

HOUSE BILL NO. 5247

July 01, 2021, Introduced by Reps. Lightner and Cambensy 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 sections 10 and 11 (MCL 247.660 and 247.661), section 10 as amended by 2020 PA 222 and section 11 as amended by 2015 PA 175.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 10. (1) A fund to be known as the Michigan transportation
- 2 fund is established in the state treasury as a separate fund. The
- 3 state treasurer may receive money or other assets from any source

1 for deposit into the fund. The state treasurer shall direct the
2 investment of the fund. The state treasurer shall credit to the
3 fund interest and earnings from fund investments. Except as
4 otherwise provided in this section, the legislature shall
5 appropriate money for the necessary expenses incurred in the
6 administration and enforcement of the motor fuel tax act, 2000 PA
7 403, MCL 207.1001 to 207.1170, the motor carrier act, 1933 PA 254,
8 MCL 475.1 to 479.42, and sections 801 to 810 of the Michigan
9 vehicle code, 1949 PA 300, MCL 257.801 to 257.810. Money
10 appropriated for necessary expenses must be based upon established
11 cost allocation methodology that reflects actual costs.
12 Appropriations for the necessary expenses incurred by the
13 department of state in administration and enforcement of sections
14 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801
15 to 257.810, must be made from the Michigan transportation fund and
16 from money in the transportation administration collection fund
17 created in section 810b of the Michigan vehicle code, 1949 PA 300,
18 MCL 257.810b. Appropriations from the Michigan transportation fund
19 for the necessary expenses incurred by the department of state in
20 administration and enforcement of sections 801 to 810 of the
21 Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810, must
22 not exceed \$20,000,000.00 per state fiscal year. Except as provided
23 in section 51d of the income tax act of 1967, 1967 PA 281, MCL
24 206.51d, all money in the Michigan transportation fund is
25 apportioned and appropriated in the following manner:

26 (a) Not more than \$3,000,000.00 as may be annually
27 appropriated each fiscal year to the state trunk line fund for
28 subsequent deposit in the rail grade crossing account.

29 (b) Not more than \$3,000,000.00 as may be annually

1 appropriated each fiscal year to the state trunk line fund for
2 subsequent deposit in the grade crossing surface account.

3 (c) Not more than \$3,000,000.00 each year to the local bridge
4 fund established in subsection (4) for the purpose of payment of
5 the principal, interest, and redemption premium on any notes or
6 bonds issued by the state transportation commission under former
7 section 11b or subsection (9).

8 (d) Except as otherwise provided in this subdivision and
9 subject to section 11h, \$2,000,000.00 each year of the revenue from
10 3 cents of the tax levied under section 8(1)(a) of the motor fuel
11 tax act, 2000 PA 403, MCL 207.1008, to the local agency wetland
12 mitigation board fund created in section 11h.

13 **(e) Except as otherwise provided in this subdivision and**
14 **subject to section 11i, \$5,000,000.00 each year of the revenue from**
15 **3 cents of the tax levied under section 8(1)(a) of the motor fuel**
16 **tax act, 2000 PA 403, MCL 207.1008, to the local agency**
17 **infrastructure disaster relief fund created in section 11i.**

18 (f) ~~(e)~~ Except as otherwise provided in this subdivision,
19 \$5,000,000.00 each year of the revenue from 3 cents of the tax
20 levied under section 8(1)(a) of the motor fuel tax act, 2000 PA
21 403, MCL 207.1008, to the movable bridge fund created in section
22 11g, with the remainder to the state trunk line fund, county road
23 commissions, and cities and villages in the percentages provided in
24 subdivision ~~(h)~~ **(m)**. The department shall annually adjust the
25 amount allocated under this subdivision by an amount equal to the
26 annual increase in the Detroit Consumer Price Index for the
27 preceding year.

28 (g) ~~(f)~~ One-half of the revenue from 1 cent of the tax levied
29 under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL

1 207.1008, to the state trunk line fund for the repair of state
2 bridges under section 11, and 1/2 of the revenue from 1 cent of the
3 tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA
4 403, MCL 207.1008, to the local bridge fund created in subsection
5 (4) for distribution only to cities, villages, and county road
6 commissions.

7 (h) ~~(g)~~—\$50,000,000.00 to the state trunk line fund for debt
8 service costs on state of Michigan projects.

9 (i) ~~(h)~~—Ten percent to the comprehensive transportation fund
10 for the purposes described in section 10e.

11 (j) ~~(i)~~—\$5,000,000.00 to the local bridge fund established in
12 subsection (4) for distribution only to the local bridge advisory
13 board, the regional bridge councils, cities, villages, and county
14 road commissions.

15 (k) ~~(j)~~—\$36,775,000.00 to the state trunk line fund for
16 subsequent deposit in the transportation economic development fund
17 created in section 2 of 1987 PA 231, MCL 247.902, with first
18 priority for allocation to debt service on bonds issued to fund
19 transportation economic development fund projects. In addition,
20 \$3,500,000.00 is appropriated from the Michigan transportation fund
21 to the state trunk line fund for subsequent deposit in the
22 transportation economic development fund created in section 2 of
23 1987 PA 231, MCL 247.902 to be used for economic development road
24 projects in any of the targeted industries described in section
25 9(1)(a) of 1987 PA 231, MCL 247.909.

26 (l) ~~(k)~~—Not less than \$33,000,000.00 as may be annually
27 appropriated each fiscal year to the local program fund created in
28 section 11e.

29 (m) ~~(l)~~—The balance of the Michigan transportation fund, as

1 well as funds allocated to the Michigan transportation fund and
 2 collected under the Michigan Regulation and Taxation of Marihuana
 3 Act, 2018 IL 1, MCL 333.27951 to 333.27967, as follows, after
 4 deduction of the amounts appropriated in subdivisions (a) to
 5 ~~(k)~~ **(l)** :

6 (i) 39.1% to the state trunk line fund for the purposes
 7 described in section 11.

8 (ii) 39.1% to the county road commissions of this state.

9 (iii) 21.8% to the cities and villages of this state.

10 (2) The money appropriated under this section must be used for
 11 the purposes as provided in this act and any other applicable act.
 12 Subject to section 9b, the department shall develop programs in
 13 conjunction with the Michigan Chamber of Commerce and the Michigan
 14 Minority Supplier Development Council to assist small businesses,
 15 including those located in enterprise zones and those located in
 16 empowerment zones as determined under federal law, as defined by
 17 law in becoming qualified to bid.

18 (3) From federal funds, an amount equal to 31-1/2% of the
 19 money formerly appropriated to this state from the federal
 20 government under former 23 USC 157, commonly known as minimum
 21 guarantee funds, must be allocated to the transportation economic
 22 development fund **created in section 2 of 1987 PA 231, MCL 247.902,**
 23 if the allocation is consistent with federal law. This money must
 24 be distributed 16-1/2% for development projects for rural counties
 25 as defined by law and 15% for capacity improvement or advanced
 26 traffic management systems in urban counties as defined by law.
 27 Federal money allocated for distribution under this section is
 28 eligible for obligation and use by all recipients as provided in
 29 the moving ahead for progress in the 21st century act, Public Law

1 112-141.

2 (4) A fund to be known as the local bridge fund is established
3 in the state treasury as a separate fund. The money appropriated to
4 the local bridge fund and the interest accruing to that fund must
5 be expended for the local bridge program. The purpose of the fund
6 is to provide financial assistance to highway authorities for the
7 preservation, improvement, or reconstruction of existing bridges or
8 for the construction of bridges to replace existing bridges in
9 whole or part. The money in the local bridge fund is not subject to
10 section 12(15) or 13(5). The local bridge advisory board is created
11 and must consist of 6 voting members appointed by the state
12 transportation commission and 2 nonvoting members appointed by the
13 department. The board must include 3 members from the County Road
14 Association of Michigan, 1 member who represents counties with
15 populations 65,000 or greater, 1 member who represents counties
16 with populations greater than 30,000 and less than 65,000, and 1
17 member who represents counties with populations of 30,000 or less.
18 Three members must be appointed from the Michigan Municipal League,
19 1 member who represents cities with a population 75,000 or greater,
20 1 member who represents cities with a population less than 75,000,
21 and 1 member who represents villages. Each organization with voting
22 rights shall submit a list of nominees in each population category
23 to the state transportation commission. The state transportation
24 commission shall make the appointments from the lists submitted
25 under this subsection. Voting members must be appointed for 2
26 years. The chairperson of the board must be selected from among the
27 voting members of the board. In addition to the 2 nonvoting
28 members, the department shall provide qualified administrative
29 staff and qualified technical assistance to the board.

1 (5) No less than 5% and no more than 15% of the money received
2 in the local bridge fund may be used for critical repair of large
3 bridges and emergencies as determined by the local bridge advisory
4 board. Money remaining after the money allocated for critical large
5 bridge repair and emergencies is deducted must be distributed by
6 the board to the regional bridge councils created under this
7 section. One regional council must be formed for each department of
8 transportation region as those regions exist on October 1, 2004.
9 The regional councils must consist of 2 members of the County Road
10 Association of Michigan from counties in the region, 2 members of
11 the Michigan Municipal League from cities and villages in the
12 region, and 1 member of the department in each region. The members
13 of the department are nonvoting members and shall provide qualified
14 administrative staff and qualified technical assistance to the
15 regional councils.

16 (6) Money in the local bridge fund after deduction of the
17 amounts set aside for critical repair of large bridges and
18 emergency repairs must be distributed among the regional bridge
19 councils according to all of the following ratios, ~~which~~**that** must
20 be assigned a weight expressed as a percentage as determined by the
21 board, with each ratio receiving no greater than a 50% weight and
22 no less than a 25% weight:

23 (a) A ratio with a numerator that is the total number of local
24 bridges in the region and a denominator that is the total number of
25 local bridges in this state.

26 (b) A ratio with a numerator that is the total local bridge
27 deck area in the region and a denominator that is the total local
28 bridge deck area in this state.

29 (c) A ratio with a numerator that is the total amount of

1 structurally deficient local bridge deck area in the region and a
2 denominator that is the total amount of structurally deficient
3 local bridge deck area in this state.

4 (7) The regional bridge councils shall allocate the money
5 received from the board for the preservation, improvement, and
6 reconstruction of existing bridges or for the construction of
7 bridges to replace existing bridges in whole or in part in each
8 region.

9 (8) Each January, the department shall submit a report to the
10 chair and the minority vice-chair of the appropriations committees
11 of the senate and the house of representatives, and to the standing
12 committees on transportation of the senate and the house of
13 representatives, on all of the following activities for the
14 previous state fiscal year:

15 (a) A listing of how much money was dedicated for emergency
16 and large bridge repair.

17 (b) A listing of what emergency and large bridge repair
18 projects were funded.

19 (c) The actual weights used in the calculation required under
20 subsection (6).

21 (d) A listing of the total money distributed to each region.

22 (e) A listing of the specific projects that were funded under
23 subsection (7).

24 (9) The state transportation commission shall borrow money and
25 issue notes or bonds in an amount of not less than \$30,000,000.00
26 to supplement the funding provided for the local bridge program
27 under subsection (5). The bonds or notes issued under this
28 subsection may be issued by the commission for any purpose for
29 which other local bridge money may be used under this section. The

1 bonds or notes authorized by this subsection must be issued by
2 resolution of the state transportation commission consistent with
3 the requirements of section 18b.

4 (10) The department shall promulgate rules under the
5 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
6 24.328, governing the administration of the local bridge program.
7 The rules must set forth the eligibility criteria for financial
8 assistance under the program and other matters related to the
9 program that the department considers necessary and desirable. The
10 department shall take into consideration the availability of
11 federal aid and other financial resources of the highway authority
12 responsible for the bridge, the importance of the bridge to the
13 highway, road, or street network, and the condition of the existing
14 bridge.

15 (11) The revenue appropriated to the local bridge fund under
16 subsection ~~(1)(i)~~ **(1)(j)** must be distributed only to the local
17 bridge advisory board, the regional bridge councils, cities,
18 villages, and county road commissions.

19 (12) The regional bridge councils shall determine what bridge
20 projects are selected for funding from the local bridge fund
21 created in subsection (4) and shall make a list of selected
22 projects available to interested parties in the region. A
23 determination that a bridge project is selected for funding in a
24 given fiscal year is not approval to disburse the money.

25 (13) A county road commission, city, or village may implement
26 a bridge project if the bridge project has been selected for
27 funding and is included in the appropriate regional bridge
28 council's current multiyear bridge plan for the local bridge
29 program but the regional bridge council has not allocated money to

1 the bridge project for the fiscal year that the bridge project is
2 on the current multiyear bridge plan. A county road commission,
3 city, or village may borrow money to implement a project that has
4 been selected for funding and is included in the appropriate
5 regional bridge council's current multiyear bridge plan but has not
6 been allocated money by the regional bridge council. Based on
7 available local bridge money, when a bridge project that was
8 implemented with borrowed money is allocated funding in a
9 subsequent fiscal year, the funding must only be used to repay the
10 amount approved by the multiyear bridge plan when the money was
11 borrowed. To be eligible for repayment of the amount borrowed, a
12 bridge project that has been implemented with borrowed money must
13 be administered through the department's local bridge program.

14 Sec. 11. (1) A fund to be known as the state trunk line fund
15 is established in the state treasury as a separate fund. The money
16 deposited in the state trunk line fund is appropriated to the
17 department for the following purposes in the following order of
18 priority:

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

23 (i) For the payment of contributions pledged before July 18,
24 1979 and required to be made by the state highway commission or the
25 state transportation commission under contracts entered into before
26 July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, for the
27 payment of the principal and interest on bonds issued under 1941 PA
28 205, MCL 252.51 to 252.64, for the payment of which a sufficient
29 sum is irrevocably appropriated.

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

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

22 (b) For the transfer of money appropriated under section
 23 ~~10(1)(i)~~**10(1)(k)** to the transportation economic development fund
 24 **created in section 2 of 1987 PA 231, MCL 247.902**, but the transfer
 25 ~~shall~~**must** be reduced each fiscal year by the amount of debt
 26 service to be paid in that year from the state trunk line fund for
 27 bonds, notes, or other obligations issued to fund projects of the
 28 transportation economic development fund **created in section 2 of**
 29 **1987 PA 231, MCL 247.902**, ~~which in an amount shall~~**that must** be

1 certified by the department.

2 (c) For the transfer of money appropriated under section
3 10(1)(a) to the rail grade crossing account in the state trunk line
4 fund for expenditure for rail grade crossing improvement purposes
5 at rail grade crossings on public roads and streets under the
6 jurisdiction of this state, counties, cities, or villages. The
7 department shall select projects for funding in accordance with the
8 following:

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

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

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

23 (iv) If the department and a road authority with jurisdiction
24 over the crossing formally agree that the grade crossing should be
25 eliminated by permanent closing of the public road or street, the
26 physical removal of the crossing, roadway within railroad rights of
27 way and street termination treatment ~~shall~~**must** be negotiated
28 between the road authority and railroad company. The money provided
29 to the road authority as a result of the crossing closure ~~shall~~

1 **must** be credited to its account representing the same road or
 2 street system on which the crossing is located and ~~shall~~**must** be
 3 used for any transportation purpose within that road authority's
 4 jurisdiction.

5 (d) For the transfer of money appropriated under section
 6 10(1)(b) to the grade crossing surface account in the state trunk
 7 line fund for expenditure for rail grade crossing surface
 8 improvement purposes at rail grade crossings on public roads and
 9 streets under the jurisdiction of counties, cities, or villages.
 10 Projects ~~shall~~**must** be selected for funding in accordance with the
 11 following:

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

16 (ii) The grade crossing surface account ~~shall~~**must** fund 60% of
 17 the project cost, with the remaining 40% funded by the railroad
 18 company.

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

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

27 (f) For the preservation of state trunk line highways and
 28 bridges.

29 (g) For the opening, widening, improving, construction, and

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

12 (h) The department may enter into agreements with a local road
13 agency or a private sector company to perform work on a highway,
14 road, or street. The agreements may provide for the performance by
15 any of the contracting parties of any of the work contemplated by
16 the contract including maintenance, engineering services, and the
17 acquisition of rights of way in connection with the work, by
18 purchase or condemnation by any of the contracting parties in its
19 own name, and for joint participation in the costs, but only to the
20 extent that the contracting parties are otherwise authorized by law
21 to expend money on the highways, roads, or streets. The department
22 also may contract with a local road agency to advance money to a
23 local road agency to pay the costs of improving railroad grade
24 crossings on the terms and conditions agreed to in the contract. A
25 contract may be executed before or after the state transportation
26 commission borrows money for the purpose of advancing money to a
27 local road agency, but the contract ~~shall~~**must** be executed before
28 the advancement of any money to a local road agency by the state
29 transportation commission, and ~~shall~~**must** provide for the full

1 reimbursement of any advancement by a local road agency to the
2 department, with interest, within 15 years after advancement, from
3 any available revenue sources of the local road agency or, if
4 provided in the contract, by deduction from the periodic
5 disbursements of any money returned by ~~the~~**this** state to the local
6 road agency.

7 (i) For providing inventories of supplies and materials
8 required for the activities of the department. The department may
9 purchase supplies and materials for these purposes, with payment to
10 be made out of the state trunk line fund to be charged on the basis
11 of issues from inventory in accordance with the accounting and
12 purchasing laws of this state.

13 (2) Notwithstanding any other provision of this act, the
14 department shall annually expend at least 90% of state revenue
15 appropriated annually to the state trunk line fund less the amounts
16 described in subdivisions (a) to (i) for the preservation of
17 highways, roads, streets, and bridges and for the payment of debt
18 service on bonds, notes, or other obligations described in
19 subsection (1)(a) issued after July 1, 1983, for the purpose of
20 providing money for the preservation of highways, roads, streets,
21 and bridges. Of the amounts appropriated for state trunk line
22 projects, the department shall, where possible, secure pavement
23 warranties for full replacement or appropriate repair for
24 contracted construction work on pavement projects whose cost
25 exceeds \$2,000,000.00 and projects for new construction or
26 reconstruction undertaken after ~~the effective date of the 2015~~
27 ~~amendatory act that amended this subsection.~~ **April 1, 2016.** The
28 department shall compile and make available to the public an annual
29 report of all warranties that were secured under this subsection

1 and all pavement projects whose costs exceed \$2,000,000.00 ~~where~~
2 **for which** a warranty was not secured as provided in subsection
3 (14). If an appropriate certificate is filed under section 18e but
4 only to the extent necessary, this subsection does not prohibit the
5 use of any amount of money restricted as to use by section 9 of
6 article 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 money
9 restricted as to use by section 9 of article IX of the state
10 constitution of 1963 and deposited in the state trunk line fund,
11 whenever issued, as specified ~~under~~**in** subsection (1)(a). The
12 amounts that are deducted from the state trunk line fund for the
13 purpose of the calculation required by this subsection are as
14 follows:

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

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

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

29 (i) A location for which a building permit has been obtained

1 for the construction of a manufacturing or industrial facility.

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

5 (d) Amounts expended for capital outlay other than for
6 highways, roads, streets, and bridges or to pay debt service on
7 bonds, notes, or other obligations issued after July 1, 1983, for
8 the purpose of providing money for capital outlay other than for
9 highways, roads, streets, and bridges.

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

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

15 (g) Amounts expended for the purposes described in subsection
16 (5).

17 (h) Amounts appropriated for deposit in the transportation
18 economic development fund **created in section 2 of 1987 PA 231, MCL**
19 **247.902**, and the rail grade crossing account ~~pursuant to~~**under**
20 section 10(1)(a) and ~~(h)~~**(k)**.

21 (i) Upon the affirmative recommendation of the director of the
22 department and the approval by resolution of the state
23 transportation commission, those amounts expended for projects
24 vital to the economy of this state, a region, or local area or the
25 safety of the public. The resolution ~~shall~~**must** state the cost of
26 the project exempted from this subsection.

27 (3) Notwithstanding any other provision of this act, the
28 department shall expend annually at least 90% of the federal
29 revenue distributed to the credit of the state trunk line fund in

1 that year, except for federal revenue expended for the purposes
 2 described in subsection (2)(b), (c), (f), and (i) and for the
 3 payment of notes issued under section 18b(9) on the preservation of
 4 highways, roads, streets, and bridges. The requirement of this
 5 subsection is waived if compliance would cause this state to be
 6 ineligible according to federal law for federal revenue, but only
 7 to the extent necessary to make this state eligible according to
 8 federal law for that revenue.

9 (4) Notwithstanding any other provision of this section, the
 10 department may loan money to a local road agency for paying capital
 11 costs of transportation purposes described in the second paragraph
 12 of section 9 of article IX of the state constitution of 1963 from
 13 the proceeds of bonds or notes issued pursuant to section 18b or
 14 from the state trunk line fund. Loans made directly from the state
 15 trunk line fund ~~shall~~**must not** be made ~~only~~**until** after **the**
 16 provision of money for the purposes specified in subsection (1)(a)
 17 to (f). Loans described in this subsection are not subject to the
 18 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
 19 141.2821.

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

24 (a) The money to be received by the local road agency from the
 25 Michigan transportation fund, except to the extent the money has
 26 been or may in the future be pledged by contract ~~in accordance with~~
 27 **under** 1941 PA 205, MCL 252.51 to 252.64, or has been or may in the
 28 future be pledged for the payment of the principal and interest
 29 upon notes issued under 1943 PA 143, MCL 141.251 to 141.254, or has

1 been or may in the future be pledged for the payment of principal
2 and interest upon bonds issued under section 18c or 18d, or has
3 been or may in the future be pledged for the payment of the
4 principal and interest upon bonds issued under 1952 PA 175, MCL
5 247.701 to 247.707.

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

8 (6) If required by the department, loans made under subsection
9 (4) are payable by deduction by the state treasurer, upon direction
10 of the department, from the periodic disbursements of any money
11 returned by this state under this act to the local road agency, but
12 only after sufficient money has been returned to the local road
13 agency to provide for the payment of contractual obligations
14 incurred or to be incurred and principal and interest on notes and
15 bonds issued or to be issued under 1941 PA 205, MCL 252.51 to
16 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL
17 247.701 to 247.707, or section 18c or 18d. The interest rates and
18 payment schedules of any loans made from the proceeds of bonds or
19 notes issued ~~pursuant to~~ **under** section 18b ~~shall~~ **must** be
20 established by the department to conform as closely as practicable
21 to the interest rate and repayment schedules on the bonds or notes
22 issued to make the loans. However, the department may allow for the
23 deferral of the first payment of interest or principal on the loans
24 for a period of not to exceed 1 year after the respective first
25 payment of interest or principal on the bonds or notes issued to
26 make the loans.

27 (7) The amount borrowed by a local road agency under
28 subsection (5) ~~shall~~ **must** not be included in, or charged against,
29 any constitutional, statutory, or charter debt limitation of the

1 county, city, or village and ~~shall~~**must** not be included in the
2 determination of the maximum annual principal and interest
3 requirements of, or the limitations upon, the maximum annual
4 principal and interest incurred under 1941 PA 205, MCL 252.51 to
5 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL
6 247.701 to 247.707, or section 18c or 18d.

7 (8) The local road agency is not required to seek or obtain
8 the approval of the electors, the municipal finance commission or
9 its successor agency, or, except as provided in this subsection,
10 the department of treasury to borrow money under subsection (5).
11 The borrowing is not subject to the revised municipal finance act,
12 2001 PA 34, MCL 141.2101 to 141.2821, or to section ~~5(g)~~**5(1)(g)** of
13 the home rule city act, 1909 PA 279, MCL 117.5. The department
14 shall give at least 10 days' notice to the state treasurer of its
15 intention to make a loan under subsection (4). If the state
16 treasurer gives notice to the director of the department ~~within~~**not**
17 **later than** 10 days ~~of~~**after** receiving the notice from the
18 department, that, based upon the then existing financial or credit
19 situation of the local road agency, it would not be in the best
20 interests of this state to make a loan under subsection (4) to the
21 local road agency, the loan ~~shall~~**must** not be made unless the state
22 treasurer, after a hearing, if requested by the affected local road
23 agency, subsequently gives notice to the director of the department
24 that the loan may be made on the conditions that the state
25 treasurer specifies.

26 (9) The state transportation commission may borrow money and
27 issue bonds and notes under section 18b to make loans to a local
28 road agency for the purposes described in the second paragraph of
29 section 9 of article IX of the state constitution of 1963, as

1 provided in subsection (4). A single issue of bonds or notes may be
2 issued for the purposes specified in subsection (4) and for the
3 other purposes specified in section 18b. The **department shall**
4 **notify the** house and senate transportation appropriations
5 subcommittees ~~shall be notified by the department~~ if there are
6 extras and overruns sufficient to require approval of either the
7 state administrative board or the commission, or both, on any
8 contract between the department and a local road agency or a
9 private business.

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

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

28 (12) Any performance audits of the department ~~shall~~ **must** be
29 conducted according to government auditing standards issued by the

1 United States General Accounting Office.

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

5 (14) The department shall prepare on an annual basis a report
6 listing all warranties that were secured under subsection (2) and
7 indicate whether any of those warranties were redeemed and all
8 pavement projects whose costs exceed \$2,000,000.00 for which a
9 warranty was not secured as described in subsection (2). The
10 department shall make the report required by this subsection
11 available to the public upon request and shall also post the report
12 on its website. ~~7 which shall~~ **The report required by this**
13 **subsection must** include, but is not limited to, all of the
14 following information:

15 (a) The type of project.

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

17 (c) The expected lifespan of the project.

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

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

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

25 (15) As used in this section:

26 (a) "Local road agency" means that term as defined in section
27 9a.

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

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

3 (ii) The installation or improvement of grade crossing
4 surfaces.

5 (iii) Modification, relocation, or modernization of railroad
6 grade crossing active and passive warning devices necessitated by
7 roadway improvement projects.

8 (iv) Test installations of innovative warning devices or other
9 innovative applications.

10 (v) Construction of new grade separations.

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

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

18 Enacting section 1. This amendatory act does not take effect
19 unless Senate Bill No. ____ or House Bill No. 5246 (request no.
20 03737'21) of the 101st Legislature is enacted into law.