

SENATE BILL NO. 394

April 28, 2021, Introduced by Senator SCHMIDT 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 10o (MCL 247.660 and 247.660o), section 10 as amended by 2020 PA 222 and section 10o as amended by 2000 PA 188.

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,
14 \$5,000,000.00 each year of the revenue from 3 cents of the tax
15 levied under section 8(1)(a) of the motor fuel tax act, 2000 PA
16 403, MCL 207.1008, to the movable bridge fund created in section
17 11g, with the remainder to the state trunk line fund, county road
18 commissions, and cities and villages in the percentages provided in
19 subdivision (l). The department shall annually adjust the amount
20 allocated under this subdivision by an amount equal to the annual
21 increase in the Detroit Consumer Price Index for the preceding
22 year.

23 (f) One-half of the revenue from 1 cent of the tax levied
24 under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL
25 207.1008, to the state trunk line fund for the repair of state
26 bridges under section 11, and 1/2 of the revenue from 1 cent of the
27 tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA
28 403, MCL 207.1008, to the local bridge fund created in subsection
29 (4) for distribution only to cities, villages, and county road

1 commissions.

2 (g) \$50,000,000.00 to the state trunk line fund for debt
3 service costs on state of Michigan projects.

4 (h) Ten percent to the comprehensive transportation fund for
5 the purposes described in section 10e.

6 (i) \$5,000,000.00 to the local bridge fund established in
7 subsection (4) for distribution only to the local bridge advisory
8 board, the regional bridge councils, cities, villages, and county
9 road commissions.

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

21 (k) Not less than \$33,000,000.00 as may be annually
22 appropriated each fiscal year to the local program fund created in
23 section 11e.

24 (l) The balance of the Michigan transportation fund, as well as
25 funds allocated to the Michigan transportation fund and collected
26 under the Michigan Regulation and Taxation of Marihuana Act, 2018
27 IL 1, MCL 333.27951 to 333.27967, as follows, after deduction of
28 the amounts appropriated in subdivisions (a) to (k):

29 (i) 39.1% to the state trunk line fund for the purposes

described in section 11. **For the fiscal year ending September 30, 2021 only, the amount allocated to the state trunk line fund is reduced by \$261,308,800.00 and reallocated as provided in subparagraphs (ii) and (iii).**

(ii) 39.1% to the county road commissions of this state **and, for the fiscal year ending September 30, 2021 only, \$167,769,800.00 reallocated from the state trunk line fund.**

(iii) 21.8% to the cities and villages of this state **and, for the fiscal year ending September 30, 2021 only, \$93,539,000.00 reallocated from the state trunk line fund.**

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

(3) From federal funds, an amount equal to 31-1/2% of the money formerly appropriated to this state from the federal government under former 23 USC 157, commonly known as minimum guarantee funds, must be allocated to the transportation economic development fund, if the allocation is consistent with federal law. This money must be distributed 16-1/2% for development projects for rural counties as defined by law and 15% for capacity improvement or advanced traffic management systems in urban counties as defined by law. Federal money allocated for distribution under this section is eligible for obligation and use by all recipients as provided in 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 must be
20 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) must be distributed only to the local bridge
17 advisory board, the regional bridge councils, cities, villages, and
18 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. 10o. (1) Twenty-three to twenty-seven percent of the DOT-
15 FHWA highway research, planning, and construction federal funds
16 appropriated to this state from the federal government for road and
17 bridge construction ~~shall~~**must** be allocated to programs
18 administered by local jurisdictions after deduction of the
19 following:

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

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

24 (2) Federal aid excluded from the calculation of funding
25 allocated to programs administered by local jurisdictions in
26 subsection (1) includes, but is not limited to, congestion
27 mitigation and air quality funds, federal bridge funds,
28 transportation enhancement funds, funds distributed at the
29 discretion of the United States ~~secretary~~**Secretary** of

1 ~~transportation,~~ **Transportation**, and congressionally designated
2 funds.

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

6 (4) It is the intent of the legislature that federal aid to
7 highways allocated to local jurisdictions in subsection (1) be
8 distributed in a manner that produces a 25% average allocation of
9 applicable funds to programs for local jurisdictions in each fiscal
10 year through the fiscal year ending September 30, 2000. Beginning
11 in the fiscal year ending September 30, 1999, the average
12 allocation of applicable federal aid to highway funds to programs
13 for local jurisdictions ~~shall~~ **must** be the average of the amount
14 distributed to local jurisdictions under subsection (1) and
15 similarly calculated distributions in each succeeding fiscal year.
16 The average allocation percentage described in this subsection
17 ~~shall~~ **must** be adjusted to reflect any voluntary agreements made by
18 the department with local jurisdictions regarding the state buyout
19 of local federal aid.

20 (5) **For the fiscal year ending September 30, 2021 only,**
21 **\$261,308,800.00 in federal Surface Transportation Block Grant**
22 **Program funds received by this state under the coronavirus response**
23 **and relief supplemental appropriations act, 2021, division M of**
24 **Public Law 116-260, must be allocated to the department.**