

SUBSTITUTE FOR
SENATE BILL NO. 981

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, 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 the title and section 11 (MCL 247.661), the title as amended by 2004 PA 384 and section 11 as amended by 2002 PA 639.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide for the classification of all public roads,
 3 streets, and highways in this state, and for the revision of that
 4 classification and for additions to and deletions from each
 5 classification; to set up and establish the Michigan transportation
 6 fund; to provide for the deposits in the Michigan transportation
 7 fund of specific taxes on motor vehicles and motor vehicle fuels;
 8 to provide for the allocation of funds from the Michigan
 9 transportation fund and the use and administration of the fund for
 10 transportation purposes; **TO MAKE APPROPRIATIONS;** to set up and
 11 establish the truck safety fund; to provide for the allocation of
 12 funds from the truck safety fund and administration of the fund for
 13 truck safety purposes; to set up and establish the Michigan truck
 14 safety commission; to establish certain standards for road
 15 contracts for certain businesses; to provide for the continuing

1 review of transportation needs within the state; to authorize the
2 state transportation commission, counties, cities, and villages to
3 borrow money, issue bonds, and make pledges of funds for
4 transportation purposes; to authorize counties to advance funds for
5 the payment of deficiencies necessary for the payment of bonds
6 issued under this act; to provide for the limitations, payment,
7 retirement, and security of the bonds and pledges; to provide for
8 appropriations and tax levies by counties and townships for county
9 roads; to authorize contributions by townships for county roads; to
10 provide for the establishment and administration of the state trunk
11 line fund, local bridge fund, comprehensive transportation fund,
12 and certain other funds; to provide for the deposits in the state
13 trunk line fund, critical bridge fund, comprehensive transportation
14 fund, and certain other funds of money raised by specific taxes and
15 fees; to provide for definitions of public transportation functions
16 and criteria; to define the purposes for which Michigan
17 transportation funds may be allocated; to provide for Michigan
18 transportation fund grants; to provide for review and approval of
19 transportation programs; to provide for submission of annual
20 legislative requests and reports; to provide for the establishment
21 and functions of certain advisory entities; to provide for
22 conditions for grants; to provide for the issuance of bonds and
23 notes for transportation purposes; to provide for the powers and
24 duties of certain state and local agencies and officials; to
25 provide for the making of loans for transportation purposes by the
26 state transportation department and for the receipt and repayment
27 by local units and agencies of those loans from certain specified

1 sources; and to repeal acts and parts of acts.

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

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

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

18 (ii) For the payment of the principal and interest upon bonds
19 designated "State of Michigan, State Highway Commissioner, Highway
20 Construction Bonds, Series I", dated September 1, 1956, in the
21 aggregate principal amount of \$25,000,000.00, issued pursuant to
22 former 1955 PA 87 and the resolution of the state administrative
23 board adopted August 6, 1956, for the payment of which a sufficient
24 sum is irrevocably appropriated.

25 (iii) For the payment of the principal and interest on bonds
26 issued under section 18b for transportation purposes other than
27 comprehensive transportation purposes as defined by law and the

1 payment of contributions of the ~~state highway commission or state~~
2 transportation commission to be made pursuant to contracts entered
3 into under section 18d, which contributions are pledged to the
4 payment of principal and interest on bonds issued under the
5 authorization of section 18d and contracts executed pursuant to
6 that section. A sufficient portion of the fund is irrevocably
7 appropriated to pay, when due, the principal and interest on bonds
8 or notes issued under section 18b for purposes other than
9 comprehensive transportation purposes as defined by law, and to pay
10 the annual contributions of ~~the state highway commission and the~~
11 state transportation commission as are pledged for the payment of
12 bonds issued pursuant to contracts authorized by section 18d.

13 (b) For the transfer of funds appropriated pursuant to section
14 10(1)(g) to the transportation economic development fund, but the
15 transfer shall be reduced each fiscal year by the amount of debt
16 service to be paid in that year from the state trunk line fund for
17 bonds, notes, or other obligations issued to fund projects of the
18 transportation economic development fund, which amount shall be
19 certified by the department.

20 (c) For the transfer of funds appropriated pursuant to section
21 10(1)(a) to the railroad grade crossing account in the state trunk
22 line fund for expenditure for rail grade crossing improvement
23 purposes at rail grade crossings on public roads and streets under
24 the jurisdiction of the state, counties, cities, or villages.
25 Projects shall be selected for funding in accordance with the
26 following:

27 (i) Not more than 50% or less than 30% of these funds and

1 matched federal funds shall be expended for state trunk line
2 projects.

3 (ii) In prioritizing projects for these funds, in whole or in
4 part, the department shall consider train and vehicular traffic
5 volumes, accident history, traffic control device improvement
6 needs, and the availability of funding.

7 (iii) Consistent with the other requirements for these funds,
8 the first priority for funds deposited pursuant to this subdivision
9 for rail grade crossing improvements and retirement shall be to
10 match federal funds from the railroad-highway grade crossing
11 improvement program or other comparable federal programs if a match
12 is required under federal law.

13 (iv) If the department and the road authority with jurisdiction
14 over the crossing formally agree that the grade crossing should be
15 eliminated by permanent closing of the public road or street, the
16 physical removal of the crossing, roadway within railroad rights of
17 way and street termination treatment will be negotiated between the
18 road authority and railroad company. The funds provided to the road
19 authority as a result of the crossing closure will be credited to
20 its account representing the same road or street system on which
21 the crossing is located and shall be used for any transportation
22 purpose within that road authority's jurisdiction.

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

25 **(E) BEGINNING FOR THE STATE FISCAL YEAR THAT STARTS OCTOBER 1,**
26 **2008, NOT LESS THAN \$5,250,000.00 ANNUALLY APPROPRIATED TO THE**
27 **MACKINAC BRIDGE AUTHORITY CREATED IN SECTION 2 OF 1950 (EX SESS) PA**

1 21, MCL 254.302, TO BE USED FOR CAPITAL IMPROVEMENT PURPOSES.

2 (F) ~~(e)~~—For the preservation of state trunk line highways and
3 bridges.

4 (G) ~~(f)~~—For the opening, widening, improving, construction,
5 and reconstruction of state trunk line highways and bridges,
6 including the acquisition of necessary rights of way and the work
7 incidental 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 funds as the federal aid funds become
14 available for that purpose; and, for the construction and
15 reconstruction of the state trunk line system.

16 (H) ~~(g)~~—The state transportation department may enter into
17 agreements with county road commissions and with cities and
18 villages to perform work on a highway, road, or street. The
19 agreements may provide for the performance by any of the
20 contracting parties of any of the work contemplated by the contract
21 including engineering services and the acquisition of rights of way
22 in connection with the work, by purchase or condemnation by any of
23 the contracting parties in its own name, and for joint
24 participation in the costs, but only to the extent that the
25 contracting parties are otherwise authorized by law to expend money
26 on the highways, roads, or streets. The state transportation
27 department also may contract with a county road commission, city,

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

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

23 (2) Notwithstanding any other provision of this act, at least
24 90% of state revenue appropriated annually to the state trunk line
25 fund less the amounts described in subdivisions (a) to (i) shall be
26 expended annually by the state transportation department for the
27 preservation of highways, roads, streets, and bridges and for the

1 payment of debt service on bonds, notes, or other obligations
2 described in subsection (1)(a) issued after July 1, 1983, for the
3 purpose of providing funds for the preservation of highways, roads,
4 streets, and bridges. Of the amounts appropriated for state trunk
5 line projects, the department shall, where possible, secure
6 warranties of not less than 5-year full replacement guarantee for
7 contracted construction work. If an appropriate certificate is
8 filed under section 18e but only to the extent necessary, this
9 subsection shall not prohibit the use of any amount of money
10 restricted as to use by section 9 of article IX of the state
11 constitution of 1963 and deposited in the state trunk line fund for
12 the payment of debt service on bonds, notes, or other obligations
13 pledging for the payment thereof 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, whenever issued, as
16 specified under subsection (1)(a). The amounts ~~which~~ **THAT** are
17 deducted from the state trunk line fund for the purpose of the
18 calculation required by this subsection are as follows:

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

22 (b) Amounts expended to provide the state matching requirement
23 for projects on the national highway system and for the payment of
24 debt service on bonds, notes, or other obligations issued after
25 July 1, 1983, for the purpose of providing funds for the state
26 matching requirements for projects on the national highway system.

27 (c) Amounts expended for the construction of a highway,

1 street, road, or bridge to 1 or more of the following or for the
2 payment of debt service on bonds, notes, or other obligations
3 issued after July 1, 1983, for the purpose of providing funds for
4 the construction of a highway, street, road, or bridge to 1 or more
5 of the following:

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

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

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

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

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

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

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

27 (i) Upon the affirmative recommendation of the director of the

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

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

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

1 (5) County road commissions, cities, and villages may borrow
2 money from the proceeds of bonds or notes issued under section 18b
3 or the state trunk line fund for the purposes set forth in
4 subsection (4) 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 pledged
13 for the payment of principal and interest upon bonds issued under
14 section 18c or 18d, or has been or may in the future be pledged for
15 the payment of the principal and interest upon bonds issued
16 pursuant to 1952 PA 175, MCL 247.701 to 247.707.

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

19 (6) Loans made pursuant to subsection (4) if required by the
20 state transportation department may be payable by deduction by the
21 state treasurer, upon direction of the state transportation
22 department, from the periodic disbursements of any money returned
23 by the state under this act to the county road commission, city, or
24 village, but only after sufficient money has been returned to the
25 county road commission, city, or village to provide for the payment
26 of contractual obligations incurred or to be incurred and principal
27 and interest on notes and bonds issued or to be issued under 1941

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

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

21 (8) The county road commission, city, or village is not
22 required to seek or obtain the approval of the electors, the
23 municipal finance commission or its successor agency, or, except as
24 provided in this subsection, the department of treasury to borrow
25 money pursuant to subsection (5). The borrowing is not subject to
26 the revised municipal finance act, 2001 PA 34, MCL 141.2101 to
27 141.2821, or to section 5(g) of the home rule city act, 1909 PA

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

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

1 (10) The director of the state transportation department,
2 after consultation with representatives of the interests of county
3 road commissions, cities, and villages, shall establish, by
4 intergovernmental communication, procedures for the implementation
5 and administration of the loan program established under
6 subsections (4) to (9).

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

21 (12) Any performance audits of the department shall be
22 conducted according to government auditing standards issued by the
23 United States general accounting office.

24 (13) Contracts entered into to advance money to a county road
25 commission, city, or village under subsection ~~(1)(g)~~ **(1)(H)** are not
26 subject to the revised municipal finance act, 2001 PA 34, MCL
27 141.2101 to 141.2821.

1 (14) As used in this section, "rail grade crossing improvement
2 purposes" means 1 or more of the following:

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

5 (b) The installation or improvement of grade crossing
6 surfaces.

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

10 (d) Test installations of innovative warning devices or other
11 innovative applications.

12 (e) Construction of new grade separations.

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

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