

Act No. 49
Public Acts of 2022
Approved by the Governor
March 29, 2022
Filed with the Secretary of State
March 29, 2022
EFFECTIVE DATE: October 1, 2022

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Senators Runestad and Barrett

ENROLLED SENATE BILL No. 465

AN ACT 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 10o (MCL 247.660o), as amended by 2000 PA 188.

The People of the State of Michigan enact:

Sec. 10o. (1) Twenty-three to twenty-seven percent of the DOT-FHWA highway research, planning, and construction federal funds appropriated to this state from the federal government for road and bridge construction must be allocated to programs administered by local jurisdictions after deduction of the following:

(a) Funds that are specifically allocated at the federal level to this state or local jurisdictions.

(b) Funds allocated by the department to this state and to local jurisdictions through a competitive process.

(2) Federal aid excluded from the calculation of funding allocated to programs administered by local jurisdictions in subsection (1) includes, but is not limited to, congestion mitigation and air quality funds, federal bridge funds, transportation enhancement funds, funds distributed at the discretion of the United States Secretary of Transportation, and congressionally designated funds.

(3) The funds must be distributed to eligible local agencies for transportation purposes in a manner consistent with state and federal law.

(4) It is the intent of the legislature that federal aid to highways allocated to local jurisdictions in subsection (1) be distributed in a manner that produces a 25% average allocation of applicable funds to programs for local jurisdictions in each fiscal year through the fiscal year ending September 30, 2000. Beginning in the fiscal year ending September 30, 1999, the average allocation of applicable federal aid to highway funds to programs for local jurisdictions must be the average of the amount distributed to local jurisdictions under subsection (1) and similarly calculated distributions in each succeeding fiscal year. The average allocation percentage described in this subsection must be adjusted to reflect any agreements made by the department with local jurisdictions regarding the state buyout of local federal aid.

(5) Subject to subsections (6) to (15), the department shall award money from the state trunk line fund to local road agencies in exchange for federal aid obligation authority allocated to local-agency projects as provided in this section, if allowed by federal law and rules.

(6) The department must make available money from the state trunk line fund in exchange for federal aid obligation authority awarded to local road agencies in the amounts described in subsection (8) unless the amount must be reduced to do either or both of the following:

(a) Match all available federal aid including reapportionments, redistributions, or other awards of federal aid obligation authority.

(b) Provide for debt service, the minimum state-funded program, routine maintenance of state trunk lines, administration, and all other functions of the department.

(7) If the department reduces the amount of money available from the state trunk line fund under subsection (6), the department must submit a letter to the chairpersons of the senate and house of representatives transportation committees, the chairpersons of the senate and house of representatives transportation appropriations subcommittees, the senate majority leader, and the speaker of the house of representatives explaining why the department is unable to match available federal aid or perform its essential functions.

(8) Except if reduced under subsection (6), the amount of money available from the state trunk line fund in exchange for federal aid obligation authority awarded to local road agencies must be not less than the following amounts:

(a) In the fiscal year ending September 30, 2023, \$25,000,000.00.

(b) In the fiscal year ending September 30, 2024, \$35,000,000.00.

(c) In the fiscal year ending September 30, 2025, and in every subsequent fiscal year, \$45,000,000.00.

(9) Local road agencies may apply for state money in exchange for 100% of the federal aid obligation authority allocated by the department to a local road agency project in a metropolitan planning organization transportation improvement program or in the rural transportation improvement program, in the manner and on the schedule determined by the department. The department must publish announcements, instructions, forms, and deadlines on its website. If applications are received that request more state money than is available to be exchanged in a fiscal year, awards must be made in the order received.

(10) State money must be exchanged with local road agencies for federal aid obligation authority in an amount equal to 90 cents per dollar of all federal aid obligation authority allocated in the approved transportation improvement plan to each project for which authority is exchanged.

(11) The department must pay state money exchanged for federal aid obligation authority to local road agencies when sufficient federal aid obligation authority is received from the Federal Highway Administration to cover the exchanges, not including any year-end redistributions.

(12) The first priority for the use of state money exchanged for federal aid obligation authority must be the local road agency project for which the federal aid obligation authority was originally proposed. If the state money exchanged for federal aid obligation authority exceeds the cost of the original project, any surplus must be applied to federal-aid-eligible projects by the local road agency or returned to the department. Completed work must be reported to the transportation asset management council investment reporting tool or any successor system.

(13) State money exchanged for federal aid obligation authority must be expended not later than 3 years after the exchange. If the project for which federal aid obligation authority was exchanged cannot be completed within

3 years, the local road agency must notify the department and its metropolitan planning agency or rural task force and identify an alternate project eligible for federal aid that can be constructed within the original 3-year period, or return the money to the department.

(14) In accordance with 23 USC 112, 23 CFR 635.104(b), and Federal Highway Administration Directive 5060.1, a local road agency that is awarded state money in exchange for federal aid obligation authority shall follow the policies adopted by the department that govern the number of force accounts and the total amount of money spent on force account project cost authorizations in a fiscal year. For each fiscal year in which a local road agency is awarded state money in exchange for federal aid obligation authority, the local road agency must certify to the department that the limits in this subsection are not exceeded. This subsection applies only to state money awarded in exchange for federal aid obligation authority as described in this section and not to any money garnered through any other means.

(15) Contracts between local road agencies and contractors for projects funded from state money exchanged for federal aid obligation authority must contain a federal wage and benefits schedule consistent with, and incorporating the requirements of, Section IV of Form FHWA 1273, revised May 1, 2012, or any successor form, and provide that covered workers are third-party beneficiaries of these contract requirements.

(16) As used in this section:

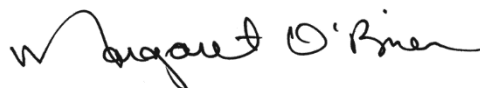
(a) "Federal aid obligation authority" means federal aid obligation authority and an equal amount of contract authority.

(b) "Minimum state-funded program" includes, but is not limited to, preservation, preventive maintenance, maintenance, operations, safety, administration, and all other essential functions not eligible for federal aid, as determined by the department.

Enacting section 1. This amendatory act takes effect October 1, 2022.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 466 of the 101st Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor