

# COMMITTEE REPORT

## MADAM PRESIDENT:

**The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred House Bill No. 1659, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:**

- 1 Page 1, line 1, delete "IC 2-5-28" and insert "IC 2-5-28.4".
- 2 Page 1, line 4, delete "28." and insert "**28.4**".
- 3 Page 2, line 6, delete "transit" and insert "**transit**".
- 4 Page 2, line 27, delete "service" and insert "**services**".
- 5 Page 2, between lines 31 and 32, begin a new paragraph and insert:
- 6 "SECTION 2. IC 8-14-14-5, AS ADDED BY P.L.47-2006,
- 7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2007]: Sec. 5. (a) The major moves construction fund is
- 9 established for the purpose of:
- 10 (1) funding projects, **other than passenger or freight railroad**
- 11 **systems as described in IC 8-15.7-2-14(a)(4)**, under IC 8-15.7
- 12 or IC 8-15-3;
- 13 (2) funding other projects in the department's transportation plan;
- 14 and
- 15 (3) funding distributions under sections 6 and 7 of this chapter.
- 16 (b) The fund shall be administered by the department.
- 17 (c) Notwithstanding IC 5-13, the treasurer of state shall invest the
- 18 money in the fund not currently needed to meet the obligations of the
- 19 fund in the same manner as money is invested by the public employees'
- 20 retirement fund under IC 5-10.3-5. However, the treasurer of state may

1 not invest the money in the fund in equity securities. The treasurer of  
 2 state may contract with investment management professionals,  
 3 investment advisors, and legal counsel to assist in the investment of the  
 4 fund and may pay the state expenses incurred under those contracts  
 5 from the fund. Interest that accrues from these investments shall be  
 6 deposited in the fund.

7 (d) The fund consists of the following:

8 (1) Distributions to the fund from the toll road fund under  
 9 IC 8-15.5-11.

10 (2) Distributions to the fund from the next generation trust fund  
 11 under IC 8-14-15.

12 (3) Appropriations to the fund.

13 (4) Gifts, grants, loans, bond proceeds, and other money received  
 14 for deposit in the fund.

15 (5) Revenues arising from:

16 (A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

17 (B) a toll road under IC 8-15-2 or IC 8-23-7-23;

18 that the department designates as part of, and deposits in, the  
 19 fund.

20 (6) Payments, **other than payments for passenger or freight**  
 21 **railroad systems as described in IC 8-15.7-2-14(a)(4)**, made to  
 22 the authority or the department from operators under IC 8-15.7.

23 (7) Interest, premiums, or other earnings on the fund.

24 (e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7.  
 25 Money may not be transferred, assigned, or otherwise removed from  
 26 the fund by the state board of finance, the budget agency, or any other  
 27 state agency.

28 (f) Money in the fund at the end of a state fiscal year does not revert  
 29 to the state general fund.

30 (g) Money in the fund must be appropriated by the general assembly  
 31 to be available for expenditure.

32 SECTION 3. IC 8-14-14-7, AS ADDED BY P.L.47-2006,  
 33 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2007]: Sec. 7. (a) In addition to any distributions required by  
 35 section 6 of this chapter, money in the fund may be used for any of the  
 36 following purposes:

37 (1) **Except as provided in subsection (b)**, the payment of any  
 38 obligation incurred or amounts owed by the authority, the

1 department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5,  
2 or IC 8-15.7 in connection with the execution and performance of  
3 a public-private agreement under IC 8-15.5 or IC 8-15.7,  
4 including establishing reserves.

5 (2) Lease payments to the authority, if money for those payments  
6 is specifically appropriated by the general assembly.

7 (3) Distributions to the treasurer of state for deposit in the state  
8 highway fund, for the funding of any project in the department's  
9 transportation plan.

10 **(b) Money in the fund may not be used for the payment of an**  
11 **obligation incurred or amounts owed by the authority, the**  
12 **department, or an operator under IC 8-15.7 in connection with a**  
13 **public-private agreement under IC 8-15.7 concerning a passenger**  
14 **or freight railroad system as described in IC 8-15.7-2-14(a)(4).**

15 SECTION 4. IC 8-14-17 IS ADDED TO THE INDIANA CODE AS  
16 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
17 1, 2007]:

18 **Chapter 17. Alternative Transportation Construction Fund**

19 **Sec. 1. As used in this chapter, "authority" refers to the Indiana**  
20 **finance authority established by IC 4-4-11-4.**

21 **Sec. 2. As used in this chapter, "department" refers to the**  
22 **Indiana department of transportation.**

23 **Sec. 3. As used in this chapter, "fund" refers to the alternative**  
24 **transportation construction fund established by section 4 of this**  
25 **chapter.**

26 **Sec. 4. (a) The alternative transportation construction fund is**  
27 **established for the purpose of:**

28 **(1) funding projects under IC 8-15.7 for passenger and freight**  
29 **railroad systems as described in IC 8-15.7-2-14(a)(4); and**

30 **(2) funding distributions under section 5 of this chapter.**

31 **(b) The fund shall be administered by the department.**

32 **(c) Notwithstanding IC 5-13, the treasurer of state shall invest**  
33 **the money in the fund not currently needed to meet the obligations**  
34 **of the fund in the same manner as money is invested by the public**  
35 **employees' retirement fund under IC 5-10.3-5. However, the**  
36 **treasurer of state may not invest the money in the fund in equity**  
37 **securities. The treasurer of state may contract with investment**  
38 **management professionals, investment advisers, and legal counsel**

1 to assist in the investment of the fund and may pay the state  
 2 expenses incurred under those contracts from the fund. Interest  
 3 that accrues from these investments shall be deposited in the fund.

4 (d) The fund consists of the following:

5 (1) Appropriations to the fund.

6 (2) Gifts, grants, loans, bond proceeds, and other money  
 7 received for deposit in the fund.

8 (3) Payments made to the authority or the department from  
 9 operators under IC 8-15.7 concerning passenger and freight  
 10 railroad systems as described in IC 8-15.7-2-14(a)(4).

11 (4) Interest, premiums, or other earnings on the fund.

12 (e) The fund is considered a trust fund for purposes of  
 13 IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise  
 14 removed from the fund by the state board of finance, the budget  
 15 agency, or any other state agency.

16 (f) Money in the fund at the end of a state fiscal year does not  
 17 revert to the state general fund.

18 (g) Money in the fund must be appropriated by the general  
 19 assembly to be available for expenditure.

20 Sec. 5. Money in the fund may be used for any of the following  
 21 purposes:

22 (1) The payment of any obligation incurred or amounts owed  
 23 by the authority, the department, or an operator under  
 24 IC 8-15.7 in connection with the execution and performance  
 25 of a public-private agreement under IC 8-15.7 for a passenger  
 26 or freight railroad system as described in IC 8-15.7-2-14(a)(4).

27 (2) Lease payments to the authority, if money for those  
 28 payments is specifically appropriated by the general  
 29 assembly.

30 SECTION 5. IC 8-15.7-1-5, AS ADDED BY P.L.47-2006,  
 31 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2007]: Sec. 5. (a) This article contains full and complete  
 33 authority for agreements and leases with private entities to carry out the  
 34 activities described in this article. Except as provided in this article, no  
 35 procedure, proceeding, publication, notice, consent, approval, order, or  
 36 act by the authority, the department, or any other state or local agency  
 37 or official is required to enter into an agreement or lease, and no law to  
 38 the contrary affects, limits, or diminishes the authority for agreements

1 and leases with private entities, except as provided by this article.

2 (b) Notwithstanding any other law, the department, the authority, or  
3 an operator may not carry out any of the following activities under this  
4 article unless the general assembly enacts a statute authorizing that  
5 activity:

6 (1) Issuing a request for proposals for, or entering into, a  
7 public-private agreement concerning a project other than:

8 (A) Interstate Highway 69 between Interstate Highway 465  
9 and Interstate Highway 64; or

10 (B) a passenger or freight railroad system described in  
11 IC 8-15.7-2-14(a)(4).

12 (2) Carrying out construction for Interstate Highway 69 in a  
13 township having a population of more than seventy-five thousand  
14 (75,000) and less than ninety-three thousand five hundred  
15 (93,500).

16 (3) Imposing user fees on motor vehicles for use of the part of an  
17 interstate highway that connects a consolidated city and a city  
18 having a population of more than eleven thousand five hundred  
19 (11,500) but less than eleven thousand seven hundred forty  
20 (11,740).

21 SECTION 6. IC 8-15.7-2-14, AS ADDED BY P.L.47-2006,  
22 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2007]: Sec. 14. (a) Subject to IC 8-15.7-1-5, "project" means  
24 all or part of the following:

25 (1) A limited access facility (as defined in IC 8-23-1-28).

26 (2) A tollway.

27 (3) Roads and bridges.

28 (4) Passenger and freight railroad systems, including:

29 (A) the costs of environmental impact studies;

30 (B) property, equipment, and appurtenances necessary to  
31 operate a railroad, including lines, routes, roads,  
32 rights-of-way, easements, licenses, permits, track  
33 upgrades, rail grade crossings, locomotives, passenger  
34 cars, freight cars, and other railroad cars of any type or  
35 class; and

36 (C) other costs that the department determines are  
37 necessary to develop a passenger or freight railroad system  
38 in Indiana.

1           ~~(4)~~ **(5)** All or part of a bridge, tunnel, overpass, underpass,  
 2 interchange, structure, ramp, access road, service road, entrance  
 3 plaza, approach, tollhouse, utility corridor, toll gantry, rest stop,  
 4 service area, or administration, storage, or other building or  
 5 facility, including temporary facilities and buildings or facilities  
 6 and structures that will not be tolled, that the department  
 7 determines is appurtenant, necessary, or desirable for the  
 8 development, financing, or operation of the facilities described in  
 9 subdivisions (1) ~~(2)~~, ~~and (3)~~; **through (4)**.

10           ~~(5)~~ **(6)** An improvement, betterment, enlargement, extension, or  
 11 reconstruction of all or part of any of the facilities described in  
 12 this section, including a nontolled part, that is separately  
 13 designated by name or number.

14           **(b) The term does not include a passenger railroad system that**  
 15 **is operated by a commuter transportation district established**  
 16 **under IC 8-5-15.**

17           SECTION 7. IC 8-15.7-5-5, AS ADDED BY P.L.47-2006,  
 18 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2007]: Sec. 5. To the extent that the department receives any  
 20 payment or compensation under the public-private agreement other  
 21 than repayment of a loan or grant or reimbursement for services  
 22 provided by the department to the operator, the payment or  
 23 compensation shall be distributed at the direction of the department to  
 24 the:

25           (1) major moves construction fund established under IC 8-14-14;

26           (2) department for deposit in the state highway fund established  
 27 by IC 8-23-9-54; ~~or~~

28           **(3) alternative transportation construction fund established**  
 29 **under IC 8-14-17; or**

30           ~~(3)~~ **(4)** operator or the authority for debt reduction.

31           SECTION 8. [EFFECTIVE JULY 1, 2007] **(a) The definitions in**  
 32 **IC 8-15.7-2, as amended by this act, apply throughout this**  
 33 **SECTION.**

34           **(b) The department shall submit an annual report to the**  
 35 **legislative council in an electronic format under IC 5-14-6. The**  
 36 **report under this subsection must include detailed information on**  
 37 **the department's efforts concerning:**

38           **(1) the development;**

1           **(2) the financing;**  
 2           **(3) the operation; or**  
 3           **(4) any combination of the development, financing, and**  
 4           **operation;**  
 5           **of passenger or freight railroad systems as described in**  
 6           **IC 8-15.7-2-14(a)(4), as amended by this act, through**  
 7           **public-private agreements.**

8           **(c) This SECTION expires July 1, 2012."**

9           Page 2, delete lines 40 through 42, begin a new line double block  
 10          indented and insert:

11               **"(B) Delaware.**

12               **(C) Hamilton.**

13               **(D) Hancock.**

14               **(E) Hendricks.**

15               **(F) Johnson.**

16               **(G) Madison.**

17               **(H) Marion.**

18               **(I) Monroe.**

19               **(J) Morgan.**

20               **(K) Shelby."**

21          Page 3, delete lines 1 through 5.

22          Page 3, line 30, delete "states" and insert "**state's**".

23          Page 3, line 31, delete "future" and insert "**future.**".

24          Page 3, line 34, delete "patterns" and insert "**patterns,**".

25          Page 3, line 35, delete "identified" and insert "**regions set forth in**  
 26          **subsection (b).**".

27          Page 3, delete line 36.

- 1 Page 4, delete lines 16 through 18.
- 2 Page 4, line 19, delete "(h)" and insert "(g)".
- 3 Renumber all SECTIONS consecutively.  
(Reference is to HB 1659 as reprinted February 20, 2007.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 9, Nays 0.

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**Wyss**

**Chairperson**