E.R.O. No. 1982-3, Eff. Aug. 16, 1982

**Compiler's Notes:** This section was promulgated June 7, 1982, as Executive Order No. 1982-7 and became effective August 16, 1982.

## BENEFITS UNDER FEDERAL HIGHWAY SAFETY ACT

### Act 213 of 1967

AN ACT to authorize the governor to take action necessary to secure the benefits available under the federal highway safety act of 1966.

**History:** 1967, Act 213, Imd. Eff. July 10, 1967



*The People of the State of Michigan enact:*

**247.841 Governor's cooperation to obtain benefits granted in federal highway safety act; acceptance and use of federal funds.**

Sec. 1.

The governor shall have the responsibility but not the obligation to assure the full benefits available to this state under the federal highway safety act of 1966, and in so doing, cooperate with federal and other state agencies to effectuate the purposes of that act. The governor shall be responsible for the highway safety programs of this state: Provided, That the acceptance and use of federal funds commits no state funds and places no obligation upon the legislature to continue the purposes for which the funds are made available.

**History:** 1967, Act 213, Imd. Eff. July 10, 1967

**TRANSFER OF JURISDICTION OVER HIGHWAYS**

**Act 296 of 1969**

AN ACT to provide for the transfer of jurisdiction over highways; to provide for the final determination of disputes involving transfers of highway jurisdiction; and to supersede certain acts and parts of acts.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

*The People of the State of Michigan enact:*

**247.851 Transfer of jurisdiction over highways; definitions.**

Sec. 1.

As used in this act:

(a) "Highway authority" means the state highway commission, a board of county road commissioners or the governing body of a city or village.

(b) "Highway" means a highway, road or street.

(c) "Board" means the highway jurisdiction determination board.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

**247.852 Transfer of jurisdiction; consent required; agreement, contents; effective date.**

Sec. 2.

The provisions of any law to the contrary notwithstanding, a highway may not not [sic] be transferred from the jurisdiction of the state to a county, city or village or from a county to a city or village without the consent of both parties, except as provided by this act. The consent shall be evidenced by a written agreement entered into after approval by resolution of each highway authority that is party to the agreement. The agreement shall identify the effective date of the transfer of jurisdiction, the limits and general description of the highway involved, the extent of improvements and other terms and conditions mutually agreed to. The agreement may be amended, superseded or voided by consent of both parties. If the proposed transfer of jurisdiction is dependent on the future opening of a

new, relocated highway and a definite effective date cannot be ascertained and agreed to at the time the agreement is entered into, the transfer shall be effective upon the opening of the new highway unless otherwise provided in the agreement.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

#### **247.853 Transfer of jurisdiction; non-consent, proceedings to determine question; time for granting.**

##### **Sec. 3.**

(1) If a highway authority does not consent to accept jurisdiction over a highway proposed for transfer, within 90 days after its consent is requested in writing, unless an extension of time is agreed to by both parties, the state or county highway authority proposing the transfer may initiate proceedings for final determination of the question of the transfer of highway jurisdiction in accordance with the provisions of this act.

(2) If the proposed transfer of jurisdiction is dependent upon the future opening of a new, relocated highway and approval of the new highway by both parties is required by law and the parties have not agreed to the transfer of jurisdiction as a condition of approval of the new highway, then the 90-day period shall not begin to run until the date that both parties approve the new highway.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

#### **247.854 Determination board; membership appointment.**

##### **Sec. 4.**

(1) The highway authority proposing the transfer of highway jurisdiction shall appoint 1 member of the highway jurisdiction determination board and shall notify the nonconsenting highway authority of its selection in writing. The written notification shall be by certified mail and shall include, or have attached, a proposed date for transfer of jurisdiction and a description or map showing the highway in question and the reasons why the transfer is proposed.

(2) Within 30 days after receiving the notice, the nonconsenting highway authority shall appoint 1 member of the board and shall so notify by certified mail the other highway authority and both appointed board members. If the nonconsenting highway authority fails to appoint and notify, the transfer of jurisdiction over the highway shall be without consent and shall become effective on the proposed date as provided in the notice required by subsection (1).

(3) Within 10 days after receipt of the notice provided in subsection (2), the 2 appointed board members shall request the American arbitration association, or its successor in function, to furnish a list of 3 members of such association who are residents of this state from which the third member shall be selected. The member first appointed shall eliminate 1 name from the list within 5 days after publication of the list, and the other appointed member shall then eliminate 1 name from the list within 5 days thereafter. The person whose name remains on the list shall be the third member and shall serve as chairman of the board. The 2 appointed members jointly shall so notify the chairman.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

#### **247.855 Board; conducting business at public meeting; notice of meeting; date and place of hearing; notice to parties; hearing testimony and receiving evidence; reconvening of board; quorum; vote required for final determination; inability of member to perform duties.**

##### **Sec. 5.**

(1) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. The chairperson of the board shall immediately fix a date and place for convening the board to hear the testimony of the parties to the proposed transfer of highway jurisdiction and shall notify the parties. The date selected shall be not more than 30 days after selection of the chairperson.

(2) The board shall convene on the date and at the place fixed by the chairperson and shall hear testimony and receive evidence from the parties to the proposed transfer of highway jurisdiction, from local and regional planning bodies if appropriate and from other sources who desire to appear or present testimony. The board may reconvene at times and places as determined by the chairperson, in compliance with Act No. 267 of the Public Acts of 1976, as amended. Two members shall constitute a quorum and the affirmative vote of 2 members is necessary for a final determination of the dispute. If a member of the board becomes unable to perform the member's duties as a board member, a new member shall be selected as prescribed in this act.

**History:** 1969, Act 296, Eff. Mar. 20, 1970 ;-- Am. 1980, Act 12, Imd. Eff. Feb. 14, 1980

#### **247.856 Determination of board; factors.**

##### **Sec. 6.**

(1) In making its determination, the board shall take into consideration the level and character of service provided by the highway before transfer and that reasonably expected to be provided if the transfer were approved with the objective of assuring that the proper level and character of service shall be provided the affected community, the traveling public and the area served by the highway.

(2) The board shall take into consideration the latest standards and criteria on functional classification of highways available from the United States bureau of public roads, the latest standards and criteria for functional classification used in the continuing study of highway needs in this state, and other accepted and recognized criteria appropriate for use in determining the level and character of service, classification and jurisdiction of highways.

(3) The board shall also take into consideration appropriate state, regional and local transportation plans, development plans, master plans or other plans developed by official agencies.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

#### **247.857 Final determination of board; time; notice; effect of denial; effective date.**

##### **Sec. 7.**

(1) Within 90 days after the first convening, the board shall make a final determination in writing on the transfer of jurisdiction of the highway and shall prescribe the terms and conditions for the transfer in accordance with section 8. The board shall so notify highway authorities that are parties to the dispute.

(2) If the transfer is denied, final determination proceedings shall not again be initiated with regard to the same highway for a period of 5 years from the date of the board's determination except that if the proposed transfer is related to the opening of a new relocated highway, final determination proceedings may be initiated again 1 year after the date of the board's determination.

(3) If the transfer is affirmed, the transfer shall be without consent and shall become effective at a time determined by the board in accordance with the following, unless another effective date is agreed to by both highway authorities:

(a) If the transfer is not related to the opening of a new, relocated highway, the transfer shall be effective not less than 1 year from the July 1 next following the date of the board's final determination or not less than 30 days following the completion of required improvements or payment of the cost of improvements, whichever is later.

(b) If the transfer is related to the opening of a new, relocated highway, the transfer shall be effective upon the opening of the new highway or following the completion of the improvements or payment of the cost of improvements on the highway being transferred, whichever is later, unless otherwise provided by agreement.

(4) The determination, terms and conditions as prescribed by the board shall be binding upon both highway authorities.

(5) At any time the parties, by written agreement, may amend or modify the determination, terms and conditions prescribed by the board.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

#### **247.858 Determination of board; contents; transferor's duties; renovation, costs.**

##### **Sec. 8.**

(1) If the board's decision is to transfer jurisdiction of a highway, the board shall include in its determination a description of the renovation, repair or reconstruction work and the estimated cost necessary to bring the highway up to reasonable acceptable standards as determined in accordance with subsection (2).

(2) The highway authority from whose jurisdiction a highway is to be transferred shall be responsible for the renovation, repair or reconstruction of the transferred highway, where necessary, subject to the following conditions:

(a) If the transfer is not related to the opening of a new relocated highway, reasonable acceptable standards based upon existing traffic shall govern, except that a maximum of 5 lanes shall be provided unless the existing width is greater and if right-of-way is available. Lanes used exclusively for parking shall not be considered eligible as part of the renovation, repair or reconstruction.

(b) If the transfer is related to the opening of a new relocated highway, the renovation, repair or reconstruction, if necessary, shall provide a facility that will be relatively free of extraordinary maintenance for 5 years. Reasonable acceptable standards based upon traffic volumes estimated to exist at the time of the transfer shall be used to the extent practical and feasible. Lanes used exclusively for parking shall not be considered eligible as part of the rehabilitation work.

(c) The board shall determine the reasonable acceptable standards for the renovation, repair and reconstruction of the highway on the basis of the functional classification of the highway after transfer, the level of service and the rating of physical features applied to highways of similar classification retained by the transferring agency, or on the basis of other recognized functional classification rating methods.

(3) In lieu of undertaking the renovation, repair or reconstruction of a highway to be transferred pursuant to this act, the transferring highway authority may do 1 of the following, with the concurrence of the receiving highway authority:

(a) Pay the estimated cost of such work to the receiving highway authority in order that the work may be undertaken by it.

(b) Enter into a contract with the receiving highway authority for the receiving highway authority to perform the work and be reimbursed by the transferring highway authority. The contracts shall include such terms and conditions as agreed to and shall be subject to such approvals as may be required for other contracts of the highway authorities.

(4) The cost of renovation, repair or reconstruction of the highway shall be paid by the highway authority relinquishing jurisdiction except to the extent that the highway authority gaining jurisdiction is required to participate in such cost in accordance with the provisions of Act No. 51 of the Public Acts of 1951, as amended, being sections 247.651 to 247.673 of the Compiled Laws of 1948.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

#### **247.859 Compensation and expenses of board; payment.**

##### **Sec. 9.**

The compensation and expenses of the board member appointed by the nonconsenting highway authority shall be paid by it. The compensation and expenses, if any, of the other board member and the chairman, and all stenographic and other expenses incurred by the board in connection with the determination proceedings, shall be paid by the highway authority that initiates the final determination proceedings.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

#### **247.860 Transfers not subject to act.**

Sec. 10.

The provisions of this act shall not apply to the transfer of jurisdiction over county roads in unincorporated areas which become incorporated through annexation, incorporation or consolidation after the effective date of this act and which are transferred to the city or village jurisdiction within 1 year after the date of the annexation, incorporation or consolidation.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

#### **247.861 Laws superseded; exception.**

Sec. 11.

The provisions for relinquishment of jurisdiction of a county road in section 18 of chapter 4 of Act No. 283 of the Public Acts of 1909, as amended, being section 224.18 of the Compiled Laws of 1948, and for abandonment of a state trunk line highway in section 4 of Act No. 12 of the Public Acts of 1925, being section 250.114 of the Compiled Laws of 1948, are superseded except as provided in section 10.

**History:** 1969, Act 296, Eff. Mar. 20, 1970

### **TRANSPORTATION ECONOMIC DEVELOPMENT FUND**

#### **Act 231 of 1987**

AN ACT to create a transportation economic development fund in the state treasury; to prescribe the uses of and distributions from this fund; to create the office of economic development and to prescribe its powers and duties; to prescribe the powers and duties of the state transportation department, state transportation commission, and certain other bodies; and to permit the issuance of certain bonds.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989

*The People of the State of Michigan enact:*

#### **247.901 Definitions.**

Sec. 1.

As used in this act:

(a) "Administrator" means the person appointed by the department, in accordance with the policies of the commission and civil service rules, to serve as director of the office of economic development.

(b) "Advanced traffic management systems" means the application of new technology designed to monitor, control, and manage the flow of traffic in real-time on a transportation network through traffic detection,

communications, traffic control, and information processing technologies. Advanced traffic management systems do not include on-board navigation systems or electronic route guidance systems in a motor vehicle.

(c) "Commercial forest land" means land defined as commercial forest in Michigan's fourth forest inventory completed in May 1981 and reported by the United States Department of Agriculture in the resource bulletin NC-68 available from the United States Forest Service's north central experiment station.

(d) "Commission" means the state transportation commission.

(e) "County road agency" means the board of county road commissioners, or if a board does not exist in a county, the agency designated by county charter.

(f) "Department" means the state transportation department.

(g) "Fund" means the economic development fund created in section 2.

(h) "National lakeshore" means land conveyed by this state to the United States that the United States has designated as national lakeshore.

(i) "National park" means land set aside and designated as a national park by the United States.

(j) "Project" means a transportation road construction or improvement. Project also includes a transit-oriented facility.

(k) "Qualified county" means a county in which a national lakeshore or a national park is located, or a county in which 34% or more of all the land is commercial forest land.

(l) "Rural county" means any county in this state with a population of 400,000 or less.

(m) "Transit-oriented facility" means a facility that houses a transit station in a manner that promotes transit ridership or passenger rail use and other infrastructure improvements that facilitate transit ridership or passenger rail use.

(n) "Urban county" means a county in this state with a population greater than 400,000.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1991, Act 188, Imd. Eff. Dec. 27, 1991 ;-- Am. 2010, Act 238, Imd. Eff. Dec. 14, 2010 ;-- Am. 2016, Act 501, Imd. Eff. Jan. 9, 2017

#### **247.902 Transportation economic development fund and office of economic development; establishment; purposes; sources of revenue.**

##### **Sec. 2.**

(1) The transportation economic development fund is established and shall be set up and maintained in the state treasury as a separate fund for the purposes of enhancing this state's ability to compete in an international economy, serving as a catalyst for the economic growth of this state, and to improve the quality of life in the rural and urban areas of this state.

(2) The office of economic development is established within the department.

(3) The office of economic development shall administer the fund in accordance with the adopted policies of the commission.

(4) The fund shall consist of the following:

(a) Revenue from the Michigan transportation fund pursuant to section 10 of Act No. 51 of the Public Acts of 1951, being section 247.660 of the Michigan Compiled Laws.

(b) Revenue from the increases in fees as described in section 819 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.819 of the Michigan Compiled Laws.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989

#### **247.903 Allocation of funds for projects; notice; hearings; funding projects under MCL 247.907(3) and 247.909(1)(a); coordination of projects; department as contracting agent; assistance to commission; appropriation for administration of fund; duties of commission and office of economic development.**

##### **Sec. 3.**

(1) Money from the fund shall be allocated for projects to be funded under section 11(3)(a) in accordance with the adopted policies of the commission. No funds shall be committed to any project, nor shall any project be



authorized for any funds under this act, until the commission notifies the senate committee on transportation and the house committee on transportation and the subcommittees on transportation of the senate and house appropriations committees of the proposed projects as provided in section 18k of 1951 PA 51, MCL 247.668k. Hearings may be conducted to afford interested parties the opportunity to address aspects of the selection process, the final project list, proposed funding, and related issues. If hearings are not conducted by the senate committee on transportation and the house committee on transportation and the subcommittees on transportation of the senate and house appropriations committees within 30 days, if both the senate and house are in session, or 60 days, if either the senate or the house or both are not in session of project notification by the commission, the department may proceed with project authorization for funding.

(2) The commission shall not commit funds to any project in a new category for funding under section 7(3) or section 9(1)(a) before the commission notifies the legislative committees of the criteria for approval of projects under these categories in the same manner described in this section.

(3) Projects in section 11(3)(a) shall be coordinated with projects in section 11(3)(c) through the designated representatives on the urban task forces and regional rural task forces.

(4) The department may be the contracting agent for all projects to be funded by this act. Contracts shall be awarded consistent with the policies of the commission.

(5) The administrator or the person acting in that capacity shall assist the commission in reviewing recommendations for funding projects under this act.

(6) Of the money appropriated to the fund, not more than 1% as annually appropriated by the legislature shall be appropriated for administration of the fund. Not more than \$100,000.00 of the money allocated under section 11(3)(a) for projects described in section 9(1)(b) may be expended for administration of those projects.

(7) The commission shall do the following:

(a) Establish criteria for the awarding of projects.

(b) Exercise oversight to facilitate its development of policy for administration of the fund.

(c) Review all projects recommended for funding to assure that they satisfy commission policies and criteria. Funds shall not be allocated to projects unless they are in accord with commission policy and criteria.

(8) The office of economic development shall review each project application and recommend the award of funding to selected projects in accordance with the adopted policies of the commission.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993 ;-- Am. 2016, Act 501, Imd. Eff. Jan. 9, 2017 ;-- Am. 2018, Act 473, Eff. Mar. 29, 2019

#### **247.905 Repealed. 1993, Act 149, Imd. Eff. Aug. 19, 1993.**

**Compiler's Notes:** The repealed section pertained to evaluation criteria and minimum requirements for projects.

#### **247.906 Applications for projects; solicitation; form.**

Sec. 6.

(1) The administrator may solicit project applications for the projects that may be funded under section 11(3)(a) each calendar quarter.

(2) The requirements of the application form shall be prepared by the administrator in accordance with the adopted policies of the commission.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993

#### **247.907 Submission of application; minimum requirements.**

Sec. 7.

- (1) An applicant shall submit an application for funding on a form approved pursuant to section 6.
- (2) The department or a city, village, or county road agency may submit an application. Two or more cities, villages, or county road agencies or a combination of 2 or more of these units may jointly submit an application.
- (3) The following minimum requirements shall be met by each applicant in order for the application to be considered:
  - (a) A particular transportation need shall be shown for the project.
  - (b) A proposed economic development project shall be related to 1 of the following:
    - (i) An immediate, nonspeculative opportunity for permanent job creation or retention and an increase in the tax base of the local area if the project is applied for by a local unit of government.
    - (ii) Projects that contribute to the economic development and redevelopment of areas having experienced or having significant potential to experience job loss. The commission shall adopt criteria for applications and evaluations of projects applied for under this subparagraph within 90 days after the effective date of the amendatory act that added this subparagraph.
  - (c) Negotiations between an appropriate public agency and a developer or business regarding a location or retention decision shall be in process at the time of application.
  - (d) The applicant shall indicate that nontransportation infrastructure and support services to support the project are underway or committed.
  - (e) The applicant shall attach a copy of a resolution of support from the appropriate local unit of government.
  - (f) The project shall relate to 1 or more of the categories described in section 9.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993

**247.908 Initial review of application; criteria; recommendation; consultation; informing appropriations committees; hearings as condition to committing funds.**

Sec. 8.

- (1) Each application shall be submitted for initial review to the administrator who may call upon other personnel of the department to assist in processing, reviewing, and evaluating project applications.
- (2) The office of economic development shall review each application based on the criteria approved by the commission and make its recommendation for projects to be funded. The commission and the office of economic development may consult with officers of local units of government, developers, or other experts in the subject matter area of the project in the area in which the project is to be located.
- (3) The commission shall inform the chairpersons of the house and senate appropriations committees and the chairpersons of the house and senate committees that consider transportation matters of each project selected for funding not less than 30 days before the awarding of funding pursuant to section 18k of Act No. 51 of the Public Acts of 1951, being section 247.668k of the Michigan Compiled Laws. Funds shall not be committed to any project until the hearings requirement set forth in section 3(1) has been satisfied.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993

**247.909 Project categories; requirements; criteria.**

Sec. 9.

- (1) A project shall relate to 1 or more of the following categories:
  - (a) Economic development road projects in any of the following targeted industries:
    - (i) Agriculture or food processing.
    - (ii) Tourism.
    - (iii) Forestry.

- (iv) High technology research.
- (v) Manufacturing.
- (vi) Mining.
- (vii) Office centers of not less than 50,000 square feet.
- (viii) Medical research or medical tourism facilities of not less than 50,000 square feet.
- (b) Projects for construction or preservation of streets in cities and villages with a population of 10,000 or less, including, but not limited to, reconstruction, replacement, rehabilitation, and capital preventive maintenance.
- (c) Projects for reducing congestion on county primary and city major streets within urban counties including advanced traffic management systems.
- (d) Projects for improvements within rural counties on rural primary roads and major streets in cities and villages with a population of 5,000 or less.
- (e) Projects for improvements within rural counties on county rural primary roads or major streets within incorporated villages and cities with a population of more than 5,000.
- (2) The minimum requirements specified in section 7 for projects identified in subsection (1)(a) shall ensure that those projects satisfy the following requirements:
  - (a) Meet a particular transportation need that is shown to exist.
  - (b) Have an immediate positive impact on local employment and the economy.
  - (c) Exclude speculative projects with little or no return on investment. Projects that contribute to the economic development and redevelopment of areas having experienced or having significant potential to experience job loss that meet the criteria for funding under section 7(3)(b)(ii) are not speculative for the purposes of this subdivision.
  - (d) Provide cooperation and support between developers and state and local government.
  - (e) Were evaluated on the basis of impact on the local community.
- (3) A project that is within 1 or more of the categories in subsection (1) shall meet the criteria developed for each category.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1991, Act 188, Imd. Eff. Dec. 27, 1991 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993 ;-- Am. 2016, Act 500, Imd. Eff. Jan. 9, 2017 ;-- Am. 2018, Act 473, Eff. Mar. 29, 2019

#### **247.910 Cost of project; matching funds; evaluation criteria.**

##### **Sec. 10.**

- (1) The costs of a project that are eligible to be funded under section 11(3)(a) and (c) shall be developed by the administrator in accordance with the adopted policies of the commission and shall include at a minimum those costs normally associated with highway construction projects such as project planning, design, right-of-way acquisition, and construction, but excluding routine maintenance.
- (2) The costs of a project that are eligible to be funded under section 11(3)(d) shall be developed by the administrator in accordance with the adopted policies of the commission and shall exclude right-of-way acquisition, design, engineering, and routine maintenance.
- (3) Matching funds of not less than 20% of the total eligible costs of a project shall be required for those projects described in section 9(1)(a), (d), and (e). This requirement may be set aside in the case of extreme economic hardship for projects described in section 9(1)(a) in the local unit in which the project is located. Evaluation criteria for projects described in section 9(1)(a) shall include whether there is a contribution of more than the required 20% matching funds as part of the determination of which projects are to be funded.
- (4) An individual grant for a project described in section 9(1)(b) shall not exceed \$250,000.00, and matching funds of not less than 50% of the total eligible costs of the project shall be required.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993 ;-- Am. 2018, Act 473, Eff. Mar. 29, 2019

#### **247.911 Bonds; issuance; purpose; appropriation of fund revenue; percentages; distribution to certain targeted industries.**

##### **Sec. 11.**

(1) Bonds may be issued as authorized by the commission for the purpose of funding projects under this act in the manner provided in sections 18b and 18k of 1951 PA 51, MCL 247.668b and 247.668k, and in accordance with the adopted policies of the commission. Bonds must not be committed for any project under this act until the requirements under section 3(1) have been satisfied.

(2) After the payment of interest and principal on bonds issued under this act and the appropriation for costs of administration of the fund as provided under this act, fund revenue is annually appropriated as follows:

(a) The first \$5,000,000.00 for a forest roads program. Forest roads program funds must be distributed each fiscal year to each qualified county in a percentage amount equal to the same percentage amount that the number of acres of commercial forest, national park, and national lakeshore land in each qualified county bears to the total number of acres of commercial forest, national park, and national lakeshore land in all qualified counties in this state. Revenue distributed under this subdivision must be used for the construction or reconstruction of roads.

(b) The next \$2,500,000.00 of the fund must be distributed each fiscal year for improvements within rural counties to roads and streets that are eligible for federal aid and are located inside the boundaries of an urban area or an urbanized area as determined by the most recent federal decennial census and as adjusted by the department.

(3) Of the balance remaining after funding projects under subsection (2), projects must be funded in the categories described in section 9 based on the following percentages:

(a) 50% for economic development road projects in any of the targeted industries. For the fiscal years ending September 30, 2019 through September 30, 2023 only, the allocation made under this subdivision must be reduced by \$3,000,000.00 and allocated to projects described in section 9(1)(b). The office of economic development shall use geographic distribution as a grant selection criterion for projects described in section 9(1)(b). An eligible city or village may apply for a grant for a project described in section 9(1)(b) in consecutive fiscal years. For the fiscal years ending September 30, 2020 and September 30, 2021 only, the allocation made under this subdivision must be reduced by an additional \$13,000,000.00.

(b) 25% for projects to reduce congestion on county primary and city major streets within urban counties including advanced traffic management systems. The funds must be distributed to counties with populations in excess of 400,000 in accordance with the following formula:

Population	Percentage of Funds
1,750,000 or more	16%
1,000,000 to 1,749,999	40%
700,000 to 999,999	20%
400,000 to 699,999	24%

When 2 or more counties occupy the same category, the funds must be divided equally.

Projects funded under this category must be used for the widening of county primary roads or city major streets or for advanced traffic management systems in eligible counties.

(c) 25% for projects within rural counties. These revenues must be distributed for the improvement of rural primary roads in rural counties and major streets in cities and villages with a population of 5,000 or less that are located outside the boundaries of an urban area or an urbanized area as determined by the most recent federal decennial census and as adjusted by the department. The commission shall allocate funds distributed under this subdivision to the regional rural task force areas described in section 12a in the same proportion that the rural primary mileage of the regional rural task force area bears to the total rural primary mileage of all counties. Each rural county must be credited with an allocation in the proportion that the county's rural primary mileage is to the total rural primary mileage of those rural counties within the same regional rural task force area. Projects funded under this subdivision must be limited to upgrading rural primary roads and major streets to create an all-season road network.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1991, Act 188, Imd. Eff. Dec. 27, 1991 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993 ;-- Am. 2007, Act 168, Imd. Eff. Dec. 21, 2007 ;-- Am. 2008, Act 364, Imd. Eff. Dec. 23, 2008 ;-- Am. 2009, Act 136, Imd. Eff. Nov. 4, 2009 ;-- Am. 2011, Act 145, Imd. Eff. Sept. 21, 2011 ;-- Am. 2012, Act 621, Imd. Eff. Jan. 9, 2013 ;-- Am. 2014, Act 302, Imd. Eff. Oct. 9, 2014 ;-- Am. 2016, Act 273, Imd. Eff. July 1, 2016 ;-- Am. 2016, Act 501, Imd. Eff. Jan. 9, 2017 ;-- Am. 2018, Act 473, Eff. Mar. 29, 2019 ;-- Am. 2020, Act 204, Imd. Eff. Oct. 15, 2020 ;-- Am. 2024, Act 203, Eff. Apr. 2, 2025

## **247.912 Selection and designation of projects by urban task force; failure to submit qualified projects; proposing project result evaluation criteria; annual report; administration of projects.**

Sec. 12.

(1) The urban task force that represents the majority of the communities in the urban area of each county shall select and designate for eligibility projects for funding under section 11(3)(b) within their respective allocations. One nonvoting member of each task force shall be a designee of and represent the administrator. In the case of widening projects only, the task forces shall designate projects for eligibility as follows:

(a) Projects shall be eligible for federal aid.

(b) Projects shall add travel lanes, left turn lanes, and intersectional improvements to roads with 2 travel lanes carrying more than 10,000 vehicles per day or roads with more than 2 travel lanes carrying more than 25,000 vehicles per day based on the most current traffic count or a traffic count done on or before April 1, 1993. Projects may also be for the construction of new roads with 3 or more travel lanes where the projected traffic count exceeds 10,000 vehicles per day based on an engineering study approved by the department.

(2) If any task force fails to submit sufficient qualified projects to obligate its allocation by July 1 of any fiscal year, those funds shall be made available to the remaining urban task forces in the same proportion as the original allocation.

(3) The individual urban task forces shall propose project result evaluation criteria for all projects to the administrator and the commission for review and comment.

(4) The urban task forces shall report to the administrator on an annual basis the status of all projects selected for funding.

(5) The programs and projects authorized in section 11(3)(b) shall be administered in a similar manner as current federal aid projects and in accordance with the adopted policies of the commission.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1991, Act 188, Imd. Eff. Dec. 27, 1991 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993 ;-- Am. 2016, Act 501, Imd. Eff. Jan. 9, 2017

#### **247.912a Recommendations of regional rural task force for funding projects; failure to submit qualified projects; composition of task force; basis for funding projects; administration of programs and projects.**

Sec. 12a.

(1) The regional rural task force shall make recommendations to the commission and the administrator for funding projects under section 11(3)(c) within their respective regions. If any represented county fails to submit sufficient qualified projects to obligate its allocation after 3 consecutive years, those funds shall be reallocated to the remaining counties in the same regional rural task force area. The regional rural task force areas shall coincide with the boundaries of the 14 state planning and development regions as configured on January 1, 1990. In a regional rural task force area that is composed of 5 or more counties, subtask forces of 2 or more of the counties may be formed with the approval of the task force.

(2) The regional rural task force shall be composed of a representative of each county road commission within the regional area plus an equal number of representatives from incorporated cities and villages with a population of 5,000 or less within the regional area, and a representative selected by the administrator. Projects submitted to the administrator for funding under section 11(3)(c) shall be based on the following:

(a) Only projects eligible for federal aid shall be funded unless otherwise approved by the regional rural task force.

(b) Projects shall be on existing hard surface roads unless otherwise waived by the regional rural task force.

(c) Construction shall be to all-season standards.

(d) These funds shall be used for physical construction only and shall not include costs of right-of-way acquisition and engineering.

(3) The programs and projects authorized in section 11(3)(c) shall be administered in a similar manner as the current local federal aid projects and in accordance with the adopted policies of the commission.

**History:** Add. 1993, Act 149, Imd. Eff. Aug. 19, 1993 ;-- Am. 2016, Act 501, Imd. Eff. Jan. 9, 2017

#### **247.913 Annual report to governor and legislature.**

Sec. 13.

By December 31 each year the commission shall report to the governor, the house and senate appropriations committees, and the house and senate fiscal agencies the following information regarding this act:

- (a) The projects funded during the previous fiscal year.
- (b) The status of projects funded in the immediately preceding fiscal year.
- (c) The number of jobs created and retained and any other economic benefits of the projects funded and listed under section 9(1)(a).
- (d) For each project described in section 9(1)(b) that received funds under this act, both of the following:
  - (i) A general description of the project.
  - (ii) The estimated total cost of the project.
- (e) The degree to which the projects funded have achieved the objectives of this act.
- (f) Any other information considered necessary by the commission for the legislature to evaluate the effectiveness of this act.

**History:** 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 2016, Act 501, Imd. Eff. Jan. 9, 2017 ;-- Am. 2018, Act 473, Eff. Mar. 29, 2019

**247.914 Repealed. 1993, Act 149, Imd. Eff. Aug. 19, 1993.**

**Compiler's Notes:** The repealed section pertained to the conditional effective date.

## **ROAD CONSTRUCTION AND IMPROVEMENT**

### **Act 233 of 1987**

247.931-247.933 Repealed. 1993, Act 149, Imd. Eff. Aug. 19, 1993.

## **MICHIGAN HERITAGE ROUTES**

### **Act 69 of 1993**

AN ACT to designate certain highways within this state as Pure Michigan byways; to provide procedures for additions, deletions, or changes to Pure Michigan byways; and to prescribe the powers and duties of certain state agencies.

**History:** 1993, Act 69, Imd. Eff. June 22, 1993 ;-- Am. 2014, Act 445, Imd. Eff. Dec. 30, 2014

*The People of the State of Michigan enact:*

### **247.951 Definitions.**

Sec. 1.

As used in this act:

- (a) "Commission" means the state transportation commission.
- (b) "Department" means the state transportation department.
- (c) "Historic" means buildings, structures, interpreted sites, objects, or historic districts that are significant to the history, archaeology, architecture, engineering, or culture of this state.



(d) "Pure Michigan byway" means a state highway that is designated in the manner provided in this act as a scenic, recreational, or historic route that is representative of Michigan's natural and cultural heritage.

(e) "Recreational" means facilities normally associated with leisure-time activities, including, but not limited to, parks, public access sites, wildlife refuges, forest areas, marinas, swimming areas, hiking trails, and sightseeing areas.

(f) "Scenic" means an area of outstanding natural beauty whose features include, but are not limited to, significant natural features such as vegetation, land form, water, and open areas with exceptional vistas and views, that singly or in combination make that area unique and distinct in character.

(g) "State trunk line highway system" means the system described in section 1 of 1951 PA 51, MCL 247.651.

**History:** 1993, Act 69, Imd. Eff. June 22, 1993 ;-- Am. 2014, Act 445, Imd. Eff. Dec. 30, 2014

## **247.952 Intent of the legislature.**

### **Sec. 2.**

It is the intent of the legislature to establish this state's responsibility for the enhancement and enjoyment of Michigan's scenic, recreational, and historic resources along its roadside by identifying and designating certain portions of the state trunk line highway system as Pure Michigan byways. It is further the intent of the legislature in designating Pure Michigan byways to assign responsibility for the development of the byways and for the establishment and application of specific planning and design criteria and procedures appropriate to the byways. The legislature further intends to provide criteria for the location and length of Pure Michigan byways and adjacent areas requiring continuing and careful coordination of planning, design, construction, maintenance, land use, and development, by state and local agencies as appropriate, to encourage adjacent land use consistent with the intent of the designation.

**History:** 1993, Act 69, Imd. Eff. June 22, 1993 ;-- Am. 2014, Act 445, Imd. Eff. Dec. 30, 2014

## **247.953 Heritage routes; characteristics.**

### **Sec. 3.**

Certain portions of the state trunkline highway system are so uniquely endowed by natural aesthetic, ecological, environmental, and cultural amenities immediately adjacent to the roadside that their use by a larger percentage of the motoring public, particularly during the recreational season, is for the experience of traveling the road rather than as a route to a destination. Because of the immediate proximity of these features, roads may possess characteristics such as the following: pavement width of 16 to 20 feet, shoulders as narrow as 2 feet with trees immediately adjacent, curves that restrict maximum legal speeds, hills, steep side slopes, and narrow rights-of-way. The improvement philosophy for these roads is to maintain the essential elements of the road and the area immediately surrounding the road that create its unique character.

**History:** 1993, Act 69, Imd. Eff. June 22, 1993

## **247.954 Pure Michigan byways; establishment; considerations; designation; trademark license; action by local government.**

### **Sec. 4.**

In establishing Pure Michigan byways, the department shall consider the concept of the complete highway, which is a highway incorporating not only safety, utility, and economy but also beauty. The department shall also consider

that in a complete highway pleasing appearance is a consideration in the planning and design process. The department may designate portions of a road as a Pure Michigan byway, if the department obtains a trademark license from the Michigan economic development corporation for the use of the words "Pure Michigan". Local governmental agencies shall take any action necessary to protect the integrity of a designated route as stipulated in the uniform criteria developed for the identification of Pure Michigan byways by the department.

**History:** 1993, Act 69, Imd. Eff. June 22, 1993 ;-- Am. 2014, Act 445, Imd. Eff. Dec. 30, 2014

#### **247.955 Repealed. 2014, Act 445, Imd. Eff. Dec. 30, 2014.**

**Compiler's Notes:** The repealed section pertained to identification of highways and publication of proposed routes.

#### **247.956 Planning, design, reconstruction, and maintenance of Pure Michigan byways; criteria.**

Sec. 6.

Planning, design, reconstruction, and maintenance of all designated Pure Michigan byways is governed by the criteria established by this act to ensure that these routes are reasonably safe and fit for travel, while preserving the unique characteristics that qualify them as Pure Michigan byways.

**History:** 1993, Act 69, Imd. Eff. June 22, 1993 ;-- Am. 2014, Act 445, Imd. Eff. Dec. 30, 2014

#### **247.957 Additions, deletions, or changes.**

Sec. 7.

After a 30-day comment period and an opportunity for a public hearing, the department may make additions, deletions, or changes in the Pure Michigan byway system for 1 or more of the following reasons:

(a) By resolution, the governing body of a county or city requests that a particular named route lying within its jurisdictional boundaries be added to or deleted from the Pure Michigan byway system. The department shall not add a route to the system if the governing body of a county or city adopts a resolution requesting that a route not be added. The department shall remove a route from the system within 1 year after a resolution is adopted by a county or city requesting removal.

(b) The department proposes to add or delete any named route or portion of a route to the Pure Michigan byway system.

(c) The department proposes any action that would result in a change in the scenic, historical, or recreational character of any route on the Pure Michigan byway system that is determined to be substantial by the department.

**History:** 1993, Act 69, Imd. Eff. June 22, 1993 ;-- Am. 2014, Act 445, Imd. Eff. Dec. 30, 2014

#### **247.957a Designation of routes as Pure Michigan byways.**

Sec. 7a.

No later than 1 year after the date the amendatory act that added this section is enacted into law, the department

shall designate as Pure Michigan byways all routes that are designated as Michigan heritage routes on the date the amendatory act that added this section is enacted into law, if the department obtains a trademark license from the Michigan economic development corporation for the use of the words "Pure Michigan".

**History:** Add. 2014, Act 445, Imd. Eff. Dec. 30, 2014

#### **247.958 Report.**

Sec. 8.

By December 31 each year, the department shall report to the commission, the governor, and the legislature the following information regarding this act:

- (a) Routes designated as Pure Michigan byways during the previous year.
- (b) Deletions or other changes made in the Pure Michigan byway system during the previous year.

**History:** 1993, Act 69, Imd. Eff. June 22, 1993 ;-- Am. 2014, Act 445, Imd. Eff. Dec. 30, 2014