

SENATE BILL NO. 10

January 15, 2019, Introduced by Senators WOJNO and LUCIDO and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1951 PA 51, entitled

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

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

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

1 and to pay the annual contributions of the state highway commission
2 and the state transportation commission as are pledged for the
3 payment of bonds issued under contracts authorized by section 18d.

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

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

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

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

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

1 under federal law.

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

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

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

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

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

1 crossing will continue to be the responsibility of the party with
2 jurisdiction over that roadway.

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

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

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

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

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

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

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

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

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

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

1 matching requirements for projects on the national highway system.

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

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

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

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

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

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

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

25 (h) Amounts appropriated for deposit in the transportation
26 economic development fund and the rail grade crossing account
27 ~~pursuant to~~ **under** section 10(1) (a) and ~~(h)~~ **(j)**.

28 (i) Upon the affirmative recommendation of the director of the
29 department and the approval by resolution of the state

1 transportation commission, those amounts expended for projects
2 vital to the economy of this state, a region, or local area or the
3 safety of the public. The resolution shall state the cost of the
4 project exempted from this subsection.

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

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

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

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

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

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

1 period of not to exceed 1 year after the respective first payment
2 of interest or principal on the bonds or notes issued to make the
3 loans.

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

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

1 on the conditions that the state treasurer specifies.

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

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

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

1 assigned, but not limited to, specific road construction projects
2 or preservation activities.

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

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

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

18 (a) The type of project.

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

20 (c) The expected lifespan of the project.

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

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

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

28 (15) As used in this section:

29 (a) "Local road agency" means that term as defined in section

1 9a.

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

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

6 (ii) The installation or improvement of grade crossing
7 surfaces.

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

11 (iv) Test installations of innovative warning devices or other
12 innovative applications.

13 (v) Construction of new grade separations.

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

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