

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:

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

10 (i) For the payment of contributions pledged before July 18,
11 1979 and required to be made by the state highway commission or the
12 state transportation commission under contracts entered into before
13 July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, for the
14 payment of the principal and interest on bonds issued under 1941 PA

1 205, MCL 252.51 to 252.64, for the payment of which a sufficient
2 sum is irrevocably appropriated.

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

10 (iii) For the payment of the principal and interest on bonds
11 issued under section 18b for transportation purposes other than
12 comprehensive transportation purposes as defined by law and the
13 payment of contributions pledged to the payment of principal and
14 interest on bonds issued under section 18d and contracts entered
15 into under section 18d by the state highway commission or state
16 transportation commission to be made ~~pursuant to~~ **UNDER** contracts
17 entered into under section 18d. A sufficient portion of the fund is
18 irrevocably appropriated to pay, when due, the principal and
19 interest on bonds or notes issued under section 18b for purposes
20 other than comprehensive transportation purposes as defined by law,
21 and to pay the annual contributions of the state highway commission
22 and the state transportation commission as are pledged for the
23 payment of bonds issued under contracts authorized by section 18d.

24 (b) For the transfer of money appropriated under section
25 ~~10(1)(i)~~ **10(1)(J)** to the transportation economic development fund,
26 but the transfer shall be reduced each fiscal year by the amount of
27 debt service to be paid in that year from the state trunk line fund

1 for bonds, notes, or other obligations issued to fund projects of
2 the transportation economic development fund, which amount shall be
3 certified by the department.

4 (c) For the transfer of money appropriated under section
5 10(1)(a) to the rail grade crossing account in the state trunk line
6 fund for expenditure for rail grade crossing improvement purposes
7 at rail grade crossings on public roads and streets under the
8 jurisdiction of this state, counties, cities, or villages. The
9 department shall select projects for funding in accordance with the
10 following:

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

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

18 (iii) Consistent with the other requirements for this money,
19 the first priority for money deposited under this subdivision for
20 rail grade crossing improvements and retirement shall be to match
21 federal money from the railroad-highway grade crossing improvement
22 program or other comparable federal programs if a match is required
23 under federal law.

24 (iv) If the department and a road authority with jurisdiction
25 over the crossing formally agree that the grade crossing should be
26 eliminated by permanent closing of the public road or street, the
27 physical removal of the crossing, roadway within railroad rights of

1 way and street termination treatment shall be negotiated between
2 the road authority and railroad company. The money provided to the
3 road authority as a result of the crossing closure shall be
4 credited to its account representing the same road or street system
5 on which the crossing is located and shall be used for any
6 transportation purpose within that road authority's jurisdiction.

7 (d) For the transfer of money appropriated under section
8 10(1)(b) to the grade crossing surface account in the state trunk
9 line fund for expenditure for rail grade crossing surface
10 improvement purposes at rail grade crossings on public roads and
11 streets under the jurisdiction of counties, cities, or villages.
12 Projects shall be selected for funding in accordance with the
13 following:

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

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

21 (iii) Funding under the grade crossing surface account shall
22 be limited to items of work that are normally the responsibility of
23 the railroad under section 309 of the railroad code of 1993, 1993
24 PA 354, MCL 462.309. Maintenance of the roadway approaches to the
25 crossing will continue to be the responsibility of the party with
26 jurisdiction over that roadway.

27 (e) For the total operating expenses of the state trunk line

1 fund for each fiscal year as appropriated by the legislature.

2 (f) For the preservation of state trunk line highways and
3 bridges.

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

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

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

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

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

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

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

27 (b) Amounts expended to provide the state matching requirement

1 for projects on the national highway system and for the payment of
2 debt service on bonds, notes, or other obligations issued after
3 July 1, 1983, for the purpose of providing money for the state
4 matching requirements for projects on the national highway system.

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

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

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

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

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

24 (f) Amounts expended ~~pursuant to~~ **UNDER** contracts entered into
25 before January 1, 1983.

26 (g) Amounts expended for the purposes described in subsection
27 (5).

1 (h) Amounts appropriated for deposit in the transportation
2 economic development fund and the rail grade crossing account
3 ~~pursuant to~~ **UNDER** section 10(1)(a) and ~~(h)~~ **(J)**.

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

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

21 (4) Notwithstanding any other provision of this section, the
22 department may loan money to a local road agency for paying capital
23 costs of transportation purposes described in the second paragraph
24 of section 9 of article IX of the state constitution of 1963 from
25 the proceeds of bonds or notes issued ~~pursuant to~~ **UNDER** section 18b
26 or from the state trunk line fund. Loans made directly from the
27 state trunk line fund shall be made only after provision of money

1 for the purposes specified in subsection (1)(a) to (f). Loans
2 described in this subsection are not subject to the revised
3 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

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

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

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

21 (6) If required by the department, loans made under subsection
22 (4) are payable by deduction by the state treasurer, upon direction
23 of the department, from the periodic disbursements of any money
24 returned by this state under this act to the local road agency, but
25 only after sufficient money has been returned to the local road
26 agency to provide for the payment of contractual obligations
27 incurred or to be incurred and principal and interest on notes and

1 bonds issued or to be issued under 1941 PA 205, MCL 252.51 to
2 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL
3 247.701 to 247.707, or section 18c or 18d. The interest rates and
4 payment schedules of any loans made from the proceeds of bonds or
5 notes issued ~~pursuant to~~ **UNDER** section 18b shall be established by
6 the department to conform as closely as practicable to the interest
7 rate and repayment schedules on the bonds or notes issued to make
8 the loans. However, the department may allow for the deferral of
9 the first payment of interest or principal on the loans for a
10 period of not to exceed 1 year after the respective first payment
11 of interest or principal on the bonds or notes issued to make the
12 loans.

13 (7) The amount borrowed by a local road agency under
14 subsection (5) shall not be included in, or charged against, any
15 constitutional, statutory, or charter debt limitation of the
16 county, city, or village and shall not be included in the
17 determination of the maximum annual principal and interest
18 requirements of, or the limitations upon, the maximum annual
19 principal and interest incurred under 1941 PA 205, MCL 252.51 to
20 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL
21 247.701 to 247.707, or section 18c or 18d.

22 (8) The local road agency is not required to seek or obtain
23 the approval of the electors, the municipal finance commission or
24 its successor agency, or, except as provided in this subsection,
25 the department of treasury to borrow money under subsection (5).
26 The borrowing is not subject to the revised municipal finance act,
27 2001 PA 34, MCL 141.2101 to 141.2821, or to section 5(g) of the

1 home rule city act, 1909 PA 279, MCL 117.5. The department shall
2 give at least 10 days' notice to the state treasurer of its
3 intention to make a loan under subsection (4). If the state
4 treasurer gives notice to the director of the department within 10
5 days of receiving the notice from the department, that, based upon
6 the then existing financial or credit situation of the local road
7 agency, it would not be in the best interests of this state to make
8 a loan under subsection (4) to the local road agency, the loan
9 shall not be made unless the state treasurer, after a hearing, if
10 requested by the affected local road agency, subsequently gives
11 notice to the director of the department that the loan may be made
12 on the conditions that the state treasurer specifies.

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

25 (10) The director of the department, after consultation with
26 representatives of the interests of local road agencies, shall
27 establish, by intergovernmental communication, procedures for the

1 implementation and administration of the loan program established
2 under subsections (4) to (9).

3 (11) Not more than 8% per year of all of the money received by
4 and returned to the department from any source for the purposes of
5 this section may be expended for administrative expenses. The
6 department ~~shall be~~ **IS** subject to section 14(5) if more than 8% per
7 year is expended for administrative expenses. As used in this
8 subsection, "administrative expenses" means expenses that are not
9 assigned including, but not limited to, specific road construction
10 or preservation projects and are often referred to as general or
11 supportive services. Administrative expenses do not include net
12 equipment expense, net capital outlay, debt service principal and
13 interest, and payments to other state or local offices that are
14 assigned, but not limited to, specific road construction projects
15 or preservation activities.

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

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

22 (14) The department shall prepare on an annual basis a report
23 listing all warranties that were secured under subsection (2) and
24 indicate whether any of those warranties were redeemed and all
25 pavement projects whose costs exceed \$2,000,000.00 for which a
26 warranty was not secured as described in subsection (2). The
27 department shall make the report required by this subsection

1 available to the public upon request and shall also post the report
2 on its website, which shall include, but is not limited to, all of
3 the following information:

4 (a) The type of project.

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

6 (c) The expected lifespan of the project.

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

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

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

14 (15) As used in this section:

15 (a) "Local road agency" means that term as defined in section
16 9a.

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

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

21 (ii) The installation or improvement of grade crossing
22 surfaces.

23 (iii) Modification, relocation, or modernization of railroad
24 grade crossing active and passive warning devices necessitated by
25 roadway improvement projects.

26 (iv) Test installations of innovative warning devices or other
27 innovative applications.

1 (v) Construction of new grade separations.

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

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