

SENATE BILL No. 981

December 6, 2007, Introduced by Senators ALLEN and GILBERT and referred to the Committee on Commerce and Tourism.

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

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

1 by local units and agencies of those loans from certain specified
2 sources; and to repeal acts and parts of acts.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 **(E) BEGINNING FOR THE STATE FISCAL YEAR THAT STARTS OCTOBER 1,**
27 **2008, NOT LESS THAN \$5,250,000.00 ANNUALLY APPROPRIATED TO THE**

1 MACKINAC BRIDGE AUTHORITY CREATED IN SECTION 2 OF 1950 (EX SESS) PA
2 21, MCL 254.302, TO BE USED FOR CAPITAL IMPROVEMENT PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (f) Amounts expended pursuant to contracts entered into before
22 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 section 10(1)(g) and 10(1)(a).

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

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

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

1 act, 2001 PA 34, MCL 141.2101 to 141.2821.

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

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

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

20 (6) Loans made pursuant to subsection (4) if required by the
21 state transportation department may be payable by deduction by the
22 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, or
25 village, but only after sufficient money has been returned to the
26 county road commission, city, or village to provide for the payment
27 of contractual obligations incurred or to be incurred and principal

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

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

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

1 141.2821, or to section 5(g) of the home rule city act, 1909 PA
2 279, MCL 117.5. The state transportation department shall give at
3 least 10 days' notice to the state treasurer of its intention to
4 make a loan under subsection (4). If the state treasurer gives
5 notice to the director of the state transportation department
6 within 10 days of receiving the notice from the state
7 transportation department, that, based upon the then existing
8 financial or credit situation of the county road commission, city,
9 or village, it would not be in the best interests of the state to
10 make a loan under subsection (4) to the county road commission,
11 city, or village, the loan shall not be made unless the state
12 treasurer, after a hearing, if requested by the affected county
13 road commission, city, or village, subsequently gives notice to the
14 director of the state transportation department that the loan may
15 be made on the conditions that the state treasurer specifies.

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

1 local road agency or a private business.

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

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

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

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

1 141.2101 to 141.2821.

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

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

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

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

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

13 (e) Construction of new grade separations.

14 (f) A cash incentive payment made pursuant to 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 (g) Any other work that would be eligible for funding under
19 the federal railroad-highway grade crossing improvement program or
20 other comparable programs.

21 Enacting section 1. This amendatory act does not take effect
22 unless Senate Bill No. ____ or House Bill No. ____ (request no.
23 05805'07) of the 94th Legislature is enacted into law.