

SENATE BILL No. 1267

May 2, 2002, Introduced by Senator EMMONS and referred to the Committee on Finance.

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 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, critical 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 2000 PA 188.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

3 (ii) For the payment of the principal and interest upon
4 bonds designated "State of Michigan, State Highway Commissioner,
5 Highway Construction Bonds, Series I", dated September 1, 1956,
6 in the aggregate principal amount of \$25,000,000.00, issued pur-
7 suant to former 1955 PA 87 and the resolution of the state admin-
8 istrative board adopted August 6, 1956, for the payment of which
9 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 of the state highway commission or state
14 transportation commission to be made pursuant to contracts
15 entered into under section 18d, which contributions are pledged
16 to the payment of principal and interest on bonds issued under
17 the authorization of section 18d and contracts executed pursuant
18 to that section. A sufficient portion of the fund is irrevocably
19 appropriated to pay, when due, the principal and interest on
20 bonds or notes issued under section 18b for purposes other than
21 comprehensive transportation purposes as defined by law, and to
22 pay the annual contributions of the state highway commission and
23 the state transportation commission as are pledged for the pay-
24 ment of bonds issued pursuant to contracts authorized by section
25 18d.

26 (b) For the transfer of funds appropriated pursuant to
27 section 10(1)(g) to the transportation economic development fund,

1 but the transfer shall be reduced each fiscal year by the amount
2 of debt service to be paid in that year from the state trunk line
3 fund for bonds, notes, or other obligations issued to fund
4 projects of the transportation economic development fund, which
5 amount shall be certified by the department.

6 (c) For the transfer of funds appropriated pursuant to sec-
7 tion 10(1)(a) to the railroad grade crossing account in the state
8 trunk line fund for expenditure to meet the cost, in whole or in
9 part, of providing for the improvement, installation, and retire-
10 ment of new or existing safety devices or other rail grade cross-
11 ing improvements at rail grade crossings on public roads and
12 streets under the jurisdiction of ~~the~~ THIS state, counties, or
13 cities and villages. Projects shall be selected for funding in
14 accordance with the following:

15 (i) Not more than 50% or less than 30% of these funds and
16 matched federal funds shall be expended for state trunk line
17 projects.

18 (ii) In prioritizing projects for these funds, in whole or
19 in part, the department shall consider train and vehicular traf-
20 fic volumes, accident history, traffic control device improvement
21 needs, and the availability of funding.

22 (iii) Consistent with the other requirements for these
23 funds, the first priority for funds deposited pursuant to this
24 subdivision for rail grade crossing improvements and retirement
25 shall be to match federal funds from the railroad-highway grade
26 crossing improvement program or other comparable federal
27 programs.

1 (iv) If federal funds from the railroad-highway grade
2 crossing improvement program or other comparable federal programs
3 have been exhausted, funds deposited pursuant to this subdivision
4 shall be used to fund 100% of grade crossing projects that
5 receive the highest priority of unfunded projects pursuant to
6 criteria established by the department.

7 (v) State railroad grade crossing funds shall not be used,
8 either as 100% of project cost or to match federal
9 railroad-highway grade crossing improvement funds, for a crossing
10 that is determined by the department pursuant to the criteria
11 established by the department to be a lower priority than other
12 projects that have not yet been funded. However, if sufficient
13 funds are available, these state railroad grade crossing account
14 funds may be used for not more than 50% of a project's cost for a
15 crossing that is determined by the department pursuant to the
16 criteria established by the department to be a lower priority if
17 the balance of not less than 50% of the project's cost is pro-
18 vided by the road authority, railroad, or other sources.

19 (vi) The type of railroad grade crossing improvement,
20 installation, relocation, or retirement of grade crossing sur-
21 faces, active and passive traffic control devices, pavement mark-
22 ing, or other related work shall be eligible for these railroad
23 grade crossing account funds in the same manner as the project
24 type eligibility provided by the federal funds from the
25 railroad-highway grade crossing improvement program, except for
26 the following:

1 (A) For new railroad crossings, these funds may be used for
2 the crossing surface, active and passive traffic control devices,
3 pavement marking, and other improvements necessitated by the new
4 crossing.

5 (B) These funds may be used for the modification, reloca-
6 tion, or modernization of railroad grade crossing facilities
7 necessitated by roadway improvement projects.

8 (C) If the department and the road authority with jurisdic-
9 tion over a public road or street crossing formally agree that
10 the grade crossing should be eliminated by permanent closing of
11 the public road or street, the road authority making the closing
12 shall receive \$5,000.00 from the railroad grade crossing
13 account. In addition, any connecting road improvements necessi-
14 tated by the grade crossing closure are reimbursable on an actual
15 cost basis not to exceed \$10,000.00 per crossing closed. The
16 physical removal of the crossing, roadway within railroad rights
17 of way and street termination treatment will be negotiated
18 between the road authority and railroad company. The funds pro-
19 vided to the road authority as a result of the crossing closure
20 will be credited to its account representing the same road or
21 street system on which the crossing is located.

22 (d) For the total operating expenses of the state trunk line
23 fund for each fiscal year as appropriated by the legislature.

24 (e) For the maintenance of state trunk line highways and
25 bridges.

26 (f) For the opening, widening, improving, construction, and
27 reconstruction of state trunk line highways and bridges,

1 including the acquisition of necessary rights of way and the work
2 incidental to that opening, widening, improving, construction, or
3 reconstruction. Those sums in the state trunk line fund not oth-
4 erwise appropriated, distributed, determined, or set aside by law
5 shall be used for the construction or reconstruction of the
6 national system of interstate and defense highways, referred to
7 in this act as "the interstate highway system" to the extent nec-
8 essary to match federal aid funds as the federal aid funds become
9 available for that purpose; and, for the construction and recon-
10 struction of the state trunk line system.

11 (g) The state transportation department may enter into
12 agreements with county road commissions and with cities and vil-
13 lages to perform work on a highway, road, or street. The agree-
14 ments may provide for the performance by any of the contracting
15 parties of any of the work contemplated by the contract including
16 engineering services and the acquisition of rights of way in con-
17 nection with the work, by purchase or condemnation by any of the
18 contracting parties in its own name, and for joint participation
19 in the costs, but only to the extent that the contracting parties
20 are otherwise authorized by law to expend money on the highways,
21 roads, or streets. The state transportation department also may
22 contract with a county road commission, city, and village to
23 advance money to a county road commission, city, and village to
24 pay their costs of improving railroad grade crossings on the
25 terms and conditions agreed to in the contract. A contract may
26 be executed before or after the state transportation commission
27 borrows money for the purpose of advancing money to a county road

1 commission, city, or village, but the contract shall be executed
2 before the advancement of any money to a county road commission,
3 city, or village by the state transportation commission, and
4 shall provide for the full reimbursement of any advancement by a
5 county road commission, city, or village to the state transporta-
6 tion department, with interest, within 15 years after advance-
7 ment, from any available revenue sources of the county road com-
8 mission, city, or village or, if provided in the contract, by
9 deduction from the periodic disbursements of any money returned
10 by the state to the county road commission, city, or village.

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

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

1 where possible, secure warranties of not less than 5-year full
2 replacement guarantee for contracted construction work. If an
3 appropriate certificate is filed under section 18e but only to
4 the extent necessary, this subsection shall not prohibit the use
5 of any amount of money restricted as to use by section 9 of arti-
6 cle IX of the state constitution of 1963 and deposited in the
7 state trunk line fund for the payment of debt service on bonds,
8 notes, or other obligations pledging for the payment thereof
9 money restricted as to use by section 9 of article IX of the
10 state constitution of 1963 and deposited in the state trunk line
11 fund, whenever issued, as specified under subsection (1)(a). The
12 amounts ~~which~~ THAT are deducted from the state trunk line fund
13 for the purpose of the calculation required by this subsection
14 are as follows:

15 (a) Amounts expended for the purposes described in subsec-
16 tion (1)(a) for the payment of debt service on bonds, notes, or
17 other obligations issued before July 2, 1983.

18 (b) Amounts expended to provide the state matching require-
19 ment for projects on the national highway system and for the pay-
20 ment of debt service on bonds, notes, or other obligations issued
21 after July 1, 1983, for the purpose of providing funds for the
22 state matching requirements for projects on the national highway
23 system.

24 (c) Amounts expended for the construction of a highway,
25 street, road, or bridge to 1 or more of the following or for the
26 payment of debt service on bonds, notes, or other obligations
27 issued after July 1, 1983, for the purpose of providing funds for

1 the construction of a highway, street, road, or bridge to 1 or
2 more of the following:

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

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

8 (d) Amounts expended for capital outlay other than for high-
9 ways, roads, streets, and bridges or to pay debt service on
10 bonds, notes, or other obligations issued after July 1, 1983, for
11 the purpose of providing funds for capital outlay other than for
12 highways, roads, streets, and bridges.

13 (e) Amounts expended for the operating expenses of the state
14 transportation department other than the units of the department
15 performing the functions assigned on January 1, 1983 to the
16 bureau of highways.

17 (f) Amounts expended pursuant to contracts entered into
18 before January 1, 1983.

19 (g) Amounts expended for the purposes described in subsec-
20 tion (5).

21 (h) Amounts appropriated for deposit in the transportation
22 economic development fund and the rail grade crossing account
23 pursuant to section 10(1)(g) and 10(1)(a).

24 (i) Upon the affirmative recommendation of the director of
25 the state transportation department and the approval by resolu-
26 tion of the state transportation commission, those amounts
27 expended for projects vital to the economy of ~~the~~ THIS state, a

1 region, or local area or the safety of the public. The
2 resolution shall state the cost of the project exempted from this
3 subsection.

4 (3) Notwithstanding any other provision of this act, the
5 state transportation department shall expend annually at least
6 90% of the federal revenue distributed to the credit of the state
7 trunk line fund in that year, except for federal revenue expended
8 for the purposes described in subsection (2)(b), (c), (f), and
9 (i) AND FOR THE PAYMENT OF NOTES ISSUED UNDER SECTION 18B(9), on
10 the maintenance of highways, roads, streets, and bridges. The
11 requirement of this subsection shall be waived if compliance
12 would cause ~~the~~ THIS state to be ineligible according to fed-
13 eral law for federal revenue, but only to the extent necessary to
14 make ~~the~~ THIS state eligible according to federal law for that
15 revenue.

16 (4) As used in this section:

17 (a) "Maintenance" and "maintaining" mean snow removal;
18 street cleaning and drainage; seal coating; patching and ordinary
19 repairs; erection and maintenance of traffic signs and markings;
20 safety projects; and the preservation, reconstruction, resurfac-
21 ing, restoration, and rehabilitation of highways, roads, streets,
22 and bridges. For the purposes of this section, maintenance and
23 maintaining shall not be limited to the repair and replacement of
24 a road but shall include maintaining the original intent of a
25 construction project. If traffic patterns indicate that this
26 intent is no longer being met, the department may expend funds to
27 take corrective action and continue to fulfill its obligation of

1 maintaining the department's original objective for the
2 construction project. However, maintenance and maintaining do
3 not include projects ~~which~~ THAT increase the capacity of a
4 highway facility to accommodate that part of the traffic having
5 neither origin nor destination within the local area.

6 (b) "Maintenance" and "maintaining" include widening less
7 than lane width; adding auxiliary turning lanes of 1/2 mile or
8 less; adding auxiliary weaving, climbing, or speed change lanes;
9 and correcting substandard intersections.

10 (c) "Maintenance" and "maintaining" do not include the
11 upgrading of aggregate surface roads to hard surface roads.

12 (d) "Maintenance" and "maintaining" include the portion of
13 the costs of the units of the department performing the functions
14 assigned on January 1, 1983, to the bureau of highways expended
15 for the purposes described in subdivisions (a) and (b).

16 (5) Notwithstanding any other provision of this section, the
17 state transportation department may loan money to county road
18 commissions, cities, and villages for paying capital costs of
19 transportation purposes described in the second paragraph of sec-
20 tion 9 of article IX of the state constitution of 1963 from the
21 proceeds of bonds or notes issued pursuant to section 18b or from
22 the state trunk line fund. Loans made directly from the state
23 trunk line fund shall be made only after provision of funds for
24 the purposes specified in subsection (1)(a) to (f). LOANS
25 DESCRIBED IN THIS SUBSECTION ARE NOT SUBJECT TO THE REVISED
26 MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO 141.2821.

1 (6) County road commissions, cities, and villages may borrow
2 money from the proceeds of bonds or notes issued under section
3 18b or the state trunk line fund for the purposes set forth in
4 subsection (5) that shall be repayable, with interest, from 1 or
5 more of the following:

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

17 (b) Any other legally available funds of the city, village,
18 or county road commission, other than the general funds of the
19 county.

20 (7) Loans made pursuant to subsection (5) if required by the
21 state transportation department may be payable by deduction by
22 the state treasurer, upon direction of the state transportation
23 department, from the periodic disbursements of any money returned
24 by the state under this act to the county road commission, city,
25 or village, but only after sufficient money has been returned to
26 the county road commission, city, or village to provide for the
27 payment of contractual obligations incurred or to be incurred and

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

14 (8) The amount borrowed by a county road commission, city,
15 or village pursuant to subsection (6) shall not be included in,
16 or charged against, any constitutional, statutory, or charter
17 debt limitation of the county, city, or village and shall not be
18 included in the determination of the maximum annual principal and
19 interest requirements of, or the limitations upon, the maximum
20 annual principal and interest incurred under 1941 PA 205,
21 MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952
22 PA 175, MCL 247.701 to 247.707, or section 18c or 18d.

23 (9) The county road commission, city, or village is not
24 required to seek or obtain the approval of the electors, ~~the~~
25 ~~municipal finance commission or its successor agency,~~ or, except
26 as provided in this subsection, the department of treasury to
27 borrow money pursuant to subsection (6). The borrowing is not

1 subject to the ~~municipal finance act, 1943 PA 202, MCL 131.1 to~~
2 ~~139.3~~ REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
3 141.2821, or to section 5(g) of the home rule city act, 1909
4 PA 279, MCL 117.5. The state transportation department shall
5 give at least 10 days' notice to the state treasurer of its
6 intention to make a loan under subsection (5). If the state
7 treasurer gives notice to the director of the state transporta-
8 tion department within 10 days of receiving the notice from the
9 state transportation department, that, based upon the then exist-
10 ing financial or credit situation of the county road commission,
11 city, or village, it would not be in the best interests of the
12 state to make a loan under subsection (5) to the county road com-
13 mission, city, or village, the loan shall not be made unless the
14 state treasurer, after a hearing, if requested by the affected
15 county road commission, city, or village, subsequently gives
16 notice to the director of the state transportation department
17 that the loan may be made on the conditions that the state trea-
18 surer specifies.

19 (10) The state transportation commission may borrow money
20 and issue bonds and notes under, and pursuant to the requirements
21 of, section 18b to make loans to county road commissions, cities,
22 and villages for the purposes described in the second paragraph
23 of section 9 of article IX of the state constitution of 1963, as
24 provided in subsection (5). A single issue of bonds or notes may
25 be issued for the purposes specified in subsection (5) and for
26 the other purposes specified in section 18b. The house and
27 senate transportation appropriations subcommittees shall be

1 notified by the department if there are extras and overruns
2 sufficient to require approval of either the state administrative
3 board or the commission, or both, on any contract between the
4 department and a local road agency or a private business.

5 (11) The director of the state transportation department,
6 after consultation with representatives of the interests of
7 county road commissions, cities, and villages, shall establish,
8 by intergovernmental communication, procedures for the implemen-
9 tation and administration of the loan program established under
10 subsections (5) to (10).

11 (12) Not more than 10% per year of all of the funds received
12 by and returned to the state transportation department from any
13 source for the purposes of this section may be expended for
14 administrative expenses. The department shall be subject to
15 section 14(5) if more than 10% per year is expended for adminis-
16 trative expenses. As used in this subsection, "administrative
17 expenses" means those expenses that are not assigned including,
18 but not limited to, specific road construction or maintenance
19 projects and are often referred to as general or supportive
20 services. Administrative expenses shall not include net equip-
21 ment expense, net capital outlay, debt service principal and
22 interest, and payments to other state or local offices ~~which~~
23 THAT are assigned, but not limited to, specific road construction
24 projects or maintenance activities.

25 (13) Any performance audits of the department shall be con-
26 ducted according to government auditing standards issued by the
27 United States general accounting office.

1 (14) CONTRACTS ENTERED INTO TO ADVANCE MONEY TO A COUNTY
2 ROAD COMMISSION, CITY, OR VILLAGE UNDER SUBSECTION (1)(G) ARE NOT
3 SUBJECT TO THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL
4 141.2101 TO 141.2821.