

HOUSE BILL NO. 4669

April 21, 2021, Introduced by Reps. VanSingel and Albert and referred to the Committee on Appropriations.

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; to investigate and study the tolling of roads, streets, highways, or bridges; and to repeal acts and parts of acts,"

by amending section 11 (MCL 247.661), as amended by 2015 PA 175, and by adding section 18n.

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, **first to be deposited into the transportation bond**

1 **repayment sinking fund created in section 18n in the amount**
2 **required by section 18n and then** for the following purposes in the
3 following order of priority:

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

8 (i) For the payment of contributions pledged before July 18,
9 1979 and required to be made by the state highway commission or the
10 state transportation commission under contracts entered into before
11 July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, for the
12 payment of the principal and interest on bonds issued under 1941 PA
13 205, MCL 252.51 to 252.64, for the payment of which a sufficient
14 sum is irrevocably appropriated.

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

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

irrevocably appropriated to pay, when due, the principal and interest on bonds or notes issued under section 18b for purposes other than comprehensive transportation purposes as defined by law, and to pay the annual contributions of the state highway commission and the state transportation commission as are pledged for the payment of bonds issued under contracts authorized by section 18d.

(b) For the transfer of money appropriated under section ~~10(1)(i)~~ **10(1)(j)** to the transportation economic development fund **created in section 2 of 1987 PA 231, MCL 247.902**, but the transfer ~~shall~~ **must** be reduced each fiscal year by the amount of debt service to be paid in that year from the state trunk line fund for bonds, notes, or other obligations issued to fund projects of the transportation economic development fund **created in section 2 of 1987 PA 231, MCL 247.902**, ~~which in an amount shall~~ **that must** be certified by the department.

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

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

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

1 (iii) Consistent with the other requirements for this money, the
2 first priority for money deposited under this subdivision for rail
3 grade crossing improvements and retirement ~~shall be~~ **is** to match
4 federal money from the railroad-highway grade crossing improvement
5 program or other comparable federal programs if a match is required
6 under federal law.

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

18 (d) For the transfer of money appropriated under section
19 10(1) (b) to the grade crossing surface account in the state trunk
20 line fund for expenditure for rail grade crossing surface
21 improvement purposes at rail grade crossings on public roads and
22 streets under the jurisdiction of counties, cities, or villages.
23 Projects ~~shall~~ **must** be selected for funding in accordance with the
24 following:

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

29 (ii) The grade crossing surface account ~~shall~~ **must** fund 60% of

1 the project cost, with the remaining 40% funded by the railroad
2 company.

3 (iii) Funding under the grade crossing surface account ~~shall be~~
4 **is** limited to items of work that are normally the responsibility of
5 the railroad under section 309 of the railroad code of 1993, 1993
6 PA 354, MCL 462.309. Maintenance of the roadway approaches to the
7 crossing will continue to be the responsibility of the party with
8 jurisdiction over that roadway.

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

11 (f) For the preservation of state trunk line highways and
12 bridges.

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

25 (h) The department may enter into agreements with a local road
26 agency or a private sector company to perform work on a highway,
27 road, or street. The agreements may provide for the performance by
28 any of the contracting parties of any of the work contemplated by
29 the contract including maintenance, engineering services, and the

1 acquisition of rights of way in connection with the work, by
2 purchase or condemnation by any of the contracting parties in its
3 own name, and for joint participation in the costs, but only to the
4 extent that the contracting parties are otherwise authorized by law
5 to expend money on the highways, roads, or streets. The department
6 also may contract with a local road agency to advance money to a
7 local road agency to pay the costs of improving railroad grade
8 crossings on the terms and conditions agreed to in the contract. A
9 contract may be executed before or after the state transportation
10 commission borrows money for the purpose of advancing money to a
11 local road agency, but the contract ~~shall~~**must** be executed before
12 the advancement of any money to a local road agency by the state
13 transportation commission, and ~~shall~~**must** provide for the full
14 reimbursement of any advancement by a local road agency to the
15 department, with interest, within 15 years after advancement, from
16 any available revenue sources of the local road agency or, if
17 provided in the contract, by deduction from the periodic
18 disbursements of any money returned by the state to the local road
19 agency.

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

26 (2) Notwithstanding any other provision of this act, the
27 department shall annually expend at least 90% of state revenue
28 appropriated annually to the state trunk line fund less the amounts
29 described in subdivisions (a) to (i) for the preservation of

1 highways, roads, streets, and bridges and for the payment of debt
2 service on bonds, notes, or other obligations described in
3 subsection (1)(a) issued after July 1, 1983, for the purpose of
4 providing money for the preservation of highways, roads, streets,
5 and bridges. Of the amounts appropriated for state trunk line
6 projects, the department shall, where possible, secure pavement
7 warranties for full replacement or appropriate repair for
8 contracted construction work on pavement projects whose cost
9 exceeds \$2,000,000.00 and projects for new construction or
10 reconstruction undertaken after ~~the effective date of the 2015~~
11 ~~amendatory act that amended this subsection.~~ **April 1, 2016.** The
12 department shall compile and make available to the public an annual
13 report of all warranties that were secured under this subsection
14 and all pavement projects whose costs exceed \$2,000,000.00 where a
15 warranty was not secured as provided in subsection (14). If an
16 appropriate certificate is filed under section 18e but only to the
17 extent necessary, this subsection does not prohibit the use of any
18 amount of money restricted as to use by section 9 of article IX of
19 the state constitution of 1963 and deposited in the state trunk
20 line fund for the payment of debt service on bonds, notes, or other
21 obligations pledging for the payment thereof money restricted as to
22 use by section 9 of article IX of the state constitution of 1963
23 and deposited in the state trunk line fund, whenever issued, as
24 specified ~~under~~ **in** subsection (1)(a). The amounts that are deducted
25 from the state trunk line fund for the purpose of the calculation
26 required by this subsection are as follows:

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

1 (b) Amounts expended to provide the state matching requirement
2 for projects on the national highway system and for the payment of
3 debt service on bonds, notes, or other obligations issued after
4 July 1, 1983, for the purpose of providing money for the state
5 matching requirements for projects on the national highway system.

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

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

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

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

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

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

27 (g) Amounts expended for the purposes described in subsection
28 (5).

29 (h) Amounts appropriated for deposit in the transportation

1 economic development fund **created in section 2 of 1987 PA 231, MCL**
 2 **247.902**, and the rail grade crossing account ~~pursuant to~~**under**
 3 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~~**must** state the cost of
 9 the 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 section 18b or
 26 from the state trunk line fund. Loans made directly from the state
 27 trunk line fund ~~shall~~**must not** be made ~~only until~~ after **the**
 28 provision of money for the purposes specified in subsection (1)(a)
 29 to (f). Loans described in this subsection are not subject to the

1 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
2 141.2821.

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

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

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

20 (6) If required by the department, loans made under subsection
21 (4) are payable by deduction by the state treasurer, upon direction
22 of the department, from the periodic disbursements of any money
23 returned by this state under this act to the local road agency, but
24 only after sufficient money has been returned to the local road
25 agency to provide for the payment of contractual obligations
26 incurred or to be incurred and principal and interest on notes and
27 bonds issued or to be issued under 1941 PA 205, MCL 252.51 to
28 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL
29 247.701 to 247.707, or section 18c or 18d. The interest rates and

1 payment schedules of any loans made from the proceeds of bonds or
 2 notes issued ~~pursuant to~~ **under** section 18b ~~shall~~ **must** be
 3 established by the department to conform as closely as practicable
 4 to the interest rate and repayment schedules on the bonds or notes
 5 issued to make the loans. However, the department may allow for the
 6 deferral of the first payment of interest or principal on the loans
 7 for a period of not to exceed 1 year after the respective first
 8 payment of interest or principal on the bonds or notes issued to
 9 make the loans.

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

19 (8) The local road agency is not required to seek or obtain
 20 the approval of the electors, the municipal finance commission or
 21 its successor agency, or, except as provided in this subsection,
 22 the department of treasury to borrow money under subsection (5).
 23 The borrowing is not subject to the revised municipal finance act,
 24 2001 PA 34, MCL 141.2101 to 141.2821, or to section ~~5(g)~~ **5(1)(g)** of
 25 the home rule city act, 1909 PA 279, MCL 117.5. The department
 26 shall give at least 10 days' notice to the state treasurer of its
 27 intention to make a loan under subsection (4). If the state
 28 treasurer gives notice to the director of the department ~~within~~ **not**
 29 **later than** 10 days ~~of~~ **after** receiving the notice from the

1 department, that, based upon the then existing financial or credit
2 situation of the local road agency, it would not be in the best
3 interests of this state to make a loan under subsection (4) to the
4 local road agency, the loan ~~shall~~**must** not be made unless the state
5 treasurer, after a hearing, if requested by the affected local road
6 agency, subsequently gives notice to the director of the department
7 that the loan may be made on the conditions that the state
8 treasurer specifies.

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

22 (10) The director of the department, after consultation with
23 representatives of the interests of local road agencies, shall
24 establish, by intergovernmental communication, procedures for the
25 implementation and administration of the loan program established
26 under subsections (4) to (9).

27 (11) Not more than 8% per year of all of the money received by
28 and returned to the department from any source for the purposes of
29 this section may be expended for administrative expenses. The

1 department ~~shall be~~ **is** subject to section 14(5) if more than 8% per
2 year is expended for administrative expenses. As used in this
3 subsection, "administrative expenses" means expenses that are not
4 assigned including, but not limited to, specific road construction
5 or preservation projects and are often referred to as general or
6 supportive services. Administrative expenses do not include net
7 equipment expense, net capital outlay, debt service principal and
8 interest, and payments to other state or local offices that are
9 assigned, but not limited to, specific road construction projects
10 or preservation activities.

11 (12) Any performance audits of the department ~~shall~~ **must** be
12 conducted according to government auditing standards issued by the
13 United States General Accounting Office.

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

17 (14) The department shall prepare on an annual basis a report
18 listing all warranties that were secured under subsection (2) and
19 indicate whether any of those warranties were redeemed and all
20 pavement projects whose costs exceed \$2,000,000.00 for which a
21 warranty was not secured as described in subsection (2). The
22 department shall make the report required by this subsection
23 available to the public upon request and shall also post the report
24 on its website. ~~, which shall~~ **The report required by this**
25 **subsection must** include, but is not limited to, all of the
26 following information:

27 (a) The type of project.

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

29 (c) The expected lifespan of the project.

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

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

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

8 (15) As used in this section:

9 (a) "Local road agency" means that term as defined in section
10 9a.

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

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

15 (ii) The installation or improvement of grade crossing
16 surfaces.

17 (iii) Modification, relocation, or modernization of railroad
18 grade crossing active and passive warning devices necessitated by
19 roadway improvement projects.

20 (iv) Test installations of innovative warning devices or other
21 innovative applications.

22 (v) Construction of new grade separations.

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

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

1 Sec. 18n. (1) The transportation bond repayment sinking fund
2 is created in the state treasury to be used only as provided in
3 this section.

4 (2) The state treasurer shall deposit money and other assets
5 received from any source into the sinking fund. The state treasurer
6 has the same authority to invest the assets of the sinking fund as
7 is granted to an investment fiduciary under the public employee
8 retirement system investment act, 1965 PA 314, MCL 38.1132 to
9 38.1141.

10 (3) The department is the administrator of the sinking fund
11 for audits of the fund.

12 (4) The department shall expend money from the sinking fund,
13 on appropriation, only for 1 or more of the following purposes for
14 bonds issued by the state transportation commission under section
15 18b:

16 (a) Paying the principal and interest.

17 (b) Paying off before maturity.

18 (5) The department shall not expend money from the sinking
19 fund to extend the maturity of a bond.

20 (6) For every dollar issued in new bonds by the department in
21 a fiscal year, an equal amount must be deposited into the sinking
22 fund from the state trunk line fund in an amount not to exceed
23 \$234,600,000.00 in that fiscal year. If the amount of new bonds in
24 a fiscal year exceeds \$234,600,000.00, an amount equal to the
25 difference between the amount of new bonds and \$234,600,000.00 must
26 be deposited into the sinking fund from the state trunk line fund
27 in each subsequent fiscal year, in an amount not to exceed
28 \$234,600,00.00 in a fiscal year, until an amount equal to the
29 amount of new bonds has been deposited into the sinking fund.

1 (7) As used in this section, "sinking fund" means the
2 transportation bond repayment sinking fund created in subsection
3 (1) .